



CITY OF SACRAMENTO

OFFICE OF THE CITY CLERK

915 I STREET
CITY HALL ROOM 203

SACRAMENTO, CALIFORNIA 95814
TELEPHONE (916) 448-5428

LORRAINE MAGANA
CITY CLERK

November 30, 1981

APPROVED
BY THE CITY COUNCIL

*Rec. A
adopted*

DEC 8 1981

Mayor and City Council
City Hall
Sacramento, CA 95814

OFFICE OF THE
CITY CLERK

SUBJECT: Appeal of Reverend Henderson White from the decision of the City Engineer requiring Land Dedication and Street Improvements

SUMMARY

Attached is the appeal of Reverend Henderson White from the decision of the City Engineer requiring dedication of a 20 foot wide strip of land on Rio Linda Boulevard and Street Improvements on Rio Linda, Cypress, Los Robles Blvd., and Carmelita, as required by Section 38.140 of the Sacramento City Code.

Under Sections 2.323 and 2.324 of the City Code, the Council may appoint a hearing examiner to hear the appeal if it finds that "the appeal may involve a lengthy factfinding process which would be more appropriately accommodated by a formal hearing before a hearing examiner."

Reverend White has expressed his desire that this item be heard by the Council, and NOT referred to a Hearing Examiner. Rev. White will appear at Council to support this request.

FINANCIAL DATA

The estimated cost would be \$100.00 and would be available from the City Engineer budget.

RECOMMENDATIONS

1. If the Council should decide to appoint a hearing examiner, it is recommended that the following motion be adopted: "The Council hereby determines pursuant to Section 2.324, City Code, that this appeal will involve a lengthy factfinding process which will be more appropriately accommodated by a formal hearing before a hearing examiner. Therefore, the

City Council
November 30, 1981
Page 2

Council appoints Steven Bair as hearing examiner to hear the appeal on Wednesday, December 16, 1981 at the hour of 10:00 a.m. in the City Council Chamber, City Hall, 915 "I" Street, Sacramento, California."

- 2. If the Council should decide to consider the appeal itself, it is recommended that the hearing be set for December 29, 1981.


Respectfully submitted,


Lorraine Magana
City Clerk

LM/mm
Attachment

cc: Steven Bair
Reverend White
City Engineer

RECOMMENDATION APPROVED:


Walter J. Slupe
City Manager

December 1, 1981
District 2

To Council
no hearing Officers 34

NOTICE OF APPEAL

DATE: 11-30-81

Pursuant to Section 2.320, City Code, I wish to appeal the decision Office of
the City Engineering made on 11-30-81

regarding requirement of dedicating a 20ft width strip of
land on the W. Rio Linda Blvd & Street improvements on
Rio Linda, Cypress, Los Robles Blvd & Carmelita

as required by Chapter 38, Sec. 38.140, City Code.

My reason for appealing is as follows: Do not wish to dedicate
Church land and incur an additional expense to
Church. No street improvements on other surrounding
properties on the block; Would be willing to consider
street improvements when surrounding properties
improved.

RECEIVED
CITY CLERK'S OFFICE
CITY OF SACRAMENTO
NOV 30 2 35 PM '81

PLEASE PRINT:

NAME: Rev. Henderson White

ADDRESS: 728 Benton Ave.

CITY: Sacto STATE: Ca ZIP CODE: 95838

TELEPHONE NUMBER: 922-2314

Rev. Henderson White
SIGNATURE

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CITY OF SACRAMENTO

OFFICE OF THE CITY CLERK

915 I STREET
CITY HALL ROOM 203

SACRAMENTO, CALIFORNIA 95814
TELEPHONE (916) 449-5426

LORRAINE MAGANA
CITY CLERK

December 9, 1981

Reverend Henderson White
728 Benton Avenue
Sacramento, CA 95838

Dear Reverend White:

On December 8, 1981, the City Council determined that pursuant to Section 2.324 of the Sacramento City Code, your appeal of the City Engineer's decision requiring land dedication and street improvements for property on Rio Linda, Cypress, Los Robles Blvd. and Carmelita will involve a lengthy factfinding process which will be more appropriately accommodated by a formal hearing before a hearing examiner.

Therefore, the Council appointed Steven Bair as Hearing Examiner to hear your appeal on 12-16-81 at the hour of 10.00 a.m. in the Council Chamber, Second Floor, City Hall, 915 "I" Street, Sacramento, California.

Sincerely,

Lorraine Magana
Lorraine Magana
City Clerk

LM/mm/34
cc: Steven Bair
City Engineer

RECEIVED
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CITY OF SACRAMENTO

BEFORE THE CITY COUNCIL

CITY OF SACRAMENTO, STATE OF CALIFORNIA

DEC 22 3 35 PM '81

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In re Appeal of
REVEREND HENDERSON WHITE /

FINDINGS OF FACT
AND ORDER

The above-entitled matter came on regularly for hearing on Wednesday, December 16, 1981, at 10:00 a.m., in the Sacramento City Council Chamber at 915 "I" Street, Sacramento, California, before STEVEN R. BAIR, duly appointed Hearing Examiner.

Appellant appeared in person, and the Office of the City Engineer was represented by Mr. Ron Wicky.

