

MEMORANDUM OF UNDERSTANDING REGARDING CITY OF WATSONVILLE LCP AMENDMENT 1-99

0206
Attachment 6:

This Memorandum of Understanding is by and between the City of Watsonville (hereinafter, the "City"), the County of Santa Cruz (hereinafter, the "County"), and the California Coastal Commission (hereinafter, the "Commission").

Whereas, the City has submitted an amendment to its certified Local Coastal Program (LCP) to modify performance standards and add "public school" as a conditional use in order to provide for the development of a public school on the west side of Highway One north of Harkins Slough Road on land currently designated for agriculture and other low intensity uses (hereinafter, the "site"); and

Whereas, the City has accepted a final EIR for the development of a public high school on the site; and

Whereas, Andrew Mills of Santa Barbara, California on behalf of the Pajaro Valley Unified School District (hereafter "PVUSD") performed an agricultural viability study, dated August 20, 1997, as part of the Third High School Environmental Impact Report, Revised Final version dated September 1998. This study concluded that there is a reasonable likelihood that the land within the project boundaries will fall out of agricultural use within the not too distant future as, increasing production costs, declining marginal profitability, and pressures to convert marginal land to non-farm uses converge; and

Whereas, Section 30241 of the Coastal Act provides as follows;

The maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the areas agricultural economy, and conflicts shall be minimized, between agricultural and urban land uses through all of the following:

- (a) By establishing stable boundaries separating urban and rural areas, including, where necessary, clearly defined buffer areas to minimize conflicts between agricultural and urban land uses.
- (b) By limiting conversions of agricultural lands around the periphery of urban areas to the lands where the viability of existing agricultural use is already severely limited by conflicts with urban uses or where the conversion of the lands would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development.
- (c) By permitting the conversion of agricultural land surrounded by urban uses where the conversion of the land would be consistent with Section 30250.
- (d) By developing available lands not suited for agriculture prior to the conversion of agricultural lands.

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- (e) By assuring that public service and facility expansions and nonagricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water-quality.
- (f) By assuring that all divisions of prime agricultural lands, except those conversions approved pursuant to subdivision (b), and all development adjacent to prime agricultural lands shall not diminish the productivity of such prime agricultural lands; and

Whereas, under Section 30007.5 of the Coastal Act the Legislature found and recognized that conflicts may occur between one or more policies of the Act and therefore declared that in carrying out the Act such conflicts are to be resolved in a manner which on balance is the most protective of significant coastal resources. In this context, the Legislature declared that broader policies which, for example, serve to concentrate development in close proximity to urban and employment centers may be more protective, overall, than specific wildlife habitat and other similar resource policies; and,

Whereas, an evaluation of the site by Coastal Commission staff concludes the site contains prime agricultural land, as defined in Section 30113 of the Coastal Act, that it has historically been farmed and it currently produces commercial strawberry crops; and

Whereas, the site is immediately adjacent to productive prime agricultural land; and

Whereas, development of the high school will result in the conversion of all agricultural land on the site to a public facilities use and extend urban uses into an agricultural area; and

Whereas, Section 30242 of the Coastal Act requires that non prime agricultural land shall not be converted to non agricultural use unless continued or renewed farming is not feasible or the conversion would preserve prime agricultural land or concentrate development consistent with 30250 of the Coastal Act; and

Whereas, Section 30243 of the Coastal Act requires that the long term productivity of soils and timberlands be protected, and

Whereas, the site is outside the current developed area of the City of Watsonville, and development of the high school, which includes the extension of sewer and water utilities and substantial improvements to Harkins Slough Road, may result in an incentive for future urban development on rural agricultural lands within Santa Cruz County, west of Highway One outside the current boundaries of the City; and

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Whereas, Section 30250 of the Coastal Act requires that new urban development be located within existing developed areas able to accommodate such development, except as otherwise provided in the Coastal Act; and

