

City of Watsonville

MEMORANDUM



DATE: November 9, 2020

TO: Planning Commission

FROM: Suzi Merriam, Community Development Director
Justin Meek, AICP, Principal Planner
Jackie McCloud, Sr. Utilities Engineer

SUBJECT: Incorporation of the Local Hazard Mitigation Plan (LHMP) by reference into the Watsonville 2005 General Plan

AGENDA ITEM: December 1, 2020 **Planning Commission**

RECOMMENDATION:

Staff recommends that the Planning Commission adopt a Resolution recommending that the City Council adopt a Resolution amending Chapter 12.A Environmental and Public Safety of the Watsonville 2005 General Plan to incorporate the Local Hazard Mitigation Plan (LHMP) by reference into the Public Safety Element of the General Plan.

BACKGROUND

In 1988 Congress enacted the Stafford Act, which amended the Federal Disaster Relief Act of 1974. The Stafford Act established the need for Disaster Preparedness and Mitigation Assistance, and established a fund to assist states in preparing pre-disaster mitigation plans. The Act establishes and details the preparation of a community's LHMP and authorized the President through to promulgate regulations through the Federal Emergency Management Agency (FEMA) that require communities to have a current and approved plan to be eligible for Pre-Disaster Mitigation (PDM) project grant funding.

In 2006, the State of California passed Assembly Bill (AB) 2140¹ that allows Cities to adopt FEMA approved local hazard mitigation plans (LHMPs) into the Safety Element of the General Plan. AB 2140 requires a jurisdiction to adopt the LHMP into the Safety Element of the General Plan in order to be fully eligible for disaster relief funding under the California Disaster

¹ Approved by Governor September 29, 2006. Filed with Secretary of State September 29, 2006, Codified at sections 8685.9 and 65302.6 of the California Government Code, relating to local planning.

Assistance Act. In 2015, California passed Senate Bill (SB) 379², which requires assessment of vulnerabilities and risks associated with climate change to be incorporated into the LHMP. Over the next year, the City will work to incorporate requirements for SB99³ and AB 747⁴, which require cities to complete a thorough evacuation analysis for the community into the LHMP and General Plan.

Periodically, FEMA provides funding to the California Office of Emergency Services (CalOES) to award funding to Cities and Counties to develop a LHMP. In 2017, the City was awarded \$150,000 to prepare a Local Hazard Mitigation Plan under the *FY2017 Pre-disaster Mitigation Competitive Grant Program*. With the grant award, the City spent the 2018-2020 time period engaging the steering and planning committees, stakeholders and the community to develop the City of Watsonville's single jurisdiction LHMP.

PROCESS

General Plan Text Amendment

The provisions of the General Plan text and the General Plan Land Use Diagram may be amended by the Council by resolution and according to procedures established in Chapter 14-12 of the Watsonville Municipal Code (WMC) whenever the public necessity, the general community welfare, and good zoning practices permit such amendment. WMC § 14-12.700. Amendments to the General Plan may be initiated by the Zoning Administrator. WMC § 14-12.701.

Any proposed text amendment to the General Plan shall be reviewed by the Planning Commission, at a public hearing noticed in accordance with Part 9 of WMC Chapter 14-10 and conducted in accordance with Part 10 of WMC Chapter 14-10, for recommendation to the City Council. At the conclusion of the public hearing, the Commission shall adopt a resolution, recommending approval or denial of the proposed amendment, by the affirmative vote of the majority of the Commission members, subject to findings required by WMC Section 14-12.708.

Upon forwarding the Commission recommendation for approval, modified approval, or denial in any matter by the Planning Commission to the Council, such recommendation shall be accompanied by a complete report of the Commission's action prepared by the Community Development Department, including a summary of the hearing, its findings, and a copy of the Commission resolution, minutes, along with any other pertinent material or information which will assist the Council in making its final determination in the matter. WMC § 14-12.706. Upon receipt of the Commission's recommendation, and before adopting any amendment, the

² Approved by Governor October 08, 2015. Filed with Secretary of State October 08, 2015. Codified at Section 65302 of the California Government Code, relating to land use.

