



SPECIAL AND REGULAR MEETING AGENDA – AMENDED

Date: 11/16/2021
Time: 5:00 p.m.
Location: [Zoom.us/join](https://zoom.us/join) – ID# 998 8073 4930

This amended agenda removes item M1.

NOVEL CORONAVIRUS, COVID-19, EMERGENCY ADVISORY NOTICE

Consistent with Government Code section 54953(e), and in light of the declared state of emergency, the meeting will not be physically open to the public and all members will be teleconferencing into the meeting via a virtual platform. To maximize public safety while still maintaining transparency and public access, members of the public can listen to the meeting and participate using the following methods.

- How to participate in the meeting
 - Submit a written comment online up to 1-hour before the meeting start time:
jaherren@menlopark.org *
Please include the agenda item number you are commenting on.
 - Access the meeting real-time online at:
[Zoom.us/join](https://zoom.us/join) – Meeting ID 998 8073 4930
 - Access the meeting real-time via telephone at:
(669) 900-6833
Meeting ID 998 8073 4930
Press *9 to raise hand to speak

*Written public comments are accepted up to 1-hour before the meeting start time. Written messages are provided to the City Council at the appropriate time in their meeting.

- Watch meeting:
 - Cable television subscriber in Menlo Park, East Palo Alto, Atherton, and Palo Alto:
Channel 26
 - Online:
menlopark.org/streaming

Note: City Council closed sessions are not broadcast online or on television and public participation is limited to the beginning of closed session.

Subject to Change: Given the current public health emergency and the rapidly evolving federal, state, county and local orders, the format of this meeting may be altered or the meeting may be canceled. You may check on the status of the meeting by visiting the City's website www.menlopark.org. The instructions for logging on to the webinar and/or the access code is subject to change. If you have difficulty accessing the webinar, please check the latest online edition of the posted agenda for updated information (menlopark.org/agenda).

According to City Council policy, all meetings of the City Council are to end by midnight unless there is a super majority vote taken by 11:00 p.m. to extend the meeting and identify the items to be considered after 11:00 p.m.

5:00 p.m. Special Session ([Zoom.us/join](#) – ID# 998 8073 4930)

A. Call To Order

B. Roll Call

C. Consent Calendar

- C1. Adopt Resolution No. 6685, adopting amendments to Resolution No. 6682 to continue conducting the City’s Council and advisory body meetings remotely due to health and safety concerns for the public and to authorize the use of hybrid meetings ([Staff Report #21-222-CC](#))

D. Public Hearing

- D1. Consider the Planning Commission’s Recommendation and approve a general plan amendment and rezoning for a City stormwater pump station project at 1395 Chrysler Drive and 105-155 Constitution Drive ([Staff Report #21-229-CC](#))

Closed Session ([Zoom.us/join](#) – ID# 998 8073 4930)

E. Closed Session

Public Comment on these items will be taken before adjourning to Closed Session.

- E1. CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Government Code Section 54956.9: (One case)

F. Adjournment

6:00 p.m. Regular Session ([Zoom.us/join](#) – ID# 998 8073 4930)

G. Call To Order

H. Roll Call

I. Agenda Review

Agenda Review provides advance notice to members of the public and City staff of any modifications to the agenda order and any requests from City Councilmembers under City Councilmember reports.

J. Report from Closed Session

K. Study Session

- K1. Provide direction on development of an ordinance to regulate wireless facilities on private property and in the public right-of-way ([Staff Report #21-221-CC](#)) ([Presentation](#))

L. Public Comment

Under “Public Comment,” the public may address the City Council on any subject not listed on the agenda. Each speaker may address the City Council once under public comment for a limit of three minutes. Please clearly state your name and address or political jurisdiction in which you live. The City Council cannot act on items not listed on the agenda and, therefore, the City Council cannot respond to non-agenda issues brought up under public comment other than to provide general information.

M. Consent Calendar

- M1. ~~Adopt Resolution No. 6687 to approve the through and left turn restrictions from southbound Garwood Way and northbound Merrill Street at Oak Grove Avenue ([Staff Report #21-224-CC](#))~~
- M2. Waive second reading and adopt Ordinance No. 1079, enacting Chapter 7.04 [Solid Waste, Recyclables and Organic Waste Disposal] of Title 7 [Health and Sanitation] ([Staff Report #21-230-CC](#))

Recess

N. Regular Business

- N1. Receive annual report from Environmental Quality Commission, approve the commission’s annual year work plan, and provide direction on the commission’s recommendation regarding banning gas powered leaf blowers ([Staff Report #21-225-CC](#))

[Web form public comment on item N1.](#)

- N2. Introduction and first reading of Ordinance No. 1080 amending Ordinance No. 1074, modifying the City Council’s regular meeting schedule ([Staff Report #21-226-CC](#))
- N3. Adopt Resolution No. 6686 approving the 2021 San Mateo County Multijurisdictional Local Hazard Mitigation Plan ([Staff Report #21-223-CC](#)) ([Presentation](#))
- N4. Consideration of a City Council meeting date to discuss the composition of the Community Engagement and Outreach Committee and future charge ([Staff Report #21-227-CC](#))

O. Informational Items

- O1. City Council agenda topics: December 7 – 14, 2021 ([Staff Report #21-231-CC](#))
- O2. Response to Questions from City Councilmembers on housing element update ([Staff Report #21-228-CC](#))

P. City Manager's Report

Q. City Councilmember Reports

R. Adjournment

At every regular meeting of the City Council, in addition to the public comment period where the public shall have the right

to address the City Council on any matters of public interest not listed on the agenda, members of the public have the right to directly address the Council on any item listed on the agenda at a time designated by the chair, either before or during the City Council's consideration of the item.

At every special meeting of the City Council, members of the public have the right to directly address the City Council on any item listed on the agenda at a time designated by the chair, either before or during consideration of the item. For appeal hearings, appellant and applicant shall each have 10 minutes for presentations.

If you challenge any of the items listed on this agenda in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Menlo Park at, or prior to, the public hearing.

Any writing that is distributed to a majority of the City Council by any person in connection with an agenda item is a public record (subject to any exemption under the Public Records Act) and is available by request by emailing the city clerk at jaherren@menlopark.org. Persons with disabilities, who require auxiliary aids or services in attending or participating in City Council meetings, may call the City Clerk's Office at 650-330-6620.

Agendas are posted in accordance with Government Code Section 54954.2(a) or Section 54956. Members of the public can view electronic agendas and staff reports by accessing the City website at menlopark.org/agenda and can receive email notification of agenda and staff report postings by subscribing to the "Notify Me" service at menlopark.org/notifyme. Agendas and staff reports may also be obtained by contacting City Clerk at 650-330-6620. (Posted: 11/12/2021)



STAFF REPORT

City Council

Meeting Date: 11/16/2021

Staff Report Number: 21-222-CC

Consent Calendar: **Adopt Resolution No. 6685, adopting amendments to Resolution No. 6682 to continue conducting the City's Council and advisory body meetings remotely due to health and safety concerns for the public and to authorize the use of hybrid meetings**

Recommendation

Staff recommends that the City Council adopt Resolution No. 6685 (Attachment A), representing minor amendments to Resolution No. 6682 (Attachment B), to continue conducting the City's Council and advisory body meetings remotely due to health and safety concerns for the public and to authorize the use of hybrid meetings.

Policy Issues

Assembly Bill 361 (AB 361) was signed into law September 16, 2021 allowing cities to continue holding virtual meetings during any emergency proclaimed by the governor. AB 361 sunsets January 1, 2024. The City Council would need to declare every 30 days that the City's legislative bodies must continue to meet remotely in order to ensure the health and safety of the public.

Background

The California Legislature recently approved AB 361, which was signed by the governor September 16, 2021 for signature. The bill allows local legislative bodies to continue to meet remotely through January 1, 2024. A local agency will be allowed to continue to meet remotely when:

- The local agency holds a meeting during a declared state of emergency
- State or local health officials have imposed or recommended measures to promote social distancing
- Legislative bodies declare the need to meet remotely due to present imminent risks to the health or safety of attendees

The City meets the requirements to continue holding meetings remotely in order to ensure the health and safety of the public:

- The City is still under a local state of emergency
- County Health orders require that all individuals in public spaces maintain social distancing and wear masks

Analysis

The City is still under a local state of emergency, and the County's indoor mask order is still in effect, so the emergency findings required under AB 361 are still in effect. The amendments presented with Resolution No. 6685 simply authorize the use of hybrid meetings, whereby City Councilmembers and staff may choose

to attend either remotely or in person.

Impact on City Resources

There is no impact on City resources.

Environmental Review

This action is not a project within the meaning of the California Environmental Quality Act (CEQA) Guidelines §§ 15378 and 15061(b)(3) as it is an organizational structure change that will not result in any direct or indirect physical change in the environment.

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

Attachments

- A. Resolution No. 6685
- B. Resolution No. 6682

Report prepared by:
Judi A. Herren, City Clerk

Report reviewed by:
Tamar Burke, Assistant City Attorney

RESOLUTION NO. 6685**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK AND ON BEHALF OF COMMISSIONS AND COMMITTEES CREATED BY THE CITY COUNCIL PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 54952(b) AUTHORIZING TELECONFERENCE MEETINGS IN COMPLIANCE WITH AB 361 (GOVERNMENT CODE SECTION 54953(e) TO CONTINUE TO ALLOW MEMBERS OF THE PUBLIC TO SAFELY PARTICIPATE IN LOCAL GOVERNMENT MEETINGS**

WHEREAS, the City Council is committed to ensuring public access to observe and participate in local government meetings; and

WHEREAS, all meetings of the City Council and other legislative bodies created pursuant to Government Code Section 54952(b) are open and public, as required by the Ralph M. Brown Act, so that any member of the public may participate in local government meetings; and

WHEREAS, the AB 361, codified at Government Code section 54953(e), makes provisions for remote teleconferencing participation in local government meetings, without compliance with the requirements of 54953(b)(3), during a Governor-proclaimed state of emergency and if the local legislative body determines, by majority vote, that as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees, and

WHEREAS, on March 4, 2020, Governor Newsom proclaimed a State of Emergency due to the outbreak of respiratory illness due to a novel coronavirus (now known as COVID 19) and that State of Emergency is still in effect in the State of California; and

WHEREAS, on March 11, 2020 the City Council proclaimed the existence of a local state of emergency within the City, pursuant to Section 8625 of the California Emergency Services Act in response to the COVID-19 pandemic; and

WHEREAS, COVID-19 continues to threaten the health and lives of City residents; and

WHEREAS, the SARS-CoV-2 Delta Variant (Delta Variant) is highly transmissible in indoor settings; and

WHEREAS, on July 28, 2021, the California Department of Public Health issued guidance calling for the use of face coverings and stating that the Delta Variant is two times as contagious as early COVID-19 variants, leading to increasing infections, the Delta Variant accounts for over 80% of cases sequenced, and cases and hospitalizations of COVID-19 are rising throughout the state; and

WHEREAS, the Delta Variant has caused, and will continue to cause, conditions of imminent peril to the health and safety of persons within the City; and

WHEREAS, in light of the Delta Variant and the risk of infection among even those who have been vaccinated against COVID-19, the City Council finds that reducing the number of persons present in City Council chambers is necessary to reduce imminent health risks associated with large groups of members of varying households gathering indoors; and

WHEREAS, the City Council, acting as a legislative body pursuant to Government Code section 54952(a) and for the benefit of the commissions, committees and other bodies that were created by the City Council pursuant to Government Code section 54952(b) (collectively referred to as “Legislative Bodies”), finds that the current conditions meet the circumstances set forth in Government Code section 54953(e)(3) to allow Legislative Bodies to continue to use teleconferencing to hold open and public meetings if the Legislative Bodies comply with the requirements set forth in Government Code section 54953(e)(2) to ensure the public can safely participate in and observe local government meetings.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Menlo Park that the City Council does hereby:

1. Find that current conditions authorize teleconference public meetings of Legislative Bodies. Based on the California Governor’s continued declaration of a State of Emergency and current conditions, the City Council finds that meeting in person only, without the option for certain populations and persons to participate remotely, would present imminent risks to the health or safety of attendees. The City Council does therefore find that Legislative Bodies and members of Legislative Bodies of the City may elect to use teleconferencing to hold public meetings in accordance with Government Code section 54953(e)(2) to ensure members of the public have continued access to safely observe and participate in local government meetings.
2. Authorize Legislative Bodies to Conduct Teleconference Meetings. The Legislative Bodies are hereby authorized to take all actions necessary to carry out the intent and purpose of this Resolution, including conducting open and public meetings in accordance with Government Code section 54953(e)(2) and other applicable provisions of the Brown Act.
3. Authorize Legislative Bodies to Conduct Hybrid Meetings. The Legislative Bodies are hereby authorized to conduct meetings in a “hybrid” format, where both members of the Body and members of the public may elect to be present in person, utilizing appropriate distancing and masking practices, or participate by teleconferencing technology. Such meetings of the Legislative Bodies that occur using teleconferencing technology will provide an opportunity for any and all members of the public who wish to address Legislative Bodies and will otherwise occur in a manner that protects the statutory and constitutional rights of parties and the members of the public attending the meeting via teleconferencing
4. The State of California and the City of Menlo Park continue to follow safety measures in response to COVID-19 as ordered or recommended by the Centers for Disease Control and Prevention (CDC), California Department of Public Health (DPH), and/or County of San Mateo, as applicable, including facial coverings when required. Based upon that guidance, in-person attendance indoors at public meetings continues to present a health risk for certain segments of the population, necessitating the need to reduce the number of in-person meeting attendees.

