COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL

(1) DEPARTMENT	(2) MEETING DATE	(3) CONTACT/PHONE
Planning and Building	11/15/2016	Brandi Cummings, Planner II / (805) 781-1006

(4) SUBJECT

A continued hearing from October 18, 2016 to consider an appeal by Norman Beko of the Planning Commission's approval of a request by Hitachi Zosen Inova USA, LLC for a Conditional Use Permit (DRC2015-00122) to allow for: the construction and operation of an anaerobic digestion plant to process green and food waste from the Waste Connections service area; a setback modification; remodel of an existing warehouse; and construction of a 36,000 sf addition located at 4388 Old Santa Fe Road, east of Hoover Avenue and Old Santa Fe Road, south of the city of San Luis Obispo. Also under consideration is a Mitigated Negative Declaration. District 3.

(5) RECOMMENDED ACTION

It is recommended that the Board adopt the resolution denying the appeal by Norman J. Beko and affirming the decision of the Planning Commission subject to the modified findings and conditions set forth in the attachments to this staff report.

(6) FUNDING SOURCE(S)	(7) CURRENT YEAR FINANCIAL IMPACT	(8) ANNUAL FINANCIAL IMPACT	(9) BUDGETED?
Appeal fee and department budget	$0.00	$0.00	Yes

(10) AGENDA PLACEMENT

{ } Consent **{ }** Presentation **{X}** Hearing (Time Est. 90 minutes) **{ }** Board Business (Time Est.___)

(11) EXECUTED DOCUMENTS

{ } Resolutions **{ }** Contracts **{ }** Ordinances **{X}** N/A

(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR)	(13) BUDGET ADJUSTMENT REQUIRED?
N/A	BAR ID Number: N/A **{ }** 4/5 Vote Required **{X}** N/A

(14) LOCATION MAP	(15) BUSINESS IMPACT STATEMENT?	(16) AGENDA ITEM HISTORY
N/A	Yes	**{ }** N/A Date: 10/18/16

(17) ADMINISTRATIVE OFFICE REVIEW

Lisa M. Howe

(18) SUPERVISOR DISTRICT(S)

District 3

County of San Luis Obispo

TO: Board of Supervisors

FROM: Planning and Building / Brandi Cummings, Planner II

VIA: Bill Robeson, Deputy Director / Permitting

DATE: 11/15/2016

SUBJECT: A continued hearing from October 18, 2016 to consider an appeal by Norman Beko of the Planning Commission's approval of a request by Hitachi Zosen Inova USA, LLC for a Conditional Use Permit (DRC2015-00122) to allow for: the construction and operation of an anaerobic digestion plant to process green and food waste from the Waste Connections service area; a setback modification; remodel of an existing warehouse; and construction of a 36,000 sf addition located at 4388 Old Santa Fe Road, east of Hoover Avenue and Old Santa Fe Road, south of the city of San Luis Obispo. Also under consideration is a Mitigated Negative Declaration. District 3.

RECOMMENDATION

It is recommended that the Board adopt the resolution denying the appeal by Norman J. Beko and affirming the decision of the Planning Commission subject to the modified findings and conditions set forth in the attachments to this staff report.

DISCUSSION

Background

A public hearing for this appeal was conducted by your Board on October 18, 2016. At that hearing, the appellant and other members of the public requested a continuance in order to review the staff report and provide substantive evidence. During this 30-day continuance, the applicant and County staff met with the appellants and the public to discuss details of the project. Your Board requested staff respond to several issues raised at the first public hearing. The detailed responses to the issues of odor, traffic, and noise are found below. Also included is a table noting distance to the closest buildings/uses. Please refer to the Staff Report of October 18, 2016 (Attachment 05) for responses to other appeal issues. Additionally, the appellants submitted questions of the applicant regarding the project. The appellants' questions and the applicant's responses are attached to this staff report.

Issue Discussion

- Nearby Uses: The following issues of Odor and Noise relate in part to the proximity of nearby receptors. The following table shows the distance of the Anaerobic Digestion Plant (ADP) to the adjacent industrial/office buildings and closest residence. Use is based on permit and business license information.

