CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585-1800

W26a

Filed: 9/26/14
180th Day: 3/25/15
Staff: D. Christensen-V
Staff Report: 2/19/15
Hearing Date: 3/11/15

STAFF REPORT: REGULAR CALENDAR

Application No.: **4-12-076**

Applicant: **Kellogg Avenue LLC (Mike Pollard)**

Agents: United Paving, Inc. (Al Rodriguez)
James Johnson
Randall Fox

Project Location: 909 South Kellogg Avenue, City of Goleta, Santa Barbara County (APN 071-190-034)

Project Description: Request for after-the-fact approval of an existing, unpermitted concrete, asphalt, and aggregate recycling facility, including a 960 sq. ft. office trailer with entry platform stairway and ramp, vehicle scale, a 22,490 sq. ft. (and up to 23 ft. high) raw material stockpile area, a 22,755 sq. ft. (and up to 23 ft. high) finished material stockpile area, perimeter roads around the stockpiles, equipment storage, and crushing operation area for crusher, screening plant, and radial stacker equipment. In addition, the project includes construction of new fencing, gates, a new concrete curb and swale for runoff, a 25 ft. wide riparian buffer area where habitat enhancement using native plants is proposed, and removal of existing, unpermitted salvage vehicles stored on the site.

Staff Recommendation: Denial

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **denial** of the proposed project. The standard of review for the project is the Chapter 3 policies of the Coastal Act.

The applicant requests after-the-fact approval of an existing, unpermitted concrete, asphalt, and aggregate recycling facility on the western approximately 3 acre portion of a 4.9 acre parcel at 909 South Kellogg Avenue in the City of Goleta (Santa Barbara County). The existing,

unpermitted recycling facility produces building materials such as Class 2 road base and other construction materials. The facility includes two material stockpile areas. The raw material stockpile for the concrete and asphalt/aggregate totals approximately 22,490 sq. ft. and is located in the northwest portion of the site. The finished road base/building material stockpile (crushed and screened) totals approximately 22,755 sq. ft. and is located south of the raw material stockpile. The concrete crushing/recycling operations area is located between the stockpiles. The material stockpiles (raw and finished) are proposed to be limited to a maximum height of 23 feet above grade. The facility also includes the request for after-the-fact approval of an existing 960 sq. ft., 11 ft. high office trailer with an entry platform, stairway and ramp, an approximately 12 ft. wide by approximately 80 ft. long existing vehicle scale with concrete aprons with minor grading, a 16 ft. wide perimeter road around the raw material stockpile, a 20 ft. wide perimeter road around the finished material stockpile, seven employee/commercial parking spaces, one handicap parking space, bike parking, and other vehicle and equipment parking and material storage. At present, the westernmost portion of the property is also being used for the unpermitted storage of approximately 60 inoperable salvage automobiles, but rather than seeking after-the-fact authorization for that storage, those are proposed to be removed as part of the proposed project.

The majority of the project site is relatively flat, with little to no vegetation, with the exception of a 460 foot-long stretch of native riparian vegetation along the riparian corridor of Old San Jose Creek, an urbanized ephemeral creek that forms the western boundary of the subject property. The creek supports a mature riparian canopy along its banks that is dominated by arroyo willow (*Salix lasiolepis*) and black cottonwood (*Populus balsamifera* ssp. *trichocarpa*), but also containing coast live oak (*Quercus agrifolia*) and Fremont's cottonwood (*Populus fremontii*). Commission Staff Ecologist, Dr. Jonna Engel, has determined that Old San Jose Creek and its riparian vegetation meet the Coastal Act definition of an Environmentally Sensitive Habitat Area (ESHA). There is also an approximately 250-foot long east/west flowing unnamed drainage that is perpendicular to Old San Jose Creek just beyond the northwest corner of the subject property that supports riparian vegetation, dominated by arroyo willow (*Salix lasiolepis*). Dr. Engel has determined that the riparian vegetation associated with this drainage meets the Coastal Act definition of an ESHA.

The existing unpermitted recycling facility and vehicular storage area has no setback/buffer from the adjacent sensitive riparian habitat area. As proposed, the applicant would reconfigure the as-built recycling facility to provide for no more than a 25 ft. wide buffer (at its closest point) from the outer extent of the riparian canopy of Old San Jose Creek. Although the southern stockpile and perimeter road are proposed to be sited approximately 35-45 ft. from the edge of the Old San Jose Creek riparian canopy, the facility's proposed asphalt curb, swale, and fence would be sited on the western edge of the perimeter road and as close as 25 ft. from the edge of the Old San Jose Creek riparian canopy. Given the configuration of the property, the northern stockpile and perimeter road are located approximately 60-80 ft. from the edge of the Old San Jose Creek riparian canopy, and 27-67 ft. from the drainage/riparian vegetation located north of the property.

Raw material is crushed using an electrical-powered portable impact crusher, and fed into the electric/hydraulic powered screening plant, and an electrical powered radial stacker places the finished product onto the stockpile. The stockpiles, crushing operations, and the yard areas are proposed to be periodically sprayed with water to reduce fugitive dust. In addition, project operations would store and operate diesel-driven heavy equipment to load and move raw

materials and finished product around the site. All equipment fueling and maintenance would be done either off-site at equipment dealer facilities or provided on-site by mobile vendors. An asphalt curb and swale is proposed along the western and northern boundary of the stockpile yard and stockpile perimeter roads in order to collect stormwater runoff and direct it to the northeast portion of the yard into the South Kellogg Avenue storm drain system. The swale would be 2 ft. wide by 6 in. deep and partially filled with gravel. In addition, a post and rail fence is proposed next to the asphalt curb and swale along the west side of the finished stockpile and perimeter road to demarcate the approximate location of a proposed 25 ft. wide buffer area from the outer edge of the riparian canopy of Old San Jose Creek and to prevent any project operational use with the buffer setback. Riparian habitat enhancement is proposed within the 25 ft. wide Old San Jose Creek buffer area.

The primary Coastal Act issues raised by the subject permit application relate to Coastal Act Section 30240(b), which requires development in areas adjacent to ESHA to be sited and designed to prevent impacts that would significantly degrade such areas, and to be compatible with the continuance of such habitat areas, and Coastal Act Section 30231, which requires protection of coastal waters through, among other means, controlling runoff and maintenance of natural vegetation buffer areas that protect riparian habitats.

Commission staff recommends that the Commission deny the proposed project because the proposed 25-foot buffer from ESHA is inadequate and would not serve to protect water quality and riparian ESHA from significant degradation and disruption of habitat values. The facility's development and operations would degrade the riparian ESHA by significantly increasing dust, emissions, noise, vibration, lighting, erosion, and the introduction of waste, debris, sediment, and other pollutants and, potentially, invasive species. While the proposed 25-foot buffer and BMP's will provide some barrier, will help control fugitive dust, and will direct runoff away from the creek and riparian area to an extent, these measures are not sufficient to ensure adequate water quality and habitat protection required by the Chapter 3 policies cited above, especially for such an intensive site use. The proposed project is a concrete/asphalt/aggregate recycling facility adjacent to an impacted waterway that ultimately connects to Goleta Slough and; therefore, requires additional protections to prevent adverse impacts to the creek and riparian corridor. A larger riparian buffer is necessary given the proposed industrial site use in order to ensure adequate water quality and habitat protection and increase the effectiveness of pollution and sediment control measures.

In this case, denial of the proposed project will neither eliminate all economically beneficial or productive use of the applicant's property nor unreasonably limit the owner's reasonable investment-backed expectations of the subject property. An existing economic use of the site exists in the eastern portion of the property, where there is a towing service office, a contractor office and storage area, and an auto repair facility. Further, alternatives to the proposed development exist. The subject area on the western portion of the parcel could be developed with a less intensive use that provides a larger buffer from the riparian areas that flank the western and northwestern property boundaries. The project proponent could also relocate the facility, at the scale proposed, to a more appropriate location elsewhere in the Goleta area that does not have the resource constraints that are at issue at the subject site. The environmental benefits from these kind of waste concrete recycling facilities are significant because they reduce the need to landfill construction and demolition waste materials and they reduce the need to mine and process virgin aggregate materials; however, it is important that these kinds of facilities be

sited appropriately in order to ensure that the environmental benefits of recycling do not come at the expense of coastal resources. Here the proposed industrial use faces significant constraints from the nearby ESHA.

Further, Section 30604 of the Coastal Act states in part that a coastal development permit shall be granted if the Commission finds that the development will not prejudice the local government's ability to prepare a Local Coastal Program (LCP) in conformity with the applicable resource protection policies of the Coastal Act. The City of Goleta is currently working on development of an LCP for their coastal zone area, funded in part by an LCP grant awarded by the Commission in 2013. A planning process is now well underway by the City in close coordination with Commission staff to determine, among other things, the ways to protect coastal resources such as streams, wetlands, and other environmentally sensitive habitat areas throughout the City's coastal zone, consistent with the Chapter 3 policies of the Coastal Act. The City prepared a General Plan in 2006 and is now developing a draft Coastal Land Use Plan. The City is also developing an Implementation Plan. The proposed project raises substantial policy issues with regard to land use and buffer requirements for the protection of water quality and riparian ESHA. The Goleta General Plan recognizes the Old San Jose Creek riparian corridor as ESHA. In this case, it is appropriate that these issues be addressed more comprehensively in the context of the pending LCP. Accordingly, approval of the proposed project could prejudice the ability of the City to complete its LCP in accordance with Coastal Act requirements.

Therefore, for the above reasons and for the reasons more fully explained in the following sections of this report, staff recommends that the Commission deny this application.

TABLE OF CONTENTS

I. MOTION AND RESOLUTION

MOTION: *I move that the Commission approve Coastal Development Permit No. 4-12-076 for the development proposed by the applicant.*

STAFF RECOMMENDATION OF DENIAL:

Staff recommends a **NO** vote. Following the staff recommendation will result in denial of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO DENY THE PERMIT:

The Commission hereby denies a coastal development permit for the proposed development on the ground that the development will not conform with the policies of Chapter 3 of the Coastal Act and will prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

II. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. PROJECT LOCATION AND ENVIRONMENTAL SETTING

The proposed project site is located on the approximately 3 acre western portion of a 4.9 acre property at 909 South Kellogg Avenue in the City of Goleta (Exhibits 1-2). The property is designated as Service Industrial (I-S) under the City's General Plan and is located in an area of Goleta made up of primarily small commercial and industrial uses. Existing development on the 4.9 acre property includes three buildings in the northeast corner of the parcel. The buildings are used as a towing service office, a contractor office and storage area, and an auto repair facility. The three buildings total approximately 10,741 sq. ft. The remainder of the site had been used as an unpermitted auto salvage yard since approximately 1983 in association with A&G/Mission Auto Wrecking. While most of the salvage vehicles have been removed from the property, approximately 60 automobiles remain in the westernmost portion of the property.

The unpermitted concrete/asphalt recycling facility, including stockpiling large piles of crushed and uncrushed concrete and asphalt (approximately 3,500 square feet), began operating in the western portion of the subject property between June 5, 2009 and August 28, 2010 without the required coastal development permit. The pile approximately doubled in size between August 28, 2010, and April 26, 2011. Between April 26, 2011, and August 26, 2012, additional materials were added and now cover a large portion of the subject property. Further, an unpermitted 960 sq. ft. office trailer with entry platform, stairway, and ramp, and an

approximately 960 sq. ft. vehicle scale with concrete aprons has been placed adjacent to the stockpiles onsite as part of the recycling facility operation (Exhibit 3). The unpermitted facility continues to operate and is proposed to be retained in the subject permit application, as discussed in more detail in the following sections.

The majority of the project site is relatively flat, with little to no vegetation, with the exception of a 460 foot-long stretch of native riparian vegetation along the riparian corridor of Old San Jose Creek, an urbanized ephemeral creek that forms the western boundary of the subject property. The creek channel is approximately 13 ft. wide, the top of bank is 16 ft. wide on average, and the depth of channel is approximately 5 ft. The creek supports a mature riparian canopy along its banks that is dominated by arroyo willow (*Salix lasiolepis*) and black cottonwood (*Populus balsamifera* ssp. *trichocarpa*), but also containing coast live oak (*Quercus agrifolia*) and Fremont's cottonwood (*Populus fremontii*) (Exhibits 3-5). The City of Goleta's General Plan identifies Old San Jose Creek as an Environmentally Sensitive Habitat Area (ESHA).

There is also an approximately 250-foot long east/west flowing unnamed drainage that runs perpendicular to Old San Jose Creek just beyond the northwest corner of the subject property that supports a stand of arroyo willow trees (*Salix lasiolepis*). The channel bottom is approximately 3 ft. wide, the top of bank is 12 ft. wide on average, and the depth of channel is approximately 3 ft. The origin of the drainage is unclear, however, it appears that it may have been excavated sometime prior to 1995 in order to drain stormwater runoff toward Old San Jose Creek from Kellogg Avenue. Based on historic aerial photos, riparian vegetation developed within this drainage between 1995 and 2007 (Exhibit 3). However, between 2007 and 2011, a significant portion of the riparian vegetation (approximately 0.40 acre) along the drainage on the neighboring property to the north was gradually removed without the benefit of a CDP. Because that removal occurred without the requisite permits, in assessing the impacts of the development proposed in this permit application, the Commission treats this area as if the unpermitted development has not occurred. The drainage and the remaining arroyo willow vegetation that exists on its banks are not located on the subject site, but are immediately adjacent to the property and the proposed raw material stockpile (Exhibits 3-5).

The property is bordered on the southeast by an existing swap meet/drive-in theater complex and State Route 217, on the north by a mix of existing commercial and industrial uses and South Kellogg Avenue, and on the west by Old San Jose Creek. Further west of Old San Jose Creek is the Santa Barbara Municipal Airport. Access to the site is provided by South Kellogg Avenue (Exhibit 1).

The site is located within the lower San Jose Creek watershed. The San Jose Creek watershed encompasses approximately 10,000 acres and stretches from the ridge of the Santa Ynez Mountains to its terminus in the Goleta Slough. Historically, San Jose Creek naturally meandered through this area in a southwesterly direction and emptied into Goleta Slough. However, the historic boundaries of the slough and lower San Jose Creek were significantly modified at the turn of the 20th century. It is evident from historical aerial photos that San Jose Creek was diverted into straight, manmade channels at two locations between 1903 and 1928 in order to allow for agricultural use of the area (Exhibit 7). With these diversions, San Jose Creek had maintained normal flows and connection to the upstream watershed. In 1965, however, another diversion of San Jose Creek was completed to alleviate flooding involving construction of a new concrete channel to the east and south of the project site to convey all surface flow of

San Jose Creek south of Hollister Avenue - paralleling State Route 217 before combining with San Pedro Creek, which then converges with Atascadero Creek, and then feeds into Goleta Slough near its mouth at the Pacific Ocean (Exhibit 7). This diversion significantly changed the hydrology of the area, and the former diversions of San Jose Creek became known as "Old San Jose Creek" and the new concrete channel along State Route 217 became known as "San Jose Creek." These two creeks intersect approximately 0.14 mile downstream of the subject property via a culvert.

In its current state, Old San Jose Creek remains an ephemeral urban creek that is isolated from the upstream watershed of San Jose Creek and does not receive the natural base flow that it once did prior to the 1965 diversion. Surface water in the creek is now believed to be derived primarily from stormwater runoff. Despite the 1965 diversion that significantly changed what became known as Old San Jose Creek, the creek exhibits a defined bed, bank, and channel, and has maintained enough flows to support riparian habitat that is dominated by arroyo willow and black cottonwood woodland vegetation.

B. PROJECT DESCRIPTION AND BACKGROUND

Proposed Project

The applicant requests after-the-fact approval of an existing, unpermitted concrete, asphalt, aggregate and other material recycling facility on the western approximately 3 acre portion of a 4.9 acre parcel (APN 071-190-034) at 909 South Kellogg Avenue in the City of Goleta (Exhibit 4). The recycling facility produces building materials such as Class 2 road base and other construction materials. The proposed facility includes two material stockpile areas. The raw material stockpile for the concrete and asphalt/aggregate totals approximately 22,490 sq. ft. and is located in the northwest portion of the site. The finished road base/building material stockpile (crushed and screened) totals approximately 22,755 sq. ft. and is located south of the raw material stockpile. The concrete crushing/recycling operations area is located between the stockpiles. The material stockpiles (raw and finished) are proposed to be limited to a maximum height of 23 feet above grade. The facility also includes an existing, unpermitted 960 sq. ft., 11 ft. high office trailer with an entry platform, stairway and ramp, an existing, unpermitted approximately 12 ft. wide by approximately 80 ft. long vehicle scale with concrete aprons with minor grading, a 16 ft. wide perimeter road around the raw material stockpile, a 20 ft. wide perimeter road around the finished material stockpile, seven employee/commercial parking spaces, one handicap parking space, bike parking, and other vehicle and equipment parking and material storage. The existing salvage vehicles parked on the property (that were part of an existing, unpermitted automobile salvage operation) are proposed to be removed from the site as part of the proposed project in order to facilitate operation of the proposed recycling facility.

Raw material is proposed to be crushed using an electrical-powered portable impact crusher, and fed into the electric/hydraulic powered screening plant, and an electrical powered radial stacker places the finished product onto the stockpile. The stockpiles, crushing operations, and the yard areas are proposed to be periodically sprayed with water to reduce fugitive dust. In addition, project operations would store and operate diesel-driven heavy equipment to load and move raw materials and finished product around the site. All equipment fueling and maintenance would be done either off-site at equipment dealer facilities or provided on-site by mobile vendors.

A new asphalt curb and swale is proposed along the western and northern boundary of the stockpile yard and stockpile perimeter roads in order to collect stormwater runoff and direct it to the northeast portion of the yard into the South Kellogg Avenue storm drain system. The swale would be 2 ft. wide by 6 in. deep and partially filled with gravel. In addition, a post and rail fence is proposed next to the asphalt curb and swale along the west side of the finished stockpile and perimeter road to demarcate the approximate location of a proposed 25 ft. wide buffer area from the outer edge of the riparian canopy of Old San Jose Creek and to prevent any project operational use with the buffer setback. Riparian habitat enhancement is proposed within the 25 ft. wide Old San Jose Creek buffer area.

Access to the site is from a gated entry on South Kellogg Avenue. Emergency access to the site currently exists along an existing dirt road located along a narrow portion of the southernmost portion of the subject property. A new 6 ft. high gate for emergency access is proposed at that location. A 6 to 8 ft. high fence exists along the eastern property boundary, western property boundary, and along the eastern portion of the northern property boundary. A new 6 to 8 ft. high fence is proposed along the western portion of the northern property boundary and across the narrow southern property boundary.

Background

A review of historic aerial photography from 1976 indicates that that subject property was a vacant lot partially covered in native riparian vegetation on the western portion. No stockpiles of dirt or automobiles were present on the subject property at that time.

On May 13, 1977, the Commission issued Administrative Permit No. 125-30, which approved the following: "Import and stock pile dirt upon a vacant lot currently used for parking." The approved project plans demonstrate that the development that was authorized was limited to[1] a stockpile of no more than 5 ft. in height, and approximately 3,000 cu. yd. in the northwest portion of the site (Exhibit 6).

A review of historic aerial photography indicates that, between 1977 and 1994, native riparian vegetation was removed along the western portion of the subject property in a location different than that which was approved for the dirt stockpile by Administrative Permit No. 125-30. Additionally, it appears that a large number of automobiles were placed on the subject property prior to 1994 in a manner that suggests the operation of a junk yard or automobile recycling business. It appears a majority of these automobiles were removed from the subject property by August 2010 (all but approximately two dozen along the south-western edge), and that all of the automobiles were removed from the south-western edge of the property by April 2011. However, it appears that approximately 60 automobiles were returned to the subject property, placed along the south-western edge of the property adjacent to Old San Jose Creek, prior to August 2012. As discussed previously, the applicant proposes to remove existing salvage vehicles from the site as part of the proposed project.

A review of historical aerial photography also indicates that the property owner began operating the existing unpermitted concrete/asphalt recycling facility, including stockpiling large piles of

[1] Section 3 of the permit indicates that the project reviewed and approved was "further described in the application."

concrete and asphalt (approximately 3,500 square feet), between June 5, 2009 and August 28, 2010. The pile approximately doubled in size between August 28, 2010, and April 26, 2011.

