

MCC – NEIGHBORHOOD RESPONSE

Subject Reference: Whereas

Comment:

Need to add to the last Whereas clause, or add a new Whereas clause, to incorporate what Montlake representatives were told by the agencies at our March 10, 2011 meeting with you, i.e. that if a concurring party does not sign the Programmatic Agreement, the concurring party still has all the rights to participate in implementation of the Agreement, and in development and implementation of subsequent agreements such as the Community Construction Mitigation Plan.

Comment:

P3, Line 7: Replace “take into account the effects of the Project on historic properties” with “avoid, minimize, and mitigate the effects of the Project on historic properties in order to comply with the intent of Section 106 of the NHPA.”

Subject Reference: Background

Comment:

P 3, Lines 40 to 43: need to strengthen the definition of “maximum extent practicable.” Also, the following language is unclear: “applicability of the proposed mitigation for the effects of the project as identified through the Section 106 consultation process.” What should be said is that the obligation to fully implement Section 106 mitigation is a key part of the definition of what is the “maximum extent practicable.” Also, the word “project” should be capitalized.

Subject Reference: II. West Approach

Comment:

P4, Line 27: Replace “to the maximum extent practicable” with “in order to comply with the intent of Section 106 of the NHPA”. CPTED mechanisms are not difficult to meet and should definitely be incorporated.

P4, Line 36: “WSDOT will use quieter concrete pavement on west approach structure...” If the results of the quieter concrete pavement noise monitoring prove that quieter concrete makes a difference, they should be maintained, repaired, and upgraded for the life of the 520 structure and its off ramps.

P4, Line 43: “If noise walls are identified in the Final EIS as being warranted...” Compliance with the NHPA is a separate legal obligation from NEPA. NHPA requires mitigation of adverse effects on historic resources, and the requirement of NHPA mitigation is not dependent on the Final EIS identifying a significant adverse impact under NEPA definitions. The Programmatic

Agreement needs to commit to noise walls in order to mitigate impacts as required by historic preservation law.

As we have stated in similar assessments of adverse effects on our neighborhood caused by the 520 project, substantial, aesthetically designed sound buffers (walls) must be built between Mohai and the residents of East Park East, E. Shelby and E. Hamlin prior to the demolition of Mohai. These same buffers should be coordinated with sound buffers built between the staging area and the historic homes in the E. Hamlin/E. Park E./E. Shelby neighborhood. All buffer systems should be built prior to any demolition/construction activity commencing in the staging area. The neighbors must have a say in the design, height, heft (as in not plywood like Sound Transit's) and location of these buffers. Meetings regarding the buffers should be advertised through multiple sources so that all neighbors have a chance for input. If the buffers installed do not reduce the sound to the legally required level, other changes to reduce the noise level must be made.

Subject Reference: III. Montlake Interchange

Comment:

P5, Line 10: Replace “to the maximum extent possible” with “in order to comply with the intent of Section 106 of the NHPA.”

P5, Line 31: Replace “would be willing to have a sign or some other indicator” and “on the small piece” with “will provide an interpretive center on the West Montlake Park which would illustrate the history of Portage Bay, East Montlake Park, Olmstead Park and the MOHAI including the clock tower and cannon.”

Page 5, Line 41

“In collaboration with the Seattle Design Commission...WSDOT will create a landscape design plan for the Montlake lid that is compatible...” The lid must be designed to cover the westbound off-ramp to Montlake Blvd so the residents living on the south side of E. Hamlin St view a landscaped lid and not an arching off ramp. Also, advance notice of the Seattle Design Commission and Landmarks Preservation Board meetings should be provided to the concurring parties, so that they have the opportunity to comment to the Commission and Board.

P6, Line 17: Replace “will coordinate” with “will obtain DAHP’s approval of the historical consultant to work with the Montlake Community Club”

P6, Line 22: “Once the construction of the lid is complete, WSDOT will re-establish a visual buffer on or adjacent to the remaining Canal Reserve Lands south of the historic properties on E. Hamlin St. This buffer will be designed in consultation with SDC and the affected property owners.” This “visual” buffer must also be a sound buffer and it should be constructed before construction starts in the 520 construction process as possible to shield the residents of E. Hamlin St. from the construction work to be performed only a very few feet from their historic homes.

