



Notice of Appeal to the Board of Supervisors REQUEST FOR FACILITATION

DATE: June 8, 2020
TO: Rachel Van Mullem, County Counsel
FROM: David Villalobos, PC Hearing Support
Case Name: CalTrans Highway 101 Gaviota Culvert Replacement
Case Number: 19DVP-00000-00034, 19CUP-00000-00054, 19CDP-00000-00133
PC Hearing: May 27, 2020
Appeal Date: June 8, 2020
Appellant: Doug Kern, Gaviota Coast Conservancy

An appeal to the Board of Supervisors of the Planning Commission's decision on the above case has been filed and will be scheduled for hearing before the Board of Supervisors. A copy of the appeal is attached and a list of the names and addresses of the affected parties are shown below.

Please consult with the case planner in setting facilitation meeting date. Please send a copy of the meeting notification letter to Hearing Support staff of Planning & Development, Attn: David Villalobos at ext. 2058.

- ▮ **Attachments:**
- [Appeal to the Board of Supervisors dated June 5, 2020](#)
 - [Planning Commission Action Letter dated June 1, 2020](#)
 - [Planning Commission Staff Report dated May 19, 2020](#)

Names/Addresses of affected parties:

Appellant: Gaviota Coast Conservancy, P.O. Box 1099, Goleta, CA 93116; (805) 222-6184
Attorney (for GCC): Marc Chytilo, P.O. Box 92233, Santa Barbara, CA 93190; (805) 682-0585
Owner: Justin Borders, CalTrans, 50 Higuera Street, San Luis Obispo, CA 93401; [805.542.4718](tel:8055424718)
Agent: Mitch Dallas, CalTrans, 50 Higuera Street, San Luis Obispo, CA 93401; 805-542-4662

NOTE TO PLANNERS: County of Santa Barbara procedures provide for an informal consultation meeting among parties involved in land use permit appeals. The consultation meeting occurs after an appeal is filed, and prior to the Board appeal hearing. County Counsel's office will arrange for the meeting.

The purpose of the meeting is to clarify issues pertaining to the appeal, to identify possible solutions, and to notify parties in dispute of available mediation services which may assist in resolving disagreements. An experienced County meeting facilitator will conduct the meeting, and will prepare a report for meeting participants and the County decision-maker on issues and options identified which may assist resolution of the appeal.

cc: Case File: 19DVP-00000-00034, 19CUP-00000-00054, 19CDP-00000-00133
Lisa Plowman, Director, Planning and Development
Jeff Wilson, Assist Director
Tess Harris, Supervising Planner
Ciara Ristig, Planner
Records Management
David Villalobos, Hearing Support

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**PLANNING COMMISSION DECISION
 APPEALED TO THE BOARD OF SUPERVISORS
 January 8, 2020**

Case Numbers: 19DVP-00000-00034 19CUP-00000-00054 19CDP-00000-00133 APN: 081-130-054, 081-130-072, 081-270-011 Area: Gaviota District: Third	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20%;">Title:</td> <td>CalTrans Highway 101 Gaviota Culvert Replacement</td> </tr> <tr> <td>Applicant:</td> <td>CalTrans</td> </tr> <tr> <td>Appealed by:</td> <td>Doug Kern, Gaviota Coast Conservancy</td> </tr> <tr> <td>Date appealed:</td> <td>June 8, 2020; 2:37 P.M.</td> </tr> <tr> <td>Planner:</td> <td>Ciara Ristig x82077</td> </tr> <tr> <td>Supervising Planner:</td> <td>Tess Harris x83319</td> </tr> </table>	Title:	CalTrans Highway 101 Gaviota Culvert Replacement	Applicant:	CalTrans	Appealed by:	Doug Kern, Gaviota Coast Conservancy	Date appealed:	June 8, 2020; 2:37 P.M.	Planner:	Ciara Ristig x82077	Supervising Planner:	Tess Harris x83319
Title:	CalTrans Highway 101 Gaviota Culvert Replacement												
Applicant:	CalTrans												
Appealed by:	Doug Kern, Gaviota Coast Conservancy												
Date appealed:	June 8, 2020; 2:37 P.M.												
Planner:	Ciara Ristig x82077												
Supervising Planner:	Tess Harris x83319												
	Planning Commission	Board of Supervisors											
Hearing Dates:	May 27, 2020	Approved the project.											
Fee Paid:		\$0 (Coastal Zone)											
APPELLANTS REASON FOR APPEAL: See attached appeal letter FACILITATION: N/A OUTCOME OF BOS HEARING:													

cc: Lisa Plowman, Director
 Jeff Wilson, Assistant Director
 Tess Harris, Supervising Planner
 Ciara Ristig, Planner
 Accounting
 Joe Dargel
 David Villalobos, Hearing Support



**PLANNING & DEVELOPMENT
APPEAL FORM**

SITE ADDRESS: On US 101 in Santa Barbara County, 05-SB-101-45.5, located at Highway 101 at Postmile (PM) 45.5 in the Gaviota Coast Plan area.

