

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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Appeal Filed: 10/29/2010
49th Day: 12/17/2010
Staff: L. Otter
Staff Report: 12/01/2010
Hearing Date: 12/16/2010

**Item Th 4.5a**

STAFF REPORT: APPEAL
SUBSTANTIAL ISSUE

Click here to go to
the staff report addendum.

LOCAL GOVERNMENT: County of Ventura

LOCAL DECISION: Approval with Conditions

APPEAL NO.: A-4-VNT-10-105

APPLICANT: California Dept. of Transportation (Caltrans), District 7

APPELLANTS: Douglas Richardson; James Littlefield, Santa Cruz Chapter Director Surfer's Environmental Alliance; David Chernof, MD

PROJECT LOCATION: Highway 101, between Seacliff exit and Bates Road (at the Santa Barbara County line), adjacent to the communities of Mussel Shoals, La Conchita, and Rincon Point, Ventura County

PROJECT DESCRIPTION: Construction of northbound and southbound high occupancy vehicle (HOV) lanes within the existing median of Highway 101, for a distance of 3.4 miles northwards from Mobil Pier Undercrossing; includes parallel Coastal Trail/bikeway with new or improved connecting shoreline access at seven locations, public access parking area at Punta Gorda, and new pedestrian undercrossing at La Conchita, all on public lands, highway and railroad rights of way. See top page of County staff report, Exhibit 4, attached, for full list of project ancillary components.

SUBSTANTIVE FILE DOCUMENTS: Dept. of Transportation, Dist.7: Mitigated Negative Declaration/Findings of No Significant Impact (MND/FONSI), December 2008; and, Ventura/Santa Barbara 101 HOV Project Addendum/Environmental Reevaluation, January 2010. County of Ventura: Planning Commission Staff Report and Recommendations for coastal permit (Conditional Use Permit LU09-0085) hearing of 7/15/2010; and, County administrative file for Conditional Use Permit (CUP) LU09-0085.

SUMMARY OF STAFF RECOMMENDATION: NO SUBSTANTIAL ISSUE EXISTS

Staff recommends that the Commission determine that **no substantial issue exists** with respect to the appellants' assertions that the project is not consistent with the County's certified Local Coastal Program (LCP) and the public access and recreation policies of the California Coastal Act.

Public Access: appellants' contentions. The appellants cite a wide variety of reasons for the appeal. But, at the core is the central issue of parking along the seaward shoulder of Highway 101. The appellants assert that the current opportunity for shoulder parking should be retained, and object to the project's alignment of the Coastal Trail/bikeway along the seaward edge of the highway as approved by the County. Their proposed alternative is to place the bike path on the inland (mountain) side of the highway, and seek a special designation that will allow shoulder parking to continue along the highway.

Shoulder parking: current situation. Although the entire 3.4 mile project distance is posted for emergency parking only, knowledgeable users are aware that this rule is generally not enforced in certain locations. By parking in the emergency parking space along this high-speed highway and scrambling over the K-rail and rock armor boulders that line this portion of the shoreline, surfers and other recreationalists can gain water access. See Exhibit 11, attached, for illustration of existing public access conditions.

County approval: includes public access mitigation measures. To install HOV lanes in the median area (and avoid any seaward expansion of the highway facility), the project will need to close the median barrier openings that currently allow turns across opposing flows of traffic. The project will result in two general purpose lanes and one HOV lane in each direction, with interior emergency parking bounded by a median barrier to separate north-bound/south-bound traffic, and additional emergency parking on the outside edge of the travel lanes. As such, the roadway will operate as a full-fledged freeway—meaning that the currently existing, but typically unenforced, shoulder parking restrictions will need to be enforced after construction of the project is complete to ensure public safety.

Furthermore, the addition of the HOV lanes, and of a barrier separated Coastal Trail/bikeway (regardless of a landward or seaward alignment), will completely occupy the footprint of the existing highway facility with no remaining area for additional public parking adjacent to the highway. These parking issues are recognized by the applicant, Caltrans, which has developed a robust public access program to offset the loss of the parking opportunity that currently effectively exists (albeit in violation of the posted signs).

This public access program includes installation of a barrier-protected Coastal Trail/bikeway along the seaward edge of the highway, alternate off-highway parking, installation of a new pedestrian undercrossing (PUC) at La Conchita, rehabilitation of the existing Punta Gorda PUC, and provision for installation or rehabilitation of a half-dozen additional shoreline access points. Restroom facility and litter collection will be provided consistent with LCP requirements, and Caltrans has committed to maintaining all facilities for the life of the project. See Exhibit 7 for Caltrans' summary of the project public access program, and Exhibit 10 for locations of these public access features.

Response to contentions: discontinued highway shoulder parking will be offset. It is true that the project will change the character of public access—in particular, existing parking opportunities (albeit in violation of the posted signs) along the shoulder of 4-lane Highway 101. Adding HOV lanes and closing the median to unsafe cross-over traffic will mean that this segment of Highway 101 will meet freeway operational standards. This in turn is expected to result in enforcement of the currently-posted shoulder parking prohibition. Those who have become accustomed to shoulder parking will need to park elsewhere.

The project design and permit conditions will assure that the discontinued shoulder parking is fully offset. Safety will be improved, because parked vehicles seeking beach access will no longer be exposed to speeding highway traffic. The seaward edge of the highway facility will be separated from vehicular traffic by a visually permeable safety barrier which has been aesthetically designed to maintain ocean views from the highway, and dedicated for non-motorized use as a segment of the California Coastal Trail (CCT). Pedestrian undercrossings will provide access from the inland side of the highway to the CCT and the beach at Punta Gorda and La Conchita.

Public access will be enhanced. The safety, quality and diversity of public access opportunities will be dramatically upgraded. Continuity of the Coastal Trail will be assured, on an alignment in close proximity to the sea. Numerous shoreline access points will be provided from the Coastal Trail—which will also function as a Class I bikeway (i.e., no motor vehicles). This segment of Highway 101 is already designated as part of the Pacific Coast Bike Route (PCBR); because there is no alternative off-highway route available for the PCBR, bicycles are (and will be) allowed to use the highway shoulder, regardless of freeway status. Thus, bicyclists will be able to ride on the barrier-protected Coastal Trail or—if they so choose--along the shoulders of the reconfigured highway.

Caltrans has designed the project to restore or add several new accessways, including six directly to the beach, along with four ADA-compliant ramp connections directly to/from the Coastal Trail interspersed along the corridor. The project design also will allow additional accessways, subject to future funding and permitting requirements should that be desired in the future. And, it will not preclude hypothetical future improvements on the inland side of the highway, for example double-tracking of the railroad, a separate commuter bikeway, additional parking and/or additional PUCs to serve the public.

Regional coastal corridor circulation and coastal access will benefit. For motor traffic, regional circulation and access to coastal parks will be improved by relieving the existing traffic bottleneck on Highway 101. Transit buses will have access to the new HOV lanes, greatly enhancing their potential for access to and along the coast. The net effect of the project will be to substantially and comprehensively increase the availability of access opportunities in the Ventura-Santa Barbara corridor.

Alternatives ineffective for addressing public access & safety needs. Postponement or denial of the project would mean continued unsafe conditions, including unprotected recreationally-oriented parking adjacent to high volume, high speed highway traffic. Bicyclists will have no choice but to ride adjacent to the same traffic. At the communities of Mussel Shoals and La Conchita, there would be no barrier to left turn movements across lanes of opposing traffic at speed.

For much of the length of the project, beach access would continue to be available only for those sufficiently nimble and hardy to scramble down (and back up) the large riprap boulders that characterize this segment of the coastal highway frontage. At La Conchita, surfers coming from the inland side of the highway would have to continue to dash across the railroad and the highway, or crab-walk through a dark, low-ceilinged culvert.

Appellants Richardson and Littlefield contend that the California Coastal Trail/bikeway should be aligned not next to the sea, but along the inland side of the freeway. Appellant Chernof also advocates an inland alignment for the bikeway. Their theory is that this would allow the existing pattern of shoulder parking to continue, and would avoid safety issues especially at Mussel Shoals. But, the premise that the Coastal Trail component of the project will cause the loss of public parking opportunities is unfounded. When the highway is upgraded to freeway status, existing parking on the shoulder of Highway 101 will no longer be tolerated--regardless of whether a barrier-separated Coastal Trail is provided along the seaward shoulder.

Further, an inland alignment for the CCT would mean that trail users' seaward views would be seriously compromised by the imposition of the freeway in the foreground, and that the sounds and smells of the sea would be replaced by that of motor traffic. Opportunities for access to the beach from the CCT would be very limited, since there would be only two cross-highway PUCs for the entire length of the project. There would be no PUC link at all to the existing Mussel Shoals public access points.

Public Access issue: general summary. Commission Staff agrees with both the County of Ventura and the applicant that overall public access will be best served, consistent with the intent of the Legislature, through completion of this project, as approved by the County. A seaward alignment for the Coastal Trail, as provided by the approved project, is most appropriate. Existing shoulder parking will be abundantly offset by other parking and public access facilities distributed along the length of the project. These facilities will serve a more diverse public, as well as the traditional surfer user group.

In particular, the project will maintain the availability of parking opportunities in the Highway 101 corridor. It will do so by opening, restoring or maintaining appropriate alternate parking opportunities and a variety of shoreline access facilities *within* the highway corridor area, but separated from motor traffic. Collectively, these will compensate for the existing, but precarious, shoulder parking that will no longer be available along the edge of Highway 101.

Accordingly, Staff concludes that the project as designed and conditioned will clearly maximize public access and recreational opportunities, in conformance with Coastal Act Sections 30210, 30211 and 30212; and will meet the objectives and requirements of the Ventura County Local Coastal Program public access policies.

Therefore, Staff believes that the Commission should find that the assertions of the appeals that the approved project does not conform to the public access and recreation provisions of the Coastal Act and the LCP, **do not raise a substantial issue.**

Other appeal contentions. Appellants cite a variety of reasons for the submitted appeals. These additional reasons range from an alleged lack of public participation opportunities, to a failure to provide proper balance with respect to private property. These contentions are evaluated in the attached findings. None of these additional contentions raises a substantial issue of conformance with the statutory standards of review.

The primary reason for this is that the grounds for appeal of a local government approval of development is limited to whether the development does not conform to the standards of the certified Local Coastal Program or the public access policies of the Coastal Act. Thus, the allegation that the County's decision is not in compliance with other Coastal Act policies or other local requirements is not a valid grounds for appeal of a coastal permit.

Further, in this case, the scope and extent of this development, while spanning a substantial distance along the shoreline, does not result in more than minor changes in the kind, location or intensity of development; does not have a significant adverse effect on significant coastal resources; has no significant adverse precedential effect, as mitigated; and does not raise issues of regional or statewide significance that justify *de novo* review. Therefore, the Commission finds that **the appeal does not raise a substantial issue as to the County's application of the cited LCP standards and Coastal Act public access policies.**

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EXHIBITS

- Exhibit 1. Richardson Appeal**
 - Exhibit 2. Littlefield Appeal**
 - Exhibit 3. Chernof Appeal**
 - Exhibit 4. County Staff Report for July 15, 2010 Planning Commission hearing
(County staff report exhibits 2-11 & 13-14 omitted due to length)**
 - Exhibit 5. Dept. of Transportation letter of Sept. 8, 2010 to Board of
Supervisors (including documentation of public outreach program)**
 - Exhibit 6. Conditions of Approval for Conditional Use Permit (CUP) LU09-0085
(as adopted at Board of Supervisors hearing of Sept. 21, 2010)**
 - Exhibit 7. Dept. of Transportation Public Access Commitment Letter of Oct.29,
2010 (inc. 48" height CCT pedestrian rail design)**
 - Exhibit 8. Ventura County Star article: 2 bicyclists struck on Hwy.101**
 - Exhibit 9. Additional Correspondence**
 - Exhibit 10. Coastal Access Plan/Vicinity Map**
 - Exhibit 11. Photographs: Existing Public Access Conditions**
 - Exhibit 12. Proposed: Highway 101 Cross Section**
 - Exhibit 13. Proposed: Coastal Trail & Barriers (perspective view)**
 - Exhibit 14. Mobil Pier Parking & Public Access**
 - Exhibit 15. Punta Gorda PUC Parking & Public Access**
 - Exhibit 16. Mussel Shoals Soundwalls & Public Access Location Maps**
 - Exhibit 17. Simulations: Mussel Shoals Soundwall & Coastal Trail**
 - Exhibit 18. La Conchita Parking & Beach Access**
 - Exhibit 19. Site Map: La Conchita Pedestrian Undercrossing (PUC)**
 - Exhibit 20. Simulations: La Conchita Pedestrian Undercrossing (PUC)**
 - Exhibit 21. South Rincon Parking & Public Access**
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I. APPEAL PROCEDURES

A. APPEAL JURISDICTION

The Coastal Act provides that after certification of Local Coastal Programs (LCPs), a local government's actions on Coastal Development Permit applications for development in certain areas and for certain types of development may be appealed to the Coastal Commission. Local governments must provide notice to the Commission of their coastal development permit actions. During a period of ten working days following Commission receipt of a notice of local permit action for an appealable development, an appeal of the action may be filed with the Commission.

Appeal Areas

Approvals of CDPs by cities or counties may be appealed if the development authorized is to be located within the appealable areas, which include the areas between the sea and the first public road paralleling the sea, within 300 feet of the inland extent of any beach or of the mean high-tide line of the sea where there is no beach, whichever is greater, on state tidelands, or along or within 100 feet of natural watercourses and lands within 300 feet of the top of the seaward face of a coastal bluff. (Coastal Act Section 30603[a]). Any development approved by a County that is not designated as a principal permitted use within a zoning district may also be appealed to the Commission irrespective of its geographic location within the Coastal Zone. (Coastal Act Section 30603[a][4]). Finally, developments which constitute major public works or major energy facilities may be appealed to the Commission. (Coastal Act Section 30603[a][5]).

In this case, the project site is located on the seaward edge of a completely armored coastal terrace and comprises the first public road parallel to the sea, as shown on the Ventura County Post Certification Map. The project falls within 300 feet of the shoreline, and constitutes a major public works project. Thus, both the location and type of project place it within the Commission's appeal jurisdiction.

Grounds for Appeal

The grounds for appeal of a local government approval of development shall be limited to an allegation that the development does not conform to the standards set forth in the certified Local Coastal Program or the public access policies set forth in Division 20 of the Public Resources Code. (Coastal Act Section 30603[b][1])

Substantial Issue Determination

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue exists with respect to the grounds on which the appeal was filed. When Commission staff recommends that no substantial

issue exists with respect to the grounds of the appeal, the Commission will hear arguments and vote on the “substantial issue” question. A majority vote of the members of the Commission present is required to determine that the Commission will not hear an appeal. If the Commission determines that no substantial issue exists, then the local government’s coastal development permit action will be considered final.

De Novo Permit Hearing

Should the Commission determine that a substantial issue does exist, the Commission will consider the CDP application de novo. The applicable test for the Commission to consider in a de novo review of the project is whether the entire proposed development is in conformity with the certified Local Coastal Program. Thus, the Commission’s review at the de novo hearing is *not* limited to the appealable development as defined in the first paragraph of this Section I. If a de novo hearing is held, testimony may be taken from all interested persons.

B. LOCAL GOVERNMENT ACTION AND FILING OF APPEALS

On July 15, 2010, the County of Ventura Planning Commission approved a coastal development permit (Conditional Use Permit No. LU09-0085) for the highway improvement project. Upon appeal, the Ventura County Board of Supervisors on Sept. 21, 2010 upheld the Planning Commission approval, with modified conditions (see Exhibit 6, attached). The Notice of Final Action for the project was received by Commission staff on October 19, 2010. Notice was provided of the ten working-day appeal period, which began October 20, 2010.

The subject appeals were filed during the appeal period, on Oct. 29, Nov. 1 and Nov. 2, 2010, respectively. Commission staff notified the County, the applicant, and all interested parties that were listed on the appeals and requested that the County provide its administrative record for the permit.

II. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

MOTION: *I move that the Commission determine that Appeal No. A-4-VNT-10-105 raises **NO** substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

STAFF RECOMMENDATION:

Staff recommends a **YES** vote. Passage of this motion will result in a finding of **No Substantial Issue** and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission will not hear the application de

novo and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

RESOLUTION TO FIND NO SUBSTANTIAL ISSUE:

The Commission hereby finds that Appeal No. A-4-VNT-10-105 raises **No Substantial Issue** with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the Certified LCP and/or the public access policies of the Coastal Act.

III. FINDINGS AND DECLARATIONS FOR NO SUBSTANTIAL ISSUE

The Commission hereby finds and declares:

A. PROJECT DESCRIPTION AND BACKGROUND

The primary purpose of the project is to construct northbound and southbound high occupancy vehicle (HOV) lanes within the existing median of Highway 101, for a distance of 3.4 miles northwards from Mobil Pier Undercrossing to the Santa Barbara County line at the Bates Road interchange. The project also includes construction of a parallel Coastal Trail/bikeway with eight shoreline access points, a public access parking area at Punta Gorda, and a new pedestrian undercrossing at La Conchita, all on public lands, highway and railroad rights of way. See top page of County staff report, Exhibit 4, attached, for full list of project ancillary components.

The project is a segment of a larger project that extends northwards into Santa Barbara County and the City of Carpinteria. Coastal Development Permits have already been approved for the portions of the larger project in these two jurisdictions. Upon completion, the overall HOV lane project will provide continuous HOV lane capacity throughout the length of the Ventura-Santa Barbara commute and coastal access corridor.

For an in-depth description of project background, and each major project component shown on Caltrans' application, see pp. 2-8 of Exhibit 4 (County staff report).

B. LOCAL PERMIT HISTORY

The County of Ventura Planning Commission approved Conditional Use Permit (CUP) LU09-0085 on July 15, 2010. The approved CUP comprises the coastal development permit (CDP) for the project. Local appeals of the Planning Commission's action were filed; the Board of Supervisors at their hearing of Sept. 21, 2010 upheld the Planning Commission's approval, with modification of several conditions to clarify and strengthen the project's public access components.

C. APPELLANTS' CONTENTIONS

The County's action was appealed by three parties: Douglas Richardson; James Littlefield, Santa Cruz Chapter Director Surfer's Environmental Alliance; and, David Chernof, MD. These three appeals are attached as **Exhibits 1, 2 and 3**, respectively. The appeal contentions, in part, relate to specific LCP standards or Coastal Act policies. Other portions of the appeals do not relate to any specific Land Use Plan policies or any particular development standards required by the Local Implementation Plan but instead raise more general issues. These contentions are outlined below, and analyzed in the following sections.

The appeal by Douglas Richardson asserts that the reasons for the appeal are as follows (see Exhibit 1 and attachments for complete text):

1. *The ... placement of the bike path on the seaward side of the highway ... [and] all the problems that positioning creates.*
2. *The ... project does not conform to the most key elements of the Coastal Act. The project's inconsistencies with the Coastal Act are in the areas of public participation, special resource values, maximization of beach access, coastal scenic values, public safety in the coastal zone, fiscal responsibility in the coastal zone, and a liberal application of the intent of the coastal act to protect the public's interest in the long term. [these topics are each elaborated in the appeal, and individually addressed below]*
3. *Inadequate reflection of Coastal Act policies ... [in the] LCP Access Components ...*
4. *Few directives to provide explicit findings in the LCP development review process and to mitigate all access impacts through various means.*

The appeal by James Littlefield, Santa Cruz Chapter Director, Surfer's Environmental Alliance, parallels several themes raised in the second reason cited in the Richardson appeal, asserting the following reasons for appeal (see Exhibit 2 and attachments for complete text):

1. *Failure to include the key stakeholders in the planning process.*
2. *Failure to maximize beach access for the public: failure to protect existing beach access.*
3. *Failure to protect and preserve the public's enjoyment of the scenic values along the coast.*
4. *Failure to protect the public safety in the coastal zone.*
5. *Failure to manage the public trust in a fiscally responsible manner.*

The appeal by David Chernof, MD, asserts the following as substantial issues (see Exhibit 3 and attachments for complete text):

1. *Regarding County Zoning Ordinances 8181-3.5b,c&d, ... [the project] will be ... obnoxious and impair neighboring property or uses, detrimental to public interest, health, safety, convenience or welfare.*
2. *Regarding Ventura County Coastal Area Plan ... [the] proposal will not maximize access to the north coast sub area consistent with private property rights.*
3. *Regarding Coastal Act Policies 30212, 30001.5c, 30116 and others ... State and local policies are not aligned to be clear, balanced and to....protect private property. Public access is not consistent with public safety and does not maximize public access consistent with constitutionally protected rights of private property owners, and do not recognize that Mussel Shoals is a sensitive coastal resource area-defined as a special community or neighborhood which (is) a significant visitor destination area.*

D. ANALYSIS OF SUBSTANTIAL ISSUE

Pursuant to Sections 30603 and 30625 of the Coastal Act, the appropriate standard of review for this stage of the subject appeal is whether a substantial issue exists with respect to the grounds raised by the appellants relative to the project's conformity to the standards contained in the certified Local Coastal Program (LCP), or with respect to the public access policies of the Coastal Act.

The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. The Commission's regulations indicate simply that the Commission will hear an appeal unless it "finds that the appeal raises no significant question." (Cal. Code Regs., Title 14, Section 13115(b))

In evaluating the issue of whether the appeal raises a substantial issue, the Commission considers the following factors:

1. The degree of factual and legal support for the local government's decision that the development is consistent with the certified LCP (and, if applicable, the Coastal Act public access policies);
2. The extent and scope of the development as approved by the local government;
3. The significance of coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretation of its LCP; and
5. Whether the appeal raises only local issues, or those of regional or statewide significance.

In this case, for the reasons discussed further below, the Commission determines that the appeal raises **no substantial issue** with regard to the grounds on which the appeal has been filed, as discussed below.

Each issue and LCP/Coastal Act Policy raised by the appellants is outlined below. Each issue is then discussed in relation to the degree of factual and legal support provided by the County to support its conclusion that the approved development is consistent with the certified Ventura County LCP and/or Coastal Act public access policies. Finally, after the discussion of the factual and legal support for the County's conclusions regarding the issues raised by the appellants, the other four factors used to determine whether a substantial issue exists will be discussed relating to the project as a whole, including the scope of the development, the resources on the site, the precedential value for interpretation of the County's LCP policies, and the applicability of the issues beyond the local area.

1. Consistency with certified LCP standards and Coastal Act public access policies.

The first factor in evaluating the issue of whether the appeal raises a substantial issue, is the degree of factual and legal support for the local government's decision that the development is consistent with the subject provisions of the certified LCP—and in this case, the public access policies contained in Chapter 3 of the Coastal Act.

a. Contention: failure to maximize beach access for the public, and to protect existing beach access. A key feature of the project is the 3.4-mile California Coastal Trail (CCT) segment that will connect Ventura County to Santa Barbara County, suitable for use by pedestrians and bicyclists. As approved by the Ventura County Board of Supervisors, the CCT will be aligned along the seaward side of Highway 101, and will be protected from motor traffic with visually permeable "see-through" safety barriers. See Exhibits 12 and 13 for illustrations.

Each of the three appeals assert that alignment of the bike path on the seaward side of the highway is not appropriate. For example, appellant Richardson contends that this positioning of the CCT/bikeway—i.e., on the seaward side—will cause a number of design problems and will preclude the existing opportunity for public access directly from the shoulder of the highway. Either implicitly, or in some instances explicitly, the appeals contend that the outcome will be inconsistent with the applicable LCP and Coastal Act policies. The appeals do not oppose the installation of the new HOV lanes. But, they advocate that the bikeway should be located along the inland (mountain) side of the freeway, rather than on the seaward side.

The Chernof appeal is distinct in that it also suggests leaving a 5 ft.-width path on the seaward side, dedicated to foot traffic; and, expand public parking at La Conchita.

Applicable standards. The appeals contend that substantial issue exists because the County's decision is not consistent with Coastal Act policies. In the case of the Chernof appeal, this contention is expanded to include the access objective stated in the

County's Local Coastal Program (LCP). These policies, in applicable part, are excerpted below.

The Ventura County Coastal Area Plan, which comprises the Land Use Plan portion of the County's LCP, provides a general policy statement as follows:

General Statements: Access Management.

16. The County will coordinate and supervise programs with other private and public organization to improve existing access, provide additional access, provide signing, parking, pedestrian and bicycle facilities, and the like.

The County's Coastal Area Plan also contains objectives and policies specific to the North Coast sub-area, comprising the 12 northernmost miles of the Ventura County coastal zone:

Access: Objective

To maximize public access to the North Coast sub-area consistent with private property rights, natural resources and processes, and the Coastal Act. Also, to maintain and improve existing access, as funds become available.

Policies: U.S. Highway 101

5. Caltrans should provide trash containers and sufficient pick-up, and at least one toilet for day-use.

6. When funds become available, the County will work with Caltrans to resolve the access problems from the communities of La Conchita and Mussel Shoals.

Public Works: Objective

To maintain current service levels for existing developments.

Policies:

3. When funds become available the State should improve the potentially dangerous highway crossings at Mussel Shoals and La Conchita.

The appellants also cite numerous Coastal Act provisions, including certain sections found in the Coastal Act's public access policies. Specifically with respect to the issue of maximizing beach access opportunities for the public, appellant Richardson quotes Coastal Act Sections 30210 and 30211. Appellant Littlefield provides the same references in SEA's follow-up letter of Nov.10, 2010 (attached as part of Exhibit 9). The Chernof appeal refers to Section 30212 (in part). These sections provide:

Section 30210 Access; recreational opportunities; posting

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211 Development not to interfere with access

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212 New development projects

- (a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety...

Analysis—highway shoulder parking issue. It is true that, despite “emergency parking only” signage, this restriction is not generally enforced by the California Highway Patrol in the Mussel Shoals-La Conchita Beach area. Those recreational users not intimidated by this signage nor the exposure to adjacent speeding highway traffic--and nimble enough to get over the existing concrete barrier and rip-rap boulders--are able to access the shoreline directly.

The Ventura County LCP’s Coastal Area Plan, adopted in 1980, states that “...popular North Coast recreation sites include the beach along Mussel Shoals and segments of U.S. Highway 101. ...many popular sections of U.S. 101 are not officially designated for use and therefore are not maintained. Trash and sanitation are major problems, and illegal camping and parking are frequent.” Under the heading of undeveloped facilities, Fig.3 of the LCP’s Coastal Area Plan documents a potential shoulder parking capacity of 270 unmarked spaces between Punta Gorda and Rincon Point. Thirty years later, a Caltrans beach parking study in 2010 placed this number at 211.

The appeals object to displacement of this existing shoulder parking opportunity--albeit one that is severely exposed to speeding traffic. The appellants suggest that the shoulder parking opportunity be preserved by aligning the CCT/bikeway to the inland (mountain) side of the freeway.

However, the contentions err in assuming that the proposed CCT/bikeway is the reason for the restriction on shoulder parking. The actual reason is public safety. Specifically, the project improvements (e.g., closing the median barrier to prevent left turns against oncoming traffic) will allow this segment of Highway 101 to operate to full freeway standards. Nationwide freeway standards recognize that non-emergency shoulder parking is unsafe, and restrict it accordingly.

Therefore, it is critical to understand that the project footprint from the insertion of the HOV lanes, along with the minimum necessary emergency parking, barrier separation, and ten-foot wide Coastal Trail/bikeway, will build-out the existing highway right-of-way to its limits (assuming no seaward expansion). With the new freeway configuration and flow of traffic, enforcement of (current) shoulder **parking restrictions along Highway 101 will occur regardless of whether the CCT/bikeway is on the seaward side of the highway, or on the landward side.**

Further, the project as designed will provide a variety of off-highway public parking and shoreline access improvements that will abundantly offset the anticipated enforcement of highway shoulder parking restrictions. These offsets include, for example:

- At Mobil Pier Undercrossing, improvement of existing public parking and access at Beacons Beach;

- Improvement of public lands at the Punta Gorda Pedestrian Undercrossing (PUC) to provide beach and Coastal Trail connections and a new public access parking area for at least 211 vehicles;
- At Mussel Shoals North, a direct connection from the CCT/bikeway to the wider beach northwards towards La Conchita, allowing beach access from public parking on the Old PCH right of way without having to go around or through the Mussel Shoals community;
- Construction of the La Conchita PUC, which will allow safe beach and CCT/bikeway access beneath Highway 101 (including ADA-compliant wheelchair access) from public parking along the shoulder of County-owned Surfside St.;
- At the area known as “Tank Farm” (between La Conchita and South Rincon), a direct connection from the CCT/bikeway to the beach;
- At South Rincon, a direct connection from the existing State Beach shoreline access parking facility to the CCT/bikeway; and,
- Multiple opportunities for shoreline access simply by going over the intentionally-climbable Coastal Trail/bikeway handrail (replacing the current “K-rail” style concrete barrier).

The locations of these improvements are shown on Exhibit 10, attached. The commitment to provide for the installation and maintenance of these public access facilities is confirmed by Caltrans in its letter of Oct. 29, 2010; see Exhibit 7, attached.

In terms of providing an equivalent amount of public parking opportunity, the project will maintain the total amount of space that is presently available within the project boundaries. The following table, derived from the Caltrans Parking Analysis 2010 study, summarizes the availability of parking for beach access:

Table 1. Parking with Beach Access

Location	Existing Available Spaces	Future Available Spaces
Rincon Point	262	262
U.S. 101/La Conchita	311 (211 on hwy.shoulder)	100
Mussel Shoals	43	43
Punta Gorda	0	211
Mobil Pier	43	43
Totals	659	659

Alternative configurations for public access facilities. The appeals contend that the Coastal Trail should be aligned to the mountain (inland) side of the Highway 101 freeway. However, both the Coastal Commission and the State Coastal Conservancy have long pursued the goal of a multi-modal Coastal Trail network alignment near the shoreline--where it can enhance the public’s ability to access the ocean. Thus, wherever constraints allow, the Coastal Trail should be proximate to the sight, sound and aroma of the sea. This sensory orientation is one of the guiding principles for aligning the trail, as explicitly identified in the report *Completing the California Coastal Trail* (California Coastal Conservancy, 2003, pursuant to SB 908).

In the present case, Caltrans has found a way that the Coastal Trail/bikeway can be feasibly aligned along the sea, with reasonable safety. In rebuttal to the appellants' contentions, aligning the Coastal Trail to the inland side of the highway will not somehow allow non-emergency shoulder parking along the freeway. The existing shoulder parking opportunity will disappear regardless of whether the CCT is along the shoreline, or along the inland side of the freeway.

At the local government hearings, Commission staff indicated that a commuter-oriented bikeway on the inland side of the highway might be worthy of evaluation; provided, that it would be in addition to—not instead of—the Coastal Trail alignment along the seaward side of the highway. Caltrans staff responded that this is not feasible because there is barely room in the existing highway right of way to add the HOV lanes and 10 ft.-width CCT/bikeway. Their measurements indicate that such an inland bikeway cannot be feasibly added to the present project, even if the Coastal Trail is reduced to 5 ft. in width and dedicated to foot traffic as suggested in the Chernof appeal. Acquisition of additional inland-side highway right of way is not within the scope of the current project. Also, such an inland-side CCT/bikeway would not have the function of enhancing the public's access to the sea—or of effectively distributing public use among the various beaches.

Expanded inland-side parking at La Conchita as an alternative. Caltrans staff has indicated that it is not in a position to provide expanded parking on the inland side of the railroad tracks at La Conchita as part of this project—as suggested by the Chernof appeal. Such parking would entail railroad right of way owned by the Union Pacific Railroad, and street right of way lands managed by Ventura County Public Works Dept. Neither is party to the approved coastal development permit, and neither has offered to make their lands available for this purpose.

In fact, during discussions with Coastal Commission staff, Ventura County staff expressed reservations about expanded parking facilities in the La Conchita community based on the risk of landslides in the area. And, in staff discussions, Union Pacific Railroad (UPRR) representatives indicated a concern for retaining maximum space within their existing right of way—to allow, for example, a passing siding or potentially for double-tracking of the Ventura-Santa Barbara corridor in the future.

The Caltrans 2010 beach parking study identified a potential existing capacity for 100 vehicle spaces on the inland side of the highway (and UPRR) at La Conchita. This study did not count spaces within the perimeter of the residential area—which are also open to the public. The majority of this existing parking capacity is along the seaward shoulder of County-maintained Surfside St., adjoining the entrance to the proposed PUC. No specific plan is contemplated for increasing parking capacity beyond the existing 100 perimeter spaces.

Conclusion for shoulder parking. The project will mitigate the loss of highway shoulder parking by providing a comprehensive package of meaningful public access

improvements and expansions, including accessing safer parking opportunities at La Conchita and providing an entirely new public parking area at Punta Gorda. Public access opportunities will be provided for visitors of many different capabilities, not presently served by highway shoulder parking (due to unsuitability for general family-type users and the need to scramble over a concrete barrier and large rip-rap boulders to reach the shoreline).

Overall, there will be no net loss of beach access parking capacity suitable for the general user. And, while the vehicle-to-water walking distance will be increased in some locations, the project will provide previously-unavailable improved shoreline access points distributed along this 3.4-mile corridor. In fact, the Tank Farm and South Rincon access points to be provided were specifically selected to enhance opportunities for access to the Rincon surf break. Accordingly, contrary to appellant contentions, staff believes the project will *not* significantly hamper the ability of surfers to reach their favored surf breaks.

Public access rights. Appellants Richardson and Littlefield cite Coastal Act Section 30211, which protects public access rights such as those established through Legislative authorization or based on a court's determination of an established history of prescriptive use. Because the entirety of the project will be located on public lands (except for the section of the La Conchita PUC lying beneath the UPRR right of way), there is no issue of prescriptive rights within the meaning of Coastal Act Section 30211. In addition, the facilities that provide public access will be changed and improved and the approved development, overall, will not interfere with the public's right to access the sea. Therefore, there is no substantial issue of conformance with Coastal Act Section 30211.

Conclusion for maximizing and protecting public beach access, overall. In summary, with respect to public access, the project as approved by Ventura County will:

- 1) Maintain general-user beach access parking *capacity* at 659 spaces throughout the project (based on results of Caltrans Parking Analysis 2010 study, above);
- 2) Effectively *distribute* parking locations and shoreline access points, so as to minimize overuse of any one area (as required by Coastal Act Section 30212.5);
- 3) Improve the *quality* of the public access experience, by providing barrier protection for pedestrians and bicyclists, by providing off-highway parking, by providing safe passage to the beach via pedestrian undercrossings, by rehabilitating existing public access facilities, by providing for trash collection, adding to and providing access to restroom facilities, and by creating safe vantage points for enjoying ocean views; and,
- 4) Greatly enhance the *diversity* of users that will be served, by providing a Coastal Trail/bikeway and undercrossings that meet Universal Access ("ADA") standards for persons with mobility impairments; this means that getting to and along the shoreline will be inviting not only for experienced surfers, but also families with children, strollers, wildlife observers and other users that would otherwise be deterred by the lack of safe access facilities.

Accordingly, staff finds that the project as approved by Ventura County will substantially improve public access opportunities overall; and, that the project design, together with the County's approval action, is consistent with the applicable LCP standards and Coastal Act public access policies (including, in particular, the cited Coastal Act Sections 30210-30212). Therefore, the County's approval of this project does not present a substantial issue of conformance with the applicable standards of review.

b. Contention: failure to include the public/key stakeholders in the planning process. The first issue raised by appellants Richardson and Littlefield is that the County's approval of this project is inconsistent with the Coastal Act's requirement to maximize opportunities for public participation. The appellants do not reference any particular policy or provision of the LCP, nor is there an assertion that the project is inconsistent with the LCP in this regard.

However, the appeals do make a general assertion that Caltrans "...did not apply due diligence to public notification of major stakeholders prior to planning meetings..." (Littlefield appeal), and that "...notices to the public ...[were sent] only to a very geographically restricted local population (Richardson appeal). According to the Littlefield appeal "...lack of meeting notice to key groups of stakeholders ... excluded key parties from stating their opinions in the public record." The Richardson appeal states that "...those who use the beach and have used the beach for generations were not included. All seventy odd meetings held by Cal Trans...were held without the most important stakeholders."

Appellant Richardson does cite Coastal Act Section 30006 which calls for "...the widest opportunity for public participation." He also cites the Section 30012 Legislative findings and declarations that call for a public education program, and the Section 30320 findings and declarations regarding fairness and due process. These declarations include the statement that "...California's coastal protection program requires public awareness, understanding, support, participation, and confidence in the commission and its practices and procedures."

However, the grounds for appeal of a local government approval of development are limited to the contention that the development does not conform to the standards of the certified Local Coastal Program (LCP) or the public access policies of the Coastal Act. The appellants make no assertion with respect to the LCP's public participation standards, nor with respect to the Coastal Act's public access policies. Thus, the inferred allegation that the County's decision is not in compliance with Sections 30006, 30012 and 30320, is not a valid grounds for appeal of a coastal permit.

Further, staff notes that Caltrans was diligent in actively seeking public participation, holding public meetings, meeting with public agencies, responding to public concerns, and providing resources, including website postings, to help the public understand the proposal. Caltrans has documented over 40 such meetings, to date (documented in Exhibit 5, attached). Both Caltrans and the County held duly noticed public hearings,

and were particularly diligent in providing timely and appropriate notice consistent with LCP standards. This effort included more than 450 mailed notices (as noted on p.26 of County staff report, attached as Exhibit 4). And, effective general notice of the project was provided through regional and local news media, including through publication of news articles in the Ventura County Star newspaper (example attached as Exhibit 8).

The County findings, together with supporting evidence provided by applicant Caltrans, demonstrate that abundant public notice and public participation opportunities were provided. Therefore, to a degree exceeding most development projects, maximum opportunity for public participation has been provided. The record indicates that each of the appellants, or their representative, participated in the public hearing process.

c. Contention: failure to recognize La Conchita Beach as a “sensitive coastal resource area.” The second issue raised by appellant Richardson, is that approval of the project fails “...to recognize or designate La Conchita Beach as having ‘Sensitive Coastal Resource Values,’ and the additional failure by the Ventura County LCP and/or the Coastal Commission to adequately describe La Conchita Beach in the coastal inventory as a valuable regional recreational and scenic resource, i.e., ‘a Sensitive Coastal Resource Area’.” Similarly, appellant Chernof asserts that the County’s decision does not recognize “...that Mussel Shoals is a sensitive coastal resource area—defined as a special community or neighborhood which [is] a significant visitor destination area...”

The appellants do not specify any particular policy or provision of the County’s LCP regarding sensitive coastal resource areas, nor how the project might be inconsistent with the LCP’s standards in this regard.

Appellants Richardson and Chernof do cite Coastal Act Section 30116, which defines “sensitive coastal resource areas.” Appellant Richardson also cites Section 30531 which includes the requirement that the Coastal Commission prepare a coastal access inventory; Section 30525, regarding identification of sensitive resource values and their consideration in the preparation of LCPs; and Section 30253(e) regarding the protection of special coastal communities. However, none of the Coastal Act Chapter 3 *public access policies* are cited in this contention.

Appellant Richardson’s characterization of La Conchita Beach includes a number of important qualities, ranging from its “...long, sandy beach with room for everyone...” to “...its history of 60 years of uninterrupted public use.” In support of his contention that this beach should be recognized as a sensitive coastal resource, he cites provisions of the Federal Coastal Zone Management Program that require each state to include a planning process for public access in its coastal management program. And, an idyllic passage from the Commission’s Public Access Action Plan is quoted, although it has no specific reference to La Conchita Beach.

