

PARTIAL TAKINGS

MUST YOU ALWAYS APPRAISE THE ENTIRE LARGER PARCEL?

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OUTLINE – PARTIAL TAKINGS

- Is only valuing the land allowed?
- Is this type of valuation credible?
- Is this type of valuation appropriate?
- CASE STUDY 1 – SINGLE FAMILY HOME
- CASE STUDY 2 – RETAIL SHOPPING CENTER
- CASE STUDY 3 – HIGH SCHOOL
- CASE STUDY 4 – STRIP RETAIL CENTER
- Takeaways

Is Valuing the Land Allowed?

- Can an appraiser only value the land, even if it's improved?
- The answer is found in USPAP



Is it Allowed?

184. APPRAISING ONLY THE UNDERLYING LAND OF AN IMPROVED PROPERTY

Question: I have been asked by my client to appraise the underlying land of an existing shopping center. Can I perform such an assignment under USPAP and if so, would this require the use of a hypothetical condition?

Response: Yes, you can perform this type of assignment in compliance with USPAP. Standards Rule 1-2(e) states, in part, the appraiser must:

identify the characteristics of the property that are relevant to the type and definition of value and intended use of the appraisal, including:

- (i) its location and physical, legal, and economic attributes;*
- (ii) the real property interest to be valued;*
- (v) whether the subject property is a fractional interest, physical segment, or partial holding.*

In addition, the Comment to this Rule states, in part:

An appraiser is not required to value the whole when the subject of the appraisal is a fractional interest, a physical segment, or a partial holding.

Is it Credible?

- Can valuing only the land of an improved property produce credible assignment results?
- The path to the answer is also found in USPAP



Is it Credible?

- Scope of Work Rule

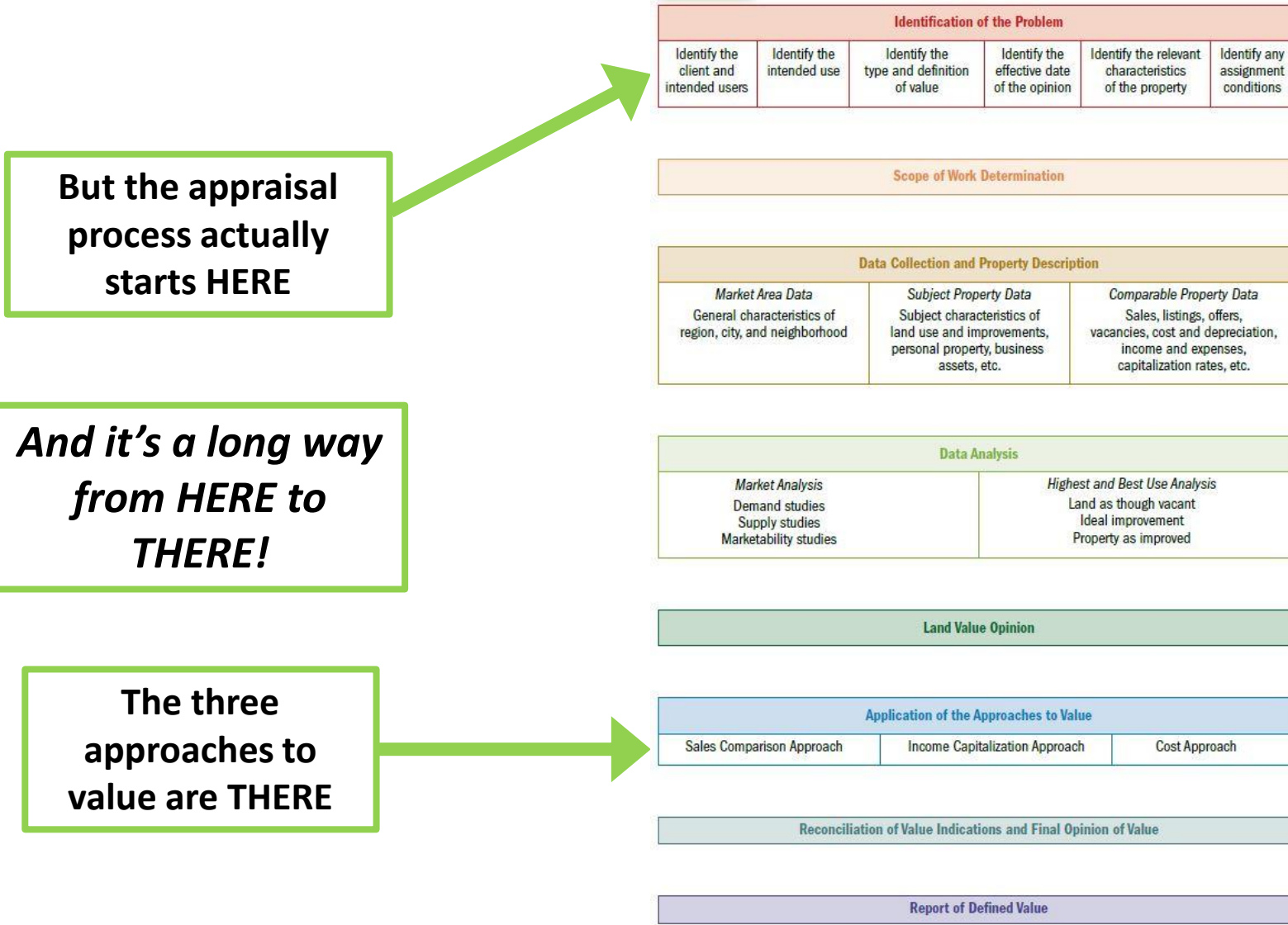
338 For each appraisal and appraisal review assignment, an appraiser must:

