

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Public Works	(2) MEETING DATE 7/16/2013	(3) CONTACT/PHONE Frank Honeycutt PE, Development Services Engineer (805) 781-1596	
(4) SUBJECT Hearing to consider an appeal of the Templeton Area A Road Improvement Fee by Mike and Nancy Harris. District 1.			
(5) RECOMMENDED ACTION It is our recommendation that your Honorable Board: <ol style="list-style-type: none"> 1. Deny the appeal to waive or reduce the projects' Road Improvement Fee; and, 2. Deny the request to waive the appeal fee of \$513. 			
(6) FUNDING SOURCE(S) N/A	(7) CURRENT YEAR FINANCIAL IMPACT N/A	(8) ANNUAL FINANCIAL IMPACT N/A	(9) BUDGETED? No
(10) AGENDA PLACEMENT <input type="checkbox"/> Consent <input type="checkbox"/> Presentation <input checked="" type="checkbox"/> Hearing (Time Est. <u>30 mins.</u>) <input type="checkbox"/> Board Business (Time Est. <u> </u>)			
(11) EXECUTED DOCUMENTS <input type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input type="checkbox"/> Ordinances <input checked="" type="checkbox"/> N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: N/A <input type="checkbox"/> 4/5th's Vote Required <input checked="" type="checkbox"/> N/A	
(14) LOCATION MAP Attached	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY <input checked="" type="checkbox"/> N/A Date:	
(17) ADMINISTRATIVE OFFICE REVIEW <i>Nikki J. Schmidt</i>			
(18) SUPERVISOR DISTRICT(S) District 1 -			

Reference: 13JUL16-H-1

County of San Luis Obispo



TO: Board of Supervisors

FROM: Public Works
Frank Honeycutt PE, Development Services Engineer

VIA: Dave Flynn, Deputy Director of Public Works

DATE: 7/16/2013

SUBJECT: Hearing to consider an appeal of the Templeton Area A Road Improvement Fee by Mike and Nancy Harris. District 1.

RECOMMENDATION

It is our recommendation that your Honorable Board:

1. Deny the appeal to waive or reduce the projects' Road Improvement Fee; and,
2. Deny the request to waive the appeal fee of \$513.

DISCUSSION

Mr. and Mrs. Harris applied for a building permit (PMT2012-02066/02067) to install a new single family home and detached garage on their residential parcel at 710 Old County Road in Templeton (see Attachment "A"). Their home building project is also situated within the Templeton Road Improvement Fee Area A and is subject to pay a road improvement fee of \$13,921. Mr. and Mrs. Harris have filed an appeal of the Road Improvement Fee and have also requested waiver of the appeal fee. The appeal letter is provided as Attachment "C."

The chronology of the Harris' permit processing is as follows:

May 15	Permit application received by Planning and Building
May 21	Permit application received by Public Works Road Improvement Fee amount is determined
May 29	Public Works completes 1 st Plan check and returns to P&B <i>(Includes notice on Road Improvement Fee and Fee amount)</i>
June 5	1 st Plan check is returned to the applicant <i>(Applicant first becomes aware of the fee amount)</i>
June 18	Applicant filed an appeal on the fee
July 3	<i>Plan check corrections have not yet been returned</i>

Evaluation of Appeal Issues

In the letter provided as Attachment "C," Mr. and Mrs. Harris raise the following comments, which are paraphrased below, along with staff's response:

Appeal point 1: The lot previously had a home on it that had burned down years ago.

Response 1: The Road Improvement Fee (RIF) program is intended to mitigate traffic impacts from new development. Constructing a home to replace a home recently destroyed by fire would not constitute a new traffic impact and, therefore, would not warrant an improvement fee. However, staff has viewed aerial maps taken in 1969, 1988, 1999, and 2011. There is no evidence of a home existing on that lot. The Templeton Circulation Study was originally prepared in 1991 and has undergone comprehensive updates about every five years. These studies have treated this lot as an undeveloped lot with the realistic potential for a new home and a corresponding traffic increase.

Appeal point 2: Due to extreme financial hardship (loss of job and major health issues), I am requesting the Templeton Area A road fee waiver.

Response 2: The Road Improvement Fee ordinance defines the criteria on which a waiver or adjustment of the fee may be based. This is described later in this staff report. The Templeton Circulation Study describes the relationship between the construction of residences in the study area and the need for road and intersection improvements to serve the traffic that will be generated. Financial circumstances on the part of the applicant do not address any of the criteria for a waiver or adjustment of the fee.

Section 13.01.050 of the County Code allows your Board to make findings for reduced Improvement Fees due to finding there is no traffic impact - not for relieving individual financial hardship.

