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October 24, 2023

Via Electronic Mail

Brian Pedrotti, Community
Development Director
City of Arroyo Grande
300 E. Branch Street
Arroyo Grande, CA 93420
bpedrotti@arroyogrande.org

Jessica Matson, City Clerk
City of Arroyo Grande
300 E. Branch Street
Arroyo Grande, CA 93420
jmatson@arroyogrande.org

Re: **Consider a Resolution Denying the Installation of One (1)
Domestic Well on Property Zoned Planned Development (PD);
Applicant – Michael Harris; Representative – Richard Burde, SLO
Civil Design**

Dear Mr. Pedrotti, Ms. Matson, and Council Members:

This office represents Mike Harris with respect to the above-referenced domestic well application (“Project”). We have reviewed the staff report for the Project consideration at the City Council meeting on October 24, 2023 (“Staff Report”) and provide the following comments.

A response to the Staff Report has also been prepared by my client and raises many issues that should be carefully considered by the Council. It is attached to this letter for your review and referred to herein as the “Harris Report”. The two most concerning issues will be addressed below: (1) the disparate treatment of this landowner for reasons that appear to be unrelated to the Code or any other legitimate City consideration; and (2) the improper use of a CEQA¹ exemption and failure to comply with CEQA for the proposed denial of the application.

¹ California Environmental Quality Act: Public Resources Code § 21000 et seq. and the CEQA Guidelines, California Code of Regulations, title 14, 15000 et seq.

A. The Project is being treated differently than any previous well application submitted to the City.

As described in detail in the Harris Report at pages 13-15, the City has consistently considered the cost to the applicant as a significant factor in determining whether a well application should be granted. In this case, the City staff is well aware of the fact that the “connection” the City proposes will be in a distant corner of the applicant’s parcel, and will require expensive trenching through protected oak forest in order for the applicant to make use of the City water at the most reasonable building site. (See Harris Report for description of expense and feasibility.) For inexplicable reasons, for the first time in two decades the City staff is asserting that the consideration of expense and feasibility of the use of City water only pertains to the expense incurred by the City. This interpretation of the City Code defies logic, and it would be an abuse of discretion for the City Council to disregard the reasonable past interpretation that considered the *actual* feasibility of the use of City water.

The Staff Report for the Project is opaque, and there is no explanation for the staff’s abrupt shift from intending to recommend approval in the Spring of this year, to the current refusal to employ the long-followed analysis the City has used in the past. The Staff Report recommends an approach that singles out the applicant for disparate treatment, and the Council should reject this path and consider the *actual* feasibility of the use of City water on the parcel and consider the application in an equitable manner.

B. Denial of the Project application is not exempt from CEQA.

The staff report mistakenly concludes that approval *or* denial of Project would be exempt from CEQA. (Staff report, p. 36.)

While the staff report correctly notes that approval of the domestic well would be subject to a Class 3 exemption, it goes on to improperly conclude that a denial of the application is “not a project”. The staff report states as follows:

[I]f the application is denied, the item does not qualify as a “project” under CEQA, because it has no potential to result in either a direct, or reasonably foreseeable indirect, physical change in the environment. (State CEQA Guidelines, §§ 15060, subd. (b)(2)-(3), 15378.).

It is true that approval, and the drilling of one domestic well, will have no impacts. The opposite is true of a denial, requiring the connection to the City water supply. It is astonishing that the City has been receiving detailed information from the applicant raising many concerns about the oak forest that lies between the proposed “connection” to the parcel and the likely building site, and yet ignores this issue in the Staff Report. The Harris Report describes these

impacts in detail, including the fact that the necessary work would be inconsistent with the Community Tree Program.

The staff report dismisses this by claiming that the “City is not responsible” for the location of the building site on the property. The City is responsible for its discretionary decisions that will foreseeably result in environmental impacts. For the same reasons that the trenching will result in significant impacts to oak trees, any future building would only occur on certain portions of the property.

CEQA defines a “project” as an activity that (1) is a discretionary action by a governmental agency and (2) will either have a direct or reasonably foreseeable indirect impact on the environment. (Pub. Res. Code, § 21065.) Thus, the discretionary decision by the City to deny a well application and force the landowner to connect to City water is, in fact, a “project” for CEQA purposes. If the City connection did not necessitate construction activities through a sensitive oak forest, then the City might be able to make a determination that it was not a project based upon the substantial evidence in the record. In this case, the record is rife with evidence that the discretionary denial of the application will result in significant environmental impacts.

Based upon the record before the City Council, there is no doubt that a denial of the Project application will result in the use of City water, “connected” to the property at a remote corner that will necessitate construction activities within a sensitive oak forest. If the City determines that it will exercise its discretion to deny the Project application, even though many similar applications have been granted due to feasibility concerns for the landowner, then additional environmental review is required. Refusing to consider the required construction activity will at best be a violation of CEQA, and may result in a regulatory taking if the feasibility of the construction through the oak forest is not carefully considered by the City.

C. Conclusion

The City Council should consider the City’s previous interpretation of its own Code to take into account the *actual* feasibility of a connection to the City water supply, and treat the applicant fairly and in a way that is consistent with the way others have been treated.

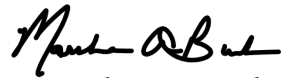
Additionally, the City Council should be aware of the environmental impacts that will result from a denial of the Project application and consider the Council’s opportunity here to approve the Project and avoid those significant environmental impacts.

Forcing the applicant into the position of being required to construct costly infrastructure that will impact the environment is a regulatory burden on the property that exceeds the bounds of fairness and the applicant’s rights. We

City of Arroyo Grande
October 24, 2023
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urge the City to consider the application in a fair way that will not interfere with the property rights of the landowner, will avoid environmental impacts, and will be consistent with the treatment of others in the City.

Sincerely,

A handwritten signature in black ink, appearing to read "Marsha A. Burch". The signature is written in a cursive, flowing style.

Marsha A. Burch
Attorney

cc: Mike Harris
Isaac Rosen, City Attorney (isaac.rosen@bbklaw.com)

Harris Report

APN 007-781-055

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Council Summary

- The city staff's interpretation of the AGMC Section 13.08.040 Part A is inconsistent with purpose and intent of AGMC Chapter 13.08 Water Wells.
- City staff has made a new untenable interpretation of AGMC section related to water well permits.
- City staff's final recommendation is inconsistent with past recommendations by city staff and past resolutions by city council regarding water wells.
- City staff prepared a report for final review which recommended approval for the well application but suddenly, without any rational explanation, changed their position.
- City staff claims a policy exists which has never been articulated and has never been documented by city staff, until now.
- City staff's final recommendation is not based on reasoned decision making and did not consider all relevant factors.
- The city staff report does not provide complete information or all alternatives for consideration by the city and is promoting only one viewpoint.
- Service from the city water system is neither practical nor feasible based on excessive cost, environmental issues, and safety concerns.
- There is clear and convincing evidence that the service from the city water system is neither practical nor feasible and, as a result, city council should approve the well application.

Intent and Purpose of AGMC Chapter 13.08- Water Wells

The AGMC was amended in 1971 to add Chapter 8 to Title 6 to require permits for the drilling of wells.

From Ordinance 87 (1971):

"The City finds that said water supply been greatly depleted by unrestricted drilling for and pumping of water, and that a danger exists of salt water intrusion into the aquifers underlying the City."

"The regulations and restrictions as hereinafter set forth are necessary **to protect the health, safety and general welfare of the inhabitants and taxpayers of the City of Arroyo Grande.**"

From AGMC Chapter 13.08 - WATER WELLS (Current):

"It is the purpose of this chapter to provide for the construction, repair, modification and destruction of wells in such a manner that the groundwater of the city will not be contaminated or polluted and that water obtained from wells will be suitable for beneficial use and will not jeopardize the health, safety or welfare of the people of the city."

Neither the intent nor the purpose of the AGMC on water wells prohibits the drilling of water wells unless the water well would adversely impact the health, safety and general welfare of the inhabitants and taxpayers of the City of Arroyo Grande.

The city staff has made no such finding regarding my proposed water well.

AGMC Critical Section- 13.08.040- Permits.

- A. Application. Prior to the issuance of any permit, the application and recommendations of the health officer for a new well shall be submitted to the council. **The council may approve the application if, in its discretion, the drilling and the operation of the well will not deplete nor contaminate the city water supply and service from the city water system is neither practical nor feasible.**

This suggests that connecting a particular property or area to the city water system might pose technical challenges, excessive costs, or other difficulties that make it an impractical or unviable solution. This might then justify seeking alternative water sources, such as drilling a new well. The city code does not prohibit new wells.

The plain language of the city code indicates that it is the “service from” the city water system that is to be considered to determine practicality and feasibility. The use of the preposition “from” inherently implies a direction (e.g., from the city water system to the residence).

The city staff claims that the determination of practicality and feasibility should not consider the costs to the customer to obtain service from the city water system. The city staff also claims that the topography of the site (characteristics of the parcel) should also be given no consideration in determining practicality and feasibility of the service from the city water system.

This is not a reasonable interpretation of the city code. Cost is the primary consideration when determining if service from the city water system is neither practical nor feasible for both the city and the customer.

Any analysis considering only the city’s perspective or only the customer perspective would be incomplete. The only way to achieve an objective, fair and comprehensive evaluation of practicality and feasibility is to consider both the city and customer perspectives.

