

From: [Lew, Lisa \(BOS\)](#)
To: [BOS Legislation, \(BOS\)](#)
Subject: FW: CEQA Appeal: Initial Study and SEIR fail the requirements of CCR 15063 and 15064 (File 200804)
Date: Monday, August 10, 2020 8:19:46 AM
Attachments: [PEIR-SEIR RELATIONSHIP \(1\).pdf](#)

From: aj <ajjah@att.net>
Sent: Sunday, August 9, 2020 7:57 PM
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BOS:

Please refer to my graphic of the PEIR-SEIR and Initial Study-EIR relationships (attached) to understand the argument being presented herein.

PURPOSE OF INITIAL STUDY

The purpose of the Initial Study is to eliminate environmental factors from the SEIR that had already been adequately addressed in the higher-level Program EIR (Balboa Park Station Area Final EIR). Its purpose is also to identify factors that had not been adequately addressed in the PEIR.

An Initial Study is tasked to identify environmental factors that "*may have a significant effect on the environment*" (CCR 15063, Initial Study). If an environmental factor **may** have a significant effect, then that factor should be carried forward to be assessed in the EIR.

Having been tiered off the PEIR, the Initial Study for the Balboa Reservoir SEIR was supposed to identify **potentially** impacts on City College that had not been adequately examined in the PEIR.

The PEIR had not examined potential impacts of the Reservoir Project on City

College at all.

Having neither been assessed in the PEIR's Initial Study, nor in the PEIR itself, it is impossible for the SEIR's Initial Study to have come to a valid determination that the effects on City College had been adequately examined in the earlier PEIR.

INITIAL STUDY FAULTY; EIR REQUIRED FOR IMPACT ON CITY COLLEGE
Consequently, the Initial Study should have advanced the Environmental Factor of Public Services/City College to be thoroughly assessed in the Reservoir EIR. It did not do so.

Instead, the Initial Study concluded that *"the proposed project would not result in new or substantially more-severe impacts than those identified in the PEIR."*

THIS CONCLUSION IS FLAT-OUT WRONG BECAUSE ASSESSMENT OF THE RESERVOIR PROJECT'S IMPACT ON CITY COLLEGE IS NOWHERE TO BE FOUND IN THE PEIR.

HENCE, PLANNING DEPT HAD THE OBLIGATION TO ADVANCE ASSESSMENT OF IMPACT ON CITY COLLEGE ONTO THE EIR, BUT DID NOT DO SO. THIS IS A FUNDAMENTAL FAILURE THAT DEMANDS REVERSAL OF THE CERTIFICATION OF THE SEIR.

