

Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: June 25-26, 2008

Reference No.: 2.4a.(3)
Action Item

From: CINDY McKIM
Chief Financial Officer

Prepared by: Bimla G. Rhinehart
Chief
Division of Right of Way and
Land Surveys

Subject: **RESOLUTION OF NECESSITY - APPEARANCE**

RECOMMENDATION:

The California Department of Transportation (Department) recommends the California Transportation Commission (Commission) adopt Resolution of Necessity (Resolution) C-19918 and C-19919 summarized on the following page.

ISSUE:

Prior to initiating Eminent Domain proceedings to acquire needed right of way for a programmed project, the Commission must first adopt a resolution, stipulating specific findings identified under Section 1245.230 of the Code of Civil Procedure, which are:

1. The public interest and necessity require the project.
2. The project is planned and located in a manner that will be most compatible with the greatest public good with the least private injury.
3. This property is necessary for the proposed project.
4. An offer to acquire the property in compliance with Government Code Section 7267.2 has been made to the owner of record.

In this case, the property owners are contesting the resolution and have requested an appearance before the Commission to discuss the objection to the project as planned and that the property is not necessary for the proposed project.

BACKGROUND:

Discussions have taken place with the owners, who have been offered the full amount of the Department's appraisal and, where applicable, advised of any relocation assistance benefits to which the owner may subsequently be entitled. Adoption of the resolution will not interrupt the Department's efforts to secure equitable settlement. In accordance with statutory requirements, the owner has been advised that the Department is requesting the Resolution at this time. Adoption will assist the Department in the continuation of the orderly sequence of events required to meet construction schedules.

C-19918 - Bennie N. Filippini, Trustee, etc., et al.

10-SJ-88-PM 4.4 - Parcel 15760-1 - EA 0G3209.

Right of Way Certification Date: 06/30/08; Ready to List Date: 06/30/08. Conventional highway - realign offset intersection and widen for left-turn channelization. Authorizes condemnation of land in fee for a State highway, together with the right and easement to enter the remaining ownership to sever and shore certain improvements at the right of way line. Located near the city of Stockton at 9932 East Waterloo Road. APN 089-060-38. Attachment B

C-19919 - Jim Pellegri, Trustee, etc., et al.

10-SJ-88-PM 4.4 - Parcel 15757-1 - EA 0G3209.

Right of Way Certification Date: 06/30/08; Ready to List Date: 06/30/08. Conventional highway - realign offset intersection and widen for left-turn channelization. Authorizes condemnation of land in fee for a State highway. Located near the city of Stockton at 9886 East Waterloo Road. APN 089-060-40. Attachment C

Attachments:

Attachment A – Project Information

Exhibits A-1 through A-3 – Project photos

Attachment B – Parcel Panel Report for Bennie N. Filippini, Trustee, etc., et al.

Exhibits B-1 through B-4 – Filippini photos and map

Attachment C – Parcel Panel Report for Jim Pellegri, Trustee, etc., et al.

Exhibit C-1 though C-5 – Pellegri photos and maps

PROJECT INFORMATION

PROJECT DATA	10-SJ-88-PM 4.2/4.6 Expenditure Authorization (EA) 10-0G3209
<u>Location:</u>	State Route (SR) 88 in San Joaquin County
<u>Limits:</u>	Near the community of Waterloo, 0.2 miles west of Baker Road to 0.2 miles east of Pezzi Road
<u>Cost:</u>	Programmed construction cost: \$2,089,000 Current right of way cost estimate: \$347,000
<u>Funding Source:</u>	State Highway Operation and Protection Program (SHOPP) with funding from the 201.010 (HB1) Safety Improvements Program
<u>Number of Lanes:</u>	Existing: two-lane conventional Proposed: two-lane conventional, with a channelized left turn pocket
<u>Proposed Major Features:</u>	Reconfiguration of offset intersection (Baker and Pezzi Roads) to a single point. Mainline widening for left turn channelization
<u>Traffic:</u>	Existing (year 2004): 10,300 Annual Daily Traffic (ADT) Proposed (year 2029): 17,000 ADT

NEED FOR THE PROJECT

The State Route (SR) 88/Baker Intersection Improvement Project is located about 4.5 miles northeast of Stockton, in San Joaquin County. SR 88 is a two-lane conventional highway that serves as an interregional route from the eastern urban city limits of Stockton to the Nevada State Line.

The purpose of this project is to reduce the frequency and severity of accidents that occur due to left-turn movements from SR 88 onto Baker and Pezzi Roads. Currently, rear-end accidents occur when westbound traffic on SR 88 slows or stops, to wait for a break in oncoming traffic prior to turning left onto Baker Road. The same is true for eastbound SR 88 traffic that slows or stops prior to turning left onto Pezzi Road. Accident history of this area also indicates that vehicles have been broadsided while attempting to turn onto SR 88 from either Baker or Pezzi Roads. The project would eliminate the offset between the SR 88/Baker Road intersection and the SR 88/Pezzi Road intersection and would provide left-turn channelization at the intersection, thus eliminating the conflict between left-turn traffic and through traffic on SR 88 and would facilitate cross-highway traffic between Baker Road and Pezzi Road.

SR 88 through the project limits is a two-lane conventional highway with at-grade intersections along the alignment. The existing roadway consists of two 12-foot travel lanes along with 8-foot

outside shoulders. Within the project limits, Baker Road and Pezzi Road are T-intersections, offset by approximately 170 feet, which intersect SR 88 at skewed angles of 48 and 59 degrees, respectively. There are existing driveway access points to SR 88 within the project limits that will be perpetuated.

Traffic data for SR 88 is presented in the chart below:

Design Designation SJ-88-PM 4.2/4.6:

<i>Design Period</i>	<i>Year 2004</i>	<i>Year 2029</i>
ADT	10,300	17,000
DHV	--	1,950
% of Peak Directional Volume	--	65%
% of Truck DHV	--	8%
Traffic Index (T.I)	--	11.5

The existing facilities are rated at Level of Service (LOS) D at the reported traffic volumes. A rating of LOS F is expected by the year 2020 without improvements. The lack of turn pockets for vehicles turning left at Baker and Pezzi Roads causes further interruptions in traffic flow.

Accident Rates:

The accident history for the five-year period between January 1, 1999 and December 31, 2003 indicates that there have been a total of 16 accidents (0 fatality, 10 injury) within the project limits. Seven of the accidents occurred at the Baker/Pezzi Road intersection. The types of accidents occurring at the intersection were rear end (3), broadside (2), sideswipe (1), and head-on (1). The actual accident rates for this area are higher than the average rates for similar facilities. The accident rates below are indicated in accidents per million vehicle miles (ACC/MVM):

Location (PM)	Total No. of Accidents	Accident Rate (ACC/MVM)					
		Actual			State Average		
		F	F+I	Total	F	F+I	Total
4.1 to 4.7.	16	0	1.02	1.63	0.036	0.46	0.94

