

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

DATE: July 13, 2016

TO: Planning Commission

FROM: Planning Staff

SUBJECT: EXECUTIVE SUMMARY FOR INFORMATIONAL ITEM: Consideration of a project to comprehensively update the County's Subdivision Regulations.

County File Number: PLN 2016-00214 (Subdivision Regulations Update)

RECOMMENDATION

Receive an informational presentation on the comprehensive Subdivision Regulations Update Project being conducted in a collaborative stakeholder process.

SUMMARY

Planning staff has initiated a comprehensive update to the County's Subdivision Regulations, last updated in 1992, with the goals of aligning it with current state law and best practices to advance implementation of General Plan (GP) and community plan policies, including the County's Local Coastal Program (LCP). The update project is guided by a collaborative stakeholder outreach effort. This update is necessary and timely, and staff's process provides an opportunity to improve both the content and utility of the regulations by modifying or adding provisions, creating a process for determining the development potential of newly proposed parcels, and addressing new types of subdivisions. The project will amend the County Regulations Code and require an amendment to the LCP, but it will not alter any adopted land use plans, zoning, or development-related policies.

A detailed work plan was prepared that includes: the identification of and consultation with internal and external stakeholders; the review of state legislation and case law, evaluation of the current regulations; research (including GIS analyses); regulations drafting and review; California Environmental Quality Act (CEQA) review; and formal adoption. Thus far, staff is approximately 25% through a project schedule with a target completion timeframe of May 2017.

Over the past three months, staff has conducted initial stakeholder engagement, attending at least a dozen stakeholder meetings, including four public meetings. Summaries of the stakeholder input are presented in Appendix 1 (Attachment A). Staff has also

contacted a wide variety of other stakeholders for input or to request meetings. This outreach will continue and public comment will be considered in shaping revisions to the regulations.

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

DATE: July 13, 2016

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SUBJECT: INFORMATIONAL ITEM: Consideration of a project to comprehensively update the County's Subdivision Regulations to: (1) incorporate State Subdivision Map Act changes (California Government Code Sections 66410 through 66499) and relevant case law; (2) better implement County General Plan policies and the County's Local Coastal Program, such as creating more flexibility to achieve affordable housing, protecting environmental resources and other community goals; (3) integrate new subdivision types; and (4) clarify, augment, and streamline the subdivision regulations, and the subdivision application and review process, to enhance their ease of use, within a collaborative stakeholder process.

County File Number: PLN 2016-00214 (Subdivision Regulations Update)

RECOMMENDATION

Receive an informational presentation on the comprehensive Subdivision Regulations Update Project being conducted in a collaborative stakeholder process, including project scope and schedule, a summary of stakeholder input and request for direction.

BACKGROUND

In January of 2016, staff initiated a comprehensive update to the County's Subdivision Regulations with the following project goal:

Recommend updates to the Planning Commission and Board of Supervisors for the County's subdivision regulations that are consistent with applicable state law, case law and current subdivision practices, and that advance implementation of the General Plan guided by a collaborative stakeholder process.

The County Subdivision Regulations were last comprehensively updated in 1992. Since then, numerous changes in state law have occurred and several key court cases have been decided. This update is necessary and timely, and the process undertaken provides an opportunity to improve the content and utility of the regulations. The amendment will modify existing provisions and add new ones to better implement the

policies of the County General Plan (GP) and Local Coastal Program (LCP), create a process for determining the development potential of newly proposed parcels, and address new types of subdivisions. The project will require an amendment to the County's LCP through the California Coastal Commission, and it will not alter any adopted land use plans, zoning, or development-related policies.

DISCUSSION

Detailed Work Plan

This staff report summarizes the project scope and the issues staff has identified thus far with the current Subdivision Regulations that will be addressed through regulation amendments. Staff prepared a detailed work plan for the project that included eight tasks and a project schedule. Thus far, staff has largely completed Tasks 1 and 2 described below, although outreach is an ongoing project task and some stakeholder meetings could not be scheduled prior to the July 13th Planning Commission Meeting. Work on Tasks 3 and 4 has also commenced.

Task 1 – Scope and Organize: Includes the following tasks and outcomes:

- Detailed work plan and schedule
- County stakeholder team/individuals, scheduled meetings
- Contact list (name, title, address, phone, and email) for all stakeholders
- Project outreach plan for external stakeholders
- Project resource needs list
- Preliminary goals and objectives, stakeholder meetings scheduled
- Project web page
- Meeting notes

Task 2 – Research and Consult: This task entails considerable research and outreach to identify the range of issues with the current regulations, relying on input from internal and external stakeholders and experts. It provides the basis for this presentation of project goals, objectives, and issues to the Planning Commission to ensure that the project team is addressing all relevant and necessary issues with the appropriate approaches and proper priorities. Outcomes from Task 2 include:

- Preliminary list of changes from Subdivision Map Act (SMA) and case law
- Example regulation language from other jurisdictions

- Service provision constraints/opportunities
- Internal stakeholder team Issues (from team or individual meetings)
- Issues from external stakeholders (from group or individual meetings)
- Draft goals and objectives (and alternative approaches)
- Website input

Task 3 – Evaluate Current Regulations: Using the issues identified and research information from Task 2, staff preliminarily evaluated the current regulations to identify the issues that need to be addressed in the regulations update.

