
Date: May 18, 2020

To: Balboa Reservoir Community Advisory Committee

From: Michael Ahrens, Member BRCAC

Subject: Comments on Draft Development Agreement for May 18, 2020 BRCAC Meeting

I thank Leigh Lutenski for today putting on the CAC website the Fehr & Peers TDM, written in March 2019. This is needed to understand my comments in this memo and my comments in prior memos.

In this memo I will outline problems I have with the Development Agreement (“DA”). I will expand on these matters at the meeting tonight.

City College and Public Parking

I incorporate all of the comments set forth in my memo to this CAC dated April 26, 2020, which is part of the CAC record. To make the factual background clear, I have prepared a timeline which is attached to this memo as Exhibit “A” and incorporated herein.

The attached timeline demonstrates that the City has stated to City College in 2018 that a Memorandum of Understanding (“MOU”) on replacement parking for City College “would need to be agreed upon by the end of 2018 so that the City and the developer can take them into account when negotiating the Balboa Reservoir development agreement.” Such an MOU covering replacement parking needed due to the loss of parking has never been negotiated to this very day. Yet, the DA is submitted to the CAC, and then to the Planning Commission for approval and review.

Exhibit J of the draft DA purports to address replacement parking for City College. But, it is totally inadequate to address the true needs of City College. Until City College and the City agree on an MOU covering parking and other matters, the DA should not be considered and the approval process for this project should be deferred.

Even though we feel that the process should be deferred for the reasons stated, we will for the rest of this memo address other matters about the DA.

Other Development Agreement Comments

- *Section 12; Transfer or Assignment*

This section of the DA gives the developer the right to convey its interest in all or part of the Project site, and the rights and obligations under the DA to another developer. Section 12.1.2 requires a transfer of the entire site to be reviewed and approved by the Planning Director. In addition, a transfer of the market rate housing parcels must also be approved by the Planning Director.

But it appears that a transfer of the affordable housing parcels will NOT require Planning Director approval. As stated by the City, the affordable housing is a key component of the public benefits provided by the proposed Project. Given that, one would expect that the Planning Director would want the ability to ensure that the affordable housing parcel and obligation to build such affordable housing is being transferred to a reliable and reputable affordable housing developer that has been fully vetted.

- *Project Financing and Feasibility*

The DA includes an Exhibit O, described as a “Financing Plan.” However, this exhibit was not provided with the publicly released draft of the DA. Moreover, it is unclear if and how the DA references or is related to this exhibit. Exhibit D, the “Affordable Housing Program” includes a section on the funding of the affordable housing portion of

the Project, but unless the overall financing plan for the Project is included it would seem impossible to know that the Project as a whole is viable and that the asserted public benefits would actually be provided.

As a reminder, in February 2018, a financial feasibility report was prepared for the Project, as required by the Administrative Code before the Planning Department could commence CEQA review of projects that require certain levels of City funding. It would seem prudent to revisit the conclusions of that report, given the time that has passed and the current economic situation facing the City.

In addition, that report notes that one of the benefits to the City would be the money the City received from the sale of the project site to the developer. But as of this date, the public has not been provided any information regarding the sales price or the Purchase and Sale Agreement that will need to be approved before the Project can move forward.

For the sake of full transparency, we believe the public (and the Planning Commission) should be provided more details regarding the proposed real estate transaction before the Planning Commission can make a truly informed decision regarding the DA and the Project as a whole.

Thank you for consideration of these comments.

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BALBOA RESERVOIR PROJECT

TIMELINE OF MATTERS RELATING TO MOU BETWEEN CITY COLLEGE OF SAN FRANCISCO AND CITY and CCSF PARKING NEEDS

October 25, 2017: Letter from Ken Rich of City Office of Economic and Workforce Development (“OEWD”) to Chancellor Mark Rocha of City College (“CCSF”). Commits the City to work with CCSF to achieve its goals, and “ensuring that City College continues to have access to adequate parking resources.”

November 14, 2017: Meeting of Commissioners of San Francisco Public Utilities Commission to approve Exclusive Negotiation Agreement. At least two Commissioners state that they recognize CCSF is a commuter school and they expect the problems caused by the loss of parking due to the Development would be resolved before they consider approving a purchase agreement with the developer.

May 1, 2018: Letter from Ken Rich of OEWD to Chancellor Rocha stating that a Memorandum Of Understanding (“MOU”) on parking and other matters “would need to be agreed upon by the end of 2018 so that the City and the developer can take them into account when negotiating the Balboa Reservoir development agreement.” The letter includes a timeline indicating that the MOU will be executed before the Planning Commission or Board of Supervisors will review and approve the Project.

March 15, 2019: Meeting of Budget & Finance Committee of San Francisco Board of Supervisors to approve Fiscal Feasibility of the Project. Supervisor Norman Yee: “One of the things I’ve said over and over, you know, we cannot have a project there unless we solve the parking problem. The City has heard that...If we don’t have a solution we’re not going to be able to move forward with this project.” Response of Ken Rich (OEWD) at meeting: “We recognize we have to deal with City College. We have to make sure there’s a solution for parking.... I want to recommit in every way possible that is the primary issue in this project that needs to be solved.”

