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Staff: Erik Martinez - SF
Staff Report: 1/20/2023
Hearing Date: 2/10/2023

STAFF REPORT SUBSTANTIAL ISSUE DETERMINATION

Appeal Number: A-2-SMC-22-0062

Applicants: Peninsula Open Space Trust (POST) and Midpeninsula Regional Open Space District (MROSD or MidPen)

Appellant: San Mateo County Farm Bureau

Local Government: San Mateo County

Local Decision: San Mateo County Coastal Development Permit Number PLN2022-00381, approved by the San Mateo County Board of Supervisors on September 13, 2022

Project Location: Johnston Ranch, located inland of Highway 1 adjacent to Higgins Canyon Road, just inland of the City of Half Moon Bay, in unincorporated San Mateo County (APNs 064-370-200, 064-370-070, 065-210-240, 065-210-220; 064-370-110, and 064-370-120)

Project Description: Land division resulting in four parcels (of 93, 434, 7, 110 acres) and application of a Farmland Security Zone contract and open space easements (dedicated to San Mateo County) over the parcels

Staff Recommendation: No Substantial Issue Exists

IMPORTANT HEARING PROCEDURAL NOTE

Please note that this is a substantial issue hearing only, and testimony will be taken *only* on the question of whether the appeal raises a substantial issue. Such testimony is generally limited to three minutes total per side (although the Commission's Chair has the discretion to modify these time limits), so please plan your testimony accordingly. Only the Applicant, Appellant, persons who opposed the application before the local

government, the local government, and their proxies/representatives are allowed to testify during this substantial issue phase of the hearing. Other interested parties may submit comments in writing. If the Commission finds that the appeal raises a substantial issue, then the Commission takes jurisdiction over the underlying coastal development permit (CDP) application and will then review that application at a future Commission meeting, at which time all persons are invited to testify. If the Commission finds that the appeal does not raise a substantial issue, then the local government CDP decision stands, and is thus final and effective.

SUMMARY OF STAFF RECOMMENDATION

San Mateo County approved a land division recognizing three parcels as legal, and then adjusting lot lines among those parcels and a separate fourth legal parcel to create four parcels of 93, 434, 7, and 110 acres at Johnston Ranch inland of Half Moon Bay in unincorporated San Mateo County. As part of the action, the County also replaced Williamson Act and Farmland Security Zone contracts on the parcels with a combination of a Farmland Security Zone contract and open space easements (dedicated to San Mateo County) that applied a series of restrictions to the four resultant parcels that severely limit allowed uses, focusing on accommodating existing agricultural uses, as well as potential future agriculture, in addition to potential, future public recreational trails on a portion of the Ranch. Importantly, no such future development is authorized by this CDP, and it would require its own CDP should such a proposal come to pass. Further, any future CDP would include an analysis to evaluate how and in what ways trail use and agricultural use can be harmonized. To put it another way, the County's CDP action would not significantly alter the current agricultural status quo at Johnston Ranch, and its purpose is to reconfigure underlying parcel lines and allowed uses in a way that responds to what the land is capable of accommodating and allowing for questions associated with any potential future development to be handled via future CDPs. The Appellant contends that the County-approved project raises LCP conformance issues related to the protection of prime agricultural lands because the reconfiguration 1) adversely impacts such lands; 2) does not maintain the maximum amount of such lands; and 3) lacks required agricultural protections.

However, the parcel reconfiguration would actually optimize agricultural use by protecting cultivated farmland on parcels that can sustain such activities, while encouraging grazing space and potential future low-intensity recreational use on parcels more suited for those uses. With respect to additional levels of protection, the 224 existing acres of cultivated agricultural lands would be covered by a new 20-year Farmland Security Zone contract and are expected to continue in agricultural operation. The open space easements on the remaining 434 acres will continue to accommodate grazing where it currently exists (as well as the potential for reintroduction of grazing to other areas), while also allowing the potential for low intensity public trail use in the future. In short, the land division and the various restrictions serve to protect ongoing (and potentially new) agricultural operations, while also acknowledging that some public trails may be possible in the future.

