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**W14b**

Appeal Filed: 7/23/2019
 Action Deadline: 10/1/2019
 Staff: Rainey Graeven - SC
 Staff Report: 8/23/2019
 Hearing Date: 9/11/2019

APPEAL STAFF REPORT: SUBSTANTIAL ISSUE DETERMINATION ONLY

Appeal Number: A-3-SCO-19-0157

Applicant: Land Trust of Santa Cruz County

Appellant: Jacob Pollock

Local Government: Santa Cruz County

Local Decision: Coastal development permit application number 181146 approved by the Santa Cruz County Zoning Administrator on June 21, 2019.

Location: The portion of the San Vicente Redwoods that is located in the coastal zone, i.e. an approximately 4,896-acre area located east of Swanton Road and west of Empire Grade, and an approximately 373-acre area located east of Pine Flat Road, west of Empire Grade, and adjacent to the Bonny Doon Ecological Reserve, all in the Bonny Doon area of the Santa Cruz Mountains, Santa Cruz County.

Project Description: Implementation of the San Vicente Redwoods Public Access Plan, including the construction of a multiuse trail system.

Staff Recommendation: No Substantial Issue

Important Hearing Procedure Note: This is a substantial issue only hearing. Testimony will be taken only on the question of whether the appeal raises a substantial issue. Generally and at the discretion of the Chair, testimony is limited to three minutes total per side. Please plan your testimony accordingly. Only the Applicant, persons who opposed the application before the local

government (or their representatives), and the local government shall be qualified to testify. Others may submit comments in writing. If the Commission determines that the appeal does raise a substantial issue, the de novo phase of the hearing will occur at a future Commission meeting, during which the Commission will take public testimony. (California Code of Regulations, Title 14, Sections 13115 and 13117.)

SUMMARY OF STAFF RECOMMENDATION

Santa Cruz County approved a coastal development permit (CDP) to provide for the implementation of the San Vicente Redwoods Public Access Plan, including the construction of a multiuse trail system. The project site is located in the Santa Cruz Mountains north of the City of Santa Cruz, inland of Highway One, with a portion of the project located adjacent to the Cotoni-Coast Dairies National Monument and another portion located adjacent to the Bonny Doon Ecological Reserve.

The Appellant contends that the approved project is inconsistent with Santa Cruz County Local Coastal Program (LCP) provisions related to the protection of environmentally sensitive habitat area (ESHA) including specifically that: 1) the County's approval did not adequately demonstrate that the approved-project is the least environmentally damaging alternative; 2) the monitoring/reporting is inadequate and it is not clear whether or how the public can provide input on same; 3) cumulative impacts related to increasing public use of the trails over time are not adequately addressed; and 4) coordination, planning, and management with adjacent landowners and public access sites is inadequate. After reviewing the local record, Commission staff has concluded that the approved project does not raise a substantial issue with respect to the project's conformance with the Santa Cruz County LCP.

In this case, the County-approved project includes mitigations that would avoid trail construction in ESHA to the maximum extent feasible (though such trail construction is an allowable use within ESHA per the LCP), minimize impacts from the limited segments of trails that will be located in ESHA, and employ best management practices for trail design and trail construction. In terms of monitoring and reporting, although the LCP does not explicitly require monitoring and reporting for trail projects, the Applicant's Public Access Plan nevertheless by design includes ongoing monitoring and adaptive management techniques in an effort to best address any issues arising from trail use that may impact ESHA. In terms of the cumulative impacts, the Applicant and the County analyzed the project's potential cumulative impacts and concluded that no significant cumulative impacts would occur as a result of project approval. And in terms of coordination with adjacent landowners, again, although the LCP does not require coordination with adjacent landowners with respect to trail planning and management, the Applicant has completed extensive coordination with adjacent landowners to date and is committing to ongoing coordination going forward. Specifically, the Applicant has actively engaged with the Bureau of Land Management and the California Department of Fish and Wildlife to ensure collaborative planning and management of the adjoining public properties. The Applicant's Public Access Plan also includes phased implementation of the trails to better ensure that environmental resources can be protected on a smaller scale before opening up more trails on different areas of the property. Thus, both the County and the Applicant have adequately demonstrated that the project meets the County's LCP standards regarding the protection of ESHA.

As a result, staff recommends that the Commission determine that the appeal contentions do not raise a substantial LCP conformance issue, and that the Commission decline to take jurisdiction over the CDP for this project. The single motion necessary to implement this recommendation is found on page 5 below.

