

CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT
455 MARKET STREET, SUITE 300
SAN FRANCISCO, CA 94105
PHONE: (415) 904-5260
FAX: (415) 904-5400
WEB: WWW.COASTAL.CA.GOV



F14a

Prepared March 11, 2021 for March 12, 2021 Hearing

To: Commissioners and Interested Persons
From: Jeannine Manna, North Central Coast District Manager
Erik Martinez, Coastal Planner
Subject: **STAFF REPORT ADDENDUM for F14a, San Mateo County Local Coastal Program (LCP) Amendment No. LCP-2-SMC-20-0054-1 (Cypress Point PUD)**

In the time since the staff report for this item was published on February 26, 2021, a number of comments have been received both in support and opposition of the proposed LCP amendment referenced above (for which staff is recommending that it be approved as submitted). The comments in opposition include those by the Law Offices of Brian Gaffney who represents MidCoast ECO (formerly referred to as Resist Density) (dated February 8, 2021 and March 5, 2021) and found in the correspondence package for this item) that assert that the analysis supporting the staff recommendation inadequately evaluates coastal resource issues associated with the proposed redesignation and related standards that would be applied to the site and violates CEQA. Staff respectfully disagrees, and provides the following response to such claims, where such response is made part of staff's recommendation as a "response to comments" section.

To be clear, the County went through a thorough land use and coastal resource analysis as part of its local LCP amendment development and review process, including evaluating public service constraints, habitat issues, community character concerns, public access, and site stability and safety. And the potential future CDP applicant (Midpen Housing) prepared a number of technical and related reports and materials on these points for the County's use, all of which were also provided to and relied upon by Commission staff in making its recommendation. As detailed in the staff report, and as refined herein, staff believes that the evidence in the record shows that the site appears capable of accommodating a residential use at the intensity and density identified by the proposed LCP amendment without significant coastal resource impacts, individual or cumulative. The available evidence supports the staff recommendation that the amendment should be approved. In fact, the proposed designations and standards would accommodate residential development similar to the surrounding, already developed, residential neighborhood. Further, the LCP would retain all of its existing coastal resource protection standards, and any future proposed project would be

required to be consistent with all of them. In other words, the planning determination here at the LCP amendment stage does not replace the requirement for a CDP at a future date for any proposed residential project. That CDP process will require full environmental review and will assess specific potential coastal resource impacts and necessary project changes and mitigations as part of that CDP process. The proposed amendment does not predetermine an outcome that would allow for a project that does not protect coastal resources as required by the Coastal Act (and as implemented through the LCP). Arguments to the contrary miss this crucial understanding of the Coastal Act's planning and regulatory program.

In addition, the existing unamended LCP includes maximum density/intensity standards for the site that are over twice as much as are being proposed (e.g., up to 148 units are allowed currently by the LCP, where the proposed amendment would allow up to 71 units). By reducing that density/intensity via the proposed amendment, the LCP provides increased flexibility to address any such potential coastal resource concerns that might arise through the required CDP process (e.g., including flexibility associated with a reduced density/intensity of use, more space for any needed buffers, landscaping, etc.). The proposed standards would require that any future project be 100% affordable housing, an increase of 40 affordable units even as the property is downzoned. Thus, the proposed amendment better encourages affordable housing in the coastal zone than the existing LCP, which is a requirement of both the Coastal Act and the LCP.

As documented in the staff report, based on staff's review of the *entire* local record (including extensive technical materials submitted by the County and the potential future CDP applicant, as well as County staff reports, findings and associated documents, including public comments and responses thereto (further detailed below and also listed in the staff report's substantive file documents list)), it appears that the density/intensity of residential use proposed in the amendment can be accommodated on the site. This is true, even when the proposed density and use of the site is compared to its existing undeveloped state. In addition, any future CDP process will evaluate project alternatives, potential coastal resource issues, mitigation, and cumulative impacts for the specific development proposed in the future. The evidence in the record does not suggest that the proposed LCP amendment needs to be denied or significantly modified to meet Coastal Act requirements.

The potential future CDP applicant's consultant has also submitted a letter (dated March 10, 2021 and attached hereto) specifically responding to comments from MidCoast ECO, and in that letter references many of the same documents, findings, and materials that were also relied upon by staff in making its recommendation. Accordingly, all such references and associated explanation are part of the reasoning supporting the staff recommendation (and ultimately supporting the Commission's decision if the Commission follows that recommendation). The same applies to the analysis below on specific issue areas, which also serves to help refine and augment the staff recommendation.