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I, Judi A. Herren, City Clerk of Menlo Park, do hereby certify that the above and foregoing City Council Resolution was duly and regularly passed and adopted at a meeting by said City Council on the sixteenth day of November, 2021, by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this ___ day of November, 2021.

Judi A. Herren, City Clerk

RESOLUTION NO. 6682**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK AND ON BEHALF OF COMMISSIONS AND COMMITTEES CREATED BY THE CITY COUNCIL PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 54952(b) AUTHORIZING TELECONFERENCE MEETINGS IN COMPLIANCE WITH AB 361 (GOVERNMENT CODE SECTION 54953(e) TO CONTINUE TO ALLOW MEMBERS OF THE PUBLIC TO SAFELY PARTICIPATE IN LOCAL GOVERNMENT MEETINGS**

WHEREAS, the City Council is committed to ensuring public access to observe and participate in local government meetings; and

WHEREAS, all meetings of the City Council and other legislative bodies created pursuant to Government Code Section 54952(b) are open and public, as required by the Ralph M. Brown Act, so that any member of the public may participate in local government meetings; and

WHEREAS, the AB 361, codified at Government Code section 54953(e), makes provisions for remote teleconferencing participation in local government meetings, without compliance with the requirements of 54953(b)(3), during a Governor-proclaimed state of emergency and if the local legislative body determines, by majority vote, that as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees, and

WHEREAS, on March 4, 2020, Governor Newsom proclaimed a State of Emergency due to the outbreak of respiratory illness due to a novel coronavirus (now known as COVID 19) and that State of Emergency is still in effect in the State of California; and

WHEREAS, on March 11, 2020 the City Council proclaimed the existence of a local state of emergency within the City, pursuant to Section 8625 of the California Emergency Services Act in response to the COVID-19 pandemic; and

WHEREAS, COVID-19 continues to threaten the health and lives of City residents; and

WHEREAS, the SARS-CoV-2 Delta Variant (Delta Variant) is highly transmissible in indoor settings; and

WHEREAS, on July 28, 2021, the California Department of Public Health issued guidance calling for the use of face coverings and stating that the Delta Variant is two times as contagious as early COVID-19 variants, leading to increasing infections, the Delta Variant accounts for over 80% of cases sequenced, and cases and hospitalizations of COVID-19 are rising throughout the state; and

WHEREAS, the Delta Variant has caused, and will continue to cause, conditions of imminent peril to the health and safety of persons within the City; an

WHEREAS, the City Council, acting as a legislative body pursuant to Government Code section 54952(a) and for the benefit of the commissions, committees and other bodies that were created by the City Council pursuant to Government Code section 54952(b) (collectively referred to as "Legislative Bodies"), finds that the current conditions meet the circumstances set forth in Government Code section 54953(e)(3) to allow Legislative Bodies to continue to use teleconferencing to hold open and public meetings if the Legislative Bodies comply with the

requirements set forth in Government Code section 54953(e)(2) to ensure the public can safely participate in and observe local government meetings.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Menlo Park that the City Council does hereby:

1. Find that Current Conditions Authorize Teleconference Public Meetings of Legislative Bodies. Based on the California Governor's continued declaration of a State of Emergency and current conditions, the City Council finds that meeting in person would present imminent risks to the health or safety of attendees, such that the conditions continue to exist pursuant to Government Code section 54953(e)(3) to allow Legislative Bodies to use teleconferencing to hold public meetings in accordance with Government Code section 54953(e)(2) to ensure members of the public have continued access to safely observe and participate in local government meetings.
2. Authorize Legislative Bodies to Conduct Teleconference Meetings. The Legislative Bodies are hereby authorized to take all actions necessary to carry out the intent and purpose of this Resolution, including conducting open and public meetings in accordance with Government Code section 54953(e)(2) and other applicable provisions of the Brown Act.

I, Judi A. Herren, City Clerk of Menlo Park, do hereby certify that the above and foregoing City Council Resolution was duly and regularly passed and adopted at a meeting by said City Council on the twenty-sixth day of October, 2021, by the following votes:

AYES: Combs, Nash, Taylor, Wolosin

NOES: None

ABSENT: Mueller

ABSTAIN: None

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this twenty-ninth day of October, 2021.

DocuSigned by:

39280A20D0BE491...

Judi A. Herren, City Clerk



STAFF REPORT

City Council

Meeting Date: 11/16/2021

Staff Report Number: 21-229-CC

Public Hearing:

Consider the Planning Commission's Recommendation and Approve a general plan amendment and rezoning for a City stormwater pump station project at 1395 Chrysler Drive and 105-155 Constitution Drive

Recommendation

The Planning Commission and staff recommend that the City Council approve the following entitlements related to a new City stormwater pump station to replace an existing pump station located at 1395 Chrysler Drive (formerly addressed 1221 Chrysler Drive):

1. General plan amendment to change the land use designation of an approximately 3,600 square-foot portion of an existing approximately 8.9-acre parcel at 105-155 Constitution Drive from Commercial Business Park to Public/Quasi-Public and to change the land use designation of an approximately 3,600 square-foot portion of an existing approximately 5,000 square-foot parcel at 1395 Chrysler Drive from Public/Quasi-Public to Commercial Business Park (Attachment A); and
2. Rezoning to change the zoning of a portion of the parcel with a resulting Public/Quasi-Public land use designation from M-3-X (Commercial Business Park, Conditional Development District) to the P-F (Public Facilities) district and to change the zoning of a portion of the parcel with a resulting Commercial Business Park land use designation from P-F to M-3-X zoning (Attachment B.)

The requested general plan amendment and rezoning are associated with an exchange of equal amounts of land between the City and Bohannon Development Corporation, which would allow the reconstruction of the existing City pump station to be set back farther from Chrysler Drive for improved aesthetics, easier parking and access of utility vehicles (when needed), and the potential for reduced conflicts and increased safety by locating the facility further from the public right-of-way. The requested entitlements would also permit the City and Bohannon Development Corporation to retain parcels with consistent land use and zoning designations. The exchange of land between the two parties has been reviewed through an administrative lot line adjustment.

Policy Issues

The proposed project requires the City Council to consider the merits of the request, including consistency with the City's general plan, Municipal Code, and other adopted policies and programs. The City Council will need to consider the general plan amendment to determine if the proposed land use designations are consistent with the existing and proposed uses of the land to be exchanged between the City and Bohannon Development Corporation. The City Council will also need to consider rezoning the

portions of the subject parcels to be exchanged for consistency with the general plan land use designations and zoning of the existing parcels to which the land would be added.

Background

Site location

To simplify directional references used in this staff report, roadways parallel to Bayfront Expressway (State Route 84) are described as having an east-west orientation and roadways parallel to Chrysler Drive are described having a north-south orientation. The City-owned subject parcel is located at 1395 Chrysler Drive, southwest of the intersection of Chrysler Drive and Bayfront Expressway, and is zoned P-F with a general plan land use designation of Public/Quasi Public. The Bohannon Development Corporation-owned subject parcel bordering the City-owned parcel to the north, south and west is zoned M-3-X with a general plan land use designation of Commercial Business Park, and is part of the Constitution Drive phase of the Menlo Gateway project. A location map is included as Attachment C.

Currently, the City-owned project site contains a concrete pump station building, constructed in 1958. The pump station provides flood protection to properties generally bounded by Marsh Road, Bohannon Drive, Chilco Street and Bayfront Expressway. It also handles stormflow from a small section of the Suburban Park neighborhood near Flood Park and the Caltrans Henderson Underpass Pumping Plant, which pumps groundwater from the Highway 101 underdrain system near the railroad crossing. Stormwater is sent from the pump station to a Caltrans ditch on the opposite side of Bayfront Expressway and empties into Flood Slough in the San Francisco Bay, near the entrance of Bedwell Bayfront Park. Although the existing pump station is located in the 100-year event flood zone, it is designed to provide flood protection from a 10-year storm event. The new pump station has been designed to provide flood protection from a 100-year storm event.

The Bohannon Development Corporation-owned parcel is developed with two parking structures and two office buildings along Constitution Drive between Marsh Road and Chrysler Drive.

Previous Planning Commission reviews

The Planning Commission reviewed the general plan amendment and rezoning requests at its November 1, 2021 meeting and voted unanimously (five to zero, with two Commissioners absent) to recommend that the City Council approve the requested entitlements. Before that meeting, the Planning Commission approved a hazardous materials use permit and architectural control for the project January 8, 2018. The community development director extended the effective date of the use permit for one year in January 2019 as permitted by section 16.82.170 of the zoning ordinance, but the use permit expired in January 2020 while the City worked to finalize funding for the project, including securing a \$5 million grant through the Federal Emergency Management Agency's Hazard Mitigation Grant Program. The City secured the funds to rebuild the pump station and the Planning Commission granted a use permit consistent with the previously-approved project February 22, 2021. These entitlements approved by the Planning Commission for the pump station were determined to be categorically exempt from review under CEQA pursuant to Section 15302 (Replacement or Reconstruction) of the current CEQA Guidelines. The staff report for the February 22, 2021 Planning Commission meeting can be found in the Attachment D, which includes the pump station project plans for reference.

Analysis

Project description

After receiving project entitlements, the City filed for an administrative lot line adjustment in June 2021 to adjust the shape of the pump station parcel and set it back farther from Chrysler Drive, consistent with the approved plans and the lot line adjustment exhibits. The lot line adjustment exhibits are provided for the proposed City parcel as Attachment E and for the proposed Bohannon Development Corporation parcel as Attachment F. However, during the lot line adjustment review process, staff and representatives of the Bohannon Development Corporation determined that the action would result in each modified parcel having two land use and zoning designations, since a lot line adjustment does not change the underlying land use designation and zoning with the modified parcel boundaries. Without a general plan amendment and rezoning:

- The City would receive an approximately 3,600-square-foot area of land zoned M-3-X with a general plan land use designation of Commercial Business Park. The development of a pump station (a public utility) is a conditional use in the M-3-X district and would require a conditional development permit or use permit to be constructed or expanded; and
- The Bohannon Development Corporation would receive an approximately 3,600-square-foot area of land zoned P-F with a general plan land use designation of Public/Quasi Public. Any development on P-F-zoned land for a nongovernmental purpose is a conditional use and would require a use permit.

Given the incompatibility of the existing land use and zoning with the intended ownership and development of the land proposed to be exchanged, the City applied for a general plan amendment and rezoning of the areas to be acquired by each party. With a general plan amendment and rezoning:

- The City would receive an approximately 3,600-square-foot area of land rezoned P-F with a land use designation of Public/Quasi Public. The development of a pump station is a permitted use in the P-F district; and
- The Bohannon Development Corporation would receive an approximately 3,600-square-foot area of land zoned M-3-X with a land use designation of Commercial Business Park. The remainder of the existing approximately 8.9-acre parcel to which the new area would be added has the same zoning and land use designations, and all proposed uses of the property would fit with the development and context of the existing Menlo Gateway Constitution Site and be subject to the conditional development permit that currently governs the site.

The general plan amendment and rezoning would become effective 30 days after City Council approval, or upon recordation of the deeds transferring titles to the lands between the City and Bohannon Development Corporation, whichever date is later.

Conclusion

Staff believes that the proposed general plan amendment would be consistent with the general plan land uses of the parcels to which the equal amounts of land would be exchanged, and consistent with the existing uses of the structures that currently occupy the parcels, or in the case of the proposed pump station, consistent with the use that would occupy the parcel. Staff also believes that the proposed rezoning would be consistent with the proposed land uses and the existing zoning of the parcels to which the equal amounts of land would be exchanged. The rezoning would allow the development of a new

pump station designed to handle a 100-year flood, which is a critical resource for the long term safety of life and property in the vicinity, as a permitted use. The general plan amendment and rezoning would allow the pump station to be set back farther from Chrysler Drive for improved aesthetics, easier parking and access of utility vehicles (if needed), and the potential for reduced conflicts and increased safety by locating the facility farther from the public right-of-way. The requested entitlements would also permit the City and Bohannon Development Corporation to retain parcels with consistent land use and zoning designations. The Planning Commission and staff recommend that the City Council approve the actions outlined in the resolution and ordinance in Attachments A and B, respectively.

Impact on City Resources

The City, as the pump station project sponsor, is required to pay planning, building and public works permit fees, based on the City's master fee schedule, to fully cover the cost of staff time spent on the review of the project.

Environmental Review

The proposed general plan amendment and rezoning are exempt from review under section 15061(b)(3) of the current California Environmental Quality Act (CEQA) Guidelines. The activity is covered by the common sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. There is no possibility that the activity in question may have a significant effect on the environment, given that the land receiving new land use designations and zoning is small in area (approximately 7,200 square feet total), being exchanged between the two parties in equal amounts, and matches the land use designations and zoning of the parcels to which the land is being added. Therefore, the general plan amendment and rezoning are not subject to CEQA.

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting. Public notification also consisted of publishing a notice in the local newspaper and notification by mail of owners and occupants within a 300-foot radius of the subject property.

Attachments

- A. Draft resolution approving a general plan amendment
- B. Draft ordinance approving a rezoning
- C. Location map
- D. Hyperlink: February 22, 2021 Planning Commission Staff Report - [menlopark.org/DocumentCenter/View/27404/F1_1395-Chrysler-Drive?bidId=](https://www.menlopark.org/DocumentCenter/View/27404/F1_1395-Chrysler-Drive?bidId=)
- E. Lot line adjustment exhibit – City parcel
- F. Lot line adjustment exhibit – Bohannon Development Corporation parcel

Disclaimer

Attached are reduced versions of maps and diagrams submitted by the applicants. The accuracy of the information in these drawings is the responsibility of the applicants, and verification of the accuracy by City

Staff Report #: 21-229-CC

Staff is not always possible. The original full-scale maps, drawings and exhibits are available for public viewing at the community development department.

