

Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: December 10-11, 2003

Reference No.: 2.4a.
Action Item

From: ROBERT L. GARCIA
Chief Financial Officer

Prepared by: Brice D. Paris
Division Chief
Right of Way

Ref: APPEARANCE

BACKGROUND:

On September 25, 2003 proposed resolution C-18834 was presented to the California Transportation Commission (Commission) for adoption. The Commission denied the resolution and instructed the Department of Transportation (Department) to pursue discussion with the County of Fresno (County) to modify construction features, adjacent to Fowler Avenue, in an effort to reduce property requirements.

In response to the Commission's direction, a meeting was held with the County and the property owner, Mr. Bocchini. At the meeting three new alternatives were explored. Two of the alternatives required widening the west side of Fowler Avenue impacting two additional properties improved with homes. The third alternative was a slight modification of the original alignment previously presented to the Commission which primarily utilized the existing Deeded County Road Right of Way. This alternative did not impact the two homes on the west side.

The third alternative was selected, as it would result in the least private injury under Civil Code of Procedures Section 1245.230. This selected alternative allowed the right-of-way line along Fowler Avenue to be pulled in slightly in an effort to minimize the physical impact on the Bocchini property. This alternative is the only one acceptable to the City and County of Fresno. The change did not result in an agreement with the owner.

Preparation of the revised legal description for the reduced area, required for the project resulted in discovery of a discrepancy in the width of the County's existing Fowler Avenue right-of-way. A 1888 subdivision map depicted a uniform width of fifty feet, however, a review of an 1887 deed to the County revealed that it was only forty-five feet wide. Although the physical area required for the project was reduced, this discrepancy resulted in an increase in the actual calculated area required from the Bocchini property. A revised appraisal and offer was made to the owner.

The September 2003 Commission Book Item is included with this submittal for information.

RECOMMENDATION:

The Department recommends the Commission adopt Resolution of Necessity C-18862, which is the subject of this appearance, as it meets the criteria set forth in Statute 1245.230 of the Code of Civil Procedures. 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 is requesting a resolution at this time. Adoption of Resolution of Necessity C-18862 will assist the Department in the continuation of the orderly sequence of events required to meet construction schedules.

C-18862 - Henry F. Bocchini, Jr, et ux

06-Fre-180-KP 102.3-Parcel 84835-1,2 - EA: 342439 - Certification Date: 2/1/04 - RTL Date: 3/1/04 - (Freeway - construction of new alignment for State Route 180). Authorizes condemnation of land in fee for a State highway, extinguishment of abutter's rights of access, underlying fee in public road. Located in the County of Fresno at 1442 North Fowler Avenue.

UPDATED SUMMARY OF ISSUES

On September 25, 2003, proposed resolution C-18834 was presented as an appearance item to the California Transportation Commission (Commission) for adoption. The property owner, Mr. Henry Bocchini, the owner of Hank's Swank Golf Course appeared on his own behalf to challenge the resolution based on the design of the project. Mr. Bocchini indicated he does not contest the need for the project.

The Commission denied the resolution and instructed the Department to:

1. Review the design in an effort to reduce widths of sidewalks, parking, median or other design features that would reduce the amount of right-of-way required from the property owner.

The Department's project does not include construction of any sidewalks adjacent to the Bocchini property. The Department's project includes minimum reconstruction of Fowler Avenue and includes transitioning of pavement as quickly as possible to conform to the existing two lane county road. Any medians are the minimum required for operational purposes, and no provisions are being made for on street parking.

The Department was however able to reduce the width of the required right-of-way by five feet by steepening side slopes and reducing the contractors work area. This reduction results in the slope ending at the right-of-way line, as opposed to the normal practice of allowing for a small work and maintenance areas beyond the end of the slope.

This reduction did not result in an agreement with the property owner.

2. Meet with the County of Fresno, the City of Fresno and property owner to review our design in relation to future county and city street improvements.

The County and City both fully support the Department's project as designed. As designed it conforms to their existing right-of-way and is fully compatible with any proposed future improvements. The county does not however have any approved plans for improvement of Fowler Avenue at this time. Any future county project will require appropriate environmental studies, project design approval, and funding, which is projected to be at least five years away.

MEETING HIGHLIGHTS

A meeting was held with the City, County and Mr. Bocchini on October 9, 2003. Three alternatives were discussed which would have lessened the impact on Mr. Bocchini's property.

Two of the proposed alternatives would have shifted the roadway to the west, would have been incompatible with the existing road alignment and the city's planned future road alignment, and these two alternatives would also impact two homes on the west side of Fowler Avenue. The taking of additional property on the west side of Fowler Avenue as required by those two alternatives would also not meet Civil Code of Procedure Section 1245.230 requirement for the property being necessary for the project, since there is already a 1984 dedicated recorded easement on the east side from the Bocchini property for that specific purpose.

The third alternative was a slightly modified version of the original alignment previously presented to the Commission. This alternative is primarily within the existing deeded County road right-of-way, and did allow the right-of-way along Fowler Avenue to be pulled in from five feet at the south end, tapering to zero at the north. This option conformed to the Counties planned alignment of Fowler Avenue and did not affect additional properties or the two homes on the west side of Fowler.

The third alternative was selected as it slightly reduced the impacts on the Bocchini property, while also meeting the test of least private injury under Civil Code of Procedures Section 1245.230, when compared to the other two alternatives. Selection of this option did not result in an agreement with Mr. Bocchini.

RECOMMENDATION:

The Department concludes that the design complies with Section 1245.230 of the Code of Civil Procedures 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 to be condemned is 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 Department recommends submitting a Resolution of Necessity to the California Transportation Commission.



VERNON V. RHINEHART
Chief
Division of Right of Way

I concur with the recommendation:



BRENT FELKER
Chief Engineer

Resolution of Necessity Appearance Fact Sheet

PROJECT DATA 06-Fre-180-R 101.2/R107.0, EA 342431

Location: On Route 180 in and near Fresno, in Fresno County

Limits: From Clovis Avenue to Locan Avenue

Cost: Current construction cost estimate \$45 million, RW \$8.5 million

Funding Source: STIP / TCRP

Number of Lanes: New freeway on new alignment: 6-lane freeway on 8-lane RW from Clovis Ave. to Fowler Ave, 4-lane freeway on 6-lane RW from Fowler Ave. to Temperance Ave. 4-lane expressway from Temperance Ave. transitioning to the existing 2-lane Route 180 (Kings Canyon Road) at Locan Avenue.

