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# Th13b

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Staff: Sarah Carvill - SC  
Staff Report: 8/23/2018  
Hearing Date: 9/13/2018

## STAFF REPORT: CDP HEARING

**Application Number:** 3-18-0777

**Applicant:** City of Santa Cruz

**Project Location:** Over the waters and on the banks of the San Lorenzo River and the River lagoon between the intersection of Beach and 3rd Streets (western/upcoast landing) and East Cliff Drive between Murray Street and Hiawatha Avenue (eastern/downcoast landing) on the existing San Lorenzo River Trestle Bridge.

**Project Description:** Demolish and remove existing four-foot-wide, wooden pedestrian walkway and replace with a ten-foot-wide multi-use path; improve existing eastern landing to provide improved flow of bicycle and pedestrian traffic.

**Staff Recommendation:** Approval with Conditions

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## SUMMARY OF STAFF RECOMMENDATION

The City of Santa Cruz has requested approval of a coastal development permit (CDP) to replace an existing, four-foot-wide wooden public walkway located on the inland side of the San Lorenzo River Trestle Bridge (trestle) with a ten-foot-wide multi-use public walkway in the same location. The project would also involve demolition and reconstruction of the eastern (downcoast) landing to improve the flow of pedestrian and bicycle traffic from an existing ramp (providing access to the landing area from East Cliff Drive above) to the proposed new

walkway.<sup>1</sup> The trestle spans the San Lorenzo River just inland of its mouth, in an area where a seasonal lagoon forms each summer and fall.<sup>2</sup> It is primarily a railroad bridge, with the cantilevered four-foot walkway located on its inland side.

The purpose of the proposed project is to improve public access at a popular shoreline area that includes significant coastal recreation opportunities and visitor-serving amenities. The existing trestle walkway (which constitutes a portion of the California Coastal Trail (CCT) and the Monterey Bay Sanctuary Scenic Trail (MBSST)) provides the most direct pedestrian and bicycle access between the Seabright area (on the eastern/downcoast side of the San Lorenzo River) and the Santa Cruz Beach Boardwalk, Main Beach, the beach commercial district, and the City's Riverwalk levee path system (on the western/upcoast side). The existing walkway is thus heavily used, particularly in the summer months, but the four-foot width does not easily accommodate two-way traffic and its relative narrowness gives rise to user conflicts. The proposed new pathway is intended to relieve congestion at the site, and once constructed will substantially improve public access to and along the coast, particularly for families, cyclists, and individuals using wheelchairs, walkers, and other mobility-assistance devices. Because removal of the existing walkway is necessary to construct the replacement pathway, the project would temporarily eliminate access at the site. The City proposes to time construction so that this restriction does not overlap with the busy summer season, and to reroute pedestrians and cyclists to the nearby Riverside Avenue Bridge during construction.

The City has incorporated relevant best management practices (BMPs) for overwater construction as well as general construction-related water quality control measures into the project plans. The proposed new pathway would be cantilevered (like the existing walkway) and supported by the existing trestle, so no in-water construction is required. In addition, the pathway would be constructed from steel supports and fiberglass decking, materials that are generally considered durable and safe for overwater applications. Consequently, the project is not expected to result in any impacts to water quality in the San Lorenzo River or its lagoon. Though the new pathway would be larger than the existing walkway, significant impacts to visual and scenic resources are not expected because the existing overhead trusses of the trestle dominate the area visually, and the proposed walkway will incorporate more understated horizontal-cable railings in place of the chain-link fencing currently used at the site. Finally, because the future use of the overall rail corridor of which the trestle is a part is still being determined locally, the proposed project is designed for compatibility with both possible alternatives under consideration (i.e., rail and trail versus trail only) and will not to prejudice the outcome of the local decision process.

Therefore, with conditions to address construction timing, access detours, and signage, as well as indemnification, the project is consistent with the Coastal Act, and staff recommends **approval** of the CDP. The motion is found on page 4 below.

