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STAFF REPORT: REGULAR CALENDAR

Application No.: 4-21-0695

Applicant: California Department of Transportation

Project Location: Old Pacific Coast Highway, Mussel Shoals, Ventura County

Project Description: Enhancement of an existing informal public access path, including relocation of boulders, construction of a 5-foot-wide by 100-foot-long decomposed granite path and a stairway over existing rock slope protection composed of plastic lumber and rebar leading from the end of Old Pacific Coast Highway to the beach; installation of trash cans and removal of trash, and installation of tidepool etiquette signage.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

In 2005, the Coastal Commission approved Emergency Coastal Development Permit (ECDP) 4-05-035-G, which authorized the California Department of Transportation (Caltrans) to repair a damaged, pre-Coastal Act revetment that protects Old Pacific Coast Highway and US 101 by placing additional rock east of the Cliff House Inn in Mussel Shoals, Ventura County. The emergency work impacted an informal vertical public access trail that connected the public parking area at the end of Old Pacific Coast Highway to the beach east of the community of Mussel Shoals. The ECDP includes a special condition, which states that "Once the project is completed, the existing public

access trail and steps shall be restored to its prior or better condition within 10 days of project completion.” This proposed project would restore and improve the public access that was impacted in 2005 by enhancing the existing informal beach access trail with decomposed granite and decorative boulders and creating a stairway comprised of plastic lumber and rebar over the revetment.

In May 2021, Caltrans submitted a Coastal Development Permit application (4-21-0371) for the proposed project and based on the project plans and information provided, the Executive Director waived the requirement for a Coastal Development Permit (CDP 4-21-0371-W) pursuant to California Code of Regulations Title 14 Section 13238.1. The waiver determination was reported to the Coastal Commission at the June 2021 hearing and the Commission did not object. In September 2021, a group of Mussel Shoals community members raised objections to the project, in part because Caltrans had neglected to post notice of the pending permit at the project site, as required by California Code of Regulations Title 14 Section 13054(b), which caused the waiver to become invalid. As a result, Caltrans resubmitted the CDP application for the proposed project in September 2021. A portion of the project is in Ventura County’s Local Coastal Program (LCP) jurisdiction and another portion of the project is within the Commission’s retained jurisdiction. The County has agreed to a consolidated CDP process. Thus, the standard of review is Chapter 3 of the California Coastal Act with the Ventura County LCP as guidance.

The enhanced trail would be 5 feet wide by 100 feet long leading from the cul-de-sac of Old Pacific Coast Highway to 10 feet above sea level. The path has been designed to complement the area’s natural aesthetics by using plastic lumber in a railroad tie form, decorative boulders, and decomposed granite as opposed to concrete. Constructing the path will include excavating the existing soil using a crane and shovels, placing an aggregate base, and compacting using either plate compactors or a roller. The shape and direction of the steps will be determined by the base material with the aid of construction strings and wooden stakes. The railroad ties would be secured in place by driving rebar directly into the base material using an impact drill and sledgehammer, then threading the rebar through holes in the railroad ties and fastening them with nuts and washers on either end. A large saw will be used to cut the ties to shape. All refuse will be collected, contained, and disposed of offsite. All work would be conducted within Caltrans’ right-of-way.

Construction would last roughly 6-8 weeks and would require the temporary restriction of coastal parking in the Old Pacific Coast Highway cul-de-sac. Signs would be placed at the cul-de-sac directing the public to park further west in the shoulder of Old Pacific Coast Highway in order to access the beach via Ocean Avenue near the Richfield Pier. As such, the impact to public access through the project site will be temporary in duration, there are alternative access opportunities nearby, and the proposed project will enhance public access when complete. Thus, the proposed project, as submitted, would be consistent with Sections 30210, 30211, and 30220 of the Coastal Act and applicable public access policies of the LCP.

