

**COUNTY OF SAN MATEO
PLANNING AND BUILDING DEPARTMENT**

DATE: January 13, 2020

TO: Agricultural Advisory Committee

FROM: Melissa Ross, San Mateo County Senior Planner, mross@smcgov.org
650/599-1559

Stephanie Davis, Good City Company/Planning Consultant,
sdavis@goodcityco.com 650/773-7249

SUBJECT: Midpeninsula Open Space District (MROSD) and Peninsula Open Space Trust (POST) proposed Local Coastal Program Amendment (Zoning and Subdivision Ordinance Text Amendments)

County File Number: PLN 2019-00258 (MROSD/POST)

PROPOSAL

San Mateo County has received an application from the Project Sponsors (MROSD and POST) requesting a series of Local Coastal Program (LCP) text amendments to the San Mateo County Zoning and Subdivision Ordinances for consistency with the California Coastal Act Section 30106 definition of "*Development*" and County LCP Locating and Planning New Development Component Policy 1.2 "*Definition of Development*" in order to address future public recreational facility projects on lands owned, or to be acquired by, the Project Sponsors, as well as other public agencies.

The inconsistency arises for proposed/future land divisions (e.g., lot line adjustments or subdivisions) by MROSD and other public agencies to allow public recreation on portions of existing parcels. The Coastal Act specifically exempts such land divisions from the definition of development (and from the related requirement to obtain a Coastal Development Permit). However, the County Code, including the Subdivision Ordinance and the Zoning Code, currently require the public agency to grant to the County an agricultural easement, in perpetuity, and to restrict the maximum lot size of non-agricultural parcels to 5 acres. This inconsistency makes it difficult for MROSD and other public agencies to work with willing landowners to acquire portions of existing parcels to facilitate public recreation while protecting agricultural lands.

The text amendments are focused and intended to address future public recreational facility projects on lands owned by the MROSD, as well as other public agencies, in the coastal zone districts of the Planned Agricultural District (PAD) and the Resource

Management Coastal Zone (RM-CZ) to alleviate requirements resulting from land divisions, namely:

1. Requirement for the recordation of agricultural and conservation/open space easements, and
2. Requirement for maximum lot size of non-agricultural and non-residential lots associated with land divisions.

It is noted that the text amendments proposed would not exempt MROSD or other public agencies with future projects in the affected zoning districts from preparing associated Master Land Division Plans as is currently required by County Ordinance nor from compliance with General Plan or other applicable Zoning and Subdivision Regulations requirements.

If the proposed amendment is approved and certified by the Coastal Commission, future development of any parcels owned by public agencies would continue to be regulated by the applicable Zoning Regulations with exception to the two requirements listed above. To the extent relevant, Planned Agricultural District (PAD) and Coastal Development (CDP) permits would be processed, subject to review and approval by the relevant County advisory committees and decision-making bodies at the time of any application. Any required permits are required to address impacts to the natural environment, agriculture and adjoining properties as outlined in County General Plan policies and Zoning Regulations.

TEXT AMENDMENTS

The project, as currently proposed, includes text amendments to the following four (4) Zoning Regulations and Subdivision Ordinance sections. See Attachment A for proposed draft language of associated proposed text amendments.

1. Chapter 21A Planned Agricultural District (PAD).
2. Chapter 36 Resource Management-Coastal Zone (RM-CZ).
3. Subdivision Regulations, Chapter 4 Exactions, Article 9 Agricultural Protection in the Planned Agricultural District.
4. Subdivision Regulations, Chapter 4 Exactions, Article 10 Open Space Preservation in the Resource Management/Coastal Zone District.

As noted above, the project would include all parcels within the PAD and RM-CZ zoning districts located within the Coastal Zone boundary. This equates to approximately 80,981 acres of land. Please see Attachment B, Map of Project Extent and Attachment C, Map San Mateo County Coastal Zone – Project Sponsors and Other Publicly Owned Lands. Other public agencies within the project area include, City of Pacifica, County Parks, SFPUC, U.S. Bureau of Land Management, U.S. National Park Service, Highlands Recreation District, Ladera Recreation District, CA State Parks and Recreation, CA State Coastal Conservancy, CA Department of Fish and Wildlife.

APPLICATION PROCESS AND OTHER CONSULTATIONS

The proposed project requires Ordinance amendments to both the Zoning and Subdivision Ordinances and will subsequently require formal consideration and action by both the San Mateo County Planning Commission and Board of Supervisors, anticipated for public hearing in late spring 2020. Following such County public meetings, the application will be presented to the California Coastal Commission for Certification of LCP amendments, including any environmental evaluation.

Prior to these formal public hearings and following consultation by the Agricultural Advisory Committee tonight, staff intends to have additional consultation with the Mid-Coast Community Council (MCC) and Pescadero Municipal Advisory Committee (PMAC) in January and February 2020 (respectively) for discussion and feedback. Consultation with the Farm Bureau was completed on January 6, 2019.

DECISION MAKER

Board of Supervisors

QUESTIONS FOR THE AGRICULTURAL ADVISORY COMMITTEE

1. Any feedback on the potential effects on impacted agricultural uses as a result of the proposed text amendments? Any recommended conditions of approval or other questions to address?
2. What position do you recommend that the Planning Department staff take with respect to the project application?

BACKGROUND

Report Prepared By: Melissa Ross, San Mateo County Senior Planner, and Stephanie Davis, Good City Company/Planning Consultant.

Applicants: Midpeninsula Open Space District (MROSD) and Peninsula Open Space Trust (POST).

Owners: Public agency landowners (applicable to public recreation projects).

Location: Varied throughout the Coastal Zone. See Attachments B and C.

APN(s): Various.

Parcel Size: Various.

Existing Zoning: Planned Agricultural District (PAD) and Resource Management-Coastal Zone (RM-CZ).

General Plan Designation: Various. See Attachments B and C.

Local Coastal Plan Designation: Various. See Attachments B and C.

Williamson Act: Various. See Attachments B and C.

