

California Regional Water Quality Control Board
Santa Ana Region

STAFF REPORT

July 15, 2011

ITEM: *6

SUBJECT: Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirement for Subsurface Disposal System Use – Terry and Melinda Pitts, 11779 Roswell Avenue, Chino, San Bernardino County, APN 1013-311-02

DISCUSSION:

On June 8, 2011, Mark Mohnike, on behalf of Mr. and Mrs. Pitts, contacted Board staff requesting approval for the use of an existing septic tank-subsurface disposal system at the above-referenced property to serve a new free-standing structure. Mr. and Mrs. Pitts have owned a home on this property since 1984. An existing subsurface disposal system is utilized for the discharge of sanitary wastes from the home. The property is just under one-half acre in size (17,550 sq. ft., or 0.40 acre net). A sewer is not readily available to serve this property.

Mr. and Mrs. Pitts propose to demolish an existing detached one car garage and construct a new detached two-story garage with a game room. Mr. and Mrs. Pitts are proposing to remove their existing washer and dryer from their home and relocate it in the new detached garage/game room. Mr. and Mrs. Pitts are proposing to connect the relocated washer in the detached garage/game room to their existing 1,000-gallon septic tank-subsurface disposal system.

On October 13, 1989, the Regional Board adopted a Basin Plan amendment (Resolution No. 89-157) that requires new developments for which on-site subsurface disposal system use is proposed to have a minimum of 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 groundwaters of the Region. The Board specifically exempted "existing" developments from the one-half acre requirement if the septic tank-subsurface disposal system had been installed by September 7, 1989 or if conditional approval (e.g. conditional use permit, or conditional approval of tentative parcel or tract map) had been obtained by that date. Since Mr. and Mrs. Pitts' septic tank-subsurface disposal system was installed prior to September 7, 1989, their existing subsurface disposal system meets the minimum lot size requirements (MLSR). However, the proposed addition of a new free-standing structure (garage/game room) and connection of that structure to the existing septic tank-subsurface disposal system does not conform to the MLSR. Accordingly, Board staff denied Mr. and Mrs. Pitts request for an exemption from the

MLSR to connect a washer in the new detached garage/game room to the existing septic tank-subsurface disposal system. Mr. and Mrs. Pitts then stated they would like to appeal that decision to the Regional Board.

In adopting the MLSR, the Board recognized that there would likely be proposals for additions to existing developments that would result in increased wastewater flow. The Board's MLSR address these circumstances. Additions (bedrooms/bathrooms) to existing dwellings are exempt from the MLSR. However, the MLSR state that a proposal to add any free-standing structures that will result in additional wastewater flows must be considered a "new" development. Therefore, Mr. and Mrs. Pitts' property (the existing house and the free-standing garage/game room) must now be considered a "new" development, to which the one-half acre minimum lot size requirement applies. Since this "new" development does not comply with the MLSR, Board staff denied their request for an exemption.

The intent of distinguishing between additions that are attached to existing dwellings versus free-standing structures in the MLSR was to guard against the use of the free-standing structure being used as a second single family residence on the property, which would result in a significant increase in flow to the existing septic tank-subsurface disposal system. Mr. and Mrs. Pitts have indicated that the only water fixture they intend to install in the detached garage/game room is for the washer. They note that the total flow that would occur on their property as a result of this project would be no greater than the flow that is currently occurring since the washer and dryer are currently located in the existing house. However, the problem is that there is no guarantee that adding fixture units to a detached structure would not eventually result in conversion of that structure into a separate living quarters. Such a situation could result in the wastewater flow of two single-family residences on less than a one-half acre lot, clearly in violation of the Board's minimum lot size requirements.

On June 28, 2011, Mr. and Mrs. Pitts submitted a letter indicating that the only fixture that would be added to the detached garage/game room would be to serve the washer. They indicated that no additional fixtures would be added to this structure until a sewer has been extended to serve their property. Mr. and Mrs. Pitts have also agreed to enter into an Agreement of Restriction to be recorded with their property Chain of Title, which stipulates that no additional fixture units shall be installed in the detached garage/game room. The Agreement of Restriction will be removed from the property Chain of Title once connection to the sewer has been completed.

