

CALIFORNIA COASTAL COMMISSION

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F6.5a

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Filed: February 1, 2011
49th Day: March 21, 2011
Staff: RF-SF
Staff Report: February 24, 2011
Hearing Date: March 11, 2011
Commission Action:

Prepared February 25, 2011 (for March 11, 2011)

To: Coastal Commissioners and Interested Persons

From: Charles Lester, District Director
Ruby Pap, District Supervisor
Roxanna Farshchi, Commission Staff

Subject: **Appeal A-2-SMC-11-010 (Fitzgerald Marine Reserve).** Appeal by Sabrina Brennan of a San Mateo County decision granting a coastal development permit with conditions to San Mateo County Department of Parks to improve an existing Dardenelle Trail / California Coastal Trail at Fitzgerald Marine Reserve in Moss Beach, CA.

1. Recommendation

Staff recommends that the Commission determine that **no substantial issue** exists with respect to the grounds on which appeal A-2-SMC-11-010 was filed. Staff recommends a YES vote on the following motion and resolution:

Motion and Resolution. I move that the Commission determine and resolve that Appeal Number A-2-SMC-11-010 does not present a substantial issue with respect to the grounds on which the appeal has been filed under Coastal Act Section 30603 regarding consistency with the certified Local Coastal Program.

Passage of this motion and resolution will result in a finding of no substantial issue and adoption of the following findings. By such action, the Coastal Commission declines to take jurisdiction over the coastal development permit (CDP) for this project, the County's action becomes final and effective, and any terms and conditions of the County's decision remain unchanged. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

2. Findings

Project Description

On January 12, 2011, San Mateo County (County) approved a coastal development permit (CDP) authorizing San Mateo County Parks (applicant) to construct coastal trail public access improvements on an existing .26 mile trail segment located within the Fitzgerald Marine Reserve. The County has proposed the project as a segment of the California Coastal Trail (CCT) that would provide ADA compliant multi-use public access, including bicyclists. The improvements include removal of an existing temporary pedestrian bridge across San Vicente Creek (to be replaced by a prefabricated 8' wide, 60' long fiberglass clear span bridge located approximately 30 feet upstream), and construction of an ADA compliant 8' wide trail in the location of the existing approximately 6' wide unimproved trail. As originally approved, the trail would be surfaced with a pervious gravel structure and have unimproved shoulders of 2 and 1 foot for a total width of 11 feet (see Exhibit 1 for more detail). Since that time, County Parks has clarified that there will be no shoulders and that the trail would have native vegetation on either side of its maximum 8' width (see Exhibit 6). Portions of the trail would be located in sensitive or potentially sensitive areas, including wetlands, riparian corridors, and native strawberry. The Fitzgerald Marine reserve is located in Moss Beach, an unincorporated area of Half Moon Bay. Pursuant to Coastal Act Section 30603 this approval is appealable to the Commission because the approved development is located between the first public road and the sea, and within 100 feet of a wetland and stream areas.

Appellant's Contentions

The appellant contends that the County's approval is inconsistent with San Mateo County LCP standards for protecting environmentally sensitive habitat areas (ESHA), specifically in regards to wetland protection and vehicular use on designated trails, and contends that the trail along 200 lineal foot section is too wide (see full appeal document in Exhibit 2). Additionally, the appellant is concerned with the length and width of the new proposed bridge connecting the northern end of the trail to California Street (See project map, Exhibit 1).

Coastal Act Section 30625 (b) requires the Commission to hear an appeal unless it determines that no substantial issue exists with respect to the grounds on which the appeal has been filed. Commission staff has analyzed the County's Final Local Action Notice for the development (Exhibit 1), the appellant's contentions (Exhibit 2), the WRA Wetland Delineation Report (Exhibit 3), the applicant's response to the appeal (Exhibit 4), the relevant requirements of the LCP (Exhibit 5), and has visited the project site. The appeal raises no substantial issue with respect to conformance with the LCP, as explained below:

Wetlands and Vehicular Use

The appellant contends:

The trail, as designed and approved, would impact a wetland / ESHA along 200 lineal feet of the trail that supports rushes (juncus spp) and Western sword ferns. The existing trail in this section is four feet wide; increasing its width to eight feet would require destruction of ESHA. Although a new Condition of Approval (#27) has been added that requires the Applicant to ‘minimize disturbance to the area of the Western sword fern and rushes to the maximum extent possible’, and further requires that ‘any Western sword fern or rushes that must be removed by trail construction shall be carefully removed, save(d), and replanted as part of the re-vegetation of this area’, this Condition does not adequately protect the ESHA.

