

From: [Mary Miles](#)
To: [BOS Legislation \(BOS\)](#)
Subject: UPDATE ON THE APPEAL OF EXEMPTION "SLOW STREETS PHASE 1" BOS FILE NO. 200883
Date: Friday, August 21, 2020 4:54:26 PM
Attachments: [8-21-20 BOS APPEAL UPDATE FILE NO. 200883.pdf](#)

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DATE: August 21, 2020

RE: FILE NO. 200883 Appeal of the Exemption of "Slow Streets - Phase 1"

Attached please find in pdf format Appellant's Update on the above-noted Appeal to be filed today.

If there is any problem with filing the attached, please advise me by return e-mail.

Thank you.

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FILED BY E-MAIL TO: bos.legislation@sfgov.org

DATE: August 21, 2020

**UPDATE ON THE APPEAL OF CEQA STATUTORY EXEMPTION ON MTA'S
"SLOW STREETS - PHASE 1" PROJECT, BOS FILE NO. 200883**

This update is about ongoing additions to the Project by the San Francisco Municipal Transportation Agency ("MTA").

Appellant was notified by email from the Board Clerk's office on August 18, 2020, that a hearing on this appeal would be scheduled on September 1, 2020, giving only 14 days notice. Appellant will separately request a continuance of the hearing from September 1, 2020 to October 27, 2020 to allow time to submit a brief and additional information.

Since Appellant's May 21, 2020 Appeal was filed, MTA has expanded what began as several street closures under its Slow Streets Project. The Project has now morphed into a citywide project closing many more streets by installing physical barriers and signs prohibiting through travel by motor vehicles.

The affected streets include not only "neighborhood" streets but major streets with heavy traffic, such as Masonic Avenue, Golden Gate Avenue, Lombard Street, JFK Drive, Twin Peaks Boulevard, and the Great Highway.

A copy of MTA's latest map of its Slow Streets Project as of July 28, 2020 is attached as **EXHIBIT D**.

Slow Streets Phase 1 includes 17th Street, 20th Avenue, 22nd Avenue, 41st Avenue, Ellis Street, Kirkham Street, Lake Street, Phelps Street, Ortega Street, Page Street, Quesada

Street, Scott Street, JFK Drive, Great Highway, Twin Peaks Boulevard and others. (See 5/2120 Notice of Appeal, Exh. B.)

As noted in the May 21, 2020 Notice of Appeal, MTA has implemented the Project's changes with *no* public process, excluding the public from participation in the Project.

A "Next Phase" of Slow Streets (presumably the second "phase" or "Phase 2") was announced shortly after "Phase 1" on MTA's blog site with no additional CEQA determination or public approval process. The "Next Phase" included many more street closures, including 20th Avenue, 23rd Avenue, Chenery Street, Excelsior Street, Golden Gate Avenue, Jarboe, Lane, Lombard Street, Mariposa Street, Sanchez Street, Shotwell Street, Somerset Street, and Stockton Street. (<https://www.sfmta.com/blog/next-phase-slow-streets>.) Like "Phase 1," the "Next Phase" fails to meet CEQA's requirement for an emergency exemption.

On July 21, 2020, the MTA Board approved a "Slow Streets Phase 3" with even more street closures under a different CEQA exemption, blocking through travel by motor vehicles on 20th Street, Arkansas Street, Cabrillo Street, Cayuga Street, Capitol Avenue, Clay Street, Duncan Street, Farallones Street, Heart Street, Holly Park Circle, Lakeview/Shields Street, Mariposa Street, Minnesota Street, Noe Street, Pacific Street, Pierce Street, and Tompkins Street. Appellant separately appealed the "Slow Streets, Phase 3" exemption to this Board on August 20, 2020.

The Planning Department also issued a separate exemption on the "Panhandle Social Distancing and Safety Project," which was separately appealed on August 14, 2020.

The Slow Streets Project Does Not Qualify For An Emergency Exemption Under CEQA

MTA and the Planning Department ("Planning") claim that the "Slow Streets Phase 1" Project is exempt from the California Environmental Quality Act ("CEQA") under CEQA's emergency exemption, citing 14 Cal. Code Regs. (CEQA "Guidelines"), §15269(c.)

The Slow Streets Project, however, does not qualify for CEQA's emergency exemption, which specifically applies only to a "sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services," and such occurrences as "fire, flood, earthquake, or other soil or geologic movements, . . . riot, accident, or sabotage." (Pub.Res. Code §21060.3 ["Emergency"].)

Absent substantial evidence that every street change in the Project meets that strict definition, the City fails to establish that the Project is exempt from CEQA.

MTA's "social distancing" claims are unsubstantiated and clearly do *not* qualify the Project for an emergency exemption under CEQA.

