



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 003-11

500 JAMES FOWLER ROAD

COASTAL DEVELOPMENT PERMIT

GOLETA SLOUGH COASTAL DEVELOPMENT PERMIT

MARCH 3, 2011

APPLICATION OF SETH SHANK, SANTA BARBARA COUNTY FLOOD CONTROL DISTRICT, 500 JAMES FOWLER ROAD, 073-045-003, A-I-1 G-S-R, S-D-3, AIRPORT INDUSTRIAL, GOLETA SLOUGH RESERVE, AND COASTAL OVERLAY ZONES, GENERAL PLAN DESIGNATION: MAJOR PUBLIC AND INSTITUTION AND RECREATIONAL OPEN SPACE (MST 2010-000379, CDP2010-00008)

The Goleta Slough Sediment Basin Dredging Project consists of the continued maintenance of two sediment basins in the Goleta Slough immediately south of Hollister Avenue on Santa Barbara Airport property. Specifically the project would involve dragline desilting of approximately 21,300 cubic yards of sediment from a crane staged on the adjacent access road, stockpiling sediment, hauling sediment off-site. Generally dredging at each site would occur once every 2 years. One site would be dredged at a time. However emergency dredging would occur as needed.

This project is part of a larger Flood Control effort that dredges five sediment basins (three in County jurisdiction and two in the City of Santa Barbara), as well as two sediment disposal sites in unincorporated Santa Barbara County. The Tecolotito Creek and Carneros Creek sediment basins are the only portion of this effort in City of Santa Barbara jurisdiction. The purpose of this effort is to prevent the loss of life and property that could occur during peak storm flooding and to prevent the gradual sedimentation of the Goleta Slough.

The discretionary applications required for this project are a Coastal Development Permit and a Goleta Slough Coastal Development Permit (CDP2010-00008) to allow the continued routine dredging of the Tecolotito Creek and Carneros Creek Sediment Basins in the Appealable Jurisdiction of the City's Coastal Zone (SBMC §28.45.009 and §29.25.030).

The Planning Commission will review a Final Subsequent Environmental Impact Report as a responsible agency with permit authority for the portion of the project in City of Santa Barbara jurisdiction pursuant to the California Environmental Quality Act Guidelines §15096.

WHEREAS, the Planning Commission has held the required public hearing on the above application, and the Applicant was present.

WHEREAS 1 person appeared to speak in favor of the application, and no one appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, February 17, 2011.
2. Site Plans
3. Correspondence received in opposition to the project:
 - a. Paula Westbury, Santa Barbara, CA

NOW, THEREFORE BE IT RESOLVED that the City Planning Commission:

I. Approved the subject application making the following findings and determinations:

A. FINAL SUBSEQUENT ENVIRONMENTAL IMPACT REPORT CONSIDERED (CEQA GUIDELINES §15096 AND §15091)

1. The Planning Commission considered the Flood Control Maintenance Activities in the Goleta Slough Final Subsequent Environmental Impact Report (Final SEIR) certified by the Santa Barbara County Board of Supervisors on November 9, 2010.
2. The Planning Commission finds that the Final SEIR constitutes a complete, accurate, adequate, and good faith effort at full disclosure under the California Environmental Quality Act (CEQA) and has been completed in compliance with CEQA.
3. The Final EIR is available to the public at:

Water Resources Division
Santa Barbara County Public Works
123 E. Anapamu St.
Santa Barbara, CA 93101

