



City Council <citycouncil@cityofwatsonville.org>

Comment on item 10b - City Council Meeting 8/24

1 message

Ryan Ramirez <ramizzan@gmail.com>

Tue, Aug 24, 2021 at 1:57 PM

To: citycouncil@cityofwatsonville.org, cityclerk@cityofwatsonville.org

Regarding item 10b of the City Council Meeting agenda to be held on 8/24/2021

PUBLIC HEARING TO CONSIDER 21-UNIT TOWNHOUSE PROJECT ON A 1.57± ACRE SITE LOCATED AT 547
AIRPORT BOULEVARD (Recommended by Community Development Director Merriam)

City Council,

My name is Ryan Ramirez and I am the president of the Watsonville Pilots Association. On behalf of the association and pilot community, the WPA strongly objects to this project. The City does not currently have the authority to issue permits for this application as the City's General Plan does not yet comply with the Public Utilities Code. Therefore, the Project must be denied. Please refer to the letter that our attorneys emailed last Friday detailing the City's lack of authority, which has been the case for almost a decade.

Ryan Ramirez

President, Watsonville Pilots Association



City Council <citycouncil@cityofwatsonville.org>

Public Comment Item #10.b. PUBLIC HEARING TO CONSIDER 21-UNIT TOWNHOUSE PROJECT ON A 1.57± ACRE SITE LOCATED AT 547 AIRPORT BOULEVARD

Marjorie Bachman <marjoriebachwoman@gmail.com>
To: citycouncil@cityofwatsonville.org

Tue, Aug 24, 2021 at 11:47 AM

(Previously submitted this morning without the proper title in the Subject line.)

Dear City Council,

August 24, 2021

I object to the approval of the 21 townhouse complex on 1.57 acres at 537 Airport Boulevard because the City has not complied with the State Aeronautics Act or the mandates of the 2008 & 2014 Santa Cruz Superior Court decisions and the 2010 Court of Appeals mandate to incorporate the California Division of Aeronautic (CDOA) Airport Land Use Planning Handbook (Handbook) into the 2005 General Plan. The City does not have authority to issue permits in the Airport Influence Area (AIA/2 miles around the Airport boundary) while the General Plan is inadequate.

The City stated that they have utilized a draft Airport Land Use Compatibility Plan (ALUCP) to evaluate development projects in the AIA since 2016. The draft ALUCP is inconsistent with the court's decisions and should not be used until it is approved by all appropriate agencies and incorporated into the General Plan.

The Community Development Department has agreed to present all development projects within the AIA to the Watsonville Airport Advisory Committee (WAAC) for review and comment. The WAAC has not been advised of the [547 Airport Boulevard](#) project.

The WAAC requests this permit consideration be postponed until the WAAC has the opportunity to review the project and provide their comments. The WAAC recommends that the City work to comply with the court orders to incorporate the CDOA Handbook into the 2005 General Plan before considering any further land use permits in the Airport Influence Area surrounding the Watsonville Municipal Airport.

Respectfully,
Marjorie Bachman
WAAC Chairperson



City Council <citycouncil@cityofwatsonville.org>

Housing development 547 Airport Blvd Public Hearing tomorrow

1 message

Eve Ortiz <evehandsfieldortiz@gmail.com>
To: citycouncil@cityofwatsonville.org

Mon, Aug 23, 2021 at 6:57 PM

To whom it may concern.

I am a business owner in Watsonville and have been for over 25 years.

It is 7 pm and I will likely be working in my Watsonville office until midnight in addition to my regular full time occupation.

The reason I will be here is that I have tried and failed to fill the position that was vacated by my longtime office manager.

He was an Aptos High student and Cabrillo College graduate. We hired him right out of school and employed him for the last 17 years. As he became the head of household for himself and his family, he could no longer afford to live in Watsonville. He moved to Hollister and commuted for a time, but the time away from his family caused him to leave this town for San Benito.

I hired and lost 3 additional Watsonville residents and working professionals in the following 3 months

1. The most qualified was a no show on his first day. He had a better offer out of the area.
2. The second was employed for several months, but found that with the cost of rent, travel from available and affordable housing, and childcare she was better off staying at home with her kids than working.
3. My third hire accepted the job and was offered employment with housing included in Santa Barbara County. I spent the next couple days looking for housing she could afford, offering bonus pay, and incentives in order to stay.

Four local Watsonville residents I could have employed have left our community and our workforce, because Watsonville has a housing shortage.

If a strong workforce cannot find housing, they will leave Watsonville.

If businesses can't find qualified employees, they will leave Watsonville.

This project will keep local families in Watsonville who are ready to live and work here. It is next door to existing housing, close to the freeway to ease City traffic, walking distance to the local schools and shopping, and on a street that has recently improved the pedestrian access to local business.

Thank you for your time.



City Council <citycouncil@cityofwatsonville.org>

City Council Agenda Item 10.b

Sarah Chauvet <smchauvet@gmail.com>

Mon, Aug 23, 2021 at 1:13 PM

To: citycouncil@cityofwatsonville.org, cityclerk@cityofwatsonville.org

Cc: Suzi Merriam <suzi.merriam@cityofwatsonville.org>

Sarah Chauvet
147 Mesa Verde Drive
Watsonville, CA 95076
August 23, 2021

Honorable Mayor and City Council

[City of Watsonville,](#)[250 Main Street,](#)

Watsonville, CA. 95076

Dear Mr. Dutra and Members of the City Council:

My name is Sarah Chauvet and I object to the approval of the 21 Unit Townhouse project at [547 Airport Blvd.](#) because the City of Watsonville does not currently have the authority to issue permits for development within the Airport Influence Area (2 miles from the airport boundary) until the City's General Plan is compliant with the Public Utilities Code.

In a letter to the City dated November 18, 2016, the Watsonville Pilots Association legal team wrote ".. the draft "ALUCP" produced by Mead and Hunt is more inconsistent with the Court Decision than the City's second failed effort at a General Plan in 2013..."

The City says it is utilizing the 2005 General Plan and this rejected draft "ALUCP" to review development projects. This is clearly not in compliance with the General Plan provisions required by Public Utilities Code Section 21670.1 (e) and 3 Court Decisions

Very truly yours

Sarah Chauvet

cc: Suzi Merriam (via email)

August 20, 2021

VIA EMAIL

Honorable Mayor and City Council
City of Watsonville
250 Main Street
Watsonville, CA 95076

Re: City Council Agenda for August 24, 2021; Item 10.b.
547 Airport Boulevard 21-Unit Townhouse Subdivision and Associated General Plan
and Zoning Amendments

Dear Mayor Dutra and Members of the Council:

This law firm represents the Watsonville Pilots Association (WPA), one of the prevailing parties in *Watsonville Pilots Association, et al. v. City of Watsonville* (2010) 183 Cal.App.4th 1059 (*WPA I*). WPA is dedicated to protecting the safety of pilots and those on the ground in the area around the Watsonville Airport. WPA objects to the proposed General Plan map amendment and zoning map amendment to allow a high-density subdivision and construction of 21 townhomes, and other associated approvals, on a 1.57-acre site located at 547 Airport Boulevard (APN 015-321-01)(Project). The Mitigated Negative Declaration that has been prepared for this Project is inadequate as a matter of law, as it essentially ignores the Project's airport impacts. In addition, this letter is to remind the City that it does not currently have the authority to issue permits for this application as the City's General Plan does not yet comply with the Public Utilities Code. Therefore, the Project must be denied.

I. Preparation of an Environmental Impact Report is Required for this Project

First and foremost, courts review negative declarations favorably to challengers. Because the City has only prepared a negative declaration for the Project, rather than an EIR, our client need only make a "fair argument" that the Project causes a significant environmental impact. Courts have firmly established that the fair argument standard is a "low threshold test." *The Pocket Protectors v. City of Sacramento* ("Pocket Protectors") (2004) 124 Cal.App.4th 903, 928; *No Oil Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 86; *Laurel Heights Improvement Association v. Regents of the University of California* (1993) 6 Cal.4th 1112, 1123-1126. *John R. Lawson Rock & Oil, Inc. v. State Air Resources Bd.* (2018) 20 Cal.App.5th 77, 108- 109. "There is 'a low threshold requirement for preparation of an EIR', and a 'preference for resolving doubts in favor of environmental review.'" *Mejia v. City of Los Angeles* (2005) 130 Cal.App.4th 322, 332. "With certain limited exceptions, a public agency must prepare an EIR whenever substantial evidence supports a fair argument that a proposed project 'may have a significant effect on the environment.'" *Protect Niles v. City of Fremont* (2018) 25 Cal.App.5th 1129, 1138-1139. Whether the administrative record contains "substantial evidence" in support of a "fair argument" sufficient to trigger a mandatory EIR is a question of law, not a question of fact.

League for Protection of Oakland's Architectural and Historic Resources v. City of Oakland (1997) 52 Cal.App.4th 896, 905; *Architectural Heritage Association v. County of Monterey* (2004) 122 Cal.App.4th 1095, 1122 (overruled in part on other grounds in *Friends of Willow Glen Trestle v. City of San Jose* (2016) 2 Cal.App.5th 457, 460). Therefore, under the fair argument standard, "deference to the agency's determination is not appropriate and its decision not to require an EIR can be upheld only when there is no credible evidence to the contrary." *Sierra Club v. County of Sonoma* (1992) 6 Cal App 4th 1307, 1318; *see also, Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144; *Quail Botanical Gardens v. City of Encinitas* (1994) 29 Cal.App.4th 1597 (rejecting an approval of a negative declaration prepared for a golf course holding that "[a]pplication of [the fair argument] standard is a question of law and deference to the agency's determination is not appropriate.") Evidence supporting a fair argument need not be overwhelming, overpowering or uncontradicted. *Friends of the Old Trees v. Department of Forestry and Fire Protection* (1997) 52 Cal.App.4th 1383, 1402. Instead, substantial evidence to support a fair argument simply means "information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached." 14 Cal. Code Regs. § 15384; *Pocket Protectors, supra* 124 Cal.App.4th at 927-928; *League for Protection of Oakland's Architectural and Historic Resources v. City of Oakland, supra*, 52 Cal.App.4th at 905.

The Mitigated Negative Declaration here is an inadequate environmental document because, *inter alia*, it fails to sufficiently analyze airport-related impacts as required by CEQA. A "negative declaration is inappropriate where the agency has failed either to provide an accurate project description or to gather information and undertake an adequate environmental analysis." *City of Redlands v. County of San Bernardino* (2002) 96 Cal.App.4th 398, 406. As a result, the Negative Declaration fails to provide the public and the decisionmakers adequate information regarding the Project's potential environmental impacts. Thus, an EIR must be prepared. *Cleveland National Forest Foundation v. San Diego Assn. of Governments* (2017) 3 Cal.5th 497, 503.

II. The Negative Declaration Fails to Analyze Airport-Related Impacts

The Mitigated Negative Declaration unjustifiably concludes:

The risk level is "low" for Zone 6. While the site is geographically close to the airport, the site is located in Zone 6, the Traffic Pattern Zone, which is the furthest zone from the airport's runways. Therefore, the project would not result in a safety hazard for people residing or working in the project area and the impact would be less than significant.

However, such a conclusion falls flat without proper adherence to the standards and required analysis set forth by the Airport Land Use Planning Handbook published by the California Division of Aeronautics (Handbook):

If a lead agency prepares an environmental impact report for a project situated within airport land use compatibility plan [ALUCP] boundaries, or, if an airport land use compatibility plan has not been adopted, for a project within two nautical miles of a public airport or public use airport, the Airport Land Use Planning Handbook published by the Division of Aeronautics of the Department of Transportation, in compliance with Section 21674.5 of the Public Utilities Code and other documents, shall be utilized as technical resources to assist in the preparation of the environmental impact report as the report relates to airport-related safety hazards and noise problems.

(Pub. Resources Code, § 21096; CEQA Guidelines, § 15154, subd. (a).) Moreover, as explained below, the City is more constrained as a result of the Court of Appeal's decision in *WPA I*. Pursuant to *WPA I*, the City is mandated to incorporate the Handbook in a manner that leaves no discretion. Here, the City is changing the General Plan designation for the Project site to high-density residential development and the City still fails to incorporate the Handbook into the General Plan as required by *WPA I*.

Because the City has not adopted an Airport Land Use Commission, the City was *required* to use the Handbook in preparing the section of the Mitigated Negative Declaration that addressed airport-related safety hazards. (*WPA I* at 1081.) However, the negative declaration merely mentions the Handbook. The Mitigated Negative Declaration is absent of any analyses of whether the development is actually compatible with said Handbook. Therefore, it is impossible to know whether the Project meaningfully considers the Handbook's goal to "minimize the public's exposure to excessive noise and safety hazards" while providing for the "orderly expansion of airports." (Pub.Util.Code § 21670(a)(2).)

It comes as no surprise that the Handbook points out "Noise is sometimes perceived to be the most significant concern generated by aircraft operations, and it can be audible for miles from an airport." (Handbook, p. xi.) Therefore, "With regard to noise and overflight, the goal of airport compatibility planning is to reduce annoyance and to minimize the number of people exposed to excessive levels of aircraft noise." (Handbook, p. xi.) Despite the fact that the Watsonville Airport is an active take-off and landing site for aircraft, which are undeniably loud, there is no such mention of the effect of noise in relation to the Watsonville Airport within the Mitigated Negative Declaration. The noise and overflight analysis must be done in accordance with the Handbook, which the Mitigated Negative Declaration does not dutifully follow, and residential projects are required to analyze noise and overflights in Safety Zone 6. The Mitigated Negative Declaration admits that the Project is within Safety Zone 6.

Furthermore, there is a lack of analysis regarding the safety of the Project. According to the Handbook, "The concept of safety is more difficult to define than the concept of noise. Safety issues are considered for both those living and working near an airport as well as those using the airport." (Handbook, p. xi.) As it follows, "Proper safety and airspace protection minimizes the number of people on and off of the airport that are exposed to the risks associated with potential

aircraft accidents and avoids flight hazards that interfere with aircraft navigation.” (Handbook, p. xi.)

The Mitigated Negative Declaration’s discussion of potential safety hazards is not only cursory, but also entirely flawed because the City has not yet incorporated the Handbook into its General Plan, as required by the State Aeronautic Act and the holding in *WPA I*. The court in *Resource Defense Fund v. County of Santa Cruz* (1982) 133 Cal.App.3d 800, 806, held that “[s]ince consistency with the general plan is required, absence of a valid general plan, or valid relevant [] elements or components thereof, precludes enactment of zoning ordinances and the like.” Thus, without a valid general plan, the City cannot rely on the Mitigated Negative Declaration to conclude the Project complies with CEQA, the State Aeronautics Act and the Handbook. Therefore, a fair argument exists that the Project will create a significant impact.

III. The City Cannot Approve a General Plan Amendment, Zoning Changes and the Project Without Complying with the State Aeronautics Act

This letter is also a reminder to the City that it cannot approve General Plan Amendments, zoning changes and this Project, which is within Airport Safety Zones, because the City’s General Plan violates the State Aeronautics Act set forth in the California Public Resources Code. The City must update its General Plan to comply with the Public Utilities Code before approval of this Project.

The Public Utilities Code outlines requirements for the “orderly expansion of airports and the adoption of land use measures that minimize the public’s exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are already not devoted to incompatible uses.” (Pub.Util.Code § 21670(a)(2).) To fulfill these goals, one of the following three actions must occur: (1) the county establishes an Airport Land Use Commission (ALUC); (2) the county adopts a resolution finding “that there are no noise, public safety, or land use issues affecting any airport” and establish an alternative procedure for airport planning; or (3) the county and each affected city adopt all of the safety criteria set forth in the Airport Land Use Planning Handbook (Handbook). (Pub.Util.Code § 21670). Because the County of Santa Cruz has neither established an ALUC nor adopted a resolution finding “no issues” affecting any airport, the City must adopt the safety elements of the Handbook in its entirety.

In 2006, WPA filed a petition for writ of mandate challenging the City’s adoption of an updated City General Plan (the 2030 General Plan). (Santa Cruz Superior Court Case No. 154571.) The Santa Cruz Superior Court found that the City had violated both the State Aeronautics Act and the California Environmental Quality Act (CEQA), because, *inter alia*, the 2030 General Plan unlawfully modified Airport Safety Zone 3 and land use compatibility guidelines, and the EIR inadequately analyzed aviation impacts and traffic impacts and failed to consider a reasonable range of alternatives. The Court of Appeal upheld this judgment in *WPA I*.

The Court explained that the Watsonville Airport is in a “no-procedure” county and that “an affected city in a no-procedure county must ‘accept’ and ‘put into effect’ the Handbook’s criteria by ‘unit[ing]’ the criteria with the city’s general plan, a very strong mandate.” *WPA I* at 1072. The Court further explained that “what we can glean from the legislative history” of the applicable “1994 amendment of Public Utilities Code Section 21670.1” is “perfectly consistent with requiring an affected city in a no-procedure county to adopt all of the Handbook’s criteria and inconsistent with allowing such city to choose to adopt only some of those criteria.” *WPA I* at 1073.

The Court of Appeal also stated that the City’s contention “lacks merit” when it claimed that “the Legislature did not intend to mandate that an affected city in a no-procedure county adopt the specific criteria in the Handbook but intended to require only that such a city adopt some subset of those criteria.” *Id.* The Court also explicitly rejected the City’s claim that “the contours of the[] zones and the nature of the compatibility criteria [both of which ‘chapter 9 of the Handbook contains’] are left to the discretion of the local agency because the criteria ‘depend on *each locality’s* answer to the basic questions’ about how much risk it is willing to accept [Italics added by Court.],” holding that “[t]his claim directly conflicts with the Legislature’s intent in enacting the 1994 legislation.” *WPA I* at 1076. The Court further stated that “it would defy the Legislature’s intent to conclude that the City has discretion to modify the criteria to suit itself based on the City’s own determination.” *WPA I* at 1077.

As mentioned above, no development can be approved within the Airport Safety Zones until the City has converted the Handbook into mandatory provisions in its General Plan. State law establishes Airport Safety Zones around airports and makes compliance mandatory as to the Watsonville Airport. The WPA has successfully defended these mandatory Airport Safety Zones in Court twice to date: in *WPA I* and in *Watsonville Pilots Association v. City of Watsonville*, Case No. CV176416 (*WPA II*) where the Superior Court found that a revised 2030 General Plan again violated the Aeronautics Act because, among other reasons, **it granted the City discretion in a no-procedure county.**

In fact, the City itself has admitted the lack of incorporation of the Handbook into the General Plan prohibits the City from approving development within the Airport Safety Zones. As City staff explained in a February 28, 2017, staff report for the Pajaro Valley High School Auditorium Project:

In 2010, the Court of Appeal found that the City did not comply with the SAA, because it did not include the Handbook compatibility standards in its general plan. (*Watsonville Pilots Ass’n v. City of Watsonville* (2010) 183 Cal.App.4th 1059, 1079.) Santa Cruz County has been identified as being a “no procedures county.” (*Handbook*, p. 1-4.) This means that the County has not: (1) established an Airport Land Use Commission (ALUC) (2) adopted a resolution finding “no issues” affecting any airport; or (3) established an alternative procedure for airport planning. (*Watsonville Pilots Ass’n, supra*, 183 Cal.App.4th at p. 1071.) Because of this, the county and each affected city must adopt all

of the Handbook's criteria. (*Id.* at pp. 1071-72.) The City has no discretion—it must “accept” and “put into effect” the *Handbook*'s criteria by “uniting” the criteria with the City's general plan, “a very strong mandate.” (*Id.* at pp. 1072.) In short, the City is required to adopt the compatibility criteria in the Handbook as part of its general plan. (*Id.* at p. 1079.) The City is also required to include all applicable federal regulations as part of its general and specific plans. (*Handbook*, p. 1-4; Pub. Util. Code, §21670.1, subd. (e).) The City must also submit its general and specific plans to the Division of Aeronautics for review. (*Ibid.*)....

