

TAB 63 - YELLOW REVISED ITEM

Attachment B Update: Page 4, second paragraph under Department's Response - replaced "consistent" with "inconsistent".

Reference No.: 2.4a.
October 21-22, 2020
Attachment B
Page 1 of 9

PARCEL PANEL REPORT

Property Owner: Franklin A. Engelhardt and Beverly Ann Engelhardt, Trustees of the Franklin A. Engelhardt and Beverly Ann Engelhardt Living Trust Dated June 19, 2007.

Stevie Dall and Norbert Dall of Dall & Associates are representing Mrs. Beverly Engelhardt in this matter.

Parcel Location: 33711 Navarro Ridge Road, in the unincorporated community of Albion, in Mendocino County

Present Use: Rural Residential (5)

Zoning: Central Business District - Visitor Commercial

Area of Property: 3.01 Acres (as calculated from record data)

Area Required: 0.15 Acres Fee

PARCEL DESCRIPTION

The subject property is currently being used as a single-family residence (SFR) and is located on the east side of State Route (SR)1 with access off Navarro Ridge Road. The topography is sloping with some native trees, shrubs, and grass. There are no improvements within the acquisition area. The subject parcel's highest and best use is a residential homesite. Construction in the manner proposed will not affect the subject's highest and best use. The SFR on this parcel is located approximately 170 feet above the road grade of SR1.

NEED FOR SUBJECT PROPERTY

The need for this acquisition is based on a scope of work which adds a four-foot shoulder, drainage ditch, and cut slope along northbound SR1 adjacent to the parcel. This proposed shoulder provides a safe recovery zone for motorists and accommodates bicyclist and pedestrians along SR 1. In order to design and construct this improvement, a portion of the subject property is required, therefore the property cannot be avoided.

RESOLUTION OF NECESSITY REVIEW PANEL REPORT

Due to COVID-19, the Condemnation Review Panel (Panel) meeting was hosted online via WebEx on August 18, 2020. The Panel members included Jeffrey Purdie, Panel Chair, Department of Transportation (Department) Headquarters (HQ) Division of Right of Way and Land Surveys (RWLS); Stacy Lau, Department's Bay Area Legal Division; Tina Lucas, Department's Division of Design; Paul Pham, HQ RWLS, Secretary to the Panel.

Representing the property owner at the meeting were Stevie Dall and Norbert Dall of Dall & Associates.

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 primary concerns and objections expressed by the property owners through their representatives are: The proposed project is not necessary, the proposed project is not planned or located in the manner that will be most compatible with the greatest public good and least private injury, the subject property is not required, the property has not been properly surveyed, and that a valid offer has not been made pursuant to Government Code 7267.2

The following is a description of the specific concerns raised by the property owners and/or their representatives, followed by the Department's response:

Owner Contends:

The public interest and necessity do not require widening or straightening of the Highway 1 road prism, or other development for highway purposes, with attendant taking of the Owner's real property (Assessor Parcel Number 123-310-016), which is located on the inland (east) side of the Highway 1 right-of-way. Property owner also believes that the segment of Highway 1 adjoining their property is "already straight and adequate to meet the low traffic volumes in our area".

Department's Response:

This project is a Traffic Safety Project with the primary purpose to reduce the frequency and severity of collisions. This segment of highway has an actual Fatal collision rate of 18.6 times the Statewide Average (SWA) for similar facilities; an actual Fatal + Injury collision rate of 2.0 times the SWA for similar facilities, and actual total collision rate of 1.5 times the SWA for similar facilities.

The Department does not propose to straighten this segment of highway. The highway alignment remains as existing except for locations where the existing curves need adjustments to meet current highway standards.

During the most recent 3-year period for which information is available (January 1, 2016 to December 31, 2018), 3 collisions were reported for the highway segment from PM 41.8 to PM 42.3. The predominant movement preceding a collision was run-off-road. The proposed 4-foot shoulder provides a safe recovery zone for motorists and protection to bicyclist and pedestrians.

The public interest and necessity compel the Department to complete these safety improvements proposed in this project.

Owner Contends:

There have been no collisions on SR1 within the portion of the subject parcel; therefore, this project is not necessary.

Department's Response:

The subject parcel is only a portion of the project. The Department considers the project in segments of the highway system. Features in one location can influence the operational condition in another location, so safety features cannot be considered on a parcel by parcel basis.

