

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: REGULAR CALENDAR

Application No.: 4-17-0264

Applicant: City of Goleta

Agents: Laura Bridley, AICP, City Contract Planner

Project Location: Ekwill St. extension from Kellogg Ave. to Fairview Ave. and Fowler Rd. extension from South Kellogg Ave. to Technology Dr.; Habitat enhancement, restoration, and creation in the Ellwood Mesa Open Space Preserve and a Devereux Creek Tributary adjacent to Santa Barbara Shores Drive, Goleta, Santa Barbara County.

Project Description: Construction of a new 600 ft. segment of Ekwill St., including two travel lane roadway with 5 ft. wide Class II bike lanes and 5-6 ft. wide sidewalks; a roundabout at Pine Ave.; 250 ft. long, 21 ft. wide bottomless concrete arch culvert across Old San Jose Creek; 504 linear ft. of 4-6 ft. tall retaining walls; and 3,048 cu. yds. of grading. In addition, the project includes improvements to an existing 500 ft. segment and construction of a new 300 ft. segment of Fowler Rd., including two travel lane roadway with 4-12 ft. wide Class II bike lanes and 5-7 ft. wide sidewalks; a “knuckle” cul de sac at Technology Dr.; 655 cu. yds. of grading; and restoration of an existing drainage. The project also includes 5.1 acres of habitat enhancement, restoration, and creation.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **approval** of the proposed development with **ten (10) special conditions** regarding: (1) Final Biological Mitigation and Monitoring Plan, (2) Plans Conforming to the Engineer’s Recommendations, (3) Permanent Preservation of Habitat Mitigation Areas, (4) Pedestrian and Bicycle Public Access Improvement Timing, (5) Sensitive Species Surveys, (6) Interim Erosion Control Plans and Construction Responsibilities, (7) Post Construction Water

Quality Plan, (8) Removal of Excavated Material, (9) Conformance with the Requirements of Other Resource Agencies, and (10) Assumption of Risk, Waiver of Liability and Indemnity.

The City of Goleta (City) proposes to construct a transportation improvement project in the Old Town area of the City, which is a developed, urban area surrounded by residential, commercial, and industrial uses. As described above, the proposed project includes extension of Ekwill Street and Fowler Road, which would include the construction of two travel lane roadways, Class II bicycle lanes and sidewalks. The proposed Ekwill extension also includes the construction of a concrete bottomless arch culvert across the channel of Old San Jose Creek. Additionally, at Fowler Road, the proposed project includes construction of a natural drainage device (bioswale) and restoration of riparian habitat along a degraded drainage channel. The City has not yet completed, nor has the Commission certified, an LCP for the portions of the City within the Coastal Zone. Therefore, the proposed project requires a Coastal Development Permit (CDP) from this Commission, and the standard of review for this project is the Chapter 3 policies of the Coastal Act.

The City has proposed the subject transportation improvement project to enhance access and connectivity both regionally between the City, Santa Barbara Airport, the University of California Santa Barbara Campus, and Goleta Beach, and within the City itself. The proposed project would improve and enhance regional multi-modal access, including pedestrian and bicycle, and allow for expanded transit service. Furthermore, within the City, east-west transit and circulation within Old Town Goleta would be improved by reducing traffic congestion on Hollister Avenue and at the Hollister Avenue/State Route 217 interchange. This would also create a much safer east-west pedestrian and bike route in this area of the City.

The proposed project would result in unavoidable impacts to biological resources; specifically, it would permanently impact 0.41-acres of riparian habitat that is considered Environmentally Sensitive Habitat Area (ESHA). Although these impacts are proposed to be minimized in many significant ways, the subject CDP would allow for the construction of a project that is inconsistent with Coastal Act policy 30240 which does not allow vehicular transportation uses in ESHA. However, without the subject transportation project, existing circulation within Old Town Goleta would continue to become even less effective over time and result in increased congestion and delays to motorists, including those seeking access to the coast. Additionally, new bicycle lanes and sidewalks, which encourage non-vehicular travel, provide lower-cost methods of recreation and transportation, enhance regional connectivity, and allow for expanded transit service, could not be completed. As such, public access would not be maximized as required by Coastal Act Section 30210 (public access and recreational opportunities), and lower-cost recreational facilities would not be encouraged or provided, as required by Coastal Act Section 30213.

Where denial of a project would result in significant impacts to public access and recreation, but approval would cause impacts that are inconsistent with other Coastal Act policies, as is the case with the proposed transportation improvement project, a conflict between or among two or more Coastal Act policies is presented. Pursuant to Coastal Act Section 30007.5, the Commission must resolve the conflict in a manner which on balance is the most protective of significant coastal resources. In reaching this decision, the Commission evaluates the project's tangible, necessary resource enhancements over the current state and whether they are consistent with resource

enhancements mandated in the Coastal Act. In the end, the Commission must determine whether its decision to deny or approve a project is most protective of significant coastal resources.

As described in Section E of this report, the project can be approved under the conflict resolution provisions of the Coastal Act. However, measures must be taken to reduce impacts to the maximum extent feasible, to mitigate the project's impacts, and to condition the project so that it comes as close to compliance with the Chapter 3 policies as possible. In this case, approval of the proposed project is the decision that is most protective of coastal resources because it allows for improved bicycle and pedestrian, transit, and private vehicle access along and to the coast and the impacts that are inconsistent with the above mentioned policy relating to ESHA are relatively minor and are fully mitigated. As a component of the project, the City has proposed on-site riparian habitat restoration in the area of Old San Jose Creek as well as implementation of a comprehensive 5.1-acre habitat mitigation plan at the Ellwood Mesa Open Space Preserve and a Devereux Creek Tributary located adjacent to Santa Barbara Shores Drive. These measures adequately mitigate for biological resource impacts and result in a project that comes as close to compliance with the Chapter 3 policies as possible.

All proposed mitigation sites are located on City property. However, in order to ensure that these sites are maintained as open space into the future, Special Condition Three (3) requires that by acceptance of the subject permit, the City agrees that no development shall occur in the habitat mitigation areas, except for the activities contained within the approved Final Biological Mitigation and Monitoring Plan. Special Condition Three (3) also requires that the restored sites are preserved as open space in perpetuity.

The proposed pedestrian and bicycle access improvements would serve to enhance recreation and access opportunities for both local residents and visitors to this coastal area. In order to ensure that the public realizes the benefits of these components of the transportation improvement project concurrently with the other roadway improvement components, Special Condition Four (4) requires that they are constructed and opened by the time of the completion of the adjacent roadway construction.

If conditioned as recommended, approval of the proposed CDP is the decision that is most protective of coastal resources because it allows for improved bicycle, pedestrian, and vehicle access along and to the coast and the impacts that are inconsistent with the above mentioned policy relating to ESHA are relatively minor, minimized to the maximum extent feasible, and are fully mitigated. Therefore, staff recommends that the Commission approve the proposed project subject to the ten special conditions detailed in Section III of this report.

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APPENDICES

Appendix A. [Substantive File Documents](#)

EXHIBITS

- [Exhibit 1. Location Map](#)
- [Exhibit 2. Aerial View of Project Area](#)
- [Exhibit 3. Ekwill Street Project Plans](#)
- [Exhibit 4. Fowler Road Project Plans](#)
- [Exhibit 5. Proposed Off-Site Mitigation Locations](#)
- [Exhibit 6. Regional Pedestrian and Bicycle Access Map](#)

I. MOTION AND RESOLUTION

The staff recommends that the Commission adopt the following resolution:

MOTION: *I move that the Commission **approve** Coastal Development Permit No. 4-17-0264 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not 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 complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

- 1. Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
- 2. Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
- 3. Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- 4. Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. Final Biological Mitigation and Monitoring Plan

Prior to the issuance of the Coastal Development Permit, the applicant shall submit, for the review and approval of the Executive Director, a Final Biological Mitigation and Monitoring Plan for the enhancement/restoration/creation for all areas of the project site either temporarily or permanently disturbed by construction activities, and an exhibit depicting all mitigation areas located on-site and off-site. This program shall be prepared by a qualified biologist or environmental resource specialist. In addition to the information contained within the Biological Mitigation and Monitoring Plan and the Fowler Road Drainage Ditch Restoration Plan, prepared by AECOM (dated September 2016 and July 2017, respectively) the Final Biological Mitigation and Monitoring Plan shall contain the following:

- A. A mitigation program for all areas of on-site habitat that are proposed to be enhanced, restored, or created, including but not limited to, approximately 0.32 acres of restoration along Old San Jose Creek that includes the following:
 1. Onsite habitat restoration shall include, at a minimum, removal of any and all invasive plant species on the site and revegetation of all disturbed and impacted areas with appropriate native species of local genetic stock, including areas where invasive and non-native plants were removed. Plans must indicate that invasive plant species shall be removed from all development and restoration areas for the life of the project.
 2. Replacement trees and shrubs shall be planted immediately after completion of construction activities, and shall consist of native species of appropriate local genetic stock.
 3. Identification of the location, type, and height of any temporary fencing that will be used to protect mitigation areas. The plans shall also indicate when this fencing is to be removed.
 4. Non-native or invasive species shall be removed by hand to the greatest extent possible and herbicide use shall be minimized. If the applicant's qualified biologist or environmental resource specialist determines that herbicide use is necessary to ensure successful re-establishment of native plant species on site, then herbicide use shall be restricted to the use of Glyphosate Aquamaster (previously Rodeo) herbicide for the elimination of non-native and invasive vegetation only.
 5. Indication on plans that rodenticides containing any anticoagulant compounds (including, but not limited to, Warfarin, Brodifacoum, Bromadiolone or Diphacinone) shall not be used.
 6. A baseline assessment, including photographs, of the current physical and ecological condition of the proposed restoration site, including, a biological survey, a description

and map showing the area and distribution of existing vegetation types, and a map showing the distribution and abundance of any sensitive species.

