

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

(1) DEPARTMENT Public Works	(2) MEETING DATE 12/16/2014	(3) CONTACT/PHONE Frank Honeycutt, Development Services Engineer (805) 781-1596	
(4) SUBJECT Hearing to consider an appeal of the South County Area 1 Road Improvement Fee by Mr. and Mrs. Lariz. Hearing continued from December 2, 2014. District 4.			
(5) RECOMMENDED ACTION It is recommended that the Board take no action on the appeal of the Road Improvement Fee, due to the withdrawal of appellant's request, and refund the (\$497) Appeal Fee to Mr. and Mrs. Lariz.			
(6) FUNDING SOURCE(S) N/A	(7) CURRENT YEAR FINANCIAL IMPACT N/A	(8) ANNUAL FINANCIAL IMPACT N/A	(9) BUDGETED? N/A
(10) AGENDA PLACEMENT { } Consent { } Presentation {X} Hearing (Time Est. <u>5 min.</u>) { } Board Business (Time Est. <u> </u>)			
(11) EXECUTED DOCUMENTS { } Resolutions { } Contracts { } Ordinances {X} N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: N/A { } 4/5 Vote Required {X} N/A	
(14) LOCATION MAP Attached	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY { } N/A Date: 12/2/14, #20	
(17) ADMINISTRATIVE OFFICE REVIEW <i>Nikki J. Schmidt</i>			
(18) SUPERVISOR DISTRICT(S) District 4			

Reference: 14DEC16-H-3

County of San Luis Obispo



TO: Board of Supervisors

FROM: Public Works
Frank Honeycutt, Development Services Engineer

VIA: Mark Hutchinson, Deputy Director of Public Works

DATE: 12/16/2014

SUBJECT: Hearing to consider an appeal of the South County Area 1 Road Improvement Fee by Mr. and Mrs. Lariz. Hearing continued from December 2, 2014. District 4.

RECOMMENDATION

It is recommended that the Board take no action on the appeal of the Road Improvement Fee, due to the withdrawal of appellant's request, and refund the (\$497) Appeal Fee to Mr. and Mrs. Lariz.

DISCUSSION

This hearing is continued from December 2, 2014 (Agenda item #20).

On September 15, 2014, Mr. and Mrs. Lariz (Appellant) applied for a building permit (PMT2014-00702) to construct a single family residence (manufactured home) on a parcel zoned residential rural. The project site is located near the community of Nipomo at 1114 Dawn Road near the intersection with Pomeroy Road (see Attachment "A"). The project is situated within the South County Road Improvement Fee Area 1 and was subject to pay a road improvement fee of \$12,011. The Appellant filed an appeal to waive the Road Improvement Fee.

On September 23, 2014 and after initial review of the project building permit, Public Works sent a letter to the Appellant notifying them of the current road improvement fee amount, the authority for requiring fee payment, and the appeal process. (See Attachment "D".) On October 21, 2014, Mr. and Mrs. Lariz's appeal request was filed at the Clerk-Recorders Office (see Attachment "C").

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 South County Circulation Study establishes the reasonable relationship, or nexus, required for the imposition of fees within its study area. The most recent fee amount was adopted by your Board on December 10, 2013, and became effective February 10, 2014. The Road Improvement Fee for South County Area 1 has remained unchanged since February 2012.

All new developments or changes in use of existing development within the area will contribute to the need for road and other transportation improvements. 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 program was designed to apportion the cost of the needed improvements to all development, based on the amount of traffic generated.

Evaluation of Appeal Issues

In their appeal letter, the Appellant raises the following comments, which are paraphrased below, along with staff's response:

Appeal point 1: I understand that I must pay the fee prior to getting my building permit, but I strongly believe that the mobile home will not generate much traffic.

Response 1: The Road Improvement Fee is based upon the traffic-generating characteristics of the type of development, such as for a single family home. The volume of traffic is as defined in the Institute of Transportation Engineering (ITE) Trip Generation Manual. This manual, along with our own experience, has consistently shown single family homes of all types to generate about 10 trips per day per home with one of those trips occurring during the peak hour. The peak hour trip forms the basis of the calculation of the Road Improvement Fee.

Appeal point 2: If I am charged it will compromise my ability to move forward with my project.

Response 2: The Road Fee Ordinance enumerates the criteria on which a waiver or adjustment of the fee may be based. The South County Circulation Study provides 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.

At the first Board hearing on this subject, the appellant indicated that the subject property used to have a mobile home on it that was removed a only few years ago. Your Board directed staff to investigate and verify the existence of the mobile home and determine if that would affect the amount of the Road Improvement Fee.

Public Works staff was able to verify that a mobile home was present on the property in 1990 and was being used as a residence. Staff also discovered that this home was removed in 2010. In the past (pre-1976), building permits were not typically required for mobile homes as these were directly regulated and taxed by the State. Consequently, permits for this pre-1976 unit do not show up in our database.

Since the previous home was in use when this road improvement fee program began and continued to be in use through 2010, the home proposed by the subject building permit ought to be considered a replacement home. Therefore there are no new traffic impacts resulting from a replacement home and the road improvement fee due is zero. Staff recommends the Board take no action to waive or deny the 'zero' fee. It would also follow that staff recommends the Board refund the (\$497) Road Improvement Fee Appeal Fee. Upon learning of the staff's revised calculation of the road improvement fee to zero dollars, the appellant requested to withdraw their appeal (please see Attachment "E"). However, the appellant is still requesting a refund of the appeal fee; which is \$497.

Staff is also investigating ways to modify our future fee notices to permit applicants; such as the one in Attachment D. It is anticipated that improved language would help to invite applicants resolve these issues with staff without having to appeal to the board of Supervisors.

OTHER AGENCY INVOLVEMENT/IMPACT

The Building Permit is being processed by the Department of Planning and Building.

FINANCIAL CONSIDERATIONS

The South County Circulation Study establishes a Capital Improvement Program identifying road improvements necessary to support new development. Supporting this appeal may result in substantial loss of road improvement fee revenues to fund future South County Area projects identified in the Update. South County Road Improvement Fee Area 1 has an obligation to pay back a loan from Fee Area 2 which was required to construct the Willow Road Interchange.

A fee of \$497 was paid by the appellant to process this appeal request. This fee is applied to compensate County staff for time spent preparing and presenting this item to the Board of Supervisors at public hearing.

RESULTS

The result of the recommended action before you Board today will be a determination that the amount charged to the Appellant is appropriate, and consistent with applicable legal requirements and Board Policy. This provides for a well-governed community.

c: Federico and Sofia Lariz, 1110 Dawn Rd, Nipomo CA 93444

File: CF 830.110.03 South County (Nipomo)

Reference: 14DEC16-H-3

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ATTACHMENTS

1. Attachment A: Vicinity Map
2. Attachment B: South County Road Improvement Fee Areas
3. Attachment C: Appellant's Letter
4. Attachment D: Road Improvement Fee Notice to Appellant
5. Appellant's Request to Withdraw Their Appeal