

#868



COASTAL APPEAL FORM

SAN LUIS OBISPO COUNTY DEPARTMENT OF PLANNING AND BUILDING
976 Osos STREET • ROOM 200 • SAN LUIS OBISPO • CALIFORNIA 93408 • (805) 781-5600

Promoting the Wise Use of Land • Helping to Build Great Communities

Please Note: An appeal should be filed by an aggrieved person or the applicant at each stage in the process if they are still unsatisfied by the last action.

PROJECT INFORMATION

Name: OCEANO DRAINAGE PROJECT @ HWY 1 & 13TH ST. File Number: DRC 2012-00044

Type of permit being appealed:

- Plot Plan
- Site Plan
- Minor Use Permit
- Development Plan/Conditional Use Permit
- Variance
- Land Division
- Lot Line Adjustment
- Other: COP

The decision was made by:

- Planning Director (Staff)
- Building Official
- Planning Department Hearing Officer
- Subdivision Review Board
- Planning Commission
- Other _____

Date the application was acted on: 3/14/13

The decision is appealed to:

- Board of Construction Appeals
- Board of Handicapped Access
- Planning Commission
- Board of Supervisors

BASIS FOR APPEAL

State the basis of the appeal. Clearly state the reasons for the appeal. In the case of a Construction Code Appeal, note specific code name and sections disputed). (Attach additional sheets if necessary)

PLEASE SEE ATTACHED LETTER

List any conditions that are being appealed and give reasons why you think it should be modified or removed.

Condition Number _____ Reason for appeal (attach additional sheets if necessary)

APPEAL SEEKS DENIAL OF PROPOSED PROJECT

APPELLANT INFORMATION

Print name: JEFF EDWARDS
 Address: P.O. BOX 6070 LOS OSOS CA 93412
 Phone Number (daytime): (805) 235-0873

We have completed this form accurately and declare all statements made here are true.

Signature: _____ Date: 3/27/13

OFFICE USE ONLY
 Date Received: 3/27/13
 Amount Paid: 0

By: [Signature]
 Receipt No. (if applicable): N/A

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March 27, 2013

San Luis Obispo County Planning Department
976 Osos Street
Room 200
San Luis Obispo, CA 93408

RE: DRC2012-000444 Oceano Drainage Project at 13th St. and HWY 1
Development Plan, CUP and CDP/ED11-173 (300465)

Attention: Ramona Hedges, Planning Commission Secretary

Dear Ms. Hedges,

As you know, at its regular meeting of March 14, 2013, the Planning Commission approved the above referenced project with conditions. As you may be aware, I wrote a letter dated March 7, 2013 raising questions and concerns about the proposed project. Additionally, at the March 14, public hearing, I provided oral testimony in a similar connection.

Please be advised this letter and the attached appeal form shall serve as my official appeal of the Planning Commission approval of the above referenced project to the Board of Supervisors. The following discussion is a preliminary presentation of concerns that will be raised before the Board of Supervisors at the de Novo hearing.

Specifically, I wish to appeal the Planning Commission approval of the subject development as referenced above on Coastal Zone grounds. As proposed, the Oceano Drainage Improvement project is inconsistent with the San Luis Obispo County Coastal Zone Land Use Ordinance and LCP Plans & Polices. Furthermore, I believe the proposed Mitigated Negative Declaration is inadequate to fully assess and mitigate potential significant environmental effects from the project.

At the Planning Commission hearing, staff presented photographs of the intersection of 13th St. and HWY 1 in a storm event depicting the intersection under 2-3 feet of water in December of 2010. This is not an accurate reflection of how drainage functions at this location since remedial work was completed following the flooding of December 19, 2010. In other words, the problem as represented in the photographs no longer exists and the real scope of any remaining problem remains uncertain.

