

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Public Works adad

BOARD AGENDA # C-4

Urgent Routine

AGENDA DATE June 22, 2010

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Approval to Consider and Adopt a Resolution of Necessity to Acquire Real Property or Interest in Real Property by Eminent Domain for the State Route 219 Widening Project, Parcel Owner Joel F. De Graef, et al., APN: 004-069-017, 10-Sta-219-KP 5.80, Parcel 15331

STAFF RECOMMENDATIONS:

Consider and adopt a Resolution of Necessity to acquire Real Property or Interest in Real Property by Eminent Domain for the State Route 219 widening project, parcel owner Joel F. De Graef, et al., for APN: 004-069-017, and make the findings contained therein.

FISCAL IMPACT:

Under the County's Memorandum of Understanding with the California Department of Transportation (Caltrans), Stanislaus County will bear the costs associated with noticing and conducting the Resolution of Necessity hearings. It is anticipated that these costs will be minimal and can be absorbed within the Public Works Road and Bridge budget.

BOARD ACTION AS FOLLOWS:

No. 2010-390

On motion of Supervisor O'Brien Seconded by Supervisor Chiesa
and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Monteith, DeMartini, and Chairman Grover

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

- 1) X Approved as recommended
- 2) _____ Denied
- 3) _____ Approved as amended
- 4) _____ Other:

MOTION:

Christine Ferraro

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

Approval to Consider and Adopt a Resolution of Necessity to Acquire Real Property or Interest in Real Property by Eminent Domain for the State Route 219 Widening Project, Parcel Owner Joel F. De Graef, et al., APN: 004-069-017, 10-Sta-219-KP 5.80, Parcel 15331

DISCUSSION:

The Caltrans widening of State Route 219 (Kiernan Avenue) from State Route 99 on the west to State Route 108 (Mc Henry Avenue) on the east is divided into two phases. The first phase, which is currently under construction, is from State Route 99 to just east of Dale Road. The second phase is from just east of Dale Road on the west to State Route 108. Caltrans completed right-of-way acquisition for Phase I and is now in the process of purchasing right-of-way for Phase II.

The County of Stanislaus, City of Modesto, Stanislaus Council of Governments (StanCOG), and Caltrans have been working together to accelerate this widening project and since the right-of-way acquisition procedures presented the largest delay, the County agreed to conduct the Resolution of Necessity hearings on behalf of the State. Typically, the Resolution of Necessity hearings are conducted at the California Transportation Commission (CTC), however, by conducting the hearings locally a long scheduling delay is avoided. In 2007, with the approval of a Memorandum of Understanding with Caltrans, the Board of Supervisors conducted the Resolution of Necessity hearings for Phase I. On June 3, 2008, the Board of Supervisors approved a similar Memorandum of Understanding with Caltrans, which outlined the various roles and responsibilities necessary to conduct the hearings for the Phase II improvements. These hearings are only for properties needed for the widening project that could not be obtained by negotiation. Conducting these hearings should result in approval or disapproval of a Resolution of Necessity containing the following four findings:

- A. The public interest and necessity require the project.
- B. The project is planned or located in the manner that will be most compatible with the greatest public good with the least private injury.
- C. This property is required for the proposed project.
- D. An offer to purchase the property in compliance with Government Code Section 7267.2 has been made to the owner of record.

This hearing is for a partial acquisition of property described by Caltrans as Parcel 15331, has an Assessor's Parcel Number of 004-069-017 and is located at 1379 Kiernan Avenue. This property is not in a Williamson Act contract. The property owner is Joel F. De Graef, et al.

Staff believes that Caltrans has complied with all requirements of the Uniform Relocation Assistance and Real Properties Acquisition Policies Act of 1970 as amended. The Caltrans staff appraisal of the property has been reviewed by the District/Region Appraisal Branch and Caltrans has confirmed that the value conclusions are valid and the appraisal represents current market value. The owner has been offered the full amount of the approved appraisal.

The amount of compensation is specifically excluded from consideration in the adoption of a Resolution of Necessity. Once a Resolution is passed, court proceedings can begin to consider the remaining issue of compensation.

Approval to Consider and Adopt a Resolution of Necessity to Acquire Real Property or Interest in Real Property by Eminent Domain for the State Route 219 Widening Project, Parcel Owner Joel F. De Graef, et al., APN: 004-069-017, 10-Sta-219-KP 5.80, Parcel 15331

On December 8, 2009, a hearing to consider the adoption of a Resolution of Necessity was tentatively scheduled with the Board of Supervisors. The property owners requested to appear at that hearing, as evidenced by their letter dated November 25, 2009, and attached as Exhibit "D". Due to the owners' request to appear, the hearing was cancelled and Caltrans was notified so they could address the property owners' concerns. Subsequently, Caltrans has had two meetings with the property owners and no agreement has been reached. Caltrans has indicated to staff that the property owners will contest the items in the proposed Resolution of Necessity. Specifically, the property owners are contesting items A, B, and C listed above, as discussed in their November 25th letter (see Exhibit "D"). A Caltrans representative will attend the hearing to provide evidence and testimony sufficient to support adoption of the proposed Resolution of Necessity and the findings contained within.

This parcel is not in a Williamson Act contract and was evaluated in the Environmental Assessment pursuant to the Farmland Protection Policy Act, the California Land Conservation Act of 1965, and local farmland protection policies. Caltrans determined that there would be no substantial impact resulting from the construction of the proposed project.

Caltrans also determined in a formal notification to the Department of Conservation that this project is considered exempt from making the findings as required in Government Codes Section 51292, per Section 51293 (f).

POLICY ISSUES:

The Board should consider if the recommended actions are consistent with its priorities of providing a safe community, a healthy community and a well-planned infrastructure system.

STAFFING IMPACT:

Staff from the Chief Executive Office, County Counsel and Public Works have been involved in preparing notices, agenda items and presentations associated with the Resolution of Necessity hearings.

CONTACT PERSON:

Matt Machado, Public Works Director. Telephone: (209) 525-6550.

