

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA OFFICE
7075 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4421
(619) 767-2370



W20d

Filed: 5/16/18
180th Day: 11/12/18
Staff: Z. Rehm-LB
Staff Report: 7/20/18
Hearing Date: 8/8/18

STAFF REPORT: REGULAR CALENDAR

Application No.: 6-18-0428

Applicant: California Department of Transportation

Agent: David Nagy

Location: Open space south of State Route 56 and east of Carmel Valley Road, San Diego, San Diego County (APN 3050402000).

Project Description: Establish 4.09 acres of riparian wetland habitat and restore 7.17 acres of upland coastal sage scrub in disturbed areas adjacent to an existing drainage channel at the Deer Canyon East Mitigation Site.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

District 11 of the California Department of Transportation (Caltrans) proposes to perform clearing, grading, and planting activities necessary to establish 4.09 acres of riparian wetland habitat and restore 7.17 acres of upland coastal sage scrub in disturbed areas adjacent to an existing drainage channel at the Deer Canyon East Mitigation Site in San Diego.

The project site is immediately adjacent to the original Deer Canyon Mitigation Site (CDP 6-11-033), where the Commission approved restoration activities and the use of mitigation credits to offset habitat impacts for transportation projects within the same watershed. Due to the adjacency of the mitigation sites, and existing open space to the east, the proposed restoration will result in a large contiguous native habitat area for sensitive species. The expansion of riparian habitat along the Deer Canyon Creek channel will also provide flood relief, improve water quality and support groundwater recharge. Following restoration, Caltrans will transfer the property to the City of San Diego for long term management and the City will record a conservation easement in favor of the

people of California to preserve the land as wildlife habitat in perpetuity. Caltrans will receive mitigation credits from the other resource agencies to offset habitat impacts associated with transportation projects outside the Coastal Zone, including the Rose Creek Bikeway Project and the Elvira to Morena Double Track Project. The primary Coastal Act issue raised by the proposed project is preservation and enhancement of biological resources. The proposed Habitat Mitigation and Monitoring Plan has been reviewed by a Coastal Commission staff ecologist and Caltrans has revised the planting plan, adaptive management plan, and success criteria to address comments. **Special Condition 1** requires Caltrans to implement the project in conformance with the final approved HMMP.

In order to ensure that the habitat establishment and restoration is carried out successfully, **Special Condition 2** requires Caltrans to submit annual monitoring reports to the Executive Director. Annual reports shall include a description of restoration activities that have occurred onsite; descriptions of vegetation composition; weed species; erosion problems; qualitative and quantitative monitoring data related to performance; and quarterly wildlife observations including listed species observations, problems, and remedial actions. In order to ensure that construction of the proposed project will not negatively impact the adjacent creek and associated habitat, **Special Condition 3** requires the permittee to implement construction best management practices. Additionally, in order to prevent adverse impacts to breeding and nesting birds, **Special Condition 4** requires that vegetation clearance and grading activities occur outside of the breeding season (February 15 - August 31) for the coastal California gnatcatcher and least Bell's vireo. Special Condition 4 further requires that, following the initial construction/restoration, if nesting birds of any species are identified during any site survey, a biologist shall flag the nest(s) and maintenance activities shall be prohibited within a 50 foot buffer until a biologist confirms that the nest(s) are no longer active. **Special Condition 5** requires Caltrans to obtain all required permits from the other resource agencies prior to commencement of construction.

Commission staff recommends **approval** of Coastal Development Permit Application No. 6-18-0428, as conditioned.