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EXHIBITS

Exhibit 1 – Project Site Maps

Exhibit 2 – Project Site Photos

Exhibit 3 – County’s Final Local Action Notice

Exhibit 4 – Approved Project Plans

Exhibit 5 – Appeal of Santa Cruz County’s CDP Decision

Exhibit 6 – Applicable LCP Policies and Standards

I. MOTION AND RESOLUTION

Staff recommends that the Commission determine that **no substantial issue** exists with respect to the grounds on which the appeal was filed. A finding of no substantial issue would mean that the Commission will not hear the application de novo and that the local action will become final and effective. To implement this recommendation, staff recommends a **YES** vote on the following motion. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of a majority of the Commissioners present.

***Motion:** I move that the Commission determine that Appeal Number A-3-SCO-19-0157 raises no substantial issue with respect to the grounds on which the appeal has been filed under Section 30603. I recommend a yes vote.*

***Resolution to Find No Substantial Issue.** The Commission finds that Appeal Number A-3-SCO-19-0157 does not present a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.*

II. FINDINGS AND DECLARATIONS

A. BACKGROUND

The purchase of the San Vicente Redwoods in 2011 resulted in the creation of approximately 27,500 acres of contiguous protected land¹ (8,533 acres of which makes up the San Vicente Redwoods), as it fills a longstanding gap between the numerous protected lands that surround it. The property consists of dense redwoods, coast/canyon live oak, and tanoak forest, with smaller areas of scrub and chaparral habitat. A number of creeks and their associated riparian corridors, including Laguna Creek and San Vicente Creek, traverse the property, and wetland habitats are also present on the site.

The property was historically used for timber harvesting and contains dirt logging roads and fire roads, as well as portions of a utility road for high-tension transmission lines. Otherwise, the property is undeveloped and provides ample opportunity for both public access and wildland conservation.

The San Vicente Redwoods are presently jointly owned by the Peninsula Open Space Trust (POST) and the Sempervirens Fund; however, the Land Trust of Santa Cruz County (the Land Trust), which developed the Public Access Plan that is the subject of this appeal (see below) and will be responsible for overseeing implementation of same, is the Applicant. The Land Trust is a non-profit organization that has protected more than 14,000 acres throughout Santa Cruz County, including beaches, unique biotic habitats, forestland, and farmland, directly and through partnerships since its founding in 1978. The Land Trust will submit a proposal to POST and the

¹ Protected lands that adjoin the San Vicente Redwoods include Cal Poly's Swanton Ranch, Cotoni-Coast Dairies National Monument, the Bonny Doon Ecological Preserve, Wilder Ranch State Park, and UC Santa Cruz's Natural Reserve.

Sempervirens Fund to secure fee ownership of the property, but POST and the Sempervirens Fund will consider proposals from other potential owners. In the meantime, the Land Trust will manage the property pursuant to a Memorandum of Understanding (MOU) with POST and the Sempervirens Fund. In the event the Land Trust does not become the fee landowner, it intends to enter into a similar MOU with any future property owner to continue to manage the San Vicente Redwoods going forward consistent with the aforementioned Public Access Plan.

B. PROJECT LOCATION AND DESCRIPTION

The County-approved project spans 8,533 acres in the Bonny Doon area of the Santa Cruz Mountains. However, only about sixty percent of the approved project is located in the coastal zone. The portions of the project located in the coastal zone are the seaward-most approximately sixty percent of the “Main Tract” and all of the “Laguna Tract.” The Main Tract is located generally east of Big Basin Redwoods State Park, west of Henry Cowell Redwoods State and the Laguna Tract, and north of the Cotoni-Coast Dairies National Monument. The Laguna Tract is located immediately south and east of (i.e., it adjoins) the Bonny Doon Ecological Reserve (which is owned and managed by the California Department of Fish and Wildlife) and is immediately north and west of (i.e., it adjoins) the inland portion of Wilder Ranch State Park. The Main Tract and the Laguna Tract of the San Vicente Redwoods are two separate areas and are not physically adjoined.