The City has not Followed the AMGC Regarding the Permit Application Process

The city code states that the well application and a recommendation **from the health officer** shall be submitted to the council.

13.08.040 - Permits.



- A. Application. Prior to the issuance of any permit, **the application and recommendations of the health officer for a new well shall be submitted to the council.** The council may approve the application if, in its discretion, the drilling and the operation of the well will not deplete nor contaminate the city water supply and service from the city water system is neither practical nor feasible. If the council approves the granting of a permit, it may be issued subject to such reasonable conditions as the council imposes to prevent the depletion and contamination of the city water supply and subject to compliance with the standards provided by the county of San Luis Obispo. In the event the council refuses to approved the permit, the health officer shall not grant it.

The health officer is not a member of city staff. The definitions in the city code make it clear that the health officer is:

13.08.020 - Definitions.

"Health officer" means the health officer of the county, or his or her duly authorized representatives.

City Council has Not Publicly Questioned or Commented on Any Well Application in a Council Meeting (at least since 2004)

The city council has never questioned, commented or pulled a well application item for separate consideration in any city council meeting since 2004 (according to video archives).

Video archives of city council meetings are available at <https://slo-span.org>. The recordings of city council meetings are available beginning February 10, 2004.

Based on the recordings available there has also never been any public questions or comments on any well application.

City Staff Fails to Consider the Citizen and Taxpayer in its Decision-Making Process

The city staff has the following decision matrix which precludes any consideration of any factor related to the customer/inhabitant/taxpayer.

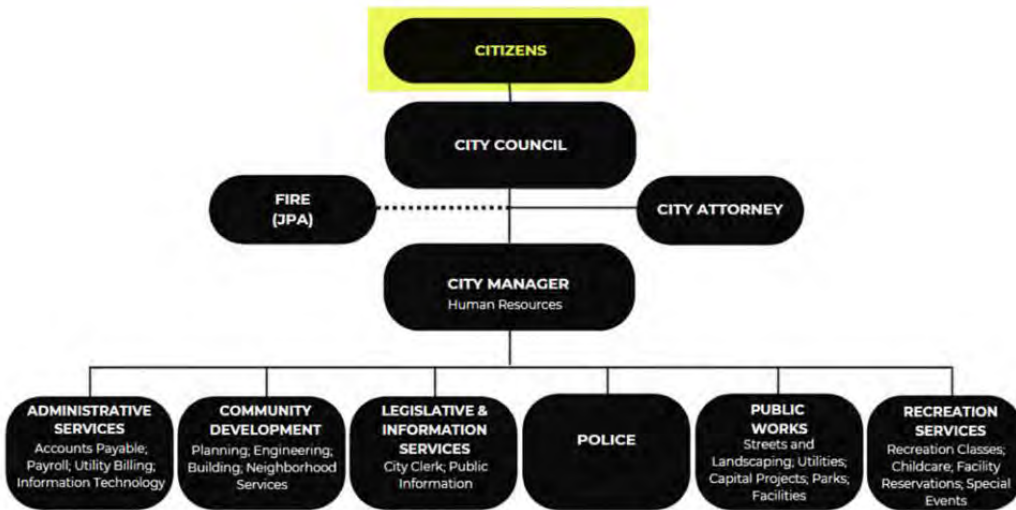
The city's decision matrix is not a matrix at all. There is no consideration given to the customer.

The City's Decision Matrix

City Perspective	
Feasible and practical	Not feasible nor practical
Connect to city	Approve well

The City of Arroyo Grande Organizational Chart and City of Arroyo Grande Organizational Values are contrary to position stated by city staff.

**City of Arroyo Grande
Organizational Chart**



SERVICE

We are committed to providing excellent customer service, striving to exceed the expectations of those we serve, both within the community and the organization. We shall be responsive to our customers in a timely, courteous, and friendly manner. While serving our community, **we recognize the importance of each individual's needs.**

The city's decision matrix should, of course, consider the perspective of the citizen/taxpayer and all relevant factors when making a decision to either approve or deny a well application, including customer related factors.

A Reasonable Decision Matrix

		City Perspective	
		Feasible and practical	Not feasible nor practical
Customer Perspective	Feasible and Practical	Connect to city	Approve well
	Not feasible nor practical	Approve well	Approve well

City Staff Recommendation

The city staff is recommending that the city council deny my well application because it states that a "connection" to the city water system is feasible and practical from the city's perspective - but only from the city's viewpoint and at a location they designate without regard to cost.

Practicality and Feasibility of Connecting to the City's Water System

It is important to highlight that, in determining the practicality and feasibility for a domestic water service connection, City staff reads the practicality and feasibility test as one based on whether **the City** is reasonably able to provide a domestic water service connection from the

City water service line to the private property boundary. ***The City does not believe the second of the two approval criteria should be based upon the private property owner's costs associated with installing domestic water service, nor should it be based on the topography of the site.***

The applicant has provided a groundwater feasibility analysis that examines the local conditions and finds that developing a groundwater well to serve the subject property is feasible from a hydrological perspective, which is included as an exhibit to this agenda item.

Staff has determined that it is both feasible and practical for the City to connect the City's water supply to the subject property. The subject parcel is immediately adjacent to the City's Reservoir No. 5, which is a 1.2 million gallon above-ground storage tank. The City's Utilities Manager has stated that a residential water service ***connection can be made directly to the City owned main water line from the tank*** and a connection placed to the applicant's property line with a standard water meter on their property.

As described above, Section 13.08 of the AGMC provides that the City Council may approve a well if "service from the city water system is neither practical nor feasible". This connection would be approximately 50 feet in length along generally level land with minimal surface restrictions, which staff has determined is both practical and feasible ***for the City to provide to the applicant's property***. In contrast to City staff's determination, the applicant has argued that this connection is neither practical nor feasible, citing that the location of their preferred building site on the property is approximately 600-800 feet from the reservoir, depending on the trenching route, and would involve grading through steeper slopes and sensitive oak trees. However, ***the City is not responsible for the proposed location of residential structures on a property*** – that is proposed by an applicant and ultimately reviewed by the City to ensure any municipal code requirements are met, such as setbacks, height, and health and safety standards contained in the California Building Standards Code. ***The City has historically determined practicality and feasibility based on the City's ability and cost to serve each parcel.***

The City Staff's Has Not Provided Complete Information

The City of Arroyo Grande City Council Handbook is clear with respect to the scope of information that is to be provided to the city council and that manipulation of information is prohibited.

3.4 City Council/City Manager Mutual Expectations

The following mutual expectations have been agreed upon by the City Council and City Manager regarding their respective roles and support the successful operation of the City Manager/Council form of government. They serve as a general framework to foster a constructive working relationship and provide new Council Members an overall outline of how we have committed to operate. They may also serve as a basis for discussion to resolve potential problems or when changes in the expectations are desired.

Expectation of City Manager

- f. **Provide complete information regarding an issue or item. Never manipulate information in order to promote one viewpoint.**

- g. Ensure staff reports include alternatives, potential impacts of each alternative and staff's best recommendation.

It is clear based on the information presented in this report that city staff has not provided complete information, the staff report is not the only report that was authored and distributed, and that the process and requirements have been manipulated to fit the desired outcome.

The city staff has not provided all alternatives for service from the city water system. The following alternatives have not been provided and, of course, the potential impacts of these alternatives have not been provided:

- Connect to the city water system via Equestrian Way
- Connect to the city water system on Noyes Road
- Adopt a resolution approving the installation of one (1) new domestic well

Staff's best recommendation would be relative to the other alternatives, which have not been provided.

Rather than provide complete information, city staff has decided to modify their interpretation of the AGMC so that complete information is not required or relevant. The decision to claim that no consideration should be given to the property owner cost nor the topology of the property allows city staff to ignore issues related to this information (cost and topology).

The only viewpoint that is being promoted is the viewpoint of the city staff, specifically and intentionally ignoring the viewpoint of the citizen, resident and taxpayer.

The City Staff's Interpretation of the City Code Is Untenable

The city staff report states:

"City staff reads the practicality and feasibility test as one based on whether *the City* is reasonably able to provide a domestic water service connection from the City water service line to the private property boundary."

This is not a reasonable interpretation of the city code. Rather, this is an interpretation created to align with a biased and predetermined decision by city staff.

The city code actually states:

"service from the city water system is neither practical nor feasible"

The city code does not use the term "connection". It uses the term "service". Service is a much broader term than connection. Service, much more accurately, includes:

- Sourcing and Supply
- Connection and Infrastructure
- Water Quality and Treatment
- Delivery and Accessibility

- Maintenance and Upkeep
- Consumption and Use
- Billing and Customer Service

When assessing the "practicality and feasibility" of providing "service from the city water system," each of these factors should be evaluated. By narrowing the definition to just the installation of a water meter, the city is likely missing a wide range of variables that collectively define what constitutes a "service." A robust analysis taking into account all these elements would offer a more comprehensive view of whether city water service is genuinely practical and feasible.

If the city council and the city wanted the subject regarding practical and feasible to be a "connection" they would have used that language. They did not.

The city code does not use the phrase "the City is reasonably able to provide". The city code does not limit consideration to the "provider" of the service. In fact, the code uses the phrase "service from", which indicates consideration should be given the "receiver" of the service since it is the customer that receives *service from* the city.

The city code does not use the phrase "to the private property boundary". The city has again narrowly interpreted the city code to fit this particular recommendation to deny the well application.

