

RESOLUTION NO. 2005-175

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ANAHEIM (i) CERTIFYING FINAL ENVIRONMENTAL IMPACT REPORT NO. 331, (ii) ADOPTING A STATEMENT OF FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS IN CONNECTION THEREWITH, AND (iii) ADOPTING MITIGATION MONITORING PROGRAM NO. 137

WHEREAS, the Anaheim City Planning Commission did receive verified petitions for General Plan Amendment No. 2005-00436, Amendment No. 1 to the Mountain Park Specific Plan No. 90-4 and an amendment to the Zoning and Development Standards set forth in Chapter 18.112 of the Anaheim Municipal Code (collectively, the "Project"), for certain real property situated in the City of Anaheim, County of Orange, State of California, as more particularly described in Planning Commission Resolution No. PC2005-115 and incorporated herein by this reference; and

WHEREAS, the City of Anaheim is the lead agency for the preparation and consideration of environmental documents for said project, as defined in the California Environmental Quality Act of 1970, as amended, (hereinafter "CEQA") and the State of California Guidelines for the Implementation of the California Environmental Quality Act (hereinafter "State Guidelines"); and

WHEREAS, said project is subject to compliance with the provisions of the California Environmental Quality Act of 1970, as amended, ("CEQA") and the State of California Guidelines for the Implementation of the California Environmental Quality Act (the "State Guidelines") since said project requires approval of the following proposed discretionary actions by the City of Anaheim: (i) General Plan Amendment No. 2005-00436; (ii) Amendment No. 1 to the Mountain Park Specific Plan No. 90-4 (SPN/2005-00031); (iii) an amendment to the Zoning and Development Standards set forth in Chapter 18.112 of the Anaheim Municipal Code; and (iv) Water Supply Assessment, which actions shall hereafter be collectively referred to herein as the "Discretionary Actions"; and

WHEREAS, the City of Anaheim has prepared, or caused to be prepared, the Draft EIR No. 331 (hereinafter referred to as "DEIR") and has consulted with other public agencies, and the general public and given them an opportunity to comment on said DEIR as required by the provisions of CEQA and the State Guidelines; and

WHEREAS, the City of Anaheim has evaluated the comments received from public agencies and persons who reviewed said DEIR and has prepared responses to the comments received during the public review period; and

WHEREAS, said comments and recommendations received on said DEIR, either verbatim or in summary; a list of persons, organizations and public agencies commenting on the DEIR; and the responses of the City of Anaheim to significant environmental points raised in the review and consultation process have been attached to and made a part of said DEIR in a Responses to Comments document; and

WHEREAS, the DEIR, the Responses to Comments, Mitigation Monitoring Program No. 137 and all documents submitted as part of the public record on said DEIR form the Final EIR for said Project as required by Section 15132 of the State CEQA Guidelines ("FEIR No. 331"); and

WHEREAS, the City of Anaheim has prepared a draft Statement of Findings of Fact and Statement of Overriding Considerations relating to FEIR No. 331 in conformance with the requirements of CEQA and the State Guidelines; and

WHEREAS, the City of Anaheim desires and intends to use FEIR No. 331 as the environmental documentation required by CEQA and the State CEQA Guidelines for each of the above-referenced Discretionary Actions to the extent authorized by law; and

WHEREAS, said FEIR No. 331 and Statement of Findings of Fact and Statement of Overriding Considerations has been presented to and independently considered by the Planning Commission of the City of Anaheim for review and consideration prior to the final approval of, and commitment to, said Project; and

WHEREAS, on July 27, 2005, the Anaheim City Planning Commission did hold a public hearing, notice of said public hearing having been duly given as required by law and in accordance with the provisions of the Anaheim Municipal Code, Chapter 18.60, to hear and consider evidence for and against said Discretionary Actions and to investigate and make findings and recommendations in connection therewith; and

WHEREAS, at the public hearing, the Anaheim City Planning Commission added the following mitigation measure MM 6-9 to the Statement of Findings and Facts and Statement of Overriding Considerations and Mitigation Monitoring Program No. 137, to address comments received from the California Department of Fish & Game:

“Prior to approval of mass or rough grading plans for Development Area 4, the project biologist shall provide to the Planning Department a long-spined spineflower preservation, enhancement and long-term management plan, approved by the California Department of Fish and Game. The plan shall be prepared by a qualified biologist and include the following: an appropriate mechanism to preserve the remaining population (at current levels), together with any unoccupied but appropriate habitat and an adequate biological buffer area; a provision for enhancing the population by collection of seed prior to the impact and the use of that seed in areas with appropriate habitat conditions; methods to ensure that site conditions are not degraded by activities adjacent to the site or unauthorized activities on the site; an adaptive management strategy that will allow implementation of any needed changes in management strategies and activities over time; identification of a qualified natural resource manager to carry out the plan and a financial mechanism to ensure that the plan can be implemented in perpetuity.”