Whereas; the site selected for the high school contains environmentally sensitive habitat areas as defined in Section 30107.5 of the Coastal Act and wetlands, as defined in Section 30121 of the Coastal Act; and

Whereas, Section 30240 of the Coastal Act protects environmentally sensitive habitats from significant disruptions of habitat values, permits only development dependant on the habitat to be placed in these areas and requires that new development located adjacent to environmentally sensitive habitats be sited to prevent impacts that would significantly degrade those areas and shall be compatible with the continuation of the habitat; and

Whereas, Section 30233 of the Coastal Act requires the protection of wetlands and limits the development of non-resource-dependent uses within them; and

Whereas, The City, the County and the Commission desire to (1) maintain a stable urban rural boundary by ensuring that there will be no additional urban development outside the current western boundary of the City of Watsonville (See Exhibit A), and (2) protect rural agricultural lands and wetlands and other environmentally sensitive habitats while providing for concentrated urban development in the City of Watsonville and

Whereas, Notwithstanding the policy stated above, the parties understand that the City reserves the right, consistent with all applicable requirements, to pursue the potential annexation of only one additional parcel, identified as " Green Farm ", (APN 052-271-04); and

Now, therefore, the City, the County and the Commission agree as follows:

1. **EFFECT OF ABANDONMENT.** Except as provided in this paragraph, City, County and Commission agree that this MOU, the certification of the Watsonville LCP Amendment 1-99, and any associated ordinances and resolutions shall, by their own terms, be rescinded, and be of no further force and effect, upon notice by PVUSD to the Executive Director of the Coastal Commission that it has irrevocably abandoned any project to construct a public school on the site, except as follows. The City agrees that, in this event, it will submit, within one year of PVUSD's notice of abandonment, a comprehensive update of the City's LCP for review and action by the Coastal Commission.

2. **CITY ACTION** Within six months of the Commission's adoption of suggested modifications on the City's 1999 LCP submittal, the City shall act in good faith to hold

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a public hearing to consider adoption and submission for certification by the Commission of amendments to the City's LCP and will similarly consider the adoption of amendments to the City's General Plan for non-Coastal Zone areas of the City west of Highway One, that include the following elements:

- a. A "right-to farm" ordinance that provides protections to agricultural uses adjacent to the City of Watsonville, west of Highway One;
- b. Establishment of a (1) one foot wide utility prohibition overlay district along the boundary of existing Coastal Zone Areas A, B, and C (see Exhibit A) across which the placement of wastewater utility pipeline and potable water utility pipelines is prohibited, except that the parties agree that certain exceptions to this policy may be pursued through normal and required legal processes without need for amendment to this MOU and notwithstanding Section 11 of this MOU.¹ The limitations of this subparagraph (b) shall not however restrict the repair, replacement, maintenance, refurbishment or functional improvements of existing water and sewer lines insofar as necessary to maintain existing capacity of said existing lines as of the date of this MOU (in other words, no physical expansion of existing lines).
- c. A policy and/or standard as may be applicable stating that, except for the "Green Farm" parcel (Santa Cruz County Tax Assessor's Parcel Number 052-27-i-04) as provided in the recitals to this Memorandum above, the City will not pursue any additional annexations to the City west of Highway One, nor support any annexations to the City from third parties in that geographic area, unless both of the following findings can be made:
 - i. The land to be annexed is not designated Viable Agricultural Land Within the Coastal Zone (Type 3) by the Santa Cruz County General Plan/Local Coastal Program Land Use Plan, or the land to be annexed has been re-designated from Viable Agricultural Land Within the Coastal Zone to a different land use designation by the County of Santa Cruz through a Local Coastal Program Land Use Plan amendment and rezoning; and

¹ Acknowledged exceptions include: (1) potable water and wastewater service to the Gilbertson parcel (APN 052-011-46), and the agricultural uses principally and conditionally permitted under the present County Commercial Agricultural Zoning district, including Agricultural worker housing; (2) Leachate lines to and from the City and County landfill and the City Wastewater Treatment Plant; and (3) pipelines to distribute water for environmental restoration, maintenance or enhancement. Acknowledgement of these possible exceptions in no way binds any of the parties in future legal decision-making processes.