City staff is attempting to rewrite the city code to fit their recommendation on this particular well application. Their interpretation is narrowly lacking and is unnecessary. The plain language of the city code, the intent of the original city code, and the stated purpose of the code section provides the guidance needed for the decision-making process.

The City Council Has Previously Determined by Resolution that Service from the City Water System is neither Practical nor Feasible

Resolution No. 4830 was passed and adopted on December 12, 2017.

The resolution stated:

WHEREAS, based upon the interim agricultural use and the distance from existing City water infrastructure, the City Council finds that service from the City's water system is neither practical nor feasible..

The approval of well in resolution 4830 is for the exact same parcel and the exact same well location as the application currently under consideration.

At the city council meeting on December 12, 2017, the city council had no questions or comments prior to approving the well on the same parcel at the same location as the current well application.

https://slo-span.org/meeting/agcc_20171212

Current mayor Ray Russom and council member Barneich voted to approve the well and adopt the resolution, as did all council members, which determined that service from the city water system was neither practical nor feasible because of the distance from existing city water infrastructure.

Service from the city's water system is still not practical nor feasible, as found by the city council on December 12, 2017.

The City Staff Believes That the Owner's Costs Associated with Installing Domestic Water Service is Irrelevant

This is a new belief that was never previously held by city staff. This belief materialized when the decision was suddenly made to change position regarding the well application. This belief is necessary for city staff because, if the owner's costs are considered, the connection to the city water service is clearly neither practical nor feasible.

February 16, 2023 - Richard Burde and Tim Cleath met with Patrick Holub and Shane Taylor at the city offices. Patrick Holub and Shane Taylor specifically requested ***the private property owner's costs associated with installing domestic water service***. The city staff now claims that this information is irrelevant and should not be considered when determining practicality and feasibility.

The in-person meeting was held on February 16, 2023.

February 23, 2023 at 8:43 AM - Richard Burde sent an email to Patrick Holub indicating that he was still working on gathering ***the private property owner's costs associated with installing domestic water service***.

From: Richard Burde <richard@slocivildesign.com>
Sent: Thursday, February 23, 2023 8:43:46 AM
To: Patrick Holub <pholub@arroyogrande.org>
Subject: Re: Well Permit Application - Noyes and Equestrian (apn 007-781-055)

Hi Patrick,

Just following up on the meeting we had last week regarding the proposed well at the Harris property, I am currently gathering numbers for construction costs associated with connecting a water line to the water tank and will be providing those to you when they are available. I have one question about the process though, who makes the recommendation to the council? Do you write the staff report and include Shane's recommendation, or are there additional people involved?

Thanks for your help

February 23, 2023 at 9:10 AM – Patrick Holub emailed Richard Burde stating that **a recommendation that council deny the well application was unlikely once you present the numbers**. The “numbers” are ***the private property owner's costs associated with installing domestic water service***.

On Thu, Feb 23, 2023 at 9:10 AM Patrick Holub <pholub@arroyogrande.org> wrote:

Hi, Richard. That is a good question. If we were to recommend that the Council denies the request, that would likely involve a discussion with our City Manager. I don't think that is going to be likely once you present the numbers, but we can meet and discuss before that point so that no one is surprised.

March 9, 2023 at 8:41 AM – Patrick Holub emailed Richard Burde requesting the “feasibility calculation”. The “feasibility calculation” that was requested by Patrick Holub specifically included ***the private property owner’s costs associated with installing domestic water service.***

On Thu, Mar 9, 2023 at 8:41 AM Patrick Holub <pholub@arroyogrande.org> wrote:

Hi, Richard. I wanted to check on your progress with the feasibility calculation. We’re hoping to bring the item to City Council on 3/28, so if we want to keep that date, we will need your information in the next week or so. I have a vacation planned for half of April, so if we do not make the 3/28 date, we will need to discuss an alternate timeline.

Thanks,

March 9, 2023 at 8:46 AM – Richard Burde sent an email to Patrick Holub indicating that he met with the contractor regarding the preliminary cost estimate, part of ***the private property owner’s costs associated with installing domestic water service.***

From: Richard Burde <richard@slocivildesign.com>
Sent: Thursday, March 9, 2023 8:46 AM
To: Patrick Holub
Cc: Mike Harris
Subject: Re: Well Permit Application - Noyes and Equestrian (apn 007-781-055)

Hello Patrick,

Thanks for following up on this. I was just out at the property yesterday with our contractor and I will be putting together the preliminary cost estimate this week. I won't have any problem getting that to you by early next week. Please remind me, is there anything else but the cost estimate that we need to provide the City at this time?

Thanks

March 9, 2023 at 8:47 AM – Patrick Holub sent an email to Richard Burde that indicated he was 95% done with the staff report and that he would augment the report with our numbers. Patrick specifically stated that the staff report would include ***the private property owner’s costs associated with installing domestic water service*** in the staff report.

From: Patrick Holub <pholub@arroyogrande.org>
Sent: Thursday, March 9, 2023 8:47 AM
To: 'Richard Burde'
Cc: Mike Harris
Subject: RE: Well Permit Application - Noyes and Equestrian (apn 007-781-055)

I think that should be sufficient. I've already prepared 95% of the staff report and will augment it with your numbers when they are ready. Thanks for the additional analysis.

March 16, 2023 at 5:26 PM – Richard Burde emailed Patrick Holub regarding additional costs for trenching though or removing rocks.

From: Richard Burde <richard@slocivildesign.com>
Sent: Thursday, March 16, 2023 5:26 PM
To: Patrick Holub
Cc: Mike Harris
Subject: Re: Well Permit Application - Noyes and Equestrian (apn 007-781-055)

Patrick,

I'd like to point out that the estimate that was provided does not include costs associated with trenching trough, or removing rocks that would be found in the water lines layout. A recent site visit confirmed that there are three rock outcroppings between the water tanks and the likely build site so we would expect the "rock clause" identified on the estimate to come into effect during construction.

Thank you

March 20, 2023 at 7:39 AM – **Patrick Holub sent an email to Richard Burde indicating that he sent the staff report for final review last week and that we should be on the consent agenda on March 28 for approval of my well application.**

I made multiple public records requests for the staff report which was distributed for final review which recommended approval of my well application. The city has continued to withhold this report and any email messages related to the report.

From: Patrick Holub <pholub@arroyogrande.org>
Sent: Monday, March 20, 2023 7:39 AM
To: 'Richard Burde'
Cc: Mike Harris
Subject: RE: Well Permit Application - Noyes and Equestrian (apn 007-781-055)

Hi, Richard. Thanks for this information. I sent the staff report for a final round of review last week. We should be on the consent agenda for next Tuesday for approval.

Thanks again.



March 21, 2023 at 2:23 PM – Patrick Holub emailed Richard Burde asking for additional cost information, specifically the cost related to installation of the well. Patrick indicates that he “was asked” for the

information. So, in addition to Patrick there is at least one other individual that believed that ***the private property owner's costs associated with installing domestic water service*** was relevant and important.

From: Patrick Holub <pholub@arroyogrande.org>
Sent: Tuesday, March 21, 2023 2:32 PM
To: Richard Burde
Cc: Mike Harris
Subject: Re: Well Permit Application - Noyes and Equestrian (apn 007-781-055)

Richard, thanks for the call just now regarding the well application. During review of the staff report, I was asked to see if you could provide more information on the cost related to the installation of the well. If you can provide that information, I think that should be sufficient for the Council to make a well-informed decision. A format similar to the cost estimate from your contractor would be great.

Reach out with any questions. Thank you.

March 21, 2023 at 3:14 PM – Richard Burde emailed Patrick Holub information on the cost to drill the well.

From: Richard Burde <richard@slocivildesign.com>
Sent: Tuesday, March 21, 2023 3:14 PM
To: Patrick Holub
Cc: Mike Harris
Subject: Re: Well Permit Application - Noyes and Equestrian (apn 007-781-055)
Attachments: Harris Well - Construction Cost Estimate.pdf

Hi Patrick,

It turns out that property owner Mike Harris already had a construction cost estimate produced by Filipponi & Thomson last year, which came to approx \$23,000. Please see the attached and let me know if you have any questions.

Thanks

If the private property owner's costs associated with installing domestic water service should not be considered, why did Patrik and city staff request information on owner's cost and include that information in the staff report referred to on March 20, 2023? Why were there so many emails and communications regarding the owner's cost if the city staff believed this information was not important and relevant?

It is clear that the primary focus of city staff was on obtaining the private property owner's costs associated with installing domestic water service for the purpose of making a determination on practicality and feasibility. It was not the belief of the city staff that this information should not be considered. That belief materialized only after the city suddenly decided to change their position on the well application.

Patrick Holub, the associate planner that was responsible for preparing and distributing the staff report believed that the private property owner's costs associated with installing domestic water service was relevant and critical to determining whether service from the city water system was

neither practical nor feasible and based on this information the service from the city water system was determined to be not practical and not feasible.

In past well applications the city staff and the city council have determined that the property owner’s costs associated with installing domestic water service was relevant and did, in fact, provide at least a partial basis for determining that service from the city water system was neither practical nor feasible:

The following notes are from the section of the staff report that is titled **“Practicality of Supply from the City’s Water System”**

Year	Notes
2017	Agricultural use, <i>meter connection would be a substantial cost to the applicant</i>
2015	Agricultural use, <i>meter would be a substantial cost to the applicant</i>
2008	Agricultural use, <i>meter connection would be a substantial cost to the applicant</i>
2005	Agricultural use, <i>connection could cost between \$30,000 and \$40,000</i>

Clearly, the private property owner’s cost has been a significant determining factor in the past to determine practicality and feasibility. It is unfair and unreasonable to fail to consider the cost to the property owner of end-to-end service from the city water system when the costs establish that it is neither practical nor feasible for service from the city water system but that fact does not align with the likes and wishes of the city staff.

