

**COUNTY OF SAN MATEO  
PLANNING AND BUILDING DEPARTMENT**

**DATE:** May 9, 2018

**TO:** Planning Commission

**FROM:** Planning Staff

**SUBJECT:** EXECUTIVE SUMMARY: Consideration of a Coastal Development Permit to: 1) make improvements to approximately 500 feet of existing access road to the edge of the beach to allow all-terrain access for administrative and emergency personnel use, 2) legalize signage and fencing to protect public safety and natural resources, and 3) place two shipping containers on-site for use as storage for County emergency vehicles. The project is located at 20775 South Cabrillo Highway, in the unincorporated San Gregorio area of San Mateo County. This project is appealable to the California Coastal Commission.

County File Number: PLN 2018-00144  
(San Mateo County Parks Department)

**PROPOSAL**

The applicant, San Mateo County Parks Department, is proposing to make improvements to an existing access road located at 20775 South Cabrillo Highway. This property is currently owned by the Peninsula Open Space Trust (POST). At some point in the early 20th Century, a road was constructed from the old Coast Road alignment across the edge of the south bluff overlooking Tunitas Creek and down to the beach. This road continued to be used for beach access during the construction of the Ocean Shore railroad and by subsequent owners of the subject parcel after the railroad became defunct.

This old road bed is approximately six feet wide and partially overgrown with vegetation. The house on this parcel has not been actively occupied for over twenty years. In that time, vegetation has grown over the old road bed. However, under the auspices of PLN 2017-00190 (approved by the Planning Commission on July 26, 2017), the upper 350 feet of the trail was cleared in order to provide access for a geotechnical drilling rig.

The applicant is now proposing to clear the remaining vegetation along the old road (approximately 150 feet) down to the beach and widen the entire length of this road (approximately 500 feet) to a uniform width of approximately 10 feet. The road will be rocked with 3/4-inch base and drain rock to reduce erosion, and rolling dips will be constructed along the road to direct drainage and reduce erosion. The applicant

anticipates approximately 530 cubic yards of grading to implement the project. A gate will be constructed at the beach end of the road to restrict access to the upper portion of the property (particularly the abandoned house). A notice similar to those posted at the upper end of the property will be placed on this gate. This gate will be wider than the road bed to discourage people from circumventing it. The County anticipates that it will purchase the project site from POST and prepare a formal management plan for the property within the next three to five years. Until such time that a formal management plan is implemented, public access via the improved access road will be prohibited.

The County wishes to construct the road improvements in order to provide emergency and administrative access to the beach by local and state agencies including County Parks, the San Mateo County Sheriff's Office, the County Fire Marshall, the California Department of Fish and Wildlife, and the California Highway Patrol. This vehicular access is necessary to address existing public safety and environmental concerns associated with large overnight campouts on the beach, including amplified music, drug use, fires, trash, and human waste. This access will enable enforcement of an ordinance prohibiting camping and fires at Tunitas Creek Beach, which the County Board of Supervisors approved in July 2017 (Ordinance No. 4778).

In conjunction with the new emergency access, the applicant is proposing to place two metal storage containers (20 ft. long x 8 ft. wide x 8.5 ft. tall) on-site to provide secure storage for emergency vehicles (four- and six-wheeled ATVs). The containers will be painted an earth-tone color to blend into the surrounding vegetation. The applicant has proposed placing the containers on an existing large flat area near the east property line and entry gate. This location is tucked within the existing grove of cypress trees that dominate this portion of the project site. Only minor pruning of the trees will be necessary to place the containers at this location. It is not anticipated that any grading will be necessary to place the containers at this location.

The applicant is also requesting an after-the-fact approval for the construction of a chain link fence around the dilapidated house on the subject parcel. This house was partially damaged by fire approximately 20 years ago. Since then, it has been unoccupied and has not been rebuilt. As such, it has become an attractive nuisance for those persons trespassing across the privately-owned project parcel. This fence is intended to protect public safety by preventing access to the structure, where people have climbed onto the roof and trespassed inside the house.

The applicant is also requesting an after-the-fact approval for the placement of parking and access management signage within the public right-of-way and on the subject parcel. The signage is intended to notify the public of prohibited uses at Tunitas Creek Beach, pursuant to San Mateo County Ordinance No. 4778, and to prevent overnight parking on Tunitas Creek Road. The two access management signs that have been installed include one that is mounted on wooden posts on the shoulder of Tunitas Creek Road as it approaches Highway 1, and a second sign located on the subject parcel, mounted on an access gate to the driveway from Highway 1. These signs are intended to inform the public about the ordinance that prohibits the following activities at Tunitas

Creek Beach: public use between sunset and sunrise, and camping, littering, fires, possession of alcoholic beverages, amplified music, fireworks, smoking, and dogs.

The County has also installed multiple “No parking signs” along both sides of Tunitas Creek Road, from its intersection with Highway 1 to a distance of approximately .5 miles east of Highway 1, prohibiting parking from the hours of 10:00 p.m. to 5:00 a.m. These signs help implement the beach access management measurements necessary to protect public safety and coastal resources.

### **RECOMMENDATION**

Approve the Coastal Development Permit, County File Number PLN 2018-00144, by adopting the required findings and the conditions of approval contained in Attachment A.

### **SUMMARY**

Staff has completed a review of the project and all submitted documents and reports in order to determine the project’s conformity to applicable LCP policies and Zoning regulations. Potential impacts to biological resources were identified during this review, and conditions of approval were included to reduce these potential impacts to a less than significant level.

The work proposed under this permit is minor in scope and, as conditioned, will not create a significant impact upon the site’s biotic resources. These actions are necessary to implement immediate access management needs at Tunitas Creek Beach, and to authorize management actions that have already been taken. These actions address critical life, safety, and coastal resource protection issues that have arisen as a result of increased use and the past absence of a management entity. The next phase of management efforts will involve the development and implementation of a long-term access management and environmental restoration plan that will be subject to additional analyses and coastal development permit review.

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**COUNTY OF SAN MATEO  
PLANNING AND BUILDING DEPARTMENT**

**DATE:** May 9, 2018

**TO:** Planning Commission

**FROM:** Planning Staff

**SUBJECT:** Consideration of a Coastal Development Permit, pursuant to Section 6328.4 of the County Zoning Regulations, to: 1) make improvements to approximately 500 feet of existing access road to the edge of the beach to allow all-terrain access for administrative and emergency personnel use, 2) legalize signage and fencing to protect public safety and natural resources, and 3) place two shipping containers on-site for use as storage for County emergency vehicles. The project is located at 20775 South Cabrillo Highway, in the unincorporated San Gregorio area of San Mateo County. This project is appealable to the California Coastal Commission.