PROJECT PLANNING AND LOCATION

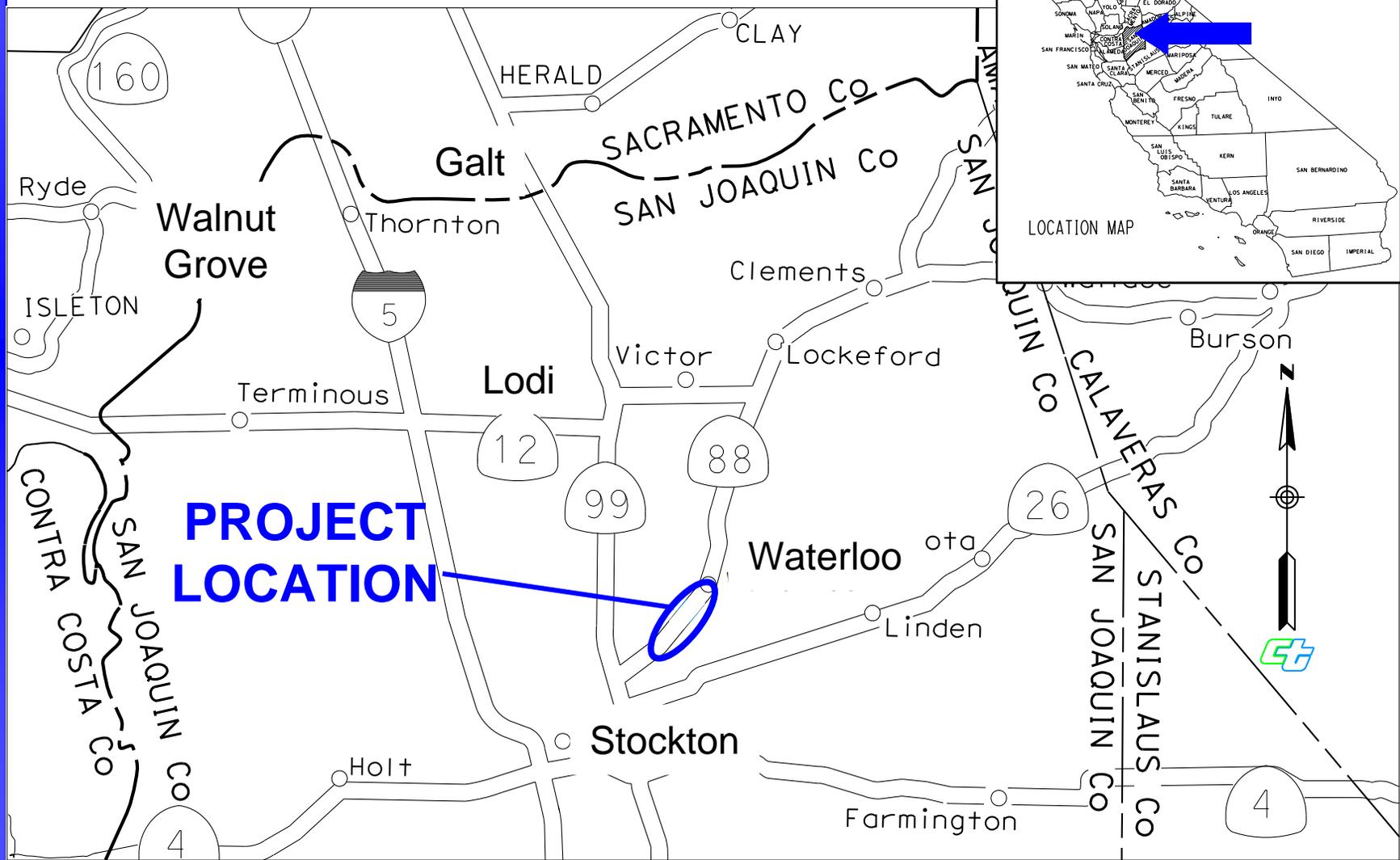
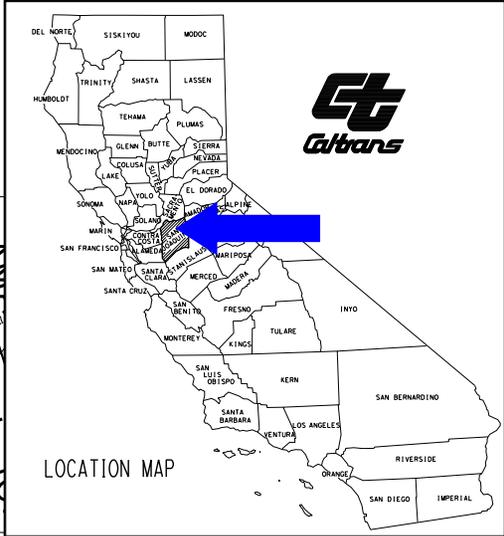
The project proposes to reconfigure Baker and Pezzi Roads to intersect SR 88 as a single point, four-legged intersection and to realign Baker and Pezzi Roads to reduce the skew to conform to the Department's geometric design standards. It is also proposed to install left-turn channelization at the intersection. The existing roadbed will be widened to add a 12-foot left turn lane, while maintaining the two 12-foot through lanes and 8-foot shoulders. The three 12-foot lanes and 8-foot outside shoulders will taper back to two 12-foot lanes with 8-foot shoulders within the project limits.

The basis for the alignment chosen for the proposed widening of SR 88 was to balance the widening on each side of the highway so that the impact of proposed widening on surrounding properties would be equitable. The basis for the alignment of the county roads was to avoid impact to surrounding structures and to minimize the severity of impacts to any one property.

The project cost is currently estimated at \$2,089,000, which includes \$347,000 for right of way and utilities. The project has been assigned Category 4B because it does not require substantial new right of way and does not significantly increase traffic capacity.

SR 88 is part of the Interregional Road System (IRRS) from the east urban limits of the city of Stockton to the Nevada State Line and is functionally classified as a Principal Arterial for the duration of the route. The section of the route between SR 12 West and the Nevada State Line is on the National Highway System. SR 88 is designated as a Scenic Highway from the Amador County Line to the Nevada State Line. The 20-year concept facility is a four-lane conventional highway. The 1999 Interregional Transportation Strategic Plan does not have any projects scheduled or identified near the aforementioned segment. In addition, the San Joaquin County Regional Transportation Plan notes that passing lanes are forecasted from the Junction at SR 99 to the terminus of the route at the county line.

