

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Planning and Building	(2) MEETING DATE 6/4/2013	(3) CONTACT/PHONE Ryan Hostetter, Senior Planner\ (805) 788-2351	
(4) SUBJECT Hearing to consider an appeal by Jeff Edwards of the Planning Commission's approval of a Development Plan/Coastal Development Permit for the County Public Works drainage improvement project located on Highway 1, at the intersection of 13th Street/Paso Robles Street and terminating near Arroyo Grande Creek, in Oceano. District 4.			
(5) RECOMMENDED ACTION Adopt and instruct the Chairperson to sign the resolution denying the appeal, affirming the decision of the Planning Commission and conditionally approving the request by the San Luis Obispo County Department of Public Works for a Development Plan/Coastal Development Permit (DRC2012-00044) to construct new storm drain improvements on State Highway 1 (Front Street) in Oceano.			
(6) FUNDING SOURCE(S) Department Budget	(7) CURRENT YEAR FINANCIAL IMPACT \$0.00	(8) ANNUAL FINANCIAL IMPACT \$0.00	(9) BUDGETED? Yes
(10) AGENDA PLACEMENT { } Consent { } Presentation { X } Hearing (Time Est. <u>90 Minutes</u>) { } Board Business (Time Est. <u> </u>)			
(11) EXECUTED DOCUMENTS { X } Resolutions { } Contracts { } Ordinances { } N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: { } 4/5th's Vote Required { X } N/A	
(14) LOCATION MAP Attached	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY { X } N/A Date: _____	
(17) ADMINISTRATIVE OFFICE REVIEW Reviewed by Leslie Brown			
(18) SUPERVISOR DISTRICT(S) District 4 -			

County of San Luis Obispo



TO: Board of Supervisors

FROM: Planning and Building / Ryan Hostetter, Senior Planner

VIA: Ellen Carroll, Planning Manager/Environmental Coordinator

DATE: 6/4/2013

SUBJECT: Hearing to consider an appeal by Jeff Edwards of the Planning Commission's approval of a Development Plan/Coastal Development Permit for the County Public Works drainage improvement project located on Highway 1, at the intersection of 13th Street/Paso Robles Street and terminating near Arroyo Grande Creek, in Oceano. District 4.

RECOMMENDATION

Adopt and instruct the Chairperson to sign the resolution denying the appeal, affirming the decision of the Planning Commission and conditionally approving the request by the San Luis Obispo County Department of Public Works for a Development Plan/Coastal Development Permit (DRC2012-00044) to construct new storm drain improvements on State Highway 1 (Front Street) in Oceano.

DISCUSSION

The County Department of Public Works is requesting a Development Plan/Coastal Development Permit for a drainage improvement project located within the Coastal Zone in the community of Oceano along Highway 1. The project is proposed to help alleviate a long standing flooding problem along Highway 1 and 13th Street.

Improvements to be developed include new drainage inlets and conveyance of drainage by a new underground pipe to a new concrete sedimentation basin located within the Recreational Vehicle (RV) storage lot located on Oceano County Airport property. Upstream drainage inlets would be installed on Front Street (State Highway 1) and Paso Robles Street, with additional inlets along the path of the new storm drain. Each of the two upstream inlets lead directly to infiltrators that will direct the first flows, and an increment of flows thereafter, back into the shallow groundwater. Concrete drainage swales would be constructed within the RV storage lot and along the southern property line of Pismo Coast Village property to capture surface flows and direct them to the new concrete-lined sedimentation basin. The new underground storm drain system would be located underneath Highway 1, across private property and Union Pacific Railroad (UPRR) property, and along County road right of way to the airport, terminating at the sedimentation basin.

Appeal Issues

The project was presented before the Planning Commission at their March 14, 2013 hearing, and was approved at that hearing. On March 27, 2013 Jeff Edwards submitted an appeal of the Planning Commission's decision (attached) based on a number of issues. Additionally, Mr. Edwards attended the March 14th Planning Commission hearing and submitted concerns which were considered, and are a part of the Planning Commission staff report discussion (also attached for your information).

