



MINUTES

HUNTINGTON BEACH PLANNING COMMISSION

TUESDAY, OCTOBER 26, 2010
HUNTINGTON BEACH CIVIC CENTER
2000 MAIN STREET, HUNTINGTON BEACH, CALIFORNIA 92648

5:15 P.M. – COUNCIL CHAMBERS

CALL PLANNING COMMISSION MEETING TO ORDER

A P P P P A P
ROLL CALL: *Mantini, Scandura, Speaker, Farley, Shier Burnett, Delgleize, Livengood*

Commissioner Mantini and Commissioner Delgleize were absent.

AGENDA APPROVAL

A MOTION WAS MADE BY SCANDURA, SECONDED BY LIVENGOOD, TO APPROVE THE PLANNING COMMISSION STUDY SESSION AGENDA OF OCTOBER 26, 2010, BY THE FOLLOWING VOTE:

AYES: Scandura, Farley, Shier Burnett, Livengood
NOES: None
ABSENT: Mantini, Delgleize
ABSTAIN: Speaker

MOTION APPROVED

Vice-Chair Speaker recused himself from Study Session Item No. A-1.

A. PROJECT REVIEW (FUTURE AGENDA ITEMS)

A-1. COASTAL DEVELOPMENT PERMIT NO. 10-012 / CONDITIONAL USE PERMIT NO. 10-024 (LUGGATTI'S RESTAURANT WITH ALCOHOL AND ENTERTAINMENT) – Ethan Edwards, Associate Planner

Ethan Edwards, Associate Planner, gave a brief overview and status update on the project.

Commissioner Scandura asked if there were any violations with the previous restaurant, also known as Luggatti's, at the location. Captain William Stuart, Police Department, indicated that he was not aware of any violations. Mr. Edwards indicated that there were no recent code enforcement violations at the site.

A MOTION WAS MADE BY SCANDURA, SECONDED BY SHIER BURNETT, THAT STUDY SESSION ITEM NO. C-1 WAS MOVED AHEAD OF ITEM NO. B-1, BY THE FOLLOWING VOTE:

AYES: Scandura, Farley, Shier Burnett, Livengood
NOES: None
ABSENT: Mantini, Delgleize
ABSTAIN: Speaker

MOTION APPROVED

THE MINUTES WILL REFLECT ITEMS IN THEIR ORIGINAL ORDER.

B. STUDY SESSION ITEMS

B-1. TAKINGS – Mike Vigliotta, Deputy City Attorney

Mike Vigliotta, Deputy City Attorney, gave a presentation on Takings.

There was a brief discussion on property rights, the Coastal Act, and zoning issues in regards to Takings.

Commissioner Scandura encouraged his fellow commissioners to consider potential economic uses when contemplating denying projects.

C. PUBLIC COMMENTS

Christian Hamill, Lugatti's, spoke in support of Study Session Item No. A-1, stating that the proposed music would be soft ambient music from a keyboard.

D. AGENDA REVIEW (UPDATE ON ALL AGENDA ITEMS)

Herb Fauland, Planning Manager, reviewed the items for tonight's meeting. He noted that there is one Late Communication for Item No. B-1.

E. PLANNING COMMISSION COMMITTEE REPORTS

Commissioner Shier Burnett reviewed the recent Design Review Board meeting and discussed the change to the paint for the roof of First Christian Church.

F. PLANNING COMMISSION COMMENTS – NONE

6:10 P.M. – RECESS FOR DINNER

7:00 P.M. – COUNCIL CHAMBERS

CALL PLANNING COMMISSION MEETING TO ORDER

PLEDGE OF ALLEGIANCE – Led by Chair Farley

ROLL CALL: *A* *P* *P* *P* *P* *A* *P*
Mantini, Scandura, Speaker, Farley, Shier Burnett, Delgleize, Livengood

Commissioner Mantini and Commissioner Delgleize were absent.