And online at: <http://www.countyofsb.org/pwd/pwwater.aspx?id=21178>

4. The project would result in significant, unavoidable impacts (Class I) to air quality (Impacts AQ-A&B) as described in Section VII of the staff report. Mitigation measures (MM AQ-1A, MM AQ-1B) that reduce air pollution emissions to the extent feasible have been included as conditions of approval and incorporated into the project and mitigation monitoring plan. No other mitigations or alternatives are technologically feasible to further mitigate or avoid these impacts while still meeting the projects flood control objective.
5. The project would result in significant, unavoidable impacts (Class I) associated with the takings of the Federally-endangered tidewater goby (Impact BIO-2 and Impact CUM-8) and the potential for hazardous materials spill (Impact BIO-12) as described in Section VII of the staff report. Mitigation measures (MM BIO-2 and MM PBIO-12) that reduce these biological impacts to the extent feasible have been included as conditions of approval and incorporated into the project and mitigation monitoring plan. No other mitigation measures or alternatives are technologically feasible to further mitigate or avoid these impacts while still meeting the projects flood control objective.
6. The project would result in significant, unavoidable impacts (Class I) associated with the aesthetic impacts of dredging operations (Impact AEST-3 and Impact CUM-3) as described in Section VII of the staff report. No mitigation measures or alternatives are technologically feasible to further mitigate or avoid these impacts while still meeting the projects flood control objective.
7. The project would result in significant, unavoidable impacts (Class I) associated with the aesthetic impacts of hauling of spoils to the closed Foothill landfill or Goleta Beach County Park (Impacts AEST-4 and AEST-5) and biological impacts of tree removal at Foothill Landfill (BIO-4) as described in Section VII. These impacts occur outside of the City of Santa Barbara jurisdiction. All feasible mitigation measures to lessen these

impacts have either been approved by the County Board of Supervisors or can and should be approved by the City of Goleta. However, the Final SEIR identifies no feasible mitigation measures or alternatives to reduce these impacts to less than significant.

8. The project would result in significant, but mitigable impacts (Class II) to water resources, geologic resources, biological resources, risk of upset, and cultural resources as described in Section VII of the staff report and the Final SEIR. Mitigation measures identified in the FEIR within the responsibility and jurisdiction of the City of Santa Barbara that reduce these impacts to a less than significant level have been included as conditions of approval and incorporated into the project and mitigation monitoring plan. Mitigation measures identified in the Final SEIR that reduce these impacts to less than significant that are outside of the jurisdiction of the City of Santa Barbara have either already been adopted by the County of Santa Barbara or can and should be adopted by the City of Goleta.
9. A mitigation monitoring and reporting program for measures required in the project or made a condition of approval to mitigate or avoid significant environmental effects has been prepared.
10. The California Department of Fish and Game (DFG) is a Trustee Agency with oversight over fish and wildlife resources of the State. The DFG collects a fee from project proponents of all projects potentially affecting fish and wildlife, to defray the cost of managing and protecting resources. The project is subject to the DFG fee, and a condition of approval has been included which requires the applicant to demonstrate payment of the fee within five days of project approval.

B. STATEMENTS OF OVERRIDING CONSIDERATION (CEQA GUIDELINES §15093)

The Planning Commission has balanced the benefits of the project against the unavoidable environmental impacts and has concluded that the benefits of the proposed development outweigh the potentially significant air quality, biological resource, and aesthetic impacts to justify approval of the project. The Planning Commission makes the following Statements of Overriding Consideration that warrant approval of this project notwithstanding the identified environmental impacts that are not mitigated:

1. Tecolotito and Carneros Creek carry large peak run-off volumes of water and debris from the hills and mountains north of the City of Goleta and the Santa Barbara Airport. Impervious surface and narrowed channels in the built-up environment in the City of Goleta further intensify the severity of flood hazard. Sediment build-up in these creeks threatens upstream communities in the City of Goleta, operations and public property at the Santa Barbara Airport, and vital wetland habitat in the Goleta Slough.
2. The Santa Barbara County Flood Control District has maintained flood mitigation activities in the Goleta Slough for over forty years. These activities cannot be left unmaintained without the creek channels becoming full of sediment, causing extensive flooding across the Goleta Valley, including businesses and public infrastructure in the City of Santa Barbara.
3. The Planning Commission recognizes the need to balance the projection of life and property from flooding against the protection of environmental resources. Mitigation

Measures included in the Conditions of Approval (Exhibit A) reduce environmental impacts to the maximum extent feasible when weighed against legal, technical, social, and economic mandates relative to flood control protection.

