

ATTACHMENT 1: FINDINGS

CEQA FINDINGS

1.1 NEGATIVE DECLARATIONS

1.2 FINDING THAT A PREVIOUS ENVIRONMENTAL DOCUMENT CAN BE USED (PER CEQA SECTION 15162)

A Mitigated Negative Declaration was adopted by Caltrans on February 28, 2019 (SCH# 2018071001). The Project was evaluated in the Mitigated Negative Declaration and mitigation measures were incorporated into the project by Caltrans.

CEQA Section 15162 provides that when an EIR has been certified for a project or a ND adopted for a project, no subsequent EIR or ND shall be prepared unless the County determines, on the basis of substantial evidence in light of the whole record, one or more of the following:

1. Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant, environmental effects or a substantial increase in the severity of previously identified significant effects; or
3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:
 - a. The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
 - b. Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
 - d. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Section 15162 of the State CEQA Guidelines is found to be applicable to the effects of the Project (19DVP-00000-00034, 19CUP-00000-00054, 19CDP-00000-00133) within the scope of the County's jurisdiction. Subsequent to adoption of the Mitigated Negative Declaration by Caltrans, no changes are proposed in the project, no substantial changes have occurred with respect to the circumstances under which the project is undertaken, and no new information of substantial importance is available. Therefore, the Board of Supervisors finds that pursuant to CEQA Section 15162, no subsequent EIR or ND needs to be prepared and the previous environmental document prepared for the project, the Mitigated Negative Declaration dated February 28, 2019 (SCH# 2018071001) may be used to fulfill the environmental review requirements for this project, 19DVP-00000-00034, 19CUP-00000-00054, 19CDP-00000-00133. Please refer to Attachments C and D of the Planning Commission staff report, dated May 19, 2020, and the Board Agenda Letter dated August 5, 2020, incorporated herein by reference.

1.3 **CONSIDERATION OF THE NEGATIVE DECLARATION AND FULL DISCLOSURE**

The Board of Supervisors finds and accepts that the Mitigated Negative Declaration (Dated February 28, 2019; SCH# 2018071001) constitutes a complete, accurate, adequate and good faith effort at full disclosure under CEQA. The Board of Supervisors further finds and accepts that the Mitigated Negative Declaration has been completed in compliance with CEQA.

1.4 **LOCATION OF DOCUMENTS**

The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of the County Planning Commission of the Planning and Development Department located at 123 East Anapamu Street, Santa Barbara, CA 93101 (please call 805-568-2000 to make an appointment).

ADMINISTRATIVE FINDINGS

2.1 **DEVELOPMENT PLAN FINDINGS**

2.1.1 **Findings required for all Preliminary and Final Development Plans.** In compliance with Section 35-174.7.1 of the Article II Coastal Zoning Ordinance, prior to the approval or conditional approval of an application for a Preliminary or Final Development Plan the decision-maker shall first make all of the following findings:

- 1. That the site for the project is adequate in size, shape, location, and physical characteristics to accommodate the density and level of development proposed.**

The Board of Supervisors finds that the site is adequate in size, shape, location, and physical characteristics to accommodate the density and level of development proposed. The proposed project would be located on Transportation Corridor (TC)

and Recreation (REC) zoned property. The project proposes to replace a culvert immediately adjacent to an existing culvert that will be abandoned. The project is necessary to avoid flooding of and damage to the existing highway infrastructure. The project has been designed to support existing and future roadway capacity thereby avoiding impeding travel conditions and supporting the general welfare and convenience of the community. The project meets all zoning requirements and development standards for the TC and REC zones. The project has been designed with the least impactful access roads to the culvert outlet, and the project limits the largest impact area (the jacking pit) to the culvert inlet (north of the highway) where ESH has not been designated. All environmental impacts are being mitigated at ratios that meet or exceed those mandated by the County of Santa Barbara as discussed in Attachment D of the staff report, dated May 19, 2020, and in the Board Agenda Letter dated August 5, 2020, incorporated herein by reference.