The County-approved project entails a Public Access Plan (Plan) for the entire San Vicente Redwoods property (i.e. the portions within and outside the coastal zone). For the portions of the property located in the coastal zone (which are subject to this appeal), the approved Plan includes new trail construction and trail improvements for trails that will be located on existing fire roads in both tracts,² as well as ongoing monitoring, maintenance, and management of the land.³

The approved Plan includes three phases. Phase 1 includes the construction of a loop trail in the Laguna Tract that would also connect to existing trails within the Bonny Doon Ecological Reserve (all in the coastal zone).⁴ Phase 2 entails construction of additional trails in the Main Tract (both inside and outside the coastal zone), which will connect to the trails outside the coastal zone constructed in the Main Tract under Phase 1. Phase 3 includes additional trail construction within the Main Tract (all within the coastal zone) that will connect with the trails constructed under Phases 1 and 2 (both inside and outside the coastal zone). Phase 3 will also include trail construction in the southern and western portions of the Main Tract (all in the coastal zone), which will terminate at the Cotoni-Coast Dairies National Monument in the southwestern corner of the Main Tract.

² The project includes approximately 38 miles of trails, with 20.5 miles of these trails located within the coastal zone.

³ The approved Plan also includes a public access staging area, including restrooms, a parking lot (which will accommodate up to 40 vehicles, including two ADA-compliant spaces and two extended spaces for horse trailers), and trailhead signage at the parking lot, but these project components are all located outside of the coastal zone and are not subject to this appeal.

⁴ Phase 1 also includes trail construction in the northern portions of the Main Tract that are located entirely outside the coastal zone.

The approved trails are multiuse, allowing for hiking, biking, equestrian, and dog use in various capacities (including both single-use and multiuse trails). In the coastal zone, there will be 1.5 miles of trail located on the Laguna Tract and about 19 miles of trails on the Main Tract.

The Public Access Plan further entails ongoing monitoring and maintenance via regular inspections by the Public Access Manager (a Land Trust employee) to ensure resource protection and to implement adaptive management techniques to address any issues that may arise due to construction and use of the trails.

Trails were designed to avoid environmentally sensitive habitat areas (ESHAs) and/or meet a 100-foot buffer from ESHA to the maximum extent feasible. In total, approximately 4.4 miles of the 38 miles of trails (both within and outside of the coastal zone⁵) would go through ESHAs (including oak woodland, occurrences of rare plants (primarily Anderson's manzanita), streams, riparian habitat, and wetlands.⁶ Of the 4.4 miles of the proposed trail that would go through ESHA, 0.54 miles would go through riparian habitat (including 0.33 miles on existing roads) and 4.01 miles through oak woodland (including 1.72 miles on existing roads)⁷. Of the 4.4 miles of the proposed trail within ESHAs, approximately 1.85 miles would go through existing roads that pass through ESHAs (thus meaning only 2.55 miles of proposed trail would impact previously undisturbed ESHA). In addition, an additional 5.08 miles of trail that would pass through one or more ESHA buffers, with approximately 2.67 of those miles occurring on existing roads (thus meaning only 2.41 miles of proposed trail would impact previously undisturbed ESHA buffer).

See **Exhibit 1** for project site maps including trail routes and project phases, see **Exhibit 2** for site photos, and see **Exhibit 4** for the approved plans.

C. SANTA CRUZ COUNTY CDP APPROVAL

On June 21, 2019 the Santa Cruz County Zoning Administrator approved a CDP for the project. The County's Final Local Action Notice was received in the Coastal Commission's Central Coast District Office on Tuesday July 9, 2019. The Coastal Commission's ten-working-day

⁵ The mileages in this paragraph are for the entire project, i.e. the project components located within and outside of the coastal zone. Though the concept of "ESHA" is specific to the coastal zone, rather than outside of it, in approving the proposed project the County considered the habitat which qualifies as ESHA within the coastal zone to also retain the same biological resource significance outside of the coastal zone, hence consideration of "ESHA" both within and outside of the coastal zone.

⁶ As stated above, about 60 percent of the San Vicente Redwoods property is located within the coastal zone. However, in approving the proposed project, the County did not specifically parse out or quantify separately the amount of ESHA within the coastal zone affected by trails located within the coastal zone, in contrast to the amount of "ESHA" (see footnote 5) outside the coastal zone affected by the trails located outside the coastal zone. Suffice it to say, a relatively small portion of the trails in the coastal zone are located within "ESHA" (less than 12%). This includes trails along riparian corridors as well as trails that extend through oak woodland habitat, and trails that pass through both creeks and wetlands. For the reasons discussed below, the Applicant's and the County's lack of separate accounting for trail development impacts to ESHA within the coastal zone versus impacts to "ESHA" outside of the coastal zone does not raise a substantial issue with respect to LCP consistency (if the Appellant had raised this issue in his appeal, which he did not) because even if hypothetically the coastal zone extended geographically to all of the trail development impacting "ESHA," the appeal still would not raise a substantial issue with respect to LCP consistency.