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
STATE OF CALIFORNIA

Date: June 22, 2010

No. 2010-390

On motion of Supervisor O'Brien Seconded by Supervisor Chiesa
and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Monteith, DeMartini, and Chairman Grover

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

THE FOLLOWING RESOLUTION WAS ADOPTED:

Item # C-4

TO ACQUIRE CERTAIN REAL PROPERTY OR INTEREST IN REAL PROPERTY
BY EMINENT DOMAIN HIGHWAY 10-Sta-219-KP 5.80, PARCEL 15331
APN: 004-069-017, OWNER: Joel F. De Graef, et al.

BE IT RESOLVED, that the Board of Supervisors of the County of Stanislaus, State of California, hereby finds and determines as follows:

WHEREAS, Article I, section 19 of the Constitution of the State of California and section 25350.5 of the Government Code authorizes the Board of Supervisors of any County to acquire by eminent domain any property necessary to carry out any of the powers or functions of the County; and

WHEREAS, Streets and Highways Code section 760 authorizes the Board of Supervisors, by four-fifths vote, to cooperate with the California Department of Transportation ("Caltrans") in the acquisition of land for state highway purposes if doing so will promote the interests of the County of Stanislaus; and

WHEREAS, on June 3, 2008, the Board of Supervisors adopted by four-fifths vote, a Resolution Authorizing a Memorandum of Understanding with Caltrans for the County to Conduct Resolution of Necessity Hearings to Assist Caltrans in Acquiring Property for State Route 219 Transportation Improvements.

WHEREAS, notice has been properly given as required by and according to the provisions of section 1245.235 of the California Code of Civil Procedure, and a hearing has been held at which all persons whose property may be acquired by eminent domain and whose name and address appear on the last equalized County Assessment Roll have been given a reasonable opportunity to appear and be heard by the Board of Supervisors on the matters set forth in Code of Civil Procedures sections 1240.030 and 1240.510: and

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk
Stanislaus County Board of Supervisors,
State of California



File No.

WHEREAS, notice has been properly given to the Director of Conservation pursuant to Government Code section 51291 of the intent to consider the property for location of the project:

NOW, THEREFORE, BE IT FURTHER RESOLVED by the Board of Supervisors of Stanislaus County that the following findings be made:

1. The public interest and necessity require the acquisition of the real property interests described in Exhibit "A", "B", and "C", attached hereto and incorporated by this reference for the proposed public project, namely a State highway; and
2. The proposed project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury; and
3. The property sought to be acquired and described by this resolution is necessary for the public project; and
4. The offer required by Section 7267.2 of the Government Code has been made to the owners of record.

NOW, THEREFORE, BE IT FURTHER RESOLVED by the Board of Supervisors of Stanislaus County that the California Department of Transportation is hereby authorized and empowered;

To acquire, in the name of the People of the State of California, in fee simple absolute, unless a lesser estate is hereinafter expressly described, the real property, or interests in real property described in Exhibit "A", "B", and "C" attached hereto, by condemnation proceeding or proceedings in accordance with the provisions of the Streets and Highways Code, Code of Civil Procedure and of the Constitution of California relating to eminent domain;

The real property or interests in real property, which the Department of Transportation is by this resolution authorized to acquire, is situated in the County of Stanislaus, State of California, Highway 10-Sta-219 and described in Exhibit "A", "B", and "C" attached hereto.

Exhibit "D"

November 25, 2009

RECEIVED
NOV 30 2009

STANISLAUS COUNTY PUBLIC WORKS
ROAD & BRIDGE DIVISION

Mr. Ron Cherrier
Transportation Project Coordinator
Stanislaus County Department of Public Works
1716 Morgan Road
Modesto, CA 95358

RE: 10-Sta-219-KP 5.80
EA 0A8729
Parcel 15331
Joel F. DeGraef, et. al.
APN: 004-069-017

Dear Mr. Cherrier,

We received your letter dated November 12, 2009 on November 17th, 2009 and are requesting an opportunity to appear before the Board of Supervisors to ask questions regarding this proposed project.

We feel that all of the conditions outlined in your letter are pertinent to our property and we would like them to be addressed in more detail by the Board of Supervisors.

These conditions are:

(A) The public interest and necessity require the project.

Is this project, really necessary at this time, in this economy? We do not believe that the monies being spent by the State of California and Stanislaus County are in the public's best interest at this time for the following reasons:

1. It is financially irresponsible on the part of the State of California and Stanislaus County to go forward with this \$50,000,000 project in this current economic environment.

This project has been planned for over 20 years, and now, when we are in the worst financial times since the 1930's and public entities are financially challenged, the project is going ahead because according to CalTrans, it is already funded.

The monies being spent on this project could and should be used for more important services, which have been severely cut this fiscal year and will continue to be cut for the next few years. As Mr. DeMartini stated on January 28, 2009, "The funding decline in the coming fiscal year will lead to cuts in services to residents". A few of these services are Community

Services Agency, District Attorney's office and the Health Services Agency.

2. Traffic on SR 219 has reduced significantly due to economic conditions, primarily those residents in the eastern part of the county that commuted to the Bay Area, and used SR 219, has moved elsewhere as evidenced by the foreclosure rates in those areas. Riverbank (1 in every 47); East Modesto (1 in every 90).
3. With the completion of widening Pelendale Road , ½ mile south of SR 219, traffic has moved to Pelendale to access eastern Stanislaus County as there are less stops on Pelendale than SR 219.
4. An Environment Assessment/Initial Study for this project was done in March 2003. This document describes why the project is being proposed, alternative methods for constructing the project, the existing environment that could be affected by the project, and potential impacts from each of the alternatives. We feel that this study is not current with today's economy and the traffic patterns currently present on SR 219.

Our recommendations for this project are as follows:

1. Delay or postpone the widening project until the State and Stanislaus County are financially healthy and the need for this project is substantiated based on 2010 traffic volumes.
2. Conduct a new traffic study. CalTrans did the last study in spring of 2000. Study results showed that the route had an Average Daily Traffic (ADT) of 15,300 vehicles. Traffic volumes are project to be 19,500 in 2006 and 33,400 in 2026. Justify the need for this project as of 2010.
3. Install coordinated signal lights at the intersections of Hwy 219 and Carver Road and Tully Road to reduce traffic congestion, delay and traffic accidents at intersections. The costs of these lights are already in the budget for this project. This would result in traffic flowing without spending millions of dollars on the widening of the road at this time.

(B) The project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.

The current design of the road is dangerous and not in the greatest public good or least private injury.