Additionally, the appellant expresses a concern about vehicular use in this section of trail:

County Parks staff stated at the Planning Commission hearing that they want the trail to be wide enough to accommodate vehicles for park operational purposes. Designating this trail for vehicle use is inconsistent with the stated purpose of multi-use by walkers, cyclists, equestrians, and people who are mobility-impaired (ADA), and would likely encourage other motorized vehicles to use it as well. The section of trail through the ferns and rushes and a 100 foot buffer beyond should be kept at its existing width of four feet in order to avoid impacting ESHA.

Analysis

The proposed trail construction is evaluated in the Wetland Delineation Report conducted by WRA Environmental Consultants. The County’s final action was based, in part, on this report. Sample point 9 (in the area of concern raised by the appellant) was described in the WRA report as a “wetland” (Exhibit 3, appendix B). However, the report also concludes that the area was:

. . .determined not to be a CCC/LCP wetland due to the principle dominance of facultative species in the identified community, positive evidence of upland conditions as shown by hydrological observations in the winter, and the lack of hydrology indicators, or hydric soils.

Based on this conclusion, the County concluded that the project would not be located within a wetland.

The LCP has numerous policies that protect wetlands, including requirements to limit development in and around wetland resources (see Exhibit 6 for policies). Consistent with the Coastal Act, the LCP does allow for certain resource dependent uses such as “nature education” to be located in wetlands.

The Commission’s staff biologist has reviewed the WRA report and concluded that the area in question could be considered a wetland pursuant to the Coastal Commission’s definition of a wetland, found in California Code of Regulations § 13577 and LUP policy 7.14 (see Exhibit 5). In fact, 50% of the herbaceous vegetative cover at one of the sample locations was provided by species designated OBL and FACW, indicating they most commonly occur in wetlands. In comparison, the WRA report concludes that although there are wetland species present, the area is not a wetland due to upland conditions observed. However, the observations done in the report

were conducted in August, and the conclusion that the area did not pond water during the rainy season was an anecdotal recollection by a Park Ranger. In addition, lack of inundation does not mean the area may not saturate near the surface during the rainy season. Therefore, the data collected and the analysis by WRA Environmental Consultants is insufficient to enable the Commission to conclude that the area is not a wetland.

Even if the area in question is a wetland, though, Policy 7.16 of San Mateo County's certified LUP allows nature education and research uses within wetlands. The approved trail could be categorized as nature education due to its natural setting in a reserve, the extensive informational and interpretive signage, available brochures and docent-led tours, including school tours according to County parks. The applicant also states that the trail would be designed in part to facilitate use by County Park's maintenance vehicles to help maintain the trail and surrounding vegetation (Exhibit 4). Still, this maintenance function would be secondary to the primary CCT and nature education function of the trail segment.

In addition, even assuming the area in question contains some wetland, the project would impact a very small area, and the ecological effects of the project would be small. Appellant cites LUP Policy 11.18 in her appeal, which concerns development standards for recreational facilities near sensitive habitats. The policy states specifically that studies must be conducted by a qualified person to "determine the least disruptive locations for improvements and methods for construction." Perhaps due to the fact that the area was not considered by the County to be a wetland, a specific alternatives analysis of trail alignments that would avoid the potential wetland area was not developed by the applicant for the trail location, nor was any alternatives analysis discussed by the County in its findings. However, the County has communicated to staff that the general location of the trail is the most logical for providing such multi-use, ADA compliant trail connectivity through this section of coast, as opposed to an existing blufftop trail alignment or an alignment along urban streets and/or Highway One. In addition, a staff site visit confirms that while the trail could be less wide in the vicinity of the potential wetland, realigning the trail away from the potential wetland area would require more grading into an adjacent sloped area, resulting in potentially greater impacts, including from retaining structures.