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During construction, no machinery or heavy equipment will enter the beach area and best management practices (BMPs) will be implemented to prevent any debris from entering the ocean. All construction, aside from the relocation and placement of existing boulders, will be conducted above the mean high tide line and will not enter the US Army Corps or the Regional Water Quality Control Board's jurisdiction. Additionally, **Special Condition 4** requires that any stockpiled materials shall be located as far from the beach and ocean as feasible and in no event shall materials be stockpiled less than 30 ft. in distance from the edge of the mean high tide line. Temporary erosion control measures (such as sandbag barriers, silt fencing, swales, etc.) shall be installed in the event that temporary stockpiling of material is required. These temporary erosion control measures shall be monitored and maintained until all stockpiled fill has been removed from the project site. Permanent stockpiling of material on site shall not be allowed. Thus, the proposed project, as conditioned, would be consistent with Sections 30230 and 30231 of the Coastal Act and applicable water quality policies of the LCP.

The enhancement of the public access trail will not involve the construction of any concrete foundations, piles, or other structures that would necessitate the need for a shoreline protective device in the future and may be easily removed if threatened in the future by coastal hazards. Rather, the informal public access trail, which existed prior to the construction of the emergency revetment repairs in 2005, will be improved using minimal construction materials. In order to maintain the public access trail, and ensure that any damage that may result from a storm or wave activities is addressed and repaired, the Commission imposes **Special Condition 1** which requires the applicant to maintain the approved public access stairway, and retrieve any failing portions of the permitted structures or related improvements that might otherwise substantially impair the use, aesthetic qualities, or environmental integrity of the beach, ocean, trail, and upland areas; and inspect the public access trail for signs of damage at least twice a year. Therefore, the Commission finds that the project, as conditioned, is consistent with Section 30253 of the Coastal Act and the applicable coastal hazards policies of the LCP.

The construction process would involve clearing roughly 1500 square feet (0.03 acres) of native vegetation, primarily saltbush (*Atriplex lentiformis*), with a mulcher in order to construct the trail. The path will result in permanent impacts to 500 square feet of saltbush and the applicant proposes to allow approximately 1000 square feet of saltbush to grow back naturally post-construction. Ventura County and Commission staff have determined that the saltbush that is proposed to be impacted does not meet the Coastal Act and LCP definitions of environmentally sensitive habitat (ESHA) because it is primarily saltbush, rather than a coastal sage scrub or coastal dune community, and because the saltbush at this location is fragmented. However, in the event that the impacted saltbush does not naturally re-establish itself to maturity within one year, the Commission imposes **Special Condition 2**, which requires Caltrans to submit a Native Plant Replacement Plan for review and approval by the Executive Director that will monitor the regrowth of the impacted saltbush and supplement its natural regeneration with planting and/or seeding if necessary. Lastly, one additional concern is that the trail improvement might result in increased visitation to Mussel

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Shoals beach, which could negatively impact the tide pools that occur north of the proposed trail enhancement. In order to ensure that potential increased public use of the enhanced accessway will protect ESHA from potential overuse, the applicant proposes to install signage at the trailhead in the cul-de-sac that describes tide pool etiquette that will minimize the impacts to the tide pools through education and increased public awareness. Therefore, the Commission imposes **Special Condition 3**, which requires, prior to issuance of the Coastal Development Permit, that the applicant shall submit, for the review and approval of the Executive Director, an informational / educational signage plan, that describes the location, number, size, and contents of the signs proposed to be placed. The sign shall be installed by the applicant in the manner described in the approved signage plan. Thus, the proposed project, as conditioned, would be consistent with Section 30240 of the Coastal Act and applicable LCP Policies.

Commission staff recommends that the Commission approve CDP 4-21-0695, as conditioned. The motion and resolution to do so is on page 5.

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EXHIBITS

[Exhibit 1 – Project Vicinity Map](#)

[Exhibit 2 – Project Plans](#)

[Exhibit 3 – Photographs of Existing Conditions](#)

[Exhibit 4 – Proposed Public Access Detour Sign](#)

[Exhibit 5 – Proposed Tide Pool Etiquette Sign Location](#)

MOTION AND RESOLUTION

Motion:

I move that the Commission approve Coastal Development Permit No. 4-21-0695 pursuant to the staff recommendation.

Staff Recommendation of Approval:

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

Resolution to Approve the Permit:

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

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 applicant 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 applicant to bind all future owners and possessors of the subject property to the terms and conditions.

