

OFFICE OF THE CITY MANAGER

June 7, 2004

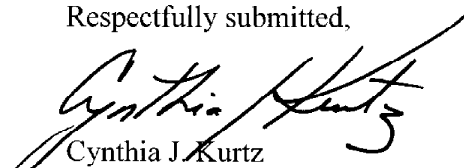
TO: City Council
FROM: City Manager
RE: Review of the City's Approach to Cumulative Traffic Impact Analysis

City Council has expressed concerns with the analysis of cumulative traffic impacts in the City. In response to these concerns, an independent review of the City's past and current practices on environmental review particularly in the area of traffic impact assessment was commissioned.

Cotton/Bridge/Associates and the Mobility Group who specialize in preparing environmental reviews as required by the California Environmental Quality Act (CEQA) completed the focused review. Both consultants have performed work in the City and are familiar with current issues and City processes. The consultant team interviewed key staff members in the Transportation and Planning & Development Departments, reviewed the city's established guidelines, and examined recently certified EIR documents.

The summary of findings is provided in pages 1 through 3 of the attached report. In general, the team found that Pasadena's procedures are correct, consistent, comprehensive and effective. Nonetheless, the team recommended some improvements, found on page 12 of the attached report.

Respectfully submitted,


Cynthia J. Kurtz
City Manager

**Review of the City of Pasadena's Approach to
Cumulative Traffic Impact Analysis**

June 1, 2004

Prepared for:

City of Pasadena

Prepared by

The Mobility Group

and

Cotton/Bridges/Associates

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1. The Assignment

This report has been prepared jointly by The Mobility Group and Cotton/Bridges/Associates in response to the City's request to review the City of Pasadena's approach to assessing cumulative traffic impacts associated with proposed development projects.

Our review has covered the requirements of the California Environmental Quality Act (CEQA) with respect to addressing cumulative impacts, and a review of the methodologies used by the City in preparing environmental documentation. It has also included an assessment of how the City addresses the combined traffic growth of developments, including growth from small development projects for which no significant traffic impacts are found or for which environmental documentation is not required.

To assist with the review, we were provided with the City's *Traffic Impact Report Preparation Guidelines* (1999), six recent traffic studies and environmental impact reports (EIRs) for development projects in the City, the Draft Mobility Element, and preliminary traffic study documentation for the Mobility Element and the Central District Specific Plan. We also conducted interviews with City staff in both the Planning and Transportation Departments, and The Mobility Group reviewed traffic study guidelines for other jurisdictions.

The discussion presented directly addresses traffic impact analysis. As a reference for the framework within which cumulative traffic impacts are undertaken per the California Environmental Quality Act (CEQA),¹ the attachment to this memorandum identifies relevant CEQA citations and case law.

2. Conclusions

Based on our review and interviews, we have come to the following principal conclusions:

- We believe the City is using the correct procedures to address cumulative projects.
- The procedures used are consistent among recent EIRs prepared for specific projects within the City.
- The procedures that the City uses are consistent with those used by many other jurisdictions.

¹ References to CEQA in this memorandum refer general to the CEQA statute (Public Resources Code Section 21000 et seq. and the Guidelines for the California Environmental Quality Act, or CEQA Guidelines (Government Code Section 15000 et seq.).

- The procedures that the City uses are consistent with CEQA guidelines.
- Pasadena's *Traffic Impact Report Preparation Guidelines* provide a consistent direction for traffic studies. The City consistently takes a conservative (worst case) approach as to when to conduct a traffic study, and how to conduct a traffic study. This leads to a traffic study being completed more often than not (e.g., even with low project trip counts). It also leads to a broader scope rather than a narrower scope - involving the study of more intersections, more roadway segments, and more related projects.
- Although the City's *Traffic Impact Report Preparation Guidelines* do not discuss procedures for addressing cumulative projects, there is a remarkable consistency among traffic studies conducted for different projects.
- City staff conscientiously approaches traffic studies in general, and the inclusion of cumulative projects specifically, to ensure that issues are adequately covered.
- The City's two-tier approach to traffic review of development projects ensures that even the smaller projects (that do not qualify for traffic studies) are scrutinized, and that transportation conditions of approval (such as contributions to pedestrian improvements, transit amenities, etc.) are often attached to them.
- Pasadena has one of the most comprehensive and integrated multi-layer systems to deal with the traffic and transportation review of development projects that The Mobility Group has seen in twenty years of professional experience in Southern California. This system enables a clear articulation of General Plan policies and implementation actions/mechanisms for dealing with growth and transportation solutions to be related to the details of project review, and to the issues of cumulative traffic growth and cumulative impacts.
- The EIRs and traffic studies that we have reviewed are very weak in discussing the context of the "Future without Project" (cumulative) scenario – which potentially leads to confusion and or misunderstanding by the public. This is not uncommon in traffic studies in general and prepared within other jurisdictions, but given the intense level of public interest in Pasadena, it is an area that could be better addressed in order to better inform the public. The EIR for the Del Mar Station Mixed Use Development Project was the only one to provide any such discussion and then only in the Traffic Study Appendix, not in the actual EIR text. While far from complete, this was a good example of how such a discussion might be presented.
- In comparing the cumulative project lists of EIRs completed in a similar timeframe, we did note numerous differences in which specific projects were included in the cumulative project list, the size description of projects, and the number of trips