Standards of review. The content of the LCP as certified, together with the public access policies of the Coastal Act, constitute the applicable standard of review. The

LCP does not reference La Conchita Beach nor the Mussel Shoals community as sensitive coastal resources. Nor has the Coastal Commission adopted such a designation for this beach or this community. Thus, it is understandable that the question of whether or not La Conchita Beach was properly recognized as a “sensitive coastal resource” in the LCP development process was not part of the County’s decision on the merits of this particular project. The same applies with respect to Mussel Shoals.

Nonetheless, La Conchita Beach is in fact listed in the Commission-sponsored *California Coastal Access Guide*—as is Mussel Shoals beach. The project is designed to preserve the sandy beach area exactly as it is today. As approved, the project will avoid any encroachment onto any part of the beach, will not require the placement of any additional areas of rock armor on the beach, will incorporate 8 developed access points from the Coastal Trail/bikeway to the beach (7 of which will be new or improved by this project), and will provide a climbable railing along the seaward edge of the Coastal Trail that will permit informal shoreline access along most of the project’s 3.4 mile frontage.

Conclusion for sensitive coastal resource area contention. In any case, the appeal contentions make no assertion with respect to the LCP’s development standards, nor with respect to the Coastal Act’s public access policies. Thus, the inferred allegation that the County’s decision is not in compliance with Sections 30116, 30525, 30531, and 30253(e), or the Federal Coastal Management Program, does not constitute valid grounds for appeal of the coastal permit.

d. Contention: failure to protect the public’s enjoyment of scenic values along the coast. The next issue raised by appellants Richardson and Littlefield, is that approval of the project fails “...to protect and preserve the public’s enjoyment of the scenic values along the coast.” Appellant Richardson contends: “The placement of the Class I bike path on the seaward side of the highway with its two parallel steel fences will greatly diminish the quality of the currently unobstructed view to the ocean.” While the appeal acknowledges that “...when parked cars are present the view for passing motorists is somewhat obstructed...” it also asserts that the “...existing k-rail allows unobstructed views of the coast.” According to the appeal, the proposed double row of 48”-54” steel railings that will replace the existing k-rail “...are much taller and will create a dizzying matrix to look through.” Appellant Littlefield concludes: “Inland path location would also allow magnificent coastal views, unimpeded by rows of steel bars.”

The appeals do not specify any particular policy or provision of the County’s LCP, nor any statement that the project is inconsistent with the LCP’s standards—although the Richardson appeal asserts that the “Ventura [County] Planning Staff comments regarding the impact of the railings on the public’s view of the coast are illogical and misleading.”

The Richardson appeal does cite Coastal Act Section 30251, which requires, in part:

Section 30251 Scenic and visual qualities

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. ...

However, none of the Coastal Act Chapter 3 *public access* policies are cited in this contention.

Analysis: scenic values issue. It is true that the view from the highway to the sea will change. However, Staff believes that impacts to the views and the character of the area have been avoided and minimized to the greatest extent feasible to allow for safe passage along the ten- to twelve foot wide CCT/bikeway. The proposed rail designs employ a slender picket approach with minimal horizontal elements; this greatly reduces their visibility. In addition, the incorporation of a simple “wave” design enhances the railing’s aesthetics and provides an element on the seaward side to doubly function as a step to help facilitate access to and from the beach for those wishing to scale the railing.

Staff does not agree with appellant’s contention that existing public views are “unobstructed.” Specifically, public views from Highway 101 will no longer be blocked by the solid concrete “k-rail” type barrier that runs continuously along the edge of the highway at a height of approximately 30-36 inches. This current concrete wall blocks the lower portion of views from the highway, and other inland public areas, and will be replaced by the graceful, specially-designed see-through railings.

In addition, vehicles parked on the shoulder will no longer present an impairment of seaward views from the highway (or for that matter, from the scenic railway corridor on the inland side of the highway).

As a result of a multi-year, comprehensive collaborative effort that included Coastal Commission staff and the Commission’s Road’s Edge Subcommittee, Caltrans designers have settled on a design that incorporates modern safety needs while also meeting the goals of being see-through, climbable and aesthetic. As revised, the proposed railing designs emphasize protection and enhancement of visual resources.

As depicted in Exhibit 13, the interior railing of the CCT/bikeway (adjacent to the freeway) will be at a height of 54 inches to meet safety standards. At the Commission’s Road’s Edge Subcommittee’s urging, Caltrans conducted an extensive safety test to determine the lowest railing height that they could recommend on the ocean-side of the CCT/bikeway for safe use by cyclists. The results of this work have allowed Caltrans to lower the seaward handrail height to 48”, only approximately one foot higher than the existing concrete barrier.

Ventura County’s coastal permit findings state (pp. 14-15 of Exhibit 4, attached):

...Under the current proposal, the existing concrete barrier would be removed and an open railing would separate the beach and CCT from the highway.

...While the presence of a hand-rail that rises above the height of the existing concrete k-rail would alter the coastal views for travelers along Hwy 101, the removal of a concrete barrier and installation of an open railing, albeit taller than the existing barrier, would still allow for coastal views of the ocean from the highway. The installation of the open railing for the CCT would allow for greater public access to the coast for cyclists and pedestrians, while not completely impeding coastal views for drivers. In some cases, as it would no longer be possible for vehicles to park along this stretch of highway, the views on certain days may be improved in that instead of a row of parked cars completely blocking the coastal views, only an open hand-railing would impede views. An open hand-railing provides more visibility to the coast than both a concrete wall and a parked car.

Further, Staff notes that an inland alignment for the Coastal Trail/bikeway, as advocated by all three appellants, would mean that the foreground view for multiple miles would be comprised of the 6 lanes of Highway 101 and its attendant traffic. The seaward alignment of the Coastal Trail/bikeway is clearly a superior viewing location for users of that facility. Accordingly, Staff believes that Ventura County's findings for approval of the coastal permit are reasonable and logical.

Conclusion for scenic values contention. In any case, the appeal contentions make no specific assertion with respect to the LCP's development standards that protect scenic resources. And, there is adequate factual evidence and legal support for the County's analysis and determination that the project is consistent with its LCP policies that protect public views to and along the coast.

Finally, the Richardson appeal contains the [inferred] allegation that the County's decision is not in compliance with the Coastal Act's Section 30251 policy regarding protection of scenic and visual qualities along the coast. However, Coastal Act Section 30251 does not fall under the Coastal Act Chapter 3 *public access* policies. Thus, such an allegation does not constitute valid grounds for appeal of the coastal permit. Therefore, we conclude that the appeals present *no substantial issue* of conformance with either LCP scenic resource policies or Coastal Act public access policies.

e. Contention: failure to protect public safety in the coastal zone. Appellants Richardson, Littlefield and Chernof cast public safety as a public access issue. As alleged by Appellant Richardson, Ventura County failed to address "...the safety issues arising from the seaward placement of the bike path." He concludes: "Moving the CCT to the mountain side of the highway eliminates these safety concerns." Appellant Chernof similarly argues that the bike path should be on the mountain side of the highway, although his proposal is distinct in also suggesting a 5 ft. wide seaward side path dedicated to foot traffic and expanded parking at La Conchita.

Appellant Richardson cites Coastal Act Section 30210, which in applicable part provides:

Section 30210 Access; recreational opportunities; posting

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs ...

Appellant Chernof cites Coastal Act 30212, the applicable part of which states:

Section 30212 New development projects

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, ...

One problem envisioned by the appellants is that the Coastal Trail will be designed to allow not only bicyclists but “all manner of beachgoers and hikers.” The Littlefield appeal raises the specter of “...untold numbers of pedestrians and cyclists moving in opposing directions into an enclosed pathway...” Some will be carrying surfboards, shade umbrellas, beach chairs, coolers and other equipment. Appellant Littlefield asserts that the railings that will shield the Coastal Trail/bikeway from highway traffic and the handrail along the seaward edge of the path will together create an “enclosed” bikepath. The Richardson appeal asserts that on a crowded day, “...this arrangement of mixed use will be quite dangerous with a high probability of serious injury to path users.” The Chernof appeal focuses more specifically on the potential for conflicts between bicyclists vs. other kinds of users.

Another assertion is that the double row of safety barriers along the Coastal Trail will impair emergency access to the beach from the highway, and that emergency vehicles will be obstructing the emergency parking lane of the highway, “...which will still allow bicyclists.” Appellant Littlefield contends that this “...does not protect public safety in the coastal zone, rather threatens it.” Additional concerns raised include crime potential, as well as “...the potential for the establishment of a homeless encampment.”

Also, Appellant Richardson contends that where the approved Coastal Trail/bikeway intersects the entrance to the Mussel Shoals community “...the potential for serious accidents...is high yet nothing has been done to mitigate it...” Appellant Chernof, a Mussel Shoals resident, states that the “...current unidirectional bike path...is extremely dangerous because it narrows to 3 feet and crosses the current deceleration lane shortly before the Mussel Shoals entrance.” He contends that Caltrans’ proposal making the bikeway bidirectional and moving the crossing point to the community entranceway will only shift the danger. And, that incoming cross traffic will be “...partially obscured...by a section of the proposed sound wall.” He further asserts that Caltrans’ proposal to regulate bicycles and automobiles by “...seven stop signs...is implausible...”

Public Safety—a primary project purpose. Two of the key reasons for this project are access and safety—hence, the acronym for the preferred project design (CASA, or Coastal Access and Safety Alternative). The project will substantially enhance highway safety by replacing and closing the median barrier, to prevent left turns across oncoming traffic (which under less-congested conditions typically moves at speeds of 60-70 mph). This improvement is needed so that Highway 101 can operate in

accordance with freeway safety standards, and encourage travel by high-occupancy vehicle mode.

While this will mean enforcement of parking restrictions on the freeway shoulder as noted previously, it also means that passengers approaching or leaving parked cars will no longer be exposed to adjacent highway traffic—and motorists on the highway will no longer have to contend with vehicles potentially merging into their lane of fast-moving traffic over a long stretch of the highway.

To offset the shoulder parking opportunity that will no longer be available, the project will improve and provide off-highway opportunities for parking. As detailed previously, these include rehabilitation of and connection to/from existing County and State Park-maintained beach access parking opportunities. As detailed in Table 1 in a preceding section of this finding, Caltrans demonstrated that there will be no net loss of beach access parking within the overall project area. For locations, see Exhibit 10, attached.

The project will also provide a Class I bikeway along the seaward shoulder of the highway, separated from motor traffic by an approved ST-10 safety barrier (modified)—a type of open beam steel railing that will allow seaward views from the highway. Recent accidents demonstrate that without adequate separation of motor traffic and non-motorized users, accidents and injuries are a likely consequence (see Exhibit 8 newspaper article). Delay in providing such safety separation will expose users and the State to the ongoing risk of more such accidents.

Bicycle safety and potential for user conflicts. According to Caltrans, serious road cyclists will continue to have the option of riding in the emergency parking lane of the freeway. This provision will allow bicycle riders to choose between riding in the mix of recreational users next to the sea, or on the reconfigured highway shoulder itself. Accordingly, through this self-selecting process, conflicts between casual recreationalists, and the higher speed, experienced road cyclists that already use the highway shoulder, should be minimized. Furthermore, the Commission notes locations up and down the State where a variety of users, including cyclists, successfully mix on Coastal Trail segments for shared enjoyment of the facilities and shorelines. Therefore, especially in comparison to the existing situation with no barrier protection at all, the concern about mixed use on the Coastal Trail presents no substantial issue.

The new Coastal Trail/bikeway will also include a visually permeable “see-through” handrail/barrier along the seaward side that will keep cyclists from accidentally veering onto the rock armor below. At the same time, it is specifically designed to allow surfers and other recreational users to be able to climb over and reach the Coastal Trail. This access-friendly feature will be particularly important for anyone that might otherwise be trapped on the beach below, whether by rising tides, storm surge, tsunami or other such event.

Emergency access considerations. Caltrans safety specialists consider the proposed railing heights (54” next to the highway, 48” seaward of the Coastal Trail/bikeway) to be

the minimum necessary. This minimal height, combined with the open, climbable design, will, to the maximum degree feasible, facilitate emergency first responder access. Seaward access will also be provided via the Punta Gorda and La Conchita pedestrian underpasses, as well as at the existing Mobil Pier undercrossing, at Mussel Shoals, and at South Rincon. This will provide a range of options for emergency access from the nearest highway access point. Moreover, the Coastal Trail/bikeway will have openings to stairs, ramps or streets at eight separate locations distributed along the corridor: Mobil Pier, Beacon's Beach, Punta Gorda, Mussel Shoals community entrance, Mussel Shoals north stairs, La Conchita, Tank Farm and South Rincon State Beach.

Commission staff has received informal input from several first responders concerning this issue (ambulance EMT, retired CHP, and a State Park Ranger). They agreed that the proposed chest-high highway barrier would require adaptation, but, combined with the various beach-side openings, would not prevent rescue of injured surfers or other possible rescue scenarios. All other things being equal, they opined that they would rather work with the protection of a safety barrier than have the extra concern of exposure to speeding traffic. Thus, staff concludes that the proposed safety barriers will not, on balance, be a significant impediment to emergency response, and present no substantial issue of conformance with Coastal Act Section 30210.

Other safety issues. The appeals present no evidence to support the contention that the project will potentially foster crime or homeless encampments. In the context of the Ventura-Santa Barbara County coast, there is no demonstration that this is a safety issue within the meaning of Coastal Act Sections 30210 or 30212, or Local Coastal Program standards. Therefore, we conclude that this contention presents no substantial issue of conformance with the applicable standards of review.

Bikeway safety issue at entrance to Mussel Shoals. The community of Mussel Shoals is located on the seaward side of Highway 101. Thus, bicycles continuing southwards along the coast must cross paths with motor vehicles turning into the community. The project is designed to close the median barrier of the highway, so it will eliminate the potential for collisions from left-turning vehicles exiting Highway 101 in the northbound direction (which must hurry across the southbound lanes of the highway lest they be hit by oncoming traffic).

The project will particularly improve safety for bicyclists. It will allow northbound cyclists to reach Mussel Shoals and its shoreline access points via the new Class I Coastal Trail/bikeway--without having to somehow cross all four lanes of highway traffic. By signs and pavement striping, traffic movements at the redesigned Mussel Shoals entrance will be more safely regulated. Both automobiles and bicyclists will be required to stop at the Coastal Trail crosswalk. Because they will be stopped, both will have a clear view beyond the ends of the soundwall and will be able to see oncoming cross traffic before proceeding across the intersection. See Exhibits 16 and 17.

Accordingly, staff concludes that the revised entrance to Mussel Shoals, as designed by Caltrans and approved by the County, improves existing conditions and incorporates appropriate measures to minimize accidents between bicyclists and automobiles. Public safety will be protected within the meaning of Coastal Act Sections 30210 and 30212. Therefore, this part of the contention does not raise a substantial issue.

Alternative configurations for public access facilities. The appeals contend that, in order to assure public safety, the Coastal Trail/bikeway should be aligned to the mountain (inland) side of the Highway 101 freeway. However, Caltrans has found a way that the Coastal Trail/bikeway can be feasibly aligned along the seaward side of the highway, with reasonable safety. Relocating the trail to the inland side of the highway is therefore not necessary to address the safety issues raised by the appellants.

The existing shoulder parking will be removed regardless of whether the CCT is along the shoreline, or along the inland side of the freeway. Enforcement of shoulder parking restrictions will reduce the risk of serious accidents, regardless of CCT alignment. Realigning the Coastal Trail to the inland side of the highway would still not allow the retention of non-emergency shoulder parking along the freeway, or resolve all potential conflicts between different user groups on the trail. Furthermore, an inland alignment would create other potential user conflicts with the Union Pacific rail line and ingress/egress into the community of La Conchita.

Commission staff at the local government hearings indicated that a commuter-oriented bikeway on the inland side of the highway would have merit as a way to minimize user conflicts. But, it was made very clear that such a concept would be in addition to—not instead of—the Coastal Trail alignment along the seaward side of the highway. Caltrans staff indicated that there is barely room in the existing highway right of way to add the HOV lanes and the 10 to 12 ft.-width Coastal Trail/bikeway. Thus, based on these engineering assessments, such an inland bikeway cannot be feasibly added to the present project, even if the seaward strand of the Coastal Trail is reduced to 5 feet in width and dedicated to foot traffic as suggested in the Chernof appeal. Such a configuration would also deprive bicyclists, wheelchairs, strollers, and other types of users of the superior views and beach access that the proposed seaward alignment provides.

Conclusion for public safety contention. We conclude that as designed by Caltrans and as approved by the County, the project will greatly enhance public safety for all motorized traffic, bicyclists and pedestrian recreational users. Failure to provide such safety improvements would be irresponsible--and would result in an outcome clearly inconsistent with public safety needs, contrary to the intent of Coastal Act Section 30212. And, by enhancing both highway safety and safety for non-motorized users, the project will help to carry out the public access purpose of Coastal Act Section 30210--which requires that such access be provided for all the people in a way that is "...consistent with public safety needs..."

Therefore, in summary, the appeals make no assertion of inconsistency with the LCP's public safety policies, and do not demonstrate that the County's approval was inconsistent with Coastal Act Sections 30210 or 30212, or the other Coastal Act public access policies. Accordingly, with respect to this contention, there is no substantial issue.

f. Contention: failure to manage the public trust in a fiscally responsible manner.

Both appellants Richardson and Littlefield contend that the placement of the CCT/bike path on the seaward side of the highway is not fiscally responsible. Appellant Littlefield alleges that an "...inland-side path would be...much less expensive and time-consuming to construct." Appellant Richardson asserts that it will cost three times as much to construct the bike path on the seaward side of the highway—and characterizes the value of the existing shoulder parking opportunity along the La Conchita frontage as "priceless, irreplaceable."

However, this argument ignores the fact that shoulder parking will no longer be allowed along the highway, regardless of the bikeway alignment—and will be offset through a comprehensive program of alternate, safer, off-highway parking. Further, the contention of fiscal irresponsibility has no basis with respect to the standards contained in the Ventura County LCP, nor the public access policies contained in Chapter 3 of the Coastal Act. Therefore, this contention presents no substantial issue of conformance with the relevant standards of review.

g. Contention: failure to apply the Coastal Act's most liberal interpretation of the Coastal Act's intent to protect the public's interest in the coastal zone for the long term.

Appellant Richardson states that the "...Coastal Act calls for the most liberal interpretation..." and contends that the project represents an overly narrow interpretation of Coastal Act policies--to the exclusion of alternate approaches for adding extra lanes to the highway without eliminating shoulder parking. To this end, he advocates for placement of the bike path on the mountain side of the highway, designation of a specially-signed section of Coastal Highway with a 55-mph speed limit slow lane to accommodate merging beach traffic, and a second pedestrian undercrossing at La Conchita.

In support of this argument, he cites Coastal Act Section 30254 regarding public works facilities, and recommendations for the Coastal Commission and Coastal Conservancy contained in the Public Access Action Plan. However, neither constitutes a standard for determining substantial issue on appeals from jurisdictions with certified LCPs. With respect to this contention, no assertion is made with respect to conformance with the Ventura County LCP.

As detailed above, staff concludes that non-emergency parking on the shoulder of the Highway 101 freeway will no longer be allowed, regardless of which side of the highway is made available for the bikeway. Further, staff believes that the appropriate alignment for the Coastal Trail/bikeway is along the seaward side of the highway. Staff is unaware of any reasonable prospect for legislation to grant a special low-speed/parking-allowed

status to this highway segment. On the other hand, according to a representative of the Surfrider Foundation, a second pedestrian undercrossing to the north of La Conchita would clearly be favored by the surfing community. While such additional undercrossing is *not* necessary to meet roughly proportional mitigation needs under the current Caltrans' proposal, it would have merit as a separate, future project.

In summary, this contention does not demonstrate that the County failed to conform to the standards contained in the Ventura County LCP. Nor, does it contain the information that would be needed to show that the County's decision is inconsistent with the public access policies contained in Chapter 3 of the Coastal Act.

The County Board of Supervisors, in its action on the locally-generated appeals, evidenced an understanding of its responsibilities to liberally construe the Coastal Act's public access policies--through exercise of its discretion to clarify and expand conditions requiring enhanced public access facilities. Accordingly, staff concludes that the County appropriately interpreted the Coastal Act's public access policies. Therefore, this contention presents no substantial issue of conformance with the relevant standards of review.

h. Contention: balance needed to protect quality of life and private property rights in Mussel Shoals. Appellant Chernof asserts that the key issue is how to best strike a balance between competing interests—including the interests of bicyclists and other public stakeholders on the one hand, and those of the owners and residents on the other. Specifically, with respect to the community of Mussel Shoals, he contends that the current proposal "...will create a new safety hazard, further reduce parking for visitors and others, and radically deteriorate the quality of life for those who live here." He believes that the design approved by the County favors bicyclists over safety issues "...and the rights of those who inhabit this precious community."

With respect to the need to protect private property rights, the appellant contests the County's findings of project conformance with LCP standards. He states that the project will "...be obnoxious to or impair neighboring property or uses, detrimental to public interest, health, safety, convenience or welfare." Further, he contends that the project "...will not maximize access to the [Ventura County] north coast sub area consistent with private property rights."

With reference to the Coastal Act, appellant Chernof contends that "...State and local policies are not aligned to be clear, balanced and [to] protect private property; public access is not consistent with public safety; does not maximize public access consistent with constitutionally protected rights of private property owners..."

Cited standards of review. Appellant cites Ventura County Zoning Ordinances 8181 3.5b, c, d—and quotes subsection e. This section, part of the LCP's implementing ordinances, states in its entirety:

Sec. 8181-3.5 - Required Permit Findings ...Specific factual findings shall be made to support the conclusion that each of these standards, if applicable, can be satisfied:

- a. The proposed development is consistent with the intent and provisions of the County's Certified Local Coastal Program;
- b. The proposed development is compatible with the character of surrounding development;
- c. The proposed development, if a conditionally permitted use, is compatible with planned land uses in the general area where the development is to be located.
- d. The proposed development would not be obnoxious or harmful, or impair the utility of neighboring property or uses;
- e. The proposed development would not be detrimental to the public interest, health, safety, convenience, or welfare.

He also cites the LCP's Ventura County Coastal Area Plan's provision to "...maximize access to the north coast sub area consistent with private property rights." Finally, he invokes certain Coastal Act sections that refer to private property, identifying Sections 30212, 30001.5, 30116, and "other sections" [unspecified].

Coastal Act Section 30001.5 is a statement of Legislative intent, and contains a number of basic goals for the coastal zone, including:

Section 30001.5 Legislative findings and declarations; goals

The Legislature further finds and declares that the basic goals of the state for the coastal zone are to:

- ...(b) Assure orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of the state.
- (c) Maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resources conservation principles and constitutionally protected rights of private property owners. ...

Section 30116 defines "sensitive coastal resource areas" as including "[s]pecial communities or neighborhoods which are significant visitor destination areas." Appellant faults the Ventura County LCP for not identifying Mussel Shoals as a "sensitive coastal resource area." See findings on this topic in preceding section above, which concludes that the absence of a sensitive coastal area/special community designation does not constitute substantial issue in terms of Coastal Act public access policies.

The appeal's only specifically identified Coastal Act policy that comprises a public access policy is Section 30212. Section 30212 states, in applicable part:

Section 30212 New development projects

- (a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, ...

The public safety contention is addressed under its own separate heading, in preceding findings above. These findings summarize appellant Chernof's advocacy for moving the bikeway component of the Coastal Trail to the mountain side of the highway, in conjunction with limiting the narrowed oceanside path to foot traffic only and expanding

public parking at La Conchita. The preceding public safety finding concludes that the public safety issue can be adequately addressed with the Coastal Trail/bikeway on the seaward side of the highway as approved by the County--and therefore does not constitute substantial issue on the grounds of public safety.

Private property rights: applicable Coastal Act public access policies. The Chernof appeal emphasizes the need to achieve *balance* between the public interest and private property rights. While the issue of private property rights is raised by the appellant, no specific Coastal Act public access policy is cited with respect to this particular topic. Nonetheless, public access policy guidance with respect to private property rights and adjacent residential uses *is* found in Coastal Act Sections 30210 and 30214. These sections provide, in part:

Section 30210 Access; recreational opportunities; posting

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, ...

Section 30214 Implementation of public access policies; legislative intent

(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following: ...

(2) The capacity of the site to sustain use and at what level of intensity.

(3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.

(4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.

(b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. ...

Corresponding to Coastal Act policy direction in Sections 30210 and 30214, the Ventura County LCP contains the previously-quoted objective to "...maximize public access...consistent with private property rights..."

Analysis—Mussel Shoals community & private property impact issue. The Chernof appeal focuses on anticipated parking conflicts and the question of what impacts the bikeway would have on the Mussel Shoals community. The appeal contends that the bikeway should be aligned to the landward side of the highway in order to avoid such impacts—including potential impacts on private property. The appeal contends that the imposition of the bi-directional bikeway on the community, plus exacerbated competition for parking spaces, and the attendant safety issues will adversely impact the neighborhood.

The parking issue. The appeal asserts that one reason the project will impact the community is that visitors that presently might park along the shoulder of Highway 101 will be displaced by the project, and will therefore attempt to park instead at Mussel Shoals. Both residents and visitors use the Old PCH public right of way at Mussel Shoals for informal parking. The appeal contends that when local parking space is filled to capacity, competition for the limited available public parking space will be aggravated, thereby diminishing the quality of life for the community.

The appellant also contends that the proposed bikeway and walls will encroach on this available shoulder parking space along Old PCH. However, according to Caltrans' 2010 parking study, there is (and will continue to be) space to park 43 vehicles in the public right of way along Old PCH and the connecting portion of Ocean Avenue. Project plans confirm that the proposed HOV lanes, soundwalls, CCT/bikeway, and the area of Old PCH used for parking will fit entirely (if tightly) within the existing State-owned right of way.

The bikeway issue. Another concern is that alignment of the bikeway on the same side of the highway as the community will be intrusive, dangerous, and will "...further complicate the challenge for residents to navigate in and out of Mussel Shoals." The appeal asserts that the approved Caltrans design is a bad solution because it favors bicyclists, to the detriment of the community and public safety.

However, staff finds that there is significant bicycle traffic already using the shoulder of the highway. In addition to the existing 43 spaces at Mussel Shoals (which will be retained), the project will yield ample trailhead parking to the north and south of the Mussel Shoals community. Highway undercrossings and provision of a barrier-protected bikeway on the seaward side of the highway will give general-use visitors the option to park at Punta Gorda or La Conchita--and potentially thereby reduce the need to park at Mussel Shoals in order to reach the public beach access points. A reasonable hypothesis is that these new off-site parking and safe highway undercrossing opportunities will actually relieve a certain fraction of parking demand at Mussel Shoals. Therefore, Staff believes that the proposed Coastal Trail/bikeway will not be intrusive and dangerous, will not impact the community with new incompatible uses, and will not exacerbate entry or exit from the Mussel Shoals community.

If the bikeway were realigned away from Mussel Shoals to the inland side of Highway 101, only those bicyclists willing to ride on an unprotected freeway shoulder would be able to reach Mussel Shoals—and even that would only be possible in the southbound direction. Further, residents of Mussel Shoals would be denied access to the proposed Class I bikeway. An inland-side alignment for the bikeway, as proposed by appellant, would therefore potentially result in a further limitation on recreational and commuter transportation choice for Mussel Shoals residents.

The appeal does not present specific evidence that the County failed to account for private property rights, or failed to balance such rights with the overall public interest, as provided by the above-cited Coastal Act sections. Therefore, in accommodating and

enhancing bicycling opportunities on the seaward side of the highway, we concur with the County's finding that the project will not degrade the overall quality of life or erode private property rights in the community of Mussel Shoals.

Private property protected (and enhanced). The project will provide for appropriate separation of public recreational uses and private residential use. By design, it will protect the integrity of the Mussel Shoals community as it presently exists. And, on balance, staff believes the project benefits for the community will far outweigh the concerns raised in the Chernof appeal.

In evidence for this finding is the specific design of the proposed CCT/bikeway facility, which will be seaward of a protective soundwall along the highway. The trail facility will be constructed on an alignment landward from and elevated above the Mussel Shoals community. Along the seaward side of the CCT/bikeway, an aesthetic see-through barrier will provide further separation between recreational users and the community (see Exhibit 17 for view simulations).

The County's action to approve a coastal development permit for the project, as Conditional Use Permit LU09-0085, is consistent with the LCP and Coastal Act policies that call for implementation of public access in a way that protects both public access rights and private property rights. The various aspects of the project that demonstrate this respect for the Mussel Shoals community can be summarized as follows:

- 1) The project improvements will take place entirely within existing State Highway right-of-way, including the "Old PCH" right-of-way;
- 2) The proposed Coastal Trail/bikeway facility will be elevated slightly above Old PCH, and separated from nearby residences by an aesthetic barrier railing;
- 3) The existing shoulder of Highway 101 already serves as the *de facto* Pacific Coast Bicycle Route, so the proposed Coastal Trail/bikeway does not represent a new kind of use in proximity to the residences;
- 4) The new soundwalls will, for the first time, offer protection of the residences from the noise impacts of adjacent highway traffic, representing a tremendous windfall enhancement of residential living quality for the neighborhood;
- 5) Direct, safe access to the Coastal Trail/bikeway will likewise represent a windfall enhancement of recreational opportunities and commute choices for the neighborhood;
- 6) According to the Caltrans 2010 parking study, the existing public parking capacity of the Old PCH right of way will remain the same at 43 spaces;
- 7) Caltrans will take responsibility for litter collection within the project area, and for provision of restroom facilities at a nearby public access point; and,
- 8) In the process of developing its proposal, applicant Caltrans took care to consult with the community regarding project design; this resulted, for example, in a realignment of the Coastal Trail/bikeway from Old PCH to its currently-proposed alignment adjacent to the highway soundwalls.

Even though substantially more through-traveling bicyclists will likely flow past (not through) the community, and more members of the general public will likely take a side

trip to visit the existing beach access points, it is difficult to see how this would substantially harm community living qualities or property rights. On the whole, it would appear that every resident and homeowner in the Mussel Shoals community will come out well ahead when measured in terms of improved highway safety, congestion relief, reduced traffic noise impacts, and enhancement of recreational opportunities. Regardless of the above discussed points, this assertion does not raise issue with any provision of the LCP and does not, therefore, raise substantial issue.

Conformance with LCP implementing ordinance 8181-3.5. The Ventura County Zoning Ordinance (CZO) requires that in order for the Planning Commission to approve this project under a Conditional Use Permit (CUP), certain findings must be made in order to determine that the proposed project is consistent with the permit approval standards of the Ventura County CZO (§8181-3.5 et seq.). The purpose of the ordinance is to assure compatibility of uses, and to protect the public health and welfare as well as private property.

The County's approval action on the CUP includes detailed findings and supporting evidence for each of the five elements of this ordinance. These findings state, in relevant part:

- ***The proposed development is compatible with the character of surrounding development [§8181-3.5.b];***
- ***The proposed development, if a conditionally permitted use, is compatible with planned land uses in the general area where the development is to be located [§8181-3.5.c];***
- ***The proposed development would not be obnoxious or harmful, or impair the utility of neighboring property or uses [§8181-3.5.d]; and,***
- ***The proposed development would not be detrimental to the public interest, health, safety, convenience, or welfare [§8181-3.5.e].***

3.5b Character of surrounding development. The project will not affect the character of existing residential and visitor-serving commercial development at Mussel Shoals. It will accomplish this by separating the improved highway from the community with vegetated soundwalls; and, by aligning, elevating and separating the Coastal Trail/bikeway so as to avoid intrusion into the community.

As noted elsewhere in these findings, the proposed Coastal Trail/bikeway is designed to closely parallel the existing Highway 101 shoulder, and to fit entirely within the existing State-owned right of way. In fact, Caltrans specifically modified the proposed alignment at Mussel Shoals in response to community concerns. The revised alignment, as approved by the County under CUP09-0085, is as far away from the existing residences as it can be, without encroaching on the highway surface itself.

Further separation is provided by its elevation above the Old PCH right of way, below and seaward of the Coastal Trail/bikeway. Finally, it will have a pedestrian safety railing entirely along the seaward edge, so that persons using the trail and seeking beach

access will be directed towards either the main community entrance--or to the new public access point that will be provided immediately north of the community. This will effectively direct visitor traffic around—not through—the existing main residential areas. See Exhibit 17 for depiction of the Coastal Trail on its elevated alignment, separate from the community.

For sub-part 3.5b, the County findings state, in part:

The project has been designed to minimize impacts on the existing Mussel Shoals, La Conchita and Rincon Point communities while providing enhanced coastal access for cyclists and pedestrians and increased road capacity along the Hwy 101 corridor. With the installation of the proposed soundwalls, ambient traffic noise in the Mussel Shoals community would be substantially reduced. ... Based on these factors, the proposed project would be compatible with the character of surrounding development. ...

3.5c Compatibility with planned land uses. Compatibility with other land uses will be maintained through project alignment and separation (as described above), as well as aesthetic design and landscape treatment (e.g., planting of vines to soften the appearance of the soundwalls). The only other substantial new use in the planning stages would be improvements to the UPRR railroad line on the inland side of Highway 101. However, the appellant makes no contention with respect to such planned future land use.

For sub-part 3.5c, the County findings state, in part:

The project would be constructed so as not to conflict with surrounding land use. ... The Santa Barbara County Association of Governments (“SBCAG”) plans to work with Caltrans in the future to realign the existing railroad as it traverses the Punta Gorda area, near where parking is proposed as part of the [Ventura County] LU09-0085 project. Due to the size of the Punta Gorda area, it is possible for the two projects to co-exist and not interfere with one another. ... This project ...[is] conditioned such that the proposed parking area must be designed so as not to conflict with SBCAG’s plans for the future railroad realignment project (Exhibit 6 – Condition of Approval No. 21b). ...

3.5d Not harmful to neighboring property or uses. Through alignment, separation and aesthetic treatments, the project will avoid harm to nearby residential property. For sub-part 3.5d, the County findings state that neighboring residential areas will be protected in a number of ways. These findings state—in part--that:

Caltrans would provide “No Outlet” and parking signage in both the La Conchita and Mussel Shoals communities to inform the public of the limited parking opportunities within those areas. Such signage is expected to preclude traffic and congestion impacts to these neighborhoods. Signage would also be provided along the Hwy 101 corridor to inform the general public of the available beach

access opportunities throughout the project area via the California Coastal Trail ("CCT"). Trash receptacles would be placed throughout the project area in accordance with the LCP (Exhibit 6, Condition of Approval No. 30). As part of the long-term maintenance plan, Caltrans would provide for trash pick-up to ensure that litter is controlled (Exhibit 6, Conditions of Approval No. 30 and 32). Neighboring residential areas would benefit from project components such as sound walls, landscaping, signage, and trash cans. The parking area in Punta Gorda would provide for parking to accommodate the CCT, such that the communities would not be overburdened by any additional draw this project could have to the area. ...

3.5e Not detrimental to general public safety and welfare. The project is consistent with, and will promote the general public interest. The assertion concerning public parking on the Old PCH right of way does not explain how this will be contrary to the general public interest. Caltrans indicates that the existing capacity of 43 public spaces will be retained at Mussel Shoals—and substantially more public parking capacity will be provided at locations nearby but separated from the community by the intervening Highway 101 freeway.

For sub-part 3.5e, the County findings state that the community and general public interest will be protected in a number of ways. These findings conclude:

Although the primary purpose of the project is to increase road capacity along the Hwy 101 corridor, the safety benefit from the closure of median barriers and the removal of left-hand turns out of Mussel Shoals or La Conchita far outweighs the minor highway travel inconvenience. There is also an additional benefit of the project in the improved public access to the coast through the construction of the CCT. Thus, the project is not a detriment, but a benefit, to public health, safety and welfare.

Accordingly, the County has properly found conformance with the cited LCP zoning ordinance standard. Further, the County has established that approval of the project will maximize public access opportunities consistent with protection of private property, consistent with the LCP Coastal Area Plan. For the complete text of each of the County's conditional use permit findings, please refer to pp. 10-12 of the attached Exhibit 4.

Conclusion for quality of life and private property rights at Mussel Shoals. Respectful separation between public and private uses will be maintained. Project impacts will be of only temporary and local consequence—and even so, are not likely to result in significant negative impacts for nearby homeowners. With the soundwall, traffic noise and visual presence will be greatly diminished for both bicyclists and homeowners. And, the existing homes' close proximity and easy access to a safe Coastal Trail/bikeway will substantially enhance recreational opportunities for visitors and local residents alike.

No private property will be taken for the proposed highway and public access improvements. No potential for damage to existing private residences has been demonstrated. No impairment of private property rights will result. The County made appropriate findings of compatibility with neighboring property and uses, and found that the proposed development would not be detrimental to the public interest, health, safety, convenience, or welfare. These findings are consistent with the requirements of the LCP, including the Ventura County Coastal Area Plan and Section 8181-3.5 of the implementing ordinances.

Accordingly, with respect to private property contentions, the County-approved Caltrans design achieves an appropriate balance between the public interest and private property rights, and protects such rights consistent with the requirements of the Ventura County LCP and Coastal Act Sections 30210 and 30214.

i. Conclusion with respect to LCP & Coastal Act public access policy conformance, overall. In evaluating the issue of whether the appeal raises a substantial issue, the Commission considers the degree of factual and legal support for the local government's decision that the development is consistent with the certified LCP, and with the Coastal Act's public access policies. Here, the County has provided sufficient legal support for its decision that the highway improvement project, including the public access components, is consistent with the cited public access policies and provisions of the LCP and Coastal Act (as discussed under Contentions "a" and "e" and "h" above).

The other assertions evaluated under Contentions "b" through "g" above, do not meet the test of addressing the issue of conformance of with the standards found in the certified LCP or the public access policies of the Coastal Act. Therefore, we find that the County's approval **does not** raise a substantial issue in this regard.

2. Extent and scope of the development as approved by the local government

With a project length of approximately 3.4 miles, the proposed HOV lanes and CCT/bikeway will be relatively extensive. However, as measured in terms of land use change, it will have practically no effect at all. The reason for this is that the entire project will take place within the existing developed highway right of way, or on adjacent public lands and railroad right of way. And, existing shoreline access points at Mobil Pier/Beacons Beach, Punta Gorda, and La Conchita will be rehabilitated or improved, but within the same general footprint as existing beach access paths or rock armor.

Specifically, the new HOV lanes will be aligned in the existing median area of the 4 lane highway, to provide a total of 6 traffic lanes. The La Conchita PUC will be located beneath the existing highway and UPRR railroad tracks, terminating at the existing edge of the County-maintained Surfside St. At the seaward end of the PUC, Caltrans has assured that there will be no encroachment seaward of the existing toe of rock armor.

And, at Punta Gorda, the existing PUC will be rehabilitated, entirely within the existing highway right of way. A parking area will be provided on existing public lands on the inland side of the highway, in the area adjacent to and accessed by the Old Pacific Coast Highway (PCH). Upon realignment of the highway to its modern-day location, this area was evidently deemed excess and is presently held by State Lands. It is expected to be reconveyed for the present public access purpose.

Accordingly, the project as approved by the County will be extensive in scope and public benefit. But, it will exclusively make better use of existing public lands, rather than expand the developed footprint outward. Thus, it presents no substantive issue with respect to the regulation of land use. With regard to the extent and scope of the project, we therefore find that it does not rise to the level that would justify *de novo* review by the Commission.

3. Significance of coastal resources affected by the decision

Failure to complete this project will result in continually worsening congestion on Highway 101 and its attendant impact on coastal public access. It would mean the continuity of HOV lanes from Los Angeles to Santa Barbara, now at various stages of completion, will be interrupted. It would eliminate one of the incentives to car pool that would otherwise be available through provision of continuous HOV lanes. Similarly, without HOV lanes, the on-time performance of the transit bus mode will suffer. A missed opportunity to install HOV lanes means a missed opportunity to help reduce petroleum energy dependence and the cumulative effects of greenhouse gas emissions.