The E. Hamlin neighbors must have the same input regarding design, height and density as above, and be informed of meetings for their input at least two weeks prior to the scheduled meeting. Concurring parties should be provided advance notice of any meetings of the Seattle Design Commission where the lid or visual buffer are discussed or considered.

Subject Reference: IV. Second Bascule Bridge

Comment:

P7, Line 1: Continuing the same thought from page 6 but for different neighbors, WSDOT must ensure that safeguards are in place such that, to the maximum extent practicable, vibration, excavations and heavy equipment do not affect the historic homes a very few feet from the edge of the second bascule bridge. These historic homes with people in them should receive the same consideration as the Canoe House on University of Washington campus with canoes in it. Like the canoes in the Canoe House, the E. Shelby/Montlake Blvd residents nearest the second bascule bridge should receive full and detailed assurances that a staging area will not be established in their yards.

P7, Line 3: Vibration monitoring prior to the start of construction and during construction must be conducted for all the homes on E. Hamlin and E. Shelby. This monitoring should be done by an independent monitoring consulting organization with information forwarded to the Montlake Community Club for distribution. Also, this section on Lines 1 through 7 needs to be strengthened to describe what work will be done in advance of construction to identify properties susceptible to vibration impacts, and what remedial or repair measures will be undertaken by the agencies if any damages occur due to Project construction.

P7, Line 9: The visual buffer referred to must block noise, as, no doubt, the neighbors will insist in their consultations with WSDOT.

P7, Line 11: Replace “implemented as early as is practicable” with “prior to the start of construction.”

P7, Lines 20-25: Advance notice should be provided to concurring parties of meetings of the Seattle Design Commission and Landmarks Preservation Board, so that community input on the design can be directed to the Commission and Board.

P7, Lines 38-42: Item C on Lines 38-39 talk about making the houses “available” whereas Line 42 refers to “acquisition” of the houses. If the houses must be acquired, i.e. compensation must be paid, then this needs to be made clear. Also, the word “is” is missing before the phrase “willing to acquire.”

Subject Reference: VII. Project-wide Measures to Resolve Adverse Effects

Comment:

P12, Line 29: “Advance notice” is provided to property owners for “unavoidable brief periods” of blocked access to property. “Advance notice” is not defined, and could just mean notice is given moments before the blockage. Please look for ways to improve and define what is meant by “advance notice” of blocked access.

P13, Line 35: Also include MCC by revising to “WSDOT will coordinate with SDOT, Montlake Community Club, and St. Demetrious Church and include MCC also as a Partner in the related Appendix F Implementation Matrix ID# VII.B.4, p7.”

P13, Line 45: Delete “the actively used portions of the” – all of Montlake Playfield is actively used and needs to be ensured access. Also add a stipulation “prohibiting use of Montlake Playfield for construction staging or other general construction-related activities” unrelated to any small storm water pond that might be installed near the track as part of the Project (similar to the stipulation for prohibition of the use of West Montlake Park for construction staging or other construction-related activities included in VII.B2.e., p13, line 3).

New item: “WSDOT will prohibit construction crew parking within view of historic properties.”

Subject Reference: C. Haul Routes Including Appendix D Potential Haul Routes map

Comment:

P14, Line 1: Effect: There is clearly the potential for permanent, irreparable damage to historic properties along hauling routes, particularly the row of Tudor Revival Homes along Lynn St. which are built on documented uncompacted soils and highly susceptible to vibration damage caused by hauling route truck traffic and Portage Bay Bridge pile driving associated with the Project. Such damage to historic building foundations, brick facades, and interior original lath and plaster wall construction (cracking of which, research shows, is not permanently repairable by today’s craftsmen, resulting in the need for complete plaster teardown and replacement throughout with sheetrock or other modern materials at extremely high cost) would represent an historic resource alteration which diminishes the integrity of the properties’ materials and workmanship.