The construction plans for the SR 219 widening project were revised to acquire more property on the north side of SR 219 to accommodate the MID Substation located on the corner of Tully Road and SR 219. This substation began construction in 2004 and was completed in 2006.

The new plans for SR 219 are now for a road that is not straight but has several curves in it to which will result in traffic accidents, injuring the public and resulting in financial responsible for the State of California and Stanislaus County and thus the taxpayers.

The road will curve north just east of Morrow Road, to accommodate the Unitarian Church at 2172 Kiernan Ave. which is listed with the National Register of Historical Places located on the south side of SR 219, then veers south to accommodate Stanislaus Union School, located on the north side of SR 219 and then again starts veering north to accommodate the MID plant located on the corner of Tully Road and SR 219. What are the long-term prospects for Stanislaus Union School remaining open? Are they in danger of closing and if so, there is no need to design the road around them.

(C) The property sought to be acquired is necessary for the project.

At this time, we do not feel that it is necessary to acquire our property for this project due to the issues we have outlined above. When the economy improves and the State of California and Stanislaus County have taken financial responsibility of taking care of their citizens, then this project should be re-evaluated.

Government should be run financially sound just as their citizens do, both in their own businesses and individually. We only spend what we can afford and budget accordingly, based on what our income is. In this current economic environment and the projected financial difficulties California governments will have the next few years, monies should be reviewed to be allocated to those needs that are the greatest to serve the citizens of California and Stanislaus County.

Sincerely,



Joel F. DeGraef



Susan D. Adams

1379 Kiernan Avenue
Modesto, CA 95356
(209) 543-1522

1 **Parcel 15331**

2 For State highway purposes, that portion of that certain parcel of land
3 described in the Grand Deed recorded September 25, 2008 as Document No.
4 2008-0103811-00, Official Records Stanislaus County, being a portion of Lot 13 of
5 CARVER TRACT, recorded in Volume 7 of Maps at Page 45, Stanislaus County
6 Records, more particularly described as follows:

7 COMMENCING at the position for the South quarter corner of Section 31,
8 Township 2 South, Range 9 East, Mount Diablo Meridian and Base Line, said
9 position is South 00°56'10" East, a distance of 0.582 (1.91 feet) from a 2" iron pipe
10 marking a Witness Corner as shown on Record of Survey filed in Book 16 of
11 Surveys at Page 16, Stanislaus County Records; THENCE (1) North 00°52'53"
12 West, along the North-South Quarter Section line of said Section 31, a distance of
13 213.144 meters, the North quarter corner of said Section 31 being marked by a
14 5"x5" concrete monument with a brass pin, as shown on Record of Survey filed
15 in Book 16 of Surveys at Page 13, Stanislaus County Records; THENCE (2) North
16 89°10'03" East, a distance of 15.415 meters; THENCE (3) South 0°58'42" East, a
17 distance of 172.556 meters; THENCE (4) South 14°57'18" East, a distance of
18 24.798 meters; THENCE (5) North 89°07'50" East, a distance of 169.300 meters to
19 the westerly line of Parcel 1 of that certain Parcel Map filled June 13, 1977 in
20 Volume 25 of Parcel Maps at Page 40, Stanislaus County Records; THENCE (6)
21 North 04°53'29" East, along said westerly line of Parcel 1, a distance of 6.030
22 meters; THENCE (7) North 89°07'50" East, a distance of 394.323 meters to a point
23 on the westerly line of said parcel of land described in the above said Grant Deed,
24 said point being the TRUE POINT OF BEGINNING; THENCE (8) continuing, North
25 89°07'50" East, a distance of 50.204 meters to the easterly line of said parcel of
26 land described in the above said Grant Deed; THENCE (9) South 00°58'05" East,
27 along said easterly line, a distance of 45.300 meters to the northerly right of way

1 **Parcel 15331 (continued)**

2 **line of State Route 219; THENCE (10) North 88°49'10" West, along said northerly**
3 **right of way line, a distance of 50.240 meters to the westerly line of said parcel of**
4 **land described in the above said Grant Deed; THENCE (11) North 00°58'05" West,**
5 **along said westerly line, a distance of 43.503 meters to the TRUE POINT OF**
6 **BEGINNING.**

7 **TOGETHER WITH all of the existing improvements which are located**
8 **partially within and partially outside the boundaries of the above-described**
9 **parcel, together with the right and easement to enter upon the owner's remaining**
10 **land outside the boundaries of said parcel at any time within 120 days after the**
11 **date possession is authorized as indicated in the order for possession, or within**
12 **120 days after FINAL JUDGEMENT IN CONDEMNATION, for the purpose of**
13 **removing all of the said existing improvements.**

14 **The bearings and distances used in this description are on the California**
15 **Coordinate System of 1983, Zone 3. Multiply distances by 1.00006972 to convert**
16 **to ground distances.**

T.2S., R.9E., M.D.M.

EXHIBIT A



T.2S., R.9E., M.D.M.

Section 32

TRACT

TO HWY 108

E 1/4 COR SEC 31, 2/9

CARVER

Section 31

15331

PORTION OF Lot 13

TO HWY 99

Proposed R/W

Existing R/W

Existing R/W

Township Line

Kiernan Ave.
ROUTE 219

Township Line

PROPOSED

Existing R/W

STATE

Proposed R/W

NE COR SEC 6, 3/6

TRACT

Section 5

T.3S., R.9E., M.D.M.

E 1/4 COR SEC 6, 3/9

ALBEMERL

T.3S., R.9E., M.D.M.

Section 6

NO SCALE



LEGEND	
	PARCEL 15331 FEE
	PARCEL 15331 PROPERTY BOUNDARY

RESOLUTION OF NECESSITY
AREA MAP

10-Sta-219 K.P. 5.80

T.2 S., R.9 E., M.D.B.

