

California Regional Water Quality Control Board
Santa Region

STAFF REPORT
July 22, 2016

ITEM: *6

SUBJECT: Appeal for an Exemption from the Minimum Lot Size Requirements for Subsurface Disposal System Use – Frank Huizar, Cherry Units, 8393 Cherry Avenue, Fontana, San Bernardino County, APN 0230-063-23

DISCUSSION:

On May 11, 2016, Frank Huizar, owner of the above-referenced property, submitted an application for the use of subsurface disposal systems to serve a proposed commercial development at 8393 Cherry Avenue in the Fontana area of San Bernardino County. The property is slightly more than one acre in size (49,223 sq. ft. or 1.13-acres gross). Mr. Huizar proposes to construct a 19-unit apartment complex which will consist of 5-separate structures (4-4 unit structures and 1-3-unit structure). Each individual unit (apartment) will include 3 bedrooms and 2 baths. This area of the County is unsewered. Staff denied Mr. Huizar's request for approval of the use of conventional septic systems. Mr. Huizar is now proposing to install an alternative disposal system to serve the apartment complex.

The Regional Board has adopted minimum lot size criteria for septic tank-subsurface disposal system use that are contained in the Water Quality Control Plan (Basin Plan) for the Santa Ana Region. These criteria established a one-half acre minimum lot size requirement for new developments proposing the use of onsite septic tank-subsurface leaching/percolation systems. 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 minimum lot size requirements (MLSR) specify that the wastewater flow for each one-half acre of land may not exceed that from a three-bedroom two-bath house as specified in the Uniform Plumbing Code. This is equivalent to 300 gallons per day (gpd) or 20 fixture units per one-half acre of land for commercial projects.

Based on the information provided by the applicant, Board staff determined that the total fixture unit count and projected flows from the facility would not comply with the MLSR. Board staff also advised Mr. Huizar of concerns regarding the adverse impacts of high nitrate concentration of the wastewater discharges from the proposed development. To address these concerns, Mr. Huizar is now proposing the use of an alternative treatment system to serve the 5 structures.

The MLSR specify that project proponents may propose an alternative treatment system for sewage disposal as the basis for an exemption from the minimum lot size requirements. Such a proposal must be reviewed on a case-by-case basis and submitted to the Regional Board for consideration. As stated above, Mr. Huizar is proposing the use of an alternative disposal system to serve each of the 5 structures (apartment units). The system being proposed is the "Norweco Singulair Bio-Kinetic Wastewater Treatment System Model TNT", with seepage pit dispersal for treated sanitary wastewater from the apartment units.

Technical information provided to staff indicates that if the system is operated and maintained properly, use of this system is expected to result in a nitrate removal efficiency of 70% or more and effluent nitrate-N quality of 10 mg/L or less. Mr. Huizar proposes to enter into a maintenance agreement with a qualified operator for the operation of this alternative disposal system. In addition, Mr. Huizar has agreed to conduct quarterly monitoring of the system for nitrate-N. San Bernardino County staff has advised Regional Board staff that Mr. Huizar will be required to obtain an annual permit for the operation of the alternative system and that the County will inspect the system annually to determine if the alternative system is operating as required.

RECOMMENDATION:

Approve Mr. Huizar's request for an exemption from the minimum lot size requirements based on the use of an alternative disposal system, with the following stipulations: 1) Mr. Huizar will enter into an agreement with a qualified engineer for the operation and maintenance of the alternative system. A copy of this agreement shall be submitted to staff of the Regional Board and San Bernardino County Environmental Health Services; 2) Mr. Huizar will conduct quarterly sampling for one year to determine the nitrate (as N) concentration in the effluent and submit those analyses to the staff of the Regional Board and San Bernardino County Environmental Health Services within 30 days after such sampling and analysis have occurred; 3) Mr. Huizar shall operate the alternative treatment system continuously so as to assure a consistent total nitrogen reduction of at least 70%; 4) Mr. Huizar shall obtain an annual permit from the San Bernardino County Environmental Health Services for the operation of the alternative system; and, 5) Should Mr. Huizar sell the property, he is required to disclose all of the conditions of approval stipulated in 1 through 4, above, to the new property owner(s). Mr. Huizar shall also advise the Regional Board and San Bernardino County Environmental Health Services in writing of new ownership and confirm that the disclosures identified above have been made.¹ In the event that conditions 1-5 are not satisfied, or if the alternative system is not able to achieve a 70% reduction in the nitrate concentration of the sanitary wastewater influent to the treatment system, Mr. Huizar shall implement a program acceptable to the Executive Officer to offset septic system discharges. Such an offset program could require Mr. Huizar to identify, and provide for the sewer connection of 17-dwelling units that would not otherwise be required to connect. The substantive requirements of conditions 1, 2, 3, 4, and 5 (if one year of monitoring data are not available prior to the sale of the property) shall be fulfilled by new owners should Mr. Huizar sell the property.

Comments were solicited from the following agencies:

San Bernardino County Environmental Health Services – Scott Maass
Southwest Concrete Products – David Ennis

¹ It should be noted that San Bernardino County requires the recordation of alternative disposal systems with the property deed, providing additional assurance that disclosure to buyers is provided. Alternative disposal systems are then permitted for the life of the system and the permit must be renewed annually by the property owner.