Tasks 4 - 8: These tasks include developing a subdivision constraints analysis that can be used to ensure subdivisions protect natural resources, and address other constraints, such as slope, faults, landslides; characterizing future subdivision potential of lands countywide; drafting regulations language and shepherding the proposed amendments through the formal adoption process, including California Environmental Quality Act (CEQA) review; and obtaining Coastal Commission certification of an amendment to the County’s Local Coastal Program.

<u>Timeframe</u>	<u>Event</u>
May - June 2016	- Scope and Organize; Research and Consult; and Regulations Evaluation
July 2016	- Planning Commission initial presentation
November 2016	- Planning Commission review of first draft regulations
January 2017	- Agricultural Advisory Committee and community councils review of revised draft regulations
February 2017	- Planning Commission review of revised draft regulations
April 2017	- Planning Commission recommendation on final draft regulations
May 2017	- Board of Supervisors consideration of final draft regulations

Stakeholder Engagement

In order to scope the project and identify issues and suggestions, staff has conducted meetings with internal and external stakeholders, including:

- County Departments and Divisions (*Planning and Building Department, County Counsel, Department of Public Works, Environmental Health Division, Assessor's Division*)
- Fire Protection Agencies (*Cal-Fire, Woodside Fire Protection District, Central County Fire Department, Menlo Park Fire District, Coastside Fire Protection District and Redwood City Fire Department*)
- Land Managers (*Peninsula Open Space Trust and Midpeninsula Regional Open Space District*)
- Community Councils (*Midcoast Community Council (MCC), Pescadero Municipal Advisory Council (PMAC), North Fair Oaks Community Council (NFO), and Agricultural Advisory Committee (AAC)*)
- Environmental Organizations (*Committee for Green Foothills, Sierra Club, Audubon Society*)
- Technical Advisors (*land use attorneys, surveyors, and other practitioners*)

Summaries of the issues and suggestions that were shared by stakeholders at these meetings are presented in Appendix 1 (Attachment A) to this staff report. Staff has also contacted representatives from County homeowners associations, municipalities (cities in the County), service districts (water, sanitation and school), and development interests: (California Building Industry Association, California Land Surveyors' Association, and San Mateo County Association of Realtors) for feedback or to schedule meetings. Outreach will continue throughout the project and public input is welcome and will be considered in shaping revisions to the subdivision regulations. We will also present a draft of the proposed regulations to the Community Councils and Planning Commission before beginning the formal review process leading to consideration and adoption of regulation amendments by the Planning Commission Board of Supervisors.

Subdivision, General Plan and Zoning

The County's General Plan (GP) and Zoning Regulations establish the land use policies that guide a significant portion of the subdivision process, in particular the physical parameters of development on lots created through subdivision. The GP policies for vegetative, water, fish and wildlife resources; soil resources; mineral resources and visual quality provide guidance for conservation and limits to development to achieve these goals. Policies in the GP and Zoning Regulations determine lot size, including width and depth, the type of use or mix of uses allowed and their densities or intensities, the height, bulk and setbacks for structures, the amount on on-site parking, landscaping, and other site improvements. Implementation of these development policies are guided by the GP conservation policies for environmental protection of County natural resources. The subdivision process provides an opportunity to set requirements

for protection of wetlands, creeks, streams, vegetation resources, as well as cultural resources. Through the subdivision process, decision makers use the subdivision regulations as a tool to integrate these requirements into a map that depicts buildable lots, and that includes a number of conditions to ensure that construction on those lots is consistent with GP and Zoning policies.

The GP also has policies addressing transportation improvements, water, wastewater, public health and natural and man-made hazards that are implemented during subdivision. The subdivision process ensures that new development is properly supported by infrastructure that meets County standards for health and safety, and contributes to the orderly development of neighborhoods and commercial areas and ensures that we protect the natural values and character of our rural lands and open spaces. The subdivision maps include the description, location and design of streets or roads (both public and private), wells, septic systems and other site utilities, such as municipal water and sewer, natural gas, electrical power transmission, fire vehicle access and defensible space. Maps will also depict easements where development may not occur, hazards to be avoided or managed, and cultural resources to be conserved.

POLICY ISSUES AND SUGGESTIONS

As noted above in the project goal statement, we endeavor to develop regulation amendments that advance implementation of the General Plan. The following discussion of the issues and suggestions we have developed and gathered through outreach and research thus far are organized under the relevant GP sections, with some that cross-cut between other GP policy sections. Our research and stakeholder input have addressed both content issues focused on policy implementation and process issues regarding the format and content of maps and the approval process. Using this approach throughout the project ensures that regulation revisions will implement the General Plan.