The city staff report claims that the determination of practicality and feasibility has historically been based on the city’s ability and cost to serve each parcel. The cost referred to are not the city’s cost but rather the property owner’s cost.

As you can see below the cost that is documented (by city staff) is the “cost to the applicant”, not the cost to the city.

City Council

Consider a Resolution Denying the Installation of One (1) Domestic Well on Property Zoned Planned Development (PD); Applicant – Michael Harris; Representative – Richard Burde, SLO Civil Design

October 24, 2023

Page 4

Building Standards Code. The City has historically determined practicality and feasibility based on the City's ability and cost to serve each parcel.



2017 Well Application

Practicality of Supply from the City's Water System

The City currently serves the property with potable water for domestic and fire protection purposes. The property is connected to the City's water main on East Cherry Avenue. The City currently does not provide irrigation water to any agriculturally zoned parcels within the City limits. A separate connection to the City's water system would be required to irrigate the 7-acre parcel. A properly sized meter connection would be a substantial cost to the applicant. The City's current water supply analysis does not account for this connection in that the City does not serve agricultural lands with potable water for irrigation purposes.

2015 Well Application

Practicality of Supply from the City's Water System

The City currently does not serve agricultural lands with potable water for irrigation purposes. The property is connected to the City's water system for domestic use; however, a separate connection to the City water system would be required to irrigate the 9 acres of farmland. A properly sized meter would be a substantial cost to the applicant. For these reasons, it is not practical to supply agriculture water from the City's water system.

2008 Well Application

Practicality of Supply from the City's Water System

The City currently serves the Church and preschool with potable water for domestic and irrigation purposes. The property is connected to the City's water main on Orchard Street. The sports field is south of the existing church and is separated by a large drainage ditch. A separate connection to the City water system would be required to irrigate the 4.3 acre sports field. A properly sized meter connection would be a substantial cost to the applicant. The City's current water supply analysis does not account for this connection.

2005 Well Application

**CITY COUNCIL
CONSIDERATION TO APPROVE AN APPLICATION BY MARTIN DE LEON
TO DRILL A REPLACEMENT IRRIGATION WELL
SEPTEMBER 27, 2005
PAGE 2**

irrigation of 11 acres of farmland would require a separate connection. A connection large enough to supply an irrigation system could cost between \$30,000 and \$40,000 in connection fees. The City currently does not serve any agricultural land with potable water for irrigation purposes. Irrigation is a separate component of the safe yield of the groundwater basin and supplying the irrigation system with domestic water would count against the amount of applied irrigation and water for the urban users. This would further reduce the amount of water for urban uses. The City's current water supply analysis also does not account for this connection, which would use an estimated 11 to 33 acre-feet per year depending on the specific crop and irrigation method.

The City Staff Believes That the Topography of the Site is Irrelevant

This is another new belief that was never previously held by city staff. This belief materialized when the decision was suddenly made to change position regarding the well application. This belief is necessary for city staff because, if the site topography is considered, the connection to the city water service is clearly neither practical nor feasible.

July 24, 2023 at 9:38 AM – Brian Pedrotti emailed me (after I sent a detailed email to all city council members) indicating that a meeting was expected so that the city staff could more fully understand the physical constraints of the site. This is in direct conflict with what is now claimed to be believed regarding the site topography.

From: Brian Pedrotti <bpedrotti@arroyogrande.org>
Sent: Monday, July 24, 2023 9:38 AM
To: Lan George; Mike Harris
Cc: Bill Robeson; Whitney McDonald; Patrick Holub; Caren Ray Russom; Kristen Barneich; Jim Guthrie; Kate Secrest
Subject: RE: A request for assistance

Good morning Mike,

Thank you for letting us know about your frustrations with this item, and I apologize for our part in the delays associated with getting this processed. Although I would characterize some of our past discussions differently, I agree that we can move forward to reach a conclusion and get it scheduled for a hearing. As I recall from our last meeting, the next step was to schedule a meeting onsite with you and staff from CDD and Public Works to more fully understand the physical constraints of the site and for you to show your concerns with connection feasibility. I will coordinate with Public Works today and pull some dates together to send to you and your team. Please feel free to contact me if you have any questions.

Sincerely,

If the topography of the site should not be considered, why is Brian referring to a meeting to more fully understand the constraints of the site. July 24 would have been an ideal time for Brian to let me know that the constraints of the site (the topography of the site) will not be considered by city staff. This was not communicated to me because it was not the position of city staff that the site topography did not matter.

The topography of the site is of utmost importance to determining practicality and feasibility of service from the city water system.

The city staff's position, which completely ignores the importance of the topology of the site, is overlooking crucial issues. Topography should be considered as a critical element in the determination of what's practical and feasible:

Cost-Effectiveness - Sloping or uneven terrains would require extensive civil works like leveling, backfilling, or excavation, making the project prohibitively expensive.

Technical Considerations - Steep or varied topography can create problems that are either technically challenging or impractical to solve.

Environmental Concerns - Construction on uneven or sloping terrain can lead to erosion and sedimentation issues, requiring additional environmental safeguards and potentially triggering stricter regulatory scrutiny. The need to modify the natural landscape to accommodate infrastructure could have significant environmental consequences, such as disruption of local ecosystems, which could be contrary to the public interest or even against environmental regulations.

Regulatory Hurdles - Uneven topography might necessitate additional permits from environmental agencies, increasing the complexity, duration, and cost of the project. Modifications required for challenging topographies could potentially violate environmental and land use statutes, causing legal issues that would make the project impractical.

Precedent and Subjectivity - If topography isn't considered for one parcel, it sets a precedent. This could compromise the city council's ability to make consistent and fair decisions on similar matters in the future. Topography provides an objective measure that can be evaluated through GIS tools, contour maps, and civil engineering studies, which would make the council's decision more transparent and less susceptible to subjectivity.

It's clear that topography should be a significant factor in the city staff's recommendation and council's evaluation of practicality and feasibility. Ignoring it would undermine the council's responsibility to make decisions that are economically prudent, environmentally responsible, and equitable for all parties involved.

The City Is Not Responsible for The Proposed Location of Residential Structures on a Property

However, **the city is responsible for the proposed location of the water meter**, which significantly impacts the practicality and feasibility of service from the city water system and whether or not a parcel is able to be developed.

Below are two pictures of vacant parcels in the north-west area of the city. The red arrows show the driveway access to the parcel and the red X shows the location of the city owned and provided water meter.





Does city staff really believe that the size and the topography of the site is irrelevant to the determination of practicality and feasibility of receiving service from the city water system?

Each parcel is unique and the city code clearly uses broad language which provides the flexibility to make a well-reasoned and fair evaluation and decision with respect to approving or denying water wells.

The City Staff Has Failed to Consider the AGMC Community Tree Program

Chapter 12.16 of the AGMC established the Community Tree Program. The Community Tree Program establishes policies, regulations and specifications necessary to govern installation, maintenance and preservation of trees within the city of Arroyo Grande.

City staff has failed to recognize and consider the impact of the Community Tree Program on the practicality and feasibility of service from the city water system.

The city code, including Chapter 12.16, establishes regulations that all residents and property owners are required to obey. Violation of these ordinances can result in penalties, including fines, legal actions, or other forms of municipal enforcement.

It is unreasonable that the city staff would exclude from consideration city-imposed regulations when considering the well application.

From the perspective of the city reservoir property, the trees which are located on the parcel should be considered. There is no clear, open path to connect to service from the city water system without impacting trees which are protected by the Community Tree Program.



The Community Tree Program states:

12.16.090 - Installation, maintenance and removal of trees relating to property development.

- E. All grading, building, conditional use, tract map, parcel map, planned development, and other development proposals submitted to the city shall be accompanied by an accurate map identifying and locating all existing trees upon the property for which application is received and all existing trees that are off-site but affected by the project. Such map shall also identify all existing trees that are proposed by the applicant for removal or destruction, and such trees shall be visibly marked for the director's inspection. The director, or his or her designee, shall locate all trees upon the applicant's and affected property and prepare a written report to the permit-granting authority within two calendar weeks of the permit application having been received by the city.

