



Appeal of Final Subsequent Environmental Impact Report – Balboa Reservoir Project

DATE: August 6, 2020
TO: Angela Calvillo, Clerk of the Board of Supervisors
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RE: File No. 200804, Planning Case No. 2018-007883ENV
Appeal of the Final Subsequent Environmental Impact Report for the Balboa Reservoir Project
HEARING DATE: August 11, 2020

PROJECT SPONSOR: Joe Kirchofer and Brad Wiblin, Reservoir Community Partners LLC
APPELLANT: Stuart M. Flashman on behalf of Madeline Mueller, Alvin Ja, and Wynd Kaufmyn

DEPARTMENT'S RECOMMENDATION: Uphold the SEIR certification and deny the appeal

INTRODUCTION

This memorandum is a response to the appellant's supplemental letter submittal to Board of Supervisors (the "Board") on August 3, 2020 regarding the Planning Department's (the "department") issuance of a final subsequent environmental impact report ("final SEIR") under the California Environmental Quality Act ("CEQA Determination") for the Balboa Reservoir Project (the "proposed project" or the "project"). The department is responding to the appellant's supplemental letter for informational purposes, as the appellant missed the deadline for submitting supplemental materials to the board pursuant to chapter 31 of the San Francisco Administrative Code.¹

Please refer to the department's appeal response dated August 3, 2020, for a more detailed response to the appellant's initial appeal letter dated June 18, 2020. The department's response herein continues the numbering found in the department's prior appeal response. However, the department is not responding further to comments concerning existing conditions or secondary parking as the department already responded to such comments in their prior appeal response (responses 1 and 4, respectively).

In summary, the appellants' letters repeat comments that the department already addressed in response to EIR public review processes and as substantiated by the department's appeal responses.

¹ Ch. 31.16(5) states: "Members of the public, appellant and real parties in interest or City agencies sponsoring the proposed project may submit written materials to the Clerk of the Board no later than noon, 11 days prior to the scheduled hearing." In this case, the appellant's deadline was noon, Friday, July 31, 2020.

PLANNING DEPARTMENT RESPONSES

Response 11: The SEIR transit delay impact analysis is supported by substantial evidence.

The appellant contends that the justification for the use of a four-minute delay as a CEQA threshold of significance for transit delay does not constitute substantial evidence.

RTC Response TR-4 thoroughly responds to and explains the transit significance criterion used in the transit delay analysis and the threshold of significance used to evaluate that criterion is based on substantial evidence. The criterion and threshold are consistent with the guidance in the San Francisco Planning Department's Transportation Impact Analysis Guidelines for Environmental Review. The department led a several year process to update guidelines, including consulting with transit agencies and the Planning Commission, with comprehensive updates completed in 2019. The SEIR relies on the 2019 TIA guidelines as a starting point for the more detailed scope and analysis therein.

As explained in RTC Response TR-4, a project would have a significant effect on the environment if it would substantially delay public transit. In particular, the project *could* have a significant transit impact if transit travel time increases on a specific route would be greater than, or equal to, four minutes or half of the existing headway [or frequency] for Muni service, whichever is less (the threshold of significance).

Substantial evidence for the criterion and threshold of significance is provided in Appendix I of the 2019 TIA Guidelines (p. I-26) and in a July 20, 2018 memorandum from the SFMTA included as RTC Attachment 5. As stated in the SFMTA memorandum, "transit delays of four minutes or more contribute to a decline in OTP [on-time performance] and should be considered an indicator of a potential significant impact, regardless of the scheduled headway. If a delay greater than or equal to four minutes or one-half headway, whichever is less, that is attributable to the proposed project is identified, this delay should be evaluated for significance on the basis of the type of route affected."

The four-minute threshold of significance is based on the adopted City Charter section 8A.103 (c)1, which establishes an 85 percent on-time performance service standard for Muni. Muni considers vehicles to be late if they arrive more than four minutes beyond a published schedule time.

The 2019 TIA Guidelines, the SFMTA memorandum, and the SEIR acknowledge delay, by itself, may not lead to physical environmental impacts. Instead, the delay could lead to a physical environmental impact if that delay leads to transit riders to switch to automobile-based modes. The SFMTA memorandum cites research and local experience to support the relationship between transit ridership inversely related to transit travel time (delay).

The SEIR uses the threshold of significance to indicate if the project could substantially delay public transit. As explained in RTC Response TR-4, the department applies the transit delay threshold of significance within the study area boundaries. The transit delay analysis for the 43 Masonic line is clarified on RTC p. 4.C-35, which includes the segment between the City College Bookstore and Geneva Avenue/Howth Street to capture the geographic extent of project-related transit delays to the 43 line. The transit lines analyzed in the SEIR (K/T Third/Ingleside, 29 Sunset, 43 Masonic, and 49 Van Ness/Mission) have headways ranging between 9 to 12 minutes (see the new SEIR Appendix C4, Transit Delay Analysis and Capital Improvement Memorandum, included in RTC Chapter 5). The threshold is "a delay greater than or equal to four minutes or one-half headway,

whichever is less” as described above. One-half headway for these lines would be four and a half minutes to six minutes. Therefore, the four-minute threshold of significance for transit delay is appropriate for those routes.

