



# City of Santa Barbara California

## CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION No. 003-13  
6551 HOLLISTER AVENUE  
GOLETA SLOUGH COASTAL DEVELOPMENT PERMIT  
FEBRUARY 21, 2013

**APPLICATION OF NICHOLAS HENEGAN, BETHEL ENVIRONMENTAL SOLUTIONS, 6551 HOLLISTER AVENUE, 073-450-003, G-S-R, SP-6, S-D-3, GOLETA SLOUGH RESERVE ZONE, AIRPORT INDUSTRIAL AREA SPECIFIC PLAN AREA, AND COASTAL OVERLAY ZONES, GENERAL PLAN DESIGNATION: GOLETA SLOUGH RESERVE (MST2012-00453, CDP2012-00008)**

The proposed project would consist of the excavation and removal of approximately 130 cubic yards of petroleum-contaminated soil and approximately 9,000 gallons of petroleum-contaminated groundwater on Santa Barbara Airport property and disposal off-site. This work is required by the Santa Barbara County Fire Department for remediation of a leak from an above ground storage tank located on the Federal Aviation Administration's (FAA's) remote transmission and receiver facility. The discretionary application required for this project is a Goleta Slough Coastal Development Permit (CDP2012-00008) to excavate a 21 foot by 35 foot area to a depth of approximately 10 feet in the Goleta Slough Reserve Zone which is in the Appealable Jurisdiction of the California Coastal Zone (SBMC §29.25.020).

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

**WHEREAS**, no one 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 7, 2013.
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. **GOLETA SLOUGH COASTAL DEVELOPMENT PERMIT (SBMC §29.25.050)**

1. 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 Airport Zoning Ordinance because it would be constructed in previously disturbed areas and would not adversely affect cultural or biological resources (Policies F-3 and C-12) as described in Section IV of this staff report.
2. 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 IV of the staff report (Coastal Act Section 30236).

3. The project use is dependent upon the resources of the environmentally sensitive area, consistent with Section 30233 of the Coastal Act as described in Section IV of this staff report.
4. The project has been designed to prevent impacts which would significantly degrade environmentally sensitive habitat by restricting remediation activities to the contaminated area on the FAA Remote Transmitter/Receiver Facility site.
5. The project maintains a buffer area between itself and delineated wetlands in the Goleta Slough. The project does not present a threat to wetland habitat.
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 requiring that all contaminated material be hauled out of the project site and disposed according to Santa Barbara County Fire Department standards.
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 through the incorporation of the Conditions of Approval.
8. There is no less environmentally damaging alternative to the proposed development, all feasible mitigation measures have been provided to minimize adverse environmental effects, and all spoils shall be removed from the area to avoid significant disruption to wildlife habitat and water circulation.
9. The project does not include channelizations or other substantial alteration of rivers and streams.
10. Archaeological or other culturally sensitive resources within the Goleta Slough are protected from impacts through the incorporation of the Conditions of Approval.
11. Sedimentation from the proposed development has been reduced to a minimum and is compatible with the wetland area.
12. The project enhances public educational or recreational opportunities at the Goleta Slough by remediating the adverse effects of contamination.

II. Said approval is subject to the following conditions:

- A. **Conditions Agreement.** The Applicant shall execute a *written instrument*, which shall be prepared by Planning staff and shall include the following:
  1. **Approved Development.** The development of the Real Property approved by the Planning Commission on February 21, 2013 is limited to excavation in an area 35 feet long by 21 feet wide and to a depth of no more than 10 feet to remove 130 cubic yards of petroleum-contaminated soil and to pump and dispose offsite up to 9,000 gallons of petroleum-contaminated groundwater as shown on the plans signed by the chairman of the Planning Commission on said date and on file at the City of Santa Barbara.
  2. **Uninterrupted Water Flow.** The Applicant shall allow for the continuation of any historic flow of water onto the project site including, but not limited to, swales, natural watercourses, conduits and any access road, as appropriate.

3. **Recreational Vehicle Storage Prohibition.** No recreational vehicles, boats, or trailers shall be stored on the project site.

B. **Requirements Prior to Permit Issuance.** The Owner shall submit the following, or evidence of completion of the following, for review and approval by the Department listed below prior to the issuance of any permit for the project. Please note that these conditions are in addition to the standard submittal requirements for each department.