³ Approved by Governor August 30, 2019. Filed with Secretary of State August 30, 2019, Codified at Section 65302 of the California Government Code, relating to land use.

⁴ Approved by Governor October 09, 2019. Filed with Secretary of State October 09, 2019. An act to add Section 65302.15 to the Government Code, relating to land use.

Council shall review the matter at a public hearing noticed in accordance with Part 9 of WMC Chapter 14-10 and conducted in accordance with Part 10 of WMC Chapter 14-10.

At the conclusion of the public hearing, the Council is required to adopt a resolution approving or denying the proposed amendment, upon making the General Plan Amendment findings required by WMC § 14-12.708 (see below).

Environmental Review

The California Environmental Quality Act requires local and state governments to consider the potential environmental effects of a project before making a decision on it. CEQA's purpose is to disclose the potential impacts of a project and suggest methods to minimize those impacts. Certain classes of projects, however, have been identified that do not have a significant effect on the environment, and are considered categorically exempt from the requirement for the preparation of environmental documents. State CEQA Guidelines § 15300 (14 CCR 15003) . In addition, a project is exempt from CEQA if the activity is covered by the common sense exemption (i.e., CEQA applies only to projects which have the potential for causing a significant effect on the environment). Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Subdivision (b)(3) of State CEQA Guidelines § 15061.

STANDARD OF REVIEW & APPEAL PROCESS

Whether a particular decision is adjudicative or legislative determines the requirements to support the decision. Legislative decisions involve the adoption of broad policies applicable to many situations (for example, general plan and zoning amendments). Legislative decisions generally require few, if any, findings.

Adjudicative (or “quasi-judicial”) decisions, on the other hand, are not policy decisions. Adjudicative/quasi-judicial decisions apply already adopted policies or standards to individual cases, such as a variance or conditional use permit application. Adjudicative/quasi-judicial decisions are based on evidence and must always be supported by findings.

This proposed General Plan text amendment is a legislative decision and requires just two findings required by subdivisions (a) and (b) of WMC Section 14-12.708⁵. The proposed resolution includes facts and analysis to support these two findings.

If the Planning Commission's decision is appealed, the City Council will consider whether the action taken by the Planning Commission was erroneously taken and may sustain, modify or overrule Planning Commission's action. In order for the Planning Commission's decision to be overturned on appeal, the City Council must find that the action taken by the Planning Commission was erroneous. WMC § 14-10.1106.

⁵ (a) That the proposed amendment is consistent with the policies embodied in the General Plan; and (b) that the proposed amendment is compatible to the extent possible with the actual and general planned use of the adjacent properties.

A lawsuit is required to challenge a Council's decision. A reviewing court will consider whether a legislative decision by the Council was "reasonable" or an abuse of discretion and not supported by adequate findings.

DISCUSSION

Local Hazard Mitigation Plan

The LHMP adoption process allows a community to identify risks and vulnerabilities associated with natural and other disasters, and develop long-term strategies for protecting people and property from future hazard events. Developing hazard mitigation plans enables local governments to:

- Increase education and awareness around threats, hazards, and vulnerabilities;
- Build partnerships for risk reduction involving government, organizations, businesses, and the public;
- Identify long-term, broadly supported strategies for risk reduction;
- Align risk reduction with other state and community objectives;
- Identify implementation approaches that focus resources on the greatest risks and vulnerabilities; and
- Communicate priorities to apply for and secure potential sources of funding.

Moreover, a FEMA-approved hazard mitigation plan is a condition for receiving FEMA PDM grants, including funding for mitigation projects. Ultimately, hazard mitigation planning enables implementation of projects and programs to reduce loss of life and property, lessening the impact of disasters.

Local, State and Federal Review and Approval

In August 2020, City of Watsonville's Public Works and Utilities staff submitted the City's draft LHMP to state and federal agencies for review. In October 2020, the draft Plan was approved preliminarily by CalOES and FEMA; final approval by these state and federal agencies will follow local adoption by the City. Upon adoption by the City, CalOES and FEMA will issue a final letter of approval for the LHMP.

In addition to adopting the approved LHMP, the City may incorporate the LHMP by reference in the Safety Element of the 2005 Watsonville General Plan and, thereby, demonstrate compliance with SB 2140⁶.