Owner Contends:

Caltrans has not presented a valid environmental clearance in relation for any public agency action for the project or proposed taking of the property.

Department's Response:

The project's environmental analysis has been performed by the Caltrans District 1 Environmental staff in compliance with both California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA). A Categorical Exemption/Exclusion (CE/CE) was completed for this safety project. The CE/CE has gone through a rigorous review process and was approved on March 14, 2019. The Notice of Exemption was submitted to the State Clearinghouse on March 21, 2019. A complete copy was provided to Mr. Dall on July 23, 2019.

Owner Contends:

Owner suggests Department to consider the alternative approaches. Owner offers a list of 18 designs suggestions.

TAB 63 - YELLOW REVISED ITEM

Attachment B Update: Page 4, second paragraph under Department's Response - replaced "consistent" with "inconsistent".

Reference No.: 2.4a.
October 21-22, 2020
Attachment B
Page 4 of 9

Department's Response:

The District conducted a following up meeting with Dall & Associates subsequent to the CPRM for the sole purpose of reviewing the owner's representative's suggestions. The District included a multidisciplinary team of professionals, including Traffic Operations, Safety, Design, Construction, and Environmental Analysis; they spent several hours reviewing the owner's representative's suggested ideas.

The project delivery team had already considered and rejected (or incorporated) some of the suggestions made by Dall & Associates. Subject to the secondary meeting, the majority of suggestions cannot be implemented because they will negatively impact safety, do not meet the project's purpose and need, are infeasible due to site conditions, and/or are incompatible with the safety of people bicycling or hiking. In addition, certain of their proposed requests are inconsistent ~~consistent~~ with the Mendocino County route concept. Lastly, FHWA studies show that adequate shoulders are the most effective way to increase safety' as currently designed, the proposed project scope is consistent with the Department's goals of implementing complete streets and also enhances access to the Navarro Point Preserve

Owner Contends:

Caltrans proposes to use material excavated from this property, without specification, to fill wetlands in this project area as well as offsite. Caltrans has proposed to use only a quarter of the excavated material and gives the remainder to a private contractor that hauls it off site for private use.

Department's Response:

This project will not fill in wetlands within the project's limits or elsewhere. All excavated materials will be used to the extent possible for this project. If there are any extra materials remaining after completion of construction, it will become the contractor's property. When feasible, the Department avoids paying hauling and disposal costs and fees. This cost saving measure is allowed when excavated material is under 10,000 cubic yards. The property owners were offered just compensation for a fee acquisition for the section of land to be acquired. As it is a fee acquisition, it includes the cut material that will be used on other portions of the project or that will become the responsibility of the contractor to dispose of in the event there is excess material.

This is a compensation issue and is not a matter for the California Transportation Commission to consider during the appearance before the Commission.

Owner Contends:

Owner suggests shifting the alignment seaward to avoid their property.

Department's Response:

This was an alternative during the early stage of project development. However, this option was eliminated because the project's objective is to maintain the existing alignment to the best extent under the directions of The County of Mendocino and the Californian Coastal Commission, as well as community support in favor of an alignment that is not predominantly tangent in nature. In addition, this suggestion posed a disproportionate amount of negative impacts to the Navarro Point Preserve property.

The final alignment achieves the project's primary objectives and minimizes impacts to private property.

Owner Contends:

Owner's parcel extends to the centerline of the existing SR 1, and the Department does not own the property under the highway. Right of Way maps do not match the County Parcel Maps "C2D33P43" (See Exhibit C).

Department's Response:

There is an error in the 1987 County Parcel Map which the Owner is referring to.

"The Parcel Map that created the Engelhardt parcel in 1978 (Map Case 2 Drawer 33, Page 43, MCR (C2D33P43, hereafter)) depicts the parcel extending to the centerline of Route 1 and does not mention the 1916 highway R/W deed at all. The Engelhardt deed refers only to Parcel 2 per map C2D33P43. The deeds to every other parcel on this project save one refer to and treat the 1916 highway R/W as fee R/W. This includes the Engelhardt's adjoiner to the north, which parcel was created by the same map as Engelhardt's parcel. The lone exception to referencing the 1916 deed (this is for a parcel lying west of the highway) generically calls to the west line of the highway, which yields the same result."

The County of Mendocino acquired the right of way of the then County route in fee title on April 8, 1916 (See Exhibit D). Subsequently, the County route was incorporated into State Highway System in 1933, and the title was transferred to the Department.

