

State of California
Business, Transportation and Housing Agency
Department of Transportation

HIGHWAY RIGHT OF WAY MATTERS
Appearance
Action Item

Prepared By:
Brice Paris
Program Manager
Right of Way
(916) 654-5075

CTC Meeting: March 28-29, 2001

Agenda Item: 2.4 a

Original Signed By _____

W. J. EVANS, Deputy Director

Finance

March 1, 2001

RESOLUTION OF NECESSITY

The Department of Transportation recommends the California Transportation Commission adopt Resolution of Necessity C-18224. The summary below identifies the location of and designates the nature of the property rights covered by the Resolution of Necessity. In accordance with statutory requirements, the owners have been advised that the Department of Transportation is requesting a resolution at this time. Adoption of Resolution of Necessity C-18224 will assist the Department in the continuation of the orderly sequence of events required to meet construction schedules.

C-18224 Picker and Picker, Trustees, et al.

04-Ala-238-KP5.2 - Parcel 1A, 1B (55937) - EA 233652 (conventional highway) Authorizes condemnation of land in fee for a State highway, a temporary easement for Highway construction, located in the city of Fremont at 38395 Mission Boulevard.

SUMMARY OF ISSUES

The public interest and necessity require this project.

The property owners do not contest the need for the Project.

The project is planned to provide the greatest public good with the least private injury.

The property owners contend the State has not adequately considered the impacts of the spot widening project on individual properties.

The Department contends adequate consideration was given to the impacts of the project on individual properties. Alternatives were studied to minimize the severity and number of impacted properties

The property owners contend their access and ability to develop the property will be diminished in the after condition, as the property will not meet the minimum requirement for distance from an intersection for a driveway.

No driveways currently exist on the property. The acquisition does not preclude the placement of a driveway in the future.

The property owners contend the utility of the property in the after condition will be diminished.

The acquisition does not restrict the ability for future commercial development of the property.

The property is required for the proposed project.

The property owners do not contest the need for the property.

An offer to purchase the property, in compliance with Government Code Section 7267.2, has been made to the owners of record.

The property owner contends he did not receive a Notice of Intent to adopt a Resolution of Necessity.

A Notice of Intent was inadvertently mailed to the wrong address for the December CTC meeting. Mr. Picker read his partner's Notice, requested an appearance, and attended the First Level Review meeting. A duplicate December Notice and a Notice of Intent for the March CTC meeting were mailed to the correct address on March 6, 2001. The Department has Proof of Service in the form of a Declaration of Mailing for the correct address.

The Property owners contend that a valid offer has not been made, in that the State's offer of compensation is too low.

The Department has appraised the subject property and has offered the full amount of the appraisal in accordance with Government Code Section 7267.2. The Department considers this a compensation issue, which is outside the purview of the California Transportation Commission.

04-ALA-238-KP 5.2
Parcel No. 1A, 1B (55937)
Grantor: Amos Picker and Frances
S. Picker, Trustees, et al.
C-18224

RESOLUTION OF NECESSITY APPEARANCE FACT SHEET

PROJECT DATA

04-ALA-238-KP 5.2(PM 3.3-3.9) EA 233651

Location: On Route 238 in Alameda County, City of Fremont

Limits: From Niles Canyon Road to Mowry Avenue

Contract Limits: N/A

Cost: \$20.6 million

Funding Source: Primarily Alameda County Transportation authority (ACTA)
(from one-half percent Measure B sales tax)
Addl funding from State SB-300 and local matching funds

Number of Lanes: Existing: 4-lanes at 3.6 m (12 ft)
Proposed: 6-lanes at 3.6 m (12 ft)

Proposed Major Features: Interchanges:
HOV Interchanges:
Other:

