

California Regional Water Quality Control Board
Santa Ana Region

STAFF REPORT

January 21, 2011

ITEM: 6

SUBJECT: Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirements for Subsurface Disposal System Use – Benita McCord, 9944 Overhill Drive, Santa Ana, Orange County – APN 503-271-06

DISCUSSION:

On December 27, 2010, Michael Margerum, on behalf of Benita McCord, contacted Board staff and requested approval for the use of a second septic system for a second dwelling on the lot located at 9944 Overhill Drive, Santa Ana. Ms. McCord resides in a home located at the site. An existing subsurface disposal system is utilized for the discharge of domestic waste from the house. The gross size of the lot is slightly less than one acre (39,738 sq. ft or 0.91 acre). This area of the County is unsewered and on-site septic tank-subsurface disposal systems are utilized for disposal of domestic waste.

Ms. McCord is proposing to demolish an existing detached garage and construct a new three story structure to be used as a garage with a dwelling unit above the garage. A new septic tank-subsurface disposal system is proposed for the discharge of domestic waste from the second dwelling unit.

On October 13, 1989, the Regional Board adopted Resolution No. 89-157, which requires that new developments, for which on-site subsurface disposal system use is proposed, have a minimum one-half acre of land per dwelling unit. The Board found that it was necessary to limit the density of new subsurface disposal systems to control the nitrate quality problems found in the groundwater of the Region. In adopting the minimum lot size requirements (MLSRs), the Board recognized that it was necessary to distinguish between "existing" developments using subsurface disposal systems (i.e., those already in place or approved at the time the MLSRs were adopted), and "new" developments. The Board specifically exempted from the one-half acre requirement existing developments where septic tank-subsurface disposal systems had been installed by September 7, 1989 or for which conditional approval (e.g. conditional use permit, or conditional approval of tentative parcel or tract map) had been obtained by that date. The one-half acre requirement applies only to "new" developments. Ms. McCord's proposed second dwelling is a new development as defined in Resolution No. 89-157 and is therefore subject to the minimum lot size requirements specified therein. Ms. McCord's lot is slightly less than one acre in size. With a density of 0.455 acres per dwelling unit, Ms. McCord's proposal does not comply with the Board's minimum lot size

requirements. Accordingly, Board staff was required to deny Ms. McCord's request for an exemption from the minimum lot size requirements. Ms. McCord has requested the Board to review staff's denial.

The Board has granted exemptions for similar cases in the past where the lot is very close to the required 1-acre minimum requirement. Ms. McCord's lot is 0.91 acres. Granting an exemption for this proposed project would be consistent with prior Board actions.

RECOMMENDATION:

Approve Ms. McCord's request for an exemption from the minimum lot size requirements for the use of a second septic system to serve the detached garage/second dwelling unit on her lot.

Comments were solicited from the following persons:

Orange County Public Works, Building Department – Chi Tran/Iraj Mansouri
AMPAC and Associates, Inc. – David Ballinger
Michael Margerum