⁷ These numbers include some overlap (e.g., some oak woodland is also considered riparian corridor).

appeal period for this action began on Wednesday, July 10, 2019 and concluded at 5 p.m. on Tuesday, July 23, 2019. One valid appeal (see below) was received during the appeal period. See **Exhibit 3** for the County's Final Local Action Notice.

D. APPEAL PROCEDURES

Coastal Act Section 30603 provides for the appeal to the Coastal Commission of certain CDP decisions in jurisdictions with certified LCPs. The following categories of local CDP decisions are appealable: (a) approval of CDPs for development that is located (1) between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance, (2) on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff, and (3) in a sensitive coastal resource area; or (b) for counties, approval of CDPs for development that is not designated as the principal permitted use under the LCP. (Coastal Act Sections 30603(a)(1)-(4).) In addition, any local action (approval or denial) on a CDP for a major public works project (including a publicly financed recreational facility and/or a special district development) or an energy facility is appealable to the Commission. (Coastal Act Section 30603(a)(5).) This project is appealable because the parcels are zoned Timber Production (TP) with the exception of one parcel, which is zoned TP-SU, and trails are not the principally permitted use in the TP or TP-SU zoning districts. Certain trail alignments are also located within 100 feet of a wetland or stream.

The grounds for appeal under Section 30603 are limited to allegations that the development does not conform to the certified LCP or to the public access policies of the Coastal Act. Section 30625(b)(2) of the Coastal Act requires the Commission to consider a CDP for an appealed project de novo unless a majority of the Commission finds that "no substantial issue" is raised by such allegations.⁸ Under Section 30604(b), if the Commission conducts the de novo portion of an appeals hearing (upon making a determination of "substantial issue") and finds that the proposed development is in conformity with the certified LCP, the Commission must issue a CDP. If a CDP is approved for a project that is located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone, Section 30604(c) also requires an additional specific finding that the development is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act. This project is not located between the nearest public road and the sea and thus this additional finding would not need to be made if the Commission approved a CDP for this project on de novo review (following acceptance of the appeal by finding substantial issue with respect to the appeal). Therefore, only a finding that the proposed development is in conformity with the Santa Cruz County LCP would need to be made if the Commission were to approve the project following the de novo portion of the hearing.

⁸ The term "substantial issue" is not defined in the Coastal Act or in its implementing regulations. In previous decisions on appeals, the Commission has considered the following factors in making substantial issue determinations: the degree of factual and legal support for the local government's decision; the extent and scope of the development as approved or denied by the local government; the significance of the coastal resources affected by the decision; the precedential value of the local government's decision for future interpretations of its LCP; and, whether the appeal raises only local issues as opposed to those of regional or statewide significance. Even when the Commission chooses not to hear an appeal (by finding no substantial issue), appellants nevertheless may obtain judicial review of a local government's CDP decision by filing a petition for a writ of mandate pursuant to the Code of Civil Procedure, Section 1094.5.

The only persons qualified to testify before the Commission on the substantial issue question are the Applicant, persons opposed to the project who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding the substantial issue question must be submitted in writing. (California Code of Regulations, Title 14, Section 13117.) Any person may testify during the de novo CDP determination stage of an appeal (if applicable).

E. SUMMARY OF APPEAL CONTENTIONS

The Appellant contends that the County-approved project raises LCP consistency questions relating to the protection of ESHA. Specifically, the Appellant contends that the approved project would violate applicable LCP provisions because: 1) the County's approval did not adequately demonstrate that the approved project is the least environmentally damaging alternative; 2) the required monitoring and reporting are inadequate and it is not clear whether or how the public can provide input on these; 3) cumulative impacts related to increasing public use of the trails over time were not adequately addressed; and 4) coordination, planning, and management with adjacent landowners and public access sites has been inadequate. See **Exhibit 5** for the complete appeal contentions.

