

FINAL REPORTS 2002-2003 Report:

Midpeninsula Regional Open Space District Proposed Coastal Annexation

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Summary:

The public of the Coastside may believe that the Midpeninsula Regional Open Space District's proposed Coastal annexation plan provides that local agricultural lands will be preserved. Neither the District's proposed Service Plan nor the County's Local Coastal Program provide priority for agricultural preservation over other uses.

Issue: Has the public been misled regarding preservation of agriculture lands in San Mateo County?

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Background:

The Midpeninsula Regional Open Space District (District) is a public agency formed in 1972 to acquire and manage open space resources. The mission of the District is to acquire and preserve a regional greenbelt of open space land in perpetuity, to protect and restore the natural environment, and to provide opportunities for ecologically sensitive public enjoyment and education. Where appropriate, the District provides visitor-serving facilities for low-intensity recreation by the general public. The District's boundaries have been expanded through annexations to now encompass the northwestern portion of Santa Clara County, the southern Bayside of San Mateo County, and a portion of Santa Cruz County. The District proposes to extend its boundaries to include the majority of the San Mateo County Coastside, approximately 140,000 acres, in order to acquire and manage land and easements for the preservation of open space and agriculture, and the protection of sensitive resources.

Agricultural land is included in the definition of open space under California Government Code Section 65560. In this definition, open space is land that is substantially unimproved and designated on a local, regional, or state open space plan as used for the managed production of resources, including but not limited to: forest lands, rangelands, agricultural lands, and areas of economic importance for the production of food or fiber (among other uses).

The California Coastal Act (Act) was enacted in 1976 to provide long-term protection of California coastline through a comprehensive planning and regulatory process. The Act contains policy that requires, among other things, protection of productive agricultural lands. Compliance with the Act in San Mateo County is enacted through the Local Coastal Program (LCP).

In the late 1990's two public opinion polls were conducted for the District, an advisory election was held, and over 25 community informational meetings took

place to assess public support for open space. In addition, local government resolutions, letters, and petitions were sent to the District requesting that it explore ways to help conserve open space resources on the San Mateo Coast. Significant public support was displayed for the District's proposal, referred to as the Coastal Annexation Area, to expand its boundaries to include the San Mateo County Coastsides.

The proposed Coastal Annexation Area includes the City of Half Moon Bay, urban areas to the north, relatively undeveloped lands in active agriculture and ranching, low density housing, and open space uses. The District has submitted a draft Environmental Impact Report (EIR) on the proposed annexation to the San Mateo County LAFCo for public review and comment. Appendix C of the EIR, the Draft Service Plan, outlines the services that would be provided by the District in the Coastal Annexation Area. The annexation requires approval from both San Mateo County and Santa Clara County LAFCo organizations.

As a result of local media coverage that indicated some conflict related to the proposed annexation and a specific complaint from a County resident involved in agriculture, the Grand Jury investigated the following issues:

The District's plan to preserve agricultural lands in the Coastal Annexation Area;

Potential tax consequences to Coastsides residents; and

Implications of the District's eminent domain power within the Coastal Annexation Area.

The Grand Jury interviewed the head of the San Mateo Farm Bureau, the Executive Officer of LAFCo, and the General Manager of the Midpeninsula Regional Open Space District. It also attended the San Mateo County Agricultural Summit and interviewed a Coastsides rancher. The Grand Jury reviewed public information on POST (Peninsula Open Space Trust), The Midpeninsula Regional Open Space District including the San Mateo Coastal Annexation Draft Environmental Impact Report, Internal Revenue Service (IRS) Publication 544 entitled "Sales and Other Dispositions of Assets," and State of California programs intended to preserve agricultural lands. The LCP agricultural component also was reviewed.

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Findings:

The District has successfully fulfilled a vital need in San Mateo County by preserving open space for low-intensity recreational use. It has extensive knowledge and expertise in open space land management.

The District does not have a history of preserving agricultural lands as open space. It currently has no staff or expertise in the area of agricultural land management. Most of the land the District would acquire in the Coastal Annexation Area likely would be former or existing agricultural land. The EIR states that active agriculture would continue, depending on site specific resource characteristics and District policies developed with the input of the local coastal community.

Visitor-serving or residential uses and agricultural operations are not compatible. Conflicts between non-agricultural uses and agricultural operations may arise over protection of commercial crops or dust generated from planting and field preparation activities, for example. Buffer zones and physical barriers that

definitively separate agricultural operations and non-agricultural uses have been found to allow both interests to successfully coexist in proximity.

San Mateo County has not enacted specific protective policies or requirements to preserve agriculture. The LCP agricultural component does not assign specific priority to preservation of agricultural lands over visitor-serving uses. It has limited requirements for clearly defined buffer areas between agricultural and non-agricultural uses, and minimal direction to public agencies to lease prime agricultural land to active farm operators on terms compatible with the primary recreational and habitat use. The LCP does specifically require the State to lease-back excess properties for agricultural purposes as a condition of permit approval for state parks and recreation uses.

The District developed a mission for the Coastal Annexation Area different from its published mission statement. For the Annexation Area, the District's mission was revised to include: "..., preserve rural character, encourage viable agricultural use of land resources...."