4. The Planning Commission determines that the remaining unavoidable significant environmental effects are acceptable.

C. COASTAL DEVELOPMENT PERMIT (SBMC §28.44.150)

1. The project is consistent with the policies of the California Coastal Act, because it would protect coastal resources, public access to coastal resources, and minimize risks of life and property from flooding, as described in Section VIII of the staff report (Coastal Act Section 30253).
2. The project is consistent with all applicable policies of the City's Local Coastal Plan, all applicable implementing guidelines, and all applicable provisions of the Code, because it would prevent wetland habitat loss from sedimentation, as described in Section VIII of the staff report (Policies C-5 and C-12).

D. GOLETA SLOUGH COASTAL DEVELOPMENT PERMIT (SBMC §29.25.020)

1. The project is consistent with the policies of the California Coastal Act, because it has been designed to minimize environmental impacts to the extent feasible as described in Section VII of the staff report (Coastal Act Section 30236).
2. The project is consistent with all applicable policies of the City's Local Coastal Plan, all applicable implementing guidelines, and all applicable provisions of the Code, because it would be constructed in previously disturbed areas and advance the goal of sediment reduction in the Goleta Slough (Policy C-5), as described in Section VIII.B of the staff report.
3. The project use is dependent upon the resources of the environmentally sensitive area, consistent with Section 30233 of the Coastal Act because the sediment basins were constructed in the Goleta Slough and no other site in the watershed provides a feasible alternative, as described in Section IV of the staff report and Section 2.3 of the Final SEIR.
4. The project has been designed to prevent impacts which would significantly degrade environmentally sensitive habitat by incorporating mitigation measures that reduce environmental impacts to the maximum extent feasible, such as incorporating tidewater goby refuge and a spill prevention plan, as described in Section VII.A.1 of the staff report and Section 5.4.2.3 of the Final SEIR.
5. The project maintains all existing 100 foot buffer areas between construction and delineated wetlands except where work must occur inside the creek. No permanent disruption will occur within any buffer areas.
6. The project will be carried out in a manner that will sustain the biological productivity of coastal waters and maintain healthy populations of all species of marine organisms by phasing and timing of desilting activities between the two basins so as to provide opportunities for refuge for tidewater goby and its prey, as described in Section VII.A.1 of the staff report and Sections 5.1.2.3 and 5.4.2.3 of the Final SEIR.

7. The project includes adequate impact avoidance and mitigation measures to ensure protection of rare, threatened, or endangered species that are designated or candidates for listing under State or federal law to the maximum extent feasible through the incorporation of Mitigation Measure MM BIO-2 and the Conditions of Approval, as described in Section VII.A.1 of the staff report and Section 5.4.2.3 of the Final SEIR.
8. There is no less environmentally damaging alternative to the proposed development, all feasible mitigation measures, tidewater goby refuge, spill prevention, and emission pollution prevention have been provided to minimize adverse environmental effects, and all dredged spoils shall be removed from the wetland area to avoid significant disruption to wildlife habitat and water circulation, as described in Sections VII and VIII.B.1 of the staff report and Section 6.4 of the Final SEIR.
9. Archaeological or other culturally sensitive resources within the Goleta Slough are protected from impacts with the implementation of Mitigation Measures MM CR-5 and MM CR-7, as described in Section 5.7.2.3 of the Final SEIR.
10. Sedimentation from the proposed development has been reduced to a minimum and is compatible with the wetland area, as described in Section VIII.B.3 of the staff report. Additionally the purpose of the de-silting project is to minimize sedimentation from off-site.

The project enhances public educational or recreational opportunities at the Goleta Slough by preventing the gradual sedimentation and resulting elimination of wetland habitat, thereby preserving it for future study and enjoyment.