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This old road bed is approximately six feet wide and partially overgrown with vegetation. The house on this parcel has not been actively occupied for over twenty years. In that time, vegetation has grown over the old road bed. However, under the auspices of PLN 2017-00190 (approved by the Planning Commission on July 26, 2017), the upper 350 feet of the trail was cleared in order to provide access for a geotechnical drilling rig.

The applicant is now proposing to clear the remaining vegetation along the old road (approximately 150 feet) down to the beach and widen the entire length of this road (approximately 500 feet) to a uniform width of approximately 10 feet. The road will be rocked with 3/4-inch base and drain rock to reduce erosion, and rolling dips will be constructed along the road to direct drainage and reduce erosion. The applicant anticipates approximately 530 cubic yards of grading to implement the project.

A gate will be constructed at the beach end of the road to restrict access to the upper portion of the property (particularly the abandoned house). A notice similar to those posted at the upper end of the property will be placed on this gate. This gate will be wider than the road bed to discourage people from circumventing it. The County anticipates that it will purchase the project site from POST and prepare a formal management plan for the property within the next three to five years. Until such time that a formal management plan is implemented, public access via the improved access road will be prohibited.

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The applicant is also requesting after-the-fact approval for the construction of a chain link fence around the dilapidated house on the subject parcel. This house was partially damaged by fire approximately 20 years ago. Since then it has been unoccupied and has not been rebuilt. As such, it has become an attractive nuisance for those persons trespassing across the privately-owned project parcel. This fence is intended to protect public safety by preventing access to the structure, where people have climbed onto the roof and trespassed inside the house.

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## **RECOMMENDATION**

Approve the Coastal Development Permit, County File Number PLN 2018-00144, by adopting the required findings and conditions of approval contained in Attachment A.

## **BACKGROUND**

Report Prepared By: Michael Schaller, Senior Planner

Applicant: San Mateo County Parks Department

Owner: Peninsula Open Space Trust (POST)

Location: 20775 South Cabrillo Highway, San Gregorio

APNs: 081-060-020 and 081-060-030 and Public Right-of-Way (Tunitas Creek Road)

Existing Zoning: Resource Management-Coastal Zone (RM-CZ)

General Plan Designation: Agriculture (Rural)

Existing Land Use: Open Space. There is an existing derelict house on the project parcel.

Flood Zone: Zone X (Areas of minimal flood hazard), FEMA Community Panel 06081C-0360E, Effective Date: October 16, 2012.

Environmental Evaluation: The County is the lead agency for this project, per the County California Environmental Quality Act (CEQA) Guidelines. Upon project approval, the County will file a Categorical Exemption under Section 15303 (Construction and Location of Limited Numbers of New, Small Facilities or Structures) for the fencing, signage and storage containers and Section 15304 (Minor Alterations to Land) for the road improvements, of the California Environmental Quality Act.

Setting: The project site is approximately ten acres in size and includes a dilapidated house and manmade and natural habitat areas. The north end of the parcel (adjacent to the existing road bed) is bordered by Tunitas Creek with associated riparian and wetland habitat. The habitat through which the road bed travels is composed of

Northern Coastal Scrub, which does provide potential upland habitat for San Francisco garter snake, California red-legged frog, and San Francisco dusky-footed woodrat. Potential impacts and preventative measures for these species are discussed below.

## **DISCUSSION**

### **A. KEY ISSUES**

#### **1. Conformance with the County General Plan**

The County's Local Coastal Program (LCP) is a subset of, and consistent with, the County General Plan. The following analysis of the project's conformance to the LCP thereby also addresses the project's consistency with the County's General Plan.

#### **2. Conformance with the Local Coastal Program**

A Coastal Development Permit is required for this project pursuant to San Mateo County Local Coastal Program Policy 2.1, which mandates compliance with the California Coastal Act for any government agency wishing to undertake development in the Coastal Zone. Summarized below are the sections of the LCP that are relevant to this project:

##### **a. Locating and Planning New Development**

Policy 1.25 (*Protection of Archaeological/Paleontological Resources*). This policy requires an archaeological reconnaissance of project sites when they are in areas of potentially high sensitivity for archaeological or paleontological resources. As part of the previous Coastal Development Permit on this site, the applicant submitted a reconnaissance report because of the high possibility of resources on the site. The field survey, performed by Mark Hylkema (Registered Professional Archaeologist), found no evidence of archeological resources within the footprint of the old road bed. In addition, potential historic remains associated with the Ocean Shore Railroad lie outside of the area of work associated with this project and will not be impacted. (Note: The above cited archaeological reconnaissance report is not included as an attachment to this report to preserve the confidentiality of archaeological site information, as authorized by the California Public Records Act.)

##### **b. Agriculture Component**

Policy 5.4 (*Designation of Lands Suitable for Agriculture*). This policy states that any parcel which contains lands suitable for agriculture shall be designated for Agriculture on the Local Coastal Program Land Use Plan Map. The project parcel is zoned Resource Management-

Coastal Zone, but is designated as “Agriculture” on the General Plan and LCP land use maps. The soils on the site do not meet the definition of “prime” soils contained within the LCP. There is no evidence that agriculture has been practiced on the parcel since the adjacent home was constructed in the late 1950s. The components of the proposed project, in and of themselves, will not further convert the soils on the project site any more than when the house was constructed. Any potential future development of the site (which could convert the soils) will be subject to a separate permitting process.

c. Sensitive Habitats Component

Policy 7.1 (*Definition of Sensitive Habitats*). This policy defines sensitive habitats as any area in which plant or animal life or their habitats are either rare or especially valuable, including all perennial coastal streams. The north end of the project parcel is bounded by Tunitas Creek and its associated riparian habitat. The old road bed lies outside of this habitat area. The western side of the parcel is composed of coastal strand habitat, which is also listed as a sensitive habitat area in the LCP. The toe of the road ends in this habitat area. The vegetation on either side of the old road is characterized as Northern Coastal Scrub, which could support sensitive species.