Vegetative, Water, Fish and Wildlife Resources

The GP goals addressing natural resources direct decision makers to conserve, enhance, protect, maintain, manage, and provide access to vegetative, water, fish, and wildlife resources and the associated sensitive habitats. Staff and the Committee for Green Foothills (CGF) agree that there is a need for a method that clarifies the developable portions of sites based on site characteristics such as slope, wetlands, streams, significant and heritage trees, and how to factor in and whether to discount or exclude portions of parcels that are comprised of steep hillsides/landslide areas/other hazardous areas, wetlands rivers, or creeks in the calculation of lot area for subdivision purposes.

The CGF, MCC, and others believe that unbuildable and/or hazardous areas within a property should not count toward area for subdivision, and that the regulations should require identification of sensitive habitats to be conserved, such as wetlands, riparian

areas, and heritage or significant native trees on the proposed subdivision map. The CGF recommends amending the regulations to require that Tentative Maps identify environmentally sensitive areas and trees on the property to be protected, indicate the location of all future development, including the development envelope which includes the proposed structure site(s), driveway/turnarounds, septic system leach fields, etc. In order to assure protection of environmentally sensitive areas, including trees, the Tentative Map conditions could include restrictions on land clearing, grading, tree removal, etc., outside of the identified development envelope.

The California legislature has created a mechanism whereby land may be subdivided for biotic and wildlife purposes. Such environmental subdivisions are authorized by SMA Section 66418.2 of the Government Code and can be useful in implementing GP natural resource policies. Some jurisdictions waive fees for processing an environmental subdivision to provide an incentive for non-profit conservation groups to acquire lands that have high biotic and wildlife habitat values and subdivide them for the purpose of natural resource preservation and protection. The subdivision regulations could be amended to articulate a process by which a subdivider may create an environmental subdivision, and provide for a waiver of fees, reduced fees, and/or waiver of a parcel map for more streamlined processing such subdivision applications in the County.

The SMA defines an environmental subdivision as being for “biotic and wildlife purposes” that meets specified criteria, including availability of factual information and data; provisions for perpetual maintenance of the property as a biotic or wildlife habitat; and an easement is recorded to ensure compliance with any mitigation requirements of the agency requiring environmental mitigation, creating the need for the subdivision. Parcels must be at least 20 acres in size, unless parcels can be managed jointly with neighboring lands that together equal 20 acres and are similarly encumbered and managed.

Soil Resources

General Plan goals for conserving soil resources emphasize minimizing soil erosion, preventing contamination, and protecting productive soils, including minimizing their depletion. The policies most relevant to subdivisions require clustering of structures and minimizing soil erosion and disturbance of habitat areas as a result of site improvements made. Most of the comments received regarding agricultural lands came from the AAC, Peninsula Open Space Trust (POST), and Pescadero Municipal Advisory Council. To these ends, this update will seek to improve the tracking and transfer of density credits and the adherence to minimum parcel size requirements of lands eligible for or under Williamson Act contracts as required in the Subdivision Map Act. The AAC opined that subdividing undermines the preservation of agricultural lands and that Planned Agricultural Development (PAD) zoned land should not be subdivided into parcels less than 40 acres in size, even if considered prime. Peninsula Open Space Trust requested clarification of both when Lot Line Adjustments versus parcel maps are required, and the Certificate of Compliance (CoC) process. Peninsula Open Space

Trust also requested clarification of the conservation easement requirements and options, the water quality standards for farm labor and other housing, and remainder parcel legality post-subdivision. The AAC also requested a comparative analysis of an agricultural subdivision using the existing and proposed subdivision regulations, both of which staff will endeavor to provide.

Park and Recreation Resources

The GP calls for active park and recreation facilities in urban areas to maximize use of limited available land, and passive facilities in rural areas to protect environmentally sensitive lands and coastal access. Regarding the provision of parks in urban areas, the North Fair Oaks Community Council commented that pursuing opportunities to create parks should be a priority in that community. Although the extensive built condition of North Fair Oaks leaves little opportunity to acquire parkland through the subdivision process, park fees can and will be collected whenever a subdivision is approved in the unincorporated area and such fees could be applied toward acquiring land for a park and/or renovating existing parks. The County's subdivision regulations already include provisions requiring public access of subdivisions that adjoin San Francisco Bay, the Pacific Ocean, and publicly-owned lakes and reservoirs. However, a 2002 amendment to the SMA provides that coastal subdivisions in rural areas need not be denied for lack of providing such access if public access already exists within a reasonable proximity.

Urban and Rural Land Use and Housing

The GP includes goals and objectives for general land use, as well as rural and urban land uses. The goals most relevant to guiding decisions on subdivision regulations for urban uses to include: "(1) maximize the efficiency of public facilities, services and utilities, (2) minimize energy consumption...(4) protect and enhance the natural environment, (5) revitalize existing developed areas, and (6) discourage urban sprawl..." and for rural uses: "(1) preserve natural resources, (2) provide for the managed productive use and monitoring of resources, (3) provide outdoor recreation, and (4) protect public health and safety."