WHEREAS, said FEIR No. 331 has been presented to the City Council of the City of Anaheim for review and consideration prior to the final approval of, and commitment to, said Project; and

WHEREAS, at the public hearing, the City Council amended mitigation measures MM 6-2 and MM 7-1 to the Statement of Findings and Facts and Statement of Overriding Considerations and Mitigation Monitoring Program No. 137, pertaining to wetland and riparian habitat mitigation and roadway and intersection improvements, respectively, to read as follows:

“MM 6-2 Prior to the approval of mass or rough grading plans impacting jurisdictional areas, the property owner/developer shall provide a wetland mitigation plan approved by the ACOE (for Section 404 areas) and CDFG (for the Section 1602 areas) to the

Department of Public Works. A total of 14.1 acres of riparian mitigation are necessary to offset the loss of ACOE and CDFG jurisdictional areas as a result of the proposed project. A Conceptual Wetland and Riparian Habitat Mitigation Plan has been prepared by JSA (February, 2005). The purpose of the mitigation plan is to:

- Create (establish), restore, or enhance wetland/riparian habitats on-site to the maximum extent practicable to minimize the on-site loss of ACOE and CDFG jurisdictional acreage and function, and provide off-site mitigation for the remainder of the impacts; and
- To implement, to the extent practicable, off-site mitigation in the Santa Ana River watershed, as close to the study area as possible or otherwise at a key ecological site; and
- To return jurisdictional habitats that are temporarily disturbed during construction to pre-construction conditions; and
- To ensure that adjacent non-jurisdictional habitats are protected.

The on-site mitigation that shall be implemented to address the impacts of the box extension on the already disturbed Gypsum Canyon Creek channel shall include a rebuilt creek as a low-flow riparian corridor through the canyon mouth area. The box extension shall act as a high-flow by-pass that efficiently conveys the more intense and destructive flood flows. The riparian corridor shall extend upstream to the road crossing of Gypsum Canyon Creek. The riparian corridor shall consist of a riverine channel flanked by planted embankments. The riverine channel would be soft bottom and the riparian vegetated floor would be nurtured by low and seasonal run-off diverted into it from a channel split from the new box culvert opening. This "splitter" shall consist of a junction opening that becomes a tunnel that would accommodate storm flows as well as wildlife movement under the road crossing to the riparian corridor."

"MM 7-1 Prior to issuance of the first building permit, the property owner/developer shall make one lump sum payment for the fair or full share (as identified in the following text) of the cost to the City of Anaheim for implementation of the following roadway and intersection improvements. Evidence of payment shall be provided to the Department of Public Works.

- Weir Canyon Road/La Palma Avenue Intersection - (1) Add a third northbound through lane and convert southbound right-turn lane to shared third through/right-turn lane; and (2) convert the second eastbound through lane to a shared second through/second right-turn lane (this would require eliminating the existing eastbound right-turn green arrow overlap with the northbound left-turn movement). The first improvement is committed to be constructed before the year 2010 by the Cities of Anaheim and Yorba Linda using secured Orange

County Measure M funds and expected matching local funds from the City of Yorba Linda and the City of Anaheim Redevelopment Agency. The property owner/developer is responsible for paying its fair share of the funds that have yet to be allocated by the City of Anaheim. The second improvement is not funded and the property owner/developer shall be responsible for paying 100% of the entire cost of the improvement. The 100% commitment exceeds the project's share of future AM and PM peak hour traffic at this intersection under 2025 MPAH build-out conditions with the East Orange GPA and MPAH Amendments which is approximately 37 percent.

- Weir Canyon Road between La Palma Avenue and SR 91 Improve the operations of the section of roadway at SAVI Ranch Road/Weir Canyon Road through geometric improvements, adding directional signage and providing an interconnected signal to optimize traffic movement progression within the mid-block segment. This improvement is committed to be implemented by the Cities of Anaheim and Yorba Linda before the Year 2010 using secured OCTA Measure M funds and matching local funds that have yet to be allocated. The property owner/developer is responsible for paying its fair share of the funds that have yet to be allocated by the City of Anaheim. The project share of future AM and PM peak hour traffic on this roadway under 2025 MPAH build-out conditions with the East Orange GPA and MPAH Amendments is approximately 30 percent.
- Weir Canyon Road/Santa Ana Canyon Road Intersection Convert eastbound third through lane to third left-turn lane. The property owner/developer shall be responsible for paying its fair share of the entire cost of the improvement as determined by the Department of Public Works. The project share of future AM and PM peak hour traffic at this intersection under 2025 MPAH build-out conditions with the East Orange GPA and MPAH Amendments is approximately 35 percent. The City of Anaheim shall monitor the Level of Service at this intersection at a minimum every two years and, per the requirements of the OCTA Measure M funding, is committed to funding the remaining costs of the improvements at such time as the improvements are deemed necessary to provide an acceptable Level of Service D at this location."