The County Department of Public Works has also reviewed Mr. Edwards appeal letter and has provided a separate response included as an attachment (Attachment 3) to this report for your review and consideration.

The specific appeal issues and staff's responses are provided below:

Appeal Issue #1:

The appeal issue states that the proposed project is inconsistent with the San Luis Obispo County Coastal Zone Land Use Ordinance and Local Coastal Program (LCP) Plans and Policies.

Staff Response: Staff has determined through the evaluation outlined in the Planning Commission staff report that this project is in compliance with the County adopted Local Coastal Program which includes the Coastal Plan Policies and the Coastal Zone Land Use Ordinance requirements. The proposed project will include work within 100 feet of an unmapped Environmentally Sensitive Habitat Area (ESHA); however the proposed project is a permitted use within a wetland setback (drainage and flood control facilities). Additionally, as a practical matter, project elements must be adjacent to creek side habitat to convey water flows, and an existing levee forms a buffer between the sedimentation basin and the creek itself. The project will enhance and restore riparian and aquatic habitat within the ESHA by reducing sedimentation and improving water quality.

Appeal Issue #2:

The appellant contends that the proposed Mitigated Negative Declaration is inadequate.

Staff Response: The draft Mitigated Negative Declaration was issued on January 31, 2013 and was circulated to the State Clearinghouse. A letter from the State Clearinghouse was sent to the County on February 28, 2013 which stated that the review period had completed, and that no state agencies had submitted comments regarding the environmental document. The environmental document discusses all of the legally mandated issue areas and includes discussion of the project description, setting, impacts, and any required mitigation measures to reduce impacts to a "less than significant level" as required by the California Environmental Quality Act.

Appeal Issue #3:

A photo showing flooding of 13th Street and Highway 1 from 2010 is no longer accurate as conditions have changed and drainage improvements have occurred as a result of the photo.

Staff Response: The County Department of Public Works has stated that the drainage conditions within the area remain as they have prior to the flooding in 2010. The flooding is generally caused by the flat topography and a lack of capacity in the drainage facilities to convey runoff within the area. According to Public Works, minor maintenance work has occurred; however, drainage infrastructure remains unchanged and this project is one step in alleviating drainage issues within this particular location.

Appeal Issue #4:

It is unclear what the maximum height of the fill will be and there is no detailed soils report or other geotechnical analysis.

Staff Response: As detailed in the Planning Commission staff report, the Pismo Coast Village properties will be re-graded to provide additional stormwater storage capacity. In the table listed as "Table of Graded Areas" it shows that the Pismo Coast Village and County Airport properties encompass approximately 12.43 acres of area with a maximum fill depth of twelve (12) inches. Additionally, Earth Systems Pacific prepared a "Soils Engineering and Infiltration Test Report" (March 1, 2013) for the project which concluded that the proposed improvements are suitable for the site.

Appeal Issue #5:

The area of grading is a wetland and the fill placement and detention basin are within an Environmentally Sensitive Habitat Area (ESHA). The ESHA area should not be used to cleanse urban stormwater runoff.

Staff Response: One of the goals of the project is to improve the drainage situation as well as install improvements which will enhance the water quality going into the creek (i.e. sediment basin). The project is located adjacent to a wetland area and is an allowed use within the wetland setback area as outlined in the Coastal Zone Land Use Ordinance. The area of the grading and fill is not proposed to impact any habitat area as it is mostly located on a property currently used as an RV storage lot and does not contain sensitive habitat. The project is separated from the riparian corridor along Arroyo Grande Creek by the north levee, which is approximately 15 feet high and 75 feet wide at the base. Although the new sedimentation basin is located within 75 feet of the unmapped riparian ESHA, the existing levee defines the physical limits of the ESHA.

Appeal Issue #6:

It is questionable 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. The project is not sized to collect the stormwater from the larger Meadow Creek watershed (6,400 acres). There is no watershed-wide approach to achieving drainage solutions. The project appears to be driven by grant availability.