Pursuant to the September 2014 Superior Court decision, Order and Writ, the Court ordered the EIR and related approvals for the 2030 General Plan be set aside (Attachment 6). The Court also prohibited the City from using the 2030 General Plan “or basing any action on or engaging in any activity pursuant to” the 2030 General Plan or resolutions, unless and until the environmental review and the 2030 General Plan and resolutions are revised to comply with the Court's Statement of Decision and California law. (Order and Judgment, ¶3.)....

(February 28, 2017 staff report, p. 3-4 (attached).) City Staff ultimately recommended the denial of a permit for the Pajaro Valley Haigh School Auditorium Project, explaining:

“First, the City cannot determine consistency with the 2030 General Plan. The Court requires certain contents in the City's 2030 General Plan. **The City's 2005 General Plan does not comply with the Court decisions.** And, the 2030 General Plan has been voided and City is prohibited from basing any action on or engaging in any activity pursuant to the 2030 General Plan until the Writ is discharged.

The Courts made clear that “the General Plan must be submitted to the Department of Aeronautics upon its adoption and before returning it to the Court.” (Statement of Decision, p. 7:3-4.) Caltrans has objected to “piecemeal” review. (December 21, 2016 letter.) Without Caltrans' complete review and approval, the City cannot get its General Plan approved and therefore cannot make the findings of compliance with its General Plan as required by the Court.

Accordingly, the Council's approval of the CDP/SUP amendment would be challenged in Court as a “circumvention” of the Court's decision. This could open the City up to challenges on the return or discharge of the Writ. (See *Los Angeles Int'l Charter High Sch. v. Los Angeles Unified Sch. Dist.* (2012) 209 Cal.App.4th 1348, 1355 [petitioner opposed return on writ and appealed trial court's discharge order]; *City of Carmel-By-The-Sea v. Board of Supervisors* (1982) 137 Cal.App.3d 964, 970 [petitioner successfully moved for order finding respondent had not complied with writ].) The Superior Court retained jurisdiction and may take all steps necessary to enforce the writ.”

Here, Caltrans has said that “[a]pproval of the use permit application and coastal development permit amendment request essentially circumvents the Superior Court’s orders and this is not acceptable.” (December 21, 2016 letter.) Caltrans is a party to the Superior Court lawsuit, so it may seek compliance with the Writ. If the City approves the amendment, Caltrans would say the City has not obeyed the Court’s order.

In summary, the City cannot make either of the required findings to approve the CDP/SUP amendment, until the 2030 General Plan has been submitted to Caltrans and the writ of mandate has been discharged.”

(February 28, 2017 staff report, p. 4, emphasis added.)

The issues identified by City staff with regards to the Pajaro Valley Haigh School Auditorium Project remain an issue here: because the General Plan is still noncompliant with the State Aeronautics Act, no permits or any other land use approvals may be authorized at this time. See *Camp v. Board of Supervisors* (1981) 123 Cal. App. 3d 334, 353 (stating that because a subdivision map was approved “at a time when there existed no adequate general plan, the Board . . . could not have legally found the subdivision consistent with the requisite general plan and thus that approval was unlawful and must be set aside.”). Thus, without a valid general plan, the City must take the position that it will not issue permits or otherwise make new land use decisions. See also *Neighborhood Action Group v. County of Calaveras* (1984) 156 Cal.App.3d 1176, 1184-1185 (stating that a conditional use permit issued on the basis of invalid general plan is thereby itself invalid, to the extent that the “permitted use implicates a defective policy or standard in the general plan,” continuing on to state that “the scope of authority of the agency to enact a general plan and zoning ordinances and to apply them is governed by the requirements of state law. A permit action taken without compliance with the hierarchy of land use laws is *ultra vires* as to any defect implicated by the uses sought by the permit”) (emphasis added); *Friends of “B” Street v. City of Hayward* (1980) 106 Cal.App.3d 988, 998 (“City approval of a proposed subdivision, construction of public improvements, and private sale of subdivided lots may be enjoined for lack of consistency of the subdivision map with the general plan.”)

Again, under *WPA I*, the City Council does not have any discretion to modify the criteria set forth in the Handbook and cannot override it to approve an inconsistent project under any circumstances. WPA has successfully defended these mandatory Airport Safety Zones in Court twice to date. As a result of these Court cases, the most stringent of the land use controls contained in the CDOA Handbook are applicable to the area surrounding the Watsonville Airport.

For the foregoing reasons, WPA requests that the City deny the adoption of the Mitigated Negative Declaration and deny the project entitlements, as the city must first adopt a General Plan that fully complies with *WPA I* and *WPA II* and the Handbook has been fully incorporated in nondiscretionary fashion in the General Plan. It is noteworthy that this Project involves General Plan and zoning amendments to redesignate the Project site for high-density residential

Honorable Mayor and City Council
Re: 547 Airport Boulevard (APN 015-321-01)
August 20, 2021
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development. The City's attempt to piecemeal General Plan amendments without incorporating the Handbook into the General Plan adds insult to injury. Moreover, WPA is unaware if this project was ever reviewed by the Watsonville Airport Advisory Committee.

For the foregoing reasons, the City Council cannot approve this Project. Pursuant to Public Resources Code § 21167(f), we are renewing our request that the City forward a Notice of Determination to me if the Project is finally approved. That section provides:

If a person has made a written request to the public agency for a copy of the notice specified in Section 21108 or 21152 prior to the date on which the agency approves or determines to carry out the project, then not later than five days from the date of the agency's action, the public agency shall deposit a written copy of the notice addressed to that person in the United States mail, first class postage prepaid.

Thank you for your consideration of these comments.

Very truly yours,
WITTWER PARKIN LLP



William P. Parkin

Encl.

cc: Beatriz Flores (via email)
Alan Smith, Esq. (via email)
Suzi Merriam (via email)

**City of Watsonville
Community Development Department**

M E M O R A N D U M



DATE: February 27, 2017
TO: Charles A. Montoya, City Manager
FROM: Justin Meek, AICP, Principal Planner/Zoning Administrator

SUBJECT: Consideration of a Resolution denying an amendment to Coastal Development Permit/Special Use Permit (CDP/SUP) No. 00-28 for the Pajaro Valley High School (PVHS) Auditorium Project.

AGENDA ITEM: February 28, 2017 **City Council**

RECOMMENDATION

Staff recommends that the City Council adopt a resolution denying an amendment to CDP/SUP No. 00-28 for the PVHS Auditorium Project.

BASIC PROJECT DATA

LOCATION: 500 Harkins Slough Road **LOT SIZE:** 32± acres **APN:** 018-281-63

ZONING / GENERAL PLAN DESIGNATION: CZ-C (Coastal Zone - C) / CZ (Coastal Zone)

EXISTING USE: Public high school

PROPOSED USE: Public high school with new 15,380± square-foot auditorium building

SURROUNDING USES: Private land under agricultural production and environmental management as open space

APPLICANT: Adam Lint, Supervisor of Facilities Planning
Pajaro Valley Unified School District
294 Green Valley Road, Watsonville, CA 95076

PROPERTY OWNER: Pajaro Valley Unified School District
294 Green Valley Road, Watsonville, CA 95076

STAFF ACKNOWLEDGEMENT -

Staff recognizes and supports every Council member's concerns about PVHS getting the expansion they need, and thoroughly supports the children and families of Pajaro Valley High School; however the City must abide by State law and the decisions of the Santa Cruz County Superior Court and so the City cannot approve the permit based upon the following narrative:

BACKGROUND

Proposal

On November 22, 2016, the applicant, Pajaro Valley Unified School District (District), submitted an application for an amendment to CDP/SUP No. 00-28 to allow the construction of a new 15,380± square-foot auditorium building on a vacant 0.5± acre portion of the PVHS campus located at 500 Harkins Slough Road (APN 018-281-63). The project would construct a three-story, 30-foot-tall, 450-seat auditorium on the PVHS campus next to the cafeteria and lunch shelters (Attachment 1). This amendment to the CDP/SUP is for an Auditorium that never existed in the 2002 application..

On December 21, 2017, Caltrans Division of Aeronautics sent a letter in opposition to the City approving the project until the City adopts State airport land use compatibility standards from the State Airport Land Use Handbook into the City's proposed 2030 general plan (Attachment 2).

On February 2, 2017, the City sent the District a letter explaining why the findings required to approve the amendment to SUP No. 00-28 cannot be made until the City has a general plan that complies with the State Aeronautics Act. (Attachment 3).

On February 10, 2017, the District requested the City process the District's application for the CDP amendment anyway. (Attachment 4).

Site History

CDP/SUP No. 00-28 was approved by the Council on June 26, 2001, to allow construction of a 2,200 student high school by the District (Resolution No. 171-01 CM). The school was constructed in 2002-2003 and includes ten separate buildings clustered in the center of the site with a series of smaller one-story buildings along the eastern perimeter that step back to two-story buildings moving westerly on the site. In a 2001 memo from the California Coastal Commission (Coastal Commission) to the City and District, the Coastal Commission required a separate CDP or CDP amendment application for any future buildings and/or extension of utilities onto the subject site (Attachment 5).

PROCEDURE

Pursuant to subdivision (d) of Section 9-5.413 of the Watsonville Municipal Code (WMC), the Zoning Administrator shall refer any request for modifications to an approved coastal permit to the decision-making body that approved the coastal permit.

DISCUSSION

FINDINGS REQUIRED FOR APPROVAL

A modification request to an approved coastal permit may be granted only if the reviewing body determines that: (1) the proposed modification would not lessen or avoid the intended effect of the approved coastal permit; and (2) the modified project would be consistent with the Local Coastal Program. (WMC, §9-5.413, subd. (d).)

The Local Coastal Program means a local government's (a) land use plans, (b) zoning ordinances, (c) zoning district maps, and (d) within sensitive coastal resources areas, other implementing actions, which, when taken together, meet the requirements of, and implement the provisions and policies of, the California Coastal Act at the local level. (Pub. Resources Code, §30108.6.) In turn, "land use plan" means the relevant portion of a local government's general plan, or local coastal element which are sufficiently detailed to indicate the kinds, location, and intensity of land uses, the applicable resource protection and development policies and, where necessary, a listing of implementing actions." (Pub. Resources Code, §30108.5.)

To approve the CDP/SUP amendment, the City must find the project would not "lessen or avoid" the effect of the approved coastal permit, and determine consistency with the general plan, among other things.

LAND USES IN THE VICINITY OF THE WATSONVILLE MUNICIPAL AIRPORT

The high school is located in Runway Protection Zone 6 Traffic Pattern Zone, for the Watsonville Municipal Airport. The City's 2030 General Plan has been in litigation for several years. The Santa Cruz County Superior Court and the 6th District Court of Appeal have issued decisions that the Watsonville 2030 General Plan is legally defective, among other reasons, because the General Plan does not include the strictest interpretation of the California Airport Land Use Handbook (Handbook) as required by the California State Aeronautics Act (SAA) .

In 2010, the Court of Appeal found that the City did not comply with the SAA, because it did not include the Handbook compatibility standards in its general plan. (*Watsonville Pilots Ass'n v. City of Watsonville* (2010) 183 Cal.App.4th 1059, 1079.) Santa Cruz County has been identified as being a "no procedures county." (*Handbook*, p. 1-4.) This means that the County has not: (1) established an Airport Land Use Commission (ALUC) (2) adopted a resolution finding "no issues" affecting any airport; or (3) established an alternative procedure for airport planning. (*Watsonville Pilots Ass'n, supra*, 183 Cal.App.4th at p. 1071.) Because of this, the county and each affected city must adopt all of the *Handbook's* criteria. (*Id.* at pp. 1071-72.) The City has no discretion—it must "accept" and "put into effect" the *Handbook's* criteria by "uniting" the criteria with the City's general plan, "a very strong mandate." (*Id.* at pp. 1072.) In short, the City is required to adopt the compatibility criteria in the Handbook as part of its general plan. (*Id.* at p. 1079.) The City is also required to include all applicable federal regulations as part of its general and specific plans. (*Handbook*, p. 1-4; Pub. Util. Code, §21670.1, subd. (e).) The City must also submit its general and specific plans to the Division of Aeronautics for review. (*Ibid.*)

Since the Court of Appeal opinion, the City has taken corrective actions to address the SAA and CEQA deficiencies. In 2013, the City certified a new Final EIR and approved a revised general plan amendment (2030 General Plan). However, a second lawsuit was filed and in September 2014, the Superior Court granted judgment against the City and issued a second writ of mandate.

Pursuant to the September 2014 Superior Court decision, Order and Writ, the Court ordered the EIR and related approvals for the 2030 General Plan be set aside (Attachment 6). The Court also prohibited the City from using the 2030 General Plan "or basing any action on or engaging in any activity pursuant to" the 2030 General Plan or resolutions, unless and until the

environmental review and the 2030 General Plan and resolutions are revised to comply with the Court's Statement of Decision and California law. (Order and Judgment, ¶13.)

The City is still working to comply with the Writ and California law (Attachment 7). City staff have worked for the past year with aviation consultants Mead & Hunt, the Watsonville Pilot's Association and the Caltrans Division of Aeronautics to develop an Airport Land Use Compatibility Plan (ALUCP) that is intended to be a first step to comply with the Court's decision finding deficiencies in the City's draft 2030 General Plan and EIR (Attachment 8). The ALUCP would provide appropriate airport land use compatibility standards to be incorporated in the City's General Plan.

DIFFICULTIES IN MAKING THE REQUIRED FINDINGS

Based on the above, the City cannot approve the CDP/SUP amendment because the City cannot make the required findings regarding the effect of the amendment, or its consistency with the general plan, given the Writ and the lack of Caltrans input.

First, the City cannot determine consistency with the 2030 General Plan. The Court requires certain contents in the City's 2030 General Plan. The City's 2005 General Plan does not comply with the Court decisions. And, the 2030 General Plan has been voided and City is prohibited from basing any action on or engaging in any activity pursuant to the 2030 General Plan until the Writ is discharged.

The Courts made clear that "the General Plan must be submitted to the Department of Aeronautics upon its adoption and before returning it to the Court." (Statement of Decision, p. 7:3-4.) Caltrans has objected to "piecemeal" review. (December 21, 2016 letter.) Without Caltrans' complete review and approval, the City cannot get its General Plan approved and therefore cannot make the findings of compliance with its General Plan as required by the Court..

Accordingly, the Council's approval of the CDP/SUP amendment would be challenged in Court as a "circumvention" of the Court's decision. This could open the City up to challenges on the return or discharge of the Writ. (See *Los Angeles Int'l Charter High Sch. v. Los Angeles Unified Sch. Dist.* (2012) 209 Cal.App.4th 1348, 1355 [petitioner opposed return on writ and appealed trial court's discharge order]; *City of Carmel-By-The-Sea v. Board of Supervisors* (1982) 137 Cal.App.3d 964, 970 [petitioner successfully moved for order finding respondent had not complied with writ].) The Superior Court retained jurisdiction and may take all steps necessary to enforce the writ.

Here, Caltrans has said that "[a]pproval of the use permit application and coastal development permit amendment request essentially circumvents the Superior Court's orders and this is not acceptable." (December 21, 2016 letter.) Caltrans is a party to the Superior Court lawsuit, so it may seek compliance with the Writ. If the City approves the amendment, Caltrans would say the City has not obeyed the Court's order.

In summary, the City cannot make either of the required findings to approve the CDP/SUP amendment, until the 2030 General Plan has been submitted to Caltrans and the writ of mandate has been discharged.

COASTAL PERMIT CHANGE APPEALS TO THE COASTAL COMMISSION

Any action on the District's coastal permit may be appealed to the Coastal Commission as described in WMC Section 9-5.410 if : (1) if the original coastal permit was appealable to the Coastal Commission; (2) the development authorized by the original coastal permit would be appealable pursuant to WMC Section 9-5.410 at the time the modification request is received by the City; or (3) if the modification requested is such that the proposed modified project would be appealable pursuant to WMC Section 9-5.410. (WMC, §9-5.413, subd. (d).)

A modification request may be granted if the Coastal Commission, on appeal, determines that: (1) the proposed modification would not lessen or avoid the intended effect of the approved coastal permit; and (2) the modified project would be consistent with the Local Coastal Program.

COASTAL PERMIT APPEALS TO THE COASTAL COMMISSION

Any major public works project is appealable to the Coastal Commission. (WMC, 9-5.410 subd. (b)(1)(ii), Pub. Resources Code, §30601, subd. (3), and Pub. Resources Code, §30603, subd. (a)(5).) During a telephone call with City staff, Coastal Commission staff said the PVHS Auditorium Project is a major public works project (personal communication, Susan Craig, Central Coast District Manager, January 30, 2017).

An appeal may be filed only by the applicant, an aggrieved person, or any two members of the Coastal Commission. An appeal shall be made in accordance with the appeal procedures contained in Article 4 (Administration and Procedure) of Chapter 5 (Coastal Zone Implementation Plan) of Title 9 (Planning and Zoning) of the Watsonville Municipal Code except that appeals by any two members of the Coastal Commission shall be filed before the effective date of the permit, or not later than ten working days following the date of receipt of the notice of final action in the Coastal Commission's District Office, whichever is later. Appeals by members of the Coastal Commission may be made following decisions of the reviewing body.

Grounds of appeal, pursuant to subsections (1)(i) and (1)(ii) of subsection (b) of WMC Section 9-5.410 are limited to an allegation that the development does not conform to the certified Local Coastal Program.

Appeals to the Coastal Commission must be filed with the Coastal Commission on forms prescribed by and available from the Coastal Commission.

CEQA

The District is the Lead Agency for reviewing and approving projects on its property. On September 14, 2016, the District adopted an Initial Study/Mitigated Negative Declaration for the PVHS Auditorium Project.

RECOMMENDED ACTION

City Staff and the City Council of the City of Watsonville clearly recognize and support the students and families of Pajaro Valley High School for the needed expansion and growth of the high school. However, the City has also identified the constraints agreed to by PVUSD, that the City cannot alone alleviate.

Staff recommends the Council deny the application thereby allowing the District to have a near term hearing before the Coastal Commission; if the Council follows staff recommendation and denies the application, the District can appeal immediately to the California Coastal Commission.