SPECIAL CONDITIONS

1. Future Maintenance/Repair. This CDP authorizes future maintenance and repair of the approved project components as described in this special condition. The applicant acknowledges and agrees on behalf of itself and all successors and assigns that it is the applicant's responsibility to: (1) inspect the public access stairway for signs of damage at least twice each calendar year; (2) maintain the approved public access trail, and all related development in a structurally sound manner, visually compatible with the beach and shoreline surroundings, and in their approved and required states, including the native plant replacement areas required pursuant to Special Condition 2 (if necessary), throughout the life of the public access trail and stairway; and (3) retrieve any failing portions of the permitted stairway that might otherwise substantially impair the use, aesthetic qualities, or environmental integrity of the beach, ocean, trail, and upland areas. Any change in the approved project shall be submitted to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations. Such maintenance and repair shall be subject to the definitions and provisions below:

(a) Maintenance/Repair Notification. At least two weeks prior to commencing any maintenance and/or repair activity, the applicant shall notify, in writing, the Coastal Commission's Executive Director. The notification shall include: (1) a detailed description and project plans of the maintenance/repair proposed; (2) any technical reports prepared in support of the proposed maintenance/repair; (3) a construction plan that clearly describes construction areas and methods, and that is consistent with the parameters of Special Condition 2 below; (4) other agency authorizations; and (5) any other supporting documentation describing the maintenance/repair event. Maintenance or repair may not commence until the applicant has been informed by the Coastal Commission's Executive Director that the maintenance proposed complies with this CDP. In the event of an emergency requiring immediate maintenance, the notification of such emergency shall be made as soon as possible, and shall (in addition to the foregoing information) clearly describe the nature of the emergency.

(b) Trash Cans and Litter Collection. Caltrans shall provide trash containers, and regularly remove trash from the containers at the project site.

2. Native Plant Replacement Plan. If the saltbush that was impacted as a result of the public access trail construction does not re-establish to maturity within one year of the initial disturbance, the applicant shall submit a Native Plant Replacement Plan to the Executive Director for review and written approval. The Plan shall be prepared by a qualified restoration ecologist and shall include the following:

(a) Baseline Assessment. A baseline assessment, including narrative, maps, and photographs of the current physical and ecological condition of the impacted saltbush.

(b) Native Plant Planting. A planting plan that includes the use of seeds, plugs, or container plants planted prior to fall rains, unless another time period or planting method is fully described and justified within the Plan. All vegetation planted in the native plant replacement area shall consist only of plants native to the local watershed and originating from local genetic stock, and the Plan shall be submitted with adequate evidence demonstrating that that is the case. If irrigation is considered necessary to initiate restoration, it should be temporary and provisions for its removal must be included in the Plan.

(c) Fencing and Signage. Fencing and informational signs shall be installed around the revegetated saltbush areas to identify and protect them from activities that could disturb the recovery/growth of the saltbush. All signage and fencing details shall be provided to the Executive Director and shall be sited and designed to protect the saltbush establishment and to protect public views as much as possible (e.g., materials that are made of natural materials and colors that blend with the environment, such as rope and post) while allowing for continued public access to the beach and water through the public access stairway.

(d) Monitoring and Maintenance. A monitoring plan designed to evaluate the success of the native replacement planting efforts, and to guide any adaptive management actions for ensuring long-term success shall be provided. Monitoring and maintenance of the plant replacement area shall continue until the saltbush has re-established.

(e) Success Criteria. The final success criteria for saltbush re-establishment shall be re-establishment of saltbush in the impacted area.

(f) Reporting. Monitoring reports shall be submitted annually to the Executive Director until the replacement saltbush planting has been successfully achieved.

3. Tidepool Etiquette Signage. Prior to issuance of the Coastal Development Permit, the applicant shall submit, for the review and approval of the Executive Director, an informational/educational signage plan, that describes the location, number, size, and contents of signs proposed to be placed. The signs shall be installed by the applicant in the manner described in the approved signage plan.

4. Best Management Practices. It shall be the applicant's responsibility to assure that the following occurs concurrent with, and after the completion of, all project operations:

(a) Construction materials, debris, or waste shall be located as far from the ocean on the designated site as feasible and in no event shall materials be stockpiled less than 30 feet in distance from the mean high tide line, or where it may be subject to erosion and dispersion.