The Appellant finally argues that the County-approved project is not adequately protective of agriculture because it depends on an LCP amendment that is currently

being litigated (LCP Amendment Number LCP-2-SMC-20-0056-3, approved by the Coastal Commission on January 13, 2021). That amendment was designed to allow public agencies to avoid the need to apply agricultural and open space easements in the PAD and RM-CZ zoning districts, removing CDP approval requirements for land divisions brought about in connection with the purchase of such land by a public agency for public recreational use, including because the Coastal Act exempts such projects from CDP requirements already. This appeal contention does not raise a substantial issue of conformance because the County correctly applied the currently certified LCP to its CDP analysis, including as it was amended in 2021. CDPs are not required for land divisions brought about in connection with the purchase of such land by a public agency for public recreational use because the Coastal Act already exempts them. Absent a CDP process, there is no ability for the County through its LCP to require such a land division to meet CDP requirements. Thus, the amendment relieved those types of land divisions from meeting CDP requirements. Importantly, it did not change the fact that other sorts of development that might accompany a land division, such as changes to the intensity of use, are not so exempted from CDP requirements, and still require CDPs and LCP consistency for them. Even presuming for the sake of argument that the LCP amendment never occurred, and thus that the proposed development here, including the lot line adjustments, must be measured against the whole of the LCP as it existed prior to the 2021 amendment, as the Appellant suggests, it makes no difference to the outcome. Importantly, the County-approved project does not create any non-agricultural parcels (as agriculture will either continue or still be allowed on all of them), nor does it convert agriculture in any way. In fact, the County-approved project continues to protect prime agriculture and to foster agricultural uses on all of the resultant parcels. Thus, even if the 2021 amendment is still being litigated and thus considered inapplicable, and even if the exemptions memorialized in that amendment for non-CDP development do not apply to this project, the County's approval is still LCP consistent.

To conclude, the County's analysis appropriately accounts for the protection of prime agricultural lands and lands suitable for agriculture as required by the LCP, including by configuring three of the parcels to accommodate existing agricultural operations, and applying open space prescriptions to the fourth that both allow for ongoing grazing operations and do not preclude the possibility of expanded future agricultural operations. No development is proposed that would encroach upon prime agricultural lands or lands suitable for agriculture. In short, the County's analysis suggests that the Commission need not become further involved in this case, and staff recommends that the Commission find that the Appellant's contentions **do not raise a substantial issue** with respect to the County-approved project's conformity with the LCP. The single motion and resolution to do so is found on **page 5** below.

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EXHIBITS

- Exhibit 1 – Location Map
- Exhibit 2 – Existing and Proposed Parcel Configurations
- Exhibit 3 – Parcel Reconfiguration with Prime Agricultural Land
- Exhibit 4 – San Mateo County Final Local CDP Action Notice
- Exhibit 5 – Appeal of County CDP Action
- Exhibit 6 – Farm Security Zone Contract and Open Space Easement Locations

1. MOTION AND RESOLUTION

Staff recommends that the Commission determine that **no substantial issue** exists with respect to the grounds on which the appeal was filed. A finding of substantial issue would bring the CDP application for the proposed project under the jurisdiction of the Commission for de novo hearing and action. To implement this recommendation, staff recommends a **yes** vote on the following motion. Passage of this motion will result in a finding of no substantial issue and adoption of the following resolution and findings, and the local action will become final and effective. Failure of this motion will result in a substantial issue finding and a future de novo hearing on the CDP application. The motion passes only by affirmative vote of a majority of the Commissioners present.