Environmental Evaluation: The project would be subject to the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 21080.5. in which a functionally equivalent CEQA analysis will be performed ‘in lieu’ of any otherwise required CEQA analysis, as a state agency’s (in this case the California Coastal Commission) certified regulatory program (in this case the Local Coastal Program) is statutorily exempt from CEQA.

Setting: There is approximately 80,981 acres of land within the LCP boundaries that have a land use designation of PAD or RM-CZ. See Attachment B, Map of Project Extent and Attachment C, Map San Mateo County Coastal Zone – Project Sponsors and Other Publicly Owned Lands.

Will the project be visible from a public road?

No specific development project or land division is proposed at this time. Depending on specific location(s) of any future public recreation project(s), there could be visibility from a public road that will be evaluated at the time of formal project submittal to the Planning Department.

Will any habitat or vegetation need to be removed for the project?

Again, no development is proposed at this time. Policy conformance review would occur at the time a formal development project is submitted to the Planning Department.

Is there prime soil on the project site?

It is anticipated that prime agricultural lands are within the project area, however, no development is proposed at this time. Prime agricultural lands would be evaluated if and when a formal land division is submitted to the Planning Department.

DISCUSSION

A. KEY ISSUES

1. Compliance with Planned Agricultural District (PAD) and Resource Management – Coastal Zone (RM-CZ) Regulations

The scope of the proposed text amendments would continue to meet the purposes of PAD and RM-CZ Districts to preserve and foster existing and potential agricultural operations in San Mateo County in order to keep the

maximum amount of agricultural lands suitable for agriculture in agricultural production, and minimize conflicts between agricultural and non-agricultural land uses by continuing to require a Master Land Development Plan which will detail which area of a site will be used for agricultural uses.

Additionally, it is noted that MROSD has a series of publicly adopted policies and programs that further the purpose, spirit, and intent of the PAD District.

- a. Basic Policy of MROSD, Adopted March 10, 1999.

“Agriculture and Revenue-Producing Use. The District supports the continued agricultural use of land acquired for open space as an economic and cultural resource, including, but not limited to, grazing, orchards, row crops, and vineyards. ...”

- b. Agricultural Land Use Policy of MROSD, Adopted February 8, 1978

See Attachment D, MROSD Agricultural Use Policy Statements

- c. Memorandum of Understanding (MOU) Between the San Mateo County Farm Bureau and Midpeninsula Regional Open Space District, dated January 28, 2004.

See Attachment E, MOU Between the San Mateo County Farm Bureau and Midpeninsula Regional Open Space District.

- d. MROSD Coastside Protection Program Service Plan, Coastal Service Plan (Service Plan). This Service Plan governs the disposition of agricultural uses has been previously determined consistent with the County General Plan and is required to adhere to the Service Plan policies including the following:

The Service Plan is required to have staff with agricultural management expertise who manages and coordinates agricultural agreements with agricultural (including ranching and farming uses) lessees on their land.

An adopted objective of the Service Plan, to preserve both existing and potential agricultural operations in order to the keep the maximum amount of prime agricultural land and other lands suitable for agricultural in agricultural production.

Specific mitigations of the Service Plan require performance standards for future public improvement actions to minimize the impacts to agricultural and farmlands, assessed on a case by case basis, including such details as:

- 1) *“...located away from existing prime agricultural lands and Unique Farmlands...”*
- 2) *“...All trails and public facilities should be located so as not to fragment agricultural operations unless no feasible alternative is available. While trails that bisect grazing lands would not be likely to fragment grazing operations, trails that bisect cultivated crops could adversely affect the vitality of agricultural lands and should be avoided. If trails must traverse cultivated lands they shall be permitted only if signs, buffers, other measures...”*
- 3) *“...shall clearly sign trails adjacent to active agricultural areas...to minimize trespassing and conflicts with agricultural users.”*

In addition, the Project Sponsors have noted the following additional practices related to the agricultural uses on lands they own/acquire. Within the Service Plan area, MROSD manages over 8,000 acres of lands with existing agricultural uses, primarily rangeland.

- 4) Grazing and agricultural leases, are a minimum of 5 years, with a 5-year option to renew and preference for local operators.
- 5) Grazing tenant/farm worker housing on larger grazing leases is provided/supported.
- 6) Substantial capital investments in property-specific grazing infrastructure improvements such as fencing, ranch road repair and maintenance, new wells and associated water tanks, distribution lines and troughs, corrals are conducted.
- 7) Development of property-specific Rangeland Management Plans to support and enhance conservation grazing to achieve grassland habitat enhancement is conducted.

2. Compliance with Local Coastal Program Policies

As noted above, the proposed zoning and subdivision text amendments are found to be consistent with, and support, LCP Development Review Policy 1.2 below:

As stated in Section 30106 of the Coastal Act, define development to mean:

On land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with

*Section 66410 of the Government Code), and any other division of land, including lot splits, **except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use;** change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).*

As used in this section, "structure" includes, but is not limited to, any buildings, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

The proposed amendments create consistency between this definition and the land division requirements found in the Zoning Code and Subdivision Ordinance.

3. Compliance with the Williamson Act

Amendments to the Zoning and Subdivision Ordinances do not affect the County's Williamson Act Program (Program). Eligibility requirements for agricultural contracts are unchanged by the proposed text amendments and the requirement for a private landowner to maintain Program compliance, including returning Assessor's Office Agricultural Questionnaires, will be evaluated when future development permits are submitted.