Water and Sewer

To date, some concerns have been raised regarding the availability of adequate water and sewer capacity to serve a potential project that might follow the proposed LCP amendment. Specifically, comments have asserted that a new sewage pump station will likely be needed, which if improperly designed could result in spills; that new sewage lines required for a future project will exacerbate existing sewage problems and water quality impacts; and that there is potentially not sufficient water capacity to serve future development at the intensity/density proposed under the LCP amendment, especially with regard to availability for water to fight fires onsite (see also below in Fire Hazards section).

As the findings in the staff recommendation make clear, this proposed development will be sited and clustered with other already existing development, in areas of the Coastside already served by water and sewer providers. The LCP designates affordable housing as a priority use, and the proposed LCP amendment would limit development on the subject site to 100% affordable housing. The LCP currently also requires that adequate water and sewer capacity be set aside to serve a denser project, such as the one that could be allowed under the current LCP. Additionally, as the staff report points out, Montara Water and Sanitary District (MWSD) and Sewer Authority Mid-Coastside (SAM) have indicated there is enough water and sewer capacity to serve an affordable housing development at the proposed densities as well. Namely, the approved Public Works Plan for MWSD requires the district to reserve capacity specifically for this site. The amount of sewer and water capacity that is to be reserved is based on the current denser LCP zoning which allows up to 148 dwelling units. The proposed amendment would reduce the maximum number of dwelling units down to 71 units, thus freeing up a corresponding amount of sewer and water capacity for other uses within the MWSD service area. SAM has also indicated that the wastewater treatment system has adequate capacity for growth anticipated in the region, including the development of 71 residential units on the subject site.

The “Cypress Point Project – Public Services and Utilities” report,¹ part of the Supplemental Environmental Evaluation Report² prepared by the potential future CDP applicant, and relied upon in the staff recommendation, also provides evidence demonstrating that a project at the scale of one that could be accommodated by this LCP amendment would not result in a significant impact to coastal resources. With regard to the potential for impacts from future project-related sewage overflows, these assertions are speculative. And, in fact, any such potential impacts from a future project would be required to be appropriately addressed through the requisite CDP application and analysis.

¹ Prepared by Stevens Consulting in July of 2018.

² Stevens Consulting, Supplementary Environmental Evaluation Report for the Cypress Point Project, dated August 2020.

Finally, the Supplemental Environmental Evaluation Report also demonstrates that adequate water is available for firefighting purposes onsite at the residential density proposed in the LCP amendment. The report identifies that such water is already being 'held' by MWSD for a project of the density that is allowed under the existing LCP. Any future project proposed under the amended LCP would be required to also be consistent with current fire safety codes that apply at the time that a project is proposed under the amended LCP. In short, and as also detailed in the staff report, the proposed amendment would provide for a kind, density, and intensity of development appropriate for the site as it is in an area with adequate water and sewer services to accommodate it, consistent with Coastal Act and LCP public service requirements.

Traffic and Circulation

Some commenters assert that the proposed LCP amendment would result in increased congestion and negative traffic impacts inconsistent with the Coastal Act and the LCP and that staff has not adequately evaluated such impacts, including cumulative impacts from traffic in the area. Further, they assert that there are deficiencies in the potential future CDP applicant's analysis of traffic impacts.

The staff report's analysis of traffic impacts relied on numerous technical traffic studies provided by both the potential future CDP applicant and the County, including on the project specific level through two traffic assessments,³ as well as on a larger community planning area level through the County's "Connect the Coastside" effort.⁴ As noted in the staff report and identified in the traffic assessments, there are existing noted traffic deficiencies in the surrounding area, including an existing Level of Service E or F for Etheldore and California Street intersections with Highway 1 during commute periods. These deficiencies could be exacerbated by *any* development at the proposed location. Any future CDP for development on the site affected by this LCP amendment will require mitigation for such impacts for the project to be found consistent with the LCP's policies related to traffic and circulation impacts. This would be the case whether that future project were proposed under the existing LCP or under the proposed amended LCP that decreases the maximum allowed intensity/density of use. A future project is not allowed to be inconsistent with applicable LCP policies that would protect against adverse coastal resource impacts associated with traffic.

In addition, as further discussed in the staff report, there are two processes currently at play that are intended to help resolve traffic issues, both at the project and community level. First, the LCP requires the development and implementation of a traffic impact analysis and mitigation plan for new development through the CDP process. This is true regardless of whether this LCP amendment is approved. Second, the County is currently in the process of identifying potential transit and roadway improvements for this part of the coast through its 'Connect the Coastside' process, and the County

³ Kittelson & Associates, Inc. Cypress Point Traffic Impact Analysis, dated April 2019 and August 2020, and supplied as part of the Supplemental Environmental Evaluation Report.