- H. The killing, removal or damaging, intentionally or accidentally, of any tree, because of development activity, shall result in a separate administrative penalty to be paid, through payment by person or persons causing such loss, to the city. The payment shall be the amount of the value of the tree, as set forth in the Manual for Plant Appraisers, published by the Council of Tree and Landscape Appraisers, but in no event shall the payment be less than one hundred fifty dollars (\$150.00) per tree. The intentional killing, removal or damaging of any tree, as a result of development activity, shall constitute a misdemeanor.
- M. Trees designated to remain on the tree removal plan shall be protected prior to and during construction by the owner(s), using the following measures:
1. Each tree or group of trees designated to remain shall be protected by an enclosure of a five-foot fence, prior to the beginning of construction. The fence shall be wooden, chain link, or plastic barricade fencing. The location of the fence is normally at the dripline of the tree, but it may be adjusted or omitted with the director's written approval.
 2. No parking of vehicles or equipment or storage of materials shall be permitted within the dripline of the trees designated to remain.
 3. In the event the underground utilities must be placed within the dripline of the trees to remain, the utilities shall be installed by auguring at twenty-four (24) inches minimum depth or by hand trenching. If roots over one inch in diameter are encountered, the roots shall be preserved without injury. No machine trenching within a tree's dripline shall be permitted, unless authorized, in writing, by the director.
 4. A performance bond may be required, in a form acceptable to the city and prior to issuance of an entitlement, to assure protection of trees on the site. The amount of any set bond shall be one thousand five hundred dollars (\$1,500.00), or the value of affected trees, whichever is greater, based on the Manual for Plant Appraisers, Council of Tree and Landscape Appraisers. The latest edition is to be available for review in the community development department. If, in the opinion of the certified arborist, no violation or damage has occurred during construction, the bond shall be returned upon final building inspection. However, if damage has occurred, the bond shall be held for three years and forfeited if, in the opinion of the certified arborist, permanent damage has occurred.
 5. Failure to comply with tree preservation requirements shall result in the director issuing a stop work order until all requirements have been met.

A bond of \$200,000 or more could be required to connect to the city water system – because of the location mandated by city staff. Mature oak trees are very expensive and there are hundreds of oak trees on the parcel. Clearly, from an environmental perspective, not to mention a cost perspective, it would be more practical and more reasonable to use a water source which was more closely located to building locations.

The cost to map and identify every tree in the path to the water meter location mandated by the city would cost more than the cost of the city water connection, which has been estimated at over \$7,000.

The cost to trench through protected trees is extremely high. No machine trenching is permitted in the tree dripline, so hand trenching must be used. In addition, no parking of vehicles or equipment or storage of materials shall be permitted within the dripline of the trees. The cost of trenching through the trees, in addition to the slope and rock outcroppings issues, will result in a trenching cost exceeding \$100,000 to connect to the city water system.

Whether consideration is given to the property owner cost of service from the city water system or not, the fact that the city mandates a connection to the city water system through mature groves of trees the result is a service from the city water system that is neither practical nor feasible from any perspective.

The City Staff Has Failed to Consider the Health and Safety of its Resident (or the Location of a Water Meter Impacts Safety Concerns)

The great majority of water meters are placed near the street, sidewalk, or alleyway for easy accessibility for both homeowners and utility personnel. The goal is to strike a balance between accessibility for monitoring and maintenance and the logistical considerations of connecting the home to the water infrastructure.

In our particular case, the city staff is recommending that the water meter be placed at the southern property line, which is the furthest point from the driveway which will lead to the residence. There will be no road available to access the water meter and the path to the water meter will be through very rough terrain consisting of 30% slope, rocks, trees, and uneven terrain.

Quick and efficient shut-off of the water supply in case of leaks or contamination is vital for both safety and resource conservation. The challenging location could significantly delay these emergency procedures, potentially exacerbating any issues such as flooding, or property damage. In this specific case, the accessibility barriers create a high-stakes scenario where time-sensitive actions are hindered, thereby raising safety concerns that could have severe repercussions for the resident.

The city staff has given no consideration to the issues imposed by their proposed water meter location.

The City Staff Wrote and Distributed a Staff Report That Recommended Approval of the Well

On March 20, 2023 at 7:39 AM, Patrick Holub sent an email to Richard Burde and Mike Harris indicating he had distributed the staff report for final review last week. He also clearly indicated that the staff report recommended approval and that our approval would be put in front of city council on March 28, 2023.

From: Patrick Holub <pholub@arroyogrande.org>
Sent: Monday, March 20, 2023 7:39 AM
To: 'Richard Burde'
Cc: Mike Harris
Subject: RE: Well Permit Application - Noyes and Equestrian (apn 007-781-055)

Hi, Richard. Thanks for this information. I sent the staff report for a final round of review last week. We should be on the consent agenda for next Tuesday for approval.

Thanks again.



Patrick Holub
Associate Planner
Community Development, City of Arroyo Grande

Where is the staff report recommending approval? Why has this report not been provided to me after I have requested it many times? Why has the staff report recommending approval not been provided to city council for their consideration?

On March 20, 2023 at 8:17 AM, Patrick Holub sent an email to Richard Burde promising to send the staff report that recommended approval to us on March 22 or 23, 2023. Patrick never sent the report.

From: Patrick Holub <pholub@arroyogrande.org>
Sent: Monday, March 20, 2023 8:17 AM
To: Richard Burde
Cc: Mike Harris
Subject: Re: Well Permit Application - Noyes and Equestrian (apn 007-781-055)

Yes, the report will be published on Thurs/Fri and I will send it your way.

From: Richard Burde <richard@slocivildesign.com>
Sent: Monday, March 20, 2023 8:15:56 AM
To: Patrick Holub <pholub@arroyogrande.org>
Cc: Mike Harris <mike@harris5.com>
Subject: Re: Well Permit Application - Noyes and Equestrian (apn 007-781-055)

Hi Patrick,

That's great! Would it be possible to get a copy of the staff report ahead of time?
Thanks

On March 21, 2023 Patrick emailed Richard Burde and Mike Harris requesting additional cost information. This is odd because the city staff now claims that the owner's costs are not relevant or applicable to the permitting process. **Patrick did not indicate who asked him to get additional cost information.**

From: Patrick Holub <pholub@arroyogrande.org>
Sent: Tuesday, March 21, 2023 2:32 PM
To: Richard Burde
Cc: Mike Harris
Subject: Re: Well Permit Application - Noyes and Equestrian (apn 007-781-055)

Richard, thanks for the call just now regarding the well application. During review of the staff report, I was asked to see if you could provide more information on the cost related to the installation of the well. If you can provide that information, I think that should be sufficient for the Council to make a well-informed decision. A format similar to the cost estimate from your contractor would be great.

Reach out with any questions. Thank you.

On March 21, 2023, Patrick Holub emailed Richard Burde that "this item" will need to be moved to the 4/11 meeting. It should be noted that we provided the additional cost information the same day that it was requested by Patrick at 3:14 PM.

Sometime between March 20, 2023 at 7:39 AM and March 21, at 2:32 PM the decision was made to recommend that the well application be denied.

From: Patrick Holub <pholub@arroyogrande.org>
Sent: Tuesday, March 21, 2023 2:47 PM
To: Richard Burde
Cc: Mike Harris
Subject: Re: Well Permit Application - Noyes and Equestrian (apn 007-781-055)

I believe that this item will need to be moved to the 4/11 meeting due to the fact that the agenda is being finalized today and sent to the Council tomorrow. With that said, I think you have two weeks or so to keep that date.

On March 29, 2023 at 12:00 PM, Patrick Holub sent an email to me indicating he was waiting for “more information” from the City Manager.

From: Patrick Holub <pholub@arroyogrande.org>
Sent: Wednesday, March 29, 2023 12:00 PM
To: Mike Harris
Subject: Meeting

Mike, I received your voicemail requesting a meeting. I’m still waiting on more information from our City Manager regarding this item. I haven’t had a chance to speak with her to see if she has any particular concerns, though, so I don’t think a meeting would be very productive at this time. I’m hoping to have more information shortly and we can try to set up a meeting afterwards.

Thanks,



Patrick Holub
Associate Planner
Community Development - City of Arroyo Grande

On March 29, 2023 at 12:58 PM, Patrick Holub sent an email to me indicating that the discussion regarding my connection to the city water system had shifted away from whether it was practical and feasible to whether it was in the best interest of the city.

From: Patrick Holub <pholub@arroyogrande.org>
Sent: Wednesday, March 29, 2023 12:58 PM
To: 'Mike Harris'
Subject: RE: Meeting

Mike, I don't necessarily think there are any concerns specific to your proposal. We've been discussing our Utility Manager's general opinion that a connection to the City's system would be preferred, is feasible and is practical. Obviously your engineer has presented cost data to help support your case, but we are discussing whether this connection is in the best interest of the City.

I sent a follow up email to see if I can get some more information that would allow us to meet tomorrow. Unfortunately, I am not available this Friday, but if we can find a time to meet and I have some more information to share with you, I'll happily come visit the site.

In terms of previous approvals, I would suggest contacting our City Clerk, Jessica Matson (jmatson@arroyogrande.org). You will likely need to file a request for public records, but we should be able to provide that information.

Thanks,



Patrick Holub
Associate Planner
Community Development, City of Arroyo Grande
Tel: 951.473.5436

On April 3, 2023 at 3:15 PM, Richard Burde emailed Patrick Holub asking for a copy of the staff report.

From: Richard Burde <richard@slocivildesign.com>
Sent: Monday, April 3, 2023 3:15 PM
To: Patrick Holub
Cc: Mike Harris
Subject: Re: Well Permit Application - Noyes and Equestrian (apn 007-781-055)

Hi Patrick,

Just following up on the previous correspondence regarding the Harris property's well application. Can you please let me know when the staff report for the 4/11 CC meeting will be available for my review?

Thank you

On April 3, 2023 at 4:28 PM, Patrick Holub send an email to Richard Burde indicating that our item would not be presented on the 4/11 council meeting.

From: Richard Burde <richard@slocivildesign.com>
Sent: Monday, April 3, 2023 3:15 PM
To: Patrick Holub
Cc: Mike Harris
Subject: Re: Well Permit Application - Noyes and Equestrian (apn 007-781-055)

Hi Patrick,

Just following up on the previous correspondence regarding the Harris property's well application. Can you please let me know when the staff report for the 4/11 CC meeting will be available for my review?