(b) Temporary erosion control measures and best management practices (BMPs) shall be implemented for all stockpiled material. These temporary erosion control measures shall be required at the site prior to or concurrent with vegetation/silt removal operations and shall be monitored and maintained until all stockpiled fill has been removed from the project site. Successful implementation of erosion control measures will ensure that the material is completely stabilized and held on site.

(c) No equipment shall be stored in the project area, including designated staging and/or stockpile areas, except during active project operations.

(d) No construction material, debris, or waste shall be placed or stored where it may be subject to wave erosion and dispersion. Any and all debris resulting from construction activities shall be removed immediately. Any debris inadvertently discharged into coastal waters shall be recovered immediately and disposed of consistent with the requirements of this coastal development permit.

(e) Construction equipment and materials shall be stored only in designated staging and stockpiling areas as depicted on the project plans in Exhibit 2.

(f) Any fueling and maintenance of construction equipment shall occur within upland areas outside of environmentally sensitive habitat areas or within designated staging areas. Mechanized heavy equipment and other vehicles used during the construction process shall not be refueled or washed within 100 feet of coastal waters.

(g) Fuels, lubricants, and solvents shall not be allowed to enter the coastal waters or wetlands. Hazardous materials management equipment including oil containment booms and absorbent pads shall be available immediately on-hand at the project site, and a registered first-response, professional hazardous materials clean-up/remediation service shall be locally available on call. Any accidental spill shall be rapidly contained and cleaned up.

(h) Best Management Practices (BMPs) shall be implemented to control erosion from the disturbed areas and prevent sediment and potential pollutants from entering coastal waters and/or native habitat plant communities during project activities.

FINDINGS AND DECLARATIONS

A. Project Description and Background

In 2005, development in the area of the proposed access trail, including rock slope protection, was authorized pursuant to emergency coastal development permit (ECDP) 4-05-035-G. The ECDP required, as a condition of approval, that the existing informal public access trail be restored to its prior or better condition within 10 days of emergency project completion. To date, the required follow-up CDP has not been

approved. In 2008, Commission enforcement staff opened a violation, V-08-063, to resolve the matter.

In March 2021, Caltrans submitted a CDP application for the public access trail, for which permit requirements were waived by the Executive Director. Waiver Determination CDP 4-21-0371-W was reported to the Coastal Commission at the June 2021 hearing and the Commission did not object. However, in September 2021, a group of Mussel Shoals community members raised objections to the project, in part because Caltrans had neglected to post notice of the pending permit at the project site. Commission staff confirmed that Caltrans had failed to post notice at the site as required by California Code of Regulations Title 14 Section 13054(b), and the waiver was invalidated. In September 2021, Caltrans submitted another CDP application (4-21-0695) for the subject project. On November 5, 2021, Caltrans hosted a public meeting to facilitate a discussion about the project. Many of the concerns raised are discussed in this staff report, particularly about potential impacts to the existing tidepools, how littler will be collected, and if the existing saltbush is ESHA.

As required by ECDP 4-05-035-G, Caltrans proposes to improve the informal public access trail that extended from the cul-de-sac from the end of Old Pacific Coast Highway to Mussel Shoals beach prior to the installation of the emergency revetment in 2005. The proposed project will enhance the existing informal public access trail by constructing a 5-foot-wide by 100-foot-long trail, and a stairway, which will lead from the end of Old Pacific Coast Highway over the emergency revetment down to the beach. The surface of the access trail will be decomposed granite lined with decorative boulders and the stairway will be built using plastic lumber and rebar over an aggregate base. Construction will result in permanent impacts to 500 square feet of saltbush and temporary impacts to 1000 square feet of saltbush, as well as temporary restriction of approximately 2,600 square feet, or the equivalent of 3-4 spaces, of public access parking. During construction, signage will be placed at the cul-de-sac to direct the public to an alternative route to the beach. No machinery or heavy equipment will enter or operate on the beach environment. See Exhibit 1 for a Project Vicinity Map, [Exhibit 2](#) for Project Plans, and [Exhibit 3](#) for Existing Site Conditions.