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<sup>1</sup> The western landing was recently rebuilt pursuant to a City CDP in anticipation of the proposed project, so no modifications at that location are required by this proposed project.

<sup>2</sup> The sandbar that forms at the river mouth evolves seasonally in response to coastal processes (e.g., waves, wave run up, tides, and sand supply). During the summer and fall, the sandbar often closes the mouth of the river entirely, effectively connecting Main and Seabright Beaches just seaward of the trestle, and causing a lagoon to form in the lower reaches of the river spanned by the trestle. This is typical of many coastal watersheds in California.

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Appendix A – Substantive File Documents

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### **EXHIBITS**

Exhibit 1 – Project Vicinity Maps

Exhibit 2 – Project Plans

## I. MOTION AND RESOLUTION

Staff recommends that the Commission, after public hearing, **approve** a coastal development permit for the proposed development. To implement this recommendation, staff recommends a **YES** vote on the following motion. Passage of this motion will result in approval of the CDP as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

***Motion:** I move that the Commission **approve** Coastal Development Permit Number 3-18-0777 pursuant to the staff recommendation, and I recommend a yes vote.*

***Resolution to Approve CDP:** The Commission hereby approves Coastal Development Permit Number 3-18-0777 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. 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 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

This permit is granted subject to the following special conditions:

- 1. Approved Project.** This CDP authorizes demolition of the existing four-foot-wide pedestrian walkway and related components on the San Lorenzo River Trestle Bridge (Trestle) and replacement with a new ten-foot-wide pedestrian pathway and related components in roughly the same location, as well as demolition of the existing eastern landing and construction of a replacement landing, all as more specifically described in the proposed project plans (see **Exhibit 2**) as adjusted by these special conditions. Minor adjustments to these approved project parameters that do not require a CDP amendment or a new CDP (as determined by the Executive Director) may be allowed by the Executive Director if such adjustments: (1) are deemed reasonable and necessary; and (2) do not adversely impact coastal resources.
- 2. Construction Timing.** If the new pathway is not completed and available for public use prior to the Friday of Memorial Day weekend 2019 (i.e., May 24, 2019), then the Permittee shall submit two copies of a plan for addressing all continuing public access impacts due to the public access detour to the Executive Director for review and approval prior to May 15, 2019, where such plan shall be premised on implementing additional alternatives for public access and/or offsetting mitigation for public access impacts continuing past May 15, 2019 until the new pathway is complete and open. The Permittee shall implement the approved plan as directed by the Executive Director.
- 3. Detour Signage.** At least one week in advance of the commencement of construction activities that necessitate closure of public access across the existing Trestle walkway, the Permittee shall place detour signs at the following locations: 1) where the downcoast ramp to the Trestle meets the sidewalk along East Cliff Drive; 2) where the East Cliff Drive ramp meets the railroad right-of-way (visible from the right-of-way); and 3) where the upcoast ramp to the Trestle meets the levee path (see **Exhibit 1**, p. 2 for these locations). The signs shall advise the public of the temporary Trestle walkway closure and direct cyclists and pedestrians to the San Lorenzo Riverwalk and Riverside Avenue Bridge detours, and shall be modified as directed by the Executive Director as construction progresses if additional notification at these locations is deemed necessary to ensure adequate compensatory public access mitigation during the closure of the Trestle walkway. These signs shall remain in place until the new pathway is completed and available for public use.
- 4. Signage Plan.** Within 90 days of CDP issuance, the Permittee shall submit for Executive Director review and approval two copies of a sign plan that provides for the installation of directional signs, by the time of project completion, at both the eastern and western landings and their ramps that provide clear direction to pathway users regarding access to the Boardwalk, the levee path, and continuing coastal trail connections (western landing), and East Cliff Drive and continuing coastal trail connections (eastern landing). Such signs shall be sited and designed to be visually compatible with the area, shall provide clear information in a way that minimizes public view impacts.