Traffic: Existing: 46,300 ADT vehicles/day
Proposed: 58,200 ADT vehicles/day

PARCEL DATA

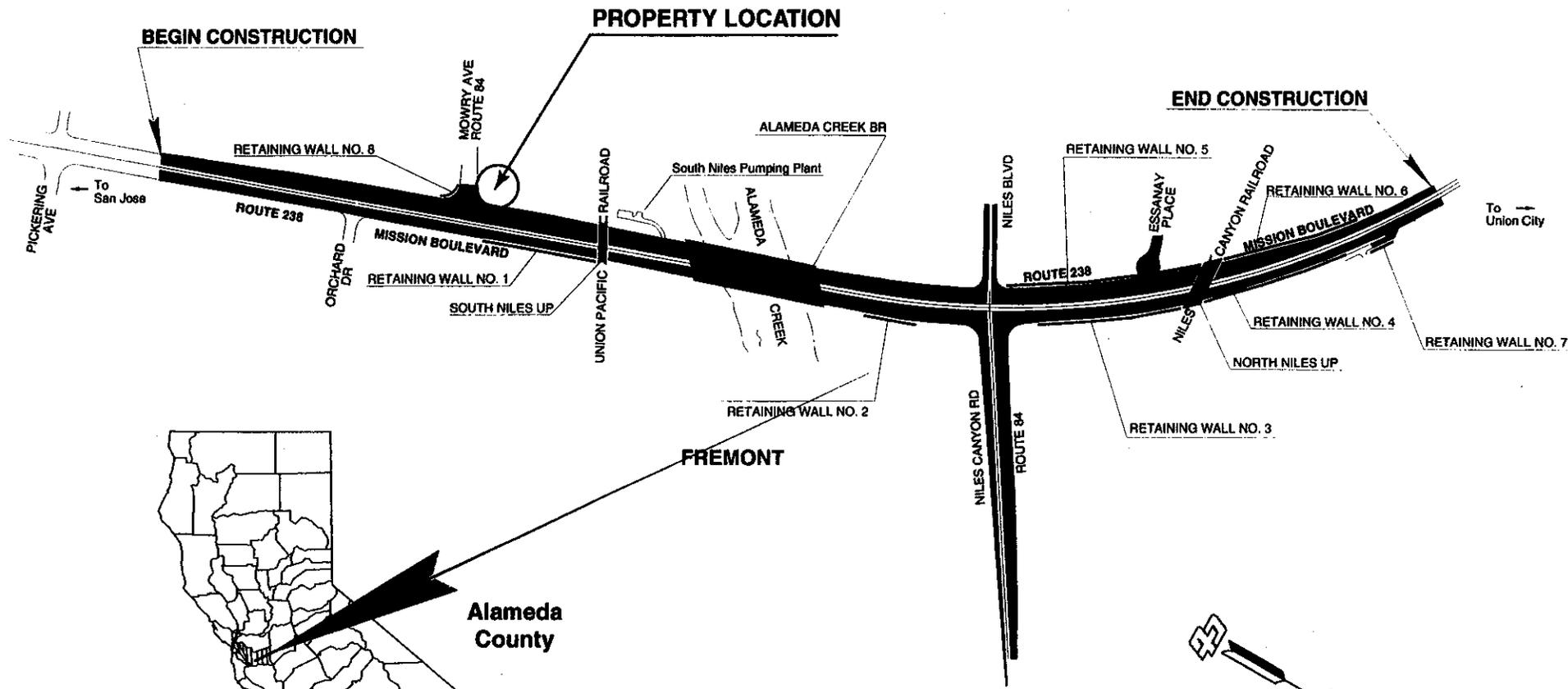
Property Owner: Amos Picker and Frances S. Picker, Trustees, et al.