F. SUBSTANTIAL ISSUE DETERMINATION

Applicable LCP Provisions

The County's LCP protects ESHA and specifically riparian corridors/wetlands, including identifying that these areas shall be preserved, protected, and restored for the protection of wildlife, open space, and aesthetic and recreational values (see **Exhibit 6** for all cited applicable LCP provisions, including Land Use Plan (LUP) Objectives 5.1 and 5.2). The LCP limits development activities within riparian corridors/wetlands and specifies required buffers unless an exception is granted per the Riparian Corridor and Wetlands Protection Ordinance (including LUP Policy 5.2.3, 5.2.4, and Implementation Plan (IP) Section 16.30.060). The LCP provides for limited compatible uses within riparian corridors, wetlands, and other ESHAs (provided such uses do not impair or degrade the riparian plant and animal ecosystems or water supply values), including non-motorized recreation and pedestrian trails, interpretive facilities, and fishing facilities (including LUP Policy 5.2.7 and IP Section 16.32.090(C)). Thus, the LCP protects ESHA, including riparian corridors and wetlands, via limiting development within these areas, while expressly also allowing for development of low-impact recreational uses within these areas, including trails.

Alternatives Analysis

In terms of the Appellant's contention that the approved-project is not the least environmentally damaging alternative, the County completed CEQA review, including an Initial Study and an adopted Mitigated Negative Declaration (MND). The Initial Study examined a range of alternatives for the public access staging area (including the parking lot, restrooms, and informational signage), trail access points, the trail alignments⁹, and trail uses. In order to

⁹ Approximately 60% of the project is located within the appealable portion of the coastal zone; because here the Applicant and County did not parse out or separately account for impacts to resources within the coastal zone,

determine the least environmentally damaging alternative for the public access staging area, the trail access points, the trail alignments, and trail uses, the Conservation Partners working group (consisting of project funders, landowners, and the Applicant (i.e., the Land Trust, which is overseeing planning, management and implementation of the Public Access Plan for a minimum of the initial ten-year period) completed extensive outreach, including interviews and small meetings with interested parties, stakeholder meetings with interested groups, online engagement, community meetings, and neighborhood outreach. In addition, the working group consulted with the Santa Cruz Puma Project¹⁰ to understand the areas of the property that support mountain lion denning, movement, and foraging, and used game camera data to track the range of the mountain lion. Potential trail corridors and parking area locations were: flagged onsite by professional trail designers and builders; evaluated by the civil and environmental engineers for stability related to erosion and geotechnical considerations; and surveyed by biological and cultural resource experts. Through close coordination with technical experts, trail alignments were refined to minimize potential impacts to resources. Ultimately, the least environmentally damaging alternative was determined to entail closure of most of the property to public access (approximately 94%) with limited research and educational uses permitted in these areas on a case-by-case basis, with phased trail access limited to approximately 6% of the total property. The public access area (within and outside of the coastal zone) would be limited to 460 acres including a 100-foot-wide corridor (50 feet on either side of the trail) and 4.7 acres for the public access staging area (which is entirely outside of the coastal zone). In the coastal zone, the public access area comprises about 248 acres (out of the approximately 5,120 acres of the San Vicente Redwoods that are located in the coastal zone, or less than 5%).

In terms of the alternative trail designs and types of trails (e.g., out-and-back versus loop trails, new trail construction or use of existing roads, single-use versus multiuse, etc.), large loop trails were considered; however, loops trails were eliminated as an alternative because: much of the terrain is steep and unstable; it would be difficult for emergency services to reach remote areas; and some of the more remote areas necessary for larger loop trails are prime habitat for wildlife, including breeding and denning for mountain lions. Although some existing fire roads would be used as trails under the selected trail alignments, other fire roads were eliminated for trail use due to the potential for significant erosion during the wet season, and because use of some of these fire roads would direct visitors into areas that support sensitive wildlife. Ultimately, a combination of existing fire roads and the construction of new trails were determined to be the least environmentally damaging alternative, allowing for emergency services as needed, reducing the likelihood of erosion, and avoiding (and thus protecting) the most sensitive habitat. A variety

including ESHA, versus impacts to resources outside of the coastal zone, the analysis herein examines the entire project at the substantial issue stage as opposed to only the portions of the project within the appealable portions of the coastal zone. As mentioned previously, the County's failure to separately parse or account for impacts to resources within versus outside of the coastal zone does not raise a substantial issue (if the Appellant had raised this issue in his appeal, which he did not) because even if hypothetically the coastal zone extended geographically to all of the trail development impacting "ESHA," the appeal still would not raise a substantial issue with respect to LCP consistency. (*See also* footnote 6.)

