



SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP
DIRECTOR

August 18, 2009

Don Bearden
1411 7th Street
Los Osos, CA

County Of San Luis Obispo
Department Of Public Works
Attn: John Waddell
INTEROFFICE

SUBJECT: APPEAL OF DRC2008-00103 – COUNTY OF SLO - LOWWP
HEARING DATE: August 13, 2009 / PLANNING COMMISSION

We have received your request on the above referenced matter. In accordance with County Real Property Division Ordinance Section 21.04.020, Land Use Ordinance Section 22.70.050, and the County Coastal Zone Land Use Ordinance 23.01.043, the matter will be scheduled for public hearing before the Board of Supervisors. A copy of the appeal is attached.

The public hearing will be held in the Board of Supervisors' Chambers, County Government Center, San Luis Obispo. As soon as we get a firm hearing date your Project Manager, **Murry Wilson** will notify you of that date. A public notice will be sent out and you will receive a copy of the notice.

Please feel free to telephone me at 781- 5718 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Nicole Retana".

Nicole Retana,
County Planning and Building Department

CC: Murry Wilson, Project Manager
Jim Orton, County Counsel

#781

Coastal appealable form

San Luis Obispo County Department of Planning and Building

701/09

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: LOWWP File Number: DRC 2008-00103

Type of permit being appealed:

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

The decision was made by:

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

Date the application was acted on: August 13, 2009

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: USES Aq LAND UNNECESSARILY. Disturbs ARCHAEOLOGICAL sites UNNECESSARILY. MAKES pollution of MORRO BAY MORE PROBABLE.

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: _____

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

Condition Number 1.A Reason for appeal (attach additional sheets if necessary)

LOCATING THE WASTE WATER TREATMENT PLANT AT THE GIACOMAZZI SITE WHEN THE MAD-TOWN SITE IS FEASIBLE.

APPELLANT INFORMATION

Print name: DON BEARDEN (SEE ATTACHED SHEETS)

Address: 1411- 7th STREET Phone Number (daytime): 805-528-3579

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: Don Bearden

Date: 8/17/09

OFFICE USE ONLY

Date Received: 8/17/09

Amount Paid: 0

By: NAA Receipt No. (if applicable): _____

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Don Bearden's Coastal appealable form continued:

Condition Number 1.a of DCR2008-00103 authorizes "A wastewater treatment facility, including all appurtenant structures, landscaping and site access to be located on the Giacomazzi site (APN 067-011-022)." **The findings suggest no other feasible location. I believe the Mid-town site is far more feasible than the Giacomazzi site.**

Giacomazzi site versus Mid-town site:

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The Giacomazzi property consists of 38.2 acres, 30 acres of which is farmable (the other 8.2 acres contain a residence at one site and steep topography and drainages leading to Warden Lake on another 7 acre area). Of the 30 farmable acres, 6.6 acres are prime agricultural soils. As currently proposed, the treatment facility requires 20 acres; however, relocation to the Giacomazzi site would likely remove the entire 38.2-acre parcel from agricultural use because of the need accommodate slopes on the site, setbacks from property lines, and space for any future treatment needs. The gently sloping nature of the parcel would require greater separation between treatment plant facilities; setbacks from the cemetery expansion area would be required, and the treatment plant layout would need to be re-configured to avoid or reduce impacts to a large prehistoric cultural site that occupies substantial portions of all three parcels north of the cemetery.

Draft EIR Appendix P page 14

Mid-Town (APN 074-229-017); approximate acreage 11.7 ac: The Mid-Town site was the location for the previously proposed treatment plant for the 2001 wastewater project. Mid-Town has been identified as the preferred in-town site for locating a wastewater treatment facility. This site is located next the Los Osos Community Services District off LOVR in town. The site is known to be shoulder-banded snail habitat.

Here are the findings that, I believe, are incompatible with the LCP:

1. DCR2008-00103 Findings - Exhibit A, Environmental Determination A. says:
"Significant and unavoidable impacts to agricultural resources were identified for the project alternative (Giacomazzi treatment plant site) that was selected by the Planning Commission at the July 24, 2009 hearing." **These agricultural impacts are avoidable by selecting the Mid-town site.**
2. DCR2008-00103 Findings - Exhibit A, Coastal Development Permit B.1 says:
"The wastewater treatment facility is an allowable use at the proposed location (Giacomazzi site) because there is no other feasible location..." **I believe the Mid-town site is a feasible alternative.**
3. DCR2008-00103 Findings - Exhibit A, Coastal Development Permit B.4 says:
"Agricultural policies encourage the preservation of viable agriculture. The proposed project is found to minimize agricultural impacts and will provide an additional water supply to promote the continuance of agriculture within Los Osos Valley." **30 acres of farmland would be saved by not using the Giacomazzi site.**

4. DCR2008-00103 Findings - Exhibit A, Coastal Development Permit B.10 says:
"Archaeology policies relate to the identification and preservation of archaeological resources will be met by implementation of the required Cultural Resource Treatment Plan and other conditions associated with the protection and preservation of cultural resources." **There is a large prehistoric cultural site that occupies substantial portions of all three parcels north of the cemetery. The best way to preserve these resources is to not put a treatment plant at the Giacomazzi site. The Mid-town site has already been excavated and disturbed.**
5. DCR2008-00103 Findings - Exhibit A, Coastal Development Permit B.12 says:
"The project is consistent with the Agriculture and Open Space Element AG Policy 24 regarding conversion of agricultural lands because there is no other feasible location to site the treatment facility within the urban reserve boundary..." **I believe the Mid-town site is a feasible alternative.**
6. DCR2008-00103 Findings - Exhibit A, Coastal Development Permit C.4 says:
"The treatment plant would be located adjacent to existing grazing lands and Warden Lake. The project will be set back from Warden Lake and provide enhancement of on-site drainage features which drain into Warden Lake." **Plant spills at Giacomazzi have only a short way to go down steep topography to get to Warden Lake and flow to Morro Bay, a National Estuary. The Mid-town site has sandy soils and a greater distance to waterways making spill prevention more easily solved.**
7. DCR2008-00103 Findings - Exhibit A, Streams and Riparian Vegetation N. says:
"Alternative locations and routes were evaluated and determined to be infeasible because the location of the wastewater treatment plant requires crossing Los Osos Creek in order to construct the collection system and disposal system which are required elements of the wastewater treatment project." **The Giacomazzi location requires a force main wastewater creek crossing and a purple pipe creek crossing. The Mid-town location would only require a purple pipe creek crossing and would not require any force main wastewater piping going out of town.**

As a separate matter, the preferred treatment plant site was changed from Tonini to Giacomazzi at the Planning Commission July 24, 2009 hearing. I believe this came as a complete surprise to the Los Osos valley residents, the Cemetery management, and the farmers near the Giacomazzi site. I don't know when these people realized that they were getting a wastewater treatment plant in their neighborhood that they will never be able to connect up to.

Don Bearden 8/17/09