If the Council rejects staff recommendation and grants the application, a lawsuit challenging the Council's decision is expected to soon follow and would have to be decided by the Superior Court, a lengthy process that could take years to complete. If the Superior Court says that the City correctly denied the application, the District will appeal to the Coastal Commission. If the Superior Court decides the City was wrong in denying the application, the Watsonville Pilot's Association and CalTrans Division of Aeronautics will appeal to the Coastal Commission.

So either way there will be an appeal to the Coastal Commission. The only question is when: immediately by the District or a few years from now by either the District or others.

If this is truly about the kids and students of PVHS, the appropriate Council action is to deny the application. There is nothing the City can do to expedite – regardless of what the families and kids have been told.

Staff therefore recommends the City Council adopt the attached Resolution denying an amendment to CDP/SUP No. 00-28 for the PVHS Auditorium Project because it cannot make the required findings.

FINANCIAL IMPACT

There is no negative fiscal impact to the City's General Fund incurred by denying the proposed amendment to CDP/SUP No. 00-28 for the PVHS Auditorium Project.

ALTERNATIVES

None

ATTACHMENTS

1. Project Plans
2. Letter from Caltrans to the City (December 21, 2016)
3. Letter the City to District (February 2, 2017)
4. Letter from the District to the City (February 10, 2017)
5. Memorandum from Tami Grove, Coastal Commission Deputy Director, to John Doughty, City of Watsonville Community Development Director, John Casey, PVUSD Superintendent et al regarding New Millennium High School in Watsonville — Response to PVUSD's September 13, 2001 Memo to the City of Watsonville (September 25, 2001)
6. Superior Court Order and Judgment (September 12, 2014)
7. Superior Court Writ of Mandamus (September 12, 2014)
8. Superior Court Statement of Decision (September 12, 2014)

cc: City Attorney

DESIGN PROFESSIONAL IN GENERAL RESPONSIBLE CHARGE STATEMENT:

THE PATH OF TRAVEL IDENTIFIED IN THESE CONSTRUCTION DOCUMENTS IS COMPLIANT WITH THE CURRENT APPLICABLE CALIFORNIA BUILDING CODE ACCESSIBILITY PROVISIONS FOR PATH OF TRAVEL REQUIREMENT FOR ALTERNATING ADDITIONS AND STRUCTURAL REPAIRS. AS PART OF THE DESIGN OF THIS PROJECT, THE P.D.T. WAS EXAMINED AND ANY ELEMENTS, COMPONENTS OR PORTIONS OF THE P.D.T. THAT WERE EXTENDED TO BE NON-COMPLIANT HAVE BEEN IDENTIFIED AND THE CORRECTIVE WORK NECESSARY TO BRING THEM INTO COMPLIANCE HAS BEEN RELAYED WITHIN THE SCOPE OF THIS PROJECT'S WORK THROUGH DETAILED DRAWINGS AND SPECIFICATIONS INCORPORATED INTO THESE DOCUMENTS. ANY ADDITIONAL REQUIREMENTS OR PORTIONS OF THE P.D.T. THAT MAY NOT BE COVERED BY THIS PROJECT BASED ON VALUATION THRESHOLD LIMITATIONS OR A FINDING OF UNREASONABLE HANDicap ARE SO INDICATED IN THESE CONSTRUCTION DOCUMENTS.

DURING CONSTRUCTION, IF P.D.T. ITEMS WITHIN THE SCOPE OF THIS PROJECT REPRESENTED AS CODE COMPLIANT ARE FOUND TO BE NON-COMPLIANT BEYOND REASONABLE CONSTRUCTION TOLERANCES, THEY SHALL BE BROUGHT INTO COMPLIANCE WITH THE DISC AS A PART OF THE PROJECT BY MEANS OF A CONSTRUCTION CHANGE DOCUMENT.

PARKING COUNT PER DISC 9-1-2023.000

PARKING LOT	STANDARD STALLS	ACCESSIBLE STALLS PROVIDED	ACCESSIBLE STALLS REQUIRED	COMPLIANT
A	36	1*	1	✓
B	36	4*	4	✓
C	318	5	5	✓
TOTAL	422	10	10	✓

PER 2011 DISC TABLE 110.2.2.2
*INCLUDES VAN ACCESSIBLE SPACES

PROJECT SUMMARY

THE BUILDING CONSTRUCTION WILL CONSIST OF CONCRETE SPREAD FOOTINGS WITH STEEL COLUMNS AND CROSS BRACE LATERAL RESTRAINING SYSTEMS AND WOOD STUD WALL AT THE AUDITORIUM AND STAGE AREAS AND INSULATED AND METAL CEILING AT THE ROOF. REINFORCING SPACES WILL BE FORMALLY WOOD BEAMING WALLS WITH PLYWOOD SHEAR SYSTEMS AND ROOF JOIST WITH WOOD BEAMING.

EXTERIOR SHEATHING WITH 1/2" CEMENT PLASTER OVER PLYWOOD AND METAL PANEL SOUND SYSTEM.

GENERAL NOTES

- THIS SHEET IS FOR CODE RELATED ITEMS. FOR SCOPE OF WORK SEE SHEETS A-1 AND A-2.
- REFER TO MECHANICAL, ELECTRICAL, CIVIL AND LANDSCAPE DRAWINGS FOR EXTENT OF MECHANICAL, ELECTRICAL, CIVIL AND LANDSCAPE WORK.

SITE PLAN CODE NOTES

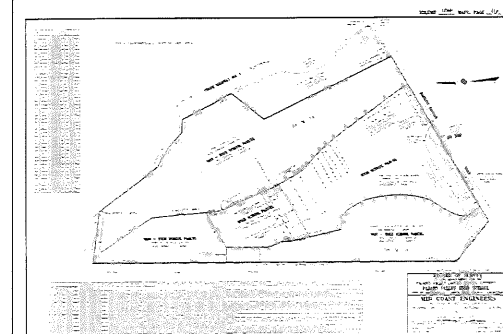
- CONTRACTOR TO INSTALL CITY-PROVIDED RINKS. VERIFY MOUNTING HEIGHTS WITH LOCAL JURISDICTION.
- EXISTING FIRE HYDRANT.
- REFUSE AREA.

ACCESSORY'S PARCEL NUMBER	215-291-43
EXISTING PROPOSED ZONING	CC-C - COMMERCIAL
MAXIMUM PLANNED DENSITY (BASED ON DISC GENERAL PLAN)	UNPAVED OPEN SPACE
CURRENT PROPOSED LAND USE	SCHOOL
NET AREA	5.4 ACRES
LOT COVERAGE	52% (BLDG 52% + 2% DECK)
(R) LANDSCAPE	3,971 SF
SEATING SQUARE FOOTAGE	2,853 SF
SEATING LINEAR	50 FT X 17 FT
PERMEABLE VS NON PERMEABLE SURFACE	3,971 SF VS 22,755 SF
ANTICIPATED NUMBER OF EMPLOYEES	2

BUILDING	CONSTRUCTION TYPE	AREA (SQ. FT.)	ALLOWABLE (SQ. FT.)	# OF STORES
WING A	W-1/B	11,897	8,800 ± 2' ± 20,000	1
WING D	W-1/B & E	14,702	8,800 ± 2' ± 20,000	1
	W-1HR/A2	7,477	10,000 ± 2' ± 20,000	1
WING C	W-1HR/B	3,175	14,000 ± 2' ± 20,000	1
	W-1HR/C	4,333	15,700 ± 2' ± 21,400	1
WING E	W-1HR/C	48,294	17,700 ± 2' ± 42,000	2
	W-1HR/B	6,343	14,000 ± 2' ± 20,000	2
WING F	W-1/E-1	8,723	8,100	1
WING G	W-1 & 5-1H7 A2.1 & E	31,872	13,000 ± 2' ± 40,000	1
	W-1HR/C	48,294	17,700 ± 2' ± 42,000	2
WING H	W-1HR/B	6,343	14,000 ± 2' ± 20,000	2
WING J	W-1/E-1	8,747	8,100	1
WING K	W-1/E-1	8,543	8,100	1
NEW AUDITORIUM WING L	R-2/A-4	15,433	8,800 ± 2' ± 20,000	1

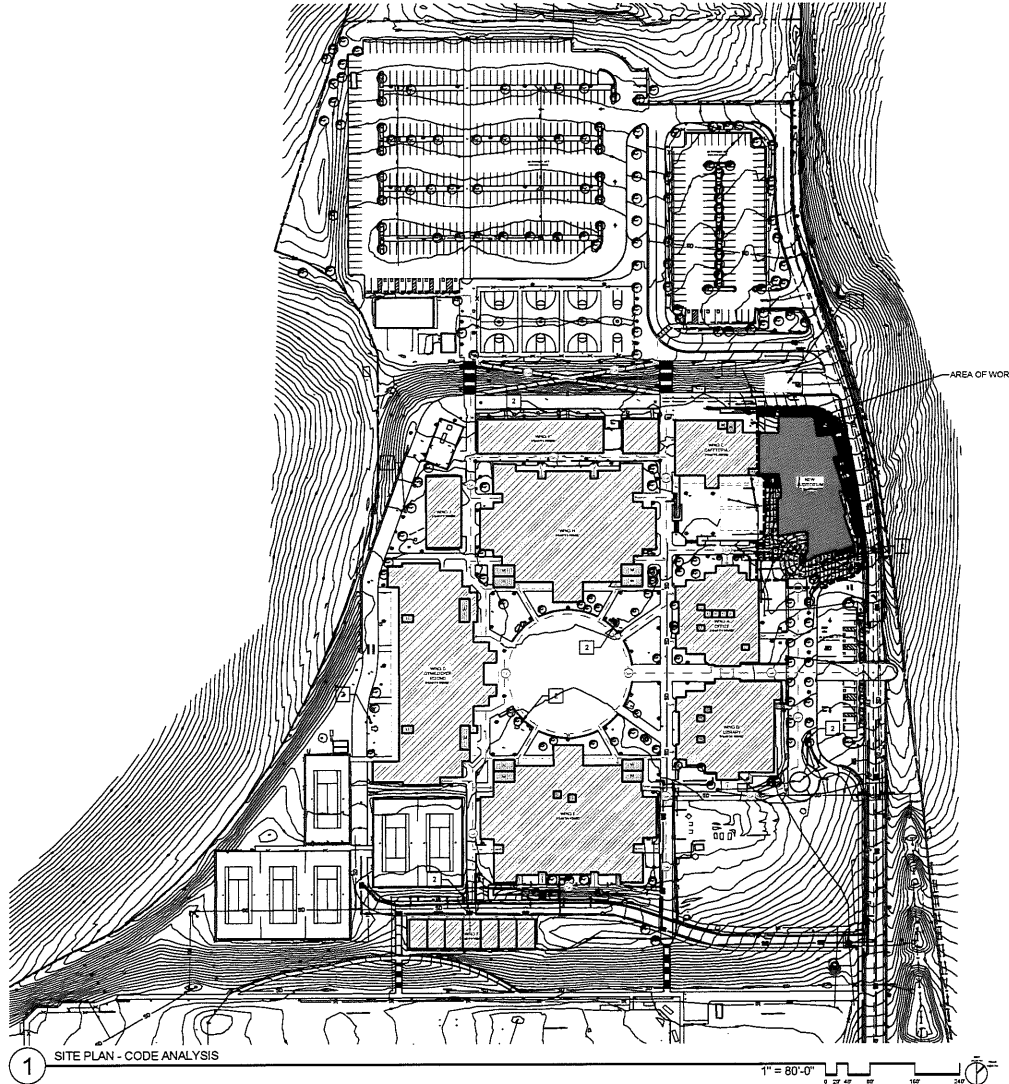
* AUTOMATIC SPRINKLER SYSTEMS W/INCREASE PER DISC 901.1
** SELECTION ON THESE DISC
* 1/4" TO 2" DIA.

PROPERTY LOCATION



GRAPHIC KEY

EXISTING PROPERTY LINE	(S) DRY STAND PIPE
ACCESSIBLE PATH OF TRAVEL	(D) DRINKING FOUNTAIN
ROOF OVERHANG	(F) FIRE HYDRANT
CHAIN LINK FENCE	(T) TRASH
WOOD FENCE	(M) MENS TOILET ROOM
DECORATIVE FENCE	(W) WOMENS TOILET ROOM
FIRE DEPARTMENT ACCESS	(G) GYMNASIUM TOILET ROOM
PERMANENT ACCESS (SEE DISC 901.1)	(B) BOYS TOILET ROOM
PERMANENT ACCESS (SEE DISC 901.1)	(S) STAFF TOILET ROOM
NEW BUILDING	(U) UNisex TOILET ROOM
EXISTING BUILDING	(K) KINDERGARTEN TOILET ROOM
	(R) EXISTING RESTROOMS



PAJARO VALLEY UNIFIED
SCHOOL DISTRICT
298 GREEN VALLEY ROAD
WATSONVILLE, CA 95076
(831) 786-2100

SITE PLAN CODE ANALYSIS
PAJARO VALLEY HIGH SCHOOL, NEW AUDITORIUM
500 HARKINS SLOUGH ROAD
WATSONVILLE, CALIFORNIA 95076
PAJARO VALLEY UNIFIED SCHOOL DISTRICT

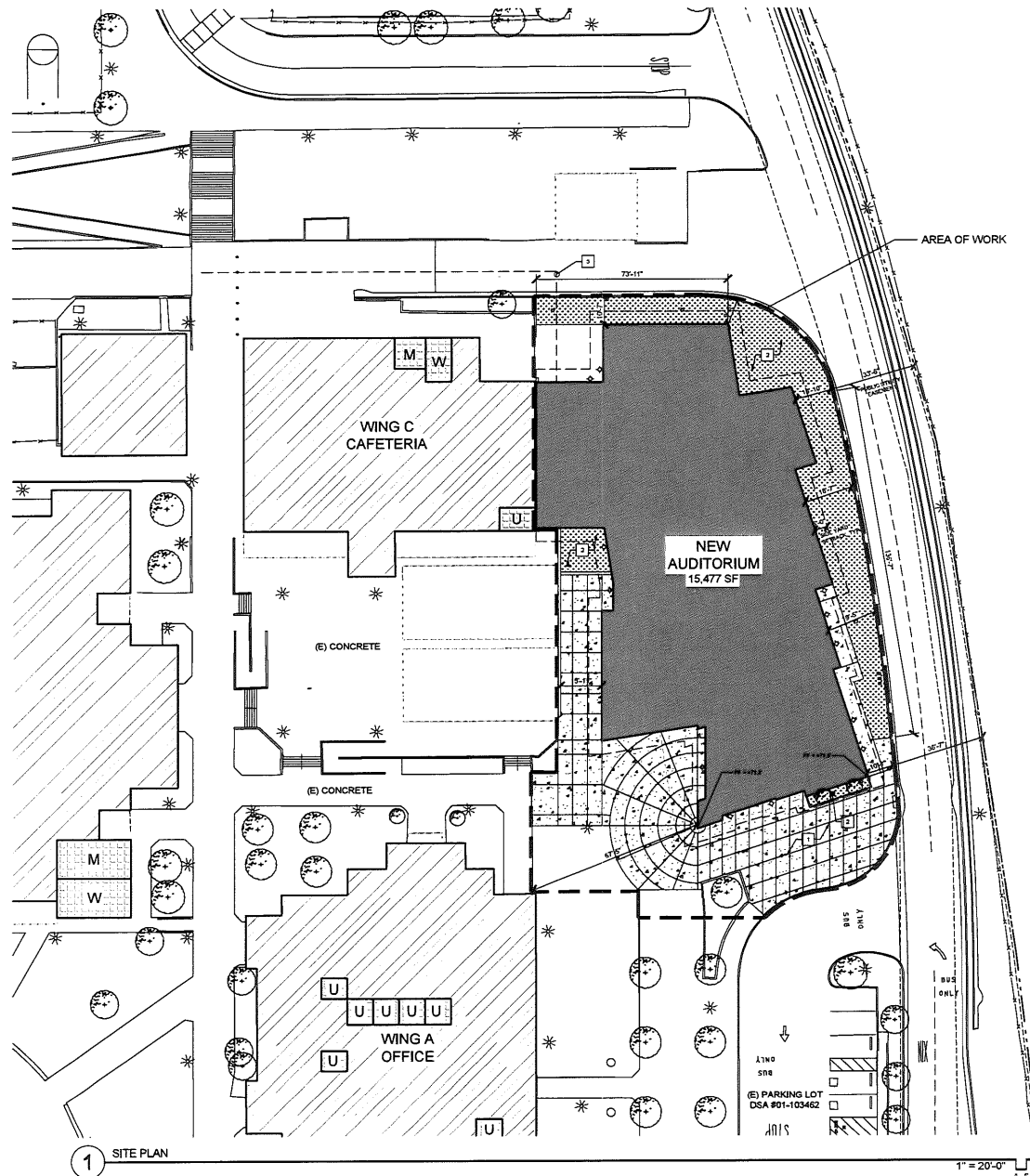
REVISIONS

NO.	ITEM	DATE
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DESIGNED BY: WAT
CHECKED BY: LLM
DATE: 11/01/2021

T2

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GENERAL NOTES

1. REFER TO MECHANICAL, ELECTRICAL, CIVIL, AND LANDSCAPE DRAWINGS FOR EXTENT OF MECHANICAL, ELECTRICAL, CIVIL, AND LANDSCAPE WORK.
2. CONTRACTOR TO VERIFY ALL BARRIERS IN P.D.T. HAVE BEEN REMOVED.

SITE PLAN NOTES

1. NEW CONCRETE PAVING, SEE CIVIL AND LANDSCAPE DRAWINGS FOR EXTENT.
2. NEW LANDSCAPE, SEE LANDSCAPE DRAWINGS FOR EXTENT.
3. (E) ELECTRICAL: (1) 4" CONDUIT, (2) 2 1/2" CONDUIT.