Report prepared by:
Tom Smith, Acting Principal Planner

Report reviewed by:
Deanna Chow, Assistant Community Development Director

DRAFT – November 16, 2021

CITY COUNCIL RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK AMENDING THE GENERAL PLAN TO MODIFY LAND USE DESIGNATIONS FOR PORTIONS OF PROPERTIES WITH ASSESSOR'S PARCEL NUMBERS 055-234-010 AND 055-234-280

WHEREAS, a request for consideration of a general plan amendment was filed by the City of Menlo Park ("City") to modify the land use designation for approximately 3,600 square feet of a parcel addressed 1395 Chrysler Drive (APN: 055-234-010) from Public/Quasi Public to Commercial Business Park, and an equal portion of a parcel addressed 105-155 Constitution Drive (APN: 055-234-280) from Commercial Business Park to Public/Quasi Public. The general plan amendment would result in Figure 5, "General Plan Land Use Designations," of the Land Use Element, adopted November 29, 2016, being modified as depicted in Exhibit A of this resolution; and

WHEREAS, the proposed general plan amendment is consistent with the City's General Plan goals, policies, and programs, specifically the policies under Goal LU-1, which states, "Promote the orderly development Menlo Park and its surrounding area," and Goal LU-7, which states, "Promote the implementation and maintenance of sustainable development, facilities, and services to meet the needs of Menlo Park's residents, businesses, workers, and visitors." The approval of the general plan amendment would modify Figure 5 of the Land Use Element to align the land use designations of the subject properties with the lot line adjustment proposed for said properties, which would result in an equal exchange of land between the City and Bohannon Development Corporation. The general plan amendment is consistent with the architectural control and use permit for the City storm water pump station project approved by the Planning Commission on January 8, 2018 and February 22, 2021, respectively, which were determined to be categorically exempt from review under CEQA pursuant to Section 15302 (Replacement or Reconstruction) of the current CEQA Guidelines; and

WHEREAS, the general plan amendment is in the public interest and will further the public health, safety, comfort, and general welfare because it would allow the development of a City storm water pump station capable of managing a 100-year flood to replace the existing storm water pump station capable of managing only a 10-year flood; and

WHEREAS, the general plan amendment will not adversely affect the improvements in the neighborhood or the general welfare of the city because it would allow the proposed pump station to be set back farther from Chrysler Drive for improved aesthetics, easier parking and access of utility vehicles (if needed), and the potential for reduced conflicts and increased safety by locating the facility farther from the public right of way. The land use designations of the portions of the parcels to be exchanged between the City and Bohannon Development Corporation would match the existing land use designations of the parcels to

which they would be joined, and would maintain consistency with the land uses of the existing neighborhood; and

WHEREAS, all required public notices and public hearings were duly given and held according to law; and

WHEREAS, after public notice having been lawfully given, a public hearing was scheduled and held before the Planning Commission of the City of Menlo Park on November 1, 2021, whereat all persons interested therein might appear and be heard; and

WHEREAS, after closing the public hearing, the Planning Commission considered all pertinent information, documents, exhibits, and all other evidence in the public record regarding the proposed amendment to the general plan; and

WHEREAS, on November 1, 2021, following the public hearing, the Planning Commission unanimously recommended approval of the general plan amendment to the City Council; and

WHEREAS, on November 16, 2021, the City Council held a public hearing and separately reviewed and considered all pertinent information, documents, exhibits, and all other evidence in the public record regarding the proposed amendment to the general plan.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Menlo Park, having fully reviewed, considered, and evaluated all the testimony and evidence submitted in this matter, hereby finds and determines as follows:

Section 1: Recitals. That the Recitals herein are true and correct and incorporated and adopted as findings of the City Council as are fully set forth in this Resolution.

Section 2: CEQA. The City Council reviewed the proposed general plan amendment on November 16, 2021, and finds the activity to be exempt from review under section 15061(b)(3) of the current California Environmental Quality Act (CEQA) Guidelines. The activity is covered by the common sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. There is no possibility that the activity in question may have a significant effect on the environment, given that the land receiving new land use designations is small in area (approximately 7,200 square feet total), being exchanged between the two parties in equal amounts, and matches the land use designations of the parcels to which the land is being added. Therefore, the general plan amendment is not subject to CEQA.

Section 3: General Plan Amendment Approval. That the general plan amendment is in compliance with all applicable general plan goals, policies and programs, will further the public health, safety, comfort, and general welfare, and is in the public interest and therefore the City Council hereby approves the amendment of Figure 5 of the Land Use Element of the General Plan as provided in Exhibit A to this resolution, attached hereto and incorporated herein by this reference.

Section 4: Timing of Approval. The general plan amendment shall become effective upon the later of (i) 30 days after the date of adoption of this resolution by the City Council or (ii) the date of recording of the deeds transferring title to the lands described herein between the City of Menlo Park and Bohannon Development Corporation in the San Mateo County Recorder's Office.

SEVERABILITY

If any term, provision, or portion of these findings or the application of these findings to a particular situation is held by a court to be invalid, void or unenforceable, the remaining provisions of these findings, or their application to other actions related to the Project, shall continue in full force and effect unless amended or modified by the City.

I, Judi A. Herren, City Clerk of the City Council of the City of Menlo Park, do hereby certify that the above and foregoing City Council Resolution was duly and regularly passed and adopted at a meeting by said City Council on the sixteenth day of November, 2021, by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City this sixteenth day of November, 2021.

Judi A. Herren, City Clerk

Exhibits

- A. General plan land use designation amendment exhibit



CITY OF
MENLO PARK

105-155 Constitution Drive

GENERAL PLAN AMENDMENT:
Public/Quasi Public to
Commercial Business Park

1395
Chrysler
Drive

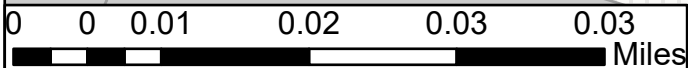
GENERAL PLAN AMENDMENT:
Commercial Business Park to
Public/Quasi Public

Chrysler Dr

161 Constitution Drive

Constitution Dr

150 Constitution Drive



N



DRAFT – November 16, 2021

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MENLO
PARK REZONING PORTIONS OF PROPERTIES WITH ASSESSOR'S
PARCEL NUMBERS 055-234-010 AND 055-234-280**

The City Council of the City of Menlo Park does hereby ordain as follows:

Section 1. The City Council of the City of Menlo Park hereby finds and declares:

- A. A request for consideration of a rezoning application was filed by the City of Menlo Park (“City”) to modify the zoning for approximately 3,600 square feet of a parcel addressed 1395 Chrysler Drive (APN: 055-234-010) from P-F (Public Facilities) to M-3-X (Commercial Business Park, Conditional Development District), and an equal portion of a parcel addressed 105-155 Constitution Drive (APN: 055-234-280) from M-3-X to P-F. The rezoning would result in the parcels being modified as depicted in Exhibit A of this ordinance.
- B. The existing and proposed development on the parcels to be rezoned would comply with all standards of the City’s zoning ordinance, including all development regulations and parking standards, and is consistent with the City’s general plan goals, policies, and programs. The rezoning is also consistent with the architectural control and use permit for the City storm water pump station project approved by the Planning Commission on January 8, 2018 and February 21, 2021, respectively, which were determined to be categorically exempt from review under CEQA pursuant to Section 15302 (Replacement or Reconstruction) of the current CEQA Guidelines.
- C. The rezoning is in the public interest and will further the public health, safety, comfort, and general welfare because it would allow the development of a City storm water pump station capable of managing a 100-year flood to replace the existing storm water pump station capable of managing only a 10-year flood.
- D. The rezoning will not adversely affect the improvements in the neighborhood or the general welfare of the city because it would allow the proposed pump station to be set back farther from Chrysler Drive for improved aesthetics, easier parking and access of utility vehicles (if needed), and the potential for reduced conflicts and increased safety by locating the facility farther from the public right of way. The zoning of the portions of the parcels to be exchanged between the City and Bohannon Development Corporation would match the existing zoning of the parcels to which they would be joined, and would maintain consistency with the zoning of the existing neighborhood.
- E. All required public notices and public hearings were duly given and held according to law, and after public notice having been lawfully given, a public hearing was scheduled and held before the Planning Commission of the City of Menlo Park on November 1,

2021 whereat all persons interested therein might appear and be heard. After closing the public hearing, the Planning Commission considered all pertinent information, documents, exhibits, and all other evidence in the public record regarding the proposed rezoning. Following the public hearing, the Planning Commission unanimously recommended approval of the proposed rezoning to the City Council.

F. On November 16, 2021, the City Council held a public hearing and separately reviewed and considered all pertinent information, documents, exhibits, and all other evidence in the public record regarding the proposed rezoning. The City Council, having fully reviewed, considered, and evaluated all the testimony and evidence submitted in this matter, finds that the proposed rezoning is appropriate.

Section 2: Recitals. That the Recitals herein are true and correct and incorporated and adopted as findings of the City Council as are fully set forth in this Ordinance.

Section 3: CEQA. The City Council reviewed the proposed rezoning on November 16, 2021, and found the activity to be exempt from review under section 15061(b)(3) of the current California Environmental Quality Act (CEQA) Guidelines. The activity is covered by the common sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. There is no possibility that the activity in question may have a significant effect on the environment, given that the land to be rezoned is small in area (approximately 7,200 square feet total), being exchanged between the two parties in equal amounts, and matches the zoning of the parcels to which the land is being added. Therefore, the rezoning is not subject to CEQA.

Section 4: Rezoning Approval. That the rezoning is in compliance with all applicable City general plan goals, policies and programs, all applicable standards of the City's zoning ordinance, and is consistent with the City's General Plan, as amended pursuant to City Council Ordinance No. ---, adopted _____, 2021, and therefore the City Council hereby approves the rezoning as provided in Exhibit A to this ordinance, attached hereto and incorporated herein by this reference.

Section 5: Timing of Approval. The rezoning shall become effective upon the later of (i) 30 days after the date of adoption of this ordinance by the City Council or (ii) the date of recording of the deeds transferring title to the lands described herein between the City of Menlo Park and Bohannon Development Corporation in the San Mateo County Recorder's Office.

INTRODUCED on the sixteenth day of November, 2021.

PASSED AND ADOPTED as an ordinance of the City of Menlo Park at a regular meeting of said Council on the ____ day of ____, 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

Mayor

ATTEST:

Judi A. Herren, City Clerk

Exhibits

A. Rezoning exhibit



CITY OF
MENLO PARK

105-155 Constitution Drive

REZONING: PF (Public Facilities)
to M3(X) (Commercial Business
Park, Conditional Development)

1395
Chrysler
Drive

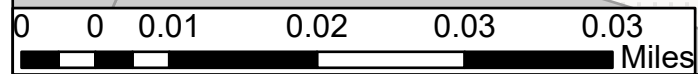
REZONING: M3(X) (Commercial
Business Park, Conditional
Development) to PF (Public
Facilities)