Policy 7.17, also cited by the appellant, contains certain performance standards required for permitted uses in wetlands. Specifically, there is a requirement to minimize adverse impacts to wetlands during and after construction. Although it may be feasible to decrease the width of the trail at this location, the County applicant has argued that this would become a constrained point on the trail and not provide adequate access for the anticipated numbers and types of users. The appellant also contends that the proposed mitigation for impacts to the potential wetland area is not sufficient and therefore inconsistent with Policy 7.17, which requires that all projects be reviewed by the Department of Fish and Game and State Water Quality Control Board to determine appropriate mitigation measures. The applicant did not propose specific mitigation measures to address the potential impacts to wetlands, again likely due to the conclusion that no wetlands were present. However, special condition 27 of the County's Findings and Conditions of Approval (referring to the "wetland" area) requires that Western sword fern and rushes be carefully removed, saved, and replanted for revegetation.

Overall, although the conclusion that there are no wetlands present in the area in question is not conclusive, even if the area would delineate as a wetland, the impacts to this area, or the potential benefits of realignment or redesign of the proposed trail to minimize or avoid these impacts is not significant enough to warrant a finding of substantial issue with respect to LCP standards. The trail project may be considered an allowed nature education use, particularly given its interpretive components and its likely use by docent-led tours, school groups, etc. The actual developed trail will be only approximately 2 feet wider than the existing undeveloped trail footprint. In addition, given the public access benefits of developing this trail segment as an ADA compliant part of the CCT, the potential, small ecological impacts of the trail in one location do not raise a substantial issue.

In making this finding, the Commission is generally guided by the factual and legal support for the County's decision (Exhibit 1); the relatively small extent and scope of the proposed trail development, the fact that any ecological impacts would be small, and the fact that this finding would not result in an adverse precedential value for future interpretations of the LCP. Given the statewide and regional public access benefits of the project, the potential wetland and sensitive resource impacts are not substantial relative to the requirements of the LCP.

Bridge Over San Vicente Creek

According to the Appellant:

The bridge across San Vicente Creek, as designed and approved, would be relocated upstream about 30 feet from the existing narrow footbridge, and would impact the creek's riparian corridor and an archaeological site. The bridge would be an unnecessarily wide 8 feet 4 inches wide and 60 feet long. The bridge should be reduced in width to six feet in order to minimize impacts to ESHA and the sensitive archaeological area. The trail at each end should similarly be reduced through the 100 foot buffer zone beyond the riparian area.

Analysis

As included in Exhibit 5, LUP policies concerning riparian corridors include 7.5 (*Permit Conditions for Sensitive Habitats*) 7.9 (*Permitted Uses in Riparian Corridors*), 7.10 (*Performance Standards in Riparian Corridors*) and 7.13 (*Performance Standards in Buffer Zones*). Policy 7.9(a) (4) allows trails in riparian corridors on public lands. Further LUP Policy 7.9 (b) (3) allows bridges in riparian corridors if no other alternative exists, and where supports are not in significant conflict with corridor resources. In section 7.5, permit requirements include determining whether there is a significant impact on the resources, and if there is, a mitigation plan to be constructed and submitted. The applicant has submitted a mitigation and monitoring report as a result of the determination of significant impacts on the riparian corridor. The County concluded that the project would not significantly impact any resources after mitigation. In regards to the length of the bridge, the county staff report notes in section (A) (2) (c):

Were a new bridge proposed in the same location as the existing temporary bridge, the long-term erosion pattern on the north side of the creek will likely threaten future bridge

abutments at that location, necessitating the placement of rip-rap within the creek channel. It would also likely require the removal of three cypress trees to accommodate the bridge abutments as well as additional grading to allow for ADA compliant approach to the north end of the bridge.

Additionally, staff field observations of the creek channel and potential future erosion and natural meandering confirms the reasoning of the County with respect to the location and length of the proposed bridge. Based on the County's analysis and conclusions, the Commission finds that the approval of the bridge raises no substantial issue with respect to conformance with the San Mateo County LCP.

Components of the LCP that address to archaeological resources include LUP policies 1.24 (*Protection of Archaeological / Paleontological Resources*), 10.24 (*Definition of Fragile Resources*), and 11.18 (*Development Standards for Sensitive Habitats*) (see Exhibit 5). The County concluded that the project would not significantly affect the archaeological site, stating:

The archaeology site will be preserved with a protective fill cap, minimally sized 3-inch "x-strong" galvanized pipe pilings will be used for the installation of the bridge abutment within the archaeology site boundary, and the trail will be crown-sloped instead of cross-sloped to minimize ground disturbance.