7. A description of the goals of the mitigation and monitoring plan, including, as appropriate, topography, hydrology, vegetation types, sensitive species, and wildlife usage.
 8. A planting palette (seed mix and container plants), planting design, source of plant material, and plant installation. The planting palette shall be made up exclusively of native plants that are appropriate to the habitat and region and that are grown from seeds or vegetative materials obtained from local natural habitats so as to protect the genetic makeup of natural populations. Horticultural varieties shall not be used. Plantings shall be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the revegetation requirements. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized or maintained within the property.
 9. Sufficient technical detail in the mitigation and monitoring plan planting program, that includes, at a minimum, a description of planned site preparation, method and location of exotic species removal, timing of planting, plant locations and elevations on the baseline map, and maintenance timing and techniques.
 10. A plan for documenting and reporting the physical and biological "as built" condition of the site within 30 days of completion of the initial restoration activities. The report shall describe the field implementation of the approved enhancement program in narrative and photographs, and report any problems in the implementation and their resolution.
- B. A Monitoring Program to monitor all on-site and off-site enhancement/restoration/creation areas, including but not limited to, sites located within Old San Jose Creek, the drainage channel adjacent to Fowler Road, the Ellwood Mesa Open Space Preserve, and along the Devereux Creek Tributary located adjacent to Santa Barbara Shores Drive. Said monitoring program shall set forth the monitoring design and guidelines, criteria and performance standards by which the success of the enhancement/restoration/creation shall be determined. The monitoring program shall include but not be limited to the following:
1. Interim and Final Success Criteria. Interim and final success criteria shall include, as appropriate: species diversity, total ground cover of vegetation, vegetative cover of dominant species and definition of dominants, wildlife usage, hydrology, and presence and abundance of sensitive species or other individual "target" species. The basis for the selection of each performance criterion should be explained by referring to reference site data or peer-reviewed literature. Commonly, performance criteria take the form of, for example, "85% vegetative cover at the end of 5 years" without explanation. For some habitat types, this is too high, and for others it is too low. There must be some empirical basis for the selection of each performance criterion.

2. **Formal Monitoring (sampling) Design.** The design of the field monitoring program should relate logically to the performance criteria and chosen methods of comparison. The monitoring design and the monitoring methods (e.g. quadrats, transects, photo plots) should be described in sufficient detail to enable an independent scientist to duplicate it.
3. **Sample Size.** The estimated sample size for final performance monitoring should be based on a statistical power analysis conducted using data from the preliminary sampling. The results of the preliminary sample and the power analysis should be included in the plan. Generally, there should be sufficient replication to provide 90% power at an alpha of 0.10 to detect a difference that is biologically significant.
4. **Interim Monitoring Reports.** The applicant shall submit, for the review and approval of the Executive Director, on an annual basis, for a period of five (5) years, a written monitoring report, prepared by a monitoring resource specialist indicating the progress and relative success or failure of the enhancement on the site. This report shall also include further recommendations and requirements for additional enhancement activities in order for the project to meet the criteria and performance standards. This report shall also include photographs taken from pre-designated sites (annotated to a copy of the site plans) indicating the progress of recovery at each of the sites. Each report shall be cumulative and shall summarize all previous results. Each report shall also include a "Performance Evaluation" section where information and results from the monitoring program are used to evaluate the status of the revegetation/enhancement project in relation to the interim performance standards and final success criteria.
5. **Final Report.** At the end of the five-year period, a final detailed report on the revegetation/enhancement shall be submitted for the review and approval of the Executive Director. If this report indicates that the revegetation/enhancement project has, in part, or in whole, been unsuccessful, based on the performance standards specified in the restoration plan, the applicant(s) shall submit within 90 days a revised or supplemental restoration program to compensate for those portions of the original program which did not meet the approved success criteria. The revised or supplemental program shall be submitted to the Executive Director, for review and approval.
6. **Monitoring Period and Mid-Course Corrections.** Document success criteria, to provide a mechanism for making adjustments to the restoration sites when it is determined, through monitoring, or other means that the restoration techniques are not working. During the five-year monitoring period, all artificial inputs (e.g., irrigation, soil amendments, plantings) shall be removed except for the purposes of providing mid-course corrections or maintenance to insure the survival of the revegetation/enhancement site. If these inputs are required beyond the first two years, then the monitoring program shall be extended for every additional year that such inputs are required, so that the success and sustainability of the revegetation/enhancement is insured. The revegetation/enhancement site shall not be considered successful until it is able to survive without artificial inputs. Documentation of the necessary management and maintenance requirements, and provisions for timely remediation should the need arise.

- C. The applicant shall undertake development in accordance with the final approved plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Coastal Commission approved amendment to this coastal development permit or a new coastal development permit, unless the Executive Director determines that no new amendment or permit is legally required.

2. Plans Conforming to Engineer's Recommendations

By acceptance of this permit, the applicant agrees to comply with the recommendations contained in all of the plans and reports prepared by a registered engineer that are referenced as Substantive File Documents. These recommendations, including recommendations concerning hydrology, culvert installation, best management practices (BMPs), and drainage shall be incorporated into all final design and construction plans, which must be reviewed and approved by a registered engineer prior to commencement of development.

The final plans approved by the engineer shall be in substantial conformance with the plans approved by the Commission relative to construction, grading, and drainage. Any substantial changes in the proposed development approved by the Commission that may be required by the consultant shall require amendment(s) to the permit(s) or new Coastal Development Permit(s).

3. Permanent Preservation of Habitat Mitigation Areas

By acceptance of this permit, the applicant agrees that no development, as defined in section 30106 of the Coastal Act, shall occur in the habitat mitigation areas, as shown on the final habitat enhancement, restoration, and creation site plan required pursuant to Special Condition One, except for the activities contained within the approved Final Biological Mitigation and Monitoring Plan. All mitigation areas shall be preserved as open space in perpetuity.

4. Pedestrian and Bicycle Public Access Improvement Timing

By acceptance of this permit, the applicant agrees that construction of all proposed pedestrian and bicycle public access improvements, including Class II bicycle lanes and sidewalks, shall be completed and open to the public no later than the completion of the Ekwil Street and Fowler Road extensions.

5. Sensitive Species Surveys

For any construction activities, the applicant shall retain the services of a qualified biologist or environmental resource specialist (hereinafter, "environmental resource specialist") to conduct sensitive species surveys (including birds and other terrestrial species) and monitor project operations associated with all construction activities. At least 30 calendar days prior to commencement of any construction activities, the applicant shall submit the name and qualifications of the environmental resource specialist, for the review and approval of the Executive Director. The applicant shall have the environmental resource specialist ensure that all project construction and operations are carried out consistent with the following:

- A. The environmental resource specialist shall conduct surveys 30 calendar days prior to the approved construction activities to detect any active sensitive species, reproductive

behavior, and active nests within 500 feet of the project site. Follow-up surveys must be conducted 3 calendar days prior to the initiation of construction and nest surveys must continue on a monthly basis throughout the nesting season or until the project is completed, whichever comes first.