Resolution: Avoid this adverse effect by eliminating from consideration the East Lynn Street/19th Avenue potential hauling route in favor of the Boyer Avenue potential haul route or other available alternate routes. To choose a route with such known susceptibility to historic resource damage and safety concerns, when other routes are available having lesser adverse effect, would be irresponsible gross violation of NHPA responsibilities

P14, Line 1.: Reinsert as a new VII.C.3 or elsewhere in section C. the stipulation previously agreed to as a WSDOT commitment (was III.B.7.c in the first draft PA) that "Selection of haul routes and any restrictions on haul route use will be determined in consultation with SDOT and the concurring parties to this Agreement". In this second draft, the prior reference to a Haul Route Management Plan has been dropped without explanation. That is not acceptable to Montlake, and it is critical that Montlake be consulted regarding haul routes, should the agency not avoid impact to Montlake altogether.

Also, reinsert in this section the stipulation previously agreed to (was I.A.4.b. in the first draft PA) that "WSDOT will develop measures to protect traffic circles and planters from construction/hauling traffic and will restore islands and planters to their original condition should any modifications be necessary or should any inadvertent damage occur as a result of construction hauling."

P14, Line 2: Replace "to the maximum extent practicable" with "based on potential effects".

P14, Line 5: The current 24th Ave. E. Street Bridge is not an arterial, but will be a haul route. It is highly recommended that the trucks in line turn off their engines to reduce pollution and noise, as many do at a draw bridge or in heavy traffic.

P14, Line 7: This new stipulation inserted in the 2nd draft Programmatic Agreement by WSDOT is unacceptable to MCC. Rewrite as "WSDOT will provide advance notification to concurring parties when street use permits are requested so that haul routes may be selected and permitted in consultation with SDOT and concurring parties."

P14, Line 9: Revise to read, "WSDOT will ensure that the roadway surfaces and curbs... are repaired... and that the roadway surfaces and curbs are maintained.... addressed within 48 hours of notification." Not just roadway surface damage, but repair and maintenance of curbs also, was previously agreed to in the first draft PA (was included in previous I.A.4.d). In addition, 72 hours is too long a period, given that truck traffic can continue unabated until the repair is made. Here, and also, in Line 27, the "72" hours should be changed to "48."

P14, Lines 16-18: This sentence seems to put the onus on property owners to identify historic properties that are potentially vulnerable to vibration. Instead, that is the agencies' job, following a pre-construction soils investigation and building conditions survey, and monitoring throughout construction.

Subject Reference: D. Construction Staging Areas in WSDOT Right-of-Way

Comment:

P14, Lines 29-31: The language here is quite weak, saying only that WSDOT is to "work with" adjacent property owners on "possible sound-buffering mechanisms." As stated previously, noise walls and buffers during the long construction period are essential and should be committed to unequivocally.

P14, Lines 34, 37 & 42: Replace "to the maximum extent practicable" with "consistent with the intent of Section 106 of the NHPA as interpreted by DAHP."

P14, Line 44: Here, and elsewhere, if construction damages any mature trees, those trees should be replaced post-construction, with a tree of similar species and diameter.

P15, Line 3: Replace the word "appropriate" with "to the condition prior to construction."

Subject Reference: VII. Project-wide Measures to Resolve Adverse Effects
G. Vibration Monitoring and Management (VMM)

Comment:

P15, Line 4:

“Although the northern portion of the park will be closed intermittently...” We assume that the northern portion will be the staging area but that every effort will be made to keep open the Foster Island Trail.

P15, Line 15: Same comment as P4, Line 43.

P15, Line 36: Replace “has engaged the services of” with “provide for the cost, as part of a project development fund, for an independent third party vibration expert.” We understand that such a vibration consultant will be hired, and a commitment to that should be part of the Programmatic Agreement. Moreover, delete “where vibration may be of concern” and replace it with “where impacts to historic resources may occur.”

P16, Line 1: Revise to read “...WSDOT will avoid or minimize vibration impacts from construction and construction hauling on historic properties by considering localized potential for vibration impacts in haul route selection and by implementing best management practices...”

P16, Line 3: Add “in accordance with the intent of Section 106 of the NHPA.”

P16, Lines 4-8: Again, this language seems to put the onus on property owners to identify historic properties susceptible to vibration impacts, and that should instead be the agency’s responsibilities following adequate pre-construction investigation of soils conditions, and a property conditions assessment. In addition to “working with” property owners to assess the cause of damage and to implement necessary repairs, the language should be revised to indicate an affirmative obligation to make repairs to fix damage caused by the Project.