B. Consolidated Permit

Coastal Act Section 30601.3 provides the Commission with the authority to act upon a consolidated permit for proposed projects that require a coastal development permit from both a local government with a certified local coastal program (LCP) and the Commission. This authority is triggered if the applicant, local government and Executive Director (or Commission) consent to consolidate the permit. For the proposed project, the majority of the project area is located above the mean high tide line within the jurisdiction of the County of Ventura under its certified Local Coastal Program. On May 7, 2021, the County of Ventura, with the consent of the applicant and Executive Director, agreed to consolidate permit action for aspects of the proposed work that would be carried out in the County of Ventura's LCP jurisdiction with aspects that would be carried out within the Commission's retained jurisdiction, consistent with Coastal Act

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Section 30601.3. The standard of review for such consolidated permits is the Coastal Act, with LCP policies used for guidance.

C. Coastal Access and Recreation

Section 30210 of the Coastal Act 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.

Section 30211 of the Coastal Act states:

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

Section 30220 of the Coastal Act states:

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

Ventura County LCP Policy 4-28 subsection 1.6 states:

Wherever possible, provide connections between the mapped Coastal Trail (Multi-Modal and Single-Mode Routes) and other existing or planned trail systems, vertical shoreline access points, transit stops, and coastal access parking or trail staging areas.

Ventura County LCP Policy 4.2.2 *Access to Environmentally Sensitive Habitat Areas* states:

The applicant of a proposed recreational facility in, or adjacent to, areas designated "environmentally sensitive habitats" shall develop a management program to control the kinds, intensities, and locations of uses to preserve the habitat resources to the maximum extent feasible. This program shall be part of development approval.

Ventura County LCP Policy 4.2.2 *General Access* states:

In accordance with section 30214(a) of the Coastal Act, the time, place, and manner of access will depend on individual facts and circumstances; including topographic and site characteristics, the capacity of the site to sustain use at the

intensity proposed, management of the access areas to protect the privacy of adjacent owners, and the feasibility to provide for litter collection.

The proposed trail enhancement is consistent with the coastal trail policies of the Ventura County LCP, which specifically calls for a shoreline access point at the proposed project location, and it would provide maximum access, consistent with the Coastal Act and the Ventura County LCP.¹ However, construction will require temporary restriction of approximately 2,600 square feet, or the equivalent of 3-4 spaces, of public access parking. During construction, signs would be placed at the cul-de-sac directing the public to park further west in the shoulder of Old Pacific Coast Highway and to access the beach via Ocean Avenue near the Richfield Pier (see [Exhibit 4](#) for the Proposed Public Access Detour Sign) to ensure that any potential temporary impacts to public access are minimized.

Additionally, as mentioned in more detail below, one concern is that the trail improvement might result in increased visitation to Mussel Shoals, which could negatively impact the tide pools that occur on the beach and are identified as ESHA in the Ventura County LCP. In order to ensure that potential increased public use of the enhanced accessway will protect ESHA from potential overuse, the applicant proposes to install signage at the trailhead in the cul-de-sac of Old Pacific Coast Highway that describes tide pool etiquette and that will minimize the impacts to the tide pools through education and increased public awareness (see [Exhibit 5](#) for the Proposed Tide Pool Etiquette Signage).

Lastly, another concern raised by Mussel Shoals community members is that more litter will be potentially generated by the public as a result of the potential for increased visitation to the area, and that Caltrans does not currently provide adequate litter collection for the area. To address these concerns, during a recent public meeting with community members, Caltrans agreed to increase litter collection and removal services at the subject trailhead. Therefore, the Commission imposes **Special Condition 1(b)** which requires Caltrans to provide trash cans and trash removal at the project site.

This project will restore and enhance public access to the site that existed prior to the construction of the revetment, as required by ECDP 4-05-035-G. In conclusion, the impact to public access through the project site will be temporary in duration, there are alternative access opportunities nearby, and the proposed project will enhance public access when complete. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Sections 30210, 30211, 30220 of the Coastal Act and the applicable public access policies of the Ventura County LCP.

¹ See Ventura County LCP Figure 4.1-2: North Coast.

D. Marine Resources and Water Quality

Ventura County LCP Section 2.3 and Section 30230 of the Coastal Act state:

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.