ATTACHMENTS

- A. Proposed Draft Zoning/Subdivision Text Amendments
- B. Map of Project Extent
- C. Map San Mateo County Coastal Zone – Project Sponsors and Other Publicly Owned Lands
- D. MROSD Agricultural Use Policy Statements, Adopted February 8, 1978
- E. Memorandum of Understanding (MOU) Between the San Mateo County Farm Bureau and Midpeninsula Regional Open Space District, dated January 28, 2004



COUNTY OF SAN MATEO - PLANNING AND BUILDING DEPARTMENT

ATTACHMENT A

ATTACHMENT A
Proposed Draft Zoning/Subdivision Text Amendments

DRAFT*
PROPOSED ZONING TEXT AMENDMENTS

*Proposed New text – ***bold, italicized***

*Proposed Deleted Text – ~~strikethrough~~

ZONING REGULATIONS

1. Ch. 21A “PAD” District (Planned Agricultural District) – 3 Sections.

a. Section 6363.B. “Parcel Size. Non-Agricultural Parcels.”:

B. Non-Agricultural Parcels

For any parcel created after the effective date of this ordinance which is to be used for non-agricultural purposes, the parcel size shall be determined on a case-by-case basis to ensure that domestic well water and on-site sewage requirements are met. ***Except for any parcel included in a land division brought about in connection with the purchase of lands by a public agency for public recreational use,*** ~~n~~ Non-agricultural parcels shall be as small as possible, and when used for residential purposes shall not exceed 5 acres. All non-agricultural parcels shall be clustered (in one or as few clusters as possible), and sited in locations most protective of existing and potential agricultural uses.

b. Section 6364.A. “Procedural Criteria for Issuance of a Planned Agricultural Permit. Master Land Division Plan”:

A. Master Land Division Plan

Before any division of land, the applicant shall file a Master Land Division Plan demonstrating how the parcel will be ultimately divided according to maximum density of development permitted and which parcels will be used for agricultural and non-agricultural uses if conversions are permitted. ***Except where the land division is brought about in connection with the purchase of land by a public agency for public recreational use*** ~~d~~ Division for non-agricultural parcels shall be as small as practicable, not to exceed 5 acres when used for residential purposes, and shall ensure that minimum domestic well water and on-site sewage disposal area requirements are met. Division shall be permitted in phases, and all future divisions occurring on land for which a plan has been filed must conform to that plan. Master Land Division

Plans shall not be required for land divisions which solely provide affordable housing, as defined by LCP Policy 3.7 on March 25, 1986.

c. Section 6364.B. “Easements on Agricultural Parcels”

B. Easements on Agricultural Parcels

After a Master Land Division Plan has been filed, and as a condition of approval thereof, the applicant shall grant to the County (and the County shall accept) an easement containing a covenant, running with the land in perpetuity, which limits the use of the land covered by the easement to agricultural uses, non-residential development customarily considered accessory to agriculture (as defined in Section 6352C and D of this ordinance) and farm labor housing. The covenant shall specify that, anytime after three years from the date of recordation of the easement, land within the boundaries of the easement may be converted to other uses consistent with open space (as defined in the California Open Space Lands Act of 1972 on January 1, 1980) upon the finding that changed circumstances beyond the control of the landowner or operator have rendered the land unusable for agriculture and upon approval by the State Coastal Commission of a Local Coastal Program amendment changing the land use designation to open space. Uses consistent with the definition of Open Space shall mean all those uses specified in the Resource Management Zone (as in effect on November 18, 1980). Any land use allowed on a parcel through modification of an agricultural use easement shall recognize the site’s natural resources and limitations. Such uses shall not include the removal of significant vegetation (except for renewed timber harvesting activities consistent with the policies of the Local Coastal Program), or significant alterations to the natural landforms. **Easements shall not be required for any parcels included in a land division brought about in connection with the purchase of land by a public agency for public recreational use.**

2. Ch. 36 Resource Management-Coastal Zone (RM-CZ) District – 1 Section.

a. Section 6906.1 “Conservation Open Space Easement”

SECTION 6906.1. CONSERVATION OPEN SPACE EASEMENT.
Require, after any land divisions, that the applicant grant to the County (and the County to accept) a conservation easement containing a covenant, running with the land in perpetuity, which limits the use of the land covered by the easement to uses consistent with open space (as defined in the California Open Space Lands Act of 1972 on January 1, 1980). **Easements shall not be required for any parcels included in a land division brought about in connection with the purchase of land by a public agency for public recreational use.**

SUBDIVISION ORDINANCE

3. Subdivision Regulations, Chapter 4 Exactions, Article 9 Agricultural Protection in the Planned Agricultural District - 1 Section.

a. Section 7067 – Exemptions

1. Pursuant to LCP Policy 5.14b, the requirement to grant an agriculture protection easement does not apply to subdivisions that solely provide affordable housing, as defined in Section 7008.

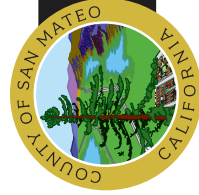
2. Pursuant to LCP Policy 1.2, the requirement to grant an agricultural protection easement does not apply to any parcel included in a land division brought about in connection with the purchase of land by a public agency for public recreational use.

4. Subdivision Regulations, Chapter 4 Exactions, Article 10 Open Space Preservation in the Resource Management/Coastal Zone District