- B. In the event that any sensitive species are present in or adjacent to the construction area but do not exhibit reproductive behavior and are not within the estimated breeding/reproductive cycle of the subject species, the qualified biologist shall either: (1) initiate a salvage and relocation program prior to any construction activities to move sensitive species by hand to safe locations elsewhere along the project reach or (2) as appropriate, implement a resource avoidance program with sufficient buffer areas to ensure adverse impacts to such resources are avoided. The applicant shall also immediately notify the Executive Director of the presence of such species and which of the above actions are being taken. If the presence of any such sensitive species requires review by the United States Fish and Wildlife Service and/or the California Department of Fish and Wildlife, then no development activities shall be allowed or continue until any such review and authorizations to proceed are received, subject to the approval of the Executive Director.
- C. If an active nest of a federally or state-listed threatened or endangered species, bird species of special concern, or any species of raptor or heron is found, the applicant shall notify the appropriate State and Federal agencies within 24 hours, and shall develop an appropriate action specific to each incident. The applicant shall notify the California Coastal Commission in writing by facsimile or e-mail within 24 hours and consult with the Commission regarding determinations of State and Federal agencies.
- D. If an active nest of any federally or state listed threatened or endangered species, species of special concern, or any species of raptor or heron is found within 300 feet of construction activities (500 feet for raptors), the applicant shall retain the services of an environmental resource specialist with experience conducting bird and noise surveys, to monitor bird behavior and construction noise levels. The environmental resources specialist shall be present at all relevant construction meetings and during all significant construction activities (those with potential noise impacts) to ensure that nesting birds are not disturbed by construction related noise. The environmental resource specialist shall monitor birds and noise every day at the beginning of the project and during all periods of significant construction activities. Construction activities may occur only if construction noise levels are at or below a peak of 65 dB at the nest(s) site. If construction noise exceeds a peak level of 65 dB at the nest(s) site, sound mitigation measures such as sound shields, blankets around smaller equipment, mixing concrete batches off-site, use of mufflers, and minimizing the use of back-up alarms shall be employed. If these sound mitigation measures do not reduce noise levels, construction within 300 ft. (500 ft. for raptors) of the nesting trees/areas shall cease and shall not recommence until either new sound mitigation can be employed or nesting is complete.

- E. The environmental resource specialist shall be present during all construction, grading, excavation, and vegetation removal activities within Old San Jose Creek. The environmental resource specialist shall require the applicant to cease work should any breach in permit compliance occur, or if any unforeseen sensitive habitat issues arise. If significant impacts or damage occur to sensitive habitats or to wildlife species, the applicants shall be required to submit a revised, or supplemental program to adequately mitigate such impacts. The revised, or supplemental, program shall be processed as an amendment to this coastal development permit or a new coastal development permit.

6. Interim Erosion Control Plans and Construction Responsibilities

A. *Prior to the issuance of the coastal development permit*, the applicant shall submit to the Executive Director an Interim Erosion Control and Construction Best Management Practices Plan, prepared by a qualified, licensed professional. The qualified, licensed professional shall certify in writing that the Interim Erosion Control and Construction Best Management Practices (BMPs) plan are in conformance with the following requirements:

1. Erosion Control Plan

- (a) The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas and stockpile areas. The natural areas on the site shall be clearly delineated on the plan and on-site with fencing or survey flags.
- (b) Include a narrative report describing all temporary run-off and erosion control measures to be used during construction.
- (c) The plan shall identify and delineate on a site or grading plan the locations of all temporary erosion control measures
- (d) The plan shall specify that grading shall take place only during the dry season (April 1 – October 31). This period may be extended for a limited period of time if the situation warrants such a limited extension, if approved by the Executive Director. The applicant shall install or construct temporary sediment basins (including debris basins, desilting basins, or silt traps), temporary drains and swales, sand bag barriers, silt fencing, and shall stabilize any stockpiled fill with geofabric covers or other appropriate cover, install geotextiles or mats on all cut or fill slopes, and close and stabilize open trenches as soon as possible. Basins shall be sized to handle not less than a 10 year, 6 hour duration rainfall intensity event.
- (e) The erosion control measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained throughout the development process to minimize erosion and sediment from runoff waters during construction. All sediment should be retained on-site, unless removed to an appropriate, approved dumping location either outside of the coastal zone or within the coastal zone to a site permitted to receive fill.
- (f) The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than 30 days, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils and cut and fill slopes with

geotextiles and/or mats, sand bag barriers, silt fencing; temporary drains and swales and sediment basins. The plans shall also specify that all disturbed areas shall be seeded with native grass species and include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.

- (g) All temporary, construction related erosion control materials shall be comprised of bio-degradable materials (natural fiber, not photo-degradable plastics) and must be removed when permanent erosion control measures are in place. Bio-degradable erosion control materials may be left in place if they have been incorporated into the permanent landscaping design.

2. Construction Best Management Practices

- (a) No demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion.
- (b) No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers.
- (c) Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project.
- (d) Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters.
- (e) All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day.
- (f) The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction.
- (g) Debris shall be disposed of at a permitted disposal site or recycled at a permitted recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required.
- (h) All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil.
- (i) Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems.
- (j) The discharge of any hazardous materials into any receiving waters shall be prohibited.

- (k) Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible.
- (l) Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity
- (m) All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

B. The final Interim Erosion Control and Construction Best Management Practices Plan shall be in conformance with the site/ development plans approved by the Coastal Commission. Any necessary changes to the Coastal Commission approved site/development plans required by a qualified, licensed professional shall be reported to the Executive Director. No changes to the Coastal Commission approved final site/development plans shall occur without an amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

7. Post Construction Water Quality Plan

By acceptance of this permit, the applicant agrees to implement the post construction storm water requirements contained within the Hollister/State Route 217 Interchange Modifications and Ekwill Street and Fowler Road Extension Projects Memorandum, completed by Drake Haglan and Associates, dated September 9, 2016.

8. Removal of Excavated Material

Prior to the issuance of the coastal development permit, the applicant shall provide evidence to the Executive Director of the location of the disposal site for all excess excavated material and construction/demolition debris from the site. If the disposal site is located in the Coastal Zone, the disposal site must have a valid coastal development permit for the disposal of fill material. If the disposal site does not have a coastal permit, such a permit will be required prior to the disposal of material.

9. Conformance with the Requirements of the Resource Agencies

The applicant shall comply with all permit requirements, and mitigation measures of the California Department of Fish and Wildlife, State Water Quality Control Board, Regional Water Quality Control Board, U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service with respect to preservation and protection of water quality and the environment. Any change in the approved project which may be required by the above-stated agencies shall be submitted to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations.

10. Assumption of Risk

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from erosion, flooding, and liquefaction; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

Prior to issuance of the Coastal Development Permit, the applicant shall submit a written agreement, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. PROJECT DESCRIPTION AND BACKGROUND

Project Description

The City of Goleta is proposing to construct a transportation improvement project within the City's Old Town area, which includes 1) construction of a new segment of Ekwil Street; 2) improvements to an existing segment and construction of a new segment of Fowler Road; and 3) construction of roundabouts and other infrastructure at Hollister Avenue near the State Route 217 interchange. As depicted on Exhibit 2, only portions of the subject project are located within the Coastal Zone. The portion of the project located at Hollister Avenue is not located within the Coastal Zone; however, all proposed Fowler Road improvements and a portion of the Ekwil Street improvements are located within the Coastal Zone, and are therefore the subject of this Coastal Development Permit (CDP). The proposed project also includes implementation of a 5.1-acre habitat mitigation program within the City of Goleta, at the Ellwood Mesa Open Space Preserve and a Devereux Creek Tributary located adjacent to Santa Barbara Shores Drive. The project components that are the subject of this CDP, are discussed in further detail below.

Ekwil Street

A new Ekwil Street segment is proposed to extend from Kellogg Avenue to Fairview Avenue, with a new roundabout at Pine Avenue. As depicted on Exhibit 3, the portion of the project that is located within the Coastal Zone includes an approximately 600 foot segment that extends west from Pine Avenue. Proposed improvements within this area include a two travel lane roadway with 5 foot wide Class II bicycle lanes and 5-6 foot wide sidewalks on both sides of the roadway. Additionally, a 250 foot long concrete bottomless arch culvert, with 8 foot long wingwalls at each end, is proposed to span the 21 foot wide channel of Old San Jose Creek. This portion of

the project would also include 504 linear feet of 4-6 foot high retaining walls and 3,048 cubic yards of grading (1,655 cubic yards of cut and 1,393 cubic yards of fill).

Fowler Road

Improvements, including the removal and replacement of curbs, gutters, and sidewalks, and resurfacing of the roadway, are proposed on an existing 500 foot segment of Fowler Road. A 300 foot extension of the road, which would terminate at a “knuckle” cul-de-sac at the intersection of Technology Drive is also proposed, and is depicted on Exhibit 4. Along the entire length of Fowler Road, improvements including a two travel lane roadway with 4-12 foot wide Class II bicycle lanes and 5-7 foot sidewalks on both sides of the roadway are also proposed. This portion of the project would require 655 cubic yards of grading (102 cubic yards of cut and 553 cubic yards of fill). Additionally, the proposed project also includes construction of a natural filtration device (bioswale) and restoration of riparian habitat along a degraded 250 foot long drainage channel located between the proposed cul-de-sac and Old San Jose Creek.