- 5. Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this CDP, the Permittee acknowledges and agrees, on behalf of itself and all successors and assigns 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. The Permittee shall reimburse the Coastal Commission in full for all Coastal Commission costs and attorneys' fees (including but not limited to such costs/fees that are: (1) charged by the Office of the Attorney General; and (2) required by a court that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the Permittee against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance of this permit). The Permittee shall reimburse the Coastal Commission within 60 days of being informed by the Executive Director of the amount of such costs/fees. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission, its officers, employees, agents, successors and assigns.

## **IV. FINDINGS AND DECLARATIONS**

### **A. PROJECT LOCATION AND DESCRIPTION**

The proposed project is located near the mouth of the San Lorenzo River, between the Santa Cruz Beach Boardwalk and the Seabright neighborhood in the City of Santa Cruz fronting Monterey Bay (see **Exhibit 1**). The Santa Cruz County Regional Transportation Commission's (RTC's) Santa Cruz Branch Line (SBL) rail corridor crosses the River in this location on a 330-foot-long bridge originally built in 1905.<sup>3</sup> This San Lorenzo River Trestle Bridge (trestle) also supports a four-foot-wide wooden walkway, which is cantilevered and attached to the bridge's superstructure on the inland side of the span. Guardrails are made of posts and chain-link fencing, and concrete ramps at each end of the trestle walkway provide pedestrian and bicycle access to Beach Street and the Santa Cruz Beach Boardwalk, and to East Cliff Drive. See **Exhibit 2** (p. 6) for photos of the existing trestle and the existing walkway.

The proposed project would replace the existing four-foot-wide walkway with a ten-foot-wide multi-use pathway in the same location. The new pathway would be supported by steel support cantilevers attached to the existing trestle and surfaced with fiberglass decking. Guardrails would be constructed from vertical steel posts and horizontal steel cables. The western access ramp for the walkway was rebuilt two years ago pursuant to a City CDP and would not require any modifications for compatibility with the proposed project. The landing for the eastern ramp is older and would be replaced with a slightly larger concrete pad in the same location. Two eucalyptus trees (16 inches and 20 inches in diameter) may be removed on the eastern embankment if root damage cannot be avoided in conjunction with the construction of the new landing. See **Exhibit 2** for proposed project plans.

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<sup>3</sup> On October 12, 2012, the RTC successfully closed escrow, placing title of the SBL into public ownership. The SBL serves as a primary component of the Santa Cruz County portion of the Monterey Bay Sanctuary Scenic Trail (MBSST) network.

## **B. STANDARD OF REVIEW**

If a CDP for a particular development is needed from both the Commission and a local government with a certified Local Coastal Program (LCP), Coastal Act Section 30601.3 allows the Commission to act on a single consolidated CDP (with the policies of Chapter 3 of the Coastal Act as the standard of review, and the certified LCP to be used as guidance), if the Commission, the local government, and the applicant agree to such consolidation and public participation will not be substantially impaired by review consolidation. In this case, most of the proposed project area extends over the San Lorenzo River, within the Commission's original jurisdiction, while the modifications to the walkway's eastern landing are located in an area covered by the City's LCP. The City (acting as Applicant and as the relevant local government) requested consolidated CDP review for this project. Consolidated review will not impair public participation in any way. Thus, the standard of review for this consolidated CDP application is the policies of Chapter 3 of the Coastal Act.