Subject Reference: VIII. Community Construction Management Plan (CCMP)

Comment:

P17, Line 4: Revise to read "In consultation with concurring parties to this Agreement and other parties potentially affected by Project construction, and prior to the beginning of construction, WSDOT will develop and implement a Community Construction Management Plan (CCMP)". This would restore the language as it was previously written in the first draft Programmatic Agreement in section I.A.4.a.

P17, Line 6: Revise to read "WSDOT will provide an ongoing opportunity for the concurring parties... to have input into construction management decisions that can help to avoid, minimize, or mitigate the effects...." The word "decisions" in this stipulation was included in the first draft Programmatic Agreement and its currently-proposed replacement by WSDOT with "practices" is not sufficient.

P17, Line 10.C: The CCMP will comprise the following parts: As item VIII.C.4.f., reinsert the previous "haul route management plan" that was already agreed to in the first draft PA (previously III.B.7) and cross-reference back to the p14 VII.C. related commitments (C.1, C. 2, and above-requested reinsertion of C.3). The new "CCMP Working Outline" contains a note that haul routes are a topic of concern to concurring parties, but the outline is not formally included as part of the PA, and is, therefore, insufficient alone with respect to this issue.

P17, Line 15: Revise as, "Through standard BMPs..., WSDOT will take precautions to protect historic properties from... vibration, damage from heavy equipment including hauling and cement trucks, excavation... impacts....", so that damage from heavy equipment including hauling and cement trucks is included as it was already agreed in the first draft PA (old III.A.1). While related language is now included under topics of concern in the new "CCMP Working Outline", the outline is not formally included as part of the PA, and deletion of this phrase in the PA is, therefore, unacceptable.

P18, Line 30: Add the following here (or on P17, as a new "D"): "In order to avoid any potential adverse effect on historic properties situated in the immediate vicinity of project construction and/or construction staging activity, WSDOT shall effect the following measures, or other measures where applicable, when necessary to minimize construction-related impacts on historic properties. In addition to the contributing properties in the Montlake Historic District, historic properties to which these mitigation measures apply are listed in the Programmatic Agreement."

The goal of the assessment process must be more proactive in order to eliminate damage as well as mitigate damage. This would mean creating a "simulation model" for determining the potential vibration levels, i.e., loaded trucks with trailers traveling on haul routes at the respective speed limits. With this information, homes at risk under the FTA guidelines could be upgraded in advance or the haul routes could be changed, refer to Attachment B, MCC: CMP, Item 16.

1. Using rigid support of excavation structures (shoring) to minimize the movement of the ground.
2. Ground stabilization through cementitious or chemical grouts, freezing the ground, or other modification techniques.
3. Protect façades of nearby historic homes and buildings from accumulation of excessive dirt, or clean façades in a manner acceptable to SHPO and City of Seattle Historic Preservation Officer. WSDOT shall give notice and opportunity to comment to SHPO and City of Seattle Historic Preservation Officer prior to any cleaning of historic structures, and will obtain all necessary permits from the City of Seattle for such work. Consent from property owners is a requirement for any such work, although WSDOT will be responsible for all permitting and cleaning costs.
4. Maintain reasonable access to all historic properties during business hours, and work with property owners to make sure that access is clearly indicated.
5. Locate temporary construction sheds, barricades, or material storage so as to avoid obscuring significant views of historic properties.