Habitat Enhancement, Restoration, and Creation

As described in further detail in Section B, implementation of the subject transportation improvement project would result in adverse impacts to riparian habitat. As such, the City has proposed a comprehensive mitigation plan that includes habitat enhancement, restoration, and creation to mitigate temporary and permanent project impacts. The subject mitigation would occur in Devereux Creek and one of its tributaries within Ellwood Mesa Open Space Preserve and in another Devereux Creek tributary that is located adjacent to Santa Barbara Shores Drive, as depicted on Exhibit 5. The City has proposed 5.1-acres of habitat enhancement, restoration, and creation to mitigate for all project impacts that would occur both within and outside of the Coastal Zone. Specifically, 4.93-acres of mitigation area would be located in the Coastal Zone, and 0.07-acres would be located immediately adjacent to the Coastal Zone in a portion of the Devereux Creek tributary that extends landward beyond the Coastal Zone Boundary. In addition, the City has proposed on-site riparian habitat restoration in the area of Old San Jose Creek.

Background

The City of Goleta (City) has proposed the subject transportation improvement project to enhance access and connectivity both regionally between the City, Santa Barbara Airport, the University of California Santa Barbara Campus, and Goleta Beach, and within the City itself. The proposed project would improve and enhance regional multi-modal access, including pedestrian and bicycle, and allow for expanded transit service. Furthermore, within the City, east-west transit and circulation within Old Town Goleta would be improved by reducing traffic congestion on Hollister Avenue and at the Hollister Avenue/State Route 217 interchange.

The subject project was originally identified in the 1998 Goleta Old Town Revitalization Plan, which was incorporated in the Goleta Community Plan as part of an amendment to the County of Santa Barbara Local Coastal Program (LCP). The subject amendment (2-98-B) was certified as submitted by the Commission in February 1999. The Revitalization Plan identified transportation deficiencies within the Goleta Old Town area, which included a lack of east-west travel alternatives to Hollister Road, poor circulation due to incomplete roads and bikeways, and inadequate pedestrian access. Improvements to both Ekwil Street and Fowler Road were cited as

ways to address the identified transportation deficiencies. Additionally, the plan identified the need for enhanced regional trails, including the development of a recreational trail along Old San Jose Creek to provide increased recreational opportunities to residents and visitors of the area by providing an additional access route to nearby coastal areas.

The City of Goleta was incorporated in 2002, and at that time the City became the sponsoring agency for the subject project. In 2004 (and again in 2008 to reflect project modifications) Notices of Preparation for the Ekwil Street and Fowler Road Extension Project were released. Public review of the Draft Environmental Impact Report (EIR) occurred from September 1 to October 17, 2011, and on November 28, 2011 the final version of the EIR was certified by the Planning Commission.

As mentioned above, prior to the incorporation of the City in 2002, the project site was subject to the certified LCP for the County of Santa Barbara. As a result of the City incorporation, lands within the City limits ceased to be within the coastal development permit jurisdiction of the County. However, the City has not yet completed, nor has the Commission certified, a new LCP for the portions of the City within the Coastal Zone. Therefore, the proposed project requires a coastal development permit from this Commission, and the standard of review for this project is the Chapter 3 policies of the Coastal Act.

As such, in 2013, the City of Goleta submitted an application (CDP 4-13-0910) for a similar transportation improvement project located in the same area as the currently proposed project. This application was deemed incomplete and several letters outlining the additional information needed were sent to the City. The last incomplete letter was sent on December 1, 2014; however, the application remained incomplete, and was ultimately returned for incompleteness on January 10, 2017. This application included a longer extension of Fowler Road that would have connected to Fairview Road. This would have resulted in substantially greater riparian habitat impacts due to the fact that in order to reach Fairview Road, the Fowler Road extension would have crossed Old San Jose Creek. Additionally, the Santa Barbara Airport and the Federal Aviation Authority raised safety concerns regarding this extension as the road would have extended into the Airport Runway Protection Zone.

The subject CDP application was submitted to the Commission on March 10, 2017. This permit application was deemed incomplete and a letter outlining the additional information needed was sent to the applicant on April 6, 2017. The applicant provided all of the information items requested by staff and the permit application was deemed complete for filing on November 27, 2017.

B. ENVIRONMENTALLY SENSITIVE HABITAT AREAS AND WATER QUALITY

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy

populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states that:

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 30236 of the Coastal Act states the following:

Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to (1) necessary water supply projects, (2) flood control projects where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development, or (3) developments where the primary function is the improvement of fish and wildlife habitat.

Section 30240 of the Coastal Act protects environmentally sensitive habitat areas (ESHA) by restricting development in and adjacent to ESHA. Section 30240 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.

Coastal Act Section 30230 requires that uses of the marine environment be carried out in a manner that will sustain the biological productivity of coastal waters for long-term commercial, recreational, scientific, and educational purposes. Further, Section 30231 of the Coastal Act requires that the biological productivity and quality of coastal waters be maintained and

protected through measures such as controlling runoff, preventing depletion of groundwater supplies, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing the alteration of natural streams. Section 30240 of the Coastal Act requires that environmentally sensitive habitat areas (ESHA) must be protected against disruption of habitat values and that only resource dependent uses may be allowed within ESHA. Additionally, development adjacent to ESHA must be sited and designed to prevent impacts that would significantly degrade ESHA. Section 30236 of the Coastal Act sets forth limitations on the types of projects that may be allowed to cause substantial alteration of rivers and streams.

The proposed transportation improvements are located in Old Town Goleta, in an area that is predominately developed with commercial and industrial uses, as depicted on Exhibit 2. The Ekwil Street extension would extend from Kellogg Avenue to Fairview Avenue; however, only a portion of this extension is located within in the Coastal Zone. Specifically, the portion in the Coastal Zone extends 600 feet west from Pine Avenue, along Old San Jose Creek, and then crosses the creek before reaching Fairview Avenue. The proposed Fowler extension is fully located in the Coastal Zone, and extends from Kellogg Avenue to Technology Drive. This segment is located approximately 0.30 mile south of the proposed Ekwil extension. The proposed natural filtration device (bioswale) and drainage restoration is located immediately west of the Fowler Road improvements, and extends approximately 250 feet, terminating near Old San Jose Creek.

Riparian Habitat

The project 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. 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. 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 0.5 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

(*Salix lasiolepis*) thickets, red willow (*Salix laevigata*) thickets, and black cottonwood (*Populus balsamifera* ssp. *trichocarpa*) woodland vegetation.

In addition to the riparian habitat along Old San Jose Creek, riparian habitat is also present on the project site along a 250 foot long east/west flowing degraded drainage channel that is located between the proposed Fowler Road cul-de-sac and Old San Jose Creek. The channel bottom of the subject drainage is approximately 3 feet wide, the top of bank is 12 feet wide on average, and the depth of channel is approximately 3 feet. This drainage supports small stand of arroyo willow trees (*Salix lasiolepis*), a native riparian vegetation community.

The origin of the subject drainage channel 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 similar to that which currently exists developed within this drainage between 1995 and 2007. However, between 2007 and 2011, a significant portion of the riparian vegetation along the drainage was gradually removed by a different landowner without the benefit of a CDP.

Ekwill Street Extension

Proposed improvements for the 600-foot Ekwill Street extension include a two travel lane roadway with 5 foot wide Class II bicycle lanes and 5-6 foot wide sidewalks on both sides of the roadway. A 250 foot long concrete bottomless arch culvert, with 8 foot long wingwalls at each end, is also proposed to span the 21 foot wide channel of Old San Jose Creek.

The subject Ekwill Street extension would be located along the riparian corridor of Old San Jose Creek. 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*), and red willow (*Salix laevigata*). 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). Additionally, the City of Goleta's General Plan identifies Old San Jose Creek as ESHA.

Construction of the proposed Ekwill Street transportation improvements would result in both permanent and temporary adverse impacts to riparian habitat along the banks of Old San Jose Creek. Specifically, 0.37-acres of riparian habitat would be permanently impacted, 0.08-acres would be temporarily impacted, and 73 trees would be removed.

The City has examined numerous siting and design alternatives to avoid and minimize impacts to riparian habitats. Construction of a creek crossing at Daley Street was examined, however it was determined that it would result in greater impacts to riparian habitat area (0.14-acre increase) and greater right-of-ways acquisitions would be necessary compared to the proposed Ekwill extension. Additionally, the City analyzed an alternative creek crossing at Mathews Street and while it would result in less riparian impacts compared to the proposed Ekwill extension, significantly greater right-of-way acquisitions would be necessary and the City deemed this alternative infeasible. Furthermore, design alternatives, including the addition of retaining walls and deletion or redesign of parkways were also analyzed. This resulted in redesign of proposed parkways to be bioretention areas that will retain and treat runoff from the roadway extension.

Alternative culvert designs, including a clear span bridge were also analyzed; however, the City determined that a bridge design would result in greater riparian habitat impacts due to the fact that a larger supporting structure and larger overall footprint would be required.

In addition, the soft bottom concrete arch culvert that is proposed to span the channel of Old San Jose Creek for the Ekwill Road extension would not constitute a channelization or substantial alteration of the creek within the meaning of Section 30236 of the Coastal Act.

