

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

(1) DEPARTMENT Public Works	(2) MEETING DATE 1/24/2012	(3) CONTACT/PHONE Mark Davis Development Services Engineer (805) 788-2452	
(4) SUBJECT Hearing to Consider an Appeal for a Denied Encroachment Permit Application by Mr. Calvin J. Packett for a Secondary Driveway Approach from a Property Located at 626 Cherokee Place, Nipomo			
(5) RECOMMENDED ACTION It is our recommendation that your Honorable Board deny the appeal request to construct a secondary driveway approach from property located at 626 Cherokee Place onto Willow Road in Nipomo.			
(6) FUNDING SOURCE(S) Road Fund	(7) CURRENT YEAR FINANCIAL IMPACT \$0.00	(8) ANNUAL FINANCIAL IMPACT \$0.00	(9) BUDGETED? No
(10) AGENDA PLACEMENT <input type="checkbox"/> Consent <input type="checkbox"/> Presentation <input checked="" type="checkbox"/> Hearing (Time Est. 15 min.) <input type="checkbox"/> Board Business (Time Est. _____)			
(11) EXECUTED DOCUMENTS <input type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input type="checkbox"/> Ordinances <input checked="" type="checkbox"/> N/A		(12) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: N/A <input type="checkbox"/> 4/5th's Vote Required <input checked="" type="checkbox"/> N/A	
(13) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(14) W-9 <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	
(15) LOCATION MAP Attached	(16) BUSINESS IMPACT STATEMENT? No	(17) AGENDA ITEM HISTORY <input checked="" type="checkbox"/> N/A    Date	
(18) ADMINISTRATIVE OFFICE REVIEW  Emily Jackson			
(19) SUPERVISOR DISTRICT(S) District 4 -			

Reference: 12JAN24-H-1

# County of San Luis Obispo



TO: Board of Supervisors

FROM: Public Works  
Mark Davis, Development Services Engineer

VIA: Dave Flynn, Deputy Director or Public Works

DATE: 1/24/2012

SUBJECT: Hearing to Consider an Appeal for a Denied Encroachment Permit Application by Mr. Calvin J. Packett for a Secondary Driveway Approach from a Property Located at 626 Cherokee Place, Nipomo

## **RECOMMENDATION**

It is our recommendation that your Honorable Board deny the appeal request to construct a secondary driveway approach from property located at 626 Cherokee Place onto Willow Road in Nipomo.

## **DISCUSSION**

Mr. Calvin Packett owns property located at 626 Cherokee Place within the community of Nipomo. Mr. Packett applied for an encroachment permit to construct a secondary driveway approach which would connect his property to Willow Road. The proposed driveway location as identified in Exhibit "A," is within the County's Willow Road Extension Project-Phase 2, which is currently under construction.

The Willow Road Extension Project-Phase 2 will complete a high speed, high volume direct connection between State Highway 1 and State Highway 101, and is anticipated to function as a truck route. Phase 1 of the project extended Willow Road from Misty Glen Place easterly to Hetrick Road. This phase is complete and open to public traffic. Phase 2 from Hetrick Road to Thompson remains under construction and is scheduled to be complete by the fall of 2012. A future Phase 3 will extend North Frontage Road from Sandydale Drive northerly to Willow Road.

Mr. Calvin Packett applied for an encroachment permit to construct a secondary driveway approach onto Willow Road. The Public Works Department Encroachment Engineer denied the permit request and the denial was appealed to the Director of Public Works (Director). On October 3, 2011, Mr. Packett received a written denial for encroachment from the Deputy Director of Public Works, acting on behalf of the Director.

Mr. Calvin Packett's request for an encroachment permit to construct a secondary driveway approach onto Willow Road was denied by the Department for the following reasons:

1. Once completed, Willow Road will be a designated arterial roadway in the Circulation Element of the County's General Plan. The primary function of an arterial roadway is to support the high capacity movement of vehicles. Limiting access, such as a driveway approach, reduces potential points of vehicle conflict thus adding to the safety of the facility.
2. The property currently has access via Cherokee Place to a County maintained public road (Hetrick Avenue). Secondary access to Willow Road may provide convenience for the property but is not a necessity.
3. Phase 3 of the Willow Road Extension project proposes to extend North Frontage Road from its current terminus at Sandydale Drive northerly to Willow Road; and to connect Cherokee Place to this new section of North Frontage Road. Upon completion of the Phase 3 work, all parcels along Cherokee Place will be provided secondary access to a County maintained road (the future extension of North Frontage Road) via a controlled intersection.

In accordance with San Luis Obispo Municipal Code, Section 13.08.120, the Director's denial may be appealed to the Board of Supervisors (Board) within five days of denial notification. On October 4, 2011, the appellant submitted a request to the Department for a Board hearing to appeal the Director's denial of the Willow Road driveway encroachment permit. Applicable correspondence is attached as Exhibits "B" and "C."

