



P A R K S A N D R E C R E A T I O N

December 7, 2021

Jean Lacher
Office Chief
California Department of Parks and Recreation
Office of Grants & Local Services
P.O. Box 942896 Sacramento, CA 94296-0001

Re: Homeless Garden Project Farm and Garden – Pogonip (City of Santa Cruz)

Dear Jean:

Thank you for taking the time to discuss this matter with me on December 7, 2021. As promised I am following up in writing to provide you with some more detailed background and analysis as to why the City of Santa Cruz believes it has properly proceeded in planning to devote 9.5 acres of its 614 acre Pogonip property for use as a farm and garden to be maintained and operated by the Homeless Garden Project (“HGP”). HGP is a Santa Cruz based nonprofit corporation which provides job training, transitional employment and support services to people who are homeless. This garden use was first proposed in 1991 and subsequently established as a component of the Pogonip’s Master Plan in 1998.

During the thirty year planning process has not been suggested that the subject farm and garden would constitute a use of the Pogonip property that violates the Wildlife, Coastal and Park Land Conservation Bond Act (popularly referred to as the “CALPAW Initiative”) adopted by California voters in 1988. In 1989 Santa Cruz acquired the Pogonip property with CALPAW funding and took title to that property subject to funding restrictions set forth in the CALPAW statute codified in the California Public Resources Code. Among those restrictions, the City is required to use the property solely for “open-space, natural and recreational uses.”

In 2018, consistent with the City’s General Plan, Pogonip Master Plan, the Master Plan EIR and applicable City zoning regulations, the City issued a design permit authorizing the HGP to install its garden in the property’s Lower Meadow. That permit remains in effect; however the discovery of contaminated soil in the Lower Meadow has prompted HGP to request that the City authorize relocation of the garden to the property’s Upper Meadow. In order to act upon such a request the City would be required to amend its Master Plan and perform the associated environmental review required by CEQA.

In August 2021 the City Council directed my department to evaluate the relocation request and report back regarding a timeline, the measures to be taken and the costs that would be incurred in processing and implementing HGP’s request. In September 2021 a group of citizens, represented by an attorney, wrote to the Council explaining why in their opinion, the Council should not, and could not legally, process HGP’s relocation request. This letter only concerns the letter’s legal

contention which can be briefly summarized as follows: the farm and garden constitutes an agricultural use that is not allowed by the CALPAW statute which, as noted above, restricts CALPAW funded properties to open-space, natural and recreational uses. It is the City's position that the subject farm and garden constitutes an open space use, which is expressly sanctioned by the CALPAW statute.

The above-referenced citizens' letter asserts that the HGP garden would constitute an agricultural use of the CALPAW funded Pogonip property which would categorically violate the CALPAW statute's "open-space, natural and recreational" land use restriction. This assertion is incorrect.

Pertinent definitions are set forth at Section 5902 of the CALPAW statute:

"Natural lands" means an area of relatively undeveloped land which (1) has substantially retained its characteristics as provided by nature or has been substantially restored, or which can be feasibly restored, to a near-natural condition, and which has outstanding wildlife, scenic, open-space, or park resources, or a combination thereof, or (2) meets the definition of open-space land in Section 65560 of the Government Code.

Significantly, the above "natural lands" definition incorporates by reference the definition of "open-space land" set forth CALPAW at California Government Code Section 65560. That definition of "open-space land", at subsection (b)(2) states:

(b) "Open-space land" is any parcel or area of land or water that is essentially unimproved and devoted to an open-space use as defined in this section, and that is designated on a local, regional, or state open-space plan as any of the following:...

(2) Open-space used for the managed production of resources, including, but not limited to, forest lands, rangeland, *agricultural lands*, and areas of economic importance for the production of food or fiber; areas required for recharge of groundwater basins; bays, estuaries, marshes, rivers, and streams that are important for the management of commercial fisheries; and areas containing major mineral deposits, including those in short supply.