On December 1, 2011, Commission staff received CDP Application No. 4-11-065 for a new "concrete/asphalt recycling center to replace an automobile recycling center." The application proposed development consisting of an office, a garage, a seven space paved parking lot, a 300 ft. long retaining wall with guardrail, bioswale systems, a 16,000 sq. ft. crushing operation area, a 22,755 sq. ft. feed pile, a 22,490 sq. ft. fine pile, 17,947 sq. ft. paved area, 4,700 sq. ft. of east boundary landscaping, 41,565 sq. ft. of gravel driveways and turnaround, and 12,500 cubic yards of fill. However, the permit application was incomplete. On December 23, 2011, Commission staff responded to the application with an application status letter, outlining the materials necessary in order to file the application as complete. In addition, Commission staff met with the applicant and agent on January 23, 2012, to discuss the additional information needed to process the application. File materials were submitted by the applicant at the meeting on January 23, 2012, in response to the original filing status letter of December 23, 2011. However, the materials submitted at the January 23, 2013 meeting were found to be insufficient to meet the necessary application requirements and another application status letter was sent by Commission staff to the applicant on February 9, 2012. The applicant submitted additional file materials on July 20, 2012 and July 24, 2012 in response to Commission staff's February 9, 2012 application status letter. The application materials submitted in July 2012 again did not meet the necessary application requirements necessary for filing. An application status letter was sent to the applicant on August 17, 2012 identifying the missing materials, including: the application fee, proof of the applicant's legal interest in the property, full size project plans depicting the riparian canopy, grading and drainage plans, and reduced size plans. No information was submitted in response to the August 17, 2012 letter. On September 14, 2012, the applicant withdrew CDP Application No. 4-11-065 and requested a refund of the application fee.

Based on a review of historical aerial photography, between April 26, 2011 and August 26, 2012, additional stockpile materials were added to the site, which covered a large portion of the subject property. Approximately 60 salvage automobiles were also returned to the subject property prior to August 2012. Aerial photography also indicates that an office trailer and vehicle scale were placed on the subject property between August 26, 2012, and April 18, 2013.

On November 20, 2012, Commission staff received the subject permit application (4-12-076) for a vehicle scale on the subject property, later amended to include an office trailer (24 ft. wide by 40 ft. long by 11 ft. high) in addition to a vehicle scale (9 ft. wide by 80 ft. long by 1 ft. high). On December 21, 2012, Commission staff responded to this application with an application status letter, outlining the information necessary to complete the application. On April 12, 2013, Commission staff received a letter from James Johnson, representative for the applicant, stating the following: "This letter is to inform you that we are working on the items noted in your incomplete letter dated December 21, 2012. We hope to have these items completed in the next few months and ask that you hold this file until August 1, 2013." Staff received additional application materials on April 26, 2013, and again found the materials insufficient to complete the application. Staff responded to the applicant with an application status letter on May 23, 2013, outlining the remaining materials needed to complete the application. The application did not include a complete project description or plan set regarding the existing concrete/asphalt recycling operation or the existing automobile salvage operation at the site. At the time the above referenced letter and plans were submitted by the applicant, the office trailer, vehicle scale,

concrete/asphalt recycling operation, and auto recycling, were existing, unpermitted development on the site and were not accurately depicted as such on the submitted plans.

On August 7, 2013, Commission staff met with the project proponent (Al Rodriguez) and his representatives (James Johnson, Peter Hunt, Rachel Tierney) on the subject property. During this visit, staff observed unpermitted development consisting of an office trailer and deck, a vehicle scale with concrete abutments, several large piles of concrete, asphalt and other materials (greater than 10 ft. in height and covering a substantial area of the site), and salvage automobiles located directly adjacent to and under the riparian canopy of Old San Jose Creek, along with other materials and storage containers located adjacent to and under the riparian canopy of Old San Jose Creek (Exhibit 9). Mr. Johnson purported to memorialize this visit in a letter addressed to Commission staff, dated August 16, 2013. In this letter, Mr. Johnson states that he believes Administrative Permit No. 125-30, which was approved by the Coastal Commission in 1977 "allows for the unconditional stockpiling of dirt/materials and the parking of vehicles." After a review of the permit file, Commission staff has determined that this permit authorized only the one time import and stockpiling of approximately 3,000 cu. yds. of dirt fill (no concrete or asphalt was allowed to be stockpiled, and the permit did not authorize ongoing stockpiling operations) to a maximum height of 5 ft., in one area of the property. Further, the current asphalt/concrete stockpiles exceed the extent of the approved dirt stockpile that was authorized in height, volume, and geographic scope, as well as being a wholly different material. Moreover, Commission staff has confirmed, based on review of historic aerial photographs, that the originally approved, approximately 3,000 cu. yd., 5 ft. high stockpile was removed in its entirety prior to 1994 and that the new stockpiles were not placed until after June 2009. Thus, the development that was approved pursuant to Administrative Permit No. 125-30 had ceased and the placement of a new concrete/asphalt stockpiles and operation of concrete/asphalt recycling facility on site in 2009 constitutes development requiring a CDP. However, Commission records indicate that no CDP has been issued for any of the new stockpiles, structures, or operation of a concrete/asphalt recycling facility on site.

Further, Administrative Permit No. 125-30 clearly states that, at that time, the subject property was a vacant lot used for parking, and it does not authorize an automobile recycling operation or the storage of dismantled vehicles. Moreover, based on review of historic aerial photographs, Commission staff has confirmed that the subject property was not used as a site for the storage of inoperable vehicles and operation of an automobile salvage operation in 1977. The storage of inoperable vehicles and operation of an automobile salvage operation constitutes new development, requiring a CDP. However, our records indicate that no CDP has been issued for the above referenced development.

On August 28, 2013, the applicant submitted additional application materials for CDP No. 4-12-076 in response to the Commission's May 23, 2013 filing status letter notifying them that the application was incomplete. However, the materials submitted continued to not address the existing, unpermitted office trailer and vehicle scale, nor the concrete recycling facility, dismantled vehicle storage/recycling operation, or other development existing on the subject property that is integrally related to the proposed project. The materials also did not include the requested biological study with wetland delineation, or payment of the appropriate filing fee for the application. On September 24, 2013, Commission staff sent the applicant another application status letter, outlining the materials necessary in order to file the application as complete. On December 2, 2013, the applicant provided additional materials in response to the Commission's

incomplete filing status letter. However, the materials provided were not responsive to the majority of information items staff had requested to complete the application, and staff sent a fourth incomplete filing status letter to the applicant on December 23, 2013. The applicant again submitted additional information on May 16, 2014 and July 14, 2014. In response, on June 18, 2014, and August 7, 2014, Commission staff sent filing status letters explaining that the application remained incomplete because the file still did not include the necessary filing fee or adequate wetland delineation. These were the fifth and sixth filing status review letters sent in regards to this CDP file. On September 5, 2014 the applicant provided the remaining items requested and the application was deemed complete on September 26, 2014.

In this case, staff has confirmed that the placement of the proposed office trailer and deck, vehicle scale with concrete abutments, concrete and asphalt stockpiles greater than 10 ft. in height, and storage of inoperable automobiles, storage containers as well as other equipment and materials (described above), and commencement of heavy industrial operations such as concrete/asphalt recycling and automobile recycling, all occurred prior to and during the filing of CDP Application No. 4-12-076, and prior to receiving any approvals from the Commission.

Commission enforcement staff has sent the applicant/property owner, Michael Pollard (Kellogg Avenue LLC), the project proponent, Al Rodriguez (United Paving), and/or their representative, Randall Fox, five letters notifying them of alleged violations of the Coastal Act on the subject property and explaining options for resolution. These letters were dated October 31, 2013, January 14, 2014, August 21, 2014, September 8, 2014, and February 19, 2015. In these same letters, staff requested that Mr. Rodriguez immediately stop all unpermitted development activity on the subject property.

On March 10, 2014, Commission staff met with the property owner/applicant and the project proponent and his representatives. In this meeting, the applicant incorrectly asserted that the Commission's 1977 permit (Administrative Permit No. 125-30) for a dirt stockpile should be interpreted to authorize the existing development on the subject property. Commission staff clearly informed the applicant and his representatives that Administrative Permit No. 125-30 did not authorize any of the unpermitted development on site that is the subject of this coastal development permit application and the applicant agreed to complete this permit application to address the unpermitted development.

In an email sent to Commissioner Jana Zimmer on February 3, 2015, the applicant's representative, Randall Fox, asserted that during the March 10, 2014 meeting Commission staff had verbally authorized them to continue operating the existing unpermitted facility that is the subject of this permit application during Commission processing of the application. To the contrary, Commission staff has sent five enforcement letters (dated October 31, 2013, January 14, 2014, August 21, 2014, September 8, 2014, and February 19, 2015) to the applicant and/or their representative directing them to immediately stop work at the subject site, including three letters sent after the March 10, 2014 meeting (on August 21, 2014, September 8, 2014, and February 19, 2015). Commissioner Zimmer provided the email to Commission staff for response. The letter sent by Commission staff on February 19, 2015 was intended to again clarify the facts and is included as Exhibit 11 of this report.

City of Goleta Local Approval

In 2011, the City of Goleta prepared a Mitigated Negative Declaration and approved a local Development Plan Permit (No. 09-133-DP) for a concrete recycling facility at the subject site pursuant to the City's Municipal Code. The facility approved in the City's 2011 action was similar to the proposed project, however, the layout of the proposed facility components were somewhat different time and a garage structure was also proposed to the south of the finished stockpile area. However, the facility's buffer from the Old San Jose Creek riparian area was the same as the proposed project (25 ft.). The City approved the proposed 25 ft. buffer at the site because they had determined it was consistent with their Municipal Code. The City's Municipal Code requires a "Stream Protection Area," or buffer, from streams to be 100 feet in order to protect the riparian habitat. However, the Municipal Code states that the required buffer width may be increased or decreased on a case-by-case basis, but that the 100 ft. buffer may be reduced to no less than 25 feet if: (1) there is no feasible alternative siting for development that will avoid the buffer, and (2) the project's impacts will not have significant adverse effects on streamside vegetation or the biotic quality of the stream. The City approved the buffer reduction in this case because the applicant asserted that a buffer greater than 25 ft. would render the project economically infeasible and because the City found that the project would be an improvement to what they determined was their baseline condition (storage of salvage vehicles within and adjacent to the riparian canopy) since the project incorporated a 25 ft. buffer where riparian restoration would occur, removal of salvage vehicles, and BMPs. However, it is important to note that the City's Municipal Code is not the standard of review for a coastal development permit in this case and has not been certified by the Commission as part of an LCP.

C. STANDARD OF REVIEW AND LCP HISTORY/STATUS

Prior to the incorporation of the City of Goleta in 2002, the project site was subject to the certified Local Coastal Program (LCP) for the County of Santa Barbara. The City of Goleta incorporated in 2002 and is no longer in the permit jurisdiction of the County. However, the City of Goleta has not yet completed, nor has the Commission certified, a new Local Coastal Program (LCP) for the portions of the City within the Coastal Zone. Therefore, the proposed project requires a coastal development permit from the California Coastal Commission and the standard of review for this project is the Chapter Three policies of the Coastal Act.

The City of Goleta is currently working on development of an LCP for their coastal zone area, funded in part by an LCP grant awarded by the Commission in 2013. A planning process is now underway by the City in coordination with Commission staff to develop an LCP for the City's coastal zone. The City prepared a General Plan in 2006, and is currently working on developing it further to ensure that it is consistent with the Coastal Act and adequate to serve as the Coastal Land Use Plan. The City is also developing an Implementation Plan in conjunction with preparation of the City's first Zoning Code. The City is developing policies and implementation measures for the following issue areas: public access, recreation and visitor servicing facilities, water quality protection, sensitive habitats and other natural resource protection, agricultural resource protection, land use and new development standards, coastal scenic resources protection, hazards and sea level rise, and energy and industrial development.

D. ENVIRONMENTALLY SENSITIVE HABITAT AND WATER QUALITY

Section 30231 of the Coastal Act states:

> *The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

Section 30240 of the Coastal Act states:

> *(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.*
>
> *(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.*

Section 30107.5 of the Coastal Act, defines an environmentally sensitive area as:

> *"Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.*

Section 30231 of the Coastal Act requires that the biological productivity and the quality of coastal waters and streams be maintained and, where feasible, restored through, among other means, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flows, maintaining natural buffer areas that protect riparian habitats, and minimizing alteration of natural streams. Section 30240 of the Coastal Act states that environmentally sensitive habitat areas ("ESHAs") must be protected against significant disruption of habitat values, and that development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

Environmentally Sensitive Habitat Determination

Pursuant to Section 30107.5, in order to determine whether an area constitutes an ESHA, and is therefore subject to the protections of Section 30240, the Commission must ask four questions:

1) What is the area of analysis?
2) Is there a rare habitat or species in the subject area?

3) Is there an especially valuable habitat or species in the area, based on:
   a) Does any habitat or species present have a special nature?
   b) Does any habitat or species present have a special role in the ecosystem?
4) Is any habitat or species that has met test 2 or 3 (i.e., that is rare or especially valuable) easily disturbed or degraded by human activities and developments?

Riparian woodlands contain the greatest overall diversity of all the native plant communities in the area, partly because of its multi-layered vegetation. Riparian woodlands have many important and special roles in the ecosystem. Native trees prevent the erosion of stream banks, moderate water temperatures in streams through shading, provide food and habitat, including nesting, roosting, and burrowing to a wide variety of wildlife species, contribute nutrients to watersheds, and are important scenic elements in the landscape. Riparian habitats and their associated streams form important connecting links for biological communities from the highest elevation upper watershed down to the Goleta Slough and sea, carrying nutrients and providing areas for refuge to the benefit of many different species along the way. The health of streams is dependent on the ecological functions provided by the associated riparian woodlands. These functions include the provision of large woody debris for habitat, shading that controls water temperature, and input of leaves that provide the foundation of the stream-based trophic structure. Riparian areas provide nesting habitat, shelter, and shade for many species of animals including insects which thrive in riparian habitats and in turn are a food source for many other animals. Creeks and associated riparian habitat serve as important corridors for plant dispersal and wildlife migration and dispersal. Large and small animals use the riparian habitat to move in search of food sources or mates.

Riparian habitats in California have suffered serious losses and such habitats in southern California are currently very rare and seriously threatened. In 1989, Faber estimated that 95-97% of riparian habitat in southern California was already lost. Writing at the same time as Faber, Bowler asserted that, "[t]here is no question that riparian habitat in southern California is endangered." In the intervening years, there have been continuing losses of the small amount of riparian woodlands that remain. Today these habitats are, along with native grasslands and wetlands, among the most threatened in California. In addition to direct habitat loss, streams and riparian areas have been degraded by the effects of development. Human-related disturbances can result in increased sedimentation rates and the introduction of non-native species, which disrupts the entire food web and impacts the diversity and suitability of habitat for native species.

Therefore, because of the essential role that riparian plant communities play in maintaining biodiversity, because of the historical losses and current rarity of these habitats in southern California, and because of their extreme sensitivity to disturbance, streams and their riparian habitats meet the definition of ESHA under the Coastal Act.

The subject site contains a 460 foot-long stretch of native riparian vegetation along Old San Jose Creek, an urbanized ephemeral creek that forms the western boundary of the subject property. The creek supports a mature riparian canopy along its banks that is dominated by arroyo willow (*Salix lasiolepis*) and black cottonwood (*Populus balsamifera* ssp. *trichocarpa*), as well as coast live oak (*Quercus agrifolia*) and Fremont's cottonwood (*Populus fremontii*). Despite the historic diversions discussed previously that significantly altered the natural hydrology of the lower San Jose Creek watershed, Old San Jose Creek has a defined bed, bank, and channel, and has maintained enough flows to support mature riparian habitat that is dominated by arroyo willow

and black cottonwood woodland vegetation. The City of Goleta's General Plan identifies Old San Jose Creek as an Environmentally Sensitive Habitat Area (ESHA).

The applicant has provided an "Evaluation of Biological Resources" by Rachel Tierney Consulting, dated December 1, 2013, and revised May 14, 2014. Ms. Tierney's evaluation indicates that because Old San Jose Creek was significantly diverted in the past (as discussed in Section II.A of this report), the subject reach of Old San Jose Creek is a defunct artificial drainage that does not constitute a stream, creek, or wetland, and that the riparian vegetation present is degraded and does not support sensitive species, and as such, does not meet the Coastal Act definition of a ESHA.

Commission staff disagrees with the applicant's biological conclusions regarding Old San Jose Creek. The subject stretch of Old San Jose Creek adjacent to the project site has a defined bed, bank, and channel that conveys water ephemerally and supports riparian vegetation. As such, the creek constitutes a stream.[2] Commission Staff Ecologist, Dr. Jonna Engel, visited the site on August 7, 2013, and reviewed all available biological assessments of the subject area that are listed as Substantive File Documents in Appendix A of this report. Dr. Engel has prepared a Memorandum (attached as Exhibit 10) and has confirmed that the subject stretch of Old San Jose Creek and its associated riparian woodland habitat meets the definition of ESHA pursuant to Section 30107.5 of the Coastal Act. Therefore, the Commission finds the stream and riparian habitat along the subject stretch of Old San Jose Creek to be an ESHA.

There is also an approximately 250-foot long east/west flowing unnamed drainage that runs perpendicular to Old San Jose Creek just beyond the northwest corner of the subject property that supports a stand of arroyo willow trees (*Salix lasiolepis*). The channel bottom is approximately 3 ft. wide, the top of bank is 12 ft. wide on average, and the depth of channel is approximately 3 ft. The origin of the drainage is unclear, however, it appears that it may have been excavated sometime prior to 1995 in order to drain stormwater runoff toward Old San Jose Creek from Kellogg Avenue. Based on historic aerial photos, riparian vegetation developed within this drainage between 1995 and 2007. However, between 2007 and 2011, a significant portion of the vegetation (approximately 0.40 acre) along the drainage was gradually removed on the immediately adjacent property north of the subject site without the benefit of a CDP. In assessing the impacts of the proposed development, the Commission treats this area as if the unpermitted development has not occurred, and the Commission's Enforcement Division will evaluate further actions to address this matter. Although the 250-foot long drainage and the remaining willows that exist within it are not located on the subject site they are located immediately adjacent to the project site approximately 10 feet from the northwest property boundary.

The applicant's biological evaluation (by Rachel Tierney Consulting, dated December 1, 2013, and revised May 14, 2014) indicates that the drainage is also an artificial feature that does not constitute a stream, creek, or wetland, and that its associated arroyo willow vegetation is

[2] A stream is a topographic feature that at least periodically conveys water through a bed or channel having banks. This includes watercourses having a surface or subsurface flow that supports or has supported riparian vegetation.

degraded and does not support sensitive species, and as such, does not meet the Coastal Act definition of a ESHA.

However, Commission staff disagrees with the applicant's biological conclusions regarding this drainage feature. As detailed in her Memorandum attached as Exhibit 10 of this report, Dr. Engel has confirmed that the vegetation associated with the drainage is riparian habitat that is connected to Old San Jose Creek and provides important ecological services including providing microclimates, woody and vegetative debris that is a source of food and habitat structure, perching, roosting, and nesting habitat, and a wildlife movement corridor. Dr. Engel has confirmed that the riparian habitat associated with this drainage meets the definition of ESHA pursuant to Section 30107.5 of the Coastal Act.

The Commission concurs in Dr. Engel's analysis and conclusions, and Dr. Engel's memorandum is incorporated herein.