Fowler Road Extension and Drainage Restoration

Improvements, including the removal and replacement of curbs, gutters, and sidewalks, and resurfacing of the roadway, are proposed on an existing 500 foot segment of Fowler Road. A 300 foot extension of the road, which would terminate at a “knuckle” cul-de-sac at the intersection of Technology Drive, is also proposed. Along the entire 800 foot segment of Fowler Road, improvements including a two travel lane roadway with 4-12 foot wide Class II bicycle lanes and 5-7 foot sidewalks on both sides of the roadway are also proposed. The proposed project also includes construction of a natural filtration device (bioswale) and restoration of riparian habitat along a 250 foot long east/west flowing degraded drainage channel that is located between the proposed cul-de-sac and Old San Jose Creek.

Construction of the proposed Fowler Road transportation improvements would result in both permanent and temporary adverse impacts to riparian habitat along the 250 foot long east/west flowing degraded drainage channel. Specifically, approximately 0.04-acres of riparian habitat would be permanently impacted, 0.02-acres would be temporarily impacted, and 8 trees would be removed.

As described above, a significant portion of the riparian vegetation along the subject drainage was gradually removed by a different landowner without the benefit of a CDP. However, the subject drainage currently supports a small stand of arroyo willow trees (*Salix lasiolepis*), a native riparian vegetation community. Despite the fact that this drainage channel has been degraded in the past, Commission Staff Ecologist Dr. Engel has determined that the riparian vegetation associated with this drainage meets the Coastal Act definition of an ESHA.

Although a separate owner removed riparian vegetation from the channel, as a component of the proposed habitat creation and enhancement plan, the City has proposed to restore the drainage. The proposed restoration includes planting a mix of native forbs along the channel bottom and banks, including salt grass (*Distichlis spicata*), California barley (*Hordeum brachyantherum*), and Common California rush (*Juncus patens*). Additionally, native riparian forb, shrub, and tree species, including blue elderberry (*Sambucus niga*), sandbar willow (*Salix exigua*), and mule fat (*Baccharis salicifolia*) will be planted along the top of bank. As proposed, areas of the subject drainage that were previously disturbed will be fully restored, and the extent and functional capacity of the riparian vegetation in the area will be enhanced by increasing native species diversity and abundance.

The proposed bioswale will be located along the channel bottom and will allow for the infiltration of stormwater into the soil for water quality treatment, as well as temporary storage of

peak runoff flows from the additional impervious surfaces created by the Fowler Road extension. This type of passive/natural capture and filtration design is superior to mechanical options, as mechanical options often do not treat runoff as efficiently, and may not treat all of the pollutants of concern. Active maintenance of the restored channel for upkeep of the proposed bioswale would not be required.

Previously proposed designs of Fowler Road included a longer extension that would have connected to Fairview Road. This would have resulted in substantially greater riparian habitat impacts due to the fact that in order to reach Fairview Road, the Fowler Road extension would have crossed Old San Jose Creek. City staff decided to reduce the scope of the Fowler Road extension in order to avoid adverse impacts to riparian habitat and to address the Santa Barbara Airport and the Federal Aviation Authority Airport Runway Protection Zone safety concerns. Furthermore, City staff worked to ensure that the remaining portions of the Fowler Road extension, including the “knuckle” cul-de-sac, were the minimum design necessary to accommodate the mix of transportation modes and the types of vehicles that will be able to use the roadway, while still complying with the design standards that have been adopted by the City.

Conclusion

Pursuant to Coastal Act Section 30240, only resource-dependent uses are allowed in ESHA. The proposed transportation improvement project is not a resource-dependent use, and therefore cannot be allowed in the riparian habitat consistent with Section 30240. However, as described in Section E of this report, the proposed project may be approved under the conflict resolution provision of the Coastal Act, in spite of this inconsistency.

Nonetheless, if the proposed project may be approved under the conflict resolution provision, it must be structured such that, to the greatest extent possible, the remaining requirements of Section 30240 are adhered to; namely, ESHA shall not be significantly disrupted or degraded. As described above, the City evaluated numerous project alternatives and determined that the project purpose and objectives could not be achieved without impacts to riparian habitat. The proposed project has been designed such that ESHA impacts are minimized to the maximum extent feasible. Further, as proposed, the City would implement a substantial Habitat Mitigation and Monitoring Program, which requires that all temporary adverse impacts to riparian habitat are mitigated at a 2:1 ratio and all permanent impacts are mitigated at a ratio of 3:1 through habitat enhancement, restoration and creation. Additionally, impacts to native trees would be mitigated at a ratio of 10:1.

Proposed Habitat Enhancement, Restoration, and Creation Plan

Construction of the subject project would result in adverse impacts to riparian habitat areas. As proposed, all temporary adverse impacts to riparian habitat would be mitigated at a 2:1 ratio and all permanent impacts would be mitigated at a ratio of 3:1 through habitat enhancement, restoration, and creation. Impacts to native trees would be mitigated at a ratio of 10:1. Mitigation is proposed both on the project site, as well as off-site within City open space areas.

The City has proposed 5.1-acres of habitat enhancement, restoration, and creation to mitigate for all project impacts that would occur both within and outside of the Coastal Zone. This total

equates to 4.48-acres of riparian restoration, 0.62-acres of native tree restoration/creation, and the planting of 1,190 native tree species. Specifically, 3.27-acres would be implemented along Devereux Creek in the Ellwood Mesa Open Space Preserve, 1.51-acres would be located in a Devereux Creek tributary located adjacent to Santa Barbara Shores Drive, and 0.32-acres would be located on the project site within Old San Jose Creek.

The subject off-site mitigation locations were selected because all proposed restoration could not be sited on the project site within the Old San Jose Creek riparian area primarily due to the fact that much of the area is not owned by the City and was not available for purchase. The Devereux Creek location within the Ellwood Mesa Open Space Preserve was selected because the riparian corridors are highly degraded due to the presence of non-native plants and because restoration would improve water quality and reduce erosion. Additionally, this site affords the opportunity to improve habitat for the monarch butterfly (*Danaus plexippus*), which is a sensitive species. The Devereux Creek tributary located adjacent to Santa Barbara Shores Drive was selected by the City also because the riparian corridor is highly degraded due to the presence of non-native plants.

The proposed restoration within Ellwood Mesa and along Santa Barbara Shores Drive would be predominately focused on expanding the extent and functional capacity of the riparian corridors by increasing native species diversity and abundance along otherwise unvegetated and non-native dominated creek beds. Within Ellwood Mesa, the edge of the existing riparian woodland would be expanded and enhanced with a variety of native trees including coast live oak (*Quercus agrifolia*) and Southern California black walnut (*Juglans californica*), which provide important food and shelter for a variety of wildlife species. Additionally, Monarch butterfly habitat would be enhanced in Ellwood Mesa by providing nectar and host species and future roosting habitat.

The Biological Mitigation and Monitoring Plan submitted by the applicant contains substantial information relating to implementation of the proposed offsite mitigation described above, including species composition, planting methodologies, as well as detail regarding non-native species removal. However, the submitted plan does not contain sufficient detail regarding the monitoring portion of the project. Adequate monitoring is essential to ensure that the proposed restoration is successful, and monitoring plans must contain information relating to monitoring design and guidelines, criteria and performance standards by which the success of the enhancement, restoration, and creation shall be determined. Therefore, in order to ensure adequate monitoring of all proposed restoration areas, **Special Condition One (1)** requires that the applicant submit a Final Biological Mitigation and Monitoring Plan to ensure the successful management, monitoring, and completion of the aforementioned enhancement.

Furthermore, as described above the City has proposed to complete 0.32-acres of riparian restoration on the project site within Old San Jose Creek. Although the submitted Biological Mitigation and Monitoring Plan contains substantial information regarding implementation of proposed off-site mitigation, the plan does not contain detail regarding the location, species composition, or planting methodologies for on-site areas. As such Special Condition One (1) also requires that the Final Biological Mitigation and Monitoring Plan contain additional detail including a description of planned site preparation, method and location of exotic species

removal, timing of planting, plant locations and elevations on the baseline map, and maintenance timing and techniques for implementation of all on-site restoration.

As mentioned above, all proposed mitigation sites are located on City property. On-site restoration would occur within the City's easement area, and off-site restoration would occur in City-owned open space areas. Although these areas are currently designated as open space, in order to ensure that the mitigation sites are maintained as such into the future, **Special Condition Three (3)** requires that by acceptance of the subject permit, the City agree that no development, as defined in section 30106 of the Coastal Act, shall occur in the habitat mitigation areas, except for the activities contained within the approved Final Revised Biological Mitigation and Monitoring Plan. Special Condition Three (3) also requires that preserved as open space in perpetuity.