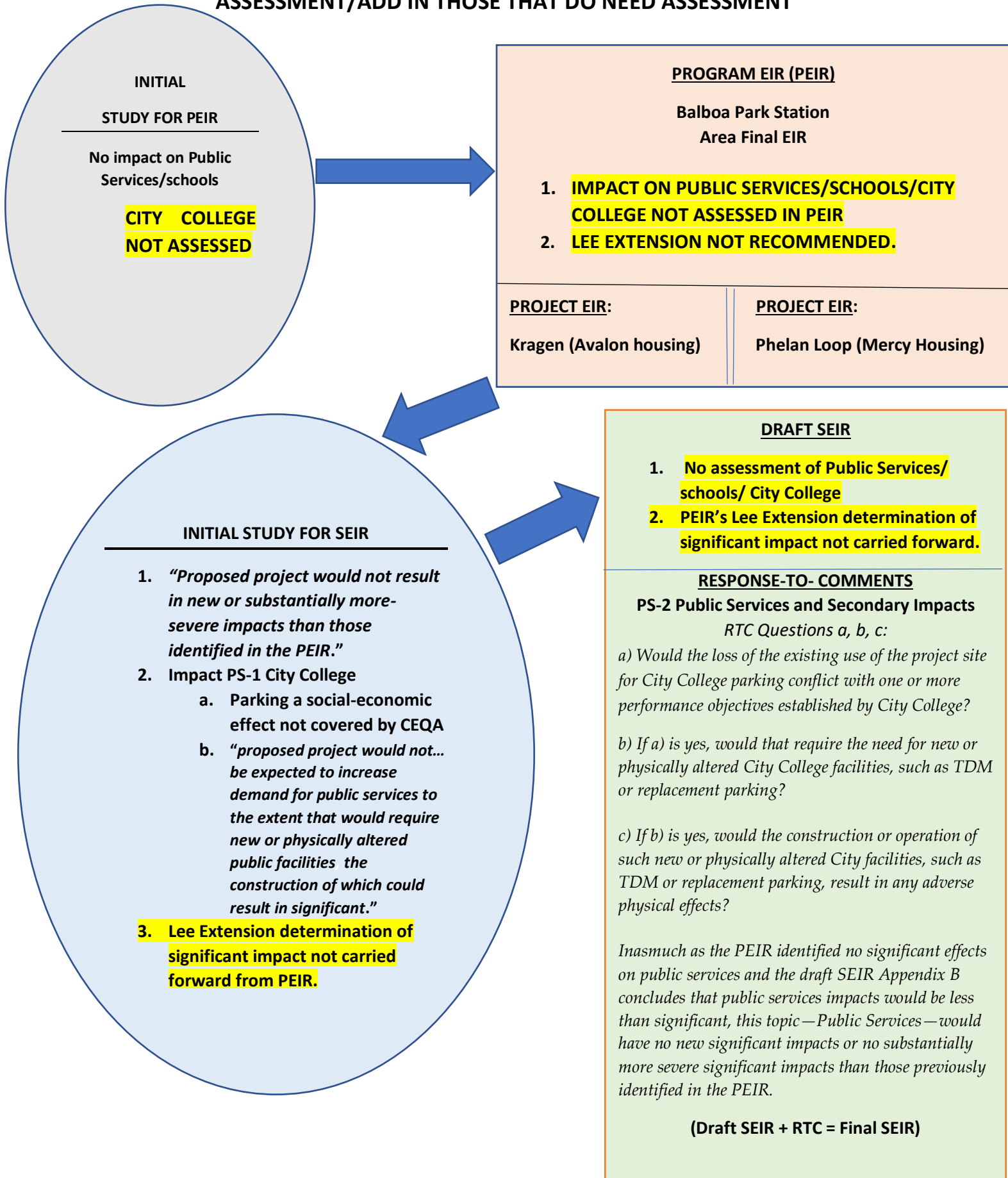
In rebuttal, the Planning Dept will probably argue that the Initial Study contained substantial evidence that there is no significant impact on City College.

In rebuttal to Planning Dept's possible rebuttal, CCR 15064, Determining Significance of Environmental Effects, states:

15064 (f)(1) If the lead agency determines there is substantial evidence in the record that the project may have a significant effect on the environment, the lead agency shall prepare an EIR (Friends of B Street v. City of Hayward (1980) 106 Cal. App. 3d 988). Said another way, if a lead agency is presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect (No Oil, Inc. v. City of Los Angeles (1974) 13 Cal. 3d 68).

Sincerely,
Alvin Ja, appellant

PURPOSE OF INITIAL STUDY: FILTER OUT FACTORS THAT DO NOT NEED ASSESSMENT/ADD IN THOSE THAT DO NEED ASSESSMENT



INITIAL STUDY FOR PEIR

No impact on Public Services/schools

CITY COLLEGE NOT ASSESSED

PROGRAM EIR (PEIR)

Balboa Park Station Area Final EIR

- IMPACT ON PUBLIC SERVICES/SCHOOLS/CITY COLLEGE NOT ASSESSED IN PEIR**
- LEE EXTENSION NOT RECOMMENDED.**

PROJECT EIR: Kragen (Avalon housing)	PROJECT EIR: Phelan Loop (Mercy Housing)
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INITIAL STUDY FOR SEIR

- “Proposed project would not result in new or substantially more-severe impacts than those identified in the PEIR.”*
- Impact PS-1 City College**
 - Parking a social-economic effect not covered by CEQA
 - “proposed project would not... 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.”*
- Lee Extension determination of significant impact not carried forward from PEIR.**

DRAFT SEIR

- No assessment of Public Services/schools/ City College**
- PEIR’s Lee Extension determination of significant impact not carried forward.**

RESPONSE-TO- COMMENTS

PS-2 Public Services and Secondary Impacts

RTC Questions a, b, c:

a) *Would the loss of the existing use of the project site for City College parking conflict with one or more performance objectives established by City College?*

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

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?*

Inasmuch as the PEIR identified no significant effects on public services and the draft SEIR Appendix B concludes that public services impacts would be less than significant, this topic—Public Services—would have no new significant impacts or no substantially more severe significant impacts than those previously identified in the PEIR.

(Draft SEIR + RTC = Final SEIR)