Analysis of Project Impacts

Coastal Act Section 30240(b) requires development in areas adjacent to ESHA to be sited and designed to prevent impacts that would significantly degrade such areas, and to be compatible with the continuance of such habitat areas. Furthermore, Coastal Act Section 30231 requires maintenance of natural vegetation buffer areas that protect riparian habitats. The primary functions of buffers are to protect against human and domestic animal disturbance, that is, to keep disturbance at a distance from sensitive environmental resources, and to provide ecosystem services in benefit of the adjacent ESHA. Riparian buffers adjacent to streams and creeks serve to maintain the integrity of the waterway, stabilize the stream banks, reduce pollution, and provide food, habitat, and thermal protection for both terrestrial and aquatic organisms. Riparian buffers benefit aquatic habitat by improving the quality of nearby waters through shading, filtering, and moderating stream flow. Shade provided by the plants maintains cooler, more even water temperatures. Cooler water holds more oxygen that helps reduce stress on aquatic organisms. The layers of vegetation in a riparian zone include a leafy canopy which provides cover and food to many birds, including wading and shore birds, song birds, owls, and raptors. Plant debris also contributes to a more complex food web providing a food source to microbes, insects, and other invertebrates that benefit wildlife. Plant roots hold bank soil together and plant stems protect banks by deflecting the cutting action of storm runoff. The vegetation helps stabilize banks and reduces water velocity and erosion. With the vegetation slowing down the velocity of the runoff, the riparian buffer allows water to infiltrate the soil and recharge the groundwater supply. Another benefit is that near-surface groundwater will reach the waterway at a much slower rate over a longer period of time than if it had directly flowed into the waterway. Water infiltration helps control flooding and maintains water flow even during dry periods. The water infiltration capacity of the riparian buffer area also allows sediments and pollutants to settle out, be modified by soil bacteria, and taken up by plants, thereby minimizing the amount of sediment and pollutants that may enter the waterway.

In this case, the applicant proposes an approximately 3-acre concrete recycling facility that provides only a 25 ft. wide buffer (at its closest point) from the outer extent of the riparian canopy of Old San Jose Creek. The applicant proposes to enhance the creek's riparian corridor by planting native plant species within the 25 ft. wide buffer area. Although the southern stockpile and perimeter road are proposed to be sited approximately 35-45 ft. from the edge of

the Old San Jose Creek riparian canopy, the proposed asphalt curb, swale, and fence would be sited on the western edge of the perimeter road and up to 25 ft. from the edge of the Old San Jose Creek riparian canopy. Given the configuration of the property, the northern stockpile and perimeter road are located approximately 60-80 ft. from the edge of the Old San Jose Creek riparian canopy, and 27-67 ft. from the drainage/riparian vegetation located north of the property.

The new asphalt curb and swale is proposed between the stockpile yard and Old San Jose Creek in order to collect stormwater runoff and direct it to the northeast portion of the yard into the South Kellogg Avenue storm drain system. The stockpiles, crushing operations, and the yard areas are also proposed to be periodically sprayed with water to reduce fugitive dust. Facility operations, which have been ongoing since 2009/2010 without the required coastal development permit, involve stockpiling a large quantity of raw material (concrete/asphalt/aggregate), periodically crushing the raw material using a portable impact crusher, feeding the material into electric/hydraulic powered screening plant, and placing the finished product (recycled asphalt/aggregate building materials such as Class 2 road base) onto a finished stockpile using a radial stacker. Diesel-powered heavy equipment is used around the stockpiles to load and move raw materials and finished product around the site. The applicant has indicated that crushing activities are intended to only occur a few times annually after the raw material stockpile is full. When crushing activities occur, the work takes 1-3 weeks to complete.

Given this intensity of this heavy industrial-type of facility proposed, an adequate buffer area between the development and the creek and its riparian corridor is particularly critical to absorb and filter nutrients and other pollutants that result from the facility in order to avoid or minimize impacts to water quality and significant degradation of environmentally sensitive habitat. According to a California Coastal Commission January 2007 report entitled, “Policies in Local Coastal Programs Regarding Development Setbacks and Mitigation Ratios for Wetlands and Other Environmentally Sensitive Habitat Areas,” which documents and provides assessment of the resource protection policies in the Local Coastal Programs that exist in the state of California, research on the effectiveness of riparian buffers have found that 30-60m (97.5-195 feet) wide riparian buffer strips will effectively protect water resources through physical and chemical filtration processes. For the purpose of filtering nitrogen compounds, a study determined that "the most effective buffers are at least 30m (97.5 feet) or 100 feet wide composed of native forest, and are applied to all streams, including small ones." Studies of the distribution of plant and bird species in relation to variable riparian buffer dimensions within several riparian systems have found that to include 90% of streamside plants, the minimum buffer ranged from 10m (32.5 feet) to 30m (97.5 feet), depending on the stream, whereas minimum buffers of 75m (250 feet) to 175m (570 feet) were needed to include 90% of the bird species. Research suggests that recommended widths for ecological concerns in riparian buffer strips typically are much wider than those recommended for water quality concerns, often exceeding 100m (325 feet) in width. In general, as the goals of riparian buffers change from single function to multiple or system functions, the required buffer widths increase. For a riparian ESHA buffer to serve multiple functions, the research indicates that a 100-foot buffer is the absolute minimum required for protecting the habitat area and water quality from adverse environmental impacts caused by development.

In the case of an intensive use near a stream, such as the proposed project, the need for an appropriately sized and functional buffer between development and the waterway becomes greater. It should be noted that in order to protect riparian and other types of ESHA from

significant habitat disruption, the Commission has typically required a 100-foot riparian buffer be maintained in projects that are much less intense than the development considered herein. Given the intensity of development proposed, it is Dr. Engel's biological opinion that the proposed 25-foot buffer is inadequate and would not serve to protect water quality, riparian habitat, and ESHA from significant degradation and disruption of habitat values. The Commission concurs in Dr. Engel's analysis and conclusions, and Dr. Engel's memorandum is incorporated herein. The facility's development and operations would degrade the riparian ESHA by significantly increasing dust, emissions, noise, vibration, lighting, erosion, and the introduction of waste, debris, sediment, and other pollutants and, potentially, invasive species. While the proposed buffer and BMP's will provide some barrier, will help control fugitive dust, and will direct runoff away from the creek and riparian area to an extent, these measures are not sufficient to ensure maximum water quality and habitat protection, especially for such an intensive site use. The proposed project is a concrete/aggregate recycling facility adjacent to an impacted waterway that ultimately connects to Goleta Slough, and therefore requires additional protections to prevent adverse impacts to the creek and riparian corridor. A larger riparian buffer is necessary in this case in order to ensure adequate water quality and habitat protection and increase the effectiveness of pollution and sediment control measures.

Therefore, the Commission finds the proposed development is inconsistent with Section 30240 of the Coastal Act. The proposed project would also not maintain an adequate natural vegetation buffer area to protect the riparian habitat, inconsistent with Section 30231 of the Coastal Act. The project must therefore be denied.

Denial of the proposed project will neither eliminate all economically beneficial or productive use of the applicant's property nor unreasonably limit the owner's reasonable investment-backed expectations of the subject property. An existing economic use of the site exists in the eastern portion of the property, where there is a towing service office, a contractor office and storage area, and an auto repair facility.

Further, alternatives to the proposed development exist. The western portion of the subject site could still be developed with a less intensive use that provides a larger buffer from the riparian areas that flank the western and northwestern property boundaries. The project proponent could also relocate the facility, at the scale proposed, to a more appropriate location elsewhere in the Goleta area that does not have the resource constraints that are at issue at the subject site. The environmental benefits from these kind of waste concrete recycling facilities are significant because they reduce the need to landfill construction and demolition waste materials and they reduce the need to mine and process virgin aggregate materials; however, it is important that these kinds of facilities be sited appropriately in order to ensure that the environmental benefits of recycling do not come at the expense of coastal resources and can meet the applicable regulatory standards. Here the proposed industrial use faces significant constraints from the nearby ESHA.

The applicant has provided an analysis of several siting alternatives for the recycling facility that would allow a wider buffer from the Old San Jose Creek riparian canopy (Exhibit 8). The alternatives addressed by the applicant were limited to the approximately 3-acre western portion of the subject property where the project proponent has permission from the property owner to operate a recycling facility. This portion of the property has a constrained crescent-shaped layout

that limits options for siting large stockpiles. The applicant analyzed a 100 ft. buffer alternative and a 50 ft. buffer alternative (Alternatives "S-5" and "S-3" respectively as shown in Exhibit 8) and determined that both alternatives are not economically feasible because the stockpiles could not be an adequate size to justify the costs involved in operating the facility. The applicant's analysis states that the raw material stockpile must be greater than ½ acre in size to be economically viable. Given site constraints, a wider buffer from Old San Jose Creek would result in smaller stockpile and operation areas for the facility. The applicant also analyzed an alternative (Alternative "S-4" shown in Exhibit 8) that would provide a buffer of 100 ft. for the finished stockpile, and 80 ft. for the stockpile perimeter road. However, the applicant determined that this alternative would also not be economically feasible because the stockpiles could not be an adequate size to justify the costs involved in operating the facility. The applicant also analyzed an alternative (Alternative "S-2" shown in Exhibit 8) that would provide a buffer of 50 ft. for the finished stockpile, and 30 ft. for the stockpile perimeter road. However, it is unclear where the proposed curb and swale BMPs would be located since the stockpile is a larger size than proposed under this alternative. The applicant has indicated this alternative is feasible since it is substantially similar to the proposed project. Therefore, it is the applicant's position that a buffer that is any wider than the proposed approximately 25 ft. buffer (at its closest point) would render the project infeasible from an economic standpoint.

In conclusion, the Commission finds that the proposed project is inconsistent with Section 30240 of the Coastal Act because the proposed 25-foot buffer from riparian ESHA is inadequate and would not serve to protect the ESHA from significant degradation and disruption of habitat values. The proposed project would also not maintain an adequate natural vegetation buffer area to protect the riparian habitat, inconsistent with Section 30231 of the Coastal Act. The project must therefore be denied.

E. POTENTIAL FOR PREJUDICE TO LCP PLANNING EFFORTS

Section 30604 of the Coastal Act states in part that a coastal development permit shall be granted if the Commission finds that the development will not prejudice the local government's ability to prepare a Local Coastal Program (LCP) in conformity with the applicable resource protection policies of the Coastal Act. More specifically, Section 30604(a) of the Coastal Act states:

> *a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a local program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).*

The City of Goleta is currently working on development of an LCP for their coastal zone area, funded in part by an LCP grant awarded by the Commission in 2013. A planning process is now underway by the City in coordination with Commission staff to determine, among other things, the ways to protect coastal resources such as streams, wetlands, and other environmentally sensitive habitat areas throughout the City's coastal zone, consistent with the Chapter 3 policies of the Coastal Act. The City prepared a General Plan in 2006 and is now developing a Coastal Land Use Plan. The City is also developing an Implementation Plan. The City is developing

policies and implementation measures for the following issue areas: public access, recreation and visitor servicing facilities, water quality protection, sensitive habitats and other natural resource protection, agricultural resource protection, land use and new development standards, coastal scenic resources protection, hazards and sea level rise, and energy and industrial development.

LCPs establish the allowable types, locations, and intensities of development in the coastal zone to achieve our statewide resource management goals while providing for local community planning and development objectives. The proposed project raises substantial policy issues with regard to land use and buffer requirements for the protection of water quality and riparian ESHA. In this case, the Commission finds that it is appropriate that these issues be addressed more comprehensively in the context of the pending LCP. Accordingly, approval of the proposed project could prejudice the ability of the City to complete its LCP in accordance with Coastal Act requirements. The preceding sections provide findings that the proposed project will not be in conformity with the provisions of Chapter 3. The proposed development will create adverse impacts and is found to be inconsistent with the applicable policies contained in Chapter 3. Therefore, the Commission finds that approval of the proposed development could prejudice the City's ability to prepare a Local Coastal Program for this area consistent with the policies of Chapter 3 of the Coastal Act, as required by Section 30604(a).

F. UNPERMITTED DEVELOPMENT

Unpermitted development occurred on the subject parcel prior to submission of this permit application and during processing of this permit application including, but not limited to, operation of a concrete and asphalt recycling facility and a salvage automobile storage facility involving the unpermitted placement of an office trailer, vehicle scale with concrete abutments, and concrete and asphalt stockpiles; storage of inoperable salvage vehicles, storage containers, and other equipment and materials; and removal of native riparian vegetation. The applicant is requesting after-the-fact approval of the unpermitted concrete and asphalt recycling facility (as more fully described in Section II.B of this report) and removal of the remaining salvage vehicles on-site as part of the subject application. The Commission is denying the application for the reasons discussed in full in the preceding sections of this report. Therefore, pursuant to the staff recommendation, the Commission's enforcement division will evaluate further actions to address this matter.

Although development has taken place prior to submission and during processing of this permit application, consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Review of this permit application does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

G. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives

or feasible mitigation measures available which would substantially lessen any significant adverse effect that the activity may have on the environment.

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed above, the proposed development is not consistent with the policies of the Coastal Act. There are feasible alternatives that would avoid the adverse environmental effects of the project for the reasons listed in this report. Therefore, the Commission finds that the proposed project is not consistent with the requirements of the Coastal Act to conform to CEQA.

APPENDIX A

Substantive File Documents

Administrative Coastal Development Permit No. 125-30 granted May 13, 1977 by the South Central Coast Regional Commission of the California Coastal Commission; Notice of Violation of the California Coastal Act (No. V-4-13-0251) letters from Commission Enforcement Staff to the applicant and/or their representative, dated October 31, 2013, January 14, 2014, August 21, 2014, September 8, 2014, and February 19, 2015; Letters from the applicant and/or their representative to Commission Enforcement Staff, dated November 15, 2013, August 21, 2014, and September 2, 2014; Final Mitigated Negative Declaration, South Kellogg Recycling Facility Project, dated October 14, 2011; City of Goleta Planning Commission Resolution No. 11-20, dated October 24, 2011, adopting the Final Mitigated Negative Declaration for the South Kellogg Recycling Facility Project (11-MND-002); City of Goleta Planning Commission Resolution No. 11-21, dated October 24, 2011, approving a Development Plan for the South Kellogg Recycling Facility Project (09-133-DP) pursuant to the Goleta Municipal Code; Revised Evaluation of Biological Resources by Rachel Tierney Consulting dated May 14, 2014; Evaluation of Biological Resources by Rachel Tierney Consulting dated December 1, 2013; Biological Resources Analysis by Rachel Tierney Consulting dated July 10, 2013; Biological Resource Assessment for the Concrete Recycling Facility by Dudek, dated July 14, 2010; Biological Resources Report for the Ekwill Street and Fowler Road Extensions Project by URS, dated March 2014.

Exhibit 1
CDP Application 4-12-076
Vicinity Map

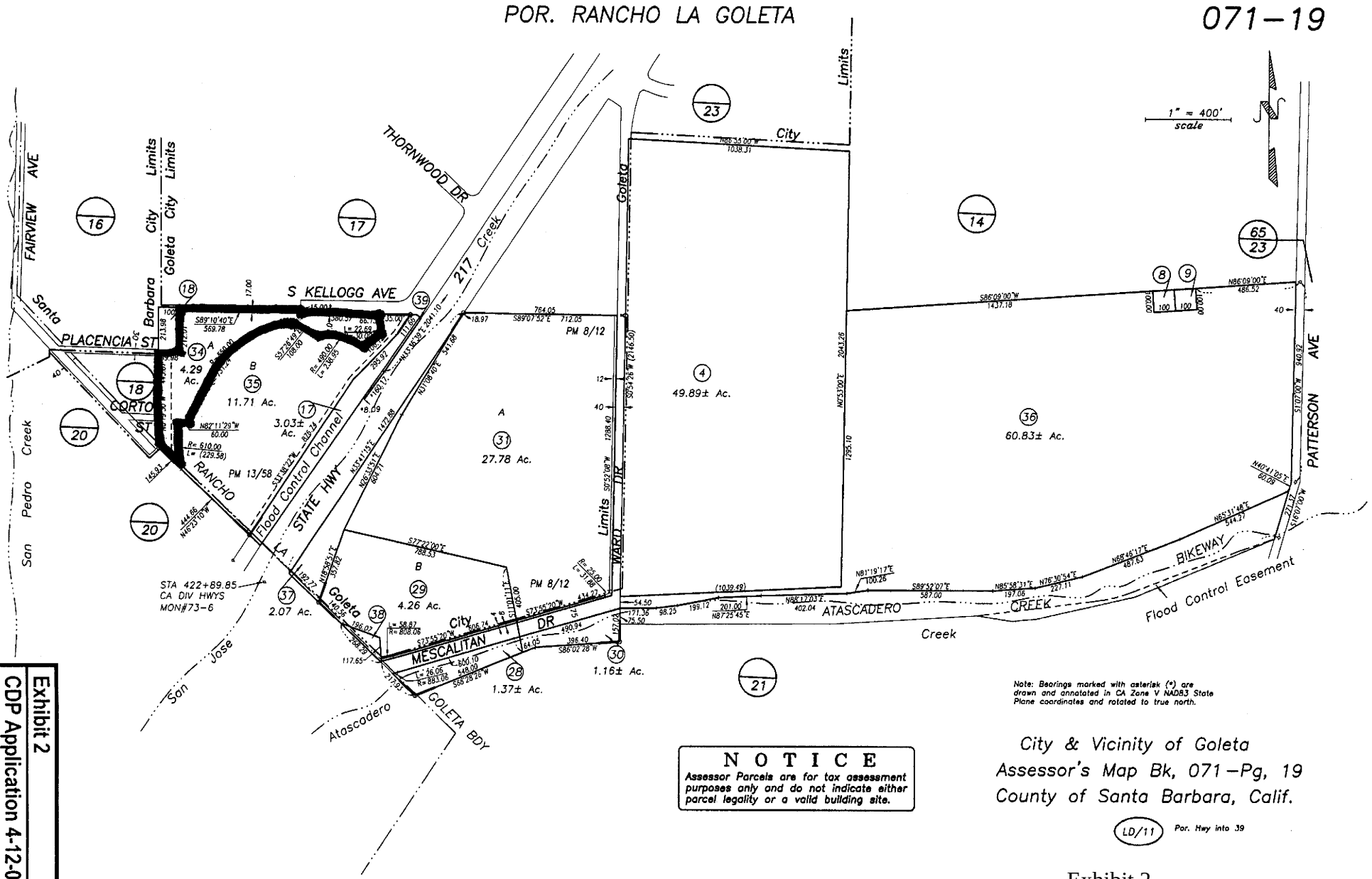


Exhibit 2
CDP Application 4-12-076
Parcel Map

Exhibit 2
CDP Application 4-12-076
Parcel Map


2/4/2015
1994
2013
2015
Exhibit 3
CDP Application 4-12-076
Aerial Photos (pg 1 of 3)
Google earth
Imagery Date: 12/9/2013 34°25'34.64" N 119°49'38.22" W elev 5 ft eye alt 1180 ft

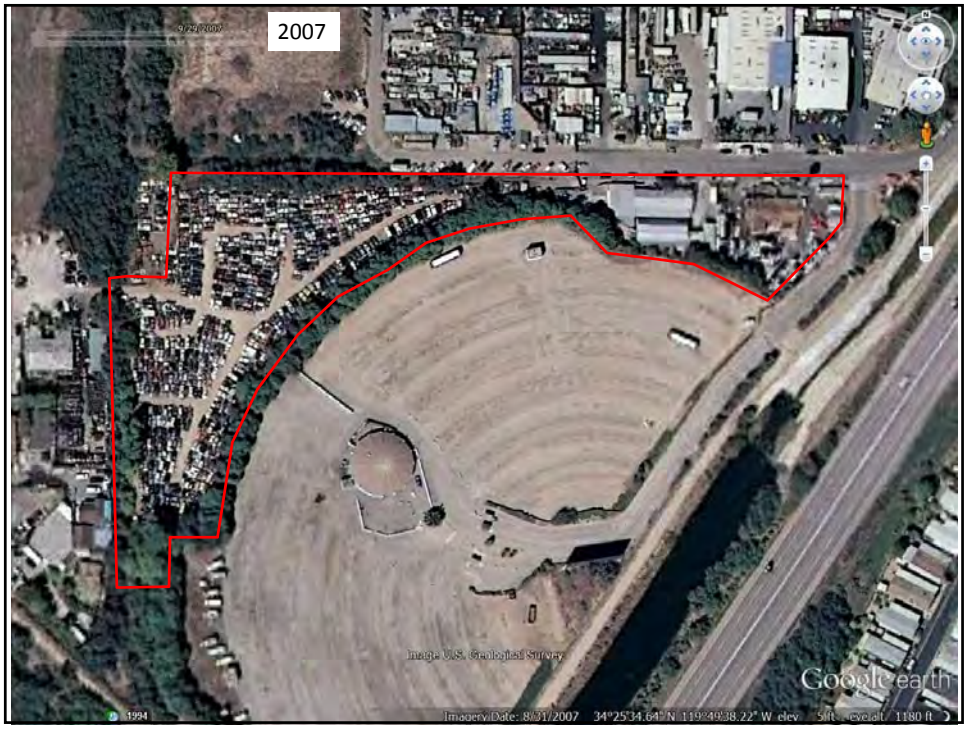


Exhibit 3
Aerial Photos (Pg 2 of 3)

