

CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT
455 MARKET STREET, SUITE 228
SAN FRANCISCO, CA 94105
PHONE: (415) 904-5260
FAX: (415) 904-5400
WEB: WWW.COASTAL.CA.GOV



F12a

A-2-SMC-22-0062 (POST/MidPen Agricultural and Open Space Parcels)

February 10, 2023

EXHIBITS

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Exhibit 1 - Location Map

0.57
0
0.28
0.57 Miles

WGS_1984_Web_Mercator_Auxiliary_Sphere
© Latitude Geographics Group Ltd.

1:18,056



This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

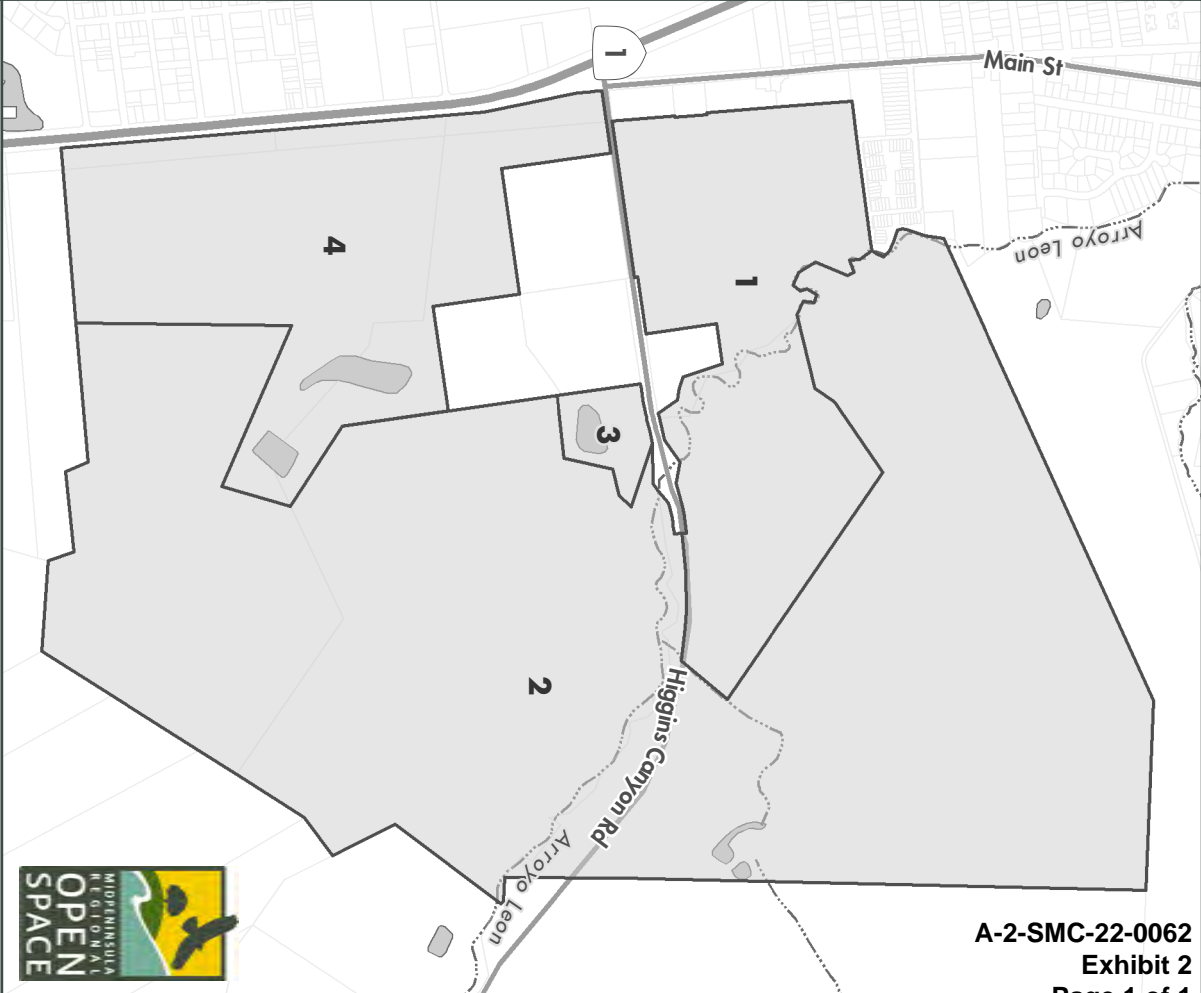
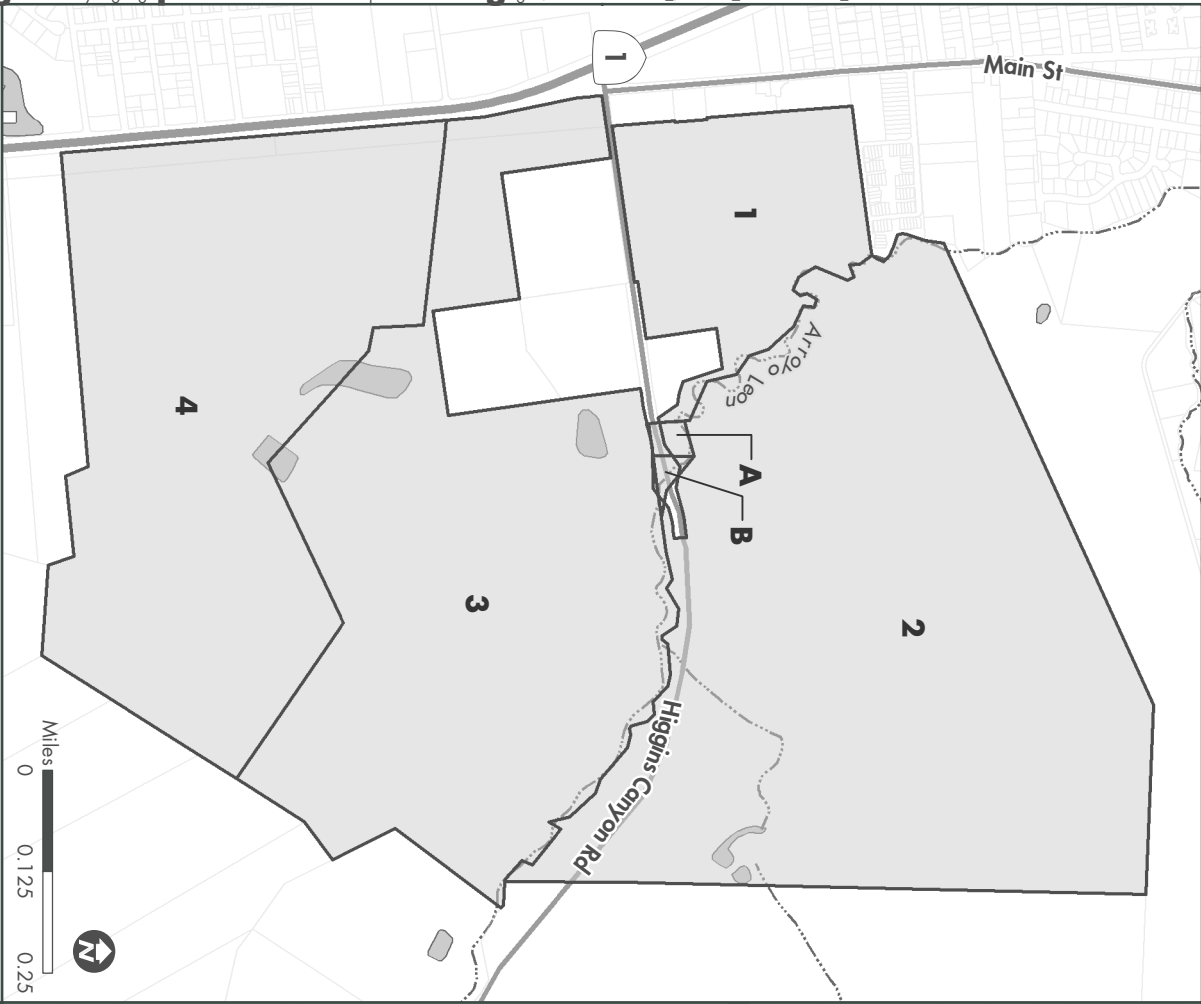