II. Said approval is subject to the following conditions:

A. **Recorded Conditions Agreement.** Prior to implementation of the proposed maintenance activities, the District shall execute a written instrument, which shall be reviewed as to form and content by the City Attorney, Community Development Director and Public Works Director, and shall include the following:

1. **Permits Prior to Construction.** Prior to implementation, staging, or dredging, the District will provide to the Community Development Department copies of a Streambed Alteration Agreement from the California Department of Fish and Game, a Clean Water Act Section 401 Water Quality Certification from the Regional Water Quality Control Board, and a Clean Water Act Section 404 Permit from the United States Army Corps of Engineers issued for the project.
2. **Permit Expiration.** The Goleta Slough Coastal Development Permit for this project shall be valid for a period of ten years following Planning Commission approval.
3. **Plant Replacement.** All plants removed, killed, or damaged on the banks of the Tecolotito Creek and Carneros Creek sediment basins shall be replaced on-site on a one-for-one basis with identical species by the Airport Department's landscape contractor at the expense of the Flood Control District, in order to maintain the site's visual appearance and maintain the Airport Department's mitigation obligation for the Airfield Safety Projects.

4. **Approved Activities.** The project approved by the Planning Commission on March 3, 2011 is limited to routine dredging of Carneros and Tecolotito Creek basins in the areas indicated on the site plan signed by the chairman of the Planning Commission on said date and on file at the City of Santa Barbara.
5. **Uninterrupted Water Flow.** The District shall provide for the uninterrupted flow of water onto the Real Property including, but not limited to, swales, natural watercourses, conduits and any access road, as appropriate.
6. **Mitigation Monitoring and Reporting Requirement.** The District shall implement the Mitigation Monitoring and Reporting Program (MMRP) for the project's mitigation measures, as stated in the Environmental Impact Report for the project.
7. **Sampling and Analysis Plan (MM Project 1).** A Sampling and Analysis Plan shall be prepared and submitted to the Community Development Department for review in accordance with ATSM and US Environmental Protection Agency guidelines.

B. Construction Implementation Requirements. All of these construction requirements shall be carried out in the field by the District and/or Contractor for the duration of the project construction. Community Development Department staff shall review the plans and specifications to assure that they are incorporated into the bid documents, such that potential contractors will be aware of the following requirements prior to submitting a bid for the contract.

1. **Compliance with Airfield Access Regulations.** The District shall coordinate with the Santa Barbara Airport Security Operations Center (SOC) to gain access to the Carneros Creek sediment basin within the Airport Operations Area (AOA). Security screening for issuance of "access media" (i.e. badge) takes approximately 30 days. At least one person with a badge must be on site to escort contractors within the AOA at all times.
2. **Haul Routes.** The haul route(s) for all construction-related trucks with a gross vehicle weight rating (GVWR) of three tons or more, entering or exiting the site, shall be approved by the Transportation Manager.
3. **Traffic Control Plan.** All elements of the approved Traffic Control Plan shall be carried out by the Contractor.
4. **Construction Parking/Storage/Staging.** Construction parking and storage shall be provided as follows:
 - a. During construction, free parking spaces for construction workers and construction shall be provided off-site in a location subject to the approval of the Public Works Director. Construction workers are prohibited from parking within the public right-of-way, except as outlined in subparagraph b. below.
 - b. Parking in the public right of way is permitted as posted by Municipal Code, as reasonably allowed for in the 2006 Greenbook (or latest reference), and with a Public Works permit in restricted parking zones. No more than three (3) individual parking permits without extensions may be issued for the life of the project.

- c. Storage or staging of construction materials and equipment within the public right-of-way shall not be permitted, unless approved by the Transportation Manager.
5. **Mitigation Monitoring Compliance Reports.** A copy of each compliance report submitted to the Planning and Development Department of the County of Santa Barbara shall be sent concurrently to the City Case Planner for review.
6. **Graffiti Abatement Required.** District and Contractor shall be responsible for removal of all graffiti from construction equipment as quickly as possible. Graffiti not removed within 24 hours of notice by the Building and Safety Division may result in a Stop Work order being issued, or may be removed by the City, at the District's expense, as provided in SBMC Chapter 9.66.
7. **Unanticipated Archaeological Resources Contractor Notification (MM CR-5 and MM CR-7).** Prior to the start of any excavation, contractors shall be alerted to the possibility of uncovering unanticipated subsurface archaeological features or artifacts associated with past human occupation of the parcel. If such archaeological resources are encountered or suspected, all work within fifty feet shall be halted immediately, the City Environmental Analyst shall be notified and the applicant shall retain an archaeologist from the most current City Qualified Archaeologists List. The latter shall be employed to assess the nature, extent and significance of any discoveries and to develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City qualified Barbareño Chumash Site Monitors List, etc.