a. Section 7071 – Exemptions

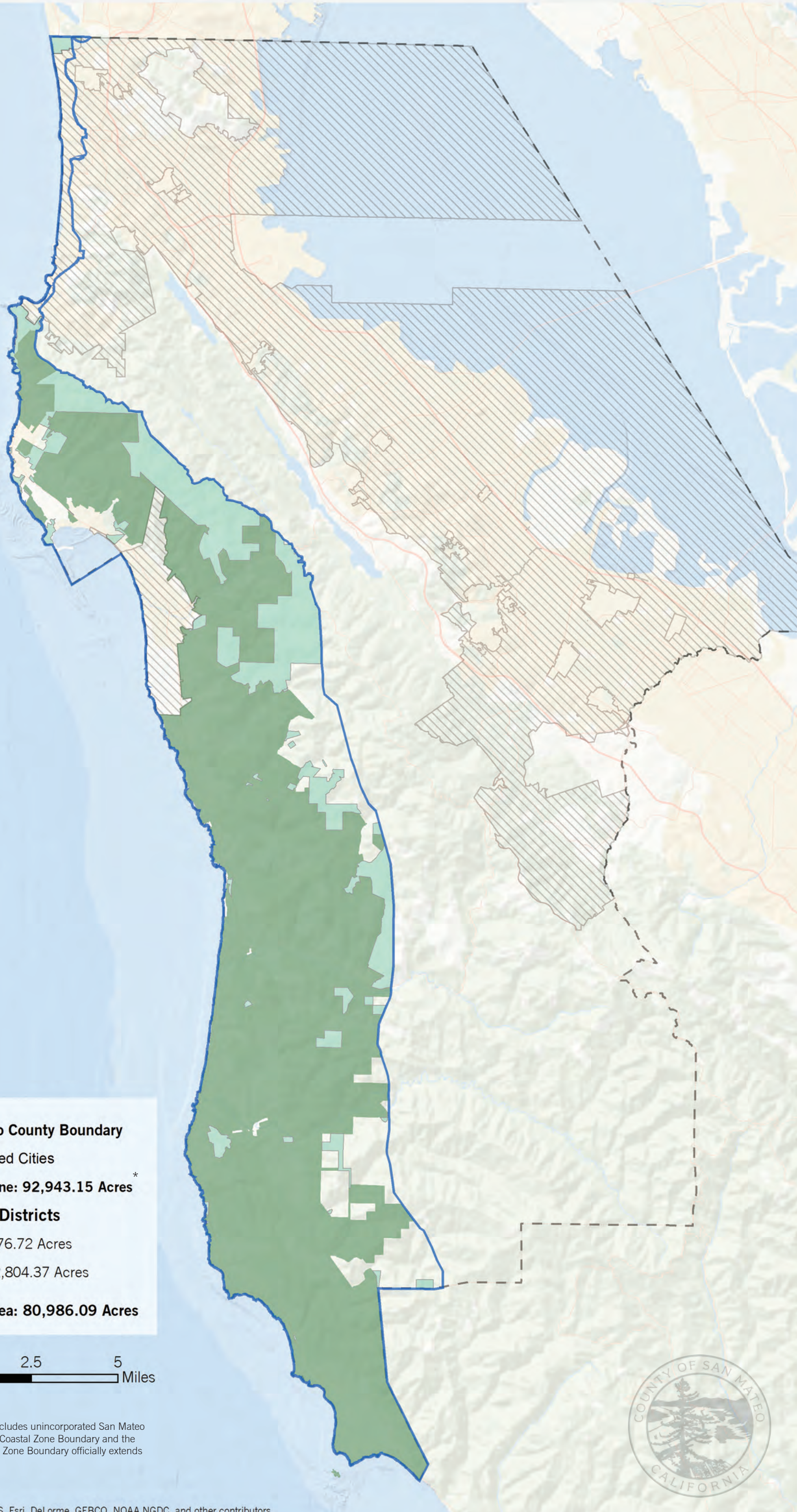
1. Pursuant to LCP Policy 1.9b, the requirement to grant a conservation/open space easement does not apply to subdivisions that solely provide affordable housing, as defined in Section 7008.






2. The requirement to grant a conservation/open space easement does not apply to any parcel included in a land division brought about in connection with the purchase of land by a public agency for public recreational use.

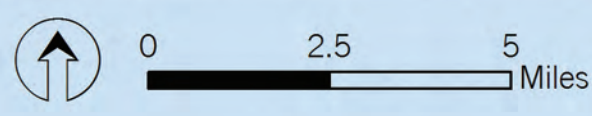


COUNTY OF SAN MATEO - PLANNING AND BUILDING DEPARTMENT

ATTACHMENT B

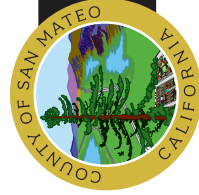


 **San Mateo County Boundary**
 Incorporated Cities
 **Coastal Zone: 92,943.15 Acres** *
Current Zoning Districts
 PAD: 68,176.72 Acres
 RM-CZ: 12,804.37 Acres
Total Zoned Area: 80,986.09 Acres



*Coastal Zone acreage only includes unincorporated San Mateo County area between on land Coastal Zone Boundary and the County boundary. The Coastal Zone Boundary officially extends 3 NM offshore.

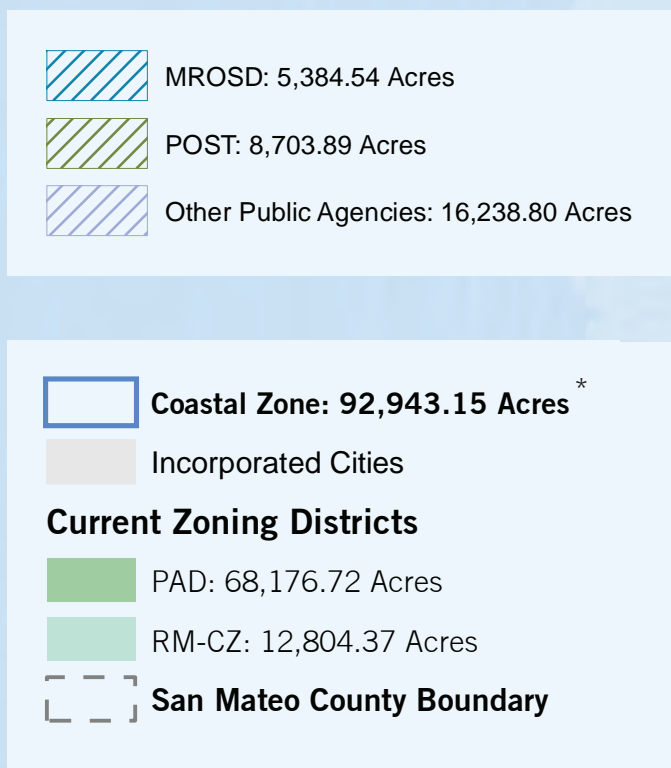




COUNTY OF SAN MATEO - PLANNING AND BUILDING DEPARTMENT

ATTACHMENT C

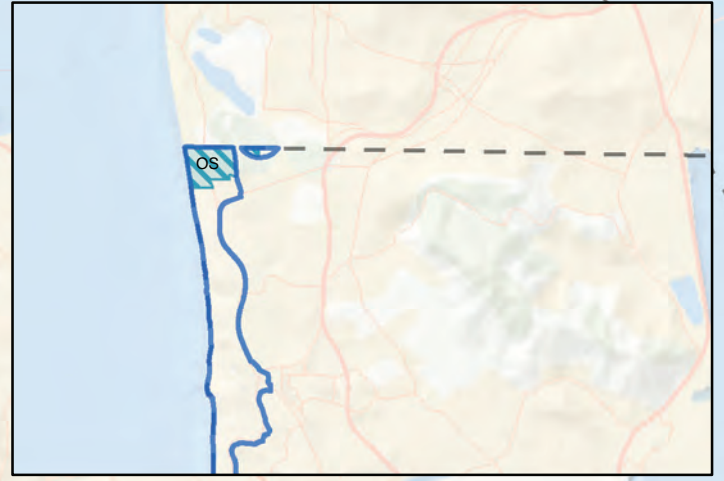
Zoning of MROSD/POST/Other Public Agency Lands within the Unincorporated Coastal Zone of San Mateo County



