

City of Huntington Beach
Re: Atlanta Avenue Widening Project
August 31, 2010
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4.a. that the existing storm drain at the south side of Atlanta Avenue will be relocated and that there will need to be reconstruction of the Park on-site drive aisle and a grade change. Grade and location changes can substantially alter the ability of the existing on-site drainage system to adequately contain drainage flows. Those impacts to the Park drainage system should be studied in an EIR.

HKC-13
continued

5. Air Quality. The MND makes unsupported assumptions about mitigation of short term air quality impacts and erroneously fails to consider long term air quality impacts of the Project.

a/b. Violate Air Standards/Sensitive Receptors. With respect to the short term impacts, the MND acknowledges that construction of the Project will cause significant air quality impacts. The MND admits that the mitigation measures, if completely successful "can" at the maximum, only result in a 50 percent reduction in particulates matter. The MND then leaps to an unsupported conclusion that a 50 percent reduction will somehow get rid of all of the 40% excess of particulate matter, not just 50% thereof. An EIR is required to study whether the mitigation measures will reduce particulates matter to a less than significant level.

HKC-14

e. Cumulative Increase in Emissions. The MND erroneously fails to consider the cumulative impact of potential increased traffic on long term emissions resulting from the Project. An EIR is required to study the impact of increased future emissions from additional traffic enabled by the Project.

HKC-15

7. Biological Resources. The MND improperly fails to contain a tree replacement plan that would allow for replacement of the mature trees in the Park that will be eliminated.

HKC-16

10. Noise. The MND wrongfully fails to admit that construction noise is a significant impact of the Project, despite its acknowledgement that construction noise levels will increase the ambient noise levels for residents located within 50 feet more that 25 dBA up to 98 dBA, an intolerable amount despite what the City ordinance allows during daytime. The mitigation measures suggested thus are not evaluated as to whether they bring the noise levels to a less than significant level. An EIR is required to determine mitigation measures that will reduce Project noise for Park residents to a less than significant level.

HKC-17

18. Mandatory Findings of Significance. While the MND admits to all three mandatory findings of significance, the MND insists, without any substantive discussion, that the minor mitigation measures proposed will suffice. The MND also fails to admit to all of the significant effects, including land use, housing, population, traffic, drainage and noise impacts.

HKC-18

In essence, the Project is similar in many respects to the project in the *Friends of "B" Street* case where an EIR was required:

In the present case the adoption of a negative declaration was an abuse of discretion. The city's initial study revealed that the short



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term effects of the "B" Street Project include increased dust and auto exhaust, disruption of business during the construction of the project, and increased bank erosion and possible loss of wildlife habitat along San Lorenzo Creek during construction of a bridge. Among the long term effects of the project are increased traffic, increased noise, paving and removal of grass and garden areas, the removal of vegetation, landscaping, shrubs and hedgerows, the removal of 153 mature trees (some more than 80 years old) which presently line the street, and the elimination of on-street parking on "B" Street and Center Street, aggravating present parking problems that already exist in the area. Two neighborhood stores would be removed, and 12 families would be displaced due to the removal of residential structures. The project would result in the loss of the residential community characteristic of the area, and a decrease in residential property values. The residential desirability of adjacent properties would be adversely affected by the increased noise and exposure to traffic, reduced setbacks of the structures from the street, and the loss of on-street parking. The conversion of single-family dwellings to commercial or multi-family use would be accelerated. The project would also result in a decreased visual or aesthetic quality of the area due to the removal of the trees, grass and garden areas, and the decrease in the setback of the structures from the street. This evidence indicated that a finding of significant environmental effect was mandatory. (Cal. Admin. Code, tit. 14, § 15082.) The trial court correctly determined that there was substantial evidence that the "B" Street Project might have a significant environmental effect. (*Friends of "B" Street v. City of Hayward, supra*, 106 Cal.App.3d at 1003)

HKC-18
continued

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HK&C

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In conclusion, the failure of the MND to recognize the numerous significant environmental impacts resulting from relocation of residents, road widening, alteration of drainage and noise and the failure of the MND to sufficiently mitigate impacts resulting from the Project require the preparation of an EIR. The MND fails to analyze the whole of the Project and demonstrates that the Project is not necessary or viable at this time. An EIR should be prepared to appropriately analyze the Project.