The North Fair Oaks Community Plan includes initiatives for dense housing located along or near transit corridors, including mixed-use developments. The current subdivision regulations do not include policies for dense development patterns, such as condominiums or small-lot single family developments or for vertical or horizontal mixed-use projects. Adding policies to govern these subdivision types will facilitate achievement of these policy objectives.

Flag lots are another method for increasing residential densities in single-family neighborhoods where lot size and configuration will yield more than one developable parcel. The regulations currently lack sufficient policy guidance to ensure that the resulting lots can accommodate development that meets zoning requirements such as setbacks. The MCC and CFG both suggested disallowing flag lots entirely. The Central

County Fire District requested flag lot parcel designs recognize responding apparatus capabilities. Clarifying these policies can improve the subdivision process and facilitate appropriate development.

Current Lot Line Adjustment standards in the regulations do not reference compliance with GP policies, applicable specific plan policies or the LCP, but should. Although the current regulations require that lots created by a Lot Line Adjustment conform to building and zoning codes, and create suitable building sites, additional criteria are needed to clarify the requirements of an approvable Lot Line Adjustment to ensure that the resulting lots have building sites that meet the applicable GP, specific plan and zoning requirements. Also, the SMA was amended to limit the number of parcels that can be involved in a Lot Line Adjustment to four, but the County's regulations lack this restriction. The County's regulations also makes provisions for a Coastal Development Permit Exemption; however, a 1999 appellate court decision determined Lot Line Adjustments were not exempt, if the adjustment facilitates coastal development.¹ In addition, property owners frequently fail to record the approved maps, a necessary step to finally effectuate the Lot Line Adjustment. Procedures to ensure that Lot Line Adjustments are recorded may need to be added to the regulations, such as a deposit or some other mechanism.

There is a need to reconcile and clarify minimum lot size and depth requirements in the subdivision regulations with those in the zoning regulations. For example, Subdivision Regulations Section 7020 requires that parcel width be consistent with zoning requirements, but in no case less than 50 feet, while some zoning districts allow width averaging which can lead to portions of parcels with widths less than 50 feet. Similar ambiguities exist with relation to lot depth.

The Subdivision Regulations itself do not establish policies about development intensity or parameters for lot dimensions, except for certain specific lot width and depth thresholds. It is the policies within the GP and development regulations within the Zoning Regulations that guide the subdivision process and set the physical parameters and development intensities for the lots ultimately created. The Subdivision Regulations are a tool for integrating these policies and requirements into a map that depicts buildable lots, protected or hazardous areas, roadways, utilities, and easements, including conditions to ensure that construction is consistent with GP policy; zoning regulations; and building, fire, and other codes.

Pursuant to the SMA, remainder parcels must be clearly shown as lying outside of and not as a part of a subdivision. However, the fate of these remainder parcels is often unclear, and subject to differing opinions. In some cases subdivisions have created remainder parcels that are too small to comply with minimum lot size standards in the applicable zoning designation, or there is controversy surrounding the fate of

¹ See *La Fe, Inc. v County of Los Angeles* (1999) 73 Cal. App. 4th 231. Pursuant to Coastal Zone Regulation 13.20.076, Lot Line Adjustments Exclusion, Lot line adjustments not resulting in an increase in the number of building sites, buildable lots, legal lots of record or density of permitted development are excluded [from Coastal Development permit requirements].

the remainder parcel subsequent to subdivision approval, or both. Currently, the Subdivision Regulations provide for clear treatment of remainder parcels of 5 acres or larger, but does not clarify how to address smaller parcels, or criteria for determining remainder parcel fate in the future, except to provide for County-required construction on these parcels to meet public objectives. The Subdivision Regulations may include provisions requiring a subdivider to specify the intended use of the remainder parcel.

The Subdivision Regulations currently do not describe how to treat easements with regard to assessing the development potential of proposed lots created by subdivision. This revision project will endeavor to clarify how to assess how easements affect potential construction on lots, whether and under what circumstances easements for various uses would need to be subtracted from lot size, and clarify how to measure setbacks from easements. In cases where the easement is provided for a driveway use, it may make sense for the regulations to deduct the area of the easement from the resulting parcel's size for various purposes. Where, however, the easement is provided solely for the purpose of locating underground utilities, it may be more sensible to treat such an easement area as part of the parcel for various calculations.

In response to perceived over-densification of the Midcoast, the MCC suggested that density should be spread out instead of concentrated, and that no new subdivisions should be approved until a lot retirement program is in place, and then only if the program requires lot-for-lot retirement and that the lots retired must be buildable.

In order to facilitate provision of farm labor housing by non-profit organizations, SMA Section 66412.9 exempts leasing of agriculturally zoned land to non-profits for farm labor housing from SMA requirements, as long as the leased property is not more than 5 acres, the lease is for not more than 30 years and was executed prior to January 1, 2017.