*Coastal Zone acreage only includes unincorporated San Mateo County area between on land Coastal Zone Boundary and the County boundary. The Coastal Zone Boundary officially extends 3 NM offshore.



PAD and RM-CZ Zoning Districts and General Plan Land Use Designations within the Unincorporated Coastal Zone of San Mateo County



San Mateo County Boundary
 Coastal Zone: 92,943.15 Acres*

Current Zoning Districts
 PAD: 68,176.72 Acres
 RM-CZ: 12,804.37 Acres

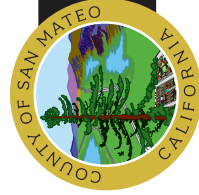
General Plan Land Use
Land Use Type
 Agriculture (A)
 Timber (T)
 Institutional (I)
 Open Space, Recreation (OS)
 Residential (R)

Note: All acreages refer to only areas in the unincorporated County within the Coastal Zone.



*Coastal Zone acreage only includes unincorporated San Mateo County area between on land Coastal Zone Boundary and the County boundary. The Coastal Zone Boundary officially extends 3 NM offshore.





COUNTY OF SAN MATEO - PLANNING AND BUILDING DEPARTMENT

ATTACHMENT D



MIDPENINSULA REGIONAL OPEN SPACE DISTRICT

Agricultural Use Policy Statements

Adopted By
Board of Directors
February 8, 1978

1. The District will sustain and encourage agricultural viability consistent with public use while minimizing the impact on the natural environment. Agricultural use is considered beneficial in that it utilizes almost scarce agricultural resources, reduces fire fuel, and when properly managed can enhance the environment.
2. The Board of Directors will review and approve agricultural leases or licenses which are long term (over 1 year) and/or involve an anticipated income in excess of \$3,500. The General Manager may enter into lease or license agreements on behalf of the District without specific Board approval if they are:
 - (a) in amounts not exceeding \$3,500 income to the District (including in-kind services), and
 - (b) no more than 1 year in duration, and
 - (c) not long range commitments, e.g., through agricultural related improvements, which go beyond the scope of Board adopted interim or long term site plan, and
 - (d) pursuant to a Board adopted interim or long term site plan.
3. All proposed agricultural leases will be advertised in local newspapers to maximize public awareness. If other factors are equal, a lottery will be used to determine the tenant, if more than one potential lessee is interested in the same area.
4. The lease fee will be determined for each type of lease by consulting with local agencies such as East Bay Municipal Utility District, East Bay Regional Park District and agricultural advisors, and will be based upon local prevailing market rates.
5. Staff will have the discretion to enter into leases specifying either cash, in-kind services, or a combination of the two, as payment. If in-kind services are being accepted, they will in no circumstance exceed one year's cash value without Board approval, to preclude the expectation of a continuing relationship.



COUNTY OF SAN MATEO - PLANNING AND BUILDING DEPARTMENT

ATTACHMENT E

PROPOSED
MEMORANDUM OF UNDERSTANDING
BETWEEN
THE SAN MATEO COUNTY FARM BUREAU
AND
MIDPENINSULA REGIONAL OPEN SPACE DISTRICT

WHEREAS, the mission of the San Mateo County Farm Bureau (“Farm Bureau”) includes the preservation of existing and potential agricultural operations in San Mateo County in order to keep the maximum amount of agricultural land in production and to provide support and expertise to its members and to private and public entities for those purposes; and

WHEREAS, the Midpeninsula Regional Open Space District (“District”) has filed an application with San Mateo County Local Agency Formation Commission (“LAFCo”) to extend its boundaries to the San Mateo County Coast and has adopted a related Service Plan for the purposes of preserving open space and agricultural land, encouraging viable agricultural use of land, and preserving agricultural operations in conformance with the San Mateo County General Plan; and

WHEREAS, the Farm Bureau and the District desire to work together cooperatively to support and preserve agricultural operations and to protect the economic and physical integrity of agricultural lands on the San Mateo Coast; and

WHEREAS, the Farm Bureau and the District believe that by such cooperative efforts the Farm Bureau will help enable the District to better accomplish its mission for the Coastside Protection Area for the benefit of its members and all residents of San Mateo County; and

WHEREAS, the Service Plan establishes the policy of the District to insure that where open space recreation or public access occurs, it is planned and managed in a manner that avoids adverse impacts to adjacent agricultural operations; and

WHEREAS, the District desires to consult with the Farm Bureau in planning for open space recreation and public access to ensure that such uses avoid adverse impacts to adjacent agricultural operations; and

WHEREAS, the Service Plan prohibits the District’s use of the power of eminent domain in the area proposed for annexation (“Coastside Protection Area”), and the Farm Bureau has requested that this prohibition be established through state legislation so as to further insure the permanence of this District policy; and

WHEREAS, the Board of Directors of the District desires to sponsor such legislation to further insure to the satisfaction of the Farm Bureau and all San Mateo County coastside residents that its policy prohibiting the use of eminent domain in the proposed Coastside Protection Area will be secure and permanent; and