generated by the projects. Again this is very common in EIR's in general and in many jurisdictions. Consistency among EIRs in this area is notoriously difficult to achieve – often for very valid reasons of changed or updated information. However, it does potentially confuse the public.

3. Evaluation

3a. EIR Project Impact Analysis

(i) CEQA Requirements for Cumulative Analysis

In the CEQA Guidelines, the requirement for conducting cumulative impact analysis applies explicitly only to EIRs. However, the Initial Study process used to support Negative Declarations and Mitigated Negative Declarations implies that cumulative impacts should be considered but does not provide guidance on factors to be considered.

With regard to EIRs, Section 15355 of the CEQA Guidelines defines cumulative impacts as:

"...two or more individual effects which when considered together, are considerable or which compound or increase other environmental impacts."

Section 15355 further describes potential cumulative impacts as:

"(a) The individual effects may be changes resulting from a single project or a number of separate projects.

(b) The cumulative impacts from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time."

(ii) The City's Overall Approach

The City's overall approach to analyzing project impacts and cumulative impacts is consistent with CEQA. The approach is illustrated graphically in Figure 1.

Existing traffic conditions are first documented (the green part of the bar in Figure 1). Normally this is accomplished with new traffic counts in order to provide the latest

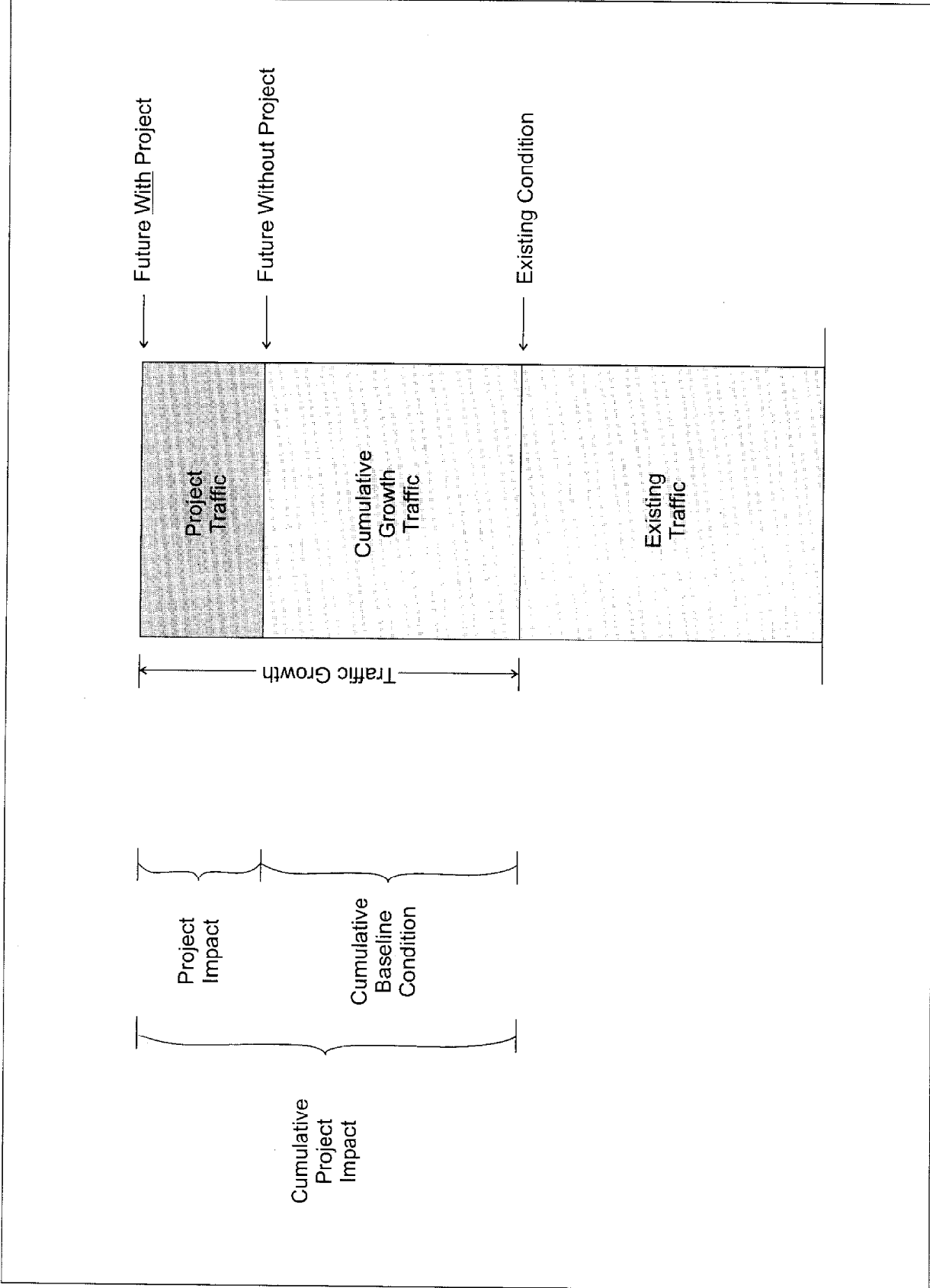


Figure 1 How Cumulative Impacts are Studied

information. Then future traffic growth is estimated (the yellow and orange parts of the bar in Figure 1).

Firstly, a future baseline condition is forecast for the target year of completion for the proposed development project. This is called the “Future Without Project” condition. It represents cumulative traffic growth (the yellow part of the bar in Figure 1) from approved, proposed and reasonably foreseeable future development projects and sets a baseline against which specific impacts of the proposed development project can be measured.

Forecasting of this future baseline comprises two components; 1) by identifying other future development projects in the general study area that reasonably may be completed in the time frame of the subject project, and forecasting traffic growth from those projects. These projects are often called “related” projects or “cumulative” projects; and 2) by defining an “ambient” growth factor representing traffic growth from outside the study area. Adding traffic growth from the related projects, and the “ambient” traffic growth, to the existing traffic volumes, produces a forecast of future traffic conditions without the proposed project – called the cumulative baseline condition, or Future Without Project condition.

The final step is to determine the traffic growth from the subject project (the orange part of the bar in Figure 1), and the impacts it may cause. Because traffic growth from other development projects is also considered (as described above), this impact analysis represents the cumulative impacts of the subject project – that is, it represents the impacts of the project taking other cumulative projects into account.