339 1. Identify the problem to be solved;

340 2. determine and perform the scope of work necessary to develop credible assignment
341 results; and

342 3. disclose the scope of work in the report.

It Start with Problem Identification



It Starts with Problem Identification

Identification of the Problem					
Identify client and intended users	Identify the intended use	Identify the purpose of the assignment (type and definition of value)	Identify the effective date of the opinion	Identify the relevant characteristics of the property	Assignment conditions

Scope of Work Determination

This issue is so important that USPAP has an entire Advisory Opinion (AO-23) devoted to it.

Is it Credible?

- What constitutes an acceptable scope of work?

SCOPE OF WORK ACCEPTABILITY¹⁵

The scope of work must include the research and analyses that are necessary to develop credible assignment results.

Comment: The scope of work is acceptable when it meets or exceeds:

- the expectations of parties who are regularly intended users for similar assignments; and
- what an appraiser's peers' actions would be in performing the same or a similar assignment.

Putting the Pieces Together (So Far)



- The appraisal problem
- The “relevant characteristics”
- Intended user expectations/ peer actions
- Intended use
- “Credible assignment results”
- Valuing a property to assist in determining just compensation
- Could include only researching/analyzing the land
- Agency may expect only an appraisal of the land/peers may perform same land-only analysis

Is it Appropriate?

- Is valuing only the land of an improved property appropriate?
- This time, the answer is not in USPAP



Is it Appropriate?

- How does an appraiser know that the improvements on the property are not damaged if they are not appraised?
- Was the relevant property/larger parcel appraised?



An Evidentiary Perspective

- Evidence Code Section 816

816. When relevant to the determination of the value of property, a witness may take into account as a basis for his opinion the price and other terms and circumstances of any sale or contract to sell and purchase comparable property if the sale or contract was freely made in good faith within a reasonable time before or after the date of valuation. In order to be considered comparable, the sale or contract must have been made sufficiently near in time to the date of valuation, and the property sold must be located sufficiently near the property being valued, and must be sufficiently alike in respect to character, size, situation, usability, and improvements, to make it clear that the property sold and the property being valued are comparable in value and that the price realized for the property sold may fairly be considered as shedding light on the value of the property being valued.

An Evidentiary Perspective

- California Civil Jury Instruction 3506

3506. Effect of Improvements

In determining the fair market value of the property you must consider both the value of the land and whether any buildings, machinery, or other equipment attached to the property increase or decrease the value of the property.

CASE STUDY 1 – SINGLE FAMILY RESIDENCE

- SUBJECT PROPERTY – Larger Parcel
 - Single Family Residence – Good Condition
 - Single-Story, Ranch Style
 - 2,100 Sq.Ft.
 - 3-Bedroom, 2-Bathroom
 - Built 1985 (36-yrs); Pool
 - 20,000 Sq.Ft. Lot (80-ft X 250-ft)

CASE STUDY 1 – SINGLE FAMILY RESIDENCE



CASE STUDY 1 – SINGLE FAMILY RESIDENCE

- PART ACQUIRED
 - 8,000 Sq.Ft. (80-ft X 100-ft)
 - 12 trees (30' to 40' Tall, 24" to 30" trunks)
 - 280 LF of 3-Rail Vinyl Fencing
 - 1,000 Sq.Ft. Irrigated Landscaping
 - 10-ft X 10-ft Shed – Electricity

CASE STUDY 1 – SINGLE FAMILY RESIDENCE



CASE STUDY 1 – SINGLE FAMILY RESIDENCE



CASE STUDY 1 – SINGLE FAMILY RESIDENCE



CASE STUDY 1 – SINGLE FAMILY RESIDENCE



CASE STUDY 1 – SINGLE FAMILY RESIDENCE



CASE STUDY 1 – SINGLE FAMILY RESIDENCE

- VALUATION OF PART ACQUIRED
 - 8,000 Sq.Ft @ \$17.50 = \$140,000
 - 12 trees @ \$6,500 = \$ 78,000
 - 280 LF vinyl fencing @ \$24.35 = \$8,818
 - 1,000 Sq. Ft. Landscaping @ \$11.05 = \$11,050
 - 100 Sq.Ft. Shed @ \$6,500 = \$6,500
 - TOTAL (Rounded) \$244,500

CASE STUDY 1 – SINGLE FAMILY RESIDENCE

- REVIEW APPRAISER
 - Value of the Larger Parcel = \$675,000
 - Value of Site – 20,000 Sq. Ft. @ \$17.50 = \$350,000
 - Residual Value of All Improvements = \$325,000
 - SFR Cost New \$270 per Sq.Ft. = \$567,000
 - Value of Part Taken as Part of Whole = $\$244,500 / \$675,000 = 36\%$

REASONABLE ???