WHEREAS, it is the joint desire of the Farm Bureau and the District to enter into this Memorandum of Understanding in order to formalize the goals and understandings of both parties in their efforts to preserve agriculture in San Mateo County.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. The San Mateo County Farm Bureau desires to insure that eminent domain not be used to acquire land in the District's proposed Coastside Protection Area. The Farm Bureau has requested that the District sponsor state legislation permanently removing the District's power of eminent domain in the proposed Coastside Protection Area. The District has agreed to sponsor such legislation. A copy of the proposed legislation is attached hereto, marked "Exhibit A" and incorporated by this reference. The Farm Bureau has agreed to support this legislation without amendment. The enactment of this legislation, in the form set out in Exhibit A, is a condition precedent of the parties' obligations in this MOU. The parties recognize that minor changes to this legislation may be made by the State Legislative Counsel in the normal course of its review and approval of legislative language and the parties shall continue to support and propose such legislation as approved by Legislative Counsel, provided that only minor and technical changes are made by Legislative Counsel. Any other changes shall require the prior written agreement of both the Farm Bureau and the District.
2. The San Mateo County Farm Bureau and the District desire to insure that the District's implementation of the Service Plan and its Coastside Protection Program preserve and encourage viable agricultural operations, and avoid adverse effects on agriculture. To accomplish this goal, the Farm Bureau and the District agree that:
 - a. As part of its Coastside Protection Program, the District has adopted a set of Mitigation Measures to preserve agriculture and to avoid adverse impacts on agriculture. A copy of these Mitigation Measures is attached hereto, marked "Exhibit B" and incorporated by this reference. The Farm Bureau has requested and the District has agreed that these Mitigation Measures shall be incorporated into this MOU. The District agrees that it will implement these Measures, and that implementation of these Measures is a commitment from the District to the Farm Bureau. These Mitigation Measures may not be amended by the District unless required by law.
 - b. The District will consult with the Farm Bureau in the development of site-specific use and management plans and site-specific agricultural production plans in the Coastside Protection Area as set out in Mitigation Measure AGR-3h.
 - c. When practicable and consistent with the Mitigation Measures, when planning for the preservation of land in agricultural production, the District will consider first

whether acquisition of a conservation easement is the best method to enable the land to remain in private ownership and in agricultural production.

- d. When considering the proposed use and management of any agricultural land acquired by the District in the Coastside Protection Area, the District will provide the Farm Bureau prior written notice of any hearings at which site use and management plans, agricultural production plans, reviews or amendments will be considered. Further, the District will provide a prior opportunity for the Farm Bureau to review and comment on any such plans. This will insure that the Farm Bureau has the opportunity to share its expertise, resources and viewpoints with the District prior to any decision concerning future use or management of such lands. In addition, District staff will meet with representatives of the Farm Bureau from time to time on an informal basis upon request of either party to consult regarding development of such plans.

3. The San Mateo County Farm Bureau determines that, based upon the specific terms and conditions of this MOU, the District's Coastside Protection Program will benefit and help preserve agriculture in San Mateo County, and will help to protect agriculture's physical and economic integrity in the County. The elimination of the District's power of eminent domain by legislation is a key component that will further protect agricultural lands from being removed from production. On that basis the San Mateo County Farm Bureau expresses its support for and endorsement of the District's Coastal Protection Program.
4. The San Mateo County Farm Bureau requests that LAFCo approve the District's application for annexation of the San Mateo County Coastside Protection Area as filed on October 28, 2003, in its entirety.
5. This MOU may not be amended without the written consent of both the Farm Bureau and the District.
6. Any written notice sent pursuant to this MOU shall be addressed as follows:

Farm Bureau: Executive Administrator
 San Mateo County Farm Bureau
 765 Main Street
 Half Moon Bay, CA 94019

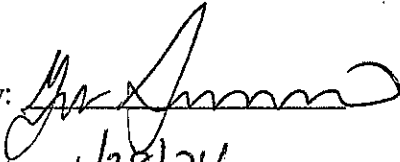
District: General Manager
 Midpeninsula Regional Open Space District
 330 Distel Circle
 Los Altos, CA 94022

IN WITNESS WHEREOF, the parties have caused this MOU to be executed by their duly authorized officers to be effective as of the date of final execution by the District.

FARM BUREAU:

DISTRICT:

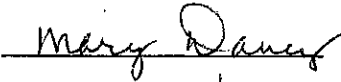
By:



Date

1/28/04

By:



Date:

1/28/04

EXHIBIT A

SECTION 1. Section 5572.2 is added to the Public Resources Code to read:

5572.2. The Midpeninsula Regional Open Space District shall not exercise the power of eminent domain to acquire any real property or any interest in real property in the San Mateo County Coastal Annexation Area as defined in the Resolution of Application for Annexation Proceedings No. 03-20 adopted by the Board of Directors of the Midpeninsula Regional Open Space District on June 6, 2003.

SECTION 2. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances applicable only to this proposed project of the Midpeninsula Regional Open Space District. The District has adopted an ordinance and policy prohibiting the use of the power of eminent domain in an area of San Mateo County currently proposed for annexation to the District. This policy was adopted due to the special and unique circumstances of the particular annexation project and the particular nature of the territory proposed for annexation and in response to input from a Citizens' Advisory Committee formed to recommend policies particular to this proposed project. This legislation will further that policy and ordinance. The Legislature further finds and declares that this need is not common to all districts formed under the Regional Park District law nor to other projects of the District.

SECTION 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:
Enactment of this legislation will enable the District to implement the particular policies regarding eminent domain it has adopted for this specific project at the earliest possible time. In order for the prohibitions created by this act to become incorporated into this project, it is necessary for the act to take effect immediately.