Proposed Major Features

Interchanges at Clovis Avenue, at Fowler Avenue, and at Temperance Avenue. The subject area is at and near Fowler Avenue interchange, where Fowler Avenue, a county arterial road, is to be widened.

Traffic:

Rte 180 ADT:	19400 (Yr. 2002)	56000 (Yr. 2025)
Fowler Ave ADT:	4700 (Yr. 2000)	12400 (Yr. 2025)

PARCEL DATA

Property Owners: Mr. and Mrs. Henry and Nancy Bocchini

Parcel Location: APN 310-130-83, along the east side of Fowler Avenue, between Harvey Avenue and Olive Avenue. It is on the north side of the proposed Freeway 180

Present Use: Currently the Hank's-Swank Golf Course

Area of Property: 9.864 hectares (24.375 acres)

Area Required: Parcel 84835-1 = 0.185 hectares (0.456 acres) in fee.
Parcel 84835-2 = 0.119 hectares (0.29 acres) in underlying fee within dedication county road right-of-way, with access rights.

**PERSONS ATTENDING MEETING
OCTOBER 9, 2003**

Hank Bocchini, Property Owner
Dan Bocchini, Property owner's son
Jim Tsuruoka, Yamabe & Horn Engineers
Monte Montemagni, Logan & Associates

Andy Richter, County of Fresno

Mike Kim, City of Fresno

Rose Willems, FCTA Advocate

Tony Lee, Assemblyman Samuelian Office

Mike Leonardo, District 6 District Director
Neil Bretz, Caltrans District 6 Project Manager
Tony McDowell, Central Region Supervisor Right of Way
James Gonzalez, Central Region Right of Way Agent
Thanh Nguyen, Central Region Design
Garth Fernandez, Central Region Design
Michael Janzen, Caltrans Design

Attachments

Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: September 24-25, 2003

Reference No.: 2.4a.(1)
Action Item

From: ROBERT L. GARCIA
Chief Financial Officer

Prepared by: Brice D. Paris
Division Chief
Right of Way

Ref: APPEARANCE

RECOMMENDATION:

The Department of Transportation (Department) recommends the California Transportation Commission adopt Resolution of Necessity C-18834, which is the subject of this Appearance. 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-18834 will assist the Department in the continuation of the orderly sequence of events required to meet construction schedules.

C-18834 - Henry F. Bocchini, Jr. et ux.

06-Fre-180-KP 102.3-Parcel 84835-1,2 - EA: 342439 - Certification Date: 2/1/04 - RTL Date: 3/1/04 - (Freeway - construction of new alignment for State Route 180). Authorizes condemnation of land in fee for a State highway, extinguishment of abutter's rights of access, underlying fee in public road. Located in the city of Fresno at 1442 North Fowler Avenue.

Attachments

SUMMARY OF ISSUES

Mr. and Mrs. Bocchini are the owners of Hank's Swank Golf Course along the east side of Fowler Avenue, just north of the Proposed Fre-180 interchange at Fowler Avenue. Mr. Bocchini has indicated he does not contest the need for the project, his objection is to the impact the proposed project has on his property. The following is a description of the concerns, which Mr. Bocchini has expressed, and the District's response.

1. Department proposed widening of Fowler Avenue would cause a major impact to his golf business. He would have to relocate some of the greens and holes and the property fence along Fowler Avenue. The current design would result in significant cost to his business.

The Department proposed widening was designed adjacent to Fowler Avenue, based on a road easement dedicated to the County in 1984. Impacts to the operation of the golf course, as claimed by Mr. Bocchini, appear to be the result of a decision to build a part of the golf course on the previously dedicated road easement. This is a compensation issue outside the purview of the Commission.

2. While the proposed transition from the Fre-180 interchange connection to the existing two-lane road on Fowler Avenue would not impact Mr. Bocchini's two building structures further north on Fowler Avenue, near Olive Avenue, he feels that the project as it is currently proposed would result in the County finishing Fowler Avenue to its ultimate condition. That ultimate Fowler Avenue widening would cause the loss of his first building and would leave the second building with only 6' set back from the ultimate road.

Department's proposed transition on Fowler Avenue does not impact Mr. Bocchini's two building structures. Any future decision by the County to widen Fowler Avenue is outside the scope of the Department's highway project

3. The proposed widening would remove 14 mature palm trees along the east side of Fowler Avenue within the existing Fowler Avenue right-of-way. This would be an unnecessary visual impact and would be contrary to local community goals (Tree Fresno)

The Visual Impact Assessment was covered in the Environmental Impact Study (EIS) and subsequent Environmental Reevaluations. It was determined that the removal of the 14 palm trees does not measurably change the visual impacts. No additional mitigation measures are necessary.

4. Bats living in the palm trees would be displaced.

The issue of the bats was addressed and covered in the EIS. Recent surveys were conducted and there was no evidence of bats in the trees. Should bats be discovered in the trees during construction, the trees would be netted to preclude the bats from returning to the trees during their removal, ensuring the bats would not be harmed.

5. Department already owns almost all of the properties on the west side of Fowler Avenue. Widening Fowler Avenue to the west would have fewer total impacts since the counties ultimate 106' right of way would not impact any building structures on the west side.

Department does not own all of the properties on the west side of Fowler Avenue. Widening Fowler Avenue to the west of the Bocchini's property would require the full acquisition of two residential properties and the partial acquisition of a business (Fresno Roofing Company). As designed the project utilizes right-of-way previously dedicated for the widening of Fowler Avenue, without the requirement for additional right of way.

6. The County of Fresno has never adopted an official plan line for Fowler Avenue.

Although there is no record of a county official plan line for Fowler Avenue, Mr. and Mrs. R. P. Price, the previous owners of the property, executed a road easement dedication in 1984 to the County. The dedication was required by the County prior to the development of the property as a golf course. The road easement was recorded prior to Mr. Bocchini's purchase of the property.