Exhibit 2 - Existing and Proposed Parcel Configurations

Parcel	Acres	APNs and Certificates of Compliance
1	50	064-370-200
2	249	064-370-070
3	183	065-210-240 & 230
4	161	065-210-220, 017, 019 & 021
A	0.5	CoC 2017-106396
B	0.5	CoC 2017-106397

Parcel	Acres	APNs
1	93	064-370-200 & portion of 064-370-070
2	434	Portions of 064-370-070, 065-210-240 & 065-210-220
3	7	Portion of 065-210-240
4	110	Portions of 065-210-220 & 240, 065-210-190, 210 & 230

While the District strives to use the best available digital data, these data do not represent a legal survey and are merely a graphic illustration of geographic features.

Exhibit 3 - Parcel Reconfiguration with Prime Agricultural Land

Created By: ngreig

Path: G:\Projects\Miramontes Ridge Johnston\LLA2021\JR_PrimeAg_20221107.mxd



Johnston Ranch After Parcel Reconfiguration Prime Agricultural Land

- Reconfigured parcel
- Prime agricultural lands

Midpeninsula Regional
Open Space District
(Midpen)
11/7/2022



Miles
0 0.25 0.5



RECEIVED

SEP 28 2022

CALIFORNIA
COASTAL COMMISSION

County Government Center
455 County Center, 2nd Floor
Redwood City, CA 94063
650-363-4161 T
planning.smcgov.org

September 23, 2022

NOTICE OF FINAL LOCAL DECISION

Pursuant to Section 6328.11.1(f) of the San Mateo County Zoning Regulations

CERTIFIED MAIL

California Coastal Commission
North Central Coast District Office
Attn: Erik Martinez
455 Market Street, Suite 300
San Francisco, CA 94105

County File No.: PLN2022-00381
Owner: Peninsula Open Space Trust
Applicant: Peninsula Open Space Trust and Midpeninsula Regional Open Space District

The above listed Coastal Development Permit was conditionally approved by the County of San Mateo on September 13, 2022. The County appeal period ended on September 13, 2022. Local review is now complete.

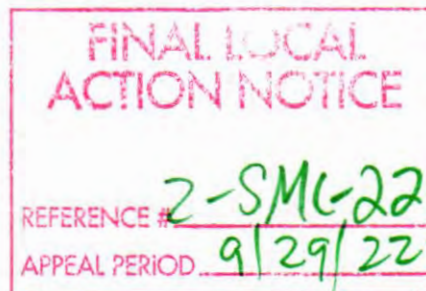
The permit **IS** appealable to the California Coastal Commission.

If you have any questions about this project, please contact Angela Chavez at (650) 599-7217 or achavez@smcgov.org.

Sincerely,



Angela Chavez
Project Planner



"click & type recipient's name"

"click & type date"

Page 2

Enclosure: Final Decision Letter

September 20, 2022

Midpeninsula Regional Open Space District
330 Distel Circle
Los Altos, CA 94022
Email to: mwilliams@openspace.org

Subject: **FINAL LETTER OF DECISION**
File Number: PLN2021-00381
Location: Higgins Canyon Road, Unincorporated Half Moon Bay
APN: 064-370-200, 064-370-070, 065-210-240, 065-210-220; 064-370-110; and 064-370-120

On September 13, 2022, the Board of Supervisors considered an appeal of the Planning Commission's decision to approve a Coastal Development Permit and Planned Agricultural District Permit pursuant to Sections 6328.4 and 6354, respectively, of the County Zoning Regulations; Certificates of Compliance (Type B) to confirm the separate legality of three parcels and a subsequent Lot Line Adjustment affecting those three and a fourth legal parcel, pursuant to Section 7134.2 and 7125 of the County Subdivision Regulations and a request to rescind Land Conservation (Williamson Act) and Farmland Security Zone Contracts and replace with same or with an Open Space Easement reconciling with the newly adjusted parcels. The applicant will record an agricultural easement at the time of any future sale of the agricultural parcels to a third party. The Coastal Development Permit is appealable to the California Coastal Commission.

Based on information provided by staff and evidence presented at the hearing, the Board of Supervisors denied the appeal and upheld the Planning Commission's decision to approve the Coastal Development Permit, Planned Agricultural District Permit, Certificates of Compliance (Type B), Lot Line Adjustment, and recission and replacement of Land Conservation (Williamson Act) and Farmland Security Zone Contracts, County File PLN 2021-00381, by making the required findings and adopting the conditions of approval listed in Attachment A.

Please direct any questions regarding this matter to Angela Chavez, Senior Planner Telephone 650/599-7217 or Email: achavez@smcgov.org.

To provide feedback, please visit the Department's Customer Survey at the following link: <http://planning.smcgov.org/survey>.

Sincerely,


Janneth Lujan
Planning Commission Secretary

cc:

Department of Public Works
Coastside Fire Protection District
Half Moon Bay, Planning Director
Midcoast Community Council
Peninsula Open Space District
San Mateo Farm Bureau C/O Osha Meserve/James Crowder



County of San Mateo
Planning and Building Department

FINDINGS AND CONDITIONS OF APPROVAL

Permit or Project File Number: PLN 2021-00381 Hearing Date: September 13, 2022

Prepared By: Angela Chavez
Project Planner

Adopted By: Board of Supervisors

FINDINGS

For the Environmental Review, Found:

1. That the project is categorically exempt under the provisions of Class 5, Section 15305 of the California Environmental Quality Act Guidelines (Minor Alterations to Land Use Limitations), which is applicable in areas with an average slope of less than 20% (the slope of the areas of alteration is no more than 10%) which do not result in changes in land use or density (the parcel legalizations and boundary adjustments will not increase the number of parcels or allowable density); and
2. That the project is categorically exempt under the provisions of Class 17, Section 15317 of the California Environmental Quality Act Guidelines (Open Space Contracts or Easements), which includes the making and reconfiguration of open space contracts under the Williamson Act.

For the Coastal Development Permit (CDP), Found:

For the Certificates of Compliance

3. That the project, as described in the application and accompanying materials required by Section 6328.7 and as conditioned in accordance with Section 6328.14, conforms with the plans, policies, requirements and standards of the San Mateo County Local Coastal Program (LCP), specifically with regard to the Locating and Planning New Development Component of the Local Coastal Program.
4. That the project is not located between the nearest public road and the sea, or the shoreline of Pescadero Marsh, and therefore is not subject to conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act of 1976 (commencing with Section 30200 of the Public Resources Code).