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- ii. The land is not Environmentally Sensitive Habitat, (including wetlands) as defined in Title 16, Section 6.32 of the County's LCP or in Sections 30107.5 or 30121 of the Coastal Act.
 - d. A policy and/or standard as may be applicable stating that if a third party annexation west of Highway One is approved inconsistent with (i) or (ii) above, the City will limit zoning of the incorporated land to that zoning most equivalent to the County's agriculture or open space designation; and prohibit (a) the extension of urban services to this land and (b) any subdivisions of the annexed land except those required for agricultural lease purposes
3. **CITY ACTION** Within six months' of the Commission's adoption of suggested modifications to the City's 1999 LCP amendment submittal, the City shall act in good faith to hold a public hearing to consider the adoption and submission for certification by the Commission of amendments to its LCP, that include the following elements:
- a. Policies and/or standards as may be applicable that i) prohibit nonresource-dependent development in ESHAs/wetlands except, that in wetlands, incidental public service purposes including, but not limited to, burying cables and pipelines; may also be allowed; ii) protect ESHAs/wetlands against any significant disruption of habitat values; iii) provide for adequate buffers between the school use and ESHA/wetlands, through siting and design, to prevent impacts that would significantly degrade these areas; iv) ensure that the site development is compatible with the continuance of these ESHAs/wetlands; and
 - b. Policies and/or standards as may be applicable that provide adequate buffers to minimize conflicts between agricultural uses and the high school;
4. **SUPER MAJORITY VOTE.** Any of the amendments to the LCP or General Plan identified in Sections 2 and 3 approved by the City for submission to the Commission as LCP amendments or as amendments to the City's General Plan for areas outside the Coastal Zone West of Highway One, shall include a requirement that future amendments to or revocation of these provisions shall require approval by a super majority of the City Council. (Five votes to amend or revoke.)
5. **COUNTY ACTION** Within one year of the Commission's adoption of suggested modifications on the City's 1999 LCP submittal, the County will act in good faith and hold a public hearing to consider the adoption and submission for certification by the Commission of amendments to the County's LCP and similar amendments to its General Plan, that include the following elements:

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- a. Establishment of a (1) one foot wide utility prohibition overlay district along and immediately adjacent to the City's boundaries west of Highway One (City limits) (as shown on Exhibit A') across which the placement of wastewater utility pipelines and potable water utility pipelines is prohibited, except that the parties agree the certain exceptions to this policy may be, pursued through normal and required legal processes without need to amendment to this MOU and notwithstanding section 11 of this MOU.³ The limitations of this subparagraph (a) shall not however restrict the repair, replacement, maintenance, refurbishment or functional improvements of existing water and sewer lines insofar as necessary to maintain existing capacity of said existing lines as of the date of this MOU (in other words, no physical expansion of existing lines)⁴. ✓
- b. A policy and/or standard as may be applicable that limits the width of Harkins Slough Road to the minimum width of roadway, bikeway and pedestrian ways necessary to serve the High School or as otherwise needed to meet minimum County or Cal Trans design standards as applicable; and, that encourages other improvements needed to provide habitat connectivity between the west branch of Struve Slough on Area "C" and the California Department of Fish. and Game Reserve on the south side of Harkins Slough Road adjacent to the school site. ?
- c. A policy and/or standard as may be applicable that requires the County to reserve a one-foot non-access strip around any easements granted to the City for wastewater, utility pipeline³ and potable water utility pipelines so as to limit future utility extensions inconsistent with this agreement. 7

6. **SUPER-MAJORITY VOTE.** Any of the amendments to the LCP or General Plan identified in Section 5 approved by the County for submission to the Commission as LCP amendments or as amendments to the County's General Plan shall include a requirement that future amendments to, or revocation of, these provisions shall require

² All parties agree that no amendment to this MOU is necessary to extend the utility prohibition overlay district around APN# 052-271-04 if it is annexed, subject to all planning and regulatory processes.