7. Mr. Bocchini expressed the opinion that the highway project design should be revised to avoid his property.

If the Department were to pursue the design concept suggested by Mr. Bocchini:

- A. The Department would still require the purchase of the 21' island strip that lies between the existing Fowler Avenue and the county road easement.
- B. The proposed widening would still impact the palm trees along the eastside of Fowler Avenue.
- C. The Department would cause new impacts to three properties on the west side of Fowler Avenue. It would be difficult for the Department to justify condemnation on the west side of Fowler Avenue when there is an existing easement that was dedicated and recorded for road purposes on the east side of Fowler Avenue
- D. The Department would face numerous impacts to the project delivery schedule and the result would be cost increases due to:
 - Additional environmental studies that would be required for impacts to the west side of Fowler Avenue.
 - Additional Right of Way mapping, appraisal, negotiations and relocation of residents.
 - New negotiations with the County to obtain their concurrence on the revised design on Fowler Avenue.
 - Redesign of the interchange, including redesign of related structures.
 - Additional support costs.
 - Full acquisition of two residential properties and a partial acquisition of a business.

Resolution of Necessity Appearance Fact Sheet

PROJECT DATA 06-Fre-180-R 101.2/R107.0, EA 342431

Location: On Route 180 in and near Fresno, in Fresno County

Limits: From Clovis Avenue to Locan Avenue

Cost: Current construction cost estimate \$45 million, RW \$8.5 million

Funding Source: STIP / TCRP

Number of Lanes: New freeway on new alignment: 6-lane freeway on 8-lane RW from Clovis Ave. to Fowler Ave, 4-lane freeway on 6-lane RW from Fowler Ave. to Temperance Ave. 4-lane expressway from Temperance Ave. transitioning to the existing 2-lane Route 180 (Kings Canyon Road) at Locan Avenue.

Proposed Major Features

Interchanges at Clovis Avenue, at Fowler Avenue, and at Temperance Avenue. The subject area is at and near Fowler Avenue interchange, where Fowler Avenue, a county arterial road, is to be widened.

Traffic:

Rte 180 ADT:	19400 (Yr. 2002)	56000 (Yr. 2025)
Fowler Ave ADT:	4700 (Yr. 2000)	12400 (Yr. 2025)

PARCEL DATA

Property Owners: Mr. and Mrs. Henry and Nancy Bocchini

Parcel Location: APN 310-130-83, along the east side of Fowler Avenue, between Harvey Avenue and Olive Avenue. It is on the north side of the proposed Freeway 180

Present Use: Currently the Hank-Swank Golf Course

Area of Property: 24.294 Acres

Area Required: Parcel 84835-1 = 0.361 Acres (0.146 Hectares) in fee.
Parcel 84835-2 = 1384.715 Square meters (14,904.89 Square feet) in underlying fee within dedication county road right-of-way, with access rights.

RESOLUTION OF NECESSITY REVIEW PANEL REPORT

The Resolution of Necessity Review Panel met August 13, 2003 in Fresno. The Panel members consisted of Vern Rhinehart, Department HQ's Right of Way; Richard B. Williams, Department HQ's Legal Division; and Linda Fong, Department HQ's Division of Design. Deborah Gebers, HQ's Right of Way, was Secretary to the Panel. Mr. Henry Bocchini, the property owner was present at the meeting.

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

NEED FOR THE PROJECT

The existing Route 180 in southeast Fresno is a highly congested conventional arterial operating at a level of service (LOS) F. The southeast side of the Fresno metropolitan area presently lacks a major east-west freeway facility. The project will facilitate better traffic flow within this urban area. Existing Route 180 links the eastern Fresno County communities and National Park areas with the regional services located in Fresno. The route serves as the primary agricultural goods movement in eastern Fresno County and is of growing importance for commute travel from the surrounding rural areas and neighboring communities to the Fresno metropolitan area.

The project will increase capacity for Route 180, improve traffic operations and safety for Route 180 traffic and local streets, while providing route continuity for traffic on Freeway 180.

The owners do not contest the need for the project.

PROJECT DESIGN

The proposed project is in Fresno County, in and near the southeast limits of the City of Fresno. The project is along a new freeway alignment from Clovis Avenue to Locan Avenue and is a continuation of the segment of Route 180 from Route 168 to Fowler Avenue currently under construction. The project would continue to provide a 6-lane freeway on an 8-lane freeway right of way from Clovis Avenue to Fowler Avenue and a 4-lane freeway on a 6-lane freeway right of way from Fowler Avenue to Temperance. The facility would then become a 4-lane expressway and transition to the existing 2-lane highway Route 180 (Kings Canyon Road) at approximately Locan Avenue.

On this new Route 180 freeway project, one of the proposed interchanges is at Fowler Avenue. Fowler Avenue is currently a two lane county road. It is an ultimate 106' right of way 4-lane arterial facility. Within the proposed interchange area Fowler Avenue would be widened to accommodate two through lanes in each direction, two left turn lanes in the median and one

right turn lane. The proposed interchange was based on the year 2027 projected traffic (20-year design period). A part of the widening has been designed to the west side, while most of the widening is to the east side of the existing Fowler Avenue. Beyond the interchange area, the four through lane facility would transition back to the existing two-lane road.

The project is a FY 2003-04 STIP/TCRP project. The current construction estimate is \$45 million and right of way cost estimate is \$8.5 million. The project is tentatively scheduled for advertisement in May 2004.

NEED FOR SUBJECT PROPERTY

The property required is for construction of the Route 180 freeway and the transition from the Fowler Avenue interchange area to the existing two-lane road. The area needed is underlying fee and access rights to a dedicated strip of land that is 37.5' wide and is located at the outer east limits of the ultimate Fowler Avenue 106' right of way. This easement was dedicated to the County of Fresno and recorded on July 24, 1984, in said county, as easement document # 84070386. The remaining area required for the project is the underlying fee to an island 21' wide from Mr. Bocchini's property, which is situated between the existing Fowler Avenue and the county road easement. The District needs to utilize the 37.5' wide road easement and purchase the 21' wide fee strip from Mr. Bocchini in order to construct this project.

The following is a description of the concerns, which Mr. Bocchini has expressed and the District's response.

1. Department proposed widening of Fowler Avenue would cause a major impact to his golf business. He would have to relocate some of the greens and holes and the property fence along Fowler Avenue. The current design would result in significant cost to his business.

The Department proposed widening was designed adjacent to Fowler Ave, based on a road easement dedicated to the County in 1984. Impacts to the operation of the golf course, as claimed by Mr. Bocchini, appear to be the result of a decision to build a part of the golf course on the previously dedicated road easement. This is a compensation issue outside the purview of the Commission.