AGENDA APPROVAL

A MOTION WAS MADE BY LIVENGOOD, SECONDED BY SCANDURA, TO APPROVE THE PLANNING COMMISSION AGENDA OF OCTOBER 26, 2010, BY THE FOLLOWING VOTE:

AYES: Scandura, Speaker, Farley, Shier Burnett, Livengood
NOES: None
ABSENT: Mantini, Delgleize
ABSTAIN: None

MOTION APPROVED

A. ORAL COMMUNICATIONS - NONE

B. PUBLIC HEARING ITEMS

B-1. APPEAL OF ZONING ADMINISTRATOR'S APPROVAL OF MITIGATED NEGATIVE DECLARATION NO. 09-001 (ATLANTA AVENUE WIDENING)

Applicant: City of Huntington Beach, Public Works Department **Appellant:** Hart, King and Coldren **Property Owner:** Atlanta Avenue ROW: City of Huntington Beach; Pacific Mobile Home Park Owner **Request:** To analyze the potential environmental impacts associated with a proposal to widen the south side of Atlanta Avenue, between Huntington Street and Delaware Street, to comply with the primary arterial street classification in the General Plan Circulation Element. The proposed street improvements will provide an additional through lane and bike lane in each direction of travel. In addition, the project includes clearing and grubbing, the construction of asphalt concrete roadway, striping, curb, gutter, sidewalk, an 8-foot tall concrete block wall atop a variable height (7 ft. max.) retaining wall, landscaping (including the removal or relocation of 25 trees within the existing mobile home park), reconstruction of a 26 ft. wide drive aisle (circulation road) and emergency access gates within the mobile home park, and utility and fire hydrant adjustment and relocation. The project requires approval of a Coastal Development Permit (CDP) for development within the Coastal Zone and a Conditional Use Permit (CUP) for the construction of the retaining wall. A separate public hearing will be scheduled for the associated CDP and CUP. Construction of the proposed street improvements will require the acquisition of an additional 25 feet of public street right-of-way south of the centerline of Atlanta Avenue. The additional 25 feet of right-of-way will come from a 25 feet wide by 630 feet long (approx.) strip of land from the Pacific Mobile Home Park located immediately south of Atlanta Avenue. The acquisition of the 25 feet would impact eight manufactured/mobile homes (Unit Nos. 101, 102, 201, 301, 302, 401, 501, and 502) within the park. The impacted residents would need to be relocated pursuant to the Federal Uniform

Relocation Assistance and Real Property Acquisition Policies Act of 1970 (“The Uniform Act”). At this time it cannot be determined where the impacted residents would be relocated and, therefore, relocation of the residents will be analyzed as a separate project pursuant to CEQA. **Location:** Atlanta Avenue Right-of-Way: between Huntington Street and Delaware Street; Pacific Mobile Home Park: 80 Huntington Street (south side of Atlanta Avenue, between Huntington Street and Delaware Street) **Project Planner:** Jennifer Villasenor

STAFF RECOMMENDATION: Motion to: “Approve Mitigated Negative Declaration No 09-001 with suggested findings and mitigation measures (Attachment No. 1)”

The Commission made the following disclosures:

- Commissioner Scandura has visited the site, spoke with staff, and served on the Planning Commission during the approval process for the Pacific City project.
- Vice Chair Speaker attended the study session and visited the site.
- Chair Farley attended the study session and visited the site.
- Commissioner Shier Burnett attended the study session and visited the site.
- Commissioner Livengood attended the study session, visited the site, spoke with staff, and served on the Planning Commission during the approval process of the Pacific City project.

Jennifer Villasenor, Associate Planner, gave the staff presentation and an overview of the project.

Commissioner Livengood asked staff to explain the potential next steps for the project if approved by the Planning Commission. Ms. Villasenor reviewed the National Environmental Policy Act (NEPA) process, including the right of way negotiations.

Commissioner Scandura asked staff if the approval of the Mitigated Negative Declaration is necessary to qualify for funding of the project. Ms. Villasenor stated that the City has been awarded the funds but will not receive any funding until the CEQA authorization process is completed.

Commissioner Scandura asked staff to clarify if the City is engaged in an eminent domain action. Mike Vigliotta, Deputy City Attorney, indicated that the city is currently involved in the Environmental Review Process and not eminent domain.

Chair Farley asked staff to discuss the Federal Uniform Act. Tony Olmos, City Engineer, discussed the protections included in the Federal Uniform Act for any displaced residents.

Vice-Chair Speaker asked staff to estimate the timeline for the project. Mr. Olmos indicated that the right-of-way acquisitions process would take one to two years to complete, with any potential construction not occurring until 2013.

Chair Farley confirmed with staff that approving this project would not have any impact on a potential subdivision process. Herb Fauland, Planning Manager, confirmed this.

THE PUBLIC HEARING WAS OPENED.

Boyd Hill, Hart, King, and Coldren, spoke in opposition to Item No. B-1, citing concerns at potential insufficient funds, the lack of a hydrology report and drainage plan, and the potential relocation of residents.