TABLE OF CONTENTS

I. MOTION AND RESOLUTION.....	4
II. STANDARD CONDITIONS	4
III. SPECIAL CONDITIONS	5
IV. FINDINGS AND DECLARATIONS.....	6
A. PROJECT LOCATION & DESCRIPTION	6
B. BIOLOGICAL RESOURCES	8
C. ARCHAEOLOGICAL AND PALEONTOLOGICAL RESOURCES.....	10
D. PUBLIC ACCESS AND RECREATION	11
E. LOCAL COASTAL PROGRAM (LCP).....	12
F. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).....	12

APPENDICES

Appendix A - Substantive File Documents

EXHIBITS

Exhibit 1 - Vicinity Map

Exhibit 2 – Habitat Mitigation and Monitoring Plan

I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** Coastal Development Permit Application No. 6-18-0428 subject to the conditions set forth in the staff recommendation.*

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:

The Commission hereby approves coastal development permit 6-18-0204 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:

This permit is granted subject to the following 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 of 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:

This permit is granted subject to the following special conditions:

1. **Final Habitat Mitigation and Monitoring Plan. PRIOR TO THE COMMENCEMENT OF CONSTRUCTION**, the permittee shall provide, for the Executive Director's review and written approval, a copy of the final Habitat Mitigation and Monitoring Plan that is in substantial conformance with the [draft] Habitat Mitigation Plan submitted to the Commission on May 16, 2018 (see Exhibit 2). The permittee shall undertake development in conformance with the approved final Habitat Mitigation and Monitoring Plan unless the Commission amends this permit or the Executive Director determines that no amendment is legally required for any proposed minor deviations.
2. **Annual Monitoring Reports.** The permittee shall submit annual monitoring reports to the Executive Director. The first annual report shall be submitted no later than January 1 following the first year in which the plants have been in the ground for an entire spring and summer. The site shall be maintained and monitored for a minimum of five years, or longer as needed to meet the success criteria.

Annual reports shall include a description of restoration activities that have occurred onsite; descriptions of vegetation composition; weed species; erosion problems; qualitative and quantitative monitoring data related to performance; and quarterly wildlife observations including listed species observations, problems, and remedial actions. When the mitigation appears to have met all of the success criteria described in the final Habitat Mitigation and Monitoring Plan, Caltrans will request a final review of the site and written confirmation of success from the San Diego Regional Water Quality Control Board, California Department of Fish and Wildlife, U.S. Fish and Wildlife Service, and U.S. Army Corps of Engineers.

3. **Construction Requirements.** The permittee shall comply with the following construction-related requirements:
 - (a) Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and runoff of construction-related materials, and to contain sediment or contaminants associated with construction activity, shall be implemented prior to the onset of such activity;
 - (b) No construction materials, debris, or waste shall be placed or stored where it may enter the drainage channel or storm drain;
 - (c) All trash and debris shall be disposed in the proper trash or recycling receptacle at the end of every construction day;
 - (d) Construction debris and sediment shall be properly contained and secured on site with BMPs, to prevent the unintended transport of sediment and other debris into coastal waters by wind, rain or tracking. All stockpiles 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;
 - (e) Construction debris and sediment shall be removed from construction areas as necessary to prevent the accumulation of sediment and other debris which may be discharged into coastal waters;
 - (f) The discharge of any hazardous materials into any receiving waters shall be prohibited;

- (g) A pre-construction meeting shall be held for all personnel to review procedural and BMP/GHP guidelines;
 - (h) All BMPs shall be maintained in a functional condition throughout the duration of the project; and
 - (i) Debris shall be disposed at a legal disposal site or recycled at a 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 may take place.
4. **Timing of Construction.** To avoid potential impacts to coastal California gnatcatcher and least Bell's vireo breeding season, primary construction/restoration activities, including clearing of existing vegetation and grading, shall not be permitted from February 15 through August 31 of any year, unless approved by the Executive Director in writing after coordination with the California Department of Fish and Wildlife and the U.S. Fish and Wildlife Service.