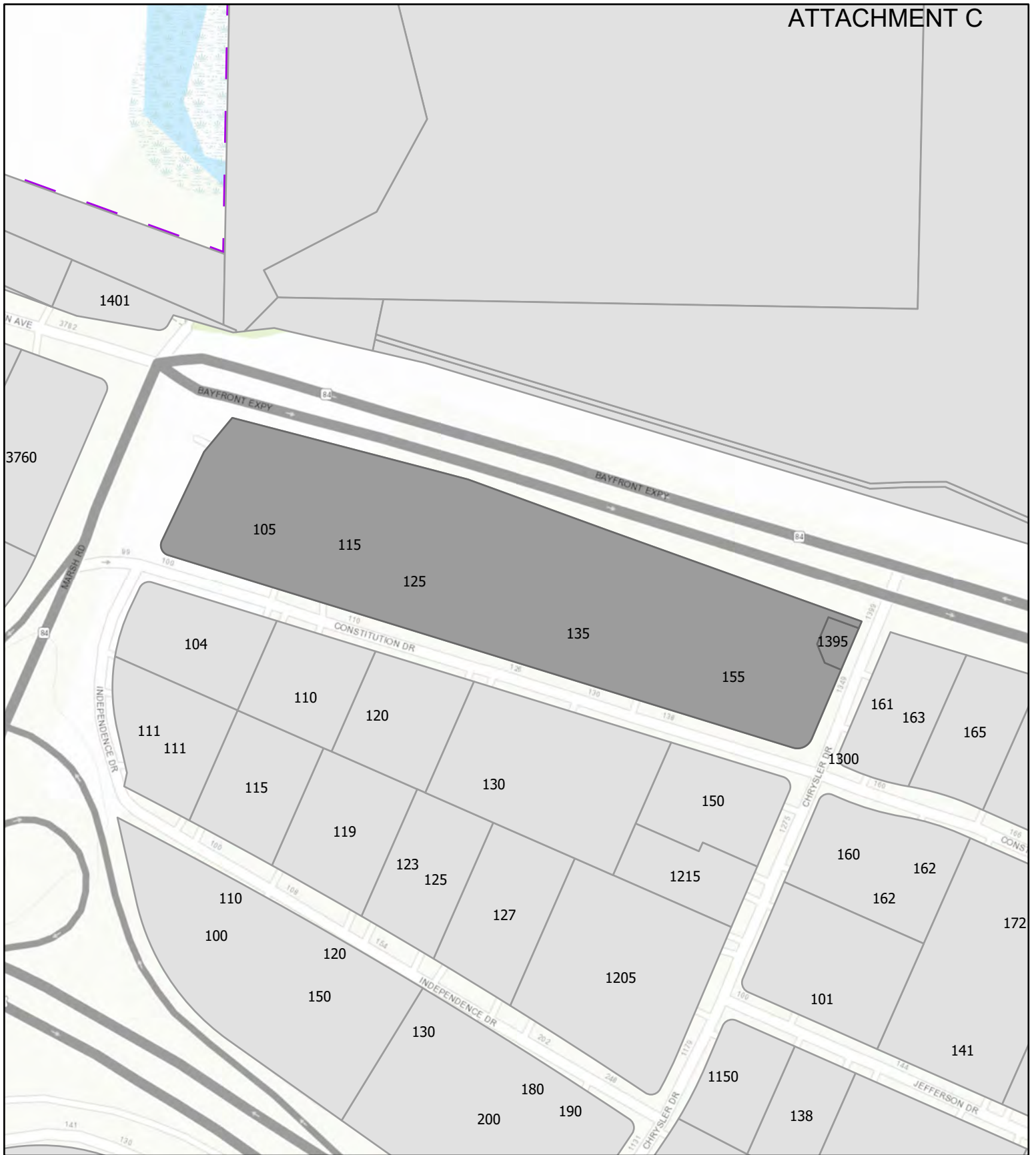
161 Constitution Drive

Constitution Dr

Chrysler Dr

150 Constitution Drive





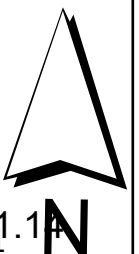
CITY OF MENLO PARK

LOCATION MAP

1395 CHRYSLER DRIVE & 105-155 CONSTITUTION DRIVE



CITY OF
MENLO PARK



Scale: 1:3,000

Drawn By: TAS

Checked By: CDS

Date: 10/18/2021

EXHIBIT A
LEGAL DESCRIPTION

LOT LINE ADJUSTMENT
NEW CITY OF MENLO PARK PARCEL

A portion of the City of Menlo Park parcel, shown as "N.A.P." and a portion of Parcel 1, both as shown on the Parcel Map filed November 14, 2017, in Book 83 of Parcel Maps, at Pages 61 - 64, in the office of the County Recorder, County of San Mateo, State of California, more particularly described as follows:

COMMENCING at the northeasterly corner of said Parcel 1 (83 PM 61-64), said point also being the intersection of the southerly line of the Bayfront Expressway and the westerly line of Chrysler Drive as shown on said Parcel Map (83 PM 61-64); thence, along said westerly line of Chrysler Drive (83 PM 61-64), South 23°01'35" West, 102.36 feet to the southeasterly corner of the City of Menlo Park parcel, shown as "N.A.P." on said Parcel Map (83 PM 61-64); thence leaving said westerly line of Chrysler Drive, along the southerly line of said City of Menlo Park "N.A.P." parcel (83 PM 61-64), North 67°28'17" West, 20.00 feet to the **TRUE POINT OF BEGINNING**; thence, leaving said southerly line (83 PM 61-64), South 23°01'35" West, 6.80 feet; thence North 75°57'45" West, 31.27 feet; thence North 59°07'39" West, 23.67 feet; thence North 72°51'34" West, 51.78 feet; thence North 17°07'50" East, 19.83 feet; thence South 72°54'00" East, 11.30 feet; thence North 17°06'41" East, 11.51 feet; thence North 61°57'52" East, 23.88 feet; thence South 72°54'00" East, 40.08 feet to a point on the westerly line said City of Menlo Park "N.A.P." parcel (83 PM 61-64); thence, along the westerly line of said City of Menlo Park "N.A.P." parcel (83 PM 61-64), North 22°57'52" East, 2.07'; thence, leaving said westerly line (83 PM 61-64), South 72°54'00" East, 16.14 feet; thence South 66°56'53" East, 26.91 feet; thence South 23°01'35" West, 45.01 feet to the true point of beginning.

Containing an area of 5,062 square feet, more or less.

As shown on Exhibit B attached hereto and by
this reference made a part hereof.

Prepared by me or under my direction in conformance with
the Professional Land Surveyors Act:



6/03/2021

Date

A handwritten signature in blue ink, appearing to read "Christine M. Leptien-Parks", written over a horizontal line.

NOTE: OTHER EASEMENTS
MAY EXIST AND ARE NOT
SHOWN ON THIS PLAT.

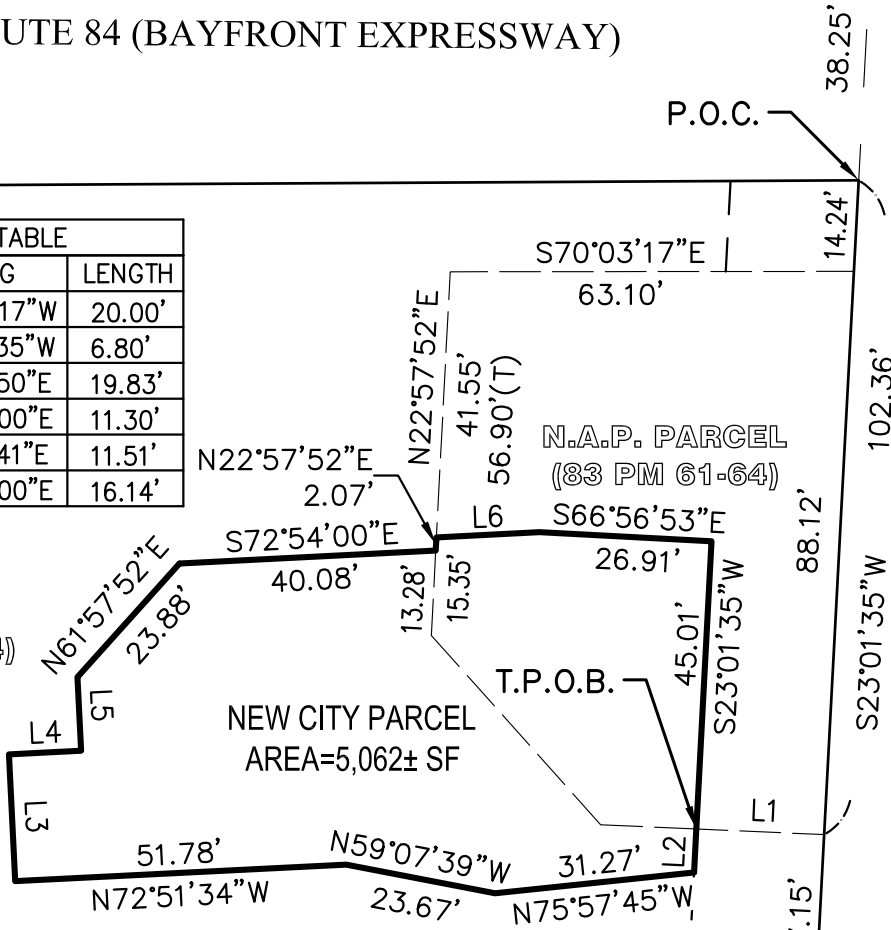
EXHIBIT B
PLAT MAP
TO ACCOMPANY LEGAL DESCRIPTION
LOT LINE ADJUSTMENT
NEW CITY OF MENLO PARK PARCEL

CITY OF MENLO PARK
SAN MATEO COUNTY, CA.

ROUTE 84 (BAYFRONT EXPRESSWAY)

LINE TABLE		
LINE	BEARING	LENGTH
L1	N67°28'17"W	20.00'
L2	S23°01'35"W	6.80'
L3	N17°07'50"E	19.83'
L4	S72°54'00"E	11.30'
L5	N17°06'41"E	11.51'
L6	S72°54'00"E	16.14'

PARCEL 1
(83 PM 61-64)



NEW CITY PARCEL
AREA=5,062± SF

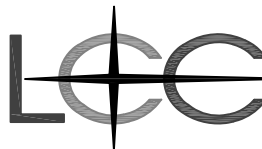
N.A.P. PARCEL
(83 PM 61-64)

LEGEND

- Property Line to Remain
- Monument Line
- Easement Line
- Original Lot Line
- New Property Line
- Property Line to Be Removed



SCALE IN FEET

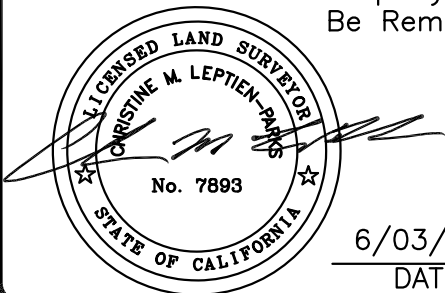


ENGINEERING & SURVEYING, INC.

930 Estudillo Street
Martinez, California 94553-1620
(925) 228-4218 Fax (925) 228-4638
www.lcc-inc.com

MAY 2021

LCC JOB No. 2021.008.00



6/03/2021
DATE

SHEET 1 of 1

EXHIBIT A
LEGAL DESCRIPTION

LOT LINE ADJUSTMENT
NEW BOHANNON MG2 LLC PARCEL

A portion of the City of Menlo Park parcel, shown as "N.A.P." and a portion of Parcel 1, both as shown on the Parcel Map filed November 14, 2017, in Book 83 of Parcel Maps, at Pages 61 - 64, in the office of the County Recorder, County of San Mateo, State of California, more particularly described as follows:

BEGINNING at the northeasterly corner of said Parcel 1 (83 PM 61-64), said point also being the intersection of the southerly line of the Bayfront Expressway and the westerly line of Chrysler Drive as shown on said Parcel Map (83 PM 61-64); thence, along said westerly line of Chrysler Drive (83 PM 61-64), South 23°01'35" West, 102.36 feet to the southeasterly corner of the City of Menlo Park parcel, shown as "N.A.P." on said Parcel Map (83 PM 61-64), said point called Point "A" for the purposes of this description; thence, continuing along said westerly line of Chrysler Drive, also being the easterly and southeasterly line of said Parcel 1 (83 PM 61-64), South 23°01'35" West, 147.15 feet; thence, along a tangent curve to the right, having a radius of 30.00 feet, through a central angle of 84°04'15", an arc length of 44.02 feet; thence along the southerly, westerly, and northerly lines of said Parcel 1 (83 PM 61-64) as follows: North 72°54'10" West, 1276.42 feet; thence, along a tangent curve to the right, having a radius of 20.00 feet, through an arc length of 98°14'34", an arc length of 34.29 feet; thence North 25°20'24" East, 192.56 feet; thence North 39°45'57" East, 85.23 feet; thence South 75°30'48" East, 475.51 feet; thence South 69°58'51" East, 286.41 feet; thence South 70°18'16" East, 530.86 feet to the point of beginning.

Excepting therefrom the following described parcel:

COMMENCING at Point "A" as described above, thence leaving said westerly line of Chrysler Drive, along the southerly line of said City of Menlo Park "N.A.P." parcel (83 PM 61-64), North 67°28'17" West, 20.00 feet to the **TRUE POINT OF BEGINNING**; thence, leaving said southerly line (83 PM 61-64), South 23°01'35" West, 6.80 feet; thence North 75°57'45" West, 31.27 feet; thence North 59°07'39" West, 23.67 feet; thence North 72°51'34" West, 51.78 feet; thence North 17°07'50" East, 19.83 feet; thence South 72°54'00" East, 11.30 feet; thence North 17°06'41" East, 11.51 feet; thence North 61°57'52" East, 23.88 feet; thence South 72°54'00" East, 40.08 feet to a point on the westerly line said City of Menlo Park "N.A.P." parcel (83 PM 61-64); thence, along the westerly line of said City of Menlo Park "N.A.P." parcel (83 PM 61-64), North 22°57'52" East, 2.07'; thence, leaving said westerly line (83 PM 61-64), South 72°54'00" East, 16.14 feet; thence South 66°56'53" East, 26.91 feet; thence South 23°01'35" West, 45.01 feet to the true point of beginning.

Containing a net area of 8.86 acres, more or less.

As shown on Exhibit B attached hereto and by this reference made a part hereof.