Failure to complete the project will also mean that bicyclists, including bicycle commuters, will have no choice but to ride on the highway shoulder. Because of exposure to high volumes of speeding highway traffic and the unsafe conditions that it implies, this would continue to discourage bicycle commuting. Further, recreational bicycling will be similarly exposed and discouraged. And, there will continue to be a more than 3 mile gap in the California Coastal Trail where there is no effective separation from motor traffic.

It is clear that the Coastal Trail in this location can only be provided as part of the highway facility itself, given the geographic constraints of the area. This project therefore represents a tremendous opportunity for the State to advance its goal of providing for a continuous Coastal Trail from the Oregon border to Mexico.

As measured by these considerations, the project will indeed affect significant coastal resources—in a proactive way. In fact, it will maintain regional circulation and coastal access along the Highway 101 corridor, vital to the economic health of the State. And, it will add substantially to the quality and diversity of available public access resources for local and regional users.

While staff acknowledges the appellants' contentions that significant coastal resources are at stake, we believe that the project represents a unique opportunity to protect these resources, in an optimal way. The County's review of the coastal permit application demonstrated that the displaced shoulder parking along the highway will be mitigated through a robust public access program package that serves a greater diversity of users, and that all these benefits will accrue without significant impacts on other resources.

Therefore, staff concludes that the County's action does not require correction to protect significant coastal resources, nor does it constitute a substantive issue that justifies *de novo* review by the Commission.

4. Precedential value of the local government's decision for future interpretation of its LCP

The Ventura County LCP was initially certified in 1980, well before the need for HOV lanes was anticipated along Highway 101. While there is nothing in the LCP that precludes the proposed highway improvement project, neither is there specific guidance for how—exactly—such improvements will be evaluated.

The design of the project was thoughtfully developed and evaluated in the project Mitigated Negative Declaration (MND) and MND Addendum. A separate study document was generated for the La Conchita PUC.

Early in the design process, Caltrans consulted with Coastal Commission staff. On the basis of such consultation, Caltrans decided to: 1) avoid any project component that would cover more beach area with armor rock (rip-rap), and 2) insure that the project provides for maximum public access opportunities, including a continuous Coastal Trail separated from motor traffic and in proximity to the sight and sound of the sea.

This led Caltrans to select their Coastal Access and Safety Alternative (CASA) as the preferred alternative. Further consultations with Coastal Commission staff, and with the Commission's Road's Edge Subcommittee, led to further refinements in railing design as indicated to protect visual access from the highway (and CCT) to the sea. The design of CASA, as further clarified by commitment letters from applicant Caltrans, and by the County's permit conditions with respect to public access, meets the provided strategic criteria.

Thus, the project approved by the County as LU09-0085 evolved from the Caltrans CASA model, and provides an appropriate precedent for: 1) how the Ventura County LCP may be applied to public works projects located within existing public rights of way; and, 2) how the Coastal Act may apply to other State Highway projects where HOV lanes need to be added to existing roadways. Therefore, any precedent that may be drawn from the County's approval would be predicted to be a positive one. We find that there is no reasonable justification for *de novo* review of the County's action on the

basis that it would set an adverse precedent; and, that there is no substantive issue in this respect.

5. Local issues only, or regional or statewide significance?

The proposed HOV lanes represent the Ventura County portion of a larger, regional transportation project connecting Ventura to Santa Barbara. It will remove a traffic bottleneck by connecting existing Highway 101 freeway segments northwards from the City of Ventura to the Santa Barbara County line. Coastal permits have already been approved for the other segments farther north in the City of Carpinteria and the County of Santa Barbara. As a transportation corridor, this portion of Highway 101 represents a resource of regional and statewide significance. However, as each of the appellants make clear, their primary objection is with the alignment of the Coastal Trail/bikeway component, *not* the addition of HOV lanes.

Analysis—highway shoulder parking as a regional issue. The Richardson and Littlefield appeals contend that construction of the CCT/bikeway along the seaward side of Highway 101 will eliminate a recreational opportunity of greater-than-local significance—i.e., the ability to pull off the existing 4-lane highway and park on the shoulder for access (over the k-rail and armor rocks) to the shoreline. They assert that the CCT/bikeway should be aligned on the inland side of the highway so that it will not occupy the paved shoulder space along the ocean side of the highway.

This issue is addressed in the first finding above, including the following determinations: 1) the proposed Coastal Trail/bikeway is not the reason that freeway shoulder parking restrictions will have to be enforced in the future; 2) as a key link in the State's Coastal Trail system, this facility is most appropriately aligned in close proximity to the sea; 3) an inland alignment for the Coastal Trail would severely limit its value for distributing public access along the coast, potentially resulting in local overuse impacts at the two pedestrian undercrossings and no connection to the existing beach access points at Mobil Pier, Beacon's Beach, Mussel Shoals, and Tank Farm; 4) as offered by Caltrans and conditioned by the County's permit, the project will provide a comprehensive public access program that will effectively enhance, distribute and maintain public access, thereby more than offsetting the highway shoulder parking; and, 5) overall, as designed and conditioned, the County's action in approving the project presents no substantial issue.

Staff acknowledges that as a public access resource, such parking does represent a significant contribution towards the overall opportunity for public beach access parking. The project design, coupled with the County's conditions, appropriately recognizes the importance of maintaining overall capacity for such beach access parking. Within this 3.4 mile highway corridor, off-highway parking opportunities will be provided and/or connected to the beach, so that there is no net loss of the existing documented capacity of 659 spaces. And, in contrast to the existing situation, none of these will be in violation of posted parking restrictions.

Further, by incorporating a barrier-separated Coastal Trail/Class I bikeway the entire length of the project, there will be better distribution of public use, substantially improved safety, and significantly enhanced opportunities for ocean-oriented recreational use. Additionally, the project will provide for new or improved shoreline access at 7 different locations within the project limits. Taken together with existing beach access at Mussel Shoals, this means that there will be 8 different places along the Coastal Trail/bikeway that will provide beach access suitable for general public use. Both the Coastal Trail and the PUCs will be designed and/or improved to accommodate those with mobility impairments. As a result, recreational opportunities will become available for a much greater diversity of users.

Conclusion for highway shoulder parking as a regional issue. In summary, the public access and recreational opportunities that are found along this part of the Ventura County coastline clearly have greater-than-local significance. Overall, these resources will be retained in number, redistributed in location, and enhanced in terms of recreational quality. Therefore, the project as approved by the County appropriately addresses issues of regional and Statewide significance, and does not raise additional issues of this type that must be addressed through appeal.

Conclusion for regional or Statewide issues—overall. The project, as approved, is consistent with the cited provisions of the Ventura County LCP, and public access policies of the Coastal Act—and appropriately addresses public access issues of regional and statewide significance. Therefore, staff finds that this topic does not rise to the level requiring review as a substantive issue, and does not warrant *de novo* review of the project on the basis of regional or statewide issues that were not addressed at the local level.

E. CONCLUSIONS REGARDING SUBSTANTIAL ISSUE

For the reasons discussed above, no substantial issue is raised with respect to the consistency of the approved development with the policies of the County's adopted LCP; nor, with respect to the Coastal Act's public access and recreation policies. Applying the five factors identified above, the Commission finds the County's record adequately supports its position that the proposed project is consistent with the applicable LCP and Coastal Act policies. In addition, the development although substantive in scope, appropriately addresses issues of regional or statewide significance. It does not have a significant adverse effect on significant coastal resources, and does not set an adverse precedent. Therefore, the Commission finds that the appeal does not raise a substantial issue as to the County's application of the cited policies of the LCP.

RECEIVED
OCT 29 2010

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST DISTRICT OFFICE
89 SOUTH CALIFORNIA STREET, SUITE 200
VENTURA, CA 93001-4508
VOICE (805) 585-1800 FAX (805) 641-1732

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: DOUGLAS RICHARDSON
Mailing Address: 949 TORO CANYON ROAD UNIT 1
City: SANTA BARBARA Zip Code: 93108 Phone: 805-845-3858

SECTION II. Decision Being Appealed

1. Name of local/port government:
COUNTY OF VENTURA
2. Brief description of development being appealed:
CALTRANS LA CONCHITA HIGHWAY
HOV1 WIDENING PROJECT
3. Development's location (street address, assessor's parcel no., cross street, etc.):
HWY 101 BETWEEN MOBIL PIER UNDERCROSSING
AND THE VENTURA/SANTA BARBARA COUNTY LINE
CALTRANS RIGHT OF WAY
4. Description of decision being appealed (check one.):
 Approval; no special conditions
 Approval with special conditions:
 Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-4-VNT-10-105
DATE FILED: 10/29/10
DISTRICT: So. Central Coast

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- Planning Director/Zoning Administrator
 City Council/Board of Supervisors
 Planning Commission
 Other

6. Date of local government's decision:

SEPT. 21, 2010

7. Local government's file number (if any):

CUP NO. LU09-0085

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

CARLOS MONTEZ
DEPT. OF TRANSPORTATION
100 SOUTH MAIN STREET, MS #16A
LOS ANGELES, CA. 90012

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

- (1) MIKE BELL
6953 SURFSIDE DR.
LA CONCHITA, CA.
- (2) KEN HIGH
1000 TOWN CENTER DRIVE
OXNARD, CA.
- (3) STEVE BENNET spbennettoo@hotmail.com
MUSSEL SHOALS, CA.
- (4) ROBERT BRUNNER
6640 OLD PACIFIC COAST HIGHWAY
VENTURA (MUSSEL SHOALS) CA.
- (5) DAVID CHERNOF
OLD PACIFIC COAST HIGHWAY
MUSSEL SHOALS (VENTURA) CA.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

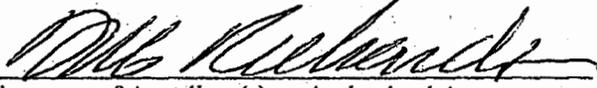
PLEASE SEE MY DOCUMENT INCLUDED
"A SUBSTANTIVE APPEAL TO THE LA CONCHITA
HIGHWAY WIDENING PROJECT AS PRESENTED"
PLEASE ALSO SEE TWO LETTERS FROM
INTERESTED PARTIES. WE WILL BE
PROVIDING MANY MORE IN THE NEAR
FUTURE.

PLEASE ALSO SEE TWO OTHER DOCUMENTS
I PREPARED FOR THE PUBLIC AND THE
BOARD OF SUPERVISORS FOLLOWING THE
VENTURA COUNTY PLANNING COMMISSION'S
APPROVAL OF THE PROJECT.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.



Signature of Appellant(s) or Authorized Agent

Date: 10/29/2010

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby
authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____

RECEIVED
OCT 29 2010

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

**A SUBSTANTIVE APPEAL TO THE LA CONCHITA HIGHWAY WIDENING
PROJECT AS PRESENTED**

By Douglas Richardson

Why is the La Conchita Highway widening project being appealed to the California Coastal Commission?

One reason is that the Ventura County Planning Commission, the Board of Supervisors, and Cal Trans, during the course of the two public appeals did not resolve the serious flaws in the project as presented. Some minor modifications were made in response to points raised in the two appeals but they do not begin to address the major issues brought up by the parties making the appeals. I got the distinct impression that both hearings were merely legal necessities to be completed by the County and Caltrans and that a serious consideration of the objections raised by the appeals was not part of the proceedings. There was a complete lack of rigor in considering the very important issues before them. Only one supervisor was really engaged in the issues at hand. The rest was a dog and pony show, going through the motions. Democracy is not well served in this kind of forum.

The major sticking point for this project is the placement of the bike path on the seaward side of the highway because of all the problems that positioning creates. Even the majority of citizens speaking in favor of the project said they would prefer having the bike path on the mountain side of the highway. A discussion of the design problems begins on page 5 of this document.

The second reason for this appeal is that this project does not conform to the most key elements of the Coastal Act. The projects' inconsistencies with the Coastal Act are in the areas of public participation, special resource values, maximization of beach access, coastal scenic values, public safety in the coastal zone, fiscal responsibility in the coastal zone, and a liberal application of the intent of the coastal act to protect the public's interest in the long term. A discussion of these issues along with supporting passages from the Coastal Act and other pertinent California legislation begins on page 5 of this document.

The County of Ventura as administrators of the Local Coastal Plan failed to follow the guidelines provided by the Coastal Act in determining the suitability of this project's design for the Coastal Zone. The Ventura County Planning Dept. Staff Report for the Caltrans Project is disturbingly inaccurate in its characterization of the project being consistent with the Coastal Act.

CCC Exhibit 1
(page 5 of 24 pages)

In fact, both the Ventura County Planning Staff Report and the Addendum/Environmental Reevaluation to the Mitigated Negative Declaration prepared by the Division of Environmental Planning of the California Department of Transportation are patently misleading in their representations about the project's impacts and conformance to the Coastal Act. Both documents appear to conform more to the mutual project goals of Caltrans, the Coastal Commission, and County of Ventura than to the Coastal Act and its policy and intent.

I will mention right now that the initial Caltrans plan for this project had the bike path on the mountain side of the highway and the present beach parking was being saved. The Coastal Commission insisted on placing the bike path on the seaward side of the highway. Now we are hearing that there is not room for the beach parking even if the bike path is on the mountain side of the highway. This is a curious development. Suffice it to say that the confidence of the public has been lost and all representations of the agencies involved will be scrutinized.

The most glaring problem associated with this project is the poor integration of the state level plan for the California Coastal Trail within the local and regional context. In that respect the present plan is clumsy and heavy handed. It ignores the Coastal Act and it ignores the will and needs of the regional beach goers. This is not only bad for Californians; it is very bad for the Coastal Commission and its credibility as our representative in the coastal zone. A much better plan is possible with input from the regional beach going public.

Following are some passages from the California Coastal Act and the Public Access Action Plan related to the relationship between the Coastal Commission, the local agencies administering the LCP, and the citizens of California:

Section 30320 Findings and declarations

(a) The people of California find and declare that the duties, responsibilities, and quasi-judicial actions of the commission are sensitive and extremely important for the well-being of current and future generations and that the public interest and principles of fundamental fairness and due process of law require that the commission conduct its affairs in an open, objective, and impartial manner free of undue influence and the abuse of power and authority. It is further found that, to be effective, California's coastal protection program requires public awareness, understanding, support, participation, and confidence in the commission and its practices and procedures. Accordingly, this article is necessary to preserve the public's welfare and the integrity of, and to maintain the public's trust in, the commission and the implementation of this division:

(b) The people of California further find that in a democracy, due process, fairness, and the responsible exercise of authority are all essential elements of good government which require that the public's business be conducted in public meetings, with limited exceptions for sensitive personnel matters and litigation, and on the official record. Reasonable restrictions are necessary and proper to prevent future abuses and misuse of governmental power so long as all members of

the public are given adequate opportunities to present their views and opinions to the commission through written or oral communications on the official record either before or during the public hearing on any matter before the commission.

he California Coast is a place of magnificent vistas and seemingly endless beauty. It seems to define who we are and what this State is all about. Anyone, no matter who he is and how much or how little he has, can partake of this beauty. The California coast belongs to us all. It sustains a remarkable variety and abundance of life. It fires the imagination, inspires

creative expression, and offers sanctuary to body and soul. Countless residents and visitors have

forged an enduring and enriching bond with this bountiful and tantalizing reach of geography.

When the coast is threatened, as it has been many times, citizens have effectively rallied to its

defense. In 1972 California voters approved, against powerful opposition, a citizen's initiative that

established our strong and effective coastal protection law. This is a populist law, brought into

being by citizen activism and involvement. It is thanks to such public initiative, support, and

activism that California has become a world leader in coastal conservation. But we must not take

today's coast for granted. If future generations are to enjoy it, we must be ever vigilant in protecting it. This essential protection can be achieved by a variety of avenues, including initiatives such as this Public Access Actio

2. Inadequate reflection of Coastal Act policies

One of the most fundamental weaknesses of LCP Access Components throughout the state is the

lack of clear policy support and implementing ordinance language necessary to address the full

range of public access requirements of the Coastal Act. While many reflect Coastal Act language

and articulate admirable goals for providing public access, they lack the LUP policies necessary to

carry out the state mandate at the local level. In addition, the zoning ordinance language that is

essential to implement LUP access policies is frequently missing. As an example, many LCPs

discuss the goals of protecting the public's right of access and may even list locations of potential

prescriptive rights trails, but lack any policy to actually ensure that they, and other such yet-to-be discovered

trails, will be so designated and protected.

At a minimum, every public Access Component should contain the policies and accompanying

zoning ordinances necessary to implement Coastal Act sections 30210 through 30214. In

addition, the component should echo Coastal Act Section 30009 and confirm that the LCP access

policies shall be given the most liberal construction possible so that public access to the shoreline

is protected and provided consistent with the Coastal Act and California Constitution

3. Few directives to provide explicit findings in the LCP development review

process and to mitigate all access impacts through various means

Very few jurisdictions have adequate policies and implementing ordinances requiring written

findings of fact, analysis and conclusions addressing public access in support of their action on

coastal development permits. In addition, some LCPs do not specify that permitted projects must

be sited and designed to either avoid or mitigate all adverse individual and cumulative effects on

the ability of the public to reach and use public tidelands and coastal resources.

This document I am presenting will address the substantive issues relating to the Coastal Act violations presented by the design concept and details of the La Conchita Highway Widening Project.

SUBSTANTIVE ISSUES RELATING TO THE APPEAL OF THE LA CONCHITA HIGHWAY WIDENING PROJECT TO THE COASTAL COMMISSION

FAILURE TO INCLUDE THE PUBLIC IN THE PLANNING PROCESS

The regional stakeholders – the public beachgoers, people and families who have been using this beach for generations were not contacted or made aware of this project and its intent to eliminate the present beach parking. Virtually no one in the regional beach going community knew about this project and its impacts. When some of us did become aware of the situation and made our objections known in appeals to both the Ventura Planning Commission and the Ventura County Board of supervisors, our input fell on deaf ears.

The project planners, Cal Trans The County of Ventura and the Coastal Commission all failed to recognize the nature and character of La Conchita Beach as a regional beach resource used not only by people from La Conchita and Mussel Shoals but all parts of Ventura County as well as by people from all parts of Santa Barbara County and beyond. When the planning agencies sent out notices to the public it was only to a very geographically restricted local population. The people who use the beach and have used the beach for generations were not included. All the seventy odd meetings held by Cal Trans during the planning process were held without the most important stakeholders. The project suffers from their lack of input as a result.

Following are passages in the Coastal Act relating to the key role to be played by the public in planning the future of the coast and maintaining the integrity of the Coastal Act.

Section 30006 Legislative findings and declarations; public participation

The Legislature further finds and declares that the public has a right to fully participate in decisions affecting coastal planning, conservation and development; that achievement of sound coastal conservation and development is dependent upon public understanding and support; and that the continuing planning and implementation of programs for coastal conservation and development should include the widest opportunity for public participation

Section 30320 Findings and declarations

- (a) The people of California find and declare that the duties, responsibilities, and quasi-judicial actions of the commission are sensitive and extremely important for the well-
- (b)
- (c) being of current and future generations and that the public interest and principles of fundamental fairness and due
- (d)
- (e) process of law require that the commission conduct its affairs in an open, objective, and impartial manner free of undue influence and the abuse of power and authority. It is further found that, to be effective, California's coastal protection program requires public awareness, understanding, support, participation, and confidence in the commission and its practices and procedures. Accordingly, this article is necessary to preserve the public's welfare and the integrity of, and to maintain the public's trust in, the commission and the implementation of this division:

Section 30012 Legislative findings and declarations; public education program

- (a) The Legislature finds that an educated and informed citizenry is essential to the well-being of a participatory democracy and is necessary to protect California's finite natural resources, including the quality of its environment. The Legislature further finds that through education, individuals can be made aware of and encouraged to accept their share of the responsibility for protecting and improving the natural environment

FAILURE TO RECOGNIZE OR DESIGNATE LA CONCHITA BEACH AS HAVING 'SENSITIVE RESOURCE VALUES,' AND THE ADDITIONAL FAILURE BY THE VENTURA COUNTY LCP AND/OR THE COASTAL COMMISSION TO ADEQUATELY DESCRIBE LA CONCHITA BEACH IN THE COASTAL INVENTORY AS A VALUABLE REGIONAL RECREATIONAL AND SCENIC RESOURCE, I.E. 'A SENSITIVE COASTAL RESOURCE AREA'.

A significant factor involved in the failure of this project to integrate the highway widening and bike path with local and regional beach access and scenic value issues is the lack of awareness or understanding project planners have had regarding the value and quality of La Conchita Beach as an historical, cultural, and recreational resource for generations of beach going families. In part it is a failure of the planners to perform one of the most important of initial planning functions, that of a human community inventory and analysis to determine who the actual stake holders are and how they relate to the physical beach resource.

It would have been harder for project planners to overlook this planning element had the Ventura County Planning Department or the Coastal Commission produced, for the beach inventory required by the Coastal Act and or the Coastal Commissions Beach Access Plan, an adequate description of La Conchita Beach, its characteristics, types of users, and its role or place in the greater context of beach crowding of beaches near by.

Had an adequate inventory been done, La Conchita Beach would have been recognized as possessing 'Sensitive Resource Values' and thereby requiring special care and precautions to protect those special resource values from this proposed development.

La Conchita Beach qualifies as having 'Sensitive Resource Values' for the following reasons:

1. It has enormous capacity for recreational use for virtually any ocean oriented activity. It is a long, sandy beach with room for everyone.
2. La Conchita Beach is incredibly scenic with its island views, mountain views, and views to Santa Barbara and beyond to the West and Oxnard and even Pt. Mugu to the East on a clear day.
3. La Conchita Beach is an historical and cultural treasure for generations of families who have enjoyed the beach and for motorists who have enjoyed the views as they passed by or stopped to take a rest or watch the dolphins.
4. The parking along virtually the entire length of the beach giving almost perfect lateral accessibility has a history of 60 years of uninterrupted public use.

Both the California Coastal Act and the Federal Government Coastal Zone Management Act define and describe these 'Sensitive Resource Values'.

Following are passages from the California Coastal Act, the Public Access Action Plan and the Coastal Zone Management Act:

2. Federal Coastal Zone Management Program

The Coastal Zone Management Act (CZMA) of 1972, as amended declares in Section 1452(2)(E)

that it is national policy:

... to encourage and assist the states to exercise effectively their responsibilities in the

coastal zone through the development and implementation of management programs to

achieve wise use of the land and water resources of the coastal zone, giving full consideration to ecological, cultural, historic, and aesthetic values as well as the needs for

compatible economic development, which programs should at least provide for

...

public access to the coastal for recreation purposes...

The CZMA further requires that each state prepare a coastal management program that includes a planning process for the protection of, and access to, public beaches and other public areas of, environmental, recreational, historical, aesthetic, ecological or cultural value. The federally approved California Coastal Management Program meets this requirement. Thus, the Commission's public access program is responsible for carrying out both state and national access policies

The Value of California's Coast- From the Public Access Action Plan-This is La Conchita Beach in a nutshell

Every year, many millions of people are drawn to the 1100-mile long California coast to enjoy its myriad opportunities for recreation and refreshment. In the classic image, families and friends relax around picnic baskets on a sandy beach, watching children build sand castles at the waters edge, surfers bob offshore, sailboats breeze by, and shorebirds race up and down the wet sand, just ahead of incoming waves. The long sandy beaches provide ample opportunity for such relaxation, as well as for strolling, jogging, body surfing, boogie boarding, kayaking and may other activities. But the coast offers many other attractions. Trails along windswept headlands and blufftops offer views of passing whales, seal lions on wave-swept rocks, birds overheard. Circuitous pathways lead through woods and across meadows to cove beaches known mainly by nearby residents but open to everyone. In coastal towns and urbanized areas, street end stairways lead to sandy shores. Fishermen on shore and in boats partake of the ocean's bounty while scuba divers explore wonders below the water. Whether it's a warm summer day with glassy ocean waters or a turbulent winter day with pounding surf, people come to the coast, at all times of the day and night, to relax, unwind, and enjoy some time with nature.

Section 30116 Sensitive coastal resource areas

"Sensitive coastal resource areas" means those identifiable and geographically bounded land and water areas within the coastal zone of vital interest and sensitivity. "Sensitive coastal resource areas" include the following:

- (a) Special marine and land habitat areas, wetlands, lagoons, and estuaries as mapped and designated in Part 4 of the coastal plan.
- (b) Areas possessing significant recreational value.
- (c) Highly scenic areas.
- (d) Archaeological sites referenced in the California Coastline and Recreation Plan or as designated by the State Historic Preservation Officer.
- (e) Special communities or neighborhoods which are significant visitor destination areas.

Section 30531 Preparation of program; elements; procedure

The commission shall be responsible for the preparation of a public coastal access program which includes the elements set forth in this section and which, to the maximum extent practicable, is incorporated into the local coastal programs prepared, approved, and implemented pursuant to this division.

(a) On or before January 1, 1981, the commission shall prepare a coastal access inventory. The coastal access inventory shall be updated on a continuing basis and shall include, but not be limited to, the following information:

- (1) A list identifying lands held or operated for the purpose of providing public access to or along the coast. Each listing shall include a brief description of the type of access provided, access constraints, access facility ownership, and resources or uses for which access is provided or suitable.

Section 30525 Sensitive resource values; identification; protection in promulgation of local coastal program

92

(a) Every state agency that owns or manages land or water areas within the coastal zone, including public beaches, parks, natural areas, and fish and wildlife preserves, shall identify the sensitive resource values within those areas that are particularly susceptible to adverse impacts from nearby development that is not carefully planned. Every such agency shall also identify the location and type of development that would have a significant adverse impact on those sensitive resource values

(b) Every agency subject to this section shall advise the appropriate local government of particular considerations that should be evaluated during the preparation of a local coastal program and which, in the opinion of such agency, may be necessary to protect identified sensitive resource values. In addition, the work undertaken pursuant to this section shall be completed in a timely manner in order to maximize the opportunity for the public, affected local governments, and the commission to consider this information fully during the preparation, review, and approval of the appropriate local coastal program.

(c) Work already completed pursuant to former Chapter 7 (commencing with Section 31300) of Division 21 of the Public Resources Code, added by Chapter 1441 of the Statutes of 1976, and in conformity with this section, that identifies sensitive resource values within publicly owned or managed land and water areas of the coastal zone shall be considered by local government and the commission in the course of carrying out this chapter

(d) For purposes of this section, "sensitive resource values" means those fragile or unique natural resources which are particularly susceptible to degradation resulting from surrounding development, the adverse effects of which have not been carefully evaluated, mitigated, or avoided. Examples include, but are not limited to, environmentally sensitive areas, as defined in Section 30107.5, areas uniquely suited for scientific or educational purposes, and specific public recreation areas where the quality of the recreational experience is dependent on the character of the surrounding area

Section 30253 Minimization of adverse impacts

New development shall do all of the following:

(e) Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.

FAILURE TO MAXIMIZE BEACH ACCESS FOR THE PUBLIC. FAILURE TO PROTECT EXISTING BEACH ACCESS

The existing beach parking at La Conchita is a very rare and valuable coastal resource. Over two hundred parking spaces provide unhindered lateral access to over two miles of sandy beach. The vertical access is not ideal due to the rip rap armoring that Cal Trans installed to protect the highway. However, for over sixty years regional beachgoers have clambered up and down the rocks with their families and beach gear. Cars parking along the highway above the beach have pulled in and out of the parking spaces without incident. This beach accommodates large numbers of people seeking an alternative to the highly congested beaches to the east and west.

This parking arrangement is irreplaceable. The Cal Trans/Coastal Commission plan which attempts to replace the existing parking with new parking along the old coast highway near the Old Oil Piers with a required hike of over a mile by families with beach gear etc. is not maximizing beach access. It is not enhancing beach access. It is greatly diminishing the character and the quality of the existing beach access, and making substitutes that don't even begin to match what is there now. It is a weak attempt to mitigate a poor and unacceptable design choice, that of eliminating the present beach parking in order to have a seaward placement of the bike path.

Maximizing beach access in this project would have included the following elements:

1. Maintain all present parking along the highway for beachgoers, particularly for families with children and beach gear, beach goers who have equipment associated with their beach activities such as kayaks, standup paddleboards, surfboards, fishing poles.

2. Enhance vertical beach access all along the existing parking by providing modest ramps with handrails down to the beach, thus allowing less physically capable citizens a comfortable way down to the beach.
3. Build two pedestrian under crossings in La Conchita instead of one and provide ADA parking spaces near both.
4. Develop the additional parking near the old Oil Piers, which would provide bicycle and hiking take off points to beaches both to the east and the west via the CCT placed on the mountain side of the freeway.

For the highway widening project as a development in the Coastal Zone to comply with the Coastal Act it must enhance or add to access, not diminish or degrade it. Again the Ventura County Planning Staff Report is misleading and inaccurate in this regard.

Following are passages from the Coastal Act and the Public Access Action Plan relating to maximizing beach access for the public:

Section 30210 Access; recreational opportunities; posting

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

(Amended by Ch. 1075, Stats. 1978.)

Section 30211 Development not to interfere with access

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30252 Maintenance and enhancement of public access

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development

Section 30530 Legislative intent

It is the intent of the Legislature, consistent with the provisions of Chapter 9 (commencing with Section 31400) of Division 21, that a program to maximize public access to and along the coastline be prepared and implemented in a manner that ensures coordination among and the most efficient use of limited fiscal resources by federal, state, and local agencies responsible for acquisition, development, and maintenance of public coastal accessways. There is a need to coordinate public access programs so as to minimize costly duplication and conflicts and to assure that, to the extent practicable, different access programs complement one another and are

incorporated within an integrated system of public accessways to and along the state's coastline. The Legislature recognizes that different public agencies are currently implementing public access programs and encourages such agencies to strengthen those programs in order to provide yet greater public benefits.

2. Inadequate Parking

Demand for parking at beaches and other coastal areas far exceeds supply, especially in the central and southern parts of the coast. The older beach towns, in particular, were not designed for the high amount of beach parking that is needed to accommodate the current demand generated by both tourists and residents. Pre-existing development generally does not provide sufficient parking. Also, while new development proposals often provide parking, for various reasons this parking does not adequately address the increased need. Thus the parking problems are simply exasperated. Various solutions to resolve the demand problem exist and have been used at various locations. They include: construction of new parking structures, use of valet parking to increase the number of cars using one lot, shuttle programs, etc. Three alternatives that need further discussion by the Commission are: expansion of joint use parking, eliminating exclusionary parking programs, and reducing impacts from parking fees.

It is a well-known fact that most Californian's almost exclusively use private automobiles for transportation, whether to go to work or the beach. Pacific Coast Highway/Highway One itself is a major recreational asset offering scenic views of the coast. Because of this pattern of transportation, two of the biggest impediments to public access, especially in southern California, are the roadway congestion in coastal areas and the lack of parking once you have arrived at the coast. Given the fragile and limited nature of coastal resources, continuing to build ever-wider roads and pave even larger parking lots is not the most prudent course of action.

The Coastal Act even requires that PCH/Highway One remain a two lane scenic road in rural areas. Creative approaches to addressing these transportation problems need to be identified. Impacts resulting from traffic congestion, inadequate parking, exclusionary parking and the adverse effects of parking fees are discussed below

RECOMMENDATION 33. The Commission should require that all new development directly provide adequate parking.

To supply the necessary parking spaces generated by new development proposals, the Commission generally requires on- site parking spaces or participation in an in lieu fee program. Construction of on- site spaces is provided at the time the building is occupied and is therefore the preferred alternative. Use of in lieu fees can often result in a delay of parking space construction, sometimes for several years, creating a parking deficit that can severely impact beach visitors. Therefore, the Commission should consider only approving new development projects that can clearly demonstrate that they are supplying the necessary parking.

FAILURE TO PROTECT AND PRESERVE THE PUBLICS ENJOYMENT OF THE SCENIC VALUES ALONG THE COAST

The placement of the Class 1 bike path on the seaward side of the highway with its two parallel steel fences will greatly diminish the quality of the currently unobstructed view to the ocean. On beautiful beach days when parked cars are present the view for passing motorists is somewhat obstructed but on most days motorists enjoy a beautiful, unobstructed view of the beach, surf, islands, and the coast to the southeast. They can pull over, park and enjoy the view or go down to the beach.

The railings would change all that. The views would be irreparably damaged by the double layer of 48"-54" high steel railings. The existing k-rail allows unobstructed views of the coast. The proposed steel railings are much taller and will create a dizzying matrix to look through. The Ventura Planning Staff comments regarding the impact of the railings on the public's view of the coast are illogical and misleading. The Addendum to the Negative Declaration is even worse in this regard.

Following are passages from the coastal Act relating to the priority of preserving scenic values:

Section 30251 Scenic and visual qualities

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting

FAILURE TO PROTECT THE PUBLIC SAFETY IN THE COASTAL ZONE

The Ventura County Planning Staff Report discusses the safety improvements that will occur because of the highway widening and the closures in the median, and they discuss the improved safety to the bicyclists traveling within the railings, but they do not address any of the safety issues arising from the seaward placement of the bike path. They are substantial.

The proposed bike path is two directional and will accommodate not only bicyclists, but skateboarders, hikers and, ostensibly beachgoers with surfboards, shade tents, umbrellas, beach chairs, coolers and more who will have to trek up from Oil Piers or down from Rincon Point. On a quiet day the traffic/use level on this 'roadway' might allow safe passage for users. On a crowded day this arrangement of mixed use will be quite dangerous with a high probability of serious injury to path users.

The proposed double railing on the seaward side of the highway will also prevent emergency vehicles from accessing the beach to assist people in need. Assisting people injured on the beach or CCT will require emergency vehicles to park on the shoulder and pass injured persons over the steel railing. Meanwhile the emergency vehicles will be obstructing the shoulder (emergency parking lane), which will still allow bicyclists. Clearly not enough thought has been put into the present design.

Another safety concern is that law enforcement officers will no longer have direct access to the beach and thus potential crime is a concern, as well as the potential for the establishment of a homeless encampment.

An additional serious safety issue is the intersection of the seaward CCT with the entrance to Mussel Shoals. Everyone, including Ventura County Planning Commissioners and Supervisors, agrees that the potential for serious accidents at this nexus is high yet nothing has been done to mitigate it and the project has been approved nonetheless.

Moving the CCT to the mountain side of the highway eliminates these safety issues.

Following are passages from the Coast Act related to the priority of Public Safety for development in the Coastal Zone:

\Section 30210 Access; recreational opportunities; posting

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse

LCPs should reflect these Coastal Act policies and provide a framework for location-specific

analysis. In part, this means they should establish more detailed standards and criteria for determining what constitutes: an inconsistency with public safety or military needs; "adequate"

access; and, access threats to fragile resources or agriculture. For example, early Commission

guidance suggested that locating vertical access at certain distances in rural and urban areas would provide adequate access. While this is one criterion that should be factored into determining whether or not adequate access exists nearby, experience has shown that a number of

other criteria also should be considered. These include the existence of necessary support facilities

such as parking lots, in connection with stairs or walkways, as well as the overall capacity of

individual accessways to service increasing numbers of people, or different types of user groups including the disabled.

FAILURE TO MANAGE THE PUBLIC TRUST IN A FISCALLY RESPONSIBLE WAY

The value in current dollars of the existing two hundred plus parking places along La Conchita Beach is difficult to estimate. Priceless, irreplaceable, are words that come to mind rather than finite dollar amounts. Suffice it to say that the state of California would be hard pressed to find another location along the coast with this kind of access, quality of beach for recreational use, and scenic value, let alone afford procuring it and developing parking. The proximity to significant urban populations, and the beach and beach parking crowding at nearby beaches make La Conchita an invaluable regional beach resource. Destroying the parking and quality access through poor project conceptualization and design, eg.. the ill advised placement of the CCT/Bike path on the seaward side of the highway is not fiscally responsible.

What really adds insult to injury in this case is the heretofore little talked about fact that building the bike path on the seaward side of the highway is three times the cost of building the path on the mountain side. Three times!, while destroying existing beach access, destroying scenic values, creating significant public safety issues, it costs three times as much. Is this fiscally responsible? Absolutely not. It is this kind of poor thinking and planning that California cannot afford. Potential lawsuits from injuries resulting from the poor design relative to safety considerations further detract from the fiscal viability of the plan as presented.

Following are passages from the Coastal Act relating to the priority status of fiscal responsibility for any development within the Coastal Zone:

Section 30530 Legislative intent

It is the intent of the Legislature, consistent with the provisions of Chapter 9 (commencing with Section 31400) of Division 21, that a program to maximize public access to and along the coastline be prepared and implemented in a manner that ensures coordination among and the most efficient use of limited fiscal resources by federal, state, and local agencies responsible for acquisition, development, and maintenance of public coastal accessways. There is a need to coordinate public access programs so as to minimize costly duplication and conflicts and to assure that, to the extent practicable, different access programs complement one another and are incorporated within an integrated system of public accessways to and along the state's coastline. The Legislature recognizes that different public agencies are currently implementing public access programs and encourages such agencies to strengthen those programs in order to provide yet greater public benefits

FAILURE TO APPLY THE MOST LIBERAL INTERPRETATION OF THE COASTAL ACT'S INTENT TO PROTECT THE PUBLIC'S INTEREST IN THE COASTAL ZONE FOR THE LONG TERM.

The addition of another traffic lane to this Coastal Highway is an historic benchmark event with profound impacts on coastal and beach issues. This is the kind of event for which the Coastal Initiative (Prop. 20) and the Coastal Act were created. This intent of the Coastal Act, to apply the most liberal interpretation of the voters and legislators in achieving the goals of protecting the coast for future generations of Californians is one of the most important intents of the Coastal Act. It defines the absolute and timeless aspect of the Coastal Act's vision for a coastline which is healthy, beautiful, and available for Californians to enjoy.

At both the Ventura County Planning Commission hearing and the Ventura County Board of Supervisor's hearing, government officials represented that the "old way" of California beach access and enjoyment were dying; that population and traffic pressures were dictating a new reality. I want to take exception with these people's representations. They are misinformed and they obviously don't understand either the wishes of the regional beach stakeholders or the Public Mandate reflected in the Coastal Initiative and the Coastal Act, both of which are future oriented documents designed to protect against the pressures, exigencies, and tyranny of near term problems, and protect the integrity and quality of the California beach and coastal experience for future generations.

The need for another lane on the highway to accommodate and alleviate traffic jams during morning and evening rush hour work traffic, and heavy weekend traffic is clear. However, what is not so clear is how that third lane should impact beach access and the public's experience in this section of the Coastal Zone. The Ventura County Planning Department, Cal Trans and the Coastal Commission are saying that it means this stretch of highway will now become a high speed freeway with no possibility of safe parking, that we must say good bye to the present arrangement which has existed for sixty years.

We believe the Coastal Act provides for, in fact calls for, a much different approach. We believe that the intent of the Coastal Act is clear that the existing beach access should be protected and enhanced by taking the appropriate design measures.

These measures would include the following:

1. Placement of the bike path on the mountain side of the highway.
2. Establishment of a dedicated stretch of "Coastal Highway" with appropriate signage to define the situation for motorists. For example – 'La Conchita

- Memorial Coast Highway', 'La Conchita Regional State Beach', Slow Lane Watch for Merging Beach Traffic (Parking)', Maximum Speed Slow Lane 55 MPH, (No Semi Trucks in Slow Lane except for Accessing Parking?).
3. Construction of serviceable and safe, yet modest and affordable ramps or steps with handrails down to the beach at various points to improve vertical access over the rip rap armoring.
 4. Construction of two pedestrian under crossings in La Conchita rather than one to enhance beach access for La Conchita residents and for ADA access. Provide ADA parking at the PUC's.
 5. Construction of the bike lane on the mountain side of the highway as well as the construction of the parking area near Old Oil Piers to support bicyclists and hikers coming from a distance to enjoy the new branch of the California Coastal Trail.

