

Menlo Uptown EIR Scoping Comments

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General Public

From: cconroysf@gmail.com
To: [Smith, Tom A](#)
Subject: Menlo Uptown: Comment
Date: Monday, December 30, 2019 7:06:04 PM

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Dear Mr. Smith,

I agree that 15% units for low income rental is too low. I know that meets current requirements but I recommend 20 to 25% low and very low income housing. The need is great.

Require at least 1.5 parking places per unit. Really think 2 per unit is better.

To reduce traffic recommend a free shuttle for Menlo Uptown looping in 111 Independence Drive to Caltrain with a loop to mid Santa Cruz Avenue, then to the Safeway shopping center on El Camino, two or three times in the morning, twice mid-day, and 3 times between 5 and 7:30 pm or so. Consider looping in a school. Use some of the Menlo Uptown land for a bump out on their private land to accommodate a shuttle stop with shelter. No stopping on the main street.

Do all possible to mitigate traffic but realize and acknowledge few people will bike or walk to work all through the year. (See Palo Alto's Research Park multi-year experiment to try to get more people to bike to work. Hardly any increase. Use of a shuttle had the greatest increase in use.)

Make sure green/flowers beautify streetscape.

Include green space/park. The 500+ residents will need it.

Coordinate/time traffic lights to keep traffic moving.

I strongly support a Child Care facility over a cafe.

Thank you.

Dorothy Conroy

From: Leah Elkins
To: [Smith, Tom A](#)
Subject: Menlo Uptown Development
Date: Monday, December 30, 2019 1:56:18 PM

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I don't hear anything about sea level rise in discussions about new building in the bayside areas. Is this not a factor?

Leah Elkins
Sent from my iPhone

From: Nina
To: [Smith, Tom A](#)
Subject: Menlo Uptown Project
Date: Friday, January 3, 2020 3:46:09 PM

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Hi, Tom

It is pure wishful thinking to imagine that the members of 500 projected households of Menlo Uptown will all be able to walk to work unless residence can be restricted to people who work at Facebook, their children who attend schools in Belle Haven, and non-working household members. I am not sure this would be legal.

It doesn't matter how much BMR housing the project includes unless the people who move into those units already live in Belle Haven. Otherwise the project will add more crowding and more cars.

There should not be any building over here until we know what our air quality is, how the proposed development will affect it, what mitigations are possible, and whether those are acceptable.

There is plenty of land available for housing in the rest of the city. There just needs to be the political will.

Sincerely

Nina G. Wouk
Belle Haven Resident since 1986

From: Steve Taffee
To: [Planning Commission](#)
Subject: Comments on Menlo Uptown
Date: Monday, December 30, 2019 1:44:10 PM

CAUTION: This email originated from outside of the organization. Unless you recognize the sender's email address and know the content is safe, DO NOT click links, open attachments or reply.

My concern about all of the proposed projects East of 101 has to do with forecasted sea level rise and how this and other projects along the Bay fit into the regional plan for to deal with this eventuality.

A combination of marsh restoration, sea walls, and planned areas of flood zones for king tides and large rainstorms can't be effectively created on a local basis. It must be regional.

Additionally, the minimum standards for the site preparation, deconstruction of existing structures, and building must conform to the absolute highest of building standards such as LEED Platinum and Living Buildings, to not just be carbon neutral but to produce more power than they consume.

Housing is a priority in the area and yes, I know, it comes with traffic. But clever people can figure out a way to induce residents to not own cars that need to be parked on-site and use alternate forms of transportation to get to work, school, and shopping and individual and family car use on an as needed basis rather than the default.

Steve Taffee

Menlo Park resident

Public Agencies

DEPARTMENT OF TRANSPORTATION

DISTRICT 4

OFFICE OF TRANSIT AND COMMUNITY PLANNING

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January 2, 2020

SCH #2019110498

GTS # 04-SM-2019-00289

GTS ID: 17906

SM/84/PM 26.43

Tom A. Smith, Senior Planner
City of Menlo Park
Community Development Department, Planning
Division
701 Laurel Street
Menlo Park, CA 94025

Menlo Uptown Project – Notice of Preparation (NOP)

Dear Tom A. Smith:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the Menlo Uptown Project. We are committed to ensuring that impacts to the State's multimodal transportation system and to our natural environment are identified and mitigated to support a safe, sustainable, integrated and efficient transportation system. The following comments are based on our review of the December 2019 NOP.

Project Understanding

The City of Menlo Park proposes the demolition of existing office and industrial space and redevelopment of the project site with three residential buildings totaling approximately 466,000 square feet of gross floor area with a maximum of 483 residential units, as well as approximately 2,100 square feet of commercial space, associated open space, circulation and parking, and infrastructure improvements. A total of 512 unbundled parking spaces would be included within two two-story parking garages integrated into the apartment buildings. A total of approximately 95,569 square feet of open space would be provided on the project site, including an approximately 12,557-square-foot pedestrian paseo. Regional access is provided from the State Route (SR) 84 and Chrysler Drive intersection approximately 0.21 mile away from the project site.

“Provide a safe, sustainable, integrated and efficient transportation system to enhance California's economy and livability”

Travel Demand Analysis

Please submit a travel demand analysis that provides a Vehicle Miles Traveled (VMT) analysis resulting from the proposed project. With the enactment of Senate Bill (SB) 743, Caltrans is focusing on transportation infrastructure that supports smart growth and efficient development to ensure alignment with State policies using efficient development patterns, innovative travel demand reduction strategies, multimodal improvements, and VMT as the primary transportation impact metric. Please ensure that the travel demand analysis includes:

- A vicinity map, regional location map, and site plan clearly showing project access in relation to the State Transportation Network (STN). Ingress and egress for all project components should be clearly identified. Clearly identify the State right-of-way (ROW). Project driveways, local roads and intersections, car/bike parking, and transit facilities should be mapped.
- A VMT analysis pursuant to the City's guidelines or, if the City has no guidelines, the Office of Planning and Research's Draft Guidelines. Projects that result in automobile VMT per capita greater than 15% below existing (i.e. baseline) city-wide or regional values for similar land use types may indicate a significant impact. If necessary, mitigation for increasing VMT should be identified. Mitigation should support the use of transit and active transportation modes. Potential mitigation measures that include the requirements of other agencies such as Caltrans are fully enforceable through permit conditions, agreements, or other legally-binding instruments under the control of the City.
- A schematic illustration of walking, biking and auto conditions at the project site and study area roadways. Potential safety issues for all road users should be identified and fully mitigated.
- The project's primary and secondary effects on pedestrians, bicycles, travelers with disabilities and transit performance should be evaluated, including countermeasures and trade-offs resulting from mitigating VMT increases. Access to pedestrians, bicycle, and transit facilities must be maintained.