WHEREAS, on August 23, 2005, the City of Anaheim received a comment letter submitted on behalf of the City of Yorba Linda (the "letter"), which was presented to the City Council during the public hearing concerning said Project, asserting that FEIR No. 331 is inadequate and bases this claim on a number of issues, including (i) consistency with the City of Yorba Linda General Plan, (ii) sufficiency the City's Findings of Facts and Statement of Overriding Consideration, (iii) the mitigation measures for traffic impacts associated with the project, (iv) cumulative impacts, and (v) The City's alleged failure to respond adequately to comments; and

WHEREAS, City staff carefully analyzed the letter and advised the City Council at the conclusion of the public hearing that said letter does not raise legitimate deficiencies with respect to FEIR No. 331 or any of the other issues identified in the letter based upon the following:

All roadways and intersections analyzed in FEIR No. 331 for the Project are consistent with the Circulation Element of the Yorba Linda General Plan, including those mitigation measures which provide for modifications to roadways in the City of Yorba Linda.

FEIR No. 331 analysis all the improvements in the study area which are planned in the General Plan Circulation Elements of the Cities of Anaheim, Orange, Yorba Linda and the Orange County Master Plan of Arterial Highways.

All improvements within the City of Yorba Linda contained in the off-site mitigation measures will be fully funded by the Project and/or Measure M funds along with matching local funding from the City of Anaheim and the City of Yorba Linda, which both cities committed to the Project in order to obtain Measure M funding.

Mitigation Measure MM 7-1, at the Weir Canyon Road/La Palma Avenue intersection and the segment of Weir Canyon Road between La Palma Avenue intersection and SR-91, which would reduce roadway and intersection traffic impacts to below a level of significance is within the responsibility and jurisdiction of the City of Yorba Linda and requires action by the City of Yorba Linda. This impact will remain significant and unavoidable if the required action concerning the above-mentioned improvements are not completed by the responsible agency, the City of Yorba Linda. The City has determined that this potential impact (that would occur only if the City of Yorba Linda failed to implement this mitigation measure) is acceptable because of specific overriding considerations.

The Findings of Fact and Statement of Overriding Considerations for the Project is sufficient under CEQA and supported by substantial evidence in the record. Contrary to the assertion in the letter, the Statement of Overriding Considerations is not required to identify specific benefits to the City of Yorba Linda. However, several of the overriding benefits of the Project will in fact benefit the City of Yorba Linda. In particular, the overriding benefits of providing needed housing opportunities, preserving open space and providing recreational opportunities the construction of the SR-241/Weir Canyon Road interchange, are of regional significance and will provide significant benefits to the citizens of Yorba Linda in addition to the citizens of Anaheim and the region.

FEIR No. 331 specifically states that the cumulative traffic analysis takes into consideration land use assumptions outlined in the City of Anaheim General Plan, as well as the General Plans of surrounding jurisdictions (through the use of Orange County Projections 2000).

FEIR No. 331 provides detailed written responses to Yorba Linda's May 19, 2005 comment letter on the DEIR as well as its June 15, 2005 comment letter submitted after the close of the public comment period.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Anaheim that the City of Anaheim does hereby certify Final Environmental Impact Report No. 331, adopting the Statement of Findings of Fact and Statement of Overriding Considerations for the Project, as revised to add Mitigation Measure MM 6-9 and amend Mitigation Measures MM 6-2 and MM 7-1, a copy of each of which is on file with the Planning Department and which are

incorporated herein by this reference as if set forth in full, and determines that said Final Environmental Impact Report No. 331 fully complies with CEQA, reflects the independent judgment of the City Council, and is adequate to serve as the environmental documentation for the Discretionary Actions.

BE IT FURTHER RESOLVED that pursuant to Section 21081.6 of the Public Resources Code, the City Council hereby adopts that certain monitoring program described as the "Mitigation Monitoring Program No. 137", as revised to add MM 6-9 and amend Mitigation Measures MM 6-2 and MM 7-1, to mitigate or avoid significant effects on the environment and to ensure compliance during project implementation, a copy of which is on file with the Planning Department and which is incorporated herein by this reference as if set forth in full.

THE FOREGOING RESOLUTION is approved and adopted by the City Council of the City of Anaheim this 23rd day of August, 2005, by the following roll call vote:

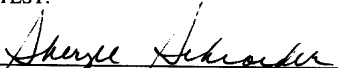
AYES: Mayor Pringle, Council Members Sidhu, Galloway, Chavez, Hernandez
NOES: None
ABSENT: None
ABSTAIN: None

CITY OF ANAHEIM

By 

MAYOR OF THE CITY OF ANAHEIM

ATTEST:


CITY CLERK OF THE CITY OF ANAHEIM

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