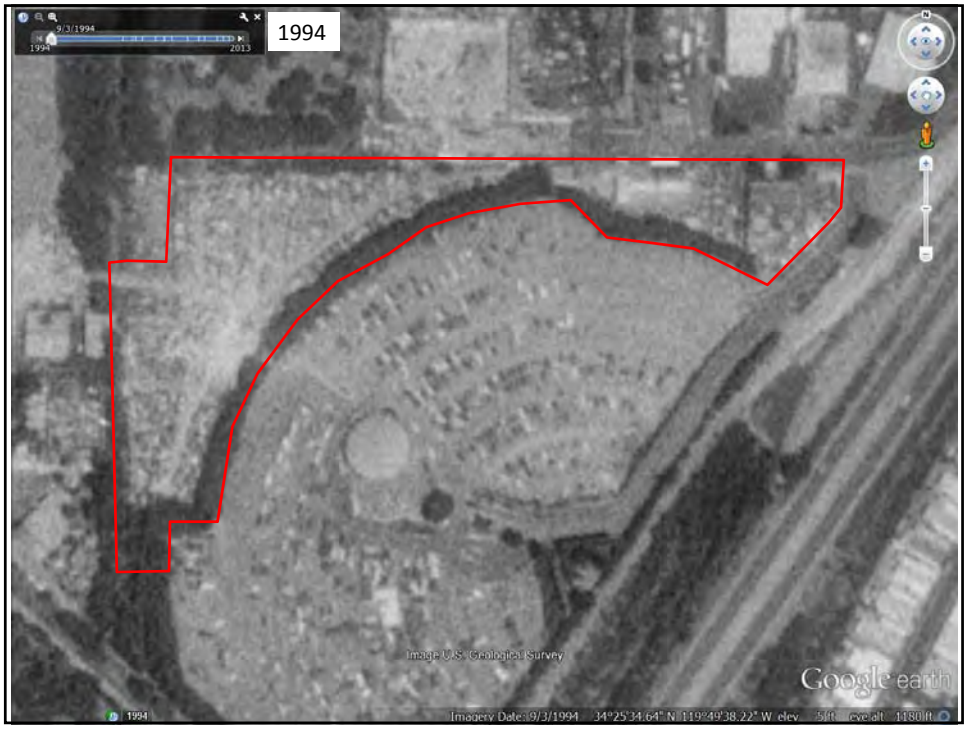


Exhibit 3
Aerial Photos (pg 3 of 3)

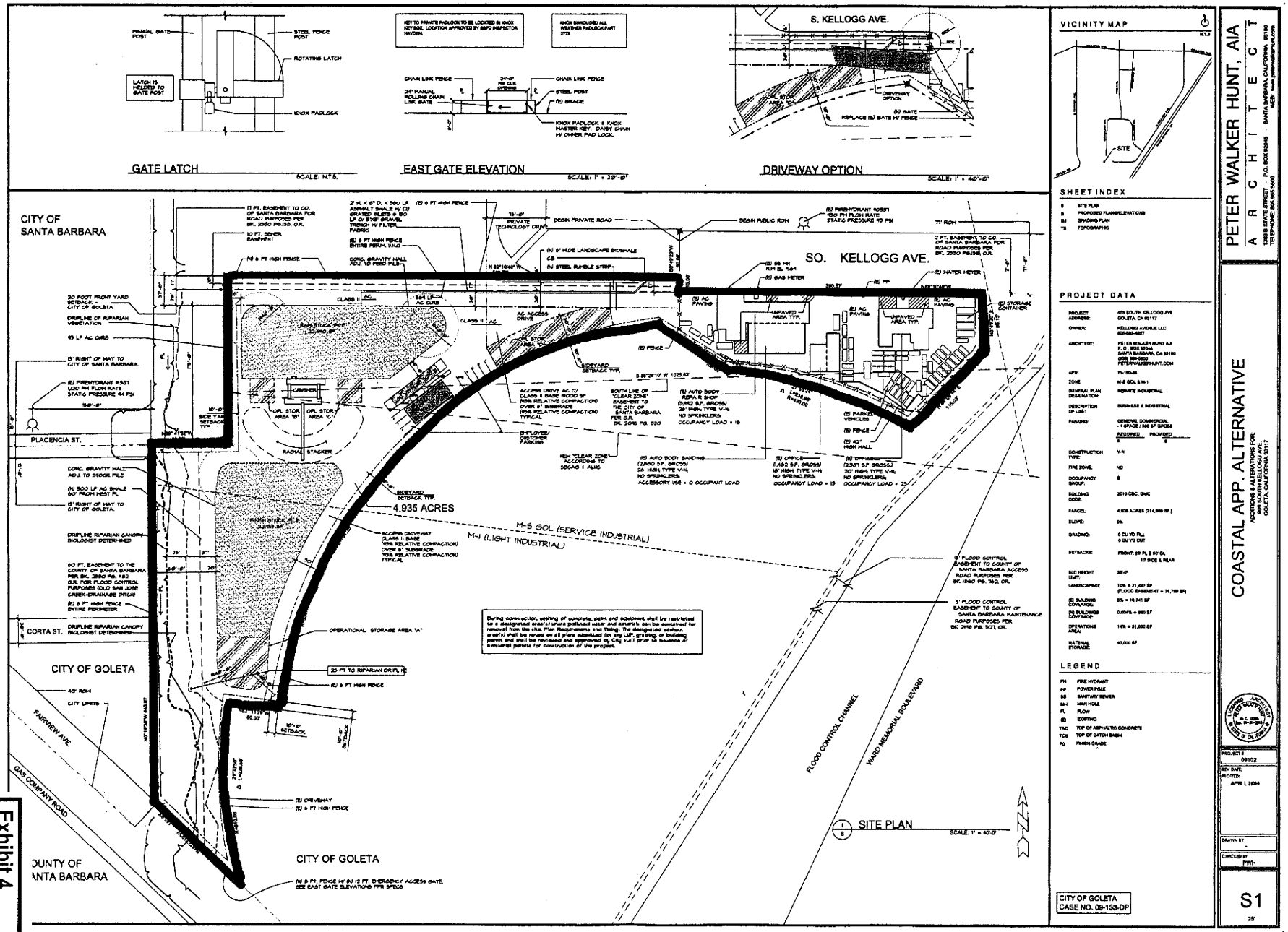
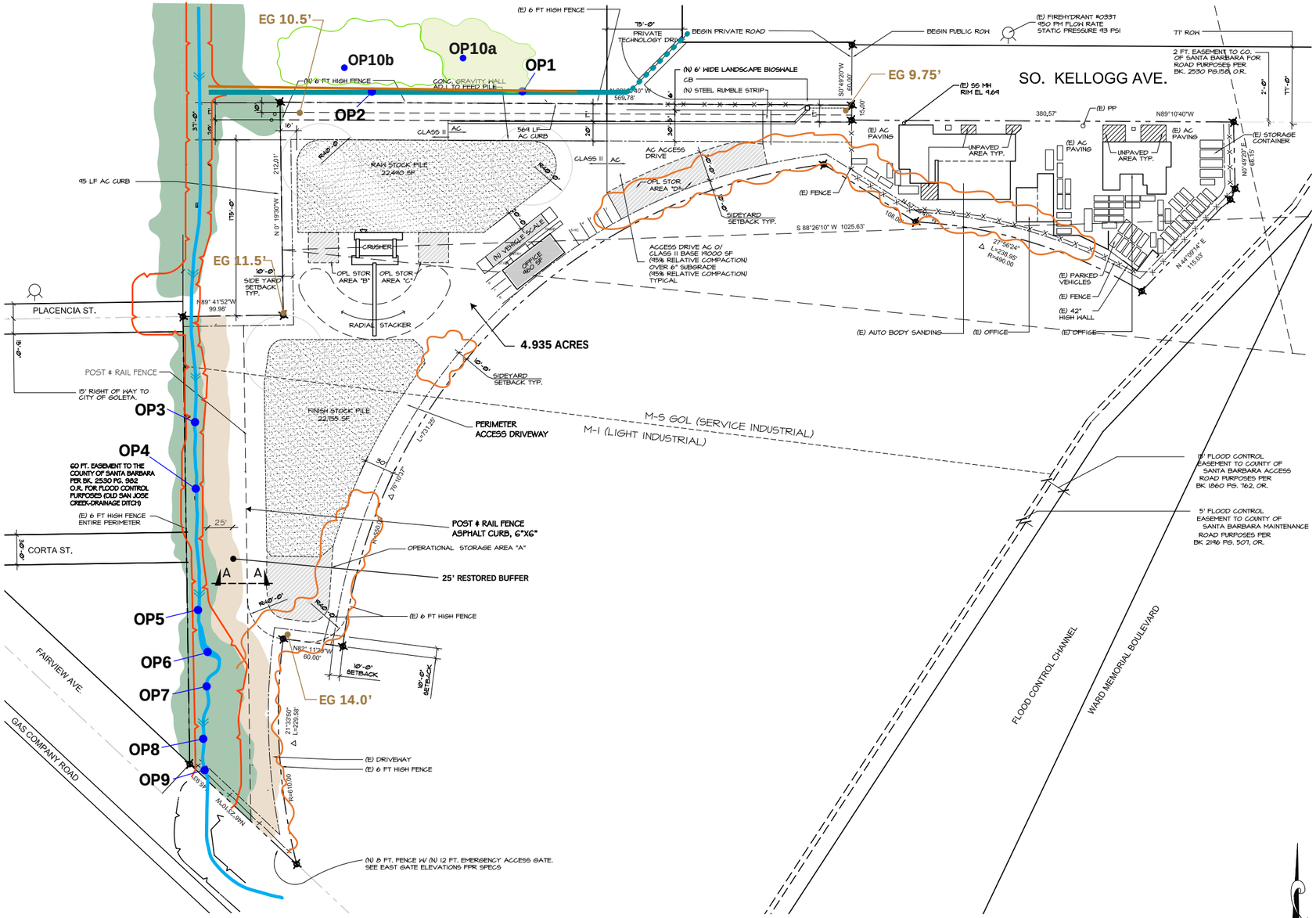
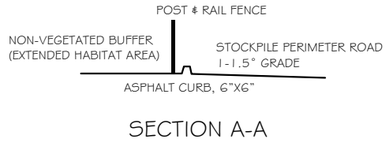


Exhibit 4
CDP Application 4-12-076
Proposed Site Plan

Exhibit 4
CDP Application 4-12-076
Proposed Site Plan





SECTION A-A

0 40' 80' 160'

SCALE

N

LEGEND

BIOLOGICAL FEATURES

Disturbed Willow Woodland *(Salix lasioepis)* (Historic Stretch of Old San Jose Creek)

Top of Embankment

Flow Line/Bed

OP1-10 **Observation Points**

Off-Site Isolated Willow Cluster *(Salix lasioepis)*

Edge of Eradicated Willow Canopy

Existing Willow Cluster

Off-Site Artificial Ditch

Location of 5-6 foot wide ditch

Non-Native Trees and Hedges

Bare Ground, No Vegetation

25' Extended Habitat Buffer

Riparian Canopy

ELEVATIONS

SOILS

All soil onsite and in the surrounding area is mapped as Camarillo Series (CA), a poorly drained material found on floodplains and derived from calcareous sedimentary rock. *(U.S. Department of Agriculture. 1981. Soil Survey of Santa Barbara County, California. South Coastal Part. Soil Conservation Service and Forest Service.)*

Exhibit 5
CDP Application 4-12-076
Applicant's Biological Evaluation Habitat Map

Figure 3A: Site Plan, Vegetation, Observation Points, Elevation & Soils

United Paving Biological Evaluation
909 S Kellogg Ave, Goleta CA

Dec 1, 2013 - May 14, 2014, Revised Aug 25, 2014

RACHEL• TIERNEY CONSULTING

125-30

CALIFORNIA COASTAL COMMISSIONS

SOUTH CENTRAL COAST REGIONAL COMMISSION

1124 Coast Village Circle, Suite 36

Santa Barbara, CA

PERMIT NO. 125-30

Pursuant to Public Resources Code Section 30604 and following, and provisions of the California Administrative Code enacted pursuant thereto, a permit is hereby issued to perform the development described in the Permit Application.

This permit is subject to the terms and conditions of the Commission resolution or Executive Director determination approving this project and any other requirements which are set forth on the reverse of this Permit and incorporated herein by reference.

The Project shall be commenced within 2 years of the issuance date of this permit.

Failure of Permittee to conform to the provisions of this Permit shall subject him to penalties.

This Permit is not intended to, nor shall it be interpreted to have any effects on rights and obligations under private contracts or agreements, nor is it intended to take the place of any permit to be issued by any other public body.

This Permit is assignable upon assumption of the Permittee's obligations by the Assignee as provided for by regulation.

Administrative Permits--if the reverse of this permit is a determination by the Executive Director, this permit shall not become valid until 10 working days following the close of the meeting at which the report concerning its issuance has been presented to the Commission, unless an appeal has been filed with the State Commission.

This permit shall not be valid until a copy of the Permit signed by all Permittees in the space provided below is returned to the Commission.

Carl Hetrick

Carl C. Hetrick
Executive Director

I/We acknowledge that I/We have received a copy of this Permit, have read it, and understand its contents.

Exhibit 6
CDP Application 4-12-076
CDP No. 125-30 with Approved Plan

ADMINISTRATIVE PERMIT

NUMBER 125-30

EXECUTIVE DIRECTOR DETERMINATION

DATE May 13, 1977

APPLICANT R. H. Pollard, Rhio Company, Inc.
914 Linden Ave.
Carpinteria, California 93013

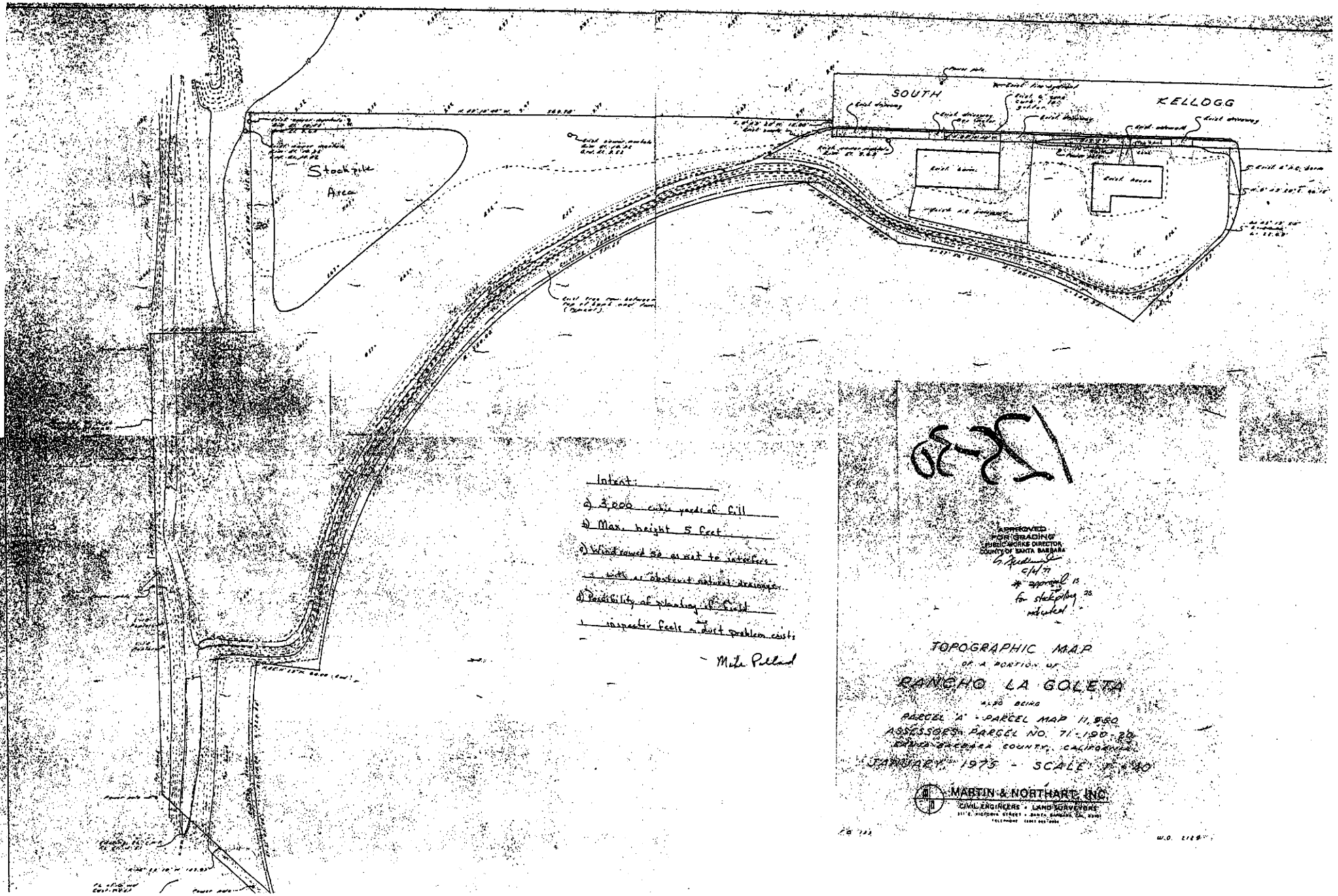
1. Project Approved: Import and stock pile dirt upon a vacant lot currently used for parking.

2. Terms & Conditions: None

3. The Executive Director has determined that the project described above and as further described in the application numbered (see obverse) as subject to the terms and conditions of Paragraph 2 conforms to the criteria for an Administrative Permit set forth in Public Resources Code Section 30624 and rules and regulations enacted pursuant thereto.

4. The determinations set forth in Paragraph 3 are based upon information contained in the application and any other facts relating to this project obtained by the Executive Director and set forward in the Regional Commission files. Such facts are incorporated herein by reference.

5. Public Resources Code Section 30624 provides that if any two members of the Regional Commission so request at the first meeting following the issuance of this permit, the issuance shall not be effective and instead the application shall be set for a public hearing pursuant to the regular Commission permit procedures. You will be notified if this occurs.



Intent:

1) 3,000 cubic yards of fill

2) Max. height 5 feet

3) Windrowed so as not to interfere with or obstruct natural drainage.

4) Possibility of planting if fill is inspected feels a dust problem exists.