If the discovery consists of possible human remains, the Santa Barbara County Coroner shall be contacted immediately. If the Coroner determines that the remains are Native American, the Coroner shall contact the California Native American Heritage Commission within 24 hours. A Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

If the discovery consists of possible prehistoric or Native American artifacts or materials, a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

8. **Repair Damaged Public Improvements.** Repair any damaged public improvements (curbs, gutters, sidewalks, roadways, etc.) subject to the review and approval of the Public Works Department per SBMC §22.60.090.

9. **Additional Measures to Reduce NO_x Emissions (MM AQ-1 A&B).**
 - a. Equipment meeting Tier 2 or higher emission standards will be used to the maximum extent feasible.
 - b. Engine size of equipment shall be the minimum practical size.
 - c. All portable construction equipment shall be registered with the State's portable equipment registration program or permitted by the District by September 18, 2008.
 - d. All diesel powered equipment used during the project will be fueled with 15 parts per million (ppm) sulfur diesel fuel.
 - e. Idling of heavy-duty trucks will be limited to 5 minutes.
 - f. Heavy-duty diesel-powered equipment purchased for the project shall comply with federal and California diesel standards that are in force at the time of purchase.
 - g. Diesel oxidation catalysts (DOC), catalyzed diesel particulate filters (CDPF) or other Santa Barbara County Air Pollution Control District (SBCAPCD) approved emission reduction retrofit devices will be installed on applicable construction equipment during the project.
10. **Tidewater Goby Refuge (MM BIO-2).**
 - a. Tecolotito Creek and Carneros Creek downstream of the basins provide high quality tidewater goby habitat and shall not be desilted.
 - b. Desilting at the Tecolotito and Carneros basins shall not be conducted simultaneously, to minimize total habitat disturbance in this part of the Slough.
11. **Breeding Bird Monitoring and Avoidance (MM BIO-13).** If desilting activities are anticipated to occur or extend into the bird breeding season (February 15 through August 1), breeding bird monitoring and avoidance shall be implemented, and include:

A breeding bird survey shall be completed by a qualified biologist within all areas within 200 feet of desilting activities;

Active nests shall be identified and monitored by a qualified biologist;

If desilting activities are found to substantially affect breeding and/or foraging behavior at the nest site, a buffer shall be established by a qualified biologist and desilting work postponed within the buffer area until the nest is abandoned or young have fledged.
12. **District will Notify Planning Division of Project Activities and Scheduling to Reduce Cumulatively Considerable Impacts (MM CUM-2).** Prior to Project desilting, beach replenishment or sediment removal activities, the District will notify the Planning Division to ensure that cumulatively considerable impacts to resource areas would be reduced through Project timing.
13. **Best Management Practices (BMPs) (MM WR-1) and Spill Prevention Plan (MM PBIO-12).** Prior to implementation of the project, a site-specific emergency spill contingency plan for hydraulic and drag-line dredging shall be developed and implemented. The District shall define and implement all of its existing and proposed

BMPs designed to prevent the introduction of pollutants to surface waters including but not limited to: sediment, trash, fuels, and chemicals. These should include, but are not limited to the following, some of which may be added to the Spill Prevention Plan.