In adopting the MLSR, the Board included criteria that could be used by Board staff to grant exemptions from the MLSR. These criteria include an offset option, whereby a project proponent can be granted an exemption from the MLSR provided that the proponent connects another septic tank system in the area to the sewer. The system that is connected must not already be required to connect to the sewer. Mr. and Mrs. Pitts prefer not to implement an offset at this time, have agreed to not install any

additional fixture units in the detached garage/game room, and have agreed to connect their property to the sewer once it is available to them.

RECOMMENDATION:

Approve Mr. & Mrs. Pitts' request for an exemption from the minimum lot size requirement specified in Resolution No. 89-157, with the following conditions: 1) Mr. and Mrs. Pitts must enter into an Agreement of Restriction, which shall become a part of the Chain of Title, that states the only allowable fixture unit in the detached garage/game room will be to serve the washer, and 2) Mr. and Mrs. Pitts will not sell their property without first notifying the prospective property owner of this condition, and notifying Board staff in writing of their intent to sell the property. The Agreement of Restriction shall be removed from Mr. and Mrs. Pitts' property once proof of sewer connection to the property has been made and the septic tank abandonment permit has been submitted to Board staff.

Comments were solicited from the following agencies

San Bernardino County Environmental Health Services – Josh Dugas/Hal Houser
San Bernardino County Building and Safety – Henry Roe/James Werner
City of Chino, Engineering – Michael Bhatanawin
Mark Mohnike

From: "Roe, Henry - LUS - Building & Safety" <Henry.Roe@lus.sbcounty.gov>
To: 'Susan Beeson' <sbeeson@waterboards.ca.gov>
CC: "Houser, Hal" <Hal.Houser@dph.sbcounty.gov>, "Randall, Harmon - LUS -Bui...
Date: 6/29/2011 8:11 PM
Subject: RE: Regional Board info request 11779 Roswell Ave, Chino APN 1013-311-02

Hello Susan,

California Plumbing Code Section 1603A allows a clothes washing graywater system to be installed without a permit but includes a host of requirements. He could legally install the system and not tell us. That said, I think we could flag the parcel in our permit system to warn us that a legal non permitted graywater system is all that is allowed and shall not be interpreted to allow other plumbing fixtures. Just let us know what you want to do.

Henry

-----Original Message-----

From: Susan Beeson [mailto:sbeeson@waterboards.ca.gov]
Sent: Tuesday, June 28, 2011 1:35 PM
To: Houser, Hal; Roe, Henry - LUS - Building & Safety
Subject: RE: Regional Board info request 11779 Roswell Ave, Chino APN 1013-311-02
Importance: High

** High Priority **

Hello Mr. Roe,

Thank you for your response. As you know our minimum lot size requirements do not allow for any new detached/freestanding structures to be constructed on a lot utilizing septic system if the lot is less than 1 acre in size. The lot currently in question is 0.40 acres in size and currently has a home on septic. A 2nd proposed structure would be in violation of our minimum lot size requirements.

The proponent is requesting approval to move his existing washer into a proposed detached 2-story garage with game room above and connect only the washer to an existing septic. He is adamant about this scenario although we have advised he could obtain approval from the County for a gray water system to serve the washer.

The homeowner is now willing to record on his property title an agreement of restriction that he will not install any fixtures in the detached garage (other than the washer) nor will he convert the structure to a granny flat until sewer is available to serve the property. If we were to agree to this restriction, would this help in preventing the homeowner from later going to the building and safety dept and obtaining permits for the inclusion of a bathroom fixtures, etc. in this structure?

Susan Beeson
RWQCB - Santa Ana Region
3737 Main Street, Suite 500
Riverside, CA 92501-3348
(951) 782-4902
(951) 781-6288 Fax
sbeeson@waterboards.ca.gov
www.waterboards.ca.gov/santaana

>>> "Roe, Henry - LUS - Building & Safety" <Henry.Roe@lus.sbcounty.gov> 6/17/2011 10:09 AM >>>
Please make sure this in unincorporated area. Then,

Not sure what the DC says about this or what the impact might be, I'll speak just to the plumbing code

rules. The plumbing code would allow this if the existing system was not failing and it did not cause the existing system to become unsafe or overloaded. Residential uses can have any number of bathrooms since the system is sized by bedrooms alone so the additional bathroom would not increase the system size. Therefore, if it's not failing now, the plumbing code would not require connection to the public sewer.