This approach is consistent with CEQA and is the approach used by the vast majority of jurisdictions in Southern California.

(iii) Conducting Cumulative Traffic Analysis

In CEQA, Section 15130 outlines the requirements of cumulative impacts discussions in EIRs. Section 15130(b)(1) prescribes two methods for conducting cumulative analysis either: (1) in a list of past, present and reasonably foreseeable probable future projects or (2) through the aggregated analysis of adopted plans, policies and projections/forecasts.

The City’s Method of Tracking and Defining Cumulative Projects

In our discussions with City Planning and Transportation staff, we determined that the City has a comprehensive and consistent approach to identifying cumulative projects to be considered in any cumulative impact analysis. A database list of approved and proposed projects is maintained, and is available via the City’s website. Planning staff keeps the list current, and Transportation staff consults the list for scoping project-related traffic studies.

With regard to the radius of review for individual projects, a one or two-mile radius is used, depending upon the size of the project, the potential range of impact, and the presence of major projects in the vicinity that could bear upon the traffic impact analysis.

We note that the City's current CEQA Guidelines (October, 2002), in defining how the cumulative analysis should be undertaken, allows for consideration of both past, present and reasonably foreseeable probable future projects, as well as adopted plans, policies and projections/forecasts. We believe this approach can lead to double-counting and overestimation of impacts if both methods are used, and should be examined critically in the scoping of a cumulative impact analysis so that only the appropriate method is used.

The Conservative Nature of Cumulative Traffic Analysis

The traffic analysis of cumulative projects is typically very conservative and usually presents a worst case. This is because:

- It includes many related projects – some of which may never happen, or which may not occur before the project in question.
- The analysis includes the trips from related projects, but not any mitigation measures or improvements associated with those projects. These latter components are typically not included unless specific funding and a timeframe for completion can be identified for the improvements. Otherwise the improvements may be considered speculative.
- The trip generation analysis for related projects assumes no trip interaction between projects. Because the projects are usually a range of land uses, and are located in close proximity, in reality there would be trip interactions which would reduce the overall total of trips.

We recommend that some discussion of how these factors produce a conservative worst case analysis be included in future traffic studies and EIRs to help readers better understand the context of the traffic forecasts.