Table 1: Distance of ADP to Nearby Receptors

Receptor	Distance to Structure (approx.)	Use
Alltech (Appellant Beko)	147 Feet	Injection mold fabrication
Earth Systems Pacific	261 Feet	Construction services
CTI (Appellant Kyle)	317 Feet	Rubber glove manufacturing
Residential	1,675 feet	Residence

- Odor: The appellants expressed concerns with potential odor impacts on nearby businesses and residences.

  The Negative Declaration does not identify any significant odor related impacts. The proposed project would not include any composting operations or storage of liquid digestate in open ponds/lagoons, which have the greatest potential to cause odor issues. The anaerobic digestion (AD) process occurs in a fully enclosed reactor and the exhaust air from the enclosed facility would be cleaned using a biofilter. "Odor emission reports for similar HZI AD facilities in Oensingen, Switzerland, Ingolstadt, Germany and Zürich, Switzerland have indicated that the design of the exhaust air system and biofilter have resulted in odor emissions well below the odor standards defined in the German Emission Control Act." (Air Quality Technical Report, RCH Group, March 29, 2016)

  The biofilter is a type of bioreactor that utilizes microbes to consume air pollutants. Before the exhaust air reaches the biofilter, it is humidified. This can be performed by introducing an injection nozzle system into the air duct and applying air and water into the opposite direction of the exhaust air stream. Contaminated humidified air will be blown through the 7-foot deep filter of root-wood and pollutants will be absorbed by moisture on the root-wood. Microbes that live on the root-wood will consume and oxidize the compounds. Microbes convert the pollutants into energy, CO_2, and water. The United States Environmental Protection Agency cites that well operated and maintained biofilters can reduce odors by 95% or greater.

  Appellants also noted that this area is in a "high wind tunnel". "The occurrence and severity of odor impacts depend on the nature, frequency, and intensity of the source; wind speed and direction; and the sensitivity of receptors. Generally, odor emissions are highly dispersive, especially in areas with higher wind speeds." (*RCH Group Response to HZI Appeal Letter*, RCH Group, October 10, 2016).

  SLO County Air Pollution Control District (APCD) will be the responsible agency for any potential odors from combustion emissions. Potential combustion emissions would result from combustion of biogas. Biogas is produced by the AD process and will be directly combusted in the combined heat and power (CHP) unit. Excess biogas (produced during emergency or maintenance) and gas produced during plant start-up (4-6 weeks) will be flared. As part of the CalRecycle permit to operate, the applicant is required to prepare and implement an Odor Control Plan that identifies potential odor sources and determines control strategies to reduce unexpected odors. Complaints can be submitted to APCD and may result in a Notice of Violation and enforcement.

  CalRecycle is the local enforcement agency for regulating odors from actual composting activities in the County. As part of the CalRecycle permit, the applicant is required to prepare, implement, and maintain a site-specific Odor Impact Minimization Plan (OIMP). Complaints can be submitted to the local enforcement agency contact (Catherine Blair, 916-341-6803), and can result in monitoring, cease-and-desist orders, and enforcement.

  The applicant has prepared a draft OIMP/Odor Control Plan which is being reviewed by staff, APCD, and CalRecycle. As a condition of approval, the OIMP must be approved prior to issuance of construction permits for the ADP. The draft OIMP contains provisions regarding Odor Monitoring Protocol, Meteorological Conditions, Complaint Response Protocol, Design Considerations and Procedures to Minimize Odors, Operation Considerations and Procedures to Minimize Odors, and Annual Review of the OIMP. Proposed operational considerations include processing organic material within four hours after receipt and rotating solid digestate to increase surface area exposed to air.

- Traffic: The appellants expressed concerns regarding the level of service on Buckley Road and the Santa Fe Road Bridge.

  The applicant submitted a *Vehicle Trip Generation Report (Oasis Associates, May 13, 2016)* to evaluate the potential impacts of the project. The report was peer reviewed by Central Coast Transportation Consulting, who concurred with the findings of the report and staff's analysis in the Negative Declaration.