⁴ San Mateo County Midcoast Comprehensive Transportation Management Plan Final Administrative Draft, dated January 2021.

indicates that such improvements are intended to be approved prior to any CDP for a future project at this site. That process intends to lay out a vision for specific transit and roadway improvements to be implemented, including potentially in conjunction with the future development of the site (e.g., improving pedestrian and bicycle routes between the site and downtown Moss Beach, improving existing bus stops with benches or shelters, etc.). These measures are intended to help provide for enhanced traffic flow for both existing and planned development in the area.

Thus, in addition to the required CDP process, traffic and circulation issues in this area are also being addressed through a larger County community planning process, which only helps to further emphasize that such issues are being addressed independently of any future project (although there is also potential overlap).⁵ Staff believes that any future project at this site must address potential traffic and circulation impacts, but the existing LCP already includes sufficient standards and requirements to ensure that such impacts are analyzed and mitigated. Thus, a future project under the proposed amended LCP could only be approved if it addressed traffic impacts. As such, the proposed amended LCP can be found consistent on these points with the Coastal Act and the LCP.

Fire Hazards

Several comments received to date assert that the staff recommendation does not adequately analyze the amendment's impacts related to emergency evacuations in the event of a wildfire, landslide or other emergency, and also assert that there was no analysis of the water availability to fight fires, given the site is located in a 'Community at Risk' zone.⁶ Any potential future residential project at the site would add new vehicles and generate trips that may affect future potential evacuations, as stated in the staff report findings. Any proposed future development would need to conform with LCP policies that require new development to minimize risks from fire hazards. The proposed LCP amendment could allow up to 71 residential units on site, but only if the development also met the hazards policies of the LCP. The proposed LCP amendment allows for mitigation that could address circulation in an evacuation and also for future development to be designed with defensible space in case of fire.

Further, staff relied on information in the Supplemental Environmental Evaluation Report to draw this conclusion, which evaluated the potential for a future proposed project under the amended LCP to lead to increases in risk related to wildland fires. That Supplemental Environmental Evaluation Report found that any such future proposed project would include fire-resistant features that conform to modern code requirements, as well as fire detection or extinguishing systems, making such future

⁵ For the specific contentions regarding the traffic analysis conducted by the potential future CDP applicant, they have been addressed by the letter provided by potential future CDP applicant's consultant, Stevens Consulting, dated March 10, 2021, attached to the addendum.

⁶ A Community at Risk zone means it is within an area identified on the County's Wildland Urban Interface Fire Threatened Communities Map which identifies general fire risk within neighborhoods and the relative risk from community to community.

proposed project less vulnerable to fire than older structures, significantly reducing the chance that a major structural fire would expand into a wildland fire before it could be brought under control. Further, the site in question is close to the Moss Beach fire station, which means that any potential fire incidents have a better chance of being brought under control quickly, and reducing the potential for the spread of wildfire from the site, and helping to reduce the chances that a largescale evacuation would be needed in response to fire. And water has been set aside for the site, including for fire purposes, as discussed above. Thus, the proposed amendment does not present fire hazard concerns necessitating changes to it or denial and can be found consistent with Coastal Act and LCP fire hazard requirements.

Hazardous Materials

Other comments received assert that there has not been adequate analysis of potential impacts to development of the site related to the presence of hazardous materials. However, Section 5 of the Supplemental Environmental Evaluation Report, relied on by staff in their assessment of the proposed LCP amendment, does analyze impacts of hazardous materials present on site and impacts that might be related to the transport and use of hazardous materials during construction of a future potential project. And that report proposes mitigation measures to address such impacts (which would include preparing a site management plan prior to submitting a CDP application with required BMPs for construction, requiring a more detailed soil analysis and requirements regarding the handling of potentially contaminated soils encountered during construction, as well as methods for ensuring that residents and Montara Creek and the Fitzgerald Marine Preserve are protected from any contaminated soils, which would all be incorporated into the CDP for any future project).

