

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

(1) DEPARTMENT Public Works		(2) MEETING DATE February 7, 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 L. Chavez					
(5) SUMMARY OF REQUEST Luis Chavez has applied for a building permit (PMT 2005-01312) to construct a single family residence on Cherry Blossom Place in the South County Road Fee area. The fee associated with this permit application is \$6,835. Mr. Chavez has filed an appeal of the fee. The 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: 06FEB7-H-1

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(19) ADMINISTRATIVE OFFICE REVIEW	<p><i>OK Leslie Brown</i></p> <p><i>C-3 2/7/06</i></p>
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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 *RM*

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

DATE: February 7, 2006

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

Recommendation

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

Discussion

Luis Chavez has applied for a building permit (PMT 2005-01312) to construct a single family residence on Cherry Blossom Place in the South County Road Fee area. The fee associated with this permit application is \$6,835. Mr. Chavez has filed an appeal of the fee. The 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. At the time this application was processed, the most recent update of the Study was adopted by the Board of Supervisors on September 21, 2004. The fees recommended in that update became effective November 20, 2004. Mr. Chavez filed the permit application on October 18, 2005 and the Public Works Department sent a notice of the Road Improvement Fee by mail on October 24.

Since the time the application was processed, the most recent update of the Study was adopted by the Board of Supervisors on December 13, 2005. The fees recommended in that update will become effective February 14, 2006 and will apply to any permits issued on or after the effective

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date. Notices will be sent to applicants with building permit applications in process. The new fee associated with this permit application will be \$8,557 effective February 14, 2006.

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 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. Chavez raises several issues, which are paraphrased below, along with staff response:

Appeal point: This is the second improvement on our property and the main road has had no improvement.

Response: This application is for a new residential development and is proposed to be the third primary residence on the property. As stated above, all new developments that contribute to the need for road and transportation improvements are subject to the Road Improvement Fees. The Road Improvement Fees are being utilized to fund improvements to the major arterial and collector streets which serve the entire community, not individual local streets which provide direct access to property. Improvements in this area already constructed with these fees include Tefft Street and Orchard Avenue, among others. Future improvements will include improvements to the Highway 101 interchange at Tefft Street, the extension of Mary Avenue, and the extension of Willow Road across Highway 101 with a new interchange and connection to the existing Frontage Road.

Appeal point: The applicant would like the fee waived so they can improve Cherry Blossom themselves.

Response: As stated in the first appeal point response, the Road Improvement Fees are used to fund improvements to the major arterial and collector streets which serve the entire community, not individual local streets. Cherry Blossom Place is not a County road. Improvements would have to be done by the owners at their expense.

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, twenty appeals have been considered by your Board. Fifteen of these were for single-family residences; thirteen were denied, one was waived, 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-three times, and one adjustment and one waiver in the South County area and one adjustment and one waiver in the Templeton area were granted.

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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 Luis Chavez

c: Luis Chavez, 1141 Tama Lane, Santa Maria, CA 93455

File: CF 830.110 Transportation Planning - South County

Reference: 06FEB7-H-1

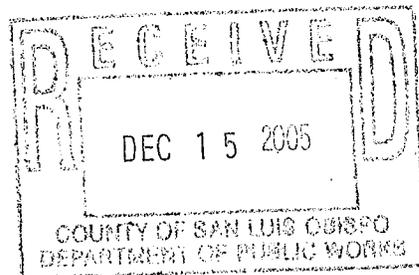
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Exhibit A

REU

Luis Chavez
1141 Tama Lane
Santa Maria, Ca. 93455
805-928-1559



December 1, 2005

Clerk of the Board of Supervisors
San Luis Obispo County
Department of Public Works
County Government Center Room 207
San Luis Obispo, Ca. 93408

FILED

DEC 16 2005

JULIE L. RODEWALD COUNTY CLERK
C. Christensen
DEPUTY CLERK

Re: Building Permit
PMT 2005-01312

We have received a notice requesting a County Road Improvement fee prior to issuance of our building permit. We would like to request an appeal on the Road Improvement Fee, this is the second improvement on our property and the main road has had no improvement by the county our first improvement was about 4 years ago and we thought the county would improve the road. We would want the fee waived so we can improve the Cherry Blossom Lane, ourselves we can apply the fee directly to that road which our property sits on. We feel that it will be an improvement well needed.

Please advice and thank you for your cooperation in this matter, if you have any questions, please feel free to call me or Lorena Abeytia at 805-928-1559.

Sincerely,

Luis Chavez
Luis Chavez

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