GRAPHIC KEY

- EXISTING PROPERTY LINE
- ROOF OVERHANG
- CHAINLINK FENCE
- WOOD FENCE
- DECORATIVE FENCE
- FIRE DEPARTMENT ACCESS, SEE EXISTING AUDITORIUM & LOT FOR FIRE DEPT. ACCESS
- NEW CONCRETE PAVING
- NEW PLANTING AREA
- NEW BUILDING
- EXISTING BUILDING
- EXISTING RESTROOMS
- (E) DRY STAND PIPE
- (E) WALL MOUNTED LIGHTING FIXTURE
- (E) DRINKING FOUNTAIN
- (E) FIRE HYDRANT
- (E) SIGN
- (E) MEN'S TOILET ROOM
- (E) WOMEN'S TOILET ROOM
- (E) UNisex TOILET ROOM
- (E) BOYS TOILET ROOM
- (E) STAFF TOILET ROOM
- (E) UNisex TOILET ROOM
- (E) KITCHEN/GARDEN TOILET ROOM



PAJARO VALLEY UNIFIED SCHOOL DISTRICT
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PAJARO VALLEY HIGH SCHOOL, NEW AUDITORIUM
500 HARKINS SLOUGH ROAD
WATSONVILLE, CALIFORNIA 95076
PAJARO VALLEY UNIFIED SCHOOL DISTRICT

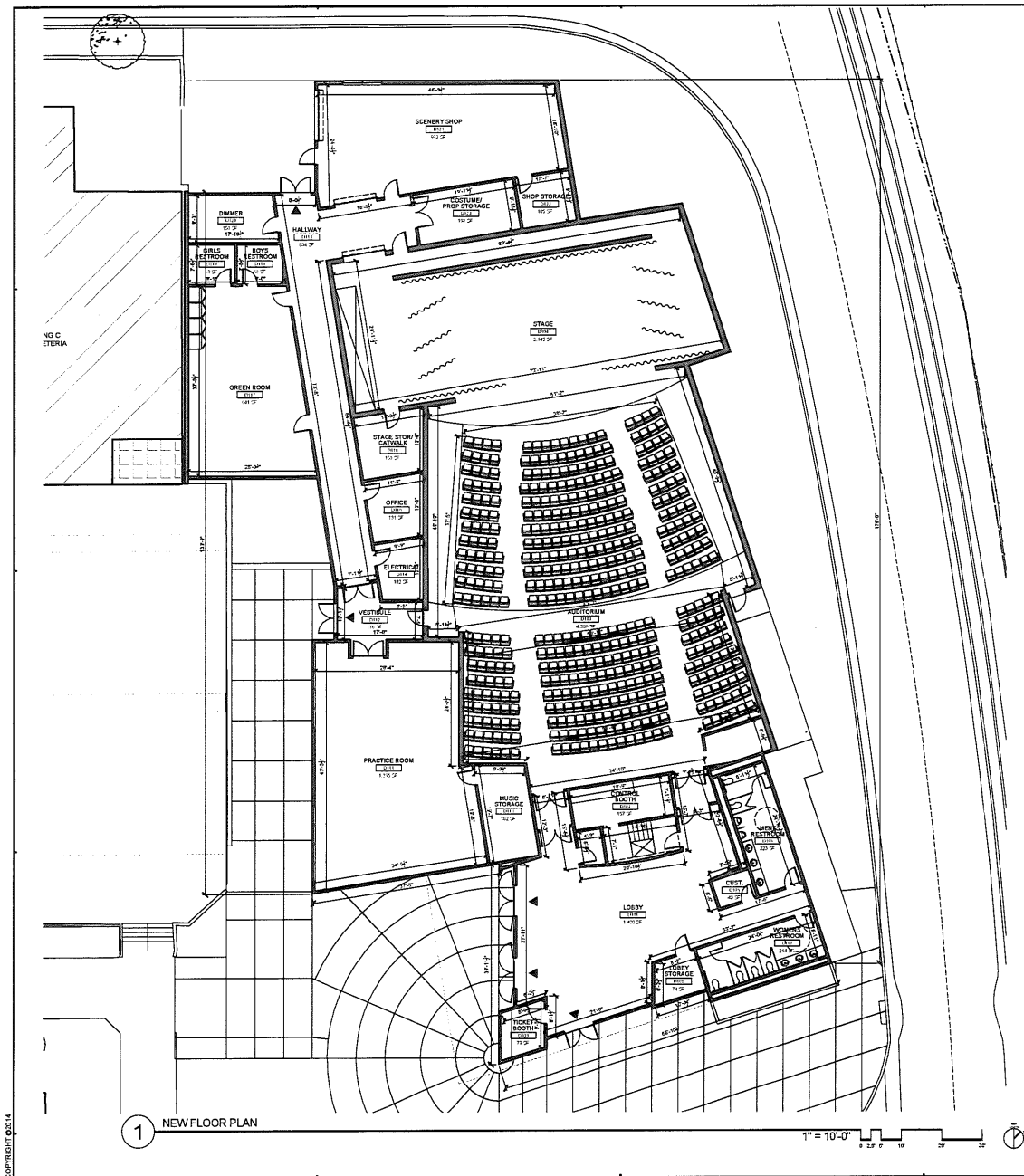
REVISIONS

NO.	ITEM	DATE

DESIGN DEVELOPMENT

A0.2

DATE: 11/15/2014
CHECKED BY: LLM
DATE: 11/15/2014
JOB NO.: 1410214



GENERAL NOTES

- ROOM NAMES AND NUMBERS MAY NOT BE CONSISTENT BETWEEN DEMOLITION FLOOR PLANS AND NEW FLOOR PLANS.
- REFER TO MECHANICAL, ELECTRICAL, AND STRUCTURAL DRAWINGS FOR EXTENT OF MECHANICAL, ELECTRICAL, AND STRUCTURAL WORK.
- ALL IN EXTERIOR STUD WALLS SHALL HAVE R-19 INSULATION.
- ALL IN INTERIOR STUD WALLS SHALL HAVE R-19 ACoustICAL INSULATION.
- ALL IN INTERIOR WALLS ARE TO EXTEND TO STRUCTURAL DECK ABOVE, WITH FINISHES ON BOTH SIDES.
- PROVIDE EXIST SIGNS AT INTERIOR OF ALL CLASSROOMS AT EXISTING EXIST DOOR.
- NEW AUDITORIUM BUILDING TO UTILIZE AUTOMATIC FIRE SPRINKLER SYSTEM.

NEW FLOOR PLAN NOTES

1. AREA

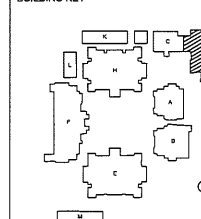
ROOM NUMBER	ROOM NAME	OCCUPANCY GROUP	OCCUPANT LOAD FACTOR (OLF)	AREA	OCCUPANT LOAD (OL - MAX)	REQUIRED (OL - EXIST)	EGRESS WIDTH PROVIDED
D101	LOBBY	A	TRANSIENT	1,689	824	156.5	215
D102	CONTROL ROOM	C	50	157	4	0.9	35
D103	AUDITORIUM	A	---	4,383	435	95	215
D104	STAGE	A	15	2,141	143	28.6	36
D105	CLOSTODAN	S	300	42	1	0.2	32
D106	MECH RESTROOM	C	50	223	5	1	35
D107	WOMEN'S RESTROOM	C	50	214	5	1	35
D108	LOBBY STORAGE	S	300	74	1	0.2	35
D109	TICKET BOOTH	M	50	75	3	0.5	35
D110	MUSIC STORAGE	S	300	152	1	0.2	35
D111	PRACTICE ROOM	C	50	1,385	75	14	72
D112	VESTIBULE	A	TRANSIENT	175	325	65.2	72
D113	HALLWAY	A	TRANSIENT	804	255	57	144
D114	ELECTRICAL	S	300	152	1	0.2	35
D115	OFFICE	B	100	121	2	0.4	35
D116	STAGE STORAGE/CATWALK	S	300	125	1	0.2	35
D117	GREEN ROOM	A	7	941	121	24.2	72
D118	BOYS RESTROOM	C	50	65	2	0.4	35
D119	GIRLS RESTROOM	C	50	65	2	0.4	35
D120	DINER	S	300	153	1	0.2	35
D121	SCENERY SHOP	C	50	392	28	4	72
D122	SHOP STORAGE	S	300	153	1	0.2	35
D123	COSTUME/PROP SHOP	S	300	153	1	0.2	35

*FOR DOOR 100% MIN. REQUIRED EGRESS WIDTH PER OCCUPANT SERVICE. LOAD FACTOR IS 25. HOWEVER, PER DOOR 100% MIN. WIDTH OF EACH DOOR SHALL BE SUFFICIENT FOR THE DOOR LOAD AND SHALL HAVE A CLEAR OPENING OF NOT LESS THAN 32".

GRAPHIC KEY

- (R) STUD WALL
- EXIT
- 2'-0" D.A. TURN AROUND

BUILDING KEY



PAJARO VALLEY UNIFIED
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PAJARO VALLEY HIGH SCHOOL NEW AUDITORIUM
500 HARKINS SLOUGH ROAD
WATSONVILLE, CALIFORNIA 95076
PAJARO VALLEY UNIFIED SCHOOL DISTRICT

REVISIONS

NO. ITEM DATE

DESIGN DEVELOPMENT

DESIGNED BY: LEM

CHECKED BY: LEM

DATE: 11/10/2017

A2.01



PAJARO VALLEY UNIFIED
SCHOOL DISTRICT
284 GREEN VALLEY ROAD
WATSONVILLE, CA 95076
(831) 766-2100

PAJARO VALLEY HIGH SCHOOL, NEW AUDITORIUM
500 HARKINS SLOUGH ROAD
WATSONVILLE, CALIFORNIA 95076
PAJARO VALLEY UNIFIED SCHOOL DISTRICT

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NO.	ITEM	DATE

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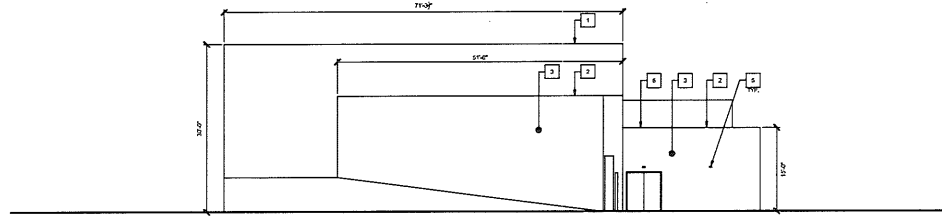
DESIGN DEVELOPMENT

GENERAL NOTES
A. ALL WALLS, DOORS, TRIM, SKYRITS, PARAPETS, ETC.
ARE TO BE PROPERLY PREPARED AND PAINTED FOR
COMPLETE BUILDING PAINTING.

EXTERIOR ELEVATION NOTES

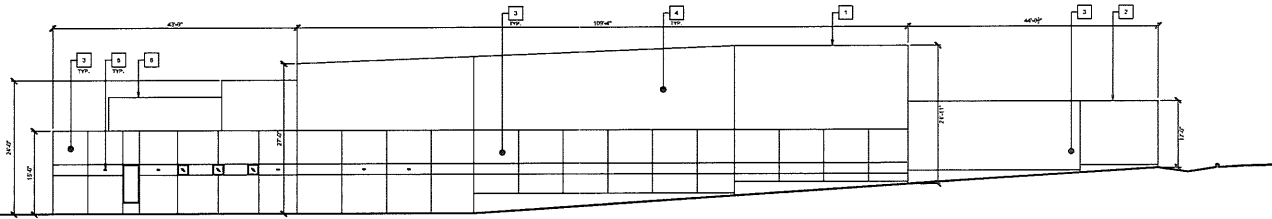
1. STANDING SEAM METAL ROOF.
2. BULK UP ROOFING.
3. STUDIOS.
4. ALUMINUM COMPOSITE PANEL.
5. EXTERIOR WALL MOUNTED LIGHT FIXTURE.
6. MECHANICAL SCREEN.

GRAPHIC KEY
CLEAR GLASS, LOW-E



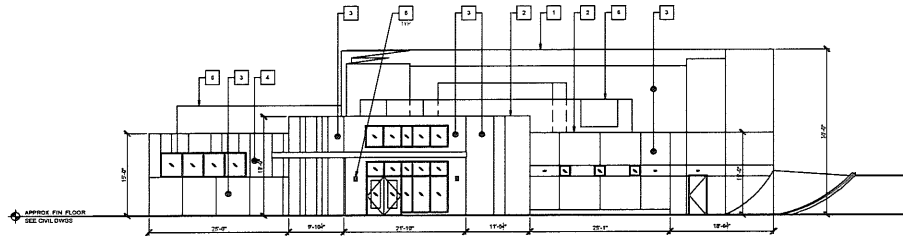
1 NORTH ELEVATION

1" = 10'-0"



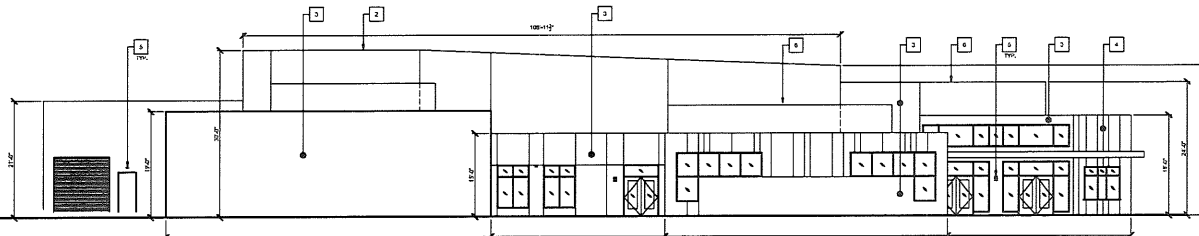
2 EAST ELEVATION

1" = 10'-0"



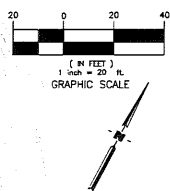
3 SOUTH ELEVATION

1" = 10'-0"

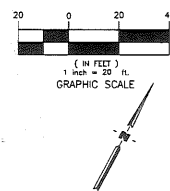



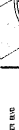
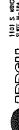
4 WEST ELEVATION

1" = 10'-0"



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<p> GRADING & DRAINAGE PLAN UNDERGROUND UTILITIES PLAN PAJARO VALLEY HIGH SCHOOL NEW AUDITORIUM 500 HARKINS SLOUGH ROAD WATSONVILLE CALIFORNIA 95076 PAJARO VALLEY UNIFIED SCHOOL DISTRICT </p>									
<p> CE ENGINEERING <i>Engineers and Surveyors</i> </p>									
<p> <small> FIRM & PROJECT FILE 10000 N. 1ST AVE. SUITE 100 SAN JOSE, CA 95131 TEL. (415) 281-1000 FAX (415) 281-1001 E-MAIL: info@sfa-engineering.com </small> </p>									
REVISIONS	NO. ITEM DATE								
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JOB NO. 1046	DATE: 11/06/03								
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DEPARTMENT OF TRANSPORTATION

DIVISION OF AERONAUTICS – M.S. #40

1120 N STREET

P. O. BOX 942874

SACRAMENTO, CA 94274-0001

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JAN 03 2017

City of Watsonville
Community Development Dept

December 21, 2016

Mr. Justin Meek, AICP, Principal Planner
Community Development Department
City of Watsonville
250 Main Street
Watsonville, CA 95076-5097

Dear Mr. Meek:

Thank you for providing the Pajaro Valley Unified School District's (PVUSD) use permit (PP2016-192) and coastal development permit amendment request (CDP No. 00-28) application package to us for our review and comment. The postmark shows that the city of Watsonville (City) mailed these materials on November 29, 2016, and these were marked received by the California Department of Transportation, Division of Aeronautics (Division) on Tuesday, December 6, 2016. As noted in the materials, the City requested comments by December 7, 2016. It is highly irregular for an agency to expect comments on such a short turn-around. In fact, we find it questionable and suggestive that the City may be neglecting court orders.

As you are aware, the Division responded via email on December 6, 2016, to an email dated November 29, 2016, that you sent to me regarding the proposed auditorium at Pajaro Valley High School by PVUSD. The next day, December 7, 2016, I received the application materials discussed herein. Our email response attached to the application materials regarding the auditorium remains unchanged.

Santa Cruz County Superior Court (Court) ordered the City to adopt general plan policies pertaining to airport land use compatibility. The Court determined that Santa Cruz County is a "no procedure county" and must comply with the Court's order, which is still pending until the City files a return on the writ showing compliance. The Court's decision mandates that the City adopt airport land use compatibility policies according to the strictest interpretation of the California Airport Land Use Planning Handbook (Handbook) in compliance with the State Aeronautics Act (SAA). This means that the matter is pending further Court action, and the Division will take the opportunity to comment at the appropriate time during this process, but not in a piecemeal manner.

Pursuant to California Public Utilities Code section 21670(f), PVUSD is subject to airport land use laws and other requirements of the SAA, and is subject to the Court's previous decisions (trial and appellate Courts), and the Court's pending decision. With that in mind, the City is not authorized to pick and choose the application of Handbook policies at its discretion, but must use the strictest interpretation of Handbook's definition of "existing land use" to comply with the Court orders. Further, the Division is willing to review any agreement between the City and the Watsonville Pilot's Association. The agreement must be consistent with the Court's ruling regarding the strictest interpretation of the SAA and the Handbook criteria pertaining to these issues. This includes the proposal to build an additional building that would concentrate a higher intensity of

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to enhance California's economy and livability"*

Attachment 2**1 of 2**

Mr. Justin Meek
December 21, 2016
Page 2

student in one location. This preliminary review would not be a substitute for the City in adopting the strictest airport land use compatibility policies as required by Santa Cruz County Superior Court. The Court ordered that "the general and specific plans shall be submitted upon adoption to the Division of Aeronautics" for review. Approval of the use permit application and coastal development permit amendment request essentially circumvents the Superior Court's orders and this is not acceptable.

Please contact me at (916) 654-5314 or by email at robert.fiore@dot.ca.gov if you have any concerns or comments.

Sincerely,



ROBERT FIORE,
Associate Transportation Planner

c: Ms. Natalie Kirkish, Wittwer Parken LLP, 147 S. River Street, Suite 221,
Santa Cruz, CA 95060-4540
Mr. John Randolph, Watsonville Pilots Association, P.O. Box 2074,
Freedom, CA 95019-2074
Ms. Rainey Graeven, Coastal Program Analyst, California Coastal Commission,
725 Front Street, Santa Cruz, CA 95060-4538

CITY OF WATSONVILLE

"Opportunity through diversity; unity through cooperation"



February 2, 2017

Adam Lint, Supervisor of Facilities Planning
Pajaro Valley Unified School District
Maintenance, Operations & Facilities Department
294 Green Valley Road
Watsonville, CA 95076

RE: PVHS Auditorium Project, Coastal Development Permit Amendment

Dear Mr. Lint,

Thank you for your application submitted on November 22, 2016, for an amendment to Coastal Development Permit/Special Use Permit (CDP/SUP) No. 00-28 to allow construction of a new 15,380± square-foot auditorium building on a vacant 0.5± acre portion of the Pajaro Valley High School (PVHS) campus located at 500 Harkins Slough Road (APN 018-281-63).

The original CDP/SUP was approved by the City on June 26, 2001, to allow construction of a 2,200 student high school by the Pajaro Valley Unified School District (District). The school was constructed in 2002-2003 and includes ten separate buildings clustered in the center of the site with a series of smaller one-story buildings along the eastern perimeter that step back to two-story buildings moving westerly on the site. Any new buildings and/or extension of utilities onto subject site was identified in a 2001 letter from the California Coastal Commission (Coastal Commission) to the City, District and local State Assemblyman as requiring a separate CDP or CDP amendment application (Attachment E). The proposed amendment to the CDP/SUP was routed to City departments, Caltrans, and the Coastal Commission for review and comment because the project is located in the Coastal Zone "Area C" and airport influence area of the Watsonville Municipal Airport.