GIFT OF PUBLIC FUNDS ???

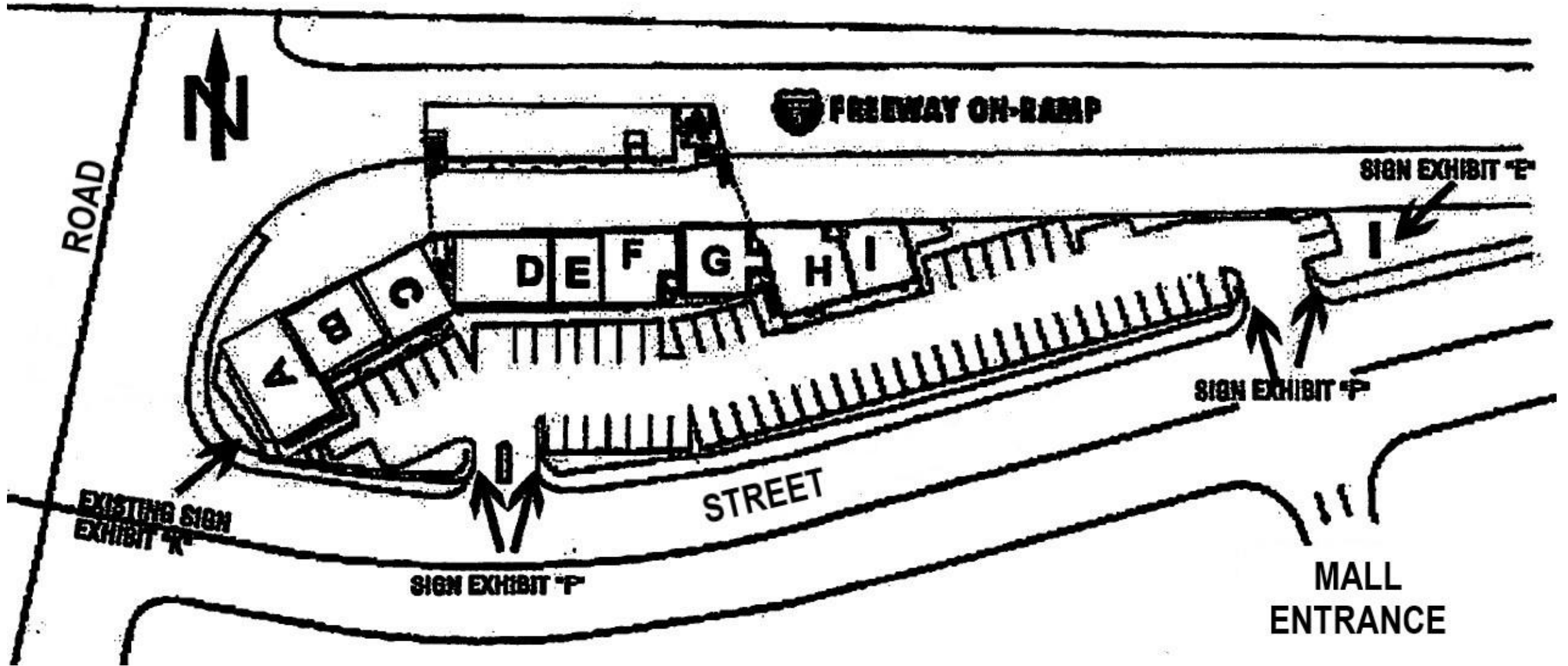
CASE STUDY 2 – RETAIL CENTER

- SUBJECT PROPERTY – Larger Parcel
 - Retail Shopping Center
 - 13,662 Sq. Ft. / Yr. Blt. 1985
 - Two-Story, Wood Frame
 - 10-Tenant Spaces (+ Cingular Wireless Tower)
 - 93.6% occupancy (860 SF Vacant)
 - 40,012 Sq.Ft. Site; Zoned Commercial
 - 61 Parking Spaces Provided
 - 69 Parking Spaces Required