Policy 7.5 (*Permit Conditions*). This policy requires, as part of the development review process, that the applicant demonstrate that there will be no significant impact on sensitive habitats or species. This is achieved by submission of a biological report outlining what resources exist at the project location and how the project may impact those resources. The biological resources report prepared for the previous project (PLN 2017-00190) identified potential impacts to the following species:

**California Red-legged Frog and San Francisco Garter Snake.**

California red-legged frogs (CRLF) and San Francisco garter snakes (SFGS) have the potential to occur within the Project area primarily along Tunitas Creek. While no work is proposed within or adjacent to the creek, individuals of these species could occur in upland areas (i.e., away from Tunitas Creek). Construction activities associated with improvements to the existing road could result in minor impacts on upland habitat, as well as the potential for injury or mortality of individual frogs and snakes if they were to be present during construction. Therefore, the following measures shall be implemented to reduce potential impacts to these species:

- A qualified biologist will be on-site during all construction activities that may result in take of CRLF or SFGS.



- No more than 24 hours prior to initial ground disturbance, a pre-construction survey for CRLF and SFGS will be conducted by the qualified biologist. The survey will consist of walking the Project limits to ascertain the possible presence of the species. The biologist will investigate all potential areas that could be used by the frog or snake. If any individuals are found, the biologist will contact the U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Wildlife (CDFW) to determine if moving any of the individuals is appropriate. If these agencies approve moving animals, the biologist and agencies will identify a suitable relocation site. Otherwise, the animals will be allowed to move out of the Project area on their own before construction activities commence.
- The qualified biologist will conduct employee education training for employees working on construction activities. Personnel will be required to attend the presentation which will describe the CRLF and SFGS, avoidance, minimization, and conservation measures, legal protection of these species, and other related issues.
- Ground-disturbing activities will be avoided between November 1 and March 31 because that is the time period when CRLF are most likely to be moving through upland areas.
- If a CRLF or SFGS is encountered in the Project area, all activities which have the potential to result in the harassment, injury, or death of the individual will be immediately halted. The qualified biologist will then assess the situation in order to select a course of action that will avoid or minimize adverse impacts to the animal. To the maximum extent possible, contact with the frog or snake will be avoided, and the individual will be allowed to move out of the potentially hazardous situation to a secure location on its own volition. If the individual will not move out of the impact area on its own, the biologist will contact the USFWS and CDFW to determine if moving the individual is appropriate. If these agencies approve moving animals, the biologist and agencies will identify a suitable relocation site.
- For on-site storage of pipes, conduits, and other materials that could provide shelter for CRLF or SFGS, an open-top trailer will be used to elevate the materials above ground. This is intended to reduce the potential for animals to climb into the conduits and other materials.
- To the maximum extent practicable, no Project construction activities will occur during rain events or within 24 hours

following a rain event. Prior to Project activities resuming, a qualified biologist will inspect the Project area and all equipment/materials for the presence of CRLF or SFGS. The animals will be allowed to move away from the Project site on their own volition or moved by the biologist, if approved by the USFWS and CDFW.

- Night-time Project activities will be minimized or avoided.
- Plastic monofilament netting (erosion control matting), loosely woven netting, or similar material in any form will not be used at the Project site because CRLF can become entangled and trapped in them. Any such material found on-site will be immediately removed by the USFWS approved biologist, Project personnel, or County contractors. Materials utilizing fixed weaves (strands cannot move), polypropylene, polymer, or other synthetic materials will not be used.

### **San Francisco Dusky-Footed Woodrat.**

As discussed previously, the upper 350 feet of the old road bed/trail has already been cleared of vegetation in order to provide access for a drilling rig which conducted geotechnical borings late last year (permitted work under PLN 2017-00190). However, approximately 150 feet of vegetation remains on the lower portion of the old road. While a preliminary inspection of this lower portion of the road by the Parks Department's biologist did not identify any woodrat nests (a California species of special concern), there is still the potential for them to occur along the undisturbed portion of the road. In order to address any potential impacts to the woodrat, Staff is recommending that the following measures be included as conditions of approval for this permit:

- Conduct Pre-Construction Survey for Dusky-Footed Woodrat Houses. No less than seven (7) days and no more than thirty (30) days prior to the beginning of ground disturbance and/or construction activities, the applicant's qualified biologist shall survey the work areas scheduled for construction. Any dusky-footed woodrat houses found shall be marked in the field with flagging tape and their locations will be recorded with GPS. If a dusky-footed woodrat house is identified in a work area, the following avoidance measure will be implemented by the applicant.
- Avoid or Minimize Disturbance to Dusky-Footed Woodrat Houses. If a dusky-footed woodrat house is identified in the work area, the applicant shall attempt to preserve the house and

maintain an intact dispersal corridor between the house and undisturbed habitat. An adequate dispersal corridor is considered to be a minimum of 50 feet wide and have greater than 70% vegetative cover. Even if such a corridor is infeasible, the applicant will avoid physical disturbance of the nest if feasible. If a dusky-footed woodrat house(s) cannot be avoided, the following relocation measure will be implemented by the applicant.

- *Implement a Dusky-Footed Woodrat Relocation Measure.* If a dusky-footed woodrat house(s) cannot be avoided, CDFW will be notified and information regarding the house location(s) and relocation plan will be provided. With approval from CDFW, a qualified biologist shall dismantle and relocate the house material. Prior to the beginning of construction, a qualified biologist shall deconstruct the house by hand. Materials from the house shall be dispersed into adjacent suitable habitat that is outside of the work area. During the deconstruction process, the biologist shall attempt to assess if there are juveniles in the house. If immobile juveniles are observed, the deconstruction process shall be discontinued until a time when the biologist believes the juveniles will be fully mobile. A 10-ft. wide no-disturbance buffer will be established around the house until the juveniles are mobile. The house may be dismantled once the biologist has determined that adverse impacts on the juveniles would not occur. All disturbances to woodrat houses will be documented in a construction monitoring report and submitted to California Department of Fish and Wildlife.

### **Western Snowy Plover.**

There are no California Natural Diversity Database records of western snowy plovers at Tunitas Creek Beach; however, they are known to occur at this beach and were observed during site visits in January and February of 2018. During the January 2018 site visit, a storm swell was pushing waves high up to the bluffs, inundating the beach with water. While this may discourage use of the beach by western snowy plovers, it is likely more common for the beach to be inundated during the winter when storm systems are moving through the area, than during the breeding season. Western snowy plovers were seen during the follow-up site visit in February when weather conditions were mild. Much of the beach and dunes above the high tide line are overrun by ice plant and European beachgrass, limiting availability of open areas for establishment of plover nests. This may partially explain why nesting has not been confirmed at the beach in 13 years; however, the lack of confirmed breeding on-site is more likely explained by the recent unrestricted human disturbance from beach

users, as well as increased presence of predators attracted to trash left behind by beach users.