Thus, this issue has been evaluated, and any future development on site must incorporate relatively typical measures that can be applied to address any hazardous materials on site and their potential for impacts to coastal resources. The LCP amendment, therefore, does not allow for future development that cannot avoid or mitigate potential impacts from the presence of hazardous soils. There are feasible mitigation measures available to address any potential hazardous materials issues that might be engendered by kind, location, intensity, and density of use that would be allowed under the proposed LCP amendment. Thus, the proposed amendment does not present hazard concerns necessitating changes to it or denial and can be found consistent with Coastal Act and LCP hazardous material requirements

Public Views and Community Character

Some commenters argue that the proposed LCP amendment would result in negative impacts to visual resources and aesthetics, including because of an assertion that the allowed building heights would be too tall, and a further assertion that the amended LCP would accommodate the only separate, clustered multi-unit building developments in the area. Such commenters further assert that the proposed LCP amendment is inconsistent with the Coastal Act and the LCP and that staff has not adequately evaluated such potential impacts, including as compared to the baseline site conditions, in the staff recommendation. Staff respectfully disagrees.

The staff recommendation relied on proposed visual simulations of a future project that could follow the amended LCP (i.e., 'Cypress Point Family Community' plans dated July 10, 2020), as well the Aesthetics and Visual Resources section contained in the Supplemental Environmental Evaluation Report. Such information demonstrates that a project at the proposed scale under the amended LCP can be developed in a manner that will not be visible from Highway 1, and that will not block views of the ocean available from public viewing points. In addition, the proposed allowable density helps to assure neighborhood compatibility as the reduced density will be compatible with and similar to surrounding, already developed residential areas. Additionally, the proposed development standards would not appear to require significant alteration of landforms, nor impact highly scenic areas. Thus, the type of development that could be approved under the proposed LCP amendment would be consistent with Coastal Act and LCP visual resource protection policies. Moreover, the proposed amendment will enable the preservation of significantly more open space areas than under the existing LCP, including providing more opportunities for visual screening, if needed.

Further, the staff report, starting on page 10, outlines the manner in which the proposed amendment is consistent with LUP visual resource protection and community character policies including because: 1) the amendment limits the height to 28 feet (specified to be measured as the vertical distance from any point on the finished grade to the topmost point of the building immediately above to address public concerns on this topic) consistent with the surrounding land uses and development densities, thereby minimizing the visual impact that future development may have; 2) the location of the development proposed by the PUD, including as shown in the conceptual development plan, can be developed so that it will not be visible from the nearest County Scenic Road (Highway 1) due to intervening topography and vegetation, and in an area that will not obstruct views of the ocean available to the public along Stetson or Carlos Streets; 3) setbacks from Carlos street were increased to larger than 20 feet consistent with the setback requirements for the surrounding residential zoning district to address public concerns on this matter; 4) the proposed amendment reduces the amount of the development that may be permitted on the site as compared to the existing LCP, thereby reducing the need for tree removal and providing more opportunity to protect any trees that have important scenic qualities; 5) buildings nearest to Lincoln Street and Buena Vista Street would be setback approximately 230 feet from the nearest neighboring residences, and existing trees would be retained within this setback area, as well as the trees along the northerly portion of the site, in order to help screen the proposed development as much as possible; 6) the clustering of future buildings in the center of the parcel will minimize their visibility from the surrounding areas and reduce the potential need for tree removal; 7) specific development regulations incorporated into the amended IP would help ensure visual resource protection and community character compatibility, including through requiring landscaping and associated maintenance, and limitations on light and glare and a requirement that all outdoor lighting be subject to review by the Coastside Design Review Committee; and 8) in response to public comments on this matter, the County also proposes to add the Design Review Overlay to the site, making the development subject to all requirements of Design Review District. And again, any subsequent project would be required to go through a CDP application process to ensure that it was consistent with all LCP policies,

including those that protect coastal resources. Thus, the proposed amendment does not present public view impacts necessitating changes to it or denial, and this issue has been appropriately addressed in the staff recommendation.

Habitat Resources

Some comments suggest that the proposed LCP amendment would result in discharge of storm water into Montara Creek and the Fitzgerald Area of Specific Biological Significance, which raises serious concerns about whether this discharge over time will lead to erosion or alteration of natural landforms, and that the potential future CDP applicant should provide a more thorough description of the location, volume, and rate of drainage in order to adequately evaluate impacts to the adjacent Montara Creek and impacts to wetlands. They note that a 1985 County environmental document recognized the site as “prairie grassland” which includes native beach strawberry (which is classified as “locally unique” species in the LCP). The 1985 review also identified Montara Creek as within 50 feet of the project site. Further they state that the County avoided any analysis of storm water runoff and project hydromodification, as well as the biological impacts of foreseeable discharges.⁷

