



Legislation Text

File #: 19-0278, **Version:** 1

HEARING - Department of Transportation recommending the Board conduct a Hearing to adopt and authorize the Chair to sign Resolution of Necessity **051-2019** related to the Country Club Drive Alignment - Bass Lake Road to Tierra de Dios Drive Project CIP 71360 / 36105010 Project (Project) authorizing the commencement of eminent domain proceedings to acquire interests in portions of the real property identified as Assessor's Parcel Numbers 119-080-12 and -23 owned by M.H. Mohanna, a married man as his sole and separate property, and finding that:

- 1) The public interest and necessity require the proposed Project;
- 2) The Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;
- 3) The Property sought to be acquired is necessary for the Project;
- 4) The Offer required by Section 7267.2 of the Government Code has been made to the owner(s) of record, unless the owner(s) could not be located with reasonable diligence; and
- 5) Authorizing outside Counsel, Meyers-Nave, with cooperation as needed from County Counsel, to proceed with the necessary steps to acquire the required property.

Note: a 4/5 vote of the Board is required to adopt the Resolution of Necessity. This Resolution of Necessity and the following eminent domain action is required because negotiations with the property owner are at an impasse. Also, the compensation to be paid for the property is not the subject of this hearing. (Est. Time: 1 Hr.)

FUNDING: This Project is funded by Developer Advanced TIM fees with future reimbursement/credit to Developer.

DISCUSSION / BACKGROUND

The Board should open the hearing and take testimony on the aforementioned matters in consideration of adoption of the attached Resolution of Necessity. It should consider all testimony, information, and discussion, exercise its discretion and independent judgment, and if appropriate make the above findings, and adopt the Resolution of Necessity.

A conceptual realignment of Country Club Drive from Bass Lake Road to Tierra De Dios (including signalization of the intersection at Bass Lake Road) has been part of the Bass Lake Road Study Environmental Impact Report since 1992 and is consistent with the Bass Lake Hills Specific Plan (BLHSP), the County General Plan, and the County Capital Improvement Program. Country Club Drive is currently located along U.S. Highway 50, and intersects with Bass Lake Road approximately 400 feet north of the freeway. The Project will move the current Country Club Drive/Bass Lake Road intersection approximately 1,300 feet to the north.

The Subject Property

The proposed acquisitions from the unimproved 20.03 and 19.85 acre real properties identified as Assessor's Parcel Numbers 119-080-12 and -23, respectively, consist of 47,959.56 square feet (SF) in Fee Title and 12,719.52 SF of Temporary Construction Easement over an 18 month period on APN 119-080-12; 107,375.4 SF in Fee Title, 18,369.25 SF of Permanent Public Service Easement, and

41,643.36 SF of Temporary Construction Easement over an 18 month period on APN 119-080-23; as more particularly described in Exhibits 1-A, 1-B, 2-A, 2-B, 3-A, 3-B, 4-A, 4-B, 5-A, and 5-B. As identified in a Title Insurance Litigation Guarantee, ownership of the Subject Property is vested in M.H. Mohanna, a married man, as his sole and separate property.

Based on an appraisal by an independent real estate appraiser, staff established the amount that is believed to be just compensation for the Subject Property interests. The First Written Offer in the amount of the approved appraisal was presented to Mr. Mohanna on October 18, 2018. After meeting with Mr. Mohanna two (2) more times and communicating through numerous emails, it has been determined that negotiations to obtain the necessary right of way have failed and that negotiations are at an impasse.

On February 21, 2019, in coordination with County Counsel and as required by law, staff sent Mr. Mohanna a Notice of Intent to Adopt (the) Resolution of Necessity. This letter provides notice to property owners of their right to object and appear before the Board.

In order to proceed with the Country Club Drive Alignment - Bass Lake Road to Tierra de Dios Drive Project CIP 71360 / 36105010 Project (Project), the County must move forward with an eminent domain action to acquire clear title to the Subject Property.