To avoid and minimize adverse effects on western snowy plovers at Tunitas Creek Beach, the County will implement the following measures during construction on the access road:

- A qualified plover biologist shall conduct a survey of the beach prior to start of construction to determine if plovers are present and may be affected by construction activities.
- If an active nest is identified near the construction impact area, an evaluation of the likelihood of the activities to disturb the nest will be made by a qualified plover biologist. Depending on the nest location and its proximity to the construction site, a buffer area may be installed to further minimize the potential for disturbance. A qualified plover biologist in consultation with the natural resource staff for County Parks and USFWS will work to determine an appropriate buffer area if necessary. Additionally, a construction monitor shall be required to conduct monitoring during construction if a buffer area was adopted to allow construction to proceed while ensuring that construction activities do not disturb the nest. Alternatively, construction may be delayed until the nesting is complete.
- Vehicle speeds will not exceed 10 miles per hour while on the beach.
- Construction personnel will receive environmental awareness training before they begin working on the construction project. The training shall include a description of the species identification features and behavior, current status of the population, and avoidance and minimization measures.

In addition, the County will implement the following measures over the 3 to 5 year interim period while a permanent park management plan is developed for this property:

- County Parks Department personnel will receive environmental awareness training before accessing the beach. The training will include a description of the species identification features and behavior, current status of the population, and avoidance and minimization measures. The training will be repeated annually prior to the start of breeding season. The training may be provided via a video or by trained Parks Department natural resource personnel. The training program will be reviewed by

and updated in consultation with a qualified plover biologist every 3 to 5 years.

- Temporary signage alerting beach visitors to the potential for presence of western snowy plovers will be installed if determined by a qualified biologist to be necessary.
- Beginning in Spring 2018, potential breeding areas of Tunitas Creek Beach will be identified utilizing local experts and partners at California State Parks prior to breeding season. These areas will be delineated using temporary signage providing a basic explanation of the sensitivity of the area. Potential breeding areas may also be further delineated using symbolic fencing, a rope line tied to t-posts or wooden stakes.
- If nests are discovered outside of the areas delineated with symbolic fencing, the symbolic fencing will be adjusted to encompass the nest or the nest may be individually enclosed following the *U.S. Fish and Wildlife Service Exclosure Protocols for Snowy Plover Nests* (USFWS 1999).
- If active western snowy plover nests are observed on Tunitas Creek Beach, a qualified western snowy plover biologist or trained County Parks' natural resource staff will accompany County personnel when accessing the beach to survey for and observe western snowy plovers to determine if they are being affected by County actions on the beach.
- All western snowy plover sightings shall be reported to County Parks' natural resource personnel and subsequently shared with the California Natural Diversity Database and the USFWS.
- If any western snowy plovers are injured when County personnel are accessing the beach, the USFWS shall be notified immediately.
- If western snowy plovers are observed on the beach and appear to be disturbed by human presence, County personnel will cease activities and leave the area, as soon as possible.
- Pets are prohibited on the beach at all times by County ordinance (Ordinance Code Section 3.69.060 - General protective regulations - (i) Domestic Animals).
- Removal of driftwood and other natural debris that washes up on the beach are prohibited at all times by County ordinance

(Ordinance Code Section 3.69.060 - General protective regulations - (a) Vegetative).

- Bird and mammal carcasses observed on the beach during routine clean-up will be collected and disposed of off-site.
- Temporary interpretive signage shall be installed during breeding season wherever possible to educate the public about western snowy plovers and how to avoid impacting them.
- The County will utilize or adapt the California State Parks WSP Sharing the Beach brochure for use at Tunitas Creek Beach.

d. Visual Resources Component

Policy 8.5 (*Location of Development*). This policy requires that development be located on a portion of a parcel where it is least visible from State and County Scenic Roads. This stretch of Highway 1 is designated as a State Scenic Road/Corridor. The vegetation clearing to re-establish the old road bed will be below road level and screened from view from Highway 1 by intervening vegetation. The fencing around the abandoned house will also not be visible from the roadway due to distance and intervening vegetation. Finally, the two signs will not be readily visible to passing motorists due to their size, distance from the roadway, and neutral colors. The purpose of the signage is not to inform motorists driving by at 40+ mph, but to educate potential beach users as they are walking into or toward Tunitas Beach.

Similarly, the “No Parking” signs that have been installed along Tunitas Creek Road are typical road signs that do not impact the scenic qualities of the area. The signs do not block coastal views, and implement access management measures that are needed to protect visual and environmental resources at Tunitas Creek Beach.

As discussed previously, the applicant is also proposing to place two storage containers on the site, near the eastern property line and within a grove of mature cypress trees. There is an existing flat area adjacent to the driveway that will require minimal (if any) grading and only minor trimming of the trees to place the containers. This grove of trees is dense and extends into the adjacent right-of-way. Additionally, between the travel way of Highway 1 and the project property line, there is a mature, dense patch of coastal scrub that also screens the proposed container location. Also, the land within the right-of-way slopes downward rapidly from the travel way toward the property line, placing the container location below eye level for motorists traveling on Highway 1.

e. Shoreline Access Component

Policy 10.1 (*Permit Conditions for Shoreline Access*). This policy requires some provision for shoreline access as a condition of granting development permits for any public or private development permits between the sea and the nearest road. Policy 10.10 - *Fragile Resources (Sensitive Habitats)* also states “Open the access in sensitive habitats or their buffer zones for public use **only** when development standards and management practices are adequate to protect the resources”. As discussed previously, Tunitas Beach is, at the present time, unmanaged. This has led to damage to sensitive habitat on the beach and creek due to littering and human waste. Additionally, the current situation has allowed illegal activities to occur on the beach at night including “raves” and other large parties.

These impacts are exacerbated by the lack of vehicular access to the beach. At the present time, if the County (Sheriff or Parks Departments) or the California Highway Patrol need to respond to an emergency situation on the beach, they must travel through the private property to the north of Tunitas Creek. Numerous times over the last two years, the County and/or the California Highway Patrol have had to respond to emergency situations on the beach. The lack of direct access results in a significant delay in responding to such situations.