ASSESSOR PARCEL NUMBER: This site is identified as Assessor's Parcel Number 000-000-000 (no assigned APN, Caltrans Right of Way), 081-130-054, 081-130-072, and 081-270-011.

Are there previous permits/applications? no yes numbers: _____
(include permit# & lot # if tract)

Is this appeal (potentially) related to cannabis activities? no yes

Are there previous environmental (CEQA) documents? no yes numbers: SCH# 2018071001
Case No. 19DVP-00000-00034, 19CUP-00000-00054, 19CDP-00000-00133

1. Appellant: Gaviota Coast Conservancy Phone: (805) 222-6184 FAX: _____

Mailing Address: PO Box 1099, Goleta CA 93116 E-mail: doug.kern@gaviotacoastconservancy.org
Street City State Zip

2. Owner: State of California c/o Justin Borders Phone: _____ FAX: _____

Mailing Address: 50 Higuera Street, San Luis Obispo, CA 93401 E-mail: _____
Street City State Zip

3. Agent: State of California, Caltrans, Mitch Dallas Phone: _____ FAX: _____

Mailing Address: 50 Higuera Street, San Luis Obispo, CA 93401 E-mail: _____
Street City State Zip

4. Attorney: (for GCC) Law Office of Marc Chytilo, APC Phone: 805-682-0585 FAX: 805-682-2379

Mailing Address: P.O.Box 92233, Santa Barbara, CA 93190 E-mail ana@lomcsb.com
Street City State Zip

COUNTY USE ONLY

Case Number: _____ Companion Case Number: _____
Supervisorial District: _____ Submittal Date: _____
Applicable Zoning Ordinance: _____ Receipt Number: _____
Project Planner: _____ Accepted for Processing _____
Zoning Designation: _____ Comp. Plan Designation _____

RECEIVED
 2020 JUN -8 P 2:37
 COUNTY OF SANTA BARBARA
 CLERK OF THE
 BOARD OF SUPERVISORS

COUNTY OF SANTA BARBARA APPEAL TO THE:

BOARD OF SUPERVISORS

PLANNING COMMISSION: COUNTY MONTECITO

RE: Project Title CalTrans Highway 101 Gaviota Culvert Replacement

Case No. 19DVP-00000-00034, 19CUP-00000-00054, 19CDP-00000-00133

Date of Action May 27, 2020

I hereby appeal the approval approval w/conditions denial of the:

Board of Architectural Review – Which Board? _____

Coastal Development Permit decision

Land Use Permit decision

Planning Commission decision – Which Commission? County of Santa Barbara

Planning & Development Director decision

Zoning Administrator decision

Is the appellant the applicant or an aggrieved party?

Applicant

Aggrieved party – if you are not the applicant, provide an explanation of how you are and “aggrieved party” as defined on page two of this appeal form:

Gaviota Coast Conservancy provided written public comment and appeared at the Planning Commission meeting on
May 27, 2020 on this matter represented by the Law Office of Marc Chytilo, APC. The decision is inconsistent with several
Gaviota Coast Plan policies. In addition, the decision does not address critical concerns that could positively alleviate
wildlife roadkill, and enhance wildlife passage corridors. Recently provided scientific data supports reworking the project
engineering and design considerations. Appellant Gaviota Coast Conservancy’s purposes are to protect
natural resources and recreational opportunities throughout the Gaviota Coast, for itself and on behalf of its supporters.

Reason of grounds for the appeal – Write the reason for the appeal below or submit 8 copies of your appeal letter that addresses the appeal requirements listed on page two of this appeal form:

- A clear, complete and concise statement of the reasons why the decision or determination is inconsistent with the provisions and purposes of the County’s Zoning Ordinances or other applicable law; and
- Grounds shall be specifically stated if it is claimed that there was error or abuse of discretion, or lack of a fair and impartial hearing, or that the decision is not supported by the evidence presented for consideration, or that there is significant new evidence relevant to the decision which could not have been presented at the time the decision was made.