The City is constrained in reviewing and approving projects within an airport influence area, such as Safety Compatibility Zone 6 (Traffic Pattern Zone), because of past litigation and a pending decision on a writ of mandate. On March 21, 2008, the Superior Court of State of California for the County of Santa Cruz found that the City had violated both the State Aeronautics Act (SAA) and California Environmental Quality Act (CEQA), because, in part, the draft 2030 General Plan Update unlawfully modified airport land use compatibility guidelines, and the EIR inadequately analyzed aviation impacts. The Court issued a writ requiring the City incorporate airport land use compatibility policies into its general plan. This decision was later upheld upon appeal. The City therefore cannot approve this project because of the uncertainty created from not having an adopted general plan with airport land use compatibility policies that comply with the Court's ruling.

The City and its consultants have worked for the past year with aviation consultants Mead & Hunt, the Watsonville Pilot's Association and the Caltrans Division of Aeronautics to develop an Airport Land Use Compatibility Plan (ALUCP) that is intended to be a first step to comply with the Court decision finding deficiencies in the City's draft 2030 General Plan and EIR. The ALUCP would provide appropriate airport land use compatibility policies to be incorporated in the City's general plan.

Pajaro Valley High School is located in Safety Compatibility Zone 6. The boundary of Safety Compatibility Zone 6 is determined mathematically based on criteria set forth in the Caltrans Airport Land Use Planning Handbook (Handbook). The Handbook lists children's schools as a use that should be "*limited*" in Safety Compatibility Zone 6. Because no published decision nor the Superior Court decision has yet explained or interpreted the meaning of the word "*limited*" in the Handbook, it would be imprudent for City staff to recommend approving the proposed auditorium expansion to the City Council. Comments received from the Coastal Commission and Caltrans Division of Aeronautics are consistent with the City's position.

California Coastal Commission staff directed City staff to consult with Caltrans Division of Aeronautics to resolve compatibility issues before processing the CDP/SUP amendment. In particular, Coastal Commission staff instructed City staff to consult Caltrans regarding any commitments to develop and adopt general plan policies related to airport land use compatibility.

Caltrans Division of Aeronautics indicated that they understood the Court ordered the City to adopt general plan policies pertaining to airport land use compatibility. In addition, Caltrans staff contend that the City must adopt airport land use compatibility policies according to the "*strictest interpretation*" of the Handbook. While the Court decision did not state that the City shall apply the "*strictest interpretation*" of the Handbook, it did state that "*the City has absolutely no discretion whatsoever with respect to the Airport Land Use Planning Handbook.*"¹

Caltrans staff also contend that pursuant to subdivision (f) of Section 21670² of the California Public Utilities Code (PUC) the District, albeit a subdivision of the State, is subject to the SAA, and the Court's previous decisions and pending decision. Caltrans staff have said in an email to City staff dated December 6, 2016, that they are "*willing to review what the City would consider to be the strictest interpretation of the SAA, the California Education Code regarding an additional building that would concentrate a higher intensity of students in one location, and the Handbook criteria pertaining to these issues.*" Subsequently in a letter to staff dated December 21, 2016, Caltrans staff state, "*the Division is willing to review any agreement between the City and the Watsonville Pilot's Association. The agreement must be consistent with the Court's ruling regarding the strictest interpretation of the SAA and the Handbook criteria pertaining to these issues*" and "*this preliminary review would not be a substitute for the City in adopting the*

¹ Watsonville Pilots Association v. City of Watsonville (2014), Case No. CV176416, Statement of Decision, p. 6.

² (f) It is the intent of the Legislature to clarify that, for the purposes of this article that special districts, school districts, and community college districts are included among the local agencies that are subject to airport land use laws and other requirements of this article.

strictest airport land use compatibility policies as required by Santa Cruz County Superior Court."

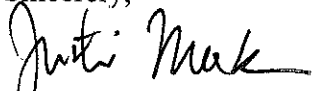
Furthermore, Caltrans staff state that the Court ordered that the general plan shall be submitted upon adoption to the Division of Aeronautics for review, and *"approval of the use permit application and coastal development permit amendment request essentially circumvents the Superior Court's orders and this is not acceptable."*

Given the incomplete ALUCP, the absence of adopted airport land use compatibility policies in the City's general plan, and Caltrans' comments on its review of the project and the *"strictest interpretation"* when evaluating a potentially incompatible use, City staff cannot recommend approval of the requested amendment to the CDP/SUP.

At this time, the District may nevertheless request that the City prepare the amendment to the CDP/SUP for hearing by the City Council with the understanding that staff will recommend denial of the application, or the District may request that the amendment be rescinded. Please note that if the Council denies the CDP amendment, its decision is appealable to the Coastal Commission (which reviews it de novo).

If you have any questions regarding the contents of this letter or your application, please contact me at 831-768-3077.

Sincerely,



Justin Meek, AICP, Principal Planner
Community Development Department

Attachments:

- A. Coastal Commission Correspondence
- B. Caltrans Correspondence
- C. Litigation Background
- D. Appeal Process and Criteria
- E. Memorandum from Tami Grove, Coastal Commission Deputy Director, to John Doughty, City of Watsonville Community Development Director, John Casey, PVUSD Superintendent, Fred Keeley, 27th Assembly District Assemblyman, regarding New Millennium High School in Watsonville — Response to PVUSD's September 13, 2001 Memo to the City of Watsonville (dated September 25, 2001)

Cc: Watsonville City Attorney

Watsonville Community Development Director

Darcy Kremin, AICP, Michael Baker International, One Kaiser Plaza, Suite 1150, Oakland, CA 94612

Susan Craig, Central Coast District Manager, California Coastal Commission, 725 Front Street, Santa Cruz, CA 95060

Bob Fiore, Office of Aviation Planning, Division of Aeronautics, California Department of Transportation, 1120 N Street, MS-40, Sacramento, CA 95814

Lori Ballance, Attorney, City Legal Counsel

Clarissa Canady, Attorney, District Legal Counsel

From: Graeven, Rainey@Coastal <Rainey.Graeven@coastal.ca.gov>
Sent: Mon, December 12, 2016 at 5:15 PM
To: Justin Meek <justin.meek@cityofwatsonville.org>
Subject: Comments on Application No. pp 2016-192

Dear Justin,

Thank you for the opportunity to comment on the above-referenced Coastal Permit application. Please include these comments as part of the administrative record for this project, and distribute to the applicant and relevant State and resource agencies. Please also include Coastal Commission staff on any future routings, including other agency comments from this round of comments.

Project Description and Location:

The project proposes to amend CDP 00-28 to construct an approximately 15,380 square-foot auditorium on the Pajaro Valley on an undeveloped area on the eastern perimeter within the development envelope.

Comments:

1. Visual Simulations. The proposed project is located on the eastern perimeter of the development site, and according to the IS/ Negative Declaration, it will be visible from Highway 1. As such, the application should require visual simulations of the project as seen from various angles/directions along Highway 1 (including at least one from Northbound lanes and one from southbound travel lanes) and any other protected viewsheds (e.g. Watsonville State Wildlife Area, Harkins Slough, etc.) in the project vicinity. The project simulations should include an image providing current existing conditions and as proposed on a single sheet for each ease of comparison.
2. Other Agency Approvals. Please consult with Caltrans' Aeronautics Division regarding any commitments to develop and adopt General Plan Policies related to airport land use compatibility. Most notably, because the Division's review of the project may alter the ultimate siting and design, we would encourage the City to resolve these matters with the Division prior to processing the CDP for the project in order to avoid the need for amending and/or reprocessing the CDP to account for such changes.

Please let me know if you have any questions regarding the above comments.

Sincerely,

Rainey Graeven
Coastal Program Analyst, Central Coast District
California Coastal Commission
725 Front Street, Santa Cruz, CA 95060
(831) 427-4863

From: Fiore, Robert A@DOT <robert.fiore@dot.ca.gov>
Sent: Tue, December 6, 2016 at 9:51 AM
To: ron.bolyard, jeff.brown, don.haug, Justin Meek <justin.meek@cityofwatsonville.org>
Subject: Re: Division's Letter to the Dept of Education

Justin,

It is my understanding that the Santa Cruz County Superior Court ordered the City to adopt General Plan policies pertaining to airport land use compatibility. The courts determined that Santa Cruz County is a "no procedure county" and must comply with the court's order, which is still pending until the City files a return on the writ showing compliance. The court decisions mandate that the City must adopt airport land use compatibility policies according to the strictest interpretation of the California Land Use Planning Handbook (Handbook) in compliance with the State Aeronautics Act (SAA). This means that the matter is pending further court action, and the Division will take the opportunity to comment at the appropriate time during this process, but not in a piecemeal manner.

Also be advised that pursuant to Public Utilities Code section 21670(f), Pajaro Valley Unified School District is subject to airport land use laws and other requirements of the SAA, and is subject to the court previous decisions (trial and appellate court), and the courts pending decision. With that in mind, the City is not authorized to pick and choose using its discretion, but use the strictest interpretation of Handbook's definition of "existing land use" to comply with the court orders. With that in mind, the State is willing to review what the City would consider is the strictest interpretation of the SAA, the California Education Code regarding an additional building that would concentrate a higher intensity of students in one location, and the Handbook criteria pertaining to these issues.

Regards,

Bob Fiore
 Office of Aviation Planning
 Division of Aeronautics
 California Department of Transportation
 1120 N Street, MS-40
 Sacramento, CA 95814
 916-654-5314
robert.fiore@dot.ca.gov

From: Justin Meek <justin.meek@cityofwatsonville.org>
Sent: Tuesday, November 29, 2016 at 3:20 PM
To: Fiore, Robert A@DOT <robert.fiore@dot.ca.gov>
Subject: Re: Division's Letter to the Dept of Education

Bob,

Thank you for sharing the letter sent to the Department of Education regarding the proposed PVHS campus expansion project consisting of a sports complex containing a football field with bleachers, running track and pool. The letter explains that the location of the proposed sports complex is on a 10-acre parcel Caltrans recommended against developing, in 2000, as one of the high school's site alternatives, and that Caltrans could not provide a school site evaluation recommendation for the sports complex project until litigation holding up the adoption of the City's General Plan was settled. The current PVHS campus is located south by southeast of the subject 10-acre parcel.

As part of your review of the proposed PVHS auditorium project, please address the following questions:

1. Is the existing PVHS campus considered "existing development" as discussed in Section 3.5 of the *California Airport Land Use Planning Handbook* (Caltrans 2011), and therefore not subject to an Airport Land Use Compatibility Plan (ALUCP) for the Watsonville Municipal Airport?

2. Would the addition of a building within the existing footprint of the PVHS campus that does not result in increasing the number of students and/or teachers onsite (*i.e.*, the land use intensity) trigger a new "school site evaluation," pursuant to California Education Code Section 17215?

In short, please address whether or not the school district has a vested right to build the auditorium because it would serve the current student body and is located on a 0.5± acre portion of the previously approved and built school site, and therefore would not be subject to Caltrans' airport land use compatibility guidelines for potentially incompatible uses.

If an evaluation is deemed required, please note that the City of Watsonville is a suburban community and not located in unincorporated rural Santa Cruz County. According to the Figure 4G (Safety Zone 6 - Traffic Pattern Zone) of the Handbook, the upper range for the maximum non-residential intensity for a single site in a suburban community is 800 to 1,200 people per gross acre.

Thank you for your time in addressing these questions.

Regards,

Justin Meek, AICP
Principal Planner
City of Watsonville
831.768.3077

On Mon, Nov 28, 2016 at 1:54 PM, Fiore, Robert A@DOT <robert.fiore@dot.ca.gov> wrote:
Justin,

The attached letter was submitted to the California Department of Education regarding Pajaro Valley School District's expansion of the school. The Division would cite the court's decision and would enforce the strictest interpretation of the Handbook accordingly.

Regards,

Bob Fiore
Office of Aviation Planning
Division of Aeronautics
California Department of Transportation
1120 N Street, MS-40
Sacramento, CA 95814
916-654-5314
robert.fiore@dot.ca.gov

DEPARTMENT OF TRANSPORTATION

DIVISION OF AERONAUTICS – M.S. #40

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City of Watsonville
Community Development Dept

December 21, 2016

Mr. Justin Meek, AICP, Principal Planner
Community Development Department
City of Watsonville
250 Main Street
Watsonville, CA 95076-5097

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to enhance California's economy and livability"*

Mr. Justin Meek
December 21, 2016
Page 2

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Please contact me at (916) 654-5314 or by email at robert.fiore@dot.ca.gov if you have any concerns or comments.

Sincerely,



ROBERT FIORE,
Associate Transportation Planner

c: Ms. Natalie Kirkish, Wittwer Parken LLP, 147 S. River Street, Suite 221,
Santa Cruz, CA 95060-4540
Mr. John Randolph, Watsonville Pilots Association, P.O. Box 2074,
Freedom, CA 95019-2074
Ms. Rainey Graeven, Coastal Program Analyst, California Coastal Commission,
725 Front Street, Santa Cruz, CA 95060-4538

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The draft *Watsonville Vista 2030 General Plan Update* is currently in litigation due to noncompliance with the Caltrans Division of Aeronautics Airport Land Use Planning Handbook (2011). The Santa Cruz Superior Court has said that any development proposed within any Airport Safety Compatibility Zone will require compliance with the Handbook.

The City finds itself in this situation because of two lawsuits filed by the Watsonville Pilots Association regarding violation of the State Aeronautics Act (SAA), and other California Environmental Quality Act (CEQA) related matters in regard to proposed development surrounding the Airport. The City and Caltrans were defendants in both actions.

The first lawsuit was the subject of a published appellate court decision entitled the *Watsonville Pilots Association v. City of Watsonville* (2010) 183 Cal.App.4th 1059. The appellate court upheld the trial court's recession of the City's general plan, finding the City to be in violation of CEQA and the SAA. The appellate court identified Santa Cruz County to be a "no procedure" county and mandated compliance of the Handbook, without discretion.

In the second lawsuit, entitled the *Watsonville Pilots Association v. City of Watsonville*, case number CV 176416, the Santa Cruz Superior Court again rescinded the City's general plan. This case is pending based on the City adopting a general plan in compliance with SAA. According to Caltrans, any review and/or discretionary actions taken prior to adopting an updated general plan would be premature and contrary to the writ of mandamus and the statement of decision (court order).

The City is in the process of drafting airport land use compatibility policies to be incorporated in the City's general plan in compliance with the court order.

The City makes airport land use development decisions in the airport influence area, which should be based on its general plan incorporating the Handbook's criteria. Without an adopted general plan in place, the City is unable to make any such decision in the event the City opposed Caltrans' evaluation of and recommendations for proposed school site facilities.

Based on the above, with the Santa Cruz Superior Court granting a second writ against the City and retaining jurisdiction over the subject litigation until the City is in compliance with the SAA, the City is unable to review and approve the proposed PVHS Auditorium project until the aforementioned litigation is settled.

Appealable Modification Request

Pursuant to WMC Section 9-5.413(d), any action on a coastal development permit modification request shall be appealable to the Coastal Commission as described in WMC Section 9-5.410 for the following coastal development permit modification requests: (1) if the original coastal development permit was appealable to the Coastal Commission; (2) if the development authorized by the original coastal development permit would be appealable pursuant to Section 9-5.410 at the time the modification request is received by the City; or (3) if the modification requested is such that the proposed modified project would be appealable pursuant to Section 9-5.410.

A modification request may be granted only if the reviewing body, either the City or the Coastal Commission if on appeal, determines that: (1) the proposed modification would not lessen or avoid the intended effect of the approved coastal development permit; and (2) the modified project would be consistent with the Local Coastal Program. If the modification request is denied by the City, or by the Coastal Commission if on appeal, then the terms and conditions of the original coastal development permit shall remain in effect.

Appeals to the Coastal Commission

Pursuant to WMC Section 9-5.410(b)(1)(ii), PRC Section 30601(3) and PRC Section 30603(a)(5), any major public works project is appealable to the Coastal Commission.

An appeal may be filed only by the applicant, an aggrieved person, or any two members of the Coastal Commission. An appeal shall be made in accordance with the appeal procedures contained in Article 4 (Administration and Procedure) of Chapter 5 (Coastal Zone Implementation Plan) of Title 9 (Planning and Zoning), except that appeals by any two members of the Coastal Commission shall be filed prior to the effective date of the permit, or not later than ten working days following the date of receipt of the notice of final action in the Coastal Commission's District Office, whichever is later. Appeals by members of the Coastal Commission may be made following decisions of the reviewing body, Zoning Administrator, Planning Commission, or City Council.

Grounds of appeal, pursuant to subsections (1)(i) and (1)(ii) of subsection (b) of WMC Section 9-5.410 shall be limited to an allegation that the development does not conform to the certified Local Coastal Program.

Appeals to the Coastal Commission pursuant to this section must be filed with the Coastal Commission on forms prescribed by and available from the Coastal Commission.

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
 725 FRONT STREET, SUITE 300
 SANTA CRUZ, CA 95060
 PHONE: (831) 427-4863
 FAX: (831) 427-4877

**MEMORANDUM**

Date: September 25, 2001
 To: John Doughty, City of Watsonville Community Development Director
 John Casey, PVUSD Superintendent
 Fred Keeley, 27th Assembly District Assemblyman
 From: Tami Grove, Coastal Commission Deputy Director *Tami Grove*
 Subject: New Millennium High School in Watsonville – Response to PVUSD's September 13, 2001 Memo to the City of Watsonville

The purpose of this memo is to follow-up for the record the substance of the series of phone conversations we've all had in the past week regarding the School District's September 13, 2001 memo to the City of Watsonville in which the District provides a series of "clarifications" to the City's coastal development permit (CDP) decision (City application number 00-28; since appealed to the Coastal Commission as appeal number A-3-WAT-01-070). In these conversations, this office has observed that while the District's memo generally addresses the same issues raised in our August 30, 2001 memo, it does not fully track that memo, making it difficult to interpret the degree to which it answers the issues and potential solutions identified. Now having had time to more fully analyze the District's memo and discuss some of our concerns, we write to describe for the District our understanding as to how uncertainties in the memo can and will be addressed. Following our meeting this afternoon, we understand that the City and School District will provide a further memo committing to these provisions prior to the Commission's scheduled hearing on this item on October 10, 2001. As we discussed previously, the primary resolution we are seeking is agreement from the City and School District that the final project components discussed below will be submitted to the Commission's Executive Director for review and approval prior to exercise of the City's CDP.

- 1) Parcels.
 - a) Although a complicated land deal appears to be in process, it has not been finalized for Area C properties. Prior to the exercise of the permit, the District will provide a graphic to the City and the Executive Director of the Coastal Commission that will identify all property lines resulting from the final purchase. The proposed school parcel(s) must be clearly identified as such; and the non-school parcel(s) likewise identified. Our understanding from the memo is that the District commits to not exercising the high school CDP until any such parcel(s) have been approved by a separate CDP.
 - b) To facilitate understanding of the project and the local coastal program's (LCP's) legal document requirements, all required Area C easements and/or other property restrictions (e.g., for sewer and water non-access strips, agricultural uses, agricultural buffers, open

space uses, environmentally sensitive habitat area (ESHA), and ESHA buffers) will be clearly cross-referenced and keyed to the final resulting property lines graphic described above.

