

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

(1) DEPARTMENT Public Works		(2) MEETING DATE January 24, 2006		(3) CONTACT/PHONE Richard Marshall Development Services Engineer (805) 781-5280	
(4) SUBJECT Hearing to Consider an Appeal of the South County Road Improvement Fee by D. West					
(5) SUMMARY OF REQUEST Jens and Barbara Pohl have applied for a building permit (PMT 2005-01161) to convert a guesthouse to a secondary residence on Highland Hill Road in the South County Road Fee area. The fee associated with this permit application is \$6,702. Their agent, Don West, has filed an appeal of the fee on their behalf. His appeal letter is attached as Exhibit A.					
(6) RECOMMENDED ACTION It is our recommendation that your Honorable Board deny the appeal.					
(7) FUNDING SOURCE(S) N/A		(8) CURRENT YEAR COST N/A		(9) ANNUAL COST N/A	
(10) BUDGETED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> N/A <input type="checkbox"/> NO					
(11) OTHER AGENCY/ADVISORY GROUP INVOLVEMENT (LIST): Planning & Building, County Counsel					
(12) WILL REQUEST REQUIRE ADDITIONAL STAFF? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes, How Many? _____ <input type="checkbox"/> Permanent _____ <input type="checkbox"/> Limited Term _____ <input type="checkbox"/> Contract _____ <input type="checkbox"/> Temporary Help _____					
(13) SUPERVISOR DISTRICT(S) 4th			(14) LOCATION MAP <input type="checkbox"/> Attached <input checked="" type="checkbox"/> N/A		
(15) AGENDA PLACEMENT <input type="checkbox"/> Consent <input checked="" type="checkbox"/> Hearing (Time Est. 5 min.) <input type="checkbox"/> Presentation <input type="checkbox"/> Board Business (Time Est. _____)			(16) EXECUTED DOCUMENTS <input type="checkbox"/> Resolutions (Orig + 4 copies) <input type="checkbox"/> Contracts (Orig + 4 copies) <input type="checkbox"/> Ordinances (Orig + 4 copies) <input checked="" type="checkbox"/> N/A		
(17) NEED EXTRA EXECUTED COPIES? <input type="checkbox"/> Number: _____ <input type="checkbox"/> Attached <input checked="" type="checkbox"/> N/A			(18) APPROPRIATION TRANSFER REQUIRED? <input type="checkbox"/> Submitted <input type="checkbox"/> 4/5th's Vote Required <input checked="" type="checkbox"/> N/A		

Reference: 06JAN24-H-1

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(19) ADMINISTRATIVE OFFICE REVIEW	OK Leslie Brown	C-1 (1-24-06)
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SAN LUIS OBISPO COUNTY DEPARTMENT OF PUBLIC WORKS

Noel King, Director

County Government Center, Room 207 • San Luis Obispo CA 93408 • (805) 781-5252

Fax (805) 781-1229

email address: pwd@co.slo.ca.us

TO: Board of Supervisors

FROM: Richard Marshall, Development Services Engineer *RMM*

VIA: Glen L. Priddy, Deputy Director of Public Works - Engineering Services *GP*

DATE: January 24, 2006

SUBJECT: Hearing to Consider an Appeal of the South County Road Improvement Fee by D. West

Recommendation

It is our recommendation that your Honorable Board deny the appeal.

Discussion

Jens and Barbara Pohl have applied for a building permit (PMT 2005-01161) to convert a guesthouse to a secondary residence on Highland Hill Road in the South County Road Fee area. The fee associated with this permit application is \$6,702. Their agent, Don West, has filed an appeal of the fee on their behalf. His appeal letter is attached as Exhibit A.

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 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 the Board of Supervisors on September 21, 2004, and the fees recommended in that update became effective November 20, 2004. Dr. and Mrs. Pohl filed their permit application on October 6, 2005 and the Public Works Department sent a notice of the Road Improvement Fee by mail on October 18.

All new developments in the area will contribute to the need for road and other transportation improvements the study recommends. The improvement package 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, as traffic volumes increase with additional development. The

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road improvement fee was designed to apportion the cost of the needed improvements to all new development, based on the amount of traffic generated.

Evaluation of appeal issues. In the letter attached as Exhibit A, Mr. West raises several issues, which are paraphrased below, along with staff response:

Appeal point: The permit is for modification of a structure which has existed over thirty years.