#### Evaluation of Appeal Issues

On October 4, 2011, Mr. Packett submitted a request for a hearing. In his letter, Mr. Packett listed the following reasons why the Director's decision should be reversed by the Board:

Appeal Point #1: 'Information which has been formally requested from the Public Works Department, on July 16<sup>th</sup>, has not been provided to me at this time and is to be forthcoming in the future weeks. This was relayed to me at a meeting with Dale Ramey at the Public Works counter today, 10-4-11. The requested information is necessary for proper response letter preparation.'

Response #1: Copies of the driveway encroachment permits, issued to the Camacho and Edwards properties, have been provided to Mr. Packett as requested. We continue to process driveway encroachment permits for those Phase 1 properties whose existing access was physically changed due to alignment of the Willow Road Extension Project (This is not the case with the Packett property). Once these permits are completed they too will be made available for public review.

Appeal Point #2: 'The Engineering firm of Sid Goldstein and Assoc. has not had adequate time to review the project submittals, plans, as build's or changes to the permitted plan, and permits associated with the road construction to respond at this time.'

Response #2: Staff was not aware Sid Goldstein was addressing access issues. Sid Goldstein, Civil Engineer, has been engaged by a number of residents to review drainage impacts of the project onto their properties. This has included Mr. Packett. The County's report was sent to Sid Goldstein in December. Public Works has had no further requests, inquiries or comments since submittal of this information.

Appeal Point #3: 'I met with, and was informed today, 10-14-11, by Supervisor Paul Teixeira's staff, that the Administrative Actions I have instigated in conjunction with the project are still in the process of investigation and resolution. Additional time is required for this process.'

Response #3: Public Works contacted Mr. Packett to explain the appeal process and to explain that he should submit appeal requests in writing within five days of denial. This would provide for establishing a hearing date at the Board of Supervisors per Title 13.08.102. He would have additional time leading up to the hearing.

Appeal Point #4: 'On Monday, July 11<sup>th</sup> at 12:09PM I sent an e-mail to your office, Director of Public Works, at [pogren@co.slo.ca.us](mailto:pogren@co.slo.ca.us), requesting to meet with you regarding the Willow Road Construction Project. To date the e-mail has not been responded to. I look forward to meeting with you to discuss the project, "certain and unavoidable impacts", and work with your office to resolve them.'

Response #4: Dale Ramey has been the long term primary County Public Works contact for all phases of the Willow Road Extension Project. Both Dave Flynn, Deputy Director, and Mr. Ramey have worked closely with Mr. Packett in an attempt to address his concerns. Although the Director is regularly briefed on the status of all capital projects, Mr. Packett is encouraged to contact either Mr. Ramey or Mr. Flynn, both of whom represent the Director, for a more timely response.

Mr. Packett's arguments do not refute Public Works specific reasons for denial of his encroachment permit application and have not revealed additional information that would permit the Director to reconsider his denial. Rather, Mr. Packett's arguments appear to revolve about his perceived expectations for right of access to Willow Road.

Prior to the encroachment denial, Mr. Packett had submitted a letter on June 29, 2011, claiming access from the right of way acquisition process for the project. Public Works responded that he had no inherent right of access as explained in our letter of July 15, 2011. Both letters are attached.

Should your Board grant the driveway access permit, Public Works would advise that the driveway also require construction of a minimum 450 foot long two-way left turn pocket centered about the access point. This would provide a necessary safety feature to limit collisions involved with left turn vehicles waiting to enter a new access point.

#### **OTHER AGENCY INVOLVEMENT/IMPACT**

No other County Department or agency is involved.

## **FINANCIAL CONSIDERATIONS**

No fee was paid by the applicant to process this appeal request. Staff resources to present this appeal were funded by the County Road Fund.

## **RESULTS**

The results of considering this appeal will include your determination on how the County's Public Improvement Standards provide uniform and functional facilities that ensure health and safety, and enhance the quality of life for the communities of San Luis Obispo County.

c: Mr. Calvin J. Packett  
Dale Ramey, Transportation Project Manager

File: Road File 1073

Reference: 12JAN24-H-1

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## **ATTACHMENTS**

1. Vicinity Map
2. Exhibit A: Proposed Driveway Location
3. Exhibit B: October 3, 2011 Denial of Encroachment
4. Exhibit C: October 4, 2011 Appeal Letter
5. Exhibit D: June 29, 2011, Letter from Mr. Packett re: Right of Way Access
6. Exhibit E: July 15, 2011, Letter from Public Works re: Right of Way Access
7. Exhibit F: Overall Willow Road Extension Project