In addition, the lack of vehicular access prevents the County from protecting fragile biotic resources (for example, Western Snowy Plover nesting sites if any are identified) and from cleaning up litter on the beach. The improvements to the old road bed will allow the County to get small four and six wheeled ATV size vehicles down to the beach. With these vehicles, County personnel could quickly respond to life/safety emergencies (such as drowning victims) and to perform regular trash pickup/removal.

As stated previously, this access route will not be open to the public until a final management plan is adopted for Tunitas Beach. A number of issues must be resolved before this plan can be completed, including purchase of the land by the County (these parcels are currently owned by POST), planning and development of infrastructure and parking, and dedication of sufficient staff resources to effectively manage what will become a new County park. Until this plan is developed and funded, Staff believes that allowing unregulated public access to the beach via the improved road will only exacerbate the ongoing problems at Tunitas Beach, including damage to sensitive habitats and resources.

3. Compliance with the California Coastal Act

Chapter 3, Article 2 of the Coastal Act, addresses requirements for public access to the shoreline. Specifically, Section 30212(a) of the Public Resources Code, states:

*Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or (3) agriculture would be adversely affected. Dedicated access way shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the access way.*

As discussed previously, there are potential fragile resources on the beach, in the form of Snowy Plover nesting sites. Additionally, there is riparian habitat associated with Tunitas Creek near to the alignment of the old road bed. Improving the old road down to the beach represents competing goals with regard to coastal access. On the one hand, improvements to the road will allow the County to increase the level of public safety by allowing for more rapid response to emergency situations on the beach. It will also allow County staff to more effectively protect coastal resources (litter removal, cordoning off sensitive habitat areas). However, allowing the public to utilize this new access way before a management plan (with associated infrastructure to support it) for the beach is developed and implemented will exacerbate the current problems. Easier access to the shoreline at this location will encourage increase usage before adequate infrastructure is developed to handle this level of use.

It should be noted that the current proposal does not prohibit nor remove existing informal public access to the shoreline. The County is actively moving forward with the creation of a formal management plan for the beach, which will include formal public access that is safe and protective of coastal resources.

4. Compliance with the RM-CZ Zoning Regulations

The Coastal Act of 1976 requires that the County's Local Coastal Program (LCP) include zoning ordinances, zoning district maps, and any other actions necessary to implement the requirements of the Coastal Act in San Mateo County. To that end, all projects, including government projects, must show compliance with not only the LCP, but also with the applicable zoning regulations.

The project site is zoned Resource Management - Coastal Zone (RM-CZ). Section 6903 (*Development Review Permit Requirement*) of the Zoning



Regulations states that all development proposed for location within an RM-CZ District shall require the issuance of an RM-CZ permit. However, excluded from this requirement are all uses defined in Section 6458 of the Zoning Regulations which includes on-premise signs and minor grading. As a result, the currently proposed project is consistent with the RM-CZ regulations.

5. Compliance with the County Grading Ordinance

While the minor grading required for this project is not subject to an RM-CZ development review permit, it is subject to the provisions of the County Grading Ordinance. Removal of the remaining vegetation on the lower 150 feet of the old road bed and improvements to the entirety of the 500 feet will result in approximately 6,000 sq. ft. of ground disturbance. The applicant estimates that there will be approximately 530 cubic yards of grading to widen the road sufficiently to allow passage of a six wheeled ATV. The applicant proposes a balanced grading operation with no anticipated import or export of material.

Because the applicant is the County, issuance of a grading permit is not required. However, the project must be consistent with the Grading Ordinance per the requirements of the Coastal Act. The findings required for a grading permit are discussed below:

**a. That the project will not have a significant adverse effect on the environment.**

The proposed grading is necessary to implement the project. Erosion control measures will be implemented during construction to reduce potential off-site sedimentation and water quality impacts. Improvements to the old road have been designed to minimize long-term impacts to drainage and adjacent areas. These measures have been included as conditions of approval in Attachment A. Additionally, measures to protect potential biotic resources within the footprint of the project have also been included as conditions of approval. Therefore, staff has determined that the project, as proposed and conditioned, will not have a significant adverse impact on the environment.

**b. That the project conforms to the criteria of Chapter 8, Division VII, San Mateo County Ordinance Code, including the standards referenced in Section 8605.**

The project, as proposed and conditioned, conforms to the standards in the Grading Ordinance, including those relative to erosion and sediment control, and the timing of grading activity. Conditions of

approval have been included in Attachment A to ensure compliance with the County's Grading Ordinance.

**c. That the project is consistent with the General Plan.**

The General Plan land use designation for the property is Agriculture - Rural. As proposed and conditioned, the project complies with applicable General Plan and Local Coastal Plan policies, as discussed in Section A.1 of this report.

**B. ENVIRONMENTAL REVIEW**

The County is the lead agency for this project, per the County California Environmental Quality Act (CEQA) Guidelines. Upon project approval, the County will file a Categorical Exemption under Section 15303 (*Construction and Location of Limited Numbers of New, Small Facilities or Structures*) for the fencing, signage, and storage containers and Section 15304 (*Minor Alterations to Land*) for the road improvements, of the California Environmental Quality Act.

**C. REVIEWING AGENCIES**

California Coastal Commission

**ATTACHMENTS**

- A. Recommended Findings and Conditions of Approval
- B. Location Map
- C. Site Plan
- D. Photographs of New Signage

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County of San Mateo  
Planning and Building Department

**RECOMMENDED FINDINGS AND CONDITIONS OF APPROVAL**

Permit or Project File Number: PLN 2018-00144

Hearing Date: May 9, 2018

Prepared By: Michael Schaller  
Senior Planner

For Adoption By: Planning Commission

**RECOMMENDED FINDINGS**

Regarding the Environmental Review, Find:

1. That this project is categorically exempt pursuant to Sections 15303 and 15304 of the California Environmental Quality Act Guidelines, relating to the Construction and Location of Limited Numbers of New, Small Facilities or Structures and the Minor Alteration of Land, respectively.