Prepared by me or under my direction in conformance with the Professional Land Surveyors Act:





6/03/2021
Date

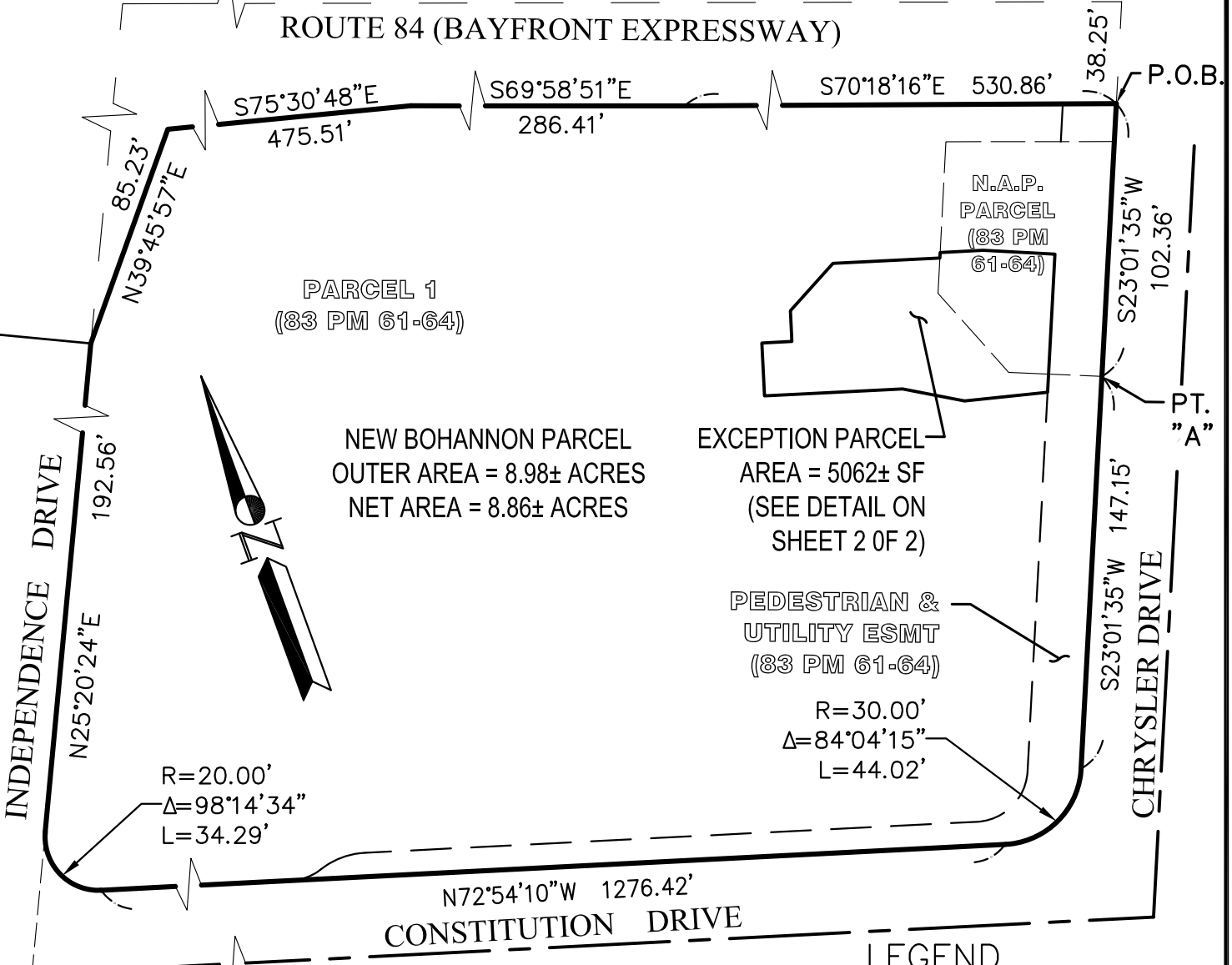
NOTE: OTHER EASEMENTS
MAY EXIST AND ARE NOT
SHOWN ON THIS PLAT.

EXHIBIT B

CITY OF MENLO PARK
SAN MATEO COUNTY, CA.

PLAT MAP TO ACCOMPANY LEGAL DESCRIPTION LOT LINE ADJUSTMENT NEW BOHANNON MG2 LLC PARCEL

ROUTE 84 (BAYFRONT EXPRESSWAY)

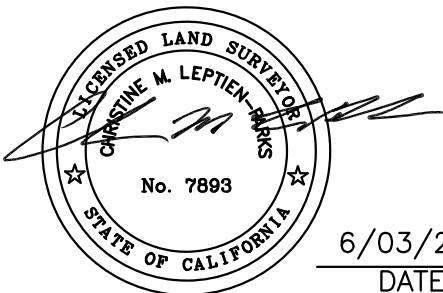


LEGEND

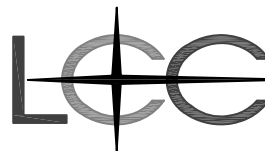
- Property Line to Remain
- Monument Line
- Easement Line
- Original Lot Line
- New Property Line
- Property Line to Be Removed



SCALE IN FEET



6/03/2021
DATE



ENGINEERING & SURVEYING, INC.

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www.lcc-inc.com

MAY 2021

LCC JOB No. 2021.008.00

SHEET 1 of 2

NOTE: OTHER EASEMENTS
MAY EXIST AND ARE NOT
SHOWN ON THIS PLAT.

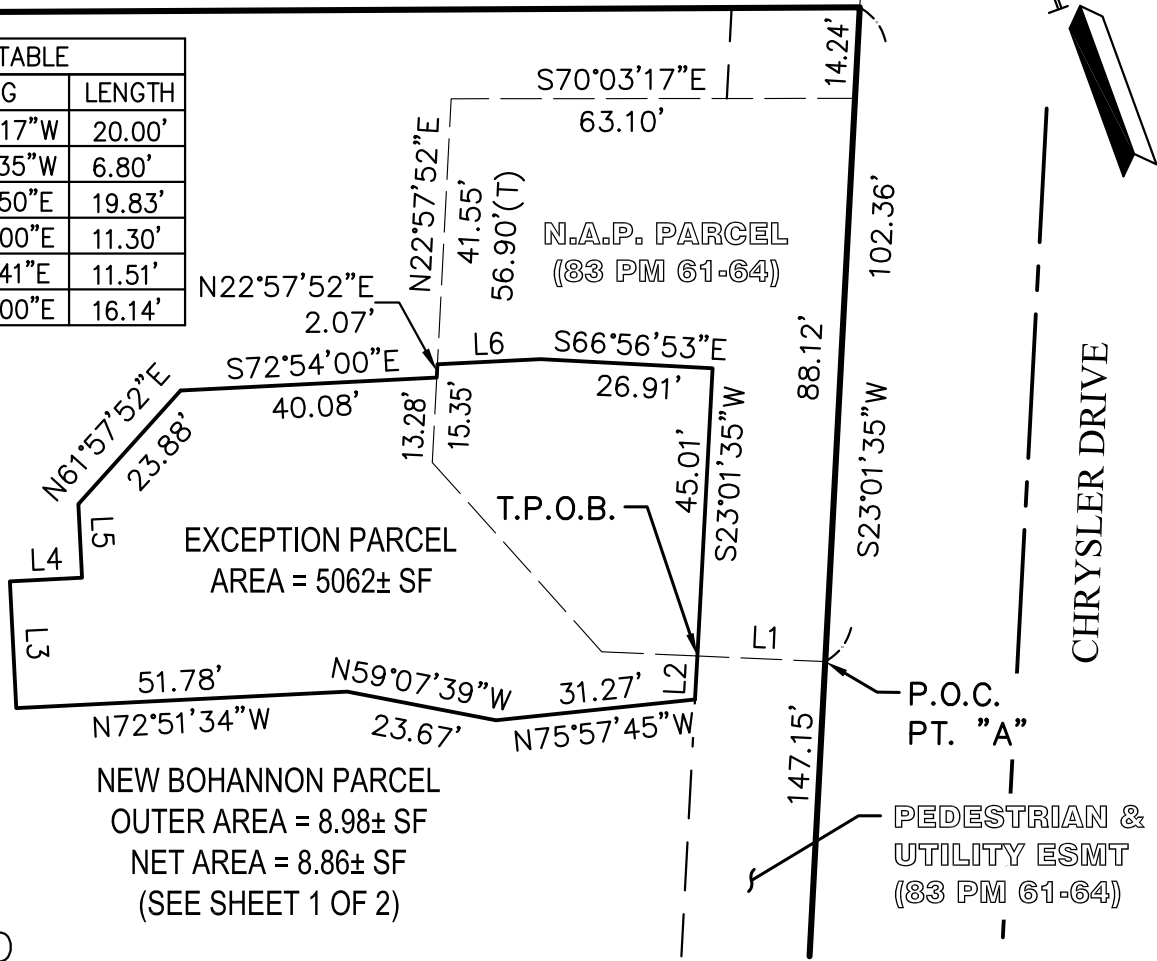
EXHIBIT B PLAT MAP TO ACCOMPANY LEGAL DESCRIPTION LOT LINE ADJUSTMENT NEW BOHANNON MG2 LLC PARCEL

CITY OF MENLO PARK
SAN MATEO COUNTY, CA.

ROUTE 84 (BAYFRONT EXPRESSWAY)

LINE TABLE		
LINE	BEARING	LENGTH
L1	N67°28'17"W	20.00'
L2	S23°01'35"W	6.80'
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L4	S72°54'00"E	11.30'
L5	N17°06'41"E	11.51'
L6	S72°54'00"E	16.14'

PARCEL 1
(83 PM 61-64)

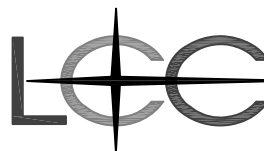


LEGEND

- Property Line to Remain
- Monument Line
- Easement Line
- Original Lot Line
- New Property Line
- Property Line to Be Removed



SCALE IN FEET



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MAY 2021



STAFF REPORT

City Council

Meeting Date:

11/16/2021

Staff Report Number:

21-221-CC

Study Session:

Provide direction on development of an ordinance to regulate wireless facilities on private property and in the public right-of-way

Recommendation

Staff recommends that the City Council provide direction to staff to begin developing an ordinance to regulate wireless facilities on private property and in the public right-of-way.

Policy Issues

In telecommunications utilities, there has been federal legislation designed to preempt and limit local land use authority to regulate placement of telecommunications facilities. Relevant federal and state legislation applicable to telecommunications facilities is discussed in the background section below.

On private property, the City's municipal code section 16.76 requires a use permit for utility transmission and distribution facilities reviewed by the planning commission. Within public right-of-way or City property, the City's Municipal Code Chapter 13.18 provides for the City to regulate work in the public right-of-way or on City property through encroachment permits. The City's code does not currently contain development or aesthetic regulations or application procedures specific to wireless telecommunications facilities in the public right-of-way or on City or private property.

Background

Wireless regulations

The Federal Telecommunications Act, Federal Communications Commission (FCC) regulations and provisions of state law govern the City's ability to regulate wireless communication facilities.

Federal Telecommunications Act

The Telecommunications Act of 1996 established much of the federal framework for processing wireless communication facility applications. The Act, other laws enacted by Congress, and the implementing regulations adopted by the FCC, have a significant effect on the City's ability to regulate wireless communication facility applications by preempting the City from regulating in areas regulated by the Act. The Act's provisions include (amongst others) the following:

- Radio frequency ("RF") emissions: The City cannot regulate a wireless communication facility on the basis of environmental impacts from RF emissions. Environmental impacts from RF emissions include any potential or perceived health effects of the RF emissions. The City may only seek confirmation that the wireless communication facilities will comply with Federal Regulations establishing permissible limits on RF emissions.
- Effective Prohibition: The City cannot regulate in a manner that has the effect of prohibiting the provision of personal wireless service by materially limiting or inhibiting the ability of any competitor to compete in

a regulatory environment.¹ (Declaratory Ruling and Third Report and Order adopted September 26, 2018 (WT Docket No. 17-79; WC Docket No. 17-84) ¶¶ 34-42.) This means that local regulations may not prohibit “densifying a wireless network, introducing new services or otherwise improving service capabilities.”² (City of Portland v. United States, 969 F.3d 1020, 1034-1035 (9th Cir. 2020))

- Limited Time for Review: The FCC has established “shot clocks” which determine a presumed reasonable timeframe for local government action on a wireless communication facility application depending on the type of proposed facility. The applicable shot clocks for small cell facilities are discussed further below.

Federal Regulations apply differently to initial applications than they do to subsequent applications for modifications to existing facilities or colocations (i.e., an application to install or modify a new facility at an existing site.) Federal Regulations also differ depending on the type of facility.

FCC 2018 Declaratory Ruling and Order

On September 26, 2018, the FCC adopted its Declaratory Ruling and Third Report and Order (FCC 18-133) in the rulemaking proceeding entitled *Accelerating Wireless Broadband by Removing Barriers to Infrastructure Investment, WT Docket No. 17-79* (Order.) The Order expands the degree of preemption over local control regarding, among other things, the permitting of small cell sites and the leasing of small cell sites by local governments to the providers.

Significantly, the Order affirms the FCC’s interpretation of the “effective prohibition” standard found in the Act, concluding that a state or local legal requirement constitutes an effective prohibition if it “materially limits or inhibits the ability of any competitor or potential competitor to compete in a fair and balanced legal and regulatory environment”.

In the Order, the FCC also considered whether a local jurisdiction acts in a regulatory capacity or as a market participant when regulating property owned by the government in the right-of-way. Ultimately, the FCC determined that, local governments were preempted from imposing any standards which contravene federal regulations through license agreements or leases for property in the public right-of-way. Because local governments are acting in their regulatory capacity when leasing property in the public right-of-way, the FCC determined that the Act limits the discretion that local governments have in approving the lease and limits the compensation that state and local governments may receive from telecommunication providers for those facilities in the public right-of-way. Thus, if a carrier were to file an application for the installation of a facility in the ROW on a City-owned pole, the City would be limited in its ability to deny that application. Finally, the Order also imposed a number of other limitations on local regulations of small cell facilities including, requiring that aesthetic regulations be objective and no more burdensome than those applied to other infrastructure deployments. The Order also made changes to the shot clocks for small wireless facilities, depending on whether the facility is a collocation proposed on an existing structure (60 days) or a facility on a new structure (90 days) and remedies for violations of the shot clocks.

