



SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP
DIRECTOR

August 31, 2009

S.E. Acquisition of Los Osos Mortuary and Memorial Park, Inc.
Db a Los Osos Valley Memorial Park
C/O Andre, Morris & Buttery
1102 Laurel Lane
San Luis Obispo, CA 93401

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 has been 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, 1055 Monterey Street, Room D170, San Luis Obispo. The project has a hearing date of **Tuesday, September 29, 2009**. All items are advertised for 9:00 a.m. If you have any questions, you may contact your Project Manager, **Murry Wilson**. 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,

Nicole Retana

Nicole Retana,
County Planning and Building Department

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

#1785

SLO COUNTY
PLANNING/BUILDING
DEPT.

COASTAL appeal form

San Luis Obispo County Department of Planning and Building

7/01/09

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.

Los Osos Wastewater

PROJECT INFORMATION Name: Project File Number: DRC2008-00103

Type of permit being appealed:

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

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

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)

See Attachment A

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)

This appeal addresses project location and description.

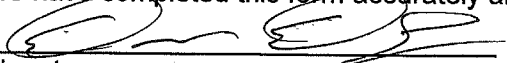
APPELLANT INFORMATION

Print name: S.E. Acquisition of Los Osos Mortuary and Memorial Park, Includba Los Osos Valley Memorial Park

Address: 1102 Laurel Lane, P. O. Box 730, San Luis Obispo, CA c/o Andre, Morris & Buttery

Phone Number (daytime): (805) 543-4171

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


Signature Dennis D. Law

August 27, 2009
Date

Attorneys for Appellant _____

OFFICE USE ONLY

Date Received: 8/27/09

Amount Paid: 0

By: Chris Machin, Secretary
Receipt No. (if applicable): N/A

Attachment A
Appeal of Los Osos Valley Memorial Park

2009 AUG 27 PM 2:02

S.E. Acquisition of Los Osos Mortuary and Memorial Park, Inc (dba Los Osos Valley Memorial Park; "Memorial Park") submits this appeal to the San Luis Obispo County Board of Supervisors in regards to an action of the Planning Commission approving a Development Plan/Coastal Development Permit ("CDP") for the Los Osos Wastewater Project ("Sewer Plant") and certifying the Final Environmental Impact Report (FEIR).

Memorial Park operates a dedicated cemetery on property located adjacent to the proposed Sewer Plant. Memorial Park objects to the Planning Commission's decision to locate the Sewer Plant on the Giacomazzi Property. The Sewer Plant should be located at the Tonini site, as was initially recommended by the Public Works Department and the initial proposed FEIR.

Memorial Park's primary concern with the Giacomazzi location relates to the negative impact that it will have on the maintenance and operation of the existing dedicated cemetery. State policy protects dedicated cemeteries against interference. For example, provisions of California's Health and Safety Code prohibits the exercise of eminent domain to construct public thoroughfares or utilities across a dedicated cemetery (see sections 8560 and 8560.5) and cemeteries are exempt from certain assessments (see section 8561). The courts have noted that it has long been the policy of this State to protect places where the dead are buried against interference (*Eden Memorial Park v. Superior Court of Los Angeles* (1961) 189 Cal.App.2d 421, 424. The *Eden* decision, quoting from section 8559, noted that the dedication of land for cemetery purposes "shall be deemed to be in respect for the dead, a provision for the interment of human remains, and a duty to, and for the benefit of, the *general public*".

The placement of the Sewer Plant adjacent to the cemetery will interfere with the tranquil and restful ambiance of the cemetery. People attending outdoor burial services at the cemetery do so at difficult and stressful periods in their lives. Also, visitors to grave sites come to pay their respects and to grieve. The cemetery should provide a pleasant and accepting environment for both burials and visitations. The impact of the Sewer Plant on the unique aspects of the cemetery environment affects the public at large because it is a place for the public to respect and dignify the dead.

The Planning Commission's decision to locate the Sewer Plant to the Giacomazzi Property does not properly take into account the adverse impacts to the cemetery. The Draft EIR and the Final EIR do not properly analyze the impacts of the Sewer Plant on the cemetery, nor the special significance of this use. The proposed Sewer Plant is an incompatible use as to the cemetery, yet there has been neither analysis nor conclusions that address this incompatibility. The incompatibility in use is inconsistent with applicable land use regulation and basic planning principles.

Also, the Planning Commission's decision did not adequately consider positive aspects of the Preferred Project alternative at the Tonini site, nor negative aspects of the Giacomazzi site.

This appeal is a general statement of Memorial Park's position regarding the Planning Commission's decision. Memorial Park will provide supplemental information supporting its grounds for this appeal.