Parcel Location: 38395 Mission Boulevard
City of Fremont

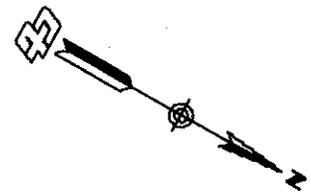
Present Use: Residential

Area of Property: 15,198 sf

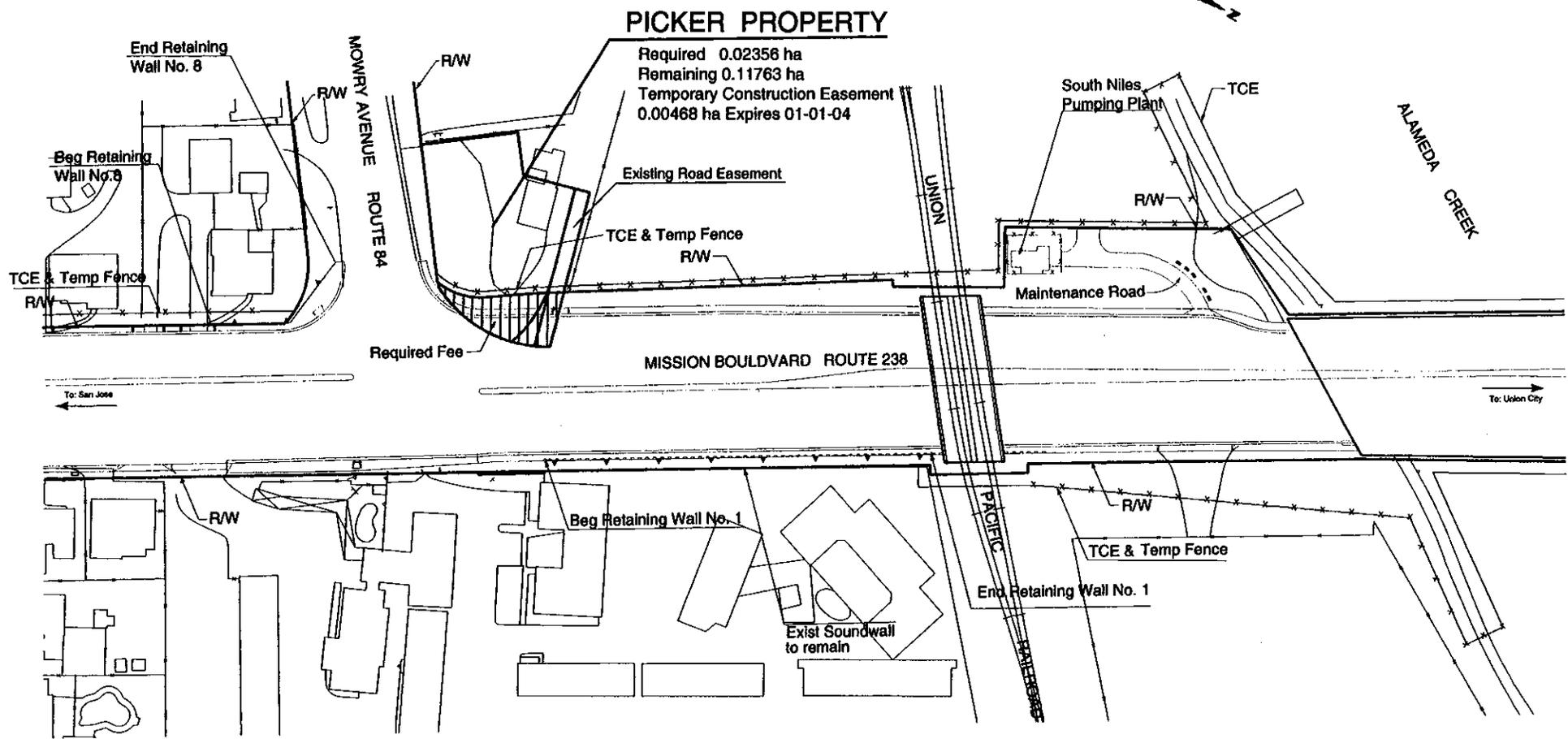
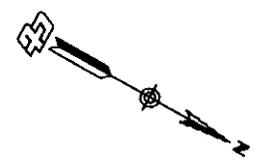
Area Required: 2,536 sf - Fee
503 sf - Temporary Construction Easement



FREMONT



04-Ala-238



PICKER PROPERTY

Required 0.02356 ha
Remaining 0.11763 ha
Temporary Construction Easement
0.00468 ha Expires 01-01-04

Existing Road Easement

TCE & Temp Fence

South Niles
Pumping Plant

Maintenance Road

MISSION BOULVARD ROUTE 238

MOWRY AVENUE
ROUTE 84

UNION
PACIFIC

ALAMEDA
CREEK

To: San Jose

To: Union City

FREMONT

04-A1a-238

04-ALA-238-KP 5.2
Parcel No. 1A, 1B (55937)
Grantor: Amos Picker and
Frances S. Picker, Trustees,
et al.
C-18224

RESOLUTION OF NECESSITY

REVIEW PANEL REPORT

The Resolution of Necessity Review Panel met on January 10, 2001, in Oakland. The panel was chaired by Rosa-Lynne Kondor, and included panel members Linda Fong, Jarvia Shu, and Les Hausrath. In attendance from the District were John Hibel, Barbara Webb, and Melanie Hunt, Right of Way; Doanh Nguyen and Stephen Haas, Design; Karen Camarillo, Washington Infrastructure Services, Inc. The property owners were invited, but did not attend the meeting.

This panel report summarizes the findings of the panel with regard to the four criteria required for a Resolution of Necessity and to make a recommendation to the Chief Engineer.

I. NEED FOR PROJECT

The project that impacts the subject parcel is local highway construction being completed in conjunction with the Alameda County Transportation Authority. Known as the Mission Boulevard Spot Widening Project, it identifies five intersections in the cities of Hayward, Union City and Fremont as needing major renovation. Existing Route 238 extends from I-680 to I-580 for 14.5 miles, then westward 2.16 miles where it terminates at the junction of Route 238 and I-880. Although ultimately slated to be completed as a freeway with slight modifications to the alignment the present route between I-680 and I-580 passes through the Cities of Fremont, Union City and Hayward. Within the limits of the project, Route 238 is also a major north-south arterial known as Mission Boulevard to Jackson Street where the name changes to Foothill Boulevard through downtown Hayward.

The Spot Widening Project will expand Mission Boulevard from four to six lanes at three locations: Industrial Parkway, from north of Whipple Road to south of Decoto Road and from north of Niles Canyon Road to south of Mowry Avenue. In addition, shoulders will be added to accommodate bicycles, right and left turn bays will be added to each intersection.

The property owners do not contest the need for the project.