Thank you

On April 17, 2023 at 4:49 PM, Richard Burde sent an email to Patrick Holub requesting an update on our well application.

From: Richard Burde <richard@slocivildesign.com>
Sent: Monday, April 17, 2023 4:49 PM
To: Patrick Holub
Cc: Mike Harris
Subject: Re: Well Permit Application - Noyes and Equestrian (apn 007-781-055)

Hi Patrick,

Any update on the Harris property well application?

Thanks

On April 18, 2023 at 9:11 AM, after receiving no reply from Patrick Holub, Richard Burde sent another request for update to both Patrick Holub and Andrew Perez.

From: Richard Burde <richard@slocivildesign.com>
Sent: Tuesday, April 18, 2023 9:11 AM
To: Patrick Holub; Andrew Perez
Cc: Mike Harris
Subject: Re: Well Permit Application - Noyes and Equestrian (apn 007-781-055)

Good Morning Andrew,

I'm hoping you can provide an update to the well permit application that was filed for the Harris property on Equestrian and Noyes. I had been in touch with Patrick who was preparing the staff report for our pending council presentation (we were originally targeting the 3/28 meeting) but have run into delays in getting guidance from City staff on the matter. After reaching out again yesterday I received an automated email response saying Patirek would be out of the office until 5/1.

The applicant is looking for some insight into when the staff report will be complete and available for our review as well as what staff's recommendations will be in regards to supporting the proposed well or not. We had originally met with Shane and Patrick on Feb 16th to discuss the project and have promptly provided additional information as requests from Patrick have come through.

Any info you could provide on this matter would be greatly appreciated.

Thank you

On May 1, 2023 at 11:23 AM, Patrick Holub sent an email to Richard Burde indicating that the city staff feels that it is not in the best interest of the city to allow a domestic well on the property.

Patrick did not specify what "best interest of the City" meant or how the city staff came to the conclusion. ***This was the first time we had been given any indication that the recommendation to the city council would be to deny the well.***

Notably, Patrick did not indicate that service from the city water system was practical and feasible. It was clear that city staff did not want to allow a domestic well on the property, and all indications have been that the recommendation was decided upon based on the city staff's vision of development on the property (which equates to development fees and property taxes) and precedence setting (which is a non-issue).

From: Patrick Holub <pholub@arroyogrande.org>
Sent: Monday, May 1, 2023 11:23 AM
To: 'Richard Burde'; Andrew Perez
Cc: Mike Harris; Brian Pedrotti
Subject: RE: Well Permit Application - Noyes and Equestrian (apn 007-781-055)

Good morning, Richard. After several discussions with our staff, we do not feel that it is in the best interest of the City to allow a domestic well at this location. At this point, we will be writing a staff report recommending that the City Council deny the request. I've asked our City Clerk to advise a meeting date where that discussion could be held and I will provide that information to you once I receive it.

Alternatively, if you do not wish to go through the process with the Council, you have the option of withdrawing your application. If you choose to go this route, you would be eligible for a refund of your permit fees. If you request a refund after any hearing is scheduled, you would not be eligible to receive a refund.

Please let me know what you prefer. I'm happy to have another discussion if you have questions. Thanks,



Patrick Holub
Associate Planner
Community Development, City of Arroyo Grande

On March 20, 2023 at 7:39 AM, it was clear that the city staff had completed as staff report which recommended approval of the well application. However, on May 1, 2023 at 11:23 AM, Patrick Holub notified us that the city staff would recommend denial of the well application.

What happened between March 20 and May 1 (42 days, Patrick was out of the office for 14 of those days) to change the decision of city staff? City staff was clearly knowledgeable and experienced in the processing of a permit for a well application and had written several staff reports for prior well applications.

The only information provided regarding this sudden change was from Patrick Holub on March 29, 2023 at 12:00 PM that he was waiting for more information from our City Manager (Whitney McDonald).

The following are the only emails *between city staff* produced that discuss the well application between March 21 and May 1.

On March 21, 29023 at 3:18 PM, Patrick Holub sent an email to Brian Pedrotti and Shane Taylor attaching the well drilling cost estimate and indicating the cost estimate for trenching was \$97k.

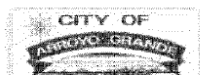
From: Patrick Holub <pholub@arroyogrande.org> on behalf of Patrick Holub <pholub@arroyogrande.org>
To: Shane Taylor; Brian Pedrotti
Sent: 3/21/2023 3:18:42 PM
Subject: Fwd: Well Permit Application - Noyes and Equestrian (apn 007-781-055)
Attachments: Harris Well - Construction Cost Estimate.pdf

FYI. The cost estimate for the water line is \$97k. Let me know how we should proceed.

On March 21, 2023 at 3:29 PM, Shane Taylor sent an email to Patrick Holub and Brian Pedrotti asking for the trenching estimate.

From: Shane Taylor <staylor@arroyogrande.org> on behalf of Shane Taylor <staylor@arroyogrande.org>
To: Patrick Holub
CC: Brian Pedrotti
Sent: 3/21/2023 3:29:08 PM
Subject: RE: Well Permit Application - Noyes and Equestrian (apn 007-781-055)

This just for the well, it does not include all the additional infrastructure such as storage tank for fire protection, pumping system that needs to be installed as part of the well system. Where is the \$97,000 estimate ?



Shane Taylor
Utilities Manager
Public Works, City of Arroyo Grande

On March 21, 2023 at 3:29 PM, Patrick Holub sent another email to Shane Taylor and Brian Pedrotti attaching the cost estimate for the trenching.

From: Patrick Holub <pholub@arroyogrande.org> on behalf of Patrick Holub <pholub@arroyogrande.org>
To: Shane Taylor; Brian Pedrotti
Sent: 3/21/2023 3:29:58 PM
Subject: Fwd: Well Permit Application - Noyes and Equestrian (apn 007-781-055)
Attachments: LNC BID - HARRIS 03162023.pdf

Shane, here's the cost estimate for the water line.

There was no other internal email discussion regarding the well application that was provided as a result of my public records request.

Between March 22 and May 1 there were no emails that discussed the well application not the decision to recommend denial of the well application by city staff.

There is No Issue with Precedent Setting Related to the Well Application

City staff has claimed on multiple occasions that there was an issue with precedent if my well application was approved. This is not true and there has been no reasoning provided for such an assertion. There is no record in the AGMC or any past well application that precedent setting has or should be considered when determining whether a well should be approved or denied.

The City of Arroyo Grande 2020-2028 Housing Element Update identified forty (40) vacant parcels which could be developed to provide housing:

Table 4-6 Land Inventory											
APN	Address	Site Size (Acres)	Land Use	Zoning District	Maximum Density	Maximum Dwelling Units	Realistic Dwelling Units - 80% of Maximum Units Unless Noted	Vacant or Non-Vacant	Notes/Site Constraints	Income Categories Affordable To	Infrastructure
Low Density Sites											
007-019-015	318 Grace Lane	0.67	LD	PD	1 unit/parcel	1.0	1	Vacant	Per Reso 3732	Above Moderate	Yes
007-781-055	Noyes Road	24.53	LD	PD	2.5	10.0	8	Vacant	Reso 3775 changed land use designation to Very-Low Density Planned Development	Above Moderate	Yes
007-781-056	Noyes Road	26.35	LD	PD	2.5	11.0	8	Vacant	Reso 3775 changed land use designation to Very-Low Density Planned Development	Above Moderate	Yes
007-851-034	737 Arabian Circle	0.61	LD	PD	0.7	1.0	1	Vacant	Per Reso 1745 approving Tract 1149	Above Moderate	Yes
007-851-039	791 Arabian Circle	1.43	LD	PD	0.7	1.0	1	Vacant	Per Reso 1745 approving Tract 1149	Above Moderate	Yes
007-015-018	164 Rodeo Drive	0.27	LMD	PD	1 unit/parcel	1.0	1	Vacant	Per Reso 2133 approving Tract 1390	Above Moderate	Yes
007-784-008	252 Via Bandolero	0.58	LMD	PD	0.9	1.0	1	Vacant		Above Moderate	Yes
007-785-022	534 Calle Cuervo	0.74	LMD	PD	0.9	1.0	1	Vacant		Above Moderate	Yes
PD Totals		55.18					22				
007-061-004	No address assigned	0.59	LMD	RR	1	0.6	1	Vacant		Above Moderate	Yes
007-061-010	No address assigned	0.52	LMD	RR	1	0.5	1	Vacant		Above Moderate	Yes
RR Totals		1.10					2				
007-291-033	215 Cindy Way	1.18	LD	RS	2.5	2.9	2	Vacant		Above Moderate	Yes
007-291-038	265 Cindy Way	0.98	LD	RS	2.5	2.5	1	Vacant		Above Moderate	Yes
007-291-039	276 Cindy Way	1.15	LD	RS	2.5	2.9	2	Vacant		Above Moderate	Yes
007-291-042	221 Cindy Way	1.36	LD	RS	2.5	3.4	2	Vacant		Above Moderate	Yes
007-211-007	210 Tally Ho Road	0.59	LMD	RS	2.5	1.5	1	Vacant		Above Moderate	Yes
007-254-062	576 Paseo Street	0.19	LMD	RS	2.5	1.0	1	Vacant		Above Moderate	Yes
007-254-063	582 Paseo Street	0.21	LMD	RS	2.5	1.0	1	Vacant		Above Moderate	Yes
007-471-002	366 Stagecoach Road	0.29	LMD	RS	2.5	1.0	1	Vacant		Above Moderate	Yes
007-471-029	416 Stagecoach Road	0.26	LMD	RS	2.5	1.0	1	Vacant		Above Moderate	Yes
007-471-030	410 Stagecoach Road	0.24	LMD	RS	2.5	1.0	1	Vacant		Above Moderate	Yes
007-471-031	400 Stagecoach Road	0.24	LMD	RS	2.5	1.0	1	Vacant		Above Moderate	Yes
007-471-033	355 Gularie Road	0.25	LMD	RS	2.5	1.0	1	Vacant		Above Moderate	Yes
007-471-035	323 Gularie Road	0.26	LMD	RS	2.5	1.0	1	Vacant		Above Moderate	Yes
007-471-036	302 Zogata Way	0.25	LMD	RS	2.5	1.0	1	Vacant		Above Moderate	Yes
007-471-037	314 Zogata Way	0.26	LMD	RS	2.5	1.0	1	Vacant		Above Moderate	Yes
007-471-038	328 Zogata Way	0.26	LMD	RS	2.5	1.0	1	Vacant		Above Moderate	Yes