  The proposed project will add two additional haul trucks for commercial food waste pickup. The ADP project will not alter existing residential green-waste routes, but will modify the trip destinations and vehicle miles traveled (VMT). The total number of daily haul truck trips to the Waste Connection (WC) facility will increase by twenty (20) trips as off-site unloading is redistributed to the facility location. However, overall total truck trips will be reduced by ten (10) trips daily, as unloading will be completed at the same location as the termination point of the daily routes. Table 2 shows the trips generated by the project.

Table 2: Project Trip Generation

Table 1: Project Trip Generation	
	Daily Trips To/From WC Site
Current Operations	
9 Green Waste Trucks[1]	18
Proposed Operations	
9 Green Waste Trucks[2]	30
2 New Commercial Green Waste Trucks[3]	8
4 New Employee Truck Drivers	8
3 ADP Operations Employees[4]	8
Proposed Operations Subtotal	*54*
Total New Daily Trips	**36**

1. Nine existing trucks depart WC site in the morning and return in the afternoon.
2. The nine existing trucks will modify their routes to unload at the WC facility. This results in two additional trips to WC for each truck on the South County and SLO routes (6 trucks X 2 additional trips=12 additional trips).
3. Commercial green waste trucks would unload once mid-day then again at the end of the day.
4. Assumes 1/3 of on-site employees eat lunch off site.

Source: Waste Connections Staff, CCTC, 2016.

The County has established the acceptable Level of Service (LOS) on roads for this urban area as "D" or better. LOS is a measurement used to categorize traffic flow, with LOS A being the best, and LOS F being the worst. The existing road network in the area, including Buckley Road, is operating at acceptable levels. According to the Level of Service Criteria for Roadway Segments (*Highway Capacity Manual*, Transportation Research Board, National Research Council), and recent Traffic Count Data from the Department of Public Works, the entire length of Buckley Road is operating at LOS A, which is the best LOS rating possible. Additionally, Public Works identified the collision history as below average compared to other roads in the County.

Santa Fe Bridge is owned and operated by the City of San Luis Obispo, is narrow and not easily crossed by large trucks. As part of the Waste Connections Minor Use Permit (DRC2012-00030), the project provided a transportation management plan that required haul trucks to only use Old Santa Fe Road, Hoover Avenue, and Buckley Road to access State Highway 227 for north and south routing when in the course of normal business operations. Santa Fe Road (including the bridge) is not an authorized road under the approved Minor Use Permit and there is no nexus to require improvements to the bridge with this project.

Fees are required for the City of San Luis Obispo's Citywide Transportation Impact Fee, Airport Area Specific Plan, and Los Osos Valley Road Interchange Mitigation Fee, which address cumulative impacts to City roads in the area. The transportation and circulation mitigation (COA 19, TR-1) requires the applicant to provide evidence of payment prior to construction permit issuance.

- Noise: The appellants expressed concerns regarding confusion over noise metrics, noise-sensitive uses, and the amount of time the ADP doors are open.

  The following table explains the three noise metrics mentioned in the Negative Declaration:

Table 3: Noise Metrics

Lmax	Maximum noise level (single event)
Ldn (day/night level)	Noise over a 24 hour period with a 10 dB penalty to nighttime operations
Leq	Measurement of average sound levels over a period of time

Table 4 below identifies the County's allowed noise levels, for both daytime and nighttime hours. Table 5 shows the Leq from the ADP at a distance of 100 feet, and for comparison the sound levels of the airport operations. The nearest receptor (as shown in Table 1) is the Alltech building, which is approximately 147 feet from the ADP.

Table 4: County Allowed Noise Levels

Sound Levels	Daytime (7 a.m. – 10 p.m.)	Nighttime (10 p.m. – 7 a.m.)
Leq	50	45
Lmax	70	65

Table 5: ADP and Airport Noise

Operation	Level
Regional Jet Departure	75-85 Lmax
24 Hour Air Operations	75 Ldn
ADP Operations @ 100 feet	41 Leq

As shown above, the ADP will be operating below the County thresholds for daytime and nighttime noise.