The proposed project includes grading to fill an area of approximately five (5) acres with upwards of 10,000 cubic yards of soils. It is unclear what the maximum height of the fill would be. There appears to be no detailed soils report or other geotechnical analysis of the fill area or the sedimentation/ detention basin. Staff does note in the staff report that groundwater is known to occur three (3) feet or less in the area. In the absence of hydrophytic vegetation, the presence of wetland hydrology and, or the presence of hydric soils would constitute a wetland under state law. If a wetland, the primary area of fill

**P.O. Box 6070, Los Osos, CA 93412 (805)235-0873 julietacker@charter.net
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placement and the detention basin would be considered an Environmentally Sensitive Habitat Area (ESHA). The project also proposes to drain the concrete lined detention basin into a “natural” area of Arroyo Willows where the stormwater will be concentrated before it exists into Arroyo Grande Creek. I don’t believe the Coastal Act supports the use of an ESHA to cleanse concentrated urban stormwater runoff.

The proposed project will collect and concentrate stormwater runoff from an approximately 40.5 acre watershed being a subset of the larger Meadow Creek watershed. The anticipated flow rate under a 10-year storm event is expected to be 45 cubic feet per second. Secondly, given the project watershed area is only 40 acres (contrast to Meadow Creek watershed of 6,400 acres) it raises the question of whether, or not this project will have measurable beneficial impacts on the storm water runoff and flooding issues that have been chronic in the community of Oceano.

Purportedly the project “is designed to enhance and restore riparian and aquatic habitat by reducing sedimentation and improving water quality.” There appears to be no evidence in the record to support this conclusion including baseline water quality reports, wetland delineation or other supportive documentation.

The mitigation measures addressing water quality are inadequate. It does not appear there was any water quality analysis with regard to the concentration of urban runoff including airport runoff which may include lead and other aircraft products which discharges into Meadow Creek and possibly Arroyo Grande Creek. There appears to be no demonstration that airport runoff will not migrate into the detention basin by either surface runoff or groundwater infiltration. There is a known presence of Federal Endangered Species (i.e. Tidewater goby and Steelhead trout). Also, it does not appear wildlife surveys conducted for the riparian and other natural areas were adequate to properly craft mitigation measures. Moreover, the offsite mitigation plan lacks specificity and cannot be considered adequate mitigation without doing so. Also, monitoring is not mitigation under CEQA.

Staff indicated the proposed project is one of a “suite” of projects County Public Works will be deploying to address the community of Oceano’s flooding issues. However, there is no analysis of how any of the other projects will complement the proposed project. For example, it is unclear how the sand bar management, Delta St. grading, Juanita pipeline and pump, HWY 1 at 17th St./19th St. or Sand Canyon flapgate modifications will work in conjunction and collaboration with the proposed project. A programmatic EIR would be helpful to better organize and prioritize drainage solutions for the community.

Additionally, there are several other projects being undertaken in the immediate vicinity by other agencies that may significantly affect the efficacy of the proposed project. They include, additional paving and creation of impervious surfaces at the Oceano Airport (see Master Plan Exhibit 5A), California State Parks drainage improvements along Meadow Creek (SCH 2012101012) or the City of Grover Beach’s recent stormwater improvements at Grand Avenue and HWY 1.

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A number of alternatives were considered to the proposed project; however all of them focused on a small portion of Oceano and the limited watershed that drains to HWY 1 and 13th Street. There appears to be no watershed-wide (Meadow Creek, 6,400 acres) approach to achieving solutions in the community. Moreover, the project scope and components appear to be driven by grant availability other than sound design strategies.

The proposed project includes a cost estimate of approximately \$2.7 million. I have several concerns in connection with the scope of the project and its overall cost. One, it appears approximately 50% of the total project cost is for engineering, administration, right-of-way acquisition and other soft costs. Secondly, there is no cost-benefit analysis to determine the relative benefits of the proposed project. Lastly, given finite financial resources and the limited availability of grant funding, it would appear these funds may be better applied in a different context.

Finally, it appears that a NEPA document will be required due to the involvement of federal agencies, including the FAA and the USACE. It is my understanding that concurrent processing of a joint CEQA and NEPA document may be the most effective approach in satisfying environmental review requirements. I recommend a programmatic EIR to address CEQA issues and an Environmental Assessment for NEPA.

Please feel free to contact me with any questions you may have.

Sincerely,

Jeff Edwards

Jeff Edwards
805.235.0873

Cc: Ryan Hostetter, Planning Department Staff
Nicole Retana, Planning Department Secretary

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