



Montlake Community Club

Working together to maintain and nurture the natural environment
and history of Seattle's Montlake neighborhood

www.montlake.net

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Daniel M. Mathis, Division Administration
Federal Highway Administration
US Department of Transportation
Washington Division
Suite 501 Evergreen Plaza
711 S. Capitol Way
Olympia, WA 98501-1824

MCC: WSDOT SR520 PA – Response
Page 1 of 3

Montlake Community Club (MCC) – Comments on March 16, 2011 Draft of Programmatic Agreement

The following is the MCC consulting parties' review of the draft Section 106 Programmatic Agreement dated March 16, 2011. This review outlines both general land area and property-specific descriptions of the effects on the Montlake Community related to the 520 Project. As requested, comments are provided with reference to page and line numbers. Our response is intended to assist the agencies in fully implementing the requirements of the National Historic Preservation Act (NHPA) and the implementing regulations in 36 CFR part 800 to avoid, minimize, and mitigate adverse effects on historic resources in Montlake.

The Montlake Community requests a complete response to the following comments to ensure that historic resources have been adequately considered, as required under the NHPA and the National Environmental Policy Act.

Key Areas of Concern

Haul Routes

The Programmatic Agreement continues to maintain that the selected haul routes through the Montlake Historic District will be “up to the contractor” with the approval of the Seattle Department

of Transportation (SDOT). This is not consistent with the Project agencies' responsibilities under the NHPA. The first responsibility is to avoid impacts. Only if impacts are unavoidable can the agencies turn to minimizing or mitigating adverse effects on historic resources. It is not acceptable to the Montlake Community to have haul routes left up to the contractor; it is up to the agencies to prescribe the haul routes to avoid impacts on historic resources. Therefore, it remains the position of the Montlake Board that WSDOT, with regard to the haul routes, is to identify in the Programmatic Agreement that 520, north on I-5 to 45th St. and south on Roosevelt Way, the University Bridge and Harvard St. to Roanoke is the acceptable haul route, so as to avoid adverse effects on historic resources. Both are ingress and egress and avoid Montlake. Access to the staging area on Fuhrman would be the same using Delmar on to Boyer, then going north. This decision should be made prior to the selection of the contractor, so that the contractor can plan accordingly.

If the agencies do not adopt this strong recommendation of the Montlake Community, then in any event, it is not appropriate for WSDOT to cede mitigation of adverse impacts to historic resources to the contractor. WSDOT needs to be involved with the selection of haul route(s) using a scientific methodology and one that complies with NHPA obligations. First, inventory the affected properties. Second, analyze the potential impact/effect on historic resources. Third, make a determination of the preferred option based on the above information. This approach should be taken in lieu of the least costly option and agreement to pay for damages.

Inadequate Mitigation of Construction Impacts on Historic Resources

The Programmatic Agreement continues to have only general and incomplete language about mitigation of construction impacts to historic resources. Those measures need to be strengthened considerably. Many improvements to the provisions are noted in our detailed comments, and our suggestions are similar to measures incorporated into other Section 106 agreements for similar projects.

In addition, we note that mitigation is nearly always referenced as occurring to the "maximum extent practicable." Although that might sound like a strong statement, it is not, given how that phrase is defined in Section 11 on page 3. The "maximum extent practicable" is qualified in multiple ways via the definition. That watering down of the concept means that implementation of almost all of the mitigation is subject to qualification. Thus, the Programmatic Agreement has insufficient commitments to the acknowledged adverse Project construction impacts on multiple historic resources.

Further responses from members of the community are included for your review, see Attachment A.

Finally, the Montlake Community Club wishes to record its support for the additional requests submitted by the Portage Bay/ Roanoke Park Community Council, the North Capitol Hill Neighborhood Association and the Madison Park Community Council in response to the March 16, 2011 draft of the Programmatic Agreement.

Daniel, thanks for the opportunity to share our concerns.

Sincerely,



Jon H. Decker, AIA
jdecker@deckerarchitects.com
3500 1st Ave. West
Seattle, WA 98107

Acknowledgements: The above response is based on the participation of the Montlake Community with specific comments on the programmatic agreement and with additional assistance from the Hamlin/Shelby Neighborhood and the Concerned Citizens of Montlake – SR 520.

cc: Dr. Allyson Brooks, DAHP
Mathew Sterner, DAHP
Lynne Sebastian, SRI Foundation
Karen Gordon, City of Seattle HPO
Carol Legard, ACHP