Response: The structure currently comprises a “guesthouse,” which is defined by the Land Use Ordinance as “sleeping facilities detached from a principal residence, which may include a bathroom and other living space, but not kitchen facilities.” The proposed modification will include the installation of a kitchen, along with other modifications. At this point, the structure becomes considered a separate dwelling unit, for purposes of implementing the Road Improvement Fee. The net increase of one dwelling unit is subject to the fee that is in effect at the time of the permit application.

Appeal point: The agent raises a concern that the fee was triggered by the size of the structure.

Response: For residential uses, the fee is based on the number of dwelling units, and is not based on the size of the structure.

Appeal point: The owners are planning to live in the structure while conducting a major remodel of the primary residence. Following that, this structure will only be occupied by occasional guests.

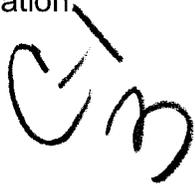
Response: Although the applicants’ intent is that the structure be occupied only by occasional guests, if it is a full dwelling unit, it can at any time during its existence be rented to another occupant or family. This construction permit is the only time to charge the applicable Road Improvement Fee.

Prior Board History of Fee Appeals. Over the 16+ years of the Road Improvement Fee for South County, over \$11.1 million has been collected through payment of this fee with new development. During that time in the South County area, eighteen appeals have been considered by your Board. Thirteen of these were for single-family residences; twelve were denied and an adjustment was granted to the other due to concerns about timely notification to the applicant about a fee increase. Four commercial projects and one church facility received fee adjustments in various amounts.

Countywide, appeals of the fee for residential construction have been heard by your Board twenty-one times, and the above-mentioned adjustment in the South County area and one other adjustment in the Templeton area were granted.

Other Agency Involvement/Impact

The building permit was 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 South County Circulation Study apportions over \$65 million to the payment of road improvement fees by new development. It also allocates approximately \$58 million to other sources, for some of which the County will be responsible to seek other sources of funding. Granting this appeal and adjusting the road improvement fee will result in a small increase in the County's share. Granting this appeal may also have the effect of encouraging other people to seek this same adjustment. This could result in substantial loss of road improvement fee revenue in the future.

Results

The result of the recommended action before your Board today will be a determination that the amount charged to the appellant was appropriate, and consistent with applicable legal requirements and Board Policy, and then no refund would be made.

Attachments: Exhibit A. Appeal letter from Don West

c: Jens and Barbara Pohl, 650 Highland Hills Rd., Nipomo CA 93444

File: CF 830.110 Transportation Planning - South County

Reference: 06JAN24-H-1

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Exhibit A

**Don West
Architect**

28 October 2005

San Luis Obispo County Board of Supervisors
Room D-430, County Government Center
San Luis Obispo, California 93408

Attention: Clerk of the Board

Subject: Road Improvement Fee

FILED

NOV 01 2005

JULIE L. RODEWALD COUNTY CLERK
CM Christensen
DEPUTY CLERK

I am the authorized agent of Jens & Barbara Pohl who reside in Nipomo at 650 Highland Hills Drive. We have applied for a building permit (PMT2005-01161) to modify their existing guest house. Subsequently Dr. Pohl received the enclosed notification of assessment for a road improvement fee of \$6,702.

We understand and support the need for **new development** to share in the cost of road improvements. However, we contend that this project is not a new development and should not be subject to this assessment.

The current improvements on the property include an existing residence of approximately 2,200 square feet and a guest/storage structure. The secondary building is a two story structure enclosing 400 square feet of storage and shop space, 800 square feet of office & guest quarters, carport and deck area

The permit application seeks to modify the existing structure to contain 400 square feet of storage/shop space, 440 square of garage and 840 square feet of quest quarters. Please note that the occupied (guest) space of the improved structure is similar to the existing.

We suggest that this improvement does not constitute "New Development".

We believe the confusion stems from the fact that the current land use documents limit the size of a Guest House to 600 square feet. Since this existing structure exceeds that limit the improvement was classified as a "Secondary Residence" during the submittal process. This limit was clearly established after the existing improvements were permitted and constructed over thirty years ago. We submit that the improvements to the existing structure are minor in nature and do not alter the function or occupancy load nor will it impact the road system.

The owners are planning a major remodeling to the primary residence and are looking to reside in the improved "guest quarters" during the construction period. Upon completion of construction they will reoccupy the main house and the guest quarters will only be occupied by occasional guests.

We hereby respectfully request waiver of the road improvement fee.

Thank You,



Don West AIA