Following the initial construction/restoration, requirements for maintenance activities (limited to hand weeding and irrigation repair) shall be as set forth in the approved final Habitat Mitigation and Monitoring Plan, with the following addition to Section VI (A) Monitoring Methods:

- If nesting birds of any species are identified during any site survey, a biologist shall flag the nest(s) and maintenance activities shall be prohibited within a 50 foot buffer until a biologist confirms that the nest(s) are no longer active.
5. **Required Resources Agency Permits. PRIOR TO THE COMMENCEMENT OF CONSTRUCTION,** the permittee shall provide to the Executive Director copies of all other required state and federal discretionary permits from the San Diego Regional Water Quality Control Board, California Department of Fish and Wildlife, U.S. Fish and Wildlife Service, and U.S. Army Corps of Engineers, or evidence that no permit or permission is required. The permittee shall inform the Executive Director of any changes to the project required by any resource agency permit. Such changes shall not be incorporated into the project until the permittee obtains a Commission amendment to this coastal development permit, unless the Executive Director issues a written determination that no amendment is legally required for any proposed minor deviations.

IV. FINDINGS AND DECLARATIONS:

A. PROJECT LOCATION & DESCRIPTION

District 11 of the California Department of Transportation (Caltrans) proposes to perform vegetation clearing, grading, and planting activities necessary to establish 4.09 acres of riparian wetland habitat and restore 7.17 acres of upland coastal sage scrub in disturbed areas adjacent to an existing drainage channel in San Diego. The subject site is identified by Caltrans as the Deer Canyon East Mitigation Site and is directly east of the original Deer Canyon Mitigation Site (CDP 6-11-033), which Caltrans restored to offset habitat impacts associated with transportation projects within the same watershed, including the I-5/Genessee Interchange Project, the I-805 Managed

Lanes Project, the I-805/Carrol Canyon Road Extension Project, and the Sorrento to Miramar Phase I Double Track Project.

The Deer Canyon East Mitigation Site is approximately 12 acres within a 111 acre open space parcel that Caltrans acquired in June 2018. According to Caltrans, the remainder of the parcel already supports quality habitat. As described in the long term management section of the Habitat Mitigation and Monitoring Plan (**Exhibit 2, Section X**), following completion of the proposed habitat establishment and restoration on the 12 acre project site, Caltrans will transfer the entire 111 acre parcel to the City of San Diego, and the City will record conservation easements in favor of the people of California to preserve the land as wildlife habitat in perpetuity. Caltrans will carry out all restoration activities and maintenance activities until performance criteria are satisfied, pursuant to the proposed Habitat Mitigation and Monitoring Plan (**Exhibit 2**). Caltrans will receive mitigation credits from other resource agencies to offset habitat impacts associated with transportation projects outside the Coastal Zone, including the Rose Creek Bikeway Project and the Elvira to Morena Double Track Project; however, no mitigation credits are being requested from the Coastal Commission.

The project site is located south of SR 56 and east of Carmel Valley Road, and is bordered by residential development to the north and the south, open space to the east, and the Deer Canyon Mitigation Site to the west (**Exhibit 1**). The site was formerly used for agriculture, but is currently fallow and covered primarily by nonnative grasses and disturbed habitat with a few native plants. The site is within the Peñasquitos Hydrologic Unit. The drainage channel is identified as Deer Canyon Creek, which is a small, intermittent creek fed primarily by urban runoff, precipitation, and stormwater flows. The pond immediately upstream of the site controls runoff within the creek.

The goal of the project is to establish a natural riparian community along the existing creek that provides flood relief, improves water quality, supports groundwater recharge, and provides high quality wildlife habitat for rare, threatened, and endangered bird species. In addition, coastal sage scrub will be established adjacent to the wetland in an area that currently supports primarily nonnative grasses.

The existing channel will not be altered or graded. Grading will not occur within existing wetlands, but within upland areas which the project will alter to establish riparian habitat. Grading of approximately one to four feet along each side of the existing channel will be completed with very shallow slopes. The established wetland area will have a variable grade from approximately 150 feet at the low area near the western end to 166 feet at the eastern end of the site. After rough grading is finished onsite, fine grading to create micro-topography will be completed under the direction of the mitigation specialist and biologist. In addition, the edge of the existing channel may be breached to allow for flow into and out of the channel.