Further, Condition 23 of the Findings and Conditions of Approval requires certain measures to be taken to protect archaeological resources including monitoring the site during construction (Exhibit 1). Therefore, appellant's claims with respect to archeological resources do not raise a substantial issue.

No Substantial Issue Conclusion

For all of the above-stated reasons, the Commission finds that the appellants' contentions raise no substantial issue of conformity of the approved project with the policies of the San Mateo County certified LCP.

Exhibits:

1. Final Local Action Notice (including site map and location)
2. Appeal filed by Sabrina Brennan
3. Excerpt of Wetland Delineation Report
4. Applicant's correspondence
5. Applicable LCP policies
6. Additional Correspondence
7. Project Plans

Click on the link at left to go to the exhibits.

FG.5a

Patricia Erickson

P.O. Box 6

Moss Beach, CA 94038

March 6, 2011

Douglas Bosco, Chairman

Coastal Conservancy

1330 Broadway

Oakland, CA 94612

Mr. Douglas Bosco

I am writing to support the appeal A-2-SMC-11-010 (Fitzgerald Marine Reserve) the section of Dardenelle Trail nearest the fern grove / wetland area.

The Dardenelle Trail is unlike other open space that has been developed – it is a Reserve that needs to be protected.

The location of the proposed bridge entering / existing into a residential area needs to be relocated into the parking lot already present in the Reserve.

I am certain you will consider these concerns and raised issues prior to your vote of acceptance of the ruling of no substantial issue and the adoption of the stated findings.

Sincerely,

Patricia Erickson

Cc/r farshchi, of the following findings.s. brennan

Board of Supervisors



COUNTY OF SAN MATEO

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WEB PAGE ADDRESS: <http://www.co.sanmateo.ca.us>

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FG. 5a

March 7, 2011

California Coastal Commission
North Central Coast District Office
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

Re: Accessible trail at Fitzgerald Marine Reserve

Dear Commission:

Although the Civil Rights legislation known as the American with Disabilities Act (ADA) was signed into law in 1990, the Fitzgerald Marine Reserve in San Mateo County remains inaccessible to those with mobility challenges. The San Mateo County Parks Department, under Director Dave Holland, has worked for three years with the San Mateo County Commission on Disabilities (CoD) to correct this and create a multi-use trail that will allow every resident and visitor to our county's most beautiful Reserve public access.

In addressing the problem, the County Parks Department not only took into account the ADA requirements, but also tried to work with a group of local residents and neighbors who were vocal in their opposition to any change in the park. The plan now calls for an eight-foot wide path with a surface that will remain passable to wheelchairs, strollers and bicyclists in wet weather. While this is below the County Trail Guidelines of recommended 12-foot width and a minimum of ten feet for multi-use trails, we agree with the San Mateo County Parks and Recreation Commission's approval and the San Mateo County Planning Commission's approval of the trail being reduced in width to eight feet due to the environmental sensitivities of the site. However, we do feel strongly that the width should not be reduced any further.

In addition, there is a planned bridge that is at the same grade as the path and not dropped four vertical feet below the level of the path, as the temporary bridge is now. This placement recognizes that, if the creek widens further, the temporary bridge will have to be removed; thus, preventing all access. The proposed 60-foot long clear span bridge outside of the creek banks and above the flood zone is a long-term solution. Where there is sensitive habitat, the proposed Coastal Trail will be cut into the hillside to avoid or reduce impacts to ferns that the County Parks has agreed to remove and relocate if impacted by the trail development. Even the Dusky Footed Wood Rat was considered in this plan. The Commission on Disabilities strongly supports the Coastal Trail as approved by the County Park and Recreation Commission and the County Planning Commission and hopes that you will, too.

Sincerely,

Signature on File

Carole Groom
President, Board of Supervisors
Liaison, San Mateo County CoD

Signature on File

Susy Gastoria
President, San Mateo County CoD

cc: Gary Lockman, Superintendent, San Mateo County Parks Division
Sam Herzberg, Senior Planner, San Mateo County Parks Division
Samuel P. Schuchat, Executive Director, California Coastal Conservancy

F6.5a

3/1/2011

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MAR 08 2011

CALIFORNIA
COASTAL COMMISSION

Dear Commissioners,

I would like to make comments regarding the following hearing: Permit # A-2-SMC-11-010, hearing 3/11/11 in Santa Cruz, item # F6.5a. The subject is the Dardenell Trail/California Coastal Trail that runs through the Fitzgerald Marine Reserve.