With respect to the local and regional roadway system, provide project related trip generation, distribution, and assignment estimates. To ensure that queue formation does not create traffic conflicts, the project-generated trips should be added to the existing, future and cumulative scenario traffic volumes for the intersections and freeway ramps. Potential queuing issues should be evaluated including on-ramp storage capacity and analysis of freeway segments near the

project; turning movements should also be evaluated. In conducting these evaluations, it is necessary to use demand volumes rather than output volumes or constrained flow volume.

Vehicle Trip Reduction

From Caltrans' *Smart Mobility 2010: A Call to Action for the New Decade*, the project site is identified as **Place Type 4: Suburban Communities** where location efficiency factors, such as community design, are often weak and regional accessibility varies. Given the place, type and size of the project, it should include a robust Transportation Demand Management (TDM) Program to reduce VMT and greenhouse gas emissions. Such measures are critical to facilitating efficient site access. The measures listed below can promote smart mobility and reduce regional VMT.

- Project design to encourage walking, bicycling and transit access;
- Improving or increasing access to transit;
- Ten percent vehicle parking reductions;
- Charging stations and designated parking spaces for electric vehicles;
- Carpool and clean-fuel parking spaces;
- Fix-it bicycle repair station(s);
- Bicycle route mapping resources;
- Participation/Formation in/of a Transportation Management Association (TMA) in partnership with other developments in the area; and
- Aggressive trip reduction targets with Lead Agency monitoring and enforcement.

TDM programs should be documented with annual monitoring reports by a TDM coordinator to demonstrate effectiveness. If the project does not achieve the VMT reduction goals, the reports should also include next steps to take in order to achieve those targets. Also, reducing parking supply can encourage active forms of transportation, reduce regional VMT, and lessen future transportation impacts on State facilities.

For additional TDM options, please refer to the Federal Highway Administration's *Integrating Demand Management into the Transportation Planning Process: A Desk Reference* (Chapter 8). The reference is available online at: <http://www.ops.fhwa.dot.gov/publications/fhwahop12035/fhwahop12035.pdf>.

Transportation Impact Fees

Please identify project-generated travel demand and estimate the costs of transit and active transportation improvements necessitated by the proposed project; viable funding sources such as development and/or transportation impact fees should also be identified. We encourage a sufficient allocation of fair share contributions toward multi-modal and regional transit improvements to fully mitigate cumulative impacts to regional transportation. We also strongly support measures to increase sustainable mode shares, thereby reducing VMT.

Sea Level Rise

The effects of sea level rise may have impacts on transportation facilities located in the project area. Executive Order (EO) S-13-08 directs State agencies planning construction projects in areas vulnerable to sea level rise to begin planning for potential impacts by considering a range of sea level rise scenarios for the years 2050 and 2100. Higher water levels may increase erosion rates, change environmental characteristics that affect material durability, lead to increased groundwater levels and change sediment movement along shores and at estuaries and river mouths, as well as affect soil pore pressure at dikes and levees on which transportation facilities are constructed. All these factors must be addressed through geotechnical and hydrological studies conducted in coordination with Caltrans.

Lead Agency

As the Lead Agency, the City of Menlo Park is responsible for all project mitigation, including any needed improvements to the STN. The project's fair share contribution, financing, scheduling, implementation responsibilities and lead agency monitoring should be fully discussed for all proposed mitigation measures.

Thank you again for including Caltrans in the environmental review process. Should you have any questions regarding this letter, please contact Andrew Chan at 510-622-5433 or andrew.chan@dot.ca.gov.

Sincerely,



Mark Leong
District Branch Chief
Local Development - Intergovernmental Review

c: State Clearinghouse



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December 16, 2019

Tom A. Smith
Senior Planner
City of Menlo Park
701 Laurel Street
Menlo Park, CA 94025

RE: Notice of Preparation of an Environmental Impact Report for the proposed Menlo Uptown Project in the City of Menlo Park

Dear Mr. Smith:

Thank you for offering C/CAG the opportunity to review the Notice of Preparation of an Environmental Impact Report (EIR) for the proposed Menlo Uptown Project. The following comments are provided for your consideration in complying with the San Mateo County Congestion Management Program (CMP) Traffic Impact Analysis (TIA) Policy and Land Use Guidelines. In preparing a TIA and EIR for this project, refer to these two policies, which are included as Appendix I and L of the 2017 CMP: <https://ccag.ca.gov/wp-content/uploads/2018/02/2017-Final-Draft-CMP-Appendix-1.pdf>

Please forecast and discuss the expected impacts of the project on the CMP roadway network as outlined in the TIA policy. The scope of the TIA should not only include the immediate project area, but also other areas that may be impacted by the project. Please consult with C/CAG staff for any clarification on the scope and parameters of the analysis. The TIA policy provides a detailed definition of project impacts on CMP intersections, freeway segments, and arterial segments.

If the project will generate a net of 100 or more peak-hour trips on the CMP roadway network, mitigation measures are required to reduce the impact of the project. Potential mitigation strategies are documented in the Land Use Guidelines policy and include, but are not limited to, reducing project scope, building roadway and/or transit improvements, collecting traffic mitigation fees, and requiring project sponsors to implement transportation demand management (TDM) programs.