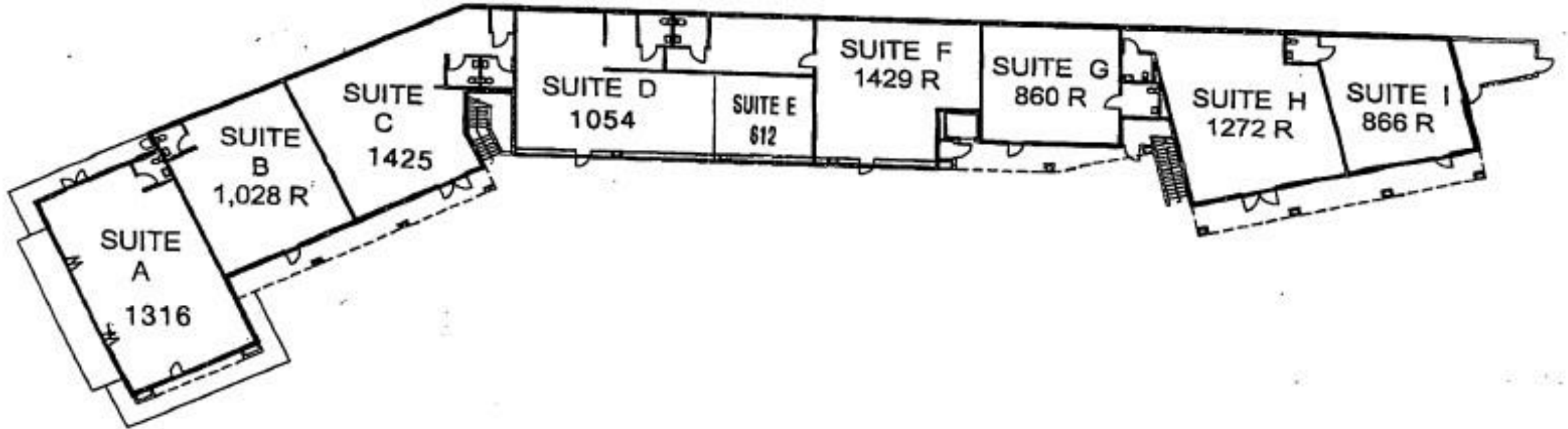
CASE STUDY 2 – RETAIL CENTER



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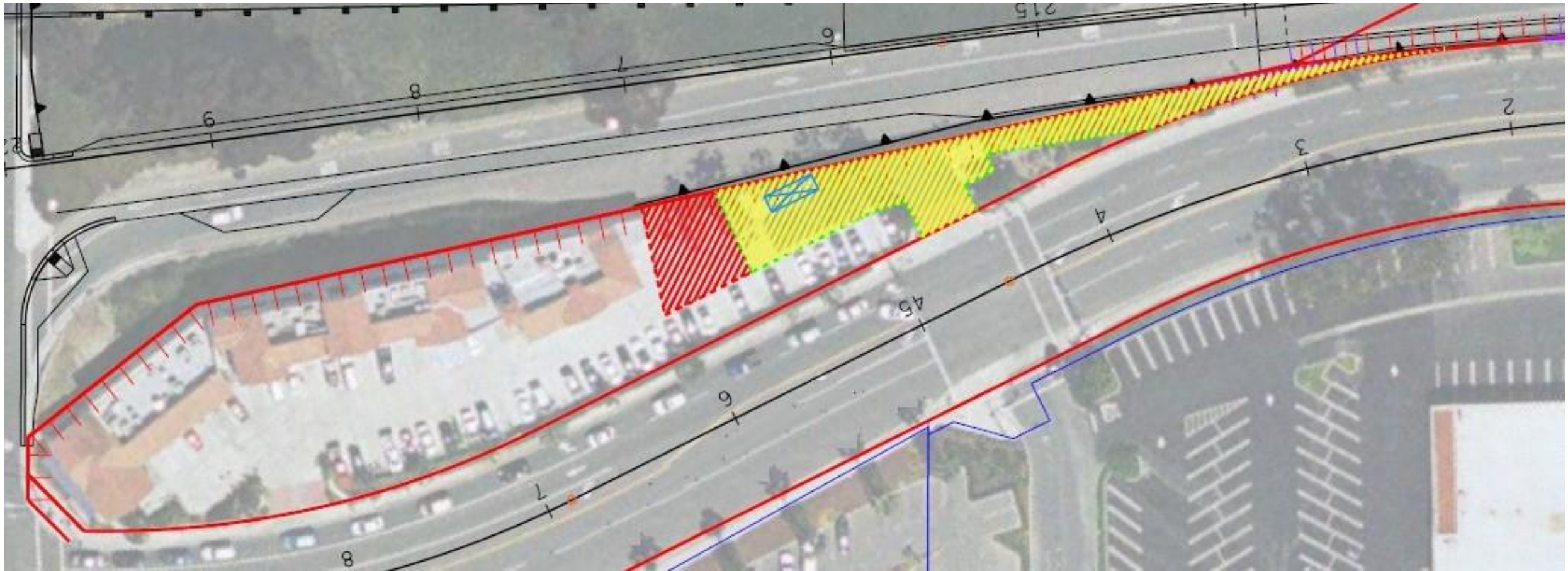
CASE STUDY 2 – RETAIL CENTER

- PART ACQUIRED
 - CT Parcel 202092-1. Fee Simple. 74 Sq.Ft.
 - CT Parcel 202092-2. MAE. 5,770 Sq.Ft.
(Maintenance and Access Easement)
 - CT Parcel 202092-3. TCE. 1,706 Sq. Ft.
 - 51 Months