Location Map



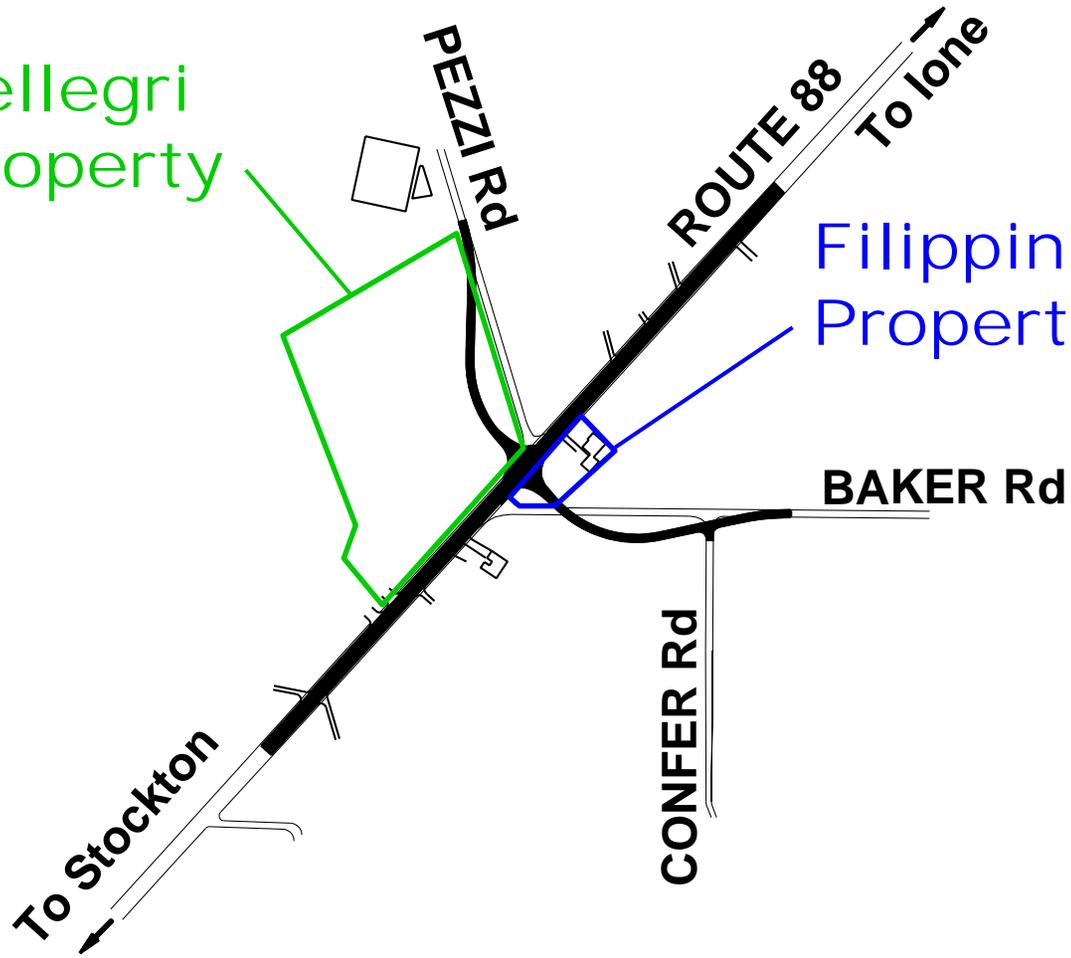
**PROJECT
LOCATION**



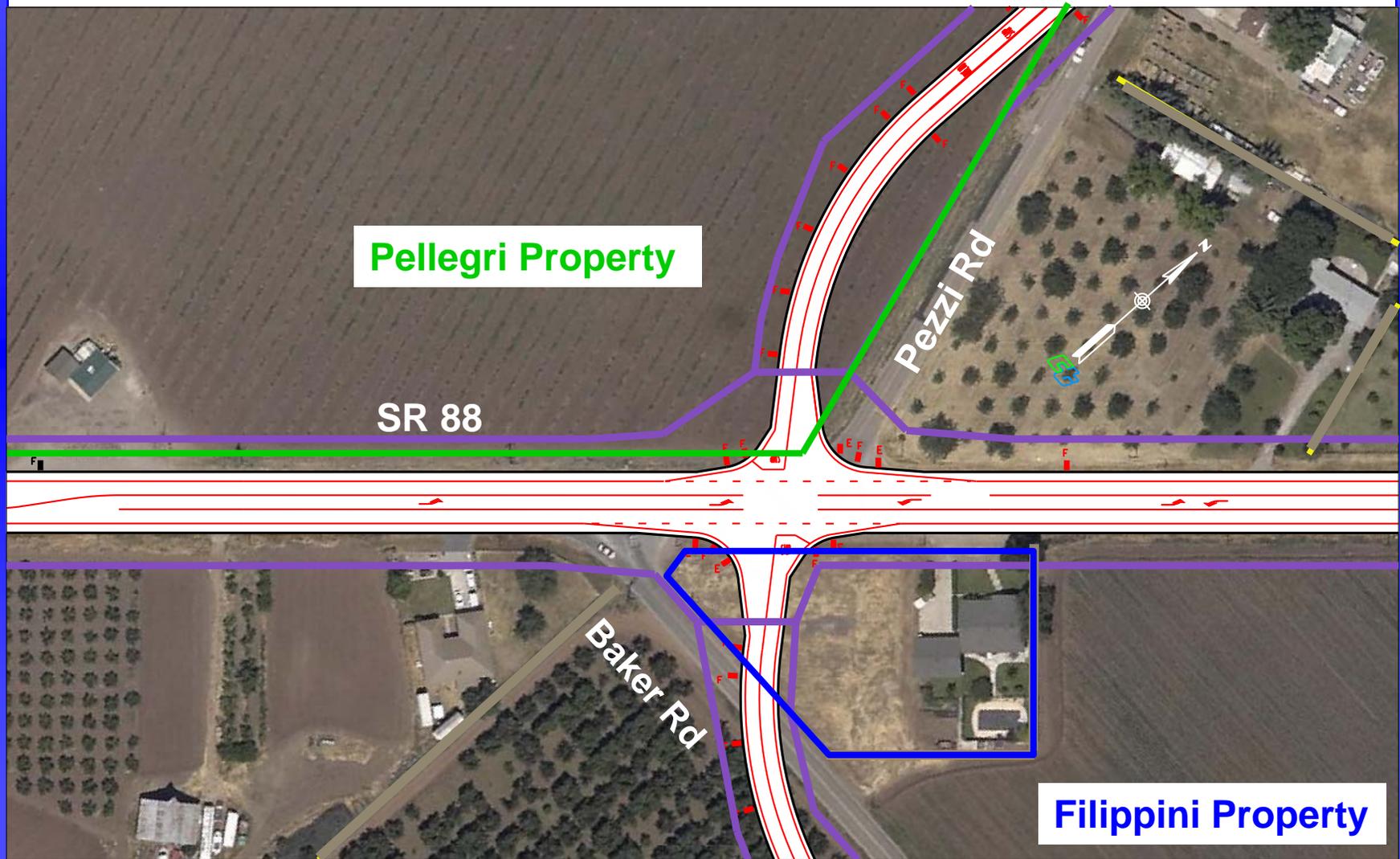
Project Map

Pellegrini Property

Filippini Property



Proposed Facility



PARCEL PANEL REPORT

PARCEL DATA

Property Owner: Bennie N. Filippini and Ellen L. Filippini, Trustees of the
Bennie and Ellen L. Filippini Trust UAD 4-19-94

Parcel Location: At the southeast corner of State Route (SR) 88 and Baker Road in
San Joaquin County, 4.5 miles east of SR 99
Assessor's Parcel Number 089-060-38

Present Use: Residential
Zoned General Agriculture (AG-40)

Area of Property: 0.97 acres (42,250 square feet)

Area Required: 0.27 acres (11,761 square feet) in fee

PARCEL DESCRIPTION

The subject parcel is located at 9932 East Waterloo Road, in Stockton, in the county of San Joaquin and is identified as Assessor's Parcel Number 089-060-38. The property is approximately 42,250 square feet (0.97 acres), is trapezium in shape, with approximately 300 feet of frontage along State Route (SR) 88 with a return frontage of approximately 200 feet on Baker Road. The topography is level and at grade with both SR 88 and Baker Road. The zoning is AG-40, general agriculture.

The parcel is improved with one residential home with garage, pool, water well and septic system. Access to the residence is from a residential driveway on SR 88.

The project proposes to acquire in 0.27 acre (11,761 square feet) in fee. The acquisition is of irregular shape. The improvements in the acquisition area include base rock, trees, sprinklers and a portion of the septic systems leach line.

NEED FOR SUBJECT PROPERTY

This parcel is needed for a safety improvement project. The proposed parcel acquisition will accommodate a portion of the realigned Baker Road, a new shoulder, and part of a shallow drainage ditch.

The widening of SR 88 roadway is needed to accommodate the addition of left-turn pockets. The proposed project will widen the existing roadway by six feet on both sides of the highway. The proposed right of way will be approximately 13.5 feet from the existing right of way limit along SR 88.

It should be noted that while Section 306.1 of the Highway Design Manual specifies the minimum right of way width for new construction of two-lane highways should be 130 feet, the design right of way width for this project along the Filippini property is approximately 106 feet in an effort to minimize impacts to the surrounding properties.

RESOLUTION OF NECESSITY REVIEW PANEL REPORT

The Condemnation Review Panel (Panel) met at the Department's District 10 office on April 4, 2008. The Panel members included Donald Grebe, Panel Chair, Department Headquarters (HQ's) Division of Right of Way and Land Surveys; Alice Ramsey, Department Sacramento Legal Division; Linda Fong, Department HQ's Division of Design; and Deborah Gebers, Department HQ's Division of Right of Way and Land Surveys, Secretary to the Panel. Representing the property owners, Bennie N. Filippini and Ellen L. Filippini, Trustees of the Bennie and Ellen L. Filippini Trust UAD 4-19-94, were Bennie and Ellen Filippini.

This report summarizes the findings of the Panel with regard to the four criteria required for a Resolution of Necessity and makes a recommendation to the Department's Chief Engineer. The property owner does not contest the purpose and need for the project. The outstanding concern of the Filippinis is that they believe the project design is not planned and located in a manner that is the most compatible with the greatest public good and least private injury, and that the property sought to be condemned is not necessary for the project.

The following is a description of the concerns expressed by the owner, followed by the Department's response:

Owner:

The property owners contest the project as designed, and submitted a drawing for consideration as an alternative alignment that would necessitate the probable acquisition of their entire property located at the southeast corner of the intersection of SR 88 at Baker Road (Parcel 15760-1).

The following represents benefits that the property owner believes the Department will enjoy by their proposed conceptual alignment:

- Less construction involved.
- Less impact to private property.
- Cost savings to the Department.

Department Response:

The Department reviewed the owner's conceptual alignment to determine if reducing or modifying the planned right of way acquisition could lessen the project's impact on the Filippini's property. Reducing or modifying the proposed right of way width of SR 88 along the subject parcel's improvements was reviewed and the Department did not agree with the property owner's perceived benefits. The project design reflects the effort by the Department to provide an alignment that will be most compatible with the greatest public good and the least private injury, in

accordance with Civil Code of Procedure Section 1245.230. The owner's conceptual alignment does not balance greatest public good with the least private injury.

The Department's investigation concluded that:

- The Department's project would avoid or minimize acquisition of structures while maintaining continuity in the use of existing parcels as much as possible.
- The project alignment minimizes the impact on the Filippini property while providing a design that improves traffic safety at this intersection.
- The project alignment balances the widening on each side of the SR 88 so that the impact of proposed widening on surrounding properties will be relatively the same.
- The project alignment for the county roads avoids impact to surrounding structures and minimizes the severity of impact on any one property.
- The conceptual alignment presented by Mr. and Mrs. Filippini would necessitate the acquisition of their entire property at the southeast corner of the intersection of SR 88 at Baker Road, including all residential improvements, and would impose a severe impact to the property on the northeast quadrant of the intersection.
- As a part of this project, electric and telephone overhead utility services are to be relocated within the Department's right of way in a conscious effort to avoid establishment of a utility easement that would further impact the subject parcel.
- Reducing or modifying the planned acquisition along the subject parcel's improvements would require realignment of the proposed utility relocation to meet utility setback requirements. Such revision in the proposed utility relocation alignment would place the alignment in conflict with clear recovery zone objectives. Undergrounding the overhead utilities along the proposed utility alignment along the Filippini property improvements would require the establishment of an underground utilities easement and would impose additional expenses associated with this work.

The proposed drawing by Mr. and Mrs. Filippini differs from the project design in that the location of the intersection is shifted east by approximately 100 feet from the Department's design. One notable effect of the owner's drawing is the severe impact it imposes on their own parcel.