EXHIBIT B

Section 31



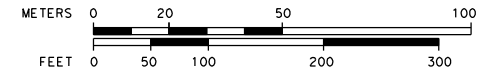
CARVER

25 PM 40 TRACT

#	BEARING	DISTANCE
①	N89°10'03"E	15.415
②	S14°57'18"E	24.789
③	N04°53'29"E	6.030

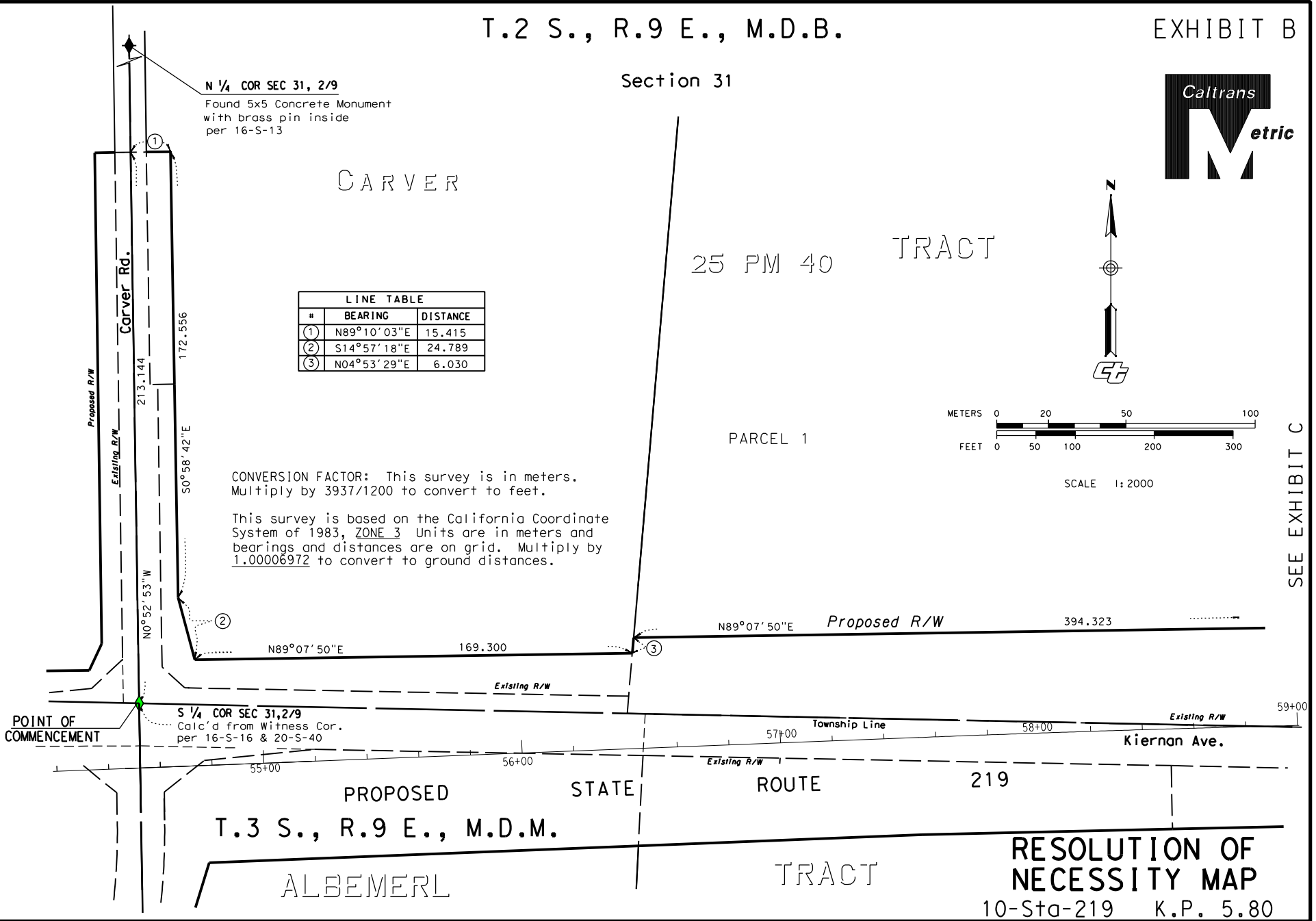
CONVERSION FACTOR: This survey is in meters.
Multiply by 3937/1200 to convert to feet.

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 1.00006972 to convert to ground distances.



SCALE 1:2000

SEE EXHIBIT C



N 1/4 COR SEC 31, 2/9
Found 5x5 Concrete Monument
with brass pin inside
per 16-S-13

213.144

172.556

N0°52'53"W

S0°58'42"E

N89°07'50"E 169.300

N89°07'50"E Proposed R/W 394.323

S 1/4 COR SEC 31,2/9
Calc'd from Witness Cor.
per 16-S-16 & 20-S-40

POINT OF COMMENCEMENT

PROPOSED STATE ROUTE 219

T.3 S., R.9 E., M.D.M.

ALBEMERL

TRACT

RESOLUTION OF NECESSITY MAP

10-Sta-219 K.P. 5.80

09/30/2009

CARVER

25 PM 40

T.2 S., R.9 E., M.D.B.

EXHIBIT C

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 1.00006972 to convert to ground distances.

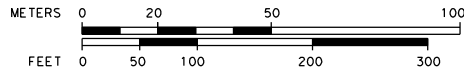
Section 31



LINE TABLE		
#	BEARING	DISTANCE
④	N89°07'50"E	50.204
⑤	S0°58'05"E	45.300
⑥	N88°49'10"W	50.240
⑦	N0°58'05"W	43.503



PARCEL 1



SCALE 1:2000

PORTION OF LOT 13

TRACT

SEE EXHIBIT B

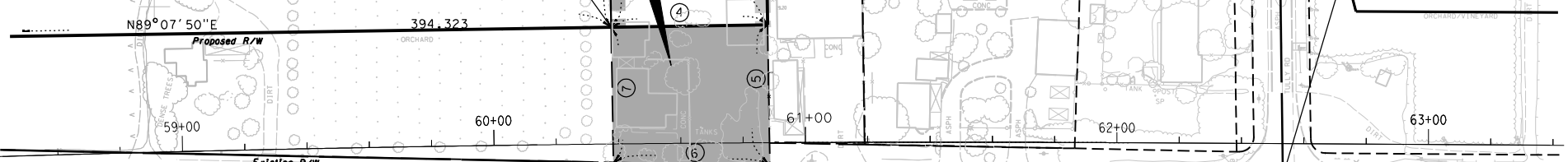
LEGEND

- PARCEL 15331 FEE
- PARCEL 15331 PROPERTY BOUNDARY

15331

TRUE POINT OF BEGINNING

NE COR SEC 6, 3/9
 Fd 2 1/2" Brass Cap
 in Monument Well
 per 20 S 40
 N 634545.407
 E 1954762.250



Kiernan Ave.