¹⁰ The Santa Cruz Puma Project is a partnership between UC Santa Cruz and the California Department of Fish and Wildlife. The Puma Project deploys telemetry collars on mountain lions that collect continuous movement and location data from each animal, with the goals of further enhancing the understanding of cougar habitat requirements as well as providing guidance on important movement corridors for lions within the Santa Cruz Mountains and adjacent areas.

of recreational uses were also considered, ultimately limited to hiking, bike riding, horseback riding, and dog walking. Dog walking would be limited to on-leash and only allowed along a single trail loop trail adjacent to Empire Grade (outside the coastal zone), where existing transportation, residential, and other development is already likely to deter wildlife use.

The project is also conditioned to require implementation of the mitigation measures of the adopted MND (see **Exhibit 3, pp. 11-17**). These mitigations include, but are not limited to: ensuring that trails are routed to avoid sensitive vegetation to the fullest extent feasible (see Construction Protocol BR-1.3); avoiding tree and shrub removal in sensitive biological communities to the fullest extent feasible (see Construction Protocol BR-1.4); using the best available technology and best management practices to minimize detrimental impacts, such as erosion and sedimentation, and to minimize the need for future maintenance (see Construction Protocol BR-1.5); designing trails located near wetlands or streams to minimize changes to pre-project hydrology; avoiding erosion or sedimentation via installing best management practices (e.g., silt fencing during construction, sediment traps, drainage swales, etc.); and using adaptive management techniques to address trail maintenance and maintenance issues (e.g., erosion) and other problems (e.g., nuisance trash areas or other impacts from trail users). Thus, in addition to reasonably analyzing a range of project alternatives as discussed above, the County further conditioned approval of the proposed project in order to mitigate project impacts to coastal resources to a less-than-significant level.

In sum, the LCP provides for limited compatible uses, specifically including trails such as the currently proposed project, within riparian corridors and other ESHA, provided such uses do not impair or degrade the riparian/ESHA plant and animal ecosystems or water supply values. The County-approved project is the culmination of extensive research and outreach, including an Initial Study and adopted Mitigated Negative Declaration, was selected as the least-environmentally damaging alternative, and is conditioned to include best management practices and measures to avoid and minimize any impacts to riparian habitats and other ESHA and associated sensitive species. The County-approved project meets the LCP's requirements related to uses allowed within riparian habitat, riparian corridors, wetlands, and other ESHA, and the County made the findings necessary to approve a Riparian Exception (including that the project is the least environmentally damaging feasible alternative) to allow trail development through riparian corridors. The County found that the trail alignments and uses of the trails, as conditioned, would not reduce or adversely impact riparian corridors or other ESHA and that there was no less environmentally damaging alternative. Therefore, this contention does not raise a substantial issue in terms of the project's conformance with the biological resource protection provisions of the certified LCP.

Monitoring/Reporting

The Appellant contends that the required monitoring and reporting of resource/habitat impacts is inadequate, and that it is not clear whether or how the public can provide input on such.

The Public Access Plan provides for extensive monitoring and oversight of resource/habitat impacts, and opportunities for the public to engage. Monitoring and reporting duties will be shared among Land Trust's park's management, including the Land Trust's Public Access Manager, and the County Parks Department and County Sheriff's Department. The Public

Access Manager will be responsible for opening and closing the gate to the parking lot daily (located outside the coastal zone); trash containers located at the parking lot will be removed at least weekly to prevent overflow and to minimize wildlife-attracting odors; the staging area, trails, and other public access features will be monitored and closed if necessary to protect natural resources. Any issues related to drainage problems, vegetation disturbance, graffiti, etc., will be addressed promptly. Trail conditions will be inspected regularly to ensure that visitors are staying on trails, and any rogue trails developed by visitors will be decommissioned as quickly as possible and coupled with increased patrol, engagement, and enforcement, including prosecution, to deter/prevent additional rogue trail development. The areas in the vicinity of the trails will also be monitored specifically for occurrences of any plant species found on the California Invasive Plant Council's "high and medium priority 'Red list,'" and if such invasive plants are found they will be eradicated. In terms of professional security and patrol, the area will regularly be patrolled by the Public Access Manager, County Sheriff staff, and County Parks Department staff, and potentially through photographic monitoring to ensure night usage is not occurring. In addition, the Public Access Plan focuses heavily on the ongoing education of visitors to create a culture of stewardship as is witnessed in other properties managed by the Land Trust. In addition, any complaints, including those to the Sheriff's Department, will be tracked; visitors will be surveyed regarding their degree of satisfaction with respect to implementation of the Public Access Plan and various park rules. Further, the Land Trust welcomes feedback from visitors, including reporting any issues to the Land Trust via phone, through the Land Trust's website, and via a comment box that will be located at the parking area. In sum, the Public Access Plan provides for extensive monitoring and reporting mechanisms to address any issues and ensure species and ESHA protection, and also provides mechanisms for public input and involvement.