Other Issues Raise at Hearing

- Program EIR: The state agency CalRecycle prepared a Programmatic EIR (PEIR) for the compost regulatory program adopted by the State in 2012. The Program EIR is intended to assist in the siting and permitting of AD facilities in California, and assesses the environmental effects of the development anaerobic digestion facilities in California that could result from program implementation. The Program EIR also provides background on technologies, potential impacts, and feasible mitigation measures.

  Staff did not rely on the Program EIR for this project, and instead prepared a focused and specific analysis of the ADP for this particular location, in the form of a mitigated negative declaration. However, the applicant designed the proposed use to be consistent with the Program EIR environmental evaluation and mitigation measures. For example, one mitigation measure of the EIR (Measure 5.1 b) requires facilities to utilize negative pressure buildings and to treat output air with biofilters. The Air Quality reports submitted for this project incorporated mitigation measures from the Program EIR.

- Noticing: Government Code Section 65091 requires that notice of a public hearing be mailed at least 10 days prior to the hearing, to all owners of real property within 300 feet of the project subject to hearing.
  - Because this project is classified as an "Ag Processing" use, Title 22 requires notification for properties within 1,000 feet of the project site.
  - Staff noticed properties within 1,000 feet of the project site and included the entirety of the Evans Tract/Residential Suburban (RS) neighborhood, which was not within the original 1,000 foot buffer, but was included based on public interest and comments from the Airport Land Use Commission meeting.
  - The Planning Commission public hearing notice was sent to these parties 43 days prior to the hearing, on July 13, 2016, well before the 10 day requirement.

  CEQA Guidelines Section 15073 requires that negative declarations have a public review period of not less than 30 days.
  - The negative declaration and public hearing were noticed for the August 25, 2016 Planning Commission by mail on July 13, 2016, and in a newspaper of general circulation (SLO Tribune) on July 15, 2016, well ahead of the 30 day requirement.

  The request for setback modification, which is discussed more in the next section, was included as part of the project description for the notice for both the negative declaration and the public hearing.

The project was also presented to and considered by the Airport Land Use Commission (ALUC) on June 29, 2016. ALUC meetings are public meetings and are noticed in a newspaper of general circulation.

The proposed project was presented and discussed at the Integrated Waste Management Authority (IWMA) Board Meetings of March 11, 2015, May 13, 2015, September 9, 2015, and November 4, 2015. IWMA meetings are public meetings and the agendas are posted on the IWMA website and meeting room door 72 hours prior to the meeting time.

- Setback Modification: The appellants have expressed concerns regarding the proposed setback modification.

  Commercial Composting is considered an Ag Processing use and requires setbacks of 200 feet from each property line, and 500 feet to any residence outside ownership of the applicant. The Commercial Composting ordinance mainly addresses outdoor (wind-row) composting operations, hence the setback and parcel size requirements. All composting operations in the County to date have been outdoors (i.e. Cold Canyon outdoor composting operations); the proposed project would be the first anaerobic digestion plant in the County.

  The applicant requests a modification to the 200 foot setback requirement for structures on the left side and rear property lines. The proposed structure would be 37 feet from the left side property line, and 173 feet from the rear property line. These modifications would not reduce the setback beyond the minimum standards of Title 22; no side or rear setbacks are required in the Industrial Land Use Category.

  The Planning Commission found that the setback modification was supported by the findings. Based on the existing site configuration and constraints, it would be ineffective to require a 200 foot setback from the left and rear property lines. The existing structure that will be renovated for this project has existing setbacks less than 200 feet. There is a man-made drainage channel through the middle of the property that conveys the airport runoff to an offsite drainage basin, and further hinders the placement of a structure 200 feet from the left property line. The property does not abut residential land uses, and is surrounded by industrial and airport uses.

- Effectiveness of Biofilters: The biofilter is a type of bioreactor that utilizes microbes to consume air pollutants. Contaminated air will be blown through the bed of root-wood and pollutants will be absorbed by moisture on the root-wood. Microbes that live on the root-wood will consume and oxidize the compounds. Microbes convert the pollutants into energy, CO_2, and water. The United States Environmental Protection Agency's handout on biosolids (attached to October 18, 2016 Staff Report) states that biofilters can reduce odors by 95% or greater.