Kiernan Ave.

Township Line



PROPOSED

STATE

ROUTE

219

Proposed R/W

T.3 S., R.9 E., M.D.M.

RESOLUTION OF NECESSITY MAP

TRACT

ALBEMERL

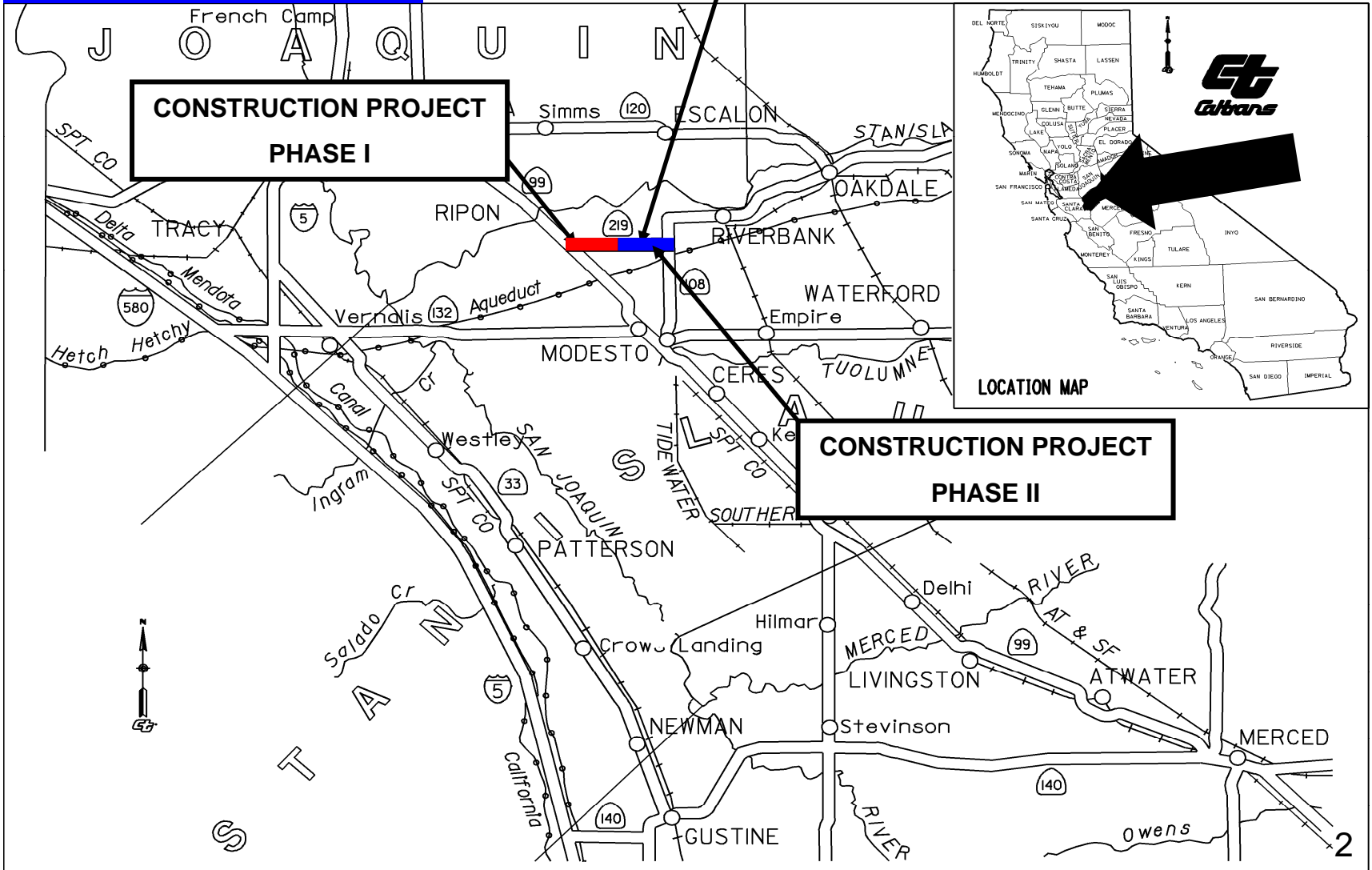
10-Sta-219 K.P. 5.80

**Mr. Joel DeGraef
and
Ms. Susan Adams
PROPERTY
In Stanislaus County**

Ross Chittenden
District 10 Director
CALTRANS

Location Map

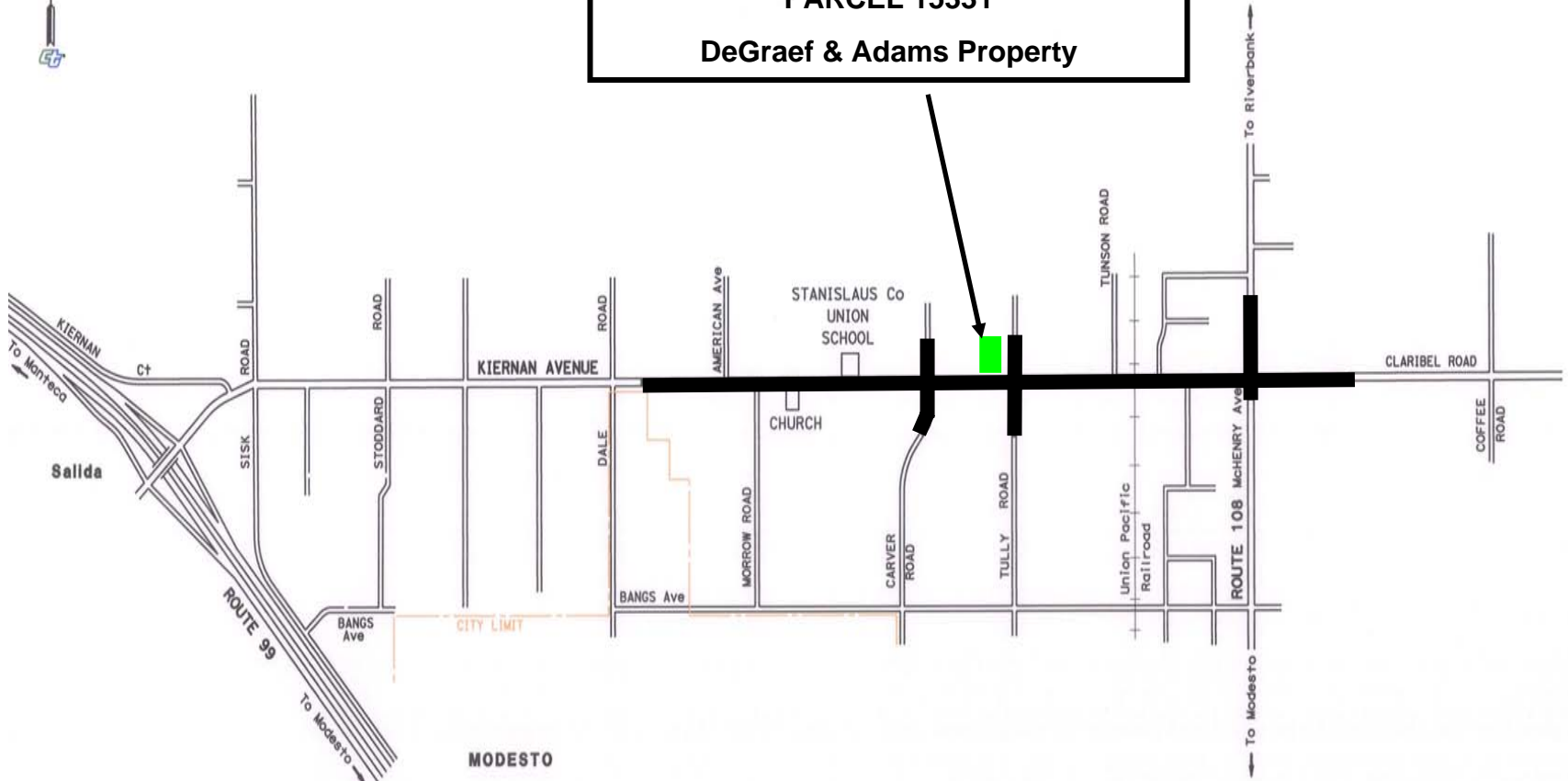
PROJECT LOCATION



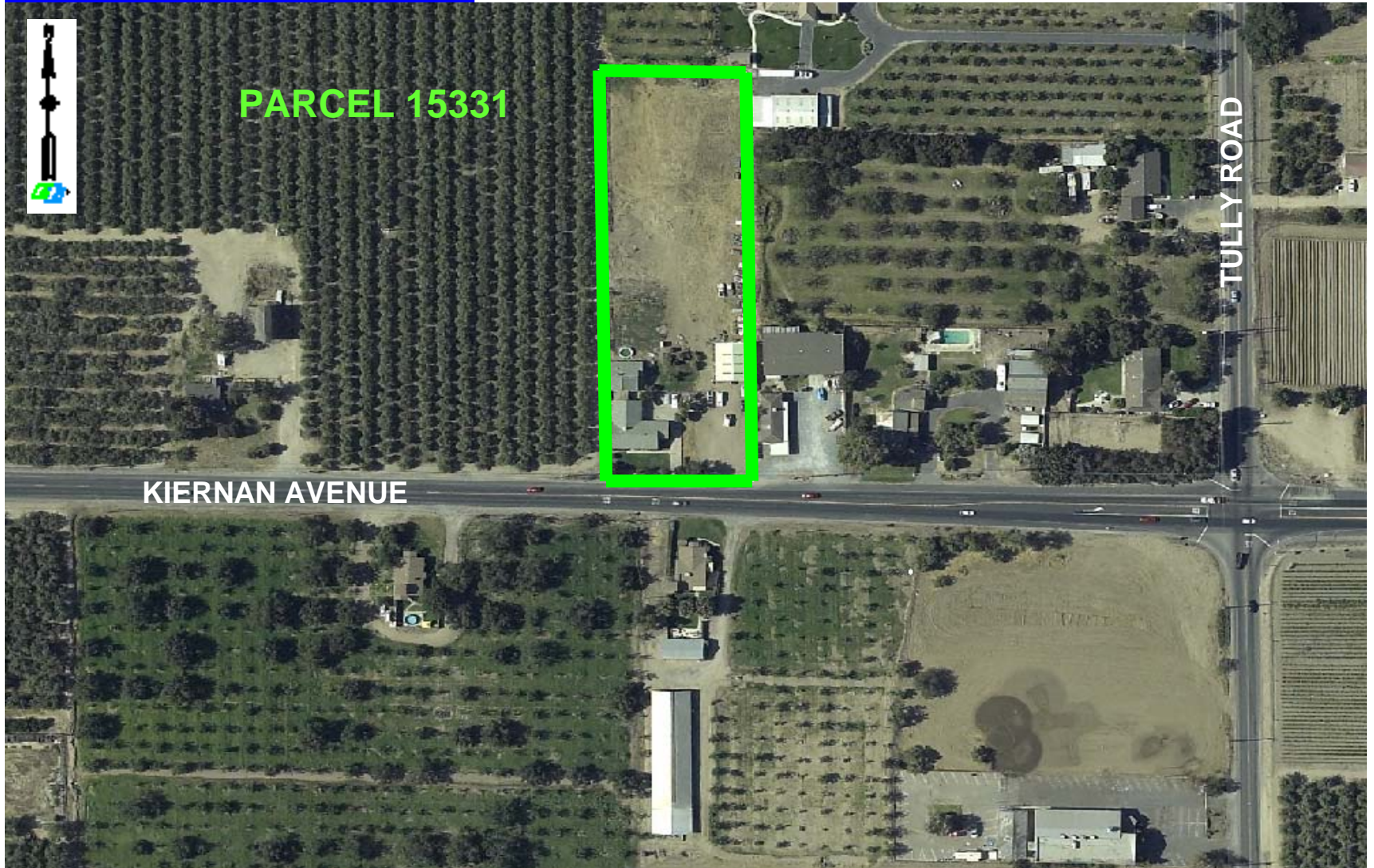
Project Map PHASE II



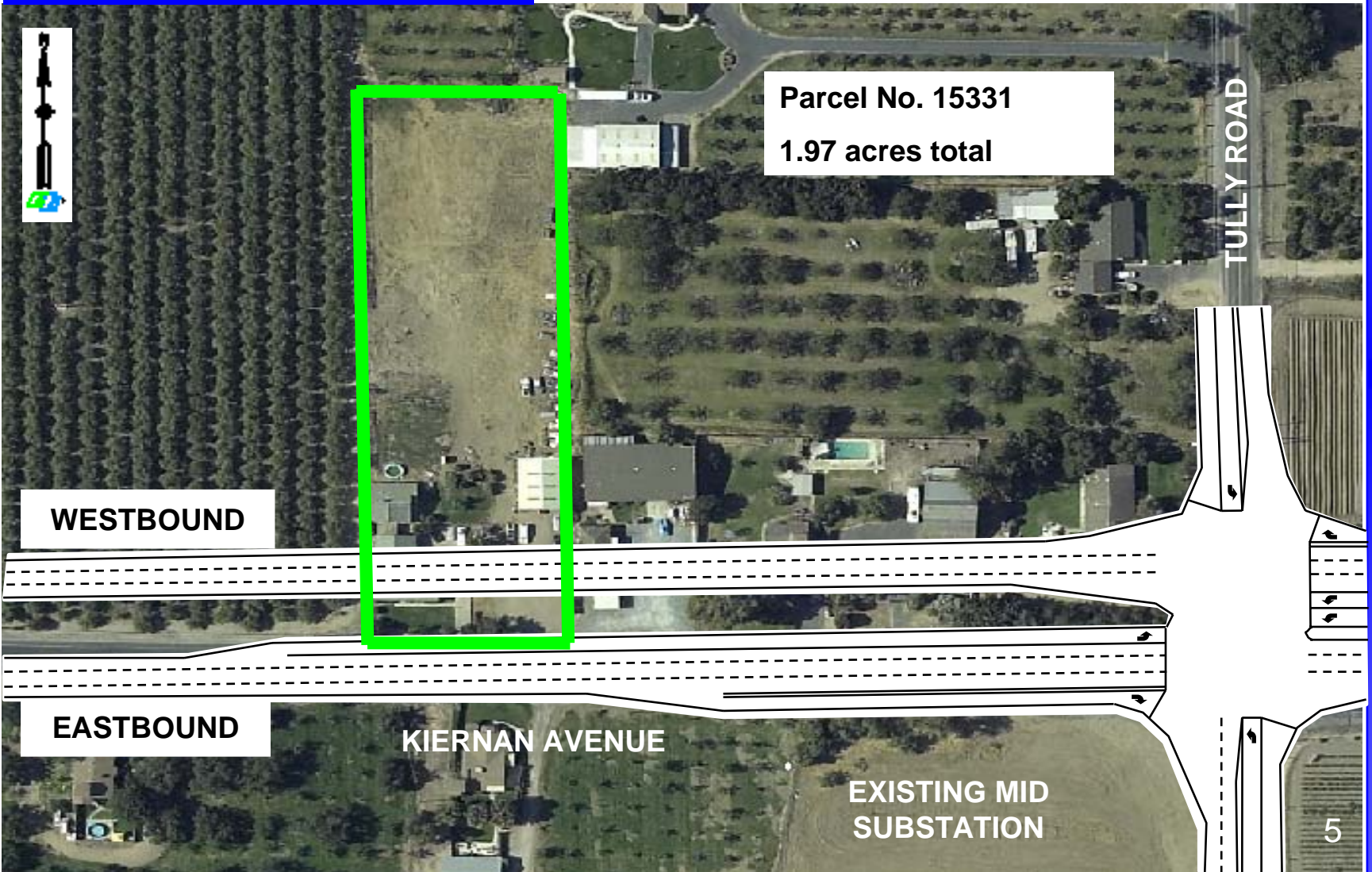
PARCEL 15331
DeGraef & Adams Property



Existing Facility



Proposed Facility



Parcel 15331 Impact

Parcel No. 15331

1.97 acres total

0.55 acres required

1.42 acres remaining



WESTBOUND

KIERNAN AVENUE

EASTBOUND

Related to the findings of the County Board of Supervisors:

(A) The public interest and necessity require the proposed project.

In a letter dated November 25, 2009, Mr. DeGraef and Ms. Adams voiced the following concerns:

Fiscal Responsibility

- “We are in the worst financial times since the 1930’s and public entities are financially challenged. The money being spent on this project should be used for more important services.