HKC-19

Sincerely,

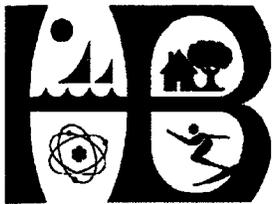
HART, KING & COLDREN

Robert S. Coldren

BLH/dr

cc: Mark Hodgson

ATTACHMENT NO. 4.34



**OFFICE of the ZONING ADMINISTRATOR
CITY OF HUNTINGTON BEACH • CALIFORNIA**

P.O. BOX 190

CALIFORNIA 92648

NOTICE OF ACTION

(714) 536-5271
September 16, 2010

Jonathan Claudio
City of Huntington Beach
2000 Main Street
Huntington Beach, CA 92648

SUBJECT: MITIGATED NEGATIVE DECLARATION NO. 2009-001
(ATLANTA AVENUE WIDENING)

APPLICANT: Jonathan Claudio, City of Huntington Beach – Public Works
Department

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.

PROPERTY OWNER: Atlanta Avenue ROW: City of Huntington Beach; Pacific
Mobile Home Park: Pacific Mobile Home Park, LLC, 80
Huntington Street, Huntington Beach, CA 92648

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

DATE OF ACTION: September 15, 2010

On Wednesday, September 15, 2010, the Huntington Beach Zoning Administrator took
action on your application, and your application was **approved**. Attached to this letter
are the findings and mitigation measures.

Please be advised that the Zoning Administrator reviews the conceptual plan as a basic
request for entitlement of the use applied for and there may be additional requirements
prior to commencement of the project. It is recommended that you immediately pursue
completion of the mitigation measures and address all requirements of the Huntington
Beach Zoning and Subdivision Ordinance in order to expedite the processing/completion

ATTACHMENT NO. 5.1

of your total application. The conceptual plan should not be construed as a precise plan, reflecting conformance to all Zoning and Subdivision Ordinance requirements.

Under the provisions of the Huntington Beach Zoning and Subdivision Ordinance, the action taken by the Zoning Administrator becomes final at the expiration of the appeal period. A person desiring to appeal the decision shall file a written notice of appeal to the Secretary of the Planning Commission within ten (10) calendar days of the date of the Zoning Administrator's action. The notice of appeal shall include the name and address of the appellant, the decision being appealed, and the grounds for the appeal. Said appeal must be accompanied by a filing fee of Two Thousand Two Dollars (\$2,002.00) if the appeal is filed by any other party. In your case, the last day for filing an appeal and paying the filing fee is September 27, 2010 at 5:00 PM.

Provisions of the Huntington Beach Zoning and Subdivision Ordinance are such that any application becomes null and void one (1) year after final approval, unless actual construction has begun.

Excepting those actions commenced pursuant the California Environmental Quality Act, you are hereby notified that you have 90 days to protest the imposition of the fees described in this Notice of Action. If you fail to file a written protest regarding any of the fees contained in this Notice, you will be legally barred from later challenging such action pursuant to Government Code §66020.

If you have any questions regarding this Notice of Action letter or the processing of your application, please contact Jennifer Villasenor, the project planner, at (714) 374-1661 or via email at JVillasenor@Surfcity-hb.org or the Planning and Building Department Zoning Counter at (714) 536-5271.

Sincerely,


Ricky Ramos
Zoning Administrator

RR:JV:jd
Attachment

c: Honorable Mayor and City Council
Chair and Planning Commission
Fred A. Wilson, City Administrator
Scott Hess, Director of Planning and Building
Herb Fauland, Planning Manager
William H. Reardon, Division Chief/Fire Marshal
Debbie DeBow, Acting Principal Engineer
Gerald Caraig, Permit-Plan Check Manager
Judy Demers
City of Huntington Beach
Pacific Mobile Home Park, LLC
Project File

ATTACHMENT NO. 1

FINDINGS AND MITIGATION MEASURES

MITIGATED NEGATIVE DECLARATION NO. 2009-001

FINDINGS FOR APPROVAL – MITIGATED NEGATIVE 2009-001:

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 Zoning Administrator 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 Zoning Administrator 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 project benefits include construction of a new ADA accessible sidewalk and Class II bike lane and improvements to an existing Orange County Transportation Authority (OCTA) bus stop 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 impacts resulting from construction of the project can be adequately mitigated.

MITIGATION MEASURES FOR ENVIRONMENTAL CONCERNS:

1. Upon Federal authorization to proceed with right-of-way acquisition, the City shall commence with acquisition and relocation in accordance with the provisions of the Federal Uniform Act. Notification to and discussions with the impacted 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.