A liberal interpretation of the Coastal Act's intents and powers permits this kind of design approach which preserves and protects the public's beach experience rather than alter it forever as would the more narrow interpretation. The Coastal Act calls for the most liberal interpretation and that is what should be done.

The Cal Trans/Coastal Commission project as presented is not in character with the region and does not meet the needs of the beach going public. Was the failure to include the real stakeholders in the design process intentional or an oversight? Regardless, the regional stakeholders need to be heard and respected now. This is the intent of the Coastal Act. The Coastal Act needs to be respected. That was the intent of the people.

Following are key passages from the Coastal Act and the Public Access Action Plan that relate to the intent of the Coastal Act regarding its liberal interpretation in problem solving and again, the critical role of citizens in project design.

No individual, partnership, or corporation claiming or possessing the frontage or tidal lands

of a harbor, bay, inlet, estuary, or other navigable water in this state shall be permitted to

exclude the right of way to such water whenever it is required for any public purpose and the Legislature shall enact such law as will give the most **liberal** construction to this provision so that access to the navigable waters of this state shall always be attainable for the people thereof. (emphasis added)

Section 30254 Public works facilities

New or expanded public works facilities shall be designed and limited to accommodate needs generated by development or uses permitted consistent with the provisions of this division; provided, however, that it is the intent of the Legislature that State Highway Route 1 in rural areas of the coastal zone remain a scenic two-lane road. Special districts shall not be formed or expanded except where assessment for, and provision of, the service would not induce new development inconsistent with this division. Where existing or planned public works facilities can accommodate only a limited amount of new development, services to coastal dependent land use,

essential public services and basic industries vital to the economic health of the region, state, or nation, public recreation, commercial recreation, and visitor-serving land uses shall not be precluded by other development

2. Inadequate reflection of Coastal Act policies

One of the most fundamental weaknesses of LCP Access Components throughout the state is the lack of clear policy support and implementing ordinance language necessary to address the full range of public access requirements of the Coastal Act. While many reflect Coastal Act language and articulate admirable goals for providing public access, they lack the LUP policies necessary to carry out the state mandate at the local level. In addition, the zoning ordinance language that is essential to implement LUP access policies is frequently missing. As an example, many LCPs discuss the goals of protecting the public's right of access and may even list locations of potential prescriptive rights trails, but lack any policy to actually ensure that they, and other such yet-to-be discovered trails, will be so designated and protected. At a minimum, every public Access Component should contain the policies and accompanying zoning ordinances necessary to implement Coastal Act sections 30210 through 30214. In addition, the component should echo Coastal Act Section 30009 and confirm that the LCP access policies shall be given the most liberal construction possible so that public access to the shoreline is protected and provided consistent with the Coastal Act and California Constitution

RECOMMENDATION 23. The Commission should update the Coastal Access Guide and, in cooperation with the Conservancy, should produce and distribute local/regional access guides which give detailed information about specific coastal regions at a nominal cost.

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RECOMMENDATION 24. The Commission and the Conservancy, in cooperation with local governments, should develop a statewide coastal access signing program that provides such information as directional signing to the coast, identification of public facilities such as parking lots and restrooms, as well as information about the physical characteristics of the shoreline.

RECOMMENDATION 25. The Commission should support the Conservancy's production of comprehensive guides to facilities designed for people with disabilities along the California coast.

CONCLUDING PERSONAL MESSAGE

As a native Californian who grew up at the coast and have lived my entire adult life along the coast I feel strongly that I have a valuable perspective to offer. I have a degree in Geography from UCSB 71'. In my senior year several of my professors were working on or contributing to the draft of the Coastal Initiative

They told us how important this legislation was and each student actually had a coastal planning project which anticipated and followed the outline of the new legislation. My self chosen project was describing the unique confluence of circumstances that combine to form a quality surfing and recreational beach. The idea was to demonstrate that such a beach is a truly unique one of a kind resource that needs to be understood, appreciated, and respected in the coastal planning process.

La Conchita is that kind of beach. It provides the place for a host of ocean and beach oriented activities. It is a treasured resource to literally tens of thousands of people. The Caltrans/Coastal Commission plan does not recognize that, and that is why we must modify the existing plan to reflect the important community aspects of the situation.

I am remembering that my first vote as a California citizen was for Proposition 20 ,the Coastal Initiative. I am the proud owner of a mate, coffee, vino stained copy of the 1976 Coastal Act. I know it pretty well. I think I know what was intended by the people who created it and I respect that tremendously. It is an inspired document and we need to consult it when projects like the La Conchita Highway Widening Project come along. It can and should greatly influence the design process. At the most basic level the Coastal Act provides constraints to the possibilities of what is allowable in the Coastal Zone. It is these constraints that should get project designers looking for inspired, future oriented solutions that respect the California coastal tradition.

This project as designed falls short of this benchmark and I feel strongly that Californians should not accept it as is. Ideally the Coastal Commission would decide to move the bike path to the mountain side of the highway and preserve the present beach parking by a creative design which creates a Coastal Highway with signage and speed limits which would make beach access and public safety a priority.

If the Coastal Commission fails to adopt such an approach, I think it would be entirely appropriate for the combined total mass of the California beach going public to weigh in and demand that the Coastal Commission adhere to their founding document and the will of the California citizenry.

This would require that a lot of people would need to step up, express themselves, and insist on being heard. We can take it as far as we have to. I believe that is entirely possible. We did it before. Please get ready to step up. This is important work. Thank you, Doug Richardson

Another passage from the Coastal Act:

Section 30012 Legislative findings and declarations; public education program

(a) The Legislature finds that an educated and informed citizenry is essential to the well-being of a participatory democracy and is necessary to protect California's finite natural resources, including the quality of its environment. The Legislature further finds that through education, individuals can be made aware of and encouraged to accept their share of the responsibility for protecting and improving the natural environment

See other

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4883 FAX (831) 427-4877



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

RECEIVED
NOV 01 2010
CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

SECTION I. Appellant(s)

Name: James Littlefield, Santa Cruz Chapter Director; Surfers' Environmental Alliance

Mailing Address: 410 Seacliff Drive

City: Aptos

Zip Code: 95003

Phone: 831-331-9379

SECTION II. Decision Being Appealed

1. Name of local/port government:

Ventura County Board of Supervisors

2. Brief description of development being appealed:

CALTRANS Ventura/Santa Barbara Highway 101 HOV Project

3. Development's location (street address, assessor's parcel no., cross street, etc.):

US Highway 101/1 in Ventura County adjacent La Conchita Beach and villages of La Conchita and Muscle Shoals

4. Description of decision being appealed (check one.):

- Approval; no special conditions
- Approval with special conditions:
- Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

<u>TO BE COMPLETED BY COMMISSION:</u>	
APPEAL NO:	_____
DATE FILED:	11/1/2010
DISTRICT:	_____

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- Planning Director/Zoning Administrator
- City Council/Board of Supervisors
- Planning Commission
- Other

6. Date of local government's decision: 10-19-2010

7. Local government's file number (if any): _____

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

CALTRANS, District 7; 100 South Main St., Los Angeles, CA 90012

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Surfers' Environmental Alliance 410 Seacliff Drive, Aptos, CA 95003

(2)

(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.
 - FAILURE TO INCLUDE THE KEY STAKEHOLDERS IN THE PLANNING PROCESS
 - FAILURE TO MAXIMIZE BEACH ACCESS FOR THE PUBLIC: FAILURE TO PROTECT EXISTING BEACH ACCESS
 - FAILURE TO PROTECT AND PRESERVE THE PUBLIC'S ENJOYMENT OF THE SCENIC VALUES ALONG THE COAST
 - FAILURE TO PROTECT THE PUBLIC SAFETY IN THE COASTAL ZONE
 - FAILURE TO MANAGE THE PUBLIC TRUST IN A FISCALLY RESPONSIBLE MANNER

SEA will expand on these issues in detail in a forthcoming appeal letter. As outlined above, the CALTRANS plan did not apply due diligence to public notification of major stakeholders prior to planning meetings, and the resultant project plan effectively destroys long-established public beach access at this location. The lack of meeting notification to key groups of stakeholders marred the process and excluded key parties from stating their opinions in the public record.

The key item of dispute is not the freeway-widening, rather it is the seaward location of the Class 1 Bike/pedestrian path which was "tacked on" to the road construction project, allegedly to gain easy Coastal Commission approval.

Seaside location of this 10-foot wide corridor totally ruins long-established public parking and beach access with no comparable "trade-off" in beach access provided. This short-sighted project design clearly violates the prescriptive rights of untold thousands of regional beachgoers who parked next to Highway 1 / 101 ever since the highway was constructed. CALTRANS, itself, originally sited the Bike Path on the inland side of the highway rather than the seaward side, because this is the logical location, far cheaper to build, and much, much safer for all parties using it.

In order to place said pathway on the seaward side, CALTRANS planners think it now necessary to "protect" the path from immediately adjacent freeway traffic and the drop-off at the edge of the beach. Therefore, CALTRANS envision a double layer of 48"-54" high steel

railings shielding it from the adjacent freeway traffic and a 3-bar metal rail system keeping path users from falling down the rip-rap backing the beach. This is a ridiculous and non-sensical plan that takes no account of the real-world behavior of people in non-motor vehicle transit or of people trying to reach the beach for recreation. The "enclosed" bike path, also totally blocks any kind of emergency vehicle access to La Conchita Beach—an extremely dangerous situation. If someone is injured on the "coastal bike path" or on the beach, how can emergency forces reach them to help? Both path and beach will now be "walled off" from emergency vehicles arriving via the highway. This is clearly counter to standard public safety needs and practices. It is extremely foolish to deliberately route untold numbers of pedestrians and cyclists moving in opposing directions into an enclosed pathway separated both from highway and beach by safety barriers and metal railways and immediately adjacent a crowded, rushing roadway. Any kind of vehicle accident on 101 throws anyone on the "bike path" into clear danger. The idea that this plan creates a "safe" enclosed pathway is ridiculous and extremely disturbing to any regular cyclist, hiker, pedestrian, jogger or beach-goer who might use it.

The simple fact that the project planners feel that "armouring" this new bike path and "protecting" it from serious hazards on both sides proves the location itself is a dangerous place to construct a bike path and the path will be dangerous to users. SEA is shocked that such a poorly-located design would ever be considered in a huge public project in the Coastal Zone. It really appear to ignore clear threats to human safety to path users of all types and thus is a public agency promoting a dangerous situation.

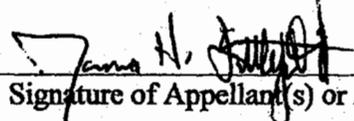
The seaward location of the Class 1 bike path, therefore, fails to maximize beach access and fails to protect existing coastal access. Furthermore, it does not protect public safety in the coastal zone, rather threatens it.

However; if the "bike path"—intended as eventual part of the California Coastal Trail—was relocated to the inland side of the highway, it could be located farther away from traffic and would not require the heavy-handed artificiality of strict caged enclosures to allow people to "safely" use it. An inland-side path would be much, much safer to users and would be much, much less expensive and time-consuming to construct. Inland path location would also allow magnificent coastal views, unimpeded by rows of steel bars.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.



Signature of Appellant(s) or Authorized Agent

Date: 10-28-2010

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST DISTRICT OFFICE
89 SOUTH CALIFORNIA STREET, SUITE 200
VENTURA, CA 93001-4508
VOICE (805) 585-1800 FAX (805) 641-1732

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OFFICE OF THE
CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: David Chernof, MD

Mailing Address: 6648 Old Pacific Coast Highway

City: Ventura

Zip Code: 93001

Phone: 805-403-0775

SECTION II. Decision Being Appealed

1. Name of local/port government:

Ventura County Board of Supervisors

2. Brief description of development being appealed:

Rincon Parkway/Mussel Shoals bicycle path segment of LU09-0085

3. Development's location (street address, assessor's parcel no., cross street, etc.):

As above

4. Description of decision being appealed (check one.):

- Approval; no special conditions
- Approval with special conditions:
- Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: _____

DATE FILED: _____

DISTRICT: _____

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- Planning Director/Zoning Administrator
- City Council/Board of Supervisors
- Planning Commission
- Other

6. Date of local government's decision: 10/18/10

7. Local government's file number (if any): AP10-0010 and AP10-0011

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

CALTRANS; 950 County Square Dr. #112, Ventura, 93003-5475, and Ventura County Planning Commission, C/O Michelle D'Anna, Residential Permits Section, 800 S. Victoria, Ventura, 93009

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Chris Provenzano, 6646 Old Pacific Coast Hwy., Mussel Shoals, 93001

(2) R.B. and Janet Brunner, 6640 Old PCH, Mussel Shoals, 93001

(3) Carol Ferrari, 6614 Old PCH, Mussel Shoals, 93001

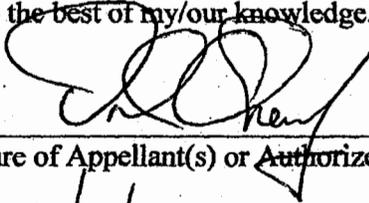
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(4) Interested parties; Nancy Harmon, 6632 Old Pch, 93001; Ken Robertson, 6674 Ocean Ave., Mussel Shoals, 93001, Dr. and Mrs. Dennis Longwill, 6628 Old PCH, Mussel Shoals, 93001; Steve Kohler, 6654 Old PCH, Mussel Shoals, 93001, Ray Reiman, 6734 Breakers Way, Mussel Shoals, 93001

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.



Signature of Appellant(s) or Authorized Agent

Date: 11/1/10

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____

**APPEAL OF APPROVAL OF LU09-0085
CONDITIONAL USE PERMIT BY VENTURA
COUNTY BOARD OS SUPERVISORS**

**Appellant-David Chernof
6648 Old Pacific Coast Highway
Ventura, California 90031
805-403-0775
chernof@usc.edu**

10/25/10

INTRODUCTION: I represent the majority (18) of the Mussel Shoals residents and resident owners who live on Old Pacific Coast Highway(Old PCH) and Ocean Avenue. We are not formally organized as a homeowners association. Collectively, we are the most directly impacted by this Caltrans project because of our proximity to the single ingress/egress to Mussel Shoals, the most impacted by the proposed incursion of the bicycle path into Mussel Shoals, and most exposed to the consequences of vehicular parking in the community.

In order to dispel any confusion, we are fully supportive of the overall project, including 101 highway/freeway widening, closure of the highway medians, the proposed PUC, and multiple beach access points along the Rincon Parkway riprap, and the sound walls. In addition, we continue to welcome surfers and other visitors to Mussel Shoals, and are very concerned that their safety be protected at all times.

We ARE opposed to placement of the bike path on the seaward side of the Rincon Parkway and its incursion into Mussel Shoals. In fact, as was clearly evident from the public comments at the Ventura County Board of Supervisors hearing, essentially all residents of Mussel Shoals who spoke or commented are opposed to this portion of the Caltrans proposal.

BASIS OF THE APPEAL:We assert that a SUBSTANTIAL ISSUE EXISTS. According to the California Coastal

Commission Appeal Information Sheet, the grounds for an appeal..” shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies ...of the Local Coastal Act”. The following provisions of the various ordinances, acts and policies will be cited, and collectively addressed. In addition, several viable alternatives to the current Caltrans proposal will be outlined. According to Carlos Montez, over 2 years (12/31/12) remain for the initiation of this Caltrans project. This is ample time for relatively minor changes to be made.

THE CITATIONS;

- 1. County Zoning Ordinances 8181 3.5b,c,d. LU09-0085 WILL be obnoxious to or impair neighboring property or uses, detrimental to public interest, health, safety, convenience or welfare.**
- 2. Ventura County Coastal Area Plan-will NOT maximize access to the north coast sub area consistent with private property rights.**
- 3. Coastal Act policies 30212,30001.5c, 30116, and others; State and local policies are NOT aligned to be clear, balanced and.. protect private property; public access is NOT consistent with public safety; does NOT maximize public access consistent with constitutionally protected rights of private property owners; and does NOT recognize that Mussel Shoals is a sensitive coastal resource area-defined as a special community or neighborhood which (is) a significant visitor destination area..”**

DISCUSSION: The key issue here is how best to STRIKE A BALANCE between the competing interests and desires of all of the stakeholders; the surfers, the visitors to our wonderful La Conchita Beach, the bicyclists, the owners and residents of Mussel Shoals and La Conchita, tradespeople,

delivery persons, construction and maintenance workers and others who frequent Mussel Shoals and especially Old PCH. The current Caltrans proposal does not achieve an equitable or logical balance among this multitude.

The current Caltrans proposal states that there are 43 parking spaces basically limited to Old PCH and its short intersecting street, Ocean Avenue. The proposed bicycle path will eliminate some of these "spaces" which actually are on the dirt shoulder and therefore will be compromised by the bike path and associated walls. During those days and hours when demand is maximum (weekends, holidays, and any time the surf is up), those spaces are filled to capacity. Vehicles double park, stand in the roadway awaiting parking spaces and attempt to park in front of, or actually on private driveways. At these times, the Cliff House Inn parking, included in the above number, will typically be occupied by their hotel and restaurant guests. Caltrans talks about "emergency" parking in the private Breakers Way community on Breakers Way, but this is illusory. If parking is no longer possible along the seaside Rincon Parkway. where will visitors attempt to park? Caltrans says they will park in newly designated parking up to 0.7 miles from La Conchita Beach at Oil Pier and Punta Gorda. It defies our understanding of human nature and my experience as a physician to believe that surfers with surf boards, visitors with children and beach paraphernalia would opt first, or second, to walk such a distance when closer parking is at hand on Old PCH. To us, the proposed parking solutions would fly in the face of any assertion of improved access. It has been proposed that this is a signage and enforcement issue. Our law enforcement has more important tasks along highway 101, and has not been able to accomplish enforcement in the past.

Expanding parking in La Conchita would be a better solution. There is shorter and more direct access to the beach through the proposed PUC. Crossing the railroad tracks cannot be considered as a serious objection because people cross railroad tracks every day everywhere. The Caltrans plan proposes 90 parking spaces in the La Conchita community. In reality there are 0.8 miles of street in La Conchita, some of it with potential parking on both sides vs one side on Old PCH where there is 0.2 miles of public road. At 20 feet/auto, that computes to nearly double the available space/car in La Conchita. And remember the available spaces for parking on the shoulder along Old PCH will be reduced by the proposed bike path. Designation of more parking in La Conchita would bring some practical as opposed to paper relief for Mussel Shoals.

Traffic of all types on Old Pacific Coast Highway brings with it a host of problems, ranging from nuisance to hazard. Lets choose to ignore the unauthorized use of hoses and spigots, as well as damage to mailboxes and focus on more significant issues. Both the residents and guests to Mussels Shoals must have a sidewalk. Old PCH more resembles a wide alley than a street. Residents and visitors, some young and some very elderly, must not be forced to share the street with vehicular traffic. Residents must be able to access their driveways and garages. Also, there must be a publicly maintained portable toilet and publicly maintained trash depositories on Old PCH. Neither the County nor Caltrans have provided these amenities although they have previously been tasked to do so. In summary, the ability of and safety residents and visitors to Mussel Shoals, already seriously impaired during periods of maximum vehicular traffic, will inevitably be worsened.

The diversion of the bike path into Mussel Shoals brings with it another problem, potentially FAR MORE SERIOUS

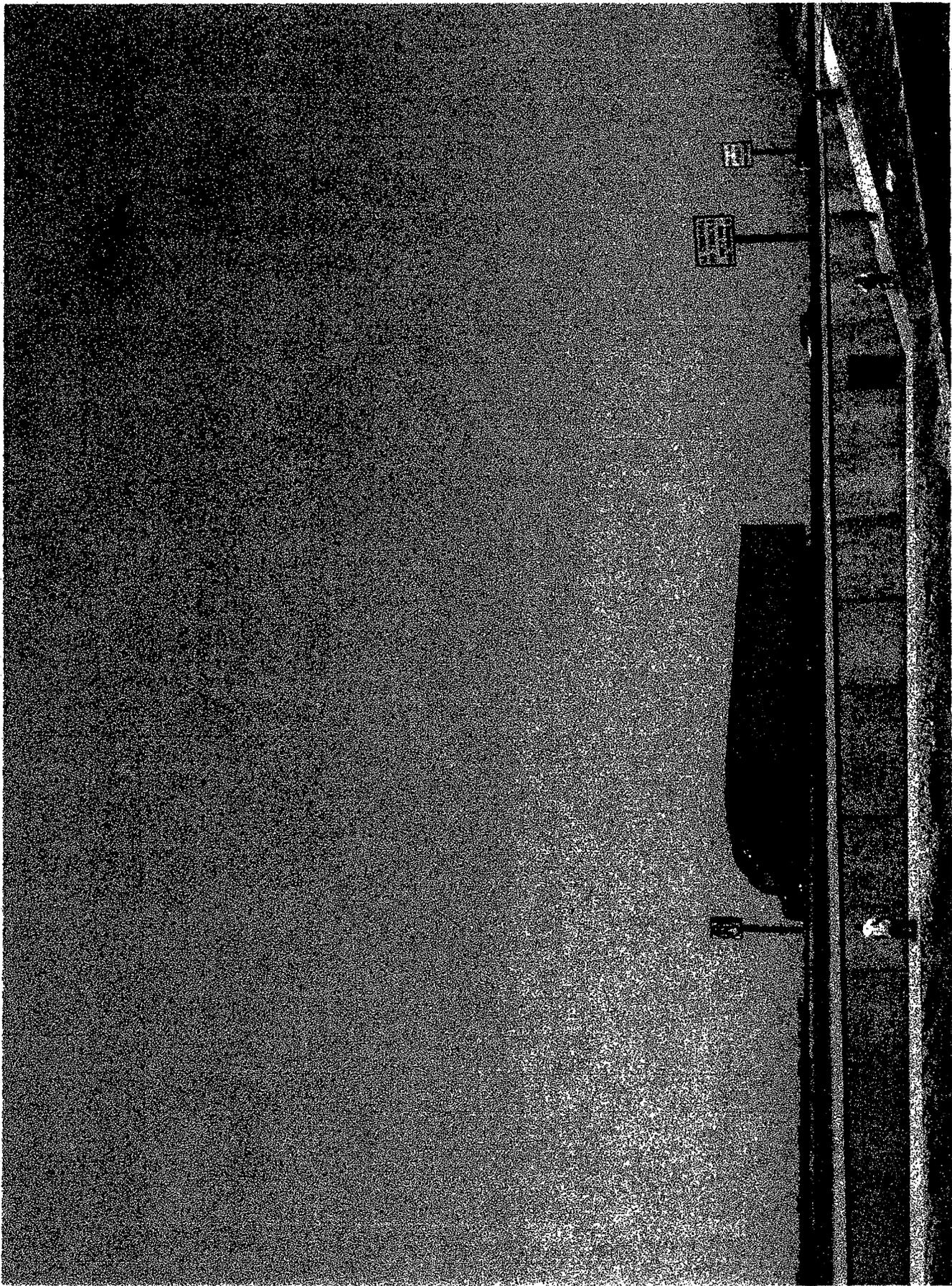
than reducing parking spaces on the shoulder of Old PCH. In order for bicyclists to exit Mussel Shoals, they will need to enter a common space with entering and exiting automobiles as well as converging bicyclists (the bike path is bidirectional). Caltrans proposes that this flow will take place without incident because it will be regulated by seven stop signs. Imagine long caravans of bicyclists, impatient vehicles in the deceleration lane and the exit lane carefully proceeding one by one through the stop signs. This is implausible to say the least. Further, inflow to MS is partially obscured both for motor vehicles and bicyclists by a section of the proposed sound wall. Without meaning to be disrespectful, one must not take seriously the Caltrans video cartoon of a single bicyclist sailing effortlessly through this (empty and stop sign free!) intersection. Clearly, the current unidirectional bike path on the south side of highway 101 is extremely dangerous because it narrows to 3 feet and crosses the current deceleration lane shortly before the Mussels Shoals entrance. However, the current Caltrans solution only shifts the danger downstream to this intersection. And, it further complicates the challenge for residents to navigate in and out of Mussel Shoals. This is a BAD solution!

Of course, the reason for this convoluted solution is the need to accommodate the proposed bike bidirectional bike path on the south (seaward) side of the Rincon Parkway segment of highway 101. We will recall that Caltrans original proposal in was to place this path on the north (mountainside) of the 101. To date, Caltrans has shared several cartoon simulations of this plan, but apparently does not have a schematic. According to public documents from Caltrans, the California Coastal Commission preferred the currently proposed location. The justification for this preference appears to be to provide close visual, auditory

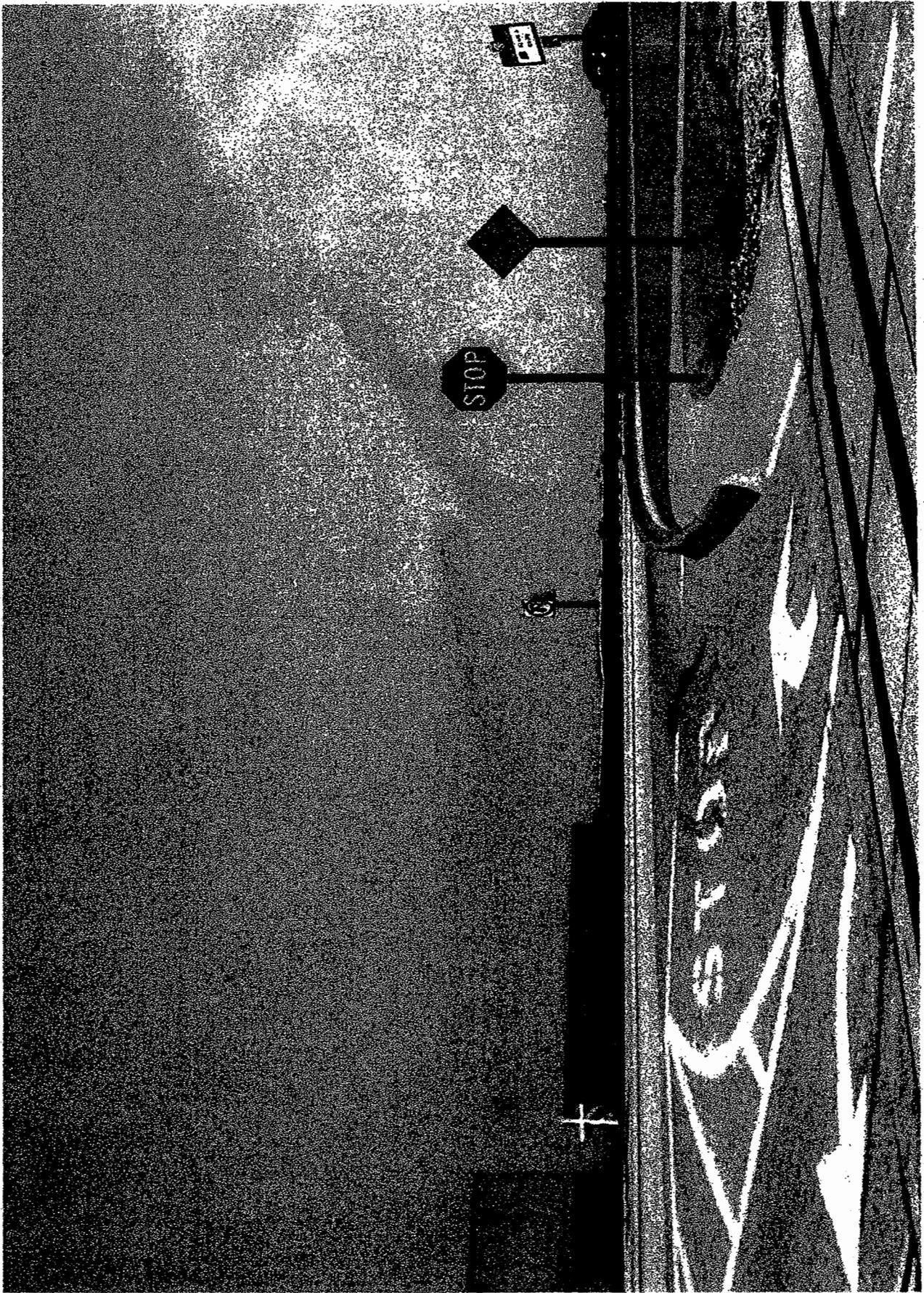
and olfactory exposure to the seashore, and more direct access to the sandy beach. There has been particular emphasis here on creating proximity for bicyclists, but they are not the only stakeholders.

The consequences of this proposal, and I speak now for the residents who live on Old PCH and Ocean Avenue, will create a new safety hazard, further reduce parking for visitors and others, and radically deteriorate the quality of life for those who live here. We must weigh what is perceived to be desirable for the cyclists against new safety issues and the rights of those who inhabit this precious community. To dismiss the latter as a NIMBY issue is to take a very cheap shot. And, what about access for others, surfers, families and other visitors? The proposal calls for a 10 foot wide bike path which would be shared by all of the above, moving in both directions. What are the safety issues here? Instead, if this path were 5 feet wide and a) were dedicated to foot traffic, and b) were intersected as planned by ramps to the sandy beach, beach visitor (especially if La Conchita parking were expanded) and ocean view access could be maintained as well as or better than in the proposed plan. Automobiles trafficking the parkway would be several feet closer to the ocean, and more width would be available on the north (mountain) side of the highway for the bike path as originally proposed. In short, this is a safer alternative for the bicyclists, and addresses the interests of all of the other stakeholders.

In conclusion, we submit that a SUBSTANTIAL ISSUE exists, and we urge the California Coastal Commission to carefully reconsider the objections and alternatives to the current LU09-0085 proposal as it pertains to Mussel Shoals and the ocean side of the Rincon Parkway. We would request that Commission conduct a de novo hearing.



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CCC Exhibit 3
(page 13 of 13 pages)

**COUNTY OF VENTURA
PLANNING COMMISSION STAFF REPORT AND RECOMMENDATIONS
HEARING OF JULY 15, 2010**

SUBJECT

Conditional Use Permit for a Public Works Facility, Not County-Initiated (LU09-0085)

APPLICANT/PROPERTY OWNER

Carlos Montez
Department of Transportation (Caltrans)
100 S. Main St. MS #16A
Los Angeles, California 90012

APPLICANT'S REPRESENTATIVE

Erinn Peterson
GPA
1611 S. Pacific Coast Highway, Suite 104
Redondo Beach, California 90277

PROPOSED REQUEST

The applicant requests a Conditional Use Permit (CUP) for the construction of High Occupancy Vehicle (HOV) lanes within the existing median of Hwy 101 (Hwy 101) between the Mobil Pier Undercrossing and the Ventura County/Santa Barbara County Line (Exhibit 2). The affected communities in Ventura County include Mussel Shoals, La Conchita, and Rincon Point.

In addition to the installation of new HOV lanes, the proposed project includes the following ancillary components:

- Replacement of the freeway median barrier between the Mobil Pier Undercrossing and the Ventura County/Santa Barbara County Line;
- Closure of median openings at three locations between Mussel Shoals and Rincon Point;
- Creation of an emergency vehicle access way through the median barrier at La Conchita;
- Installation of acceleration and deceleration lanes at Mussel Shoals and La Conchita;
- Construction of a Class I, two-directional bike lane along the coastal side of Hwy 101;
- Placement of an Intelligent Transportation Systems Changeable Message Sign along the northbound side of Hwy 101 between the communities of La Conchita and Rincon Point;
- Construction of a new pedestrian undercrossing at La Conchita;
- Installation of freeway sound walls along the eastern boundary of the Mussel Shoals Community; and
- Construction of a new parking lot for coastal access in the Punta Gorda area between Mussel Shoals and Mobil Pier Road.

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The proposed LU09-0085 project is the Ventura County portion of a larger, regional transportation project that extends into the City of Carpinteria and the County of Santa Barbara. Ventura County Coastal Zoning Ordinance ("CZO") § 8174-4, Permitted Uses by Zone, establishes that a Public Works Facility (Not County-Initiated) requires a Planning-Commission approved Conditional Use Permit within the Coastal Open Space Zone.

LOCATION AND PARCEL NUMBER

The project site is located along Highway 101, between Mobil Pier Road and the Ventura County/Santa Barbara County line, in the North Coast unincorporated area of Ventura County. The project would be implemented on land that is within the State Highway Right-of-Way, with the exception of the proposed new parking lot to be located on the landward side of the highway east of Mussel Shoals. This parking lot would be located on State Tidelands leased by Caltrans from the State Lands Commission (Exhibit 2).

BACKGROUND AND HISTORY

Countywide General Plan Land Use Map Designation – Coastal Open Space
 (Exhibit 2)

Coastal Area Plan Land Use Map Designation – Coastal Open Space (Exhibit 2)

Zoning Designation – COS-10ac sdf (Coastal Open Space, 10-acre minimum, slope density formula) (Exhibit 2)

Adjacent Zoning and Land Uses:

Location in Relation to the Project Site	Zoning	Land Uses/Development
North	County of Santa Barbara	Continuation of Hwy 101
South	COS-10ac (Coastal Open Space)	Continuation of Hwy 101
West	CR1-7,000sf (Coastal Single-Family Residential)	Rincon Beach Community
	RB-3,000sf (Residential Beach)	Mussel Shoals Community
	COS-10ac (Coastal Open Space)	Pacific Ocean
East	RB-3,000sf (Residential Beach)	La Conchita Community
	CM-10ac (Coastal Industrial)	Oil/Gas Production
	COS-10ac (Coastal Open Space)	Union Pacific Railroad, Agriculture

History – Hwy 101 is part of the National Highway System and locally connects Ventura County to Santa Barbara County to the north and Los Angeles County to the south. Within the boundary of the proposed project site (i.e. within Ventura County), this highway operates primarily as a four-lane expressway. The original two-lane highway

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along this corridor was completed in 1938. In 1951, two lanes were added to the highway and the current four-lane design and alignment was established. The existing three-beam median barrier was constructed in 1985.

In the northbound direction, Hwy 101 narrows from three to two 12-foot wide lanes about 0.60 miles south of Mussel Shoals. This side of the highway remains at two lanes to the border with Santa Barbara County.

In the southbound direction, Hwy 101 operates with two 12-foot wide lanes from the Santa Barbara County/Ventura County border until 0.25 miles south of Mussel Shoals. At that point, the highway widens to three 12-foot lanes.

Actions by other jurisdictions:

The project spans the jurisdiction of three local permitting agencies: the County of Ventura, County of Santa Barbara, and City of Carpinteria.

The portion of the project subject to the jurisdiction of the County of Santa Barbara was approved by the Santa Barbara County Planning Commission at its January 20, 2010 meeting (Exhibit 8).

The portion of the project in the City of Carpinteria jurisdiction was approved by the City Planning Commission at its January 4, 2010 meeting (Exhibit 9). Condition of Approval #20 imposed by the City of Carpinteria states that their approval shall not be considered valid until the other segments of the project have been approved by the Counties of Santa Barbara and Ventura, or if appealed, after approval by the California Coastal Commission ("CCC").

As the other two local agencies have approved the larger, regional project segments within their jurisdictions, and no appeals have been filed, the applicant now seeks approval of the portion of the project within the County of Ventura jurisdiction.

PROJECT DETAILS

The applicant requests that a CUP be granted to authorize the construction of HOV lanes within the existing median of Hwy 101 between the Mobil Pier Undercrossing and the Ventura County/Santa Barbara County Line. The proposed project would convert an existing four-lane expressway into a six-lane freeway that would extend through the Ventura County communities of Mussel Shoals, La Conchita, and Rincon Point. A detailed discussion of each project component within Ventura County is provided below.

HOV Lanes (Exhibit 5 – Mitigated Negative Declaration ("MND") Addendum Figure 2, and Exhibit 3 – Layout L-1 through L-14, and Exhibit 3 – Pavement Delineation and Sign Plan PD-1 through PD-14):

Existing Conditions – The Ventura County segment of the regional project extends from a point approximately 0.60 miles south of Mussel Shoals to the Santa Barbara

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CCC Exhibit 4
(page 3 of 33 pages)

County/Ventura County border. Along this segment, Hwy 101 operates as a four-lane expressway with two 12-foot lanes northbound and two 12-foot lanes southbound.

Proposed Project – Caltrans proposes to construct two part-time, HOV Lanes in the existing median area along the Ventura County project segment. One 12-foot northbound and one 12-foot southbound lane would be constructed. Use of the new HOV lanes would be limited to carpoolers during weekday peak traffic periods. These lanes would be open to single-occupancy vehicles during off-peak hours and weekends. Signage would be installed to inform motorists of carpool-only hours of operation. Specific hours of operation have not yet been determined, but would be consistent with the Santa Barbara County segment of the project. The lanes will be striped to allow entry at any point.

Median Barrier (Exhibit 5 – MND Addendum Figure 20, and Exhibit 3 – Layout L-1 through L-14, and Exhibit 3 – Pavement Delineation and Sign Plan PD-1 through PD-14):

Existing Conditions – The existing median varies in width from 22 to 46 feet and the existing barrier is comprised of a single row of double three-beam. Inside shoulders vary from two to eleven feet.

Proposed Project – Caltrans proposes to construct a 32-inch high concrete median barrier that would sit atop a paved median. This barrier would be stained a light earth-tone color to blend with local rock or soil visible within the project area (Exhibit 10 – Paint Chip). The three local agencies involved have agreed on the material and color for the barrier to achieve a uniform design across jurisdictional boundaries. The proposed height is the minimum height consistent with applicable Caltrans safety standards and is the same height as the existing median barrier.

Closure of Existing Median Openings (Exhibit 5 – MND Addendum Figure 2, and Exhibit 3 – Layout L-1 through L-14, and Exhibit 3 – Pavement Delineation and Sign Plan PD-1 through PD-14):

Existing Conditions – Median openings with acceleration and deceleration lanes that accommodate left turns onto and from north and southbound lanes currently exist at Mussel Shoals and La Conchita. These openings provide full access in and out of the Mussel Shoals and La Conchita communities. A median opening also exists at Tank Farm. This opening is designed to accommodate U-turns only and does not provide deceleration or acceleration lanes.

Proposed Project – The proposed median barriers would extend uninterrupted (except for emergency vehicle access) over the entire Ventura County segment of the project. The existing three median openings at Mussel Shoals, La Conchita, and Tank Farm would be permanently closed. Drivers wishing to reverse direction on the highway would be rerouted to the nearest interchange. Right-in and right-out acceleration and deceleration lanes would be provided at Mussel Shoals and La Conchita to facilitate ingress and egress.

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Emergency Vehicle Access Break (Exhibit 5 – MND Addendum Figure 10, and Exhibit 3 - Construction Detail C-14):

Existing Conditions – Median openings that accommodate left turns onto and from north and southbound lanes currently exist at Mussel Shoals, La Conchita and Tank Farm. These openings provide full access in and out of Mussel Shoals and La Conchita for emergency vehicles travelling northbound and southbound.

Proposed Project – In order to facilitate emergency vehicle access, a break in the proposed continuous median barrier is included in the project design. This break would be located on a straight section of Hwy 101 between the communities of Mussel Shoals and La Conchita. This opening would be for emergency vehicle use only. The emergency access was designed in consultation with the Ventura County Fire Department and Caltrans.

Acceleration and Deceleration Lanes at Mussel Shoals and La Conchita (Exhibit 5 – MND Addendum Figure 2, and Exhibit 3 – Pavement Delineation and Sign Plan PD-4 and PD-6):

Existing Conditions – Median openings with acceleration and deceleration lanes that accommodate left turns onto and from north and southbound lanes currently exist at Mussel Shoals and La Conchita.

Proposed Project – The project involves the closure of existing median openings at Mussel Shoals and La Conchita. Closure of the median openings would preclude left turns into and out of Mussel Shoals and La Conchita. Right-in and right-out acceleration and deceleration lanes would be provided at Mussel Shoals and La Conchita to facilitate ingress and egress.