Transportation

General Plan goals and objectives for transportation include safe and efficient movement of people and goods over a balanced and well-integrated multi-model network by prioritizing the improvement/expansion of existing facilities over the creation of new infrastructure. Yet, new subdivisions, especially in rural areas, typically require new streets or street segments. To the extent that such new infrastructure fills gaps in the existing street network and therefore makes it incrementally more efficient, the basic transportation goals and priorities are maintained. However, the corresponding increase in traffic is unavoidable and is the major concern expressed by all neighborhoods throughout the County. The MCC suggests better computer modeling to arrive at traffic impact fees that are more indicative of every development's actual and long-term impacts on the transportation network. Presumably, this would result in significantly higher fees that could be used to help pay for improvements such as signage, lane markings, speed controls, passing lanes, elimination of sharp curves, lane widening, and paved shoulders, or for programs that promote/implement ridesharing and use of public transit. In fact, Section 66484.7 of the SMA provides that a municipality can

condition a final map to require payment of a fee to defray the cost of planned transportation facilities needed to mitigate traffic impacts of new development.

Water Supply, Wastewater, and Stormwater Management

Relevant GP goals for water supply and wastewater include coordinating the planning of water supply, wastewater management, and land use to assure that the supply and quality of water and the capacity of sewerage facilities are commensurate with the level of development planned for an area, while protecting public health, wildlife habitats, water quality, aquifers, and reservoirs, to promote water conservation, and to encourage use of current technology in wastewater management systems.

The current zoning regulations include provisions to ensure that the GP goals for providing sufficient water supply and wastewater services to lots created through the subdivision process are provided. Following the last major comprehensive revision to the subdivision regulations, new requirements for stormwater management have appeared in the County's State permit (the requirements that the County develop policies to broadly advance low-impact development and on-site graywater management) and which indicate that the subdivision process may provide a good opportunity to address these emerging site-water management issues in an integrated fashion.

The North County Sanitation District noted that significant changes to designated land use and pending project updates within the County's jurisdiction in Broadmoor that could impact anticipated wastewater flow volume or discharge strength may be a concern. Peninsula Open Space Trust commented that stringent water quality standards for Coastside wells could have the effect of precluding farm labor and other forms of needed housing in those areas. The MCC commented that the County should not allow shared wells in new subdivisions.

Natural and Man-Made Hazards

The GP man-made hazard policies focus on noise, airport safety, hazardous material handling and storage, and hazardous structures; the Subdivision Regulations currently addresses geotechnical/geological, flood, coastal, fire and erosion hazards.

The GP seeks to minimize risks from natural hazards by conducting an ongoing public information program and integrating natural hazard data into the review of land use and development proposals. By definition, some natural hazards, such as steep slopes, erosion/subsidence areas, fire hazard areas, and flood zones, are significant constraints to development. The "development footprint" concept, advocated by both staff and the CGF, would be a valuable analytical tool for framing the overall density and layout of a proposed subdivision, as well as for plotting the buildable and non-building areas of each new lot within it.

Many of the urban and rural unincorporated communities on both the Bayside and Coastside have steep, fire prone and difficult to access areas. Specifically regarding fire hazard areas and fire-fighting requirements, fire district representatives have requested that:

- Subdivision proposals demonstrate compliance with the fire and life safety provisions of the Wildland-Urban Interface Code by providing and maintaining appropriate defensible space buffer zones and other suitable landscaping, while preserving significant trees where possible;
- The County seek to upgrade narrow roadways that are a hindrance to fire/emergency vehicle access by applying its public roadway standards through the subdivision/development review process;
- Large parcel and flag lot subdivision designs utilize maximum roadway slopes and minimum turning radii to ensure apparatus accessibility;
- Hydrant spacing and the associated fire flow characteristics comply with International Fire Code requirements; and
- At least two fire/emergency apparatus ingress/egress points are provided per subdivision.

Amendments to Section 66474.02 of the SMA provide counties some flexibility in approving subdivisions in areas designated as high fire hazard severity zones or state responsibility areas. The three required findings for subdivisions in a high fire hazard zone are not required if the subdivided land has been designated in the GP open space element as forest, range, agriculture, etc., if the subdivision is consistent with the open space purpose, and if parcels smaller than 40 acres are involved, they have been deed restricted to prohibit the construction of habitable, commercial or industrial buildings. The amendments also provide that if a county subsequently allows such construction, then the county must comply with the State Board of Forestry requirements and demonstrate that fire suppression services are available, and implement defensible space requirements.

Process

Although most of the effort in updating the Subdivision Regulations is based on adding new provisions and revising the content of existing provisions, staff has also identified other ways to update the regulations. These include:

- Clarifying terminology by augmenting existing definitions (such as defining different types of subdivisions) and defining important new terms (such as flag lots);

- Updating submittal requirements with more informative descriptions of what is needed and simplifying where possible;
- Improving the efficiency and value of subdivision review by addressing critical issues, such as the adequacy of on-site well and septic capacity, early in the process;
- Streamlining the subdivision review process by identifying current “sticking” points and addressing them with better practices for communication with applicants and coordination between departments; and
- Resolving recurring issues such as lack of applicant recordation of approved Lot Line Adjustments.

The SMA includes a number of new provisions which revise the text of required surveyor and engineer statements on final maps and refine the coordination of subdivision map review with other agencies/districts; all of these will be incorporated.