2. That adverse impacts are mitigated to the maximum extent feasible.

The Board of Supervisors finds that the project has been designed in coordination with the U.S. Army Corps of Engineers (USACE), Regional Water Quality Control Board (RWQCB), California Department of Fish and Wildlife (CDFW), and the California Coastal Commission (CCC) to mitigate the adverse impacts to the maximum extent feasible while meeting the project's objective of replacing a culvert located partially within Environmentally Sensitive Habitat. The project has been designed to comply with Coastal Plan mandated mitigation ratios, which include onsite and offsite mitigation ratios. The proposed mitigation complies with and exceeds the 3:1 ratio for temporary and permanent impacts to native riparian habitat, coastal streams, and coastal scrub habitat and a 4:1 ratio for temporary and permanent impacts to coastal wetlands. A combination of onsite and offsite restoration and mitigation is proposed, where temporarily impacted areas will be restored on site. As included in Attachments C and D of the staff report, dated May 19, 2020, and in the Board Agenda Letter dated August 5, 2020, incorporated herein by reference, the MND and MMP prepared by Caltrans supports the findings that there are no significant impacts and the impacts have been mitigated to the maximum extent feasible. The MND identified biological resources as the only area with impacts that would be less than significant with mitigation. Impacts to all other areas were deemed less than significant.

3. That streets and highways are adequate and properly designed to carry the type and quantity of traffic generated by the proposed use.

The Board of Supervisors finds that the streets and highways are adequate to serve the project. The project involves the replacement of an existing culvert, which is a use that does not generate new traffic. Temporary construction traffic will be generated by the proposed use, and project construction will take approximately 5 months. Once the project is complete, it will not contribute any Peak Hour Trips (PHT) nor increase demand. During construction Caltrans will implement the Transportation Management Plan developed for the project. Temporary roads created for construction will be regraded and re-vegetated upon completion.

4. That there are adequate public services, including but not limited to fire protection, water supply, sewage disposal, and police protection to serve the project.

The Board of Supervisors finds that there are adequate services to serve the project. No sewer services are required to serve the proposed project. A temporary drip irrigation system utilizing truck watering will be used in the establishment of vegetation for the first year of the project. All irrigation will be fed by tanker trucks from the mainline shoulder through temporary irrigation system which will be available for 3 years. When the revegetation planting contract ends all irrigation equipment will be removed from the site. The County Fire Department and County Sheriff's Office serve the area where the culvert is located and would respond to any incidents.

5. That the project will not be detrimental to the health, safety, comfort, convenience, and general welfare of the neighborhood and will not be incompatible with the surrounding area.

The Board of Supervisors finds that the project will not be detrimental to the health, safety, comfort, convenience, and general welfare of the neighborhood and will not be incompatible with the surrounding area. The project is a replacement culvert, which is necessary to avoid flooding of and damage to the existing highway infrastructure. The project is designed to support existing and future roadway capacity thereby avoiding impeding travel conditions and supporting the general welfare and convenience of the community. The project will not generate any noise after construction is complete, and there are no nearby sensitive receptors. The closest sensitive receptors are the County Fire Department which is 1200 feet away and the edge of the State Park parking lot which is 2500 feet away. The project includes a Traffic Management Plan, dust control measures, and implementation of erosion and stormwater control best management practices. These measures will help to minimize short term construction impacts to the area and will preserve the health, safety, and comfort of the area.

6. That the project is in conformance with 1) the Comprehensive Plan, including the Coastal Land Use Plan, and 2) with the applicable provisions of this Article II and/or the project falls with the limited exception allowed under Section 35-161.7.

The Board of Supervisors finds that the project is in conformance with the Comprehensive Plan and with the applicable provisions of Article II. As discussed in Section 7 and 7.1 of the staff report, dated May 19, 2020, and in the Board Agenda Letter dated August 5, 2020, incorporated herein by reference, the proposed project is consistent with all applicable policies of the County Comprehensive Plan, including the Coastal Land Use Plan, the Gaviota Coast Plan. The project is also consistent with all requirements of the Coastal Zoning Ordinance (Article II). The project does not fall within the limited exception allowed under Article II, Section 35-161.7.