2. While the proposed transition from the Route 180 interchange connection to the existing 2-lane road on Fowler Avenue would not impact Mr. Bocchini's two building structures further north on Fowler Avenue, near Olive Avenue, he feels that the project as it is currently proposed would result in the County finishing Fowler Avenue to its ultimate condition. That ultimate Fowler Avenue widening would cause the loss of his first building and would leave the second building with only 6' set back from the ultimate road.

Department proposed transition on Fowler Avenue does not impact Mr. Bocchini's two building structures. Any future decision by the County to widen Fowler Avenue is outside the scope of the Department's highway project

3. The proposed widening would remove 14 mature palm trees along the east side of Fowler Avenue within the existing Fowler Avenue right-of-way. This would be an unnecessary visual impact and would be contrary to local community goals (Tree Fresno)

The Visual Impact Assessment was covered in the Environmental Impact Study (EIS) and subsequent Environmental Reevaluations. It was determined that the removal of the 14 palm trees does not measurably change the visual impacts. No additional mitigation measures are necessary.

4. Bats living in the palm trees would be displaced.

The issue of the bats was addressed and covered in the EIS. Recent surveys were conducted and there was no evidence of bats in the trees. Should bats be discovered in the trees during construction, the trees would be netted to preclude the bats from returning to the trees during their removal, ensuring the bats would not be harmed.

5. Department already owns almost all of the properties on the west side of Fowler Avenue. Widening Fowler Avenue to the west would have fewer total impacts since the counties ultimate 106' right of way would not impact any building structures on the west side.

Department does not own all of the properties on the west side of Fowler Avenue. Widening Fowler Avenue to the west of the Bocchini's property would require the full acquisition of two residential properties and the partial acquisition of a business (Fresno Roofing Company). As designed the project utilizes right-of-way previously dedicated for the widening of Fowler Avenue, without the requirement for additional right of way.

6. The County of Fresno has never adopted an official plan line for Fowler Avenue.

Although there is no record of a county official plan line for Fowler Avenue, Mr. and Mrs. R. P. Price, the previous owners of the property, executed a road easement dedication in 1984 to the County. The dedication was required by the County prior to the development of the property as a golf course. The road easement was recorded prior to Mr. Bocchini's purchase of the property.

7. Mr. Bocchini expressed the opinion that the highway project design should be revised to avoid his property.

If the Department were to pursue the design concept suggested by Mr. Bocchini:

- A. The Department would still require the purchase of the 21' island strip that lies between the existing Fowler Avenue and the county road easement.
- B. The proposed widening would still impact the palm trees along the eastside of Fowler Avenue.

- C. The Department would cause new impacts to three properties on the west side of Fowler Avenue. It would be difficult for the Department to justify condemnation on the west side of Fowler Avenue when there is an existing easement that was dedicated and recorded for road purposes on the east side of Fowler Avenue.
- D. The Department would face numerous impacts to the project delivery schedule and the result would be cost increases due to:
- E. Additional environmental studies that would be required for impacts to the west side of Fowler Avenue.
- Additional Right of Way mapping, appraisal, negotiations and relocation of residents.
 - New negotiations with the County to obtain their concurrence on the revised design on Fowler Avenue.
 - Redesign of the interchange, including redesign of related structures.
 - Additional support costs.
 - Full acquisition of two residential properties and a partial acquisition of a business.

Parcel Description

The subject parcel is Parcel No. 84835 and is approximately 24.394 acres or 9.8 hectares. It is a nine-hole golf course and driving range situated in southeast Fresno. The golf course fronts Olive Avenue to the north and Fowler Avenue to the west. The following two sub-parcels are required from the subject property.

Parcel 84835-1- 0.361 Acres (0.146 Hectares) in fee.

Parcel 84835-2 – 13874.715 Square meters (14,904.89 Square feet) in underlying fee within the dedication county road right-of-way, with access rights.

STATUTORY OFFER TO PURCHASE

The Department has appraised the subject property and offered the full amount of the appraisal to the owners of record.

**PERSONS ATTENDING SECOND LEVEL REVIEW PANEL
HEARING ON AUGUST 13, 2003**

Vern Rhinehart, Headquarters Right of Way, Panel Chair
Richard B. Williams, Headquarters Attorney, Panel Member
Linda Fong, Headquarters Design, Panel Member
Deborah Gebers, Headquarters Right of Way, Panel Secretary

Hank Bocchini, Property Owner

Mike Leonardo, District 6 Director
Kim Anderson, District 6, Chief Project Development
Randeem Walter, District 6, Region Division Chief Right of Way
Tony McDowell, District 6, Supervisor Right of Way
Neil Bretz, District 6, Project Management
Garth Fernandez, District 6, Project Engineer
Tak Tsuda, District 6, Senior Right of Way
James Gonzalez, District 6, Right of Way
Ken Cozad, Headquarters, Design