Additional impacts due to the concept proposed by Mr. and Mrs. Filippini include:

- An additional impact to property on north side of SR 88, opposite of Filippini property.
- An additional impact to property adjacent to the Filippini property.
- An impact to four additional properties on the east end of the project (not previously impacted).
- Changing the alignment as the property owners requested will require revisions to the approved environmental document and will delay the safety project's schedule.
- The Department's design meets the Department's highway design standards and is equivalent in performance to the alternative concept proposed by the Filippinis.

- Substantial right of way acquisition has taken place for Department's design; change in the alignment will require additional right of way acquisitions and additional project delivery activities.
- The proposed right of way acquisition is the minimum needed to conform to State highway design standards for travel lanes, shoulder width, clear recovery zone width.

Owner:

The property owner contends that the Department's plan consists of many curves and changes in direction. They do not consider this to be of the greatest public good because the Waterloo Grammar School is located within 600 feet of the intersection with approximately 450 students attending. Since this is a rural school, almost all students are transported to and from the school by either their parent's vehicles or school busses. During the winter there are many foggy days so the road becomes hard to follow and traffic backs up at the stop signs entering SR 88. It can become very dangerous driving young children in these situations. The alternate plan provides for a more fluid route with a longer range of view.

Department Response:

Both county road approaches contain two curves before reaching the intersection. These improvements have been designed to conform to State highway design standards. The curves are designed for speeds commensurate with traffic decelerating toward or accelerating away from the intersection. Proper signing, pavement delineation, and markings will provide warning for the stop condition in accordance with highway design standards. Stop Ahead signs will be placed approximately 650 feet in advance of the intersection on the County roads. As these will be placed on the tangent before the curve, they will be highly visible. Nighttime lighting at the intersection will be provided in accordance with Department standards. California truck standards have been applied to the design of the SR 88/Baker Road intersection and for the Confer Road/Baker Road intersection. The Department's traffic engineering staff has reviewed the county leg design and has determined that all necessary traffic control elements to maximize safety have been incorporated into the Department's current design.

Owner:

The owners contend that with the widening of SR 88, the setback of their home will be decreased to below the recommendations of San Joaquin County building codes. The proposed fee acquisition will remove the area currently used to rotate the cars to face SR 88 so the driver has a maximum view of traffic. The property owner will have to back into SR 88 so they have a maximum view of traffic and when leaving the property. The property owner believes said issue is placing people in a deadly situation, which they find inconceivable.

Department Response:

Setback requirements established by San Joaquin County are applicable to new construction. The project would not place the Filippini residence or other existing structures in violation of the County's setback requirements. The project currently provides a driveway for the Filippini

property that conforms to State highway design standards and actually exceeds minimum width requirements for residential driveways. The proposed driveway width is 18 feet. In consideration of the concern expressed by Mr. and Mrs. Filippini, it was determined that the driveway width can be increased to 33 feet to help facilitate the turnaround movements. The compensation for said consideration was offered to Mr. and Mrs. Filippini at the District Condemnation Evaluation hearing on February 25, 2008.

Owners:

Additional concerns expressed by the owner include:

- The Department's design will severely impact residential septic disposal system, leaving the owners unable to reconfigure the system on the remaining parcel.
- The Department design will redirect highway traffic too close to the residence, creating a safety and noise impact for property owners.

Department Response:

Compensation has been offered for the reconfiguration of the leach line and for the placement of fencing, trees, and vegetation at the front of the property. The property owners may use these funds to build fencing or replace trees and vegetation. Matters concerning compensation issues are outside the purview of the Commission.

A review of the property owners' proposed conceptual alignment:

It should be noted that the current intersection condition requires motorists traveling from southbound Pezzi Road to southbound Baker Road to turn right onto westbound SR 88, travel a short distance on SR 88, and then wait in the path of westbound SR 88 traffic for an opening in eastbound SR 88 traffic before turning left onto Baker Road. Motorists face similar requirements for traveling northbound from Baker Road to Pezzi Road. Both the Department's design and the alignment proposed by Mr. and Mrs. Filippini would address this situation by eliminating the offset between the Baker Road and Pezzi Road. It is the Department's position that there is no advantage offered by the alignment proposed by Mr. and Mrs. Filippini, as both alignments would provide for similar traffic patterns.

The Department has also considered the effects of reducing the impacts on the subject parcel by asymmetrically widening SR 88 such that all required right of way along SR 88 would be on the north side of the highway. It has been determined that the total acreage required by avoiding the Filippini parcel would be greater than is required for the proposed project design but would impact one less parcel overall. The avoidance option would require longer approach tapers due to widening to just one side of the roadway, thus increasing the project limits, and would impact three parcels not affected by the Department's design. Increasing the project limits as described may impact a parcel near the beginning of the current project (APN 089-060-45) that contains an older residence with mature trees of unknown species at the front of the property. The impact on the Filippini's property would be minimized along SR 88 but would still be impacted by required right of way acquisition along Baker Road. It is the Department's position that this option would not

only increase the costs for the highway widening over the current design, but would also require additional resources of time and funding for updated environmental studies and redesign. It would impose a significant impact on the properties along the north side of SR 88 due to increased right of way acquisition needs and would not provide the design balance that is most compatible with the greatest public good and the least private injury.

The Department has also considered the effects of locating the reconfigured intersection west of the designed location to reduce the portion of the Filippini property that is needed for right of way acquisition next to Baker Road. Placing the intersection west of the proposed location would reduce the impact on the Filippini property, but would impose a more severe impact on the property southeast of the SR 88/Baker Road intersection and on the property northwest of the SR 88/Baker Road intersection over that associated with the Department's current design. This configuration would also be expected to require additional resources of time and funding for updated environmental studies and redesign. This configuration is not considered to provide a balanced impact on surrounding properties and is not considered to be most compatible with the greatest public good and the least private injury.

STATUTORY OFFER TO PURCHASE

The Department has appraised the subject property and offered the full amount of the appraisal to the owners of record as required by Government Code Section 7267.2.

PANEL RECOMMENDATION

The Panel concludes that the Department's project complies with Section 1245.230 of the Code of Civil Procedure in that:

- The public interest and necessity require the proposed project.
- The proposed project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.
- The property rights to be condemned are necessary for the proposed project.
- 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 Commission.

DONALD E. GREBE
Chief
Office of Project Delivery
Division of Right of Way and Land Surveys
Panel Chair

I concur with the Panel's recommendation:

RICHARD D. LAND
Chief Engineer

**PERSONS ATTENDING CONDEMNATION PANEL REVIEW MEETING
HEARING ON APRIL 4, 2008**

Donald Grebe, HQ's Division of Right of Way and Land Surveys, Panel Chair
Alice Ramsey, Sacramento Legal Office Attorney, Panel Member
Linda Fong, HQ's Division of Design, Panel Member
Deborah Gebers, HQ's Division of Right of Way and Land Surveys, Panel Secretary

Bennie N. Filippini, Owner of the Property
Ellen L. Filippini, Owner of the Property

Julie Dunning, District 10 Administration
Jane Perez, District 10 Program/ Project Manager
Terry Ogle, Central Region Design
Anthony Barrios, Design
Edward Velarde, Project Manager
Michael Rodrigues, Central Region Right of Way
Sharon Parsons, Central Region Right of Way