Motion: *I move that the Commission determine that Appeal Number A-2-SMC-22-0062 raises **no substantial issue** with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act, and I recommend a **yes** vote.*

Resolution to Find Substantial Issue: *The Commission hereby finds that Appeal Number A-2-SMC-22-0062 presents no substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the certified San Mateo County Local Coastal Program and/or the public access and recreation policies of the Coastal Act.*

2. FINDINGS AND DECLARATIONS

A. Project Description and Location

The proposed project is located on Johnston Ranch, located inland and east of the town of Half Moon Bay on the inland/east side of Highway 1 along Higgins Canyon Road in San Mateo County, an 868-acre property that has been owned by Peninsula Open Space Trust (POST) for over twenty years since 2001 (see **Exhibit 1** for project location). The property is a largely undisturbed and undeveloped property with existing and ongoing agricultural operations (row crops) located along its western boundary. The ranch is made up of four parcels, three of which have been determined by the County to have not been created legally. Thus, the Applicants, POST and Midpeninsula Regional Open Space District (MROSD), propose a land division to legally recognize the three parcels that are not legalized (via conditional certificates of compliance in Subdivision Map Act terms), and to adjust parcel lines between all four parcels, resulting in four parcels of 93, 434, 7, and 110 acres. Three of the parcels (totaling 210 acres) have been designed to accommodate the existing ongoing agricultural row crop activities, and would be covered by Farmland Security Zone Contract, where POST indicates it intends to transfer these parcels to a long-term agricultural operator in the future. POST indicates that it intends to transfer the fourth parcel to MROSD, including to allow it to serve as part of their public trail network in the area, and to dedicate open space easements on that property (one easement for ten years and another for twenty years) to allow for continued resource protection. See **Exhibit 2** for the existing and proposed

lot configurations and see **Exhibit 6** for the proposed Farmland Security Contract and open space easement areas.

B. San Mateo County CDP Approval

On May 25, 2022, the San Mateo County Planning Commission approved a CDP for the above-described proposed project (CDP PLN2022-00381).¹ The San Mateo County Farm Bureau appealed the Planning Commission's CDP action to the Board of Supervisors, and on September 13, 2022 the Board denied the appeal and upheld the Planning Commission's decision. The Coastal Commission's North Central Coast District Office received the County's notice of its CDP decision on September 28, 2022 (see **Exhibit 4**). The Coastal Commission's ten-working day appeal period for this action began on September 29, 2022 and concluded at 5 pm on October 12, 2022 and the North Central Coast District Office received one valid appeal (discussed below and shown in **Exhibit 5**) during the appeal period.

C. Appeal Procedures

Coastal Act Section 30603 provides for the appeal to the Coastal Commission of certain CDP decisions in jurisdictions with certified LCPs. The following categories of local CDP decisions are appealable: (a) approval of CDPs for development that is located (1) between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance; (2) on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff; (3) in a sensitive coastal resource area; or (b) for counties, approval of CDPs for development that is not designated as the principal permitted use under LCP. In addition, any local action (approval or denial) on a CDP for a major public works project (including a publicly financed recreational facility and/or a special district development) or an energy facility is appealable to the Commission. This County CDP decision is appealable because land divisions are not the principally permitted use for the applicable PAD zone.

For appeals of a CDP approval, grounds for appeal are limited to allegations that the approved development does not conform to the LCP and/or to Coastal Act public access provisions. For appeals of a CDP denial, where allowed (i.e., only allowed in extremely limited circumstances – see description of appealable actions, above), the grounds for appeal are limited to allegations that the development conforms to the LCP and to Coastal Act public access provisions.

The Commission's consideration of appeals is a two-step process. The first step is determining whether the appeal raises a substantial issue that the Commission, in the exercise of its discretion, finds to be significant enough to warrant the Commission taking jurisdiction over the CDP application. This step is often referred to as the

¹ Because Williamson Act/Farmland Security Zone contract changes require Board of Supervisors approval, the Planning Commission also recommended that the Board approve the replacement of applicable Williamson Act and Farmland Security Zone contracts with a combination of Farmland Security Zone contracts and open space easement requirements.

“substantial issue” phase of an appeal. The Commission is required to begin its hearing on an appeal and address at least the substantial issue question within 49 working days of the filing of the appeal unless the applicant has waived that requirement, in which case there is no deadline for Commission action. In this case, the Applicants waived the 49-working day requirement, and there is currently no pending deadline for Commission action on the appeal.