Far from being a "sudden, unexpected occurrence," the Project consists of ongoing long-term implementation of street closures to motor vehicles. Nor is the Slow Streets Project

actually temporary, since MTA claims that it can and will make this Project permanent. MTA provides *no* date for an end to this Project and *no commitment* to conduct environmental review or provide any meaningful public participation in that review.

The "Phase 1" Exemption document claims, "With Muni service reduced, many San Francisco residents need to walk and take other travel modes to make essential trips. However, they cannot practically maintain the six feet of social distance required by the City's Public Health Order C 19-07 on many sidewalks, park paths, and bikeways, especially when passing queues outside grocery stores and other essential services." (5/21/20 Notice of Appeal, Exh. A, p. 1.)

Planning and MTA, however, have provided no evidence that pedestrians have to walk in the middle of streets instead of on sidewalks to maintain "social distancing." There is no evidence that sidewalks and streets are inadequate for "essential trips" by pedestrians and bicyclists. There is no evidence of "queues outside grocery stores" on those streets.

The "Phase 1" Exemption document says, "Currently, many pedestrians are choosing to walk in the street and are at a higher risk of colliding with a vehicle in the roadway." (5/21/20 Notice of Appeal, Exh. A, p.1.) Again, there is no substantial evidence supporting the claim that pedestrians are making such risky choices, or that existing sidewalks are inadequate.

MTA's claimed purpose of the Slow Streets Project is to accommodate *essential* trips by bicyclists and pedestrians by obstructing motor vehicle travel, creating bicycle lanes, and allowing walking in the middle of streets instead of on sidewalks. (5/21/20 Notice of Appeal, Exh. A, p. 1.) There is no evidence of any connection between motor vehicle travel on the Project's blocked streets and COVID infection. There is no evidence of any connection between motor vehicle travel on the Project's blocked streets and COVID infection.

There is *no* evidence that closing public streets to motor vehicles will "prevent or mitigate" a loss of essential public services in an emergency. (Pub. Res. Code, §21060.3.) Indeed, MTA's Director of Transportation, Jeffrey Tumlin, stated that cars are the safest mode of transportation during the COVID pandemic. (*San Francisco Chronicle*, April 14, 2020, [https://www.sfchronicle.com/bayarea/article/Could-cars-emerge-with-a-better-image-when-SF-15198197.php?](https://www.sfchronicle.com/bayarea/article/Could-cars-emerge-with-a-better-image-when-SF-15198197.php))

Instead of preventing or mitigating a loss of public services during an actual emergency, the Slow Streets Project actually hinders those purposes by blocking public travel by the safest mode. (Pub.Res.Code §21060.3.)

All phases of Slow Streets claim that MTA may now change any street in the City to exclude, obstruct, or make difficult motor vehicle travel and parking without any CEQA review by claiming a statutory "emergency" exemption.

MTA has implemented this Project with *no* public process and with no CEQA review and mitigation of its impacts. The City's claimed statutory exemption from CEQA review

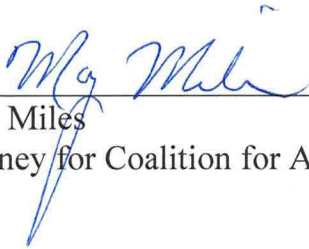
under Guidelines §15269(c) ["Emergency projects"] is now a pretext for dispensing with CEQA review of changes affecting travel throughout the City.

By piecemealing the Project in "phases," creating separate exemptions, and implementing the Project without first conducting public proceedings, MTA and Planning fail to completely and accurately describe this Project and analyze its full scope.

Whether viewed as "Phases" or as a whole, the Slow Streets Project is not exempt under CEQA's statutory emergency exemption or any other exemption.

CONCLUSION

Since the Slow Streets Project does not meet the requirements for the claimed emergency exemption under CEQA, this Board should grant this appeal and reverse the exemption determination.



Mary Miles
Attorney for Coalition for Adequate Review

DATE: August 21, 2020

ATTACHMENTS/EXHIBITS:
D MTA Map of Slow Streets, 7/28/20

ATTACHMENT D

Map Legend

- Slow Streets**
 - Implemented Slow Street
 - Proposed Phase 3 Slow Streets
- Other COVID-19 Street Changes**
 - Tenderloin Neighborhood Safety Assessment Plan for COVID-19
 - Streets Temporarily Closed to Vehicles
 - Additional Study Needed
 - Shared Spaces in Final Review
- San Francisco Bike Network**
 - Existing Bike Paths, Lanes & Routes
 - Existing Separated Bikeways
 - Approved Future Bike Facility
 - Design in Process Future Bike Facility

*As of July 28, 2020

