

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

(1) DEPARTMENT Public Works	(2) MEETING DATE August 8, 2006	(3) CONTACT/PHONE Richard Marshall, Development Services Engineer (805) 781-4469	
(4) SUBJECT Public Hearing to Consider an Appeal of the South County Road Improvement Fee by William and Deah Rudd			
(5) SUMMARY OF REQUEST William and Deah Rudd have applied for a building permit (PMT 2005-02749) to construct a single family residence (secondary) on Mesa View Drive in the South County Road Fee area. The fee associated with this permit application is \$8,391. Mr. and Mrs. Rudd have filed an appeal of the fee. The appeal letter is attached as Exhibit A.			
(6) RECOMMENDED ACTION It is our recommendation that you 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"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A
(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) <input type="checkbox"/> 1st, <input type="checkbox"/> 2nd, <input type="checkbox"/> 3rd, <input checked="" type="checkbox"/> 4th, <input type="checkbox"/> 5th, <input type="checkbox"/> All	(14) LOCATION MAP <input type="checkbox"/> Attached <input checked="" type="checkbox"/> N/A	(15) Maddy Act Appointments Signed-off by Clerk of the Board <input checked="" type="checkbox"/> N/A	
(16) AGENDA PLACEMENT <input type="checkbox"/> Consent <input checked="" type="checkbox"/> Hearing (Time Est. 20 minutes) <input type="checkbox"/> Presentation <input type="checkbox"/> Board Business (Time Est. _____)	(17) 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		
(18) NEED EXTRA EXECUTED COPIES? <input type="checkbox"/> Number: _____ <input type="checkbox"/> Attached <input checked="" type="checkbox"/> N/A	(19) BUDGET ADJUSTMENT REQUIRED? <input type="checkbox"/> Submitted <input type="checkbox"/> 4/5th's Vote Required <input checked="" type="checkbox"/> N/A		
(20) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A	(21) W-9 <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	(22) Agenda Item History <input checked="" type="checkbox"/> N/A	
(23) ADMINISTRATIVE OFFICE REVIEW  <p align="right" style="font-size: 1.2em;"><i>OK Leslie Am</i></p>			

Reference: 06AUG08-H-1

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# SAN LUIS OBISPO COUNTY DEPARTMENT OF PUBLIC WORKS

Noel King, Director

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

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Fax (805) 781-1229

email address: [pwd@co.slo.ca.us](mailto:pwd@co.slo.ca.us)

**TO:** Board of Supervisors

**FROM:** Richard Marshall, Development Services Engineer *REM*

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

**DATE:** August 8, 2006

**SUBJECT:** Hearing to Consider an Appeal of the South County Road Improvement Fee by William and Deah Rudd

## Recommendation

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

## Discussion

William and Deah Rudd have applied for a building permit (PMT 2005-02749) to construct a single family residence (secondary) on Mesa View Drive in the South County Road Fee area. The fee associated with this permit application is \$8,391. Mr. and Mrs. Rudd have 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. Mr. Rudd filed the permit application on March 17, 2006. The most recent update of the Study was adopted by the Board of Supervisors on December 13, 2005 and the fees recommended in that update became effective February 14, 2006. The Public Works Department sent a notice of the Road Improvement Fee by mail on March 22, 2006. The fee was paid May 5, 2006 and the permit was issued May 19, 2006. The appeal was filed June 19, 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

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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. and Mrs. Rudd raise several issues, which are paraphrased below, along with staff response:

*Appeal point: We feel we are being asked to pay for the effects of Developers such as the Woodlands.*

Response: This application is for a new secondary dwelling. The permit involves converting an existing garage and a guest house to the second primary dwelling. As stated above, all new developments that contribute to the need for road and transportation improvements are subject to the Road Improvement Fees. This includes single family development as well as larger multiple lot subdivisions. The Road Improvement Fees are being utilized to fund improvements to the major arterial and collector streets which serve the entire community. Improvements in this area already constructed with these fees include Los Berros Road at El Campo Road. Future improvements include Halcyon Road re-alignment at Hwy 1 among others.