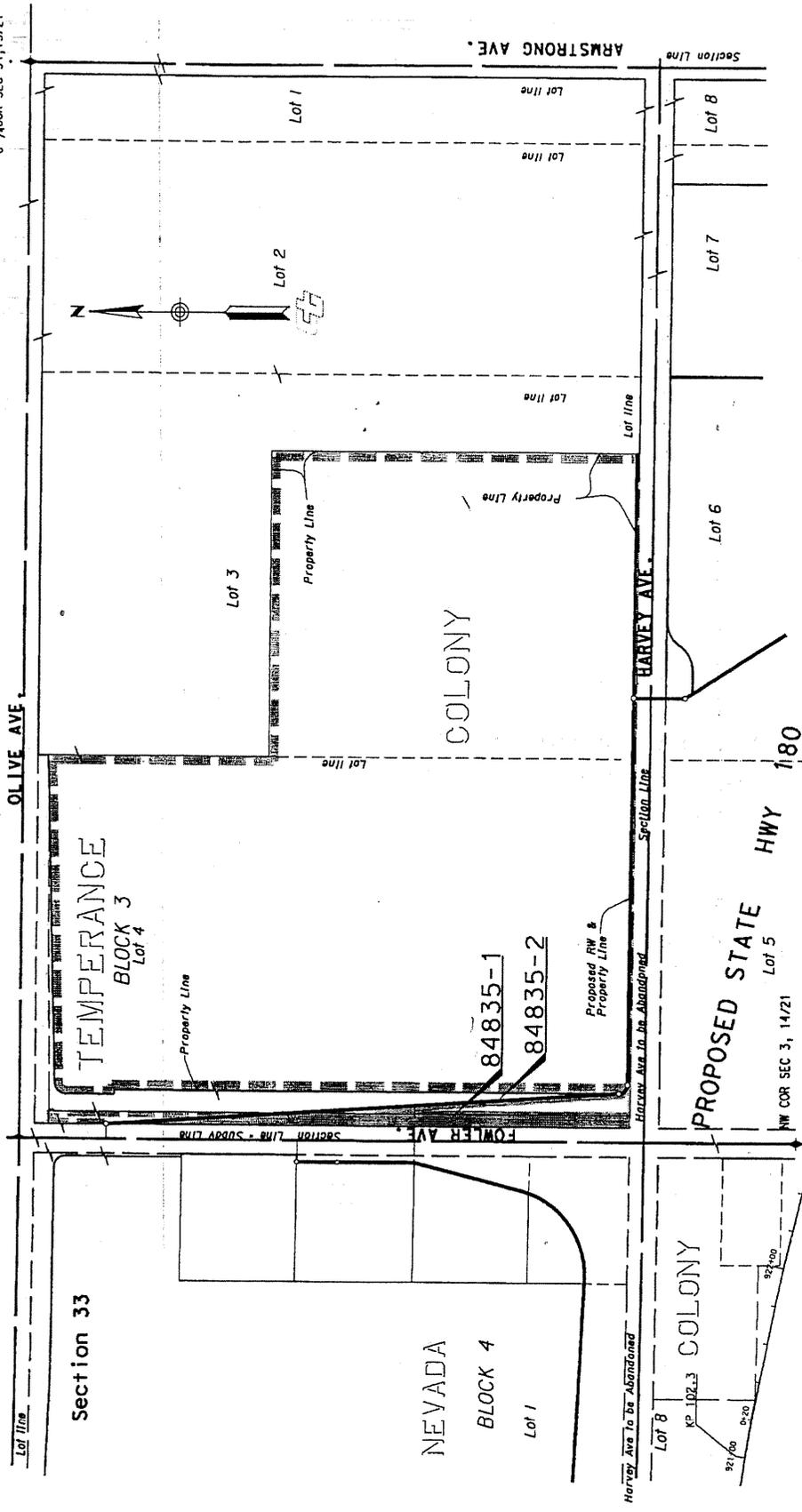
EXHIBIT A

T.13 S., R.21 E., M.D.B.& M.
SECTION 34



W 1/4 COR SEC 34, 13/21

C 1/4 COR SEC 34, 13/21



NO SCALE

RESOLUTION OF
NECESSITY MAP

6-Fre-180 K.P. 102.3

EXHIBIT B

1/4 COR SEC 34, 13/21
N 658234.399
E 1939094.992

76.620
589°58'26"W

106.779
500°01'34" W
Subdiv Line

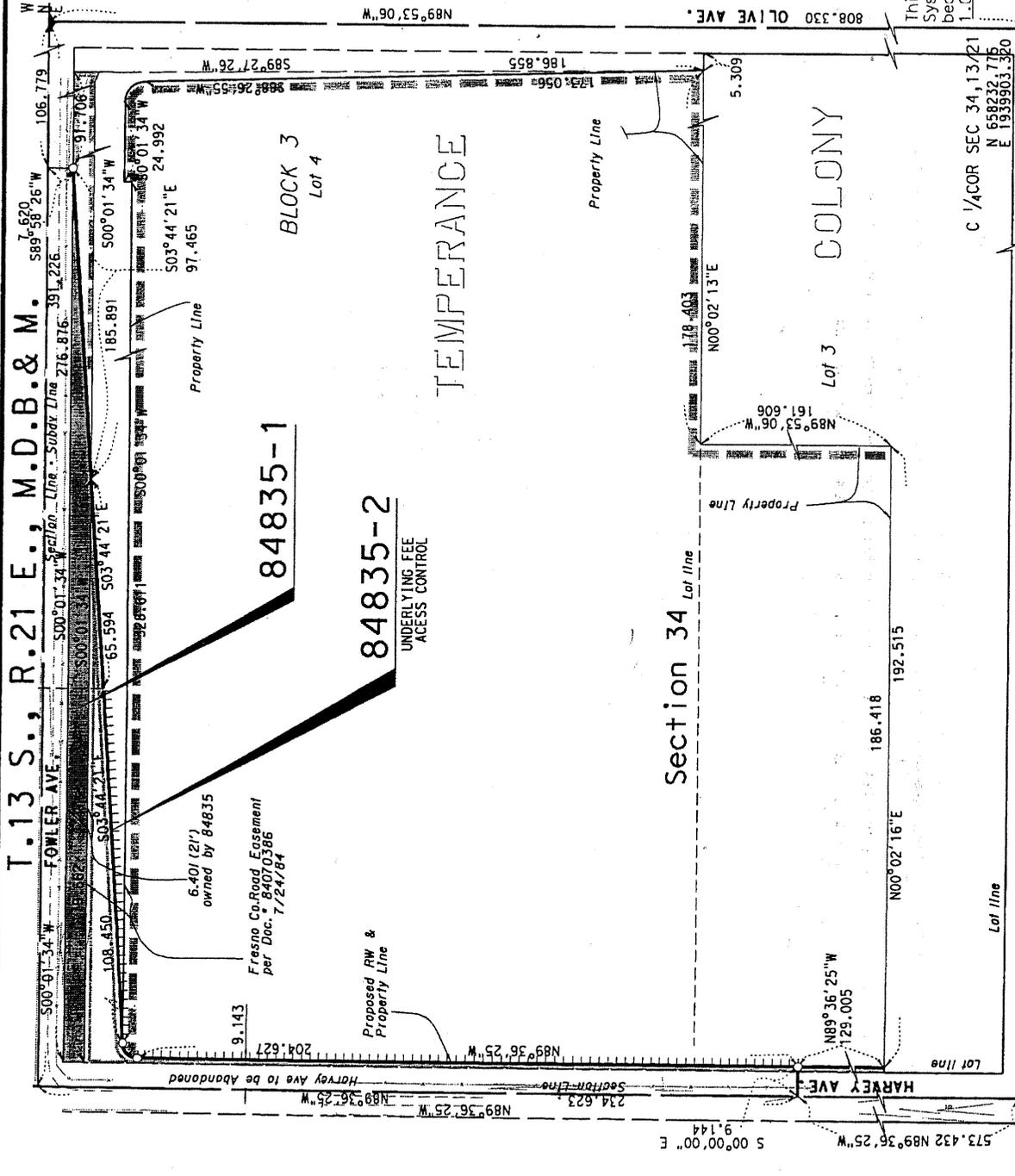
276.876
185.891
500°01'34" W

91.706
500°01'34" W

24.992
503°44'21" E
91.465

589°27'26" W
186.855
173.056

5.309
N 89°53'06" W
808.330 OLIVE AVE.



573.432 N89°36'25" W
S 00°00'00" E
9.144
234.623
N89°36'25" W
9.144

Section Line
Harvey Ave to be Abandoned

108.450
503°44'21" E
6.401 (21')
owned by 84835

9.143
204.627
Proposed RW & Property Line

Fresno Co. Road Easement
per Doc. 84070386
7/24/84

84835-1

84835-2

UNDERLYING FEE
ACCESS CONTROL

Section 34 Lot Line

Property Line

Lot 3

Lot 4

Property Line

Lot Line

ARMSTRONG AVE.