Jim Rock, resident, spoke in opposition to Item No. B-1, citing concerns with the use of public funds and the potential impacts to residents. Mr. Rock stated that he believed the current street capacity on Atlanta Avenue is adequate.

Mark Gohl, resident, asked for more information on the timeline of the project.

WITH NO ONE ELSE PRESENT TO SPEAK, THE PUBLIC HEARING WAS CLOSED.

Commissioner Livengood asked staff if the widening project would require a separate conditional use permit. Ms. Villasenor stated that a conditional use permit and coastal development permit would be required for a retaining/block wall. Commissioner Livengood asked if a hydrology study would be available when the project applied for a conditional use permit. Ms. Villasenor stated that a hydrology study is required prior to the issuance of a grading permit.

Commissioner Scandura noted that the City would be required to relocate any displaced residents. He noted that the traffic study included in the staff report indicates that there will be severe traffic impacts if the widening project does not go through.

Chair Farley asked staff to elaborate on the status of the mitigated negative declaration should the federal funding be withdrawn. Ms. Villasenor indicated that the mitigated negative declaration (MND) would apply to the project regardless of the funding status. She noted that any significant changes to the proposed project might trigger changes to the MND and might result in recirculation.

Chair Farley recommended changing Mitigation Measure No. 1 to trigger its implementation regardless of the funding source and to include any applicable state and local laws in addition to the Federal Uniform Act.

A MOTION WAS MADE BY LIVENGOOD, SECONDED BY SHIER BURNETT, TO APPROVE MITIGATED NEGATIVE DECLARATION NO. 09-001 WITH REVISED FINDINGS AND MITIGATION MEASURES, BY THE FOLLOWING VOTE:

AYES: Scandura, Speaker, Farley, Shier Burnett, Livengood
NOES: None
ABSENT: Mantini, Delgleize,
ABSTAIN: None

MOTION APPROVED

FINDINGS FOR APPROVAL – MITIGATED NEGATIVE DECLARATION NO. 09-001:

1. Mitigated Negative Declaration No. 2009-001 has been prepared in compliance with Article 6 of the California Environmental Quality Act (CEQA) Guidelines. It was advertised and available for a public comment period of 30 days. Comments received during the comment period were considered by the Planning Commission prior to action on the Mitigated Negative Declaration.
2. Mitigation measures avoid or reduce the project's effects to a point where clearly no significant effect on the environment will occur. Mitigation measures address construction noise and pollutant emissions and potential impacts to biological resources, cultural resources and population and housing. Mitigation measures were generally designed to minimize construction related impacts within and surrounding the project area as well as ensure that relocation of the impacted residents complies with the provisions of existing federal laws enacted to ensure that people whose real property is acquired, or who move as a result of projects receiving federal funds, will be treated fairly and equitably.
3. There is no substantial evidence in light of the whole record before the Planning Commission that the project, as mitigated through the attached mitigation measures, will have a significant effect on the environment. The proposed project will widen Atlanta Avenue between Huntington Street and Delaware Street to comply with the primary arterial street classification in the General Plan Circulation Element. As defined in the General Plan, the primary arterial street classification provides sidewalk, curb, gutter, a bike lane, and two through lanes in each direction of travel, separated by a striped median. Currently, the subject segment of Atlanta Avenue provides one lane in each direction, a striped median, and on-street parking along a portion of the north side of the street. Additional beneficial impacts include construction of a new ADA accessible sidewalk and Class II bike lane along the south side of Atlanta Avenue. The subject segment of Atlanta Avenue does not currently have a sidewalk or designated bike lane. Because the current roadway narrows at the intersection of Huntington Street and Atlanta Avenue, traffic flow is often impeded when the bus makes stops at this location. In addition, bicyclists are currently forced into travel lanes due to the roadway narrowing and the existing transit stop configuration. The project would improve the current conditions with the installation of the proposed improvements and would improve traffic safety for pedestrians, bicyclists and transit users traveling within the project area. Finally, all potential adverse impacts resulting from construction of the project can be adequately mitigated to a less than significant level.