Several recent SMA changes increased the noticing requirements of tenants in rental mobile home parks that are proposed for conversion to resident ownership, including detailed provisions describing the types of notices, the content and administration of surveys to solicit resident input and interest in purchasing an ownership interest. However, the amendments also clarified that jurisdictions may deny a map for failure to implement these requirements and that jurisdictions may also approve maps where these provisions are not followed.

Of particular note are the CoC provisions and procedures. The legality of parcels ostensibly created decades ago, especially those that pre-date the County’s first Subdivision Regulations in 1945, are an ongoing topic of concern among those land owners and their neighbors. Although current departmental practices have been aligned with the latest case law on this matter, these practices must be codified into the Subdivision Regulations. At the same time, there may be opportunities to simplify and shorten the processing of some CoC requests under certain circumstances. Staff is exploring the possibilities.

All of the content and process improvements would ultimately be reflected in appropriate revisions to the Planning and Building Department’s web page, as well as in new and/or revised handouts for public consumption.

Midcoast Lot Merger and Lot Retirement

The San Mateo County Zoning Code and Subdivision Regulations both establish conditions under which contiguous parcels may be merged. Such mergers may be initiated by the County or, on a voluntary basis by property owners. The 2013 LCP’s Policy 2.53, *Transportation Management Plan*, specifies that such a plan shall evaluate the feasibility of a mandatory lot merger program.

The San Mateo County Board of Supervisors adopted a policy in 2006 authorizing staff to initiate a mandatory lot merger program. As defined in Coastal Commission Report SMC-MAJ-1-07, Exhibit G, the program would establish a process for contiguous substandard parcels under the same ownership to be merged, in the R-1, R-3, and RM-CZ Zoning Districts on the Midcoast. The lot merger program would apply as follows:

- At least two contiguous parcels in the same ownership;
- At least one parcel is undeveloped;
- The area of at least one lot is less than 4,500 sq. ft. in the R-1 or R-3 Districts, and less than 5,000 sq. ft. in the RM-CZ District.

Lots meeting these criteria would be merged to create a parcel or parcels that meet the minimum parcel size requirements in R-1 or R-3 Districts, or with a goal to reach at least 5 acres in area in the RM-CZ District.

For undeveloped lots, the program would operate as a voluntary merger program for 21 months after adoption, and then become mandatory, with a process for noticing, hearing, determination, and appeals. During the voluntary period, any property owner who requests a merger would receive a non-expiring voucher that could be used for one of the following: (a) up to 250 sq. ft. bonus floor area; (b) up to \$1,500 (new unit) or \$300 (existing unit) or a 5 percent reduction in building permit fees, whichever is greater; or (c) an allowance that one parking space may be uncovered. For an affordable housing unit, additional incentives would be provided.

Implementation of a mandatory lot merger program, generally following the policy adopted by San Mateo County in 2006, would reduce the number of undeveloped parcels along the Midcoast. The effect of this reduction in lots is already accounted for in the estimate of development potential, because lot mergers were assumed to take place in the 2013 LCP Update. A mandatory lot merger program could be challenging to carry out in the context of the uncertain legal status of many of the substandard lots in the Midcoast study area. Subdivision Map Act Sections 66451.11-13 and 66451.20-21 were amended to expand noticing requirements for adoption, amendment or implementation of lot merger regulations, and these changes will need to be incorporated into existing lot merger policies and any regulation changes.

As noted above, the MCC suggested no new subdivisions should be approved until a lot retirement program is in place, and then only on a lot-for-lot basis. San Mateo County does not have a program in place requiring lot retirement for new residential development. The Coastal Commission recommended such a program in the 2013 LCP Update. The Coastal Commission has found that a one-for-one lot retirement is an appropriate way to mitigate the significant adverse impact on the public's ability to

access public beaches and other visitor-serving coastal resources resulting from new development on the Midcoast.

A lot retirement program requiring one-to-one retirement of development rights on existing lots in exchange for newly subdivided lots would have the effect of reducing development potential and lessen the effect of new development on the transportation network. The Coastal Commission has recently required lot retirement at a one-to-one ratio (1:1) as a condition of approval for some proposed residential subdivisions in Half Moon Bay, to mitigate for impacts to the transportation system to improve public access to the coast.

The Coastal Commission has accepted lot retirement anywhere on the Midcoast, on the basis that any development on the Midcoast contributes equally to congestion on Highways 1 and 92. Through preliminary work with the Connect the Coastside consultant team, staff has identified potential donor sites as undeveloped legal parcels having at least one of the following characteristics:

- Located outside of existing residential subdivisions where development has taken place and outside of existing commercial areas;
- Containing sensitive habitat;
- Located in an area designated for Conservation, Open Space, Recreation or Agriculture in General Plans or Local Coastal Land Use Plans.

Staff intends to pursue both the lot merger and lot retirement programs while developing amendments to the subdivision regulations.