If a Muni line ran more frequently than every eight minutes, then the threshold would be less than four minutes. As demonstrated in Table 3.B-18 (RTC p. 4.C-41 to 42), the Developer’s Proposed Option would add a maximum of 1 minute and 40 seconds to any transit route in any direction during existing plus project conditions. Thus, an affected transit route would need to operate at headways approximately every 3.5 minutes for the Developer’s Proposed Option to potentially result in a significant impact. Such frequency doesn’t exist in study area transit routes.

Under cumulative conditions, the department used the same threshold of significance the potential for a significant cumulative transit delay impact. However, the department applied a more stringent threshold of significance to the project to identify if the project could result in cumulatively considerable contributions to a significant cumulative impact: two minutes of delay.

As explained in RTC Response TR-4, the SEIR conservatively identified a significant cumulative transit delay impact due to the unknown transit delay impacts from cumulative projects, including City College. The SEIR also conservatively identifies a cumulatively considerable contribution from the project due to the exponential nature of delay, including the Developer’s Proposed Option. The SEIR identifies potential capital improvements to reduce the project’s contribution to the cumulative transit delay below the two-minute threshold. However, given the uncertainty of SFMTA approval of these capital improvement measures, the SEIR identifies the transit delay impact as significant and unavoidable with mitigation. **[Note to reviewers: please advise if we should prepare an errata for the last paragraph on SEIR p. 3.B-95]**

The department adequately assessed transit delay impacts in accordance with the methodology presented in the 2019 TIA Guidelines and is supported by substantial evidence. For the reasons stated above in the SEIR and RTC document, including but not limited to the responses identified above, the final SEIR meets the standards of adequacy of an EIR, as set forth in CEQA Guidelines Section 15151.

Response 12: The SEIR appropriately analyzes the impacts to Lee Avenue extension.

The appellant contends that the PEIR rejected the Lee Avenue extension because it would result in substantial adverse transportation impacts, and that the PEIR’s analysis has not been incorporated into the SEIR as it relates to transit delay.

The RTC document responds to the appellant’s points regarding the PEIR’s conclusion and SEIR analysis. As explained on RTC Response TR-8: Vehicle Traffic Congestion and Associated Impacts on p. RTC-4.C-74, “The PEIR’s conclusion regarding Lee Avenue is relevant to the proposed project in that CEQA allows subsequent project-level analyses to tier off of previous general-level analysis. The PEIR analysis is at an area plan level, with different details than are available for the present project-level analysis. For example, the draft SEIR analysis uses more recent traffic counts to reflect existing baseline conditions than the PEIR, which was certified in 2009. Using newer and more relevant information allows for more accurate analysis and is consistent with the tiering approach for environmental analysis. Decision makers did not make any approval or take any action that prevented future extensions of Lee Avenue when they certified the PEIR and adopted the area plan.”

The impacts of the proposed Lee Avenue extension in relation to transportation are analyzed throughout the SEIR, in the context of the currently proposed project and in comparison to current existing conditions. For example, project-generated vehicle traffic effects along Lee Avenue and Ocean Avenue/Lee Avenue intersection operations are analyzed under Impact TR-2 on SEIR pp. 3.B-65 to 3.B-70. As discussed in this section, proposed project would not increase the frequency, duration, or length of queues along westbound Ocean Avenue such that it would increase instances of blockages at the City College Terminal or San Francisco Fire Department station 15, or substantially delay transit. The impact to loading conditions associated with the Lee Avenue extension including the proposed reconfiguration of southbound Lee Avenue between Ocean Avenue and the project site is analyzed under Impact TR-6b, on SEIR pp. 3.B-85 to 3.B-91, Impact C-TR-6b, on SEIR pp. 3.B-101 to 3.B-102, and Response TR-5, Loading Impacts, on RTC p. 4.C-53.

The appellant provides no new information to substantiate the claim that the SEIR did not appropriately analyze impacts related to the Lee Avenue extension. For the reasons stated above in the SEIR and RTC document, including but not limited to the responses identified above, the final SEIR meets the standards of adequacy of an EIR, as set forth in CEQA Guidelines Section 15151.

CONCLUSION

For all the reasons provided in the department's appeal responses, the final SEIR complies with the requirements of CEQA and the CEQA Guidelines and provides an adequate, accurate, and objective analysis of the potential impacts of the proposed project. The appellant has not demonstrated that the Planning Commission's certification of the final SEIR was not supported by substantial evidence in the record. Therefore, the department respectfully recommends that the Board uphold the Planning Commission's certification of the final SEIR and deny the appeal.