7. That in designated rural areas the use is compatible with and subordinate to the scenic, agricultural and rural character of the area.

The Board of Supervisors finds that the proposed use is compatible with and subordinate to the character of the area. The project extends through rural portions of the County. The project will perpetuate existing transportation corridor/highway use of the area. Visual impacts of the project were reviewed as part of the MND, and the MND concluded that the project will have minimal to no visibility from Highway 101, Amtrak rail cars, and other public viewpoints. As discussed under the biological resources portion of Section 7 of the staff report, dated May 19, 2020, and incorporated herein by reference, the project includes revegetation of native plants and trees to replace those removed or impacted as part of the project. The project, as a whole, will be compatible with and subordinate to the scenic character of the area.

8. That the project will not conflict with any easements required for public access through, or public use of a portion of the property.

The Board of Supervisors finds that the project will not conflict with any easements required for public access through, or public use of a portion of the property. The proposed project would occur within an area already developed for highway infrastructure. Public access easements do not exist in the project area, as confirmed in communication with Caltrans. No temporary construction-related closures will affect public access, and the project will also not impact the development of future public access of the REC zoned parcels. Santa Barbara County Parks Department did not provide any conditions on the project and the California Department of Parks and Recreation has provided consent for the project.

2.2 CONDITIONAL USE PERMITS

2.2.1 Findings required for all Conditional Use Permits. In compliance with Section 35-172.8 of the Article II Coastal Zoning Ordinance, prior to the approval or conditional approval of an application for a Major or Minor Conditional Use Permit the decision-maker shall first make all of the following findings:

1. That the site for the project is adequate in size, shape, location and physical characteristics to accommodate the type of use and level of development proposed.

The Board of Supervisors finds that the site is adequate in size, shape, location, and physical characteristics to accommodate the density and level of development proposed. The proposed project would be located on Transportation Corridor (TC) and Recreation (REC) zoned property. The project proposes to replace a culvert immediately adjacent to an existing culvert that will be abandoned. The project is necessary to avoid flooding of and damage to the existing highway infrastructure. The project has been designed to support existing and future roadway capacity thereby avoiding impeding travel conditions and supporting the general welfare and convenience of the community. The project meets all zoning requirements and

development standards for the TC and REC zones. The project has been designed with the least impactful access roads to the culvert outlet, and the project limits the largest impact area (the jacking pit) to the culvert inlet (north of the highway) where ESH has not been designated. All environmental impacts are being mitigated at ratios that meet or exceed those mandated by the County of Santa Barbara.

2. That adverse environmental impacts are mitigated to the maximum extent feasible.

The Board of Supervisors finds that the project has been designed in coordination with the U.S. Army Corps of Engineers (USACE), Regional Water Quality Control Board (RWQCB), California Department of Fish and Wildlife (CDFW), and the California Coastal Commission (CCC) to mitigate the adverse impacts to the maximum extent feasible while meeting the project's objective of replacing a culvert located partially within Environmentally Sensitive Habitat. The project has been designed to comply with Coastal Plan mandated mitigation ratios, which include onsite and offsite mitigation ratios. The proposed mitigation complies with and exceeds the 3:1 ratio for temporary and permanent impacts to native riparian habitat, coastal streams, and coastal scrub habitat, and a 4:1 ratio for temporary and permanent impacts to coastal wetlands. A combination of onsite and offsite restoration and mitigation is proposed, where temporarily impacted areas will be restored on site. As included in Attachments C and D of the staff report, dated May 19, 2020, and in the Board Agenda Letter dated August 5, 2020, incorporated herein by reference, the MND and MMP prepared by Caltrans supports the findings that there are no significant impacts and the impacts have been mitigated to the maximum extent feasible. The MND identified biological resources as the only area with impacts that would be less than significant with mitigation. Impacts to all other areas were deemed less than significant.