Sensitive Species

Biological surveys occurred on the project site between May 2012 and February 2014, as well as during the spring of 2017. During these surveys a total of 64 wildlife species were observed at, or within 100 feet of the project site. Out of those species observed, seven are designated as special status, including one invertebrate, and six bird species. Special status species observed include the Monarch Butterfly (*Danaus plexippus*), Cooper's Hawk (*Accipiter cooperii*), Great Egret (*Ardea alba*), Northern Harrier (*Circus cayaneus*), Oak Titmouse (*Baeolophus inornatus*), White-tailed Kite (*Elanus leucurus*), and Yellow Warbler (*Dendroica petechial brewsteri*). As such, construction of the proposed project has the potential to disturb sensitive species in and around the project area due to noise, vibration, dust, and disturbance associated with construction. Therefore, to ensure that potential adverse impacts to sensitive bird and other terrestrial species are avoided, **Special Condition Five (5)** requires that the applicant retain the services of a qualified biologist(s) or environmental resource specialist(s) to conduct surveys for sensitive wildlife species and to monitor project operations. At least thirty calendar days prior to commencement of any project operations, the applicant shall submit the name and qualifications of the biologist or specialist, for the review and approval of the Executive Director. The environmental resource specialist shall conduct a survey of all areas within and near the project site to determine presence and behavior of sensitive wildlife species 30 days prior to any project operations including construction, grading, excavation, vegetation eradication and removal, and hauling. In the event that any sensitive wildlife species exhibit reproductive or nesting behavior, the environmental specialist shall immediately notify the Executive Director and local resource agencies in writing.

ESHA Conclusion

The proposed project would result in adverse impacts to riparian ESHA. Although these impacts are proposed to be minimized in many significant ways, the project is fundamentally inconsistent with Coastal Act policy 30240, which does not allow for non-resource dependent transportation uses in ESHA. As described in Section E of this report, the project can be approved under the conflict resolution provisions of the Coastal Act. However, measures must be taken to mitigate the project's impacts to ESHA. As proposed, the project includes significant on and off-site habitat enhancement, restoration, and creation that will offset the impacts of the project. Special Condition One (1) requires appropriate performance criteria and monitoring for the proposed

habitat restoration. In addition, Special Condition Three (3) requires the preservation of all mitigation sites in perpetuity. Therefore, the Commission finds that the proposed project, as conditioned, adequately mitigates for its biological resource impacts, and would result in a project that comes as close to compliance with Coastal Act Section 30240 as possible.

Water Quality

Implementation of the subject transportation project would result in an increase of impervious surfaces by construction of new road surfaces, which would result in two long term impacts to the natural hydrologic balance of coastal waters. The first impact on water quality is due to the introduction of pollutants. Pollutants commonly detected in runoff commonly include:

- Petroleum products (e.g., gasoline, diesel fuel, motor oil and other lubricants) are common pollutants deposited on the roadway. Some fuels and lubricants contain additives, which may themselves be toxic to humans and aquatic life. Potential sources of petroleum products from construction activities include leaks from vehicles and machinery and maintenance activities such as fueling, changing oil and washing. Although petroleum products are commonly used on a daily basis, it is important to be careful about how they are used and disposed.
- Sediment, when it significantly exceeds natural concentrations. Sometimes other potential pollutants (e.g., lead) may become attached to sediments and are transported with the sediments to receiving waters, increasing the potential for water quality impacts. Possible sources of sediment in runoff from roadway construction activities include the tracking, transport and storage of loose bulk materials (e.g., sand or other aggregate), grading-related activities and soil erosion.
- Dissolved and suspended metals. Metals found in roadway storm water runoff are considered pollutants because above a certain threshold even low concentrations of these materials may harm aquatic life. These metals come from various sources and activities, including fuel combustion, brake pad wear (copper), tire wear (cadmium and zinc), metal corrosion, pressure-treated wood and creosote posts used for guard rails (arsenic), paints, herbicides and other materials.
- Pesticides, insecticides, and herbicides, which are used in chemical weed control and integrated pest management activities.

Pollutants are washed off the impervious roadway surfaces during rainfall events and become entrained in the roadway runoff. The pollutants originate from the vehicles that travel on the roadway, maintenance of the roadway, and adjacent graded and landscaped areas. This runoff can reach coastal waters such as the streams and groundwater present in the project area.

The second impact on water quality is due to higher volumes and higher velocities of runoff during storms than in the undeveloped condition due to the addition of impervious surfaces. The drainage system for the roadway also concentrates and often redirects runoff, which also may locally increase flow volumes and velocities in a given area. Adding volume and velocity of runoff can exceed the natural balance between runoff, sediment supply, and resistance to erosion of the bed and banks of a stream course, and result in accelerated erosion of the stream channel.

Slight changes in hydrology, including changes in the pattern of runoff, can effect large changes in seasonal waterways.

From a water quality perspective, the greatest area of concern is the project's potential permanent contribution to impervious surface area by the new roads. The project creates a larger surface area that will produce more runoff than the existing roadway, commensurate with its size. As the area of impervious surface increases, it becomes incrementally more difficult to dissipate, infiltrate, or treat runoff. Drake Haglan and Associates have prepared a Hollister/State Route 217 Interchange Modifications and Ekwill Street and Fowler Road Extension Projects Memorandum, dated September 9, 2016, which outlines the post-construction storm water measures that have been designed for the subject transportation. Specifically, the report contains the following measures:

- Utilize earthen-based, low impact development Best Management practices to disperse runoff to landscaping, retention areas, and bioswales.
- Filter pollutants from post project runoff for all rainfall events with rates up to 0.26 inches per hour.
- Manage runoff so that post project runoff peaks do not exceed pre-project flow rates for all storms up to and including the 2-year storm event.

The standards within the memorandum that are described above are adequate to mitigate the adverse impacts on coastal waters that would result from implementation of the subject transportation project. As such, in order to ensure that impacts to water quality are minimized, **Special Condition Seven (7)** requires implementation of the post construction storm water requirements contained within the Hollister/State Route 217 Interchange Modifications and Ekwill Street and Fowler Road Extension Projects Memorandum. Furthermore, although the project will impact riparian vegetation, impacts to water quality will be avoided though implementation of the mitigation and design measures contained within the subject plan.

The applicant has received a Clean Water Act Section 401 Water Quality Certification from the Regional Water Quality Control Board (RWQCB), which contains several conditions of approval for the protection of water quality. To ensure that the applicant complies with all permit requirements of the RWQCB, **Special Condition Nine (9)** is required. Furthermore, to ensure that the applicant complies with the requirements of all resource agencies, Special Condition Nine (9) also requires that the applicant complies with all permit requirements and mitigation measures of the California Department of Fish and Wildlife, State Water Quality Control Board, U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service with respect to preservation and protection of water quality and the environment. Any change in the approved project which may be required by the above-stated agencies shall be submitted to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations.

As described above, Old San Jose Creek could be adversely impacted as a result of the implementation of project activities by unintentional introduction of sediment, debris, or chemicals with hazardous properties. To ensure that construction material, debris, or other waste

associated with project activities does not enter the water, **Special Condition Six (6)** outlines construction-related requirements to provide for the safe storage of construction materials. As provided under Special Condition Six (6), it is the applicant's responsibility to ensure that no construction materials, debris or other waste is placed or stored where it could be introduced to coastal waters. Special Condition Six (6) also requires that all construction debris, sediment, or trash shall be properly contained and removed from construction areas on a regular basis. Further, construction equipment shall not be cleaned on the beach or in the beach parking lots.

Further, stockpiling of excavated material and construction debris at the project site could result in transport of sediments into adjacent waterways. Therefore, in order to reduce the potential for sedimentation, **Special Condition Eight (8)** requires the applicant to provide evidence to the Executive Director of the location of the disposal site for all excess excavated material and debris. Should the disposal site be located in the Coastal Zone, a Coastal Development Permit shall be required.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Coastal Act Sections 30230 and 30231.

C. PUBLIC ACCESS AND RECREATION

Coastal Act Section 30210 states:

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

Coastal Act Section 30211 states:

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

Coastal Act Section 30213 states:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Coastal Act Section 30210 and Coastal Act Section 30211 mandate that maximum public access and recreational opportunities be provided and that development not interfere with the public's right to access the coast. Additionally, Coastal Act Section 30213 mandates that lower cost visitor and recreational facilities, such as public hiking and biking trails, shall be protected, encouraged, and provided, where feasible.

The subject project includes a new Ekwil Street segment from Kellogg Avenue to Fairview Avenue, with a new roundabout at Pine Avenue. Proposed improvements along this segment include a two travel lane roadway with 5 foot wide Class II bicycle lanes and 5-6 foot wide sidewalks on both sides of the roadway. The proposed improvements at Fowler Road extend from Kellogg Avenue to Technology Drive and also include construction of 4-12 foot wide Class II bicycle lanes and 5-7 foot sidewalks on both sides of the roadway.

The orientation of Old San Jose Creek creates a unique situation for the City, as it runs in a north-south direction and blocks east-west multimodal transportation. Travelers trying to reach a location on the opposite side of the creek must use Hollister Ave, or travel in another direction out of their way to reach an alternate crossing. Because it is Old Town's only major east-west arterial roadway, Hollister Avenue is greatly impacted and is a busy, four lane roadway that is not pedestrian- or bicyclist-friendly. In the morning and evening peak it currently has a level of service rating of "C", which is the minimum acceptable level. By 2035, without roadway improvements, the level of service is projected to decrease substantially to "D" and "E", respectively.