5. That the project conforms to specific findings required by policies of the San Mateo County LCP with regard to Legalizing Parcels and Coastal Development Permit Standards of Review for Legalizing Parcels as legalization of the parcels conforms with the Agricultural land use designation, the requirement for a Coastal Development Permit to legalize the parcel is being pursued under the subject application, and as conditioned there is no evidence that legalization of the three parcels will have any adverse impact on coastal resources.

For the Planned Agricultural District (PAD) Permit, Found:

6. That the project complies with all applicable criteria for issuance of PAD permit contained in Section 6355 of the County Zoning Regulations, including:

General Criteria

- a. That the encroachment of all development upon land which is suitable for agricultural use is minimized since no development is presently proposed with this application. The project will consolidate lands currently utilized for agricultural activities and will protect all of the project area with either a Farmland Security Zone Contract or Open Space Easement.
- b. That all development permitted on the site is clustered. No development is proposed as part of this project.
- c. That every project shall conform to the Development Review Criteria contained in Chapter 20A.2 of the San Mateo County Zoning Regulations. No development or change of use is currently proposed as part of this project. Any future development will be subject to a determination of compliance with all applicable Development Review Criteria in Chapter 20A.2 including Section 6324.1 (*Environmental Quality Criteria*), Section 6324.2 (*Site Design Criteria*), Section 6324.3 (*Utilities*), Section 6324.4 (*Water Resources Criteria*), and Section 6324.6 (*Hazards to Public Safety Criteria*). Furthermore, approval of an adequate domestic water supply and sewage disposal system will be required by the Environmental Health Division at such time future development is proposed.

Water Supply Criteria

That any potential future development may be required to comply with all County Environmental Health Division's standards and regulations for a well and/or onsite wastewater treatment system to serve such development. Given the proposed parcel configuration and contract protections there is no expected impacts to diminish water supplies serving the existing agricultural crops.

Criteria for the Division of Prime Agricultural Land

- a. That Prime Agricultural Land which covers an entire parcel will not be divided. The project proposes to consolidate, rather than divide, parcels consisting of prime agricultural land in compliance with the agricultural criteria of the PAD. Each of the project parcels has portions of Prime Agricultural Land and supports productive agricultural crops. The parcel boundaries will be adjusted to limit useable Prime Agricultural Land to Parcels 1,3, and 4.
- b. That Prime Agricultural Land within a parcel will not be divided as the project proposes to consolidate, rather than divide, parcels consisting of prime agricultural land in compliance with the agricultural criteria of the PAD. While there are portions of prime agricultural land on Parcel 2 these are largely not farmable due to their relationship to Higgins Canyon Road (just at the road or within the right-of-way).
- c. That Prime Agricultural Land within a parcel will not be divided when the only building site would be on such Prime Agricultural Land. The project proposes to consolidate the current agriculture uses on three of the parcels which will all be covered by Farmland Security Zone contracts. The remaining parcel will largely consist of lands suitable for agriculture and other lands. These lands will be covered by an Open Space Easement.

Procedural Criteria for Issuance of a Planned Agricultural Permit

a. Master Land Division Plan

That 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 the development permitted and which parcels will be used of agricultural and non-agricultural uses. Previous density analysis determined that the project parcels resulted in approximately 7.6 density credits. While the project includes the issuance of three Certificates of Compliance (Type B), these parcels will be reconfigured to consolidate the prime agricultural lands. The project applicants also propose to record Farmland Security Zone Contracts and Open Space Easements over the reconfigured parcels. No future development is proposed as part of this project. All future development will be subject to further County review and approval if any should be proposed.

b. Easements on Agricultural Parcels

That the applicant shall grant to the County 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 agricultural and farm labor housing. The applicant is proposing the cover the existing agricultural uses with a

Farmland Security Zone contract and remaining area with an Open Space Easement to ensure continued long-term use of the land for agricultural production/resource protection.

c. Agricultural Land Management Plan

That for parcels 20 acres or more in size before division or conversion, the applicant shall file an agricultural land management plan demonstrating how, if applicable, the agricultural productivity of the land will be fostered and preserved. The subject agricultural lands have been acquired by POST in an effort to ensure that the agricultural land remains under productive agricultural use. The reconfigured boundaries of parcels 1,3, and 4 will correspond with the existing ongoing agricultural activities and will be covered by Farmland Security Zone Contract with future plans to transfer these parcels to a long-term agricultural operator. Parcel 2 is planned to be transferred to Midpeninsula Regional Open Space District to serve as part of their trail network. While the areas of reconfigured parcel 2 are not currently being farmed there are no limitations to the future use of this parcel for agricultural related uses. Therefore, this project will foster and preserve the agriculture of the project lands.

For the Conditional Certificates of Compliance (Type B), Found:

7. That the processing of the Certificate of Compliance (Type B) is in full conformance with the County Subdivision Regulations Section 7134 (Legalization of Parcels; Certificate of Compliance).
8. That the processing of the Certificate of Compliance (Type B) is in full conformance with Government Code section 66499, et seq.

For the Lot Line Adjustment (LLA), Found:

9. That the processing and conditions of approval of the lot line adjustment are in full conformance with Section 7124 of the San Mateo County Subdivision Regulations. This lot line adjustment is consistent with the criteria set forth in Section 7126.1 as the new parcels meet the minimum parcel size, emergency and routine access exists, existing water entitlements will remain in place, the site currently is not served by public sewage facilities but are of adequate size to support a septic system, the land taken from one parcel is added to an adjoining parcel ensuring that no greater number of parcels than originally existed is created, and the project will not result in impacts upon scenic corridors, wetlands, coastal resources, or authorized coastal development.

For the Rescinding and Replacement of the Williamson Act Contracts:

10. The new contract or contracts would enforceably restrict the adjusted boundaries of the parcels for an initial term for at least as long as the unexpired term of the rescinded contract or contracts, but for not less than 10 years.

11. There is no net decrease in the amount of the acreage restricted. In cases where parcels involved in a lot line adjustment are all subject to contracts rescinded pursuant to Section 51257 of the California Land Conservation Act, this finding is satisfied as the aggregate acreage of the land restricted by the new contracts is at least as great as the aggregate acreage restricted by the rescinded contracts.
12. At least 90% of the land under the former contract or contracts remains under the new contract or contracts. All lands currently covered by a contract will continue to be covered by either a Farmland Security Zone or Open Space Easement contract.
13. After the lot line adjustment, the parcels of land subject to contract will be large enough to sustain the agriculture use as defined in Section 51222 of the California Land Conservation Act. The resulting parcel configurations do not result in a greater number of parcels and comply with the general plan in their resulting size and design to allow for the existing agricultural uses to continue.
14. The lot line adjustment would not compromise the long-term agricultural productivity of the parcel or other agricultural lands subject to a contract or contracts. The proposed lot line adjustment changes the internal boundaries between four parcels which were historically conveyed jointly. The modifications to consolidate the existing agricultural uses on three of the parcels is not expected to have any impacts to adjacent lands.
15. The lot line adjustment is not likely to result in the removal of adjacent land from agricultural use. The proposed lot line adjustment changes the internal boundaries between four parcels which were historically conveyed jointly. The modifications to consolidate the existing agricultural uses on three of the parcels is not expected to have any impacts to adjacent lands.
16. The lot line adjustment does not result in a greater number of developable parcels than existed prior to the adjustment, or an adjusted lot that is inconsistent with the general plan. The project reconfigures the boundaries to consolidate existing agricultural activities. The resulting parcel configurations do not result in a greater number of parcels and comply with the general plan in their resulting size and design to allow for the existing agricultural uses to continue.