The Coastal Act and the Commission’s implementing regulations are structured such that a substantial issue is presumed when the Commission acts on this question unless the Commission finds that an appeal does *not* raise a substantial issue, and the Commission considers a number of factors in making that determination.² At this stage, the Commission may only consider contentions raised by the appeal. At the substantial issue hearing, staff will make a recommendation for the Commission to find either substantial issue or no substantial issue. If staff makes the former recommendation, the Commission will not take testimony at the hearing on the substantial issue recommendation unless at least three Commissioners request it, and, if no such full hearing is requested, a substantial issue is automatically found. If the Commission does take testimony, it is generally (and at the discretion of the Commission Chair) limited to three minutes total per side, and only the Applicant, Appellant, persons who opposed the application before the local government, the local government, and their proxies/representatives are allowed to testify, while others may submit comments in writing.

If, following testimony and a public hearing, the Commission determines that the appeal does not raise a substantial issue, then the first step is the only step, and the local government’s CDP decision stands. However, if the Commission finds a substantial issue, the Commission takes jurisdiction over the underlying CDP application for the proposed project, and the appeal heads to the second phase of the hearing on the appeal.

In the second phase of the appeal, if applicable, the Commission must determine whether the proposed development is consistent with the applicable LCP (and in certain circumstances the Coastal Act’s public access and recreation provisions). This step is often referred to as the “de novo” review phase of an appeal, and it entails reviewing the proposed project in total. There is no legal deadline for the Commission to act on the de novo phase of an appeal. Staff will make a CDP decision recommendation to the

² The term substantial issue is not defined in the Coastal Act. The Commission’s regulations indicate that the Commission will hear an appeal unless it “finds that the appeal raises no significant question” (California Code of Regulations, Title 14, Section 13115(b)). Section 13115(c) of the Commission regulations provides, along with past Commission practice, that the Commission may consider the following five factors when determining if a local action raises a substantial issue: (1) the degree of factual and legal support for the local government’s decision that the development is consistent or inconsistent with the certified LCP and the Coastal Act’s public access provisions; (2) the extent and scope of the development; (3) the significance of the coastal resources affected by the decision; (4) the precedential value of the local government’s decision for future interpretation of its LCP; and (5) whether the appeal raises only local issues, or those of regional or statewide significance. The Commission may, but need not, assign a particular weight to a factor, and may make a substantial issue determination for other reasons as well.

Commission, and the Commission will conduct a public hearing to decide whether to approve, approve with conditions, or deny the subject CDP. Any person may testify during the de novo phase of an appeal hearing (if applicable).

D. Summary of Appeal Contentions

The Appellant contends that the County-approved project raises LCP conformance issues related to the protection of prime agricultural lands because the reconfiguration 1) adversely impacts such lands; 2) does not maintain the maximum amount of such lands; 3) lacks required agricultural protections; and 4) is based on an LCP amendment that is the subject of pending litigation.³ See full appeal contentions in **Exhibit 5**.

E. Standard of Review

The standard of review for considering these appeal contentions is the certified San Mateo County LCP, which is made up of a certified Land Use Plan (LUP) and a certified Implementation Plan (IP).⁴

F. Substantial Issue Determination

Applicable LCP Provisions

The LCP includes a series of provisions regarding agricultural lands, including allowed uses, land divisions, protection requirements, and identifies the purpose of the LCP's Planned Agricultural District (PAD), as follows:

LUP Policy 5.5(b): Permitted Uses on Prime Agricultural Lands Designated as Agriculture. Conditionally permit the following uses: (1) single-family residences, (2) farm labor housing, (3) public recreation and shoreline access trails, (4) non-soil-dependent greenhouses and nurseries, (5) onshore oil and gas exploration, production, and minimum necessary related storage, (6) uses ancillary to agriculture, (7) permanent road stands for the sale of produce, provided the amount of prime agricultural land converted does not exceed one-quarter (1/4) acre, (8) facilities for the processing, storing, packaging and shipping of agricultural products, and (9) commercial wood lots and temporary storage of logs.