Regarding the Coastal Development Permit, Find:

2. That the project, as described in the application and accompanying materials required by Zoning Regulations Section 6328.7 and as conditioned in accordance with Section 6328.14, conforms with the plans, policies, requirements, and standards of the San Mateo County Local Coastal Program with regards to the protection of biotic and visual resources.
3. That the project conforms to the specific findings required by policies of the San Mateo County Local Coastal Program as discussed in Section A(2) of this Staff Report. Protection measures will be implemented to prevent any impacts to biological resources, including the San Francisco garter snake, California red-legged frog, San Francisco dusky-footed woodrat, and Western Snowy plover.

Regarding the California Coastal Act, Find:

4. That the project conforms to the requirements of Chapter 3, Article 2 (*Public Access*) of the Coastal Act. There are potential fragile resources on the beach, in the form of Snowy Plover nesting sites. Additionally, there is riparian habitat associated with Tunitas Creek near to the alignment of the old road bed. Improvements to the road will allow the County to increase the level of public safety by allowing for more rapid response to emergency situations on the beach. It will also allow County staff to more effectively protect coastal resources (litter removal, cordoning off sensitive habitat areas). However, allowing the public to

utilize this new access way before a management plan for the beach is developed and implemented will exacerbate the current problems. Easier access to the shoreline at this location will encourage increase usage before adequate infrastructure is developed to handle this level of use.

The current proposal does not prohibit nor remove existing informal public access to the shoreline. The County is actively moving forward with the creation of a formal management plan for the beach, which will include formal public access that is safe and protective of coastal resources.

## **RECOMMENDED CONDITIONS OF APPROVAL**

### **Current Planning Section**

1. The approval applies only to the proposal as described in this report and materials submitted for review and approval by the Planning Commission on May 9, 2018. The Community Development Director may approve minor revisions or modifications to the project if they are found to be consistent with the intent of and in substantial conformance with this approval.
2. **California Red-legged Frog/San Francisco Garter Snake Protection Measures**

The applicant shall implement the following measures to avoid and minimize impacts on California Red-legged frogs (CRLF) and San Francisco Garter snakes (SFGS):

- a. A qualified biologist will be on-site during all construction activities that may result in take of CRLF or SFGS.
- b. No more than 24 hours prior to initial ground disturbance, a pre-construction survey for CRLF and SFGS will be conducted by the qualified biologist. The survey will consist of walking the Project limits to ascertain the possible presence of the species. The biologist will investigate all potential areas that could be used by the frog or snake. If any individuals are found, the biologist will contact the U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Wildlife (CDFW) to determine if moving any of the individuals is appropriate. If these agencies approve moving animals, the biologist and agencies will identify a suitable relocation site. Otherwise, the animals will be allowed to move out of the Project area on their own. Construction will be halted until the animal has safely left the area of work.
- c. The qualified biologist will conduct employee education training for employees working on construction activities. Personnel will be required to attend the presentation which will describe the CRLF and SFGS, avoidance, minimization and conservation measures, legal protection of these species, and other related issues.

- d. Ground-disturbing activities will be avoided between November 1 and March 31 because that is the time period when CRLF are most likely to be moving through upland areas.
- e. If a CRLF or SFGS is encountered in the Project area, all activities which have the potential to result in the harassment, injury, or death of the individual will be immediately halted. The qualified biologist will then assess the situation in order to select a course of action that will avoid or minimize adverse impacts to the animal. To the maximum extent possible, contact with the frog or snake will be avoided, and the individual will be allowed to move out of the potentially hazardous situation to a secure location on its own volition. If the individual will not move out of the impact area on its own, the biologist will contact the USFWS and CDFW to determine if moving the individual is appropriate. If these agencies approve moving animals, the biologist and agencies will identify a suitable relocation site.
- f. For on-site storage of pipes, conduits, and other materials that could provide shelter for CRLF or SFGS, an open-top trailer will be used to elevate the materials above ground. This is intended to reduce the potential for animals to climb into the conduits and other materials.
- g. To the maximum extent practicable, no Project construction activities will occur during rain events or within 24 hours following a rain event. Prior to Project activities resuming, a qualified biologist will inspect the Project area and all equipment/materials for the presence of CRLF or SFGS. The animals will be allowed to move away from the Project site on their own volition or moved by the biologist, if approved by the USFWS and CDFW.
- h. Night-time Project activities will be minimized or avoided.
- i. Plastic monofilament netting (erosion control matting), loosely woven netting, or similar material in any form will not be used at the Project site because CRLF can become entangled and trapped in them. Any such material found on-site will be immediately removed by the USFWS approved biologist, Project personnel, or County contractors. Materials utilizing fixed weaves (strands cannot move), polypropylene, polymer, or other synthetic materials will not be used.

### 3. San Francisco Dusky-Footed Woodrat Protection Measures

The applicant shall implement the following measures to avoid and minimize impacts to San Francisco Dusky-footed Woodrats:

- a. Conduct Pre-Construction Survey for Dusky-Footed Woodrat Houses. No less than seven (7) days and no more than thirty (30) days prior to the beginning of ground disturbance and/or construction activities, the applicant's qualified biologist shall survey the work areas scheduled for

construction. Any dusky-footed woodrat houses found shall be marked in the field with flagging tape and their locations will be recorded with GPS. If a dusky-footed woodrat house is identified in a work area, the following avoidance measure will be implemented by the applicant.

- b. *Avoid or Minimize Disturbance to Dusky-Footed Woodrat Houses.* If a dusky-footed woodrat house is identified in the work area, the applicant shall attempt to preserve the house and maintain an intact dispersal corridor between the house and undisturbed habitat. An adequate dispersal corridor is considered to be a minimum of 50 feet wide and have greater than 70% vegetative cover. Even if such a corridor is infeasible, the applicant will avoid physical disturbance of the nest if feasible. If a dusky-footed woodrat house(s) cannot be avoided, the following relocation measure will be implemented by the applicant.
- c. *Implement a Dusky-Footed Woodrat Relocation Measure.* If a dusky-footed woodrat house(s) cannot be avoided, the California Department of Fish and Wildlife (CDFW) will be notified and information regarding the house location(s) and relocation plan will be provided. With approval from CDFW, a qualified biologist shall dismantle and relocate the house material. Prior to the beginning of construction, a qualified biologist shall deconstruct the house by hand. Materials from the house shall be dispersed into adjacent suitable habitat that is outside of the work area. During the deconstruction process, the biologist shall attempt to assess if there are juveniles in the house. If immobile juveniles are observed, the deconstruction process shall be discontinued until a time when the biologist believes that the juveniles will be fully mobile. A 10-ft. wide no-disturbance buffer will be established around the house until the juveniles are mobile. The house may be dismantled once the biologist has determined that adverse impacts on the juveniles would not occur. All disturbances to woodrat houses will be documented in a construction monitoring report and submitted to the California Department of Fish and Wildlife.