In terms of whether this contention raises a substantial issue with respect to LCP conformance, the LCP does not expressly require such monitoring and reporting, and the LCP does not contain any particular applicable standards with respect to this issue. However, as discussed above, the project as designed does require monitoring and reporting of resource/habitat impacts and also allows the public to provide input on these topics. Thus this contention does not raise a substantial issue of LCP conformance.

Cumulative Impacts/ Coordination with Adjacent Landowners

The Appellant contends that cumulative impacts related to increasing use of the San Vicente Redwoods property over time are not adequately addressed, and that coordination, planning, and management with adjacent landowners and adjacent public access sites is inadequate.

The Public Access Plan includes a phased approach and adaptive management strategies to ensure that successful management of access to the San Vicente Redwoods can be achieved on a smaller scale before additional acreage is opened up for public use in later phases. In addition, extensive collaboration with adjacent landowners, particularly with respect to adjacent public access sites, is an integral part of the Public Access Plan. For the Laguna Tract, which adjoins the Bonny Doon Ecological Reserve, management of trails, visitor activities, and parking (at an existing lot) will be coordinated with the California Department of Fish and Wildlife (CDFW) and would be done in a manner consistent with CDFW's current management of the Bonny Doon Ecological Reserve. The Land Trust is also actively developing a memorandum of understanding with CDFW to formalize each entity's role and responsibilities. In addition, the

Public Access Plan provides for resources to assist with patrol, maintenance, and volunteer coordination. In terms of collaboration with adjacent landowners and future projects (such as the County's North Coast Rail-Trail project and envisioned trails on the adjacent Cotoni-Coast Dairies National Monument) that will likely increase the number of visitors to the area, these projects are in the early planning stages. The Land Trust is routinely collaborating with the Bureau of Land Management (BLM) as it develops its Public Access Management Plan for the National Monument, and is also coordinating with the County regarding the Rail-Trail project. In addition, some of the Main Tract trails in Phase 3 of the County-approved project will terminate at the boundary of the National Monument. This phasing will allow additional time for BLM and the Land Trust to coordinate regarding future trail development on the National Monument property that will connect the two properties. Future completion of these trail segments on the Main Tract and on the National Monument property will provide a larger network of trails that will help to disperse trail use among a larger area. In sum, the County-approved project has entailed substantial coordination with adjacent public landowners, and has assessed and considered cumulative impacts to the region, including sensitive environmental resources, and will continue to undertake such coordination as part of the implementation of the Public Access Management Plan.

In terms of whether the cumulative impacts contention raises a substantial issue with respect to LCP conformance, after the trails are developed, cumulative impacts relating to ongoing, long-term trail use would not be significant given the low-impact nature of trail usage and, perhaps more importantly, given that the LCP expressly allows for recreational trail development and usage within ESHA. Moreover, the Public Access Plan includes a phased approach and adaptive management strategies to ensure that successful management of access to the San Vicente Redwoods can be achieved on a smaller scale before additional acreage is opened up for public use in later phases, thus mitigating the potential for adverse cumulative impacts relating to trail usage. Furthermore, coordination between the Land Trust and BLM in regards to future completion of the trail segments on the Main Tract and on the Cotoni-Coast Dairies National Monument property as part of Phase 3 of development will result in a larger network of trails that will help disperse trail use among a larger area, thereby also mitigating the potential for adverse cumulative impacts relating to trail usage. The Initial Study and adopted MND also found that cumulative impacts related to future access to adjacent sites would be minimal given the length of the proposed trails. In other words, because access to San Vicente Redwoods is provided at the inland-most section of the property (outside of the coastal zone) and the connection to the Cotoni-Coast Dairies property would be in the southwestern corner of the Main Tract (a distance of approximately 10 miles), it is anticipated that most San Vicente Redwoods visitors would not traverse both properties, especially given that camping and backpacking are not permitted uses. Thus, the appeal does not raise a substantial issue with respect to LCP consistency in regards to cumulative impacts.