The Cumulative Baseline Analysis

For the purposes of environmental analysis, this Future without Project condition is documented and discussed as a baseline. The EIR is not concerned with “impacts” at this stage of the process – because “impacts” of other developments are not the focus of the subject project EIR, and the Future without Project condition represents growth from a variety of projects – many of which have usually previously been the subject of specific

environmental impact analysis. Impact analysis is therefore not conducted on this Future without Condition – it merely provides a quantitative base for then determining the specific impacts of the subject project.

This is not to say that the effects of this cumulative traffic growth are not addressed by the City. They are addressed, and in a variety of different ways, but in separate processes outside specific project EIR's. These processes are discussed in a subsequent section of this report.

The Project Impact Analysis

The analysis of the subject project then identifies any potential significant traffic impacts that will be due to that specific project – which is the focus of the EIR. Having taken into account all other traffic growth that may occur before the subject project is constructed, any such impacts represent the cumulative impacts of the subject project and other development projects/growth. Any such project impacts may then be mitigated by project specific mitigation measures and/or conditions, by development impact fees, and/or by conditions attached to project site reviews (as shown for the orange part of the bar in Figure 2).

3b. Dealing with Cumulative Growth in Traffic, and Projects Outside the EIR Process

(i) CEQA Requirements

CEQA does not explicitly require cumulative traffic analysis when no EIR is required. Also, if a project is exempt from CEQA review, no traffic study is required at all by CEQA. So how does the City deal with the cumulative effect of numerous small projects that individually do not create specific impacts?

(ii) Dealing With the “Cumulative” Effects of Traffic Growth in General

Figure 2 shows how the effects of the different elements of traffic growth identified in Figure 1 are dealt with by the City in order to address cumulative impacts. The cumulative traffic growth is addressed through a long list of processes that are not specific to individual project EIR's, and therefore not directly addressed in EIR analysis.

As shown for the yellow bar in Figure 2, the traffic growth and impacts from cumulative development projects may be addressed through a wide variety of measures. First are the specific mitigation measures and/or conditions of approval identified in previous studies for many of those projects which are definitively planned for implementation, and/or through development impact fees collected from specific projects, and/or through conditions attached