1. **Public Works Department.**

a. **Construction-Related Truck Trips.** Construction-related truck trips for trucks with a gross vehicle weight rating of three tons or more shall not be scheduled during peak hours (7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m.) in order to help reduce truck traffic on adjacent streets and roadways.

2. **Community Development Department.**

a. **Requirement for Archaeological Resources.** The following information shall be printed on the grading plans:

If archaeological resources are encountered or suspected, work shall be halted or redirected immediately and the Planning Division shall be notified. The archaeologist shall assess the nature, extent, and significance of any discoveries and 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. 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 Planning Division 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 Planning Division grants authorization.

b. **Contractor and Subcontractor Notification.** The Owner shall notify in writing all contractors and subcontractors of the site rules, restrictions, and Conditions of Approval. Submit a draft copy of the notice to the Planning Division for review and approval.

c. **Letter of Commitment for Pre-Construction Conference.** The Owner shall submit to the Planning Division a letter of commitment to hold the Pre-

Construction Conference identified in condition G.2 "Pre-Construction Conference" prior to disturbing any part of the project site for any reason.

- d. **Conditions on Plans/Signatures.** The final Resolution shall be provided on a full size drawing sheet as part of the drawing sets. A statement shall also be placed on the sheet as follows: The undersigned have read and understand the required conditions, and agree to abide by any and all conditions which are their usual and customary responsibility to perform, and which are within their authority to perform.

Signed:

Property Owner		Date
Contractor	Date	License No.
Architect	Date	License No.
Engineer	Date	License No.

- C. **Construction Implementation Requirements.** All of these construction requirements shall be carried out in the field by the Owner and/or Contractor for the duration of the project construction, including demolition and grading.

1. **Pre-Construction Conference.** Not less than 10 days or more than 20 days prior to commencement of construction, a conference to review site conditions, construction schedule, and construction conditions shall be held by the General Contractor. The conference shall include representatives from the Public Works Department Engineering and Transportation Divisions, Community Development Department Building and Planning Divisions, the Santa Barbara Airport, Archaeologist, Project Engineer, Contractor and each Subcontractor.
2. **Construction Contact Sign.** Immediately after Building permit issuance, signage shall be posted at the points of entry to the site that list the contractor name, contractor telephone number, construction work hours, site rules, and construction-related conditions, to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval. The font size shall be a minimum of 0.5 inches in height. Said sign shall not exceed six feet in height from the ground if it is free-standing or placed on a fence. It shall not exceed 24 square feet if in a multi-family or commercial zone or six square feet if in a single family zone.
3. **Construction Storage/Staging.** Construction vehicle/ equipment/ materials storage and staging shall be done on-site. No parking or storage shall be permitted within the public right-of-way, unless specifically permitted by the Transportation Manager with a Public Works permit.

4. **Construction Parking.** During construction, free parking spaces for construction workers shall be provided on-site or off-site in a location subject to the approval of the Transportation Manager.
5. **Nesting Birds.** Birds and their eggs nesting on or near the project site are protected under the Migratory Bird Treaty Act and pursuing, hunting, taking, capturing, killing, or attempt to do any of the above is a violation of federal and state regulations. No trimming or removing brush or trees shall occur if nesting birds are found in the vegetation. All care should be taken not to disturb the nest(s). Removal or trimming may only occur after the young have fledged from the nests(s).
6. **Air Quality and Dust Control.** The following measures shall be shown on grading and building plans and shall be adhered to throughout grading, hauling, and construction activities:
  - a. During construction, use water trucks or sprinkler systems to keep all areas of vehicle movement damp enough to prevent dust from leaving the site. At a minimum, this should include wetting down such areas in the late morning and after work is completed for the day. Increased watering frequency should be required whenever the wind speed exceeds 15 mph. Reclaimed water should be used whenever possible. However, reclaimed water should not be used in or around crops for human consumption.
  - b. Minimize amount of disturbed area and reduce on site vehicle speeds to 15 miles per hour or less.
  - c. If importation, exportation and stockpiling of fill material is involved, soil stockpiled for more than two days shall be covered, kept moist, or treated with soil binders to prevent dust generation. Trucks transporting fill material to and from the site shall be tarped from the point of origin.
  - d. Gravel pads shall be installed at all access points to prevent tracking of mud onto public roads.
  - e. After clearing, grading, earth moving or excavation is completed, treat the disturbed area by watering, or revegetating, or by spreading soil binders until the area is paved or otherwise developed so that dust generation will not occur.
  - f. The contractor or builder shall designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite. Their duties shall include holiday and weekend periods when work may not be in progress. The name and telephone number of such persons shall be provided to the Air Pollution Control District prior to land use clearance for map recordation and land use clearance for finish grading of the structure.
  - g. All portable diesel-powered construction equipment shall be registered with the state's portable equipment registration program OR shall obtain an APCD permit.
  - h. Fleet owners of mobile construction equipment are subject to the California Air Resource Board (CARB) Regulation for In-use Off-road Diesel Vehicles (Title 13