*Appeal point: There is no new construction. The garage and guest house were built before the Road Fee implementation.*

Response: As stated above, the permit subject to this appeal is for a secondary dwelling. The South County Study has established the reasonable relationship, or nexus, required for the imposition of fees within its study area. The previously constructed garage and guest house do not fall under the criteria to be subject to the road improvement fee.

*Appeal point: There is no new traffic. The residence will be occupied by family members and will not result in additional impact to the roads.*

Response: The Road Improvement Fees spread the cost of needed improvements over all the new development which is contributing to the need for it. Although there may be the intent that the secondary dwelling be kept within the applicant's family, the unit may be rented to another family at any time during its existence, thus adding traffic to the roadway system.

*Appeal point: Our property is not located on a County road.*

Response: The Road Improvement Fee is used for major improvements that are expected to be needed to the major arterial and collector roads throughout the community.

*Appeal point: The applicant raises concerns about the family's financial situation.*

Response: The Road Improvement Fee ordinance enumerates the criteria on which a waiver or adjustment of the fee may be based, as noted above. 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 waiver or adjustment of the fee.

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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 William and Deah Rudd

c: Mr. and Mrs. Rudd, 1189 Mesa View Drive, Arroyo Grande, CA 93420

Reference: 06AUG08-H-1

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June 19, 2006

**FILED**

**JUN 19 2006**

**JULIE L. RODEWALD COUNTY CLERK**  
*CM Christensen*  
**DEPUTY CLERK**

**TO THE CLERK OF THE BOARD  
BOARD OF SUPERVISORS  
SAN LUIS OBISPO COUNTY**

**APPEAL ROAD FEE SOUTH COUNTY IMPROVEMENT AREA 2 - FEE: \$8,391**

We are appealing the assessment of the sum of \$8,391 and requesting the fee be waived, or in the alternative modified, for building permit application (PMT2005-02749) 1189 Mesa View Dr., Arroyo Grande.

With this permit we are adding two walls to the interior of a portion (288 square feet) of the detached garage that was built in 1970 to form two bedrooms and one bathroom and converting the attached guest house (480 square feet) to a secondary dwelling for our son, his fiancé and their toddler who have been living in our house.

There is an absence of any reasonable relationship or nexus between the traffic-generating impacts of this new development and either the amount of the fee imposed or the type of road facilities or improvement to be financed by the fee on the following grounds:

1. The Road Improvement Fee was implemented to allow the County to capture revenue to provide for the cost of infra structure necessitated by the affects of developers such as the Woodlands as they make enormous profits on their developments and then leave the County "holding the bag" for the effects on the roads of the massive amounts of increased traffic. This scenario does not "fit with our project." We are not a developer, just a local family providing for their family members who have lived on this property for more than thirty years. We feel we are being asked to pay for the sins of the developers.
2. There are no **new** drivers (or increased foot traffic) at this residence. Our son is the only driver and he will be moving from our home which our family has owned since 1970 (and will never sell), twenty feet away to the aforementioned secondary dwelling.
3. There is no **new** construction. The garage was built in 1970 and the guest house was built prior to the implementation of the Road Improvement fee statute.
4. All the construction on this property was built prior to the Road Improvement fee statute.
5. The project is located on the very perimeter of the Road Improvement Area on State Highway One between Callendar Road and Tienda. It is not located on a County Road.
6. We very rarely go south on Hwy One and almost never go to Nipomo. We do not add to the traffic in the South Area Improvement district 2.

The fee is usurious, burdensome and oppressive and a financial burden and hardship on property owners and does not fit with our project. We are requesting the fee be waived.

Dated: June 19, 2006

*William A. Rudd Jr.*  
\_\_\_\_\_  
William A. Rudd Jr.