Staff Response: The project's goal is not intended to solve the entirety of the Oceano drainage problems, but rather to help alleviate the issues regarding drainage at Highway 1 and 13th Street. The flooding experienced at this intersection is more frequent and severe than other locations in the community. According to Public Works "the Highway 1 and 13th Street drainage project addresses a known and quantifiable drainage issue that impacts the health and safety of the travelling public on public roadways."

Appeal Issue #7:

No evidence to show that the project will restore riparian and aquatic habitats.

Staff Response: This proposed project is not a restoration project, but does include infrastructure and maintenance activities which will benefit the adjacent wetland areas. The sediment basin is expected to filter out sediment that would normally dump into the adjacent wetland areas. Public Works is also proposing to remove a large trash and dumping area that is occurring adjacent to the RV storage area, and maintain this area as well in the future, resulting in a beneficial impact to this habitat.

Appeal Issue #8:

Mitigation measures addressing water quality are inadequate. The project does not account for runoff from the airport runway.

Staff Response: This proposed project is not designed to address all of the airport's drainage. According to Public Works most of the airport (approx. 51 acres) drains into the Oceano Lagoon via a 36" storm drain pipe or a drainage ditch that drains into the lagoon. The runoff is collected in a series of vegetated swales and inlets which are equipped with oil/water separators. The Airport addresses impurities with their runoff outside the purview of the Highway 1 and 13th Street project. Additionally, water quality mitigation measures are required to be in place during construction (sedimentation and erosion control), and one of the proposed intents of the sediment basin is to enhance the water quality (through settling) while providing additional storage before water drains into the creek.

Appeal Issue #9:

Evidence of Federal Endangered Species exists and there are no wildlife surveys conducted for the riparian and other natural areas.

Staff Response: The Mitigated Negative Declaration notes that there is habitat for at least three federally listed species (California red-legged frog, steelhead trout, and tidewater goby). It is anticipated that these species exist based on previous studies which have been conducted within the area (list of studies provided in the Mitigated Negative Declaration). Additionally, site specific studies have been conducted

for monarch butterflies and botanical resources and are also outlined in the environmental document. Mitigation measures are in place to ensure that there are no significant impacts to these resources known to exist within the area (conditions of approval no.'s 11-22 in Exhibit B of the attached resolution).

Appeal Issue #10:

The mitigation plan lacks specificity and cannot be considered adequate mitigation.

Staff Response: Mitigation measures and conditions of approval are in place to ensure the appropriate mitigation measures are carried out as recommended in the environmental document. The mitigation plan provides an outline as to how mitigation measures will be undertaken during project construction, and the Habitat Mitigation and Monitoring Program (HMMP) is a requirement under the California Environmental Quality Act. The Mitigated Negative Declaration includes the requirement for specific mitigation measures as well as the HMMP which will demonstrate how the specific measures will be implemented as construction plans and schedules are developed.

Appeal Issue #11:

Monitoring is not mitigation under the California Environmental Quality Act (CEQA).

Staff Response: The appellant's statement is correct in that monitoring is not mitigation under CEQA. The proposed Mitigated Negative Declaration includes specific mitigation measures to ensure there are no significant impacts to resources. Monitoring is a means to assure that identified mitigation measures are implemented as anticipated. For example, mitigation measures may require best management practices to be in place prior to any site disturbance, and for construction to avoid nesting birds during nesting season. Monitoring would verify the best management practices, and if nesting activities are identified, activities would cease in that immediate area until the animal has completed nest activities.

Appeal Issue #12:

There is no discussion of other drainage projects in the area and how they complement this project.

Staff Response: The County Department of Public Works has completed a comprehensive Oceano Drainage and Flood Control Study which included a review of existing drainage issues and identified near-term drainage improvements to address these issues. This proposed project is a result of that study, and is one of the near-term activities outlined to be completed in this program. County Public Works additionally identified that many of the larger area and community-wide drainage programs are within the watershed that drain to the Oceano Lagoon (i.e. Meadow Creek Lagoon), and are not specifically related to the problem proposed to be addressed by this project, the intersection of Highway 1 and 13th Street.