California Coastal Trail (Exhibit 5 – MND Addendum Figures 21 and 22, and Exhibit 3 – Construction Detail C-20, and Exhibit 3 – Bike Path Lighting E-28, and Exhibit 3 – Pavement Delineation and Sign Plan PD-1 through PD-14):

Existing Conditions – Bikeways currently exist on both northbound and southbound sides of Hwy 101 over the project area (i.e. along the Ventura County segment of the regional project). These bikeways are delineated by striping and pavement markings on the existing shoulder adjacent to the outside travel lanes.

Just south of Bates Road interchange, a non-standard striped bikeway extends for two miles along the outside southbound travel lane. Along this bikeway section, a three-foot buffer exists between the bikeway and an emergency parking lane. At Mussel Shoals, cyclists must share the deceleration and acceleration lanes with motor vehicles before continuing southward on the outside shoulder until the exit at Seacliff is reached.

Cyclists are allowed on Hwy 101 in the project area because there is no alternative route between the Seacliff interchange and Carpinteria. The bikeway is part of the Pacific Coast Bike Route that provides a north/south connection from Vancouver, British Columbia to San Diego, California.

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Proposed Project – Caltrans proposes to construct a Class I, two-direction bike and multi-user pathway along the southbound (coastal) side of Hwy 101 for use by both recreational cyclists and pedestrians. Both northbound and southbound cyclists would be able to use the proposed pathway. Existing pavement markings along Hwy 101 northbound and southbound shoulders would be removed, although use of the highway by cyclists will not be explicitly prohibited.

The pathway, referred to as the California Coastal Trail ("CCT"), would be ten feet wide in most areas, configured as two five-foot wide lanes. The existing three-foot tall concrete barrier next to the beach would be removed and replaced with an open safety railing to protect path users from falling onto the rock revetment located along the coast. The railing would be 54 inches in height and would be constructed of metal tubing with a six-inch void between horizontal members, and ten feet between vertical support posts. The CCT would be separated from traffic by an open ST-10 barrier to maintain ocean views from the highway to the extent feasible. The ST-10 barrier would consist of a six-inch high solid concrete base with a four-inch high horizontal bar placed approximately ten inches above the base. A second horizontal bar would be placed approximately two feet above the concrete base. Vertical support posts would be approximately eight inches wide and spaced a maximum of ten feet apart.

Access to the CCT and beach areas would be provided at Bates Road, La Conchita Pedestrian Undercrossing ("PUC"), Mussel Shoals and Mobil Pier. A lighting pole will be installed at each CCT entry and exit point at these access locations for a total of six poles throughout the project area (Exhibit 3 – Sheet E-28). Specifically, the lighting poles will be installed as follows: one pole at Mobil Pier entry of bike lane; two poles at the entry/exit of the CCT in Mussel Shoals; two poles on ramp of bike Lane at La Conchita PUC; and one pole at exit of bike lane on the Bates onramp. One of the proposed conditions of approval for this project is to require Caltrans to provide Ventura County with a lighting plan to ensure that these proposed lighting poles will meet the specifications set forth in local ordinance (Exhibit 6 – Condition of Approval No. 18).

Changeable Message Sign (Exhibit 5 – MND Addendum Figure 19, and Exhibit 3 - Changeable Message Sign Details Sheet E-44, and Exhibit 3 – Layout L-12):

Existing Conditions – There is currently no Changeable Message Sign ("CMS") or similar system in place in the project vicinity. The nearest similar sign in Ventura County is located on northbound Hwy 101 between the Johnson Drive and Victoria Avenue exits.

Proposed Project – Caltrans proposes to install an Intelligent Transportation Systems (ITS) CMS along the northbound side of Hwy 101 between the communities of La Conchita and Rincon near the Bates Road interchange. In addition to the CMS, installation of ITS vehicle detectors, ramp meter and Closed Circuit TV (CCTV) would be required.

The Ventura County Transportation Commission ("VCTC") applied for and was awarded Corridor Mobility Improvement Account ("CMIA") grant funds for road improvements.

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Part of VCTC's grant was designated to fund the installation of a CMS to improve traffic conditions. Caltrans, in cooperation with VCTC, is planning to use the CMIA funds to construct the CMS.

The purpose of the CMS is to provide notification of road conditions to drivers prior to a decision point (Bates Road) where an alternative route (Highway 150) is available. The CMS would be 27 feet, 6 inches in height as measured from finished grade. The sign supports would be painted a neutral color to blend in with the natural surrounding of the adjacent coastal bluff (Exhibit 10 – Paint Chip).

Pedestrian Undercrossing (Exhibit 5 – MND Addendum Figures 8 and 9, and Exhibit 3 – PUC Ramp Str No 92, Ped-1, Ped-2, and Ped-3):

Existing Conditions – Beachgoers currently access the beach from La Conchita through a drainage culvert that extends under Hwy 101 and the Union Pacific Railroad lines. This culvert is approximately four feet in height.

Proposed Project – A new PUC at La Conchita would be built beside the existing drainage culvert at Surfside Street and Oxnard Avenue. The PUC would be eight feet in height and designed to meet California accessibility standards. Construction of the PUC does not require right-of-way (ROW) acquisition, but is subject to approval by the Union Pacific Railroad. Caltrans would construct facilities for vertical access to the beach at the coastal end of the proposed PUC. The PUC would connect to the CCT via a proposed pedestrian ramp that would lead to the bikepath or the beach.

One of the proposed conditions of approval for this project is to require Caltrans to provide Ventura County with a specific plan for long-term maintenance of the PUC (Exhibit 6 – Condition of Approval No. 32). To this end, Planning Division staff has been informed that Caltrans is in communication with other agencies and private organizations, including but not limited to the BEACON Foundation and the Coastal Conservancy, regarding long-term maintenance obligations for the PUC and that these discussions may result in an agreement for such maintenance.

Soundwalls (Exhibit 5 – MND Addendum Figures 24 and 25, and Exhibit 3 – SW-1 through SW-6):

Existing Conditions – No soundwall currently exists along Hwy 101 within the project area.

Proposed Project – Caltrans proposes to install two soundwalls along the eastern boundary of the Mussel Shoals Community. Soundwall 101 would be located on the south side of the entrance to Mussel Shoals, and Soundwall 102 would be located on the north side of the entrance to Mussel Shoals.

Soundwall 101 is needed to provide noise abatement for the Cliff House Inn. The wall would be 345 feet long, 8 feet high and constructed at the edge of the road shoulder.

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Soundwall 102 would provide noise abatement for the residential community along Old PCH and Breakers Way. In this area, the wall would range from 10 feet to 14 feet in height and be 1,330 feet long. It would consist of overlapping segments designed to allow the CCT bikeway to enter the Mussel Shoals community at a grade consistent with Caltrans's safety standards. Both soundwalls would be tapered (reduced in height) at the ends, including the ends at the entrance to Mussel Shoals, to provide a gradual instead of a sudden break in the line of sight from the highway to the ocean. The lengths of the proposed soundwalls at Mussel Shoals are the minimum necessary to achieve adequate noise attenuation. To soften the appearance of the soundwalls, vines will be planted along the ocean side of the walls which will grow over the top of the wall and be visible on the Hwy101 side of the walls.

Parking Area (Exhibit 5 – MND Addendum Figures 14, 15 and 16; and Exhibit 3 – Layout L-2 and L-3):

Existing Conditions – Currently, the southbound shoulder of Hwy 101 is signed "Emergency Parking Only." However, this no-parking rule is not strictly enforced and the area is often used for public parking. Beachgoers who park along Highway 101 currently must climb down the riprap seawall to access the beach.

Proposed Project – Due to land constraints and construction of the California Coastal Trail ("CCT"), the southbound shoulder would be reduced to ten feet and signed for emergency parking only. Parking on the emergency shoulder would no longer be possible. Caltrans has determined that this change would result in a "loss" of 211 parking spaces. To offset this apparent loss of parking, Caltrans has applied for a permit from the State Lands Commission to develop a parking lot on a vacant parcel of land. The land is near the Punta Gorda /Mobil Pier Undercrossing, approximately halfway between Mussel Shoals and Mobil Pier Beach. Beachgoers and CCT users would be able to access the beach and trail via Mobil Pier Road and the Punta Gorda Undercrossing. Vehicle access to the new parking area would be from the northbound Hwy 101 Seacliff exit.

FINDINGS AND SUPPORTING EVIDENCE

1. CEQA Findings and Supporting Evidence

The subject application is a "project" as defined by the California Environmental Quality Act ("CEQA") (Public Resources Code §21000 et seq.) and the CEQA Guidelines (Title 14, California Code of Regulations, Division 6, Chapter 3, §15000 et seq.). Caltrans is the CEQA lead agency for this larger, regional, multi-jurisdictional transportation project as well as the Ventura County portion thereof. As the lead agency, Caltrans is the public agency which has the principal responsibility for carrying out and approving this project. CEQA Guidelines §§ 15050 and 15367. In this capacity as the CEQA lead agency, Caltrans conducted an initial study and environmental assessment and determined that the project was subject to an MND or Finding of No Significant Effect under CEQA and the National Environmental

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Policy Act, respectively. The County is the CEQA responsible agency for this project, which means that the decision-making body (i.e., your Commission) of the responsible agency "shall consider the lead agency's EIR or negative declaration [or MND] prior to acting upon or approving the project. Each responsible agency shall certify that its decision-making body reviewed and considered the information contained in the EIR or negative declaration [or MND] on the project." CEQA Guidelines §§ 15050(b) and 15381.

Adoption of a Mitigated Negative Declaration by a Responsible Agency

CEQA Section 21064.5 defines a Mitigated Negative Declaration (MND) as follows:

"Mitigated Negative Declaration" means a negative declaration¹ prepared for a project when the initial study has identified potentially significant effects on the environment, but (1) revisions in the project plans or proposals made by, or agreed to by, the applicant before the proposed negative declaration and initial study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur, and (2) there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment.

CEQA Guidelines Section 15074(b) requires that a decision-making body of the lead agency adopt a MND only if it finds that there is no substantial evidence that the project may have a significant effect on the environment and that the MND reflects the lead agency's independent judgment and analysis.

Caltrans, as the lead agency for this project, prepared an MND for this project and made it available for public review and comment from August 8, 2008 to September 22, 2008. The final MND was adopted by Caltrans on December 12, 2008. The final MND, including written comments on the MND and responses to those comments, is attached as Exhibit 4.

Caltrans prepared an Addendum to the original MND pursuant to CEQA Guidelines Section 15164 to disclose minor technical changes in the project description not described in the previously adopted MND. The Addendum was adopted by Caltrans on January 19, 2010 (Exhibit 5). The Addendum was not circulated for public review because such circulation is not required. The Addendum has been provided to interested parties, including the CCC.

CEQA Finding: Pursuant to CEQA Guidelines sections 15050(b), 15096 (Process for a Responsible Agency), and 15070(b)(1), the Planning Commission has reviewed the MND and the Addendum adopted by the lead agency Caltrans and

¹ CEQA Section 21064 defines a Negative Declaration (ND) as follows:

"Negative Declaration" means a written statement briefly describing the reasons that a proposed project will not have a significant effect on the environment and does not require the preparation of an environmental impact report.

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considered public testimony and finds, in light of the whole record before it, that Caltrans has made project revisions, incorporated mitigation measures and committed to other enforceable mitigation and maintenance actions that either avoid or mitigate the potentially significant effects caused by this project to a point where clearly no significant effects would occur. The Planning Commission also finds that the County has considered the environmental effects of the project shown in the MND and the Addendum and that such analysis reflects the County's independent judgment and analysis. (Exhibit 4 and Exhibit 5)

Mitigation Monitoring and Reporting Program

Sections 15091(d) and 15097 of the CEQA Guidelines states that, when approving a project for which a MND has been prepared, the lead agency shall also adopt a program for reporting on, or monitoring, the changes which it has either required in the project or made a condition of approval to avoid or substantially lessen significant environmental effects. These measures must be fully enforceable through permit conditions, agreements, or other measures.

The MND prepared for this project, spanning all three permitting jurisdictions, found the potential for significant impacts to Land Use, Parks and Recreation, Noise, Transportation, Aesthetics, Water Quality /Storm Water Runoff, Paleontology, Hazardous Waste, Air Quality, Biological Resources and Cultural Resources. With incorporation of identified mitigation measures, all of these impacts would be reduced to a less than significant level (Exhibit 4, Mitigated Negative Declaration Appendix I). The Minimization and/or Mitigation Summary is included in the MND prepared for the project (Exhibit 4, Mitigated Negative Declaration Appendix E).

Caltrans has prepared a draft Environmental Commitment Record to describe the mitigation measures associated with the Ventura County portion of the project and identify the responsible party and monitoring program (Exhibit 7). Pursuant to CEQA Guidelines section 15097, the mitigation measures that correspond to the portion of the regional transportation project under the jurisdiction of the County of Ventura have been incorporated into the conditions of approval (Exhibit 6, Condition of Approval No. 33).

Therefore, a mitigation monitoring and reporting program prepared by Caltrans is in compliance with Sections 15091(d) and 15097 of the CEQA Guidelines and is thus sufficient for use by the County in its responsible agency role.

2. Conditional Use Permit Findings and Supporting Evidence

In order for your Commission to approve this project, certain findings must be made in order to determine that the proposed project is consistent with the permit approval standards of the Ventura County CZO (§8181-3.5 et seq.). The proposed findings and supporting evidence are as follows:

- a. The proposed development is consistent with the intent and provisions of the County's Certified Local Coastal Program [§8181-3.5.a].**

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Based on the analysis presented in Section 3 of this Staff Report below, the proposed project would be consistent with the intent and provisions of the County's Certified Local Coastal Program. Thus, this finding can be made.

b. The proposed development is compatible with the character of surrounding development [§8181-3.5.b].

The project has been designed to minimize impacts on the existing Mussel Shoals, La Conchita and Rincon Point communities while providing enhanced coastal access for cyclists and pedestrians and increased road capacity along the Hwy 101 corridor. With the installation of the proposed soundwalls, ambient traffic noise in the Mussel Shoals community would be substantially reduced. (see Exhibit 4 – MND Noise Study Report, December 2007, and Exhibit 5 MND Addendum Figure 5B, Page 56). Based on these factors, the proposed project would be compatible with the character of surrounding development. Thus, this finding can be made.

c. The proposed development, if a conditionally permitted use, is compatible with planned land uses in the general area where the development is to be located [§8181-3.5.c].

The project would be constructed so as not to conflict with surrounding land uses. The project would be constructed primarily within the Caltrans Right of Way on and about Hwy 101. The Santa Barbara County Association of Governments ("SBCAG") plans to work with Caltrans in the future to realign the existing railroad as it traverses the Punta Gorda area, near where parking is proposed as part of the LU09-0085 project. Due to the size of the Punta Gorda area, it is possible for the two projects to co-exist and not interfere with one another. Caltrans is aware of the proposed railroad expansion area and plans to design the parking area for LU09-0085 accordingly. This project will be conditioned such that the proposed parking area must be designed so as not to conflict with SBCAG's plans for the future railroad realignment project (Exhibit 6 – Condition of Approval No. 21b). Thus, this finding can be made.

d. The proposed development would not be obnoxious or harmful, or impair the utility of neighboring property or uses [§8181-3.5.d].

Caltrans would provide "No Outlet" and parking signage in both the La Conchita and Mussel Shoals communities to inform the public of the limited parking opportunities within those areas. Such signage is expected to preclude traffic and congestion impacts to these neighborhoods. Signage would also be provided along the Hwy 101 corridor to inform the general public of the available beach access opportunities throughout the project area via the California Coastal Trail ("CCT"). Trash receptacles would be placed throughout the project area in accordance with the LCP (Exhibit 6, Condition of Approval No. 30). As part of the long-term maintenance plan, Caltrans would provide for trash pick-up to ensure that litter is controlled (Exhibit 6, Conditions of Approval No. 30 and 32). Neighboring residential areas would benefit from project components such as sound walls, landscaping, signage, and trash cans. The parking area in Punta

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Gorda would provide for parking to accommodate the CCT, such that the communities would not be overburdened by any additional draw this project could have to the area. Thus, this project, as designed and conditioned, meets the standards of this finding.

- e. **The proposed development would not be detrimental to the public interest, health, safety, convenience, or welfare [§8181-3.5.e].**

Although the primary purpose of the project is to increase road capacity along the Hwy 101 corridor, the safety benefit from the closure of median barriers and the removal of left-hand turns out of Mussel Shoals or La Conchita far outweighs the minor highway travel inconvenience. There is also an additional benefit of the project in the improved public access to the coast through the construction of the CCT. Thus, the project is not a detriment, but a benefit, to public health, safety and welfare.

3. Consistency of the project with the Local Coastal Program

The purpose of the County's CZO, Ventura County Ordinance Code Section 8171-1 et seq., is to implement the policies of the County's General Plan (as it applies to the Coastal Zone), and the Coastal Area Plan. The Coastal Area Plan and the CZO comprise the County of Ventura Local Coastal Program ("LCP") as required by the California Coastal Act of 1976, Public Resources Code Section 30000 et seq. The intent of the California Coastal Act is:

"[T]o promote the public safety, health, and welfare, and to protect public and private property, wildlife, marine fisheries, other ocean resources, and the natural environment, it is necessary to protect the ecological balance of the coastal zone and prevent its deterioration and destruction" (§30001(c)).

The LCP specifically applies to development within the unincorporated portions of the Coastal Zone in Ventura County. The consistency of the proposed project with applicable goals, policies and standards of the LCP is discussed below:

General Plan Policies	
Policy	Project Consistency Analysis
<p>Scenic Resources Policy 1.7.2-1: <i>...Discretionary development which would significantly degrade visual resources or significantly alter or obscure public views of visual resources shall be prohibited unless no feasible mitigation measures are available and the decision-making body determines there are overriding</i></p>	<p>Consistent: The proposed project will be consistent with these policies because the project has been designed to protect scenic resources to the furthest extent possible, while also providing improved recreation and access to the coast. The proposed project features which have the potential</p>

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<p>considerations.</p>	<p>to impact scenic resources are: (1) soundwalls; (2) CMS; (3) CCT; and (4) highway signage.</p> <p>(1) Soundwalls: The need for the soundwalls is determined by the Noise Study Report prepared as part of the MND (Exhibit 4 – MND Noise Study Report, December 2007). After concern was expressed by Planning Staff as to the visual impact the proposed soundwalls would have on the viewshed from Hwy 101, Caltrans produced a Reassessment Noise Study (Exhibit 5 – MND Addendum, pgs. 24-26) which indicated that the length of both Soundwall 101 and Soundwall 102 could be shortened by 100 feet to retain maximum ocean views without creating a "noise flanking" effect. The proposed Soundwall 101 would extend approximately 150 feet past the Cliff House Inn, and proposed Soundwall 102 would extend approximately 100 feet past the northern-most residence in Mussel Shoals. The visual impact assessment conducted by Caltrans indicates that no adverse visual impacts would result from the installation of soundwalls because existing residences and the Cliff House Inn in Mussel Shoals already block views of the ocean from the highway (Exhibit 4 – MND Visual Impact Analysis, July 2008). This reasoning, coupled with <i>Pub. Res. Code § 30210</i> which requires that recreational opportunities be provided consistent with the need to protect public rights and rights of private property owners, provides the basis for making the finding that the proposed soundwalls are consistent with the applicable Scenic Resources Goals, Policies, and Programs of the General Plan.</p> <p>(2) Changeable Message Sign (CMS):</p>
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	<p>As discussed above under <i>Project Details</i>, Caltrans proposes to construct a CMS along the northbound side of Hwy 101 between the communities of La Conchita and Rincon, in the vicinity of Bates Road. The CMS would be a new visual impact against the backdrop of the coastal bluff along the northbound side of Highway 101. Recognizing the need for the sign, as communicated by the Ventura County Transportation Commission and Caltrans, the Planning Division sought to lessen the visual impact of the CMS as much as possible. A condition of approval would require the CMS to be painted a neutral color, similar to the color of the proposed median barrier, such that the structure would blend in with the natural backdrop of the coastal bluff as much as possible (Exhibit 6, Condition of Approval No. 24).</p> <p>(3) California Coastal Trail (CCT): As discussed above under <i>Project Details</i>, Caltrans proposes to construct a multi-user path along the coastal (southbound) side of Hwy 101, referred to as the CCT. Vehicle users along this stretch of Hwy 101 currently view a three-foot tall concrete barrier, with no other view restrictions except vehicles that may park along this stretch of highway to access the beach. Under the current proposal, the existing concrete barrier would be removed and an open railing would separate the beach and CCT from the highway. The MND Addendum states that use of open bikeway barriers and removal of the existing concrete barrier next to the riprap would maintain coastal views for travelers along Hwy 101. While the presence of a hand-rail that rises above the height of the existing concrete k-rail would alter the coastal views for travelers along Hwy 101, the removal of a concrete barrier and installation of an</p>
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	<p>open railing, albeit taller than the existing barrier, would still allow for coastal views of the ocean from the highway. The installation of the open railing for the CCT would allow for greater public access to the coast for cyclists and pedestrians, while not completely impeding coastal views for drivers. In some cases, as it would no longer be possible for vehicles to park along this stretch of highway, the views on certain days may be improved in that instead of a row of parked cars completely blocking the coastal views, only an open hand-railing would impede views. An open hand-railing provides more visibility to the coast than both a concrete wall and a parked car.</p> <p>(4) Highway Signage: Signs would add to visual clutter along the highway. However, the signs would be relatively small and the project would be conditioned such that all new signage must be placed as near as possible to other necessary signage and shall avoid impacting important or interesting views (Exhibit 6, Condition of Approval No. 17).</p>
<p>Biological Resources Policy 1.5.2-2: <i>Discretionary development shall be sited and designed to incorporate all feasible measures to mitigate any significant impacts to biological resources. If the impacts cannot be reduced to a less than significant level, findings of overriding considerations must be made by the decision-making body.</i></p> <p>Biological Resources Policy 1.5.2-3: <i>Discretionary development that is proposed to be located within 300 feet of a marsh, small wash, intermittent lake, intermittent stream, spring, or perennial stream (as identified on the latest USGS 7½ minute quad map), shall be evaluated</i></p>	<p>Consistent: The proposed project will be consistent with these policies because it will be constructed primarily within Caltrans ROW for Hwy 101 and would not impact biological resources.</p> <p>The only area of the project which may have an impact to vegetation would be within the proposed public access parking area, which is in the State Lands Commission jurisdiction between Mobil Pier and Punta Gorda Undercrossings. This area consists of grassland and Quailbush Scrub surrounding barren ground. There are 14 culverts which cross the existing UPRR railroad tracks at the inland boundary of the proposed parking</p>

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<p><i>by a County approved biologist for potential impacts on wetland habitats. Discretionary development that would have a significant impact on significant wetland habitats shall be prohibited, unless mitigation measures are adopted that would reduce the impact to a less than significant level; or for lands designated "Urban" or "Existing Community", a statement of overriding considerations is adopted by the decision-making body.</i></p> <p>Biological Resources Policy 1.5.2-4: <i>Discretionary development shall be sited a minimum of 100 feet from significant wetland habitats to mitigate the potential impacts on said habitats. Buffer areas may be increased or decreased upon evaluation and recommendation by a qualified biologist and approval by the decision-making body. Factors to be used in determining adjustment of the 100 foot buffer include soil type, slope stability, drainage patterns, presence or absence of endangered, threatened or rare plants or animals, and compatibility of the proposed development with the wildlife use of the wetland habitat area. The requirement of a buffer (setback) shall not preclude the use of replacement as a mitigation when there is no other feasible alternative to allowing a permitted use, and if the replacement results in no net loss of wetland habitat. Such replacement shall be "in kind" (i.e. same type and acreage), and provide wetland habitat of comparable biological value. On-site replacement shall be preferred wherever possible. The replacement plan shall be developed in consultation with California Department of Fish and Game.</i></p>	<p>area. These culverts, and higher quality habitat adjacent to them, are outside of the project limits and would not be removed or filled as part of the proposed project. Thus, there will be no impact to this vegetative area.</p> <p>Only one culvert would be affected by the proposed project. The existing culvert at La Conchita, which is currently used by pedestrians for beach access (but is not intended for such use), would be re-constructed as a dedicated PUC. There is no native, riparian, or wetland habitat present that would be affected by construction of the PUC or drainage culvert. Any adjacent vegetation which might be impacted is ruderal or ornamental.</p> <p>Provisions for bird protection, including clearing, grubbing, or other removal of vegetation outside of Migratory Bird Nesting Season or the implementation of pre-construction surveys have been included in the mitigation measures, to ensure that migratory birds and raptors (or other sensitive species) would not be directly impacted by vegetation removal. The mitigation measures identified by Caltrans would be incorporated by reference into the conditions of approval for the project (Exhibit 6, Condition of Approval No. 33).</p>
<p>Hazardous Waste Policy No. 2.15.2-1: <i>Hazardous wastes and hazardous materials shall be managed in such a way that waste reduction through alternative</i></p>	<p>Consistent: The proposed project would be consistent with this policy because the project would encounter little to no hazardous waste during the course of</p>

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technology is the first priority, followed by recycling and on-site treatment, with disposal as the last resort.

construction.

Excavating a tunnel under the existing U.S. 101 for the pedestrian undercrossing (PUC) and construction of ramps would encounter unknown miscellaneous fills. These fills were placed at different stages to convert the Spanish era "El Camino Real" to the existing highway level and the UPRR railroad track may have been realigned from the existing highway site to its existing location about 25 feet from the northbound edge of the roadway. Therefore a maximum of three borings along the proposed PUC alignment for soil and ground water testing and sampling would be required. The borings would be extended approximately five feet below the anticipated excavation. The soils to be excavated may contain hazardous materials such as aerially deposited lead (ADL) near the surface and heavy metals and volatile organic compounds (VOC) at various depths. One or two monitoring wells would be installed for evaluating groundwater regarding dewatering.

Bikeway/CCT is planned for the existing southbound paved shoulder. However, at the south terminus it requires a pile supported structure with minor excavations for a ramp to the parking area and at a few areas new pavement is planned and several sections would be supported by retaining walls. At the Bates Road onramp the bikeway is separated from the southbound shoulder. Exploratory borings are required for evaluating the soil and groundwater upon determining the depth of excavations. Near surface soil may be contaminated by ADL, heavy metals, and VOC which may be found at any depth.

For the improvements to the parking area near Punta Gorda, no excavation is planned; therefore there are no concerns

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	<p>about hazardous waste impacts. The depths of the retaining walls are presently unknown, but the excavation depth averages five feet with a maximum of 15 feet. Soils and groundwater should be investigated at all locations for ADL, Heavy Metals and VOC.</p> <p>During the site investigation conducted by Caltrans in 2008, the test results for soundwalls at Mussel Shoal indicated that soils are generally non-hazardous at this location and groundwater was not encountered at about 25 feet below the highway grade. A monitoring well was installed and quarterly measurements show no groundwater accumulation.</p>
<p>Paleontological and Cultural Resources Policy No. 1.8.2-2: <i>Discretionary development shall be designed or re-designed to avoid potential impacts to significant paleontological or cultural resources whenever possible. Unavoidable impacts, whenever possible, shall be reduced to a less than significant level and/or shall be mitigated by extracting maximum recoverable data. Determinations of impacts, significance and mitigation shall be made by qualified archaeological (in consultation with recognized local Native American groups), historical or paleontological consultants, depending on the type of resource in question.</i></p>	<p>Consistent: The proposed project will be consistent with this policy because it would not impact Paleontological and Cultural resources.</p> <p>An archaeological review of the proposed parking area was completed on June 15, 2009. The cultural resources review of the undertaking included a records search at the South Central Coast Information Center at California State University, Fullerton, a search of Caltrans District 7 files, and a field visit to the project location in May 2009. This review indicated that no known archaeological/historical sites exist within the project's Area of Potential Effect, and that the area possesses low sensitivity for cultural resources since the area has been previously disturbed by cut and fill activities.</p> <p>It is unlikely that archaeological or paleontological resources will be discovered in the course of construction of this project. However, the project will be conditioned such that if anything of archaeological or paleontological importance is discovered, a stop work order would be issued until an archaeologist can be called to the site for</p>

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	<p>monitoring (Exhibit 6, Condition of Approval No. 19).</p> <p>Therefore, as conditioned and with the incorporated mitigation measures from the Environmental Commitment Record, the project will be consistent with the applicable Archaeological and Paleontological Resources Policies of the General Plan.</p>
Coastal Area Plan Policies	
Policy	Project Consistency Analysis
<p>General Statement—Access Management No. 16:</p> <p><i>The County will coordinate and supervise programs with other private and public organization to improve existing access, provide additional access, provide signing, parking, pedestrian and bicycle facilities, and the like.</i></p>	<p>Consistent: The proposed project will be consistent with this policy because Caltrans proposes to improve existing access at Mobil Pier/Punta Gorda and La Conchita, provide signage throughout the project area, provide a parking area near Punta Gorda, and construct the CCT to provide a pedestrian and bicycle facility for the public.</p> <p>As explained in the Coastal Area Plan, the narrowness of the North Coast shoreline, its vulnerability to coastal processes, plus consideration of private rights, prescribe public access to the North Coast. The public access points within the project area include State-managed parking lot and accessway at Rincon Point, the Rincon Parkway, Mussel Shoals via an access point near the Cliffhouse Inn, and the public can park along Hwy 101 and at Mobil Pier and climb down riprap to reach the shoreline. Additionally, vertical access to the shoreline exists within ½ mile in front of all residential areas. These residential areas have very tight boundaries and cannot be expanded without an amendment to the Local Coastal Plan (Ventura County Coastal Area Plan, Page 28).</p>

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The project would improve public access to the beach through a variety of means. There would be ADA compliant access ramps to the CCT at Bates Road Southbound on-ramp, La Conchita PUC, Mussel Shoals, and Mobil Pier. By providing a parking area near Punta Gorda, the project would improve access to the beach by allowing for greater parking capacity at Mobil Pier, with direct access to the CCT. Such access to the CCT at Mobil Pier would also provide access to the coast at Mussel Shoals, La Conchita, and Rincon. As part of this project, Caltrans would improve the existing PUC at Mobil Pier as well as the existing PUC at Punta Gorda, both of which would connect the future parking area at Punta Gorda to riprap at Mobil Pier beach.

There is limited public parking on the oceanside of Mobil Pier Undercrossing and there are natural trails for beach access. Once the CCT is complete, a ramp would be constructed at Mobil Pier Beach for access to the CCT. Caltrans has indicated that it will provide handicap parking near the CCT ramp.

Public parking in Mussel Shoals is limited along Old PCH and on a portion of the Cliff House Inn parking, both on Caltrans right-of-way. The bikeway will improve beach access for pedestrians and cyclists who may travel to the beach at Mussel Shoals from La Conchita or Mobil Pier. In addition, Breakers Way is a private road maintained by the Breakers Way Home owners Association; however, a sliver of Caltrans property on Breakers Way, containing room for approximately 15 spaces, is available to be used as overflow parking.

As parking along the southbound shoulder of Hwy 101 would no longer be possible,

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	<p>due to the construction of the CCT, parking for coastal access would be provided in Punta Gorda to offset the loss of parking along the coast. Additionally, parking would remain in the communities of La Conchita and Mussel Shoals. Prior to installation of the parking area, a detailed plan of the parking area would be required (Exhibit 6, Condition of Approval No. 21).</p>
<p>The North Coast Access Policy No. 5 (Hwy 101): <i>Caltrans should provide trash containers and sufficient pick-up, and at least one toilet for day-use.</i></p> <p>The North Coast Recreation Policy No. 3 (Hwy 101): <i>Caltrans should provide trash cans where needed, and increase the frequency of trash pick-up along areas of the highway being used for recreational access to the beach.</i></p> <p>The North Coast Recreation Policy No. 4 (Hwy 101): <i>Caltrans should provide at least one portable toilet along the segment of the highway that extends from Rincon Point to Punta Gorda.</i></p>	<p>Consistent: The proposed project will be consistent with these policies because Caltrans plans to provide trash receptacles at Beacon's Beach/Mobil Pier, Punta Gorda, Mussel Shoals, and La Conchita (Exhibit 6, Condition of Approval No. 30). Additionally, at least one portable toilet would be provided within the project limits between Rincon Point and Mobil Pier/Beacon's Beach (Exhibit 6, Condition of Approval No. 29).</p>
<p>The North Coast Access Policy No. 6 (Hwy 101): <i>When funds become available, the County will work with Caltrans to resolve the access problems from the communities of La Conchita and Mussel Shoals.</i></p>	<p>Consistent: The proposed project will be consistent with this policy because the project would improve safety of residents and visitors in accessing these communities. Acceleration and deceleration lanes into and out off both communities would be lengthened to allow for safer merging with Hwy101 traffic. The closure of median openings for left turn access into both communities would be closed, thereby improving motorist safety while accessing La Conchita and Mussel Shoals. Additionally, the project involves the construction of the PUC at La</p>

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	<p>Conchita, which would improve the existing public access to the beach at this location, thereby resolving access problems from La Conchita directly to the beach.</p>
<p>The North Coast Public Works Policy No. 1: <i>New or expanded public works facilities (including roads, flood control measures, water and sanitation) will be designed to serve the potential population within the subarea's boundaries, and to mitigate impacts on agricultural, open space lands, or environmentally sensitive habitats.</i></p>	<p>Consistent: The proposed project will be consistent with this policy because it would be designed to improve transportation opportunities for the general public, while minimizing impacts to open space lands and environmentally sensitive habitats. Improvements at the openings to La Conchita and Mussel Shoals will facilitate better traffic flow for residents and visitors merging onto Hwy101. As stated previously, the project would be constructed primarily within Caltrans right of way. Impacts to environmentally sensitive habitats are discussed above under Biological Resources Policies. Impacts to open space lands involve the construction of vertical access points at La Conchita, Punta Gorda and Mobil Pier. These impacts are minimal and would provide a public benefit.</p>
<p>The North Coast Public Works Policy No. 3: <i>When funds become available the State should improve the potentially dangerous highway crossings at Mussel Shoals and La Conchita.</i></p>	<p>Consistent: The proposed project will be consistent with this policy because the construction of the median barrier would eliminate the possibility of a left-hand turn into and out of the communities of La Conchita and Mussel Shoals. Without the ability to make a left-turn, the additional time it will take to circle around to get to each community (e.g. using Bates Road for northbound access to Mussel Shoals) is not anticipated to increase significantly in comparison to the amount of waiting time for left-turns with the existing and future predicted traffic conditions.</p>
<p>California Coastal Act Policies</p>	
<p>Policy</p>	<p>Project Consistency Analysis</p>
<p>Shoreline Access policies: <i>Pub. Res. Code § 30210 "In carrying out the requirement of Section 4 of</i></p>	<p>Consistent: The proposed project will be consistent with this policy because it will improve recreation opportunities and access to the coast.</p>

<p><i>Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse."</i></p> <p>Pub. Res. Code § 30214 (b) <i>These public access policies shall be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.</i></p>	<p>The proposed PUC at La Conchita will serve to provide safer, appropriate and more convenient access to the beach for residents and the general public.</p> <p>The proposed CCT will improve existing bicycling routes by providing a safer, barrier-separated facility to minimize accidents between cyclist and motorists.</p> <p>Additionally, the proposed project will not disrupt any existing public access points to the beach.</p>
<p>Public Works policies of the California Coastal Act:</p> <p>Pub. Res. Code § 30251 <i>"The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of the surrounding area and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government</i></p>	<p>Consistent: The proposed project would be consistent with this policy because it would expand an existing public works facility by adding an HOV lane to Hwy 101, while providing for enhanced public access to the coast and limiting impacts to scenic and visual resources as much as possible.</p> <p>The proposed project is designed to alleviate congestion along Hwy 101 that will continue to worsen if the existing conditions remain unchanged. As indicated in the Traffic Analysis Report of March 2008 (Exhibit 4 – MND Traffic Analysis Report, March 2008), the project is anticipated to improve Level of Service (LOS) conditions for traffic along Hwy 101 from Mobil Pier Road to the Ventura County/Santa Barbara County Line. Residents living in Mussel Shoals, La</p>

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shall be subordinate to the character of its setting."

Pub. Res. Code § 30254

"New or expanded public works facilities shall be designed and limited to accommodate needs generated by development or uses permitted consistent with the provisions of this division; provided, however, that it is the intent of the Legislature that State Highway Route 1 in rural areas of the coastal zone remain a scenic two-lane road. Special districts shall not be formed or expanded except where assessment for, and provision of, the service would not induce new development inconsistent with this division. Where existing or planned public works facilities can accommodate only a limited amount of new development, services to coastal dependent land use, essential public services and basic industries vital to the economic health of the region, state or nation, public recreation, commercial recreation and visitor-serving land uses shall not be precluded by other development."

Conchita, and Rincon Point are expected to experience enhanced traffic flow at ramps and junctions into their respective communities. Closures of medians at Mussel Shoals, La Conchita, and Tank Farm will decrease overall travel time as this will eliminate the option of left-turn across opposing traffic.

Ventura County Coastal Zoning Ordinance (CZO) Sections

Ordinance Section	Project Consistency Analysis
<p>Section 8173-1 – Coastal Open Space (C-O-S) Zone:</p> <p><i>The purpose of this zone is to provide for the preservation, maintenance, and enhancement of natural and recreational resources in the coastal areas of the County while allowing reasonable and compatible uses of the land.</i></p>	<p>Consistent: The proposed project will be consistent with this CZO section because the project will enhance recreational opportunities and resources while preserving the environment of the existing residential areas within the project area.</p> <p>As stated above in the Public Resources Code § 30210, it is the intent of the Coastal Act to strike a balance between protecting public rights, rights of private property owners, and natural resource areas from overuse. The CCT would</p>

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	<p>provide for greater access to the coast than what currently exists. The soundwalls at Mussel Shoals serve to protect the private property rights of the land owners in that community while promoting a public right to beach access. By providing access to the CCT at various stages of the path (Mobil Pier, Mussel Shoals, La Conchita, and Rincon), the project will allow for the use of much of the coastline along this stretch of Hwy 101, as opposed to concentrating the use near any specific access point. Parking opportunities would remain the same in the communities of Rincon, La Conchita, and Mussel Shoals, while expanded parking opportunities would be provided at Mobil Pier/Punta Gorda. This expanded parking area will provide access to the beach at all points along the CCT, and not solely at Mobil Pier.</p>
<p>Section 8175-5.9 – Public Works Facilities:</p> <p><i>a. New or expanded public works facilities (including roads, flood control measures, water and sanitation) shall be designed to serve only the potential population of the unincorporated and incorporated areas within LCP boundaries, and to eliminate impacts on agriculture, open space lands, and environmentally sensitive habitats.</i></p>	<p>Consistent: See discussion above under The North Coast Public Works Policy No. 1.</p>

PLANNING COMMISSION HEARING NOTICE AND PUBLIC COMMENTS

The Planning Division provided public notice of the Planning Commission hearing in accordance with the requirements of the Government Code (§65091), and the Ventura County CZO (§8181-6.2 et seq.). Notice of the hearing was mailed to:

- All property owners and residents within the communities of Rincon, La Conchita, and Mussel Shoals;
- All owners of property located within 300 feet of the edge of the project boundary;
- The County of Santa Barbara;
- The City of Carpinteria

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CCC Exhibit 4
 (page 25 of 33 pages)

- All City Planning Departments within Ventura County;
- California Coastal Commission; and
- Persons included by request on an interested parties list.

Approximately 450 mailed notices were sent. In addition to the mailed notice, a legal notice of the hearing has been placed in the Ventura County Star.