9th Circuit Decision in Portland v. United States

Although the Order was challenged by a number of cities and other public agencies, including San Francisco, San Jose and Burlingame, the Ninth Circuit upheld most of the provisions of the Order, including the FCC’s interpretation of “effective prohibition” and found that generally the FCC’s interpretation is reasonable for small cell facilities in light of how 5G technology works. The Ninth Circuit also upheld the FCC’s determination that local governments are acting in their regulatory capacity when leasing their property in the public right-of-way; thus local jurisdictions are not acting as owners of the property and therefore are subject to preemption. The Ninth Circuit did, however, vacate and remand certain portions of the Order relating to the requirement that aesthetic regulations. As such, those provisions in the Order

relating to the objective aesthetic regulations are not effective and cannot be enforced. The Plaintiffs (cities and counties) have petitioned the United States Supreme Court to hear the case, however, the Supreme Court denied the Petition for Writ of Certiorari on June 28, 2021. Thus the 9th Circuit decision remains good law.

State Regulations Relating to Small-Cell Facilities in the Right of Way

California has granted telephone corporations, which include certain wireless telecommunications providers, the right to site their facilities in the public right-of-way, which adds another layer of complexity to the review of wireless communication facilities in the public right-of-way. Specifically, Public Utilities Code section 7901 grants providers the right to “construct lines” and to “erect poles, posts, piers, or abutments” for their equipment “along and upon any public road or highway” provided the facilities do not obstruct a street or sidewalk. Public Utilities Code section 7901.1 clarifies that municipalities shall have the “...right to exercise reasonable control as to the time, place, and manner in which roads, highways, and waterways are accessed” but to be reasonable, that control must be applied to “...all entities in an equivalent manner.” The California Supreme Court has clarified that Public Utilities Code sections 7901 and 7901.1 do not preempt the authority of a local city or county to enact an ordinance requiring telecommunications companies to obtain permits and imposing reasonable aesthetic requirements on facilities in the right-of-way.

While cities and states still retain right of way management, this ability to manage is narrowly construed to mean control over the right of way itself, not control over companies with facilities in the right-of-way. The installation of a wireless facility in the right of way on a utility pole must also comply with construction and installation requirements established by the California Public Utilities Commission.

Analysis

Master license agreements

The City currently has existing small wireless facilities on PG&E utility poles in the right of way and other facilities on private property that have been approved through use permits. Generally, uses of City-owned properties (including property in the right of way) would be permitted through a lease, encroachment agreement and/or use permits. As a result of the FCC’s Order interpreting governmental agencies to be acting in their regulatory capacity when allowing use of the public right of way, the City is further limited in its review of a carrier’s request to utilize city-owned property in the right of way. Based on the Order, any negotiation of a lease or license agreement for use of the right of way would need to be done within the applicable shot clock time limitations.

Many telecommunications providers and local governments utilize master license agreement (or MLA), which provides a method of streamlining approval of the use of public property in the right of way, while providing assurances that the property is accessed and used in an appropriate manner. An MLA typically grants a non-exclusive right to the provider to utilize specified city-owned property such as traffic lights and street lights (collectively “City Poles”) for the installation and construction of a small wireless facility. Generally, the contractual provisions of an MLA would cover areas such as the term of the agreement, maintenance, repair, damages, insurance and liability as they relate to the use of the property and typically incorporate a city’s standards and regulations relating to wireless communication facilities in the terms of the MLA. For each facility installed, a city would issue an individual license or permit that is subject to the terms of the MLA.

The City could enter into MLAs with telecommunications carriers without first amending the Municipal Code. However, if the City enters into various MLAs with various telecommunications providers, this approach to the approval of requests for City poles in the right of way could lead to inconsistent contract terms and development amongst the different carriers. As a result, City staff believes that it would be more efficient and beneficial to the City to amend the Municipal Code to add specific regulations relating to telecommunications facilities prior to entering into MLAs with any of the carriers so that the MLAs can incorporate the City's adopted standards and regulations into the terms of the MLAs.

Benefits of amending the Municipal Code

While the City's discretion in regulating wireless communication facilities has been limited by federal and state law, the City still retains some discretion in establishing a process for approval of facilities and establishing development standards, including aesthetic standards. Codifying standards through a Municipal Code amendment will be beneficial for the City because, once adopted, City staff, applicants and the public will then have a clear understanding of the approval requirements for the facilities. For example, the City may still adopt regulations for large tower facilities outside of the right-of-way to address set-backs, height and bulk and design. In the case of towers outside of the right-of-way, some cities require tower facilities to incorporate certain stealth design elements to make the tower look like something else (e.g., trees, clock towers, church steeples.)

Adding provisions to the Municipal Code setting forth the standards and regulations for all wireless communication facilities, would facilitate uniform, fair, and efficient method of reviewing and approving applications from telecommunications providers. Adopting a clear process for review would also assist City staff and the applicant in understanding what steps will be taken to review the application and the standards by which a determination will be made to either approve or deny the proposed facility and the rights to appeal that determination. This process for review and approval could also incorporate the MLA as a requirement for any facility that will be installed on City poles.

Benefits of amending Municipal Code prior to entering into MLA

As discussed above, adding provisions to the Municipal Code setting forth the standards and regulations for all wireless communication facilities, as well as procedures for MLAs, would facilitate uniform, fair, and efficient method of reviewing and approving applications from telecommunications providers.

Amending the Municipal Code to provide standards and procedures for entering into MLAs, would also allow the City to process applications for small cell facilities on City poles from start to finish within the federally-mandated shot clocks. Rather than negotiate individual agreements for each City pole each time an application is submitted, an MLA consistent with the City's Municipal Code would ensure that use of the City poles is administered in a way that is consistent and utilizes the same standards, deadlines, requirements and procedures for each of the City poles. Absent Municipal Code provisions detailing the process, individual agreements negotiated at different times could yield different provisions that hamper the City's ability to provide for reasonably equitable treatment of all carriers in accordance with Federal Regulations. Using MLAs would also help to ensure timely review of applications given the extreme limitations on staff due to the shot clocks and ensure that the City is responsive by the imposed deadlines. Moreover, the MLA would allow the City to efficiently manage impacts on City resources and property and would provide a method for cost recovery in accordance with the Federal Regulations.

Requested City Council direction and next steps

By amending the Menlo Park Municipal Code to include a process for the review and approval of wireless facilities and establishing aesthetic and design standards, the City will retain some measure of regulations,

moreover, will be able to more easily comply with the short time periods for approval required by federal law. By amending the Municipal Code, the City could also establish standards and procedures for entering into MLAs and staff could begin the MLA process, while ensuring that each MLA meets state and federal guidelines and encompasses City policy of wireless facilities.

Staff is requesting City Council provide direction on whether to proceed with development of a wireless facility ordinance. If directed to proceed, staff would incorporate a budget amendment for technical consulting resources to assist with ordinance and permitting development in the mid-year budget, anticipated to be reviewed by the City Council on December 7, 2021.

Impact on City Resources

Staff estimates that a comprehensive ordinance could take approximately six months from initial drafting to effective date. Staff estimates that this project could take them between 200 and 250 hours and cost approximately \$25,000, which could also be led by a consultant with expertise in wireless facilities.

Environmental Review

This action is not a project within the meaning of the California Environmental Quality Act (CEQA) Guidelines §§ 15308 (action for protection of the environment) and 15061(b)(3) as it will not result in any direct or indirect physical change in the environment.

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours before the meeting.

Attachments

None.

Report prepared by:
Nikki Nagaya, Public Works Director
Denise Bazzano, Assistant City Attorney

Report reviewed by:
Justin Murphy, Deputy City Manager
Nira Doherty, City Attorney

K1-PRESENTATION



Wireless Communication Facilities

Study Session – November 16, 2021

Recommendation

- Direct staff to develop an ordinance regulating wireless communication facilities



Purpose and Need

- City Municipal Code sections
 - 16.76: private property
 - 13.18: public right-of-way and City-owned property
- Regulations do not currently include development or aesthetic regulations or application procedures

Wireless Regulations

- Federal regulations preempt the City's control on a number of topics
- Radio frequency (RF) emissions
- Effective prohibition
- Time limits for processing applications, or “shot clocks”
- Consistent treatment of all carriers

Options for Consideration

- Template Master License Agreement with carriers
- Adopt an ordinance with objective criteria
 - Application procedure
 - Permitting process
 - Aesthetic and design criteria
- Resource needs:
 - Budget for consultant support of \$25,000

Recommendation

- Direct staff to develop an ordinance regulating wireless communication facilities





THANK YOU



SPECIAL AND REGULAR MEETING AGENDA

Date: 11/16/2021

Time: 5:00 p.m.

Meeting Location: [Zoom.us/join](https://zoom.us/join) – ID# 998 8073 4930

STAFF REPORT RELEASE NOTICE

The Staff Report No. 21-224-CC for Adopt Resolution No. 6687 to approve the through and left-turn restrictions from southbound Garwood Way and northbound Merrill Street at Oak Grove Avenue will be available on November 12, 2021.

Members of the public can view electronic agendas and staff reports by accessing the City website at menlopark.org/agenda and can receive email notification of agenda and staff report postings by subscribing to the "Notify Me" service at menlopark.org/notifyme. Agendas and staff reports may also be obtained by contacting the City Clerk's Office at 650-330-6620. (Posted 11/10/2021.)



STAFF REPORT

City Council

Meeting Date: 11/16/2021

Staff Report Number: 21-230-CC

Consent Calendar: Waive second reading and adopt Ordinance No. 1079, enacting Chapter 7.04 [Solid Waste, Recyclables and Organic Waste Disposal] of Title 7 [Health and Sanitation]

Recommendation

Staff recommends that the City Council waive second reading and adopt Ordinance No. 1079 enacting Chapter 7.04 [Solid Waste, Recyclables and Organic Waste Disposal] of Title 7 [Health and Sanitation] (Attachment A) to comply with Senate Bill (SB) 1383.

Policy Issues

State law requires two City Council actions, a first reading and second reading, to amend or add to a city's municipal code.

Background

On November 9, the City Council unanimously voted to waive the first reading and introduce Ordinance No. 1079 (Attachment A.) This meeting constitutes the second reading of the ordinance.

The City of Menlo Park is required to adopt an enforceable ordinance to implement all requirements of SB 1383, including inspection and compliance enforcement as to generators of waste and haulers. The City of Menlo Park needs to comply with nearly all SB 1383 requirements by January 1, 2022 with the significant exception that the imposition of penalties does not need to commence until January 1, 2024.

Analysis

To accomplish statewide goals, the SB 1383 regulations include prescriptive requirements for jurisdictions, including the City of Menlo Park, related to recycling and organics collection, inspection, and enforcement policies and programs and edible food recovery. The City of Menlo Park is a South Bayside Waste Management Authority (SBWMA) member agency and proactively collaborates closely with CalRecycle as well as regional partner agencies, including the SBWMA, Recology of San Mateo County, and the County of San Mateo, to implement SB 1383 programs in accordance with state guidelines and requirements.

The last item for the City Council to consider before January 1, 2022 is to adopt a resolution approving the updates to the City's purchasing policy, which includes language on procuring recovered organic products and purchasing recycled-content paper products.

Impact on City Resources

SB 1383 implementation is a unique multiagency collaboration, including SBWMA cities and the County of San Mateo, to fulfill a state mandate. At this time, City staff is unaware of resource requirements to meet SB 1383 objectives; however, a request for additional resources will return to City Council if necessary.

Environmental Review

This action is not a project within the meaning of the California Environmental Quality Act (CEQA) Guidelines §§ 15308 (action for protection of the environment) and 15061(b)(3) as it will not result in any direct or indirect physical change in the environment.

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

Attachments

A. Ordinance No. 1079

Report prepared by:

Joanna Chen, Management Analyst I

Reviewed by:

Nick Pegueros, Assistant City Manager

ORDINANCE NO. 1079**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MENLO PARK REPEALING CHAPTER 7.04 [GARBAGE AND RUBBISH DISPOSAL] OF TITLE 7 [HEALTH AND SANITATION] AND ENACTING CHAPTER 7.04 [SOLID WASTE, RECYCLABLES, AND ORGANIC WASTE DISPOSAL]**

The City Council of the City of Menlo Park does hereby ordain as follows:

SECTION 1. FINDINGS AND DETERMINATIONS.

- A. State law, Assembly Bill 939 of 1989, the California Integrated Waste Management Act of 1989 requires cities and counties to reduce, reuse, and recycle (including composting) solid waste generated in their jurisdictions to the maximum extent feasible before any incineration or landfill disposal of waste, to conserve water, energy, and other natural resources, and to protect the environment.
- B. State law, Assembly Bill 341 of 2011, places requirements on businesses and multi-family property owners that generate a specified threshold amount of solid waste to arrange for recycling services and requires jurisdictions to implement a mandatory commercial recycling program.
- C. State law, Assembly Bill 1826 of 2014, requires businesses and multi-family property owners that generate a specified threshold amount of solid waste, recyclable materials, and organic waste per week to arrange for recycling services for that waste, requires jurisdictions to implement a recycling program to divert organic waste from businesses subject to the law, and requires Jurisdictions to implement a mandatory commercial organics recycling program.
- D. SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires CalRecycle to promulgate regulations to reduce organics in landfills, which create methane. Pursuant to regulations adopted by CalRecycle, jurisdictions must adopt an ordinance or other enforceable mechanisms to achieve organic waste reduction. This ordinance will also help reduce food insecurity by requiring commercial edible food generators to arrange to have the maximum amount of their edible food, that would otherwise be disposed, be recovered for human consumption.
- E. Requirements in this ordinance are consistent with other adopted goals and policies of the City including:
 - i. In 2016, the City Council amended Menlo Park Municipal Code Sections 16.43, 16.44, and 16.45 to include green and sustainable building requirements, which require developers to submit zero waste management plans to showcase how the project would reduce waste during the construction and occupancy phase;
 - ii. In 2017, the City Council adopted the Community Zero Waste Plan, which defines zero waste as diversion of 90 percent of waste through recycling or composting programs; and
 - iii. In 2019, the City Council adopted Resolution No. 6535, a separate and complimentary action boosting the importance of SB 1383, which declares a

climate emergency and prioritized development of an aggressive climate action plan.

