



## Legislation Text

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**File #:** 21-0472, **Version:** 1

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Supervisor Hidahl recommending the Board consider an agreement to permit construction of a fence within the public right of way of Green Valley Road.

**FUNDING:** N/A

**DISCUSSION / BACKGROUND**

Section 12.08.090 - Obstructions of the County Municipal Ordinances allows the Director of the Department of Transportation (Transportation) to permit construction of features/improvements within the public right of way. There are no specific guidelines as to what these may consist of, but Transportation's "practice" has been:

- a) That the obstruction must not present a health and safety issue to the traveling public,
- b) They may not restrict the traveled way,
- c) They should not be a visual obstruction, detraction or distraction,
- d) The County will not maintain them

As Transportation staff encounter improvements being constructed within the County right of way, staff works with property owners to either move them out of the right of way or minimize the impacts. Transportation is aware that there are a whole series of encroachments such as Poor Reds, Camino Power and other buildings in older established communities such as Diamond Springs, El Dorado, Georgetown, Pollock Pines, that encroach into the County right of way and we have worked with the property owners to reduce these as much as possible, but have also executed agreements where the encroachment is acknowledged and the property owner holds the County harmless for any issues that might arise from the encroachment.

Mr. Basiri has requested to construct a wooden fence along a portion of Green Valley Road to reduce the perceived noise of vehicles traveling along Green Valley Road. His home is located approximately 200 feet from the roadway, but due to the creek/gulley between the road and his home, his home and roadway are located at approximately the same elevation. The option of installing a fence on his property that would shield his deck and outdoor space was explored, but it would entail a fence 20 plus feet tall. Mr. Basiri retained the RCH Group to conduct a noise study, (see Attachment C titled Noise Technical Report dated September 2017) at his residence and they determined that the noise levels could be reduced with construction of a sound berm alongside Green Valley Road. Due to the challenges and cost of constructing the berm, Mr. Basiri changed his request to a wooden fence.

This section of Green Valley Road crosses Allegheny Creek and there is a 60-inch culvert that conveys the creek under Green Valley Road. Transportation has conditioned the applicant to construct the fence to install removable sections over the culvert so they can be removed if the need arises to access the creek or culvert with heavy equipment. This is expected to provide limited

access and County staff will not be able to observe any developing conditions along the hillside or creek such as slope failures or blockages in the creek. The fence will need to be designed to facilitate access at each end of the hillside to permit access to the creek but this may reduce the effectiveness of the fence as a sound barrier.

Construction of the fence will restrict the County's ability to perform maintenance activities of the hillside trees and vegetation and Transportation is requesting that Mr. Basiri be required to maintain the hillside to meet vegetation fire safe standards. The agreement requires that Mr. Basiri be responsible for maintenance of the fence, which would include removal of any graffiti and repairs of any portions damaged. Transportation would prefer that the fence retain a natural wood finish to fit with the surrounding natural wooded landscape.

### **ALTERNATIVES**

- a) The Board can approve the agreement as prepared;
- b) The Board can direct the applicant to propose an alternative "structure" for the Board's consideration;
- c) The Board can continue the item and direct Transportation to prepare guidelines as to what types of encroachments are appropriate within the public right of way and then bring the item back for the Board's consideration
- d) The Board could decide that construction of this fence, or any kind of structure, is not prudent and should not be permitted.

### **PRIOR BOARD ACTION**

N/A

### **OTHER DEPARTMENT / AGENCY INVOLVEMENT**

County Counsel

### **FINANCIAL IMPACT**

There is no financial impact or change to Net County Cost associated with this item.

### **CLERK OF THE BOARD FOLLOW UP ACTIONS**

- 1) If approved, the Clerk will obtain the Chair's signature on the Encroachment Agreement.
- 2) If signed, the Clerk will forward one fully executed Encroachment Agreement to Transportation, attention Julie Millard, for final processing.

### **STRATEGIC PLAN COMPONENT**

Infrastructure, Good Governance