Filippini Parcel Impact

Parcel No. 15760

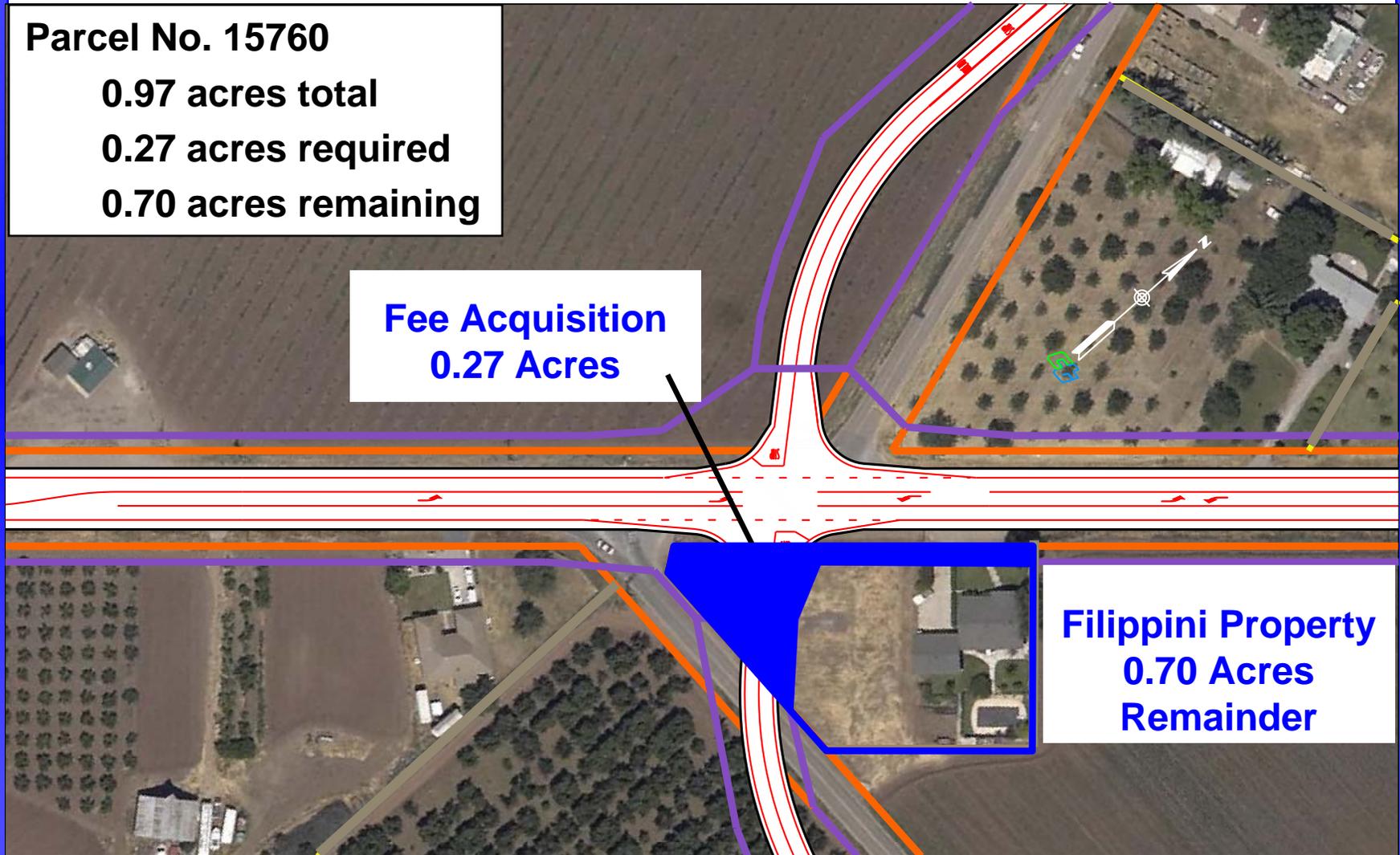
0.97 acres total

0.27 acres required

0.70 acres remaining

**Fee Acquisition
0.27 Acres**

**Filippini Property
0.70 Acres
Remainder**



Filippini Parcel Impact



Property Owners' Alternate Proposal

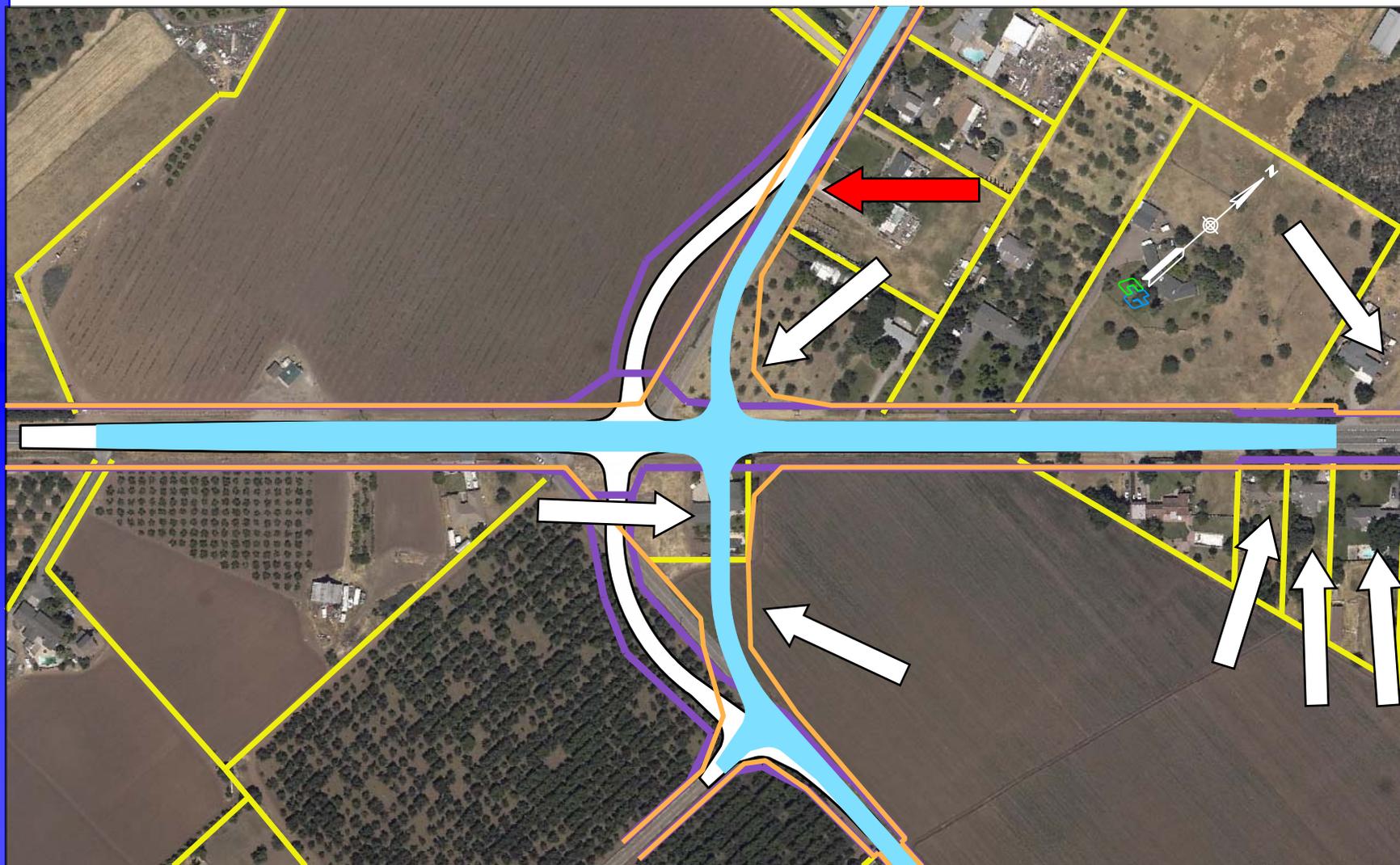
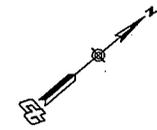


EXHIBIT B3

C.M. WEBER GRANT
SECTION 88



PEZZI RD.

BAKER RD.

PROPOSED R/W

PROPOSED R/W

EXISTING R/W

EXISTING R/W

14

15



16

EXISTING R/W

91.740

EXISTING R/W

PROPOSED R/W

6.984

15760-1

54.796

PROPOSED R/W

4.100

16.920

15.536

23.288

48.322

14.361

52.482

COUNTY OF SAN JOAQUIN

CONVERSION FACTOR: This survey is in meters.
Multiply by 3937/1200 to convert to feet.

This survey is based on the California Coordinate
System of 1983, Zone 3. Units are in meters and
bearings and distances are on grid. Multiply by
1.000057207 to convert to ground distances.

STATE OF CALIFORNIA
BUSINESS, TRANSPORTATION AND HOUSING AGENCY
DEPARTMENT OF TRANSPORTATION

**RIGHT OF WAY
RESOLUTION OF NECESSITY**

EXHIBIT C

NOT TO SCALE

DISTRICT	COUNTY	ROUTE	SHEET KP/PM	SHEET NO.	TOTAL SHEETS
10	SJ	88	7.0/4.4	1	1

DATE: 12-05-07

EXHIBIT B4

EXHIBIT B4

PARCEL PANEL REPORT

PARCEL DATA

Property Owner: Jim Pellegrini and Yvonne Pellegrini, Trustees of the J & Y Pellegrini Revocable Trust dated May 9, 2007

Parcel Location: At the northwest corner of State Route (SR) 88 and Pezzi Road in San Joaquin County, 4.6 miles east of SR 99
Assessor's Parcel Number 089-060-40

Present Use: Zoned General Agriculture (AG-40)

Area of Property: 21.72 acres

Area Required: 1.37 acres in fee

PARCEL DESCRIPTION

The subject parcel is located at 9886 Waterloo Road, in Stockton, in the county of San Joaquin and is identified as Assessor's Parcel Number 089-060-40. The property is a corner lot that is irregular in shape, approximately 21.72 acres, with frontage on State Route (SR) 88 and Pezzi Road. The topography is level. The zoning is AG-40, general agriculture.