EXHIBIT B
Midpeninsula Regional Open Space District Coastside Protection Program
Mitigation Measures

AGRICULTURE

Mitigation AGR-1a: No new buildings or staging areas shall be located on prime agricultural lands or on Unique Farmlands or Farmlands of Statewide Importance as shown on Farmland Mapping and Monitoring Program of the California Resources Agency ~~that are being used for agricultural purposes. To implement this Mitigation Measure, in order to avoid conversion of Farmland to non-agricultural use,~~ the *Draft Service Plan* should be revised to provide that the ranger office/maintenance facility and the staging areas may not be located on prime agricultural lands or on Unique Farmlands or Farmlands of Statewide Importance as shown on Farmland Mapping and Monitoring Program of the California Resources Agency. ~~Farmland in agricultural use.~~

Mitigation AGR-1b: Trails and habitat preservation areas shall either be located to avoid prime agricultural lands and Unique Farmlands or Farmlands of Statewide Importance as shown on Farmland Mapping and Monitoring Program of the California Resources Agency or traverse such lands in a manner that does not result in interference with agricultural activities or substantially reduce the agricultural potential of those lands. Owners and operators of active agricultural activities lands shall be consulted to identify appropriate routes on those lands they cultivate. The agricultural activities and the agricultural potential of traversed lands shall be protected and buffered from trail user impacts by means of distance, physical barriers (i.e., sturdy fences), or other non-disruptive methods.

Mitigation AGR-1c: The District shall adopt Draft Service Plan Policy P.1 by ordinance. This policy reads as follows: "Within the Coastal Annexation Area, the District shall only acquire lands or interests in lands from willing sellers. The power of eminent domain will not be exercised by the District within the Coastal Annexation Area. This policy is a Basic Policy for the Coastal Annexation Area."

Mitigation AGR-1d: Amend the Draft Service Plan to include the following:

The term "prime agricultural land" as used in this Plan means:

- a) All land which qualifies for rating as Class I or Class II in the U.S. Department of Agriculture Soil Conservation Service Land Use Capability Classification, as well as all Class III lands capable of growing artichokes or Brussels sprouts.
- b) All land which qualifies for rating 80-100 in the Storie Index Rating.
- c) Land which supports livestock for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the U.S. Department of Agriculture.
- d) Land planted with fruit or nut bearing trees, vines, bushes, or crops which have a non-bearing period of less than five years and which normally return during the commercial bearing period, on an annual basis, from the production of unprocessed agricultural plant production not less than \$200 per acre.
- e) Land which has returned from the production of an unprocessed agricultural plant product an annual value that is not less than \$200 per acre within three of the five previous years.

The \$200 per acre amount in subsections d) and e) shall be adjusted regularly for inflation, using 1965 as the base year, according to a recognized consumer price index.

The term "prime agricultural land" as used in this Plan shall also include Unique Farmland and Farmland of Statewide Importance as shown on the Farmland Mapping and Monitoring Program of the California Resources Agency.

Mitigation AGR-2: See Mitigation LU-2

Mitigation AGR-3a:

Guideline 3.2 in the *Draft Service Plan* should be modified to state:
"Improvements or public uses located upon open space lands other than agriculture...shall be located away from existing prime agricultural lands and Unique Farmlands or Farmlands of Statewide Importance as shown on Farmland Mapping and Monitoring Program of the California Resources Agency ~~toward areas containing non-prime agricultural lands, unless such location would not promote the planned, orderly, efficient use of an area. To the extent feasible, all~~ All trails and other public facilities should be located so as not to fragment agricultural operations unless no feasible alternative is available. While trails that bisect grazing lands would not be likely to fragment grazing operations, trails that bisect cultivated crops could adversely affect the vitality of agricultural operations and should be avoided where feasible. If trails must traverse cultivated lands then they shall be permitted only if adequate buffers, signs, and other measures necessary to ensure that trail use does not interfere with the agricultural operations shall be are implemented."

Mitigation AGR-3b: The District shall provide private property signs where appropriate and provide trail users information regarding private property rights to minimize public/private use conflicts and trespassing. The District shall clearly sign trails adjacent to active agriculture and provide trail users with information regarding property rights to minimize trespassing and conflicts with agricultural users.

Mitigation AGL-3c: Trails shall either be located to avoid prime agricultural lands and Unique Farmlands or Farmlands of Statewide Importance as shown on Farmland Mapping and Monitoring Program of the California Resources Agency or traverse such lands in a manner that does not result in interference with agricultural activities or substantially reduce the agricultural potential of those lands. Operators of active agricultural activities on lands owned by or under easement to the District shall be consulted to identify appropriate routes on lands they cultivate. Owners and operators of active agricultural activities on lands adjacent to District lands used for non-agricultural purposes shall be consulted to identify routes that will avoid adverse effects on agricultural operations. The agricultural activities and the agricultural potential of traversed lands shall be protected and buffered from trail user impacts by means of distance, physical barriers (i.e., sturdy fences), or other non-disruptive methods.

Mitigation AGL-3d: The District lands or easements that comprise the trail setting upon which trails are sited shall provide width sufficient for management and/or buffer space from adjacent uses so as not to preclude the viability of those uses. Buffers established to separate recreation and other open space uses from agricultural operations shall be designed and managed in accordance with the following standards:

- a) Buffers shall be designed in relation to the nature of the adjoining land use, potential land uses and proposed public access;
- b) Buffers shall be designed in relation to the topography and other physical characteristics of the buffer area;
- c) Buffers shall be designed with consideration of biological, soil, and other site conditions in order to limit the potential spread of non-native invasive species or pathogens onto agricultural lands;
- d) Buffers shall be of sufficient width to allow agricultural use of adjoining

- agricultural lands including application of pesticides and other agricultural chemicals on all lands needing treatment taking into account the likelihood and extent of potential pesticide drift.
- e) All lands used for buffers should be on land or interests in land owned by the District; adjoining landowners shall not be required to provide land for buffers.
 - f) The District shall be responsible for the management and maintenance of all lands used as buffers.
 - g) If a specific buffer fails to resolve conflicts between a recreational use and adjacent agricultural uses the recreational use shall be moved to a different location.
- All buffers shall be developed in consultation with the owners and operators of adjoining agricultural lands.

Mitigation AGR-3e: Where pesticides are used, including pesticides for control of noxious weeds, they must be handled, applied, and disposed of in such a manner that they do not adversely affect adjacent agriculture, including organic agriculture. Pesticide use shall be guided by label restrictions and any advisories published by the California Department of Pesticide Regulation (CDPR) or the County Agricultural Commission. These chemicals shall only be applied by a person who is properly trained in their application.