- c) From what we understand from the memo, the roughly 10-acre future expansion area is proposed to be protected for school use or, in the event that school use does not occur, agriculture, open space, and/or habitat uses. If this 10-acre area is so obtained, it must be clear that only school use (subject to future CDP applications) or agriculture, open space, and/or habitat uses are allowed and this must be recorded as a deed restriction on the property. The deed restriction must limit the uses allowed on the site and must be submitted to the Executive Director of the Coastal Commission and the City Planning Director for review and approval prior to its recordation. The approved deed restriction must then be recorded prior to the exercise of the CDP.

2) Protecting ESHA and Agricultural Areas.

- a) Our understanding is that the District intends to ensure that the LCP requirements for ESHA and agricultural areas and their buffers shall be met. This means that:
 - i) All areas shown on LUP Figure 2a as ESHA and/or ESHA buffer will be protected, enhanced, and/or restored for habitat purposes.
 - ii) That portion of Area C generally north of the school use, excluding the ESHA/ESHA buffer areas identified in the LCP, shall be protected for open space, agriculture or habitat purposes exclusively.
 - iii) All Area C agricultural buffers will be maintained and managed to minimize land use conflicts with adjacent agricultural uses consistent with LCP requirements. Unless and until the LCP is modified by the Commission as currently requested by the City, a 200 foot agricultural buffer shall be maintained on the northern portion of the school parcels created.
 - iv) All appropriate LCP required easements shall be recorded over each ESHA, ESHA buffer, agricultural (or open space or habitat) use area, and agricultural buffer.
 - v) All ESHA and ESHA buffer area LCP requirements shall be addressed within a revised biological plan that is currently being prepared to address restoration, enhancement, and long-term management. The District will provide evidence that funding for the implementation of the plan over the life of the project is ensured (i.e., provisions are made for short term steps to be taken as well as long-term management and remediation as necessary to meet plan goals and objectives).
- b) More specifically, from what you have provided, we understand that the District has committed to the following actions:

- i) Executing and recording easements and/or conveying property or properties pursuant to all requirements of LCP Section 9-5.705(g)(5) ("Biological and Agricultural Easements") for all ESHA, ESHA buffer, agricultural, and agricultural buffer areas on Area C (as above-described). All such easement areas shall be shown on, and cross-referenced to, the final parcelization graphic described above.
 - ii) Preparing a revised wetland restoration, buffer, and landscape plan ("Plan") developed with input from a qualified wetland biologist and hydrologist that applies to all of Coastal Zone Area C and provides for: (1) the restoration of Hanson Slough to a functional wetland; (2) the restoration of the Hanson Slough buffer to a functional wetland upland habitat; (3) the enhancement of habitat buffers for (a) the West Branch of Struve Slough (i.e., the entire upland slope east of the existing farm road shown as ESHA on Land Use Plan Figure 2a), (b) the riparian headwaters of Hanson Slough located along the western boundary of Area C, and (c) the California Department of Fish and Game reserve located along Harkins Slough Road; and (4) incorporation of the emergent wetland located along Harkins Slough Road. The Plan shall be consistent with LCP Section 9-5.705(c)(4)(ii) and 9-5.705(g)(9) ("Environmentally Sensitive Habitat Area Buffers") requirements for each of the restoration/enhancement areas, and shall be consistent with all plan parameters established by LCP Section 9-5.705(g)(4) ("Biological Restoration Plans"). The Plan shall be submitted with written evidence from the appropriate official(s) from the United States Fish and Wildlife Service and the California Department of Fish and Game indicating that the Plan was developed in consultation with each agency and has subsequently been distributed for their review. The Plan shall be submitted with written evidence indicating that all owners of property affected by the Plan consent to the implementation of the Plan on their property. The Plan shall be submitted with evidence of adequate funding with which to implement the Plan over the life of the project. The Applicant shall undertake enhancement and restoration activities in accordance with the approved Plan. It is the responsibility of the Applicant, or of an appropriate third party if such party has accepted legally enforceable responsibility, to implement all enhancement and restoration measures specified in the Plan.
 - c) In order to ensure LCP consistency, prior to exercising the CDP (1) all required easements and (2) the revised wetland restoration, buffer, and landscape plan shall be submitted to the Executive Director of the Coastal Commission and the City Planning Director for review and approval.
- 3) Water and Sewer Non-Access Easement.
- a) From what we understand from the memo, the one-foot Water and Sewer Non-Access Easement shall be located along the parcel boundaries of any school parcel(s) created in such a way as to form a complete polygon (i.e., to "surround" the school parcel(s) created as seen in a site plan view). The easement shall be consistent with all LCP requirements for the easement as per IP Section 9-5.705(c)(4)(ix)(ae) and shall be recorded free of

prior liens and encumbrances that may affect the interest being conveyed. The one foot Water and Sewer Non-Access Easement shall be identified in relation to each possible parcelization scenario graphic.

- b) In order to ensure LCP consistency, prior to exercising the CDP, the Water and Sewer Non-Access Easement shall be submitted prior to recording for the review and approval of the Executive Director, the City Planning Director, and the City Attorney. The approved easement shall be recorded free of prior liens and encumbrances which may affect the interest being conveyed.

4) Geotechnical.

- a) The final grading plans shall include evidence indicating that the development proposed complies with all requirements of LCP Section 9-5.705(c)(5)(ii)(am) regarding geotechnical investigation requirements, and is consistent with all elements of California Division of Mines and Geology Note 48 ("Checklists for the review of Geologic/Seismic Reports for California Public Schools, Hospitals, and Essential Services Buildings").
- b) There shall be at least one slope stability analysis for each slope based on the final grading plans. The final grading plans shall be submitted with a signed stamp from the consulting geotechnical engineer and/or geologist indicating that the development is safe from a geotechnical perspective in terms of issues including, but not limited to, seismically induced settlement, liquefaction, and lateral spreading.
- c) In order to ensure LCP consistency, prior to exercising the CDP, final grading plans with all required stamps and signatures shall be submitted to the Executive Director of the Coastal Commission and the City Planning Director for review and approval.

5) Water quality.

- a) Commission water quality staff advise that the fossil filters identified by the District to filter and treat runoff from vehicular areas prior to discharge to the detention pond systems are inadequate. Consistent with the District's indication that the specific brand or technique for filtering runoff would be selected in consultation with Commission staff, we observe that alternative BMPs are necessary for this water quality component. The more appropriate engineered filtration device specifically designed to remove vehicular contaminants is the Stormwater Management "Storm Filter" system (or its equivalent). One such filtration and treatment device will be required for the west detention pond system and a second such device will be required for the east detention pond system in order to effectively remove the anticipated vehicular contaminants.
- b) We are not aware of a management and maintenance plan for the detention pond water quality system. Such a plan is necessary to ensure that the system functions properly, and needs to be adequately responsive to the need for adaptive management (as to appropriate plantings, remediation techniques, etc.) as necessary. Ongoing maintenance and

inspection parameters must be identified. All methods and timing must be identified (e.g., when and how accumulated sediment is to be removed, grass mowed, invasive vegetation removed, pond bottoms reestablished, etc). We understand the District's commitment to water quality BMPs to extend to developing an adequate long-term management and maintenance plan for the detention pond system and that this plan shall be provided with any final plan sheets involving storm water runoff and water quality measures.

- c) We understand the District's commitment to water quality BMPs to extend to all proposed outside storage areas and loading areas to indicate that they will be graded and paved and either: (1) surrounded by a low containment berm; or (2) covered. All such areas will be: (1) equipped with storm drain valves which can be closed in the case of a spill; or (2) equipped with a wash down outlet to the sanitary sewer. We further understands the memo to indicate that such measures shall be identified on any final plan sheets involving storm water runoff and water quality measures.
 - d) In order to ensure LCP consistency, prior to exercising the CDP, all final plan sheets involving storm water runoff and water quality measures shall be submitted to the Executive Director of the Coastal Commission and the City Planning Director for review and approval.
- 6) Aeronautics Review.
- a) The safety of the site for students and educators is addressed by the LCP in LUP Policy III.C.5.a.(4) and IP Section 9-5.705(c)(5)(i)(ad). Given the information provided and questions raised in the permit appeals to the Commission, we are seeking, and understand that the District is committed to, full and complete consultation with experts in the Caltrans Division of Aeronautics in light of all the submitted information on: the site, planned school facilities on the site, typical airport operations (e.g., Watsonville Airport's primary role as a amateur pilot flight instruction airport), and the site's location relative to typical Watsonville Airport operations. As you know, our cartographic evaluation of the submitted school facilities plan indicates that the northernmost portion of the school's project plans extends into the airport runway's inner turning zone. While we appreciate that the District has committed to a professional survey to map all aeronautics indicators for safety in relation to the school and the airport, we are concerned that this alone will not suffice to answer the final question of safety for aeronautics issues. Therefore, we suggest two options of resolution for the District to pursue: (1) revise its school facilities site plan so that it clearly falls within the area previously submitted for Caltrans' evaluation; or (2) maintain the existing school facilities site plan. In either case, the District needs to superimpose the specified aeronautics setback surveys over the final parcelization graphic (described above) and the facilities plan for the school and submit it to the Caltrans Aeronautics Division for their final review. This composite graphic needs to show the surveyed boundaries of all of Area C, the proposed parcels, the school facilities, and at least the end of the airport runway with a graphic scale provided for ease of reference. With this graphic submitted for their evaluation, the Caltrans Aeronautics

Division should be requested by the District to confirm that the final area in which school facilities are planned is safe for public school development with respect to potential airport safety concerns as required by the LCP.

- b) In order to ensure LCP consistency, prior to exercising the CDP, final plans with the required Caltrans Aeronautics Division safety confirmation shall be submitted to the Executive Director of the Coastal Commission and the City Planning Director for review and approval.
- 7) Revised site plan submitted with memo.
- a) Although implied, it needs to be clear that created slopes shall be contoured with natural undulations to more closely resemble natural slopes to the extent feasible.
 - b) The final treatment of the previously identified service road turn around needs to be specified. From the site plan submitted with the memo, it appears as though the turnaround has been eliminated. The memo text, however, indicates that it may be "reconfigured, relocated or eliminated." Our understanding from the submitted site plan is that the turn around has been eliminated from the project.
 - c) We do not understand why the memo text indicates that the portable classrooms may be "reconfigured" when the site plan identifies them in specific locations and at specific elevations. We will expect the final site plan to indicate the final locations for the portables.
 - d) The memo identifies that the fences shall be revised to be consistent with the LCP. Since the LCP requires wood fencing, we understand this to mean that all fencing will be rustic split rail fencing of rough-hewn and unpainted wood timbers (e.g., cedar). The only exception is that rustic wood fencing with no gaps can be utilized if such fencing is required to screen sensitive habitat areas from development. Where containment is necessary for play areas (e.g., baseball fields, tennis courts, etc.), agricultural fencing (i.e., square-gapped metal fencing on wood posts) of the maximum gap size possible to contain the circumference of ball used shall be allowed. Our understanding is that chain link and concrete pre-cast fencing will not be installed on the school site.
 - e) The memo indicates that no unallowed uses or facilities shall be located within the ESHA, ESHA buffer, or Agricultural buffer areas. Since the previous site plan (i.e., prior to the memo) identified portions of ballfields, a chain link fence, and some storm drain utilities located within the 100' buffer area for the CDFG reserve, we understand this to mean that these shall be removed and/or relocated out of the required buffer. We understand that the revised restoration plan is to incorporate the most southerly ponds and related infrastructure of the detention pond system (i.e., those located within required buffers) within the buffer enhancement component. As such, these could be considered part of the habitat buffer enhancement and thus could be considered allowed uses.

John Doughty, City of Watsonville Community Development Director
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- f) We understand the memo to indicate that there will be only two buildings with a height in excess of 30 feet from finished grade; neither of these two buildings will be taller than 37 feet from finished grade.
 - g) The memo indicates that the lighting plan will be reevaluated. We thus understand that there shall be no exterior night lighting, other than the minimum lighting necessary for pedestrian, vehicular, and safety purposes. All lighting shall be directed away from environmentally sensitive habitat areas and shall not be visible from any vantage point within environmentally sensitive habitat areas. All interior lighting shall be directed away from windows which are visible from environmentally sensitive habitat areas. All lighting shall be downward directed and designed so that it does not produce any light or glares off-site, with particular emphasis to preserving the darkness present in existing nighttime Highway One views of Area C.
 - h) We understand the memo to indicate that LCP requirements for agricultural buffers on the interior of Area C shall be met (i.e., currently a 200 foot buffer requirement), except that the 200 foot agricultural buffer on the northern portion of the school parcels created may be reduced if the Commission approves a pending LCP amendment request.
 - i) We understand the memo to indicate that the existing well will remain functional and the District will provide a delivery mechanism for adjacent farmers to use the well as directed by the LCP. We interpret this to mean that the owner(s) and/or operator(s) of the agricultural operation on the property north of the school site have or shall have: (1) been made aware that the existing well on the high school parcel is to be retained; (2) demonstrated a need for the well water; (3) been offered the well water to be used for agricultural purposes on the remainder property; and (4) either (a) declined the use of the well water described in subsection (3) above, or (b) agreed to pay current market costs for the well water described in subsection (3) above. In the event of 4(b), the District shall make all necessary legal and physical arrangements with the adjacent farming operator for the agricultural water to be delivered to the northernmost property boundary of the school site. Such costs to be shared equitably between the District and the agricultural users.
 - j) In order to ensure LCP consistency, prior to exercising the CDP, final site plans substantially in conformance with the site plans provided with the memo and showing the above clarifications shall be submitted to the Executive Director of the Coastal Commission and the City Planning Director for review and approval.
- 8) Additional CDP required.
- a) The ambiguity in the memo and accompanying site plan could lead to some confusion regarding several elements that have been removed from the project and/or may be planned in the future. We understand the memo to indicate that, at a minimum, the following shall require separate CDP or CDP amendment applications should they be pursued in the future:

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Fred Keeley, 27th Assembly District Assemblyman
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- i) Since the District has chosen to remove building C at this time, any future construction of that building shall require a separate CDP or CDP amendment application.
- ii) Any proposed building adjacent to building J (identified as a "future" building on School District plans) shall require a separate CDP or CDP amendment application.
- iii) Any extension of utilities not shown on a final approved site plan shall require a separate CDP or CDP amendment application.
- iv) Any future development north of the parking lot shown on the site plan (including the referenced 10 acre "expansion parcel") shall require a separate CDP or CDP amendment application.

DANNIS WOLIVER KELLEY

Attorneys at Law

CLARISSA R. CANADY

Attorney at Law
ccanady@DWKesq.com

San Francisco

February 10, 2017

VIA Electronic and U.S. Mail

Justin Meek, AICP
Principal Planner
City of Watsonville
Community Development Department!
250 Main Street
Watsonville, CA 95076

Re: Pajaro Valley High School Auditorium Project;
Coastal Development Permit Amendment
Our file: 5580.10416

Dear Mr. Meek,

We are in receipt of your letter to Pajaro Valley Unified School District (District), dated February 3, 2017, regarding the District's request for an amendment to the Pajaro Valley High School Coastal Development Permit (CDP) to build an auditorium on the high school campus. While we disagree with some of the assertions in the letter, our takeaway is that although the City of Watsonville believes it is constrained from taking action on the District's requested amendment, it will do so at the request of the District. Accordingly, the District requests that the City process its application for the CDP amendment. To that end, we would also appreciate receiving a proposed timeline for the City Council hearing and related proceedings as the District would like to inform its stakeholders about next steps in moving this project forward.

Thank you for your prompt consideration of our request.

Sincerely,



Clarissa Canady

cc: Dr. Michelle Rodriguez
Melody Canady
Victor Sandoval
Adam Lint

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San Francisco CA 94111
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FAX 562 366 8505

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Chico, CA 95928
TEL 530 343 3334
FAX 530 924 4784

555 Capitol Mall
Suite 645
Sacramento, CA 95814
TEL 916 978 4040
FAX 916 978 4039

1065 Higuera Street
Suite 301
San Luis Obispo, CA 93401
TEL 805 980 7900
FAX 916 978 4039

Attachment 4
1 of 1

www.DWKesq.com

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
PHONE: (831) 427-4863
FAX: (831) 427-4877

**MEMORANDUM**

Date: September 25, 2001
To: John Doughty, City of Watsonville Community Development Director
John Casey, PVUSD Superintendent
Fred Keeley, 27th Assembly District Assemblyman
From: Tami Grove, Coastal Commission Deputy Director *Tami Grove*
Subject: New Millennium High School in Watsonville – Response to PVUSD's September 13, 2001 Memo to the City of Watsonville

The purpose of this memo is to follow-up for the record the substance of the series of phone conversations we've all had in the past week regarding the School District's September 13, 2001 memo to the City of Watsonville in which the District provides a series of "clarifications" to the City's coastal development permit (CDP) decision (City application number 00-28; since appealed to the Coastal Commission as appeal number A-3-WAT-01-070). In these conversations, this office has observed that while the District's memo generally addresses the same issues raised in our August 30, 2001 memo, it does not fully track that memo, making it difficult to interpret the degree to which it answers the issues and potential solutions identified. Now having had time to more fully analyze the District's memo and discuss some of our concerns, we write to describe for the District our understanding as to how uncertainties in the memo can and will be addressed. Following our meeting this afternoon, we understand that the City and School District will provide a further memo committing to these provisions prior to the Commission's scheduled hearing on this item on October 10, 2001. As we discussed previously, the primary resolution we are seeking is agreement from the City and School District that the final project components discussed below will be submitted to the Commission's Executive Director for review and approval prior to exercise of the City's CDP.

- 1) Parcels.
 - a) Although a complicated land deal appears to be in process, it has not been finalized for Area C properties. Prior to the exercise of the permit, the District will provide a graphic to the City and the Executive Director of the Coastal Commission that will identify all property lines resulting from the final purchase. The proposed school parcel(s) must be clearly identified as such; and the non-school parcel(s) likewise identified. Our understanding from the memo is that the District commits to not exercising the high school CDP until any such parcel(s) have been approved by a separate CDP.
 - b) To facilitate understanding of the project and the local coastal program's (LCP's) legal document requirements, all required Area C easements and/or other property restrictions (e.g., for sewer and water non-access strips, agricultural uses, agricultural buffers, open

space uses, environmentally sensitive habitat area (ESHA), and ESHA buffers) will be clearly cross-referenced and keyed to the final resulting property lines graphic described above.

- c) From what we understand from the memo, the roughly 10-acre future expansion area is proposed to be protected for school use or, in the event that school use does not occur, agriculture, open space, and/or habitat uses. If this 10-acre area is so obtained, it must be clear that only school use (subject to future CDP applications) or agriculture, open space, and/or habitat uses are allowed and this must be recorded as a deed restriction on the property. The deed restriction must limit the uses allowed on the site and must be submitted to the Executive Director of the Coastal Commission and the City Planning Director for review and approval prior to its recordation. The approved deed restriction must then be recorded prior to the exercise of the CDP.

2) Protecting ESHA and Agricultural Areas.