3. That streets and highways are adequate and properly designed to carry the type and quantity of traffic generated by the proposed use.

The Board of Supervisors finds that project construction will take approximately 5 months. Once the project is complete, it will not contribute any PHTs nor increase demand. During construction Caltrans will implement the Transportation Management Plan developed for the project. Temporary roads created for construction will be regarded and re-vegetated upon completion.

4. That there will be adequate public services, including but not limited to fire protection, water supply, sewage disposal, and police protection to serve the project.

The Board of Supervisors finds that there are adequate services to serve the project. No sewer services are required to serve the proposed project. A temporary irrigation system utilizing truck watering will be used in the establishment of vegetation for the first year of the project. All irrigation will be fed by tanker trucks from the mainline shoulder through temporary irrigation system which will be available for 3 years. When the revegetation planting ends all irrigation equipment will be removed from

the site. The County Fire Department and County Sheriff's Office will serve the project.

5. That the project will not be detrimental to the health, safety, comfort, convenience, and general welfare of the neighborhood and will not be incompatible with the surrounding area.

The Board of Supervisors finds that the project will not be detrimental to the health, safety, comfort, convenience, and general welfare of the neighborhood and will not be incompatible with the surrounding area. The project is a replacement culvert, which is necessary to avoid flooding of and damage to the existing highway infrastructure. The project is designed support existing and future roadway capacity thereby avoiding impeding travel conditions and supporting the general welfare and convenience of the community. The project will not generate any noise after construction is complete, and there are no nearby sensitive receptors. The project includes a Traffic Management Plan, dust control measures, and implementation of erosion and stormwater control best management practices. These measures will help to minimize short term construction impacts to the area and to preserve the health, safety, and comfort of the area.

6. That the project is in conformance with the applicable provisions and policies of this Article and the Coastal Land Use Plan.

The Board of Supervisors finds that the project is in conformance with the Comprehensive Plan and with the applicable provisions of Article II. As discussed in Section 7 and 7.1 of the staff report, dated May 19, 2020, and in the Board Agenda Letter dated August 5, 2020, incorporated herein by reference, the project is consistent with all applicable policies of the County Comprehensive Plan, including the Coastal Land Use Plan, the Gaviota Coast Plan, and is consistent with all requirements of the Article II Coastal Zoning Ordinance.

7. That in designated rural areas the use is compatible with and subordinate to the scenic and rural character of the area.

The Board of Supervisors finds that the proposed use of a replacement culvert is compatible with and subordinate to the character of the area. The project extends through rural portions of the County and will perpetuate existing transportation corridor/highway use of the area. Visual impacts of the project were reviewed as part of the MND, and the MND determined that the project would have minimal to no visibility from Highway 101, Amtrak rail cars, and other public viewpoints. As discussed under the biological resources portion of Section 7 of the staff report, dated May 19, 2020, and in the Board Agenda Letter dated August 5, 2020, incorporated herein by reference, the project includes revegetation of native plants and trees to replace those removed or impacted as part of the project. The project, as a whole, will be compatible with and subordinate to the scenic character of the area.

8. That the project will not conflict with any easements required for public access through, or public use of the property.

The Board of Supervisors finds that the project, as discussed in Section 7 of the staff report, dated May 19, 2020 and in the Board Agenda Letter dated August 5, 2020, incorporated herein by reference, will not conflict with any easements required for public access through or public use of a portion of the property. The proposed project would occur within an area already developed for highway infrastructure. No temporary construction-related closures will affect public access, and the project will also not impact the development of future public access of the REC zoned parcels.

9. That the proposed use is not inconsistent with the intent of the zone district.

The Board of Supervisors finds that the project, as discussed in Section 7 and 7.1 of the staff report, dated May 19, 2020 and in the Board Agenda Letter dated August 5, 2020, incorporated herein by reference, is consistent with the REC and TC zone districts and that there are adequate services to serve the project which is the replacement of an existing damaged culvert. It will not impact existing or potential future recreational usage of the two REC zoned parcels. Proposed access roads for construction will be removed, regarded and replanted upon completion of construction. The purpose of the TC zone district is to preserve and protect established and proposed transportation corridors and to regulate land uses within and adjacent to such corridors. The proposed project is a replacement culvert, which is necessary to avoid flooding of and damage to the existing highway infrastructure.

