

**PLANNING DEPT's 8/3/2020 RESPONSE TO APPEAL:
IRRETRIEVABLE FATAL ERROR THAT COMPELS REVERSAL OF OF SEIR
CERTIFICATION**

Planning Dept's 8/3/2020 Response to the Appeal correctly describes the relationship between a Program EIR (PEIR) and Subsequent EIR (SEIR).

For this case, the PEIR is the Balboa Station Area Final EIR and the SEIR is the Balboa Reservoir SEIR.

The Planning Dept Response states how the Balboa Reservoir SEIR is supposed to supplement the BPS Area PEIR:

The SEIR is a project-level environmental review that includes more details on the currently proposed project at the Balboa Reservoir than were in the PEIR. The SEIR analyzed the proposed development at the project site compared to the development assumed in the PEIR to determine whether it would be within the scope of the program-level analysis or whether the project would result in new significant impacts or substantially more severe significant impacts than those identified in the PEIR. The initial study (SEIR Appendix B), explains why the project would not have new significant impacts or substantially more severe significant impacts than those previously identified in the PEIR for 19 of the 22 resource topic areas.

PLANNING DEPT's 8/3/2020 RESPONSE 4: "The SEIR adequately and accurately analyzes secondary impacts related to parking."

The Planning Dept presents two legs for their argument:

1. SEIR Appendix B (Initial Study)
2. RTC Response PS-2

The importance of the Initial Study (Appendix B) cannot be overstated. Its importance lies in the fact that because the Initial Study had already determined that impact on City College was insignificant, the SEIR had no obligation to perform a thorough assessment of the Project's potential impact on City College.

1. ANALYZING THE INITIAL STUDY'S DETERMINATION OF IMPACT ON CITY COLLEGE

The 8/3 Planning Dept Response 4 addresses the secondary effects of the Project's elimination of student parking by denying the existence of such.

THE SEIR APPENDIX B (INITIAL STUDY) ARGUMENT

The Response 4 first trots out (by reference only) SEIR Appendix B (Initial Study) as appropriate evaluation. The Initial Study dismisses impact on City College:

Furthermore, it would be speculative to conclude that the loss of parking would lead to substantial adverse impacts related to the construction of new or physically altered facilities at City College. The City College

sustainability plan has a performance objective to reduce automobile trips, with which the removal of parking at the project site would not conflict. **Thus, the proposed project would not** – in order to maintain acceptable service ratios, response times, or other performance objectives – **be expected to increase demand for public services to the extent that would require new or physically altered public facilities, the construction of which could result in significant environmental impacts, and the proposed project would not result in new or substantially more-severe impacts than those identified in the PEIR.**

This conclusion of no significant impacts on Public Services demands dissection.

Dismissing impact on City College rests on two elements:

1. PEIR determination on City College (Public Services-schools);
2. SEIR Appendix B (Initial Study).
 - It is factually incorrect that the PEIR had identified lack of impact on City College. The PEIR did not assess City College as an Environmental Factor AT ALL. Thus, the reference to what the PEIR had “identified” is absolutely meaningless. The reference to impacts “identified in the PEIR” serves only to attribute a **non-existent** determination to the PEIR.
 - The Initial Study SPECULATES that demand would not require “*new or physically altered public facilities.*”
 - In fact, the City College Facilities Master Plan contains new parking facilities. The **CCSF FMP** contains the following:

Potential Parking Sites

Sites for potential parking are identified on the Facilities Master Plan graphic for the Ocean Campus

- **Parking will be located adjacent to the Performing Arts Education Center.**

Facilities Master Plan Projects (p. 4-34)

New Facilities

1. *Performing Arts and Education Center**
2. *Central Utility Plant*
3. *STEAM Complex (Science, Technology, Engineering, Art, and Math)*
4. *Student Development Center**
5. *Childcare Center*
6. **Parking Structure**
7. **East Surface Parking**

The citations from the City College FMP directly controverts the Initial Study’s own SPECULATION that it is “*speculative to conclude that the loss of parking would lead to substantial adverse impacts related to the construction of new or physically altered facilities at City College*”.

CONCLUSION ON INITIAL STUDY

- The Initial Study’s reference to the PEIR is literally groundless. No assessment of impact on City College was contained in the PEIR.

- Secondly, the FMP, as well as the City College Fehr-Peers TDM & Parking Study, controvert the Initial Study’s speculation that “new or physically altered public facilities” resulting from the Project’s elimination of student parking is speculative.

