

City Attorney's Impartial Analysis for Measure Y

Measure Y, proposed by a citizen's initiative petition, seeks to change the approval process for General Plan amendments and rezones involving land designated for agricultural use or open space in Oceanside. Under current law, an application to amend the land use element of the General Plan or to rezone property is received by City staff who conducts environmental review of the application, and makes a recommendation to the Planning Commission at a public hearing. The Planning Commission recommends whether the City Council should approve or deny the application. The City Council then conducts a public hearing and votes to approve or deny the application.

Measure Y changes the current process by adding a requirement for majority voter approval for any application to change the General Plan land use designation or zoning of land designated or zoned for agricultural use or open space.

Measure Y includes two exceptions to the voter approval requirement.

The first exception applies if the land use change is necessary for the City to meet its "legal fair share housing requirement" and there is no other residential land in the City that can accommodate this requirement. Measure Y does not define the term "legal fair share housing requirement." It appears to refer to the requirement in the California Government Code for cities to prepare a Housing Element to its General Plan to make adequate provision for the housing needs of very low, low, moderate, and above moderate income households. Oceanside's current Housing Element does not identify agricultural or open space land for the City to meet its housing needs between 2013 and 2020.

The second exception to the voter approval requirement applies when an applicant for a development project has a "vested right" to develop under state law before the effective date of this initiative. The measure does not define when vested rights apply. California courts have ruled that vested rights arise when a property owner has performed substantial work and incurred substantial liabilities in good faith reliance upon a permit issued by the government. In addition, a project can also be considered vested under state and local law if it is the subject of a development agreement between the City and the property owner or where the City has approved a vesting tentative map.

Measure Y also proposes to amend the Land Use Element of the General Plan to allow "agritourism" and residential uses in areas designated for agricultural use without voter approval provided there is no interference with agricultural operations and the open space character of the area is preserved. The initiative does not define the term "agritoursim." Permissible uses would have to be defined in the Oceanside Zoning Ordinance as may be amended from time to time. According to Measure Y, minimum lot sizes for residential uses in the agricultural zone shall be no less than two and one half acres. This minimum lot size is consistent with existing agricultural zoning.

If adopted, Measure Y will remain in effect until December 31, 2038.

Dated: August 13, 2018


John P. Mullen, City Attorney