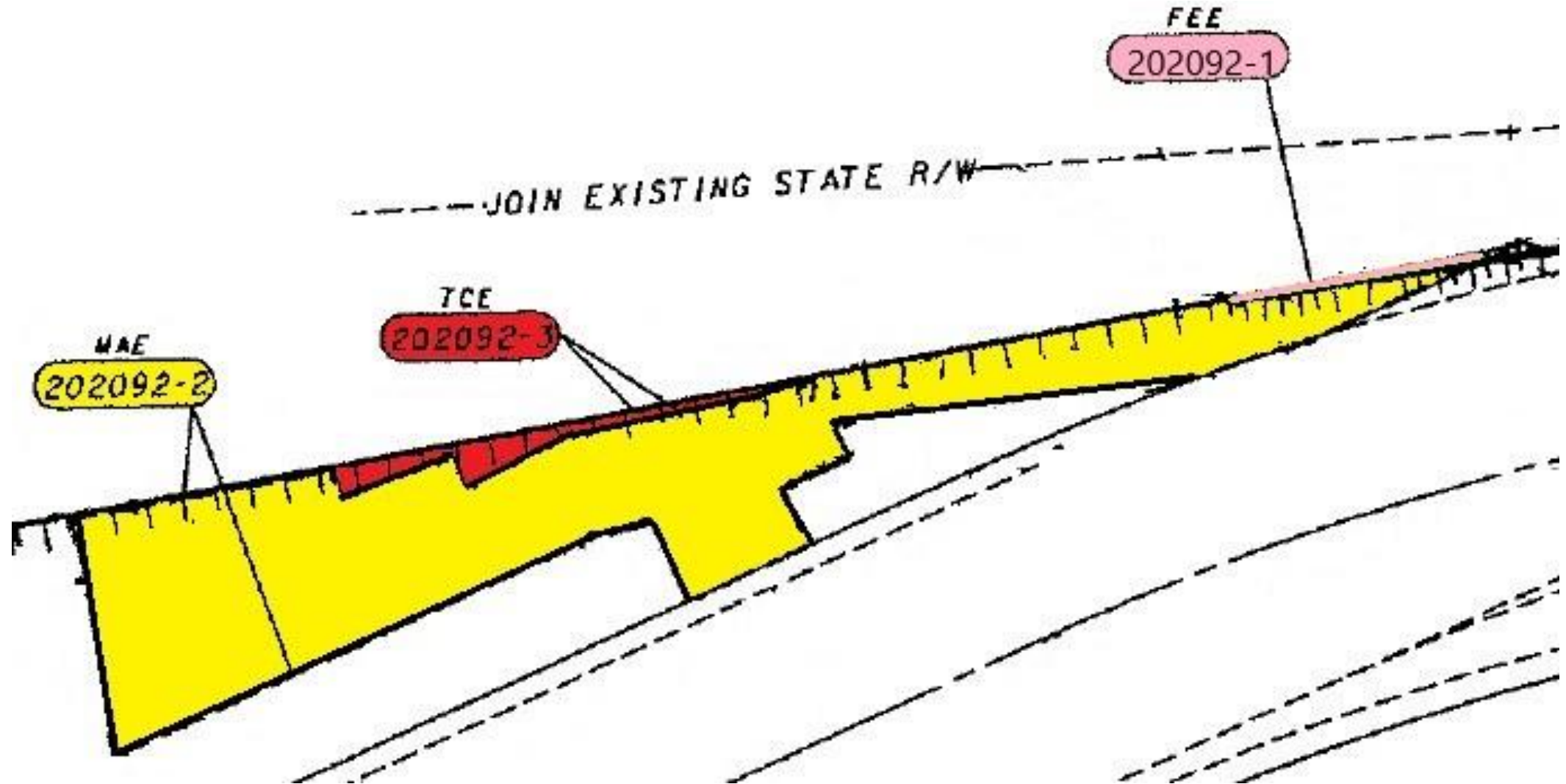
CASE STUDY 2 – RETAIL CENTER

- PART ACQUIRED
 - FEE SIMPLE – LAND AND IRRIGATED LANDSCAPING
 - TEMPORARY CONSTRUCTION EASEMENT – LAND;
IRRIGATED LANDSCAPING; 2 PARKING SPACES
 - M&AE – 7 PARKING SPACES, TRASH ENCLOSURE,
ACCESS, PAVEMENT

CASE STUDY 2 – RETAIL CENTER



CASE STUDY 2 – RETAIL CENTER



CASE STUDY 2 – RETAIL CENTER

- PARKING LANGUAGE IN CALTRANS APPRAISAL

“Note, however, the existing development represents a pre-existing legal non-conforming use with respect to the 10' rear yard setback under the current zoning, as well as on-site parking requirements (61 existing parking spaces as compared to 69 spaces required under the existing use).”

CASE STUDY 2 – RETAIL CENTER

- EASEMENT LANGUAGE - MAINTENANCE & ACCESS EASEMENT
“The GRANTOR further understands that the present intention of the STATE is to construct and maintain a public highway on the lands hereby conveyed and the GRANTOR, for itself and its successors and assigns, hereby waive any and all claims for damages to GRANTOR's remaining property contiguous to the property hereby conveyed by reason of the location, construction, landscaping or maintenance of the highway.”