As of the date of this Staff Report, public comments have been received from interested parties in La Conchita (Mike Bell), interested parties in Mussel Shoals (David Chernoff, Kenneth High, Pamela Worden, and Victor Rosenfeld), and the California Coastal Commission. The comments received are summarized below and attached in full as Exhibit 13.

LA CONCHITA

Mike Bell:

- Supports the type of railing shown in MND Addendum Figure 21 and opposes the fence shown in figure 22 because it is too busy, impedes views, and is too expensive. Asserts that the height should be no more than 48 inches.
- Requests a "No Outlet" sign at entrance to La Conchita.
- Concerned about the emergency vehicle turn around. Requests that Caltrans include in their construction package, an electrical conduit be installed from the La Conchita side of the highway to the center divider at the La Conchita intersection. In the future, if the proposed emergency vehicle median opening proves too dangerous, the electrical conduit needed to power up and electric emergency gate at the La Conchita intersection would already be there.
- Suggests that proper flashing, lighted, signage must be installed warning vehicles that the emergency vehicle turn around is in use.
- Suggests that signage should be installed, on the northbound lanes, south of Sea Cliff, advising of the parking lot at Punta Gorda as carpool parking.
- Concerned about long-term maintenance of the La Conchita Pedestrian Undercrossing.

MUSSEL SHOALS

Pamela Worden:

- Does not support bicycle path being repositioned on the south side of the proposed sound wall
- Community is burdened with visitors who park in community and overflow parking from the hotel and from Breakers Way.

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- Safety of residents of Mussel Shoals to walk on Old PCH because there is no sidewalk.
- California Coastal Trail plan would funnel the bicyclists into the congested entrance/egress at Mussel Shoals, posing danger to life and limb.
- Claims the project would disrupt and destroy a small but precious community.

Dr. David Chernoff

- Concerned with parking along Old PCH
 - Intolerable congestion due to surfers parking on Old PCH and Ocean Avenue. Disagrees with the MND Addendum which asserts that there are 43 parking spaces available in Mussel Shoals (MS).
 - With the exception of about 80 feet, there are no sidewalks along Old PCH. As a consequence, we have no assurance that the parking and foot traffic issues have been adequately addressed. The width of the residual dimension of what is left for parking at various points along Old PCH.
- Concerned with California Coastal Trail through Mussel Shoals.
 - Interaction between cars and cyclists at entrance to Mussel Shoals, even with the deceleration lane and stop signs for both cars and bicyclists/pedestrians, will create a dangerous situation.
 - The proposal to divert bike traffic onto the ingress/egress to Mussel Shoals will increase the danger to the cyclists, and, sooner rather than later, result in injury, death, and liability.
 - Concerned that the bikeway on the western side of the soundwall will fundamentally change the character of the Mussel Shoals community. Feels that the bikeway would be better suited on the northbound side of U.S. 101.

Dr. Victor Rosenfeld

- Disagrees with having bikepath on the Southside of Hwy 101 because it presents a significant danger to human health and causes conflict between residences and vehicles who enter the community for purposes of parking, surfing, fishing, and servicing the Oil and Gas Refinery.
- States that the interaction of decelerating cars from highway speeds with the cyclists/pedestrians in the very short turn off into Mussel Shoals with the limited visibility will cause a dangerous situation.

00053

Kenneth High

- Does not support the alternative presented in the MND Addendum of wrapped soundwalls.
- Believes that California Coastal Trail should be on the east side of the freeway as opposed to through the Mussel Shoals community. If it is to be on the coastal side of the highway, he suggests putting it east of the guard rail as it exists now to keep traffic off Old PCH. Believes that leaving bike path where it is now at the entrance is the safest and best solution because the intersection of the offramp and Old PCH is congested with cars, pedestrians, and bikes (particularly on weekends).
- Supports the sound wall with various heights at various locations to provide protection for the houses that also looks good. Sound wall is a quality of life issue for Mussel Shoals residents.
- Is concerned about the bike path going behind the houses and requests a privacy/security fence between the California Coastal Trail and the backyards of the residences on Breakers Way.

California Coastal Commission

On June 10, 2010, the California Coastal Commission (CCC) submitted a letter to the Planning Division, outlining their concerns about the project (Exhibit 11). On June 14, 2010, the Planning Division met with CCC staff and Caltrans to review the letter. Subsequently, Caltrans and CCC staff reached a consensus on conditions that Caltrans would impose upon itself for this project to address the concerns of the CCC. These self-imposed commitments are set forth in a letter from Caltrans to the County Planning Director, which is attached as Exhibit 12. As this is an agreement between Caltrans and the Coastal Commission, and does not constitute a requirement imposed upon the project by Ventura County, the County undertakes no enforcement or oversight role in the planning and implementation of these "self-imposed" Caltrans commitments.

RECOMMENDED ACTIONS

1. **FIND** that, pursuant to CEQA Guidelines sections 15050(b), 15096 (Process for a Responsible Agency), and 15070(b)(1), your Commission has reviewed the MND and the Addendum (Exhibit 4 and Exhibit 5) adopted by the lead agency Caltrans and considered public testimony and finds, in light of the whole record before it, that Caltrans has made project revisions, incorporated mitigation measures and committed to other enforceable mitigation and maintenance actions that either avoid or mitigate the potentially significant effects caused by this project to a point where clearly no significant effects would occur, and

00054

CCC Exhibit 4
(page 28 of 33 pages)

2. **CERTIFY** that your Commission has reviewed and considered the environmental information and analyses in the MND and the Addendum (Exhibit 4 and Exhibit 5), pursuant to CEQA Guidelines §§ 15050(b), 15096 and 15381; and
3. **FIND** that the analysis and conclusions in sections 2 and 3 above are based on the substantial evidence contained in this staff report and all Exhibits and attachments referenced therein; and
4. **APPROVE and ADOPT** the factual findings made in sections 2 and 3 above necessary to meet the standards for the granting of the Conditional Use Permit (see Section 2); and
5. **GRANT** Conditional Use Permit LU09-0085, subject to the attached Conditions of Approval (Exhibit 6); and
6. **DIRECT** the Planning Director or her designee to file a Notice of Determination pursuant to CEQA Guidelines §§ 15075 and 15096(i); and
7. **DESIGNATE** the Planning Division as the custodian of the records pertaining to the subject permit and environmental document, and that the location of those documents shall be the Planning Division files at 800 S. Victoria Avenue, Ventura CA 93009.

The decision of the Planning Commission is final unless appealed to the Board of Supervisors within 10 calendar days after the permit has been approved, conditionally approved or denied, or on the following workday if the 10th day falls on a weekend or holiday (CZO §8181-9.2(b)). Any aggrieved person may file an appeal of the decision with the Planning Division. The Planning Division shall then set a hearing date before the Board of Supervisors to review the matter at the earliest convenient date.

Pursuant to CZO §8181-9.5(b)(4), this project constitutes a major public works project and thus can be appealed to the California Coastal Commission. At the conclusion of the local appeal period set out in CZO §8181-9.2, or following a final decision on a properly filed appeal, the Planning Division shall send a Notice of Final Decision to the California Coastal Commission, who shall set another appeal period pursuant to terms and conditions in the California Coastal Act (Pub. Res. Code, §30000 et seq.). Following the expiration of the Coastal Commission's appeal period, if applicable, and if no appeals are filed, the decision will be considered "effective."

00055

If you have any questions concerning the information presented above, please contact Michelle Glueckert D'Anna at (805) 654-2685 or via e-mail at michelle.danna@ventura.org.

Prepared by:

Reviewed by:


Michelle Glueckert D'Anna, Case Planner


Kimberly L. Prillhart, Director
Planning Division

EXHIBITS

- Exhibit 2 – Aerial Location, General Plan & Zoning Designation and Land Use Maps
- Exhibit 3 – Plans
- Exhibit 4 – Mitigated Negative Declaration (*Technical Appendices included electronically. See CD*)
- Exhibit 5 – Mitigated Negative Declaration Addendum
- Exhibit 6 – Conditions of Approval
- Exhibit 7 – Draft Environmental Commitment Report
- Exhibit 8 – Santa Barbara County Conditions of Approval
- Exhibit 9 – City of Carpinteria Conditions of Approval
- Exhibit 10 – Paint Chip
- Exhibit 11 – Letter from California Coastal Commission to Ventura County, dated June 10, 2010
- Exhibit 12 – Letter from Caltrans to Ventura County, dated June 24, 2010
- Exhibit 13 – Emails from Interested Parties
- Exhibit 14 – 101 HOV Video Simulation, dated May 14, 2010

- c: Carlos Montez, Caltrans
Tami Podesta, Caltrans
Erinn Peterson, representative
Interested parties
Melinda Talent, Environmental Health Division, Resource Management Agency
Ben Emami, Transportation Department, Ventura County Public Works Agency
Brian Trushinski, Watershed Protection District, Ventura County Public Works Agency
Robin Jester, Watershed Protection District, Ventura County Public Works Agency
Rick Viergutz, Watershed Protection District, Ventura County Public Works Agency
Jim Myers, Development and Inspection Services, Ventura County Public Works Agency
Jim O'Tousa, Development and Inspection Services, Ventura County Public Works Agency
Pandee Leachman, Integrated Waste Management Division, Ventura County Public Works Agency
Marnel VandenBossche, Ventura County Fire Protection District
Rita Graham, Agricultural Commissioner's Office
Alicia Stratton, Ventura County Air Pollution Control District
Theresa Lubin, Parks Division, Ventura County General Services Agency
Case File

00056

A-4-VNT-10-105 Caltrans:
Highway 101 HOV Lanes Project, Ventura County

Exhibit 4 (con't).
County Staff Report for July 15, 2010 Planning Commission hearing

Entire Ventura County staff report document comprises 127 pages.

County staff report exhibits 2-11 & 13-14 omitted from this report due to length and duplication in other exhibits already attached.

County's Exhibit 12 is attached herewith because it directly confirms and clarifies the content of Caltrans' public access program as it was presented to the Ventura County Planning Commission. (Note that the proposed railing height along the seaward side of the Coastal Trail/bikeway is now specified as 48" in height.)

Exhibit 4 (con't)
County staff report

DEPARTMENT OF TRANSPORTATION
DISTRICT 7 ENVIRONMENTAL PLANNING
100 MAIN STREET, MS16A
LOS ANGELES, CA 90012
PHONE (213) 897-0703
FAX (213) 897-0685
TTY (213) 897-4937



*Flex your power!
Be energy efficient!*

June 24, 2010

Kim Prillhart
Planning Director
County of Ventura, Planning Division
800 S. Victoria Avenue
Ventura, CA 93009-1740

SUBJECT: US 101 HOV Project

This letter clarifies the self-imposed VEN 101 HOV Project Public Coastal Access components that will be associated with the existing project as discussed at our June 14, 2010 meeting.

1. At Mobil Pier/Beacon's Beach, we specify that the project will include the proposed handicapped parking space as part of the improvements to the turn-around at the north end of Mobil Pier Road. The project also includes rehabilitation of access as needed to facilitate general coastal access, for example the pathway to the beach.
2. At Punta Gorda, we specify that the project's proposed parking area will include compacted base rock, with a capacity in the range of at least 211 spaces. The existing Pedestrian Undercrossing (PUC) will be painted and the light fixtures repaired and a connection will be provided from the outlet of the PUC to the California Coastal Trail (CCT)/bikeway and to the beach.
3. At Mussel Shoals, we specify that the project will include coastal access signage adjacent to CCT/bikeway.
4. At La Conchita, upon a final agreement with Union Pacific Railroad (UPRR) and California Coastal Commission, we will make a one time payment for the relocation of the UPRR railing upon the permission of UPRR to do so.
5. At South Rincon, pending approval from State Parks, we will provide a direct pedestrian & bikeway connection between the existing State Beach parking area and the CCT/bikeway along the southbound on-ramp lane.
6. Throughout the project, we confirm that the safety fence along the seaward side of the CCT/bikeway will not exceed 54" unless we determine through adequate engineering analysis and report that a 42" fence meets applicable Caltrans safety standards on the seaward side. We also confirm that the project will include basic, drought-resistant landscaping as feasible or aesthetic treatments at each public parking area, consistent with Local Coastal Permit standards.

LU09-0085
Exhibit 12
Letter from Caltrans 06/24/10

00126

CCC Exhibit 4
(page 32 of 33 pages)

and CCT emblems/signage will be provided for the CCT/bikeway in coordination with California Coastal Conservancy.

7. O & M support: Caltrans will be responsible for maintenance of all facilities, including trash receptacles & portable toilet services that are to be provided. Caltrans may subsequently arrange for these duties to be carried out by another entity pursuant to alternative binding agreement(s).

8. Additional Coastal Access Enhancements – we will seek funding, grants, or cooperative agreements with other agencies such as State Parks, Coastal Conservancy, Beacon, or Ventura County Parks to provide additional coastal access enhancements. We will make a good faith effort to pursue the following coastal access enhancements: access to Carpinteria State Beach (South Rincon Unit) and interpretive facilities, general coastal access, parking, and amenities, such as benches, aesthetics and signage.

Be assured that these components will be associated with the existing project, using existing project funding or funds secured through applicable grants, operations and/or maintenance support funds. All Corridor Mobility Improvement Account (CMIA) funding commitments will be secured prior to the start of project construction.

In closing, let me offer my appreciation for the excellent professional assistance your office has provided during the development of the CDP application. This Route 101 project will be a substantial improvement to the Ventura Coast.

If you have any further questions, please call me at (213) 897-0703.

Sincerely,



RONALD KOSINSKI

Deputy District Director for Environmental Planning

cc: Jack Ainsworth, California Coastal Commission

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00127

CCC Exhibit 4
(page 33 of 33 page)

DEPARTMENT OF TRANSPORTATION**DISTRICT 7**

100 MAIN STREET, SUITE 100
LOS ANGELES, CA 90012-3606
PHONE (213) 897-0362
FAX (213) 897-0360
TTY (213) 897-4937



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September 8, 2010

County of Ventura Board of Supervisors
C/O Kim Prillhart, Ventura County Planning Director
800 S. Victoria Avenue
Ventura, CA, 93009

Subject: US 101 High Occupancy Vehicle Project Conditional Use Permit LU09-0085 Appeal

This letter is in response to the appeals received from Dr. Chernoff and the Surfrider Foundation (Ventura Chapter) regarding the Planning Commission's approving action on July 15, 2010. We wish to clarify Caltrans' consistency with the Ventura County Local Coastal Plan in response to the appeals brought forth by the Surfrider Foundation and Dr. Chernoff, a resident of Mussel Shoals.

Community Outreach

Early in the environmental analysis, we were acutely aware that the HOV project would involve bringing multiple stakeholders into the decision making process. In response, Caltrans developed a comprehensive community outreach program for the US 101 HOV Project. Specifically, we met with Mr. Larry Manson, Secretary with Surfrider Foundation, Mr. Ken High and Ms. Pamela Worden, community representatives of Mussel Shoals, California Coastal Commission (CCC) staff, CCC Roads-edge Sub-committee and many others. Their input was taken seriously, and modifications to the design were made in response. Meetings with the Roads-edge Sub-committee provided valuable input on the design and configuration of the California Coastal Trail (CCT)/bikeway as well as project consistency with the Coastal Act. The extent of our public outreach program, to include and involve the public, is represented in each item listed in Attachment A.

Loss of Parking and Safe Beach Access

We met specifically with Mr. Larry Manson (Secretary of the Surfrider Foundation), who presented the Foundation concerns about loss of informal parking near surfing areas. In response, we suggested that the new pedestrian undercrossing (PUC) in the community of La Conchita would be the safest way to access the beach with approximately 100 available parking spaces. The new PUC would provide safe and ADA compliant access to the beach and surf that is far safer than what is currently available. In addition, people using the shoulder for access must be able to safely negotiate their way up and down the 15 to 20 foot rock revetment to the beach. Just north of La Conchita, another well known surfing area at Rincon Point has 262 parking spaces at Rincon County Beach and Carpinteria State Beach and public restrooms, with a pathway, a ramp or stairway for beach access. Though the project budget and schedule did not allow for land acquisition to offset parking (approximately 211 spaces) on private property, State land was located at Punta Gorda that would be large enough to accommodate lost parking on the freeway. Punta Gorda has an existing Pedestrian Undercrossing for beach access, it is easily accessible from the U.S. 101, and it could be

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CCC Exhibit 5
(page 1 of 5 pages)

connected to the proposed CCT/bikeway. The La Conchita PUC and Punta Gorda/Mobil Pier access was designed with all members of the public in mind, and will allow for safe beach access with available parking nearby. Caltrans believes that the proposed project provides safer beach access when compared to existing conditions. Our analysis also concluded that the new parking area would provide safe beach access, revitalize an isolated beach area at Mobil Pier, and add multiple access points to the new CCT/bikeway thus expanding coastal recreation opportunities along the corridor. This is clearly consistent with the Ventura County Local Coastal Plan, CCC directives and Surfrider concerns.

Freeway Parking Enforcement

It should be noted that independent of where the new bikeway is located, once the HOV lanes are constructed, it will change the classification of the highway to a freeway according to Caltrans design standards and the California Highway Patrol (CHP). Therefore, parking will no longer be allowed along the freeway shoulder pursuant to CA vehicle code, Division 11, Chapter 9, section 22505 and will be enforced by CHP. Parking on the 10-foot wide freeway shoulder will be for emergency parking only and any long-term parking will not be allowed. After construction, allowing motorists to park on the freeway, particularly those with children, beach equipment, surf boards, and other gear, to open their car doors into traffic lanes, is clearly not consistent with public safety. Also, the area between La Conchita and Mussel Shoals is the narrowest part of highway. The highway is nestled between the railroad and ocean. There is just enough space to add HOV lanes on the highway and construct the bikeway. There is no additional land for expansion of a bikeway off the highway.

CCT Access and Recreational Activities

The new CCT/bikeway, PUC, HOV lanes, and median closures, would change the manner by which people use this section of the roadway. The CCT/bikeway as proposed is a 4 mile shared path intended for cyclists, walkers, etc. extending from Rincon Point to Mobil Pier Road, with 6 access points along the way. The CCT/bikeway will link the communities of Rincon, Mussel Shoals, and La Conchita, expanding their options and providing new access to different neighborhoods and also connect the two counties providing an inter-regional connection. For example, a quick ¾ mile bike ride or walk from La Conchita to Mussel Shoals on the CCT/bikeway would take the average person 3 minutes on a bike or 15 minutes to walk. At Punta Gorda, beachgoers can access the beach through the PUC, or take a short 10 minute walk or 2 minute bike ride to Mussel Shoals beach which is a well known surf spot. As proposed, the Punta Gorda parking lot would provide at least 211 parking spaces; Mobil Pier provides 43 existing parking spaces and direct access to the CCT. Generally, beachgoers do not utilize La Conchita for parking due to inconvenient beach access, a problematic 4 foot tall drainage culvert. The new 8 foot by 8 foot ADA compliant PUC with beach and CCT/bikeway access would attract beachgoers and CCT/bikeway users and be accessible by way of 100 existing parallel parking spaces. Another well known surfing area at Rincon Point has 262 parking spaces at Rincon County Beach and Carpinteria State Beach, as well as public restrooms. Parking areas under Caltrans jurisdiction will have handicapped parking spaces available, and the appropriate signage will be posted consistent with the Ventura County Local Coastal Plan.

Mussel Shoals Intersection

Our outreach efforts with Mr. High and Ms Worden and the community as a whole afforded them the opportunity to provide input on the design. For example, the bike path was initially proposed to end at Ocean Avenue and to continue along Old Pacific Coast Highway (PCH) through the community of Mussel Shoals. Due to input from the community, the bike path was redesigned off PCH to its current location. Other modifications based on community input include: tapered soundwalls, landscaping, bike racks, lighting and a privacy fence. Caltrans is aware of potential issues concerning the multi-user path.

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neighborhood parking, and the Mussel Shoals intersection. These issues are more about individual responsibility and/or government enforcement. Caltrans is not an enforcement agency; however, the proposed design does allow for maximum safety if used properly. The intersection at Mussel Shoals is a good example, the proposed design allows for maximum visibility for path users and vehicles with added signage for traffic control. Existing conditions require the cyclist to cross the intersection from the highway without any protection and limited visibility. When the bikeway was designed at the La Conchita intersection on the inland side of the highway, there were similar design challenges; however, users would have the added obstacle of passing through the railroad tracks. Furthermore, moving the CCT on the inland side would disrupt the continuity of the CCT and isolate Mussel Shoals from the CCT, which is inconsistent with the Ventura County Local Coastal Plan.

The HOV Lane Improves Regional Commuter Travel

The project would remedy a bottleneck on the US 101 and the HOV/carpool lanes would provide congestion relief for beach visitors, regional commuters, transit, and commerce. In addition, non-motorized transportation will be expanded as a result of implementation of the project. Coordination with the CCC Roads-Edge Subcommittee suggested improvements for the CCT, such as the protective and decorative railing, additional beach access, a pedestrian undercrossing, safer parking options, trash receptacles, bike racks and maintenance services. These improvements allow for enhanced use of the corridor and encourage the recreational use of the coast by the public, consistent with the Ventura County Local Coastal Plan.

It is important to note that this \$116 million dollar project is being funded by the Corridor Mobility Improvement Account (CMIA); this account originates from the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, approved by the voters as Proposition 1B on November 7, 2006. This bond includes a program of funding of \$4.5 billion to be deposited into the CMIA program. The Bond Act also mandates that the inclusion of a project in the CMIA program be based on demonstration that the project can commence construction no later than December 31, 2012. If the California Transportation Commission (CTC) finds that as a result of cost increases or schedule delays, the project is no longer fundable or no longer competitive in terms of cost effectiveness, the CTC may delete the project from the CMIA program.

For the reasons stated above, Caltrans respectfully requests that the Ventura County Planning Commission's decision to approve our Conditional Use Permit is upheld.

Sincerely,


RON KOSINSKI

Deputy Director
Division of Environmental Planning

cc: Supervisor Steve Bennett
Supervisor Linda Parks
Supervisor Kathy Long
Supervisor Peter C. Foy
Supervisor John C. Zaragoza
Darren Kettle, VCTC

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CCC Exhibit 5
(page 3 of 5 pages)

ATTACHMENT A

US 101 HOV PROJECT STAKEHOLDER MEETINGS AND COORDINATION

1. Scoping Meeting (Carpinteria Council Chambers) 8/28/07
(Ventura County Star, Coastal View, Santa Barbara Newspress, Vida)
2. Coastal Permit Agencies (CCC, VC, SBC, Carp) 12/12/07
3. Ventura County Land Use manager 1/24/08
4. Carpinteria Community Development Mgr 3/28/08
5. Bicycle Community (SBBC, Channel Islands, Ventura Velo) 2/13/08, 6/12/08 & 9/17/08
6. Elected Official Briefing 4/3/08
7. La Conchita Community 4/29/08
8. Mussel Shoals BWHOA 4/30/08, 10/8/09 & 4/16/09
9. Carpinteria City Council 6/09/08
10. Newsletter 7/1/08
11. Elected Official Meeting 4/3/08
12. VCTC Board 7/11/08
13. SBCAG Board 7/17/08
14. Native American Coordination 7/11/07 - 3/12/08
15. Vista Del Santa Barbara Mobile Home 7/8/08
16. Villa Del Mar HOA 7/16/08
17. Casitas Village 8/7/08
18. Public Hearing (Carpinteria Middle school) 9/9/08
(Ventura County Star, Coastal View, Santa Barbara Newspress, Vida & Postcards)
19. CCC- Peter Douglas 10/17/08
20. CCC Staff 12/3/08, 3/11/09, 5/26/09, 5/30/09,
6/30/09, 3/18/10, 3/29/10, 11/12/09,
12/1/09, 3/29/10, 5/4/10 & 6/14/10
21. CCC Roads Edge Subcommittee 5/28/09, 8/11/09 & 12/8/09
22. Surfrider Foundation (Larry Manson) 2/5/09, (5/09, 4/22/10, 4/23/10)
23. Coastal Conservancy 9/16/09, 11/12/09 & 12/1/09
24. CCC & UPRR 11/5/09, 2/4/10, 4/3/10, & 7/21/10
25. State Lands Commission 7/09 - 8/10
26. Coastal Walk 7/10
27. Beacon 4/23/10 - 5/24/10, 6/14/10
28. California Highway Patrol 9/16/09, 8/10
29. Ventura County Fire Dept 10/08, 4/7/09, 4/16/09, 4/20/09,
7/29/09
30. CA State Parks 8/26/09, 5/10-8/10

City of Carpinteria Coastal Permits

- | | |
|---------------------------------------|--------------------------|
| 31. Preliminary Application Meeting | 3/12/09, 4/14/09, 6/3/09 |
| 32. Preliminary Design Review | 8/13/09 & 11/12/09 |
| 33. Multi-Jurisdiction Design Meeting | 9/10/09 |
| 34. Planning Commission | 1/4/10, 2/4/10 |
| 35. Final Design Review | 4/15/10 |

Santa Barbara County Coastal Permits

- | | |
|---|----------------------------------|
| 36. Preliminary Application Meeting | 3/11/09, 4/9/09, 5/7/09, 6/19/09 |
| 37. Board of Architectural Review (BAR) | 7/10/09 & 10/23/09 |
| 38. Multi-Jurisdiction Design Meeting | 9/10/09 |
| 39. Planning Commission | 1/20/10 |
| 40. Final BAR | 2/19/10 |

Ventura County Coastal Permits

- | | |
|---------------------------------------|---|
| 41. Preliminary Application Meeting | 3/11/09, 3/30/09, 4/23/09, 6/3/09,
6/3/09, 6/30/09, 10/14/09 |
| 42. Multi-Jurisdiction Design Meeting | 9/10/09, 1/19/10 |
| 43. Other meetings | 1/19/10, 3/18/10, 5/4/10, 6/14/10 |
| 44. Planning Commission | 7/15/10 |

Abbreviations

- California Coastal Commission (CCC)
- Ventura County (VC)
- Santa Barbara County (SBC)
- City of Carpinteria (Carp)
- Santa Barbara Bicycle Coalition (SBBC)
- Breaker's Way Home Owner's Association (BWHOA)
- Ventura County Transportation Commission (VCTC)
- Santa Barbara County Association of Governments (SBCAG)
- Homeowner's Association (HOA)
- Union Pacific Railroad (UPRR)

**EXHIBIT 6 – CONDITIONS OF APPROVAL FOR
CONDITIONAL USE PERMIT (CUP) NO. LU09-0085**

RECEIVED
OCT 19 2010

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Resource Management Agency Conditions

Planning Division

1. **Permitted Land Uses:** This permit authorizes the construction of High Occupancy Vehicle (HOV) lanes within the existing median along the segment of US Hwy 101 located between the Mobil Pier Undercrossing and the Ventura County/Santa Barbara County Line. This construction would widen the highway from four to six lanes (three northbound and three southbound) through the communities of Mussel Shoals, La Conchita, and Rincon Point (See Exhibit 3) Additional project components include the following:
 - A. Installation of sound walls along the eastern boundary of the Mussel Shoals Community;
 - B. Closure of median openings at three locations between Mussel Shoals and Rincon Point;
 - C. Creation of an emergency vehicle access break at the La Conchita median closure;
 - D. Construction of acceleration and deceleration lanes at Mussel Shoals and La Conchita;
 - E. Installation of a Class I, two-directional bike lane and pedestrian pathway along the coastal side of US HWY 101 (California Coastal Trail);
 - F. Construction of a pedestrian undercrossing ("PUC") in La Conchita;
 - G. Placement of an Intelligent Transportation Systems Changeable Message Sign along the northbound side of US Hwy 101 between the communities of La Conchita and Rincon Point;
 - H. Creation of a new parking area at Punta Gorda/Mobil Pier.

The entire project shall be constructed on land under the jurisdiction of the state. Except for two "Excess Land" areas which will be acquired by Caltrans and reincorporated into state ROW, no additional land will be acquired as part of this project. Caltrans will pursue a lease agreement with the State Lands Commission for the parking area at Punta Gorda/Mobil Pier.

2. **Acceptance of Conditions and Schedule of Enforcement Responses:** The Permittee's acceptance of this CUP and/or commencement of construction and/or operations under this CUP shall be deemed to be acceptance by the permittee of all conditions of this CUP. Failure to abide by and faithfully comply with any condition of approval of this CUP shall constitute grounds for the implementation of enforcement procedures as provided in the *Ventura County*

Coastal Zoning Ordinance (2004, Article 13), which include, but are not limited to, the following actions:

- Report of violations to the Planning Commission and/or Board of Supervisors in a public hearing;
- Suspension of the permitted land uses (Condition No. 1);
- Modification of the CUP conditions listed herein;
- Recordation of a "Notice of Noncompliance" with the deed to the subject property;
- The imposition of administrative civil penalties; and/or
- Revocation of this CUP.

It is the responsibility of Permittee, or any successor in interest, to be aware of, and to comply with, the CUP conditions and the rules and regulations of all jurisdictions having authority over the uses described herein.

3. Time Limits:

a. Use Inauguration:

- (1) The CUP becomes effective upon the expiration of the applicable appeal period, or when all appeals regarding the requested CUP are resolved. After the decision on this CUP becomes effective, the Permittee must obtain a Use Inauguration Zoning Clearance in order to inaugurate the uses provided in Condition No. 1 (Permitted Land Uses).
- (2) This CUP shall expire and become null and void if the Use Inauguration Zone Clearance has not been issued within one year [see the *Ventura County Coastal Zoning Ordinance* (2004, §8181-7.7)] from the date this CUP becomes effective. The Planning Director may grant up to an additional two years to obtain the Use Inauguration Zoning Clearance if the Permittee can demonstrate to the satisfaction of the Planning Director that the Permittee has made a diligent effort to inaugurate the permitted land use, and the Permittee has requested the extension in writing prior to the one year expiration date.
- (3) Prior to the issuance of the Use Inauguration Zoning Clearance, all fees and charges billed to that date by any County agency, as well as all fines, penalties, and sureties, must be paid in full. After issuance of the Use Inauguration Zoning Clearance, any final billed processing fees must be paid within 30 days of the billing date or this CUP is subject to revocation.

4. CUP Modification: Prior to undertaking any operational or construction-related activity which is not expressly described in these conditions or applicable exhibits, the Permittee shall contact the Planning Director to determine if the activity requires a modification of this CUP. The Planning Director may, at the Planning Director's discretion, require that the Permittee file a written and/or mapped description of the proposed activity prior to rendering a decision on whether a CUP modification is required. If a CUP modification is required, the modification shall be subject to:
 - a. The modification approval standards of the Ventura County Ordinance Code in effect at the time the modification application is acted on by the Planning Director; and,
 - b. Environmental review, as required pursuant to the California Environmental Quality Act (CEQA; California Public Resources Code, §21000-21178) and the State CEQA Guidelines (California Code of Regulations, Title 14, Chapter 3, §15000-15387), as amended from time to time.

5. Consolidation of All Approved Exhibits, Conditions, and Permits: Prior to the issuance of a Use Inauguration Zoning Clearance, the Permittee shall provide the following informational items to the County Planning Division in a form approved by the Planning Director:
 - a. The final project description;
 - b. All exhibits of the staff report, dated **July 15, 2010**, which were prepared for this project;
 - c. The conditions of approval of this CUP;
 - d. Documentation determined to be adequate by the Director that all of the conditions of approval that are required to be satisfied prior to issuance of a Use Inauguration Zoning Clearance have been satisfied; and,
 - e. Documentation determined to be adequate by the Director that all necessary entitlements have been obtained from other governmental agencies and that all conditions imposed by other agencies have been satisfied.

Within 30 days of any application for a subsequent modification of this CUP, the above-listed informational items in revised form shall be submitted to the County Planning Division.

6. Notice of CUP Requirements and Retention of CUP Conditions On-Site: Unless otherwise required by the Planning Director, the Owner(s) of record, the contractors, and all other parties and vendors regularly dealing with the daily operation of the proposed activities shall be informed, in writing, by the Permittee of the pertinent conditions of this CUP.

7. Condition Compliance, Enforcement, and Other Responsibilities: The Permittee shall be responsible for the full cost of all staff time expended, materials used, or consultant expenses associated with the review and approval of studies, generation of studies or reports, on-going permit compliance inspections and other compliance monitoring activities. Prior to issuance of a Zoning Clearance, the applicant shall submit a signed reimbursement agreement subject to the permittee's right to challenge any charges, which obligates the permittee to reimburse the County's cost for permit implementation pursuant to the provisions of the Ventura County Ordinance Code, as it may be amended. Specifically, the permittee shall bear the full costs of (1) Condition Compliance; and (2) coordination/meetings/correspondence with Caltrans, California Coastal Commission, and/or other interested governmental agencies or interest groups for purposes of permit implementation.

The permittee shall pay any written requests to replenish the deposit made by the Planning Director or designee within 30 days of receipt of the request. If requested by the permittee, requests for payment shall be accompanied by an accounting of how the deposited funds have been spent. Failure to pay the required amount, or to maintain the required deposit, shall be grounds for suspension, modification, or revocation of this CUP. The permittee shall have the right to challenge any charge or the reasonableness of any charge prior to payment.

8. Defense and Indemnity:

a. As a condition of issuance and use of this CUP, including adjustment, modification, or renewal of this CUP, the permittee agrees to:

(1) Defend, at the permittee's sole expense, any action brought against the County by a third party challenging either its decision to issue this CUP or the manner in which the County is interpreting or enforcing the conditions of this CUP; and,

(2) Indemnify the County against any settlements, awards, or judgments, including attorney's fees, arising out of, or resulting from, any such action. Upon demand from the County, the permittee shall reimburse the County for any court costs and/or attorney's fees which the County may be required by a court to pay as a result of any such action the Permittee defended or had control of the defense of the suit. The County may, at its sole discretion,

participate in the defense of any such action, but such participation shall not relieve the Permittee of the Permittee's obligations under this condition.

- b. Neither the issuance of this CUP nor compliance with the conditions thereof shall relieve the permittee from any responsibility otherwise imposed by law for damage to persons or property, nor shall the issuance of this CUP serve to impose any liability upon the County of Ventura, its officers, or employees for injury or damage to persons or property.
- c. Except with respect to the County's sole negligence or intentional misconduct, the permittee shall indemnify, defend, and hold harmless the County, its officers, agents, and employees from any and all claims, demands, costs, and expenses, including attorney's fees, judgments, or liabilities arising out of the construction, maintenance, or operations described in Condition No. 1 (Permitted Land Uses), as it may be subsequently modified pursuant to the conditions of this CUP.

9. Invalidation of Condition(s): If any of the conditions or limitations of this CUP are held to be invalid, that holding shall not invalidate any of the remaining conditions or limitations set forth. In the event that any condition contained herein is determined to be in conflict with any other condition contained herein, then where principles of law do not provide to the contrary, the conditions most protective of public health and safety and natural environmental resources shall prevail to the extent feasible, as determined by the Planning Director.

In the event that any condition imposing a fee, exaction, dedication, or other mitigation measure is challenged by the project sponsors in an action filed in a court of law, or threatened to be filed therein, which action is brought in the time period provided for by the Code of Civil Procedures, §1094.6, or other applicable law, this CUP shall be allowed to continue in force until the expiration of the limitation period applicable to such action, or until final resolution of such action, provided the permittee has, in the interim, fully complied with the fee, exaction, dedication, or other mitigation measure being challenged.

If any condition is invalidated by a court of law, and said invalidation would change the findings and/or the mitigation measures associated with the approval of this CUP, the project may be reviewed, at the discretion of the Planning Director, by the Planning Commission and substitute feasible conditions/mitigation measures may be imposed to adequately address the subject matter of the invalidated condition. The determination of adequacy shall be made by the Planning Commission. If the Planning Commission cannot identify substitute feasible conditions/mitigation measures to replace the invalidated condition, and cannot identify overriding considerations for the significant impacts that are not mitigated to a level of insignificance as a result of the invalidation of the condition, then this CUP may be revoked.

10. Consultant Review of Information and Consultant Work: The County and all other permitting agencies shall have the option of referring any and all special studies that may be required by these conditions to an independent and qualified consultant for review and evaluation of issues beyond the expertise or manpower of County staff.

Prior to the County engaging any independent consultants or contractors pursuant to the conditions of this CUP, the County shall confer in writing with the Permittee regarding the necessary work for which to be contracted, as well as the costs of such work. Whenever feasible, the lowest bidder will be used. Any decisions made by staff may be appealed pursuant to the appeal procedures contained in the Ventura County Zoning Ordinance Code then in effect.

The Permittee may hire private consultants to conduct work required by the County, provided the consultant and the proposed scope-of-work are acceptable to the County. However, the County retains the right to hire its own consultants to evaluate any work undertaken by the operator or consultants under the contract to the operator.

11. Relationship of CUP Conditions, Laws and Other Permits: The design, maintenance, and operation of the CUP area and facilities thereon shall comply with all applicable requirements and enactments of Federal, State, and County authorities, as amended, and all such requirements and enactments shall by reference become conditions of this CUP. In the event of conflicts between various requirements, the more restrictive requirements shall apply. In the event that any CUP condition contained herein is determined to be in conflict with any other CUP condition contained herein, then where principles of law do not provide to the contrary, the CUP condition most protective of public health and safety and environmental resources shall prevail to the extent feasible, as determined by the Planning Director.

No condition of this CUP for uses allowed by the Ventura County Ordinance Code shall be interpreted as permitting or requiring any violation of law, or any lawful rules or regulations or orders of an authorized governmental agency. Neither the issuance of this CUP nor compliance with the conditions of this CUP shall relieve the Permittee from any responsibility otherwise imposed by law for damage to persons or property.

12. Contact Person: Prior to the issuance of the Use Inauguration Zoning Clearance, the Permittee shall provide the Planning Director with the contact information (e.g., name and/or position title, address, phone number, mailing and email addresses, and business and cell phone numbers) of the Permittee's field agent and other representatives who receive all orders, notices, and communications regarding matters of condition and code compliance at the CUP site. There always shall be a contact person(s) designated by the Permittee. If deemed

necessary by the Planning Director, one contact person(s) shall be available via telecommunication, 24 hours a day, to respond to complaints by citizens and the County. If the address or phone number of the Permittee's agent(s) should change, or the responsibility is assigned to another person or position, the Permittee shall provide the Planning Director with the new information within three calendar days.

13. Reporting of Major Incidents: The Permittee shall immediately notify the Planning Director by telephone, email, FAX, and/or voicemail of any incidents (e.g., fires, explosions, spills, landslides, or slope failures) that could pose a hazard to life or property inside or outside the CUP area. Upon request of any County agency, the Permittee shall provide a written report of any incident within seven calendar days that shall include, but not be limited to, a description of the facts of the incident, the corrective measures used, and the steps taken to prevent a recurrence of the incident.
14. Correspondence from Other Agencies and Jurisdictions: Copies of all correspondence, reports, or information related to land use and environmental issues covered by this CUP which are received by the Permittee from, or sent by the Permittee to, other State or local jurisdictions or agencies shall be provided to the Planning Division within five calendar days of their receipt/issuance.
15. Site Maintenance: The CUP area shall be maintained in a neat and orderly manner so as not to create any hazardous condition, or unsightly conditions which are visible from outside the CUP area on surrounding properties or from any public right-of-way. All equipment and facilities not explicitly permitted in Condition No. 1 (Permitted Land Uses) shall be removed from the site prior to the issuance of a Use Inauguration Zoning Clearance. Only equipment, materials, and structures which comply with Condition No. 1 (Permitted Land Uses), or are authorized by any subsequent amendments to this CUP, shall be stored on the property during the life of this CUP.
16. Change of Ownership: At least 10 calendar days prior to the effective date of the change of property ownership, or of lessee(s) or operator(s) of the permitted uses, there shall be filed, as an initial notice with the Planning Director, the new name(s), address(es), telephone/FAX number(s), and email addresses of the new owner(s), lessee(s), operator(s) of the permitted uses, and the company officer(s). A final statement that a transfer of ownership has occurred shall be provided to the Planning Director within 15 calendar days of the transfer. The statement shall include the following:
 - (a) Any changes in name(s), address(es), telephone/FAX number(s), and email addresses of the new owner(s), lessee(s), operator(s) of the permitted uses, and company officer(s) from the initial notice;

- (b) A letter from the new property owner(s), lessee(s), and/or operator(s) of the permitted uses acknowledging and agreeing to comply with all conditions of this CUP.
- (c) The effective date and time of the transfer.