CONDITIONS OF APPROVAL

Current Planning Section

1. This approval applies only to the proposal as described in the plans, supporting materials, and reports approved by the Board of Supervisors on September 13, 2022. Minor revisions or modifications to the project may be made subject to the review and approval of the Community Development Director, if they are consistent with the intent of and in substantial conformance with this approval.

2. The subject Certificates of Compliance (Type B) shall be recorded prior to the recordation of any other documents associated with this project.
3. The applicant is advised that prior to recordation of the Certificate of Compliance, Lot Line Adjustment, and Rescindment and Replacement Contract documents the owner/applicant shall provide the project planner with a check to cover recording fee costs. The project planner will confirm the amount prior to recordation.
4. For Parcels Not of Record, Acreage, and Multi-Directional Adjustments In accordance with Section 8762 of the State Business and Professions Code, for parcels not of record, acreage and lot line adjustments involving multi-directional adjustments, the applicant will be required to submit a Record of Survey map and numerical closure sheets for all parcels, in addition to the deeds and legal descriptions to be recorded as specified in Section 7128.1a, of the County Subdivision Regulations.
- 5.. For those lot line adjustments described in Section 7128.1b, of the County Subdivision Regulations, the applicant has the option to record a parcel map in accordance with Article 3, Chapter 2 of the Subdivision Regulations, in lieu of submitting the items specified in Section 7128.1b. However, no parcel map, final map, or tentative map shall be required as a condition to the approval of a lot line adjustment that has obtained all other required approvals.
6. Prior to recordation of the lot line adjustment, the applicant shall seek and obtain from the City of Half Moon Bay, by merger, lot line adjustment, or whatever other process the City provides, final approval of the reconfiguration of the lot lines as depicted in the project application that fall within city limits.

Environmental Health Services

7. Any future development of housing, residential structures or any other structures requiring potable water supply or containing fixtures requiring septic wastewater disposal will require provision for adequate water supply and sewage disposal in accordance with County codes.

Review by Cal-FIRE

8. The applicant shall comply with all Cal-Fire requirements prior or as part of the recordation of the Lot Line Adjustment.

CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT OFFICE
455 MARKET ST., SUITE 228
SAN FRANCISCO, CA 94105-2420
(415) 904-5260
NORTHCENTRALCOAST@COASTAL.CA.GOV

**APPEAL FORM****Appeal of Local Government Coastal Development Permit****Filing Information (STAFF ONLY)**

District Office: North Central Coast

Appeal Number: _____

Date Filed: _____

Appellant Name(s): _____

APPELLANTS

IMPORTANT. Before you complete and submit this appeal form to appeal a coastal development permit (CDP) decision of a local government with a certified local coastal program (LCP) to the California Coastal Commission, please review [the appeal information sheet](#). The appeal information sheet describes who is eligible to appeal what types of local government CDP decisions, the proper grounds for appeal, and the procedures for submitting such appeals to the Commission. Appellants are responsible for submitting appeals that conform to the Commission law, including regulations. Appeals that do not conform may not be accepted. If you have any questions about any aspect of the appeal process, please contact staff in the Commission district office with jurisdiction over the area in question (see the Commission's [contact page](#) at <https://coastal.ca.gov/contact/#/>).

Note regarding emailed appeals. Please note that emailed appeals are accepted ONLY at the general email address for the Coastal Commission district office with jurisdiction over the local government in question. For the North Central Coast district office, the email address is NorthCentralCoast@coastal.ca.gov. An appeal emailed to some other email address, including a different district's general email address or a staff email address, will be rejected. It is the appellant's responsibility to use the correct email address, and appellants are encouraged to contact Commission staff with any questions. For more information, see the Commission's [contact page](#) at <https://coastal.ca.gov/contact/#/>.

Appeal of local CDP decision

Page 2

1. Appellant information¹

Name: _____

Mailing address: _____

Phone number: _____

Email address: _____

How did you participate in the local CDP application and decision-making process?

Did not participate Submitted comment Testified at hearing Other

Describe: _____

If you did *not* participate in the local CDP application and decision-making process, please identify why you should be allowed to appeal anyway (e.g., if you did not participate because you were not properly noticed).

Describe: _____

Please identify how you exhausted all LCP CDP appeal processes or otherwise identify why you should be allowed to appeal (e.g., if the local government did not follow proper CDP notice and hearing procedures, or it charges a fee for local appellate CDP processes).

Describe: _____

¹ If there are multiple appellants, each appellant must provide their own contact and participation information. Please attach additional sheets as necessary.

Page 3

Date of local government CDP decision: _____

[illegible]

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Exhibit 5
Page 3 of 32

Page 4

Applicant name(s): _____

Applicant Address: _____

For appeals of a CDP approval, grounds for appeal are limited to allegations that the approved development does not conform to the LCP or to Coastal Act public access provisions. For appeals of a CDP denial, grounds for appeal are limited to allegations that the development conforms to the LCP and to Coastal Act public access provisions. Please clearly identify the ways in which the development meets or doesn't meet, as applicable, the LCP and Coastal Act provisions, with citations to specific provisions as much as possible. Appellants are encouraged to be concise, and to arrange their appeals by topic area and by individual policies.

[illegible]

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Exhibit 5
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Appeal of local CDP decision

Page 5

5. Identification of interested persons

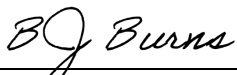
On a separate page, please provide the names and contact information (i.e., mailing and email addresses) of all persons whom you know to be interested in the local CDP decision and/or the approved or denied development (e.g., other persons who participated in the local CDP application and decision making process, etc.), and check this box to acknowledge that you have done so.

Interested persons identified and provided on a separate attached sheet

6. Appellant certifications

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Print name _____



Signature

Date of Signature _____

7. Representative authorization⁶

While not required, you may identify others to represent you in the appeal process. If you do, they must have the power to bind you in all matters concerning the appeal. To do so, please complete the representative authorization form below and check this box to acknowledge that you have done so.

I have authorized a representative, and I have provided authorization for them on the representative authorization form attached.

⁵ If there are multiple appellants, each appellant must provide their own certification. Please attach additional sheets as necessary.

⁶ If there are multiple appellants, each appellant must provide their own representative authorization form to identify others who represent them. Please attach additional sheets as necessary.

CALIFORNIA COASTAL COMMISSION

455 MARKET STREET, SUITE 300
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5200
FAX (415) 904-5400

**DISCLOSURE OF REPRESENTATIVES**

If you intend to have anyone communicate on your behalf to the California Coastal Commission, individual Commissioners, and/or Commission staff regarding your coastal development permit (CDP) application (including if your project has been appealed to the Commission from a local government decision) or your appeal, then you are required to identify the name and contact information for all such persons prior to any such communication occurring (see Public Resources Code, Section 30319). The law provides that failure to comply with this disclosure requirement prior to the time that a communication occurs is a misdemeanor that is punishable by a fine or imprisonment and may lead to denial of an application or rejection of an appeal.