California SB 379 required the City to incorporate an assessment of vulnerabilities and risks associated with climate change in the LHMP. Each natural hazard, such as earthquakes, wildfires, floods, were modeled with the 20-year projection of what would likely occur without mitigation measures. In order to comply with SB379, the City then added, the climate projections into the model to show how that exacerbated the primary natural hazard. Climate change was also modeled as a stand-alone natural hazard that needs to be mitigated. The LHMP is the basis for the updated 2020 Climate Action and Adaptation Plan.

⁶ Footnote 1, *supra*

General Plan Text Amendment

The LHMP is proposed to be adopted into Chapter 12 of the General Plan by reference as follows:

Policies and Implementation Measures (p192)

Policy 12.A Environmental and Public Safety

The City shall plan for and maintain development standards that minimize the risks to human lives and property resulting from environmental and man-caused hazards.

In 2006, the state adopted Assembly Bill (AB) 2140, which added provisions specifying what is to be included in a Local Hazard Mitigation Plan (LHMP) and requiring a linkage between a local jurisdiction's LHMP and the Safety Element of their General Plan. AB 2140 requires a jurisdiction to adopt the LHMP into the Safety Element of the General Plan in order to be fully eligible for disaster relief funding under the California Disaster Assistance Act.

The Single Jurisdictional LHMP for the City of Watsonville planning area was developed in accordance with the Disaster Mitigation Act of 2000 (DMA 2000) and followed FEMA's LHMP guidance. The LHMP incorporates a process where hazards are identified and profiled, the people and facilities at risk are analyzed, and mitigation actions are developed to reduce or eliminate hazard risk. The implementation of these mitigation actions, which include both short and long term strategies, involve planning, policy changes, programs, projects, and other activities.

Consistency with the General Plan

The recommended text amendment is consistent with policies embodied in the General Plan. In particular it is consistent with the following policies in Chapter 12 in that the LHMP furthers the goals of the Safety Element and establishes a process where hazards are identified and profiled, the people and facilities at risk are analyzed, and mitigation actions are developed to reduce or eliminate hazard risk.:

- Policy 12. A Environmental and Public Safety
- Policy 12. B Seismic Hazards
- Policy 12. C Soil Constraints
- Policy 12. D Flood Hazard Reduction
- Policy 12. H Fire Suppression Planning

Environmental Review

The proposed amendment to the Safety Element of the General Plan is exempt CEQA, pursuant to common sense exemption under State CEQA Guidelines Section 15061(b)(3). The activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The LHMP acts as a guidebook for hazard mitigation strategies but does not implement any specific project, action, or funding. A Notice of Exemption will be filed in accordance with CEQA Guidelines.

Fiscal Impact

Adoption of the LHMP will allow the City to be eligible for future grant funding opportunities through FEMA and CalOES. There will be no impact to the General Fund.

CONCLUSION

The LHMP for the City of Watsonville planning area was developed in accordance with the Disaster Mitigation Act of 2000 (DMA 2000⁷) and followed FEMA's 2011 LHMP guidance. The LHMP incorporates a process where hazards are identified and profiled, the people and facilities at risk are analyzed, and mitigation actions are developed to reduce or eliminate hazard risk. The implementation of these mitigation actions, which include both short and long-term strategies, involve planning, policy changes, programs, projects, and other activities.

City staff recommends incorporation of the CalOES and FEMA approved single jurisdiction LHMP by reference in Chapter 12 Public Safety of the Watsonville 2005 General Plan. In addition, staff recommends incorporation of the supplemental emergency evacuation route analysis as appendix D to the General Plan.

ATTACHMENTS:

1. Local Hazard Mitigation Plan Elements A-E
2. California Office of Emergency Services Approval Letter
3. FEMA Region IX Approval Letter
4. Chapter 12 (Public Safety Element) of the General Plan

Note:

An Electronic Copy of Attachment 1 is available on the City's website:

https://www.cityofwatsonville.org/DocumentCenter/View/14956/Watsonville-LHMP_Submission-9-04

⁷ Public Law 106–390—OCT. 30, 2000, Disaster Mitigation Act of 2000