ATTACHMENTS

A. Appendix 1 - Issues and Concerns Offered by Stakeholders

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County of San Mateo
Planning and Building Department

APPENDIX 1
Issues and Concerns Offered by Stakeholders

May 9, 2016

Agricultural Advisory Committee Meeting:

- In general, subdividing agricultural lands can undermine efforts to preserve land for crop production.
- Clarify procedures for processing Type A and Type B Certificates of Compliance.
- Utilize earlier GIS analyses of General Plan buildout.
- Incorporate graphics to depict/clarify the concept of agricultural subdivisions.
- Provide a comparison of how subdividing occurs under the existing rules and any changes under the proposed rules.

May 25, 2016

Midcoast Community Council Meeting:

- Lot coverage calculation should not include hazardous or under-water areas.
- Location and boundaries of all hazards and sensitive habitat restricting development should be included on the subdivision map.
- Certificates of Compliance Type B process for approval in the coastal zone should include analyzing and recording of development constraints and require maximizing consistency with Local Coastal Program (LCP) resource protection policies.
- Building permits issued under Midcoast growth rate limits should be addressed, such that no single subdivision is allowed to take all 40 permits in a year.
- Traffic mitigation fees should include calculation of impact costs over the life of the subdivision.
- Flag lots are recognized as bad planning and creation of new ones should be avoided.

- Shared wells should not be allowed.
- No new subdivisions should be approved until the lot retirement program is in place, and then only on a lot-for-lot basis.
- The Substandard Lot Merger Program should move forward directly with mandatory merger, due to the long delay since adoption in 2006 and the weak provisions of voluntary merger. Local Coastal Program buildout numbers already assume the corresponding reduction in buildable lots. Delay and circumvention thus increase unsustainable residential buildout numbers. Direct staff not to advise applicants how to circumvent the requirement.
- Stop allowing subdivisions in the Midcoast until coupled with at least 1:1 lot retirement due to existing traffic conditions, cumulative impacts, and the Connect the Coastside conclusion that the transportation system cannot accommodate buildout. Retired donor sites should be legal, developable, residentially-zoned lots to ensure no net increase in residential buildout.

May 26, 2016

Committee for Green Foothills, Audubon Society, and Sierra Club Meeting

- County should review “*Save Laurel Way v. Redwood City*” case regarding parcel legality; also, attorney Jonathan Wittwer is considered an expert in this area of the law and should be consulted.
- Lot retirement tool was successfully used to reduce the number of homes in the Pacific Ridge subdivision in Half Moon Bay from 126 to 63.
- Transition from “level of service” to “vehicle miles travelled” as the measure of traffic impact is concerning; transit availability should be included in assessment of traffic impacts associated with densification.
- Subdivision applications should include a tree plan that: (1) depicts trees and their canopies, proposed utilities locations, building footprints, and driveways/paving on each lot; (2) explains how the trees will be protected during construction; and (3) is recorded with the deed.
- County should require a stream alteration permit from California Fish and Wildlife prior to building permit issuance for subdivisions containing construction within stream corridors.

May 26, 2016

North Fair Oaks Community Council Meeting

- Historic and other significant trees must be protected throughout the subdivision process.

- Opportunities to create parks should be a priority.

May 31, 2016

Peninsula Open Space Trust Meeting

- Purpose of the Farmland Initiative is long-term protection of agricultural production, including the subdivision of some land, with perpetual conservation easements, for subsequent sale.
- Need clarification of the circumstances that warrant a subdivision versus a Lot Line Adjustment; planning staff should work with the applicant to arrive at this determination as early as possible in the application process.
- Potential lack of coordination between departments in the processing, archiving, and retrieval of records such as Certificates of Compliance.
- Can a conservation easement be held by Peninsula Open Space Trust (POST) (or other third parties) or only by the County?
- Can the major difficulties associated with the non-renewal process under the Williamson Act be addressed as part of the subdivision regulations update?
- If POST transfers land to another entity, but there is a remainder parcel that is not part of the transfer, what is the legal status of the remainder and what is POST's responsibility?
- What are the options for dealing with existing structures built without permits?
- Securing potable water can be a major obstacle to providing new housing, or even maintaining existing housing, and is complicated by the lack of clarity on what water sources are permitted and under what circumstances (e.g., wells, springs, surface diversions, etc.). This is especially the case on the Coastside due to the lack of municipal water systems and aging infrastructure on many coastal farms, ranches and homes in general.

June 6, 2016

Meeting with Private Practitioners

- The County's method of analyzing steep slope areas, currently the interpolation of two-dimensional contour map data, could be improved by switching to LIDAR-based data sources.
- Contra Costa County's processes for reviewing subdivisions and Certificates of Compliance are clear and efficient, the planning function is well-staffed, and timeframes are typically 18 months.

