



COASTAL APPEALABLE 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: McCarthy Development Plan File Number: DRC2014-00072

Type of permit being appealed:

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

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: April 27, 2017

The decision is appealed to:

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

BASIS FOR APPEAL

INCOMPATIBLE WITH THE LCP. The development does not conform to the standards set forth in the Certified Local Coastal Program of the county for the following reasons (attach additional sheets if necessary)

Explain: See attached

INCOMPATIBLE WITH PUBLIC ACCESS POLICIES. The development does not conform to the public access policies of the California Coastal Act – Section 30210 et seq of the Public Resource Code (attach additional sheets if necessary).

Explain: See attached

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)

APPELLANT INFORMATION

Print name: Tarren Collins

Address: P.O. Box 3063, Shell Beach, CA 93448 Phone Number (daytime): 805-773-0233

I/We are the applicant or an aggrieved person pursuant to the Coastal Zone Land Use Ordinance (CZLUO) and are appealing the project based on either one or both of the grounds specified in this form, as set forth in the CZLUO and State Public Resource Code Section 30603 and have completed this form accurately and declare all statements made here are true.

Signature: T. Collins

Date: 5-10-17

OFFICE USE ONLY

Date Received: _____

By: _____

Amount Paid: _____

Receipt No. (if applicable): _____

Basis for Appeal of Ontario Ridge Trail Relocation

DRC2014-00072 McCarthy Development Plan/ Coastal Development Permit

The proposed project would extinguish a popular public recreational access easement on the Ontario Ridge in favor of a private applicant. The applicant is not entitled to move the trail. The public recreational access easement does not allow the easement to be moved off the parcel. The applicant knew about the deed for the public's access easement before they bought the property, and signed a Subordination and Nondisturbance Agreement, agreeing that the applicant's property rights were subordinate to this public's property right in this public access easement held by the County of San Luis Obispo in trust for the public.

The trail relocation project would negatively impact a Chumash Sacred area, coastal sage scrub and our coastal public access. These impacts are entirely preventable. A superior plan is to improve the current trail easement with stairs to make it more user friendly, to delineate the current easement, and curtail erosion.

The proposed project development would fence and close off public access to the current public recreational easement, and allow the construction of another trail on neighboring property. The proposed project would cut the new trail through a Chumash Sacred Area known to contain Chumash cultural resources, cut across a landslide zone in a designated Sensitive Resource Area, disrupt biological resources, allow 6 foot wire fencing blocking public views in an LCP-designated special scenic area, negatively impact coastal public access used by the public for generations, subject the public to a less scenic trail on a parcel slated for development of homes, as well as interrupt the quiet enjoyment due to traffic noise from Avila Road. All of these negative impacts of a new trail are completely avoidable by denying this proposed Development Plan. I have submitted plans to improve the existing trail easement with stairs on the steepest part of the trail. These stairs are similar to the stairs on the Pecho Coast Trail on similar terrain across the bay. If the county wants an improved Ontario Ridge Trail, then improving the current easement causes few impacts to the environment, and it preserves the popular current trail highly prized by the public.

This project development is not in conformity with, and therefore violates, the requirements of the LCP and General Plan, and the public access policies, cultural resource and archaeological resource policies, visual and scenic resource policies, and the biological resource policies of the of the Coastal Act, the LCP, the General Plan and the California Environmental Quality Act.

An EIR is required to completely assess the significant cultural, coastal and environmental impacts.

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The proposed development is not in consistent with the following:

The proposed project impacts the important scenic and visual qualities of this coastal area, making this project inconsistent with the policies of Sections 30251 and Section 30116(c) of the Coastal Act.

The LCP requires that archaeological resources be protected and preserved, with the highest priority given to avoiding disturbance of the resources. The project site is located within an LCP designated Archaeologically Sensitive Area (ASA), and includes a significant archaeological site in the area of the proposed project.

The proposed McCarthy trail relocation cannot be found consistent with the LCP requiring that the archaeological site is avoided to be found consistent with the archaeological policies of the LCP.

The trail relocation and proposed project, as well as the surrounding properties, are within the territory historically occupied by the Obispeno Chumash. The LCP protects archaeological and cultural resources. Applicable LCP policies include:

Archeology Policy 1 - Protection of Archeological Resources. The county shall provide for the protection of both known and potential archeological resources. All available measures, including purchase, tax relief, purchase of development rights, etc., shall be explored at the time of a development proposal to avoid development on important archeological sites.

Archeologically Sensitive Areas. To protect and preserve archaeological resources, the following procedures and requirements apply to development within areas of the coastal zone identified as archaeologically sensitive.

(a) Archaeologically sensitive areas. The following areas are defined as archaeologically sensitive:

(1) Any parcel within a rural area which is identified on the rural parcel number list prepared by the California Archaeological Site Survey Office on file with the county Planning Department.

(2) Any parcel within an urban or village area which is located within an archaeologically sensitive area as delineated by the official maps (Part III) of the Land Use Element.

(3) Any other parcel containing a known archaeological site recorded by the California Archaeological Site Survey Office.

The LCP includes strong protections for visual and scenic resources along the coast and requires new development to respect its setting. It also provides enhanced protection for LCP-designated special view areas, like that associated with Ontario Ridge. Applicable LCP policies include:

Visual and Scenic Resources Policy 1 - Protection of Visual and Scenic Resources. Unique and attractive features of the landscape, including, but not limited to unusual landforms, scenic vistas and sensitive habitats are to be preserved and protected.

Visual and Scenic Resources Policy 2 - Site Selection for New Development. Permitted development shall be sited so as to protect views to and along the ocean and scenic coastal areas. Wherever possible, site selection for new development is to emphasize locations not visible from major public view corridors.

In particular, new development should utilize slope created “pockets” to shield development and minimize visual intrusion.