Please see attached appeal letter

Specific conditions imposed which I wish to appeal are (if applicable):

- a.

- b.

- c.

- d.

Please include any other information you feel is relevant to this application.

CERTIFICATION OF ACCURACY AND COMPLETENESS Signatures must be completed for each line. If one or more of the parties are the same, please re-sign the applicable line.


Applicant's signature authorizes County staff to enter the property described above for the purposes of inspection.

I hereby declare under penalty of perjury that the information contained in this application and all attached materials are correct, true and complete. I acknowledge and agree that the County of Santa Barbara is relying on the accuracy of this information and my representations in order to process this application and that any permits issued by the County may be rescinded if it is determined that the information and materials submitted are not true and correct. I further acknowledge that I may be liable for any costs associated with rescission of such permits.

Doug Kern  6/8/2020

Print name and sign – Firm

Date

Doug Kern  6/8/2020

Print name and sign – Preparer of this form

Date

Print name and sign – Applicant

Date

Print name and sign – Agent

Date

Print name and sign – Landowner

Date

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• June 5, 2020

County of Santa Barbara
Board Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101

• RE: Appeal of the Planning Commission's Approval of the Caltrans Highway 101 Gaviota Culvert Replacement Project, Case No. 19DVP-00000-00034, 19CUP-00000-00054, 19CDP-00000-00133

• Dear Chair Hart and Members of the Board of Supervisors:

This appeal is filed on behalf of the Gaviota Coast Conservancy (GCC). GCC is dedicated to protecting the rural character and environmental integrity of the Gaviota Coast for present and future generations, as well as encouraging public access and recreation. GCC hereby appeals the Planning Commission's May 27, 2020 approval of the Caltrans Highway 101 Gaviota Culvert Replacement Project ("Project"). We reserve the right to supplement this appeal with additional information prior to the appeal hearing.

• GCC acknowledges that the Project is needed in order to rebuild failing Highway 101 infrastructure. However, in constructing an entirely new culvert, rather than rebuilding the original deteriorating structure, there is a substantial opportunity to incorporate features that support wildlife passage and human foot travel as discussed in the Gaviota Coast Plan. In its decision, the Planning Commission failed to incorporate new information of substantial importance demonstrating the project is occurring in a wildlife corridor with significant wildlife-vehicle conflicts on Highway 101. Planning Commission Staff also failed to identify the existence of a public trail corridor within the Project area.

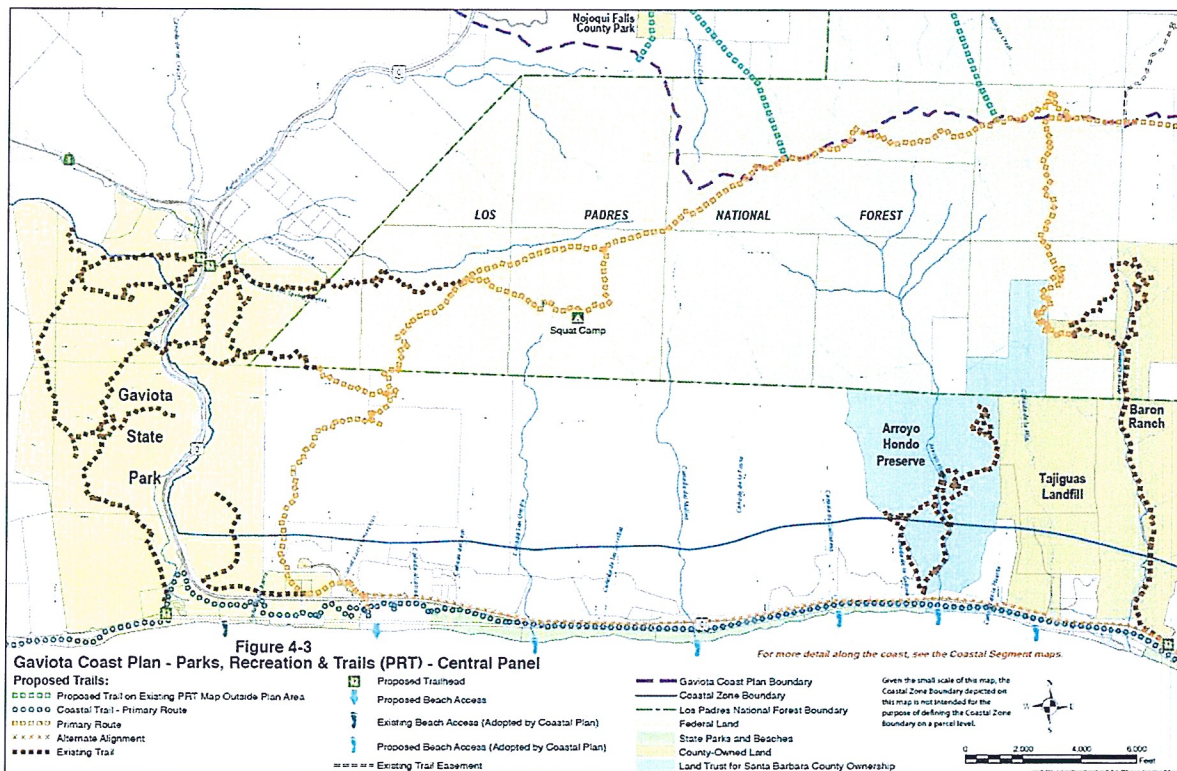
• We request that the Board grant this appeal, and deny the Project so that it can be redesigned and appropriately incorporate these public and wildlife benefits.