³ Acknowledged exceptions include: (1) potable water and wastewater service to the Gilbertson parcel (APN 052-011-46), and the agricultural uses principally and conditionally permitted under the present County Commercial Agricultural Zoning district, including Agricultural worker housing; (2) Leachate lines to and from the City and County landfill and the City Wastewater Treatment Plant; and (3) pipelines to distribute water for environmental restoration, maintenance or enhancement. Acknowledgement of these possible exceptions in no way binds any of the parties in future legal decision-making processes.

⁴ Only for the specific purpose of accommodating new development within the City east of Highway One, expansion of the main wastewater utility line from the City sewer treatment plant is exempted from this prohibition, subject to all applicable regulatory review and approvals.

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approval by a super majority of the County Board of Supervisors. (Four votes to amend or revoke.)

7. COASTAL COMMISSION ACTION Within the statutory time limits, the Coastal Commission shall, in good faith, hold a public hearing to consider the approval of amendments submitted to the Commission pursuant to this agreement by the City or the County

8. HARKINS SLOUGH INTERCHANGE. The City, County and Commission agree to consider the effects of the execution of this Memorandum on limiting growth inducing impacts that might otherwise result from any future City project proposals for improving the Highway 1 Harkins Slough Interchange.

9. SUPER-MAJORITY VOTE. A super-majority vote to amend or revoke amendments to the City and County LCP's and General Plans as provided by Sections 3 and 5 of this Memorandum shall be required.

10. REFERENDUM, Any legislative action taken by the City or the County pursuant to this agreement is subject to referendum under Article 2, Section 11 of the Constitution of the State of California, or the City Charter.

11. AMENDMENTS. This Memorandum may only be amended by the agreement of all parties hereto, i.e., the City Council, Board of Supervisors and the Coastal Commission. An amendment means a change in this Memorandum that deletes, modifies, explains or adds a provision (or a portion thereof) to this Memorandum. All amendments must be written to be effective. If any party to this Memorandum requests an amendment to this Memorandum, such party shall promptly notify the other parties in writing. Such written notice shall be directed to the executive officer of the parties to whom the request is made, and to the PVUSD, The Santa Cruz group of the Sierra Club, Santa Cruz Chapter of the Community Alliance with Family Farmers, and the Watsonville Wetlands Watch. For each such proposed amendment, such notice shall specify with particularity: the general nature of the proposed amendment, all factual, technical or legal bases for the proposed amendment, the identity of the persons within each agency or elsewhere who propose and who have personal knowledge of the reasons and bases for such proposed amendment, and the proposed language of the amendment. Within 30 days of receiving such written notice, appointed, or elected representatives of each of the parties with meaningful authority to recommend amendments shall diligently meet and in good faith discuss such request. Such meetings will require public notification. Public notification will, at a minimum, consist of an advisory notification on the public agendas of the three signatory parties. Such meetings shall continue to be held diligently until the amendment is either accepted or rejected.

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12. INTERPRETATION AND RESOLUTION OF AMBIGUITIES. If any party deems any provision of this Memorandum vague or ambiguous, such party shall follow the process described for amendments in Section 11. Interpretations and resolution of ambiguities must be agreed to by the City Council, Board of Supervisors and the Coastal Commission in order to be effective.

13. LEGISLATION. The City and County shall support legislation relative to this Memorandum that shall permit any person to petition a court of competent jurisdiction to require the City, the County and/or the Commission to comply with the terms of this Memorandum, including any amendments hereto. Such legislation shall not become enforceable until (1) the County and City both have Housing Elements in their respective General Plans certified by the California Department of Housing and Community Development and (2) either the County or City commence any official action to rescind the "supermajority" voting requirements contained herein.

14. EFFECTIVE DATE. This Memorandum of Understanding will become effective upon its duly authorized execution by the Mayor of the City, Chairperson of the County Board and the Executive Director of the Commission.