- Delay or postpone the widening project until the State and Stanislaus County are financially healthy.”

Related to the findings of the County Board of Supervisors:

(A) The public interest and necessity require the proposed project.

Department's response to Fiscal Responsibility

- The project not only improves the existing conditions on SR 219 but also invests money back into the local community.
- Delaying or postponing the project would not allow the construction funds to be used for non-transportation services.

Related to the findings of the County Board of Supervisors:

(A) The public interest and necessity require the proposed project.

In a letter dated November 25, 2009, Mr. DeGraef and Ms. Adams voiced the following concerns:

Traffic Questions

- “Traffic on SR 219 has reduced significantly due to economic conditions.
- With the widening of Pelandale Road, traffic has moved to Pelandale to access eastern Stanislaus County.
- Conduct a new traffic study.
- Install coordinated signal lights at the intersections of SR 219 and Carver and Tully Roads.”

Related to the findings of the County Board of Supervisors:

(A) The public interest and necessity require the proposed project.

Department's response to Traffic Questions

- The Department updated the traffic studies in December 2007. The traffic data included the StanCOG traffic model as well as city and county traffic data from the Pelandale Road widening project. These studies indicated that the improvements to Kiernan Avenue are still needed.
- Temporary traffic signals were proposed by Stanislaus County, however these signals would have been removed by the widening. The signal projects alone would not have accommodated the projected traffic volume.

Related to the findings of the County Board of Supervisors:

(A) The public interest and necessity require the proposed project.

In a letter dated November 25, 2009, Mr. DeGraef and Ms. Adams voiced the following concerns:

Environmental Concern

- “The Environmental Document approved in March 2003, does not reflect today’s economy and the traffic patterns currently present on SR 219.”