17. Sign Plan: Prior to the issuance of a Use Inauguration Zoning Clearance, two copies of a Sign Plan shall be submitted to the Planning Division for review and approval by the Planning Director. The Sign Plan shall comply with Chapter 1, Article 10 of the Ventura County Ordinance Code and applicable Area Plan. The Sign Plan shall include the proposed size, colors, materials, and lighting details. The Permittee shall bear the total cost of such review and approval. All elements of the Sign Plan shall be installed according to the Sign Plan.

As part of the sign plan, Caltrans shall install a "No Outlet" sign at the respective entrances to the La Conchita and Mussel Shoals communities. Additionally, appropriate signage shall be installed in parking areas of La Conchita and Mussel Shoals to designate public parking areas as such. All new signage must be placed as near as possible to other necessary signage and shall avoid impacting important or interesting views.

18. Lighting Plan: Prior to the issuance of a Use Inauguration Zoning Clearance, two copies of a Lighting Plan shall be submitted to the Planning Division for review and approval by the Planning Director. The Lighting Plan, which shall include a photometric plan and manufacturer's specifications for each exterior light fixture type, shall be prepared by an electrical engineer registered by the State of California. The Lighting Plan shall achieve the following objectives:

- (a) Avoid interferences with reasonable use of adjoining properties;
- (b) Minimize on-site and eliminate off-site glare;
- (c) Provide adequate on-site lighting for security; and,
- (d) Provide lighting devices that are compatible with the design of the permitted facility and minimize energy consumption.

The Permittee shall bear the total cost of such review and approval. All elements of the Lighting Plan shall be installed according to the Lighting Plan.

19. Archaeological and Paleontological Resources: In the event that archaeological or paleontological remains or artifacts are encountered during ground disturbance or construction activities, the Permittee shall implement the following procedures:

- (a) If any archaeological or historical artifacts are uncovered during ground disturbance or construction activities, the Permittee shall:

- (1) Cease operations and assure the preservation of the area in which the discovery was made;
 - (2) Notify the Planning Director in writing, within three days of the discovery;
 - (3) Obtain the services of a County-approved archaeologist who shall assess the find and provide recommendations on the proper disposition of the site; and,
 - (4) Obtain the Planning Director's written concurrence of the recommended disposition before resuming development.
- (b) If any human burial remains are encountered during ground disturbance or construction activities, the Permittee shall:
- (1) Cease operations and assure the preservation of the area in which the discovery was made;
 - (2) Immediately notify the Sheriff and the Planning Director;
 - (3) Obtain the services of a County-approved archaeologist and, if necessary, Native American Monitor(s), who shall assess the find and provide recommendations on the proper disposition of the site; and,
 - (4) Obtain the Planning Director's written concurrence of the recommended disposition before resuming development on-site.
- (c) If any paleontological remains are uncovered during ground disturbance or construction activities, the Permittee shall:
- (1) Cease operations and assure the preservation of the area in which the discovery was made;
 - (2) Notify the Planning Director in writing, within three days of the discovery;
 - (3) Obtain the services of a County-approved paleontologist who shall assess the find and provide recommendations on the proper disposition of the site; and,
 - (4) Obtain the Planning Director's written concurrence of the recommended disposition before resuming development.

20. Proprietary Information¹: Proprietary information and/or trade secrets which are required to be submitted shall be so identified by the Permittee, submitted separately from the other required materials, and confidentially maintained by the public agencies having access to it. Such information shall be requested on an as needed basis only by the applicable County agency or department head.
21. Parking Area at Punta Gorda:
- The applicant (Caltrans) shall enter into an agreement with the State Lands Commission to authorize the construction of a parking lot in the area designated on the project plans (Staff Report Exhibit 3, Layout L-2 and Layout L-3). The applicant shall provide a copy of this agreement to the Planning Division prior to the start of construction of the parking lot.
 - Caltrans shall coordinate with the Santa Barbara County Association of Governments to ensure that the parking proposed for the Punta Gorda area does not conflict with the future rail realignment projects that would improve passenger rail service efficiency between Ventura and Santa Barbara counties.
 - Prior to start of construction for the parking area, Caltrans must implement the mitigation measures relating to ESA and nesting and migratory birds. (see Condition of Approval No. 33).
 - Prior to start of construction for parking area, Caltrans must submit a parking plan for review and approval by the Planning Director. In preparation of the plans for the parking area, Caltrans will consult the Ventura County Parking Design Guidelines (which can be accessed on the Planning Division website: http://www.ventura.org/rma/planning/pdf/zoning/Parking_Design_Guidelines_12-28.pdf).
22. Soundwalls: Soundwalls to be constructed at Mussel Shoals shall be in substantial conformance with the plans (Staff Report Exhibit 3, Sound Wall Plans SW-1 through SW-6). Soundwall 101 shall not exceed 8 feet in height and 345 feet in total length. Soundwall 102 shall not exceed 14 feet in height and 1,330 feet in total length. Vines shall be planted on the soundwalls.
23. Median Barrier: The median barrier shall be a neutral color to match the median barrier in Santa Barbara County and the City of Carpinteria (Staff Report, Exhibit 10).
24. Changeable Message Sign (CMS): In order to visually blend with the surrounding natural setting of the coastal bluff, the CMS supports shall be painted a neutral color similar to the median barrier (Staff Report, Exhibit 10).
25. Crosswalk at Mussel Shoals Entrance: The crosswalk at the Mussel Shoals entrance (a segment of the CCT) shall be marked with high visibility striping.

¹"Proprietary information" means information which the County determines would reveal such things as production, reserves, manufacturing processes and patented formulas, or rate of depletion of the operations of the Permittee. Any information which is not proprietary is a matter of public record.

~~26. Height of the California Coastal Trail ("CCT") handrail: The height of the oceanward CCT handrail shall be 54 inches, unless a lower height is demonstrated to meet applicable Caltrans safety standards through adequate engineering analysis and report. Regardless of the results of engineering studies, the minimum height of the oceanward CCT handrail shall be at least 42 inches.~~

NOTE: This Condition was deleted by the Board of Supervisors. There is no Condition 26.

27. Mussel Shoals Security/Privacy Fence: A security/privacy fence is proposed by Caltrans to be installed on top of the retaining wall for the CCT behind the residences on the east side of Breakers Way. The security/privacy fence must have a curved top, and shall be completely shielded from view from Highway 101 by Soundwall 102.

28. Landscaping: Drought-resistant landscaping or aesthetic treatments shall be provided consistent with LCP standards.

29. Portable Toilets: At least one portable toilet will be provided within the project limits between Rincon Point and Mobil Pier/Beacon's Beach, consistent with LCP standards. (see Condition No. 32 – Maintenance Plan).

30. Trash Receptacles: ~~Trash receptacles and sufficient pick-up will be provided at Beacon's Beach/Mobil Pier, Punta Gorda, Mussel Shoals, and La Conchita, consistent with LCP standards. (see Condition No. 32 – Maintenance Plan).~~ Trash receptacles and sufficient pick-up will be provided at beach access public parking areas as specified by the County Planning Director.

31. 95% Project Plans: When completed, and prior to issuance of a Zoning Clearance, Caltrans shall submit the 95% Completion Project Plans to the Planning Director for review and approval.

32. Maintenance Plan: Caltrans is responsible for full and complete maintenance of the project. Prior to or concurrently with the submittal of the 95% Completion Project Plans, Caltrans shall submit a long-term maintenance plan for review and approval by the Planning Division. The maintenance plan must identify the following for all of the project components included in this permit:

- a. List of project components to be maintained;
- b. Party responsible for maintenance;
- c. Frequency of maintenance; and
- d. Timing of Maintenance.

33. Mitigation Measures - Environmental Commitment Record: Prior to issuance of a Zoning Clearance, the applicant shall submit to the Planning Director a Final Environmental Commitment Record for the project's mitigation measures as

identified in the Minimization and/or Mitigation Summary of the Certified MND (Staff Report, Exhibit 4, Mitigated Negative Declaration Appendix E) and the draft Environmental Commitment Report prepared for the project (Staff Report, Exhibit 7). The Final Environmental Commitment Record shall confirm the responsible party, monitoring frequency, and implementation/monitoring responsibility for all mitigation measures, including the following:

- BIOLOGICAL ENVIRONMENT 1-1: Environmentally Sensitive Areas**
- BIOLOGICAL ENVIRONMENT 1-2: Pre-Construction/Nesting Bird Surveys**
- BIOLOGICAL ENVIRONMENT 1-3: Exclusionary Measures**
- BIOLOGICAL ENVIRONMENT 1-4: Monitoring Required**
- BIOLOGICAL ENVIRONMENT 1-5: Wetland/Riparian/Uplands Mitigation**
- BIOLOGICAL ENVIRONMENT 1-6: Compensatory Measures**
- BIOLOGICAL ENVIRONMENT 1-7: Animal Species and Vegetation**
- BIOLOGICAL ENVIRONMENT 1-8: Endangered Species**
- BIOLOGICAL ENVIRONMENT 1-9: Migratory Bird Treaty Act (MBTA)**
- VISUAL/LANDSCAPE 1-12: Landscape and Plant Design**
- VISUAL/LANDSCAPE 1-13: Plant palette**
- VISUAL/LANDSCAPE 1-14: Invasive Species Considerations**
- VISUAL/LANDSCAPE 1-15: Erosion Control**
- VISUAL/LANDSCAPE 1-16: Special Architectural Treatments**
- VISUAL/LANDSCAPE 1-17: Contour Grading**
- VISUAL/LANDSCAPE 1-18: Revegetation**
- VISUAL/LANDSCAPE 1-19: Soundwalls**
- VISUAL/LANDSCAPE 1-20: Vegetation**
- NOISE ATTENUATION 8-1: Sound Barriers**
- NOISE ATTENUATION 8-2: Construction Windows to Comply with Local Noise Ordinance**
- HAZARDOUS MATERIALS 10-11: Hazardous Waste Clearance**
- HAZARDOUS MATERIALS 10-12: ADL Issues and Provisions**
- HAZARDOUS MATERIALS 10-13: Appropriate Health and Safety Plan**
- HAZARDOUS MATERIALS 11-1: Road Striping Paint Lead Provisions**

Environmental Health Division

34. Hazardous Material: The storage, handling, and disposal of any potentially hazardous material shall be in compliance with applicable state regulations.

Public Works Agency Conditions

Transportation Department, Traffic, Advance Planning, and Permits Division

35. Maintenance of the Pedestrian Undercrossing ("PUC"): The PUC will not be maintained by the Public Works Agency ("PWA"). PWA does not accept the responsibility, liability, or ownership of the facility.

36. Drainage Culvert Replacement/Modification: The drainage culvert replacement/modification, as included in the SHOPP Program and identified in the Related Project Section on page 11 of the Initial Study/Environmental Assessment prepare for this project, would address the drainage concerns of the Transportation Division. Caltrans shall provide plans for the drainage culvert replacement/modification, as they become available, to the Transportation Division for review.

Integrated Waste Management Division (IWMD)

37. Recyclable Construction Materials: The contract specifications shall include a requirement that all recyclable construction materials (e.g., concrete, asphalt, soil, wood, metal) generated during this multi-phased project be recycled at a permitted recycling facility, or reused on site. A complete list of Construction & Demolition Debris Recycling Facilities is available at the following website: www.wasteless.org/construction&demolitionrecyclingresources. Non-recyclable materials shall be disposed of at a permitted disposal facility.
38. Green Materials - Recycling & Reuse: The Contract Specifications shall include a requirement that wood waste and/or vegetation slated for removal during this multi-phased project be diverted from the landfill. This can be accomplished by on-site chipping and land application at the project site, or by transporting the material(s) to an authorized or permitted greenwaste facility. A list of authorized greenwaste facilities is available at the following website: www.wasteless.org/greenwasterecyclingfacilities. Illegal disposal and/or landfilling of recyclable organic material is prohibited.
39. Sediment and Soil - Recycling & Reuse: The contract specifications shall include a requirement that sediment and soil not reused on-site be transported to an authorized or permitted facility for recycling or reuse. Illegal disposal and landfilling of recyclable sediment and soil is prohibited. For a listing of authorized recycling facilities please see: www.wasteless.org/construction&demolitionrecyclingresources.
40. Quantification of Materials Diverted from Landfill Disposal by On-Site Reuse or Recycling: The contract specifications for this project shall include a requirement that contractors working on this multi-phased project create, and submit, a Summary Table to the IWMD at the conclusion of the project. The Summary Table shall include:
- The type of material (e.g., green materials, concrete, asphalt, soil, wood, metal) recycled and/or reused, and
 - The approximate weight of recyclable materials that were reused on-site or transported to a recycling facility, and
 - The name and address of the facilities where recyclable materials were transported for recycling or reuse, and

- Receipts and/or documentation for each entry in the Summary Table to verify that recycling or reuse occurred and the materials were not landfilled.

Watershed Protection District Conditions

Permit Section

41. 1% Annual Chance Floodplain: The proposed soundwall along the frontage of the Mussel Shoals Community must not impede, divert, or cause a backup or any adverse impact from the 1% annual chance flood.
42. California Coastal Trail Base Flood Elevation: There are only three areas where the proposed bike/pedestrian trail will be elevated/cantilevered above existing grade. These areas are comprised of ramps which connect the bike path to Mobil Pier Road, Mussel Shoals and the La Conchita Beach Area:
 - a. Elevation at the bottom of the lowest horizontal support structure of the ramp providing access to Mobil Pier Rd Beach is 23.56 ft. Base flood elevation for that area is 13.0 ft.
 - b. Elevation at the bottom of the lowest horizontal support structure of the ramp providing access to Mussel Shoals is 29.03 ft. Base flood elevation for that area is 13.0 ft.
 - c. Elevation at the bottom of the lowest horizontal support structure of the ramp providing access to La Conchita Beach is 14.39 ft. Base flood elevation for that area is 12.0 ft.

As demonstrated, elevations at the lowest sections of these bike/pedestrian ramps meet and exceed base flood elevations by a minimum of 2.4 ft. Furthermore, with the exception of these ramps, the entire proposed bike path will sit on existing roadway pavement and will therefore share the same elevation of the roadway.

43. Electrical Utilities: All electrical utilities at the pedestrian undercrossing must be at least one foot above base flood elevation. Electrical boxes shall be equipped to drain out any water accumulated inside. All electrical utilities must be water proof.
44. Red-line Channels: This project shall result in no impact, nor intrusion, nor alteration, to any redline channels or jurisdictional waterways. If for any reason, such an impact will occur during construction, Caltrans must obtain appropriate permits from the Watershed Protection District.

Air Pollution Control District (APCD) Conditions

45. VCAPCD Rules and Regulations: All project construction and site preparation operations shall be conducted in compliance with all applicable VCAPCD Rules and Regulations with emphasis on Rule 50 (Opacity), Rule 51 (Nuisance), and Rule 55 (Fugitive Dust), as well as Rule 10, (Permits Required).

Ventura County Fire Protection District (VCFPD) Conditions

46. Emergency Median Opening: The Fire District supports the proposed protected turnaround opening. Appropriate signage shall be provided to alert on-coming traffic that an emergency vehicle may be entering the opening and crossing traffic lanes. Design and location of the opening and signage shall be subject to review and approval of the Fire District in consultation with Caltrans.

Conditions Added by the Board of Supervisors at the hearing of September 21, 2010

47. Caltrans shall coordinate with the California Coastal Conservancy, or equivalent agency, to provide a direct pedestrian and bikeway connection at Rincon State Beach, between the existing State Beach parking area and the CCT/biketrail along the southbound on-ramp lane.
48. Caltrans shall coordinate with the California Coastal Conservancy, or equivalent agency, to provide two additional breaks in the oceanside fence/barrier between Mussel Shoals and Rincon Point, or otherwise create accessways (with walkways or ramps) to the beach with one located in proximity to the surf break south of Rincon Point. *(NOTE: Accessways already included in this portion of the project are located at Mussel Shoals, La Conchita, and Rincon Point).*
49. At the La Conchita PUC, the access ramp to the beach shall not extend seaward beyond the footprint of the toe of the existing rip-rap.
50. Caltrans shall coordinate with the California Coastal Conservancy, or equivalent agency, to provide a connection, including but not limited to steps, between the PUC and the CCT/biketrail at the Punta Gorda PUC. Caltrans shall paint and repair lights in the Punta Gorda PUC as a part of its maintenance responsibilities for this PUC. The proposed parking area will include compacted base rock with a parking capacity of at least 211 spaces.
51. At the Mobil Pier, fill in the dirt area used for parking with crushed rock/decomposed granite, or like material. Caltrans shall coordinate with the

California Coastal Conservancy, or equivalent agency, to provide a walkway to the beach at this location.

52. Termination of the CCT at Mobil Pier site: Modify/clarify CCT design to address routing the CCT through the existing parking area. Submit a design for the termination of the CCT for review and approval by the Planning Director that routes the CCT through the parking area in a manner that minimizes loss of parking and provides for cyclist safety.

END OF CONDITIONS FOR LU09-0085

DEPARTMENT OF TRANSPORTATION

DISTRICT 7

100 MAIN STREET, MS16A

LOS ANGELES, CA 90012

PHONE (213) 897-0703

FAX (213) 897-0685

TTY (213) 897-4937

*Flex your power!
Be energy efficient!*

October 29, 2010

John Ainsworth
Deputy Director, South Central Coast Area
California Coastal Commission
89 South California Street, Suite 200
Ventura, CA 93001

SUBJECT: Clarification of US 101 HOV Project Public Access Commitments

Dear Mr. Ainsworth,

I am writing today to explicitly clarify certain public access components that Caltrans is committed to providing as a part of the VEN 101 HOV Project, as approved by the Ventura County Board of Supervisors on September 21, 2010 (Coastal Development Permit LU09-0085). As a result of the permit process and discussions with your agency, Caltrans will be providing designs that include the components listed in the attached table for Ventura County's review and approval pursuant to Coastal Development Permit LU09-0085. We may also seek your advice and comment on these components prior to submitting them to the County. If the County determines that any individual component is not under their jurisdiction, we commit to submitting a Coastal Development Permit application for that feature to the Coastal Commission within 30 days of that determination for any clearances that may be required. All access components will be constructed and opened at the same time that the new HOV facilities become operational and will be maintained throughout the life of the project.

In addition, Caltrans will be pursuing a design exception for the project to allow for a 48" railing to be placed on the seaward side of the California Coastal Trail bicycle and pedestrian facility. (This 48" railing conceptually depicted on the Design Branch Detail No. 1 plan sheet and attached.) These revised plan sheets will become a part of our Ready to List package that will be submitted to the California Transportation Commission for overall funding approval of this project.

If you have any further questions, please call me at (213) 897-0703.

Sincerely,

RONALD KOSINSKI

Deputy District Director for Environmental Planning
CALTRANS District 7

Attachment: Caltrans Public Access Commitment Clarifications Table

"Caltrans improves mobility across California."

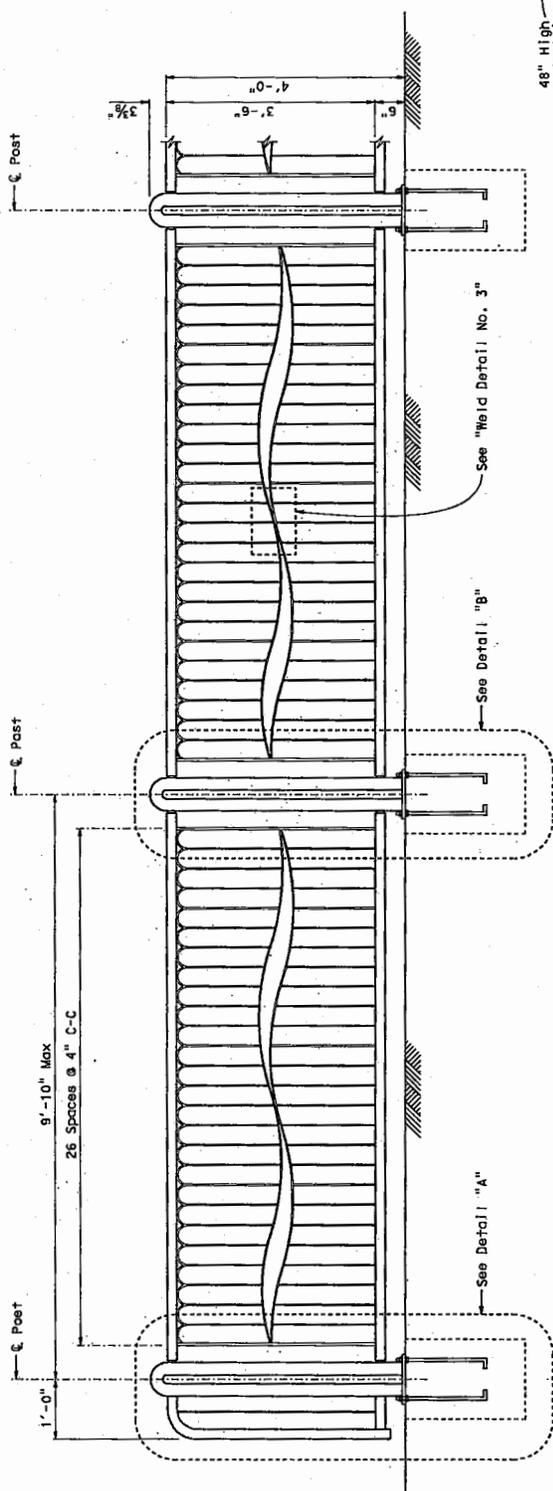
CCC Exhibit 7
(page 1 of 3 pages)

Caltrans Public Access Commitment Clarifications Oct.29, 2010

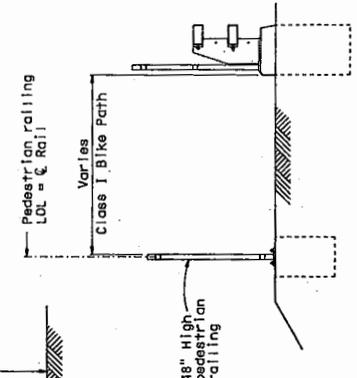
Ventura 101 HOV Lane Project:

Public Access Feature
Throughout: Multi-mode bikeway/CCT , barrier-separated from motor traffic by modified ST-10 barrier
Throughout: 48" see-through, climb-able railing on seaward side of CCT
Mobil Pier: CCT ramp
Mobil Pier: parking area rehab inc. handicapped space & CCT/bikeway routing
Mobil Pier: rehab beach access path
Punta Gorda: 211 space parking area
Punta Gorda: rehab PUC inc. lighting, paint
Punta Gorda: PUC to CCT stairs/connector pathway
Punta Gorda: PUC to Beacon's Beach access pathway (alignment on top of riprap for approx. 100 yds. downcoast and then connecting to beach)
Mussel Shoals: rehab & sign public parking area on Caltrans ROW
Mussel Shoals: beach access path from CCT, just north of community
La Conchita: install new PUC
La Conchita: ramp connector, PUC to CCT
Tank Farm: beach access path from CCT, near sta.132 (near Rincon Pt. surf break)
South Rincon: pathway to CCT from St Park beach trailhead parking area
Restrooms, trash collection

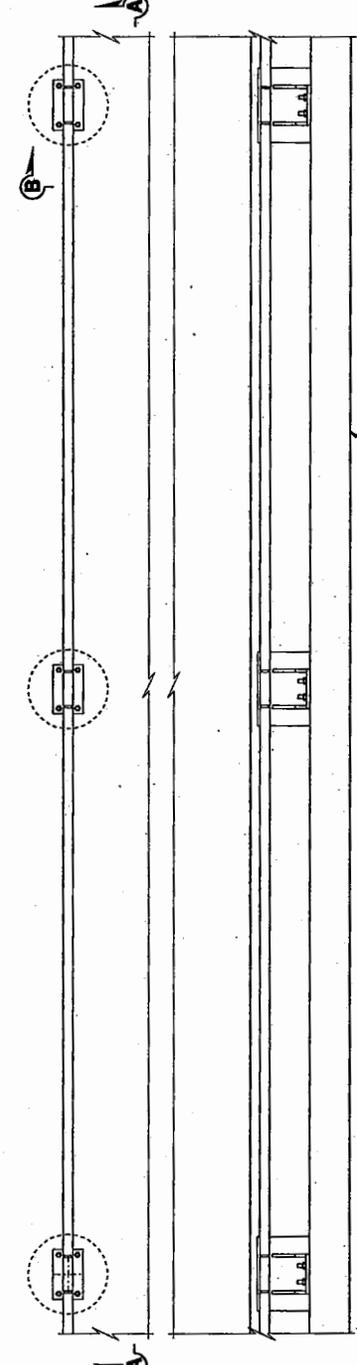
DIST	COUNTY	ROUTE	POST MILES	SHEET TOTAL	NO. SHEET
07	Ventura	101			
REGISTERED CIVIL ENGINEER DATE _____					
PROFESSIONAL ENGINEER C. HANSEN No. 28-30-12 CIVIL To get to the California web site, go to: http://www.ced.ca.gov					
PLANS APPROVAL DATE _____					
The State of California or its officers or agents shall not be liable for the consequences or compensation of electric copies of this plan sheet.					



ELEVATION A-A
1" = 1'-0"



SECTION B-B
1/2" = 1'-0"



PLAN
1" = 1'-0"

- Notes:
1. Galvanize rail assembly and all components after fabrication.
 2. Posts shall be normal to railing.
 3. All bolts shall be A307 with thread locking system.
 4. See "Road Plans" for layout and limits of pedestrian railing.
 5. For "Detail A", "Detail B", and Weld Detail No. 3 see "48" High 2" Pedestrian Railing Details No. 2" sheet.

Note: For "Quantities" see "Details No. 3" sheet.

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION		DIVISION OF ENGINEERING SERVICES STRUCTURE DESIGN DESIGN BRANCH 12		48" HIGH PEDESTRIAN RAILING DETAILS NO. 1	
DATE	BY	CHECKED	DATE	POST MILE	SHEET
DETAILS	D. HANSEN	C. HANSEN			1
QUANTITIES	D.M. / P.M.	C. HANSEN			3
PROJECT TITLE			CU 07	EA 260701	
FILE NO.			48-HIGH-PEDESTRIAN-RAILING.dgn		

2 bicyclists struck on Hwy. 101 are in good condition

By Allison Bruce

Originally published 01:40 p.m., August 21, 2010

Updated 10:18 p.m., August 22, 2010

Two women hit by a tractor-trailer truck while participating in the Cool Breeze Century bicycle ride Saturday continued to improve at the Ventura County Medical Center Sunday night, where both were listed in good condition.

The two riders, 48 and 58, both from Gilbert, Ariz., had come to the area for the 2010 Cool Breeze Century ride, which is sponsored by the Channel Islands Bicycle Club and Kiwanis Club of Ventura. This year's event drew 1,851 riders. The ride stretched from Ventura into Santa Barbara County with a portion of it along Highway 101.

The women were hit just north of Mussel Shoals. The California Highway Patrol reported that about 12:40 p.m., the women were traveling south in the bike lane along Highway 101. The tractor-trailer truck approached in the outside lane at 45 miles per hour.

For still-undetermined reasons, the rear right section of the trailer struck the 48-year-old cyclist, the CHP reported. That caused her to veer right and crash into the 58-year-old. Both women were knocked off their bicycles and hit the road and metal guardrail, according to the report.

The 48-year-old broke her left leg and had a laceration on her back; the 58-year-old broke her right hand and wrist and had a head injury, according to the report.

Traffic was momentarily halted along Highway 101 so that a rescue helicopter could land to take the 58-year-old to the hospital.

The investigation is ongoing and no one had been charged in the accident by Sunday afternoon.

Those who know them said the women are seasoned cyclists who have participated in the Cool Breeze ride before.

The women were riding together as friends. One had signed up for the 62-mile Metric Century ride and the other had signed up for the 100-mile Century route, according to Bart Bleuel, Cool Breeze Century chairman.

LU09-0085
Exhibit 19

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(page 1 of 2 pages)

This is the ride's 16th year. The event raises more than \$60,000 each year for local charities and organizations — and is expected to bring in closer to \$80,000 this year.

This is the first time there has been an accident involving a bicyclist and a vehicle, Bleuel said.

Bleuel said there are challenges anytime cars and bicycles are mixed. The stretch of road where the accident occurred adds the danger of high-speed vehicles.

"However, there is adequate room for both vehicles and bicycles, there are adequately marked lanes, and there is no reason there cannot be a safe sharing of the road," he wrote in an e-mail.

The bike lane along that stretch of Highway 101 from Ventura to Santa Barbara is really the only way for cyclists to get up to Santa Barbara, unless they take the Casitas Pass, which has its own challenges, Bleuel said. He said the Casitas Pass is narrow with sharp curves and no bicycle lane.

The Highway 101 bike lane keeps Newbury Park Bicycle Shop co-owner Mike Cicchi from making the trip very often — even though he loves riding in Santa Barbara.

"When we're on the street with cars, that's one thing, but when you're on the highway and they're doing that kind of speed, there's not a whole lot of margin for error," he said.

The state Department of Transportation's planned improvements to Highway 101 include a dedicated two-way bike path on the side closest to the ocean instead of a bike lane on the highway.

The bike path would be 10 feet wide with railings on both sides. Construction is scheduled to start next year and be completed by 2015.

Editor's note: A story in Monday's A section about an accident involving bicyclists and a tractor-trailer truck near Mussel Shoals contained an error. The cyclists were heading south on Highway 101 when the accident occurred.



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(page 2 of 2 pages)

A-4-VNT-10-105 Caltrans:
Highway 101 HOV Lanes Project, Ventura County

Exhibit 9. Additional Correspondence

- a. Letter of Oct.23, 2010 from Charles "Cap" Peck, re: preservation of existing access to La Conchita Beach
- b. Letter of Oct.26, 2010 from Karl "Bud" Bohn, re: seaward placement of bike path
- c. Letter of Nov.10, 2010 from Surfers' Environmental Alliance (SEA), re: seaward placement of bike path, amplifying contentions in their appeal

Exhibit 9
Additional Correspondence

RECEIVED

OCT 29 2010

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

October 23, 2010

California Coastal Commission

Dear Commission Members

I am writing to express my concern about the plan to install a bicycle path on the seaward side of US 1 at La Conchita, in Ventura County. The current plan for this bike path would unnecessarily destroy access to one of the most unique community beaches on the California coast. I cannot help thinking that a thoughtful review of this plan would reveal that the most important benefits of the proposed bikeway might be achieved by placing it on the other side of the highway. We can avoid destroying this wonderful coastal resource for citizens of Ventura County, the state, and those of us who regularly visit the area from elsewhere in the nation.

So why is this beach so important to us, that we would urge your reconsideration of this plan? One of the things that sustains our sense of connection and continuity is our sense of *place*. For me, and for my children, the beach at La Conchita anchors a feeling of being at home—somewhere I know and belong. Its not surprising; I have been going to that oddball stretch of sand since the late 1960's. I've played volleyball, had picnics and barbeques, and watched innumerable sunsets on that beach with my friends, their children, and my children. We've watched our kids grow up there, learn to surf... and, perhaps more important, learn the meaning of place and community. Its not just those of us who have been lucky enough to live in the village of La Conchita itself at one time or another who love the place—its also the many, many people who come to that wonderfully undeveloped beach by the highway from the surrounding towns, from around the state, and even some, like me, who keep coming back from other places in the country. It's that special.

I appreciate the idea of making it easier for bicyclists to ride through this beautiful area. Let's see if we can make that happen without destroying access for the rest of us. Let's see if we can slow down and think about the unnecessary losses the proposed bikeway plan would impose on community members who have used this beach for decades. Let's see if we can preserve this very special place for our grandchildren... whom many of us still hope to see playing on that beach, as our children have, and as we have for decades.

Respectfully submitted.

Charles "Cap" Peck
Edmonds, Washington

CCC Exhibit 9a
(page 1 of 1 pages)

RECEIVED

OCT 29 2010

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

October 26, 2010

TO : California Coastal Commission and Staff Members
RE: Seaward Placement of a bike path for the La Conchita HOV project

My name is Karl 'Bud' Bohn and I am a retired Section Chief of Los Angeles County Fire Department Lifeguard Division. I served LA County from 1968 – 2005. I have had first hand experience with the planning, funding, construction and administration of the bike paths along the shores of LA County and surrounding areas. I also have extensive personal history with the La Conchita shoreline, having swam and surfed at these beaches since the 1960's.

In the early to mid 70's, public access was a political 'hot' button as state and counties joined together to procure private lands to provide beach access and construct a bike path along the coast. It has been an ambitious goal for all involved and much has been learned over the past decades as a result of these efforts. I am writing you to encourage you to learn from our experience.

Public safety MUST be the first priority. Aesthetics, politics, and special interests should not and must not be allowed to trump public safety. In my years of experience, I have witnessed firsthand that the public will utilize the most convenient, direct route (legal or not) to reach their favorite beaches. Long established routes are very difficult to alter. This has resulted in numerous injuries, and fatalities. What you construct on the public path will be subject to the public onslaught.

LA County bike paths were built parallel to the shoreline, requiring the majority of beach patrons to cross over the path to reach the beach, (this meant they would need to cross it twice - to and from the beach). The annual beach attendance, based upon a 15-year average, is about 40 million people. That amounts to a lot of bike path crossings, and a huge opportunity for 'run-ins' or 'run-over' by bikers.

I understand the La Conchita bike path designers are proposing that their path will provide north/south pedestrian access establishing a multi-use path. Bike Paths are essentially roads, some claim to be set aside for the exclusive use of cyclists, and as such carry with it the inherent dangers. When a bike path is constructed across a historically known beach access point, you have essentially introduced a dangerous barrier and major safety hazard. The bike path (trail) will be utilized in many more ways than it's planner's original intent and in more ways than can be imagined. To name a few: Skateboards, rollerblades, joggers, high speed cyclists, strollers, dog walkers, and of course all those just trying to get to their favorite beach. On busy days it can be pure anarchy.

Local municipalities attempt to take on the duties of enforcement and respond to public safety needs. But their efforts are expensive and inconsistent. Injuries and fatalities will

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(page 1 of 2 pages)

occur and will result in litigation. The liabilities are huge when creating a multi use access point particularly when there are models that exist to help point out the shortcomings of developing a bike path that will directly intersect with pedestrian use. I implore you to learn from these examples to ensure public safety.

In my professional opinion, I feel it's irresponsible for the state to suggest building such an expensive and potentially dangerous project with Federal funds and not have any state or County funding for maintenance and safety.

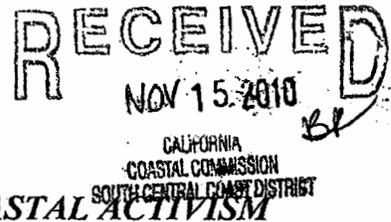
Wouldn't funds be better spent improving the current 101 parking at La Conchita and public access to accommodate people with disabilities? This would improve the current situation while enhancing safety. The bike trail would be safer and less expensive if it were constructed on the inland side (east) of the 101.

If I can be of any further assistance or answer any questions, please feel free to contact me via email at

I appreciate your consideration and hope you do the right thing.

Sincerely,

Karl "Bud" Bohn



THE LEADING EDGE OF COASTAL ACTIVISM

November 10, 2010

California Coastal Commission
South Coast District
89 South California Street
Ventura, CA 93001-2801

RE: CALTRANS Ventura/Santa Barbara U.S. Highway 101 HOV Project: **OPPOSE**

Dear Honorable Commissioners:

Surfers' Environmental Alliance (SEA) observes that the Ventura County Planning Commission approved a CALTRANS project to widen U.S. Highway 101 from four to six lanes in Ventura County adjacent to La Conchita Beach at their meeting of July 15, 2010. The public appeals to this action were reviewed and denied by the Ventura County Board of Supervisors on October 19, 2010. SEA provided written comments at this hearing and spoke in favor of revising the submitted CALTRANS plan. This project is located within the Coastal Zone.

Therefore, SEA hereby states our firm opposition to the pending CALTRANS Ventura / Santa Barbara Highway 101 HOV Project from Rincon Point and past La Conchita and Muscle Shoals as currently proposed. We find the project plans unacceptable regarding loss of public beach access, particularly regarding the ocean-side location of the Class 1 bike/pedestrian path intended as an eventual part of the California Coastal Trail. We are deeply distressed to see a massive public construction project within the Coastal Zone and funded by public funds working deliberately and with apparent clear intent to compromise and severely reduce practical public access to a very well-known and currently accessible stretch of the coast.

To be clear: we do not view the basic widening of the freeway to provide HOV lanes as an issue at this time; however, the announced ocean-side location of the proposed bike/walking path must be relocated to maintain beach and beach parking access at the current ocean-side parking site.

We are, therefore, appealing the Ventura County Board of Supervisor's decision to the California Coastal Commission; however, we are certain the plans can be revised to accommodate the practical and established space and safety needs of all interested parties.

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CCC Exhibit 9c
(page 1 of 14 pages)

We contend the approval process has significant failures in public notification, and that the CALTRANS plan as currently approved has significant and unacceptable design problems detrimental to the public's right to access the California coast and to public safety.

- **SIGNIFICANT ISSUES WITH PLANS AND PROCESS**
- **FAILURE TO INCLUDE THE PUBLIC IN THE PLANNING PROCESS**
- **FAILURE TO MAXIMIZE BEACH ACCESS FOR THE PUBLIC: FAILURE TO PROTECT EXISTING BEACH ACCESS**
- **FAILURE TO PROTECT AND PRESERVE THE PUBLIC'S ENJOYMENT OF THE SCENIC VALUES ALONG THE COAST**
- **FAILURE TO PROTECT THE PUBLIC SAFETY IN THE COASTAL ZONE**
- **FAILURE TO MANAGE THE PUBLIC TRUST IN A FISCALLY RESPONSIBLE WAY**

As a preliminary matter, Surfers' Environmental Alliance (SEA) is committed to the preservation and protection of the environmental and cultural elements that are inherent to the sport of surfing. Our goals are achieved through grassroots activism, community involvement, education and humanitarian efforts. We engage in projects that strive to conserve the quality of our marine environment, preserve or enhance surf breaks, protect beach access rights, and safeguard the coastal surf zone from unnecessary development. www.seasurfer.org

- **FAILURE TO INCLUDE THE PUBLIC IN THE PLANNING PROCESS**

It is astonishing that the planning processes in the Ventura County Coastal Zone have, so far, moved ahead without any clear and open invitation to hear from all groups with an interest in the matter, particularly the regional recreational beach community and the cycling community. Both groups are key stakeholders in this matter and should be included in the conversation and planning process.

Certainly, any public project in the Coastal Zone that includes such radical and irreversible changes to public beach access should be thoroughly reviewed with full input from all stakeholders before said project is approved. Since the proposed changes are funded by

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taxpayers and the project proposes to destroy existing beach access for these same taxpayers, SEA contends that all stakeholders must have a right and a public opportunity to be heard.