Ventura County LCP Section 2.3 and Section 30231 of the Coastal Act state:

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.

Although the Commission finds that the proposed project has the potential to adversely impact marine resources, water quality, and the biological productivity of coastal waters, with implementation of best management practices, as required by **Special Condition 4**, the project would be carried out in a manner in which marine resources and water quality are maintained, species of special biological significance are given special protection, the biological productivity of coastal waters is sustained, and healthy populations of all species of marine organisms will be maintained. **Special Condition 4** requires that any stockpiled materials shall be located as far from the beach and ocean as feasible and in no event shall materials be stockpiled less than 30 ft. in distance from the edge of the mean high tide line. Temporary erosion control measures (such as sandbag barriers, silt fencing, swales, etc.) shall be installed in the event that temporary stockpiling of material is required. These temporary erosion control measures shall be monitored and maintained until all stockpiled fill has been removed from the project site. Permanent stockpiling of material on site shall not be allowed.

Finally, as a part of the public trail enhancement, and as required by **Special Condition 3**, the applicant will install signage regarding tidepool etiquette, which will educate the public about their potential impacts on tidepool habitat that exists at Mussel Shoals beach (see [Exhibit 5](#) for the Proposed Tide Pool Etiquette Sign). The Commission, therefore, finds the proposed project, as conditioned, is consistent with the marine resource sections (Sections 30230 and 30231) of the Coastal Act, and the applicable policies of the LCP.

E. Coastal Hazards

Section 30253 of the Coastal Act states:

New development shall do all of the following:

- (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

Policy 4.2.4 of the Ventura County LCP States in relevant part:

- 2. New development shall be sited and designed to minimize risks to life and property in areas of high geologic, flood, and fire hazards.
- 3. All new development will be evaluated for its impacts to, and from, geologic hazards (including seismic safety, landslides, expansive soils, subsidence, etc.), flood hazards, and fire hazards. Feasible mitigation measures shall be required where necessary.

As described above, enhancing the existing public access trail will include moving existing boulders in the work area and grading the soil using a crane and shovels. An aggregate base will be set and compacted using either plate compactors or a roller. The approximate shape and direction of the steps over the revetment will be molded directly into the base material with the aid of construction strings and wooden stakes. The steps would be constructed from plastic lumber railroad ties that would be secured in place by driving rebar directly into the base material using an impact drill and sledgehammer, then threading the rebar through holes in the railroad ties and fastening them with a nuts and washers on either end.

As such, the access trail will not involve the construction of any concrete foundations, piles, or other structures that would necessitate the need for a shoreline protective device in the future and may easily be removed if threatened in the future by coastal hazards. Rather, the informal public access foot path, which existed prior to the construction of the emergency revetment repairs in 2005, will be improved using minimal construction materials. In order to maintain the access trail, and ensure that the removal of any debris that may be created if the path or stairs are damaged, the Commission imposes **Special Condition 1**, which requires the applicant to (1) inspect the public access trail for signs of compromise at least twice a year; (2) maintain the approved public access stairway, and all related development in a structurally sound manner, visually compatible with the beach and shoreline surroundings, and in their approved and required states, including the habitat creation areas pursuant to Special

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Condition 2 (if necessary), throughout the life of the public access trail; and (3) retrieve any failing portions of the permitted structures or related improvements that might otherwise substantially impair the use, aesthetic qualities, or environmental integrity of the beach, ocean, trail, and upland areas. Therefore, the Commission finds that the project, as conditioned, is consistent with Section 30253 of the Coastal Act and the applicable coastal hazards policies of the Ventura County LCP.

F. Environmental Sensitive Habitat Areas

Section 30240 of the Coastal Act states:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on 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 Ventura County LCP addresses ESHA as tidepools and beaches in the Mussel Shoals area as follows:

A. Tidepools and Beaches Tidepools occur at Faria, Mussel Shoals, Seacliff and Emma Wood State Beach. Subtidal rock outcrops provide anchorage for kelp, which in turn provides habitat for a multitude of organisms. Intertidal and subtidal diversity creates feeding habitat for a variety of water birds. The sandy beach adjacent to the rocky areas serves as resting habitat for shorebirds, and is important for shellfish and as grunion spawning grounds. Environmentally Sensitive Habitat Objective: The protection of tide pools.