From: Houser, Hal
Sent: Thursday, June 16, 2011 11:57 AM
To: Roe, Henry - LUS - Building & Safety
Cc: 'Susan Beeson (sbeeson@waterboards.ca.gov)'
Subject: Regional Board info request

Henry, Susan Beeson has an applicant trying to put laundry fixtures in a proposed 2-car detached garage with a game room above the garage and a laundry room in the garage. They would remove the laundry fixtures from the primary residence. The lot is nominally .4 acres on Roswell in Chino. Sewer is @100 feet away. I said no to septic because of dev. code and plumbing code. Susan wanted to know if B&S would have any issues with the proposal.

Hal Houser, MS, REHS
Department of Public Health,
Division of Environmental Health,
Water, Waste Water & Land Use Services Program
385 N. Arrowhead Ave.
San Bernardino, CA 92415
909-387-4666
<http://www.sbcounty.gov./dehs/water/waterbusiness.htm>

From: Susan Beeson
To: mohnike, mark
Date: 6/28/2011 12:44 PM
Subject: Re: Letter

Mark,

I have reviewed your recent letter/request and I still see no reason to proceed with an appeal at this time. The project is still new and no plans have yet been created or submitted. You indicated you only want approval to connect the washer that you propose to install in the new garage to the existing septic system, however, location of the septic system and size is still yet to be determined.

You can install the washer in the new structure and obtain approval from San Bernardino County for a graywater system. Therefore, you would not need our approval and you would also avoid overburdening the septic system with wash water. If the only reason to connect to the septic system is for the use of the washer, why are you insisting that it must be connected to the existing septic system?

Susan Beeson
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www.waterboards.ca.gov/santaana

>>> mark mohnike <markmohnike@yahoo.com> 6/28/2011 11:38 AM >>>
Susan, attached is the letter you requested. If you have any questions please call me.

Mark

(909) 569-7751

Date: June 28, 2011

To: Susan Beeson

Susan, as we discussed at our meeting last week regarding 11779 Roswell Ave, Chino CA. I would like to construct a 2-car detached garage with a game room above the garage of approximately 500 square feet. Additionally I would like to relocate my existing laundry room into the proposed 2-car detached garage; I am requesting this as the existing facility is too small to meet my family's needs. As you know I have contacted the City of Chino to obtain a sewer "Will Serve" letter and they have denied my request due to the fact that the existing sewer system is approximately 150-feet from my property, the City has no future plans to extend the sewer line and it would obviously be too costly for me to extend the existing system.

I would like to respectfully request that the Santa Ana Regional Water Quality Control Board consider a variance that will allow me connect and drain the proposed laundry room (to include washer, dryer and laundry sink) into my existing septic system. The proposed game room and laundry facility will be limited to grey water discharge and as such I will not consider adding any additional fixtures until such time that we would be able to connect to the sewer system. Please note that I am not requesting to add any additional flows to the system and in effect my request is limited to relocation of an existing laundry facility.

Susan you mentioned that the Board may request we record a document on title that would outline the criteria of my proposed project. I am not opposed to this; however I respectfully request that the verbiage used be not so restrictive that it would have a negative impact to the value of my property or my ability to convey title in the event I may need to sell.

I appreciate all of your help regarding this matter and look forward to working with you as we go forward.

Sincerely,



Terry L. Pitts

Mark D Mohnike (Representative)

Direct: (909) 569-7751

Susan Beeson - Letter

From: mark mohnike <markmohnike@yahoo.com>
To: Susan Beeson <sbeeson@waterboards.ca.gov>
Date: 6/28/2011 11:40 AM
Subject: Letter
Attachments: 11779 Roswell water board letter.jpg

Susan, attached is the letter you requested. If you have any questions please call me.

Mark

(909) 569-7751

Susan Beeson - Re: Appeal for 11779 Roswell Ave, Chino

From: mark mohnike <markmohnike@yahoo.com>
To: Susan Beeson <sbeeson@waterboards.ca.gov>
Date: 6/28/2011 10:26 AM
Subject: Re: Appeal for 11779 Roswell Ave, Chino

Susan, I apologize for the delay. terry has been out of town and is now back i will have the letter for you by 12pm

Thanks
 Mark

From: Susan Beeson <sbeeson@waterboards.ca.gov>
To: markmohnike@yahoo.com
Cc: Gary Stewart <gstewart@waterboards.ca.gov>
Sent: Tue, June 28, 2011 7:16:00 AM
Subject: RE: Appeal for 11779 Roswell Ave, Chino

** High Priority **

Hello Mark,
 I did not receive a response from you as requested by June 27, 2011, (see email below) and therefore I am unable to complete the staff report that needs to be submitted to the Board prior to the July 15, 2011 meeting. You indicated that Mr. and Mrs. Pitts are currently on vacation so this may be the reason for the delay in providing this information. Unless we hear from this morning I will assume you are not ready and will pull the item from our agenda so it may be considered at a future time if you choose to do so. Please advise.