2. ANALYZING THE RTC RESPONSE PS-2’s ‘Public Services and Secondary Impacts

Page 14 of the 8/3 Planning Dept Response to the Appeal reiterates RTC Response PS-2:

RTC Response PS-2 explains that with regard to question a), “As discussed on draft SEIR Appendix B, p. B-90, the City College sustainability plan has a performance objective to reduce automobile trips, with which the removal of parking at the project site would not conflict. City College does not have performance objectives or other standards related to the provision of parking, except insofar as it seeks to reduce automobile trips, which would serve to decrease parking use.” It is the foregoing analysis that the SEIR relies upon to determine that effects on City College resulting from the loss of parking on the project site would result in a less-than-significant impact.

This argument for “*Question a*” is so ludicrous that Environmental Planning should be ashamed to take credit for it. “*City College does not have performance objectives or other standards related to the provision of parking, except insofar as it seeks to reduce automobile trips, which would serve to decrease parking use.*” The planners are saying that the main—if not the only!—performance objective that City College has in providing parking is to reduce auto trips.

Contrary to what the Planning Dept puts into City College’s mouth, this is what **City College’s Facilities Master Plan actually says:**

VEHICULAR PARKING (FMP Page 2-31)

Parking is an important resource for City College. Users come and go at all times, to and from everywhere in the city and the Bay Area. Some travel between destinations that may or may not be served by transit. Stakeholders agree that there will always be a need for parking at the Ocean campus. Parking is a necessity for attracting new students.

RECOMMENDATIONS

Vehicles and Parking at the Perimeter (FMP Page 4-29)

There will always be a need for vehicle parking on the Ocean Campus. While many parts of the San Francisco Bay Area are well-served by public transit, there will always be users for whom vehicles are the most practical mode of transportation.

City College’s FMP and Fehr-Pehr’s TDM & Parking Plan shoot down this ridiculous ‘*question a*’ argument out of the water.

But RTC-PS-2 isn’t done yet! There’s still ‘*question b*’ and ‘*question c*’, any one of which would result in a finding of insignificant impact by the Project!

Question b: *b) If a) is yes, would that require the need for new or physically altered City College facilities, such as TDM or replacement parking?*

Reiterating from FMP:

Potential Parking Sites

Sites for potential parking are identified on the Facilities Master Plan graphic for the Ocean Campus

- Parking will be located adjacent to the Performing Arts Education Center.

Facilities Master Plan Projects (FMP p. 4-34)

New Facilities

1. Performing Arts and Education Center*
2. Central Utility Plant
3. STEAM Complex (Science, Technology, Engineering, Art, and Math)
4. Student Development Center*
5. Childcare Center
6. Parking Structure
7. East Surface Parking

Question c: *If b) is yes, would the construction or operation of such new or physically altered City facilities, such as TDM or replacement parking, result in any adverse physical effects? Examples include an increase in VMT, increased emissions of criteria pollutants and/or toxic air contaminants, increased noise, or other impacts.*

RTC PS-2 answers its own question with sophistry in order to arrive at a desired conclusion:

Questions b and c): A significant effect on the environment can only result from a physical change relative to existing conditions. Thus, the operational effects of replacing the existing City College parking on the project site with new parking at a nearby location such as the east basin, in and of itself, would result in little or no effect because it would effectively replace existing City College parking with replacement parking at a location close enough so as to not meaningfully change travel patterns.

The RTC's answer to *Question c* is that—even if the proximate cause for construction of new City College parking facilities is the Reservoir Project's elimination of student parking—the Project has no significant effect. Why? Because all the new City College parking is merely replacing the lost parking. **“Relative** to the existing condition (of current student parking), new City College parking (can you follow the logic?) provides equivalent parking; therefore there is no significant “operational effect.”

Wow! What a powerful argument.....for suckers!

Instead of the RTC phrasing of “physical change relative to existing conditions”, CEQA law states:

CCR 15064 (d)(2): An **indirect physical change** in the environment is a physical change in the environment which is not immediately **related** to the project, but which is caused indirectly by the project. If a direct physical change in the environment in turn causes another change in the environment, then the other change is an indirect physical change in the environment.

CCR 15064 (d)(2) means that the Reservoir Project (direct physical change) that causes City College to build new parking structures (physical change), then the new City College structures constitute “indirect physical change.”

“Operation effect” is nowhere in the picture other than as a device to come to an insignificant impact finding in the Initial Study.

CONCLUSION ON RTC Response PS-2

Question a is controverted by the City College FMP that show three new parking facilities.

Question b is also controverted by the CCSF FMP.

Question c is based on a faulty interpretation of CCR 15064 (d)(2) that describes “indirect physical change”, NOT “*A significant effect on the environment can only result from a physical change relative to existing conditions.*”

RTC PS-2 fails on all counts.

CONCLUSION ON PLANNING DEPT’S 8/3 RESPONSE 4

Response 4’s two legs of 1) SEIR Appendix B (Initial Study), and 2) RTC Response PS-2 have been shown to be defective and inadequate.

The certification of the SEIR should be reversed.

Submitted by:
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