In summary, the Pogonip farm and garden, which will occupy less than one quarter of one percent of the Pogonip property's acreage, despite its agricultural component, is also an open-space use expressly authorized by the CALPAW statute.¹

Thank you for your consideration of this matter. It is important for the City to understand that its historic planning process for the Pogonip property conforms to the CALPAW statute's land use mandates prior to implementing pertinent Pogonip Master Plan policies. Your department's

¹ The CALPAW statute, at Section 5907 allocated \$15,000,000 "... for acquisition of those greenbelt lands known as the Pogonip property located in the City of Santa Cruz and the County of Santa Cruz, as defined in the 1979 City of Santa Cruz Greenbelt Ordinance..." The referenced "Greenbelt Ordinance", similar to the CALPAW statute, authorized the agricultural use of greenbelt properties as a means of preserving their open space character.

confirmation of the City's understanding and interpretation of the statute, as set forth above, would be of great assistance to the City in this regard.

While we have only attached the State's two EIR comment letters, we will be pleased to promptly provide you with copies of the other documents referenced in this letter, or their pertinent excerpts, upon your request. Please also feel free to call or write if you have any questions.

Respectfully,

A handwritten signature in black ink, reading "Anthony B. Elliot". The signature is fluid and cursive, with the first name "Anthony" and last name "Elliot" clearly legible. The middle initial "B." is smaller and less distinct.

Tony Elliot
Director of Parks & Recreation
City of Santa Cruz

State of California

Memorandum

Date : March 19, 1998

To : Nadell Gayou, Projects Coordinator
The Resources Agency

From : Department of Parks and Recreation
Santa Cruz District (408) 429-2850

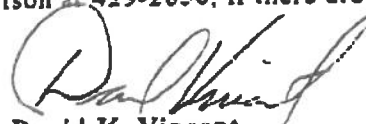
Subject: Pogonip Master Plan, City of Santa Cruz
Draft Environmental Impact Report - SCTH# 7062099

Thank you for the opportunity to review and comment on the "Draft Pogonip Master Plan, Environmental Impact Report". The Santa Cruz District of the California State Parks has an interest in this project as it could impact public access on two park units adjacent to the project, namely Henry Cowell Redwoods State Park and Wilder Ranch State Park.

The District supports either Master Plan Trail alternatives A or B: allowing multiple use of existing service roads in Pogonip. Use of the service roads will facilitate establishment of compatible trail circulation from Henry Cowell Redwoods State Park to the Santa Cruz City, the University of California at Santa Cruz, and beyond to Wilder Ranch State Park. This will provide the public some outstanding recreation opportunities.

The establishment of equestrian and bicycle trails complies with Coastal Zone Management Goals and is a goal supported by the Santa Cruz County General Plan, Sections 7.7.6 and 7.7.8.

Please contact me, or Bob Culbertson at 429-2850, if there are any further questions or concerns.



David K. Vincent
District Superintendent

cc: Bob Culbertson
Richard Rayburn

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Governor's Office of Planning and Research

1400 Tenth Street.
Sacramento, CA 95814



April 7, 1998

SUSAN HARRIS
CITY OF SANTA CRUZ PARKS AND RECREATION DEPARTMENT
323 CHURCH STREET
SANTA CRUZ, CA 95060

Subject: POGONIP MASTER PLAN SCH #: 97062099

Dear SUSAN HARRIS:

The State Clearinghouse submitted the above named environmental document to selected state agencies for review. The review period is closed and none of the state agencies have comments. This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act.

Please call Kristen Derscheid at (916) 445-0613 if you have any questions regarding the environmental review process. When contacting the Clearinghouse in this matter, please use the eight-digit State Clearinghouse number so that we may respond promptly.

Sincerely,

ANTERO A. RIVASPLATA
Chief, State Clearinghouse

BRADY AND ASSOCIATES
APR 15 1998