Improvements on the parcel include a 450-foot water well and appurtenances, a fruit-stand, gravel surface parking lot in front of the fruit-stand, Bing variety cherry trees, fences, gate, sign-board, fencing and sprinkler irrigation system. Access to the produce stand is from a commercial driveway on SR 88.

The project proposes to acquire 1.37 acres in fee. The improvements in the acquisition area include sprinklers, 59 cherry trees, chain link fence, steel pipe fence and posts, two piped iron gates, a water well and an advertising signpost.

NEED FOR SUBJECT PROPERTY

This parcel is needed for a safety project. The acquired parcel will accommodate part of the realigned Pezzi Road, a new shoulder, and part of a shallow drainage ditch.

The highway widening is needed to accommodate the addition of left-turn pockets. The proposed project will widen the existing roadway by six feet on both sides of the highway. The edge of travel way and the edge of pavement (edge of shoulder) will be shifted six feet toward the Pellegrini parcel. The proposed right of way is approximately 13 feet wider along the frontage of SR 88 than the existing right of way.

It should be noted that while Section 306.1 of the Highway Design Manual (HDM) specifies that the minimum right of way width for new construction of two-lane conventional highways should be 65 feet on each side of the highway centerline, the design right of way width for this project at the Pellegrri property is approximately 53 feet along SR 88. This is indicative of the Department's effort to minimize right of way acquisition overall while providing a project design that conforms to highway design standards and will improve traffic safety conditions at the project location.

The Department reviewed the design to determine the effects of reducing or modifying the planned right of way acquisition on the Pellegrri parcel along its frontage on SR 88 while maintaining the design alignment and all other proposed right of way acquisition. Reducing or modifying the proposed right of way width of SR 88 as described would conflict with clear recovery zone objectives of the project and on this basis are considered unfeasible.

Additionally, the Department has considered the effects of reducing the impacts on the subject parcel by asymmetrically widening SR 88 such that all required right of way along SR 88 would be on the south side of the highway. It is the Department's position that the total acreage required for this option would be greater than is required for the approved project design. This is due to the longer approach taper required for such widening in accordance with HDM Section 405.2. Widening only on the south side of the highway would require approximately 26 feet more right of way width on the southern side of SR 88 than is proposed by the approved project, thus imposing a severe impact on properties fronting the southern side of SR 88. The impact on the Pellegrri's property would be minimized along SR 88 but it would still be impacted by required right of way acquisition along Pezzi Road.

It is the Department's position that said concept would not only increase the costs for the highway widening, but would also require additional resources of time and funding for updated environmental studies and redesign. It would impose a significant impact on the properties along the south side of SR 88 due to increased right of way acquisition needs and would not provide the design balance that is most compatible with the greatest public good and the least private injury. Upon consideration of these impacts, it is apparent that the Department's design minimizes the right of way acquisition needed for the project for the approved alignment. The project's impact on the subject parcel cannot be reduced without imposing substantial impacts and costs to other properties or to the project design.

RESOLUTION OF NECESSITY REVIEW PANEL REPORT

The Condemnation Review Panel (Panel) met at the Department's District 10 office on May 7, 2008. The Panel members included Mark Zgombic, Panel Chair, Department Headquarters (HQ's) Division of Right of Way and Land Surveys; Alice Ramsey, Department Sacramento Legal Division; Linda Fong, Department HQ's Division of Design; and Deborah Gebers, Department HQ's Division of Right of Way and Land Surveys, Secretary to the Panel. Representing the property owners, Jim Pellegrri and Yvonne Pellegrri were Jim Pellegrri, Tom Orvis, Ryan Gerding, Bruce Blodgett and Reni Della Maggiore.

This report summarizes the findings of the Panel with regard to the four criteria required for a Resolution of Necessity and makes a recommendation to the Department's Chief Engineer. The property owners do not contest the purpose and need for the project. The outstanding concern of the Pellegris is that they believe the project design is not planned and located in a manner that is the most compatible with the greatest public good and least private injury, and that the property sought to be condemned is not necessary for the project.

The following is a description of the concerns expressed by the owner, followed by the Department's response:

Owner:

The proposed widening on SR 88 will impact the existing water well on the parcel, such that relocation of the well will be necessary, along with appurtenant water supply lines and electrical power supply.

Department Response:

The Department has made an offer of just compensation that includes consideration for relocation of the water well and appurtenant improvements and the proposed right of way acquisition. The property owner has been notified that issues related to compensation issues are outside the purview of the Commission.

Owner:

The property owner contends that the proposed alignment impacts their property excessively due to the effect of curved alignment of Pezzi Road, which will require the removal of established rows of fruit trees.

Department Response:

The Department's proposed alignment makes every effort to minimize impacts to the Pellegris parcel. In addition, the Department has made an offer of just compensation for losses associated with income-producing agricultural resources (fruit trees).

Owner:

The proposed widening of SR 88 will require acquisition of a portion of Mr. and Mrs. Pellegris's parcel along its frontage on the north side of SR 88 and on the west side of Pezzi Road that Mr. and Mrs. Pellegris contend is excessive.

Department Response:

The project alignment balances proposed widening on each side of the SR 88 so that the impact of proposed widening on surrounding properties will be relatively the same. The project alignment for the county roads avoids impact to surrounding structures and minimizes the severity of impact on any one property.

Owner:

The proposed widening of SR 88 will remove access for large farm equipment and may cause problems entering and exiting property.

Department Response:

The project will not impede access to the parcel. Access is perpetuated from existing driveways. Large farm equipment will have continued access from existing access points.

Owner:

The proposed project will divert passing motorists too close to farming operations, which may result in private injury.

Department Response:

The Department's design provides standard horizontal clearance for the motorists.

Owner:

The property owner submitted a drawing that located the Route 88/Pezzi Road intersection farther east, thus minimizing acquisition on the Pellegrini parcel along its frontage on the west side of Pezzi Road.

Department Response:

It should be noted that the current intersection condition requires motorists traveling from southbound Pezzi Road to southbound Baker Road to turn right onto westbound SR 88, travel a short distance on SR 88, and then wait in the path of westbound SR 88 traffic for an opening in eastbound SR 88 traffic before turning left onto Baker Road. Motorists face similar requirements for traveling northbound from Baker Road to Pezzi Road. Both the Department's design and the drawing submitted by Mr. and Mrs. Pellegrini would address this situation by eliminating the offset between the Baker Road and Pezzi Road. It is the Department's position that there is no advantage offered by the proposed drawing offered by the Pellegrinis, as both alignments would provide for similar traffic patterns.

The Department reviewed the impacts associated with locating the reconfigured intersection east of the approved location by approximately 160 feet as suggested by the property owner. Placing the intersection east of the proposed location would reduce the impact on the Pellegrini property, but would impose a more severe impact on the property southeast of the SR 88/Baker Road intersection and on the property northwest of the SR 88/Baker Road intersection over that associated with the approved design. A major consequence of this proposal would be the full acquisition of Mr. and Mrs. Filippini's parcel, including residence and swimming pool improvements. Additionally, this proposal would require realignment of Pezzi Road through a major portion of the property at the north side of SR 88, east of Pezzi Road. The extent of this impact can be considered severe due to the portion of the parcel that would need to be acquired for right of way. This configuration would also be expected to require additional resources of time and funding for updated environmental studies and redesign. This configuration is not considered to provide a balanced impact on

surrounding properties and is not considered to be most compatible with the greatest public good and the least private injury.

The Department concludes the project design proposed by the Department minimizes the right of way acquisition needed for the project, and that the project's impact on the subject parcel cannot be reduced without imposing substantial impacts and costs to other properties and to the project design.

STATUTORY OFFER TO PURCHASE

The Department has appraised the subject property and offered the full amount of the appraisal to the owners of record as required by Government Code Section 7267.2.

PANEL RECOMMENDATION

The Panel concludes that the Department's project complies with Section 1245.230 of the Code of Civil Procedure in that:

- The public interest and necessity require the proposed project.
- The proposed project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.
- The property rights to be condemned are necessary for the proposed project.
- 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 Commission.