6. Comply with the City of Seattle noise restrictions for construction and construction equipment operation (SMC 25.08.425) and any variance granted specifically for the 520 Project. Also, the consulting parties should be notified when a variance application is submitted.
7. Maintain and preserve the existing street landscaping, lighting, public and private graphics pursuant to a certificate of approval from the Seattle Department of Neighborhoods.
8. Schedule construction activities so as to minimize impacts to traffic operations.
9. In historic districts and for other historic properties, protect public use of work areas involving sidewalks, entrances to homes, buildings and vehicular roadways with appropriate guardrails, barricades, temporary fences, overhead protection, temporary partitions, shields, and adequate visibility. Post appropriate warnings, signs and instructional safety signs.
10. Maintain pedestrian and vehicular access to homes and businesses in the Montlake Historic District, and to all historic properties, during the hours of 8am to 5pm.
11. Maintain day-to-day contact with the owners within the Montlake District during construction providing community members with project details that may be relevant to the access to family residences and operation of the property or the businesses in that property.
12. Assess structural integrity of historic properties' foundations and structures adjacent to planned construction. Employ mitigation measures to prevent structural damage to historic structures. Potential mitigation measures could include: modifying the drilling or construction technique, installing recharge wells, and/or adding support to the adjacent structure.
13. Minimize the impacts from any excavation activities through use of adequate shoring or other construction techniques to prevent settling impacts to historic structures.
14. Prior to construction, inspect areaways and other historic resources in APE that are listed in or eligible for listing in the National Register of Historic Places, and contributing structures in the Montlake Historic District. Inspection will be by a team of professionals, including as appropriate a vibration specialist, structural engineer, and/or architectural historian, for an inventory of existing conditions. Documentation of existing pre-construction conditions will include photographs or video and may include installation of crack monitors where appropriate and acceptable to property owners. Where the survey finds it necessary based on building condition and final construction details, damage avoidance measures, including shoring, bracing, vibration monitoring, or other appropriate measure, will be implemented prior to construction. The findings and mitigation will be provided to the Montlake Community Club Board and to SHPO.
15. Monitoring of all homes and structures listed in this area: A vibration monitoring program would be implemented for all activities that could produce vibration levels at homes and buildings in excess of FTA Guidelines for the fragile historic properties (100 dBV re 1 micro/inch/sec and 95 dBV re 1 micro inch/sec respectively) as described in the Final EIS. Vibration monitoring would be undertaken if impact pile driving is undertaken near fragile and extremely fragile historic buildings, as defined in the Final EIS. Depending on soil conditions,

monitoring would occur when impact pile driving occurs within 150 feet of fragile historic structures and within 250 feet of extremely fragile structures, in consultation of SHPO. Vibration monitoring of sensitive and extremely sensitive historic buildings during any pile driving activity for contractor would be similar to vibration monitoring that occurred during construction of other similar structures, i.e., I-90. Any damage to historic structures that is documented as a result of construction and caused by the construction of the 520 Project would be repaired according to the technical guidance listed in the NPS Historic Preservation Briefs for specific rehabilitation issues. Both SHPO and the City of Seattle Historic Preservation Officer will be informed of any repair activities and given opportunity to comment, and WSDOT will obtain all required local permits from the City's Department of Planning and Development. Should repair work itself create an adverse effect, the contractor will notify WSDOT, which will consult with the SHPO, WSDOT and the City of Seattle Historic Preservation Officer pursuant to 36 CFR § 800.6(b) to resolve the adverse effect.

16. If the result of monitoring indicates adverse effects to the monitored historic properties, work would be stopped and mitigating measures to prevent vibration impacts would be undertaken. Mitigation measures include alternate haul routes and/or construction techniques, soil augmentation, or support for the affected historic properties.
17. As specified in the Final EIS, noise monitoring will be conducted in appropriate locations within six (6) months immediately after the commencement of the 520 Project. While adverse effects to historic properties from operational noise are not predicted by the analysis in the Final EIS, WSDOT would be responsible for mitigating any significant adverse impacts that are disclosed by monitoring, which could include shielding and/or replacement glazing. If unanticipated adverse effects are discovered, the contractor and/or the monitoring committee will notify the WSDOT, which will consult with the SHPO, WSDOT and the City of Seattle Historic Preservation Officer pursuant to 36 CFR § 800.6(b).
18. WSDOT will require its contractor to provide additional mitigation measures for general construction impacts to historic resources, including impacts to businesses located on 24th Avenue as set forth as part of Exhibit 7-1b of the CRDR dated October 2010.
19. The Construction Management Plan for the Montlake Historic District will include measures to limit on-street parking by construction workers during construction.
20. The Construction Management Plan for the Montlake Historic District will include appropriate hour of operation limitations for particular types of construction activities, taking into account such factors as private homes and businesses are sensitive to noise impacts and the goal of minimizing transportation impacts from construction in the Montlake Historic District.

