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Title: Approve the acquisition of 2,647 square feet of property owned by Johnny Lopez (APN 310-111-12), in the amount of \$46,300, to widen East Belmont Avenue between Clovis and Fowler Avenues. (Council District 5)

Sponsors: Public Works Department

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Attachments: 1. VicinitymapAPN31011112.pdf, 2. PSA31011112.pdf

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12/1/2016	1	City Council	approved	Pass

REPORT TO THE CITY COUNCIL

December 1, 2016

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Public Works Department

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SUBJECT

Approve the acquisition of 2,647 square feet of property owned by Johnny Lopez (APN 310-111-12), in the amount of \$46,300, to widen East Belmont Avenue between Clovis and Fowler Avenues. (Council District 5)

RECOMMENDATION

1. Approve the acquisition of 2,647 square feet of property owned by Johnny Lopez (APN 310-111-12), in the amount of \$46,300, to widen East Belmont Avenue between Clovis and Fowler Avenues.

2. Authorize the Public Works Director, or designee, to sign all documents necessary to complete the transaction.

EXECUTIVE SUMMARY

The subject property is one of eight properties required for the Belmont Avenue street widening project on the north side of East Belmont Avenue between Clovis and Fowler Avenues. The value of the acquisition was established by Real Property Analyst, James G. Palmer MAI. A total of 2,647 square feet of easement is required for this project valued at \$46,300. On August 19, 2016, staff presented an offer of the appraised value of \$46,300 and the owner accepted.

BACKGROUND

Fancher Creek Properties, LLC., has previously obtained development approvals by the City of Fresno for purposes of Rezone Application No. R-04-14, Conditional Use Permit No. C-04-79, Vesting Tentative Tract Map No. T-5232, Parcel Map No. 2004-36, and Environmental Impact Report No. 10133 for purposes of the Fancher Creek Project pertaining to the development of approximately 476 acres of property located within the area bounded by East Belmont Avenue, Clovis Avenue, Fowler Avenue, and Kings Canyon Road. For the purpose of approving these applications and entitlements associated with the proposed development, an Environmental Impact Report (No. 10133) was prepared to assess the potential adverse environmental impacts resulting from the proposed project for purposes of compliance with the California Environmental Quality Act (CEQA). As part of the development approvals, a second westbound lane on East Belmont Avenue between Clovis and Fowler Avenues was adopted by the Fresno City Council (Council) to mitigate the circulation element and was made a condition of zoning through adoption of Ordinance No. 2005-51 Bill No. B-49.

On July 6, 2015, the City and Centex Homes, the subdivider of Final Tract Map No. 5232, executed a settlement agreement concerning the Belmont Avenue widening project. Centex Homes provided a total gross settlement amount of \$2,500,000 and the City proceeded forward with the Belmont Avenue widening project, utilizing a combination of the settlement proceeds and other development impact fees that had been collected. Engineering plans and specifications are being finalized for the construction phase. Upon completion of the right-of-way acquisition, utilities will be relocated to the newly acquired street right-of-way, which will then be followed by street construction. The project also includes a new traffic signal to be installed at the intersection of Belmont and Sunnyside Avenue.

ENVIRONMENTAL FINDINGS

On May 17, 2005, the Council held a public hearing to consider Rezone Application No. R-04-14 and the proposed Final Environmental Impact Report (EIR) No. 10133, filed by Fancher Creek Properties, pertaining to approximately 424 acres of property located on the northwest and northeast corner of East Kings Canyon Road and North Fowler Avenues, the northwest and southwest corners of Belmont and Armstrong Avenues and the northeast and southeast corners of Clovis and Tulare Avenues for purposes of the Fancher Creek Project.

Following a full and complete hearing, the Council adopted Ordinance No. 2005-51 Bill No. B-49, approving Rezone Application No. R-04-14, with amendments, including a condition of zoning that

the applicant shall design and construct one additional westbound lane on East Belmont Avenue between North Fowler Avenue and North Clovis Avenue. Furthermore, the Council adopted Resolution No. 2005-183 certifying Final EIR No. 10133, dated October 2004, for the Fancher Creek Project.