#### 4. Western Snowy Plover Protection Measures

To avoid and minimize adverse effects on western snowy plovers at Tunitas Creek Beach, the County will implement the following measures during construction on the access road:

- a. A qualified plover biologist shall conduct a survey of the beach prior to start of construction to determine if plovers are present and may be affected by construction activities.
- b. If an active nest is identified near the construction impact area, an evaluation of the likelihood of the activities to disturb the nest will be made by a qualified plover biologist. Depending on the nest location and its proximity to the construction site, a buffer area may be installed to further

minimize the potential for disturbance. A qualified plover biologist in consultation with the natural resource staff for County Parks and USFWS will work to determine an appropriate buffer area if necessary. Additionally, a construction monitor shall be required to conduct monitoring during construction if a buffer area was adopted to allow construction to proceed while ensuring construction activities do not disturb the nest. Alternatively, construction may be delayed until the nesting is complete.

- c. Vehicle speeds will not exceed 10 miles per hour while on the beach.
- d. Construction personnel will receive environmental awareness training before they begin working on the construction project. The training shall include a description of the species identification features and behavior, current status of the population, and avoidance and minimization measures.

In addition, the County will implement the following measures over the 3 to 5 year interim period while a permanent park management plan is developed for this property:

- e. County Parks Department personnel will receive environmental awareness training before accessing the beach. The training will include a description of the species identification features and behavior, current status of the population, and avoidance and minimization measures. The training will be repeated annually prior to the start of breeding season. The training may be provided via a video or by trained Parks Department natural resource personnel. The training program will be reviewed by and updated in consultation with a qualified plover biologist every 3 to 5 years.
- f. Temporary signage alerting beach visitors to the potential for presence of western snowy plovers will be installed if found to be necessary.
- g. Beginning in Spring 2018, potential breeding areas of Tunitas Creek Beach will be identified utilizing local experts and partners at the California State Parks prior to breeding season. These areas will be delineated using temporary signage providing a basic explanation of the sensitivity of the area. Potential breeding areas may also be further delineated using symbolic fencing, a rope line tied to t-posts or wooden stakes.
- h. If nests are discovered outside of the areas delineated with symbolic fencing, the symbolic fencing will be adjusted to encompass the nest or the nest may be individually enclosed following the U.S. Fish and Wildlife Service Enclosure Protocols for Snowy Plover Nests (USFWS 1999).
- i. If active western snowy plover nests are observed on Tunitas Creek Beach, a qualified western snowy plover biologist or trained County Parks' natural resource staff will accompany County personnel when accessing the beach

to survey for and observe western snowy plovers to determine if they are being affected by County actions on the beach.

- j. All western snowy plover sightings shall be reported to County Parks natural resource personnel and subsequently shared with the California Natural Diversity Database and the USFWS.
- k. If any western snowy plovers are injured when County personnel are accessing the beach, the USFWS shall be notified immediately.
- l. County vehicles and personnel will limit access to specific trails/access points where possible.
- m. If western snowy plovers are observed on the beach and appear to be disturbed by human presence, County personnel will cease activities and leave the area, as soon as possible.
- n. Pets are prohibited on the beach at all times by County ordinance (Ordinance Code Section 3.69.060 - General protective regulations - (i) Domestic Animals).
- o. Removal of driftwood and other natural debris that washes up on the beach are prohibited at all times via the County ordinance (Ordinance Code Section 3.69.060 - General protective regulations - (a) Vegetative).
- p. Bird and mammal carcasses observed on the beach during routine clean-up will be collected and disposed of off-site.
- q. Temporary interpretive signage shall be installed during breeding season wherever possible to educate the public about western snowy plovers and how to avoid impacting them.
- r. Utilize or adapt the California State Parks WSP Sharing the Beach brochure for use at Tunitas Creek Beach.

*The following conditions of approval were imposed during approval of PLN 2017-00219 and are still applicable for the present project:*

5. Erosion Control Plan

Prior to the beginning of vegetation removal along the old road, the applicant shall submit an erosion control plan for review and approval by the County Planning Department.



6. Waste Management

- a. Cover waste disposal containers securely with tarps at the end of every work day and during wet weather.
- b. Check waste disposal containers frequently for leaks and to make sure they are not overfilled. Never hose down a dumpster on the construction site.
- c. Clean or replace portable toilets, and inspect them frequently for leaks and spills.
- d. Dispose of all wastes and debris properly. Recycle materials and wastes that can be recycled (such as asphalt, concrete, aggregate base materials, wood, gyp board, pipe, etc.)
- e. Dispose of liquid residues from paints, thinners, solvents, glues, and cleaning fluids as hazardous waste.

7. Maintenance and Parking

- a. Designate an area, fitted with appropriate BMPs, for vehicle and equipment parking and storage.
- b. Perform major maintenance, repair jobs, and vehicle and equipment washing off-site.
- c. If refueling or vehicle maintenance must be done on-site, work in a bermed area away from storm drains and over a drip pan big enough to collect fluids.
- d. Recycle or dispose of fluids as hazardous waste.
- e. If vehicle or equipment cleaning must be done on-site, clean with water only in a bermed area that will not allow rinse water to run into gutters, streets, storm drains, or surface waters.
- f. Do not clean vehicle or equipment on-site using soaps, solvents, degreasers, steam cleaning equipment, etc.

8. Spill Prevention and Control

- a. Keep spill cleanup materials (rags, absorbents, etc.) available at the construction site at all times.
- b. Inspect vehicles and equipment frequently for leaks and repair leaks promptly. Use drip pans to catch leaks until repairs are made.

- c. Clean up spills or leaks immediately and dispose of cleanup materials properly.
- d. Do not hose down surfaces where fluids have spilled. Use dry cleanup methods (absorbent materials, cat litter, and/or rags).
- e. Sweep up spilled dry materials immediately. Do not try to wash them away with water, or bury them.
- f. Clean up spills on dirt areas by digging up and properly disposing of contaminated soil.
- g. Report significant spills immediately. You are required by law to report all significant releases of hazardous materials, including oil. To report a spill: 1) Dial 911 or your local emergency response number, 2) Call the Governor's Office of Emergency Services Warning Center, (800) 852-7550 (24 hours).