The City has proposed the subject transportation improvement project to enhance access and connectivity both regionally between the City, Santa Barbara Airport, the University of California Santa Barbara Campus, and Goleta Beach, and within the Old Town area of the City. Regionally, the proposed project would improve and enhance pedestrian and bicycle access and safety, and allow for expanded transit service. Within the City, east-west transit and circulation within Old Town Goleta would be improved as traffic congestion on Hollister Avenue and at the Hollister Avenue/State Route 217 interchange would be reduced.

The subject project was originally identified in the 1998 Goleta Old Town Revitalization Plan, which identified transportation deficiencies within the Goleta Old Town area, including a lack of east-west travel alternatives to Hollister Road, poor circulation due to incomplete roads and bikeways, and inadequate pedestrian access. Improvements to both Ekwil Street and Fowler Road were cited as ways to address the identified transportation deficiencies. Additionally, the plan identified the need for enhanced regional trails, including the development of the Old San Jose Creek Recreational Trail to provide increased recreational opportunities to residents and visitors of the area by providing an additional access route to nearby coastal areas.

Currently, within the project area there are no Class II bicycle facilities, and many existing streets have no sidewalks. Additionally, trail improvements along Old San Jose Creek have not been constructed in the project area. The proposed Ekwil Street extension includes the construction of a 1,000-foot long segment of the Old San Jose Creek Trail and a Class II bike path connection between Route 217 and Fairview Avenue that then leads to Goleta Beach. As mentioned above, this trail is identified in the Revitalization Plan, and will provide an additional access route to nearby Goleta Beach and existing coastal trails, including the Goleta Beach Trail, Atascadero Bike Path, and Maria Ygnacio Bike Path, which together total approximately 6 miles of coastal trails.

As described above, the proposed multi-modal transportation improvements will enhance public access to and along the coast. However, as proposed, the timing of the opening of the sidewalk

and bikeway improvements is not adequately assured to maximize access consistent with Section 30210 of the Coastal Act. As such, **Special Condition Four (4)** requires that the pedestrian and bicycle public access improvements are constructed and opened by the time of the completion of the adjacent roadway improvement construction, in order to ensure that the public realizes the benefits of this component of the transportation improvement project concurrently with the other components.

For these reasons, the Commission finds that the proposed project, as conditioned, is consistent with Coastal Act Sections 30210, 30211, and 30213.

D. HAZARDS AND GEOLOGIC STABILITY

Section 30253 of the Coastal Act states, in pertinent part, that new development shall:

- (1) *Minimize risks to life and property in areas of high geologic, flood, and fire hazard*
- (2) *Assure stability and structural integrity, and neither create or contribute significantly to erosion, instability, or destruction of the site or surrounding area or in any way require the construction or protective devices that would substantially alter natural landforms along bluffs and cliffs.*

Section 30253 of the Coastal Act mandates that new development shall minimize risks to life and property in areas of high geologic, flood, and fire hazard.

The project site is located within the San Jose Creek watershed and the proposed transportation improvements are located immediately adjacent to two drainages, Old San Jose Creek and an unnamed drainage that extends west from the proposed terminus of Fowler Road, an area historically subject to natural hazards including, but not limited to, erosion and flooding. The submitted plans and reports referenced as Substantive File Documents conclude that the project site is suitable for the proposed project based on the evaluation of the site's geology and soils in relation to the proposed development. The reports contain recommendations to be incorporated into the project plans to ensure the stability and geologic safety of the proposed project and the project site. As such, **Special Condition Two (2)** requires the applicant to comply with the recommendations contained in the applicable reports, to incorporate those recommendations into all final design and construction plans, and to obtain the project engineer's approval of those plans prior to the commencement of construction.

Additionally, to minimize erosion and ensure stability of the project site, **Special Condition Six (6)** requires that the project must include adequate drainage and erosion control measures. In order to achieve these goals, Special Condition Six (6) requires the applicant to submit interim erosion control plans certified by the project engineer. Further, the Commission finds that, for the project to ensure stability and avoid contributing significantly to erosion, all slopes and disturbed areas of the subject site must be landscaped, primarily with native plants, to stabilize disturbed soils and reduce erosion resulting from the development.

Lastly, although the conditions described above render the project sufficiently stable to satisfy the requirements of Section 30253, no project is wholly without risks. Due to the fact that the proposed project is located in an area subject to potential damage or destruction from natural hazards, including flooding and erosion, those risks remain substantial here. If the applicant nevertheless chooses to proceed with the project, **Special Condition Ten (10)** requires the applicant to assume the liability from these associated risks. Through the assumption of risk condition, the applicant acknowledges the nature of the hazards that exists on the site and that may affect the safety of the proposed development.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Coastal Act Section 30253.

E. CONFLICT RESOLUTION

Section 30007.5 of the Coastal Act states:

The Legislature further finds and recognizes that conflicts may occur between one or more policies of the division. The Legislature therefore declares that in carrying out the provisions of this division such conflicts be resolved in a manner which on balance is the most protective of significant coastal resources. In this context, the Legislature declares that broader policies which, for example, serve to concentrate development in close proximity to urban and employment centers may be more protective, overall, than specific wildlife habitat and other similar resource policies.

Section 30200(b) of the Coastal Act states:

Where the commission or any local government in implementing the provisions of this division identifies a conflict between the policies of this chapter, Section 30007.5 shall be utilized to resolve the conflict and the resolution of such conflicts shall be supported by appropriate findings setting forth the basis for the resolution of identified policy conflicts.

As noted previously in this report, the proposed project is inconsistent with Sections 30240 (ESHA) of the Coastal Act. However, as explained below, denying or modifying the proposed project to eliminate these inconsistencies would lead to nonconformity with other Coastal Act policies, namely Section 30210 and Section 30213 related to public access and lower cost recreational facilities. In such a situation, when a proposed project is inconsistent with one or more Chapter 3 policies, but denial of the project or modification of the project to render it consistent with those Chapter 3 policies would be inconsistent with another policy, Section 30007.5 of the Coastal Act provides for resolution of such a policy conflict.

Analysis

Determining whether the conflict resolution provisions apply and then resolving conflicts through application of Section 30007.5 involves assessing whether the following seven criteria are satisfied:

- 1) The project, as proposed, is inconsistent with at least one Chapter 3 policy;

- 2) Denial of the project or implementation of the project as modified to eliminate the inconsistency would affect some other coastal resource(s) in a manner inconsistent with at least one other Chapter 3 policy that affirmatively requires some protection or enhancement of those resources that the project would otherwise provide;
- 3) The project, if approved, would be fully consistent with the policy that affirmatively mandates resource protection or enhancement;
- 4) The project, if approved, would result in tangible resource enhancement over existing conditions;
- 5) The benefits of the project are not independently required by some other body of law;
- 6) The benefits of the project must result from the main purpose of the project, rather than from an ancillary component appended to the project to “create a conflict”; and,
- 7) There are no feasible alternatives that would achieve the objectives of the project without violating any Chapter 3 policies.

The proposed development meets all of the above criteria for applying conflict resolution, as follows:

Step 1

First, for the Commission to apply Section 30007.5, a proposed project must be inconsistent with an applicable Chapter 3 policy. Approval of the subject CDP, and subsequent construction of the subject transportation project, would be inconsistent with Section 30240, which protects ESHA, because portions of the subject development would be located in ESHA, even though the project is not a resource-dependent use.

Step 2

Second, denial of the project, or implementation of the project with modifications to eliminate the inconsistencies with Chapter 3 policies, would affect coastal resources in a manner inconsistent with at least one other Chapter 3 policy that affirmatively requires protection or enhancement of a resource that the project would protect or enhance. A true conflict between Chapter 3 policies results from a proposed project that is inconsistent with one or more policies, and for which denial or modification of the project would be inconsistent with at least one other Chapter 3 policy. Without the subject transportation project, existing circulation within Old Town Goleta would continue to become even less effective over time and result in increased congestion and delays to motorists, including those seeking access to the coast. Additionally, new bicycle lanes and sidewalks, which will enhance regional connectivity, provide safer routes for cyclists and pedestrians, provide lower-cost transportation and recreational options, and allow for expanded transit service, would not be completed. As such, public access would not be maximized, inconsistent with Section 30210 (public access and recreational opportunities). In addition, without the project, lower cost recreational facilities would not be encouraged or provided, inconsistent with Section 30213’s mandate. Section 30210 affirmatively requires the Commission to provide maximum public access, and Section 30213 affirmatively mandates

protection, encouragement, and, where feasible, provision of lower cost recreational facilities. Here, because denial of the project would result in adverse impacts to public access and recreation, a conflict between or among two or more Coastal Act policies is presented.