All nonnative plants will be removed from the site through hand removal and/or spraying with herbicide. The flowering heads and rhizomes of the exotic plant material will be taken offsite and disposed of properly. Nonnative grasses and herbs may be mowed and left to decompose onsite. The soil around the large sycamore trees mounds up to four feet and will be left as is; grading will be restricted within dripline of the trees. Nonnative upland plants will be removed around the trees and replaced with native herbs and shrubs. Approximately 17,700 cubic feet of soil will be excavated and reused on site to make gentle slopes supporting coastal sage scrub along the surrounding upland in the southern portion of the site.

The riparian establishment area will be planted with a combination of willows (*Salix spp.*), cottonwoods (*Populus fremontii*), oaks (*Quercus agrifolia*), and western sycamore (*Platanus racemosa*) trees with mulefat and herbaceous understory. The source of all container plants and seed will be from San Diego County. The species selected are known to occur within the vicinity of the mitigation site and are common components of suitable habitat for sensitive riparian bird species.

As part of site construction, two temporary crossings of the existing channel will be necessary to allow equipment to access the north side of the channel. Each crossing will consist of a steel plate over the channel and will not require any fill of existing wetland habitat. The temporary crossings will be removed after construction is completed and prior to beginning plant establishment.

Temporary irrigation will be installed within the graded area to allow the plants to become established. The irrigation crossovers of the creek will have galvanized pipe aboveground. The irrigation main line will be trenched underground from the original Deer Canyon Mitigation Site and lateral irrigation lines will be placed at grade. All aboveground irrigation will be removed at the end of the project. The underground irrigation systems will not be removed at the end of the project.

The site is currently used for recreational hiking, horseback riding, and mountain biking on two existing trails. The project will formalize and set aside space for an approximately ¼ mile long trail at the southern edge of the site adjacent to the proposed upland coastal sage scrub, to connect an existing sewer easement access road to the two existing trails (**Exhibit 2**). All trails within the site will be fenced to minimize access to the wetland and restored habitat areas. Areas covered by trails are not included in any of the habitat acreage estimates.

The initial clearing of the site to establish wetland and coastal sage scrub vegetation will be completed outside of the bird breeding season (February 15 through August 31), likely in September 2018. Grading will begin after vegetation clearing and will take approximately three months to complete. Installation of irrigation is anticipated to take two months and planting is anticipated to take an additional three months. Plant establishment is anticipated to begin in Spring 2019. Maintenance of the site will continue for five years after planting is completed. Maintenance and monitoring will continue for five years, or until success criteria are satisfied.

B. BIOLOGICAL RESOURCES

Coastal Act Section 30231 states:

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

Coastal Act Section 30240 states:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The project will establish 4.09 acres of riparian wetland habitat and restore 7.17 acres of upland coastal sage scrub in disturbed areas. Because the project is immediately adjacent to the original Deer Canyon Mitigation Site to the west, and open space to the east, the proposed habitat restoration will produce a large contiguous native habitat area, which will be conserved as permanent wildlife habitat and will provide habitat for sensitive species as well as common species.

Caltrans will establish 4.09 acres of riparian wetland habitat by grading down the area outside the channel by approximately one to four feet. The soil removed from the edge of the channel will be used to create coastal sage scrub along the edges of the wetland. The existing channel will not be altered or graded. Grading will not occur within existing wetlands, but within upland areas which the project will alter to establish riparian habitat. The established riparian habitat will consist of southern willow scrub with some oaks, which may develop into riparian forest over time. This habitat is suitable for sensitive bird species including least Bell's vireo (*Vireo bellii pusillus*), yellow warbler (*Dendroica petechia*), and yellow breasted chat (*Icteria virens*). The habitat may also function as a flood plain to alleviate flooding downstream during high flows. The newly created wetland habitat will allow flood waters to spread out, decrease flow rates, allow sediment to drop out of the water column, and cause some minimal scouring in other areas.