Environmental Review

The requirements of the California Environmental Quality Act (CEQA) have been met. On March 17, 1992 (Item 34), the Board of Supervisors certified the Bass Lake Road Study Area Program and approved the subsequent Bass Lake Hills Specific Plan Environmental Impact Report Addendum on November 7, 1995 (Item 82). On May 24, 2005, the Board certified the Hawk View Mitigated Negative Declaration (Item 82), the Bell Ranch Mitigated Negative Declaration (Item 83), and the Bell Woods Mitigated Negative Declaration (Item 84). ~~The Planning Commission adopted the Mitigation Monitoring and Reporting Plan on April 28, 2016 (Item 4).~~

In April 2016, the County adopted the Bass Lake Hills Specific Plan Conditions of Approval Amendments Addendum and Initial Study of Environmental Significance ("2016 Addendum"). The 2016 Addendum identified and assessed the anticipated environmental impacts of the revisions to the aforementioned residential subdivision projects, including related off-site infrastructure such as the Project. The 2016 Addendum examined the roadways within a broader corridor called the Area of Potential Effect (APE) and the proposed current alignment of the Project is well within the APE studied in the 2016 Addendum. Additionally, there have been no significant changes in the project or the surrounding circumstances that would require major revisions to the 2016 Addendum, and no new information that was unavailable at the time of the Addendum that would require revisions pursuant to Public Resources Code Section 21166 or CEQA Guideline Section 15162.

All the aforementioned environmental documents are incorporated herein by reference and are on file at the Board Clerk's office for this agenda item. The engineering drawings and construction documents for the Project are also available to the Board for its review.

Statutory Authorization For Exercise Of Eminent Domain

The acquisition of private property for a public right of way has long been regarded as a "public use" for which the use of eminent domain is justified. The County is vested with the power of eminent

domain by virtue of Article 1, Section 19 of the Constitution of the State of California, Government Code section 25350.5 which authorizes the County Board of Supervisors to exercise the powers of eminent domain necessary to carry out any of the powers and functions of the County, Streets and Highways Code section 943 which authorizes the County Board of Supervisors to acquire any property necessary for the use and purposes of county highways, and by virtue of California Code of Civil Procedure sections 1240.050, 1240.110, 1240.120, 1240.150, 1240.410, 1240.510 and 1240.610.

The Subject Property is being acquired for a compatible public use under Code of Civil Procedure sections 1240.510, in that the County's use of the Subject Property will not interfere with or impair the continued public use as it now exists or may reasonably be expected to exist in the future, and alternatively for a more necessary public use under Code of Civil Procedure section 1240.610 in that the County's use of the Subject Property is a more necessary public use than the use to which the property is appropriated.

Written notice of this proceeding has been sent to the owner's address as listed on the assessor's tax roll pursuant to Code of Civil Procedure Section 1245.235.

Adoption of the Resolution of Necessity and Findings:

By adopting the proposed Resolution of Necessity, the Board of Supervisors will authorize the filing of an eminent domain action to acquire the parcel as aforementioned. Before adopting the Resolution of Necessity, the Board of Supervisors must make the following findings based on the evidence presented at the hearing:

1. The public interest and necessity require the proposed Project.

The Project will complete a connector road between Bass Lake Road and Tierra de Dios Drive (aka City Lights Drive, aka Country Club Drive), improving traffic circulation consistent with the County's General Plan. The realignment of Country Club Drive is a key circulation element of the BLHSP, providing access and circulation within the Specific Plan area. The alignment of Country Club Drive was considered in the early phases of the Project and its impacts were evaluated in the 1992 Environmental Impact Report and all subsequent Addenda and Amendments. The Country Club Drive realignment is necessary to mitigate existing and future level of service, traffic circulation, and safety deficiencies. The Project is necessary to provide access infrastructure for the planned Hawk View, Bell Woods, and Bell Ranch residential subdivisions. The Project will improve traffic circulation within Western El Dorado County by providing for improved and additional connectivity between Tierra de Dios Drive to the west and Bass Lake Road (which connects to U.S. Highway 50) to the south. The Project will improve vehicle and pedestrian safety and includes conversion of the existing segment of Country Club Drive into a Class I bike path/multi-use trail, which will be eight feet wide.