## **C. PUBLIC ACCESS AND RECREATION**

Coastal Act Section 30604(c) requires that every CDP issued for any development between the nearest public road and the sea "shall include a specific finding that the development is in conformity with the public access and public recreation policies of [Coastal Act] Chapter 3." The proposed project is located seaward of the first through public road (East Cliff Drive). The Coastal Act includes a number of policies that specifically protect public access and recreation, including:

*30210. 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.*

*30211. 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.*

*30213. Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred. ...*

*30221. Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.*

*30223. Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.*

Additionally, the San Lorenzo Urban River Plan, which is part of the City's certified LCP,

includes the following relevant policy:

***Trail Connections/Improvements Policy T-2.** Complete the upgrade and widening of the Union Pacific Railroad Trestle at the rivermouth to provide safer pedestrian and bicycle use along this route.<sup>4</sup>*

In addition, the LCP's Beach/South of Laurel Area Plan also states:

***Circulation Policy 3.25.** Pursue pedestrian and bicycle access across the San Lorenzo trestle to the east, and connect the Beach Street bikeway to West Cliff Drive at Bay Street.*

The purpose of the proposed project is to provide enhanced public access in a popular and highly-traveled corridor connecting several key coastal recreation areas in the City of Santa Cruz. Specifically, the trestle's western/upcoast terminus is adjacent to the Santa Cruz Beach Boardwalk, Main Beach, and the Boardwalk area's commercial district, as well as the City's Riverwalk levee path system, and the trestle provides the most direct pedestrian and bicycle access from the Seabright neighborhood (including the also-popular Seabright Unit of Twin Lakes State Beach) to these attractions. When the San Lorenzo River mouth is open and/or when there is beach scour/high tides at San Lorenzo Point (i.e., the downcoast edge of the rivermouth), pedestrians cannot easily cross along this section of beach without essentially swimming, and the nearest alternative pedestrian access from the Seabright neighborhood to the Main Beach and Boardwalk area is via the Riverside Avenue Bridge, which is approximately one-half mile upriver from the trestle. The trestle walkway consequently experiences heavy use, particularly in the busy summer months, and it is an important link in both the California Coastal Trail and the Monterey Bay Sanctuary Scenic Trail.

At the same time, it is clear that the existing walkway across the trestle is inadequate to support the demand for access at this location. The four-foot-wide path does not easily accommodate two-way traffic, and access is further compromised by bicycle handlebars, strollers, and people carrying beach supplies (e.g., coolers). The proposed project would increase the width of the pathway by an additional six feet, allowing people moving in opposite directions to pass one another simultaneously more safely and with less difficulty, and would therefore substantially improve public access to and along the coast, especially for families, cyclists, and individuals using wheelchairs, walkers, and other mobility-assistance devices. The completed project would therefore be consistent with Coastal Act Section 30210, which requires maximizing public access opportunities. Coastal Act Section 30211 requires that development not infringe upon the public's right of access to the sea; the development proposed as part of this project would improve public access to the coast once completed. Completion of the proposed project will also improve public recreation opportunities in the City by providing better connectivity between existing public bicycle and pedestrian facilities, including the immediately adjacent Riverwalk multi-use path atop the river levee as well as other nearby, but not contiguous accessways, such as the West Cliff Drive bicycle-pedestrian pathway just upcoast near the Boardwalk. The completed project will therefore enhance public recreation opportunities, including to upland

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<sup>4</sup> The San Lorenzo River Trestle Bridge is also known as the Union Pacific Railroad Trestle in reference to the prior owner of the rail corridor.



areas of the City, consistent with the above referenced Coastal Act and LCP policies.

The main drawback of the proposed project is related to the temporary loss of access across the trestle itself during construction. Specifically, construction is expected to last 30 weeks, during which time the City proposes to reroute accessway users to the above-referenced Riverside Avenue Bridge about a half-mile inland, resulting in a roughly one-mile detour. The City explored the option of building a temporary accessway along the main railroad track portion of the trestle and concluded that it was not feasible, due to the need to use that area for construction access and the fact that the rails are considered “active track”.<sup>5</sup> The City hopes to temper this impact by beginning construction in the fall of 2018 in order to complete the project by spring of 2019, before the start of the busy summer season when demand for access at the trestle is highest. The City has proposed a 30-week construction schedule within this window, and **Special Condition 2** prohibits any proposed change to this timetable that would result in closure of public access across the trestle after Memorial Day weekend without an Executive Director approved plan to address continuing impacts. **Special Condition 3** requires that detours be clearly marked on signs placed at either end of the trestle walkway at least one week in advance of walkway closure and remain in place until access is restored.<sup>6</sup> Additionally, the closure of the walkway will be advertised in advance by the City using social media postings, information on the City’s website, and a press release. Construction updates will be provided on social media, the City’s website, and at City Council meetings.