March 21, 2019: Meeting of the CCSF Trustees. Charmaine Curtis, assistant to Chancellor Rocha, presents a chart prepared by consultants Fehr & Peers to the Trustees that demonstrates a need for parking replacement with the building of both the PAEC on the upper lot and the Project on the lower lot. She says that on a typical day the need is 980 replacement parking spots with core TDM, and more will be needed with no TDM. Ms. Curtis explained that TDM measures were expensive and you could take the “low fruit” and do minimum TDM steps, or increase your budget and do more expensive TDM measures. She does not analyze parking demand for the peak days. She says the complete Fehr & Peers report will be ready in a “few days.”

June 10, 2019: Meeting of Balboa Reservoir Community Advisory Committee (“BRCAC”). Presentation made by Vice Chancellor James Sohn. Charmaine Curtis does not attend. Vice Chancellor Sohn presents slides entitled “Balboa Reservoir CAC Briefing” on behalf of CCSF. The parking needs chart included in his presentation references the TDM of Fehr & Peers dated March 15, 2019 (“Fehr TDM”), and references Table 13 in that TDM. That chart

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references a need for only 220 replacement spaces on a typical day if core TDM is adopted, and 614 without TDM. It also references higher demands on peak days.

June 25, 2019: Chancellor Rocha and Vice Chancellor Sohn meet with one member of the BRCAC, and another interested member of the public. They confirm that no agreement had yet been made with the City on an MOU, and discuss the Fehr TDM in general. The member of the BRCAC requests that the Fehr TDM be sent to BRCAC.

June 28, 2019: The Chair of the BRCAC receives the Fehr TDM and sends it to the other members of the BRCAC, but he does not put it on the public record. A review of the Fehr TDM demonstrates clearly that the wrong chart had been presented to the BRCAC at the June 10, 2019 meeting. Chart 13 had been presented, which assumes no PAEC development. The correct chart is Chart 14, which analyses parking impact including both the PAEC and the Project. That chart shows that with core TDM on a typical day, 980 spaces are needed and on peak days 1,767 replacement spaces are needed. It further shows that if moneys are not used to address TDM much more is needed. On typical days, without TDM, 1,374 replacement spaces are needed, and on peak days 2,300 replacement spaces are needed

April 8, 2020: CAC Meeting to Discuss Design Standards Guidelines. In response to questions at this meeting from the public and the BRCAC, Reservoir Community Partners ("RCP"), the developer, files a written response dated April 8, 2020. The RCP response: "RCP references a CCCSF commissioned study by Fehr and Peers (March 2019). This study reports on parking counts....Based on these surveys and a consideration of CCSF growth, the current parking need is projected at 220 spaces."

April 9, 2020: Planning Commission Meeting regarding the Project. Notwithstanding the fact that there is still no MOU between CCSF and the City, Leigh Lutenski of OWED states to the Planning Commission as follows: (Video Recording, https://sanfrancisco.granicus.com/MediaPlayer.php?view_id=20&clip_id=35574 starting at 1:39:25) "The City and the project team have worked with City College community for the last four years to develop a specific package of benefits that will enhance both the project and the College." She then states: "Public parking of approximately 220 spaces will be developed by the project.....". And then she states: "Parking analysis by the project and the college puts the actual demand at around 220. So, we wanted to show we are meeting the correct demand in our replacement parking."

April 26, 2020: Memo to the BRCAC by a member of the BRCAC, put on the CAC website, discussing why 220 number mischaracterizes the Fehr TDM and ignores the proper chart in the Fehr TDM.

April 28, 2020: Board of Supervisors President Norman Yee introduces Legislation to the Board detailing the Development Agreement between the City and the developer, and the designation of a Special Use District rezoning the lower Balboa Reservoir from public to private use.

April 30, 2020: As of this date there still is no MOU between the City and CCSF, despite the fact that Mr. Rich said in his May 1, 2018, letter that such an MOU was needed to negotiate a Development Agreement with the developer. Nonetheless, the City files with the Clerk the Development Agreement, and requests review of it by the BRCAC and the Planning Commission in May, 2020.

May 18, 2020: Scheduled BRCAC meeting to comment on Development Agreement. The

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proposed Development Agreement addresses many issues that will be important to CCSF, such as TDM & Parking, but fails to take into consideration the real needs of CCSF considering the developer and the City maintain only 220 spaces of replacement parking are necessary.

May 28, 2020: Scheduled Planning Commission meeting to consider Development Agreement, Final Subsequent Environment Impact Report, General Plan Amendments, and other issues needed for approval of the Project, notwithstanding that there is no MOU between CCSF and the City and there are discrepancies in parking replacement needs.

June, 2020: Suggested month for SF PUC to consider approval of purchase of lower lot by Developer.

July 2020: Suggested month for Board of Supervisors Meeting to consider approval of project.

Memo Prepared by Michael Ahrens, Member, Balboa Reservoir Community Advisory Committee
May 18, 2020