LUP Policy 5.7: Division of Prime Agricultural Land Designated as Agriculture. a) Prohibit the division of parcels consisting entirely of prime agricultural land. b) Prohibit the division of prime agricultural land within a parcel, unless it can be demonstrated that existing or potential agricultural productivity

³ The Appellant also raises a series of contentions regarding California Environmental Quality Act (CEQA) requirements (including that the project is not exempt from CEQA as the County contends, and thus proper environmental review has not been completed). However, contentions regarding the adequacy of the County's CEQA analysis are not valid appeal contentions because appeal contentions, per the Coastal Act, are limited to questions of Coastal Act public access and LCP consistency, and thus these contentions are not addressed herein.

⁴ The Coastal Act's public access provisions could also be a standard of review, but the Appellant made no such contentions.

would not be reduced. c) Prohibit the creation of new parcels whose only building site would be on prime agricultural land.

LUP Policy 5.8: Conversion of Prime Agricultural Land Designated as Agriculture.

a. Prohibit conversion of prime agricultural land within a parcel to a conditionally permitted use unless it can be demonstrated: (1) That no alternative site exists for the use, (2) Clearly defined buffer areas are provided between agricultural and non-agricultural uses, (3) The productivity of any adjacent agricultural land will not be diminished, and (4) Public service and facility expansions and permitted uses will not impair agricultural viability, including by increased assessment costs or degraded air and water quality.

b. In the case of a recreational facility on prime agricultural land owned by a public agency, require the agency: (1) To execute a recordable agreement with the County that all prime agricultural land and other land suitable for agriculture which is not needed for recreational development or for the protection and vital functioning of a sensitive habitat will be permanently protected for agriculture, and (2) Whenever legally feasible, to agree to lease the maximum amount of agricultural land to active farm operators on terms compatible with the primary recreational and habitat use.

LUP Policy 5.9: Division of Land Suitable for Agriculture Designated as Agriculture. Prohibit the division of lands suitable for agriculture unless it can be demonstrated that existing or potential agricultural productivity of any resulting parcel determined to be feasible for agriculture would not be reduced.

LUP Policy 5.10(a): Conversion of Land Suitable for Agriculture Designated as Agriculture. Prohibit the conversion of lands suitable for agriculture within a parcel to conditionally permitted uses unless all of the following can be demonstrated: (1) All agriculturally unsuitable lands on the parcel have been developed or determined to be undevelopable; (2) Continued or renewed agricultural use of the soils is not feasible as defined by Section 30108 of the Coastal Act; (3) Clearly defined buffer areas are developed between agricultural and non-agricultural uses; (4) The productivity of any adjacent agricultural lands is not diminished; (5) Public service and facility expansions and permitted uses do not impair agricultural viability, including by increased assessment costs or degraded air and water quality.

IP Section 6350. Purpose of the Planned Agricultural District. The purpose of the Planned Agricultural District 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.

Analysis

As indicated, the County-approved project is at its core a land division, and the core agricultural question is how that land division affects agricultural resources protected by the above LUP and IP provisions. Although the Appellant claims a series of agricultural diminishment due to the County's action, the record does not appear to support such a conclusion. In fact, the majority of prime agricultural lands would be concentrated on the three parcels that would continue in commercial agricultural row crop operations, and this land would be further protected via application of Farm Security Zone (FSZ) contracts. The fourth parcel currently provides for some grazing which would continue, and it would remain zoned PAD and would continue to allow for such grazing, as well as other agricultural activities, if desired to be pursued in the future. The only change in potential use is that the open space easements (OSEs) that would be applied to the fourth parcel would also allow for public recreational trail use on this property in the future if it were to be pursued. Importantly, no such development is authorized by this CDP, and such a proposal would require its own CDP in the future. Any future CDP would also include an analysis to evaluate how and in what ways trail use and agricultural use can be harmonized. To put it another way, the County's CDP action would not significantly alter the agricultural status quo at Johnston Ranch so much as reconfigure underlying parcel lines and allowed uses in a way that responds to what the land is capable of accommodating and allowing for questions associated with any potential future development to be handled via future CDPs. As such, it does not appear that the County's action will impact agriculture in the way the Appellant contends.