1. The Project Fails to Incorporate Relevant Gaviota Coast Plan policies.

• **Trails**

The Planning Commission Staff Report does include an analysis of the Project's consistency with Gaviota Coast Plan policies. However, consistent with the "Mitigated Negative Declaration for the Gaviota Culvert Replacement Project SCH# 2018071001" (MND), the Planning Commission Staff Report fails to identify the existence of a public trail corridor within the Project area. Shown on the Gaviota Coast Plan PRT map, below, there is a segment of the proposed Coastal Trail Primary Route within the Project area (c.f. MND, pp. 2, 4, showing the location and layout of the proposed project (Alternative 1).)

• **Gaviota Coast Plan Figure 4-3, Parks, Recreation & Trails (PRT) – Central Panel**



The Gaviota Coast Plan’s Parks, Recreation & Trails chapter including Policies REC-2 and REC-4 call for the active promotion and expansion of trails, and Policy REC-12 calls for interagency coordination between the County and Caltrans to establish an effective network of trails. Specifically, these policies provide as follows:

Policy REC-2: Promote Expansion of Trails, Coastal Access and Recreational Opportunities. The County shall actively promote expansion of public trails, coastal access and recreational opportunities within the Gaviota Coast Plan Area, using its regulatory authority, incentives and other tools to acquire and develop trails, coastal access and recreational facilities, and to encourage provision of lower cost recreational overnight accommodations. For all pending private and public development projects with planned or existing recreational uses, the County shall fully explore options for new trails, coastal access and parking, lower cost overnight accommodations, and ways to promote their acquisition and development through the environmental and planning review processes.

Policy REC-4: Protect and Preserve Trail Alignments. All opportunities for public trails within the general alignments and locations identified on the Parks, Recreation and Trails (PRT) map shall be protected, preserved, provided for, and sited and

designed using the considerations in Policy REC-5 and Policy REC-6 during review and approval of development and/or permits requiring discretionary approval.

Policy REC-12: Interagency Coordination. The County shall work cooperatively with organizations including but not limited to the California Coastal Conservancy, California Department of Parks and Recreation, Caltrans, Union Pacific Railroad or its successor, non-profits, and the US Forest Service to establish an effective network of inland and coastal trails where jurisdictions overlap.

Unfortunately, there is no discussion in the Staff Report or elsewhere in the Project documents concerning the California Coastal Trail (CCT) segment located in the Project area, and whether it should be provided for during the approval of this discretionary project per Policy REC-4. Similarly, there is no discussion of the County's obligation to actively promote expansion of public trails and coordinate with Caltrans as contemplated by Policy REC-12 to establish an effective CCT network, both in the context of this specific project and considering cumulative impacts of similar Caltrans projects like the Refugio Bridges Replacement Project currently undergoing environmental review, or the Arroyo Quemada Bridge Lane Realignment project identified in the County's Regional Transportation Plan.

Given Caltrans' central role in effectuating the CCT through this section of coastline, the County must undertake a more active role in engaging with Caltrans regarding coastal trail planning on the Gaviota Coast. Both Caltrans and the County must look at individual discretionary projects as opportunities for establishing trail segments, as well as to the cumulative development scenario on the Gaviota Coast and opportunities for establishing trail connectivity and increased access such as parking throughout the Gaviota Coast Plan area. GCC would welcome the opportunity to engage in this process.