We request the opportunity to review and comment on the TIA, DEIR, and project TDM plan (if applicable) upon their completion. If you have any questions, please contact me at jlacap@smcgov.org or 650-599-1455.

Sincerely,

Jeffrey Lacap
Transportation Programs Specialist

San Francisco Bay Regional Water Quality Control Board

January 9, 2020

Tom A. Smith
City of Menlo Park
Community Development Department, Planning Division
701 Laurel Street
Menlo Park, CA 94025
Sent via email to: TASmith@menlopark.org

Subject: Comments on Scope of Environmental Impact Report – Menlo Uptown Project, San Mateo County

Thank you for the opportunity to comment on the scope of the focused Environmental Impact Report for the Menlo Uptown Project in Menlo Park, California. The San Francisco Bay Area Water Quality Control Board (Water Board) reviewed the Initial Study and Notice of Preparation and submits these comments.

Background

The proposed Menlo Uptown project would demolish existing office and industrial buildings and construct three new mixed-use residential and commercial buildings at 141 Jefferson Drive and 180 and 186 Constitution Drive in Menlo Park (the Site). Two of the new buildings are planned to be seven-stories built at-grade with the lower two levels used for a mixture of commercial use and parking and the upper levels for residential use. The third new building proposed is a three-story multi-unit townhome building. The ground floor of each building would be raised 3 to 5 feet above grade to accommodate flood plain design requirements.

The Initial Study, dated November 2019, states that “the public and/or the environment could be affected by the release of hazardous materials from the project site into the environment by: 1) exposing workers and/or the public to potentially contaminated soil and groundwater during construction and/or operation of the project; or 2) exposing workers and/or the public to hazardous building materials during demolition of the existing office and industrial structures.”

A Phase I Environmental Site Assessment (ESA), dated July 2018, indicates that existing buildings on the Site have been utilized as hazardous materials facilities since their construction. A Phase II ESA, dated July 2018, determined that groundwater and soil vapor samples at the project site contained volatile organic compounds (VOCs) and petroleum hydrocarbons above residential environmental screening levels (ESLs). It further recommended assessment of vapor intrusion risks and concluded that implementation of vapor intrusion mitigation (VIM) measures could be necessary to protect the health of future building occupants.

JIM McGRATH, CHAIR | MICHAEL MONTGOMERY, EXECUTIVE OFFICER

1515 Clay St., Suite 1400, Oakland, CA 94612 | www.waterboards.ca.gov/sanfranciscobay

The Initial Study identified the need for the following mitigation measures to ensure that “potential impacts of the proposed project would be less than significant and that no new or more severe impacts would occur beyond those examined in the ConnectMenlo Final EIR.”

- Implementation of a project-specific Environmental Site Management Plan (ESMP) that is “prepared in consultation with” the Water Board; and
- A vapor intrusion assessment and associated vapor controls or source removal, as appropriate.

Water Board Comments

- 1) Because the proposed project is located within the area of a known regional VOC plume, the Water Board agrees that the proposed mitigation measures, including an ESMP, vapor intrusion assessment, and source removal and vapor intrusion mitigation as needed, should be required as described in the Initial Study.
- 2) The Water Board requests that the City of Menlo Park place conditions on permits as appropriate to require the project to obtain written acceptance of the items summarized below from the regulatory agency overseeing vapor intrusion assessment and mitigation concerns at the time.

Document Title	Timeframe
Environmental Site Management Plan and Vapor Intrusion Assessment – Including VIMS design, operations and maintenance plan, contingency plans, and financial assurance plan	Approval needed prior to start of construction
VIMS Construction Completion Report – Including as-built drawings	Approval needed prior to building occupancy

- 3) The Water Board is one of at least three regulatory agencies that could potentially oversee future vapor intrusion assessment and mitigation measures associated with this project. The others include the Department of Toxics Substances Control, or the San Mateo County Division of Environmental Health Services.
- 4) The overseeing regulatory agency will likely require a cost recovery agreement to allow for review and evaluation of monitoring and evaluation reports such as those included in the Water Board’s [Fact Sheet: Development on Properties with a Vapor Intrusion Threat](#).

If you have any questions, please contact Kimberlee West of my staff at (510) 622-2432 or kimberlee.west@waterboards.ca.gov.

Sincerely,

Michael Montgomery
Executive Officer

Copy by email:

Andrew Morcos, Uptown Menlo Park Venture, LLC, amorcos@greystar.com

Jacob Madden, San Mateo County Groundwater Protection Program,

JMadden@smcgov.org



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CRYSTAL LEACH

January 10, 2020

By U.S. Mail & E-Mail: TASmith@menlopark.org

Tom A. Smith
City of Menlo Park
Community Development Department, Planning Division
701 Laurel Street
Menlo Park, CA 94025

Re: Response of Sequoia Union High School District to Notice of Preparation of Focused Environmental Impact Report for Menlo Uptown Project

Dear Mr. Smith:

Sequoia Union High School District ("District") appreciates the opportunity to provide comments and input regarding the Notice of Preparation of an Initial Study and Environmental Impact Report for the Menlo Uptown Project ("Project"). Specifically, this letter responds to the City of Menlo Park's ("City") invitation to submit comments on the proposed scope and content of the Focused Environmental Impact Report ("EIR") that is planned to be prepared for the Project.

The District is particularly interested in and concerned about this Project because it is located directly across the street from the District's TIDE Academy on Jefferson Drive. The District requests that all direct and indirect impacts related to the Project's proximity to a school be thoroughly reviewed, analyzed, and mitigated.