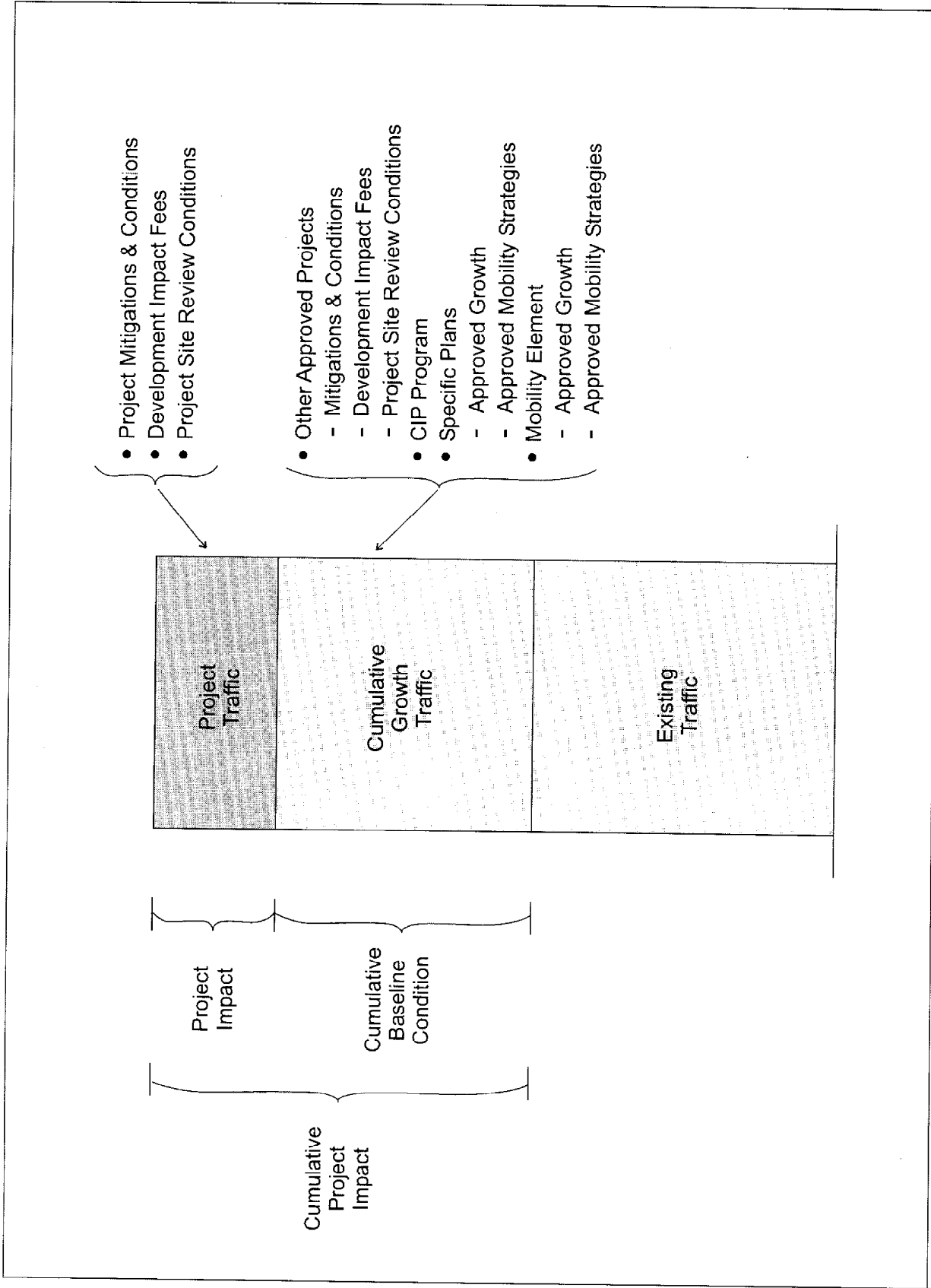


Figure 2 How Cumulative Impacts are Addressed

during a project site review. One or more of these are usually applied by the City whether a traffic study/EIR is completed or not.

The general traffic growths represented in the cumulative baseline condition (Future without Project), or yellow part of the bar, are also addressed through the City's Capital Improvement Program (CIP), and through the provisions of Specific Plans and the General Plan Mobility Element. These are discussed more fully a little later in this report.

(iii) The Problem with the 100 West Green Street Traffic Study

The Traffic Study for 100 West Green Street led to certain public concerns and comments regarding "cumulative impacts". We have reviewed this study and have the following conclusions:

- The traffic study for 100 West Green Street was the only recent traffic study that specifically refers to "significant impacts" from the cumulative projects. We believe this is incorrect and very misleading.
- This approach of identifying "significant cumulative impacts" is usually not taken in EIR's for two main reasons. Firstly, it incorrectly uses the single specific project criteria for determining significant impact and applies it to a group of projects and general traffic growth. Secondly, the correct focus of any traffic study is the specific project. Growth from other projects is considered and dealt with elsewhere in the City process, and is included only as a baseline condition in order to accurately estimate impacts of the specific project under study. For these reasons EIR's typically forecast a future cumulative condition and merely report that condition without reference to impacts.
- Having (incorrectly) identified "cumulative impacts", this traffic study did not identify any "mitigations", nor provide any contextual discussion of how to address such "impacts". Again this was seriously misleading because the City does in fact have an extensive process for dealing with this cumulative growth, including mitigation measures for previously approved projects, which are discussed further in a later section of this report.
- We understand that this situation may have arisen out of a desire by the City to address the impacts of this project in conjunction (cumulatively) with another specific project. If this was the case we strongly recommend such an analysis be conducted more appropriately in the discussion of project impacts (the Future with Project condition) and not in the "Future without Project" discussion.

The reasons behind these conclusions relate to our earlier discussions of Figure 1 and 2, and the fact that an EIR and/or traffic study is appropriately focused on identifying impacts from the specific subject project and not traffic growth in general. That general or background traffic growth is handled in many different ways by the City, as discussed in the next section.

(iv) The City's Comprehensive Hierarchical Framework for Dealing with Traffic Growth and Cumulative Impacts

Pasadena is uniquely set up to deal with cumulative traffic growth issues because of the comprehensive and integrated multi-layer system to deal with development project review that was first mentioned earlier. Unfortunately, EIR documents rarely make mention of this process, and tend to leave the reader with the impression that nothing is being done. To the contrary, a considerable process exists to ensure the City adequately deals with development growth. This extensive process includes the following items which are also summarized in Table 1:

Project Site Reviews: These are conducted for all projects, even those not requiring a traffic study. They focus on localized transportation improvements such as pedestrian facilities, transit amenities, and measures to support implementation of Mobility Element policies and implementation actions, which are often attached as conditions of approval for projects.

Development Impact Fees: These provide funding sources for implementation of local measures from Project Site Reviews.

CIP Program: The City's Capital Improvement Program identifies a five-year program of transportation system improvements for the City. It is an implementation mechanism of the Specific Plans and Mobility Element.