Subject Reference: IX. Changes in Haul Route Location

Comment:

P18, Line 31: It must be noted why WSDOT's professional environmental planners and engineers chose the four-lane 24th Ave designated truck route and 35-ft wide Boyer Ave arterial (vs. the 25-ft-

wide 19th Ave and 32-ft-wide Lynn St minor arterials) as the SDEIS haul route through Montlake to begin with -- it would be the route of least impact to a residential community such as Montlake. Indeed, the valid argument that the Boyer Ave route (vs. the Lynn/19th Ave route) is the "lesser of two evils" is clearly articulated in our November 22, 2010 MCC CRDR Review comments, incorporated herein by reference, where the two routes are compared in detail considering multiple review criteria. The Lynn St/19th Ave route, planned to be presented to the public for the first time in the FEIS, has been provided no opportunity for public review and comment.

The numbers are on the side against Lynn/19th use. This minor arterial is narrower, including already dangerous bends, creating greater traffic and pedestrian safety issues. The homes along this route, unlike the Boyer Ave route, are also closer to the street and built on known, uncompacted fill soils, creating the greater potential for vibration damage. The Montlake Elementary School Principal and wider school community prefers that this route, one block away from the school, not be used, given that it is a designated school walking route and includes school and Metro bus routes. A large, active day-care facility also exists here.

Effect: Negative impacts associated with potential use of the Lynn St/19th Ave hauling route, as detailed in the MCC CRDR Review, including many public safety impacts, as well as direct and indirect alterations which diminish the integrity of setting, materials, workmanship, and feeling of historic resources along this route.

Resolution: As stated in the MCC CRDR Review, adverse effects/damage shall be avoided by use of available alternate route(s) that have less impact than the Lynn St./19th Ave route.

If this resolution cannot be reasonably accommodated via elimination from consideration use of the Lynn St/19th Ave route, and WSDOT maintains that a secondary, local route through our Historic District is required beyond mainline SR 520/I-5/I-90 use, it is requested that WSDOT reconsider potential use of the Boyer Ave route presented in the SDEIS. Via the future Community Construction Management Plan included in the PA, our community would wish to minimize any possible use of local haul routes through Montlake by restricting exclusive use of any one route so that impacts due to hauling can be equitably shared. This is a fair and reasonable compromise. For example, impacts can be cut by 50 percent by simply having the contractor use both routes equally (say, by alternating trucks along each route). Since it has been resolved that any route used is needed for egress only from the Delmar Lid site, the acute turn from Boyer Ave onto the four-lane 24th Ave would be in the feasible turning direction.

The criteria to be considered in assessing impacts of the recommended haul route through the Montlake neighborhood on 19th and Lynn should include:

Safety. This includes:

1. Lack of sight distance at the five way stop from Delmar Drive to the crosswalk on Lynn Street;
2. Lane widths (9.5 feet on Lynn & 19th Ave. E.) too narrow to prevent trucks from encroaching onto oncoming lanes;
3. Unprotected school crossings on 19th Ave. E. and on Boyer Ave. E.;
4. Substandard horizontal curves at Lynn & 19th Ave. and 19th & Roanoke;
5. Inadequate sight distance at 19th & Lynn to the entrance to the St. Demetrious Church parking lot;

6. Crosswalk connection from Montlake School and the Montlake Community Center on 19th St. restricted use due to school bus routes on Lynn St. & 19th;
7. The cost of mitigating these safety issues including flaggers, pilot cars and restricted hours should also be taken into account when creating the decision matrix;

Some of the haul route alternatives have an impact on the contributing historic buildings and on the historically significant buildings within the historic district and some do not. The impacts to these facilities and potential damages need to be taken into account when assessing the impacts of the various haul routes.

P18, Line 32: Replace “have been” with “will be” and also replace “best information at the time” with “based on DAHP’s interpretation of Section 106 standards related to the”.

P19, Lines 1-4: This subsection E states that signatories agree in advance that the measures to address effects on historic properties are adequate to address haul route impacts. This is inconsistent with the Whereas clause that states that signing the agreement does not necessarily indicate that mitigation measures are considered adequate, and thus, subsection E should be deleted.

Subject Reference: X. Dispute Resolution

Comment:

P6, Lines 6-7: Replace “All signatories” with “All parties, whether signatories or not”. Delete “strive to.” Add “if not informally resolved, a formal resolution will be pursued as a final option.”

Subject Reference: XI. Monitoring Performance

Comment:

P20, Line 32: Add “compliance will be as determined by DAHP’s interpretation of the intent of Section 106 of the NHPA.”

End of Comments