0 20 50 100 200

Scale in Meters 1:2000

395.145
S00°04'05" W

Section 34 Lot Line

Property Line

Lot 3

Lot 4

TEMPERANCE

COLONY

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 4. Units are in meters and
bearings and distances are in grid. Multiply by
1.000067995 to convert to ground distances.

RESOLUTION OF
NECESSITY MAP
6-Fre-180 K.P. 102.3

C 1/4 COR SEC 34, 13/21
N 658232.775
E 1939061.390

g:\DAVE\DRAWINGS\Fre-180\Condemnations\84835\84835ron-B.dgn
04:08:54 PM

Two of the proposed alternatives would shift the roadway to the west; be incompatible with the existing road alignment and the city's planned future road alignment; and impact two homes on the west side of Fowler Avenue. These alternatives would also require the taking of additional property on the west side of Fowler Avenue and would not meet the requirements of Civil Code of Procedure Section 1245.230, which states the property must be necessary for the project. There is already a dedicated easement recorded in 1984 for that specific purpose on the east side from the Bocchini property

WILD, CARTER & TIPTON
A Professional Corporation
ATTORNEYS AT LAW
Founded in 1893

2.40
REC'D BY CTC
RW
12/1

DEC 01 2003

246 WEST SHAW AVENUE
FRESNO, CALIFORNIA 93704
Telephone: (559) 224-2131

Our File No.: B290-002
Email: pgorman@wctlaw.com
Direct Fax: 559-229-7295

PATRICK J. GORMAN

November 26, 2003

Via Express Mail

Executive Director of the
California Transportation Commission
P.O. Box 942873
Sacramento, CA 94273-0001

Re: **REQUEST TO APPEAR**
Hearing Date: December 10-11, 2003
Project Description: 06-Fre-180-K.P.102.3
E.A.342439
Parcel No. 84835-1,2
Property Owners: Mr. and Mrs. Henry F. Bocchini, Jr.

Dear Sir or Madam:

This firm represents Mr. and Mrs. Henry F. Bocchini, Jr. The Bocchinis hereby request the opportunity to appear before the California Transportation Commission at its meeting scheduled for December 10-11, 2003 in Sacramento, California. The Bocchinis desire to present their concerns in relation to the above project, specifically in reference to California Code of Civil Procedure section 1240.030(b) and (c). The Bocchinis concerns are briefly summarized as follows:

The Bocchinis are the owners of Hank's Swank Golf Course, 6101 East Olive Avenue, Fresno, California. The business consists of a nine hole par 3 golf course and driving range. The golf course was recently named one of the top five best par 3 courses in the United States by Travel & Leisure Magazine. The business has been in operation at its present location since 1984. The golf course fronts on Fowler and Olive Avenues. CalTrans proposes to widen and re-align Fowler Avenue in connection with the construction of State Highway 180. If the project moves forward as indicated by CalTrans in its letter dated April 4, 2003, the Bocchinis will be required to re-locate four of the nine greens and a fence along Fowler Avenue that prevents golf balls from leaving the property. This will require a significant expenditure of funds, the bulk of which can be avoided by re-positioning the expansion of Fowler Avenue farther to the west by as

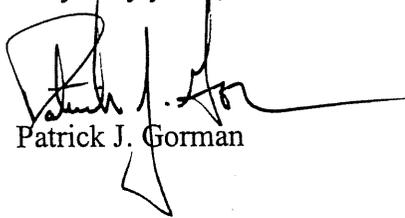
Executive Director of the
California Transportation Commission
November 26, 2003
Page 2

little as 50 feet. Such a re-positioning would be consistent with the alignment of Fowler Avenue north of the intersection with Olive Avenue. The impact on property owners on the west side of Fowler would be minimal in comparison to the impact on the golf course if the project is not re-aligned.

This project was previously before the California Transportation Commission for hearing on September 24-25, 2003 in Sacramento. At that time, the Commission directed Caltrans to "go back to the drawing board" and meet with the Bocchinis and representatives from the County of Fresno and attempt to address the concerns that had been raised about the project. Since September, Mr. Bocchini and representatives of Fresno County have met with Caltrans. However, the "revised" proposed take now before the Commission is virtually identical to that previously submitted by Caltrans. None of the concerns raised by the Bocchinis have been addressed to any significant degree.

My clients look forward to again appearing before the Commission concerning this project. Thank you.

Very truly yours,



Patrick J. Gorman

PJG:jw

cc: Mr. and Mrs. Henry F. Bocchini, Jr.
James Gonzalez, Right-of-Way Agent, Caltrans



County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING
RICHARD L. BROGAN, DIRECTOR

REC'D BY CTC

OCT 30 2003

REC'D BY CTC

OCT 30 2003

October 22, 2003

State of California
Department of Transportation
P.O. Box 12616
Fresno, CA 93728
Attention: Mr. Neal Bretz
S.R. 180 East Project Manager

VIA FACSIMILE: 243-3426

Dear Mr. Bretz:

SUBJECT: Fowler Avenue alignment at S.H. 180 (Resolution of Necessity C-18847)

The purpose of this correspondence is to voice strong support for the State of California, Department of Transportation (Cal Trans) in their efforts to acquire a "landlocked" portion of real estate within the current Fowler Avenue road right of way easement, between Belmont and Olive Avenues and immediately north of the planned S.H. 180/Fowler Avenue interchange. Acquisition of this property is necessary to complete the construction of the freeway interchange and related Fowler Avenue improvements, scheduled for construction in 2004 (earthwork for the interchange is even now being emplaced on the west side of Fowler Avenue based on approved plans, as part of the prior construction phase).