The Project, sponsored by Uptown Menlo Park Venture, LLC ("Developer"), is proposed to be located at the approximately 4.83-acre site having the addresses of 141 Jefferson Drive, 180 Constitution Drive, and 186 Constitution Drive, Menlo Park, CA (collectively, the "Property"), which was previously a technology park consisting of three single story commercial and industrial buildings. The Developer is proposing to demolish the existing commercial and industrial space and redevelop the Property with three residential buildings totaling approximately 466,000 square feet ("sf") of gross floor area with 441 multi-family rental units, 42 townhomes, and 2,100 sf of commercial space, associated open space, circulation and parking, and infrastructure improvements. This Project, which will require a number of entitlements from the City, is anticipated to

generate approximately 14,150 new residents, and a corresponding increase of approximately 100 new high school students.

The City, through its Initial Study, concludes that the Project will have no additional impacts on the District's ability to provide its public service, other than those impacts addressed in the ConnectMenlo Final Environmental Impact Report ("ConnectMenlo EIR") that was certified by the City on December 6, 2016. Accordingly, the City is attempting to rely on the ConnectMenlo EIR as grounds to prepare a "focused," or limited EIR, which does not evaluate the Project's impacts on the District's ability to provide its public service. We believe that this approach is improper, and the limited scope of the City's proposed EIR inappropriate. Rather, the EIR prepared for the Project must contain a detailed discussion of the Project's potential impacts on the District, and manners in which to mitigate those impacts.

Neither the Initial Study nor the ConnectMenlo EIR adequately evaluated the Project's impacts to the District and, in particular, the District's TIDE Academy. Neither study adequately addressed how the Project will impact the District's abilities to house its students; how the Project's impacts on transportation, traffic, and circulation in the area will impact air quality at the TIDE Academy, as well as the safety and convenience of District students, parents, and staff; and generally how the Project will impact the District's ability to deliver its educational program at TIDE Academy. All of these impacts, in addition to mitigation measures for same, must be analyzed in the EIR for the Project.

District staff attended the Planning Commission scoping meeting for this Project and was pleased by some of the comments made by the Commissioners supporting consideration of the District. The District met with various developers of projects in the area, but has had very limited interaction with the Developer of this Project (Greystar Partners). We are hopeful that we will be able to forge a more collaborative relationship and discussion as this Project continues through the planning and approval stages.

The District submits these comments in order to preserve its concerns and rights regarding the proposed scope and content of the proposed EIR.

Inappropriate Reliance on ConnectMenlo EIR

By contending that the ConnectMenlo EIR is a "program" EIR for purposes of evaluating the Project's impacts, the City relies on the ConnectMenlo EIR as its basis for preparing a "focused," or simplified EIR for the Project. Due to the City's failure to appropriately consider the ConnectMenlo program's impacts on the District's ability to provide its public service in the first place, and due to changed circumstances since the time that the ConnectMenlo EIR was prepared, the City's reliance on the ConnectMenlo EIR as the basis for disregarding certain Project impacts on the District is improper and misguided.

A "program" EIR is an EIR prepared for a series of small projects that can be characterized as one large project. (14 Cal. Code Regs. § 15168(a).) A project proponent may rely on a program EIR's analysis of the program's environmental impacts, mitigation measures, and alternatives in order to engage in a simplified environmental review for a future project contemplated by the program. (Id. at subd. (d).) However, when a program EIR is relied upon by a future project proponent, the new project proponent must carefully examine the impacts addressed in the program EIR and determine whether additional environmental review is required. An agency's evaluation of the sufficiency of a program EIR for later approval of a project contemplated by the program involves a two-step process:

1. First, the agency considers whether the project is covered by the program EIR by determining whether it will result in environmental effects that were not examined in the program EIR. (14 Cal. Code Regs. § 15168(c)(1).)
2. Second, the agency must consider whether any new environmental effects could occur, or new mitigation measures would be required, due to events occurring after the program EIR was certified. (14 Cal. Code Regs. §§ 15168(c)(2), 15162.)

If the project will result in significant environmental impacts that were not examined in the program EIR, then the project proponent must prepare an EIR analyzing those impacts and corresponding mitigation measures. (14 Cal. Code Regs. §§ 15162 and 15168(c)(1); Pub. Res. Code §§ 21100(a), 21151.)

The Project's Initial Study provides that the Initial Study "tiers from the ConnectMenlo Final EIR, as appropriate." (Initial Study, p. 1-11.) The Initial Study later concludes that the proposed Project would have a less-than-significant impact on schools because the "ConnectMenlo Final EIR determined that any development associated with ConnectMenlo would be subject to payment of development impact fees, which under Senate Bill 50 (SB 50) are deemed to be full and complete mitigation." (Initial Study, p. 3-45.) The ConnectMenlo EIR concluded that "[b]ecause future development under the proposed project would occur incrementally over the 24-year buildout horizon and, in compliance with SB 50, would be subject to pay development impact fees...impacts related to the SUHSD would be less than significant." (ConnectMenlo Draft EIR, p. 4.12-40.)

Both the City's reliance upon the ConnectMenlo EIR, and the City's conclusions regarding the Project's impacts on the District, are misplaced and inappropriate.

A. Neither the ConnectMenlo EIR nor the Initial Study Adequately Identify All Impacts on the District.

As discussed in greater depth throughout this letter, both the program and the Project will pose numerous, significant impacts on the District and its ability to provide its educational program, none of which were adequately identified and addressed in the ConnectMenlo EIR and, as a result, the Initial Study. ConnectMenlo likewise did not consider either the program or Project's specific impacts on the District's TIDE Academy, as this school did not yet exist when the ConnectMenlo EIR was prepared. Because TIDE Academy is located in the Bayfront Neighborhood, it is particularly vulnerable to the 5,500 residential units authorized by ConnectMenlo, most of which will be constructed in the Bayfront neighborhood. ConnectMenlo did not consider whether/how the placement of 483 residential units directly across the street from a District high school would impact the District's program at TIDE Academy.