At the above hearing, documents were submitted and testimony was received. Thereafter, the matter was taken under submission and the Hearing Examiner has considered and reviewed all of the evidence and arguments of the parties.

FINDINGS OF FACT

The Hearing Examiner makes the following Findings of Fact:

1. For the past two years Appellant has been processing a building permit to construct a classroom and social hall adjacent to the Church on the subject property.

2. On November 30, 1981, the City Engineer informed Appellant that he would be required to dedicate a strip of land Twenty Feet in width along the West line of his property abutting Rio Linda Boulevard. Appellant was further informed that he would be required to effect street improvements on Rio Linda, Cypress, Carmelita, and Los Robles Boulevard, because the subject property was adjoining each of those streets.

1 3. On November 30, 1981, Appellant filed a Notice of
 2 Appeal contesting the above action of the City Engineer, and
 3 on December 8, 1981, the City Council, pursuant to Section
 4 2.323 and 2.324 of the City Code, appointed STEVEN R. BAIR
 5 as Hearing Examiner to hear the appeal.

6 4. That at the above hearing Mr. Ron Wicky did testify
 7 that Appellant was in a "unique situation" because his
 8 property adjoined four streets requiring improvements, and
 9 no assessment district had been established to finance such
 10 improvements. Appellant stated that he estimated the costs of
 11 improvements at approximately Forty-two Thousand Dollars
 12 (\$42,000.00); but Mr. Wicky indicated that he anticipated that
 13 the costs would be at least double that amount.

14 5. That in the past the City Council has on its own
 15 motion or through actions of Hearing Examiners waived the
 16 requirements of the City Code relating to the installation of
 17 curbs, gutters, sidewalks, and drainage systems. This waiver
 18 has been subject to the condition that the owners of such
 19 subject property assist the City in the formation of a public
 20 improvement assessment district to provide such improvements on
 21 an area-wide basis, and on condition that the property owner not
 22 protest the formation of such a district.

23 6. That Appellant expressed his desire that the City
 24 establish an assessment district, and testified that if the
 25 requirement that he provide for street improvements was
 26 waived, that he would assist the City in the formation of
 27 a public improvement assessment district to provide such
 28 services, and that he would agree not to object to the formation.

1 of such a district by the City. Appellant further testified
2 that if the above waiver was forthcoming, he had no objection
3 to the required dedication of a Twenty Foot wide strip of
4 the subject property along Rio Linda Boulevard.

5 7. That Article IX, Section 38.140(c) of the Sacramento
6 City Code provides for the granting of waivers or modifications
7 as follows:

8 "The City Council may make such modifications
9 in the requirements of this Article or may
10 grant such waivers or modifications of the
11 determinations which are appealed to them
12 hereunder as it shall determine to be re-
13 quired in order to prevent an unreasonable
14 hardship under the facts of each case;
15 provided, however, that each such modification
16 or waiver shall be in conformity with the
17 general spirit and intent of the requirements
18 of this Article. (ORD. No. 5053 Section 1)."

19 8. That the evidence establishes that Appellant would
20 suffer an unreasonable hardship if required to provide the
21 designated street improvements as proposed, and accordingly
22 it would be in the best interests of the City of Sacramento
23 that said requirements relating to street improvements be
24 waived, on condition (1) That Appellant enter into a
25 standard written agreement with the City, which would provide
26 that Appellant would (a) Assist the City in the formation of
27 a public improvement assessment district to provide such
28 improvements on an area-wide basis, and (b) Specifically agree
not to oppose the formation of such a district by the City.

CONCLUSIONS OF LAW

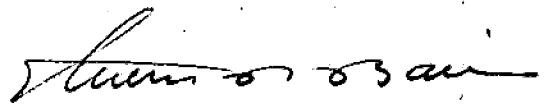
26 In accord with the above Findings of Fact, the requirement
27 that Appellant provide for street improvements on Rio Linda,
28 Cypress, Carmelita, and Los Robles Boulevard should be waived,

1 on the express condition that Appellant enter into a written
2 agreement with the City of Sacramento, the precise provisions
3 of which are to be established by the City, wherein Appellant
4 agrees to assist the City in the formation of a public
5 improvement assessment district and Appellant agrees not to
6 oppose the formation of such a district as above provided.

7 ORDER

8 It is hereby Ordered that the appeal is granted with
9 respect to the required street improvements on the express
10 condition that Appellant execute an agreement prepared and
11 approved by the City Attorney, which provides that Appellant
12 will assist the City in the formation of a public improvement
13 assessment district to provide for street improvements on
14 Rio Linda, Cypress, Carmelita, and Los Robles Boulevard on
15 an area-wide basis, and in addition thereto, that Appellant
16 agree not to protest the formation of such a district by the
17 City. Said agreement shall contain any and all reasonable
18 terms and conditions deemed appropriate by the City Attorney.
19 In the event that Appellant declines or refuses to execute
20 and return said agreement to the office of the City Attorney
21 within 60 days of the date of this Order, then such appeal
22 shall be deemed denied.

23
24 DATED: December 21, 1981


25 STEVEN R. BAIR,
26 Hearing Examiner
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