As to the Appellant's claims that the County-approved project otherwise decreases agricultural protections in terms of the manner in which existing Williamson Act and FSZ contracts would be replaced by FSZ contracts and open space easements, this too does not appear to be the case. As indicated, most of the existing agricultural operations and almost all prime lands would be covered by FSZ contracts that limit use of the land to agriculture uses only. Further, the OSEs would be granted to the County and would limit the use of the land to agricultural uses (including accommodating ongoing grazing), non-residential development customarily considered accessory to agriculture (as defined in the LCP), farm labor housing, and public trails. In addition, the Applicants are required to file an agricultural land management plan demonstrating how the agricultural productivity of the land will be fostered and preserved. Again, it does not appear that the land is less protected than it is now in relation to existing agricultural

preserve contracts versus the mix of agricultural preserve contracts and easements associated with the County-approved project.

Lastly, the Appellant claims that the County erred in evaluating the project against the LCP as it was amended via a 2021 amendment that modified approval requirements for land divisions in the PAD zoning district that applies at the Johnston Ranch properties,⁵ arguing that that amendment is the subject of ongoing litigation (brought by the Appellant in this appeal). The amendment removed CDP approval requirements for land divisions brought about in connection with the purchase of such land by a public agency for public recreational use, including because the Coastal Act exempts such projects from CDP requirements already.⁶ Three things are noted here. First, the LCP as amended by the Commission in 2021 is the applicable standard of review for CDPs. The fact that the 2021 LCP amendment is currently subject to litigation does not change that. Thus, the County correctly applied the currently certified LCP to its CDP analysis, including as it was amended in 2021.

Second, the only thing that the LCP amendment did was to make explicit what was already the case. Namely that CDPs are not required for land divisions brought about in connection with the purchase of such land by a public agency for public recreational use. Absent a CDP process, there is no ability for the County through its LCP to require such a land division to meet CDP requirements. Thus, the amendment relieved those types of land divisions from meeting CDP requirements. Importantly, it did not change the fact that other sorts of development that might accompany a land division, such as changes to the intensity of use, are not so exempted from CDP requirements, and still require CDPs and LCP consistency for them.

Third, even presuming for the sake of argument that the LCP amendment never occurred, and thus that the proposed development here, including the lot line adjustments, must be measured against the whole of the LCP as it existed prior to the 2021 amendment, as the Appellant suggests, it makes no difference to the outcome. Specifically, the County-approved project is actually consistent with LCP provisions requiring agricultural and open space easements in the applicable districts, and with applicable parcel size requirements in the PAD zone. Importantly, the County-approved project does not create any non-agricultural parcels (as agriculture will either continue or still be allowed on all of them), nor does it convert agriculture in any way. In fact, the County-approved project continues to protect prime agriculture and to foster agricultural uses on all of the resultant parcels. Thus, even if the 2021 amendment is still being litigated and thus considered inapplicable, and even if the exemptions memorialized in that amendment for non-CDP development do not apply to this project, the County's approval is still LCP consistent. Thus, this contention does not raise a substantial issue.

⁵ LCP Amendment Number LCP-2-SMC-20-0056-3, approved by the Coastal Commission on January 13, 2021. The amendment also applied to land divisions in the Resource Management Coastal Zone (RM-CZ) district, but that district is not implicated by this appeal.

⁶ Via Section 30106, where that type of project does not constitute development, and thus no CDP is required for it.

To conclude, the County's analysis appropriately accounts for the protection of prime agricultural lands and lands suitable for agriculture as required by the LCP, including by configuring three of the parcels to accommodate existing agricultural operations, and applying open space prescriptions to the fourth that both allow for ongoing grazing operations and do not preclude the possibility of expanded future agricultural operations. No development is proposed that would encroach upon prime agricultural lands or lands suitable for agriculture. In short, the County's analysis suggests that the Commission need not become further involved in this case, and the Commission finds that the Appellant's contentions **do not raise a substantial issue** with respect to the County-approved project's conformity with the LCP.