MITIGATION MEASURES FOR ENVIRONMENTAL CONCERNS:

1. As soon as feasibly possible, the City shall commence with acquisition and relocation in accordance with the provisions of the Federal Uniform Act and other applicable laws. Notification to and discussions with the impacted property owner and residents shall occur as soon as feasibly possible pursuant to the Federal Uniform Act. The City shall ensure that a relocation plan is prepared prior to final project plans and relocation is implemented in accordance with the Federal Uniform Act.
2. The City shall require, by contract specifications, implementation of the following measures:
 - a. All work shall be done in accordance with the "GREENBOOK" Standard Specifications for Public Works Construction, 2009 Edition, as written and promulgated by Public Works Standards, Inc.

- b. The construction contractor shall not discharge smoke, dust, equipment exhaust, or any other air contaminants into the atmosphere in such quantity as will violate any federal, State or local regulations. (Greenbook Section 7-8.2)
- c. The contractor shall comply with Caltrans' Standard Specification Section 7-1.01F and Section 10 of Caltrans' Standard Specifications (1999).
- d. The contractor shall apply water or dust palliative to the site and equipment as frequently as necessary to control fugitive dust emissions.
- e. The contractor shall spread soil binder on any unpaved roads used for construction purposes and all project construction parking areas.
- f. The contractor shall wash trucks as they leave the right-of-way as necessary to control fugitive dust.
- g. The contractor shall properly tune and maintain construction equipment and vehicles and use low-sulfur fuel in all construction equipment as provided in the California Code of Regulations Title 17, Section 93114.
- h. The contractor shall develop a dust control plan documenting sprinkling, temporary paving, speed limits, and expedited re-vegetation of disturbed slopes as needed to minimize construction impacts to adjacent uses and residents.
- i. The contractor shall locate equipment and materials storage as far away from residential as practical.
- j. The contractor shall establish environmentally sensitive areas for receptors within which construction activities involving extended idling of diesel equipment would be prohibited to the extent feasible.
- k. The contractor shall use track out reduction measures such as gravel pads at project access points to minimize dust and mud deposits on roads affected by construction traffic.
- l. The contractor shall require that all transported loads of soil and wet materials shall be covered prior to transport, or provide adequate freeboard to reduce PM₁₀ and deposition of particulate matter during transportation.
- m. The contractor shall route and schedule construction traffic to avoid peak travel times as much as possible to reduce congestion and related air quality impacts caused by idling along local roads.
- n. The contractor shall install landscaping as soon as practical after grading to reduce windblown particulate in the area.
- o. The contractor shall implement a street sweeping program with Rule 1186-compliant PM₁₀-efficient vacuum units on at least a 14-day frequency.
- p. The contractor shall abate dust nuisance by cleaning, sweeping and spraying with water, or other means as necessary. (Greenbook Section 7-8.1)

- q. The contractor shall provide a self-loading motorized street sweeper equipped with a functional water spray system. The sweeper shall clean all paved areas within the work site and all pave haul routes at least once a day. (Greenbook Section 7-8.1)
3. Prior to the onset of ground disturbance activities, the project developer shall implement the following mitigation measure which entails nesting surveys and avoidance measures for sensitive nesting and MBTA species, and appropriate agency consultation:
 - a. Vegetation removal and construction shall occur between September 1 and January 31 whenever feasible.
 - b. Prior to any construction or vegetation removal between February 15 and August 31, a nesting survey shall be conducted by a qualified biologist of all habitats within 500 feet of the construction area. Surveys shall be conducted no less than 14 days and no more than 30 days prior to commencement of construction activities and surveys will be conducted in accordance with California Department of Fish and Game (CDFG) protocol as applicable. If no active nests are identified on or within 500 feet of the construction site, no further mitigation is necessary. A copy of the pre-construction survey shall be submitted to the City of Huntington Beach. If an active nest of a MBTA protected species is identified onsite (per established thresholds), a 250-foot no-work buffer shall be maintained between the nest and construction activity. This buffer can be reduced in consultation with CDFG and/or U.S. Fish and Wildlife Service.
 - c. Completion of the nesting cycle shall be determined by a qualified ornithologist or biologist.
4. The City shall require by contract specifications the following measures:
 - a. Ensure that all construction equipment has sound-control devices.
 - b. Prohibit equipment with un-muffled exhaust.
 - c. Site staging of equipment as far away from sensitive receptors as possible.
 - d. Limit idling of equipment whenever possible.
 - e. Notify adjacent residents in advance of construction work.
 - f. Educate contractors and employees to be sensitive to noise impact issues and noise control methods.
 - g. Install temporary acoustic barriers between the mobile home removal and construction activities and the row of mobile homes to remain closest to Atlanta Avenue. Acoustical barriers should provide a Sound Transmission Class Rating of 25 and should be situated in a manner to provide an uninterrupted continuous barrier between all mobile home removal and road construction activities. During the mobile home removal activities, the barriers should stretch from the east edge of the property to the west and zig-zag between homes where necessary. After removal of the mobile homes and prior to construction of the drive aisle within the mobile home property, the barrier can be straightened to stretch more directly from the east property line to the west property line.
5. If cultural resources are encountered during construction-related ground-disturbing activities, all construction personnel shall be informed of the need to stop work on the project site in the event of a potential find, until a qualified archaeologist has been provided the opportunity