Further, ConnectMenlo was based on the assumption that development under the program would take place in an incremental fashion, over the course of 24 years. The Initial Study acknowledges the fact that this assumption was incorrect, however, in providing that "[a]lthough the ConnectMenlo Final EIR assumed a buildout horizon of 2040, the maximum development potential may be reached sooner than anticipated." (Initial Study, p. 1-4, fn. 8.) The Initial Study goes on to provide that "the pace of development would not create additional impacts beyond those identified in the ConnectMenlo Final EIR for topic areas identified in this Initial Study." (Id.)

The District vehemently disagrees with the Initial Study's conclusion. If the City continues to approve new residential development projects at its current pace, the District will be subject to a rapid influx of students to the District's facilities, which are already at or exceeding capacity. This rapid influx, combined with the existing inadequacies of the District's school facilities funding sources (as discussed below), will prevent the District from engaging in meaningful long-term facilities planning, and will instead require the District to spend

valuable resources on temporary solutions to the District's facilities problems, such as the purchase and lease of portables.

B. Neither the ConnectMenlo EIR nor the Initial Study Adequately Identify Mitigation Measures to Impacts caused by the Project.

Aside from a brief discussion of SB 50, neither the Initial Study nor the ConnectMenlo EIR adequately considered mitigation measures intended to alleviate the impacts caused by development on the District's facilities. Of particular note, as part of the ConnectMenlo program, the City developed a "community amenities list" as a means by which project developers can mitigate the impacts of their projects under ConnectMenlo by providing amenities to the community. Specifically, the City approved a list of community amenities that developers may offer in exchange for "bonus level development" in the M-2 and other zoning districts in the City, including the Bayfront neighborhood. Despite several requests by the District, the City has not included any school facilities items on its community amenities list.

As discussed, the Developer and City, both in the Initial Study's and the ConnectMenlo EIR, rely upon SB 50 as a panacea to all District impacts caused by development under ConnectMenlo. Such reliance is neither legally nor factually justified, and displays a lack of understanding of how school facilities are funded.

By way of background, developer fees are fees that may be levied or imposed in connection with or made conditions of any legislative or adjudicative act by a local agency involving planning, use, or development of real property. (Ed. Code § 17620.) "Level 1" developer fees are levied against residential and commercial or industrial developments on a price per square foot basis. If a district is able to establish a sufficient "nexus" between the expected impacts of residential and commercial development and the district's needs for facilities funding, then the district may charge up to \$3.79 per sf of residential development, and up to \$0.61 per sf of commercial development, which maximum amounts are increased every two years based on the statewide cost index for class B construction.

SB 50 declares that the payment of the developer fees authorized by Education Code section 17620 constitutes "full and complete mitigation of the impacts of any legislative or adjudicative act on the provision of adequate school facilities." (Gov. Code § 65995(h).) However, California courts have since acknowledged that developer fees do not constitute full and complete mitigation for school-related impacts other than school overcrowding. (*Chawanakee Unified Sch. Dist. v. Cty. of Madera* (2011) 196 Cal.App.4th 1016.) Thus, contrary to the assertions of the City in the ConnectMenlo EIR and the Initial Study, the payment of fees do not constitute full mitigation for all impacts caused by development under ConnectMenlo related to traffic, noise, biological, pedestrian safety, and all other types of impacts.

From a practical standpoint, the amount of developer fees received by school districts typically fall woefully short of alleviating the impacts caused by development. This is due largely to the facts that: (1) statutory developer fee amounts fail to acknowledge the differences in costs of school construction from one district to another, which particularly burdens school districts in the bay area; (2) the developer fee amounts fail to contemplate the special facilities needs of those districts experiencing rapid growth, such as the need for portables; and (3) the adjustment formula for developer fees is based on a "construction cost index" and does not include indexing related to the increases in land costs, resulting in the actual costs of facilities (i.e., land and improvements) increasing at a greater rate than the adjustment.

The inadequacy of developer fees as a source of funding for school facilities has forced school districts to rely increasingly on other sources of funding, primarily including local bond funds and State bond funds administered under the State Facilities Program (SFP). However, these sources of funds are equally unreliable. The last State school facilities bond fund (Proposition 51) has been exhausted, and it is currently unclear

when/whether those school districts that apply for state funding will be able to receive such funding. Local bond funds are also difficult to generate, as local bonds are subject to school district bonding capacity limitations and voter approval. Either way, the funding formula was never intended to require the State and local taxpayers to shoulder a disproportionate portion of the cost of school facilities.

Additional changes to the circumstances under which the ConnectMenlo EIR was approved render the analysis of environmental impacts under that EIR inadequate. For one, if Proposition 13, placed on the ballot by California Assembly Bill (“AB”) 48 is approved by the California voters at the March 2020 election, each of the three sources of funds discussed above will be significantly altered. Of particular note, and further undermining the contention that developer fees constitute full and adequate mitigation for impacts caused by the Project, AB 48: (1) eliminates school impact fees for multifamily homes within a half mile of a major transit stop; (2) reduces impact fees for all other multifamily homes by 20%; and (3) suspends level 3 school impact fees. Without full payment of school impact fees from the Project, coupled with the extremely high and rising costs of land, the District will be unable to alleviate many of the Project’s impacts through the acquisition of land and construction of new school facilities.

In light of the ConnectMenlo EIR and Initial Study’s many inadequacies, below are specific scoping requests for the EIR, which the City must address in the EIR to evaluate adequately the potential environmental impacts of the Project on the District and its students.

Transportation/Circulation/Traffic Analysis

- 1. Describe the existing and the anticipated vehicular traffic and student pedestrian movement patterns to and from school sites, including movement patterns to and from TIDE Academy and Menlo Atherton High School, and including consideration of bus routes.**
- 2. Assess the impact(s) of increased vehicular movement and volumes caused by the Project, including but not limited to potential conflicts with school pedestrian movement, school transportation, and busing activities to and from TIDE Academy and Menlo Atherton High School.**
- 3. Estimate travel demand and trip generation, trip distribution, and trip assignment by including consideration of school sites and home-to-school travel.**
- 4. Assess cumulative impacts on schools and the community in general resulting from increased vehicular movement and volumes expected from additional development already approved or pending in the City and Bayfront neighborhood.**
- 5. Discuss the direct, indirect, and cumulative impacts on the circulation and traffic patterns in the community as a result of traffic generated by the transportation needs of students to and from the Project and schools throughout the District during and after the Project build-out.**

6. Assess the impacts on the routes and safety of students traveling to school by vehicle, bus, walking, and bicycles.

The District has significant concerns about the traffic, transportation, and circulation impacts that the Project may have on the District, including the District's staff, parents, and students that attend the TIDE Academy. The foregoing categories of information are critical for determining the extent of those impacts on the District, none of which were adequately identified or discussed in either the Initial Study or the ConnectMenlo EIR.