There are additional Gaviota Coast Plan policies that are germane to the Gaviota Culvert project but not identified or considered. They include:

- Action REC-3: Coastal Trail Planning Coordination. The County shall actively:*
- 1. Seek funding for coastal trail development, planning, and construction and identify related issues and constraints.*
 - 2. Promote and achieve inter-jurisdictional coordination, planning, and implementation.*
 - 3. Work with private non-profit trail organizations to acquire funding.*

Action REC-5: Memorandum of Understanding. The County should establish a Memorandum of Understanding (MOU) with the California Department of Parks and Recreation, Caltrans, and the US Forest Service to coordinate planning and funding of future trail implementation, managed access, environmental review, construction, and long-term maintenance.

Action REC-7: Trail and Access Completion. The County shall work with the County Riding and Hiking Trails Advisory Committee to strive to complete public access improvements including, but not limited to, the following:

...
4. *Work with California State Parks to develop and open a three-mile-long bluff top segment of the California Coastal Trail, south of U. S. Highway 101, from Gaviota State Park east to the Gaviota Marine Terminal.*

In addition to Policy Rec-12 which requires interagency coordination, Action Rec-3 also provides that the County shall actively “promote and achieve inter-jurisdictional coordination, planning, and implementation” of the Coastal Trail. Per Action Rec-3 the County should establish a Memorandum of Understanding with State Parks and Caltrans to coordinate planning and funding of future trail implementation, and using individual projects to facilitate construction of segments of this important State priority project.

The Board of Supervisors approved the Gaviota Coast Plan on November 8, 2016 and since then, the County has apparently taken no action to advance the inter-agency coordination process that is required by the Gaviota Coast Plan and absolutely essential if the County is going to actually establish a Coastal Trail along the Gaviota Coast. The Board must act to implement the above policy and action items as soon as possible.

Wildlife Corridors

The GavPlan includes specific policies concerning protection of wildlife corridors that have not been considered or their direction integrated into the Project.

Policy NS-6: Wildlife Corridors. Development shall avoid to the maximum extent feasible and otherwise minimize disruption of identified wildlife travel corridors.

Action NS-2: Wildlife Corridors. Landforms and natural features, between the watersheds and mountain and ocean habitats, that are potential wildlife movement areas for apex species and medium and large mammals should be identified in consultation with State and federal wildlife agencies, and/or through specialized scientific studies.

Dev Std NS-1: Wildlife Corridors. (COASTAL) Where avoidance of wildlife corridors is infeasible, development, including fences, gates, roads, and lighting shall be sited and designed to not restrict wildlife movement. Fences and gates shall be wildlife-permeable, unless the fence or gate is associated with an approved agricultural use, is located within an approved development area, or where temporary fencing is required to keep wildlife away from habitat restoration areas.

The Gaviota Coast Plan Policies NS-6, Action NS-2, and Dev Std NS-1 function to ensure that potential wildlife corridors are identified, that their disruption is avoided to the maximum extent feasible, or if avoidance is infeasible that development be designed not to restrict wildlife movement. Here, the Project area has not been adequately studied in

advance of this Project, and new substantial evidence submitted by the Coastal Ranches Conservancy (CRC) shows that the area does function as a wildlife corridor and that wildlife death from attempting to cross Highway 101 in this area significantly impacts Gaviota Coast wildlife. Additional study, and the development of mitigation proposals including potential use/improvement of the existing culvert as a wildlife undercrossing, is required before this Project can proceed.

2. The Project Failed to Fully Comply with CEQA.

The MND improperly omitted Gaviota Coast Plan policies from its analysis of potentially significant impacts (relying instead on the general CLUP Policies that apply throughout the County's Coastal Zone). Moreover, CRC has introduced significant new information showing that new impacts to wildlife may occur and that new previously unconsidered mitigation measures may be feasible. Under these circumstances the County should not rely on Caltrans' MND and should direct subsequent environmental review. (CEQA Guidelines §§ 15096.f; 15162).

3. Conclusion

Important Project elements, including trails and wildlife crossings, are missing from the Project and would have emerged had critical Gaviota Coast Plan public trail and wildlife corridor policies been incorporated. Accordingly, we respectfully request that you grant the appeal, deny the Project, engage in additional environmental review, and direct County staff to engage with Caltrans and State Parks Department officials to advance planning and implementation of the Coastal Trail through the Gaviota Coast.

Thank you for the opportunity to provide this appeal for your consideration.

Respectfully submitted,



Doug Kern
Executive Director