- iv. In 2021, the City Council adopted Resolution No. 6675 and No. 6676 to authorize the city manager to enter into a memorandum of understanding with South Bay Waste Management authority to help implement SB 1383 and with the San Mateo County Office of Sustainability to establish a food recovery program, respectively.

SECTION 2. AMENDMENT OF CODE.

Chapter 7.04 [Garbage and Rubbish Disposal] of Title 7 [Health and Sanitation] is hereby repealed and replaced with the following:

Chapter 7.04

SOLID WASTE, RECYCLABLES, AND ORGANIC WASTE DISPOSAL

7.04.010 Definitions.

For the purposes of this chapter the following words and phrases shall have the meanings respectively ascribed to them by this section:

- (1) "Authorized collector" means such persons, firms or corporations collecting and delivering for disposal, recycling or processing solid waste (other than solid waste generated by a permitted building project) originating in the City and doing so under a contract or franchise agreement with the City.
- (2) "Back-haul" means generating and transporting organic materials to a destination owned and operated by the generator using the generator's own employees and equipment, as defined in 14 CCR Section 189881(a)(66)(A).
- (3) "California Code of Regulations" or "CCR" means the State of California Code of Regulations.
- (4) "City" means the city of Menlo Park.
- (5) "City Enforcement Official" means the city manager or designee.
- (6) "Commercial Business" or "commercial" means a firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, strip mall, industrial facility, or a multi-family dwelling that consists of five or more units, as further defined in 14 CCR section 18982(a)(6). A multi-family residential dwelling that consists of fewer than five (5) units is not a commercial business for purposes of this chapter.
- (7) "Commercial Edible Food Generator" means a tier one or tier two commercial edible food generator as defined in 14 CCR section 18982(a)(73) and (a)(74). Food recovery organizations and food recovery services are not commercial edible food generators.
- (8) "Community Composting" means any activity that composts green material, agricultural material, food material, and vegetative food material, alone or in combination, and the total

amount of feedstock and compost on-site at any one time does not exceed 100 cubic yards and 750 square feet, as specified in 14 CCR section 17855(a)(4).

- (9) “Edible Food” means food intended for human consumption, as further defined in 14 CCR section 18982(a)(18). For the purposes of this ordinance, edible food is not solid waste if it is recovered and not discarded. Nothing in this chapter requires or authorizes the recovery of edible food that does not meet the food safety requirements of the California Retail Food Code.
- (10) “Edible Food Recovery” means actions to collect, receive, and/or re-distribute Edible Food for human consumption from Tier One and Tier Two Commercial Edible Food Generators that otherwise would be disposed.
- (11) “Exempt Waste” means biohazardous or biomedical waste, hazardous waste, medical waste, regulated radioactive waste, waste that is volatile, corrosive, or infectious, waste treatment or processing sludge, contaminated soil and dirt, contaminated concrete, contaminated asphalt, automobiles, automobile parts, boats, boat parts, boat trailers, internal combustion engines, lead-acid batteries, any matter or materials which are not acceptable for disposal at a solid waste landfill as defined in California Integrated Waste Management Act of 1989 (commencing with Section 40000 of the Public Resources Code), as amended, and those wastes under the control of the Nuclear Regulatory Commission.
- (12) “Food Recovery Organization” means an entity that engages in the collection or receipt of edible food from commercial edible food generators and distributes that edible food as part of food recovery either directly or through other entities as further defined in 14 CCR section 18982(a)(25), including, but not limited to:
- a. A food bank as defined in Section 113783 of the Health and Safety Code;
 - b. A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and,
 - c. A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.

A Food Recovery Organization is not a Commercial Edible Food Generator for the purposes of this chapter.

- (13) “Food Recovery Service” means a person or entity that collects and transports edible food from a commercial edible food generator to a food recovery organization or other entities for food recovery, as further defined in 14 CCR section 18982(a)(26). A food recovery service is not a commercial edible food generator for the purposes of this chapter.
- (14) “Food Scraps” means all food such as, but not limited to, fruits, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread, cheese, and eggshells. Food scraps excludes fats, oils, and grease when such materials are source separated from other food scraps.

- (15) “Generator” means any person that is responsible for the initial creation of solid waste or organic materials at any premises, and includes an “organic waste generator” as defined in 14 CCR section 18982(a)(48).
- (16) “Large Event” means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event.
- (17) “Large Venue” means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For purposes of this chapter, a venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. For purposes of this ordinance, a site under common ownership or control that includes more than one venue that is contiguous with other venues in the site, is a single venue.
- (18) “Multi-Family Residential Dwelling” or “Multi-Family” means a residential premise with five (5) or more dwelling units. Multi-family premises do not include hotels, motels, or other transient occupancy facilities.
- (19) “Organic Waste” means solid waste containing material originated from living organisms and their metabolic waste products, including but not limited to food, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, paper products, Printing and Writing Paper, manure, biosolids, digestate, and sludges, as further defined in 14 CCR Section 18982(a)(46).
- (20) “Organic Waste Generator” means a person or entity that is responsible for the initial creation of Organic Waste, as further defined in 14 CCR Section 18982(a)(48).
- (21) “Prohibited Container Contaminants” means (1) discarded materials placed in the designated recyclables container that are not identified as acceptable source separated recyclables for the authorized collector’s designated recyclables collection container; (2) discarded materials placed in the designated organic materials collection container that are not identified as acceptable source separated organic materials for the authorized collector’s designated organic materials collection container; and (3) discarded materials placed in the garbage container that are acceptable source separated recyclables and/or source separated organic materials to be placed in authorized collector’s designated organic materials collection container and/or designated recyclables collection container, and (4) exempt waste placed in any container.
- (22) “Recovery” means any activity or process described in 14 CCR Section 18983.1(b).
- (23) “Recyclable Materials” or “Recyclable” shall mean non-hazardous residential, commercial, or industrial materials or by-products that are suitable for recycling as defined by the authorized collector.

- (24) "Self-haul" means the act of a person hauling the solid waste, organic waste, or recovered material that that such person has generated to another person. A "self-hauler" is any person who self-hauls their own solid waste, organic waste or recovered material and also includes a person who back-hauls waste, as defined in 14 CCR Section 18982(a)(66).
- (25) "Single-Family" means of, from, or pertaining to any residential premises with fewer than five (5) units.
- (26) "Solid Waste" has the same meaning as defined in State Public Resources Code Section 40191, which defines Solid Waste as all putrescible and nonputrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semi-solid wastes, and other discarded solid and semisolid wastes, with the exception that Solid Waste does not include: Hazardous waste, as defined in the State Public Resources Code Section 40141, Radioactive waste regulated pursuant to the State Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the State Health and Safety Code), Medical waste regulated pursuant to the State Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the State Health and Safety Code), or exempt waste.
- (27) "Source Separate" means the process of removing recyclable materials and organic materials from solid waste at the place of generation, prior to collection, and placing such materials into separate containers designated for recyclable materials and organic materials, as defined in 14 CCR section 17402.5(b)(4).
- (28) "Tier One Commercial Edible Food Generator" means a commercial edible food generator that is one of the following, as defined in 14 CCR section 18982(a):
- a. Supermarket.
 - b. Grocery Store with a total facility size equal to or greater than 10,000 square feet.
 - c. Food Service Provider.
 - d. Food Distributor.
 - e. Wholesale Food Vendor.
- (29) "Tier Two Commercial Edible Food Generator" means a commercial edible food generator that is one of the following, as defined in 14 CCR section 18982(a):
- a. Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
 - b. Hotel with an on-site food facility and 200 or more rooms.
 - c. Health facility with an on-site food facility and 100 or more beds.
 - d. Large Venue.

- e. Large Event.

7.04.020 Collection by unauthorized persons prohibited.

Collection, removal and disposal of solid waste within the City may be performed by the public works department, parks department, or the authorized representatives of the authorized collector with whom the City has entered into a contract with for the collection, removal and disposal of solid waste. It shall be a violation of this chapter for any person other than those expressly permitted by this section to remove, or convey or cause or permit to be removed or conveyed, any solid waste upon or along any public street or alley or other public place in a manner that is inconsistent with this chapter. However, this section shall not apply to any person conveying solid waste collected outside the City, nor be deemed to prohibit an individual from exercising their rights to self-haul solid waste to solid waste facilities and other locations pursuant to this chapter, and nor the right to divert recyclable material or organic materials so long as the diversion otherwise complies with this chapter.

7.04.030 Illegal dumping and burning of solid waste.

- (a) No person shall dump, place, burn or bury in any lot, land, street or alley, or in any water or waterway or elsewhere within the City any solid waste.
- (b) No person shall place, deposit, dump or throw solid waste on any lands within the City, except in a properly covered container designated by the City or by the authorized collector for the collection of such solid waste.
- (c) It is unlawful for any person to dump or deposit any garbage, rubbish, trash, leaves, branches, clippings, or any other solid waste or any other matter of any kind into any stormdrain within the limits of the city.

7.04.040 Storage of solid waste on premises; containers required.

No person shall store or accumulate any solid waste on any premises except for in an enclosed, durable storage container designed for such purposes, nor store or accumulate solid waste on any premises in a manner that would promote the propagation, harborage or attraction of vectors, create foul odors, or otherwise create a nuisance.

7.04.050 Scavenging and removal of recyclable materials prohibited.

No person, other than the authorized collector, shall tamper with or remove recyclable materials or solid waste which have been placed in any collection bin designated by the authorized collector of City for the purposes of collection of such materials.

Nothing in this chapter shall limit the right of any person to donate, sell or otherwise dispose of his or her own recyclable materials.

7.04.060 Prohibited container contaminants.

No person shall place any prohibited container contaminant into any collection container serviced by the authorized collector.

7.04.070 Regular solid waste removal required; source separation required.

- (a) Every person occupying or having charge or control of any premises where there is any accumulation of solid waste shall cause the same to be so removed or disposed of at least once each calendar week. Except for permitted self-haulers who self-haul waste all solid waste generated on the premises in accordance with the self-hauling requirements of section 7.04.150, each owner and occupant of any premises in the City shall ensure that such premises are subscribed to solid waste collection services from the authorized collector.
- (b) Every person depositing solid waste for collection with authorized collector shall source separate their solid waste and place materials in the appropriate collection containers designated by the authorized collector for collection of organic waste, recyclable materials, and remaining solid waste.

7.04.080 Requirements for commercial businesses.

- (a) Each owner, operator, or manager of a commercial business shall ensure the proper separation of solid waste generated on such premises, as required by the authorized collector, by placing each type of material in designated collection containers, and ensure that employees, contractors, volunteers, customers, visitors, and other persons on-site follow source separation requirements related to solid waste as required by the authorized collector. Each owner, operator, or manager of a commercial business, except for multifamily dwellings, shall prohibit employees from placing materials in a container not designated for those materials, and shall periodically inspect containers for organic waste and inform employees of requirements to ensure such containers are only used for organic waste.
- (b) Each owner, operator, or manager of a commercial business shall supply an adequate number, size, and location of collection containers with sufficient labels or colors designating the appropriate material for deposit in accordance with source separation requirements of the authorized collector for the employees, contractors, tenants, and customers of the commercial premises.
- (c) Each owner, operator, or manager of a commercial business shall annually provide information to employees, contractors, tenants, and customers about organic materials recovery requirements and about proper sorting of solid waste.
- (d) Each owner, operator, or manager of a commercial business shall provide educational information within fourteen (14) days of occupation of the premises to new tenants that describes requirements to keep source separated organic materials and source separated recyclable materials separate from garbage and the location of collection containers and the rules governing their use at each property.
- (e) Each owner, operator, or manager of a commercial business shall cooperate with the authorized collector's monitoring program for inspection of the contents of containers for prohibited container contaminants, to evaluate compliance.
- (f) Each owner, operator, or manager of a commercial business, except for multifamily dwellings, shall provide containers meeting the requirements of 14 CCR section 18984.9 for the collection of source separated organic materials and source separated recyclable materials in all indoor and outdoor areas where garbage disposal containers are provided for customers, for

materials generated onsite. Such containers do not need to be provided in restrooms. If a commercial generator does not generate any of the materials that would be collected in one type of collection container, then it is not required to provide that type of container in all areas where disposal collection containers are provided for customers.

(g) If a commercial generator self-hauls, the commercial generator shall meet the self-haul requirements in section 7.04.150.

7.04.090 Waivers for commercial business

(a) The City Manager may grant waivers to commercial business for physical space limitations and/or de minimis volumes. Commercial businesses seeking a waiver shall submit their request in a form specified by the City Manager. After reviewing the waiver request, and after an on-site review, if applicable, the City Manager may either approve or deny the following waiver requests. Anyone granted a waiver shall provide written verification of eligibility for a waiver at least every five years, and shall notify the City if circumstances change such that they are no longer eligible for such waiver, in which case waiver will be rescinded.

