



**BOARD OF SUPERVISORS
AGENDA LETTER**

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Planning and Development
Department No.: 053
For Agenda Of: September 1, 2020
Placement: Set Hearing of August 18, 2020
Estimated Time: 45 minutes
Continued Item: No
If Yes, date from: N/A
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Lisa Plowman, Director, Planning and Development
Director (805) 568-2086
Contact Info: Travis Seawards, Deputy Director, Planning and Development
(805) 568-2518
SUBJECT: Caltrans Gaviota Culvert Appeal, Case Nos. 20APL-00000-00009 & 20APL-00000-00010, Third Supervisorial District

County Counsel Concurrence

As to form: Yes

Other Concurrence: N/A

Auditor-Controller Concurrence

As to form: N/A

Recommended Actions:

On August 18, 2020, set a hearing for September 1, 2020 to consider the appeal filed by the Gaviota Coast Conservancy and the Coastal Ranches Conservancy, appellants, of the County Planning Commission's May 27, 2020 approval of the Caltrans Gaviota Culvert project, Case Nos. 19DVP-00000-00034, 19CUP-00000-00054, and 19CDP-00000-00133.

On September 1, 2020, staff recommends that your Board take the following actions:

- a) Deny the appeals, Case Nos. 20APL-00000-00009 (Attachment 8) and 20APL-00000-00010 (Attachment 7);
- b) Make the required findings for approval of the project, Case Nos. 19DVP-00000-00034, 19CUP-00000-00054, and 19CDP-00000-00133, including the California Environmental Quality Act (CEQA) findings (Attachment 1);
- c) Consider the environmental effects of the project as shown in the Mitigated Negative Declaration (SCH# 2018071001) dated February 28, 2019 (Attachment C) prepared and adopted by Caltrans, the lead agency, and determine that none of the conditions in CEQA Guidelines Section 15162 requiring a subsequent MND or EIR have occurred; and

- d) Grant *de novo* approval of the project, Case Nos. 19DVP-00000-00034, 19CUP-00000-00054, and 19CDP-00000-00133, subject to the conditions of approval (Attachments 2 – 4).

Summary Text:

This project was heard and approved at the County Planning Commission on May 27, 2020. Two appeals were filed within the 10 day appeal period, by the Gaviota Coast Conservancy and the Coastal Ranches Conservancy.

The project is a request to authorize the replacement of an existing culvert off US Highway 101 in the Cañada del Barro drainage on the Gaviota Coast that has excessive cracking, spalling, and moderate scour behind and underneath the existing left inlet wingwall. The existing culvert is a 6' x 6' reinforced concrete box (RCB) and 72-inch reinforced concrete pipe (RCP) drainage facility and would be replaced with a 72-inch alternative pipe culvert. The new culvert alignment would be located just west of the existing culvert alignment off US 101 near Postmile 45.5 (PM 45.5). The existing culvert would be filled with grout and abandoned in place.

The replacement culvert would be approximately 506 feet long and would include Rock Slope Protection (RSP), an endwall and wingwalls at the outlet, and a headwall at the inlet. The existing local road and sink hole above the inlet would also be repaired. Temporary access roads are proposed during construction. Grading includes approximately 4,610 cubic yards of cut and 5,050 cubic yards of fill, with an approximate total area disturbed by grading of 40,200 square feet. The maximum vertical height of the cut and fill slopes is 30 feet.

As part of the Mitigated Negative Declaration (MND) prepared and adopted by Caltrans, mitigation measures were applied to reduce impacts to biological resources to less than significant (Attachment 5). The design of the culvert and proposed mitigation has been carefully developed with input provided from the California Coastal Commission, US Fish and Wildlife, California Department of Fish and Wildlife, and California State Parks. The proposed and required ratios for compensatory mitigation are: a 3:1 ratio for temporary and permanent impacts to ESH, including native riparian habitat, coastal streams, and coastal scrub habitat, and a 4:1 ratio for temporary and permanent impacts to coastal wetlands. Caltrans is proposing a total of 7.02 acres of mitigation, which is 1.912 more than the 5.108 acres required per the Gaviota Coast Plan. Both onsite and offsite mitigation (at Refugio Creek) is proposed (Attachment 6). Areas impacted temporarily due to construction will be restored on site. Offsite mitigation is required to compensate for permanent impacts, since the site consists of a steep drainage course and valley surrounding Cañada del Barro, which limits the opportunity to completely mitigate for affected habitats onsite.