Subsequently, on March 25, 2010, the Council adopted an addendum dated July 29, 2009, to EIR No. 10133, as certified through the Council Resolution No. 2005-183, for purposes of approving a Development Agreement by and between the City of Fresno and Fancher Creek Properties, LLC. The Development Approvals, which are the subject of the Development Agreement and, which were cited within the Agreement as having been previously approved by the City or concurrently approved with the Agreement included, but were not limited to: Certification of the Final Environmental Impact Report (EIR), including project-specific mitigation measures adopted by the City (Resolution 2005-183); and, the Zoning Ordinance text and map amendments adopted by the Council (Ordinance No. 2005-51); which included the condition of zoning requiring street widening on the north side of East Belmont Avenue between Clovis and Fowler Avenues. The acknowledged purpose of the executed Development Agreement was to provide “certainty” given the complexity, magnitude, and long term build-out of the project would be difficult for the Developer to undertake if the City had not determined, through the Development Agreement, to inject as sufficient degree of certainty in the land use regulatory process to justify the substantial financial investment associated with development of the project. The Development Agreement also provides certainty with respect to the type and amount of development fees and exactions that would be charged by the City and determinations as to which party would be responsible for infrastructure improvements and timelines for construction of the improvements.

The Development Agreement assures that development of the project can proceed without disruption caused by a change in City planning and development policies and requirements. The term of the Development Agreement extends for a period of twenty years. For the term of the Development Agreement, the rules, regulations, ordinances, and official policies governing the permitted uses of land, density, design, improvement and construction standards, and specifications applicable to the development of the proposed project are the Applicable Rules contained within the Development Agreement; including specifically, the Development Approvals referenced herein above.

Therefore, it may be determined the proposed street widening project on the north side of East Belmont Avenue between Clovis and Fowler Avenues, which is the subject of this report, was identified as a requirement and component of the Fancher Creek project, which was afforded surety under the terms of the above described Development Agreement, and for which EIR No. 10133 was certified and adopted by the Council.

Furthermore, it may be determined none of the conditions described in Section 15162 of the California Environmental Quality Act (CEQA) Guidelines calling for preparation of a subsequent EIR have occurred, based on the following:

- 1) No substantial changes are proposed in the project, which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or substantial increase in the severity of previously identified significant effects;

The proposed street widening project on the north side of East Belmont Avenue between Clovis and Fowler Avenues for purposes of adding one additional westbound lane was a component and requirement of the Fancher Creek Project that was previously evaluated by EIR No. 10133

as certified by the Council. Furthermore, the proposed scope of work is included within the Development Approvals of an executed Development Agreement outlining Applicable Rules, regulations, ordinances, and official policies governing the permitted uses of land, density, design, improvement and construction standards and specifications applicable to the development. Therefore, no substantial changes are proposed in the project.

- 2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or substantial increase in the severity of previously identified significant effects; or,

No substantial changes have occurred with respect to the circumstances under which the proposed project is being undertaken. With the exception of a public park site which has been developed (and for which ultimate right-of-way dedications have already been made) on the north side of East Belmont Avenue, the conditions and circumstances surrounding the subject East Belmont Avenue street segment between North Clovis and North Fowler Avenues are unchanged between the time of certification of EIR No. 10133 and the present. Therefore, no new significant environmental effects or a substantial increase in the severity of previously identified significant effects will occur.

- 3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the Negative Declaration was adopted, shows any of the following:

- a) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
- b) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
- c) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the proponents decline to adopt the mitigation measure or alternative; or,
- d) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measures or alternative.

Based upon the information contained within the preceding findings herein above: No new information of substantial importance shows the proposed project will have significant effects not discussed in the previously certified EIR No. 10133; No effects previously examined will be more severe; and, No new or alternative mitigation measures for identified significant effects have become feasible. Neither the scope of the proposed project or the circumstances surrounding the proposed project has changed.

Given the information contained within the Environmental Findings section contained herein above, no subsequent environmental review or analysis is required for the proposed project beyond that which has been previously certified in EIR No. 10133.

LOCAL PREFERENCE

Local preference was not considered because this item does not include a bid or award of a construction or services contract.

FISCAL IMPACT

This project will have no impact to the General Fund. Funds for the \$3,029,900 Belmont Avenue widening project in District 5 are included in the adopted FY2017 budget.

Attachments:

Vicinity map

Agreement