- Mike Pelland

APPROVED
FOR GRADING
PUBLIC WORKS DIRECTOR
COUNTY OF SANTA BARBARA
[signature]
6/4/79
* approval is for stockpiling as indicated

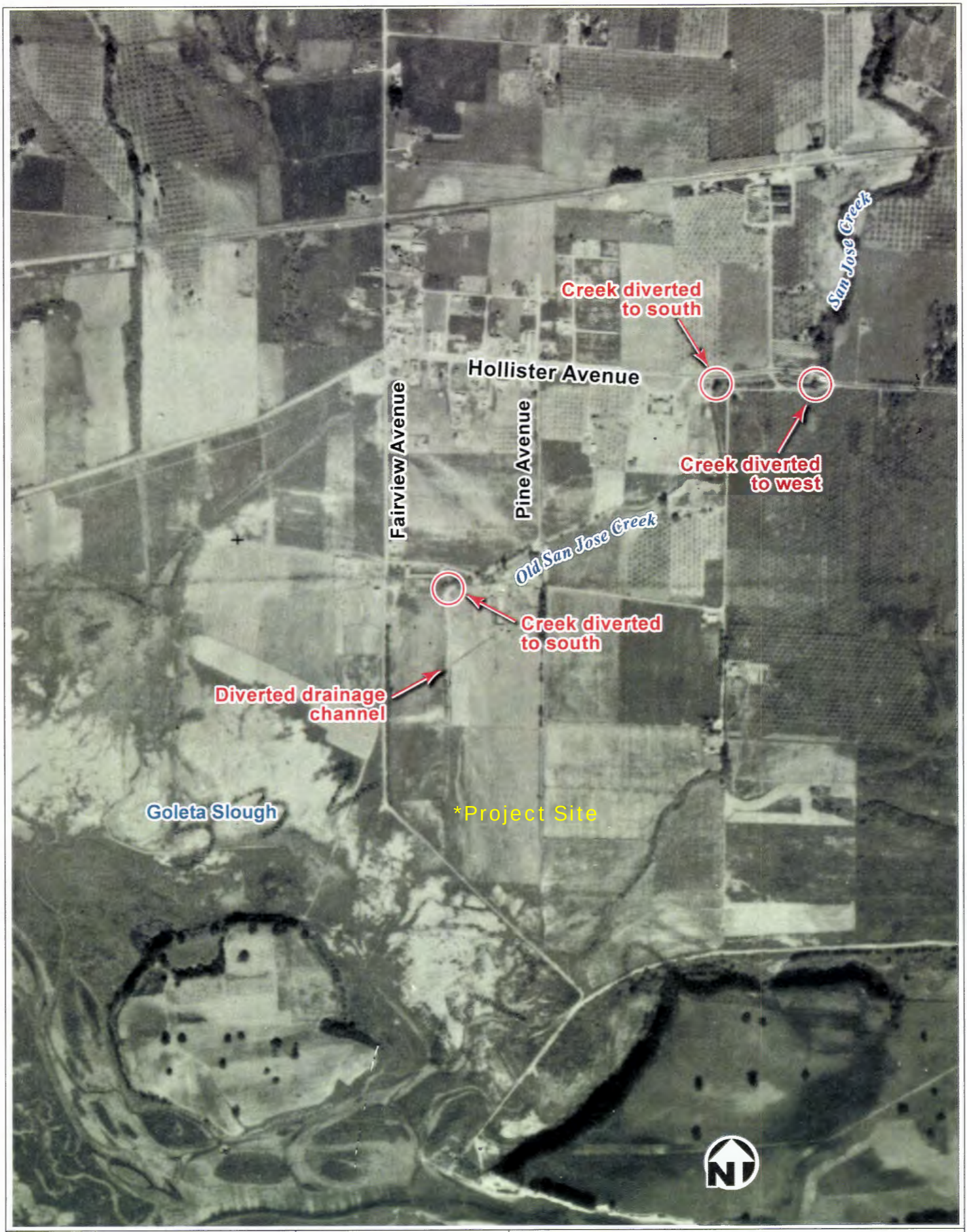
TOPOGRAPHIC MAP
OF A PORTION OF
RANCHO LA GOLETA
ALSO BEING
PARCEL 'A' - PARCEL MAP 11,860
ASSESSOR'S PARCEL NO. 71-190-22
SANTA BARBARA COUNTY, CALIFORNIA
JANUARY 1979 - SCALE 1" = 40'

MARTIN & NORTHART, INC.
CIVIL ENGINEERS • LAND SURVEYORS
[illegible] VICTORIA STREET • SANTA BARBARA, CALIFORNIA
TELEPHONE [illegible]

FB 122

W.O. 1169

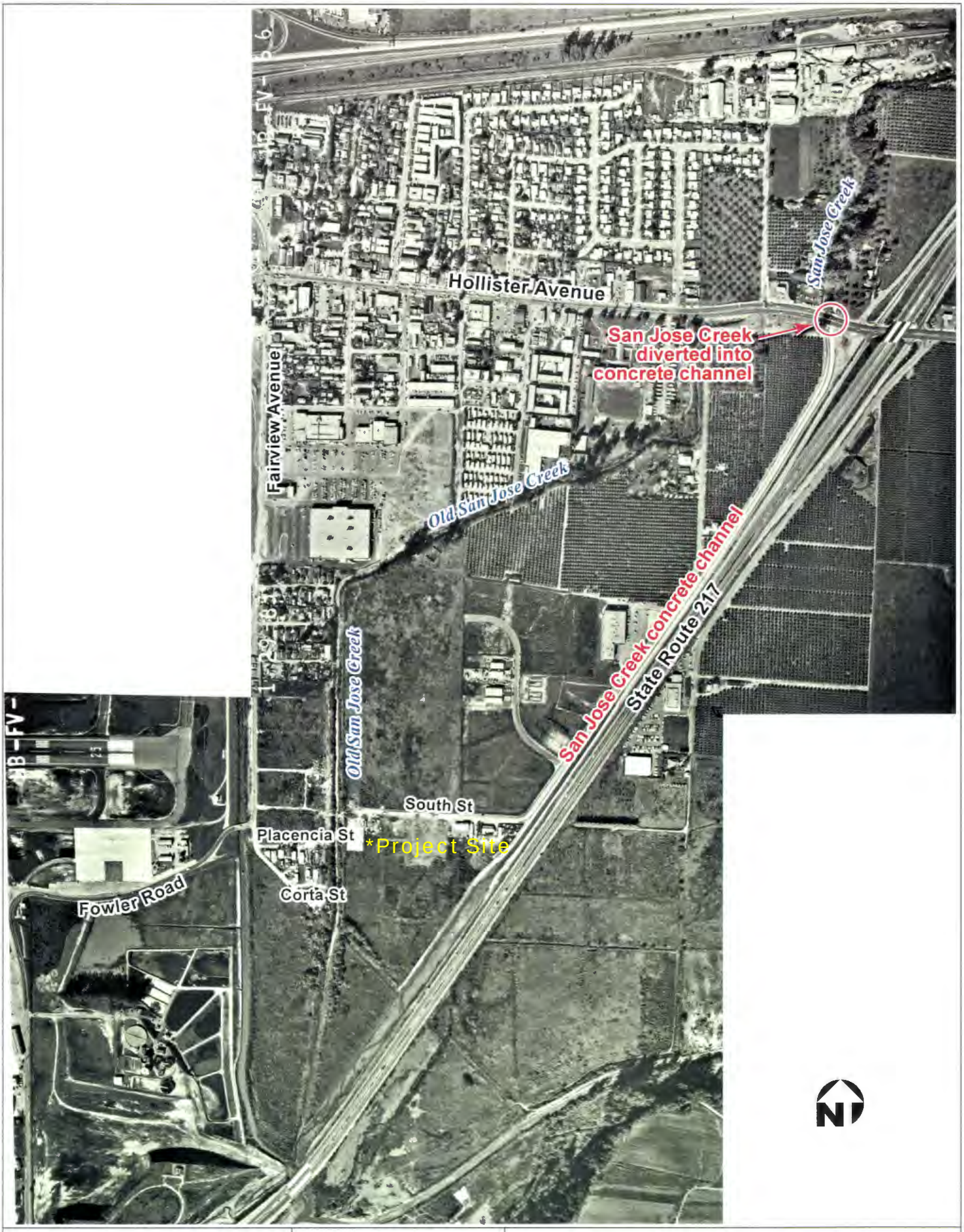
T/Ladd/Ekwill-Fowler Bio Revisions2013/114-004



Ekwill Street and Fowler Road Extensions Project Biological Resources Report 2014 **URS Corporation**	Source: Fairchild Aerial Surveys (1929)	**Figure 10.** 1929 Aerial Photograph

Exhibit 7 (pg 1 of 3)
CDP Application 4-12-076
Old San Jose Creek Historic Aerials and Map

T/Ladd/Ekwill-Fowler Bio Revisions2013/114-002



Ekwill Street and Fowler Road Extensions Project Biological Resources Report 2014 **URS Corporation**	Source: Mark Hurd Aerial Surveys, Inc. Flight HB-FV	Exhibit 7 (pg 2 of 3) **Figure 11.** 1965 Aerial Photograph CDP Application 4-12-076

Old San Jose Creek Historic Aerials and Map

Ekwill Street and Fowler Road Extensions Project
Biological Resources Report 2014

URS Corporation

Source:
Aerial photo provided by ESRI World Imagery, May 2010

Figure 12. History of Modifications to San Jose Creek

Exhibit 7 (pg 3 of 3)
CDP Application 4-12-076
Old San Jose Creek Historic Aerials and Map

United Paving Alternative Riparian Buffer Setback Analysis

United Paving operates a Concrete/Asphalt Recycling Facility (including stockpiling and parking of vehicles pursuant to Coastal Administrative Permit # 125-30) at 909 South Kellogg Avenue, Goleta. Coastal staff has requested an analysis of alternative buffer setbacks from the outer edge of the riparian habitat canopy located along Old San Jose Creek (OSJC). This stretch of OSJC is a narrow man-made drainage ditch that is non-tidal and excavated from dry land prior to 1928. It is also an abandoned former diversion of San Jose Creek that is now a defunct drainage due to the 1965 diversion of San Jose Creek and the recently completed concrete channel improvements within San Jose Creek. Riparian habitat is located along the south and central western property boundary, in a north to south direction.

Five buffer setback alternatives are analyzed below with a summary table and are illustrated on the attached Site Plans S1 through S5. Site Plan S-1 features the proposed project site plan which is consistent with the City of Goleta's approved 25 foot riparian habitat (Stream Protection Area) setback with the finish material stockpile located beyond the Santa Barbara County Flood Control easement (SBCFC). The S-2 alternative shows this stockpile located outside the 50 foot riparian setback and the SBCFC easement, while the perimeter road is located within the 50 foot setback. The S-3 alternative illustrates both the stockpile and the perimeter road located outside the 50 foot setback. The S-4 alternative locates the stockpile outside the 100 foot setback, with the perimeter road located within the 100 foot setback. .The S-5 alternative shows both the stockpile and the perimeter road located outside a 100 foot setback.

Successful economic operation of the Concrete/Asphalt Recycling Facility requires, at minimum, a total area for stockpiling raw and finish material that is modestly larger than one acre with a maximum height of approximately 23 feet (per Santa Barbara Airport runway clear zone height restrictions). The finish material stockpile should be approximately 25 % larger than the raw material stockpile to allow some material from the prior crush to be available as inventory during the four to five week period required to crush and certify the finish material. This process consists of a two week timeframe required for scheduling and transporting crushing equipment to the facility; and an additional two to three week period is needed for batch crushing of the raw material and conducting comprehensive laboratory testing of the resulting finish aggregate material to certify that the material meets the Caltrans Class 2 aggregate material specifications. This standard certifies the finish material for use as approved road base in California. In this interim, the previously processed, laboratory-certified finish material would be available for loading to customers.

Multiple material crushing (non-batch processing) with incremental additions to the finish stockpile is not possible, since incremental laboratory certification of the finish material

Exhibit 8
CDP Application 4-12-076
Applicant's Alternatives Analysis

stockpile would not meet the Caltrans Class 2 aggregate standard. The raw material stockpile must be greater than one half acre in size to justify the costs to crush and stack the raw material, complete the laboratory testing of the finish material, in addition to the facility's land rental, equipment, staff and other overhead costs.

Configuring the site plan for the Recycling Facility operation necessitates that the raw stockpile must be located close to the Facility's entrance to enable easy disposal of raw material onto that stockpile. The finish material may be located further from the entrance for lifting via a loader into dump trucks for offsite transport. The crusher and radial stacker must be located between the raw and the finish stockpiles to facilitate crushing of the raw material and transport by a radial stacker of the crushed material to the finish stockpile. The sales office and scale must be located near the stockpiles to facilitate greeting customers, weighing of raw and finish materials and to provide employee oversight of the overall site operations and activity for safety and security reasons. Operational storage areas for vehicles and other materials are located on remaining areas of the site beyond the stockpiles, crusher area, perimeter roads, office and scale.

The S-1 alternative, the proposed project, as approved by the City of Goleta, would allow for two stockpiles totaling approximately 45,245 sq. ft. or 1.04 acres, as identified on the site plan. The finish and raw material stockpiles are almost the same size, so the desired 125% of additional finish material to raw capacity ratio is not available, resulting in a sub-optimal site plan. However, this alternative is considered economically feasible. The finish material stockpile must be located outside the 60 foot Santa Barbara County Flood Control easement, although the perimeter road may be located within this easement. The City approved a Stream Protection Area (SPA) located up to 25 feet from the edge of the riparian canopy or the top of the bank whichever is greater for the purpose of riparian revegetation/restoration. It is important to note that OSJC is not a stream (not a blue line stream on 1995 USGS topographic map) and the SPA area never included riparian vegetation beyond the existing edge of the riparian canopy due to the man-made excavated nature of this drainage ditch as a result, this 25 foo are is really a riparian planting area and not a revegetation or restoration area. On S-1, the total buffer setback including the 25 foot SPA as approved by the City varies upon location and is approximately 17 feet from the perimeter road and approximately 37 feet from the finish material stockpile. This alternative meets the City of Goleta and SBCFC requirements. However, the Biological Evaluation more precisely identifies the eastern edge of the canopy. Figure 3 identifies the outer edge of the canopy, as a result, the total buffer setback including the 25-foot SPA is located on the outer edge or outside of the perimeter road, the stockpile is 20 feet beyond the total buffer setback. This alternative, the proposed project, is economically feasible.

The S-2 alternative features two stockpiles totaling approximately 48,785 sq. ft. or 1.12 acres as identified on the site plan, with the larger finish material stockpile of about 117% of the size of the raw material stockpile. Although not ideal, the total size of these stockpiles at modestly greater than over one acre with the larger finish stockpile, are more economically feasible than the S-1 alternative/proposed project. The S-2 alternative has an approximate 50 foot setback between the finish material stockpile and the riparian habitat, while the setback between the perimeter road and the habitat is approximately 30 feet ('50 foot setback touch'). Although the stockpile would be located outside the 60 foot SBCFC easement, a portion of the perimeter road would be located within the easement, which is acceptable to SB County Flood Control. This alternative is economically feasible.

The S-3 alternative would allow for two stockpiles totally only an approximate 44,421 sq. ft. or 1.02 acres as identified on the site plan, with the finish material stockpile a bit smaller (about 97.5%) than the raw material stockpile. However the reduced size of the finish stockpile at only about 78% of the ideal 125% of the size of the raw stockpile, restricts both the finish and raw stockpiles to economically infeasible sizes. Further, the smaller size of the finish stockpile would force a corresponding reduction in the size of the raw stockpile regardless of the larger area available for the raw stockpile. In effect, the raw stockpile (effective size of raw stockpile) would also be reduced to a similar size as the finish stockpile resulting in a total area for both stockpiles of approximately only one acre (43,863 sq. ft.). See table below. Further, insufficient finish material would be available to sell and meet the demand during the 4 - 5 week periods the Recycling Facility is waiting for the crusher to arrive, crush the raw material, and complete the requisite laboratory analysis. This S-3 alternative would allow for an approximate 70 foot setback between the finish stockpile and the riparian habitat, while the setback between the perimeter road and the habitat is approximately 50 feet ('50 foot setback no touch'). Although the stockpile would be located outside the 60 foot SBCFC easement, a portion of the perimeter road would be located within the easement, which is acceptable to SBCFC. This alternative is not economically feasible due to the reduced size of the finished and effective size of the raw stockpiles to only one acre.

The S-4 alternative would allow for two stockpiles totaling only approximately 35,367 sq. ft. or 0.81 acre as identified on the site plan, which is not economically feasible. The finish material stockpile is significantly smaller approximately 80% of the size of the raw material stockpile; it is far too modest to be an economically feasible alternative. This 0.81 acre total area is far less than the necessary slightly larger than one acre size needed for both stockpiles. However the reduced size of the finish stockpile at only about 80% is less than two-thirds of the size of the ideal 125% of the size of the raw stockpile. Further the smaller size of the finish stockpile would force a corresponding reduction in the size of the larger area for the raw stockpile as the finish stockpile is reduced to about 80% of the size of the raw material stockpile, regardless of the

larger area available for the raw stockpile. In effect, the raw stockpile (effective size of raw stockpile) would also be reduced to a similar size as the finish stockpile resulting in a total area for both stockpiles of approximately only 0.72 acre (31,470 sq. ft.). See table below. Further, there is not enough finish material available to sell and meet the demand for finish material while the facility is waiting the 4 - 5 weeks for the crusher to arrive, for crushing the raw material, and for completing the laboratory analyses. The S-4 alternative would provide for an approximate 100 foot setback between the finish stockpile and the riparian habitat, while the setback between the perimeter road and the habitat is approximately 80 feet ('100 foot setback touch'). The finish stockpile and the perimeter road would both be located outside the 60 foot SBCFC easement. This alternative is not economically feasible due to the reduced size of the finished and raw stockpiles to significantly less than one acre.

The S-5 alternative would allow for two stockpiles totaling only approximately 28,992 sq. ft. or 0.66 acre as identified on the site plan, which is not economically feasible. The finish stockpile is significantly smaller approximately 63% of the size of the raw material stockpile, so it is far too modest to be a feasible alternative. This 0.66 acre total area is far less than the necessary larger than one acre size needed for both stockpiles However the reduced size of the finish stockpile at only about 63% is about one half of the size of the ideal 125% of the size of the raw stockpile. The finish stockpile is reduced to about 63% of the size of the raw material which is also about one half or substantial less than the ideal 125% of the size of the raw stockpile. Further the smaller size of the finish stockpile would force a corresponding reduction in the size of the raw stockpile as the finish stockpile is reduced to about 63% of the size of the raw material stockpile, regardless of the larger area available for the raw stockpile. . In effect, the raw stockpile (effective size of raw stockpile) would also be reduced to a similar size as the finish stockpile resulting in a total area for both stockpiles of approximately only one half acre (22,360 sq. ft.). See table below. As a result, this alternative is not feasible as it substantially restricts the size of the finish stockpile and results in a similar small size area for the raw material stockpile. Further, there is not enough finish material available to sell and meet the demand for finish material while the facility is waiting for the crusher to arrive, crush the raw material and complete the laboratory analysis. The S-5 alternative would entail an approximate 120 foot setback between the finish stockpile and the riparian habitat, while the setback between the perimeter road and the habitat is approximately 100 feet ('100 foot setback no touch'). The stockpile and the perimeter road would both be located outside the 60 foot SBCFC easement. This alternative is not economically feasible due to the reduced size of the finished and raw stockpiles to significantly less than one acre at only one half an acre.

Effectively meeting the Recycling Facility's operational criteria necessary to assure the project's economic feasibility is challenging given this site's limited acreage, crescent shape configuration and layout. Operational aspects further constrain the development of an economically viable

project if a substantial buffer setback is required from the OSJC drainage ditch. An economically feasible Recycling Facility requires the large scale operation of raw and finish material stockpiles greater than one acre in total size with additional areas for the crusher, office, scale and other operational, equipment and material storage areas. Due to the significantly smaller effective sizes of the stockpiles at one acre or less, Alternatives S-3, S-4 and S-5 are not economically feasible. With these three alternatives it is possible to adjust the sizes of the raw and finish stockpiles to equalize them. However if that is done the analysis still concludes the total stockpile area is less than the minimum one acre size needed for the recycling facility to be economically feasible.

Although the proposed project is Alternative S-1, as approved by the City of Goleta, Alternative S-2 would allow for larger stockpiles, thereby increasing the efficiency and economic feasibility of a Concrete/Asphalt Recycling Facility.