Any environmental analysis related to the proposed Project must address potential effects related to traffic, noise, air quality, and any other issues affecting schools. (Pub. Resources Code, §§ 21000, *et seq.*; Cal. Code Regs., tit. 14, §§ 15000, *et seq.*; *Chawanakee Unified School District v. County of Madera, et al.*, (2011) 196 Cal.App.4th 1016.) Additionally, specifically related to traffic, there must also be an analysis of safety issues related to traffic impacts, such as reduced pedestrian safety, particularly as to students walking or bicycling to and from TIDE Academy; potentially reduced response times for emergency services and first responders traveling to these schools; and increased potential for accidents due to gridlock during school drop-off and pick up hours. (See, Journal of Planning Education and Research, "Planning for Safe Schools: Impacts of School Siting and Surrounding Environments on Traffic Safety," November 2015, Chia-Yuan Yu and Xuemei Zhu, pg. 8 [Study of traffic accidents near Austin, Texas schools found that "[a] higher percentage of commercial uses was associated with more motorist and pedestrian crashes" around schools].)

The State Office of Planning and Research has developed new CEQA Guidelines which set forth new criteria for the assessment of traffic impacts, and now encourages the use of metrics such as vehicle miles traveled (VMT), rather than level-of-service (LOS), to analyze project impacts on traffic. (14 Cal. Code Regs. § 15064.3.) However, local agencies may still consider impacts on traffic congestion at intersections where appropriate, and must do so where such traffic congestion will cause significant impacts on air quality, noise, and safety issues caused by traffic. (Pub. Res. Code § 21099(b)(3).)

Regional vehicular access to the Property is provided by US Highway 101 (US 101), via the Marsh Road on- and off-ramps located to the west and State Route 84 (SR 84 or the Bayfront Expressway) located to the north. Direct local access is via Jefferson Drive and Constitution Drive, which border the Property to the north and south. The Project Site is located in the Bayfront Area of Menlo Park that has experienced a drastic impact in traffic over the last ten to fifteen years as the City has continued to approve of newer corporate campuses and mixed biotechnology, commercial, office, and residential land uses. As discussed, the City's 2016 General Plan Update calls for an increase of 4.7 million square feet of non-residential office space, 850 hotel rooms, 5,430 residential units, 13,960 residents, and 20,150 employees, all within the Bayfront Area.¹ The ConnectMenlo EIR concluded that the General Plan Update would result in significant and unavoidable impacts to roadway segments and increase peak hour delays at intersections from increased traffic, even after the mitigation measures called for in the General Plan Update are implemented (if ever).² The General Plan Update does not consider how these impacts would be exacerbated by the current Project.

Construction of the Project will severely exacerbate the already stifling traffic in the general area and Bayfront neighborhood, and the safety issues posed thereby. These impacts will inhibit the District's abilities to operate its educational programs, including at TIDE Academy.

¹ Menlo Park Small High School Project Final EIR (October 6, 2016), p. 2-12; ConnectMenlo: General Plan Land Use & Circulation Elements and M-2 Area Zoning Update Draft EIR (June 1, 2016), Table 3-2.

² Menlo Park Small High School Project Final EIR (October 6, 2016), pp. 2-15 – 2-16; ConnectMenlo: General Plan Land Use & Circulation Elements and M-2 Area Zoning Update (June 1, 2016), p. 4.13-73.

As discussed, the District's TIDE Academy is located across Jefferson Drive from the Project Site (less than 100 feet away), in the Bayfront neighborhood of Menlo Park. Thus, both TIDE Academy and the proposed Project would be accessed by Jefferson Drive and the immediately surrounding streets.

The proposed Project is anticipated to impede circulation in the Bayfront neighborhood, and clog the access roads to, from, and around the District's TIDE Academy. (See, 5 Cal. Code Regs. § 14010(k), which requires that school facilities be easily accessible from arterial roads.) In addition to drawing over 14,000 new residents to the area, including an estimated 100 new high school students, the proposed Project will draw thousands of daily office commuters, visitors, and emergency access vehicles from around the Bay Area. In addition to the immediate roads surrounding the Property and TIDE Academy, these new residents and commuters will rely heavily on the Bayfront Expressway, Bayshore Freeway, Willow Road, and Marsh Road to the west of TIDE Academy. As indicated in the City's General Plan, the City's roads are not currently equipped to accommodate such high density development and high levels of traffic. Accordingly, such increases to traffic in the area will negatively impact the District's abilities to operate its educational program, and also cause a drastic increase in the risk of vehicular accidents to District families, students, and staff traveling to and from TIDE Academy. It is important that these traffic impacts are not only assessed through a VMT analysis, but also a LOS analysis, as the proposed Project will cause severe traffic congestion surrounding the District's TIDE Academy, which impacts will in turn cause issues related to safety, noise, and air quality.