The EIR does not prioritize agricultural lands preservation equal to preservation of visitor-serving open space. It does state the District would be a resource to help sustain agricultural viability by allowing for agricultural uses where appropriate and preventing the encroachment of development. In its Draft Service Plan for the San Mateo Coastal Annexation Area, the District committed to:

1. conduct its land management practices such that they do not have an adverse significant impact on the physical and economic integrity of prime agricultural lands on or contiguous to properties owned or managed by the District (e.g. establishing appropriate buffers on District lands, etc.).
2. locate improvements or public uses on open space lands away from existing prime agricultural lands, unless such location would not promote the planned, orderly efficient use of an area, and
3. the District acquire the necessary staff and expertise in the area of agricultural land management.

The District's Coastal Annexation, if approved by both San Mateo County and Santa Clara County LAFCo, will not directly increase the District's funding level. Following annexation, the District may place a voter-approved funding measure on the ballot, either District-wide or only within the Coastal Annexation Area. The District has surveyed residents within its current boundaries and learned that a \$1.00 annual increase in the parcel tax would be favorably met in support of open space. A favorable vote would require approval from a 2/3 majority of the voters in the election.

Privately held lands acquired by the District within the Coastal Annexation Area will remove those lands from the tax roll. Existing agricultural lands have relatively low assessed valuations and as long as Coastside school districts continue to be revenue limit districts, the revenue loss resulting from transfers to the District will have less than significant impact. Fiscal projections under the Draft Service Plan indicate San Mateo County agencies will lose approximately \$5,742 in annual tax revenues, on average, over the 15-year period. The Fiscal Analysis, Appendix D of the EIR, shows no significant tax impact to either the Cabrillo or the La Honda-Pescadero school districts. Unless the districts become basic aid districts, any losses resulting from parcels removed from the tax rolls are offset by state funds.

The California Farmland Conservancy Program (CFCP) is a voluntary program that seeks to encourage the long-term, private stewardship of agricultural lands through the use of agricultural conservation easements. The CFCP provides grant funding to governmental agencies such as the District for projects which use and support agricultural conservation easements for protection of agricultural lands. The District, in its rejection of one planning alternative in the EIR, stated

that an option to acquire only agricultural easements in the annexation area is not desirable as the District would not have use of the property for public access.

The District has the power of eminent domain to acquire lands for public purposes. Based on a recommendation from the District's Coastal Advisory Committee, the District proposes to pass an ordinance that prohibits the District's use of eminent domain on the San Mateo County Coast. The San Mateo County Farm Bureau obtained a legal opinion that the ordinance is not binding on the District, and may be modified by future Board action.

The IRS has specific rules related to involuntary conversions (property sales made through eminent domain or the threat of eminent domain). The involuntary conversion may be fee title, or it may be limited to land rights, such as easements for public benefit. The tax treatment of the gains from such sales will vary from case to case.

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Conclusions:

The revenue impacts to services within the Coastal Annexation Area will not be significant. There will be no immediate, direct cost to property owners, but any future parcel tax increases approved by 2/3 of the voters District-wide will be imposed on parcels within the Coastal Annexation Area.

The LCP does not specifically prioritize preservation of agricultural lands over recreational uses, even low-intensity uses that may interfere with agricultural operations. Agricultural land can only be preserved if it is prioritized.

Coastside residents place a high value on open space as defined by the LCP. The District's proposed Coastal Annexation Area has the potential to preserve the rural environment and protect agricultural lands that are threatened by development pressures, but that is not the intent of the Coastal Annexation Area Draft Service Plan.

The public may have assumed that the District has assured agricultural lands would be preserved in the Coastal Annexation Area, but the EIR does not specifically provide for such preservation as a priority. This is likely due to the lack of agricultural experience and expertise in the District or implied in the development of the EIR.

The District's Draft Service Plan requires revision to eliminate inconsistency between its mission(s) and the application of its policies and practices. Visitor-serving uses do not have a higher priority in the definition of open space than preservation of agricultural lands, and the Farmland Preservation Program is within the purview of the District. An active acquisition program for agricultural easements, for example, would meet the stated mission of the District and the needs of the residents in the Coastal Annexation Area.

The District cannot give up its eminent domain powers beyond the offer of the draft ordinance and still meet its fiduciary responsibilities to the public. The ordinance as presented may result in an economic detriment to land owners conveying agricultural easements.

Recommendations:

1. The County should amend the Local Coastal Program to ensure agricultural land preservation is prioritized over competing uses, including public access. Trail permits, for example, should require buffer zones and construction of physical buffers as needed between the proposed trails and ancillary uses and any agricultural operations.

2. The District should revise its existing policies and Coastal Annexation Service Plan to include preservation of agricultural lands. This plan should include:
 - a. the active pursuit of agricultural easements and Farmland Conservation funds
 - b. revised language in the proposed ordinance prohibiting acquisition of property by eminent domain to ensure that involuntary conversions for agricultural easements are not precluded
3. The District should prioritize agricultural operations and commit District resources to the protection of agricultural lands on a par with visitor-serving open space.
4. The District should immediately retain staff expert and experienced in agricultural operations.
5. The District should ensure the Coastal Annexation Area, if approved, is specifically managed by a manager expert and experienced in agriculture operations.

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Response

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