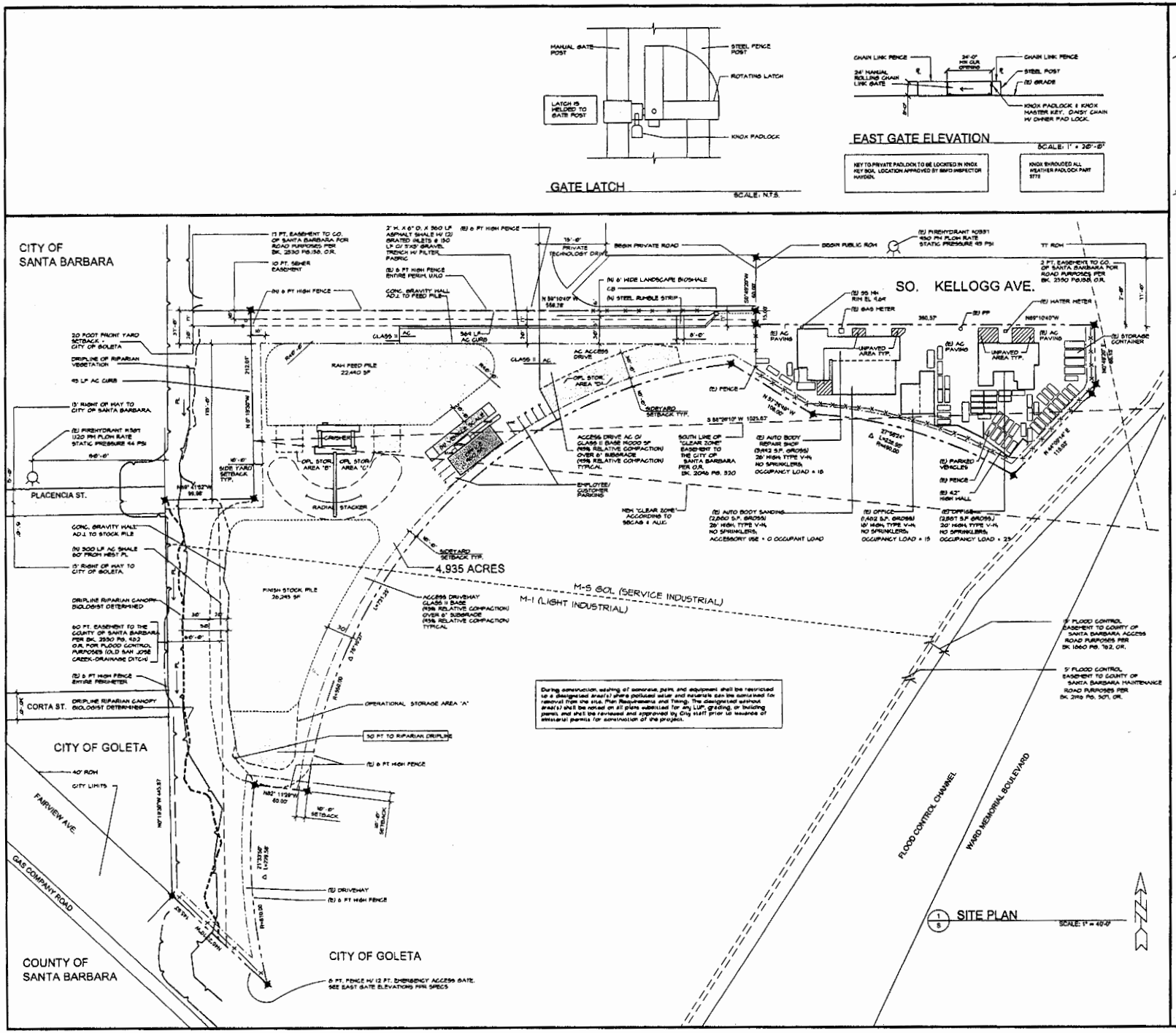
The concrete/asphalt recycling obviates the need to transport and dispose of concrete and asphalt debris in Santa Maria and Saticoy landfills while meeting the local recycling mandate of AB 939. This project processing recycled materials close to the current and future demand of UCSB, Goleta and other local construction sites, results in minimizing energy consumption and vehicle miles traveled while reducing air pollution consistent with Coastal Act Section 30253. Either Alternative S-1 or S-2 as the approved Coastal Permit would be acceptable to the applicant.

Alternative Riparian Buffer Setback and Stockpile Size Summary

Alternative Site Plan	Distance from Riparian Canopy to Finish Stockpile (ft.)	Distance from Riparian Canopy to Perimeter Road (ft.)	Finish Stockpile Area (sq. ft.)	Raw Stockpile Area Available (sq. ft.)	Effective Raw Stockpile Area Less than or Equal to Finish Stockpile (sq. ft.)	Effective Total Raw and Finish Stockpiles (acre/sq. ft.)	Conclusion[i]
S-1	62	42	22,755	22490	22490	1.04 / 45245	Total Stockpiles Greater than One Acre. Finish Stockpile 104% Larger than Raw Stockpile
S-2	50	30	26295	22490	22490	1.12 / 48785	Total Stockpiles Greater than One Acre. Finish Stockpile 117% larger than Raw Stockpile
S-3	70	50	21931	22490	21931	1.01 / 43862	Total Stockpiles Approx. Equal to One Acre. Effective Size of Raw Stockpile Equal to Size of Finish Stockpile
S-4	100	80	15735	19632	15735	0.72 / 31470	Total Stockpiles Significantly Less than One Acre. Effective Size of Raw Stockpile Equal to Size of Finish Stockpile
S-5	120	100	11180	17812	11180	0.51 / 22360	Total Stockpiles Significantly Less Than One Acre. Effective Size of Raw Stockpile Equal to Size of Finish Stockpile

[i] Important Note: Total size of raw and finish stockpiles must be modestly larger than one acre in size (Alternative Site Plans S-1 and S-2) with the finish stockpile larger than the raw stockpile to be economically feasible. If the total acreage of the raw and finish stockpiles is one acre or less (Alternative Site Plans S-3, S-4. S-5) the alternative is not economically feasible. If the finish stockpile size is less than the area available for the raw stockpile then the raw stockpile is effectively reduced to the same size as the finish stockpile. It is not possible to crush the entire quantity of raw material located on a larger area and place it as finished material on a smaller sized area.

5-16-2014



SHEET INDEX

PROJECT DATA

PROJECT ADDRESS:	403 SOUTH KELLOGG AVE GOLETA, CA 93117
OWNER:	KELLOGG AVENUE LLC 805-565-4927
ARCHITECT:	PETER WALKER HUNT AIA P. O. BOX 63045 SANTA BARBARA, CA 93160 (805) 965-5600 PETERWALKERHUNT.COM
APN:	71-190-04
ZONE:	M-S GOL & M-1
GENERAL PLAN DESIGNATION:	SERVICE INDUSTRIAL
DESCRIPTION OF USE:	BUSINESS & INDUSTRIAL
PARKING:	GENERAL COMMERCIAL 1 SPACE / 500 SF GROSS
	REQUIRED: 3 / PROVIDED: 4
CONSTRUCTION TYPE:	VAN
FIRE ZONE:	NO
OCCUPANCY GROUP:	B
BUILDING CODE:	2019 CBC, GWC
PARCEL:	4.935 ACRES (21,498 SF.)
SLOPE:	0%
GRADING:	0 CU YD FILL 0 CU YD CUT
SETBACKS:	FRONT: 20' PL & 50' CL 10' SIDE & REAR
BLD HEIGHT LIMIT:	50'-0"
LANDSCAPING:	10% = 21,497 SF (FLOOD EASEMENT = 26,790 SF)
(E) BUILDING COVERAGE:	5% = 10,741 SF
(N) BUILDINGS COVERAGE:	0.001% =650 SF
OPERATIONS AREA:	14% = 31,000 SF
MATERIAL STORAGE:	40,000 SF

LEGEND

FH	FIRE HYDRANT
PP	POWER POLE
SS	SANITARY SEWER
MH	MAN HOLE
PL	PLOW
(E)	EXISTING
TAC	TOP OF ASPHALTIC CONCRETE
TCB	TOP OF CATCH BASIN
FG	FINISH GRADE

CITY OF GOLETA
CASE NO. 09-133-DP

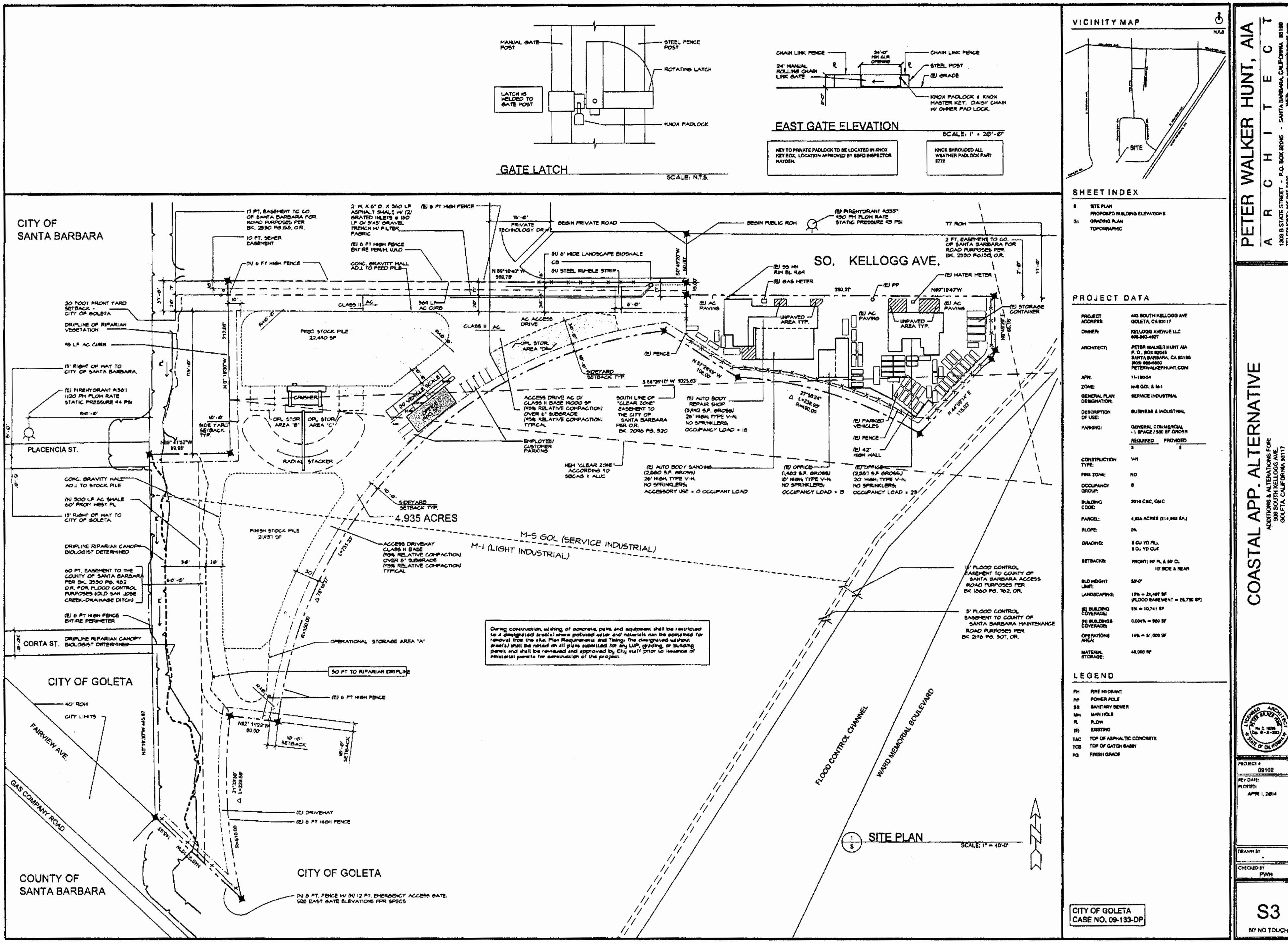
PETER WALKER HUNT, AIA
A R C H I T E C T
1303 B STATE STREET • P.O. BOX 63045 • SANTA BARBARA, CALIFORNIA 93160
TELEPHONE: 805.965.5600
WEB: www.peterwalkerhunt.com

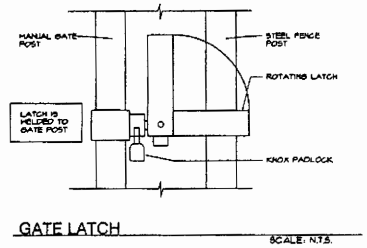
COASTAL APP. ALTERNATIVE

ADDITIONS & ALTERATIONS FOR:
403 SOUTH KELLOGG AVE.
GOLETA, CALIFORNIA 93117

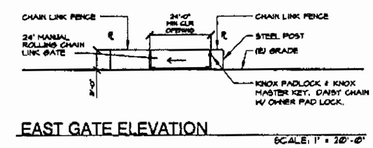
PROJECT #: 09102
REV DATE:
PLOTTED: APR 1, 2014
DRAWN BY:
CHECKED BY: PWH

S2
50' TOUCH


GATE LATCH
SCALE: N.T.S.
MANUAL GATE POST
STEEL FENCE POST
ROTATING LATCH
LATCH IS WELDED TO GATE POST
KNOX PADLOCK
EAST GATE ELEVATION
SCALE: 1" = 20'-0"
CHAIN LINK FENCE
24' MANUAL ROLLING CHAIN LINK GATE
STEEL POST
(E) GRADE
KNOX PADLOCK & KNOX MASTER KEY. DAISY CHAIN W/ OWNER PAD LOCK.
KEY TO PRIVATE PADLOCK TO BE LOCATED IN KNOX KEY BOX. LOCATION APPROVED BY SBFD INSPECTOR HAYDEN.
KNOX SHROUDED ALL WEATHER PADLOCK PART 3772
CITY OF SANTA BARBARA
SO. KELLOGG AVE.
PLACENCIA ST.
CORTA ST.
CITY OF GOLETA
FAIRVIEW AVE.
GAS COMPANY ROAD
COUNTY OF SANTA BARBARA
FEED STOCK PILE 22,440 SF
FINISH STOCK PILE 21,851 SF
CRUSHER
RADIAL STACKER
OPL STOR AREA "B"
OPL STOR AREA "C"
OPERATIONAL STORAGE AREA "A"
4.935 ACRES
M-S GOL (SERVICE INDUSTRIAL)
M-1 (LIGHT INDUSTRIAL)
BEGIN PRIVATE ROAD
BEGIN PUBLIC ROW
PRIVATE TECHNOLOGY DR.
EMPLOYEE/ CUSTOMER PARKING
(E) AUTO BODY REPAIR SHOP
(E) AUTO BODY SANDING
(E) OFFICE
(E) 42" HIGH WALL
(E) PARKED VEHICLES
(E) 6 FT HIGH FENCE
(E) DRIVEWAY
50 FT TO RIPARIAN DRIPLINE
(N) 6 FT. FENCE W/ (N) 12 FT. EMERGENCY ACCESS GATE. SEE EAST GATE ELEVATIONS FOR SPECS
During construction, washing of concrete, paint and equipment shall be restricted to a designated area(s) where polluted water and materials can be contained for removal from the site. Plan Requirements and Timing: The designated washout area(s) shall be noted on all plans submitted for any LUP, grading, or building permit and shall be reviewed and approved by City staff prior to issuance of ministerial permits for construction of the project.
FLOOD CONTROL CHANNEL
WARD MEMORIAL BOULEVARD
SITE PLAN
SCALE: 1" = 40'-0"
VICINITY MAP
SITE
SHEET INDEX
S SITE PLAN
PROPOSED BUILDING ELEVATIONS
G1 GRADING PLAN
TOPOGRAPHIC
PROJECT DATA
PROJECT ADDRESS: 403 SOUTH KELLOGG AVE GOLETA, CA 93117
OWNER: KELLOGG AVENUE LLC
ARCHITECT: PETER WALKER HUNT AIA P.O. BOX 92045 SANTA BARBARA, CA 93190 PETERWALKERHUNT.COM
ZONE: M-S GOL & M-1
GENERAL PLAN DESIGNATION: SERVICE INDUSTRIAL
DESCRIPTION OF USE: BUSINESS & INDUSTRIAL
PARKING: GENERAL COMMERCIAL +1 SPACE / 500 SF GROSS
REQUIRED PROVIDED
CONSTRUCTION TYPE: V-N
FIRE ZONE: NO
BUILDING CODE: 2010 CBC, CMC
SLOPE: 0%
GRADING: 0 CU YD FILL 0 CU YD CUT
SETBACKS: FRONT; 10' SIDE & REAR
MATERIAL STORAGE: 40,000 SF
LEGEND
FH FIRE HYDRANT
PP POWER POLE
SS SANITARY SEWER
MH MAN HOLE
FL FLOW
(E) EXISTING
TAC TOP OF ASPHALTIC CONCRETE
TCB TOP OF CATCH BASIN
FG FINISH GRADE
CITY OF GOLETA CASE NO. 09-133-DP
PETER WALKER HUNT, AIA
ARCHITECT
COASTAL APP. ALTERNATIVE
ADDITIONS & ALTERATIONS FOR: 403 SOUTH KELLOGG AVE. GOLETA, CALIFORNIA 93117
PROJECT # 09102
PLOTTED: APR 1, 2014
CHECKED BY PWH
S3



GATE LATCH
SCALE: N.T.S.

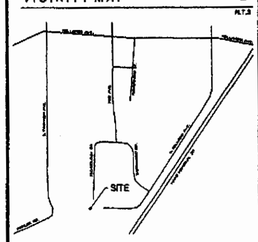


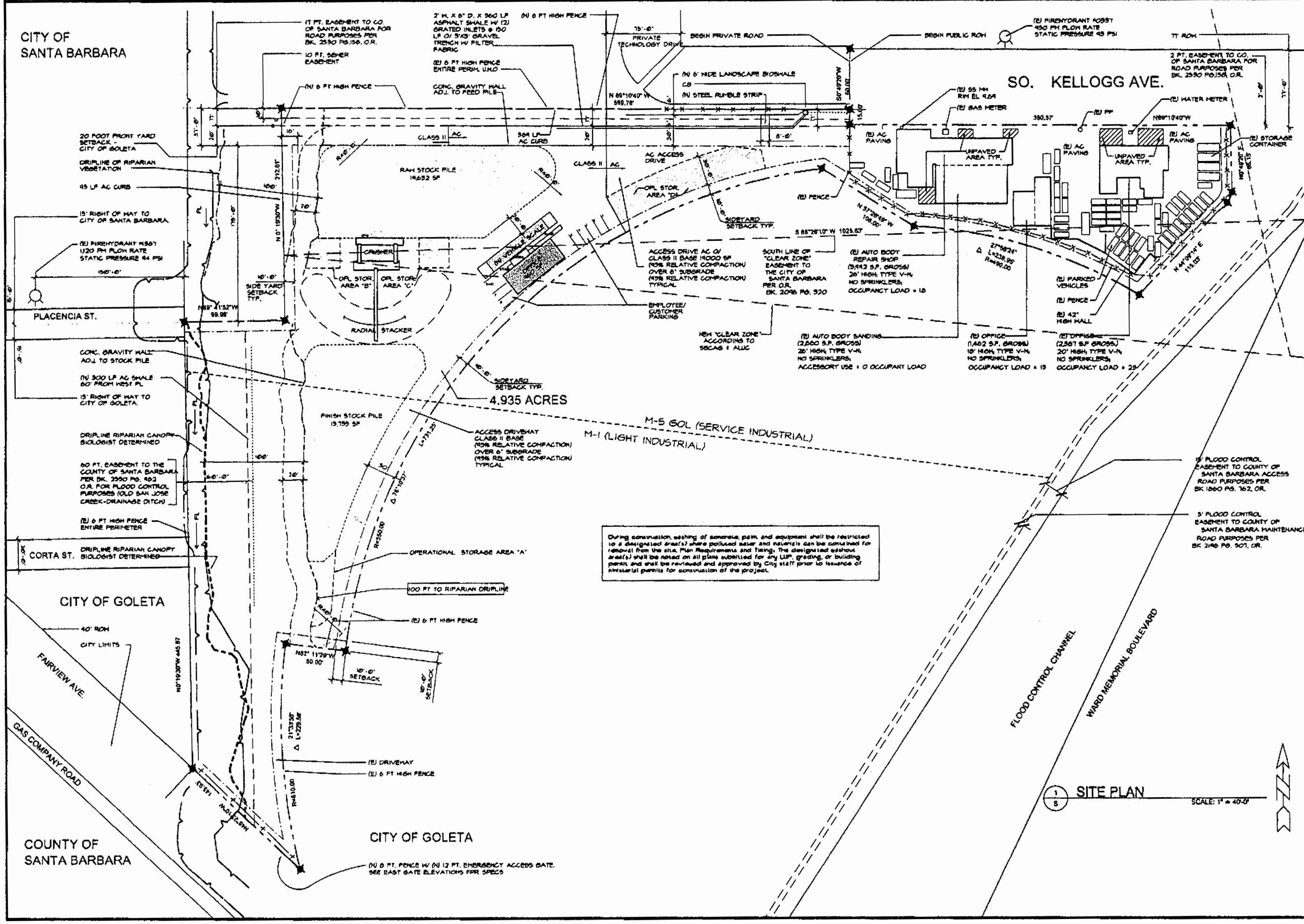
EAST GATE ELEVATION
SCALE: 1" = 20'-0"

KEY TO PRIVATE PADLOCK TO BE LOCATED IN KNOX KEY BOX. LOCATION APPROVED BY SBFD INSPECTOR HAYDEN.