- a) Our understanding is that the District intends to ensure that the LCP requirements for ESHA and agricultural areas and their buffers shall be met. This means that:
 - i) All areas shown on LUP Figure 2a as ESHA and/or ESHA buffer will be protected, enhanced, and/or restored for habitat purposes.
 - ii) That portion of Area C generally north of the school use, excluding the ESHA/ESHA buffer areas identified in the LCP, shall be protected for open space, agriculture or habitat purposes exclusively.
 - iii) All Area C agricultural buffers will be maintained and managed to minimize land use conflicts with adjacent agricultural uses consistent with LCP requirements. Unless and until the LCP is modified by the Commission as currently requested by the City, a 200 foot agricultural buffer shall be maintained on the northern portion of the school parcels created.
 - iv) All appropriate LCP required easements shall be recorded over each ESHA, ESHA buffer, agricultural (or open space or habitat) use area, and agricultural buffer.
 - v) All ESHA and ESHA buffer area LCP requirements shall be addressed within a revised biological plan that is currently being prepared to address restoration, enhancement, and long-term management. The District will provide evidence that funding for the implementation of the plan over the life of the project is ensured (i.e., provisions are made for short term steps to be taken as well as long-term management and remediation as necessary to meet plan goals and objectives).
- b) More specifically, from what you have provided, we understand that the District has committed to the following actions:

- i) Executing and recording easements and/or conveying property or properties pursuant to all requirements of LCP Section 9-5.705(g)(5) ("Biological and Agricultural Easements") for all ESHA, ESHA buffer, agricultural, and agricultural buffer areas on Area C (as above-described). All such easement areas shall be shown on, and cross-referenced to, the final parcelization graphic described above.
 - ii) Preparing a revised wetland restoration, buffer, and landscape plan ("Plan") developed with input from a qualified wetland biologist and hydrologist that applies to all of Coastal Zone Area C and provides for: (1) the restoration of Hanson Slough to a functional wetland; (2) the restoration of the Hanson Slough buffer to a functional wetland upland habitat; (3) the enhancement of habitat buffers for (a) the West Branch of Struve Slough (i.e., the entire upland slope east of the existing farm road shown as ESHA on Land Use Plan Figure 2a), (b) the riparian headwaters of Hanson Slough located along the western boundary of Area C, and (c) the California Department of Fish and Game reserve located along Harkins Slough Road; and (4) incorporation of the emergent wetland located along Harkins Slough Road. The Plan shall be consistent with LCP Section 9-5.705(c)(4)(ii) and 9-5.705(g)(9) ("Environmentally Sensitive Habitat Area Buffers") requirements for each of the restoration/enhancement areas, and shall be consistent with all plan parameters established by LCP Section 9-5.705(g)(4) ("Biological Restoration Plans"). The Plan shall be submitted with written evidence from the appropriate official(s) from the United States Fish and Wildlife Service and the California Department of Fish and Game indicating that the Plan was developed in consultation with each agency and has subsequently been distributed for their review. The Plan shall be submitted with written evidence indicating that all owners of property affected by the Plan consent to the implementation of the Plan on their property. The Plan shall be submitted with evidence of adequate funding with which to implement the Plan over the life of the project. The Applicant shall undertake enhancement and restoration activities in accordance with the approved Plan. It is the responsibility of the Applicant, or of an appropriate third party if such party has accepted legally enforceable responsibility, to implement all enhancement and restoration measures specified in the Plan.
 - c) In order to ensure LCP consistency, prior to exercising the CDP (1) all required easements and (2) the revised wetland restoration, buffer, and landscape plan shall be submitted to the Executive Director of the Coastal Commission and the City Planning Director for review and approval.
- 3) Water and Sewer Non-Access Easement.
- a) From what we understand from the memo, the one-foot Water and Sewer Non-Access Easement shall be located along the parcel boundaries of any school parcel(s) created in such a way as to form a complete polygon (i.e., to "surround" the school parcel(s) created as seen in a site plan view). The easement shall be consistent with all LCP requirements for the easement as per IP Section 9-5.705(c)(4)(ix)(ae) and shall be recorded free of

prior liens and encumbrances that may affect the interest being conveyed. The one foot Water and Sewer Non-Access Easement shall be identified in relation to each possible parcelization scenario graphic.

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- a) The final grading plans shall include evidence indicating that the development proposed complies with all requirements of LCP Section 9-5.705(c)(5)(ii)(am) regarding geotechnical investigation requirements, and is consistent with all elements of California Division of Mines and Geology Note 48 ("Checklists for the review of Geologic/Seismic Reports for California Public Schools, Hospitals, and Essential Services Buildings").
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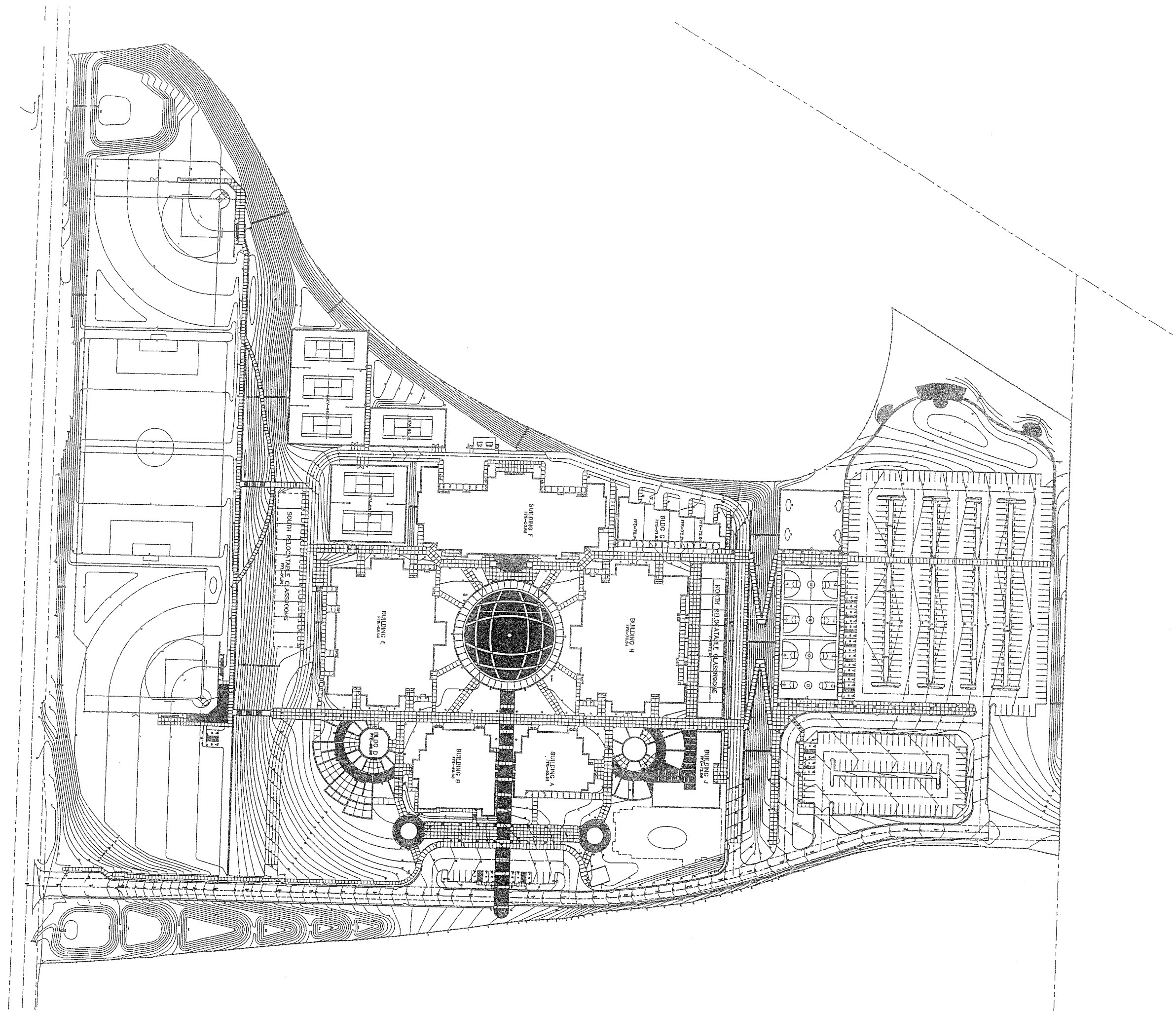
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 - b) The final treatment of the previously identified service road turn around needs to be specified. From the site plan submitted with the memo, it appears as though the turnaround has been eliminated. The memo text, however, indicates that it may be "reconfigured, relocated or eliminated." Our understanding from the submitted site plan is that the turn around has been eliminated from the project.
 - c) We do not understand why the memo text indicates that the portable classrooms may be "reconfigured" when the site plan identifies them in specific locations and at specific elevations. We will expect the final site plan to indicate the final locations for the portables.
 - d) The memo identifies that the fences shall be revised to be consistent with the LCP. Since the LCP requires wood fencing, we understand this to mean that all fencing will be rustic split rail fencing of rough-hewn and unpainted wood timbers (e.g., cedar). The only exception is that rustic wood fencing with no gaps can be utilized if such fencing is required to screen sensitive habitat areas from development. Where containment is necessary for play areas (e.g., baseball fields, tennis courts, etc.), agricultural fencing (i.e., square-gapped metal fencing on wood posts) of the maximum gap size possible to contain the circumference of ball used shall be allowed. Our understanding is that chain link and concrete pre-cast fencing will not be installed on the school site.
 - e) The memo indicates that no unallowed uses or facilities shall be located within the ESHA, ESHA buffer, or Agricultural buffer areas. Since the previous site plan (i.e., prior to the memo) identified portions of ballfields, a chain link fence, and some storm drain utilities located within the 100' buffer area for the CDFG reserve, we understand this to mean that these shall be removed and/or relocated out of the required buffer. We understand that the revised restoration plan is to incorporate the most southerly ponds and related infrastructure of the detention pond system (i.e., those located within required buffers) within the buffer enhancement component. As such, these could be considered part of the habitat buffer enhancement and thus could be considered allowed uses.

John Doughty, City of Watsonville Community Development Director
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- f) We understand the memo to indicate that there will be only two buildings with a height in excess of 30 feet from finished grade; neither of these two buildings will be taller than 37 feet from finished grade.
 - g) The memo indicates that the lighting plan will be reevaluated. We thus understand that there shall be no exterior night lighting, other than the minimum lighting necessary for pedestrian, vehicular, and safety purposes. All lighting shall be directed away from environmentally sensitive habitat areas and shall not be visible from any vantage point within environmentally sensitive habitat areas. All interior lighting shall be directed away from windows which are visible from environmentally sensitive habitat areas. All lighting shall be downward directed and designed so that it does not produce any light or glares off-site, with particular emphasis to preserving the darkness present in existing nighttime Highway One views of Area C.
 - h) We understand the memo to indicate that LCP requirements for agricultural buffers on the interior of Area C shall be met (i.e., currently a 200 foot buffer requirement), except that the 200 foot agricultural buffer on the northern portion of the school parcels created may be reduced if the Commission approves a pending LCP amendment request.
 - i) We understand the memo to indicate that the existing well will remain functional and the District will provide a delivery mechanism for adjacent farmers to use the well as directed by the LCP. We interpret this to mean that the owner(s) and/or operator(s) of the agricultural operation on the property north of the school site have or shall have: (1) been made aware that the existing well on the high school parcel is to be retained; (2) demonstrated a need for the well water; (3) been offered the well water to be used for agricultural purposes on the remainder property; and (4) either (a) declined the use of the well water described in subsection (3) above, or (b) agreed to pay current market costs for the well water described in subsection (3) above. In the event of 4(b), the District shall make all necessary legal and physical arrangements with the adjacent farming operator for the agricultural water to be delivered to the northernmost property boundary of the school site. Such costs to be shared equitably between the District and the agricultural users.
 - j) In order to ensure LCP consistency, prior to exercising the CDP, final site plans substantially in conformance with the site plans provided with the memo and showing the above clarifications shall be submitted to the Executive Director of the Coastal Commission and the City Planning Director for review and approval.
- 8) Additional CDP required.
- a) The ambiguity in the memo and accompanying site plan could lead to some confusion regarding several elements that have been removed from the project and/or may be planned in the future. We understand the memo to indicate that, at a minimum, the following shall require separate CDP or CDP amendment applications should they be pursued in the future:

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- i) Since the District has chosen to remove building C at this time, any future construction of that building shall require a separate CDP or CDP amendment application.
- ii) Any proposed building adjacent to building J (identified as a "future" building on School District plans) shall require a separate CDP or CDP amendment application.
- iii) Any extension of utilities not shown on a final approved site plan shall require a separate CDP or CDP amendment application.
- iv) Any future development north of the parking lot shown on the site plan (including the referenced 10 acre "expansion parcel") shall require a separate CDP or CDP amendment application.



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Attorneys for Petitioners,
WATSONVILLE PILOTS ASSOCIATION and
FRIENDS OF BUENA VISTA and SIERRA CLUB

FILED
SEP 12 2014

ALEX CALVO, CLERK
BY FLORENCE PATTEN
DEPUTY, SANTA CRUZ COUNTY

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CRUZ**

WATSONVILLE PILOTS ASSOCIATION,
a California non-profit corporation,
FRIENDS OF BUENA VISTA, an
unincorporated association, and the SIERRA
CLUB, a non-profit public benefit
corporation,

Case No. CV176416

~~PROPOSED~~ ORDER AND JUDGMENT

Petitioners,

vs.

CITY OF WATSONVILLE, CITY
COUNCIL OF THE CITY OF
WATSONVILLE, CALIFORNIA
DEPARTMENT OF TRANSPORTATION,
DIVISION OF AERONAUTICS and DOES 1
THROUGH 15,

Respondents.

1 This matter came on regularly for a hearing on June 20, 2014, in Department in
2 Department 5 of the above-entitled court, the Honorable Paul M. Marigonda presiding. William
3 Parkin appeared for Petitioners Watsonville Pilots Association, Friends of Buena Vista, and the
4 Sierra Club (Petitioners). Rick Jarvis and Alan Smith appeared for Respondents City of
5 Watsonville and the City Council of the City of Watsonville (collectively "City"). And, Raiyn
6 Bain appeared on behalf of Respondent California Department of Transportation, Division of
7 Aeronautics (CDOA).

8 The Court having reviewed the record of City of Watsonville's proceedings in this matter
9 and having accepted said records into evidence, and having reviewed the evidence, the briefs,
10 other papers and arguments submitted by counsel and presented at the hearing on June 20, 2014,
11 and the Court having entered a Statement of Decision (attached hereto as Exhibit A) granting the
12 Petition for Writ of Mandate, and based on the foregoing enters the following order and
13 judgment:

14 1. Judgment is entered in favor of Petitioners Watsonville Pilots Association, Friends of
15 Buena Vista, and the Sierra Club (collectively "Petitioners") and against the City of Watsonville
16 and the City Council of the City of Watsonville in this proceeding on the grounds stated in the
17 Court's Statement of Decision attached hereto as Exhibit "A."

18 2. A Peremptory Writ of Mandate directed to Respondents City of Watsonville and City
19 Council of the City of Watsonville shall issue from this Court, remanding the proceedings to said
20 Respondents and commanding said Respondents to set aside certification of the revised
21 Environmental Impact Report ("EIR") and all their decisions, approvals and findings for the
22 Watsonville Vista 2030 General Plan ("Project") on January 22, 2013 and April 23, 2013,
23 including, but not limited to, approval of Resolutions 12-13, 13-13 and 63-13, and to comply
24 with the Court's Statement of Decision and to follow California law, statutes and regulations
25 including but not limited to complying with the State Aeronautics Act, the California
26
27

1 Environmental Quality Act ("CEQA") and the CEQA Guidelines. Thereafter, if said
2 Respondents undertake reconsideration of any of the actions required to be set aside, such
3 reconsideration shall be required to be in accordance with this Court's Statement of Decision
4 attached hereto as Exhibit "A".

5 3. Injunctive relief is hereby granted as follows. Respondents City of Watsonville and
6 City Council of the City of Watsonville are prohibited from implementing the Watsonville Vista
7 2030 General Plan or Resolutions 12-13, 13-13 and 63-13 or basing any action on or engaging in
8 any activity pursuant to the Watsonville Vista 2030 General Plan or Resolutions 12-13, 13-13
9 and 63-13, unless and until the environmental review and the Watsonville Vista 2030 General
10 Plan and Resolutions 12-13, 13-13 and 63-13 are revised to comply with the Court's Statement
11 of Decision and California law, including but not limited to its statutes and regulations known as
12 the California State Aeronautics Act, CEQA and the CEQA Guidelines

13 4. Petitioners are awarded their costs of suit as against the City of Watsonville and the
14 City Council of the City of Watsonville upon application to this Court pursuant to California
15 Rules of Court, Rule 3.1700.

16 5. This Court reserves jurisdiction to determine the amount of attorneys' fees to be
17 awarded to Petitioners upon application to this Court pursuant to California Rules of Court, Rule
18 3.1702.

19 6. The Court reserves jurisdiction over said Respondents' proceedings by way of return to
20 the Peremptory Writ of Mandate, and reserves jurisdiction to determine compliance with the Writ
21 of Mandate. Said Respondents are required to file a return to the Peremptory Writ of Mandate
22 within 30 days of service of the Peremptory Writ, showing that said Respondents have set aside
23 certification of the EIR and all of said Respondents' decisions, approvals and findings for the
24 Watsonville Vista 2030 General Plan including, but not limited to, approval of Resolutions 12-
25 13, 13-13 and 63-13 within 30 days of service of this Peremptory Writ. Thereafter, if said
26 Respondents undertake reconsideration of any of the actions required to be set aside, said
27

Respondents must file a further return to this Peremptory Writ demonstrating continued compliance with the Peremptory Writ. In the event of such reconsideration, the Court retains jurisdiction until the Court has determined that said Respondents have complied with this Court's Statement of Decision and the Judgment entered herein.

7. No Peremptory Writ of Mandate shall issue in this case as against the California Department of Transportation, Division of Aeronautics, and notwithstanding the foregoing, no costs or attorneys fees shall be awarded in favor of the California Department of Transportation, Division of Aeronautics, as against Petitioners.

Dated: SEP 12 2014

PAUL M. MARIGONDA
Paul M. Marigonda
Judge of the Superior Court

Approved as to Form:

Not objected to by:

Rick Jarvis
Attorney for Respondents
City of Watsonville and City
Council of the City of Watsonville

Raiyn Bain
Raiyn Bain
Attorney for Respondent
California Department of Transportation

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FILED
SEP 12 2014

ALEX CALVO, CLERK
BY FLORENCE PATTEN
DEPUTY, SANTA CRUZ COUNTY

Attorneys for Petitioners,
WATSONVILLE PILOTS ASSOCIATION and
FRIENDS OF BUENA VISTA and SIERRA CLUB

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CRUZ**

WATSONVILLE PILOTS ASSOCIATION, **Case No. CV176416**
a California non-profit corporation,
FRIENDS OF BUENA VISTA, an
unincorporated association, and the SIERRA **WRIT OF MANDAMUS**
CLUB, a non-profit public benefit
corporation,

Petitioners,

vs.