Mitigation AGR-3f: The District shall conduct its land management practices such that they do not have an adverse significant impact on the physical and economic integrity of timberland preserves on or contiguous to properties owned or managed by the District and so that the safety of visitors to District preserves is not compromised by timber harvesting (e.g., establishing appropriate buffers on District lands).

Mitigation AGR-3g: When acquiring lands in agricultural use, the acquisition shall be subject to continued use by the owner or operator until such time as it is sold or leased pursuant to the use and management plan adopted for the property. All agricultural land which is not needed for recreation or for the protection and vital functioning of a sensitive habitat will be permanently protected for agriculture and, whenever legally feasible, the District will offer for sale or lease the maximum amount of agricultural land to active farm operators on terms compatible with the recreational and habitat use. Lands that do not have significant recreation or sensitive habitat values and which can clearly support productive agricultural operations will generally be offered for sale while other agricultural lands will generally be offered for lease.

Mitigation Measure AGR-3h: Revise *Draft Service Plan* Guideline G.6.3 as follows:

GUIDELINE G.6.3

Inherent in the preservation of open space resources in the Coastal Annexation Area is the protection of: rare, threatened and endangered plant and animal species; ecological systems; agricultural resources, water quality; visual resources; unique biological resources, including heritage and significant trees; and the unique cultural resources in the Coastal Annexation Area, including historic, archaeological and paleontological resources. Therefore, prior to making any lands available to low-intensity public recreational access, the District shall prepare and adopt a use and management plan, which, includes site-specific resource management and public access components plan for any lands acquired by the District or managed through contract for other public or private non-profit property owners. All lands acquired by the District within the Coastal Annexation Area will be inventoried to identify and prioritize resource management issues. Where there are critical issues, such as the presence of non-native invasive species which threaten the habitat of endangered species or the economic viability of an adjacent agricultural operation, resource management plans will be prepared for these areas even if they remain closed to the public.

The use and management plan shall include an agricultural production plan for District-owned agricultural lands or District lands adjacent to agricultural lands. For district-owned lands, the plan shall describe the crop and/or livestock potential for the property together with the management actions required to protect existing agricultural production (e.g., growing seasons, water requirements, pesticide, manure, and waste management) and the agricultural potential of the land. The plan shall consider the following factors:

- a) Availability of labor, including farm labor housing;
- b) Availability of farm support services and goods;
- c) Necessary capital improvements (e.g. water storage, fencing, land leveling)
- d) Farm operations, including erosion control, the season(s) and times of pesticide or herbicide usage, manure and waste management;
- e) Water use and availability;
- f) Access to transportation and markets; and
- g) Promoting agricultural production on District-owned land.

In the case of District lands adjacent to agricultural production, the agricultural production plan shall develop site-specific measures to prevent activities on District lands from interfering with adjacent agricultural production.

The development of use and management plans will include consultation with the current owner or operator of any agricultural operations on the land, adjoining landowners, the San Mateo County Environmental Services Agency in addition to other ~~include~~ opportunities for public involvement.

Mitigation Measure AGR-3i: Amend *Draft Service Plan* Guideline G.2 as follows:

Prior to making any lands available to public access for low-intensity recreation in the Coastal Annexation Area, the District shall have personnel and equipment available to manage public access such that: there would be no

significant negative impact on existing services; and adequate stewardship to protect natural and agricultural resources will be provided.

Mitigation Measure AGR-3j: Amend the *Draft Service Plan* to include the following policy:

The District shall actively work with lessees of District lands and with the owners of land in which the District has an agricultural easement interest to:

- a. Facilitate the provision of farm worker housing on District-owned lands by providing technical assistance in obtaining permits for such housing from the County of San Mateo.
- b. Seek grant funding for the continuation or establishment of viable agriculture through the California Farmland Conservancy Program and other agriculture grant programs.
- c. Provide technical assistance to secure water rights for the continuation or establishment of viable agriculture consistent with protection of sensitive habitats.

Mitigation Measure AGR-3k: Amend the *Draft Service Plan* to include the following policy:

The District shall actively pursue opportunities to enter agricultural easements and leases with interested farmers and ranchers. All agricultural easements and agricultural leases in the Coastal Annexation Area shall:

- a. Be tailored to meet individual farmers and ranchers needs while respecting the unique characteristics of the property;
- b. Specify uses that are unconditionally permitted pursuant to the easement or lease to provide certainty to the farmer or rancher entering the lease or easement with the District;
- c. Include terms that allow farmers and ranchers to adapt and expand their operations and farming practices to adjust to changing economic conditions;
- d. Include terms that ensure farmers or ranchers may provide farm labor housing as defined and approved by San Mateo County;
- e. Ensure compatibility of resource protection and management, low-intensity public recreation and viable agricultural operations; and
- f. In the case of leases, be for a sufficient period of time to gain a return on the investment in the agricultural operation.

CERTIFICATION

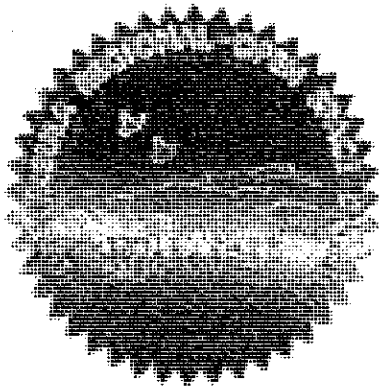
I, Sally Thiel foldt, declare:

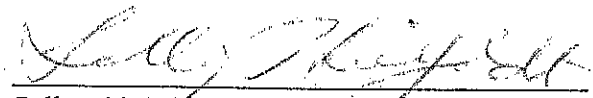
I am the duly appointed and acting Clerk of the Midpeninsula Regional Open Space District.

The original of the attached Memorandum of Understanding Between The San Mateo County Farm Bureau and Midpeninsula Regional Open Space District dated January 28, 2004 has been and is under my custody and control.

I certify that the attached is a true and correct copy of said document. I declare under penalty of perjury that the foregoing is true and correct.

Executed at Los Altos, California on February 6, 2004.




Sally Thiel foldt, District Clerk
Midpeninsula Regional Open Space District