9. Sediment Control

- a. Protect storm drain inlets, gutters, ditches, and drainage courses with appropriate BMPs, such as gravel bags, fiber rolls, berms, etc.
- b. Prevent sediment from migrating off-site by installing and maintaining sediment controls, such as fiber rolls, silt fences, or sediment basins.
- c. Keep excavated soil on the site where it will not collect into the street.
- d. Transfer excavated materials to dump trucks on the site, not in the street.

10. Containment

- a. Fluid spills shall not be hosed down. The Contractor shall use dry cleanup methods (absorbent materials, cat litter, and/or rags) whenever possible. If water must be used, the Contractor will be required to collect the water and spilled fluids and dispose of it as hazardous waste. Spilled fluids shall not be allowed to soak into the ground or enter into any watercourse.
- b. Spilled dry materials shall be swept up immediately. Dry spills shall not be washed down or buried. Spills on dirt areas should be removed by digging up and properly disposing of contaminated soil.
- c. Significant spills shall be reported to the San Mateo County Environmental Health Services Division, or other emergency office as warranted, immediately and documented, using the San Mateo Countywide Water Pollution Prevention Program (SMCWPPP) Construction Site Inspection Report form.

11. Equipment Maintenance and Fueling

- a. A separate area shall be designated for equipment maintenance and fueling, away from any slopes, watercourses, or drainage facilities.
- b. Where equipment is expected to be stored for more than a few days, cleanup materials and tools shall be kept nearby and available for immediate use (refer to Condition No. 14 - "Containment").
- c. Equipment shall not be stored in areas that will potentially drain to watercourses or drainage facilities.
- d. If equipment must be stored in areas with the potential to generate runoff, drip pans, berms, sandbags, or absorbent booms shall be employed to contain any leaks or spills.
- e. Equipment shall be inspected daily for leaks or damage and promptly repaired.

12. Timing of Work

Construction activities that remove vegetative soil cover and/or potentially release sediment into stormwater will be conducted during the dry season (June 1 to October 15). Activities that are subject to permit requirements will be conducted during the period authorized by the permits.

13. Invasive Plant Control

In order to minimize the spread of invasive plants, all equipment (including personal gear) will be cleaned of soil, seeds, and plant material prior to arriving on the Project site to prevent introduction of undesirable plant species.

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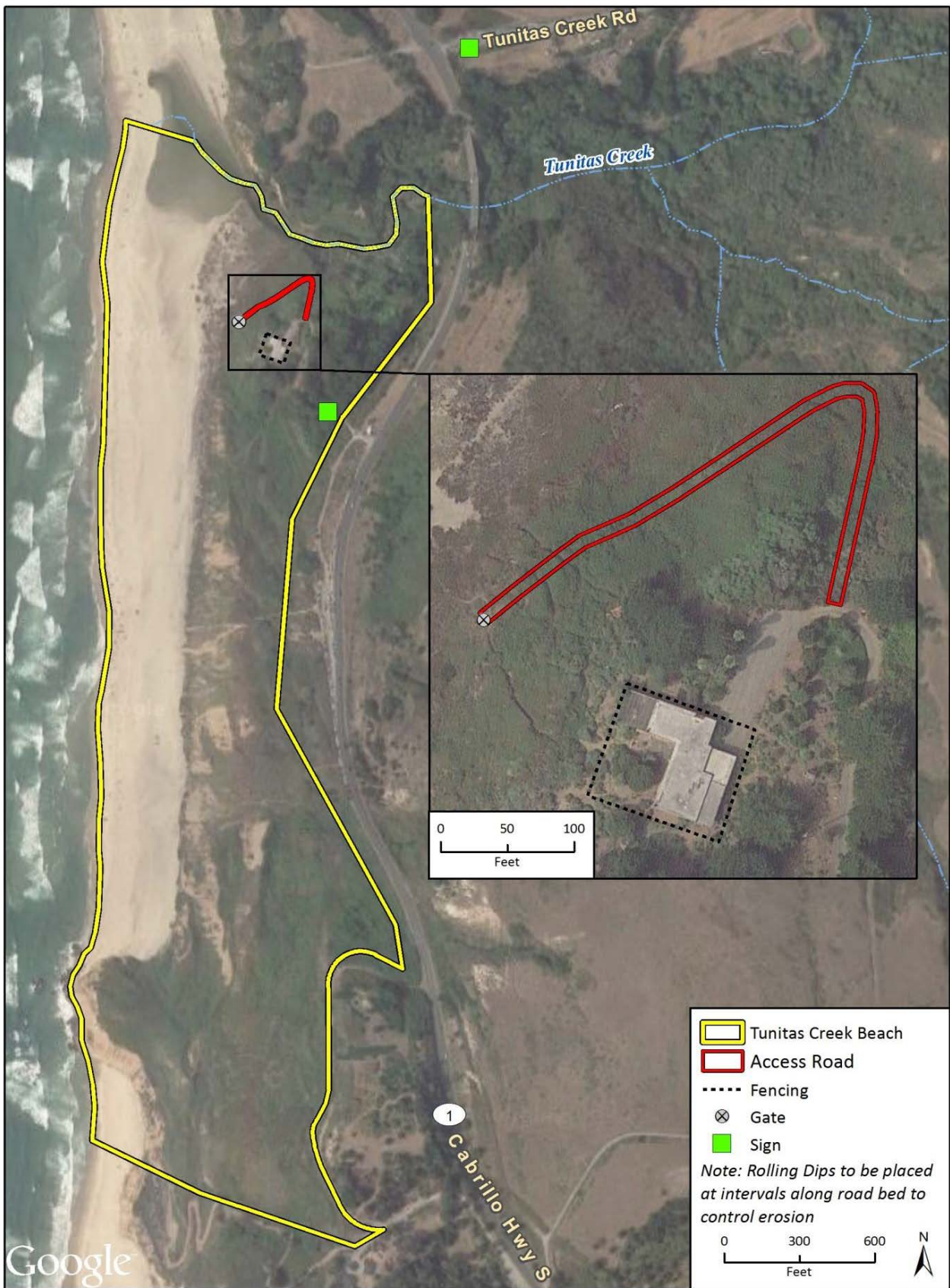
**San Mateo County Planning Commission Meeting**

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**San Mateo County Planning Commission Meeting**

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