Caltrans would monitor and maintain the onsite mitigation areas for five years after planting. Maintenance of the offsite areas will be funded by Caltrans and implemented by South Coast Habitat Restoration. Performance standards for both onsite and offsite mitigation efforts are identified in Attachment 6, pages 22-23.

This project is located on three parcels zoned REC (APN No. 081-130-054, 081-130-072, 081-270-011), and CalTrans Right of Way (zoned TC) off Highway 101 in the Gaviota Coast Plan area, Third Supervisorial District.

Background

Highway 101 in the project area is a four lane divided highway constructed on an embankment over the Cañada del Barro drainage, and the roadway embankment is approximately 89 feet tall and was constructed with 2:1 (horizontal to vertical) side slopes. Caltrans documentation files indicate that a 26 ft. 6'x 6' reinforced box culvert (RCB) was constructed below the embankment sometime before 1933 and then was extended by 139 ft. with another 6'x 6'RCB in 1933. The 165 ft. long RCB was extended again in 1952 with another 225 ft. of 72" diameter reinforced concrete pipe (RCP). The Caltrans Maintenance Design Branch inspected the culvert and found spalling concrete with exposed and rusted rebar throughout the RCB reaches and recommended repair or replacement of the culvert.

Caltrans is the Lead Agency for the environmental document, which was circulated in July 2018 and the project was approved by Caltrans and MND adopted in February 2019. Neither appellant provided comments on the MND when the document was circulated. On May 27, 2020, the County Planning Commission approved the Caltrans Gaviota Culvert Replacement Development Plan, Conditional Use Permit and Coastal Development Permit. On June 5 and June 8, 2020, pursuant to Section 35.182.5 of the Coastal Zoning Ordinance, the Appellants filed timely appeals to the Board of Supervisors.

Appellant Appeal Issues and Staff Responses

The two appeal applications filed by the Coastal Ranches Conservancy and the Gaviota Coast Conservancy (Attachment 7 & 8) contain letters detailing the issues raised in the appeal to your Board. These issues and staff's responses are summarized below.

Appellant #1- Coastal Ranches Conservancy

Appeal Issue 1: The Mitigated Negative Declaration prepared by Caltrans is inadequate: The appellant asserts that the environmental document neglects to adequately address wildlife passage through the culvert, Caltrans failed to follow its internal regulations related to the investigation of wildlife at the site, the loss of State Park property due to the project, and that off-site mitigation should be located along Gaviota Creek and not Refugio Creek.

Staff Response:

1. **Wildlife Passage:** The MND conducted a thorough study of wildlife corridors in Section 2.2.1 of the MND and concluded that the project area is not an important wildlife corridor. The MND states:

The location of the Gaviota Culvert Replacement project does not represent a core habitat area or key migratory pathway for regional wildlife populations. This is not to say that animals do not attempt to cross US 101. However, given the lack of core habitat on the west side of the highway, the project will not impede any wildlife dispersal along an established regional dispersal corridor. Since wildlife corridors are not present, they are not further discussed in this section.