Appeal point 3: We are doing this project as an owner/builder to save on costs. A developer might know of this fee; however, my Architect and sub-contractors were unaware of it and have been working in this area for over 30 years.

Response 3: The RIF program has been in place in Templeton since 1991 and is brought to the Board of Supervisors for review annually. The program and the amount of the fee are readily available on County websites and through consultation with County staff. It has been the practice for Public Works staff to send a letter to building permit applicants notifying them of the fee. Unfortunately, this did not happen in this case. Nevertheless, the applicant was notified about two weeks later, before any permits were issued.

Appeal point 4: I was told there was no way to pick up the permit before paying this RIF. We cannot get our needed financing without having the permit; which is kind of a "catch 22".

Response 4: In the past, the RIF program required payment of the fee prior to permit issuance. However, in September 2011, your Board authorized a process for deferring this fee until the final inspection or prior to building occupancy. If the appellants desire to do so, they may pursue this process which includes:

- Pay 20% (\$2,784) of this fee when they pull the permit
- Enter into an agreement with Public Works to pay the fee balance.
- Record a lien against the property for the fee balance
- Pay the balance with the final inspection and before building occupancy.

Appeal point 5: I am also appealing the waiver filing costs (\$513.00) since it was not disclosed prior to submitting for plan review.

Response 5: The appeal fee is necessary to offset the time spent by County staff to prepare and present this item to the Board of Supervisors at public hearing.

Templeton Road Improvement Fee Area Appeal History

Since 1991, there have been 22 road improvement fee appeals within the Templeton Road Fee Area. The following summarizes your Board’s actions on each of these appeals:

Category	No. of Appeals	Board Action			RIF Losses
		Adjusted	Waived	Denied	
Residential	12	2	3	7	\$221,582
Industrial	2	-	1	1	\$ 29,089
Commercial	1	-	-	1	\$ 983
Church	2	1	-	1	\$ 2,385
Winery	2	1	-	1	\$ 40,437
Library	1	1	-	-	\$ 83,637
Medical	1	1	-	-	\$ 5,145
Post Office	1	1	-	-	\$ 28,257
	22	7	4	11	\$411,515

Reduction or waiving revenues to the road mitigation accounts requires other revenues be sought to complete the circulation program for Templeton.

Basis for Adjustment or Waiver of the Fee

Section 13.01.050 of the San Luis Obispo County Code states that an adjustment or waiver of the fee may be granted, “based on the absence of any reasonable relationship or nexus between the traffic-generating impacts of that new development, and either the amount of the fee imposed or the type of road facilities or improvements to be financed by the fee.”

The Templeton Circulation Study establishes the reasonable relationship, or nexus, required for the imposition of fees within its study area. The most recent update of the Study was adopted by your Board on December 1, 2009, and the fees recommended in that update became effective February 1, 2010. The current fee for Templeton Area A, which has remained unchanged since that time, are \$13,921 per residential pm peak hour trip.

All new developments or changes in use of existing development within the area will generate new traffic demand. This new demand will contribute to the need for the road improvements identified in the Study. The improvement program is designed to provide the necessary capacity, in the network of arterial and collector streets, to meet the County’s established level of service criteria. The Road Improvement Fee was designed to apportion the cost of the needed improvements to all development, based on the amount of traffic generated.

OTHER AGENCY INVOLVEMENT/IMPACT

The Building Permit is processed by the Department of Planning and Building. We have reviewed this item with the office of County Counsel, who concurs with our recommendation.

FINANCIAL CONSIDERATIONS

The Templeton Circulation Study establishes a Capital Improvement Program identifying road improvements necessary to support new development. The majority of program funding is derived from the Road Improvement Fee, with additional funding from other sources. Supporting this appeal may set a precedent that could result in substantial loss of road improvement fee revenue in the future.

A fee of \$513 was paid by the applicant to process this appeal request. This fee is applied to offset the time spent by County staff to prepare this report and present this item to the Board of Supervisors at public hearing.

RESULTS

The results of considering this appeal will include your determination on how costs are allocated to new development, which will promote a well-governed community.

c: Mike and Nancy Harris, 912 Salida Del Sol Drive, Paso Robles, CA 93446

Reference: 13JUL16-H-1

File: 830.29.01 Road Improvement Fees – General

L:\DEVELOP\JUL13\BOS\Harris Appeal RIF brd ltr.docFH:mac

ATTACHMENTS

1. Attachment A: Vicinity Map
2. Attachment B: Templeton Road Improvement Fee Area
3. Attachment C: Appellant's Letter