Visual and Scenic Resources Policy 4 - New Development in Rural Areas. *New development shall be sited to minimize its visibility from public view corridors. Structures shall be designed (height bulk style) to be subordinate to, and blend with, the rural character of the area. New development which cannot be sited outside of public view corridors is to be screened utilizing native vegetation; however, such vegetation, when mature, must also be selected and sited in such a manner as to not obstruct major public views. New land divisions whose only building site would be on a highly visible slope or ridgetop shall be prohibited.*

Visual and Scenic Resources Policy 5 - Landform Alterations. *Grading, earthmoving, major vegetation removal and other landform alterations within public view corridors are to be minimized. Where feasible, contours of the finished surface are to blend with adjacent natural terrain to achieve a consistent grade and natural appearance.*

CZLUO 23.04.210(c) - Standards for Critical Viewsheds and SRAs for protection of visual resources. *The following standards apply within areas identified as Critical Viewsheds or SRAs in the area plans for protection of visual resources:*

(1) Location of Development. *Locate development, including, but not limited to primary and secondary structures, accessory structures, fences, utilities, water tanks, and access roads, in the least visible portion of the site, consistent with protection of other resources. Emphasis shall be given to locations not visible from major public view corridors. Visible Emphasis shall be given to locations not visible from major public view corridors. Visible or partially visible development locations shall only be considered if no feasible non-visible development locations are identified, or if such locations would be more environmentally damaging. New development shall be designed (e.g., height, bulk, style, materials, color) to be subordinate to, and blend with, the character of the area. Use naturally occurring topographic features and slope-created “pockets” first and native vegetation and berming second, to screen development from public view and minimize visual intrusion.*

(2) Structure visibility. *Minimize structural height and mass by using low-profile design where feasible, including sinking structures below grade. Minimize the visibility of structures by using design techniques to harmonize with the surrounding environment.*

(3) Ridgetop development. *Locate structures so that they are not silhouetted against the skyline or ridgeline as viewed from the shoreline, public beaches, the Morro Bay estuary, and applicable roads or highways described in the applicable planning area standards in the area plans, unless compliance with this standard is infeasible or results in more environmental damage than an alternative.*

Additionally, this area is also the nesting and foraging area for the Peregrine Falcon, and other birds of prey, are living in the area and must be protected:

Northern Chumash Tribal Council Administrator Fred Collins wrote in his comment to the Planning Commission: “This property is located near one of the most important Chumash Sacred Site along our coast, Whales Cave ceremonial complex and village’s sites. This Chumash Sacred Ceremonial and Village Site are extremely important, and must be protected, this trail relocation project does not comply

with AB52, CEQA, LCP, Coastal Act, nor the UN Declaration of the Rights of Indigenous Peoples Article 19 “free, prior, and informed consent” must be given for any and all project that have the potential to impact Indigenous Peoples Sacred Places and Sites, the Board of Supervisors of San Luis Obispo County on August 9th 2011 passed resolution indorsing the UN Declaration of the Right of Indigenous Peoples.”

In conclusion, there is no clear public benefit to revising the public’s easement, and there are obvious disadvantages.

IMPACTS TO CHUMASH SACRED AREA AND CULTURAL RESOURCES

IMPACTS TO BIOLOGICAL RESOURCES

IMPACTS TO THE QUALITY OF HIKING EXPERIENCE

- The scenic and visual qualities of current easement are far superior to the planned relocation area.
- The trail terminus location further from the Cave Landing parking lot could preclude some from using the revised trail, thereby **reducing coastal access**.
- Plans for new homes on relocated trail parcel would impact current rural, wildland experience.
- Noise from traffic on Avila Road rises up like an amphitheater to relocated trail area.
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IMPACTS CAUSED BY EROSION

- Graded area for the proposed trail realignment involves 22,031 square feet—equivalent to over ½ acre, mostly on unimproved hillside.
- The existing relatively short, wide, very steep (and challenging) trail section just above Cave Landing would be replaced by a substantially longer stretch on steep terrain, thereby potentially **increasing erosion potential**.
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IMPACTS TO THE AESTHETICS

- Wire fencing, 6’ high, and “No-Climb” fencing, 5’ high is proposed along most of the trail.
- Proposed are seven “No Trespassing” signs (6” X 12”) affixed to the fence.
- There would be highly scenic coastal views sacrificed by the proposed realignment.
- Added fencing and signage, plus view loss, would **diminish visual enjoyment**. This could **discourage coastal access**.
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MAINTANANCE

- Concerns include whether ongoing adequate trail maintenance is assured, for hiker safety, containment of costs to the County and assurance of a continued public trail.
-

The public has *not* been clamoring to build an easier trail off Cave Landing Road to access the top of the Ontario Ridge. An easier trail to the top already exists from Sycamore Hot Springs Resort. And an easy trail exists on the lower bluff below Bluffs Drive in Shell Beach. 1800 people have registered their support for keeping the current public access recreational easement where it is currently located and fence free. Hundreds of people use the current trail every week. The current trail has documented use going back over 50 years.

Basis for Appeal of DRC2014-00072 McCarthy Development Plan
May 10, 2017
Page Five

The county's property right in the access easement trumps McCarthy's rights, and McCarthy agreed to this arrangement. The County of San Luis Obispo needs to protect the public's access rights to the current trail easement, protect this Chumash Sacred Area, prevent impacts to the scenic and visual qualities of the area, prevent impacts to biological resources, and prevent erosion, by denying the proposed development plan. If the county wants an improved trail, then the superior alternative is to improve the current easement with stairs.

Respectfully submitted,

A handwritten signature in blue ink, consisting of a long, sweeping horizontal line with a small vertical stroke extending downwards from the middle of the line.

Tarren Collins