Table 4-6 Land Inventory											
APN	Address	Site Size (Acres)	Land Use	Zoning District	Maximum Density	Maximum Dwelling Units	Realistic Dwelling Units - 80% of Maximum Units Unless Noted	Vacant or Non-Vacant	Notes/Site Constraints	Income Categories Affordable To	Infrastructure
007-471-039	340 Zogata Way	0.28	LMD	RS	2.5	1.0	1	Vacant		Above Moderate	Yes
007-471-040	346 Zogata Way	0.24	LMD	RS	2.5	1.0	1	Vacant		Above Moderate	Yes
077-013-006	1575 Hillcrest Drive	0.42	LMD	RS	2.5	1.1	1	Vacant		Above Moderate	Yes
RS Totals		8.90					22				
077-021-010	1457 Hillcrest Drive	0.36	LMD	SF	4.5	1.6	1	Vacant		Above Moderate	Yes
007-511-002	No address assigned	0.29	MD	SF	4.5	1.3	1	Vacant		Above Moderate	Yes
007-548-029	No address assigned	0.75	MD	SF	4.5	3.4	2	Vacant		Above Moderate	Yes
007-548-032	No address assigned	0.45	MD	SF	4.5	2.0	1	Vacant		Above Moderate	Yes
007-548-038	225 Whitely Street	0.15	MD	SF	4.5	1.0	1	Vacant		Above Moderate	Yes
007-572-014	702 Myrtle Street	0.17	MD	SF	4.5	1.0	1	Vacant		Above Moderate	Yes
077-126-009	1406 Strawberry Avenue	0.16	MD	SF	4.5	1.0	1	Vacant		Above Moderate	Yes
077-151-014	1278 Cedar Street	0.14	MD	SF	4.5	1.0	1	Vacant		Above Moderate	Yes
077-223-070	185 Wood Place	0.16	MD	SF	4.5	1.0	1	Vacant		Above Moderate	Yes
077-353-014	902 The Pike	0.26	MD	SF	4.5	1.2	1	Vacant		Above Moderate	Yes
077-163-001	Cedar & Aspen Streets	0.60	MD	SF	4.5	2.7	2	Vacant		Above Moderate	Yes

Of the forty (40) vacant parcels identified, thirty-eight (38) have city water available in an adjacent city street. **Only two (2) parcels do not have city water available in the adjacent street. The two parcels are off of Noyes Road and owned by the Mike Harris.**

The two parcels are not comparable to any of the 38 parcels which do have reasonable access to city water. The 38 parcels are between 18 and 192 times smaller than the two parcels owned by Mike Harris. The two parcels also have significant slope and significant protected trees compared to the other vacant parcels.

No property owner would want to install a drill a well on a small parcel (0.14 to 1.43 acres) which already has city water available in the adjacent street.

City staff concern for precedent setting based on my well application is misplaced and not reasonable.

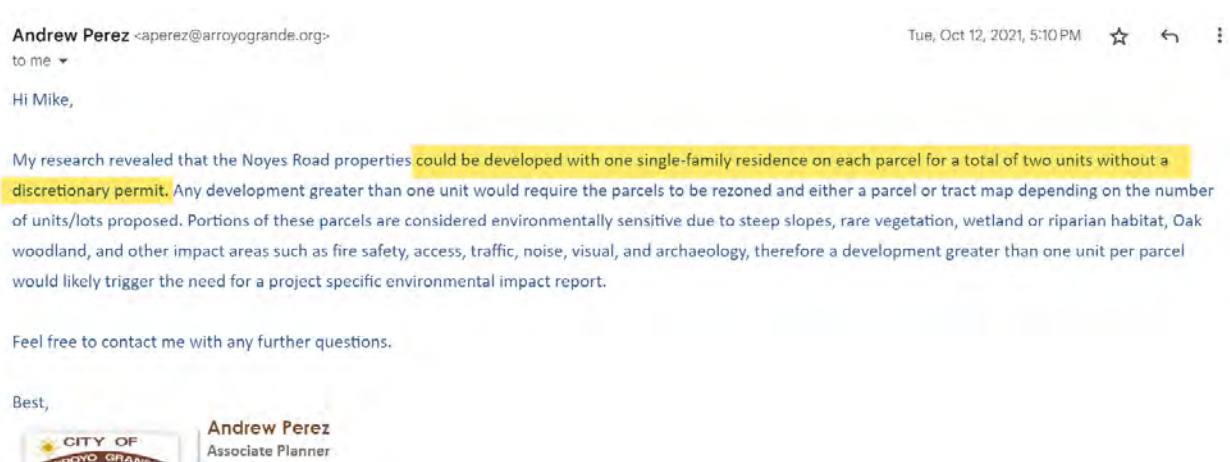
Land Use- Development of a Single Residence on the Parcel is Allowed

The city staff have also justified the denial of a well application because they envision a different development on the property.

I have been clear from the beginning that I am interested in building a single family residence on the property. I made significant effort to insure that this was possible without discretionary review prior to purchasing the property.

As early as April 2019 I contacted Andrew Perez in the Community Development Department and informed him that my interest in the property was not as a developer that would want to subdivide for multiple homes.

Prior to purchasing the property in December 2021 I received written confirmation from Andrew Perez that I would be able to build a single family residence on the property:



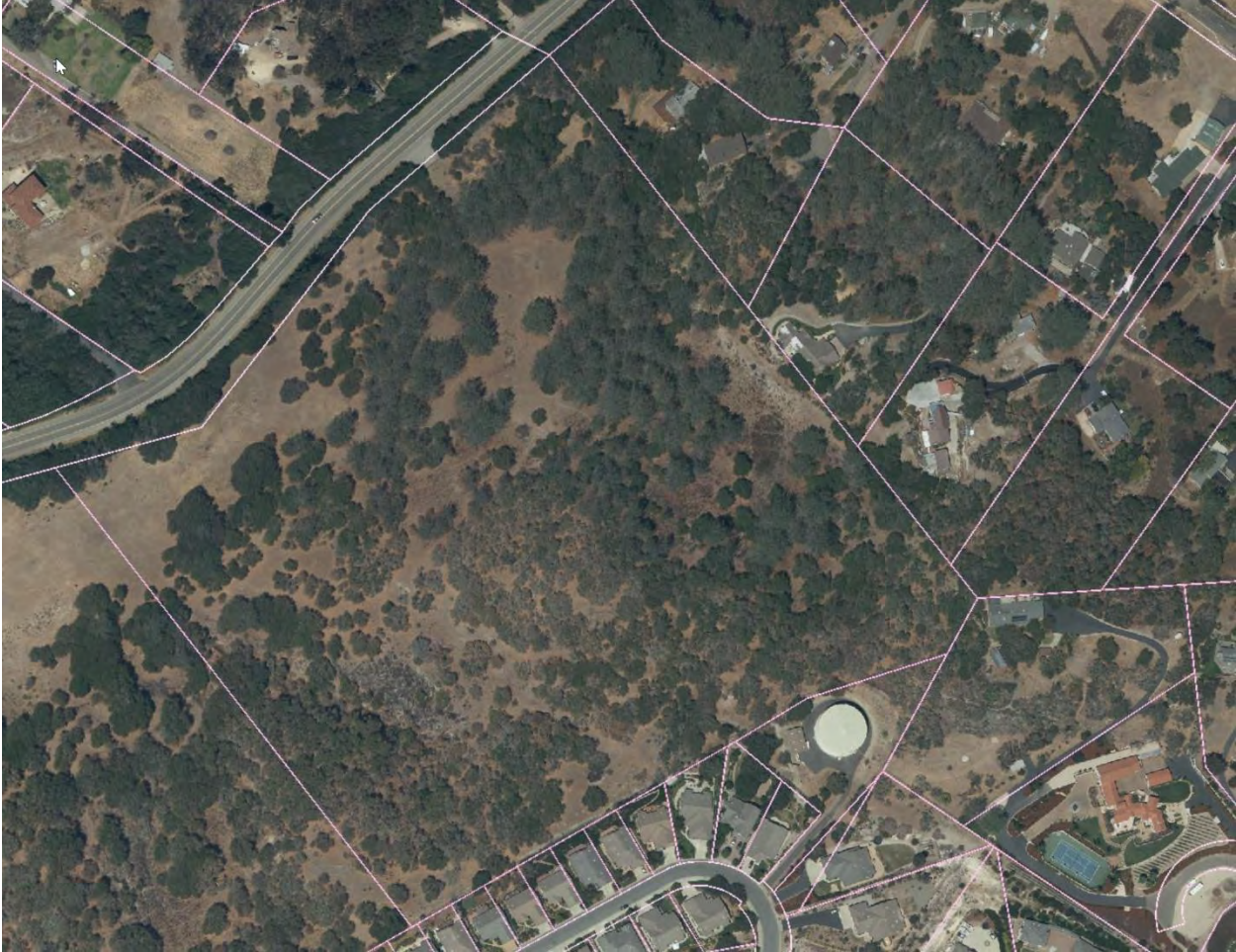
The first time we were told that the city staff would not recommend the well because they envisioned a different development of the property was after the staff report recommending approval was

distributed. Whether or not the city staff *likes* the intended development plans of the property owner is not a criterion of determining practicality and feasibility of service from the city water system.