The Ventura County LCP includes the following ESHA policies addressing tidepools and beaches in the North Coast.

Policy 5 – An applicant for any coastal project, including shoreline protective devices, will show that their proposal will not cause long-term adverse impacts on beach or intertidal areas. Impacts include, but are not limited to, destruction of the rocky substrate, smothering of organisms, contamination from improperly treated wastewater or oil, and runoff from streets and parking areas. Findings to be made will include, but not be limited to, proper wastewater disposal.

As mentioned above, Ventura County and the Commission staff determined that saltbush (*Atriplex lentiformis*) at the project site does not meet the Coastal Act and LCP definition of environmentally sensitive habitat area (ESHA) because at this site, saltbush is not associated with a sensitive plant community such as coastal bluff scrub or coastal dune scrub. The saltbush on site nevertheless provides wildlife habitat and the

proposed path enhancements would result in impacts to 1500 square feet (0.03 acres) of saltbush, of which 500 square feet would be permanently impacted and 1000 square feet would be temporarily impacted through clearing with a mulcher. There will be no permanent development within the 1,000 square foot removal area and the applicant proposes to allow the saltbush to regenerate naturally post-construction. However, if the saltbush does not naturally re-establish to maturity within one year, the Commission imposes **Special Condition 2**, which would require the applicant to submit a Native Plant Replacement Plan for review and approval by the Executive Director.

Finally, as discussed, there are tidepools at Mussel Shoals, immediately to the north of the proposed project site, which have been identified as ESHA in the Ventura County LCP. As previously described, no equipment or construction will be located on the beach or intertidal areas. Additionally, **Special Condition 4** requires that best management practices will be employed during construction to ensure that no construction materials, contaminants, or soil are allowed to reach the beach or marine environment. Therefore, construction of the project will not impact tidepools. As described above, another concern raised by nearby residents is that the proposed public access trail might result in increased visitation to Mussel Shoals, which could negatively impact the tide pools that occur on the beach. To address this potential issue, the applicant proposes to install signage at the trailhead in the cul-de-sac that describes tide pool etiquette that is intended to minimize the impacts to the tide pools through education and increased public awareness (see [Exhibit 5](#) for the Proposed Tide Pool Etiquette Signage). Therefore, the proposed project, as conditioned, is consistent with Section 30240 of the Coastal Act and the applicable ESHA policies of the Ventura County LCP.

G. Enforcement

Violations of the Coastal Act have occurred in the project vicinity, including the failure to seek a follow-up authorization for repairs to the pre-coastal revetment. In 2005, development in the area of the proposed access trail enhancement, including the rock slope protection, was authorized pursuant to emergency coastal development permit (ECDP) 4-05-035-G granted to Caltrans, which required a follow-up CDP to permanently authorize the development. To date, a follow-up CDP has not been approved and Commission enforcement staff will address this issue as a separate matter.

Any non-exempt development activity conducted in the Coastal Zone without a valid coastal development permit, or which does not substantially conform to a previously issued permit, constitutes a violation of the Coastal Act.

Although development has taken place prior to submission of this permit application, consideration of the permit application by the Commission has been based solely on consistency of the proposed development with the policies of Chapter 3 of the Coastal Act. Commission review and action on this permit does not constitute a waiver of any legal action with regard to the alleged violations (or any other violations).

H. California Environmental Quality Act

Section 13096 of the Commission's administrative regulations requires Commission approval of coastal development permit applications to be supported by a finding showing the application, as modified 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 approval of a proposed development if there are feasible alternatives or feasible mitigation measures available that would substantially lessen any significant impacts that the activity may have on the environment. The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. These findings address and respond to any public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed in detail above, the proposed project, as conditioned, is consistent with the policies of the Coastal Act. Feasible mitigation measures, which will minimize all adverse environmental effects, have been required as special conditions. Special Conditions One (1) through Four (4) are required to assure the project's consistency with Section 13096 of Title 14 of the California Code of Regulations. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impacts that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

Emergency Coastal Development Permit (ECDP) 4-05-035-G

Caltrans Natural Environment Study (NES), Mussel Shoals beach access path, 2/2021