CASE STUDY 2 – RETAIL CENTER

- LEASE LANGUAGE

*14. Condemnation. If the Premises or any portion thereof are taken under the power of eminent domain or sold under the threat of the exercise of said power (collectively "Condemnation"), this Lease shall terminate as to the part taken as of the date the condemning authority takes title or possession, whichever first occurs. If more than 10% of the floor area of the Premises, or more than 25% of the parking spaces situated within the parking area, is taken by Condemnation, Lessee may, at Lessee's option, to be exercised in writing within 10 days after Lessor shall have given Lessee written notice of such taking (or in the absence of such notice, within 10 days after the condemning authority shall have taken possession) terminate this Lease as of the date the condemning authority takes such possession. If Lessee does not terminate this Lease in accordance with the foregoing, this Lease shall remain in full force and effect as to the portion of the Premises remaining, **except that the Base Rent shall be reduced in proportion to the reduction in utility of the Premises caused by such Condemnation.***

CASE STUDY 2 – RETAIL CENTER

- JUST COMPENSATION – VALUATION
 - CalTrans Appraiser – \$315,000 (No Damages)
 - Income Approach Before – \$12,520,000
 - Income Approach After – \$10,630,000
 - Total Just Compensation - \$2,239,600 (Includes Damages)

CASE STUDY 3 – HIGH SCHOOL

- SUBJECT PROPERTY – Larger Parcel
 - High School – Grades 9 thru 12 52.3-acres
 - Bldgs: 60,950 Sq.Ft. / 1966 2,438 Student Body / 93 FT Teachers
 - 81 Classrooms Auditorium / Full Service Cafeteria
 - Full Size, 3,000 Seat Gymnasium 8 Outdoor Basketball Courts
 - Two CIF Regulation Baseball Diamonds (Girls/Boys)
 - Practice Fields Football / Soccer Stadium for 3,000
 - Olympic Swimming Pool Parking for 950 Vehicles w/ Solar
 - Zoned Commercial and Residential

CASE STUDY 3 – HIGH SCHOOL



CASE STUDY 3 – HIGH SCHOOL

- PART ACQUIRED – LAND ONLY – MAR 2016 DOV
 - 17,000 Sq.Ft. – FEE SIMPLE
 - 10,000 Sq.Ft. Residential @ \$75 = \$750,000
 - 7,000 Sq.Ft. Commercial @ \$110 = \$770,000
 - 12,000 Sq.Ft. TCE - \$35,000
 - TOTAL - \$1,555,000
 - NO DAMAGES OR BENEFITS

CASE STUDY 3 – HIGH SCHOOL - BEFORE



CASE STUDY 3 – HIGH SCHOOL - AFTER



CASE STUDY 3 – HIGH SCHOOL

- BACKGROUND
 - Date of Value – MAR 2016
 - Offer was made by Letter – DEC 2016
 - Meeting Held with CalTrans & District – JUL 2017
 - Principal from School; Asst. Supt. Business Services
 - CalTrans Deputy Director Right-of-Way; Engineer; Contractor; Acquisition Agent; District Appraiser; Administrative Assistant
 - Complaint Filed APRIL 2018
 - Deposit MAY 2018
 - Mediation JUNE 2018
 - Funding Deadline JUL 2018

CASE STUDY 3 – HIGH SCHOOL

- VALUATION CONSULTANT FOR DISTRICT
 - APPRAISAL OVER TWO YEARS OLD
 - CALIF. DIVISION OF THE STATE ARCHITECT
 - MUST COMPLY WITH ADA
 - ALL AREAS AFFECTED MUST BE REDESIGNED
 - ENTIRE SCHOOL MAY BE REQUIRED TO COMPLY
 - E-MAIL FROM THE DSA
 - COST COULD BE FROM \$10,000,000 TO \$20,000,000

CASE STUDY 3 – HIGH SCHOOL

- SCHOOL DISTRICT LEGAL COUNSEL

- Government Code Section 7267.2

..... the public entity shall establish an amount that it believes to be just compensation therefor, and shall make an offer to the owner or owners of record to acquire the property for the full amount so established, The amount shall not be less than the public entity's approved appraisal of the fair market value of the property.