- Capacity of Project: Questions were raised whether the plant will be operating at full capacity and if potential impacts were identified. The potential impacts of the project were evaluated at full capacity (33,000 tons per year). The capacity was determined based upon: the efficiency of the specific digester; the WC current green waste service are and projections to include food waste and population growth over 20 years; the CalRecycle permit limitations.

- Other Projects: Testimony was presented at the previous hearing by Rob Eidemiller, who stated he was a partner and CEO of Unisyn Biowaste Technologies. This testimony made comparisons between the Unisyn owned and operated digestion plant in Waimanalo Hawaii from 1985 to 1999, and the subject ADP.

  The following information regarding the Unisyn Waimanalo facility was obtained from the following sources: Environment Hawaii; Hawaii State Office of Environmental Quality Control; Resource Recycling Systems, Peoria County Solid Waste Plan – Organics; Honolulu Star-Bulletin.

  The Unisyn facility opened in 1985 and was originally allowed to process approximately 85,000 gallons/day of feed lot waste from onsite dairy, with the end products being methane (biogas). By the mid 1990's the plant had expanded and was receiving off-site commercial food waste and green-waste, in addition to the feed lot waste.

  Waste material was first processed in an anaerobic digester. The residuals from the digester were then mixed with green waste and other organics in outdoor, static piles. Liquid effluent from processing the waste was stored in a 4 million gallon lagoon and discharged into Wing King Reservoir, an irrigation reservoir owned by the State Department of Agriculture. The static piles, lagoon, and reservoir were all outdoor processes.

  The plant renewed their permit to operate in 1997. The renewed permit contained conditions to operate, including several aimed at controlling odor. The plant eventually shut down in 1999 because it could not comply with the

permit conditions the Hawaii Health Department imposed, including those regarding odor control. Additionally, because the facility was processing off-site organic waste, instead of on-site cow manure as originally permitted, a new Environmental Assessment and Conditional Use Permit were required. The attorney for the project stated, "[u]nfortunately, the estimated cost to complete improvements required by the government in addition to uncertainty about future requirements no longer makes the business economically viable."

This particular facility was significantly different from the proposed Hitachi facility. In addition to processing high volumes of animal fecal waste, the facility operated with some processing occurring outdoors, such as the storage of liquid digestate in open lagoons and reservoirs. Additionally, the technology that the facility utilized is approximately 30 years old, and the facility was not willing to upgrade for compliance with new regulations and requirements. The project proposed by Hitachi will utilize current technology, and will not process animal fecal waste or wastewater. Additionally, all of the Hitachi processes will occur indoors.

OTHER AGENCY INVOLVEMENT/IMPACT

The project was referred to County Public Works, County Environmental Health, Cal Fire, City of San Luis Obispo, Airport Land Use Commission, and SLO County Air Pollution Control District. The Referral Responses are included as part of Attachment 07.

In addition, County Counsel has reviewed and approved the attached Resolution with findings and conditions.

FINANCIAL CONSIDERATIONS

This appeal was accompanied by an $850.00 appeal fee. This appeal was processed using department allocated general fund support as well as the fee.

BUSINESS IMPACT STATEMENT

Denial of this appeal would mean the Planning Commission approval for this project would stand. The project would result in the direct creation of temporary and long-term jobs. The project would primarily benefit the Building Design and Construction business cluster identified in the San Luis Obispo County Clusters of Opportunity Economic Strategy (November 2010).

RESULTS

Affirming the Planning Commission's decision and denying the appeal will mean Conditional Use Permit DRC2015-00122 is approved.

Upholding the appeal would mean the Planning Commission's approval of Conditional Use Permit DRC2015-00122 would be overturned and result in the project being denied.

This hearing is consistent with communitywide results of encouraging a safe, healthy, and livable community.

ATTACHMENTS

01. Resolution Denying Appeal with Modified Findings and Conditions of Approval
02. Appellant Questions to Applicant, October 20, 2016
03. Applicant Response to Appellant Questions, October 27, 2016
04. Applicant Handouts from the October 26, 2016 Community Meeting
05. October 18, 2016 Board of Supervisors Meeting Staff Report Packet
06. Mitigated Negative Declaration