To meet this important disclosure requirement, please list below all representatives who will communicate on your behalf or on the behalf of your business and submit the list to the appropriate Commission office. This list could include a wide variety of people such as attorneys, architects, biologists, engineers, etc. If you identify more than one such representative, please identify a lead representative for ease of coordination and communication. You must submit an updated list anytime your list of representatives changes. You must submit the disclosure list before any communication by your representative to the Commission or staff occurs.

Your Name _____

CDP Application or Appeal Number _____

Lead Representative

Name _____

Title _____

Street Address. _____

City _____

State, Zip _____

Email Address _____

Daytime Phone _____

Your Signature 

Date of Signature October 12, 2022

Additional Representatives (as necessary)

Name _____
Title _____
Street Address. _____
City _____
State, Zip _____
Email Address _____
Daytime Phone _____

Name _____
Title _____
Street Address. _____
City _____
State, Zip _____
Email Address _____
Daytime Phone _____

Name _____
Title _____
Street Address. _____
City _____
State, Zip _____
Email Address _____
Daytime Phone _____

Name _____
Title _____
Street Address. _____
City _____
State, Zip _____
Email Address _____
Daytime Phone _____

Your Signature 

Date of Signature October 12, 2022

ATTACHMENT 1

Application for Appeal

To the Planning Commission

To the Board of Supervisors

County Government Center ▪ 455 County Center, 2nd Floor
Redwood City ▪ CA ▪ 94063 ▪ Mail Drop PLN 122
Phone: 650 ▪ 363 ▪ 4161 Fax: 650 ▪ 363 ▪ 4849

Name:

Address: Osha Meserve/James Crowder

510 8th St., Sacramento, CA

Phone, W:

H: james@semlawyers.com

Zip:

Permit Numbers involved:

I have read and understood the attached information regarding appeal process and alternatives.

☐ yes

 no

I hereby appeal the decision of the:

☐ Staff or Planning Director

☐ Zoning Hearing Officer

☐ Design Review Committee

 Planning Commission

Appellant's Signature:

Date: June 8, 2022

made on _____ 20____, to approve/deny
the above-listed permit applications.

Planning staff will prepare a report based on your appeal. In order to facilitate this, your precise objections are needed. For example: Do you wish the decision reversed? If so, why? Do you object to certain conditions of approval? If so, then which conditions and why?

May 23, 2022

SENT VIA EMAIL

(jlujan@smcgov.org; planning-commission@smcgov.org)

Janneth Lujan, Planning Commission Secretary
San Mateo County Planning Commission
455 County Center
Redwood City, California 94063

**RE: Comments on Proposed Johnston Ranch Land Use Changes
May 25, 2022, Planning Commission Meeting, Agenda Item No. 4**

Dear Ms. Lujan:

These comments on the proposed land use changes on Johnston Ranch (“Ranch”) are submitted on behalf of the San Mateo County Farm Bureau (“Farm Bureau”), which consists of the majority of farmers and ranchers in San Mateo County (“County”). The Farm Bureau is an independent, non-governmental, voluntary organization governed by and representing farm and ranch families united for the purpose of analyzing their problems and formulating action to achieve educational improvement, economic opportunity, and social advancement with an overall goal to enhance the agricultural industry in the County by educating consumers and protecting farmers’ interests.

The Farm Bureau is concerned that the land use changes proposed for the Ranch fail to include adequate protections for agriculture. As explained herein, the minimum protections required by the 2004 Memorandum of Understanding (“MOU”) between the Farm Bureau and the Midpeninsula Regional Open Space District (“MidPen”) are not being followed. In addition, due to unusual circumstances, the proposed land use changes are not exempt from review under the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq. [“CEQA”]).

Notably, the lands within the Ranch are not presently, and are not proposed to be, subject to conservation easements to protect agriculture in the long term. On the contrary, the changes sought, characterized as “Lot Line Adjustments,” fail to include anything other than a future intent to include such protections if and when the 224-acre Farm portion of the property is sold to a farmer. Furthermore, the lack of permanent protections on lands managed and owned by MidPen and the Peninsula Open Space Trust (“POST”) is facilitated by the County’s 2020 decision (concurred in by the California

Coastal Commission in 2021) to remove the requirement for easements where there is a land division brought about in connection with the purchase of land by a public agency for public recreational use.¹

I. Project Background

The Ranch is an 868-acre property located east of the town of Half Moon Bay in San Mateo County, within the Coastsides Protection Area. Through two separate purchases in 1999 and 2001, POST purchased the Ranch. In November 2021, approximately 644 acres were sold to MidPen. Currently, there are eight parcels within the 868-acre area.² The project would merge two of these parcels resulting in a total of six parcels spanning the 868 acres. Additionally, POST and MidPen have requested to reconfigure, via a Lot Line Adjustment (“LLA”), four of the parcels, which would result in POST owning approximately 224 acres of “agricultural property” and MidPen owning 644 acres of “upland property”.

Additionally, all the parcels are covered by Williamson Act contracts, and the project would change or modify those contracts. Currently, parcels 1 and 2 contain 20-year Farmland Security Zone (“FSZ”) contracts, and parcels 3 and 4 contain 10-year Land Conservation Act contracts. Ultimately, 434 acres of land currently under some type of Williamson Act contract would be replaced with either a 10- or 20-year Open Space Easement (“OSE”). The other 210 acres would be placed into two separate FSZ contracts.

The MOU between MidPen and the Farm Bureau provides that MidPen will “preserve and encourage viable agricultural operations and avoid adverse effects on agriculture.” (Exhibit 1, MOU, p. 2.) Additionally, the MOU provided mitigation measures to help preserve agricultural lands. In exchange for these important commitments, Farm Bureau supported MidPen’s annexation of the Coastsides Protection Area.

II. This Project Cannot Be Exempt from CEQA Review

The staff report for the proposed land use changes indicates these changes will be determined exempt from CEQA under Class 5 and 17 categorical exemptions. (Staff

¹ The Farm Bureau’s legal challenge to these amendments to the Local Coastal Plan is currently pending in San Mateo County Superior Court.

Report, pp. 3, 15.)³ Additionally, the September 30, 2021 Supplemental Statement (Staff Report, pdf p. 35) indicated a possible use of the Class 25 categorical exemption. As explained below, these exemptions from CEQA do not apply to the project. Alternatively, the project would create significant impacts due to unusual circumstances.

A. Standards Applicable to Categorical Exemptions

There are several categories of projects that are exempt from CEQA, and therefore do not require a lead agency to conduct environmental review when a decision to approve a project is made. Exemptions from CEQA are founded on the basis that specific types of projects will not have significant environmental impacts. However, an agency's categorical exemption determination must be supported by substantial evidence that the project falls within the exempt category of projects. (See *Save the Plastic Bag Coalition v. County of Marin* (2013) 218 Cal.App.4th 209, 219-220.)