II. PROJECT DESIGN

The ultimate Route 238 Corridor Project has been well publicized since its route adoption in June 1961. Freeway agreements were executed with Hayward and Fremont in 1965 and 1967. Respectively, Design and Right of Way Acquisition followed for a planned eight-lane freeway between I-680 in Fremont and I-580 in Castro Valley. An agreement was also executed with Alameda County in 1965. Between 1965 and 1971 Design commenced. Caltrans acquired two-thirds of the needed Right of Way. The current Spot Widening Project is designed to improve traffic movement along the existing alignment until construction of the new freeway, currently scheduled for 2002-2004.

The Department obtained a design exception to reduce both sides of Mission Blvd from a standard 2.4 meter (8-foot) shoulder to a 1.5 meter (5-foot) shoulder, which minimizes impact to the parcel. A standard shoulder would have required approximately 1.2 meters (6-feet) of additional right of way.

III. NEED FOR PARCEL

Subject parcel 1A,1B(55937) is located in the City of Fremont on Mission Boulevard, at the corner of Mowry Avenue (See Exhibit). The total parcel size is 15,198 square feet. The lot is relatively flat and is improved with a 580 s.f. single family residence. Vacant land lies adjacent to the north and a small medical office is located west of the subject. Mission Boulevard lies adjacent to the east and Mowry Avenue lies adjacent to the south. Both of these streets are a part of State Route 84.

The subject acquisition area consists of 2,536 s.f. in Fee and 503 s.f. in Temporary Construction Easement, both facing Mission Boulevard. Parcel 1A(55937), the Fee acquisition is a somewhat wedge-shaped piece that includes a Roadway Easement off Mission Boulevard. Parcel 1B(55937) is a 503 s.f. Temporary Construction Easement, which consists of a strip directly behind the Fee take.

The property owners do not contest the need for the parcel.

IV. STATUTORY OFFER TO PURCHASE

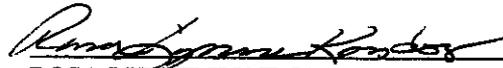
The State has appraised the subject property and has offered the full amount of the appraisal. The owners are not satisfied with the offer and negotiations are continuing.

PANEL RECOMMENDATION

The panel believes that the District's design complies with the Code of Civil Procedure in that:

1. The public interest and necessity require this project.
2. The project is planned to provide the greatest public good with the least private injury.
3. This property is required for the proposed project.
4. An offer to purchase, in compliance with Government Code Section 7267.2, has been made to the owners of record.

The Panel recommends submitting a Resolution of Necessity to the California Transportation Commission.


ROSA-LYNNE KONDOR
Panel Chairperson

I concur with the Panel's recommendation.


BRENT FELKER
Chief Engineer

PERSONS ATTENDING SECOND LEVEL REVIEW PANEL HEARING ON

January 10, 2001

Rosa-Lynne Kondor, Chairperson
Linda Fong, Panel Member
Jarvia Shu, Panel Member
John Hibel, District 04 Right of Way
Barbara Webb, District 04 Right of Way
Melanie Hunt, District 04 Right of Way

Les Hausrath, Alameda County Traffic Authority
Doanh Nugyen, District 04 Design
Stephen Haas, District 04 Design
Karen Camarillo, Washington Infrastructure
Services, Inc.

CHRONOLOGY OF CONTACTS AND EVENTS

| | |
|-------------------|---|
| 1909 | Route Adoption |
| October 6, 1994 | Approved Project Report |
| January 4, 1996 | Environmental Clearance |
| February 1, 1999 | Notice of Decision to Acquire |
| 4/4/00 - 1/5/01 | Fifteen phone contacts between Acquisition Agent and property owners |
| August 9, 2000 | First Written Offer |
| November 6, 2000 | Mailed Notice of Intent to Property Owners |
| December 7, 2000 | First Level Review Hearing held in Oakland. |
| December 19, 2000 | Mailed Follow-up Letter to Owners addressing Issues raised at First Level Review |
| January 10, 2001 | Second Level Review held in Oakland |
| January 11, 2001 | Letter from Mr. Picker reserving his right to appear regarding "least private injury." |
| February 15, 2001 | Caltrans letter to Mr. Picker summarizing discussion of Second Level Review meeting; notifying him the 1/11/01 waiver letter did not waive all his rights, and the Resolution will be heard at the March 28-29, 2001 CTC Meeting. |
| February 26, 2001 | Caltrans letter to Mr. Picker asking for clarification on his objection to "least private injury," and informing him the March CTC meeting would be his only time to appear and be heard. |
| March 5, 2001 | Telephone call to Mr. Picker asking for clarification of his concerns and if he intends to appear before the Commission. |
| March 6, 2001 | Caltrans letter to property owners transmitting Duplicate of December Notice of Intent and March 28-29, 2001 Notice of Intent. |