MARK ZGOMBIC
Senior
Office of Project Delivery
Division of Right of Way and Land Surveys
Panel Chair

I concur with the Panel's recommendation:

RICHARD D. LAND
Chief Engineer

**PERSONS ATTENDING CONDEMNATION PANEL REVIEW MEETING
HEARING ON MAY 7, 2008**

Mark Zgombic, HQ's Division of Right of Way and Land Surveys, Panel Chair
Alice Ramsey, Sacramento Legal Office Attorney, Panel Member
Linda Fong, HQ's Division of Design, Panel Member
Deborah Gebers, HQ's Division of Right of Way and Land Surveys, Panel Secretary

Jim Pellegrini, Owner of the Property
Tom Orvis, San Joaquin Farm Bureau
Ryan Gerding,
Bruce Blodgett, San Joaquin Farm Bureau
Reni Della Maggiore, Coldwell Banker Commercial

Kome Ajise, District 10 Director
Dennis T. Agar, District 10
Terry Ogle, Central Region Design
Anthony Barrios, District 6 Design
Nicholas Chan, District 6 Design
Michael Rodrigues, Central Region Right of Way
Sharon Parsons, Central Region Right of Way
Tiara T. Mooring, Central Region Right of Way

Pellegrini Parcel Impact

Parcel No. 15757

21.72 acres total

1.37 acres required

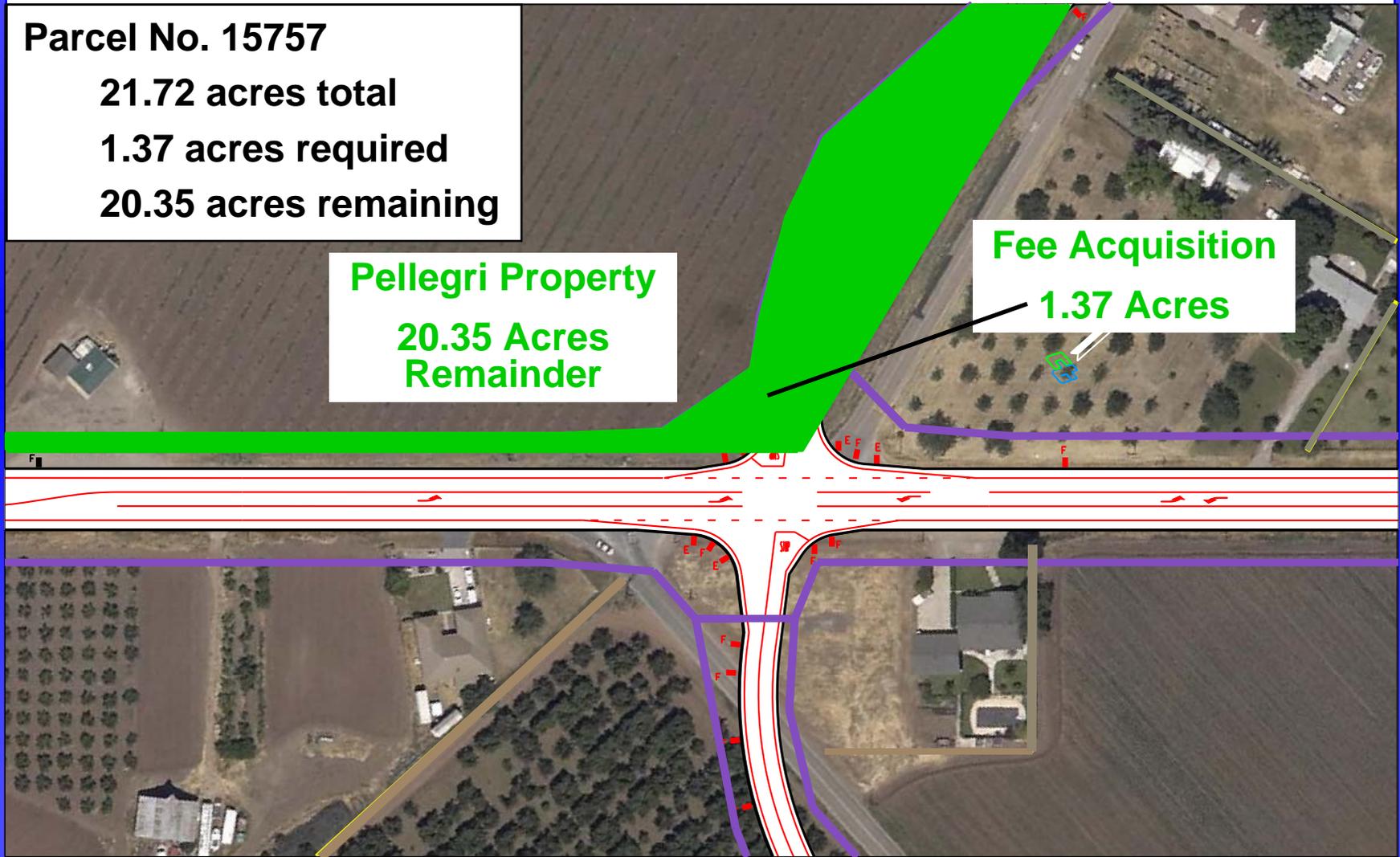