With regard to impacts to environmentally sensitive habitat areas, the staff report conclusions relied on numerous technical analyses regarding environmentally sensitive habitat areas provided by the potential future CDP applicant.⁸ As noted in the staff report and identified in the biological assessment and environmental evaluation, to date ESHA has not been identified on the property to which the LUP amendments apply, and the closest known ESHA is Montara Creek, a perennial stream, which is located approximately 250 feet to the northeast of the site running parallel to the site’s northern border. There is no documented evidence to date that any special status species are present on the project site, either currently or historically, including as the site has been exposed to on-going human presence including some vehicle and pedestrian traffic. In addition, the site is largely disturbed, and otherwise occupied by ruderal vegetation, and any future development on site (including as shown by the proposed PUD site plan) would largely result in the redevelopment of these existing disturbed and ruderal areas. To the extent any environmentally sensitive habitats are identified in subsequent analysis, all LCP habitat protections would continue to apply to future development proposed at the project site through the CDP process to appropriately address any ESHA and/or habitat issues, including through avoidance, required buffers and construction best management practices.

CEQA

Finally, project opponent, MidCoast ECO, also identifies several bases for its assertion that the staff report fails to comply with CEQA. Staff disagrees. This addendum responds to all significant environmental issues raised in public comment. Both the

⁷ With regard to this last contention, it has been addressed by the letter provided by potential future CDP applicant’s consultant, Stevens Consulting, dated March 10, 2021, attached to the addendum.

⁸ Biological Resources Assessments, dated May 24, 2018 and August 2020, by De Novo Planning Group, included as part of the Supplemental Environmental Evaluation Report.

initial staff report and this addendum identify the substantial evidence supporting the staff recommendation.

The Staff Report Analyzes the Reasonably Foreseeable Effects of the LCP Amendment.

The action before the Commission at this time is an LCP amendment that reduces the allowed density and modifies development standards for a vacant lot in the Moss Beach area of San Mateo County. The report acknowledges that this is a project-driven LCP amendment, and analyzes the LUP portion of the amendment for consistency with the Chapter 3 policies of the Coastal Act, and the IP portion of the amendment for conformity with and ability to carry out the LUP. These are the standards of review for the Commission and fulfill its obligations under the Coastal Act. As a certified regulatory agency, the Commission is exempted from preparing an EIR and complies with CEQA when it follows the requirements of its certified regulatory process, which it has done here. *Mountain Lion Foundation v. Fish & Game Commission*, (1997) 16 Cal.4th 105, 129.

As required by the Coastal Act and CEQA, the staff report, and this addendum, consider potential effects of the LCP amendment on traffic and circulation, public services, fire hazard response, hazardous materials, visual resources, community character, and biological resources. Contrary to MidCoast ECO's assertions, this LCP amendment does not foreclose alternative projects at the subject. This LCP amendment will define some of the maximum development parameters for development at this site, such as minimum setbacks and maximum building heights, but this LCP amendment alone does not foreclose development of a smaller or different project at this site. Nor does this LCP amendment necessarily result in any development on the subject site. Such future development depends on many factors not within the Commission's control. The primary impact of the LCP amendment is to prevent development of a more dense project, and it requires future residential development on the site to consist of 100% affordable housing. Otherwise, approval of this LCP amendment allows any number of future projects that conform to the minimum standards approved through the LCP amendment, as long as such projects also conform to all other applicable LCP policies.

The staff report does not, and cannot, fully evaluate the potential environmental effects of a specific future project on this site. The precise density, design, and configuration of that future development are not known, particularly because such future development has not been evaluated against all applicable policies of the LCP. While the Commission is obligated, and the staff report and this addendum do assess the LCP amendment's consistency with the Coastal Act, this report is not the CEQA equivalent document for a project that is not currently before the Commission. Unlike the City of West Hollywood in *Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116, on which Midcoast ECO relies, the Commission is not a project proponent, and its approval of this LCP amendment does not constitute "approval" of any specific project. *Id.* at 140. Moreover, the Commission is following its certified regulatory process, and has prepared its required CEQA equivalent document for approval of this LCP amendment.

The Staff Report, Including this Addendum, Analyze the Potential Coastal Resource Impacts of the LCP Amendment

The initial staff report compares the potential impacts of the proposed LCP amendment to both existing site conditions as well as the development that could be allowed under the existing LCP. There is nothing in CEQA that prevents the Commission from comparing the development that could be authorized under the proposed LCP amendment with the potential development allowed under the existing LCP. The staff report does so. It also evaluates whether the proposed LCP amendment is independently consistent with the Coastal Act or LUP, as does this addendum.

Attachment 1: Letter from Steven's Consulting, "Responses to Comments in February 8, 2021 Letter from Law Offices of Brian Gaffney on Behalf of Resist Density and MidCoast ECO", dated March 10, 2021