Appeal Issue #13:

A programmatic Environmental Impact Report (EIR) would be appropriate to better organize and prioritize drainage projects in the area.

Staff Response: While an area-wide programmatic Environmental Impact Report could be conducted to evaluate drainage improvements in Oceano, this project was seen as a more urgent issue and a project having independent utility separate from overall drainage issues. As such, it was determined that specific CEQA review was appropriate for this project. Based on the specifics of the project, and based on the initial Study, it was determined that the appropriate CEQA review by the County would be a Mitigated Negative Declaration.

Appeal Issue #14:

Other projects in the area (public works projects) may affect the efficacy of this project (such as additional paving projects).

Staff Response: Projects which propose to increase impervious surface area (or change drainage patterns) are required to account for the individual drainage impacts of that project, and implement appropriate drainage measures specific to the project as it relates to the area wide drainage patterns.

This proposed project is one measure as outlined in the Oceano Drainage and Flood Control Study (RMC, 2004) to alleviate flooding issues at a specific location based on existing conditions. Future projects will be required to evaluate impacts to this drainage area if there are impacts to Highway 1 and 13th Street.

Appeal Issue #15:

The appellant expressed concerns regarding the cost of the project versus the scope, and specifically that half of the cost is related to soft costs.

Staff Response: This proposed project is complex in that it requires approvals from a multitude of agencies due to its location and requires both CEQA and National Environmental Policy Act (NEPA) review and approval from the appropriate lead agencies. Agencies that require review and approval include but are not limited to: California Coastal Commission, US Department of Housing and Urban Development (funding), Federal Aviation Administration, Army Corps of Engineers, Regional Water Quality Control Board, CA Fish and Wildlife Service, Caltrans, San Luis Obispo Council of Governments, Union Pacific Railroad, several utility companies, and private land owners. The engineering and permitting process for this particular project is complex and lengthy due to the agencies and owners that have jurisdiction over pieces of the project thus increasing the time frames and cost of the planning/permitting portions of the project.

Appeal Issue #16:

The project does not appear to include a National Environmental Policy Act (NEPA) document and one is required due to the involvement of federal agencies.

Staff Response: This project does include NEPA review through the Army Corps of Engineers as the Federal Lead Agency for their permit role in this project. A joint CEQA/NEPA document was determined not to be the best option for this particular project due to the many agencies involved with permitting jurisdiction. It was determined that the best approach given the number of agencies and the timing was for the County as lead agency to prepare a CEQA document separate from the NEPA review through the Army Corps as lead federal permitting agency. Information, including technical studies will be used as the basis for both environmental documents and there will be careful coordination within the processes.

OTHER AGENCY INVOLVEMENT/IMPACT

The appeal was reviewed by the County Department of Public Works. County Counsel reviewed and approved the Resolution as to form and legal effect.

FINANCIAL CONSIDERATIONS

The required appeal fee was waived because the appeal involves a coastal issue as the issue of appeal. In order to exhaust local appeals the County cannot charge a fee for the processing of an appeal on a coastal development project per the requirements of the Coastal Zone Land Use Ordinance and the Coastal Act. The cost of processing this appeal (total cost is approximately \$4,435) comes from the Department's General Fund support.

RESULTS

Denying the appeal and upholding the Planning Commission's decision will result in the construction of this drainage project as proposed by County Public Works, and the resulting improvements to drainage and flooding in Oceano.

ATTACHMENTS

1. Board of Supervisor Resolution with Exhibits A and B
2. Appeal Form and Appeal Letter from Mr. Jeff Edwards
3. Memo from Public Works Responding to Appeal
4. Vicinity Map - Oceano
5. Planning Commission Staff Report
6. Minutes from Planning Commission Hearing
7. Habitat Mitigation and Monitoring Plan