to assess the significance of the find and implement appropriate measures to protect or scientifically remove the find. Construction personnel shall also be informed that unauthorized collection of cultural resources is prohibited. If archaeological resources are discovered during ground-disturbing activities, all construction activities within 50 feet of the find shall cease until the archaeologist evaluates the significance of the resource. In the absence of a determination, all archaeological resources shall be considered significant. If the resource is determined to be significant, the archaeologist shall prepare a research design and recovery plan for the resources.

6. If human remains are discovered during construction or any earth-moving activities, the County Coroner must be notified of the find immediately. No further disturbance shall occur until the County Coroner has made a determination of origin and disposition pursuant to Public Resources Code Section 5097.98. If the human remains are determined to be prehistoric, the Coroner must notify the Native American Heritage Commission (NAHC), which will determine and notify a Most Likely Descendent (MLD). The designated MLD may make recommendations to the City for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods.

INDEMNIFICATION AND HOLD HARMLESS CONDITION:

The owner of the property which is the subject of this project and the project applicant if different from the property owner, and each of their heirs, successors and assigns, shall defend, indemnify and hold harmless the City of Huntington Beach and its agents, officers, and employees from any claim, action or proceedings, liability cost, including attorney's fees and costs against the City or its agents, officers or employees, to attack, set aside, void or annul any approval of the City, including but not limited to any approval granted by the City Council, Planning Commission, or Design Review Board concerning this project. The City shall promptly notify the applicant of any claim, action or proceeding and should cooperate fully in the defense thereof.

C. CONSENT CALENDAR

C-1. PLANNING COMMISSION MINUTES DATED AUGUST 24, 2010

RECOMMENDED ACTION: Motion to: "Approve the August 24, 2010, Planning Commission Minutes as submitted."

A MOTION WAS MADE BY SPEAKER, SECONDED BY SHIER BURNETT, TO APPROVE THE AUGUST 24, 2010, PLANNING COMMISSION MINUTES AS SUBMITTED, BY THE FOLLOWING VOTE:

AYES: Speaker, Farley, Shier Burnett, Livengood
NOES: None
ABSENT: Mantini, Delgleize
ABSTAIN: None

MOTION APPROVED

C-2. PLANNING COMMISSION MINUTES DATED OCOTBER 12, 2010

RECOMMENDED ACTION: Motion to: "Approve the October 12, 2010, Planning Commission Minutes as submitted."

A MOTION WAS MADE BY SHIER BURNETT, SECONDED BY SPEAKER, TO APPROVE THE AUGUST 24, 2010, PLANNING COMMISSION MINUTES AS SUBMITTED, BY THE FOLLOWING VOTE:

AYES: Speaker, Farley, Shier Burnett, Livengood
NOES: None
ABSENT: Mantini, Delgleize
ABSTAIN: None

MOTION APPROVED

D. NON-PUBLIC HEARING ITEMS – NONE

E. PLANNING ITEMS

E-1. CITY COUNCIL ACTIONS FROM PREVIOUS MEETING

Herb Fauland, Planning Manager - reported on the items from the previous City Council Meeting.

E-2. CITY COUNCIL ITEMS FOR NEXT MEETING

Herb Fauland, Planning Manager – reported on the items for the next City Council Meeting.

E-3. PLANNING COMMISSION ITEMS FOR NEXT MEETING

Herb Fauland, Planning Manager – reported on the items for the next City Council Meeting.

F. PLANNING COMMISSION ITEMS

F-1. PLANNING COMMISSION REQUEST ITEMS – NONE

F-2. PLANNING COMMISSION COMMENTS

Commissioner Scandura noted that he attended the recent Planning Officials Forum.

ADJOURNMENT: Adjourned at 7:45 PM to the next regularly scheduled meeting of Tuesday, November 9, 2010.

APPROVED BY:

Scott Hess, Secretary

Barbara Delgleize, Chairperson