Between March and October 2017 Caltrans biologists conducted 78 hours of field work at the project site during project development, including wildlife surveys (visual observations, track and sign surveys), nesting bird surveys, botanical surveys, and jurisdictional delineations, as stated in Attachment 14 and incorporated herein by reference. An additional 30-plus hours of fieldwork were conducted by Caltrans biologists onsite beginning in 2017. Field studies for this project indicated that the existing culvert (or Cañada del Barro at large) is not an important wildlife corridor and that any biological impacts of the project are mitigated to a less than significant level. Additionally, Caltrans biologists conducted an extensive desktop/GIS review of the best available science when assessing the project site for use as a wildlife corridor, consulting the California Essential Habitat Connectivity (CEHC) Project database, the California Connectivity Opportunity Areas (COAs) model, the California Roadkill Observation System (CROS), and California Highway Patrol (CHIPs) roadkill data at the project site level and for the surrounding landscape (Attachment 12). This review confirmed the initial assessment that Cañada del Barro is not a regionally or locally important wildlife corridor. The entire corridor from the Nojoqui Summit to Calle Mariposa could be defined as a "hot spot", but when viewed at this scale, the data suggests no correlation between a wildlife movement corridor and the existing culvert or Cañada del Barro in general. The "new information" submitted by Appellant regarding wildlife-vehicle conflict does not demonstrate existing conflict in the particular area of the project and does not demonstrate that the project itself would be the cause of any wildlife-vehicle conflict. Appellants suggest additional design measures that could be taken to *benefit* wildlife in the area, but CEQA is limited to mitigating impacts *caused* by a project.

2. **Caltrans Regulations:** The County does not enforce Caltrans' compliance with internal Caltrans regulations.
3. **State Park Property:** Caltrans worked directly with the State Parks to initiate a 'transfer of jurisdiction' once the project is approved, see Attachment 13 dated July 9, 2020. State Parks is transferring approximately 5.01 acres to allow Caltrans to access the site for maintenance purposes. A financial sum (amount to be determined) will be transferred between the two State agencies. Zoning of the land in question will not change and culvert construction will not inhibit future recreational use of the site.

Any impacts from the project are mitigated pursuant to the Mitigation and Monitoring Plan, as discussed in Attachment 6 and incorporated by reference. Specifically, the ratios required for compensatory mitigation for this project include a 3:1 ratio for temporary and permanent impacts to ESH, including native riparian habitat, coastal streams, and coastal scrub habitat, and a 4:1 ratio for temporary and permanent impacts to coastal wetlands.

Areas impacted temporarily due to construction will be restored on site. CalTrans will conduct a 1:1 on-site restoration of temporary impacts to streams and riparian areas by planting arroyo willow pole plantings and cuttings along the creek banks. To meet the required 3:1 mitigation ratio for impacts to riparian habitat, coastal scrub habitat, and coastal streams, CalTrans proposes offsite mitigation along Refugio Creek, including support of follow-up mechanical and chemical treatment of giant reed, additional invasive species removal, and subsequent planting of large over-story tree species. Please refer to Item No. 4 below, as well as Section 6.1.2 in the staff report, dated May 19, 2020 and incorporated herein by reference (Attachment 9) for additional details on mitigation requirements.

4. **Off-site Mitigation:** The project meets the intent of Gaviota Coast Plan policy NS-11, because in-kind mitigation opportunities exist for Refugio Creek but not the Gaviota Creek. Gaviota Coast Plan Policy NS-11, which states “where onsite restoration is infeasible, the most proximal and in-kind offsite restoration shall be required. Preservation in perpetuity for conservation and/or open space purposes of areas subject to restoration shall be required as a condition of the CDP and notice of such restriction shall be provided to property owners through a recorded deed restriction or Notice to Property Owner.” When preparing the mitigation plan, Caltrans confirmed with California State Parks that no in-kind mitigation opportunities currently exist within the Gaviota State Park, and therefore Refugio Creek was chosen for off-site mitigation in coordination with the US Army Corps of Engineers, California State Parks, the Regional Water Quality Control Board and the California Department of Fish and Wildlife. See Attachment 15 for further rationale from Caltrans.

Mitigation at Refugio Creek will complement work begun by the Land Trust of Santa Barbara County and South Coast Habitat Restoration (SCHR). The off-site mitigation location is within an existing voluntary conservation easement held by the Land Trust of Santa Barbara County. Caltrans mitigation will continue this work, in partnership with SCHR. The 2.2 acres of restoration proposed along Refugio Creek will contribute to the project’s total mitigation of 7.02 acres, which is 1.912 acres more than required per the Gaviota Coast Plan. Additionally, this mitigation measure was drafted as part of the Caltrans MND that has already been adopted by Caltrans and is not subject to modification as part of the County’s action. As a responsible agency instead of a lead agency, the County’s role in this project is more limited.