Five Factors

When considering a project that has been appealed to it, the Commission must first determine whether the local government's decision on the project raises a substantial issue of LCP conformity, such that the Commission should assert jurisdiction over the CDP application 'de novo' (i.e., completely reviewing the project for Coastal Act public access and recreation and LCP consistency) for such development. At this stage, the Commission has the discretion to find that the project does or does not raise a substantial issue of LCP conformance. Section 13115(c) of the Commission regulations provides that the Commission may consider the following five factors when determining if a local action raises a significant issue: the degree of factual and legal support for the County's decision; the extent and scope of the development as approved or denied by the County; the significance of the coastal resources affected by the decision; the precedential value of the County's decision for future interpretations of its LCP; and, whether the appeal raises only local issues as opposed to those of regional or statewide significance. The Commission may, but need not, assign a particular weight to a factor, and may make a substantial issue determination for other reasons as well.

In this case, the five factors, considered together, support a conclusion that the County's approval of a CDP for the proposed project does not raise a substantial issue of LCP conformance. In terms of the degree of factual and legal support for the County's decision, the County's analysis found that the majority of prime agricultural lands would be concentrated on the three parcels that would continue in commercial agricultural row crop operations, and this land would be further protected via application of Farm Security Zone (FSZ) contracts. The fourth parcel, which currently provides for some grazing, would remain zoned PAD and would continue to allow for such grazing as well as other agricultural activities if desired to be pursued in the future. The only change would be that the open space easements (OSEs) that would be applied to the fourth parcel would also allow for the potential for low impact, public recreational trail use on this property in the future if it were to be pursued. Any such development (or any type of future development) would require its own CDP in the future which would include an evaluation on how and in what ways trail use and agricultural use can be harmonized. In sum, there is adequate factual and legal support for the City's findings that the approved project protects coastal resources, specifically agricultural resources.

Second, with respect to extent and scope of the County-approved development, the approved land divisions do not propose any physical development, relevant to this particular limited land holding and the land divisions do not impact existing agricultural

uses or the potential for future such uses on the site. Thus, the extent and the scope of the development is limited, and the second factor does not weigh in favor of a finding of substantial issue.

With respect to the significance of affected coastal resources, prime agricultural land and open space is a significant coastal resource but the project does not alter or change that coastal resource as no physical development or change in use is currently proposed, only lot line adjustments and application of easements and contracts. In addition, if future development is proposed to carry out MROSD/POST's intentions to create public access on the site, a CDP would be required for trail, and associated development that will analyze and account for any coastal resource impacts of such proposed development. Thus, the third factor also does not weigh in favor of a substantial issue finding.

Likewise, with regard to precedent, the County's decision sets no particular precedent for LCP interpretation, as the project creates land divisions that are LCP consistent. As the project will not result in any significant adverse coastal resource impacts, a finding of no substantial issue will not create an adverse precedent for future interpretation of the LCP.

Finally, the appeal raises local issues that do not appear to extend past the site in question because the land divisions and conversion to OSE's apply only to this particular site, so the project does not rise to the level of statewide significance, and this factor supports a no substantial issue determination.

In this case, these five factors, considered together, support a conclusion that the County's approval of a CDP for this project does not raise a substantial issue of LCP conformance.

Substantial Issue Conclusion

For the reasons stated above, the Commission finds that Appeal Number A-2-SMC-22-0062 does not present a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act, and the Commission declines to take jurisdiction over the CDP application for this project.

3. APPENDICES

A. Substantive File Documents⁷

- San Mateo County CDP File PLN2022-00381
- San Mateo County Planning Commission Staff Report (May 25, 2022)

B. Staff Contacts with Agencies and Groups

- MidPeninsula Regional Open Space Trust

⁷ These documents are available for review from the Commission's North Central Coast District office.