No Reservoir-Adjacent Parcels in the City Connect to City Water in a Similar Way

There are four (4) reservoirs within the city limits. No parcel which is adjacent to a reservoir was required to connect to the city water system by connecting directly to a water line originating from the reservoir tank.

The connection being mandated by city staff is unconventional and not standard practice within the city.







In 2023 The City Approved a Well That Just Feet from City Water Main

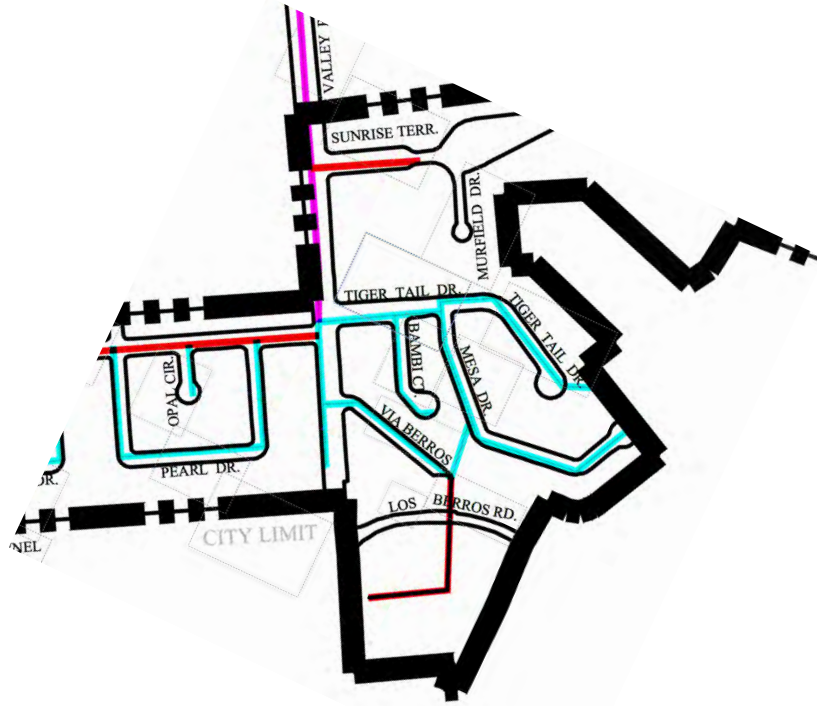
At the city council meeting on January 10, 2023, the council members declined to question, comment or pull for separate consideration the approval of a well that benefited a parcel outside the city limits, even though the proposed well was very close to a city water main. There was no discussion among council members regarding the approval of the well prior to its approval. https://slo-span.org/meeting/agcc_20230110

The city approved a well at 959 Valley Road (inside the city limits) to serve a property and taxpayer at 2783 Los Berros Road (outside the city limits).

There is an 8" city water main that crosses Los Berros Road that is within 18 feet of the old well that was replaced. The applicant already had customer infrastructure (pipes) that was within 18 feet of a city water main.



The city staff did not base their recommendation on whether it was practical and feasible to connect to the city water system. Rather, they simply stated that the non-citizen that would benefit from the well lives outside the city limits.



The City of Arroyo Grande Water System Master Plan December 2012 indicates that there are customers outside the city limits that are served by the city water system. It appears that city staff made the decision to recommend the well and then justified it by stating that the applicant lives outside the city limit, rather than actually evaluating the practicality and feasibility of connecting to the city water system.

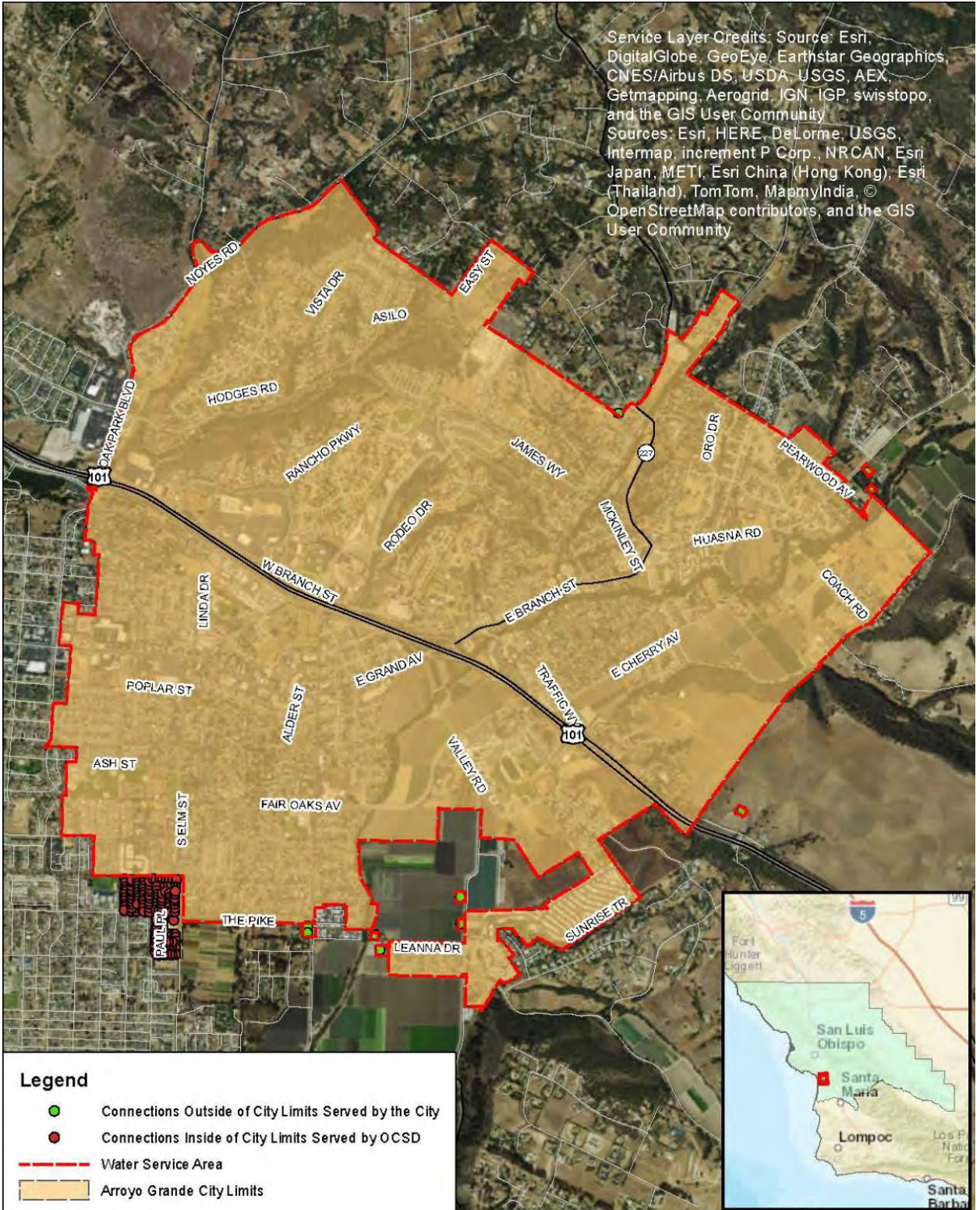
1.1 Land Use and Population

The land use patterns utilized in this study are based on the 2010 Update of the Land Use Element contained within the Arroyo Grande General Plan and on current or pending changes to this plan associated with the General Plan Amendment process. The 2010 population of the City was 17,252 according to the 2010 U.S. Census Bureau; however, 329 residents inside City limit are served by OCSD Water and 22 residents outside city limits are served by City Water. Therefore, the City currently serves water to a population of 16,945 residents. According to the 2010 Update of the Long Range Planning Report, the population of the City is expected to grow from its current level of approximately 17,252 residents to 20,000 residents at build-out. The infrastructure improvements recommended in this document provide for the ultimate build-out of the City.

1.5 Water Distribution

The City's water service area population includes residents of nine (9) water service connections outside of City limits and excludes residents of 138 connections served by Oceano Community Service District in an area located in the southwest portion of the City limits. All connections to the City's water system are metered, and there are no agricultural or industrial connections.

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Legend

- Connections Outside of City Limits Served by the City
- Connections Inside of City Limits Served by OCSD
- Water Service Area
- Arroyo Grande City Limits



City of Arroyo Grande
 2015 Urban Water Management Plan