Susan Beeson
 RWQCB - Santa Ana Region
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 Riverside, CA 92501-3348
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 (951) 781-6288 Fax
sbeeson@waterboards.ca.gov
www.waterboards.ca.gov/santaana

>>> Susan Beeson 6/22/2011 11:08 AM >>>

Hello Mark,

Just want to recap what we discussed today during the June 22, 2011 property site visit regarding your request for an appeal of our minimum lot size requirements for the use of septic system to serve a proposed 2-story detached garage with game room on the 0.40 acre lot.

I indicated if Mr. and Mrs. Pitts were to obtain a permit from the County to install a graywater system for the washer that you propose to move from the home and place in the detached garage, we would have no objection.

I also indicated if Mr. and Mrs. Pitts would record a restriction on their property title that assured us no fixtures would be added in the game room (only washer and dryer to be housed in detached garage) until sewer became available to serve the property, we could consider recommending approval of the appeal from the minimum lot size requirements at the July 15, 2011 meeting.

Please note, I will need a response as soon as it is possible but no later than Monday, June 27, 2011 in order to complete the staff report that will be submitted to the Board Members prior to the July 15 meeting.

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To: Houser, Hal; Roe, Henry - LUS - Building & Safety
Date: 6/28/2011 1:35 PM
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909-387-4666
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Date: 06/08/2011

To: Susan Beeson
Santa Ana Region Water Quality Control Board
3737 Main street Suite 500
Riverside, CA 92501

CRWQCB - REGION 8	
GDS	
SICB	

JUN 09 2011

From: Terry Pitts
11779 Roswell Street
Chino, California 91710

Susan, as we have discussed over the phone I have a home located in the County of San Bernardino, within the sphere of influence of the City of Chino, the address is 11779 Roswell Ave, APN 1013-311-02-0000, lot size is 17,550/SF.

The County of San Bernardino has informed me that it is within my rights to build a 2-car detached garage with a game room above the garage; however any water facilities that would add additional flow to my existing septic system would require approval from the Water Quality Control Board. The existing seepage pit is 17-feet by 6-feet, was constructed and permitted by the County of San Bernardino in 1980.

Additionally the home is located within 200 feet of an existing sewer system that is under the control of the City of Chino and as such I have contacted them for a Will Serve Letter. The City of Chino has provided me with a Will Not Serve Letter (see attached) due to the fact that the City has no plans to extend the existing sewer system and it would be a financial impossibility for me to do so.

I am proposing to build (Approximately) a 22-foot by 25-foot, 2-car detached garage with a game room of approximately 500/SF above the garage. My current plan calls for a laundry room within the garage. Provided my existing seepage pit has the capacity to handle the additional flow created by the proposed laundry room I would like to respectfully request that I be allowed to drain into my existing on-site septic system. If you require any additional information from me to address my request please feel free to contact Terry Pitts at 909 628-5785

Respectfully,



Terry Pitts

DENNIS R. YATES
Mayor

TOM HAUGHEY
Mayor Pro Tem



GLENN DUNCAN
EARL C. ELROD
EUNICE M. ULLOA
Council Members

PATRICK J. GLOVER
City Manager

CITY of CHINO

May 26, 2011

Mr. Terry Pitts
11779 Roswell Ave.
Chino, CA 91710

Dear Mr. Pitts:

Subject: "Will Not Serve" Letter – 11779 Roswell Ave

This letter shall be considered as a "Will Not Serve" letter to your subject property located within the City's sphere of influence.

There is an existing 8-inch sewer facility about 100' +/- south of your property along Roswell Avenue. However, the City does not have any plans to extend that sewer facility in the near future. The City also understands that it is a financial hardship for the homeowner to extend this facility.

If you should need any further information, please contact me at (909) 464-8384.

Sincerely,

Michael Bhatanawin

Michael Bhatanawin
Assistant Engineer

MB:djm



Susan Beeson - Re: 11779 Roswell ave.