A lead agency's Notice of Exemption must contain a brief statement supporting the finding for exemption and the appropriate CEQA Guidelines. (*Muzzy Ranch Co. v. Solano County Airport Land Use Com.* (2007) 41 Cal.4th 372, 380.) "If a public agency properly finds that a project is exempt from CEQA, no further environmental review is necessary." (*Ibid.*)

Categorical exemptions are subject to exceptions under which reliance on an exemption is improper. (Cal. Code Regs., tit. 14, §§ 15000 et seq. ["CEQA Guidelines"], 15300.2.) For example, an exemption may not be relied on when there is a "reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances." (CEQA Guidelines, § 15300.2, subd. (c); see, e.g., *City of Santa Clara v. LAFCO* (1983) 139 Cal.App.3d 923, 932 [inconsistency between the prezoned agricultural land and the annexing city's general plan created unusual circumstances justifying LAFCO's denial of the exemption]; *Voices for Rural Living v. El Dorado Irrigation District* (2012) 209 Cal.App.4th 1096, 1109 [due to "unusual circumstances" delivery of water to a casino through an existing pipeline had a potentially significant effect, thereby precluding reliance on an exemption].)

³ Citations to the Staff Report include the Executive Summary, Staff Report and Recommended Findings and Conditions of Approval. Attachments will be cited separately.

B. The Project Is Not Subject to a Class 5 Categorical Exemption

The staff report relies on the Class 5 categorical exemption under CEQA Guidelines section 15305, subdivision (a). (Staff Report, p. 3.) This section of the CEQA Guidelines provides an exemption for projects that are minor alterations in land use limitations on parcels with an average slope of less than 20 percent. (CEQA Guidelines, § 15305.) Though the staff report does not provide further details, it does suggest that the project is exempt because it involves a minor lot line adjustment and does not result in changes to land use or density. (Staff Report, p. 15.) However, this LLA is not “minor,” and though no parcels are being created, the reconfiguration results in a completely different configuration of land uses.

The Class 5 Categorical Exemption is reserved for minor alterations to land. The example provided within the exemption is: “Minor lot line adjustments, side yard, and set back variances not resulting in the creation of any new parcel.” (CEQA Guidelines, § 15305, subd. (a).) Here, the applicants are requesting to turn eight parcels into six and subsequently reconfigure four of those parcels. The reconfiguration involves more than “minor” lot line adjustments. For example, once the parcels are merged, Parcel 3 would contain 183 acres, after the LLA Parcel 3 would be dwindled down to 7 acres. (Supp. Statement, p. 6.) The removal of over 175 acres from one parcel cannot be considered a “minor” adjustment.

Additionally, CEQA Guidelines section 15305 applies only to parcels with an average slope of less than 20 percent. Here, about two-thirds of the acreage included in the LLA has an average slope of 24.5 percent. Proposed parcel 2 would have a slope of 24.5%, therefore, making the exemption inapplicable to parcel 2.

Thus, the Class 5 categorical exemption under CEQA Guidelines section 15305, subdivision (a) does not apply to the project.

C. The Project Is Not Subject to a Class 25 Categorical Exemption

The Supplemental Statement states that the LLA is categorically exempt under Class 25 categorical exemption under CEQA Guidelines section 15325. This section provides an exemption for transfers of ownership in land to preserve open space, habitat, or historical resources. (CEQA Guidelines, § 15325.) The Guidelines provide several examples including: to allow continued agricultural use of the areas and preservation of open space or lands for park purposes. (*Id.* at subds. (b) & (f).)

There are two problems with the reliance of this exemption. First, roughly a quarter of the land being reconfigured under the LLA was not recently acquired or transferred. Second, the proposed land use will be changing, therefore, it will not be preserved for continued agricultural use. Further, the lands that were acquired were not acquired for park purposes.

1. *Multiple Parcels Were Not Recently Transferred*

Class 25 categorical exemption may only be utilized if there is an acquisition, sale, or other transfer of land. (CEQA Guidelines, § 15325.) After the LLA, parcels 2 and 3, which make up roughly 432 acres of the current area, would be transferred to MidPen. (Supp. Statement, p. 6.) POST would maintain ownership of the reconfigured parcels 1, 3 and 4. (Supp. Statement, p. 11.) At a minimum, the land being retained by POST would not fall under the Class 25 CEQA exemption. Further, due to the reliance on POST's parcels for reconfiguration, the entire area cannot not rely on this CEQA exemption. In order to rely on this exemption, POST and MidPen would need to confine the LLA to the land currently being transferred.

2. *The LLA Would Not Preserve Established Agricultural Use*

The Staff Report fails to provide any additional information supporting possible reliance on how the project would preserve an established agricultural use under CEQA Guidelines section 15325. (Staff Report, p. 3.) Given the examples provided in the CEQA Guidelines, it may be assumed that the County may be considering relying on CEQA Guidelines section 15325, subdivisions (b) or (f).

CEQA Guidelines section 15325, subdivision (b) specifies a project maybe exempt if the acquisition or transfer was for the purpose of allowing continued agricultural use of the area. The County cannot rely on this subdivision for an exemption because the number of acres being protected by an agricultural specific contract is actually decreasing. Currently, "all parcels are covered by a form of a Williamson Act contract," some are 10-year Land Conservation Act contracts, and others are 20-year Farmland Security Zone contracts. (Staff Report, p. 2.) The LLA would reconfigure these parcels, rescind the Williamson Act contracts, and replace them with varying designations. In fact, the LLA would push all "existing agricultural activities onto solely agricultural parcels." (Staff Report, p. 4.) This would exclude all the prime agricultural lands at the southeastern corner of reconfigured parcel 2, north of Higgins Canyon Road. (Supp. Statement, Attachment J.)

CEQA Guidelines section 15325, subdivision (f) allows a project to utilize the exemption if the acquisition or transfer preserves open space or land for park purposes. Although MidPen intends to maintain much of the area as open space, it would not be for park purposes. Therefore, CEQA Guidelines section 15325, subdivision (f) cannot be relied upon to exempt the project from CEQA analysis.

D. Potential for Significant Impacts Precludes Reliance on CEQA Exemptions

“A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.” (CEQA Guidelines, 15300.2, subd. (c).) “When it is shown that a project otherwise covered by a categorical exemption will have a significant environmental effect, it necessarily follows that the project presents unusual circumstances.” (*Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086, 1105–1106.) This project would result in several potentially significant impacts and therefore, unusual circumstances preclude reliance on an exemption from CEQA.

1. Agricultural Impacts

There is a possibility of significant impacts to agricultural land, which would preclude reliance on a CEQA exemption. With respect to the project’s impacts on agricultural resources, CEQA requires an evaluation of whether the project will convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, conflict with existing zoning for agricultural use or a Williamson Act contract, or involve other changes in the existing environment, which due to their location or nature, could result in conversion of farmland to non-agricultural use. (CEQA Guidelines, App. G, § II.) As discussed herein, the change in designation from Williamson Act contracts to 10- or 20-year OSEs indicates that the agricultural uses of the land may be phased out in favor of open space use and/or low-intensity recreation. This conversion may result in significant impacts to agricultural resources.

2. *Land Use Impacts*

The County must also assess whether the proposed project is consistent with applicable land use designations in the General Plan and the Zoning Code. (CEQA Guidelines, App. G, § IX, subd. (b).) Projects that are inconsistent with the County's planning documents would have a significant effect on the environment. As explained in Section III *post*, the project conflicts with San Mateo County's Zoning regulations. Thus, reliance on an exemption would not be appropriate.