Step 3

The project, if approved, would be fully consistent with the policy that affirmatively mandates resource protection or enhancement. In this case, the project provides safe and long-term public access to and along the coast through this portion of Old Town Goleta, and, if modified as suggested to ensure opening of the public access bikeways and sidewalks, the project is fully consistent with the Coastal Act's mandate to maximize public access and encourage and provide lower cost recreation facilities. Although Section 30210 and 30214 require that access be maximized consistent with the need to protect natural resource areas, here there are no feasible alternatives that are less damaging to fragile natural resources. As described above, the City has reduced the project scope, redesigned project components, and otherwise addressed natural resource impacts to the maximum extent feasible. Given the fact that Old San Jose Creek and its riparian area run north-south through the City, there is no way to provide east-west access for bikes, pedestrians, and vehicles in this area of the City without crossing the creek or affecting its riparian area. Accordingly, in order to maximize public access and provide important recreational and alternative transportation options, some impacts to the creek are unavoidable. This project, as conditioned, is consistent with Sections 30210 and 30214(a)(3) because it was designed to appropriately limit access improvements in a manner that best preserves natural resources and sensitive habitat. Although not controlling, it is also notable that a similar transportation project was previously included in the Santa Barbara County LCP, which was certified by the Commission.

Step 4

The project, if approved, would result in tangible resource enhancement over existing conditions. This is the case here for several reasons. First, within the City, east-west transit and circulation would be improved, as traffic congestion on Hollister Avenue and at the Hollister Avenue/State Route 217 interchange would be reduced. Additionally, the proposed roadway extensions would provide an additional route for visitors and residents to access coastal areas, including Goleta Beach and the University of California Santa Barbara Campus, as well as allow for expanded transit service to these areas. Finally, the project would include construction of bicycle and pedestrian paths along both roadway extensions, which would provide improved public access to and along the coast, as well as an enhanced public recreational experience, as compared to the current bike and pedestrian access.

Step 5

The benefits of the project are not independently required by some other body of law. The benefits that would cause denial of the project to be inconsistent with a Chapter 3 policy cannot be those that a project proponent is already being required to provide pursuant to another agency's directive under another body of law. In other words, if the benefits would be provided regardless of the Commission's action on the proposed project, the project proponent cannot seek approval of an otherwise unapprovable project on the basis that the project would produce those benefits – that is, the project proponent does not get credit for resource enhancements that it is

already being compelled to provide. For this project, the City has no obligation from another agency to construct the subject transportation improvement project, and in particular the bicycle and pedestrian pathways.

Step 6

The benefits of the project must result from the main purpose of the project, rather than from an ancillary component appended to the project to “create a conflict”. A project’s benefits to coastal resources must be integral to the project purpose. If a project is inconsistent with a Chapter 3 policy, and the main elements of the project do not result in the cessation of ongoing degradation of a resource the Commission is charged with enhancing, the project proponent cannot “create a conflict” by adding to the project an independent component to remedy the resource degradation. The benefits of a project must be inherent in the purpose of the project. In this case the benefits of the project result from its primary purpose – improved regional transportation for vehicles, bicyclists, and pedestrians through this portion of the City.

Step 7

There are no feasible alternatives that would achieve the objectives of the project without violating any Chapter 3 policies. The only alternatives to the project would involve a different routing or design of the improvements. However, in this case, given the location of ESHA, other alternatives could not realize the same public access benefits and would still present the same Coastal Act inconsistencies as the subject proposal, as they would also impact ESHA. The City has studied various alternatives, has scaled back this project, and has worked to minimize impacts to ESHA. Because Old San Jose Creek and its riparian area run north-south through the City, there is no way to provide east-west access for bikes, pedestrians, and vehicles in this area of the City without crossing the creek or affecting its riparian area. Accordingly, in order to maximize public access and provide important recreational and alternative transportation options, some impacts to the creek are unavoidable, and this project is the least environmentally damaging alternative.

Conclusion

Based on the above, the Commission finds that the proposed project presents a conflict between Section 30240 on the one hand, and Sections 30210 and 30213 on the other, that must be resolved through application of Section 30007.5, as described below.

Conflict Resolution

With the conflict among Coastal Act policies established, the Commission must resolve the conflict in a manner which on balance is the most protective of significant coastal resources. In reaching this decision, the Commission evaluates the project’s tangible, necessary resource enhancements over the current state and whether they are consistent with resource enhancements mandated in the Coastal Act. In the end, the Commission must determine whether its decision to either deny or approve a project is the decision that is most protective of significant coastal resources.

It is not always the case that allowing transportation improvements that provide improved vehicular, bicycle, and pedestrian access would on balance be more protective of coastal

resources than the loss of ESHA. This is particularly true if a project's access benefits are vague or the impacts to ESHA are significant. However, it is true in the present, unique situation because, without the subject CDP, the existing roadways, including Hollister Avenue as well as the Hollister Avenue/State Route 217 interchange would continue to become even less effective over time and result in increased congestion and delays to motorists, including those seeking access to the coast. Additionally, alternate routes for both visitors and residents to coastal areas and expanded transit service would not be realized. Likewise, bicycle lanes and pedestrian access proposed along Ekwill Street and Fowler Road would not be available to provide enhanced public access. Due to the geography of this part of the City, there simply are not alternative locations to provide equivalent east-west access or lower-cost recreational and alternative transportation facilities.

In addition, the resource impacts in this case are relatively minor, comprising approximately 0.41-acres. This is not an instance where a major new roadway is planned to be constructed through a state park or other large blocks of undeveloped, sensitive land. The transportation improvements have also been planned for nearly two decades and were included as part of a certified LCP that used to govern this area.

The test for approval is not for the project to be "more" protective of resources, it must be "most" protective. In order for that finding to be made, the adverse coastal resource impacts caused by the project have to be minimized and then mitigated to the maximum extent feasible. As discussed in detail in the above sections, the City has modified the project so that it affects the least amount of ESHA feasible, and it has proposed a robust habitat mitigation plan, which includes on-site and off-site ESHA enhancement, restoration, and creation. As described throughout the other sections of this report, the proposed project, as conditioned, is consistent with all other applicable Coastal Act policies.

Conclusion

Approval of the proposed CDP is the decision that is most protective of coastal resources because it allows for improved bicycle, pedestrian, and vehicular access along and to the coast and the impacts that are inconsistent with the above mentioned policy relating to ESHA are minimized to the maximum extent feasible and mitigated.

ESHA will be impacted by the proposed project in a manner not consistent with the Coastal Act policy meant to protect it. In resolving the identified Coastal Act conflict, the Commission finds that the impacts on coastal resources from not constructing the project will be more significant than the project's habitat impacts if these impacts are minimized and mitigated as proposed and conditioned. Therefore, the Commission finds that approving the project, as conditioned, is, on balance, most protective of coastal resources.

F. 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 in detail above, the proposed project, as conditioned, is consistent with the policies of the Coastal Act. Feasible mitigation measures, which will minimize all adverse environmental effects, have been required as special conditions. Special Conditions One (1) through Ten (10) are required to assure the project's consistency with Section 13096 of the California Code of Regulations. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.

APPENDIX A

Substantive File Documents

Department of the Army Nationwide Permit Verification, US Army Corps of Engineers, dated January 15, 2015 and July 25, 2016.

Final Lake or Streambed Alteration Agreement, Notification No. 1600-2014-0138-R5, Ekwill Street and Fowler Road Extensions Project Impacting San Jose Creek, California Department of Fish and Wildlife, dated January 25, 2017.

Water Quality Certification Number 34214WQ08 for Ekwill Street and Fowler Road Extension Project, Santa Barbara County, Central Coast Regional Water Quality Control Board, dated January 23, 2017.

Ekwill Street and Fowler Road Extensions Project, Final Environmental Impact Report, SCH No. 2004061072, November 11, 2011.

Materials Report Ekwill Street and Fowler Road Extension Project, Fugro Consultants, Inc., dated February 2014.

Biological Resources Report for the Ekwill Street and Fowler Road Extensions Project, URS, March 2014.

Addendum to the Biological Resources Report for the Ekwill Street and Fowler Road Extensions Project, URS, dated June 3, 2014.

Addendum to the Biological Resources Report for the Ekwill Street and Fowler Road Extensions Project, AECOM, dated June 2017.

Fowler Road Drainage Ditch Restoration Plan for the Ekwill Street and Fowler Road Extensions Project, AECOM, dated July 2017.

Biological Mitigation and Monitoring Plan for the Ekwill Street and Fowler Road Extensions Project, AECOM, dated September 2016.

Historic Property Survey Report for the Ekwill Street and Fowler Road Extension Projects, URS, dated October 2009.

Hollister/State Route 217 Interchange Modifications and Ekwill Street and Fowler Road Extension Projects Memorandum, Drake Haglan and Associates, dated September 9, 2016.

Ekwill Street and Fowler Road Extension Project, Response to Coastal Commission Request for Project Design Changes, Drake Haglan and Associates, dated August 4, 2017.