As noted above, the proposed project is located within the RTC’s SBL rail corridor. The question of how best to utilize the SBL is locally controversial, with the two main positions being whether to use the SBL for rail with an adjacent public multi-use trail (i.e., rail and trail), or for a trail only (i.e., without a rail component). RTC strongly supports the rail and trail option, and its planning efforts to date, including for trail components such as this, have been based on this guiding principal. Others support a trail only option for the SBL, with reasons ranging from questions over the viability of a successful rail program to the availability of space in the SBL to accommodate both rail and trail in certain areas (thus requiring the trail to detour onto adjacent streets as opposed to being continuous within the SBL), including the canyon immediately east of the eastern trestle landing proposed here.<sup>7</sup> RTC may potentially further refine its SBL plans based on the results of its pending “Unified Corridor Study” (UCS), which is intended to be completed by the end of the year.<sup>8</sup> The outcome of RTC’s UCS could determine whether the

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<sup>5</sup> According to the City, the contractor will be able to obtain a right-of-way entry agreement with RTC and schedule construction access to avoid any use of the tracks by trains, but these tools cannot be used to allow general public access on what is technically considered an active track.

<sup>6</sup> Project plans include a preliminary detour plan (**Exhibit 2**, pp. 2-3) which is modified by **Special Condition 3** to include additional detail regarding the placement and content of the detour signs.

<sup>7</sup> The MBSST Master Plan for the trail east of the trestle location shows the trail continuing along the rail alignment on the inland side of the tracks; however, the text of the plan implies that a trail detour onto East Cliff Drive at the eastern landing (via an existing sloped ramp) and onto Murray Street is also possible. The SBL just east of the trestle is incised in a canyon that some argue is not wide enough to accommodate both rail and trail.

<sup>8</sup> The UCS is intended to examine which transportation improvements work together to make the most effective use of the community’s north/south transportation corridor, including three roughly parallel routes: Highway 1, Soquel/Freedom, and the SBL. The UCS will identify improvements for travel by auto, transit, bicycle, and walking on these routes, and will provide information about how changes to Highway 1, Soquel/Freedom, and the SBL could

future trail is routed up the eastern embankment of the San Lorenzo River to East Cliff Drive or through the canyon along the current location of the tracks on the east side of the river. In any case, the proposed project has been designed for compatibility with either potential outcome, and thus should not prejudice potential future rail-and-trail or trail-only projects just east of the trestle. In the interim, the public will benefit from the enhanced public access that the completed new pathway will provide, regardless of the outcome for the SBL corridor just east of the trestle. **Special Condition 4** ensures that users will be properly informed about the path and connections so as to facilitate public use once complete.

In conclusion, the proposed pathway replacement is at its core an access enhancement project, and will provide important public facility improvements at a critical CCT location, including its connections to key coastal recreation sites and visitor-serving uses. Due to the nature of the project, temporary access impacts from construction are unavoidable, but they have been minimized as much as possible, and the long-term public benefits of the completed project will outweigh such short-term impacts. **Special Condition 1** identifies the proposed project as the approved project, including its public access mitigations, and **Special Conditions 2, 3, and 4** address other public access issues. As so conditioned, the project is therefore consistent with the above-cited public access and recreation policies of the Coastal Act, and with the above-cited LCP provisions, which (as discussed above) can be used as guidance in the consolidated review process.