We live near the trail that is the subject of this appeal. Our proximity to the reserve is the main reason we purchased a house in this area. As so many other areas all around us are being developed, we have felt so lucky to be near an area that has been protected. At least that is up until now. It is alarming to think that this trail within a pristine nature reserve might be replaced with an eight-foot wide, paved "trail".

A "trail" that is eight feet wide and paved – isn't a trail – it is a street. This type of construction is not appropriate for this area. This is a reserve where picnicking and activities like Frisbee are discouraged and you can't collect shells because the rangers are trying to educate people to protect this reserve and not act in any manner that might harm it. In order to keep with this philosophy, the current trail should not be widened to eight feet and paved.

We ride bikes and walk on the current trail often and we love it the way it is. However, we understand that some people want to make the trail more substantial. I hope that some compromise can be reached. I don't think the current proposal is much of a compromise. Something more along the lines of 5' wide and crushed gravel – or packed dirt like on the Moss Beach bluffs – seems much more appropriate for the area.

Thanks for your consideration,

Signature on File

Neil Cagle

FG.5a

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MAR 08 2011

CALIFORNIA
COASTAL COMMISSION

Date: March 5, 2011

Permit No.: A-2-SMC-11-010

Appeal: Dardenelle Trail/California Coastal Trail

Hearing Date: March 11, 2011

Hearing Location: Santa Cruz Board of Supervisors Council
Chambers

Hearing Item: No. F6.5a

Position: Against proposed changes to trail

I would like to submit my comments about the appeal "of a San Mateo County decision granting a coastal development permit to San Mateo County Department of Parks to improve an existing Dardenelle Trail/California Coastal Trail".

I grew up using the current trail for walking to friend's houses, walking to pre-school, walking to the taqueria, and playing in the reserve. The area is so pretty and rustic. Please don't pave this trail! If the trail is widened to 8 feet and paved it will look like there is a road going right through the reserve. I have been taught to protect this area and to keep it natural. Putting a road there would not protect this area at all and would ruin the beauty of this part of the park.

There are lots of other places where there isn't a paved coastal trail. So why would the park have to be paved? Can't it be an exception like the Moss Beach bluffs?

Please don't put a road in our park! Keep it beautiful!

Sincerely,

Signature on File

Marissa Cagle

F6.5a

March 4, 2011

Oppose
trail
Annette
Saunders

Dear Commission Staff,

This letter is regarding permit number A-2-SMC-11-010, item No. F6.5a for the meeting on 3/11/11 at the Santa Cruz Board of Supervisions Council Chambers, and is regarding the appeal of the coastal development permit to San Mateo County Department of Parks to improve an existing Dardenelle Trail/California Coastal trail.

I strongly object to this project that the permit refers to as an "improvement" to the existing trail. In my opinion widening and paving this quaint, picturesque trail would ruin the beauty of this region. If you walk the trail, I think you will understand why I say this. The trail currently has a very natural and inviting look that matches the area; it is appropriate for a reserve where the goal is to keep the reserve in a natural state. An 8' paved road would be an offensive eye sore and the magic of that area would be ruined.

As for functionality, the trail is already wide enough for 2 people to walk side by side. It is already usable for dirt and road bicycles. The trail is already accessible to vehicles – I have seen various trucks drive on that trail whenever necessary. I know all this is true because I have been using the trail for the last 20 years.

It is true the current trail is not wheelchair friendly, but in this case, widening and paving the trail would ruin the feel of the area that you are trying to share. It is like a catch-22, you want to make the trail accessible to all, but it doing so you ruin the very area that you wanted to share. Also, the south end of the trail only leads to a road, and the beach access at that end is about 100 stair-steps. The best place for a person in a wheelchair is near the north end of the trail, where a paved trail will lead to the beach. The park plans to provide all-terrain wheelchairs for use on the beach. Perhaps these all-terrain wheelchairs could also be used on the current trail.

Please don't ruin the beauty of this area. Once it is paved, it is gone forever.

Thank you for your time,
Annette Saunders

Signature on File

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