Department’s Response to Environmental Concern

- The Department’s project has gone through extensive engineering and environmental studies to ensure this is the proper project to construct at this time. In addition, an environmental re-evaluation was completed in June, 2009 which stated the original document remains valid.

Related to the findings of the County Board of Supervisors:

(B) The proposed project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.

In a letter dated November 25, 2009, Mr. DeGraef and Ms. Adams voiced the following concerns:

Design Feature Questions

- “The current design of the road is dangerous and not in the greatest public good or least private injury. The new plans for Route 219 are now for a road that is not straight but has several curves in it.”
- “The construction plans for the Route 219 project were revised to accommodate the MID substation located on the corner of Tully Road and SR 219.”
- “What are the long-term prospects for Stanislaus Union School remaining open?”

Related to the findings of the County Board of Supervisors:

(B) The proposed project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.

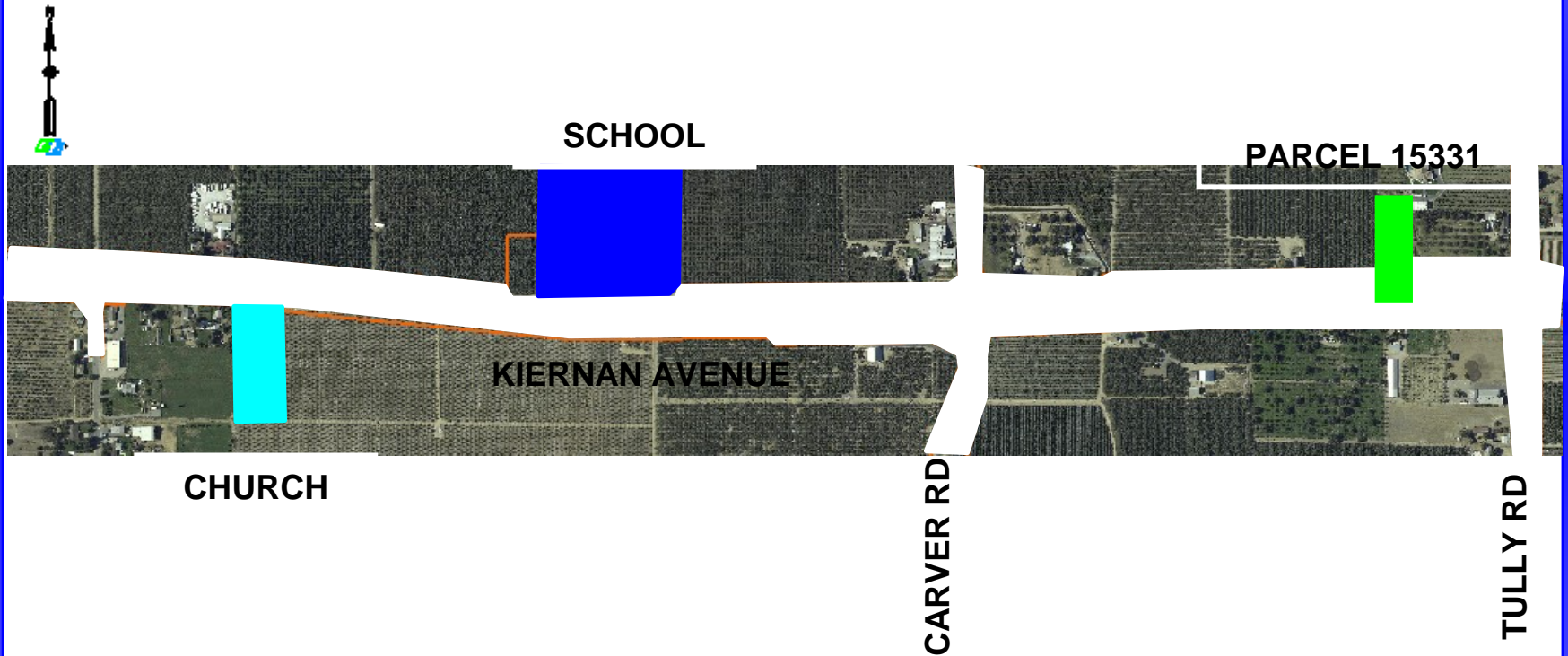
Department's response to Design Feature Responses

- The current design meets or exceeds all Federal, State and local standards and requirements.
- The Department's design must avoid the Unitarian Universalist Fellowship Church, as it has been determined to be eligible for the National Register of Historic Places.
- The Department design plans were approved in December 2001. In fall of 2003, and again in August 2004, MID contacted the Department about a new substation on SR 219. The MID substation was built in 2005 to accommodate the widening project.
- The school will remain open during and after the construction of the project.

Related to the findings of the County Board of Supervisors:

(B) The proposed project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.

Department's Responses Continued:



Related to the findings of the County Board of Supervisors:

(C) The property sought to be acquired is necessary for the project.

Additional questions were raised during the First Level meeting on February 2, 2010:

Question: Right of way requirements of the current project design affect eight residences on the north side of Route 219, while the requirements to the south would only affect two. Was there political pressure to shift the right of way line to the north?

Response: Alignments to the north, south, and symmetrically were studied during the environmental process. The northern alignment was selected by both the public and local agencies, primarily due to the greater number of not only residences, but businesses, and existing infrastructure located along the south side of SR 219. In addition, the Church must be avoided.

Additional questions raised during the First Level meeting on February 2, 2010:

Question:

“Why is Route 219 between Carver Road and Tully Road intersections going to be six lanes, instead of four lanes?”

Response:

Based on the updated traffic studies of 2007, the requirement for **six-through** lanes at the intersections of Carver Road and Tully Road was determined. This requirement results in the section of Kiernan Avenue between these intersections to be six-lanes as well.

Related to the findings of the County Board of Supervisors:

(A) The public interest and necessity require the proposed project.

Question:

“What is the status of the project funding?”

Response:

The project is fully funded. The right of way is being acquired with STIP funds and the construction is funded by STIP, Proposition 1B CMIA fund, and Federal demonstration funds. As previously stated, these funds can only be used for transportation projects.

Summary

- The public interest and necessity require the proposed project.
- The proposed project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury.
- The property sought to be condemned is necessary for the proposed project.
- An offer of just compensation has been made to the owners of record.