## D. WATER QUALITY

The Coastal Act protects coastal waters and the marine environment, including coastal water quality. Specifically, Coastal Act Sections 30230 and 30231 state (in relevant part):

*30230. 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.*

*30231. 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...*

The San Lorenzo River supports a variety of riparian and aquatic habitats. A seasonal lagoon usually forms at the mouth of the river each summer and fall, which is typical of many

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impact the community. A key objective of the UCS is to provide the community with information about future potential uses for the rail corridor, including in terms of rail and trail siting. The UCS is scheduled to be completed in December 2018 (see the RTC website for more information about the UCS at <https://sccrtc.org/projects/multi-modal/unified-corridor-study>).

coastal watersheds in California. Federally endangered Coho salmon (*Oncorhynchus kisutch*) and federally threatened steelhead (*Oncorhynchus mykiss*) are found in the lower San Lorenzo River, including the lagoon. In addition, tidewater goby (*Eucyclogobius newberryi*), a federally listed endangered species and a state species of special concern, is also known to inhabit the lower portions of the river and the lagoon. When the river mouth is open (i.e., when no lagoon is present) the river waters below the project site flow directly into the Pacific Ocean and the Monterey Bay National Marine Sanctuary.

The proposed project involves overwater construction, including demolition of a structure with wood components and construction of a new steel and fiberglass walkway. Generally, overwater construction poses risks to water quality (i.e., from dust, falling debris, and spills) that can affect species present in the river and the lagoon (if formed) or adjacent ocean waters (if the river mouth is open) unless best management practices (BMPs) are implemented to prevent construction-related materials from entering underlying waters.<sup>9</sup> The proposed project includes all relevant BMPs, including (but not limited to) the following requirements:

- Installation and daily cleaning of a temporary containment device to be placed below the project area and above the water level (to catch any dropped or spilled construction debris or dust)
- Fuel and equipment waste spill prevention measures, including measures specific to the use of concrete (i.e., for the eastern landing component of the project) and treated wood (which is present in components of the existing walkway that will be removed as part of the project), and retention of containment equipment on site to facilitate rapid response to any spills that occur in spite of those safeguards
- Offsite cleaning and refueling of construction equipment
- Immediate cleanup of any spills or leaks, and retrieval of any non-buoyant debris that enters river waters by divers
- A prohibition on storage or placement of construction materials, equipment, debris, and waste in any area where they might be inundated or dispersed by river waters

Project plans also include a general prohibition on allowing construction materials to enter the river, as well as standard (i.e., not overwater-specific) construction BMPs related to erosion and stormwater pollution prevention. Moreover, the project does not involve

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<sup>9</sup> The project's Initial Study/Mitigated Negative Declaration (IS/MND) additionally discusses the potential for short-term construction impacts due to noise, noting that impacts to beach and aquatic habitats would be less than significant due to the absence of in-water work or activities producing high-intensity sound levels (e.g., pile driving). The IS/MND found that construction noise may affect migratory birds using the eucalyptus trees in the project area for nesting and/or breeding, but notes that the area is already surrounded by noise-generating land uses (i.e., the Boardwalk and traffic on local roadways) and that construction will commence outside of the breeding season (which is typically February 1 through September 15). Additionally, the City will implement mitigation measures (specifically surveys for nesting and breeding birds and the establishment of appropriate buffers) if for any reason construction activities stop for more than two weeks during the bird breeding season. With these mitigation measures in place, noise impacts on migratory bird species are expected to be less than significant.

installation of new bulkheads or in-water pilings;<sup>10</sup> treatment, sleeving, or repair of existing bulkheads or pilings; or construction with preservative-treated wood.<sup>11</sup> The new walkway will be supported by steel cantilevers and surfaced with fiberglass decking, both of which materials are durable (reducing the need for future overwater maintenance work) and safe for overwater use.

In sum, the BMPs proposed by the City ensure that the project will protect coastal waters and marine resources during construction. **Special Condition 1** identifies the proposed project as the approved project, including its water quality and habitat mitigations. The project can therefore be found consistent with Sections 30230 and 30231 of the Coastal Act regarding protection of freshwater and marine resources and riverine and offshore habitats.