20.35 acres remaining

Pellegrini Property

**20.35 Acres
Remainder**

Fee Acquisition

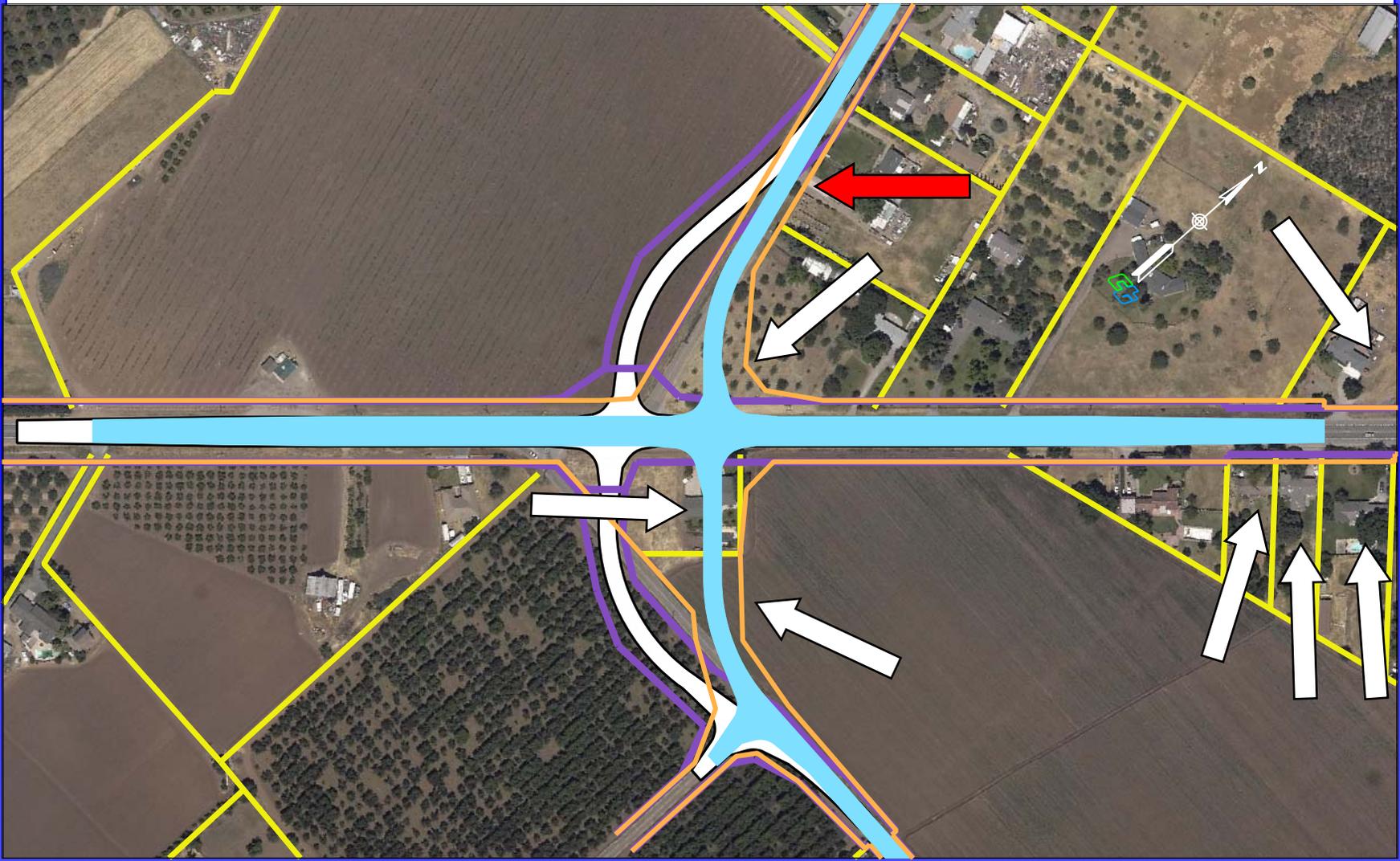
1.37 Acres



Pellegrini Parcel Impact



Property Owners' Alternate Proposal

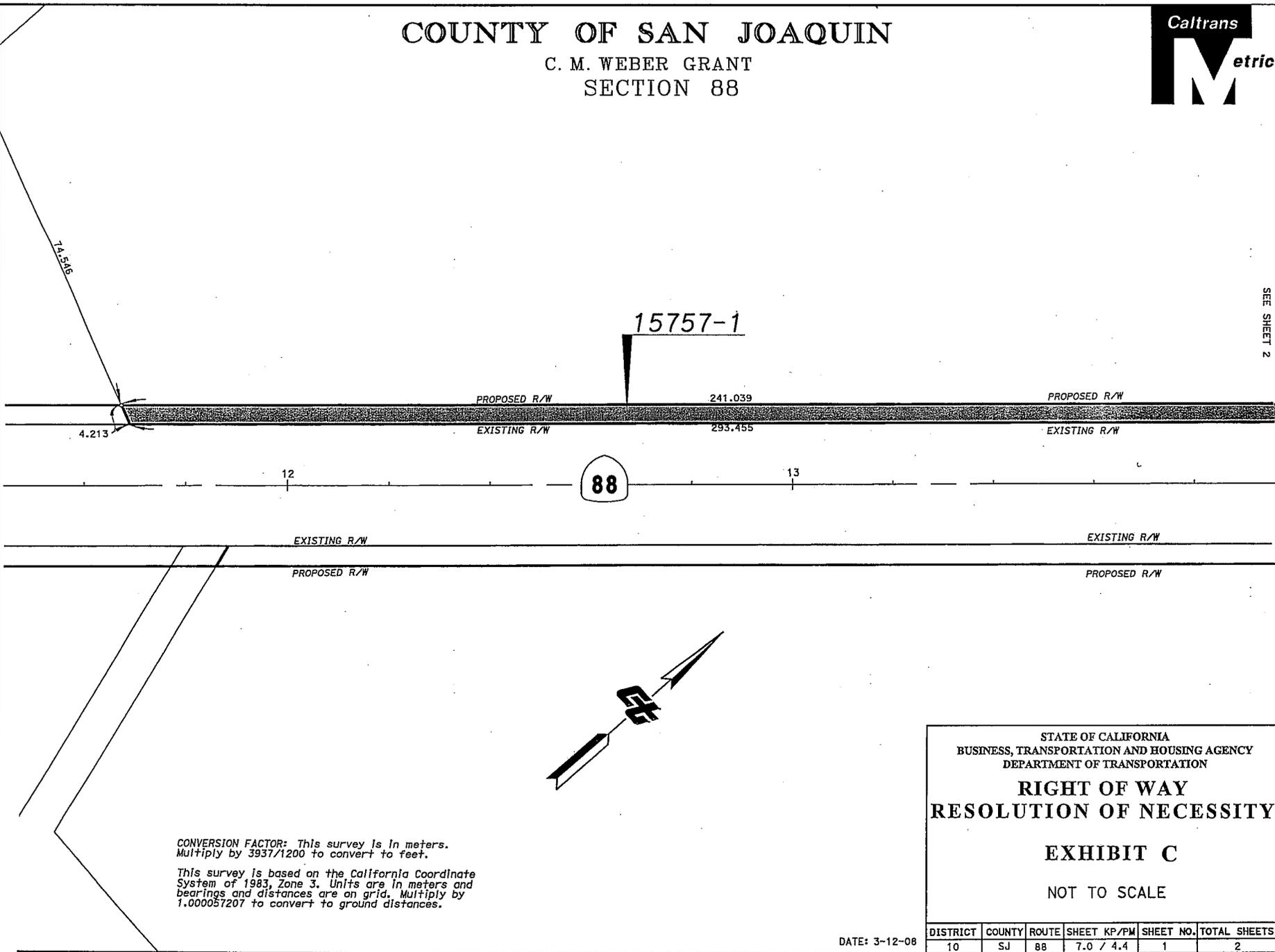


COUNTY OF SAN JOAQUIN

C. M. WEBER GRANT
SECTION 88



SEE SHEET 2



CONVERSION FACTOR: This survey is in meters.
Multiply by 3937/1200 to convert to feet.
This survey is based on the California Coordinate System of 1983, Zone 3. Units are in meters and bearings and distances are on grid. Multiply by 1.000057207 to convert to ground distances.

STATE OF CALIFORNIA
BUSINESS, TRANSPORTATION AND HOUSING AGENCY
DEPARTMENT OF TRANSPORTATION

**RIGHT OF WAY
RESOLUTION OF NECESSITY**

EXHIBIT C

NOT TO SCALE

DATE: 3-12-08

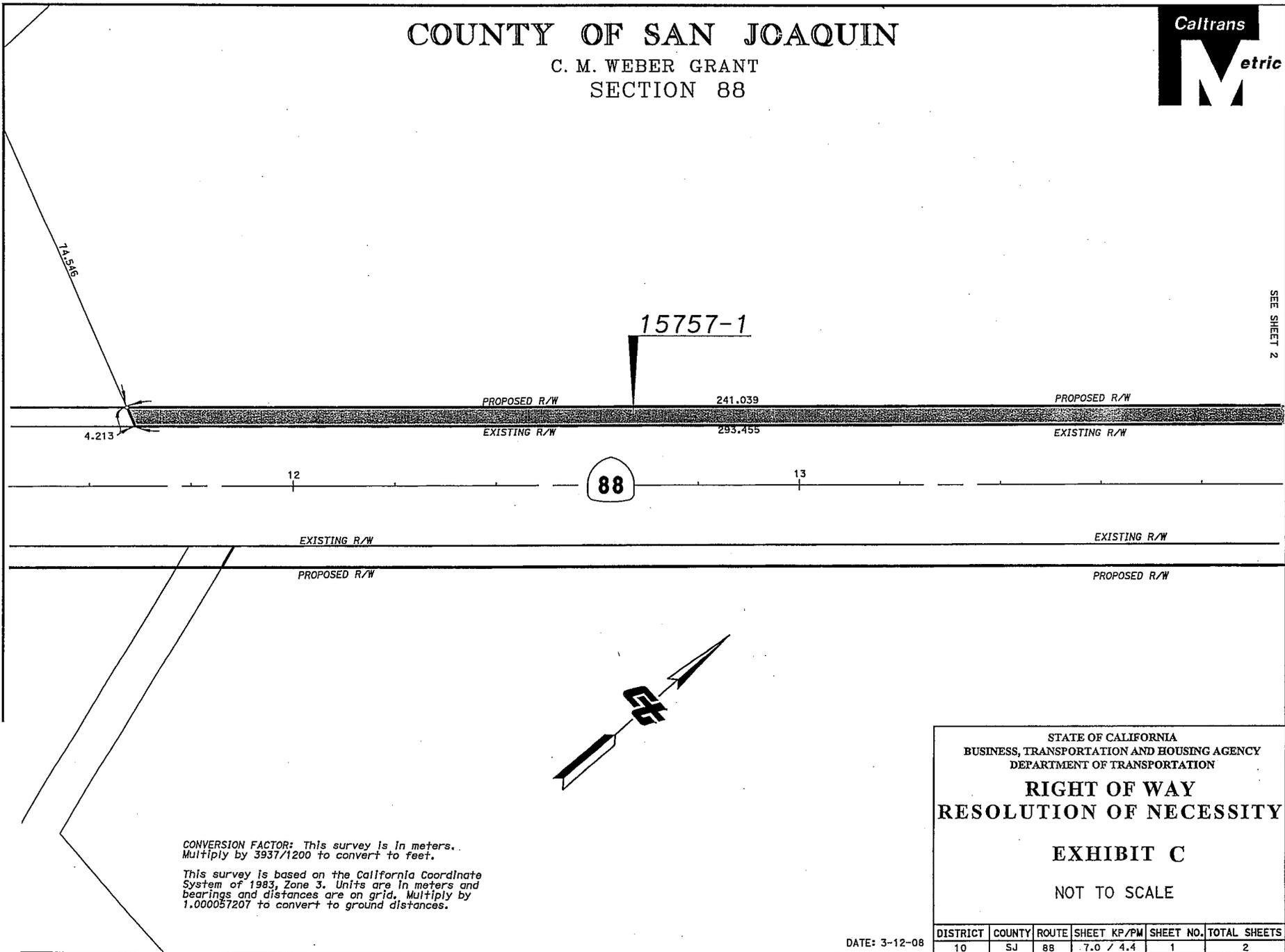
DISTRICT	COUNTY	ROUTE	SHEET KP/PM	SHEET NO.	TOTAL SHEETS
10	SJ	88	7.0 / 4.4	1	2

COUNTY OF SAN JOAQUIN

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DISTRICT	COUNTY	ROUTE	SHEET KP/PM	SHEET NO.	TOTAL SHEETS
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EXHIBIT C5

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