Appellant #2- Gaviota Coast Conservancy

Appeal Issue 1: The MND Fails to Incorporate Gaviota Coast Plan Policies: The appellant states that the Planning Commission staff report and MND fail to incorporate and analyze relevant Gaviota Coast Plan policies, particularly policies concerning trails and wildlife corridors.

Staff Response: Caltrans, in coordination with the County Parks Department, determined that there were no impacts to the trail resource, future or mapped, from the proposed project, and thus Caltrans would not be expected to plan or construct the Coastal Trail through this area when replacing an existing culvert. Chapter 2 of the MND, included as Attachment 5 and incorporated herein by reference, states:

***Recreation:** The project is located within the boundaries of the Gaviota State Park, however the area where the culvert lies is inaccessible to the public. In order to construct the project, access roads to*

the inlet and outlet of the culvert would need to be constructed. These access roads would remain in place for maintenance of the culvert. The project would not affect park use or access.

Further, in response to comments from the Coastal Commission regarding the access road and coastal trail, dated August 1, 2018, and included as Chapter 4 of the MND, Caltrans states:

Although Caltrans appreciates the proposed solution that would benefit both Caltrans' and the public's interests, in order to meet the project schedule, cost, and scope, the coastal trail cannot be accommodated as part of this project. The proposed permanent access roads will be removed, regraded, and replanted upon completion of construction.

This project does not impact the existing recreational area or any existing trails, and does not prevent the development of a trail in the future. The Coastal Trail is a mapped future trail identified in the Gaviota Coast Plan. The Gaviota Coast Plan (GCP) was not adopted until November 7, 2018, after the MND was circulated in July 2018, which is why the trail was not extensively analyzed in MND for the project. The GCP also identifies in the Parks, Recreation and Trails section that:

The lines that represent trails on the PRT maps are not intended to depict precise trail locations. Instead, each line represents a general corridor within which a trail is proposed. There are two reasons for this. First, the large scale of the maps makes it difficult to show precise trail routes. Second, flexibility is required to plan and implement exact trail locations. The terrain of an area, privacy of the property owner and neighbors, safety of trail users, agricultural operations and environmental constraints often influence the ultimate placement of a trail.

The precise location of the trail has not yet been determined and depends on the many factors listed above.

The MND considered potential impacts to the Coastal Trail in response to comments from the Coastal Commission. Caltrans responded to the Coastal Commission's comments by stating that 'in order to meet the project schedule, cost and scope, the Coastal Trail cannot be accommodated as part of this project.' The Coastal Commission did not require development of the trail. Given the minor nature of the project, which consists of replacement of an existing failing culvert, County staff determined that there was no nexus to mandate construction of the trail. This repair and replacement project is considered necessary for the continued operation of Highway 101. The County of Santa Barbara Parks Department reviewed the project in October 2019 and determined that the proposed project would not affect future development of the trail, and that given the minor nature of the project, Caltrans would not be expected to plan or construct the Coastal Trail through this area.

The staff report prepared for the Planning Commission, Attachment 9, included analysis of relevant Comprehensive Plan policies, including the Gaviota Coast Plan.

The appellant cites several policies of the Gaviota Coast Plan which were not included in the staff report.

The project complies with *Policy REC-2: Promote Expansion of Trails, Coastal Access and Recreational Opportunities*, because the project does not have any impacts on existing trails or proposed trails, and therefore there is no basis for the County to use this project to obtain a trail.

The project complies with *Policy REC-4: Protect and Preserve Trail Alignments*, because it does not impact or prevent future trail development, and therefore protects and preserves proposed trail alignments. The lines that represent trails on the PRT maps are not meant to depict precise trail alignment. There is no basis to site a trail for this project as it has no impacts on trails.

The project complies with *Policy REC-12: Interagency Coordination*, because there is no need to coordinate on the establishment of trails as part of this particular project as it has no impact on trails. The County has coordinated with Caltrans, and County Parks on the project and determined that the project did not have a nexus for trail development. Further, during the development of the MND, Caltrans coordinated with State Parks and Coastal Commission.