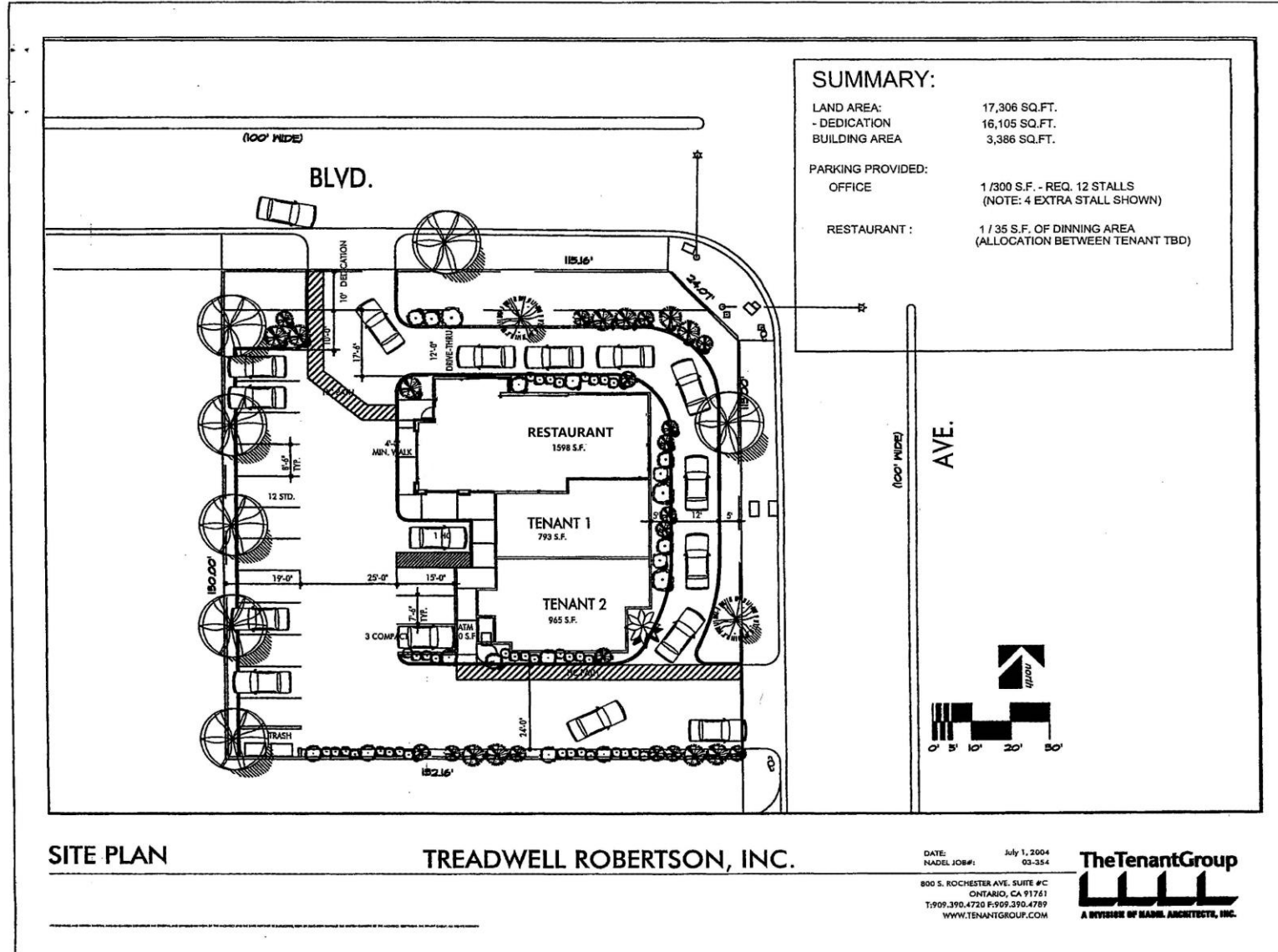
- CalTrans Appraiser never established the FMV of the property being acquired because they did not consider the affect on the HS improvements. Did not appraise the larger parcel.

- Offer was not indicative of FMV because of the time which had transpired (DOV)

CASE STUDY 4 – STRIP RETAIL CENTER

- SUBJECT PROPERTY – Larger Parcel
 - Shopping Center
 - Prime Corner Location
 - 3,411 Sq.Ft. / Yr. Blt. 2005
 - Wood Frame / Single-Story
 - 3-tenants – Starbucks
 - 17,306 Sq. Ft. Land
 - 16 Parking Spaces / 4.7 per 1,000
 - Zoned Commercial