Adding to the District's concerns regarding traffic surrounding the Project site and the TIDE Academy are the vast number of development projects that have recently been approved, and the speed at which the development projects have been approved by the City and/or completed in the area, including the 777 Hamilton Drive project (195 new apartments), the Facebook Campus Project at former 1601 Willow Road and 312 and 313 Constitution Drive (78.9 acres of mixed use development), and the Menlo Gateway Project at 100-190 Independence Drive (cafe/restaurant, health club, 230-room hotel, three office and research and development buildings, and three parking structures covering 15.9 acres). There are several other projects that are being considered by the City, including the Facebook Campus Expansion Projects at 301-309 Constitution Drive, the Willow Village Master Plan Project at 1350-1390 Willow Road, 925-1098 Hamilton Avenue, and 1005-1275 Hamilton Court (1,735 residential units), and the 111 Independence Drive Project (106 multi-family dwelling units). Each of these projects alone promise to drastically increase traffic in the neighborhood. When considered together, their collective impact on traffic in the neighborhood will be devastating. The impacts of the Project must, therefore, be considered in conjunction with the anticipated impacts of all the other development being considered and approved in this area. (See *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 CA4th 713, 720, finding that piecemeal approval of several projects with related impacts could lead to severe environmental harm.)

Further, the traffic impacts posed by the Project, combined with all the other City-approved development in the area, will severely impact the safety and convenience of TIDE Academy students who walk or bike to school, significantly increasing their risk of suffering from traffic-related physical injuries and death. The analysis of student safety must be clearly delineated and given the extensive focus that it deserves. Title 5 of the California Code of Regulations requires that school sites be located within a proposed attendance area that encourages student walking and avoids extensive bussing. (5 Cal. Code Regs. § 14010(l).) To mitigate the impacts of increased traffic in the Project Site neighborhood in implementing the District's TIDE Academy project, the District committed to develop and implement a Travel Demand Management Plan. Through this Plan, the District encourages the use of student walking, biking, and other alternative means of student transport to school.³ To mitigate the impacts of conflicts and/or dangerous interactions between pedestrians, bicyclists, and

³ Menlo Park Small High School Project Draft EIR (July 8, 2016), p. S-4; The City of Menlo Park's Comprehensive Bicycle Development Plan (2005) identifies school-aged bicycle commuters as one of the two key bicycle commute groups utilizing the City's bicycle infrastructure.

vehicles, the District agreed to prepare a “Safe Routes to School Map” that identifies facilities such as traffic lights, crosswalks, and demarcated bikeways that promote safe routes to school.⁴ The City, through the City’s General Plan Land Use and Circulation Element, has committed to support and promote such safe route to school programs to enhance the safety of school children who walk to school.⁵ The EIR must analyze and mitigate any impacts on the District’s ability to implement its transportation and safety mitigation measures for the TIDE Academy, and the District’s abilities to promote alternative modes of transportation to and from TIDE Academy. As TIDE Academy did not yet exist, these impacts were not adequately addressed in the ConnectMenlo EIR.

Finally, as previously discussed, the City must consider the extent to which the Project’s impacts on traffic, transportation, circulation, and safety will be exacerbated by AB 48 (discussed above), coupled with the extremely high costs of land. As the District’s ability to transport students to and from District schools becomes more constrained due to increased development in the District, the District will need to construct new educational facilities to accommodate changes in transportation patterns. However, AB 48 will hamstring the District’s ability to construct new facilities by dramatically reducing the amount of developer fees available to the District.

We urge the City thoroughly to address and analyze each of the above listed items through its EIR, and implement extensive and thoughtful mitigation measures.

Air Quality

- 7. Identify and assess the direct and indirect air quality impacts of the Project on sensitive receptors, such as the District’s TIDE Academy.**
- 8. Identify and assess cumulative air quality impacts on schools and the community in general resulting from increased vehicular movement and volumes expected from additional development already approved or pending in the City and Bayfront neighborhood.**

The Bay Area Air Quality Management District’s (BAAQMD) CEQA Guidelines (May 2017) impose numerous limitations on the exposure of “sensitive receptors,” such as schools, to odors, toxics, and pollutants, including pollutants from vehicular exhaust.

It is anticipated that the Project, when combined with all of the other development being considered and approved in the Bayfront neighborhood, will have a significant impact on the air quality of the neighborhood due to increases in vehicular traffic. These air quality impacts and corresponding mitigation measures must be analyzed in the EIR. Even more importantly, the Project is anticipated to result in significant impacts to sensitive receptors as increased vehicles enter and exit the Project, creating increased levels of air toxins and particulate matter that could negatively impact student health. These impacts, as they relate to the District’s students at the TIDE Academy, were not adequately addressed in the ConnectMenlo EIR.

⁴ Menlo Park Small High School Project Draft EIR (July 8, 2016), p. S-6

⁵ ConnectMenlo: General Plan Land Use & Circulation Elements and M-2 Area Zoning Update Draft EIR (June 1, 2016), p. 4.9-7 – 4.9-8

Noise

- 9. Identify any noise sources and volumes which may affect school facilities, classrooms and outdoor school areas.**

It is expected that noise from construction and operation of the Project will cause impacts on the District's educational programs at the TIDE Academy. Request No. 9 is intended to clarify that the EIR's consideration of noise issues take into account all of the various ways in which noise may impact schools, including increases in noise levels in the immediate vicinity of TIDE Academy. Again, as the District's TIDE Academy did not yet exist, the ConnectMenlo EIR did not consider these impacts on the District, and so may not be relied upon by the City as grounds to disregard noise impacts in the Project EIR.

Population

- 10. Describe historical, current, and future population projections for the District.**
- 11. Assess the impacts of population growth within the District on the District's ability to provide its educational program.**

In addition to 483 anticipated residential units, it is anticipated that the proposed Project's 2,100 sf of commercial space sf will draw thousands of residents into the area on a permanent, or at least a daily basis. Using the District's current student generation rate of 0.2, 483 anticipated residential units is likely to generate at least 97 new high school students to the District. Without the anticipated increase in students from the Project, the District's student population at TIDE Academy is already expected to exceed capacity by 2023. The second closest District high school to the Property, Menlo Atherton High School, is currently over capacity.