## E. VISUAL RESOURCES

Coastal Act Section 30251 states:

*Section 30251. The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*

The proposed project will replace the existing pedestrian walkway with a wider, and therefore larger, pathway structure. The overhead trusses of the main railroad portion of the trestle dominate the site visually, however, so the proposed new pathway is expected to blend in with the surroundings, much as the existing walkway does. Additionally, by replacing the existing chain-link fence railing along the current walkway with a more understated post-and-horizontal-cable rail system, the project will likely enhance views through the railing relative to existing conditions, and improve the overall visual quality of the site. While up to two eucalyptus trees may be removed from the eastern bank of the San Lorenzo River if construction-related root impacts cannot be avoided, there is a larger eucalyptus in the immediate vicinity and several other similar trees along the same embankment; thus, the visual impacts associated with the removed trees would not be significant. **Special Condition 1** identifies the proposed project as

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<sup>10</sup> Two concrete piers will be installed on the eastern slope above the river to support the new eastern landing, but these will be significantly above the level of the river.

<sup>11</sup> The existing walkway is composed of preservative-treated wood decking (which will be entirely removed) and support structures (which may be modified to accommodate the new steel support system), so it is possible that deconstruction and modification of these elements could result in treated wood debris entering coastal waters in the absence of appropriate BMPs. Accordingly, the proposed project plans incorporate BMPs specifically aimed at preventing contamination of coastal waters with treated wood (i.e., by requiring total containment of sawdust and other debris and specifying where and how treated wood debris may be stored prior to disposal) in addition to general overwater construction BMPs intended to prevent construction debris from entering coastal waters.

the approved project, including its visual mitigations. The project can therefore be found consistent with Section 30251 of the Coastal Act.

## **F. OTHER**

Coastal Act Section 30620(c)(1) authorizes the Commission to require applicants to reimburse the Commission for expenses incurred in processing CDP applications. Thus, the Commission is authorized to require reimbursement for expenses incurred in defending its action on the pending CDP application in the event that the Commission's action is challenged by a party other than the Applicant. Therefore, consistent with Section 30620(c), the Commission imposes **Special Condition 5** requiring reimbursement for any costs and attorneys' fees that the Commission incurs in connection with the defense of any action brought by a party other than the Applicant challenging the approval or issuance of this permit.

## **G. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Section 13096 of Title 14 of the California Code of Regulations requires that a specific finding be made in conjunction with CDP applications showing the application to be consistent with any applicable requirements of 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 City of Santa Cruz, acting as the CEQA lead agency, adopted a Mitigated Negative Declaration for the proposed project on July 19, 2018. The Coastal Commission's review and analysis of land use proposals, including CDP applications, has been certified by the Secretary of the Natural Resources Agency as being the functional equivalent of environmental review under CEQA (14 CCR § 15251(c)). The preceding CDP findings discuss the relevant coastal resource issues with the proposal, and the CDP conditions identify appropriate modifications to avoid and/or lessen any potential for adverse impacts to said resources.

As such, there are no additional feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the proposed project, as conditioned, would have on the environment within the meaning of CEQA. Thus, if so conditioned, the proposed project will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A)

**APPENDIX A – SUBSTANTIVE FILE DOCUMENTS<sup>12</sup>**

- Initial Study/Mitigated Negative Declaration
- Biotic Assessment
- Historical Design Review
- Geohazards Technical Study
- Geotechnical Investigation
- Hazardous Materials Technical Study
- Traffic Study
- CDFW Lake and Streambed Alteration Agreement Application

**APPENDIX B – STAFF CONTACT WITH AGENCIES AND GROUPS**

- City of Santa Cruz
- Friends of the Rail and Trail
- Santa Cruz County Greenway

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<sup>12</sup> These documents are available for review in the Commission's Central Coast District office.