This information was provided to Mr. Dall and Stevie Dall on August 26, 2020.

Owner Contends:

Project proposed to excavate within the subject parcel without performing any surface investigation. The proposed excavation will compromise slope stability, worsen drainage, damage vegetation and disturb existing wildlife corridors.

Department's Response:

To minimize damages to these items, the Department has performed various studies and developed several reports on both the parcel level as well as project wide levels.

A State Geologist and a Civil Engineer conducted a site investigation on the subject parcel and developed a Geotechnical Report. Information provided from this report was incorporated into the project's design and will be utilized during construction to ensure a stable slope in the after condition of construction.

A Drainage Report for the project was prepared by a State Engineer who specializes in Hydrology. The engineer evaluated the rainfall data, recurrence intervals, flood considerations, drainage pattern changes, and Stormwater Treatment Strategies to ensure the proposed runoff will not encroach onto the travelled way, cause erosion, or cause backwater during storm events.

A Landscape Plan calls for restoring vegetation in the post construction environment with native plants.

A Visual Impact Assessment has been prepared by a District Landscape Architect. There will be temporary visual impacts on the corridor during construction; however, there is no visual impact that can be directly seen from the residence on this parcel.

A Natural Environment Study and an Environmentally Sensitive Habitat Area Assessment were prepared by qualified wildlife biologists. The study found that there is no effect to any species; the study also concluded there are no threats or endangerments to any designated critical habitat. The study also concluded that the proposed project will not impede the flow and movement of wildlife in this area.

All of the above studies were performed by qualified experts within the purview of their designated specialties. In contrast, the owner's representatives have not provided any professional opinions that support a contrary opinion to the Department's findings.

Owner Contends:

Caltrans has not presented to the Owner a valid appraisal. The Appraisal Map was unclear, and the Appraisal was rife with omissions and included misrepresentations. The Owner's representatives also contend the offer is too low.

Department's Response:

The Appraisal Map was prepared by a licensed Right of Way Land Surveyor, and the Appraisal was completed by a professional Right of Way Agent. The Appraisal Map and

the Appraisal have gone through a review process to ensure accuracy and compliance with all State laws and Federal Regulations. The Owner has not provided a qualified statement from either a professional Land Surveyor or an independent appraiser that rebuts the Department's documents, analysis and conclusions.

Compensation is an issue that is outside of the scope of the California Transportation Commission.

DEPARTMENT CONTACTS:

The following is a summary of the contacts made with the property owner/representatives:

| Type of Contact | No of Contacts |
|-------------------------|-----------------------|
| Mailing of information | 6 |
| Emailing of Information | 22 |
| Telephone | 7 |
| Teleconference | 4 |
| Personal Call | 0 |

Beside these contacts that directly involved the subject parcel, the District has provided in excess of 80 documents requested by Mr. Dall under the California Public Records Act.

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 the Government Code Section 7267.2. The Owners have been notified that issues related to compensation are outside the purview of the Commission.

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 accordance with Government Code Section 7267.2 has been made to the owners of record.

The Panel recommends submitting this Resolution of Necessity to the Commission.

Jeffrey A. Purdie

JEFFREY A. PURDIE
Chief, Office of Project Delivery
HQ Division of Right of Way and Land Surveys
Panel Chair

I concur with the Panel's recommendation:

Michael D. Keever

MICHAEL D. KEEVER
Chief Engineer

**PERSONS ATTENDING CONDEMNATION PANEL REVIEW
MEETING ON AUGUST 18, 2020**

Jeffrey Purdie, HQ Division of Right of Way and Land Surveys, Panel Chair
Stacy Lau, Legal Counsel, Bay Area Legal Division, Panel Member
Tina Lucas, HQ Division of Design, Panel Member
Paul Pham, HQ Division of Right of Way and Land Surveys, Panel Secretary
Mike Whiteside, HQ Division of Design
Devin Porr, HQ Division of Design

Richard Mullen, District Director, District 1
Carlos Portillo, Principal Transportation Engineer, District 1
Carl Anderson, Supervising Transportation Engineer, District 1
John Ballantyne, Deputy District Director- Right of Way, North Region

Megan Demcak, Right of Way Agent, District 1
Frank Demling, Project Manager, Program Project Management, District 1
Chris Johnston, Senior Transportation Surveyor, District 1

Stevie Dall and Norbert Dall of Dall & Associates