3. *Cumulative Impacts*

Categorical CEQA exemptions "are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant." (CEQA Guidelines, § 15300.2, subd. (b).) Agricultural land in San Mateo County is increasingly rare. This project would incrementally add to that cumulative impact and continue to leave open the possibility of future development of the subject parcels. While Williamson Act and FSZ contracts would be placed on some of the parcels, these protections are for a maximum of twenty years. Therefore, the project contributes to the cumulative impact of continued removal of agricultural specific protections, ultimately resulting in the loss of prime agricultural land.

III. The LLA Conflicts with Planned Agricultural District Zoning Criteria

The requests made in the application trigger requirements under San Mateo County Zoning Regulations Chapter 21A. Pursuant to these regulations, the applicants must obtain a Planned Agricultural District ("PAD") permit because all parcels in the proposal are located within a PAD. (Staff Report, p. 7; Supp. Statement, p. 2.) By obtaining a PAD permit the applicants would be allowed to pursue uses other than agriculture. (San Mateo County Zoning Code, § 6353.) In order to obtain a permit an applicant must "provide factual evidence which demonstrates that any proposed land division or conversion of land from an agricultural use will result in uses which are consistent with the purpose of the [PAD], as set forth in Section 6350." (*Id.* at § 6355.) Section 6350 states that the purpose of the PAD is to:

- 1) preserve and foster existing and potential agricultural operations in San Mateo County in order to keep the maximum amount of prime agricultural land and all other lands suitable for agriculture in agricultural production, and
- 2) minimize conflicts between agricultural and non-agricultural land uses by employing all of the following techniques:

- (a) establishing stable boundaries separating urban and rural areas and, when necessary, clearly defined buffer areas,
- (b) limiting conversions of agricultural lands around the periphery of urban areas to lands where the viability of existing agricultural use has already been severely limited by conflicts with urban uses, and where the conversion of such land would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development,
- (c) developing available lands not suitable for agriculture before converting agricultural lands,
- (d) assuring that public service and facility expansions and non-agricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality, and
- (e) assuring that all divisions of prime agricultural land (except those stated in (b)) and all adjacent development does not diminish the productivity of prime agricultural lands and other land suitable for agriculture.

(San Mateo County Zoning Regulations, § 6350.)

Throughout the staff report materials, the applicants and staff assure the County that the LLA complies with the PAD criteria. However, the reconfiguration and changes from Williamson Act contracts to 10- or 20-year OSEs conflict with the purpose of the PAD. Rather than maintain the agricultural uses that are currently occurring on each parcel, the applicants propose to reconfigure the parcels in a manner that decreases the amount of prime agricultural lands covered by Williamson Act contracts. (Compare Supp. Statement, Attachment C with Attachment J.)

Though the Williamson Act may allow OSEs to be exchanged for Williamson Act contracts, the PAD does not provide a similar loophole. Instead, the PAD focuses on the protection of prime agricultural lands. The staff report asserts that “There are portions of prime agricultural lands which are unlikely to be farmed due to their location within or immediately adjacent to Higgins Canyon Road.” (Staff Report, p. 2.) The staff report later states:

Separating the prime agricultural lands from lands suitable for agriculture and covering the reconfigured parcels with the 20-year FSZ contract reduces the potential for conversion, while land better suited for open space

and public recreation uses due to the slope and soil type will be aggregated under two OSEs on reconfigured parcel 2.

(Staff Report, p. 14.) Additionally, throughout the Supplemental Statement, the applicants describe the reconfigured parcel 2 as protecting open space and enhancing public recreational uses. (Supp. Statement, pp. 12, 14, 16, 21, 22.) However, these assertions do not equate to protection of prime agricultural lands, as required by the PAD.

Nearly the entire southern boundary of the current parcel 2 is prime agricultural land that would be severed from other agricultural acreage. (Supp. Statement, Attachment C.) The reconfiguration would put the western half of this acreage into parcel 1, and the eastern acreage in reconfigured parcel 2, which would only be covered by an OSE. (Supp. Statement, Attachment J.) Severing prime agricultural land from other agricultural acreage would conflict with the purpose of San Mateo County's PAD regulations.

IV. The MOU Requirements are Not Met by the Johnston Ranch Project

As part of MidPen's annexation of the Coastside Protection Area, MidPen "adopted a set of Mitigation Measures to preserve agriculture and to avoid adverse impacts on agriculture." (Exhibit 1, MOU, p. 2.) Through the 2004 MOU, MidPen agreed to implement these mitigation measures. (*Ibid.*) The Johnston Ranch project, however, fails to follow these measures, as described below.

A. Trails and Habitat Preservation Areas are Not Located Away from Agricultural Lands

Mitigation AGR-1b states, "Trails and habitat preservation areas shall either be located to avoid prime agricultural lands and Unique Farmlands or Farmlands of Statewide Importance . . . or traverse such lands in a manner that does not result in interference with agricultural activities" (Exhibit 1, MOU, p. 6.) Mitigation AGR-3a states, "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 All trails and other public facilities should be located so as not to fragment agricultural operations unless no feasible alternative is available." (*Id.* at p. 7.)

Here, the proposed trail and future low-intensity public recreational uses may interfere with agricultural activities. Further, due to the lack of information regarding future low-intensity public recreation, impacts to agricultural lands from the proposed

property boundary changes are not precluded. These shortcomings conflict with the commitments made in the 2004 MOU.

B. The Land Use Changes Fail to Incorporate Permanent Protections for Agriculture

In addition to failing to describe how the recreational uses would be separated from agriculture, MidPen has also overlooked Mitigation AGR-3g. Mitigation AGR-3g states:

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.

(Exhibit 1, MOU, p. 8, bold added.) The application does not contain information indicating that agricultural lands would be permanently protected with a conservation easement.

Instead, MidPen proposes to rearrange the Williamson Act contracts and replace some with OSEs with a term of 10 or 20 years. The only mention of permanently protecting agriculture at the site is the *future promise* of POST to provide a permanent agricultural conservation easement if a farmer purchased the land at a later date. (Supp. Statement, p. 2.) This future promise is not echoed in the staff report, making its assertion dubious at best. Therefore, MidPen has purchased land that is currently being used for agriculture and intends to transform it into open space for recreational purposes, without providing any permanent protection for agricultural uses. This goes against the 2004 MOU and allows non-agricultural uses to continue to usurp and encroach on the limited agricultural land remaining in San Mateo County.

Janneth Lujan, Planning Commission Secretary
San Mateo County Planning Commission
May 23, 2022
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V. Conclusion

The Farm Bureau requests that the application be revised and/or conditions be added to permanently protect agricultural lands prior to the approval of this LLA and revisions to the Williamson Act contracts. The Planning Commission should continue this item to allow the proposal to be amended to include enforceable promises to permanently protect agricultural land within Johnston Ranch and set a proper example for other similar projects within the County.