Specific Plans: These provide a sub-area context. They comprise approved plans, which have analyzed future allowable growth and identified corresponding transportation improvements with supporting quantitative analyses in an EIR. Improvements are funded by development impact fees, project specific mitigations, or general fund/other sources.

Mobility Element: This provides the citywide context. It is an approved plan that identifies policies and implementation actions (including responsibilities and funding sources) to accommodate growth, with supporting quantitative analysis and an EIR. The 1994 Mobility Element is currently being updated by the City.

Transportation Project Review Guidelines: These provide a direct linkage mechanism between the Mobility Element and specific development projects. They clearly lay out procedures for review of development projects in the transportation context, with evaluation

Table 1. City of Pasadena - Comprehensive Hierarchy for Addressing Transportation Impacts

Process	Methodology
General Plan & Mobility Element	Sets approved citywide land use growth and distribution.
	Sets approved citywide transportation goals, policies, and implementation programs.
	EIR sets citywide General Plan mitigation programs.
Specific Plans	Sets approved land use growth and distribution in Specific Plan area.
	Sets approved transportation goals, policies, and implementation programs for Specific Plan area.
	EIR sets mitigation programs for Specific Plan area.
CIP Program	Sets rolling 5-year program of transportation expenditures. Based on General Plan Mobility Element and Specific Plans.
Transportation Review of Projects	Per Mobility Element – provides for comprehensive review of transportation aspects of development projects. Identifies transportation factors to be taken into account to guide development: <ul style="list-style-type: none"> ▪ Parking ▪ Bicycle Use ▪ Pedestrians ▪ Neighborhood Protection ▪ Transit ▪ Multimodal Corridors
EIR	Traffic Impact Study identifies project impacts, project mitigations.
Project Site Review	May include traffic study. Identifies site/localized improvements.
City Approval of Project	Requires EIR mitigation measures. Requires Development Impact Fees (go towards transportation improvements). (May) requires conditions of approval.

against Mobility Element policies, and procedures for helping to implement those policies. They are also integrated with Project Site Reviews and Development Impact Fees.

Unfortunately none of the traffic studies or EIR's that we reviewed make any mention of any of these procedures, so the reader may be left with the mistaken impression that very little is being done and that "cumulative impacts" are being left "unmitigated".

We suggest that all traffic studies and/or EIR's provide a contextual discussion of some or all of these programs to explain how "general traffic growth" is being comprehensively addressed in the City.

4. Recommendations

Based on our review, discussions with City staff, and experience preparing traffic studies and CEQA documentation of over 100 projects, we recommend as follows:

1. Include a general description of procedures (including the analytical scenarios to study) for addressing related projects in the City's *Traffic Impact Report Preparation Guidelines*.
2. Ensure that both traffic studies and EIR sections addressing cumulative/related projects include an adequate discussion of context, including:
 - a) conservative nature of cumulative traffic analysis
 - b) mitigation measures required from approved related projects (in general, not necessarily specific or project-related)
 - c) The Project Site Review process and use of Development Impact Fees
 - d) Specific Plan provisions, where appropriate
 - e) Mobility Element provisions where appropriate, and use of related Transportation Project Review Guidelines
3. Consider augmenting the cumulative projects database to also include City-approved trip generation estimates as a means of improving consistency and avoiding differences among traffic studies and EIRs.
4. In the City's *Traffic Impact Report Preparation Guidelines*, clarify the base condition reference in the table showing thresholds for significant impact. The reference to "Current" is potentially confusing. It should state "Future" and should define either "before project" or "after project".

5. In the Draft Mobility Element, for Implementation Action # 5.5.4.7, the City might consider adding Private Development and Impact Fees to the funding source, to strengthen the linkage between Mobility Element and development projects.

In closing, we note that the City might consider making the public more aware of its comprehensive and innovative approaches and strategies to managing traffic and development growth in Pasadena,

References

City of Pasadena EIRs

Annandale Canyon Estates, August, 2003
Del Mar Station Mixed Used Development Project, December, 2001
East Pasadena Specific Plan, November, 2000
Pasadena Conference Center Expansion, September, 2003
Plaza Fuentes Phase II, April, 2002
Plaza Pasadena Renovation, December, 1999
621 East Colorado Boulevard Mixed Use Development, April, 2002

Other References

City of Pasadena Draft Mobility Element
City of Pasadena Environmental Policy Guidelines (adopted October 21, 2002)
Guidelines for Transportation Review of Projects, February, 2004
Traffic Impact Report Preparation Guidelines, July, 1999