The property in question is part of a long-standing plan that established the future location of Fowler Avenue, an arterial road. The plan was in place in 1984 when Mr. Bocchini, the owner of the property in question, dedicated an easement for the future road as a condition of development of the golf course. At that time, Mr. Bocchini also entered into an agreement with the County, allowing him to temporarily use the easement intervening between his property and roadway (and thereby the land-locked sliver) until needed for its intended purpose.

Mr. Bocchini has since raised concerns about the planned location of the roadway and interchange design. The California Transportation Commission directed those parties involved to review possible alternatives to the planned construction. Representatives from Cal Trans, the City of Fresno and Fresno County have met with Mr. Bocchini and his associates, listened to and considered his concerns and have reviewed possible alternatives to the planned construction of the State

Highway through this area. Two probable construction alternatives were reviewed and considered.

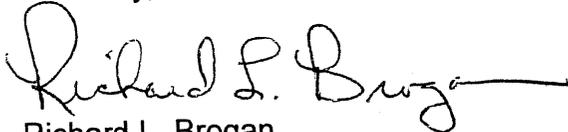
The alternatives would require shifting of the long-established roadway alignment, significant redesign of the interchange, and would shift impacts of necessary roadway widening to properties on the opposite side of the street.

This option would counter long-established plans by both the County and City of Fresno for widening of Fowler Avenue. Shifting the alignment of Fowler Avenue at this late date would not only added to the public cost, but would also potentially result in delays to construction. The aggregate costs are difficult to precisely assess, however they could exceed several million dollars with commensurate delays of up to two years. This region, which has long looked forward to this critically needed project, cannot afford either the delay or potential risks to STIP financing that a delay may represent.

The group assembled, with the exception of Mr. Bocchini and his representatives, believes that the planned construction alignment of Fowler Avenue (easterly road easement boundary at 76 feet east of survey section line with 106 feet total width), set in place and used for development purposes since the mid 1970's, is the best alignment for Fowler Avenue at this location.

Should you require anything further clarification of this support please feel free to contact me at this office.

Sincerely,



Richard L. Brogan
Director

RLB:LG:lrb
G:\4510PW_Admin\Transportation\Correspondence\Fowler Avenue Alignment.doc

c: California Transportation Commission

2-4a

Sunnyside-Fancher Creek Association

P.O. Box 1665 - Fresno, California 93717 - 559-456-2459

October 23, 2003

REC'D BY CTC

OCT 28 2003

Mr. R. Kirk Lindsey, Chair
California Transportation Commission
Brite Transport System, Inc.
P.O. Box 726
Riverbank, CA 95367

RE: IMPACT OF 180 (SEQUOIA) FREEWAY AT FOWLER AVENUE &
HANK'S SWANK GOLF COURSE IN FRESNO, CALIFORNIA

Dear Chairman Lindsey,

We appreciate this opportunity to express our concerns over the future expansion of the 180 Freeway at Fowler Avenue. The Sunnyside-Fancher Creek Association is a neighborhood group representing residents in the area between Clovis and Temperance, Belmont and Kings Canyon Road. We strive to watchdog development in our southeast area so that we may maintain the quality of life we have enjoyed for many decades.

We are particularly concerned with Caltrans' plans to remove the palm trees along Harvey Avenue, just east of Fowler, and along Fowler Avenue just south of Olive Avenue and the impact the freeway interchange will have on Hank Swank's Golf Course. These magnificent trees border the southern and western perimeters of the golf course, owned by Mr. Hank Bocchini.

As you know, the California Environmental Quality Act (CEQA) states in its Legislative intent that "It is necessary to provide a high-quality environment that at all times is healthful and pleasing to the senses and intellect of man."¹ We believe that those palm trees and the recreational service that Mr. Bocchini provides is a vital part to the well-being of our southeast community and yet nothing has been done at the State, County or City levels to ensure the preservation of those trees or consider the effects on Mr. Bocchini's business.

Over twenty years ago Mr. Bocchini was required to dedicate a portion of his property on the western and southern frontages for future street dedication as a condition of his use permit to operate the golf course. Yet, during those 20 years, neither the City nor the County has planned for the preservation of the palm trees. No formal official plan line has been established for Fowler Avenue and neither the County nor City have any proposed plans to date to improve the road beyond the construction of the interchange.

In its environmental findings, Caltrans reported that the palm trees were of no significance to the landscape and scenery, but we respectfully disagree. Charles Henry Cheney, a planning consultant for the City in 1918, envisioned a plan of scenic roadways and tree-line boulevards that crisscrossed the City. What has happened to this vision?

¹ CEQA, Chapter 1: Policy

Late last year, our neighborhood lost the historic Roeding Tree Circle to the final phase of the Golden Dawn subdivisions at Armstrong and Kings Canyon. The palm trees were uprooted, sold and taken out of the area. The rest were bulldozed. These trees were planted by George C. Roeding who owned the land between Fowler and Temperance, Belmont to Kings Canyon and ran the Fancher Creek Nursery in the late 19th century. They will soon adorn a new sports complex far from the neighborhood in which they thrived for 100 years.

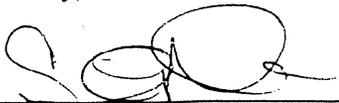
With the bulk of the development in the next 25 years to occur in southeast Fresno, we will soon be facing dire air quality issues, additional traffic congestion, more shopping centers and parking lots. We need OUR trees and OUR green open spaces in OUR neighborhoods! We need Mr. Bocchini's golf course, which provides us with an affordable recreational outlet and beautiful greenspace!

We understand that Caltrans has already finalized plans for the interchange at Fowler, but are hopeful that something can be done to save the palm trees and Mr. Bocchini's business. Mr. Bocchini has met with representatives of Caltrans and three possible alternatives have been presented to him. We support the option that allows for an equal 53'-53' take along the centerline of Fowler Avenue. Our understanding is that the two remaining homeowners and one roofing contractor across the golf course are amenable to the additional easements that would be required of them. Unlike Caltrans, we do not feel that the entire properties need to be secured in fee by Caltrans to make this work. Although this is a more equitable split of the roadway it would still require removal of the palm trees along the east side. Since Caltrans has budgeted to relocate the trees anyway, they offered to replant these trees onto Mr. Bocchini's property, which is acceptable to us.