2.3 COASTAL DEVELOPMENT PERMIT FINDINGS

2.3.1 Findings required for all Coastal Development Permits. In compliance with Section 35-60.5 of the Article II Coastal Zoning Ordinance, prior to issuance of a Coastal Development Permit, the County shall make the finding, based on information provided by environmental documents, staff analysis, and/or the applicant, that adequate public or private services and resources (i.e., water, sewer, roads, etc.) are available to serve the proposed development.

The Board of Supervisors finds that, as discussed in Section 7 of the staff report, dated May 19, 2020, and in the Board Agenda Letter dated August 5, 2020, incorporated herein by reference, there are adequate services to serve the project. No sewer services are required to serve the proposed project. A temporary irrigation system utilizing truck watering will be used in the establishment of vegetation for the first year of the project. Temporary roads will be graded for construction and regarded and re-vegetated upon completion. All irrigation will be fed by tanker trucks from the mainline shoulder through temporary irrigation system which will be available for 3 years. When the revegetation planting ends all irrigation equipment will be removed from the site. The County Fire Department and County Sheriff's Office serve the area where the culvert is located and would respond to any incidents.

2.3.2 **Findings required for Coastal Development Permit applications subject to Section 35-169.4.3 for development that may be appealed to the Coastal Commission.** In compliance with Section 35-169.5.3 of the Article II Coastal Zoning Ordinance, prior to the approval or conditional approval of an application for a Coastal Development Permit subject to Section 35-169.4.3 for development that may be appealed to the Coastal Commission the decision-maker shall first make all of the following findings:

1. The proposed development conforms:

- a. To the applicable provisions of the Comprehensive Plan, including the Coastal Land Use Plan;**
- b. The applicable provisions of this Article or the project falls within the limited exceptions allowed in compliance with Section 161 (Nonconforming Use of Land, Buildings and Structures).**

The Board of Supervisors finds that the project is in conformance with the Comprehensive Plan and with the applicable provisions of Article II. As discussed in Section 7 and 7.1 of the staff report, dated May 19, 2020, and in the Board Agenda Letter dated August 5, 2020, incorporated herein by reference, the proposed project is consistent with all applicable policies of the County Comprehensive Plan, including the Coastal Land Use Plan, the Gaviota Coast Plan, and is consistent with all requirements of the Article II Coastal Zoning Ordinance. The project does not fall within the limited exceptions allowed in compliance with Section 161 (Nonconforming Use of Land, Buildings and Structures).

2. The proposed development is located on a legally created lot.

The Board of Supervisors finds that the proposed project is located on three parcels that were created as legal lots. APN 081-130-072 is identified as a legal lot on Parcel Map 11135, and APNs 081-270-011 and 081-130-054 are identified as State Land in Surveyors Book 85 Page 29.

3. The subject property and development on the property is in compliance with all laws, rules and regulations pertaining to zoning uses, subdivisions, setbacks and any other applicable provisions of this Article, and any applicable zoning violation enforcement fees and processing fees have been paid. This subsection shall not be interpreted to impose new requirements on legal nonconforming uses and structures in compliance with Division 10 (Nonconforming Structures and Uses).

The Board of Supervisors finds that, as discussed in Section 7.1 of the staff report, dated May 19, 2020, and in the Board Agenda Letter dated August 5, 2020, incorporated herein by reference, the proposed project would conform to all applicable laws, rules, and regulations pertaining to the REC and TC zones. There are no current violations associated with the subject properties.

4. The development will not significantly obstruct public views from any public road or from a public recreation area to, and along the coast.