- a. All fueling of vehicles and heavy equipment shall occur in designated areas. Designated areas shall include spill containment devices (e.g. drain pans) and absorbent materials to clean up spills.
- b. Vehicles and equipment shall be maintained properly to prevent leakage of hydrocarbons and other fluids, and shall be examined for leaks on a daily basis. All maintenance shall occur in designated areas, which shall include spill containment devices and absorbent materials to clean up spills.
- c. Any accidental spill of hydrocarbons or other fluids that may occur at the work site shall be cleaned immediately. Spill containment devices and absorbent materials shall be maintained on the work site for this purpose. The Governor's Office of Emergency Services (OES) shall be notified immediately in the event of a reportable quantity of accidental spill to ensure proper notification, clean up, and disposal of waste.
- d. Waste and debris generated during construction shall be stored in designated waste collection areas and containers away from drainage features, and shall be disposed of regularly.
- e. Convenient, portable sanitary/septic facilities shall be provided during construction activities. These facilities shall be well maintained and serviced, and waste shall be treated and disposed of in accordance with state and local requirements.
- f. Storm water BMP material will be used around the construction area perimeters during construction and around any construction operations that could potentially generate waste.

C. **California Department of Fish and Game Fees Required.** Pursuant to Section 21089(b) of the California Public Resources Code and Section 711.4 et. seq. of the California Fish and Game Code, the approval of this permit/project shall not be considered final unless the specified Department of Fish and Game fees are paid and filed with the California Department of Fish and Game within five days of the project approval. The fee required is \$2,839.25 for projects with Environmental Impact Reports. Without the appropriate fee, the Notice of Determination cannot be filed and the project approval is not operative, vested, or final. The fee shall be delivered to the Planning Division immediately upon project approval in the form of a check payable to the California Department of Fish and Game.

D. **Litigation Indemnification Agreement.** In the event the Planning Commission approval of the Project is appealed to the City Council, the District hereby agrees to defend the City, its officers, employees, agents, consultants and independent contractors ("City's Agents") from any third party legal challenge to the City Council's denial of the appeal and approval of the Project, including, but not limited to, challenges filed pursuant to the California Environmental Quality Act (collectively "Claims"). Applicant/District further agrees to indemnify and hold harmless

the City and the City's Agents from any award of attorney fees or court costs made in connection with any Claim.

Applicant/District shall execute a written agreement, in a form approved by the City Attorney, evidencing the foregoing commitments of defense and indemnification within thirty (30) days of the City Council denial of the appeal and approval of the Project. These commitments of defense and indemnification are material conditions of the approval of the Project. If Applicant/District fails to execute the required defense and indemnification agreement within the time allotted, the Project approval shall become null and void absent subsequent acceptance of the agreement by the City, which acceptance shall be within the City's sole and absolute discretion. Nothing contained in this condition shall prevent the City or the City's Agents from independently defending any Claim. If the City or the City's Agents decide to independently defend a Claim, the City and the City's Agents shall bear their own attorney fees, expenses, and costs of that independent defense.

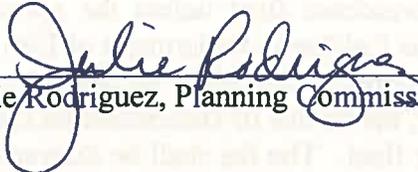
A. NOTICE OF COASTAL DEVELOPMENT PERMIT TIME LIMITS:

Pursuant to Section 28.44.230 of the Santa Barbara Municipal Code, work on the approved development shall commence within two years of the final action on the application, unless a different time is specified in the Coastal Development Permit. Up to three (3) one-year extensions may be granted by the Community Development Director in accordance with the procedures specified in Subsection 28.44.230.B of the Santa Barbara Municipal Code.

This motion was passed and adopted on the 3rd day of March, 2011 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 5 NOES: 0 ABSTAIN: 0 ABSENT: 2 (Jacobs, Schwartz)

I hereby certify that this Resolution correctly reflects the action taken by the city of Santa Barbara Planning Commission at its meeting of the above date.



Julie Rodriguez, Planning Commission Secretary



Date

PLEASE BE ADVISED:

THIS ACTION OF THE PLANNING COMMISSION CAN BE APPEALED TO THE CITY COUNCIL WITHIN TEN (10) CALENDAR DAYS AFTER THE DATE THE ACTION WAS TAKEN BY THE PLANNING COMMISSION.