Finally, in terms of whether the contention regarding coordination/planning/management with adjacent landowners raises a substantial issue, the LCP also does not expressly require coordination with adjacent landowners, and the LCP does not contain any particular applicable standards with respect to this issue. However, as explained above, the project is designed to include significant coordination, planning, and management with adjacent landowners. Therefore, these contentions do not raise a substantial issue of LCP conformance.

G. CONCLUSION

When considering a project that has been appealed to it, the Commission must first determine whether the project raises a substantial issue of LCP conformity, such that the Commission should assert jurisdiction over a de novo CDP for such development. At this stage, the Commission has the discretion to find that the project does not raise a substantial issue of LCP conformance. As explained above, the Commission has in the past considered the following five factors in its decision of whether the issues raised in a given case are “substantial”: the degree of factual and legal support for the local government’s decision; the extent and scope of the development as approved or denied by the County; the significance of the coastal resources affected by the decision; the precedential value of the County’s decision for future interpretations of its LCP; and, whether the appeal raises only local issues as opposed to those of regional or statewide significance.

In this case, these five factors, considered together, support a conclusion that this project does not raise a substantial issue of LCP conformance. In terms of the factual and legal support for the County’s decision, the County completed CEQA review including an Initial Study and an adopted MND, analyzing the least environmentally damaging alternatives and conditioning the project to require the measures recommended in the MND to mitigate impacts to coastal resources to a less-than-significant level. In addition, the Applicant’s Public Access Plan provides for ongoing monitoring and adaptive management techniques to address any issues that may arise, and allows for public input on these issues. As explained above, the County analyzed the cumulative impacts issue in the MND and concluded no significant cumulative impacts would occur as a result of project approval, and as designed the project mitigates for the potential of adverse cumulative impacts relating to ongoing, long-term use of the proposed trail system. The Applicant has also done extensive outreach and coordination with adjacent landowners including CDFW (for the Laguna Tract parcel, which will adjoin the Bonny Doon Ecological Reserve) and BLM (for the Main Tract, which will connect trails between the Main Tract and the Cotoni-Coast Dairies National Monument under Phase 3 of the Public Access Plan) and with the greater public in an effort to effectively manage large open spaces that contain sensitive environmental resources. Thus, the County has provided adequate factual and legal support for its decision that the approved development would be consistent with the certified LCP, including that it meets the provisions related to ESHA, riparian habitats, and wetlands protection, is the least environmentally damaging feasible alternative, and will not result in significant adverse cumulative impacts.

In terms of the extent and scope of development and the significance of the coastal resources, the project consists of trail development and a Public Access Plan, and thus the project is best understood as low-impact development with the primary purpose being to support public access and recreation, a critical coastal objective and a primary tenet of both the LCP and Coastal Act. In addition, the vast majority of the project site will remain undeveloped. In other words, the extent and scope of development is relatively minor. In terms of the significance of the coastal resources affected by the decision, although the proposed project will result in impacts to both ESHA and ESHA buffers, the LCP specifically allows for development of non-motorized recreational trails such as this one within ESHAs and their buffers. With respect to anticipated impacts, trail construction is designed to avoid impacts to ESHA/riparian corridors to the

maximum extent feasible and is designed to include best management practices to protect coastal resources, and thus the County-approved project adequately protects environmentally sensitive resources while fulfilling LCP and Coastal Act objectives related to public access/recreation. In terms of the precedential value of the County's decision for future interpretations of its LCP, the County followed the requirements of the LCP, including with respect to the processing of a Riparian Exception to allow for trail development along riparian corridors and one segment of trail through a wetland area, and thus any precedential value would be limited to how to interpret the requirements of this chapter (which the County interpreted correctly).

And finally, although the coastal resources and associated LCP issues involved with this project are obviously the types that have both regional and statewide significance (*i.e.*, appropriate location of recreational trails and allowable uses within ESHA and riparian and wetland habitat), these issues were appropriately resolved under the specific provisions of the County's LCP in this case, again supporting a finding of no substantial issue.

For the reasons stated above, the Commission finds that Appeal Number A-3-SCO-19-0157 does not present a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act.

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS¹¹

- Initial Study/Mitigated Negative Declaration
- San Vicente Redwoods Public Access Plan

APPENDIX B – STAFF CONTACT WITH AGENCIES AND GROUPS

- LAND TRUST OF SANTA CRUZ COUNTY

¹¹ These documents are available for review in the Commission’s Central Coast District office.