Caltrans will restore 7.17 acres of upland coastal sage scrub in disturbed areas. The coastal sage scrub will provide habitat for the federally threatened California gnatcatcher (*Polioptila californica californica*) and other wildlife species. The coastal sage scrub will also provide a buffer to the riparian habitat at the base of the slope, increase slope stability, and protect from erosion during rain events.

The proposed Habitat Mitigation and Monitoring Plan (HMMP) includes plant palettes for each habitat area within the site. The HMMP also includes details on site preparation, a planting plan, adaptive management plan, irrigation plan, maintenance and monitoring requirements, and specific performance criteria that must be achieved prior to other resource agencies confirming mitigation success. No permanent impacts to ESHA are anticipated as part of the project. Impacts to California gnatcatchers and other bird species will be avoided by completing restoration activities (clearing and grading) outside of bird breeding season. Restoration will also be monitored by a Caltrans biologist.

The proposed HMMP has been reviewed by a Coastal Commission staff ecologist and Caltrans has revised the planting plan, adaptive management plan, and success criteria to address comments. **Special Condition 1** requires Caltrans to implement the project in substantial conformance with the final approved HMMP to ensure biological resources, including environmentally sensitive habitat

areas, are preserved. No changes to the approved final HMMP shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required for any proposed minor deviations.

In order to ensure that the habitat establishment and restoration is carried out successfully, **Special Condition 2** requires Caltrans to submit annual monitoring reports to the Executive Director. Annual reports shall include a description of restoration activities that have occurred onsite; descriptions of vegetation composition, weed species, and erosion problems; qualitative and quantitative monitoring data related to performance; and quarterly wildlife observations including listed species observations, problems, and remedial actions. When the mitigation appears to have met all of the success criteria described in the HMMP, Caltrans will request a final review of the site and written confirmation of success from the San Diego Regional Water Quality Control Board, California Department of Fish and Wildlife, U.S. Fish and Wildlife Service, and U.S. Army Corps of Engineers.

In order to ensure that construction of the proposed project will not negatively impact the adjacent creek and associated habitat, **Special Condition 3** requires the permittee to implement construction best management practices. Additionally, in order to prevent adverse impacts to breeding and nesting birds, **Special Condition 4** requires that vegetation clearance and grading activities occur outside of the breeding season (February 15- August 31) for coastal California gnatcatcher and least Bell's vireo. Special Condition 4 further requires that, following the initial construction/restoration, if nesting birds of any species are identified during any site survey, a biologist shall flag the nest(s) and maintenance activities shall be prohibited within a 50 foot buffer until a biologist confirms that the nest(s) are no longer active.

The proposed Habitat Mitigation and Monitoring Plan has been reviewed by the San Diego Regional Water Quality Control Board, California Department of Fish and Wildlife, U.S. Fish and Wildlife Service, and U.S. Army Corps of Engineers, but not yet approved in final form. In order to ensure that Caltrans obtains all required permits for the project, and that any changes required by other resource agencies do not conflict with the Commission-approved CDP, **Special Condition 5** requires Caltrans to provide to the Executive Director a copy of a permit from each referenced agency, or evidence that no permit is required, prior to commencement of construction. Any changes to the project required by any other resource agency shall not be incorporated into the project until Caltrans obtains a Commission amendment to this coastal development permit, unless the Executive Director issues a written determination that no amendment is legally required for any proposed minor deviations.

Therefore, the Commission finds that the project, as conditioned, conforms with Sections 30231 and 30240 of the Coastal Act.

