



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

(1) DEPARTMENT Public Works	(2) MEETING DATE 1/14/2020	(3) CONTACT/PHONE David E. Grim Development Services Division Manager (805) 781-1596	
(4) SUBJECT Hearing to consider an appeal of the South County Area 2 Road Improvement Fee by Mr. Jim Marderosian and adopt a resolution waiving the road improvement fee. District 4.			
(5) RECOMMENDED ACTION It is recommended that the Board adopt the attached resolution to grant the appeal to waive the South County Road Improvement Fee for permit PMTC 2019-00290.			
(6) FUNDING SOURCE(S) Fund Center 248 - Road Improvement Fee	(7) CURRENT YEAR FINANCIAL IMPACT \$11,172.00	(8) ANNUAL FINANCIAL IMPACT N/A	(9) BUDGETED? N/A
(10) AGENDA PLACEMENT <input type="checkbox"/> Consent <input type="checkbox"/> Presentation <input checked="" type="checkbox"/> Hearing (Time Est. 15 minutes) <input type="checkbox"/> Board Business (Time Est. _____)			
(11) EXECUTED DOCUMENTS <input checked="" type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input type="checkbox"/> Ordinances <input 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 type="checkbox"/> N/A Date 05/07/2019, #16	
(17) ADMINISTRATIVE OFFICE REVIEW Kristin Eriksson			
(18) SUPERVISOR DISTRICT(S) District 4			

Reference: 20.006



COUNTY OF SAN LUIS OBISPO

TO: Board of Supervisors

FROM: Public Works
David E. Grim, Development Services Division Manager

VIA: John Diodati, Director of Public Works

DATE: 1/14/2020

SUBJECT: Hearing to consider an appeal of the South County Area 2 Road Improvement Fee by Mr. Jim Marderosian and adopt a resolution waiving the road improvement fee. District 4.

RECOMMENDATION

It is recommended that the Board adopt the attached the resolution to grant the appeal to waive the South County Road Improvement Fee for permit PMTC 2019-00290.

DISCUSSION

Mr. Jim Marderosian (Appellant) has applied for a County building permit, PMTC2019-00290 (minor use permit DRC2018-00208), to construct an agriculture wash-line facility on an agriculture-zoned parcel. The project site is located at 2080 Los Berros Road in Nipomo, as shown in Attachment 1.

The project is within the South County Road Improvement Fee (RIF) Area 2 and subject, per County Ordinance 13.01, to the regional RIF required to mitigate cumulative traffic impacts generated by new development. The current RIF for the Appellant's project is \$11,172. This fee reflects the project's estimated 1.6 peak hour trips (PHT) at a rate of \$6,983 per PHT, per the Board's adopted policy. The current South County road improvement fee area map and fee schedule is provided as Attachment 2.

The Appellant has filed an appeal requesting your Board adjust or waive the \$11,172 RIF. A copy of the appeal letter is provided as Attachment 3.

Appeal Issues

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

1. Appeal Point: *On May 7, 2019, the Board of Supervisors granted a fee waiver to the Bartleson Family Trust and Cal Poly for "land use and construction permit fees."*

Staff Response: The RIF is not a land use or construction permit processing fee administered by Planning and Building. It is enabled by State statute, with a specific waiver/appeal process. Waiving the RIF must be done by a noticed public hearing of the Board of Supervisors and according to the procedures and findings outlined in Section 13.01.050 of the County Code (Ordinance No. 2379).

2. Appeal Point: *The project will provide a significant environmental benefit to the agricultural industry and public in helping to control a pest damaging to citrus crops.*

Staff Response: On May 7, 2019, the Board of Supervisors made findings acknowledging the "direct and obvious benefit" that the project will have for the agricultural industry and the public. The project would meet a need previously identified by the Board, provide a facility not currently available in the County, and has the potential to reduce County costs associated with pesticide inspection conducted by the County Department of Agriculture/Weights and Measures.

Unfortunately, the merit of these findings cannot be a basis for waiving the RIF, under Section 13.01.050 of the County Code (Ordinance No. 2379). That code states that road fee appeals can be made to the Board of Supervisors "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 improvement to be financed by the fee."

3. Appeal Point: *A significant portion of truck trips will remain inside the property where the wash facility is located, and any off-site trips can be scheduled outside peak hours.*

Staff Response: Staff concurs with this appeal point and recommends that the Board of Supervisors adopt the attached resolution making the necessary findings that PHTs would not be measurable and fee collection basis unwarranted.

South County Road Improvement Fee Area Appeal History

Since 1991, there have been 37 road improvement fee appeals within the South County Road Fee Areas resulting in a loss of over \$200,000 in funds available to pursue Board priority projects identified in the circulation study. Failure to collect mitigation fees for new development creates a burden on the County's General Fund to provide funds to offset loss in fees.

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 (Study) establishes the reasonable relationship, or nexus, required for the imposition of the RIF within the study area. The most recent update of the Study was a comprehensive update that was adopted by your Board on December 13, 2016. The current fee for South County Area 2 is \$6,983 per PHT for land uses other than residential or retail.

All new developments or changes in use of existing development within the fee area will contribute to the need for road and other transportation improvements the Study recommends. 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 RIF was adopted by your Board to apportion the cost of the needed improvements to all new or modified development, based on the amount of traffic generated.

Current pertinent projects that will be funded by the RIF include the widening of Los Berros Road from Avis Street to Quailwood Lane in 2020 and further widening of Los Berros Road from Quailwood Lane to Highway 101 in 2022.

OTHER AGENCY INVOLVEMENT/IMPACT

The Project's land use permit and building permit is processed by the Department of Planning and Building (with Public Works performing development engineering review). The Clerk of the Board processed the RIF appeal request.

County Counsel has reviewed and approved the subject resolution as to legal form and effect.

FINANCIAL CONSIDERATIONS

The latest adopted South County Circulation Study establishes a capital improvement program that identifies transportation projects necessary to support new development. Granting this appeal would result in loss of revenues that would impact future projects as identified herein.

A fee of \$586 was paid by the applicant to process this appeal request. This fee is applied to offset time spent by the Clerk of the Board and Public Works staff to prepare this report and present this appeal to the Board of Supervisors at a public hearing.

RESULTS

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

ATTACHMENTS

- 1 Vicinity Map
- 2 South County Road Improvement Fee Area/Road Improvement Fee Schedule
- 3 Appellant's Letter
- 4 Resolution Waiving the South County Road Improvement Fee for Permit PMTC2019-00290
- 5 PowerPoint Presentation

File: 830.29.01

c: Mr. Jim Marderosian, President, Bee Sweet Citrus, 416 E. South Street, Fowler, CA 93625

Reference: 20.006

L:\DevServ\2020\January\BOS\RIF Appeal Hearing\RIF.Marderosian Appeal brd ltr.docxDG.nd