From: mark mohnike <markmohnike@yahoo.com>
To: Susan Beeson <sbeeson@waterboards.ca.gov>
Date: 6/8/2011 12:14 PM
Subject: Re: 11779 Roswell ave.
Attachments: Water Quality Control Board letter.jpg; Chino Will Not Serve letter.jpg

Susan, this is Mark Mohnike we spoke last week about my brother in-laws (Terry Pitts) home located at 11779 Roswell Ave last week and that he plans to build a 2-car detached garage with a game room above the garage and a laundry room in the garage and would like to drain into his existing septic system. We discussed that he would need to provide a letter formally asking the Board to consider this. I have attached a letter and a Will Not Serve Letter from the City of Chino. The letter is signed by the home owner (Terry Pitts) and his phone number is there as well; however I am helping him through this issue so you are more than welcome to call me with questions (Mark Mohnike (909) 569-7751. Please review and let me know if you need any additional information.

Sincerely,

Mark Mohnike
(909) 569-7751

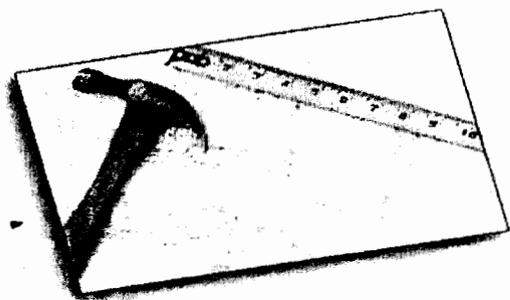
From: Susan Beeson <sbeeson@waterboards.ca.gov>
To: mark mohnike <markmohnike@yahoo.com>
Sent: Wed, June 8, 2011 8:21:57 AM
Subject: Re: mailing address.

Here is my contact info:

Susan Beeson
RWQCB - Santa Ana Region
3737 Main Street, Suite 500
Riverside, CA 92501-3348
(951) 782-4902
(951) 781-6288 Fax
sbeeson@waterboards.ca.gov
www.waterboards.ca.gov/santaana

>>> mark mohnike <markmohnike@yahoo.com> 6/8/2011 8:20 AM >>>
Susan, I am in the process of writing you a letter and would appreciate it if you could provide me with you mailing address.

Mark Mohnike



CA Lic.

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- [Contact Us](#)

The Everest Team

Lee Orr: Over 12 years experience in the home building industry. Lee worked for Meritage Homes as a senior project manager and prior to that was employed by Avalon Homes in the fields of project management and construction supervision. Lee earned a bachelors degree in business and finance from Chapman University.

Mark Mohnike: 15 years experience in the real-estate and home building industry. Mark was Vice President of acquisitions at CT Realty Corporation specializing in Inland Empire and LA County commercial and office acquisitions. Prior to CT Realty Mark worked in the fields of acquisition, project management, sales and marketing for MBK Homes and Meritage Homes. Mark has earned the LCDM (Light Construction Development Management) designation from the University of California at Irvine.

Terry Pitts: Has over 22 years experience in the construction service and manufacturing industry. Terry has managed construction services for several large multi-unit industrial complexes in the Inland Empire. Prior to that Terry was responsible for ability control and cost supervision of a large Southern California roofing manufacture.