Appendix A

About the Authors

Michael Bates

Michael Bates is President and owner of The Mobility Group, a transportation consulting firm in Southern California. He has thirty years experience in transportation planning, traffic planning and engineering, parking, transit, and traffic management, on projects for public and private sector clients, with twenty-one of those years spent in Southern California. His wide-ranging experience in traffic circulation planning and engineering, includes traffic impact studies and EIRs for development projects, site planning and design, downtown and sub-area traffic circulation, and street and highway improvements. He has worked on traffic studies for project entitlements for many land development projects throughout California, including office, commercial, retail, industrial, institutional, residential, sports and entertainment uses, and on numerous projects in the City of Pasadena. His traffic circulation experience includes traffic management and control in residential neighborhoods, as well as urban streetscape and traffic calming projects. He has also worked on many General Plan Circulation/Mobility Elements, including the City of Pasadena's 1994 Mobility Element, and the recently completed Mobility Elements for the City of Laguna Woods and the City of Azusa. He has written commercial computer software for traffic impact analysis and was a contributing editor to the American Planning Association's Planning Advisory Service Report N° 387 on Traffic Impact Analysis. He was the principal instructor for a UCLA Extension Public Policy Program on Traffic Impact Studies and Mitigation, and led a workshop for the City of West Hollywood Transportation Advisory Commission on Traffic Impact Study Methodologies.

Laura Stetson

Laura Stetson is a Principal with Cotton/Bridges/Associates, a Division of P&D Consultants, Inc., a planning, environmental consulting, and engineering firm with offices throughout California and in Las Vegas. Ms. Stetson has twenty years of experience as a urban and environmental planner, both in the public sector and as a consultant. Her primary role at CBA involves managing General Plans, Zoning Ordinances, Specific Plans, and Environmental Impact Reports and Assessments. She has directed preparation of more than 100 environmental documents for a wide variety of projects, including the development of an urban village in Pasadena known as Paseo Colorado, reuse of the historic Uniroyal Tire Factory in Commerce, and establishment of a state enterprise zone for a 27,000-acre project area in the Coachella Valley.

Appendix B:

Sample Language on Context for Future without Project Condition in EIR's

The following paragraphs were included in the traffic study documentation for the Future without Project condition for the EIR on the Del Mar Station Mixed Use Development Project. While not ideal, or as comprehensive as recommended by this review, they are included here as examples of a starting point of how a better contextual understanding of the cumulative background condition can be provided.

"These estimates are the "benchmark" volumes used in determining project traffic impacts. Actual future traffic volumes in the study area could be substantially less than depicted because of the timing of the completion of the cumulative projects is speculative. Additionally some of the projects identified may be delayed or not built to the intensity described. However they were included in this traffic analysis to present the most conservative conditions reasonably expected to occur".

"As stated previously, future travel demands (without the project) will likely be less than reflected in the table. Additionally, potential traffic mitigation measures required for some of the related projects, which may improve the projected Levels of Service conditions in the future, have not been assumed. Therefore it is probable that future conditions at the study intersections will be better than those calculated for Table 12".

Appendix C:

CEQA Framework For Cumulative Impact Analysis

For the record, all documents reviewed as part of this analysis (see references at the end of this appendix) meet legal requirements and are adequately compliant with CEQA, including CEQA statutes, CEQA Guidelines, and case law, as set forth below. The following discussion outlines adequacy standards and the more recent and salient case law on cumulative impacts. We have not included all case law regarding cumulative impacts. We have cited only the most recent findings and the newest subtleties and implications they have in the arena of cumulative impacts analysis.

ADEQUACY STANDARDS

CEQA Requirements

Section 15355 of the CEQA Guidelines defines cumulative impacts as:

"...two or more individual effects which when considered together, are considerable or which compound or increase other environmental impacts."

Section 15355 further describes potential cumulative impacts as:

"(a) The individual effects may be changes resulting from a single project or a number of separate projects.

(b) The cumulative impacts from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time."

Section 15130 outlines the requirements of cumulative impacts discussions in EIRs. Section 15130(b)(1) prescribes two methods for conducting cumulative analysis either in a list of past, present and reasonably foreseeable probable future projects or through the aggregated analysis of adopted plans, policies and projections/forecasts.

Cumulative impacts refer to two or more individual impacts which, when considered together, are considerable or which compound or increase other impacts. The individual effects may be changes resulting from a single project or from a number of projects. A cumulative impact refers to the degree of change in the environment resulting from a particular project, plus the incremental impacts created by other closely related past, present and reasonably foreseeable

future projects. Cumulative impacts may reveal that relatively minor impacts associated with a particular project may contribute to more significant impacts when considered collectively with other projects taking place over a period of time.