The Board of Supervisors finds that visual impacts of the project were reviewed as part of the MND, which determined that the project would have minimal to no visibility from Highway 101, Amtrak rail cars, and other public viewpoints. Visibility of construction-related disturbance will be minimal since graded areas will be re-contoured to match their pre-construction condition. All disturbed areas will be re-vegetated with native species, per the Mitigation Monitoring Report. The MND also indicated that the project would not adversely affect views of any "Designated Scenic Resources" as defined by CEQA and by Caltrans policy.

5. The proposed development will be compatible with the established physical scale of the area.

The Board of Supervisors finds that the proposed development is compatible with and subordinate to the character of the area. The project extends through rural portions of the County. The project will perpetuate existing transportation corridor/highway use of the area. The MND determined that the project would have minimal to no visibility from Highway 101, Amtrak rail cars, and other public viewpoints. As discussed under the biological resources portion of Section 7 of the staff report, dated May 19, 2020, and incorporated herein by reference, the project includes revegetation of native plants and trees to replace those removed or impacted as part of the project. The project, as a whole, will be compatible with and subordinate to the scenic character of the area.

6. The development will comply with the public access and recreation policies of this Article and the Comprehensive Plan including the Coastal Land Use Plan.

The Board of Supervisors finds that the project will not conflict with any easements required for public access through, or public use of a portion of the property. The proposed project would occur within an area already developed for highway infrastructure and will not conflict with any easements required for public access through, or public use of a portion of the property. No temporary construction-related closures will affect public access, and the project will also not impact the development of future public access of the REC zoned parcels.

2.3.3 **Additional finding required for sites zoned Environmentally Sensitive Habitat (ESH) Overlay.** In compliance with Section 35-97.6 of the Article II Coastal Zoning Ordinance, prior to the issuance of a Coastal Development Permit for sites designated with the ESH Overlay District the decision-maker shall first find that the proposed development meets all applicable development standards in Section 35-97.8 through Section 97.19.

The Board of Supervisors finds that the proposed development would meet all applicable development standards in Section 35-97.18 through Section 35-97.19 of the Article II Zoning Ordinance as discussed in Section 6.1.3 of the staff report, dated May 19, 2020,

and incorporated herein by reference. The proposed new culvert is necessary to avoid potential flooding of the highway, and new development that is necessary for the protection of existing development and public safety may be allowed in ESH if it is designed and sited to avoid impacts to ESH to the maximum extent feasible. ESH has been identified on the south side of US 101 and will be impacted by the project; however, the project has been designed with the least impactful access roads to the culvert outlet, and the project limits the largest impact area (the jacking pit) to the culvert inlet (north of the highway) where ESH has not been designated. Both the existing and the proposed replacement culvert are within ESH. The California Department of Fish and Wildlife, the California Coastal Commission and the State Parks Department have all reviewed the project and acknowledged the impacts to ESH.

2.3.4 **Additional findings required for tree removal.** In compliance with Section 35-140.3 of the Article II Coastal Zoning Ordinance, prior to the approval or conditional approval of an application for a Coastal Development Permit for tree removal the decision-maker shall first make one of the following findings:

1. The trees are dead.
2. The trees prevent the construction of a project for which a Coastal Development Permit has been issued and project redesign is not feasible.
3. The trees are diseased and pose a danger to healthy trees in the immediate vicinity, providing a certificate attesting to such fact is filed with the Planning and Development Department by a licensed tree surgeon.
4. The trees are so weakened by age, disease, storm, fire, excavation, removal of adjacent trees, or any injury so as to cause imminent danger to persons or property.

The Board of Supervisors finds that, as discussed in Section 7.1 of the staff report, dated May 19, 2020 and incorporated herein by reference, the project has been designed to minimize impacts to trees and vegetation to the maximum extent feasible and therefore makes the finding that the trees prevent the construction of a project for which a Coastal Development Permit has been issued and project redesign is not feasible. The project, consisting of replacement an existing culvert constructed prior to the Coastal Act, cannot be resigned due to its location within a creek. The proposed culvert also needs to be located near the existing culvert to effectively convey water underneath the highway and to prevent flooding of and damage to the existing Highway 101.