KNOX SHROUDED ALL WEATHER PADLOCK PART 3772

VICINITY MAP





During construction, washing of concrete, paint, and equipment shall be restricted to a designated area(s) where polluted water and materials can be contained for removal from the site. Plan Requirements and Timing: The designated washout area(s) shall be noted on all plans submitted for any LUP, grading, or building permit, and shall be reviewed and approved by City staff prior to issuance of ministerial permits for construction of the project.

SITE PLAN
SCALE: 1" = 40'-0"

SHEET INDEX

S	SITE PLAN
	PROPOSED BUILDING PLANS
G1	GRADING PLAN
	TOPOGRAPHIC

PROJECT DATA

PROJECT ADDRESS:	403 SOUTH KELLOGG AVE GOLETA, CA 93117
OWNER:	KELLOGG AVENUE LLC 805-683-4827
ARCHITECT:	PETER WALKER HUNT AIA P. O. BOX 92045 SANTA BARBARA, CA 93190 (805) 965-5600 PETERWALKERHUNT.COM
APN:	71-190-64
ZONE:	M-S GOL & M-1
GENERAL PLAN DESIGNATION:	SERVICE INDUSTRIAL
DESCRIPTION OF USE:	BUSINESS & INDUSTRIAL
PARKING:	GENERAL COMMERCIAL - 1 SPACE / 500 SF GROSS; REQUIRED 3, PROVIDED 6
CONSTRUCTION TYPE:	V-N
FIRE ZONE:	NO
OCCUPANCY GROUP:	B
BUILDING CODE:	2010 CBC, CMC
PARCEL:	4,935 ACRES (214,969 SF.)
SLOPE:	0%
GRADING:	0 CU YD FILL 0 CU YD CUT
SETBACKS:	FRONT: 20' PL & 50' CL; 10' SIDE & REAR
BLD HEIGHT LIMIT:	35'-0"
LANDSCAPING:	10% = 21,497 SF (FLOOD EASEMENT = 26,780 SF)
(E) BUILDING COVERAGE:	5% = 10,741 SF
(N) BUILDINGS COVERAGE:	0.004% = 960 SF
OPERATIONS AREA:	14% = 31,000 SF
MATERIAL STORAGE:	40,000 SF

LEGEND

FH	FIRE HYDRANT
PP	POWER POLE
SS	SANITARY SEWER
MH	MAN HOLE
FL	FLOW
(E)	EXISTING
TAC	TOP OF ASPHALTIC CONCRETE
TCB	TOP OF CATCH BASIN
FG	FINISH GRADE

CITY OF GOLETA
CASE NO. 09-133-DP

PETER WALKER HUNT, AIA
ARCHITECT
1203 B STATE STREET · P.O. BOX 92045 · SANTA BARBARA, CALIFORNIA 93190
TELEPHONE: 805.965.5600 WEB: www.peterwalkerhunt.com

COASTAL APP. ALTERNATIVE

ADDITIONS & ALTERATIONS FOR:
403 SOUTH KELLOGG AVE.
GOLETA, CALIFORNIA 93117

PROJECT # 09102
REV DATE:
PLOTTED: APRIL 1, 2014
DRAWN BY
CHECKED BY PWH

S4

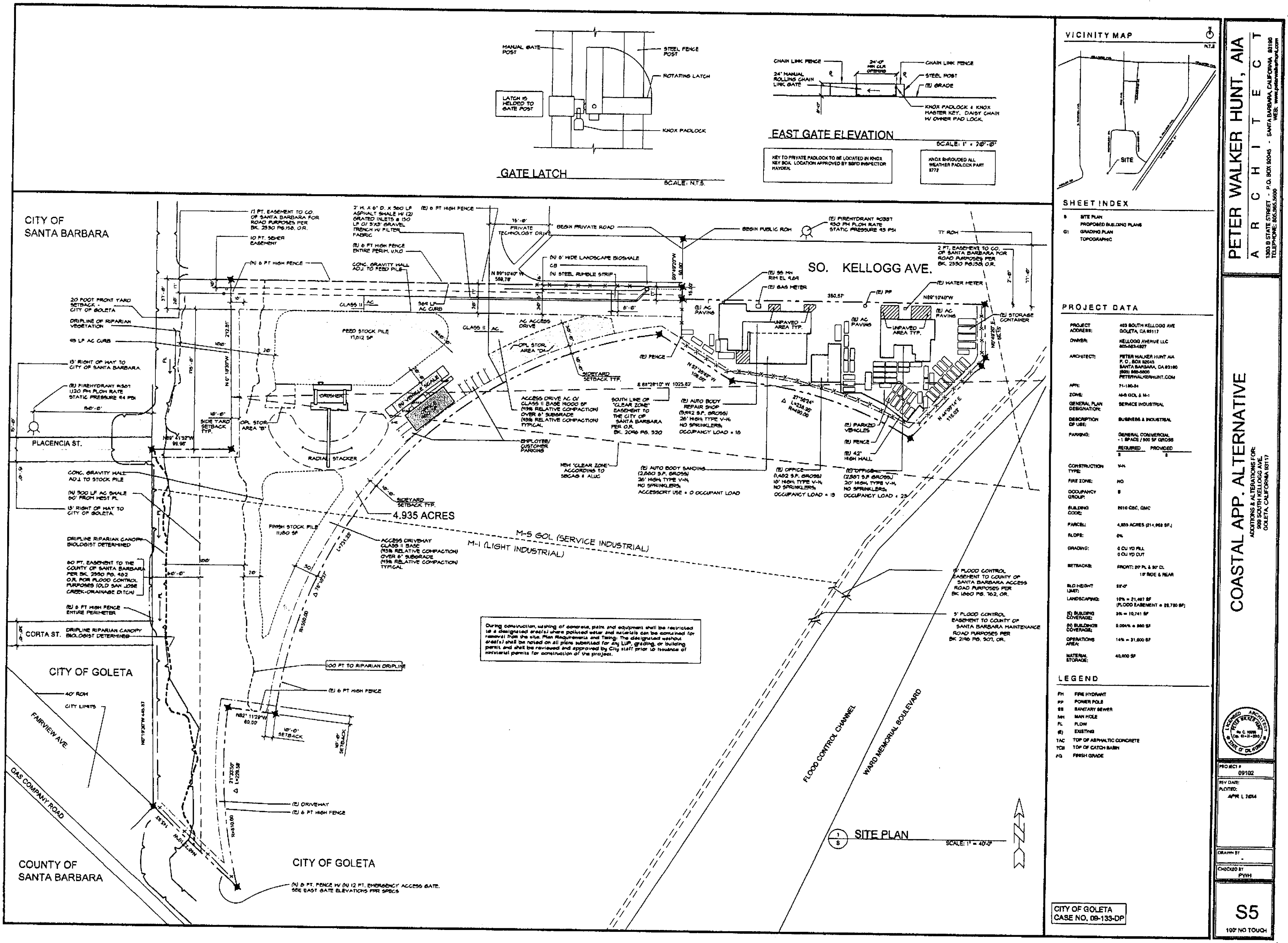

GATE LATCH
SCALE: N.T.S.
EAST GATE ELEVATION
VICINITY MAP
SITE
SHEET INDEX
PROJECT DATA
LEGEND
CITY OF SANTA BARBARA
SO. KELLOGG AVE.
PLACENCIA ST.
CORTA ST.
4.935 ACRES
M-S GOL (SERVICE INDUSTRIAL)
M-1 (LIGHT INDUSTRIAL)
CITY OF GOLETA
FAIRVIEW AVE.
GAS COMPANY ROAD
COUNTY OF SANTA BARBARA
FLOOD CONTROL CHANNEL
WARD MEMORIAL BOULEVARD
SITE PLAN
CITY OF GOLETA
CASE NO. 09-133-DP
PETER WALKER HUNT, AIA
A R C H I T E C T
COASTAL APP. ALTERNATIVE
S5
100' NO TOUCH

Exhibit 9. Site Photos (August 7, 2013)

CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585-1800

M E M O R A N D U M

FROM: Jonna D. Engel, Ph.D., Ecologist

TO: Deanna Christensen, Coastal Analyst

SUBJECT: Biological Resources on Proposed Cement Recycling Facility Site, 909 South Kellogg Avenue, City of Goleta

DATE: February 19, 2015

Documents Reviewed:

Tierney, Rachel (Rachel Tierney Consulting). September 4, 2014. Revised Wetland Delineation. Prepared for United Paving Inc.

URS. March 2014. Biological Resources Report for the Ekwill Street and Fowler Road Extensions Project, Goleta, California. Prepared for the City of Goleta.

Tierney, Rachel (Rachel Tierney Consulting). December 1, 2013 (Revised May 14, 2014). Evaluation of Biological Resources. Prepared for United Paving Inc.

I have been asked to examine and assess the natural resources on the site of an existing, unpermitted concrete, asphalt, aggregate and other material recycling facility that occupies the western approximately 3 acre portion of a 4.9 acre parcel (APN 071-190-034) at 909 South Kellogg Avenue in the City of Goleta. The site is located within the lower San Jose Creek watershed and includes a section of Old San Jose Creek and is adjacent to a man-made drainage. The San Jose Creek watershed encompasses approximately 10,000 acres and stretches from the ridge of the Santa Ynez Mountains to its terminus in the Goleta Slough. Historically, San Jose Creek naturally meandered through this area in a southwesterly direction and emptied into Goleta Slough. However, the historic boundaries of the slough and lower San Jose Creek were significantly modified at the turn of the 20th century. It is evident from historical aerial photos that San Jose Creek was diverted into straight, manmade channels at two locations between 1903 and 1928 in order to allow for agricultural use of the area. With these diversions, San Jose Creek had maintained normal flows and connection to the upstream watershed.

In 1965, however, another diversion of San Jose Creek was completed to alleviate flooding. A concrete channel was constructed to convey all surface flow of San Jose

Creek south of Hollister Avenue, parallel to State Route 217, before joining with San Pedro Creek, which then converges with Atascadero Creek, and then feeds into Goleta Slough near its mouth at the Pacific Ocean. This diversion significantly changed the hydrology of the area, and the former diversions of San Jose Creek became known as "Old San Jose Creek" (OSJC) and the new concrete channel along State Route 217 became known as "San Jose Creek." The two intersect approximately 0.14 mile downstream of the subject property via a culvert. In its current state, OSJC is an ephemeral urban drainage that is isolated from the upstream watershed of San Jose Creek and does not receive the natural base flow that it once did prior to the 1965 diversion. Surface water in the creek is now believed to be derived primarily from stormwater runoff. Despite the 1965 diversion that significantly changed what is now known as OSJC, the creek has maintained enough flows to support valuable riparian habitat dominated by arroyo willow and black cottonwood woodland along with several other species of native riparian trees and understory plants listed below.

Old San Jose Creek

While the majority of the subject site is relatively flat, with little to no vegetation, there is a 460 foot-long section of OSJC that forms the western boundary of the property and which supports riparian habitat. The applicant's biologist, Rachel Tierney, provides the following physical description for the creek reach on the subject site;

> *The constructed channel is soil based with very little coble, consisting of a narrow 4 to 6 foot wide bed and 5 to 6 foot high banks. Towards the downstream portion of the reach, the channel widens to a still narrow 10 to 12 feet wide bed, with a shallow bank of 1 to 2 feet.*

Ms. Tierney described the upper banks of OSJC as dominated by arroyo willow (*Salix lasiolepis*) and black cottonwood (*Populus balsamifera* ssp. *trichocarpa*) but also supporting Fremont's cottonwood (*Populus fremontii*) and coast live oak (*Quercus agrifolia*). She described the understory habitat as characterized by native and non-native species including native mugwort (*Artemisia douglansiana*), California blackberry (*Rubus ursinus*), poison oak (*Toxicodendron diversilobum*) and creek clematis (*Clematis ligusticifolia*) and non-native bristly ox-tongue (*Picris echiodes*), cape ivy (*Senecio mikanioides*), nasturtium (*Tropaeolum majus)*, and periwinkle (*Vinca major*). She describes the lower banks and active stream channel as "typically devoid of vegetation" with a few scattered areas of wetland plant species. Based on my August 7, 2013 site visit observations, Ms. Tierney's description of the vegetation associated with OSJC, and aerial photographs, I find that the reach of OSJC on the subject property supports a healthy, diverse, and robust swath of riparian vegetation.

Riparian habitats are unique and highly productive transitional areas, or ecotones, between creeks, streams, or rivers and terrestrial uplands; these areas are unusually

complex, dynamic, and diverse and possess numerous biological values[1]. Riparian soils filter excess nutrients, sediments and pollutants from surface water runoff, while regenerating ground water supplies and improving water quality[2]. Riparian vegetation within and immediately adjacent to creeks helps to regulate nutrient levels through uptake, and minimizes erosion and sedimentation through bank stabilization[3]. Riparian vegetation sustains numerous microclimates[4] and provides woody and vegetative debris that is a source of food and habitat structure[5]. Riparian vegetation also influences biological productivity. For example, riparian vegetation provides habitat, shades and moderates temperatures within the creek channel and riparian corridor, and serves as a source of energy (i.e., food) for aquatic and terrestrial organisms[6]. Riparian areas provide nesting habitat, shelter, and shade for many species of animals including insects which thrive in riparian habitats and in turn are a food source for many other animals. Creeks and associated riparian habitat serve as important corridors for plant dispersal and wildlife migration and dispersal. Large and small animals use the riparian habitat to move in search of food sources or mates.

Ms. Tierney conducted a wetland delineation along OSJC and while she did find patches of wetland vegetation within the stream bed she concluded that OSJC was best identified as a riparian area based on the "willow-cottonwood riparian forest plant community that occurs here". I concur with this conclusion. Ms. Tierney did not observe any sensitive plant or animal species on the subject site. Aside from identifying the plant species in the riparian habitat, Ms. Tierney did not provide a list of birds or other animals observed during her field work. She does suggest that she observed Pacific chorus frogs when she stated:

> *Pacific chorus frog is the only frog expected to occur along this reach of the [OSJC] channel. No other aquatic amphibians or reptiles were observed or are expected to occur in this drainage.*

Ms. Tierney suggests that;

[1] Nilsson, C. and M. Svedmark. 2002. Basic Principles and Ecological Consequences of Changing Water Regimes: Riparian Plant Communities. Environmental Management, v. 30 (4): 460-480.

[2] Daniels, R. B.; Gilliam, J. W. 1996. Sediment and chemical load reduction by grass and riparian filters. Soil Science Society of America Journal, v. 60 (1): 246-251.

[3] Barling, R. O. and I.O. Moore. 1994. Role of Buffer Strips in Management of Waterway Pollution: A Review. Environmental Management, v. 18: 543-558.

[4] Sabater, S., Butturini, A., Munoz, I., Romani, A., Wray, J., and Sabater, F. 1997. Effects of removal of riparian vegetation on algae and heterotrophs in a Mediterranean stream. Journal of Aquatic Ecosystem Stress and Recovery, v. 6 (2): 129-140.

[5] Karr, J.R. and Schlosser, I.J. 1978. Water resources and the land-water interface. Science, v. 201: 229–234.

[6] Knight, A.W. and R.L. Bottorf. 1981. Importance of Riparian Vegetation to Stream Ecosystems. In California Riparian Systems: Ecology, Conservation, and Productive Management. (1984) Pp. 160-167

> *Large mammals like Virginia opossum, raccoon, red fox and feral domestic cats utilize woodland habitats and may be found along this abandoned drainage channel, making use of protective cover for den sites and for moving between isolated pockets of open space found adjacent to the subject project site.*

URS conducted Least Bell's Vireo protocol surveys in May, June, and July 2012, formal raptor surveys in December 2013 and January 2014, and made general botanical and wildlife observations during the course of field work conducted between 2012 and 2014 for the City of Goleta's Ekwill Street and Fowler Road Extensions Project (March 2014 Biological Resources Report). Their study area included the entire course of OSJC south of Hollister Avenue to where OSJC joins San Jose Creek and the associated open space parcels. In addition to the native riparian canopy species identified by Rachel Tierney Consulting within the riparian habitat adjoining the subject site (arroyo willow, black cottonwood, Fremont's cottonwood, and coast live oak), URS found narrow-leaf willow (*Salix exigua*), red willow (*Salix laevigata*), Western sycamore (*Plantanus racemosa*), California black walnut (*Juglans californica*) and blue elderberry (*Sambucus nigra*) within the riparian habitat along OSJC.

URS observed a total of 51 species of birds during their Least Bell's Vireo and other breeding bird surveys conducted May through July 2012 including wading birds (e.g. great egret, CDFW Special Animal, nesting colony), shore birds, song birds (e.g. oak titmouse, USFWS Bird of Conservation Concern, CDFW, SA, nesting; yellow warbler, USFWS BCC, California Species of Concern), owls, and raptors (e.g. white tailed kite, California Fully Protected, CDFW SA, nesting). The full list of birds can be found on pages 4-24 and 4-25 of the URS Biological Resources Report.

During URS focused raptor surveys four species of raptors were identified in the study area. Two Northern harriers were observed flying through the area, a red-shouldered hawk was heard calling, two Cooper's hawks were observed perching, and 24 red-tailed hawks were observed flying over (three), perching (19, including five pairs), and nest building (three).

URS observed the following native animals in the City of Goleta's Ekwill Street and Fowler Road Extensions Project study area; monarch butterfly, Baja California treefrog, coast range fence lizard, and northern raccoon. URS states the following regarding OSJC and its value as a wildlife corridor;

> *"Wildlife corridor" is a term commonly used to describe linkages between discrete areas of natural habitat that allow movement of wildlife for foraging, dispersal, and seasonal migration. The trees along Old San Jose Creek provide a wildlife corridor (slightly less than one mile long) for large and small birds, as the birds are able to move from one group of trees to another. In addition, small animals that are adapted to the urban environment, such as western fence lizard, raccoon, opossum and others, may use the creek as a wildlife corridor.*

> *However, the creek's connections to Goleta Slough and to the upper watershed were severed long ago, as discussed in Section 4.3. Thus, the capacity for Old San Jose Creek to serve as a wildlife corridor is extremely limited.*

In the Western United States, riparian areas comprise less than one percent of the land area, but are among the most diverse, productive and valuable natural resources. Riparian habitats in California have been reduced by nearly 90 percent since the 1940's due to increased agriculture and development[7]. Because riparian zones provide habitat for a rich and diverse community and help to maintain the integrity of stream ecosystems, they are a highly sensitive and vital habitat in need of protection. Due to the rarity and importance of riparian systems, many riparian zones within the California coastal zone meet the definition of environmentally sensitive habitat which is defined in Section 30107.5, Environmentally Sensitive Area, of the Coastal Act as:

> *"Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.*

Based on my August 7, 2013 site visit observations, Ms. Tierney and URS's biological reports, as well as review of aerial photographs, I find that OSJC riparian area on the subject site is valuable and important riparian habitat and an important wildlife corridor. I find that the riparian area along OSJC, including the stretch on the subject site, does provide linkages between the upper and lower reaches of the San Jose Creek watershed including the Goleta Slough area, especially for birds. In addition the riparian habitat provides numerous important physical and biological functions including ground water recharge, nutrient recycling, minimizing erosion, perching, roosting, hunting, and nesting habitat for birds and shelter, shade, food, and denning habitat for animals. Ms. Tierney found OSJC to be a "historic and defunct drainage" and "an abandoned former diversion, and now non-functional leg of San Jose Creek" lacking significant habitat value. However, for the reasons listed above, I disagree with Ms. Tierney and find that OSJC and the associated riparian area on the subject property rise to the level of environmentally sensitive habitat (ESHA). The City of Goleta's General Plan also identifies OSJC as an Environmentally Sensitive Habitat Area.