- Important that staff communicate to applicants/design professionals about the status of projects as they progress through the review process, and about what constitutes substantial compliance between tentative and final maps.
- There has been a decrease in the general level of land development knowledge and experience among clients and a corresponding increase in foreign investors/applicants.
- Requiring quitclaim deeds, such as for rights-of-way or easements, would avoid problems later in the process.
- There should be more responsibility on applicants to prepare more complete, accurate, and informative subdivision maps to avoid issues, such as utilities and easements not being identified, but found later and causing significant delay and/or redesign of the project. The County could institute a submittal requirement for a subdivision map to depict all liens, encumbrances, easements, etc., as listed in the “annotated” title report to avoid missing critical data. However, since the map can only be as good as the title report, how to confirm title report is complete?
- The problem of Lot Line Adjustments not being recorded by applicants in the form of new deeds could be addressed by flagging the affected properties in ACCELA so that the Lot Line Adjustment file is not “closed,” and no new development applications are allowed to be filed, until the recordation occurs.
- How to resolve instances where zoning does not follow property lines (i.e., two or more zones on same property)...rezone to align with parcel boundary or Lot Line Adjustment to align with zoning boundary?
- City of San Jose has a good provisions for vertical subdivisions (retail wrapped around bottom two floors of public parking garage); Gilroy has a good subdivision checklist; Milpitas has good stormwater provisions; San Mateo County has a good GIS.

June 10, 2016

Fire Districts (Cal-Fire, Menlo Park and Woodside) Meeting

- Regarding the Wildland/Urban Interface, County should use/reference existing documents such as Appendix D (Fire Apparatus Access Roads) of the International Fire Code and also Fire Adapted Communities rather than draft something new.
- When applying minimum standards for when a second access is required of a proposed subdivision, the existence of adjacent subdivisions should be taken into account because of the cumulative number of units involved.

- Looped roads, instead of dead-ends, can mitigate the lack of second access in some cases. Similarly, looped water mains ensure continued fire flow capability in the event there is a break in the line.
- Minimum roadway widths are based on whether or not there is parking along one side (26'), both sides (32'), or none at all (20'); however, illegal parking often takes hold and becomes a major obstacle to fire and especially emergency medical access. For that reason, 20' wide roadways (and cul-de-sacs) are ill-advised. All private roads should be recorded so that the fire district is aware and can issue citations to the responsible homeowners association for lack of maintenance, illegal parking, etc.
- Density should be in line with the area's fire-fighting capability; for example, the chance of structure to structure fire increases where there are no fire hydrants.
- The flow of corroded water mains can be significantly less than their size which reduces the fire flow of connected hydrants, so water districts should identify these conditions and have plans to replace/upgrade their lines accordingly.
- Where public water infrastructure is nonexistent or inadequate, separate water tanks and pumps must be required on individual lots to provide or supplement firefighting capability.
- Parking along existing sub-standard public roads frequently blocks fire and emergency medical access, so red curbs and/or "no parking" signs should be installed. Construction activity and staging also contributes to this problem; better planning for this this could be addressed as part of building permit review.
- Fire district personnel are available to make presentations to planning staff on fire response areas in the County. Ride-alongs for staff could also be scheduled.
- Establishing defensible space around structures to reduce fire hazard, as well as constructing wider roadways, can be at odds with saving heritage/significant trees and other valued habitat. Even when trees are removed due to poor condition or to make way for new structures/roads, replacement trees are typically required, often in numbers greater than those removed. Instead, replacement trees could be planted at suitable locations elsewhere in the subdivision or in-lieu fees could be charged to fund the planting of trees in parks, scenic areas, etc.
- Exterior sprinklers could be installed on/near decks, porches, BBQ areas, etc., as a way of containing fires in those places.
- Pre-application meetings and/or site visits could be instituted for subdivisions proposed in particularly problematic areas.

- In urban areas, ladder truck access can be a problem because as building heights increase above 30' some roadways can no longer provide the required two-sided building access.

June 14, 2016

Pescadero Municipal Advisory Council Meeting

- Questions about the possibility of a “large” housing development in the area (e.g., utilizing a 30-acre, centrally-located vacant agricultural parcel).
- Interest in whether the proposed changes to the Subdivision Regulations will make it easier or harder to do development (e.g., second units).
- Some question as to why just subdividing land encompasses such a wide range of other topics/issues (e.g., septic systems).
- Interest in whether Local Coastal Program will be updated for affordable housing.

June 16, 2016

Midpeninsula Regional Open Space District Meeting

- Interested if allowed densities would be affected by the subdivision update.
- Interested in environmental subdivisions.
- Midpeninsula Regional Open Space District (Midpen) will provide specific results from some of its past County subdivisions for County’s consideration in formalizing and/or codifying them so that they may be more routinely used in the future.
- MidPen has a draft memorandum of understanding (MOU) with Santa Clara County that waives the need for Certificates of Compliance and is interested in same with the County.
- MidPen is more interested in grazing lands (as compared to POST that is more interested in farm land) because they are more compatible with trail use.
- Interested if there is any regulation or policy prohibiting Lot Line Adjustments in order to make lot lines match zoning boundaries.
- Interested to know if a subdivision map does not actually create more parcels, is it still considered a subdivision.
- Interested in being exempted from the need to secure grading permits for projects, especially new visitor parking lots, on lands outside of the coastal zone.

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