C. ARCHAEOLOGICAL AND PALEONTOLOGICAL RESOURCES

Coastal Act Section 30244 states:

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

Past cultural resource reviews reported 16 resources within ¼ mile of the site. These resources were primarily upslope and to the east of the site. The cultural resource review for the subject site included a record search of the California Historical Resources Information System's database and the Caltrans Cultural Resource Database, which identified no cultural resources within or adjacent to the habitat establishment or restoration locations. In addition, a pedestrian archaeological survey was conducted in July 2017, which identified no cultural resource within the project area.

Grading for the project will be located in an area adjacent to the creek channel where grading and farming activities have already occurred, and will be limited to a maximum of four feet. Thus, the development will avoid impacts to archaeological resources. In addition, there is no potential to impact paleontological resources due to the limited scope of the project activities. Therefore, the Commission finds that the project, as conditioned, conforms with Section 30244 of the Coastal Act.

D. 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 30214 states, in relevant part:

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

- (1) Topographic and geologic site characteristics.*
- (2) The capacity of the site to sustain use and at what level of intensity.*
- (3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses...*

There are several unimproved access roads and trails running through the surrounding open space, some within, or in close proximity to, the subject site. The site is currently used for recreational hiking, horseback riding, and mountain biking on two existing trails. The project will formalize and set aside space for an approximately ¼ mile long trail at the southern edge of the site adjacent to the proposed upland coastal sage scrub, to connect an existing sewer easement access road with two existing trails (**Exhibit 2**). All trails within the site will be fenced to minimize access to the wetland and restored habitat areas.

Access to the restoration portion of the site from the existing sewer access road and trails would be restricted under the proposed plan. In order to ensure successful habitat establishment, the applicant

has proposed installation of a four strand barbless wire fence along the southern perimeter of the subject site. Signage would be placed along the fence identifying the site as a restoration site for sensitive habitats. The proposed fence would not restrict movement of resident animal species but would deter impacts from human and vehicle traffic upon the subject site. The formalization of the connector trail will improve access around the perimeter of the site and thus provide a more enjoyable recreational experience for the public using the surrounding open space areas. Therefore, the Commission finds the proposed amendment, as conditioned, consistent with the public access and recreation policies of Chapter 3 of the Coastal Act.

E. LOCAL COASTAL PROGRAM

Coastal Act section 30604(a) states that, prior to certification of a local coastal program (“LCP”), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. An LCP for the City of San Diego was effectively certified in 1988. However, the proposed development is located partially within the Commission’s original jurisdiction and partially within an area of deferred certification. Consequently, the standard of review is the Coastal Act and the City’s LCP is used as guidance. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified LCP for the area. Approval of the project, as conditioned, will not prejudice the ability of the City to prepare a Local Coastal Program for the deferred area that is in conformity with the provisions of Chapter 3.

F. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 13096 of the California Code of 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 which the activity may have on the environment.

The California Department of Transportation (Caltrans) is the lead agency for the purposes of CEQA review. On May 8, 2018, Caltrans determined that the project was categorically exempt from CEQA requirements because it qualifies as an action by regulatory agency for the protection of the environment (Class 8). Furthermore, the proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, in the form of special conditions, require the applicant to undertake development in accordance with the approved final Habitat Mitigation and Monitoring Plan, submit annual monitoring reports, implement construction best management practices, comply with construction timing restrictions, and comply with the permit requirements of the resource agencies.

As conditioned, there are no feasible alternatives or additional feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to avoid impacts to biological resources, is the least environmentally damaging feasible alternative and complies with the applicable requirements of the Coastal Act to conform to CEQA.

APPENDIX A - SUBSTANTIVE FILE DOCUMENTS

1. CDP 6-11-033 (Caltrans Deer Canyon Mitigation Site), 7/14/11
2. PWP-6-NCC-13-0203-1 (North Coast Corridor Public Works Plan and Transportation and Resource Enhancement Program), 8/13/14; Amendment PWP-6-NCC-16-0001-1; and Amendment PWP-6-NCC-16-0006-2