Negative Declarations (this includes Mitigated Negative Declarations) based on initial studies usually have very little analysis of cumulative impacts. It is common only to address the mandatory finding regarding cumulative impacts identified in the Initial Study checklist. Thus, outside of the EIR process, no clear requirement exists that cumulative impacts be addressed in a comprehensive manner.

Relevant Case Law

Many court cases deal with cumulative impacts, and they are too numerous to mention each one. However, many of these cases have been codified in the CEQA Guidelines and are regularly used as meters for measuring adequacy of cumulative impacts analyses. Also, only a handful of cases have occurred since the last CEQA Guidelines update (1995). Therefore, the basic changes and findings of the majority of the cases involving cumulative impacts have been incorporated either in the narrative discussion of these cases in the Guidelines or codified within the Guidelines.

Kings County Farm Bureau v. City of Hanford (221 Cal.App.3 Dist., 1990)

While this case provides a myriad of interpretations on cumulative impacts, their analysis, and their meaning in CEQA and the Guidelines, the most relevant part of this case relates to the introduction of the invalidation of the "ratio theory" as a means to discount as less than significant small incremental impacts in an already significantly impacted cumulative environment. In other words, if, as in this case, a project is located in an air quality nonattainment area, the small contribution of air pollutants to the air basin cannot be considered less than significant on a cumulative basis by reasoning that the increment is a small amount relative to the cumulative study environs. This interpretation is furthered and illuminated in the next case discussed.

In addition, the Office of Planning and Research attempted to clarify cumulative analysis with the Guidelines Update in 1998 citing several different evaluation stages of cumulative impacts. The result was the addition of sections 15064(i)(4) and 15130(a)(4).

Communities for a Better Environment v. California Resources Agency (126 Cal. Rptr. 2d. 441, Cal.App.3 Dist., 2002)

A simple comparison of the cumulative environment contrasted with the increment of impact on its face is not an adequate rationale for concluding that a project does not have a cumulative effect. This is known as the "ratio theory" approach. However, the "one molecule rule" of change or addition is not the standard either. The most current interpretation of the standard is whether "any additional amount" of effect should be considered significant in the context of the existing cumulative effect" (*Communities For A*

Better Environment V. California Resources Agency, 126 Cal. Rptr. 2d. 441, Cal.App.3 Dist., 2002, hereinafter referred to as “CBE”). This case basically invalidated Guidelines Sections 15064 (h), (i)(4) and 15130 (a)(4) regarding the “codified” rationale for finding an impact not cumulatively considerable. The same case states further:

“[T]his does not mean, however, that *any* additional effect in a nonattainment area for that effect *necessarily* creates a significant cumulative impact; the “one [additional] molecule rule” is not the law. ...[t]he lead agency shall consider whether the cumulative impact is significant and whether the proposed project's incremental effects are cumulatively considerable.”

Without going into exhaustive technicality, the objective of cumulative impact analysis is to look at trends with regard to each environmental parameter and ensure that past, present, and future projects in an area are aggregated to examine impacts in a “big picture” contextual approach. That is precisely why the “ratio theory” approach was invalidated by the courts. It runs contradictory to the root purpose of the cumulative impact analysis. In addition, CBE did not allow a lead agency to exempt itself from its explorative and expository obligations under CEQA in justifying its conclusions for cumulative impacts in the face of more comprehensive or regional planning. The analysis and reasonable justification must be provided for concluding that whether or not there are cumulative impacts and, if there are cumulative impacts, whether or not they are considerable.

CITY'S PROCEDURES

We understand from reviewing the documents provided to us and interviews with City Planning and Transportation staff that the City maintains and uses a comprehensive list of “past, present and reasonably foreseeable probable future projects” for the purposes of conducting cumulative impact analysis in EIRs. We further understand that the Transportation Department uses this list for traffic studies even where no EIR is required. Maintaining such a list allows the City to undertake cumulative impact analyses in a consistent manner for all projects. We find the City’s approach to be comprehensive and in conformance with CEQA requirements.

With regard to the analysis undertaken, the findings of the analysis, and the application of mitigation measures for identified significant unavoidable significant impacts, most of the documents we reviewed predated the CBE case and thus rely to some extent on the ratio theory described above. Given that this approach was the accepted state of art prior to the 2002 CBE decision, the approach was acceptable. All EIRs subsequent to 2002 must include cumulative impact analysis consistent with the CBE ruling.

Also, we note that the City’s current CEQA Guidelines, in defining how the cumulative analysis should be undertaken, allows for consideration of both past, present and reasonably foreseeable probable future projects, as well as adopted plans, policies and

projections/forecasts. We believe this approach can lead to double-counting and overestimation of impacts, and should be examined critically in the scoping of a cumulative impact analysis.