California Code of Regulations, Chapter 9, § 2449), the purpose of which is to reduce diesel particulate matter (PM) and criteria pollutant emissions from in-use (existing) off-road diesel-fueled vehicles. For more information, please refer to the CARB website at [www.arb.ca.gov/msprog/ordiesel/ordiesel.htm](http://www.arb.ca.gov/msprog/ordiesel/ordiesel.htm).

- i. All commercial diesel vehicles are subject to Title 13, § 2485 of the California Code of Regulations, limiting engine idling time. Idling of heavy-duty diesel construction equipment and trucks during loading and unloading shall be limited to five minutes; electric auxiliary power units should be used whenever possible.
- j. Diesel construction equipment meeting the California Air Resources Board (CARB) Tier 1 emission standards for off-road heavy-duty diesel engines shall be used. Equipment meeting CARB Tier 2 or higher emission standards should be used to the maximum extent feasible.
- k. Diesel powered equipment should be replaced by electric equipment whenever feasible.
- l. If feasible, diesel construction equipment shall be equipped with selective catalytic reduction systems, diesel oxidation catalysts and diesel particulate filters as certified and/or verified by EPA or California.
- m. Catalytic converters shall be installed on gasoline-powered equipment, if feasible.
- n. All construction equipment shall be maintained in tune per the manufacturer's specifications.
- o. The engine size of construction equipment shall be the minimum practical size.
- p. The number of construction equipment operating simultaneously shall be minimized through efficient management practices to ensure that the smallest practical number is operating at any one time. Construction worker trips should be minimized by requiring carpooling and by providing for lunch onsite.

**D. General Conditions.**

1. **Compliance with Requirements.** All requirements of the city of Santa Barbara and any other applicable requirements of any law or agency of the State and/or any government entity or District shall be met. This includes, but is not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.), the 1979 Air Quality Attainment Plan, and the California Code of Regulations.
2. **Land Development Team Recovery Fee Required.** The land development team recovery fee (30% of all planning fees, as calculated by staff) shall be paid at time of building permit application.
3. **Site Maintenance.** The existing site shall be maintained and secured. Any landscaping shall be watered and maintained until demolition occurs.
4. **Litigation Indemnification Agreement.** In the event the Planning Commission approval of the Project is appealed to the City Council, Applicant/Owner 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/Owner 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/Owner 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 being notified of a lawsuit regarding the Project. These commitments of defense and indemnification are material conditions of the approval of the Project. If Applicant/Owner 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.

**III. NOTICE OF COASTAL DEVELOPMENT PERMIT TIME LIMITS:**

The Planning Commission action approving the Coastal Development Permit shall expire two (2) years from the date of final action upon the application, per Santa Barbara Municipal Code §28.44.230, unless:

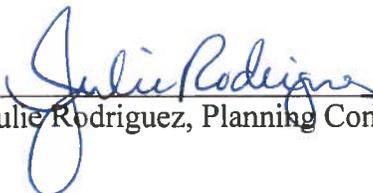
1. Otherwise explicitly modified by conditions of approval for the coastal development permit.
2. A Building permit for the work authorized by the coastal development permit is issued prior to the expiration date of the approval.

The Community Development Director grants an extension of the coastal development permit approval. The Community Development Director may grant up to three (3) one-year extensions of the coastal development permit approval. Each extension may be granted upon the Director finding that: (i) the development continues to conform to the Local Coastal Program, (ii) the applicant has demonstrated due diligence in completing the development, and (iii) there are no changed circumstances that affect the consistency of the development with the General Plan or any other applicable ordinances, resolutions, or other laws.

This motion was passed and adopted on the 21st day of February, 2013 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 6 NOES: 0 ABSTAIN: 0 ABSENT: 1 (Lodge)

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

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**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.**