CITY OF WATSONVILLE, CITY
COUNCIL OF THE CITY OF
WATSONVILLE, CALIFORNIA
DEPARTMENT OF TRANSPORTATION,
DIVISION OF AERONAUTICS and DOES 1
THROUGH 15,

Respondents.

1 TO THE CITY OF WATSONVILLE AND THE CITY COUNCIL OF THE CITY OF
2 WATSONVILLE, and each of you:

3
4 Judgment having been entered in this proceeding ordering that a peremptory writ of
5 mandate be issued from this Court,

6 YOU ARE HEREBY COMMANDED, by the second regularly scheduled meeting of the
7 City Council following service of this writ:

8 1. To set aside your certification of the Environmental Impact Report ("EIR") and all
9 your decisions, approvals and findings for the Watsonville Vista 2030 General Plan on January
10 22, 2013 and April 23, 2013, including, but not limited to, approval of Resolutions 12-13, 13-13
11 and 63-13. You are hereby directed to comply with the Court's Statement of Decision and to
12 follow California law, including but not limited to its statutes and regulations known as the
13 California Aeronautics Act, the California Environmental Quality Act ("CEQA") and the CEQA
14 Guidelines.

15 2. These proceedings are hereby remanded to you to proceed in accordance with this
16 Court's Statement of Decision and Judgment, and to take any further related action specially
17 enjoined on you by law to implement the Court's Statement of Decision and Judgment.

18 3. You are prohibited from implementing the Watsonville Vista 2030 General Plan or
19 Resolutions 12-13, 13-13 and 63-13, or basing any action on or engaging in any activity pursuant
20 to the Watsonville Vista 2030 General Plan or Resolutions 12-13, 13-13 and 63-13, unless and
21 until the environmental review and the Watsonville Vista 2030 General Plan and Resolutions 12-
22 13, 13-13 and 63-13 are revised to comply with the Court's Statement of Decision, and
23 California law, including but not limited to its statutes and regulations known as the California
24 State Aeronautics Act, the California Environmental Quality Act ("CEQA") and the CEQA
25 Guidelines and the Court is satisfied that you have complied with this peremptory writ of
26 mandamus by way of a return to the writ.
27

1 4. This Court reserves jurisdiction over your proceedings by way of return to this
2 Peremptory Writ of Mandate, and reserves jurisdiction to determine compliance with the Writ of
3 Mandate, the Court's Statement of Decision and Judgment entered herein. You shall file a return
4 to this Peremptory Writ of Mandate within 45 days of service of this Peremptory Writ, showing
5 that you have set aside your certification of the EIR and all your decisions, approvals and
6 findings for the Watsonville Vista 2030 General Plan on January 22, 2013 and April 23, 2013,
7 including, but not limited to, approval of Resolutions 12-13, 13-13 and 63-13. Thereafter, if you
8 undertake reconsideration of any of the actions required to be set aside, you must file a further
9 return to this Peremptory Writ demonstrating your continued compliance with this Peremptory
10 Writ. In the event of such reconsideration, the Court retains jurisdiction until the Court has
11 determined that Respondents have complied with this Court's Statement of Decision and the
12 Judgment entered herein.

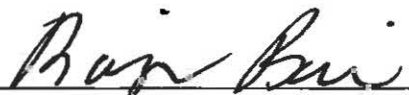
13
14
15 Dated: SEP 12 2014

FLORENCE PATTEN

Clerk of the Superior Court

16
17
18 Approved as to Form:

19
20
21 Rick Jarvis
22 Attorney for Respondents
23 City of Watsonville and City
24 Council of the City of Watsonville

25 
26 Raiyn Bain
27 Attorney for Respondent
28 California Department of Transportation

Writ of Mandamus

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FRIENDS OF BUENA VISTA and SIERRA CLUB

FILED
SEP 12 2014

ALEX CALVO, CLERK
BY FLORENCE PATTEN
DEPUTY, SANTA CRUZ COUNTY

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CRUZ**

WATSONVILLE PILOTS ASSOCIATION,
a California non-profit corporation,
FRIENDS OF BUENA VISTA, an
unincorporated association, and the SIERRA
CLUB, a non-profit public benefit
corporation,

Case No. CV176416

**[PROPOSED] STATEMENT OF
DECISION**

Petitioners,

vs.

CITY OF WATSONVILLE, CITY
COUNCIL OF THE CITY OF
WATSONVILLE, CALIFORNIA
DEPARTMENT OF TRANSPORTATION,
DIVISION OF AERONAUTICS and DOES 1
THROUGH 15,

Respondents.

1 This matter came on regularly for a hearing on June 20, 2014, in Department 5 of the
2 above-entitled court, the Honorable Paul M. Marigonda presiding. William Parkin appeared for
3 Petitioners Watsonville Pilots Association, Friends of Buena Vista, and the Sierra Club
4 (Petitioners). Rick Jarvis and Alan Smith appeared for Respondents City of Watsonville and the
5 City Council of the City of Watsonville (collectively "City"). And, Raiyn Bain appeared on
6 behalf of Respondent California Department of Transportation, Division of Aeronautics
7 (CDOA).

8 The evidence consists of the 16 volumes of the Administrative Record from Case No.
9 154571 and on file with the Court, and four volumes lodged in the above captioned matter. *See*
10 Stipulation Regarding Certification of the Administrative Record. Said record was certified by
11 the City.

12 The Court has considered the evidence, the pleadings, the briefs filed by the parties, the
13 oral arguments of counsel presented at the hearing on June 20, 2014. For the reasons set forth
14 below, the Court's decision is to grant the Petition for Writ of Mandate.

15 16 **A. STATEMENT OF FACTS**

17 On May 23, 2006, the City adopted an amendment to the City General Plan denominated
18 the "Watsonville Vista 2030 General Plan" (2030 Plan) and certified the associated
19 Environmental Impact Report (EIR). (AR vol. 1: 1-23). The 2030 Plan included new areas to
20 be annexed into the City, one of which, the Buena Vista area, partially surrounds the Watsonville
21 Airport. (AR vol. 1: 27, 290). Petitioners filed petitions for writ of mandate challenging the
22 City's 2006 certification of the 2030 Plan EIR and adoption of the 2030 Plan. (*See Santa Cruz*
23 *Superior Court Case No. 154571 - "WPA I"*).

24 On March 21, 2008, this Court issued a Statement of Decision granting the petitions. (AR
25 vol. B:11868). The Court found that the City had violated both the SAA and CEQA, because,
26 *inter alia*, the 2030 Plan unlawfully modified Airport Safety Zone 3 and land use compatibility
27 guidelines, and the EIR inadequately analyzed aviation impacts and traffic impacts, and failed to
28 consider a reasonable range of alternatives. (AR vol. B:11868-11877). Judgment was entered

1 for the Petitioners against the City, and a peremptory writ of mandate was issued directing the
2 City to set aside its certification of the EIR, its approval of the 2030 Plan, and its 2005 resolution
3 amending the Airport Master Plan. (AR vol. B:11930-11932). The City filed a Notice of Appeal
4 in June 2008. On March 15, 2010, the Sixth District Court of Appeal upheld the judgment of the
5 trial court. *Watsonville Pilots Assn. v. City of Watsonville*, (2010) 183 Cal.App.4th 1059. On
6 May 11, 2010, the City Council rescinded its approval of the EIR, the 2030 Plan and related
7 approvals to comply with the writ of mandate upheld by the Court of Appeal. (AR vol. A:10561-
8 10563).

9 On June 12, 2012, the City circulated for a 45-day public review period a "Re-circulated
10 Draft Environmental Impact Report." During the public review period, the City's Planning
11 Commission conducted a public hearing on the revised 2030 Plan and the Re-circulated Draft
12 EIR and recommended that the City Council adopt the same. (AR vol. A:11048-11049).

13 On September 25, 2012, the City Council conducted a public hearing to consider
14 readoption of the 2030 Plan and the Final Re-circulated EIR, but continued the hearing. On
15 November 14, 2012, the City issued a "Revised Re-circulated EIR" for a 45-day public comment
16 period. (AR vol. A:11049).

17 On January 22, 2013, the City Council certified a Final EIR with all of the recirculated
18 revisions and reapproved the 2030 Plan. (AR vol. A:11049). On April 23, 2013 (and after this
19 litigation was filed), the City Council made additional changes to the 2030 Plan. (AR vol.
20 A:11181-11185). By this action, the Petitioners challenged the validity of both the revised 2030
21 Plan and the Revised Re-circulated 2030 Plan EIR.

22
23 The ruling of this Court is to grant the Petition for Writ of Mandate as follows:

24 **1) Infill and Population Growth Projections**

25 When the Court examines whether an EIR meets its informational requirements, as noted
26 by the standard of review, the Court looks to whether the document is sufficient as an
27 informative document. The Court reviewed the population numbers that were presented in the
28 record. It is unclear in examining the record what analysis was used in the final EIR to support

1 the figures as to infill potential. In 2006, the City projected that by 2030 there would be 70,418
2 residents and 5,700 new households based on 2004 projections from the Association of
3 Monterey Bay Area Governments (AMBAG). But then in 2008, AMBAG reduced its population
4 projections significantly. The City's revised 2030 plan estimated that the City's population
5 would grow by 14,632 individuals using the formula that 3.63 persons is the average household.
6 The City's projections were higher than AMBAG's 2008 projections, and it appears that the City
7 reached its numbers by just averaging the 2004 and 2008 AMBAG projections rather than doing
8 an empirical method study looking at historical data. The final EIR justifies the projection
9 saying: "In 2008 AMBAG issued a new set of growth forecasts which were markedly reduced for
10 the City of Watsonville. This was likely due to the deep recession that has been experienced
11 throughout the United States." The concern that this Court has is that these numbers were
12 averaged, but without any empirical analysis. It is not clear how the City concluded that
13 AMBAG's consideration of the economy was somehow overly influential in the numbers
14 AMBAG brought forth. There is no explanation and no analysis as to how averaging the 2004
15 and 2008 projections would reflect the historical trends or give any sort of meaningful projection
16 of new residents and households by 2030. Therefore the City has not presented substantial
17 evidence to support its figures.

18 With respect to infill potential within existing City limits, the revised General Plan
19 reduced potential infill in the City by 650 units. The City states that this analysis was done in a
20 detailed parcel by parcel analysis of potential infill. But looking at the record there is no analysis
21 of infill conducted since the 2005 General Plan, and none in the 2030 Plan. And when
22 responding to a comment the City said the infill reduction was based on the updated housing
23 element that was prepared in 2010. But the housing element states that the 2005 General Plan
24 was used. So both in the prior 2030 plan and the revised 2030 plan, the City is still using the
25 2005 General Plan for the housing element. The City also used round numbers. Some infill
26 numbers in areas of the City were reduced by 200, others areas were reduced by 100. These infill
27 reductions were done without a proper analysis that informs the public, and the conclusions are
28 not supported by substantial evidence.

1 **2) Mitigation Measures for Highway 1 Traffic Are Inadequate**

2 To mitigate impacts to Highway 1, the EIR states that the City would support the
3 widening of Highway 1, and HOV lanes, between the Santa Cruz/Monterey County boundary.
4 The case of *Anderson First Coalition v. City of Anderson* (2005) 130 Cal.App.4th 1173 involved
5 a project that was going to be near State Highway 273 and Highway 5 in Shasta County. The
6 *Anderson First* court concluded that any mitigation measures must be based on “on a reasonable
7 plan of actual mitigation that the relevant agency commits itself to implementing.” *Id.* at 1187.
8 Thus, it has to be something that is actual and not assumed.

9 The City's position has been that because Highway 1 is a state highway, the City cannot
10 control it or decide to expand it. The City argues that it will support widening and participate
11 through a voter initiative. However, special taxes under such an initiative would require a two-
12 thirds vote of the electorate. The mitigation measures regarding traffic assume that certain things
13 will happen, or hope for certain things to happen: voter support of a mitigation project. The
14 *Anderson First* case holds that mitigations must actually be implemented and not merely adopted
15 and then neglected or discarded. Here, the mitigation depends on a potential vote of the public,
16 and hoping that a two-thirds vote is achieved.

17 The Petitioners had suggested some mitigations within the City to reduce the impact of
18 vehicles on Highway 1, such as regulation of traffic lights, installation of traffic lights and
19 metering. By saying that there is no financially feasible or equitable way to mitigate the
20 acknowledged regional traffic impact and finding that this is significant and unavoidable, without
21 any real mitigation analysis, is insufficient.

22 With respect to the mitigation measures, and the impact of the mitigations, the Court also
23 finds that the City's actions in certifying the revised EIR without any actual mitigation measure
24 to address these traffic impacts is not supported by substantial evidence and is an abuse of
25 discretion.

26
27 **3) Measure U**

28 The leading case on amendment of initiatives involves implementation of the November

1 1996 Initiative Proposition 215 which added Health and Safety Code Section 11362.5 (i.e.,
2 medical marijuana). *People v. Kelly* (2010) 47 Cal.4th 1008. That case had to do with a
3 challenge by a defendant to the alleged amendment to the Medical Marijuana Compassionate Use
4 Act (Proposition 215). The language that is significant to the Court is that *People v. Kelly* did
5 hold that laws can be enacted addressing the general subject matter of an initiative. *Id.* at 1025.
6 Although Measure U created these urban limit lines for the 20 and 25 year growth, it is not clear
7 that the reduction of infill violates Measure U. It's a close question, but the Court is not going to
8 void the 2030 plan as an amendment to Measure U because the Court believes it addresses the
9 general subject matter of Measure U. Thus, the Petition is denied as to this ground.

10 11 **4) The Alternatives Analysis is Flawed**

12 As already determined by this Court, the population and infill numbers are not supported
13 by substantial evidence. The revised EIR considers four alternatives. The revised EIR says each
14 one of them is infeasible. The analysis and findings of infeasibility as to Alternatives 1 and 2 are
15 flawed, because the population and infill numbers are not supported by substantial evidence as
16 determined by the Court *supra*. Whether the Court addresses Alternatives 3 and 4 is not
17 important. The rejection of Alternatives 1 and 2 is based on the projections that the Court
18 believes are not supported by substantial evidence. If the more recent 2008 AMBAG population
19 projections are used, and the 650 units that the City claims are reduced from infill potential are
20 considered, the City could accommodate 1913 units by infill without annexation, which would
21 meet the City's objective for distributing 1900 new units of new growth. And the rejection based
22 on employment constraint is not sufficient. Most of the objectives that are sought by the General
23 Plan could be met even if the employment objective was not fully met.

24 25 **5) The General Plan Violated the Aeronautics Act**

26 One thing is abundantly clear from the 2010 Court of Appeal's decision: the City has
27 absolutely no discretion whatsoever with respect to the Airport Land Use Planning Handbook
28 ("Aeronautics Handbook"). The Court of Appeal in this matter (at 183 Cal.App.4th 1059) said

1 because there is no Airport Land Use Commission, the City has no discretion with respect to the
2 Aeronautics Handbook under the State Aeronautics Act.

3 Under Public Utilities Code Section 21670.1, it is very clear that the General Plan must
4 be submitted to the Department of Aeronautics upon its adoption. Sending the draft General Plan
5 with the alternative section of the draft EIR is not enough. The City may have been
6 understandably frustrated by the CDOA's inability to make certain meetings despite their efforts.
7 But, not submitting the General Plan to CDOA is a violation of 21670.1.

8 Section 13.i.5 of the General Plan appears to still allow the City some discretion to find
9 "no alternate site" so as to allow uses that represent special safety concerns that must be
10 prohibited for Airport Safety Zones 3 and 5 in the Aeronautics Handbook. The Court of Appeal
11 made clear that the City has no such discretion because this is a "no procedure" county. Thus,
12 section 13.i.5 does not pass muster.

13 Another issue that was raised was the deletion of certain safety protection language in
14 Section 13.i.5 on April 23, 2013. While the Court does not find it reasonable to prohibit all infill
15 in Zones 3 and 5, the Court has concerns regarding the area within 500 feet from the runway
16 and considers such deletion to result in a safety problem inconsistent with the Aeronautics
17 Handbook. The Court is bound by the dictates of the Appellate Courts throughout the State in
18 the application of Aeronautic Handbook policies.

19 In light of finding the foregoing violations of the State Aeronautics Act, the Court need
20 not rule on Petitioners contentions that the City violated CEQA by failing to analyze the 2030
21 Plan's inconsistencies with the Aeronautics Handbook, and failing to respond to comments in the
22 2030 Plan EIR.

23 As to the issues raised by CDOA in its response brief, the Court first addresses and denies
24 the City's objections pursuant to Government Code section 65009, subd. (b). Based on the
25 uniqueness of the situation and the mandates of the Court of Appeal decision regarding PUC
26 section 21670.1, Government section 65009 is excused as it pertains to CDOA raising new
27 issues not addressed during the administrative process. The Court further concludes that the
28 Watsonville Airport Master Plan ("WAMP") is a document for land use planning on the airport,

1 and is not the proper document for airport land use compatibility planning. The Handbook
2 criteria shall be incorporated as part of the City's general plan, and not in other documents, such
3 as the WAMP. Lastly, the Court concludes that the City violated PUC section 21670.1 by
4 improperly placing the majority of the information regarding airport land use compatibility issues
5 in the Public Hazards section rather than the Land Use and Community Development section,
6 thus failing to incorporate or refer to the policies contained in the Public Hazards section.

7 **CONCLUSION**

8 For the reasons detailed above, the Court finds that the City violated the California
9 Environmental Quality Act and the State Aeronautics Act, and orders that a Writ of Mandamus
10 issue directing the City to rescind its approval of the Watsonville Vista 2030 Plan, its
11 certification of the revised EIR, its adoption of the Statement of Overriding Considerations, and
12 all related approvals. The Court hereby orders that judgment be entered in favor of the
13 Petitioners.

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17 Dated: SEP 12 2014

18 PAUL M. MARIGONDA
19 THE HONORABLE PAUL M. MARIGONDA
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23 Approved as to Form:

24 Not objected to by:
25 Rick Jarvis
26 Attorney for Respondents
27 City of Watsonville and City
28 Council of the City of Watsonville

1 Raiyn Bain
2 Raiyn Bain
3 Attorney for Respondent
4 California Department of Transportation
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City Council <citycouncil@cityofwatsonville.org>

Public Comment

Jeanne Greateorex <venajean@gmail.com>
To: citycouncil@cityofwatsonville.org

Fri, Aug 20, 2021 at 7:56 AM

To: City of Watsonville - Public Hearing

Ref: Development Plan (PP2015-11) Application for building 21 townhouses on property at [547 Airport Boulevard](#).

I represent the owners of an adjacent property at [7 Hangar Way](#). Both the Airport property and the Hangar Way property are zoned Industrial Park. Some of the proposed townhouses, were they to be built, would only be feet away from the industrial area of 7 Hangar.

I see one issue that might cause conflict with future residents. Industrial areas tend to be noisier than residential or retail, and that noise may involve a 24-hour operation.

Does this development proposal affect the zoning classification of 7 Hangar?
What designs are included in the plans to deal with this noise issue?
Who will be responsible for noise abatement?

Sincerely,

Jeanne Greateorex
PO Box 628
Freedom, CA. 95019
Tel 831707-4641