Very truly yours,

SOLURI MESERVE
A Law Corporation

By: 
Osha R. Meserve

cc: San Mateo County Farm Bureau (smcfbhmb@aol.com)
Ben Wright (bwright@openspacetrust.org)
Mike Williams (mwilliams@openspace.org)

Attachment:

Exhibit 1 - 2004 Proposed Memorandum of Understanding Between the San Mateo County Farm Bureau and Midpeninsula Regional Open Space District

EXHIBIT 1

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 Coastsides 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 (“Coastsides 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 coastsides residents that its policy prohibiting the use of eminent domain in the proposed Coastsides 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 Coastsides 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.

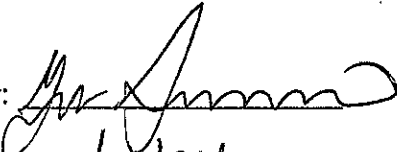
3. The San Mateo County Farm Bureau determines that, based upon the specific terms and conditions of this MOU, the District's Coastsides Protection Program will benefit and help preserve agriculture in San Mateo County, and will help to protect agriculture's physical and economic integrity in the County. 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 Coastsides 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:

By: 
Date: 1/28/04

DISTRICT:

By: Mary Dancy
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
<p>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 <i>Draft Service Plan</i> 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 <u>Farmland in agricultural use.</u></p>
<p>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 <u>lands</u> shall be consulted to identify appropriate routes on <u>those</u> 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.</p>
<p>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."</p>
<p>Mitigation AGR-1d: Amend the Draft Service Plan to include the following:</p> <p>The term "prime agricultural land" as used in this Plan means:</p> <ul style="list-style-type: none"> 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. <p>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.</p>

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

<p><u>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.</u></p> <p>e) <u>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.</u></p> <p>f) <u>The District shall be responsible for the management and maintenance of all lands used as buffers.</u></p> <p>g) <u>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.</u></p> <p><u>All buffers shall be developed in consultation with the owners and operators of adjoining agricultural lands.</u></p>	
<p>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.</p>	
<p>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).</p>	
<p>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.</p>	

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

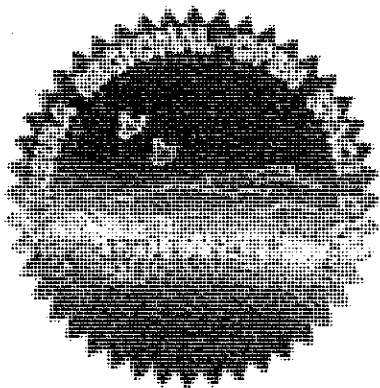
I, Sally Thiel foldt, declare:

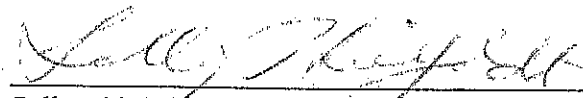
I am the duly appointed and acting Clerk of the Midpeninsula Regional Open Space District.

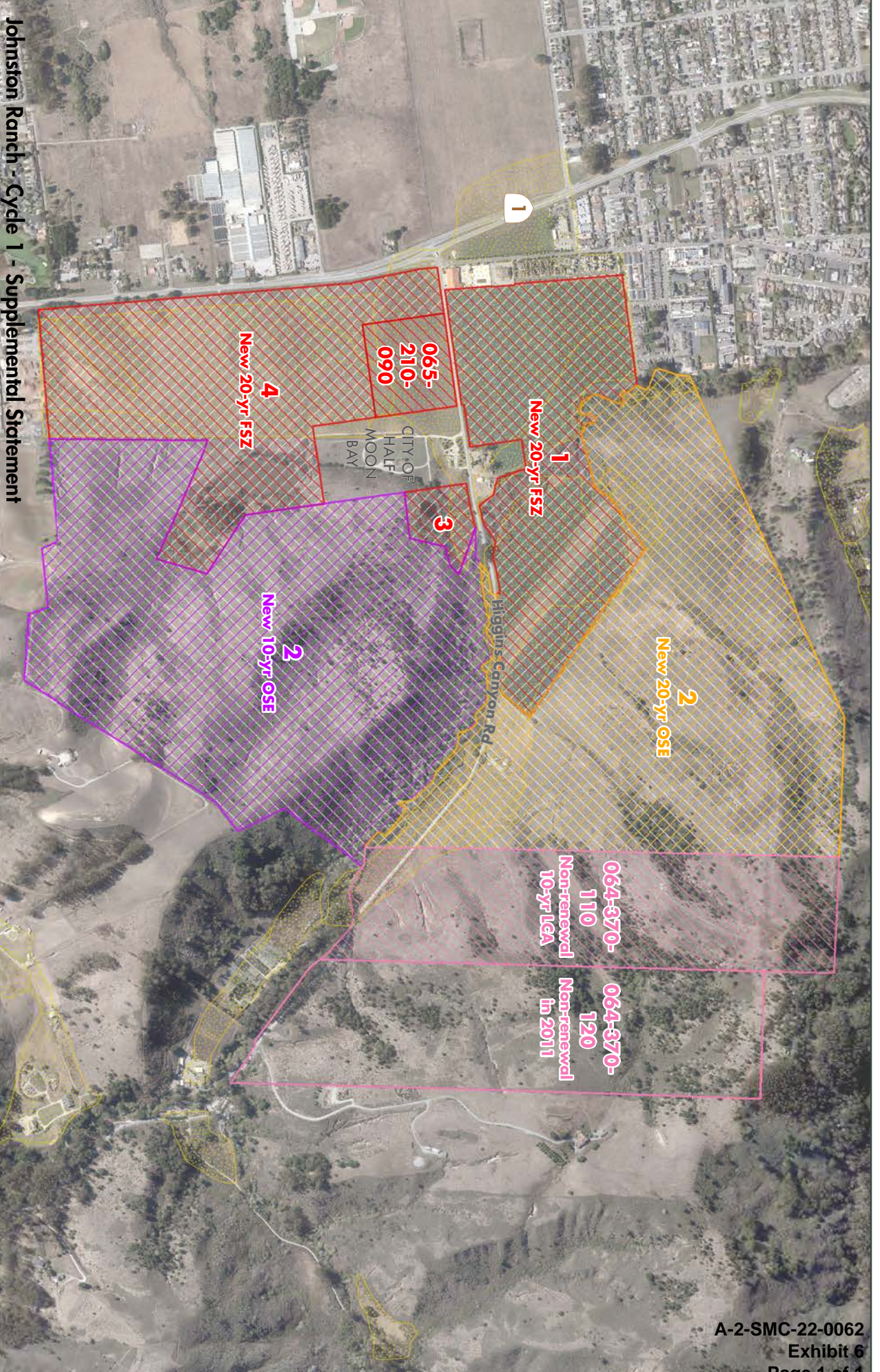
The original of the attached Memorandum of Understanding Between The San Mateo County Farm Bureau and Midpeninsula Regional Open Space District dated January 28, 2004 has been and is under my custody and control.

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



Attachment J – Map #8 SS – Johnston Ranch Proposed Farmland Security Zone Contract and Open Space Easements

Johnston Ranch - Cycle 1 - Supplemental Statement

- New 20-year Farmland Security Zone
- Non-renewal of existing 10-year land Conservation Act
- Non-renewal by San Mateo County in 2011

- New 10-year Open Space Easement
- New 20-year Open Space Easement
- Existing parcel to be reconfigured
- Prime agricultural lands

Miles

0

0.25

0.5



Midpeninsula Regional
Open Space District
(Midpen)
9/14/2021