The project complies with *Action REC-3: Coastal Trail Planning Coordination*, because the project has no impact on trails and does not prevent compliance with this policy in the future. This project would not inhibit the County from obtaining future funding for trail development near the project site.

The project complies with *Action REC 5: Memorandum of Understanding*, because there is no existing trail that will be impacted by the project and no basis to require a trail.

The project complies with *Action REC-7: Trail and Access Completion*, because the project does not impact existing trails, there is no basis for requiring a trail and State Parks is not an applicant for the project.

The project complies with *Policy NS-6: Wildlife Corridors*, because there is no evidence that the project disrupts wildlife corridors. See Appellant #1, Appeal Issue 1 response above for further discussion regarding impacts to wildlife.

The project complies with *Action NS-2 Wildlife Corridors*, since consultation with State and federal wildlife agencies, in addition to studies completed by Caltrans, provided no evidence that the project impacts a wildlife corridor.

The project complies with *Dev Std NS-1 Wildlife Corridors*, because no evidence has been presented that the project impacts a wildlife corridor. Replacement of the existing culvert will not further inhibit wildlife movement.

See Appellant #1, Appeal Issue 1 response above for further discussion regarding impacts to wildlife.

Appeal Issue 2: The Project Fails to Comply with CEQA: The Appellant states that due to the omission of the Gaviota Coast Plan policies, and the introduction of significant new information regarding wildlife corridors and mitigation from Coastal Ranches Conservancy, the County should direct subsequent environmental review.

Staff Response: The project complies with all applicable CEQA requirements. The MND was circulated from July 2 to July 31, 2018, which was prior to the certification of the Gaviota Coast Plan by the California Coastal Commission. The Gaviota Coast Plan was certified and adopted on November 7, 2018. Therefore, the Gaviota Coast Plan policies did not exist at the time of MND circulation and are therefore not subject to consistency review of this project for the purposes of CEQA. Relevant Gaviota Coast Plan policies were analyzed in the staff report included as Attachment 9 to this Board Letter and incorporated by reference. The policies cited by Appellant are not relevant for the reasons discussed below:

See Appellant #1, Appeal Issue 1 response above for discussion relating to potential new information regarding impacts to wildlife and proposed mitigation.

None of the conditions in CEQA Guidelines Section 15162 requiring a subsequent MND or EIR have occurred, as discussed in this Board Letter and Attachments.

Fiscal and Facilities Impacts:

Budgeted: Yes.

Total costs for processing the appeal are approximately \$13,200.00 (53 hours of staff time). The costs for processing appeals is included in the General Fund subsidy in Planning and Development's adopted budget. No appeal fee was paid by the appellants, since the project is located within the County's coastal jurisdiction and is appealable to the Coastal Commission. Funding for processing this appeal is budgeted in the Planning and Development Permitting Budget Program, as shown on page D-294 of the County of Santa Barbara Fiscal Year (FY) 2020-21 adopted budget.

Special Instructions:

The Clerk of the Board shall fulfill all noticing requirements. The notice shall appear in the Santa Barbara News Press and shall be mailed as required by Article II Section 35-181-2.A.1.b.1 (labels attached). A minute order of the hearing and copy of the notice and proof of publication shall be forwarded to the Planning and Development Department, Hearing Support, Attention: David Villalobos.

Attachments:

1. Board of Supervisor Findings
2. Conditions of Approval for Case 19DVP-00000-00034
3. Conditions of Approval for Case 19CUP-00000-00054
4. Conditions of Approval for Case 19CDP-00000-00133
5. Mitigated Negative Declaration, SCH#2018071001
6. Mitigation & Monitoring Plan (MMP)
7. Coastal Ranches Conservancy Appeal Application to the Board of Supervisors
8. Gaviota Coast Conservancy Appeal Application to the Board of Supervisors
9. Planning Commission Staff Report, dated May 19, 2020
10. Planning Commission Action Letter dated June 1, 2020

11. Project Plans
12. Roadkill Data provided by Applicant
13. Caltrans Response Regarding Transfer of Jurisdiction
14. Caltrans Wildlife Passage Response
15. Caltrans Mitigation Response

Authored by:

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