Man-made Drainage

In addition to OSJC, there is an approximately 250-foot long, five to six foot wide, east/west flowing unnamed drainage immediately north and adjacent to the subject site that is perpendicular to and abuts OSJC. Currently the drainage supports a clump of approximately 10 arroyo willows on its north side at the west end of South Street. The origin of the drainage is unclear although it appears it may have been excavated

[7] Katibah, E. F. 1984. A brief history of riparian forests in the Central Valley of California. In Warner, R. E. and Hendrix, K. M. (eds.) California riparian systems ecology, conservation, and productive management. Univ. California Press, Berkeley. Pgs. 23–29.

sometime prior to 1995 in order to drain stormwater runoff into OSJC from Kellogg Avenue. Based on historic aerial photos, a stand of trees that appear to be arroyo willows developed along the drainage ditch between 1995 and 2007 (Figure 1). The trees formed a thick expanse of riparian canopy spanning both sides of the drainage that merged with the riparian canopy of OSJC creating a large area of connected riparian and wildlife corridor habitat. The trees on the south side of the drainage were on the subject site. An aerial photo taken in 2010 shows that all the trees along the south side of the drainage were removed, while the trees on the north side of the drainage remained in place (Figure 2). However, from 2007 to 2010, shrubs and herbs around the trees on the north side of the drainage were thinned and pathways were established among and beyond the trees. An aerial photograph taken in 2015 shows that all the trees, save the current cluster of arroyo willows located at the west end of South Street, were removed so that the drainage no longer supports riparian habitat connected to OSJC (Figure 3). The area of trees removed without a permit along the drainage between 2007 and 2015 totals approximately 0.40 acre. Although the drainage and remaining arroyo willows are not located on the subject site, they are immediately adjacent to the property and the proposed raw material stockpile

Ms. Tierney conducted a wetland study along the drainage (May 14, 2014, updated Sept. 4, 2014) and found that it did not meet the criteria for a wetland; she did not find a predominance of hydrophytic vegetation, hydric soils, or hydrology. I concur with Ms. Tierney that the drainage does not meet the Commission criteria for wetland habitat. Ms. Tierney did not analyze the value of the habitat as a riparian area prior to the unpermitted vegetation removal. As stated above, a thick expanse of riparian canopy occurred along the banks of the drainage prior to 2010 with an understory of shrubs and herbs. Currently, the only remaining vegetation along this stretch is a patch of arroyo willows. While we don't know what the species composition of the riparian habitat used to be, it likely was comprised of additional arroyo willow and several of the species that are currently found within the riparian habitat along OSJC. While the drainage is a man-made feature and likely did not have the species diversity nor the extent of physical and biological functions found within the riparian habitat of OSJC, it still would have performed important ecological services including providing micro-climates, woody and vegetative debris that is a source of food and habitat structure, perching, roosting, and nesting habitat, and a movement corridor.

Because the removal of the vegetation along the drainage was unpermitted, the Commission must evaluate the area as if the removal of vegetation had not occurred. Therefore, for the reasons detailed above, I find that the riparian area along the drainage which merged with the riparian area along OSJC rises to the level of ESHA.

ESHA Protection

Section 30240 of the Coastal Act, Environmentally sensitive habitat areas; adjacent developments, requires that ESHA is protected as follows:

> *(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*
>
> *(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

The recycling facility produces building materials such as Class 2 road base and other construction materials from concrete, asphalt, aggregate and other materials. Raw material is proposed to be crushed using an electrical-powered portable impact crusher, and fed into the electric/hydraulic powered screening plant, and an electrical powered radial stacker places the finished product onto the stockpile. The stockpiles, crushing operations, and the yard areas are proposed to be periodically sprayed with water to reduce fugitive dust. In addition, project operations would store and operate diesel-driven heavy equipment to load and move raw materials and finished product around the site.

The facility includes two material stockpile areas. The raw material stockpile for the concrete and asphalt/aggregate totals approximately 22,490 sq. ft. and is located in the northwest portion of the site (adjacent to the drainage)The finished road base/building material stockpile (crushed and screened) totals approximately 22,755 sq. ft. and is located south of the raw material stockpile (adjacent to OSJC). The concrete crushing/recycling operations area is located between the stockpiles (near OSJC).

Potential adverse impacts upon the creek and riparian habitat, associated with this facility, include noise from crushing raw material and the use of heavy equipment, emmissions/exhaust fumes from the diesel-driven heavy equipment, disturbance from all the activity on the site, introduction of invasive species, and dust/air borne particulates resulting from crushing raw materials. Concrete is a mixture of gravel or rock, sand, cement, and water. It may also contain fly ash, slag, silica fume, calcined clay, fibers (metallic or organic), and color pigment. Properties and the composition of crushed concrete can vary depending on the original properties and composition of the recovered concrete. Concrete contains crystalline silica which when repeatedly inhaled can cause silicosis, a serious and fatal lung disease. Asphalt is a sticky, black and highly viscous liquid or semi-solid form of petroleum. The components of asphalt are classified into four classes of compounds: saturates, saturated hydrocarbons; naphthene aromatics, consisting of partially hydrogenated polycyclic aromatic compounds; polar aromatics, consisting of high molecular weight phenols and carboxylic acids; and asphaltenes, consisting of high molecular weight phenols and heterocyclic compounds. According to the *Environmental Contaminants Encyclopedia, Asphalt Entry* regarding asphalt's toxicity to fish, wildlife, and aquatic life;

> *The main hazard associated with asphalt is from PAHs* [polycyclic aromatic hydrocarbons] *and alkyl PAHs in asphalt that can move into the ecosystem from the breakdown of asphalt. Since asphalt contains so many toxic and carcinogenic compounds and since leaching of harmful PAH compounds has been documented even in water pipe use, asphalt should be kept out of rivers, streams and other natural waters to the extent possible*[8]*.*

Conclusion

Given the nature and intensity of this heavy industrial-type facility, as well as the potential toxicity of the associated dust and final products, an adequate buffer area between the development and the creek and riparian habitat is particularly critical to absorb and filter nutrients and other pollutants that may result from the facility and to avoid or minimize impacts to water quality and ESHA. According to a California Coastal Commission January 2007 report entitled, "Policies in Local Coastal Programs Regarding Development Setbacks and Mitigation Ratios for Wetlands and Other Environmentally Sensitive Habitat Areas," which documents and provides assessment of the resource protection policies in the Local Coastal Programs that exist in the state of California, research on the effectiveness of riparian buffers have found that 30-60m (97.5-195 feet) wide riparian buffer strips will effectively protect water resources through physical and chemical filtration processes. For the purpose of filtering nitrogen compounds, a study determined that "the most effective buffers are at least 30m (97.5 feet) or 100 feet wide composed of native forest, and are applied to all streams, including small ones." Studies of the distribution of plant and bird species in relation to variable riparian buffer dimensions within several riparian systems have found that to include 90% of streamside plants, the minimum buffer ranged from 10m (32.5 feet) to 30m (97.5 feet), depending on the stream, whereas minimum buffers of 75m (250 feet) to 175m (570 feet) were needed to include 90% of the bird species. Research suggests that recommended widths for ecological concerns in riparian buffer strips typically are much wider than those recommended for water quality concerns, often exceeding 100m (325 feet) in width. In general, as the goals of riparian buffers change from single function to multiple or system functions, the required buffer widths increase. For a riparian ESHA buffer to serve multiple functions, the research indicates that a 100-foot buffer is the absolute minimum required for protecting the habitat area and water quality from adverse environmental impacts caused by development.

In the case of an intensive use near a creek and riparian habitat, such as the proposed project, the need for a generously sized and functional buffer between development and the waterway becomes greater. It should be noted that in order to protect riparian and other types of ESHA from significant habitat disruption, the Commission has often required a 100-foot riparian buffer be maintained in projects that are much less intense than the development considered herein. Given the intensity of development proposed,

[8] Irwin, Roy J. (Ed.) July 1, 1997. Environmental Contaminants Encyclopedia, Asphalt Entry. National Park Service, water Resources Divisions, Water Operations Branch, Fort Collins, Colorado.

the proposed 25-foot buffer is inadequate and would not serve to protect water quality and ESHA from significant degradation and disruption of habitat values. The facility's development and operations would degrade the riparian ESHA by significantly increasing dust, emissions, noise, vibration, lighting, erosion, and the introduction of waste, debris, sediment, toxic substances and other pollutants and, potentially, invasive species. While the proposed buffer and BMP's will provide some barrier, will help control fugitive dust, and will direct runoff away from the creek and riparian area to an extent, these measures are not sufficient to ensure maximum water quality and habitat protection, especially for such an intensive site use. The proposed project is a concrete, asphalt, aggregate, and other material recycling facility adjacent to an impacted waterway that ultimately connects to Goleta Slough, and therefore requires additional protections to prevent adverse impacts to the creek and riparian corridor. A larger riparian buffer is necessary in this case in order to ensure adequate water quality and habitat protection and increase the effectiveness of pollution and sediment control measures.

Figure 1. 2007 aerial photograph that shows a thick expanse of riparian habitat spanning both sides of the drainage and which merged with the riparian habitat along OSJC. The drainage borders the north side of the property and is perpendicular to and abuts OSJC.

Figure 2. 2010 aerial photograph that shows all the riparian habitat on the south side of the drainage was removed sometime between 2007 and 2010.

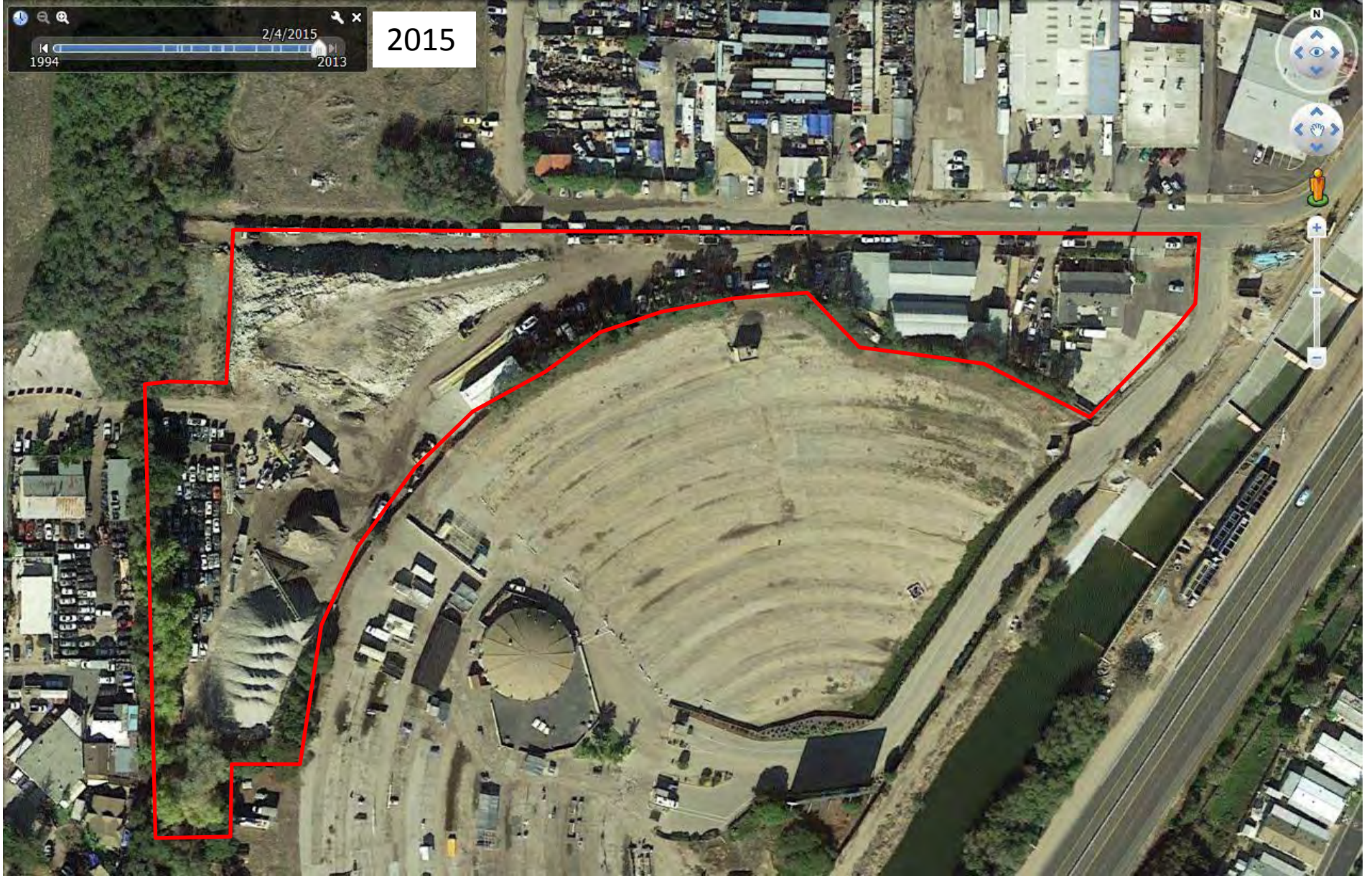


Figure 3. 2015 aerial photograph that shows all that remains of the riparian habitat along the drainage are approximately 10 arroyo willows at the west end of South Street.

STATE OF CALIFORNIA – NATURAL RESOURCES AGENCY EDMUND G. BROWN, JR, *Governor*

CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585-1800

February 19, 2015

Randall Fox
Reetz, Fox & Bartlett LLP
116 East Sola Street
Santa Barbara, CA 93101

Violation File Number:	V-4-13-0251
Property location:	903 South Kellogg Avenue, City of Goleta; Santa Barbara County Assessor's Parcel Number (APN) 071-190-034 ("subject property").
Violations[1]:	Operation of a concrete and asphalt recycling facility and an automobile salvage facility involving the unpermitted placement of an office trailer and deck, vehicle scale with concrete abutments, and concrete and asphalt stockpiles not in compliance with permit requirements; unpermitted storage of inoperable automobiles, storage containers, and other equipment and materials; and unpermitted removal of native riparian vegetation.

Dear Mr. Fox:

This letter is in response to the email you sent to Commissioner Jana Zimmer on February 3, 2015. In this email, you make statements in regards to Violation File No. V-4-13-0251, with which Commission staff disagrees, and we would again like to clarify the facts.

First, you assert that "[t]here is a Coastal Permit issued in 1977 that permits stockpiling and acknowledges that parking has occurred on the site since before adoption of the Coastal Act. My view is that the 1977 permit is sufficient to cover the road base recycling activities since they are essentially stockpiles of material." As you are aware from the multiple letters Commission staff has sent to you and/or your clients, this is not an accurate interpretation of Administrative Permit No. 125-30, which approves "[i]mport and stock pile dirt upon a vacant lot currently used for parking." The approved project plans demonstrate that the development that was authorized was limited to[2] a stockpile of no more than 5 ft. in height, and approximately 3,000 cu. yd. in the

[1] Please note that the description herein of the violation at issue is not necessarily a complete list of all development on the subject property that is in violation of the Coastal Act and/or that may be of concern to the Commission. Accordingly, you should not treat the Commission's silence regarding (or failure to address) other development on the subject property as indicative of Commission acceptance of, or acquiescence in, any such development.
[2] Section 3 of the permit indicates that the project reviewed and approved was "further described in the application."

northwest portion of the site. As you are aware, the piles of materials on site exceed the extent of stockpiling that was authorized in height, volume, and geographic scope, as well as being a wholly different material. Furthermore, the permit did not authorize ongoing stockpiling operations. Commission staff has determined that the current development on the subject property is not authorized by this permit.

Second, you assert that "[t]he CCC staff agreed not to interfere with the existing operation and process the permit application so long as we were pursuing a CDP." This statement is entirely inaccurate. Commission staff has sent you and/or your clients numerous letters, explaining that the development on the subject property is considered a violation of the Coastal Act and/or requested your clients stop work immediately. These letters were sent on: October 31, 2013; January 14, 2014; August 21, 2014; and September 8, 2014, and some of these letters contained the request that your clients stop work immediately in both bold and underlined text, for clarity. It should be abundantly clear to you and your clients that Commission staff has not authorized any development on the subject property and that Commission staff has not "agreed not to interfere" and in fact has consistently requested your clients stop work. If there was any confusion for any reason, we hope that this letter will again clarify this for you and your clients.

Again, we are requesting that your clients **immediately stop all unpermitted development activity on the subject property.** As of the date of this letter, Commission staff has confirmed that work has not stopped, that violations of the Coastal Act persist, and that damage to coastal resources is ongoing. Please be advised that ongoing concrete recycling operations on the subject property, along with any other unpermitted development activities, are considered to be "knowing and intentional" violations of the coastal act. As you and your clients are aware from our previous letters, Section 30820(b) of the Coastal Act states that, in addition to any other penalties, any person who "knowingly and intentionally" performs or undertakes any development in violation of the Coastal Act can be subject to a civil penalty of not less than $1,000 nor more than $15,000 per violation for each day in which the violation persists.

While we are still hopeful that we can resolve this matter amicably and are happy to work with you and your clients to do so, please be advised that the Coastal Act has a number of potential remedies to address violations of the Coastal Act, including the following:

Section 30809 states that if the Executive Director of the Commission determines that any person has undertaken, or is threatening to undertake, any activity that may require a permit from the Coastal Commission without first securing a permit, the Executive Director may issue an order directing that person to cease and desist. Section 30810 states that the Coastal Commission may also issue a cease and desist order. A cease and desist order may be subject to terms and conditions that are necessary to avoid irreparable injury to the area or to ensure compliance with the Coastal Act. Section 30811 also provides the Coastal Commission the authority to issue a restoration order to address violations that are causing continuous resource damage. A violation of a cease and desist order or restoration order can result in civil fines of up to $6,000 for each day in which the violation persists.

Additionally, Sections 30803 and 30805 authorize the Commission to initiate litigation to seek injunctive relief and an award of civil fines in response to any violation of the Coastal Act.

Section 30820(a)(1) provides that any person who undertakes development in violation of the Coastal Act may be subject to a penalty amount that shall not exceed $30,000 and shall not be less than $500 per violation. Section 30820(b) states that, in addition to any other penalties, any person who "knowingly and intentionally" performs or undertakes any development in violation of the Coastal Act can be subject to a civil penalty of not less than $1,000 nor more than $15,000 per violation for each day in which the violation persists.

Finally, Section 30812 authorizes the Executive Director to record a Notice of Violation against any property determined to have been developed in violation of the Coastal Act. If the Executive Director chooses to pursue that course, your clients will first be given notice of the Executive Director's intent to record such a notice, and your clients will have the opportunity to object and to provide evidence to the Commission at a public hearing as to why such a notice of violation should not be recorded. If a notice of violation is ultimately recorded against your clients' property, it will serve as notice of the violation to all successors in interest in that property[3].

Please be advised that if your clients choose not to stop work as requested, we will be forced to consider initiating appropriate enforcement proceedings. Your immediate attention to this matter is appreciated, and we look forward to resolving this matter. Please feel free to call me if you have questions about this letter or this enforcement case.

Sincerely,

Kristen Hislop
Enforcement Officer

cc: **Lisa Haage, Chief of Enforcement, CCC**
Andrew Willis, Enforcement Supervisor, CCC
Steve Hudson, District Manager, CCC
Barbara Carey, Supervisor, Planning and Regulation, CCC
Alex Helperin, Senior Staff Counsel, CCC
Kevin Weichbrod, Santa Barbara County District Attorney's Office
Greg Nordyke, City of Goleta
Natasha Lohmus, California Department of Fish and Wildlife

[3] Even without such notice, by law, while liability for Coastal Act violations attaches to the person or persons originally responsible for said violations (and continues to do so even if they no longer own the property), liability additionally attaches to whomsoever owns the property upon which a Coastal Act violation persists (see *Leslie Salt Co. v. San Francisco Bay Conservation and Development Com.* [1984], 153 Cal. App.3d 605, 622). Therefore, any new owner(s) of the subject property will share liability for, and the duty to correct, any remaining violations. Under California Real Estate law, if you plan to sell the subject property, it is incumbent upon you to inform any potential new owner(s) of same.