On April 19, 2016 (Item 39, Attachment 16K), the intersection of Country Club Drive and Bass Lake Road was identified as a top priority intersection and is included in the County 2017 Capital Improvement Plan (Project 71360). The intersection has a high volume of morning traffic trying to make a left turn from Country Club Drive onto Bass Lake Road. High volume southbound traffic on Bass Lake Road makes left turns from Country Club Drive difficult, resulting in long waits in traffic. The existing Bass Lake Road/Country Club Drive intersection operates at Level of Service F during the a.m. and p.m. peak hours. The expected addition of traffic from the Hawk View, Bell Woods, and

Bell Ranch residential subdivisions will significantly worsen congestion at the existing intersection. These are significant deficiencies. The construction of the Project and related improvements, including signalization at the intersection, will alleviate current and future congestion.

2. The proposed project is planned or located in the manner that will be the most compatible with the greatest public good and the least private injury.

This Project will not displace or require the relocation of any private property owners. The location of the proposed Project will result in a maximum benefit to the Project, at the most reasonable cost, and with the least interference as possible to private property rights.

The proposed realignment is a result of several factors that were evaluated prior to plan preparation including prior contemplated alignment expectations, field walk findings, topography, environmental constraints such as wetlands, underlying property access considerations, design speed, construction costs (especially significant cuts and associated blasting potential), and roadway curvature preferences.

The County Club Drive realignment is consistent with the base Environmental Document in that it maintains grades of less than 12%, avoids sensitive environmental resources, and meets circulation criteria set forth in the BLHSP. As the Project has moved through the Final Design Phase, the design engineer evaluated the alignment and profile of the roadway with the specific plan, site topography, and geometric design standards. The design engineer provided a letter dated January 19, 2018 (Attachment E to this Item) detailing the design of the roadway relative to the original specific plan and an alternative proposal. The design engineer concluded that the final design provided the most cost effective and geometrically superior configuration. Transportation staff evaluated the final design and concurs the final design is generally consistent with the BLHSP, meets the needs and requirements of the Specific Plan, and constitutes the most efficient and cost effective configuration of the roadway.

An alternative alignment along City Lights Drive (City Lights Drive Alignment) was considered and rejected for a number of reasons. While City Lights Drive Alignment is slightly more direct, it would require additional slope easements and the net right of way and easement area needed for the Project from the Subject Property would be substantially similar. In addition, the City Lights Drive Alignment would require substantially more excavation (as much as 30 feet in depth and 55,000 cubic yards) at a substantial additional cost (staff estimates in excess of \$1 million) and have similar right of way impacts. Attachment E to this Item shows a comparison of the final design and City Lights Drive Alignment. Furthermore, the City Lights Drive Alignment would require redesign/relocation of the roadway, traffic signal, park and ride facility, other planned roads and improvements, and reconsideration of right of way that has already been acquired on several properties. Additional CEQA review will be required, since the City Lights Drive Alignment is outside of the Area of Potential Effect studied in the approved Environmental Impact Report Addendum. This will result in significant delays and increased costs for this necessary infrastructure road project.

In consideration of the BLHSP requirements, geometric alignment, environmental impacts, and costs and impacts on right of way needed, staff has concluded that the Project is most compatible with the greatest public good and the least private injury.

3. The Property interests described in the Resolution of Necessity are necessary for the

Project.

The Subject Property is required for the construction, maintenance, and design of the Project along the proposed realignment.

4. The Offer required by Section 7267.2 of the Government Code has been made to the owner (s) of record, unless the owner(s) could not be located with reasonable diligence.

An offer was presented and acknowledged by the property owner.

PRIOR BOARD ACTION

Please see Discussion/Background

ALTERNATIVES

If eminent domain proceedings do not commence to acquire the necessary right of way for the proposed Project, the Project will not proceed as planned.

OTHER DEPARTMENT/AGENCY INVOLVEMENT

Transportation has worked closely with both County Counsel and outside Counsel, Meyers-Nave, on this Resolution of Necessity.

CAO RECOMMENDATION

It is recommended that the Board approve this item.

FINANCIAL IMPACT

This Project is funded by Developer Advanced TIM fees with future reimbursement/credit to Developer.

CLERK OF THE BOARD FOLLOW UP ACTIONS

- 1) The Clerk of the Board will obtain the Chair's signature on the Resolution of Necessity.
- 2) The Clerk of the Board will forward a copy of the Resolution of Necessity to Transportation, attention Tanna Reynoso, for further processing.

STRATEGIC PLAN COMPONENT

Infrastructure

CONTACT

Rafael Martinez, Director
Department of Transportation