Space for Signatures to be, affixed if document is approved.

EXHIBIT 1 (P. 8)

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**MEMORANDUM OF UNDERSTANDING REGARDING CITY OF WATSONVILLE LCP
AMENDMENT I-99**

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The execution of this Memorandum of Understanding was authorized: by the City of Watsonville City Council on March 14, 2000; by the Santa Cruz County Board of Supervisors on March 14, 2000; and by the California Coastal Commission on April 10, 2000. The signatures of the Mayor of the City, Chairperson of the County Board and the Executive Director of the Commission below are executed pursuant to that authority.

IN WITNESS WHEREOF, the City, the County, and the Commission have entered into this Memorandum of Understanding as of the last date appearing below,

CITY OF WATSONVILLE

Oscar Rios
Mayor

Date

COUNTY OF SANTA CRUZ

Mardi Wormhoudt
Chairperson, Board of Supervisors

Date

CALIFORNIA COASTAL COMMISSION

Peter M. Douglas
Executive Director

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EXHIBIT 1 (P.9)

MOU Regarding Affordable Housing

Whereas, the City of Watsonville (City) is considering entering into a Memorandum of Understanding between the City, the County of Santa Cruz (County) and the California Coastal Commission (Commission) relative to proposed modifications to the City's certified Local Coastal Program (LCP) adding public schools as a conditional use to accommodate the development of a public high school on the west side of Highway One, north of Harkins Slough Road; and

Whereas, the County's Housing Element has not been certified by the California Department of Housing and Community Development (HCD); and

Whereas, the failure to have a certified Housing Element precludes the County from competing for available State and Federal funding for much needed affordable housing and community development funds; and

Whereas, it is mutually acknowledged that there is a substantial lack of affordable housing in Santa Cruz County and that the creation of new affordable units to serve all segments of the community is a critical issue for the County and the region; and

Whereas, it is mutually agreed that the preservation of prime agricultural land and environmentally sensitive areas is a common goal; and

Whereas, the City has been asked to provide assurances that there will be no additional urban development or annexation west of Highway One inconsistent with the MOU signed by the City, County and Coastal Commission; and

Whereas, the City and County agree that each share responsibility to facilitate adequate affordable housing for low income people, particularly the agricultural labor force; and

Whereas, the City desires to work cooperatively with the County to identify potential projects and programs that will address the critical lack of affordable housing including agricultural workers housing throughout the County; and

Whereas, and equitable distribution of affordable housing throughout the County is of benefit to all residents; and

Whereas, the City and County agree that housing development should utilize, to the extent possible, existing utilities and transportation networks incorporated in developed areas throughout the County.

EXHIBIT 1 (P.10)

Now, therefore, the City and the County Agree as follow:

1. The County within six months of the date of this Memorandum of Understanding shall act in good faith to hold a public hearing to consider the adoption and submission for certification by HCD modifications to the County's Housing Element that includes as a minimum the consideration of the following elements:
 - a. Increase quality, affordable housing for all segments of the community, with particular emphasis on agricultural workers, families with children, and first-time home buyers; and
 - b. Increase affordable housing through rehabilitation of existing housing and creative purchasing opportunities for affordable housing in general; and
 - c. Create new incentives for the development of new affordable housing units such as fee reductions and priority processing; and
 - d. Geographically disperse affordable single and multi family housing throughout the County, particularly such housing for agricultural workers in the North and South County;
2. Said agreement shall be executed as a condition for the City of Watsonville considering entering into a Memorandum of Understanding between the City of Watsonville, the County of Santa Cruz and the California Coastal Commission relative to modifications of the City's certified Local Coastal Program (LCP) adding public schools as a conditional use in order to accommodate the development of a public high school on the west side of Highway One, north of Harkins Slough Road.

Signature Blocks.. .

EXHIBIT 1 (P. 11)

Exhibit A

0217
To Memorandum of Understanding
Regarding City of Watsonville
LCP Amendment 1-99