We hope that you will support this equitable compromise that will allow us to keep the palm trees and the golf course, and prevent our neighborhood from becoming just another freeway interchange.

Thank you for your time and consideration.

Sincerely,



Cynthia Palacio, Chairman



Steve Donovan, Co-chairman



Joanne K. Tolladay, Secretary

Cc: Vice Chair Bob Balgenorth
Commissioner James Ghielmetti
Commissioner Jeremiah Hallisey
Commissioner Allen Lawrence
Commissioner Dianne McKenna
Commissioner Joseph Tavaglione
Commissioner Esteban Torres
State Senator Ken Murray
Assemblyman John Dutra
Executive Director Diane Eidam



24a

FRESNO-GREATER SAN JOAQUIN VALLEY JR. GOLF FOUNDATION

* **CENTRAL CALIFORNIA** *

8287 E. Sanders Court • Fresno, CA 93727 • Phone (559)255-7126 • Fax (559) 255-9234

E-mail • jrgolf1188@aol.com

Non-Profit Corporation • EIN: 77-0311270

BOARD OF DIRECTORS

Len Ross (Pres.)

Conrad Nilmeier (V.P.)

Vel Ross (Sec.)

David Harris CPA (Treas.)

Paul T. Chambers (Atty.)

Ron Galpin

Mike Schy

Kathleen Scrivner

David Near

Randy Ross

Dick Meffley (1921-1997)

October 22, 2003

Via Fax: (916) 653-2134

CALIFORNIA TRANSPORTATION COMMISSION

1120 N Street – Room 220 MS 52

Sacramento, CA 95814

Attention: ALL COMMISSIONERS

HONORARY ADVISORS

GOLF PROFESSIONALS

Gordon Knott

Steve Menchinella

Mike Catanesi

Mike Schy

Mike Paniccia

Gary Bauer

Adam Pohl

Doug Scrivner

Hank Bocchini Jr.

Alan Ehnes

Ken Collins

HONORARY ADVISORS

FORMER JR. GOLFERS

Johnny Miller

Roger Maltbie

Keith Clearwater

Bobby Clampett

Bill Glasson

Mike Springer

Jerry Heard

Pat McGowan

Shelley Hamlin

Joey Rasset

Joan Pitcock

Joe Acosta Jr.

**Re: Highway 180 at Fowler Avenue and Hank's Swank Golf Course
Fresno, California**

Dear Sir/Madam:

This letter is written on behalf of Hank's Golf Course. To give you some of my own background – I have been involved in junior golf for the past 56 years and have conducted the Len Ross-Fresno Junior Amateur Golf Championship for all those year. The tournament is played on 7 Fresno Courses (including Hank's) for four days with 8 flights for boys and girls who have not reached their 18th birthday. Additionally he has been responsible for many of our youngsters being able to learn and play the game of golf at a discounted fee and in many cases no fee at all. Many juniors, adults, senior citizens and physically challenged are able to play golf at a nominal price on a shorter course.

I am a retired schoolteacher and administrator of the Fresno Unified School District; co-founded the Junior Golf Association of Northern California in 1972, which sponsors over 12 junior tournaments in the San Joaquin Valley alone. I would venture to say that 75% of these boys and girls have taken advantage of Hank's course and driving range. Probably 99% of all local golfers have at some point used Hank's facilities. I understand that progress is important but it is grossly unfair and financially impossible for Hank's to spend the thousands of dollars necessary to relocate 4 holes of his course. I feel I am more than qualified to stress the need of Hank's course. In my opinion Hank's Swank Golf Course should be registered as one of Fresno's historic places and nothing should be done to jeopardize it and the loss of 100 year old tall palm trees. It is a tradition!!!

Surely with all the knowledge Fresno County and CalTrans have available to them, an alternative route could be accomplished rather than jeopardizing Hank's.

Respectfully submitted,

Len Ross

LEN ROSS, President Fresno-GSJV Jr. Golf Fnd.

Director Emeritus and co-founder of Jr. Golf Assn. of N.C.

Junior Committeeman, USGA

Honorary Member of PGA

2.4a

To Whom It May Concern:

My name is Bob Ulrich and I am a teacher and golf coach at Buchanan High School in Clovis Unified School District in Clovis, California. I am very concerned with the possibility of losing Hank's Swank Golf Course and Driving Range on the corner of Fowler and Olive Avenues in Fresno, California.

It is my understanding that the future of this golf practice facility is in jeopardy due to construction of an on/off ramp for Highway 168. This would impact most all high school golf programs in the area. We all use this facility throughout the year, and if it should be closed down, our programs would be suffer drastically.

Please consider the impact of the possible closure of Hank's on our youth population. This is a very valuable resource for Clovis, Fresno & Sanger school districts.

Sincerely,



Bob Ulrich, BHS Golf Coach

OCT 22 2003

October 19, 2003

California Transportation Commission
1120 N Street
Room 2221 CMS-521
Sacramento, CA 95814

Sirs;

This letter is in regards to the planned destruction of Hank's Swank golf course in Fresno, California. Caltrans claims that it will cost millions and require months of delay to move the planned widening of Fowler Ave. as a part of the Hwy. 180 extension. I would like to state that even if this is so, it is worth the effort to preserve a successful business that is unique in the area. What Caltrans currently plans, will ruin this business that contributes tax revenue to the city and state. Hank's may have to close if the western portion of his property is over ridden with the road. Ironically, there is empty property across that road. It makes me wonder why Caltrans is so inflexible.

I respectfully request that the plans be changed to allow the golf course to remain.



Elizabeth T. Evans
3084 Magnolia Ave.
Clovis, CA 93611

REC'D BY CTC

OCT 22 2003

217a
October 19, 2003

3084 Magnolia Ave.
Clovis, CA 93611

California Transportation Commission
1120 N Street
Rm. 2221 CMS 521
Sacramento CA 95814

To Whom It May Concern;

I object to the plans that Caltrans has to remove a part of Hank's Swank Golf Course so that Fowler Avenue can be widened. This does not respect the thriving business that Hank Bocchini has established, especially since there is an empty lot across that street! Furthermore, there is no comparable facility anywhere on this side of town. Families regularly attend it from many of the towns in the outlying area, as well as Fresno and Clovis.

It seems to me that this problem can and should be worked out so that Mr. Bocchini can stay in business and the road moved a little to accommodate this.

Respectfully,



Rick Evans