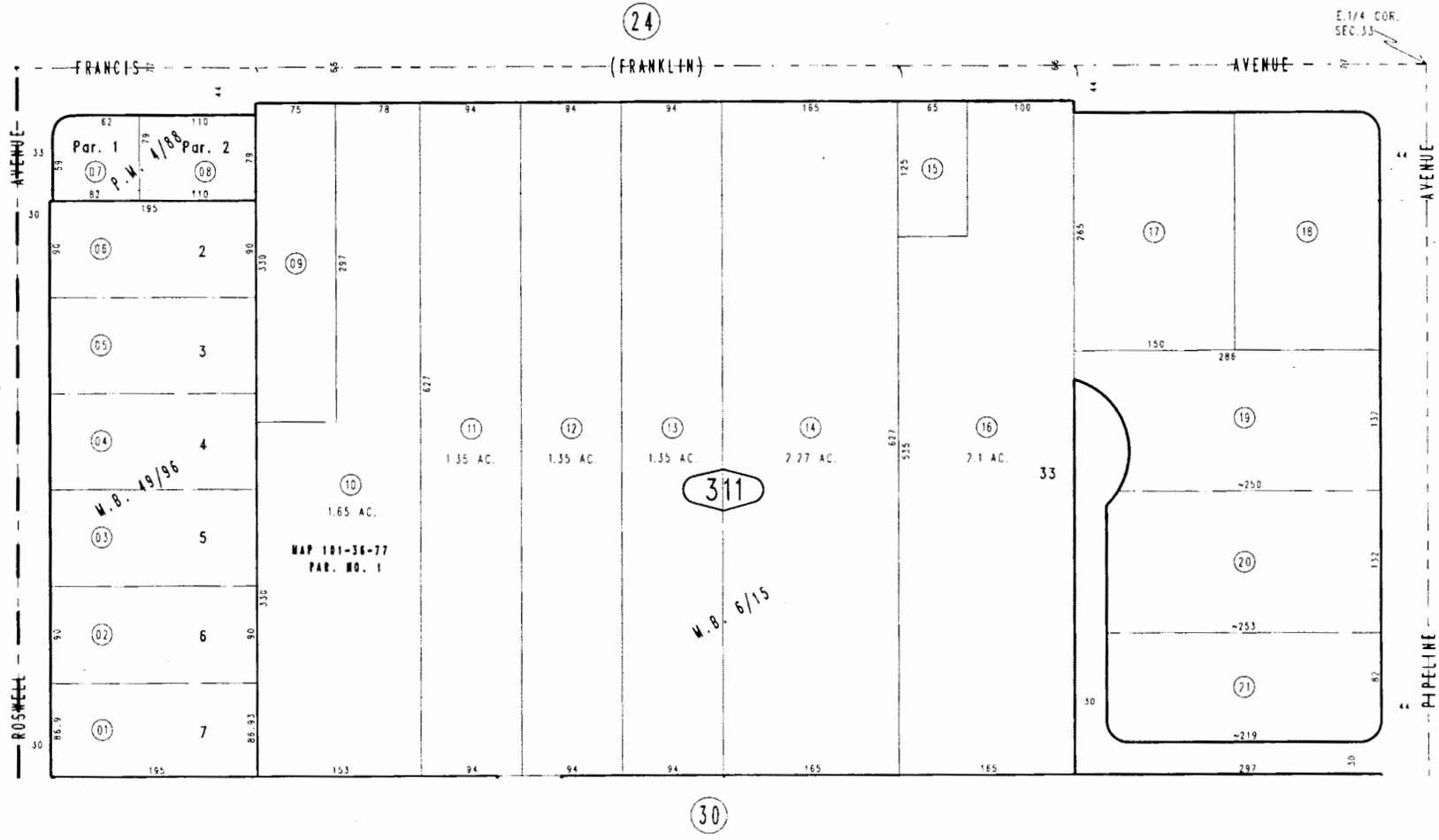
Get Estimate

THIS MAP IS FOR THE PURPOSE
OF AD VALOREM TAXATION ONLY.

Ptn. Rancho Santa Ana Del Chino M.B. 6/15

Chino Outside
Tax Rate Area
61102

1013 - 31



February 2004

Parcel Map No. 367, P.M. 4/88
Tract No. 3767, M.B. 49/96

Ptn. S.E.1/4, Sec.33
T.1S.,R.8W.

Assessor's Map
Book 1013 Page 31
San Bernardino County

REVISED
03/09/10 KC

Susan Beeson - RE: Regional Board info request

From: "Roe, Henry - LUS - Building & Safety" <Henry.Roe@lus.sbcounty.gov>
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Just want to recap what we discussed today during the June 22, 2011 property site visit regarding your request for an appeal of our minimum lot size requirements for the use of septic system to serve a proposed 2-story detached garage with game room on the 0.40 acre lot.

I indicated if Mr. and Mrs. Pitts were to obtain a permit from the County to install a graywater system for the washer that you propose to move from the home and place in the detached garage, we would have no objection.

I also indicated if Mr. and Mrs. Pitts would record a restriction on their property title that assured us no fixtures would be added in the game room (only washer and dryer to be housed in detached garage) until sewer became available to serve the property, we could consider recommending approval of the appeal from the minimum lot size requirements at the July 15, 2011 meeting.

Please note, I will need a response as soon as it is possible but no later than Monday, June 27, 2011 in order to complete the staff report that will be submitted to the Board Members prior to the July 15 meeting.

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6/24/2011 - 9:15 am - Spoke to Mark Mohnike re: above email and he confirmed receipt. He indicated he will provide me with his response by June 27, 2011.
SKB

6/27/2011 - NO response by Mark Mohnike
SKB