The District, therefore, specifically requests that historical, current, and future population projections for the District be addressed in the EIR. Population growth or shrinkage is a primary consideration in determining the impact that development may have on a school district, as a booming population can directly impact the District and its provision of educational services, largely because of resulting school overcrowding, while a district with declining enrollment may depend on new development to avoid school closure or program cuts. Overcrowding can constitute a significant impact within the meaning of CEQA. (See, 14 Cal. Code Regs. §§ 15064(e).) This is particularly true where the overcrowding results in unsafe conditions, decreased quality of education, the need for new bus routes, and a need for new school construction. The same can hold true for potential school closures or program cuts resulting from a declining population.

While the ConnectMenlo EIR discussed the District's student population projections, the City, in reliance on SB 50, disregarded any impacts the General Plan Update's increase in student population could have on the District. For the reasons discussed above, such disregard was legally and practically improper.

Housing

- 12. Describe the type and number of anticipated dwelling units indirectly resulting from the Project.**
- 13. Describe the average square footage for anticipated dwelling units, broken down by type of unit, indirectly resulting from the Project.**

14. Estimate the amount of development fees to be generated by development in accordance with implementation of the Project.

The foregoing categories of information are critical for determining the extent of both physical and fiscal impacts on the District caused by increased population growth. These impacts were not adequately addressed in the ConnectMenlo EIR.

California school districts are dependent on developer fees authorized by the provisions of Government Code Sections 65995, *et seq.*, and Education Code sections 17620, *et seq.*, for financing new school facilities and maintenance of existing facilities. The developer fees mandated by Section 65995 provide the District a significant portion of its local share of financing for facilities needs related to development. However, as discussed, AB 48, combined with the extremely high costs of land, may significantly impair the District's abilities to mitigate impacts caused by school facilities overcrowding.

The adequacy of the statutory development fees to offset the impact of new development on local school districts can be determined only if the types of housing and average square footage can be taken into consideration. For instance, larger homes often generate approximately the same number of students as smaller homes. At the same time, however, a larger home will generate a greater statutory development fee, better providing for facilities to house the student being generated. It is for these reasons that the Government Code now requires a school district to seek – and presumably to receive – such square footage information from local planning departments. (Gov. Code § 65995.5(c)(3).)

While the foregoing funding considerations raise fiscal issues, they translate directly into physical, environmental impacts, in that inadequate funding for new school construction results in overcrowding of existing facilities. Furthermore, fiscal and social considerations are relevant to an EIR, particularly when they either contribute to or result from physical impacts. (Pub. Resources Code § 21001(g); 14 Cal. Code Regs. §§ 15021(b), 15131(a)-(c), 15142 & 15382.)

Phasing of development is also a crucial consideration in determining the extent of impacts on schools. The timing of the development will determine when new students are expected to be generated, and therefore is an important consideration particularly when considering the cumulative impact of a project in conjunction with other approved or pending development.

Public Services

- 15. Describe existing and future conditions within the District, on a school-by-school basis, including size, location and capacity of facilities.**
- 16. Describe the adequacy of both existing infrastructure serving schools and anticipated infrastructure needed to serve future schools.**
- 17. Describe the District's past and present enrollment trends.**
- 18. Describe the District's current uses of its facilities.**
- 19. Describe projected teacher/staffing requirements based on anticipated population growth and existing State and District policies.**
- 20. Describe any impacts on curriculum as a result of anticipated population growth.**

21. **Identify the cost of providing capital facilities to properly accommodate students on a per-student basis, by the District (including land costs).**
22. **Identify the expected shortfall or excess between the estimated development fees to be generated by the Project and the cost for provision of capital facilities.**
23. **Assess the District's present and projected capital facility, operations, maintenance, and personnel costs.**
24. **Assess financing and funding sources available to the District, including but not limited to those mitigation measures set forth in Section 65996 of the Government Code.**
25. **Identify any expected fiscal impacts on the District, including an assessment of projected cost of land acquisition, school construction, and other facilities needs.**
26. **Assess cumulative impacts on schools resulting from additional development already approved, pending, or anticipated.**
27. **Identify how the District will accommodate students from the Project who are not accommodated at current District schools, including the effects on the overall operation and administration of the District, the students and employees.**

As discussed, the Initial Study's reliance on the ConnectMenlo EIR as grounds to disregard the Project's impacts on the District's ability to provide its public services is inappropriate, as the ConnectMenlo EIR did not adequately examine numerous environmental impacts caused by the program and/or the Project, in part due to changes that occurred after the City certified the ConnectMenlo EIR. (14 Cal. Code Regs. § 15168(c)(1).) Nor is the City's reliance upon SB 50 as the sole mitigation measure proper, as developer fees are legally and practically inadequate to mitigate all impacts caused by the Project. Therefore, the District submits the above scoping requests related to the District's ability to continue providing its public service.

Conclusion

The District does not oppose development within District boundaries, and recognizes the importance of housing on the health and welfare of the community. However, the District maintains that the community can only thrive if the District's educational program and its facilities are viable and sufficient, and District staff, families, and students are safe. Accordingly, the needs of the District must be appropriately considered in the environmental review process for all proposed new development that will impact the District, such as the Project.

The District is hopeful that its continued collaboration with Developer and the City will yield solutions that alleviate the impacts caused by the Project, and is prepared to provide any information necessary to assist the City in preparation of the EIR and in addressing each of the comment and scope/content issues set forth above.

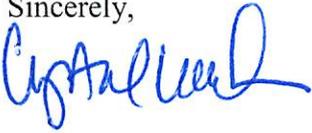
We request that all notices and copies of documentation with regard to this Project be mailed both to the District directly, and also to our legal counsel's attention as follows:

Mary E. Streshly, Superintendent
Sequoia Union High School District
480 James Avenue
Redwood City, CA 94062

Kelly M. Rem
Lozano Smith
2000 N. Main St., Suite 500
Walnut Creek, CA 94596

Please feel free to contact me directly if we can be of any assistance. Thank you.

Sincerely,



Crystal Leach
Associate Superintendent Administrative Services

cc: Kelly Rem, Lozano Smith, Mary E. Streshly