Dated: June 19, 2006

*Deah V. Rudd*  
\_\_\_\_\_  
Deah V. Rudd

1189 Mesa View Dr.  
Arroyo Grande, CA 93420  
(805) 489-0208

EXHIBIT A

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8/3/2006  
of me

June 19, 2006

**FILED**

**JUN 19 2006**

**JULIE L. RODEWALD COUNTY CLERK**  
*CmChristensen*  
**DEPUTY CLERK**

TO THE CLERK OF THE BOARD  
BOARD OF SUPERVISORS  
SAN LUIS OBISPO COUNTY

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Dated: June 19, 2006

*William A. Rudd Jr.*  
William A. Rudd Jr.

Dated: June 19, 2006

*Deah V. Rudd*  
Deah V. Rudd

1189 Mesa View Dr.  
Arroyo Grande, CA 93420  
(805) 489-0208

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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](mailto:pwd@co.slo.ca.us)

Rudd William A Jr  
1189 Mesa View Dr  
Arroyo Grande CA 93420-6542

## CERTIFIED MAIL RETURN RECEIPT REQUESTED

Building Permit Applicant:

We are writing to notify you that your building permit application (PMT2005-02749) is subject to the County's Road Improvement Fee for the South County Area 2. These fees are to be collected from all new development in your community to help fund improvements to the major streets and intersections. You will be required to pay the fee prior to issuance of your building permit.

Road Fee Improvement Area: South County Area 2  
Current Fee Amount \*: \$8391

\* The fees are required by State law to be reviewed and updated annually. During these updates, they most commonly increase, to reflect the rising cost of roadway construction. Although the fee is not due any sooner than you seek to pick up your permit, you may wish to consider paying the fee earlier, to avoid a possible increase from the amount shown above. The fee only needs to be paid one time, and if it is increased after that, you will not be affected.

The ordinance provides a mechanism for appealing the Road Improvement Fee, to request that the fee either be modified or waived. If you wish to protest the fee or seek to have it waived or modified, you must submit a written request to the Clerk of the Board of Supervisors. That request must be received within 90 days of the date of this letter.

If you have any questions about the Road Improvement Fees, please contact the Development Services Division of the Department of Public Works, by email at [info@slocountydevserv.org](mailto:info@slocountydevserv.org) or by phone at (805) 781-5252, or toll-free (800) 834-4561.

Sincerely,

  
Scott Duffield  
Development Services  
File: Road Fee Letters (SD)

March 22, 2006

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# Office of the County Clerk-Recorder

COUNTY OF SAN LUIS OBISPO ♦ 1055 MONTEREY ST. Rm D120 ♦ SAN LUIS OBISPO, CA 93408 ♦ (805) 781-5080/5088



JULIE L. RODEWALD  
COUNTY CLERK RECORDER

VICKI SHELBY – Chief Deputy  
DIANE GRATON – Chief Deputy

TOMMY GONG  
ASSISTANT COUNTY CLERK RECORDER

June 20, 2006

William and Deah Rudd  
1189 Mesa View Drive  
Arroyo Grande CA 93420

RE: Appeal of Road Improvement Fee for South County Area 2, District 4

Dear Mr. & Mrs. Rudd:

We are in receipt of your appeal for fee adjustment for road improvement fees, which was filed in our office on June 19, 2006.

Pursuant to San Luis Obispo County Code Section 13.01.050 (copy enclosed), the Clerk of the Board of Supervisors is directed to set your matter for a public hearing before the County Board of Supervisors and to have it scheduled no later than sixty days after the filing of the appeal.

This letter is to formally notify you that your hearing is scheduled for Tuesday, August 8, 2006 at 9:00 o'clock a.m.. The hearing will be in the New Board of Supervisors Chambers, County Government Center, 1055 Monterey St., San Luis Obispo, California.

Sincerely,

C.M. Christensen,  
Deputy Clerk of the Board

Enclosures

cc: Public Works - R. Marshall  
Planning

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