The project planners, CALTRANS and Ventura County, sent project notices to a very limited and geographically restricted population. Almost no one in the regional beach-going community knew about this project and its impacts until after the CALTRANS "scoping" meetings. The true regional stakeholders – the public beachgoers, people and families who have been using this beach for generations were not contacted or made aware of this project and its intent to eliminate the existing beach parking. The regional beach-going community is the group most directly effected by this project and its long-term, irreversible impacts; however, no direct attempt to notify this important group with a vested interest in open beach access was made by any public agency. The people who actually use the beach and have used the beach for generations were not included. Therefore, all meetings held by CALTRANS during the planning process were held without the most important stakeholders present. When objections eventually and inevitably surfaced in appeals to both the Ventura Planning Commission and the Ventura County Board of Supervisors, the beach-going stakeholders' input was pointedly ignored.

All project planning agencies consistently failed to acknowledge the nature and regular use of La Conchita Beach as a regional recreational beach resource, used not only by people from La Conchita and Mussel Shoals but all parts of Ventura County as well as by people from all parts of Ventura County and Santa Barbara County and beyond. The distressing lack of inclusion in the meeting notification process resulted in exclusion of pertinent public comment from the actual users of La Conchita Beach and the resultant plan, agreed upon by parties with no vested interest in the site as a valuable regional recreational resource, is much poorer and appears ill-conceived and "forced".

Consequently, we think it obvious that actual potential users of this beach should certainly be consulted openly before any construction plan is finalized and such input should be duly considered and said comments displayed in public record. Recreational users of La Conchita Beach and the representatives of the cycling community should be thoroughly consulted and given a fair chance to voice their opinions in the public record before such a huge project plan is fully approved and construction funds committed to a project containing practical design flaws contrary to the public's best interest.

Following are passages in the Coastal Act relating to the key role to be played by the public in planning the future of the coast and maintaining the integrity of the Coastal Act.

Section 30006 Legislative findings and declarations; public participation

The Legislature further finds and declares that the public has a right to fully participate in decisions affecting coastal planning, conservation and development; that achievement of sound coastal conservation and development is dependent upon public understanding and support; and that the continuing planning and implementation of programs for coastal conservation and development should include the widest opportunity for public participation

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Section 30012 Legislative findings and declarations; public education program

(a) The Legislature finds that an educated and informed citizenry is essential to the well-being of a participatory democracy and is necessary to protect California's finite natural resources, including the quality of its environment. The Legislature further finds that through education, individuals can be made aware of and encouraged to accept their share of the responsibility for protecting and improving the natural environment

FAILURE TO MAXIMIZE BEACH ACCESS FOR THE PUBLIC. FAILURE TO PROTECT EXISTING BEACH ACCESS

As approved by the Ventura County Planning Commission and upheld through the public appeal process by the Ventura County Board of Supervisors, project construction will cause an obvious net loss of coastal access to La Conchita Beach and appears to deliberately violate the prescriptive rights of public coastal access established by the vast untold numbers of beach goers who parked by U.S 101/1's roadside for beach and ocean access over the past several generations. Therefore, SEA contends that the Ventura County Planning Commission's recommended plan violates the public access provisions of the Coastal Act.

This project would eliminate the existing most commonly-used, readily-accessible, and well-known parking and beach access to La Conchita Beach in Ventura County. We see no valid reason why long-established and well-used parking patterns and simple routes for public access to our magnificent California beaches should be closed with no alternative and equivalent parking sites and access points provided as replacements. Such a poorly-conceived plan essentially closes La Conchita Beach to practical public access.

Locating the new proposed parking lot, promoted as a replacement for existing road-side parking at La Conchita Beach, approximately .7 miles away at Punta Gorda, is not an "equivalent" trade. Generations of people have parked just off 101 on the roadside to access La Conchita Beach precisely because this is a convenient access point close to the large three-mile long open expanse of beach. As currently used, this parking point does not require a long, crowded walk to reach the desired spot on the sand, and it is a simple matter to transport various beach gear, surfboards, body boards, skimboards, kayaks, etc. from parking lot to beach. The CALTRANS "alternate parking" proposal, on the other hand, would have people of all ages and physical abilities walking, biking, roller-blading, skateboarding, pushing baby strollers, jogging, carrying ice-chests and beach umbrellas, surfboards, and all variety of beach gear 1.4 miles from parking lot to beach and back each time they visited La Conchita Beach—and facing oncoming traffic of equal complexity coming straight at them from the opposite direction the entire way while freeway traffic rushes past immediately adjacent.

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This is not at all reasonable and does not consider the real habits and abilities of either coastal visitors or locals. Attempting to relocate public parking for beach access almost a mile away is not an equivalent "trade" for beach access. Neither does the "improved" access off the Seacliff Exit to the small beach commonly known as "Mobil Pier Beach" grant easy access to the same size of beach and quality of recreational experience possible on the beach at La Conchita Beach. The waves at "Mobil Pier Beach" are in no way equal or even comparable on an average day to waves further "north" along sections of La Conchita Beach, and therefore, "Mobil Pier Beach" does not provide the equivalent level of quality surfing, body boarding, or skimboarding as does La Conchita Beach. There are good reasons from a recreational viewpoint why untold thousands and thousands of beachgoers currently choose to visit La Conchita Beach instead of "Mobil Pier Beach". No reasonable standard of comparison suggests that these two sites are at all equivalents and thus "one as good as the other" for the myriad types of beach usage our coast hosts, especially for the ocean-oriented recreational opportunities each site offers.

We repeat: the CALTRANS "alternate parking site" as proposed at Punta Gorda is by no standard an "equivalent" parking site for access and ease of use. It makes public access to La Conchita Beach far more difficult, physically challenging, and dangerous. Consequently, this aspect of the proposed construction plan clearly results in a net loss of beach and coastal access. This result is not, under any circumstances, acceptable for any public project funded by public funds. A public construction project in the Coastal Zone must strive to increase public coastal access, not decrease access and make it more arduous and dangerous.

Under this plan, project construction results in seriously degraded beach access along this entire stretch of coast. It is appalling that this plan could be, so far, approved by multiple public agencies with no due attention to the public coastal access loss inevitably resulting from building as planned. For a highway widening project as a development in the Coastal Zone to comply with the Coastal Act it must enhance or add to access, not diminish or degrade it. The Ventura County Planning Staff Report is misleading and inaccurate on this subject, and appears to reflect the viewpoint of people who do not value the multiple recreational opportunities made possible for all people through open public access to La Conchita Beach.

Following are passages from the Coastal Act and the Public Access Action Plan relating to maximizing beach access for the public:

Section 30210 Access; recreational opportunities; posting

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse. (Amended by Ch. 1075, Stats. 1978.)

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Section 30211 Development not to interfere with access

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30252 Maintenance and enhancement of public access

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development

Section 30530 Legislative intent

It is the intent of the Legislature, consistent with the provisions of Chapter 9 (commencing with Section 31400) of Division 21, that a program to maximize public access to and along the coastline be prepared and implemented in a manner that ensures coordination among and the most efficient use of limited fiscal resources by federal, state, and local agencies responsible for acquisition, development, and maintenance of public coastal accessways. There is a need to coordinate public access programs so as to minimize costly duplication and conflicts and to assure that, to the extent practicable, different access programs complement one another and are incorporated within an integrated system of public accessways to and along the state's coastline. The Legislature recognizes that different public agencies are currently implementing public access programs and encourages such agencies to strengthen those programs in order to provide yet greater public benefits.

If this project is constructed as proposed, SEA contends there will be an unnecessary and inexcusable net loss of beach and coastal access. Loss of existing beach access is not by any standard an "inconsequential" result anywhere along our coast as was publicly asserted at the Planning Commission meeting, and should never be allowed in any public development or construction project. SEA believes everyone should have full access to the coast and surf-breaks. California's coast is an incomparable public resource, admired around the globe for its readily-accessible beaches.

La Conchita Beach is also not a beach where "no one ever goes" as was also asserted at the Planning Commission meeting. La Conchita Beach is widely advertised on many, many websites and in publications, commercial and otherwise, local and national, and its surf breaks are known as reliable, "fun" sites for shortboarders and body-boarders throughout the world-wide surf community. Therefore, a significant segment of the local and regional economy directly depends upon open beach access to attract customers to patronize their businesses. Its long stretch of beach provides recreational opportunity for all beach goers seeking room to "spread out" and relax away from the common space-pressures of over-

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crowded "in-town" beaches. The beach accommodates many diverse uses, including body-surfing, body-boarding, surfing, stand-up paddling, skimboarding, kite-surfing, kayaking, surf-fishing, beach walking, beach running, family and group beach picnics, and more: the entire range of traditional "California lifestyle" beach activities, in fact.

In other words, La Conchita Beach is not merely a "locals" beach, but is frequented by people from many Southern California communities and visitors from around the world. It provides a valuable and irreplaceable recreational resource for a regional population of beach goers and should be valued and preserved, including providing easy access, for current and future public use. Such natural resources are absolutely irreplaceable.

We understand the approximately 271 existing road-side parking spaces are officially considered "emergency parking only"; however, a long public tradition of parking just off the highway to access the beach by climbing down the rip-rap backing the beach is well-established and a generally-accepted and documented use of the site by generations of beach users over the many past years since the highway was built. This long-term public use, allowed by all responsible public agencies, establishes presumed or prescriptive rights of access, and such parking opportunities along this coast are rare, of inestimable value, and should be preserved for both current and future generations. We also realize these parking sites are the only reasonable ocean-side place nearby to park for beach access. It is necessary to park on the ocean side of the freeway, because to park anywhere on the inland side and try to run across the busy six-lane freeway carrying a surfboard or ice-chest is suicidal.

Furthermore, we must note that the approved plans call for a tunnel beneath the freeway from the community of La Conchita, and we observe that this proposed new beach access will be the only beach access from the inland side along this entire stretch of highway. If the existing ocean-side access points are eliminated or redesigned in a manner to make them hard to reach and difficult to use as the currently-approved plan seems to intend, and the La Conchita tunnel is also constructed, the project appears to be deliberately removing La Conchita Beach from casual open public use and devoting it to the community of La Conchita as a "private" or limited access beach. Even under this plan, the project would cause a very serious, and probably unintended, heavy congestion of people seeking beach parking in the community of La Conchita. Again, this probable and foreseeable result is not under any standard acceptable for a public construction project funded by taxpayers and appears to be in violation of the Coastal Act. California's beaches belong to all Californians.

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FAILURE TO PROTECT AND PRESERVE THE PUBLIC'S ENJOYMENT OF THE
SCENIC VALUES ALONG THE COAST

The seaward location of the Class 1 bike path will interfere with "blue water views" for the untold thousands of drivers on Highway 101 / 1 who pass La Conchita Beach every day. What quality of "blue water views" will vehicle occupants view through a tall, heavy concrete footing topped by a steel rail? Close-up roadside views of the vast Pacific Ocean are rare and the opportunity for such views should be preserved for the huge numbers of drivers who pass by.

SEA also understands that the proposed action of locating the new bike path on the ocean side of 101 is the sole reason for destroying the current parking arrangement, due to lack of available construction space adjacent the beach and ocean, so the path's location is a key planning issue. We also know that the desire for "blue water views" is the cited reason for locating the bike path on the ocean side, and that the CALTRANS spokesman indicated the seaward location of said path was a California Coastal Commission request, and that this revision of the original CALTRANS plans (which located the 10-foot wide path on the inland side of the highway) would ensure quick approval of the project. These circumstances are very distressing, if true. We are shocked that the Coastal Commission would require the construction of a dangerous bike path that compromises public views, creates a hazardous situation for users under normal circumstances, and which interferes with access to the beach for emergency vehicles and crews. If this allegation is true, we strongly urge you all to reconsider. Lost beach access is irreplaceable.

Please consider the real-world practicality and desirability to jam a 10-foot wide two-way bike/walking path in between the speeding freeway traffic and the rip-rap "cliff" backing the beach. Cyclists suggest this plan is totally unworkable as a practical transit solution and dangerous in all but perfect circumstances.

We have, subsequently, heard from numerous serious and habitual cyclists that they would never chose to ride on a "guard-rail enclosed" bike path for valid safety reasons. They consider a 10-foot wide two-way path, with path traffic "enclosed and channeled" in opposing directions by concrete safety walls and steel rails, to be in the nature of a "trap" for people engaged in active riding. The proposed enclosure will be so limiting in regards to necessary maneuvering to avoid collisions with oncoming cyclists (moving at a typical speed of 10-30 miles-per-hour) and to avoid the unpredictable actions of pedestrians or groups of pedestrians, runners, hikers, roller-bladders, skateboarders, etc. that sharing the path in this manner will in reality be far more dangerous than simply continuing to ride on the shoulder of the highway (which, we remind you, is perfectly legal). The serious and habitual cyclists we have consulted say that enclosing a path containing both groups of pedestrians and cyclists is extremely dangerous for all parties when in real-world actual use, and they would honor their common sense and field experience in the decision to always avoid traveling on an "enclosed" path.

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CCC Exhibit 9c
(page 8 **of** 14 **pages)**

On the subject of "blue water views," we, of course, are in favor of preserving said views whenever possible and reasonable. However, in this particular case, for who are the views intended? What of the "blue water views" of the huge number of passing motorists who now enjoy them? Are these ongoing masses of drivers and passengers supposed to try to glimpse views of the Pacific Ocean through tall concrete safety walls topped by steel rails and the steel cage-like bars of a multi-barred bike-path guard rail? This scenario does not constitute a "blue water view".

Rather than featuring the desired "blue water view," the ocean side bike path location fences the view off from the highway. Do not the many people, who pull off the freeway to park for a few moments, take a break from driving and enjoy the ocean and beach view, put their feet in the water and feel the sand between their toes deserve an opportunity for "blue water views," too? Or what of the people who park and take a lunch break or dinner break or coffee break by the beach? Sites where one can park next to the beach and ocean are few and far between along this section of the California coast, and they certainly provide rare "blue water views" for the weary or pressured traveler.

Such direct and close view-opportunities are a wonderful part of the California experience and should always be valued and protected. Such rare opportunities for "blue water views" should not be lost to the larger public for the sake of bike path view aesthetics on a walled and caged path that will not even remove serious cyclists from the busy roadway. **As a general comment: In any case, all coastal walking/bike paths should be located well away from busy roadways for overwhelming and obvious safety reasons and should never be crowded-in immediately adjacent a public highway. This is dangerous to the public and should never be allowed or even considered in a public project in the Coastal Zone.**

Consider the current state of the California Coastal Trail. Many existing trail segments are not at all adjacent to the coast, so obviously, being exactly next to the beach is not a requirement of the CCT. For example, consider the bike/walking trail in Monterey, running from the Monterey Bay Aquarium to the City of Marina. This trail runs behind numerous buildings that are closer to the ocean and wanders along on the inland side of the sand dunes bordering Monterey Bay. It then proceeds to wander through the dunes, with few, if any "blue water views" for miles and miles until it reaches Marina.

Therefore, SEA requests that the bike path be moved to the inland or mountain side of the freeway and that the road-side-parking arrangement on the ocean side be left as is. We believe that the long use of this site for beach parking, the lack of active oversight on the part of public authorities, and the vast numbers of people who have historically availed themselves of this coastal access opportunity have created a prescriptive right of public access which the current CALTRANS plan blatantly ignores. The importance of this practice and public tradition in the Coastal Zone cannot be over-emphasized. We also observe that any modifications of existing parking access to La Conchita Beach and any

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change in traffic patterns resulting from this project will have significant adverse effects on this entire section of coast, including La Conchita, Muscle Shoals, and Seacliff for decades to come. Such far-reaching and presumably lasting changes should not be made without thorough review by all effected or interested parties.

SEA also believes that the view from an inland bike/pedestrian path will still be a marvelous scene of beach activity and blue water to the horizon, marred by a few oil platforms. The Channel Islands may be viewed on a clear day from this "mountain side" path. Surely, this magnificent view is a far superior "blue water view" than many existing segments of the California Coastal Trail.

Following is a passage from the Coastal Act relating to the priority of preserving scenic values:

Section 30251 Scenic and visual qualities

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

FAILURE TO PROTECT THE PUBLIC SAFETY IN THE COASTAL ZONE

The "approved" CALTRANS plans call for the bike trail to be placed immediately adjacent to the "outside" or "slow" lane of 101 / 1 Freeway, with a minimal shoulder area. This minimal shoulder interferes with the ability for large vehicles to pull entirely off the roadway to the shoulder of the road, thus clearing the traffic lanes, in the event of accident, mechanical failure, or illness. The plan replaces the current wide shoulder of the road with a guarded and fenced Class 1 10-foot wide bike/pedestrian path. No accommodation for other safe roadside emergency parking is included in the new design. Emergency personnel would have to park their vehicles partially in the "slow" lane, and divert all freeway traffic around their set-up. This, in itself, vastly increases the danger to both emergency crews and freeway traffic.

This freeway/bike path configuration also interferes with Emergency Crews attempting to respond to accidents on the freeway or accident or illness on the bike/pedestrian path or the beach or in coastal waters. Again, there is no place for a Fire Engine or a Paramedic Vehicle or an Ambulance to pull safely off the freeway and establish a designated "safe zone" to work in. With the concrete footing and steel guard rails bordering the path in place, Emergency Crews would have to climb over two sets of rails and barriers to reach the beach and ocean; one set of rails and barriers to reach the pathway. They would have to pass supplies and equipment over said barriers and bring any injured parties back to the

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ambulance or Emergency Vehicles by passing them over the CALTRANS-provided barriers to coastal access. Is CALTRANS rolling the dice and betting that no injuries, illnesses, or accidents requiring an Emergency Response Team will ever occur on La Conchita beach or in its waters, not to mention injuries, illnesses, or accidents requiring an Emergency Response Team occurring on the Class 1 bike path? Such incidents are, unfortunately, easily foreseen, because they happen with distressing regularity on all public Highways and beaches throughout the state.

Public safety personnel, such as police or highway patrol or sheriff's deputies would also have difficulty with responding to crime on the beach or on the bike path, for that matter and for the same reduced-access reasons. Public projects should not be allowed to create obvious and significant obstacles to Public Safety or Emergency forces acting for the public good.

SEA contends that no public construction project, funded by public funds, and overseen by public agencies should ever, under any circumstances, create a situation that interferes with the performance of Emergency personnel of any kind. Need we mention water rescues that may be needed on any California coastal segment? Water rescues are often performed by Emergency Personnel along this coast, particularly near Rincon Point, and the current CALTRANS project design will make this vital public function much more difficult. It will also obviously and unnecessarily slow the response time, when, in fact, speed is absolutely essential to protect the endangered parties.

SEA also notes that an additional serious safety issue exists at the intersection of the seaward bike path with the entrance to Mussel Shoals. The traffic pattern is confusing and complex and no "safe" solution for vehicles, cyclists, and pedestrians has been advanced by project planners, although numerous parties have indicated that this is a dangerous situation. Even though all observers and nearby residents and conscientious parties agree that this is a very dangerous intersection, the project has still been approved by CALTRANS, the Ventura County Planning Commission, and the Ventura County Board of Supervisors. Lack of attention to this dangerous intersection as part of this huge construction project, and with the project, in fact, adding to the danger by routing the new section of the California Coastal Trail through it, runs counter to public safety needs and requirements and appears to be a misuse of public funds.

Following is a passage from the Coastal Act related to the priority of Public Safety for development in the Coastal Zone:

Section 30210 Access; recreational opportunities; posting

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

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FAILURE TO MANAGE THE PUBLIC TRUST IN A FISCALLY RESPONSIBLE
WAY

Oddly enough, little has been publicly discussed or displayed in the media about the inescapable reality that building the bike path on the seaward side of the highway as opposed to the inland side of the highway is three times the cost. Three times the cost is a significant, yet unnecessary, and distressing misuse and expenditure of public funds, at the same time destroying existing beach access, destroying scenic values, and creating significant public safety issues.

Potential lawsuits from injuries resulting from the poor design relative to safety considerations of a freeway-side bike path as designed, regardless of which side it is eventually located on, are a real, likely, and predictable outcome that should clearly be considered as sure to incur an unnecessary project liability for the public trust. Such liabilities should be thoroughly considered as part of the project cost, since public funds will bear the burden of any legal awards granted. Creating a public pathway that is hazardous by its dangerous location and intended uses in a small "caged" space generates an open-ended source of potential injury lawsuits that will surely cause further and continued financial liability to public funds. Imagine the lawsuits to be filed the first (and truly inevitable time) a freeway driver loses control of their vehicle (compact car, military rig, long-haul trucker, passenger bus, recreational vehicle, etc.) and crashes into the misplaced "bike path". If anyone is unfortunate enough to be traveling along this path at the time and at the crash location, you may easily envision the carnage that might result. A significant part of the danger associated with the bike path on the ocean side is that path users have no clear exit path available in an "accident" emergency. Where will they go to escape an onrushing vehicle? They literally have "no way out." They are trapped by the bike path's steel and concrete enclosures and unable to instinctively react and avoid injury or death by running or dodging directly away.

We must acknowledge that such "accident or collision" dangers exist on any Freeway-side bike path, regardless of which side of the Freeway it is located; however, on a "mountain side" bike path, path users should be able to quickly exit the path directly away from the Freeway in an emergency without having to climb over a 54-inch high steel rail system. They would not be "trapped" with no exit as in the case of the heavily-caged ocean-side construction. We see no valid reason why an "inland side" path would have to be heavily shielded on the inland side of said path as is required of a "seaside" path.

To be realistic, the proposed path will in no way be limited to cyclists. Rather, it will be used by casual cyclists riding all manner of bikes; serious cyclists on performance bikes dressed in racing gear; roller bladders; skateboards; runners; joggers; parents pushing baby carriages; beach goers carrying all manner and complexity of beach gear including ice chests and beach chairs and beach umbrellas; surfers carrying surfboards, stand-up paddle boards, bodyboards, skim boards, sailboards; and ordinary pedestrians of all ages, races, and physical abilities out for a stroll. Exactly how does CALTRANS expect this conglomeration of coastal non-vehicle traffic to move along in opposite facing directions

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(meaning facing the equal complexity and dangers of the same type and composition of "traffic" coming directly at them from the opposite direction)? How will fast-moving serious cyclists weave quickly through this mass of humanity with unpredictable actions as they move along? The expectation that this "traffic corridor" is "safe" is unrealistic in the extreme!

Under this design, accidents are presumed to result; injuries on the path are presumed to result; illnesses on the path are presumed to result.

For these reasons, this project is not being designed in a fiscally responsible way, and with obvious fiscally conservative alternatives readily available, it is extremely disturbing to see huge public agencies abusing the good will and trust of the People of California.

It is far less expensive and much less time-consuming to construct a Class 1 bike path on the inland side of 101/1 Highway. The People of California should not have to bear the fiscal irresponsibility of public agency project planners who demonstrate stubborn "tunnel vision" in their rush to push through a massive project.

Following is a passage from the Coastal Act relating to the priority status of fiscal responsibility for any development within the Coastal Zone:

Section 30530 Legislative intent

It is the intent of the Legislature, consistent with the provisions of Chapter 9 (commencing with Section 31400) of Division 21, that a program to maximize public access to and along the coastline be prepared and implemented in a manner that ensures coordination among and the most efficient use of limited fiscal resources by federal, state, and local agencies responsible for acquisition, development, and maintenance of public coastal accessways. There is a need to coordinate public access programs so as to minimize costly duplication and conflicts and to assure that, to the extent practicable, different access programs complement one another and are incorporated within an integrated system of public accessways to and along the state's coastline. The Legislature recognizes that different public agencies are currently implementing public access programs and encourages such agencies to strengthen those programs in order to provide yet greater public benefits

CONCLUSION AND REQUEST

SEA believes that relocating and installing the new bike path on the inland side of U.S. Highway 101/1 along this obviously narrow stretch of coastside constructible space will not disrupt the ongoing attempt to create the California Coastal Trail, a coastal walking/bike path along the entire state coast. Where adequate safe room exists for new sections of the CCT close to the ocean we think this is a good idea; however, shoe-horning the CCT in between a rushing and crowded 6-lane freeway and a rip-rap faced drop-off is

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very poor planning, inconsistent with public safety needs, and appears to be an artificial attempt to fulfill conflicting desired outcomes and to direct uncontrollable human actions. We cannot support an ocean-side bike path at this location as CALTRANS currently presents it.

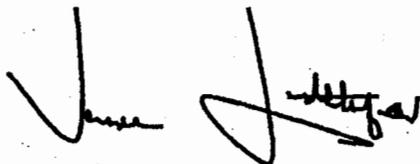
We believe the new bike/walking path should be constructed on the inland side of US Highway 101/ 1, and we believe this would result in a far more realistic and safer arrangement for all concerned. SEA observes apparent room for path construction and for convenient entry and exit points on the inland side, making for a far, far safer end-product. If this plan revision would result in a path that did not have to be "guarded" on *both* sides along its entire length in order to *be used at all*, visual aesthetics and views would be vastly improved, and construction costs and future ongoing maintenance costs drastically reduced.

Please, revise the CALTRANS project plans so as to continue to accommodate ocean side roadside parking adjacent to La Conchita Beach and thereby preserve the long-established level of existing beach access opportunity for all California residents and visitors. SEA sincerely asks that you not allow this beach-access destroying project to be built as currently proposed, in the interest of all Californians interested in coastal access. We will be pleased to provide necessary comment as the planning process continues.

For the sea and surf,



Andrew Mencinsky, Executive Director
Surfers' Environmental Alliance



James Littlefield, Santa Cruz/Northern California Director
Surfers' Environmental Alliance

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A-4-VNT-10-105 Caltrans: Hwy. 101 HOV Lanes Project, Ventura County



Exhibit 10: Coastal Access Plan/Vicinity Map

A-4-VNT-10-105 Caltrans:
Highway 101 HOV Lanes Project, Ventura County

Exhibit 11. Existing Public Access Conditions



U.S. Highway 101, near La Conchita, Ventura County

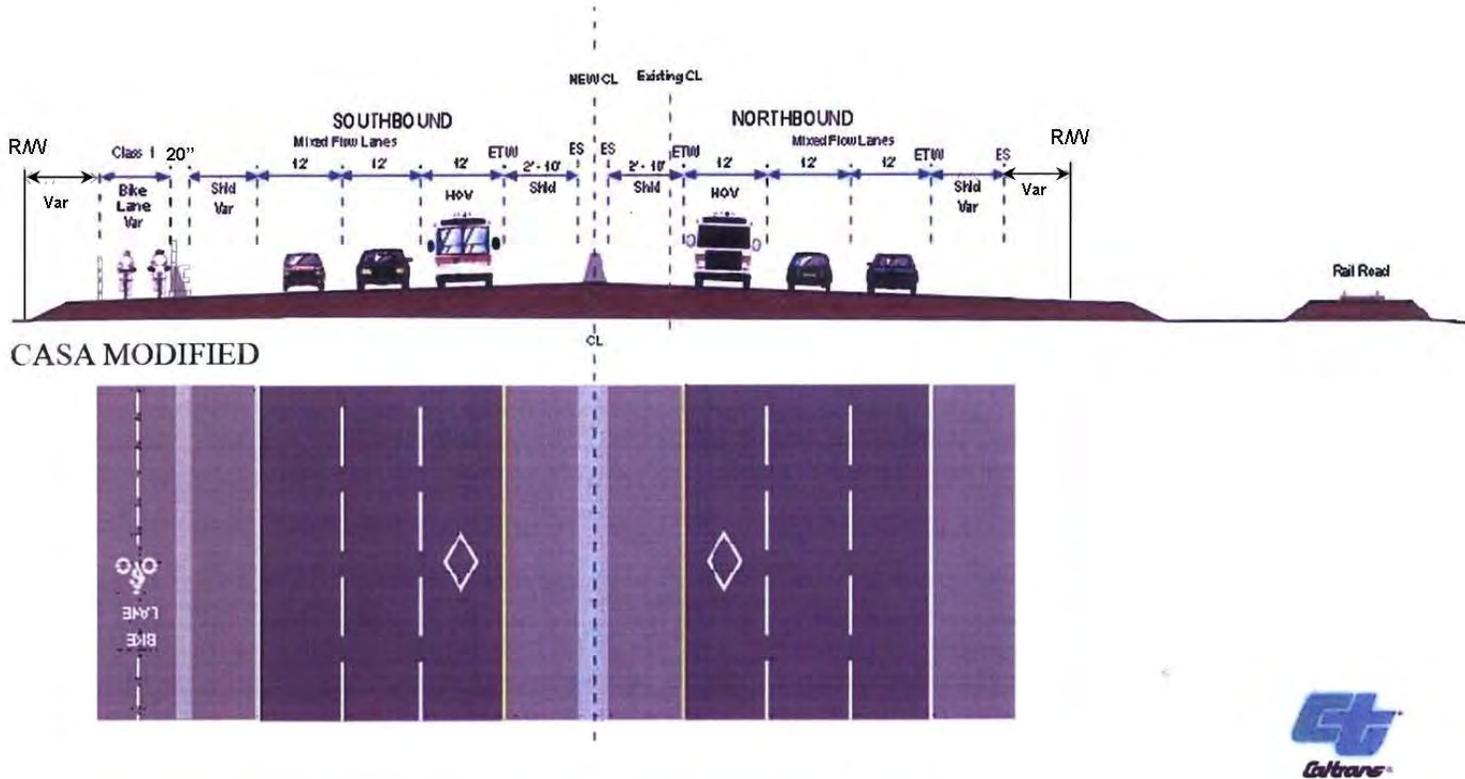


Beach access

Exhibit 11
Existing Public
Access Conditions

A-4-VNT-10-105 Caltrans:
Highway 101 HOV Lanes Project, Ventura County

Exhibit 12. Proposed Highway 101 Cross Section



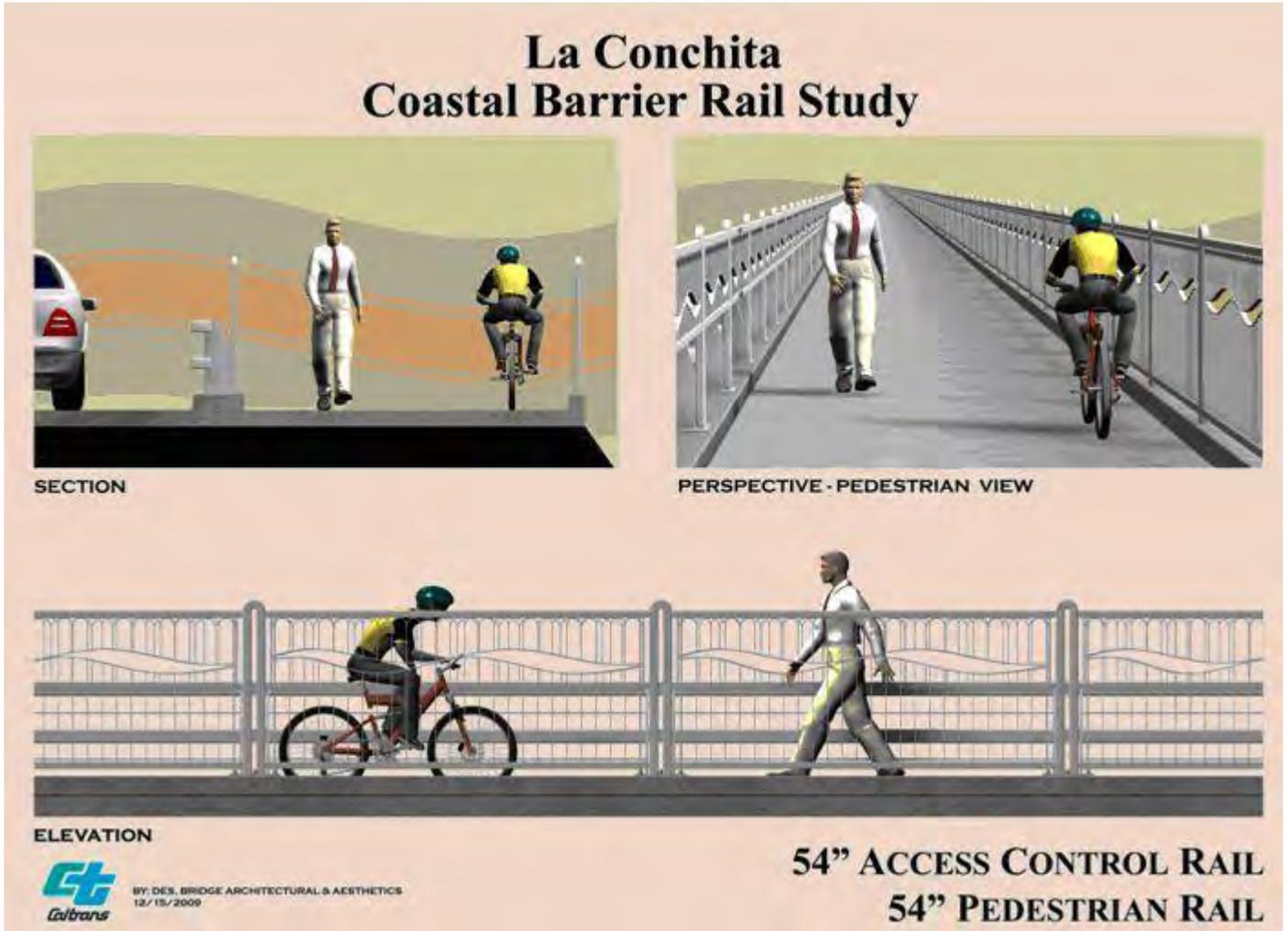
(CASA = Coastal Access & Safety Alternative)



Exhibit 12
Proposed Highway 101 Cross Section

A-4-VNT-10-105 Caltrans:
Highway 101 HOV Lanes Project, Ventura County

Exhibit 13. Proposed Coastal Trail & Barriers (perspective view)



Note: this exhibit provided to illustrate the see-through railing concept. Actual design height of the “Pedestrian Rail” has now been reduced, consistent with Caltrans technical review for safety. Height is now shown as **48”** on submitted plans—see attachment to Exhibit 7.

Exhibit 13
Proposed Coastal Trail & Barriers

A-4-VNT-10-105 Caltrans: **Highway 101 HOV Lanes Project, Ventura County**

Exhibit 14. Mobil Pier Parking & Public Access



Exhibit 14: Mobil Pier Parking & Public Access

A-4-VNT-10-105 Caltrans:
Highway 101 HOV Lanes Project, Ventura County

Exhibit 15. Punta Gorda PUC Parking & Public Access



Exhibit 15: Punta Gorda PUC Parking & Public Access

A-4-VNT-10-105 Caltrans: Highway 101 HOV Lanes Project, Ventura County

MINIMUM LENGTH SOUNDWALL OPTION

● 20-Minute Noise Measurement Location
 Proposed Soundwall



Exhibit 16. Mussel Shoals Soundwalls & Public Access Location Maps

A-4-VNT-10-105 Caltrans:
Highway 101 HOV Lanes Project, Ventura County

Exhibit 17. Mussel Shoals Soundwall & Coastal Trail



Simulation: soundwall & Coastal Trail/bikeway at Mussel Shoals



Simulation: soundwall & Coastal Trail/bikeway at Mussel Shoals entrance (Cliff House Inn at right)

Exhibit 17. Mussel Shoals Soundwall & Coastal Trail

A-4-VNT-10-105 Caltrans:
Highway 101 HOV Lanes Project, Ventura County

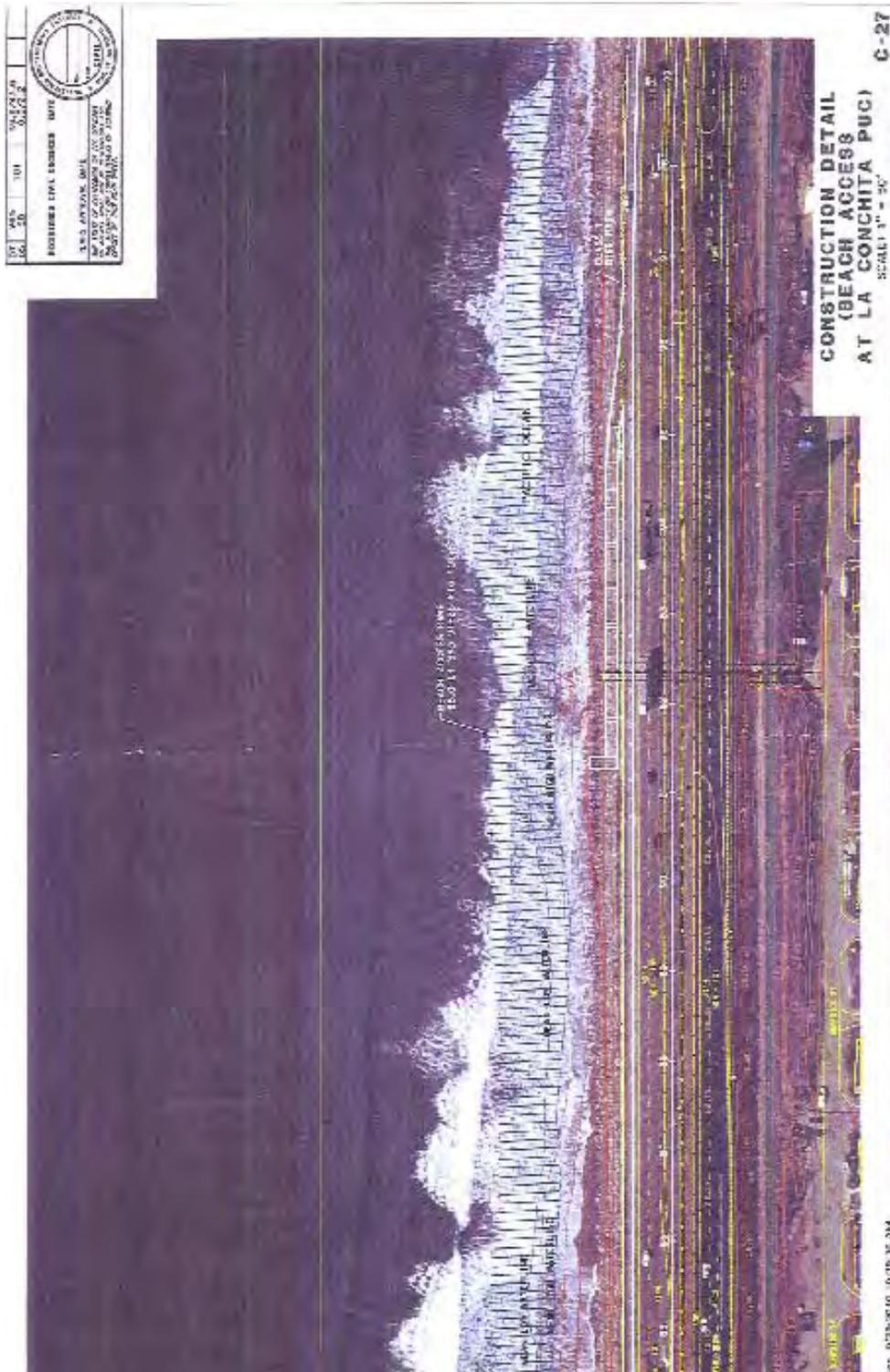


Exhibit 19. Site Map: La Conchita Pedestrian Undercrossing (PUC)

A-4-VNT-10-105 Caltrans:
Highway 101 HOV Lanes Project, Ventura County



Simulation: proposed pedestrian undercrossing (PUC), at Surfside St. entrance, La Conchita



Simulation: proposed PUC at La Conchita, beachside entrance

Exhibit 20. Simulations: La Conchita Pedestrian Undercrossing (PUC)

A-4-VNT-10-105 Caltrans:
Highway 101 HOV Lanes Project, Ventura County

Exhibit 21. South Rincon Parking & Public Access



Overview map: Bates Road overpass in center, marks northern end of Ventura County. Small yellow “box” symbol marks point where project Coastal Trail/bikeway will connect to existing State Beach parking area and trailhead for South Rincon beach access path (illustrated in photo at bottom).



South Rincon Beach. Base image courtesy CCRP.

Exhibit 21.
South Rincon Parking
& Public Access