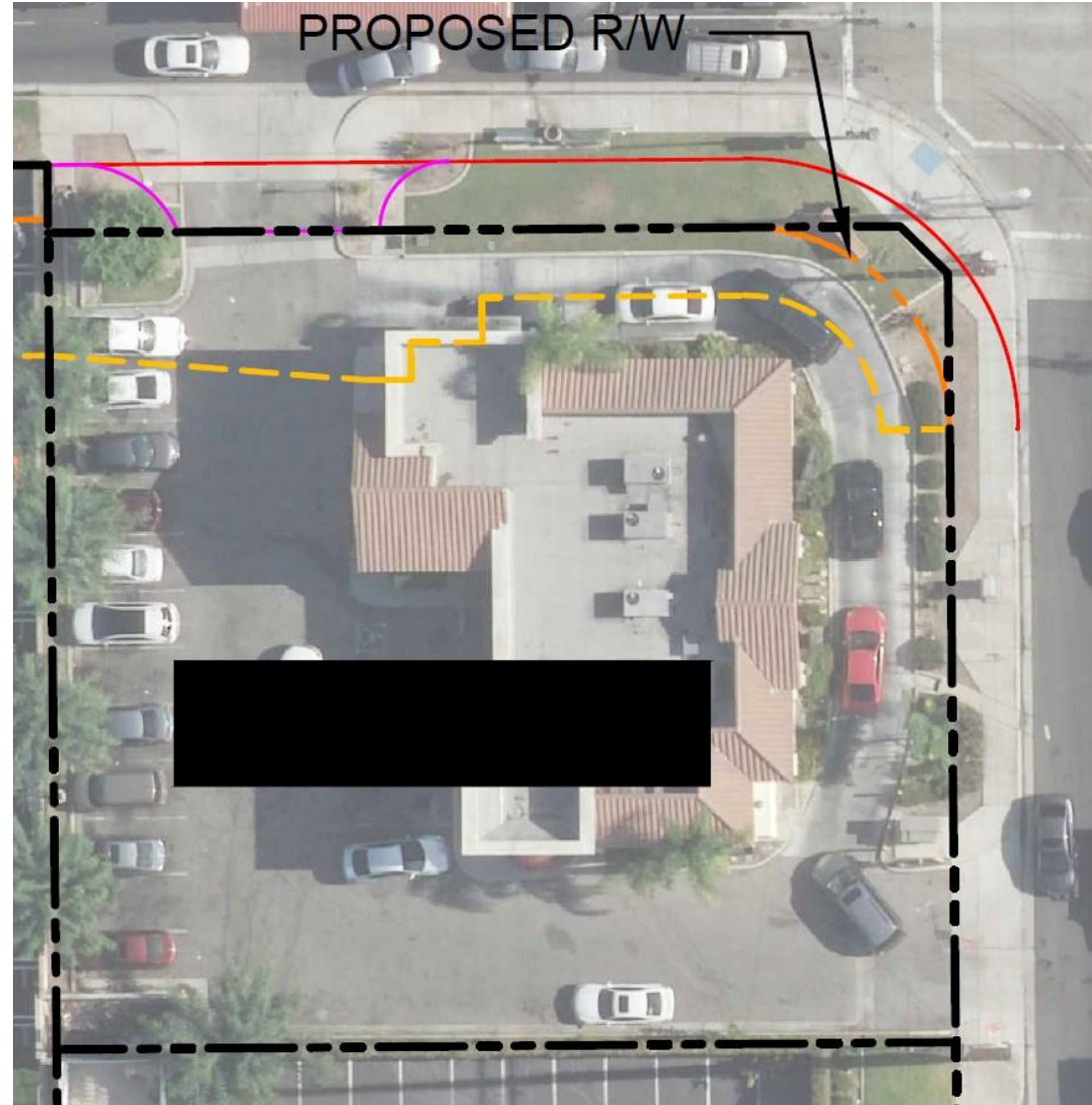
CASE STUDY 4 – STRIP RETAIL CENTER



CASE STUDY 4 – STRIP RETAIL CENTER

- PART ACQUIRED
 - 1,202 Sq.Ft. – FEE SIMPLE
 - 2,027 Sq.Ft. – TCE (4-MONTHS)

CASE STUDY 4 – STRIP RETAIL CENTER



CASE STUDY 4 – STRIP RETAIL CENTER



CASE STUDY 4 – STRIP RETAIL CENTER



CASE STUDY 4 – STRIP RETAIL CENTER



CASE STUDY 4 – STRIP RETAIL CENTER



CASE STUDY 4 – STRIP RETAIL CENTER

- CITY APPRAISAL

“The Sales Comparison Approach has been utilized to estimate the value of the subject underlying land impacted by the proposed takings. Inasmuch as the existing building will not be impacted by the partial takings, for the purpose of this analysis, the “before” and “after” valuations are based on the underlying land value.”

CASE STUDY 4 – STRIP RETAIL CENTER

- STARBUCKS LEASE

- 15.2 Condemnation of the Property. If as a result of any condemnation of the Property or any portion thereof (even though the Premises are not physically affected), (a) the Premises are no longer reasonably suited for the conduct of Tenant's usual business in Tenant's reasonable business judgment, or (b) the number of parking spaces on the Property located within fifty (50) feet of the Premises is reduced and Landlord does not provide alternative equally accessible parking, then Tenant may terminate this Lease at any time after Tenant receives the Condemnation Notice by giving Landlord thirty (30) days written notice.

CASE STUDY 4 – STRIP RETAIL CENTER

- VALUATION
 - City Appraiser –
 - LAND - \$8,516
 - SITE IMPROVEMENTS - \$700
 - TCE - \$3,244
 - TOTAL - \$12,460

CASE STUDY 4 – STRIP RETAIL CENTER

- Property Appraiser –
 - LAND - \$37,400
 - SITE IMPROVEMENTS - \$68,845
 - DAMAGES - \$583,755
 - TOTAL \$694,500
- Larger Parcel Before - \$2,990,000

Takeaways

- Valuation of only the land may be acceptable
 - Properly identify the problem (relevant characteristics)
 - Report the improvements

Takeaways

- Determine an acceptable scope of work
 - SOW is the appraiser's decision alone
 - Must demonstrate that SOW is **sufficient for credible assignment results**
- Know what users are expecting and what peers are doing
 - Appraisal for deposit or for trial
 - Evidence code and jury instructions

Takeaways

- An appraiser must not allow assignment conditions to limit the scope of work to such a degree that the assignment results are not credible in the context of the intended use.

END OF PRESENTATION

QUESTIONS ??