(b) De Minimis Waivers: The City Manager may waive obligations of a commercial business to comply with the collection service and source separation requirements of section 7.04.100 if the commercial business meets the following requirements:

- (1) Submits an application specifying the type of waiver requested and provide documentation as described below.
- (2) Provide documentation that either:
 - i. The commercial business receives two or more cubic yards of weekly solid waste collection service and disposed organic materials subject to collection comprises less than 20 gallons per week of the business' total weekly solid waste collection service volume; or
 - ii. The commercial business receives less than two cubic yards of weekly solid waste collection service and disposed organic materials subject to collection comprises less than 10 gallons per week of the business' total weekly solid waste collection service volume.
- (3) For the purposes of subsections (i) and (ii) above, total weekly solid waste collection service shall be the sum of weekly garbage collection container volume, recyclable material collection container volume and organic materials collection container volume, measured in cubic yards.

(c) Physical Space Waivers: The City may waive a property owner's obligations to comply with the collection service and source separation requirements of section 7.04.100 if the City has evidence from its own staff, authorized collector, licensed architect, or licensed engineer demonstrating that the premises lacks adequate space for the collection containers required for compliance with collection service requirements. A property owner may request a physical space waiver through the following process:

- (1) Submit an application form specifying the type(s) of collection services for which they are requesting a waiver from mandatory collection service.
- (2) Provide documentation that the premises lack adequate space for the recyclable materials collection containers and/or organic materials collection containers including documentation from its authorized collector, licensed architect, or licensed engineer.

7.04.100 Requirements for commercial edible food generators

- (a) Tier one commercial edible food generators must comply with the requirements of this section commencing January 1, 2022, and tier two commercial edible food generators must comply with this section commencing January 1, 2024. Large venue or large event operators not providing food services, but allowing for food to be provided by others, shall require food facilities operating at the large venue or large event to comply with the requirements of this section commencing January 1, 2024.
- (b) Commercial edible food generators shall comply with the following requirements:
- (1) Arrange to recover the maximum amount of edible food that would otherwise be disposed, via written agreement with a food recovery organization or food recovery service.
 - (2) Shall not intentionally spoil edible food that is capable of being recovered by a food recovery organization or a food recovery service.
 - (3) Allow the City Enforcement Official or official designated by the County of San Mateo for enforcement of this chapter to access the premises and inspect procedures and review records related to edible food recovery and/or provide them electronically if requested by the City or the County of San Mateo Office of Sustainability.
 - (4) Keep records that include the following information:
 - i. A list of each food recovery organization or a food recovery service that collects or receives edible food from the tier one or tier two commercial edible food generator.
 - ii. A copy of all contracts or written agreements for edible food recovery with any food recovery services or food recovery organization.
 - iii. A record of the following information for each of those food recovery services or food recovery organizations:
 - (1) The name, address and contact information of the food recovery service or food recovery organization.
 - (2) The types of food that will be collected by or self-hauled to the food recovery service or food recovery organization.
 - (3) The established schedule or frequency that food will be collected or self-hauled.
 - (4) The quantity of food, measured in pounds, recovered per month.
 - (5) No later than June 30th of each year, commencing in 2022 for tier one commercial edible food generators and in 2024 for tier two commercial edible food generators, each commercial edible food generator shall provide an annual report to the County of San Mateo Office of Sustainability, using forms provided

by that office, the following information: a list of all contracts with food recovery organizations and food recovery services, the amount and type of edible food donated to food recovery organizations and food recovery services, the schedule of edible food pickup by food recovery organizations and food recovery services, a list of edible food categories they generate that are not accepted by the food recovery organizations and food recovery services with whom they contract, the contact information for the manager and all staff responsible for edible food recovery, and documentation that all staff responsible for edible food recovery have obtained a food handler card through an American National Standards Institute (ANSI) accredited training provider that meets ASTM International E2659-09 Standard Practice for Certificate Programs, such as ServSafe. Commercial edible food generators shall review the guidance and a templates located on the County of San Mateo Office of Sustainability website.

- (6) Mandate their edible food recovery staff learn and follow the donation guidelines and attend trainings conducted by food recovery organizations or food recovery services with which they contract regarding best practices and requirements for the timely identification, selection, preparation, and storage of edible food to ensure the maximum amount of edible food is recovered and to avoid supplying food for collection that is moldy, has been improperly stored, or is otherwise unfit for human consumption.
 - (7) Commercial edible food generators who self-haul edible food shall require those transporting edible food for recovery to obtain a food handler card through an American National Standards Institute (ANSI) accredited training provider that meets ASTM International E2659-09 Standard Practice for Certificate Programs, such as ServSafe and follow the best practices and standards for proper temperature control, methods, and procedures for the safe handling and transport of food.
- (c) Nothing in this Ordinance shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557 of 2017 (approved by the Governor of the State of California on September 25, 2017, which added Article 13 [commencing with Section 49580] to Chapter 9 of Part 27 of Division 4 of Title 2 of the Education Code, and to amend Section 114079 of the Health and Safety Code, relating to food safety, as amended, supplemented, superseded and replaced from time to time).

7.04.110 Requirements for food recovery organizations and services

- (a) Food recovery services operating in the City shall maintain the following records:
 - (1) The name, address, and contact information for each commercial edible food generator from which the service collects edible food.
 - (2) The quantity in pounds of edible food by type collected from each commercial edible food generator per month.
 - (3) The quantity in pounds of edible food by type transported to each food recovery organization or redistribution site per month.

- (4) The name, address, and contact information for each food recovery organization or redistribution site that the food recovery service transports edible food to.
- (b) Food Recovery Organizations operating in the City and collecting or receiving edible food directly from any commercial edible food generator or receiving edible food from food recovery services or from other food recovery organizations, shall maintain the following records:
 - (1) The name, address, and contact information for each commercial edible food generator, food recovery service, or other food recovery organization from which the organization receives edible food.
 - (2) The quantity in pounds of edible food by type collected or received from each commercial edible food generator, food recovery service, or other food recovery organization per month.
 - (3) The name, address, and contact information for other food recovery organizations or redistribution sites that the food recovery organization transports edible food to for edible food recovery.
- (c) Food recovery organizations and food recovery services operating in the City shall inform tier one and tier two commercial edible food generators from which they collect or receive edible food about California and federal Good Samaritan Food Donation Act protections in written communications, such as in their contract or agreement.
- (d) Commencing no later than July 1, 2022, food recovery organizations and food recovery services operating in the City and receiving edible food from commercial edible food generators or any other source shall report to County of San Mateo Office of Sustainability, using forms provided by that office, the following: a detailed report of the information collected as required under this section, including weight in pounds by type and source of edible food, the schedule/frequency of pickups/drop-offs of edible food from/to each edible food source or redistribution site, brief analysis of any necessary process improvements or additional infrastructure needed to support edible food recovery efforts, such as training, staffing, refrigeration, vehicles, etc., and an up to date list of commercial edible food generators with whom they have contracts or agreements established. This report shall be submitted quarterly, or at the discretion of the County of San Mateo Office of Sustainability, less frequently, and shall cover the activity that occurred since the period of the last submission.
- (e) Food Recovery Organizations and Food Recovery Services operating in the City shall contact the County of San Mateo Office of Sustainability to discuss the requirements of this chapter before establishing new contracts or agreements with commercial edible food generators.
- (f) Contracts between food recovery organizations and food recovery services and tier one and tier two commercial edible food generators shall either:
 - (1) Use the Model Food Recovery Agreement developed by CalRecycle, and include a clause requiring the food recovery organization or food recovery service to

report to the commercial edible food generators with whom they have contracts the annual amount of edible food recovered and to inform them of the tax benefits available to those who donate edible food to non-profits; or

(2) Include in their contracts the following elements:

- i. List of allowable foods the food recovery organization or food recovery service will receive.
- ii. List of foods not accepted by the food recovery organization or food recovery service.
- iii. Conditions for refusal of food.
- iv. Food safety requirements, training, and protocols.
- v. Transportation and storage requirements and training.
- vi. A protocol for informing the commercial edible food generator of a missed or delayed pickup.
- vii. Notice that donation dumping is prohibited.
- viii. Provisions to collect sufficient information to meet the record-keeping requirements of this chapter.
- ix. Fees/financial contributions/acknowledgement of terms for the pickup and redistribution of edible food.
- x. Terms regarding supplying information to the commercial edible food generators with the annual amount of edible food recovered and informing them of the tax benefits that may be available to those who donate edible food to non-profits.
- xi. Contact name, address, phone number, and email for both responsible parties, including the current on-site staff responsible for edible food recovery.
- xii. Food recovery organizations accepting self-hauling of edible food from commercial edible food generators must provide a schedule, including days of the week and acceptable times for drop-offs, and information about any limitation on the amount of food accepted, and/or the packaging requirements or other conditions of transport, such as, but not limited to, maintaining proper temperature control, and other requirements for the safe handling and transport of food, the self-hauler must follow for the edible food to be accepted.

(g) Contracts between commercial edible food generators and food recovery organizations or food recovery services shall not include any language prohibiting commercial edible food generators from contracting or holding agreements with multiple food recovery organizations or food recovery services listed on the County of San Mateo Office of Sustainability website.

(h) Food recovery organizations and food recovery services operating in the City shall demonstrate that all persons involved in the handling or transport of edible food, including volunteers and contracted workers using their own vehicles, have obtained a food handler card through an American National Standards Institute (ANSI) accredited training provider that meets ASTM International E2659-09 Standard Practice for Certificate Programs, such as ServSafe.

(i) Food recovery organizations and food recovery services operating in the City shall use appropriate temperature control equipment and methods and maintain the required temperatures for the safe handling of edible food recovered from commercial edible food generators during transportation of edible food.

(j) Food recovery organizations and food recovery services operating in the City shall provide documentation to the County of San Mateo Office of Sustainability that all redistribution sites which are not themselves food recovery organizations to which they deliver edible food have a feeding or redistribution program in place to distribute, within a reasonable time, all the edible food they receive. Such documentation may include a website address which explains the program or pamphlets/brochures prepared by the redistribution site.

(k) Food recovery organizations and food recovery services operating in the City shall visually inspect all edible Food recovered or received from a commercial edible food generator. If significant spoilage is found, or if the food is otherwise found to be unfit for redistribution for human consumption, food recovery organizations and food recovery services shall immediately notify the County of San Mateo Office of Sustainability using the process found on the County of San Mateo Office of Sustainability's website. The notice shall include:

(1) The type and amount, in pounds, of spoiled food or food unfit for redistribution for human consumption, or provide a photographic record of the food, or both.

(2) The date and time such food was identified.

(3) The name, address and contact information for the commercial edible food generator which provided the food.

(4) The date and time the food was picked up or received.

(5) A brief explanation of why the food was rejected or refused.

(l) Food recovery organizations and food recovery services operating in the City shall

conduct trainings and develop educational material such as donation guidelines and handouts to provide instruction and direction to commercial edible food generators with whom they contract regarding best practices and requirements for the timely identification, selection, preparation, and storage of edible food to ensure the maximum amount of edible food is recovered and to avoid the collection of food that is moldy, has been improperly stored, or is otherwise unfit for human consumption.

(m) In order to support edible food recovery capacity planning assessments or other such studies, food recovery services and food recovery organizations operating in the City shall provide information to the City and County of San Mateo Office of Sustainability upon request, regarding existing, or proposed new or expanded, edible food recovery capacity that could be accessed by the City and its commercial edible food generators. A food recovery service or food recovery organization contacted by the City or County of San Mateo Office of Sustainability shall respond to such requests for information within 60 days.

(n) Allow the City enforcement official or County of San Mateo Office of Sustainability to access the premises and inspect procedures and review records related to edible food recovery and/or provide them electronically if requested by the City Manager or designee.

7.04.120 Requirements for authorized collector, facility operators recovering organic waste, and community composting.

- (a) Any authorized collector providing residential, commercial, or industrial organic materials collection services to generators within the City's boundaries shall:
- (1) Provide written notice to the City annually on or before January 31, identifying the facilities to which they will transport solid waste including facilities for source separated recyclable materials and source separated organic materials.
 - (2) Transport source separated recyclable materials and source separated organic materials to a facility, operation, activity, or property that recovers organic materials as defined in 14 CCR, Division 7, Chapter 12, Article 2.
 - (3) Obtain approval from the City to haul organic materials, unless it is transporting source separated organic materials to a community composting site or lawfully transporting construction and demolition debris in a manner that complies with 14 CCR section 18989.1 and Chapters 12.18 and 12.48 of this code.
 - (4) Comply with other requirements contained within its franchise agreement.
- (b) Owners of facilities, operations, and activities that recover organic waste, including, but not limited to, compost facilities, in-vessel digestion facilities, and publicly-owned treatment works shall, upon request by the City, provide information regarding available and potential new or expanded capacity at their facilities, operations, and activities, including information about throughput and permitted capacity necessary for planning purposes. Such owners contacted by the City shall respond within 60 days of a request.
- (c) Any owner or operator of a community composting site, upon request by the City, shall provide information to the City to support organic waste capacity planning, including, but not

limited to, an estimate of the amount of organic waste anticipated to be handled at the community composting site. Such persons contacted by the City shall respond within 60 days of a request.

7.04.130 Self-hauler requirements.

(a) Any generator of solid waste may personally haul the same in a vehicle owned by, or in the lawful possession of, the generator of such solid waste, to a lawful disposal facility outside of the City limits, subject to the following requirements:

- (1) Self-haulers, including back-haulers, must source separate and transport organic materials to a solid waste facility, operation, activity, or property that processes or recovers source separated organic materials.
- (2) Self-haulers, including back-haulers, must source separate and transport recyclable materials to a solid waste facility, operation, activity, or property that processes or recovers those materials.
- (3) Self-haulers that are commercial businesses shall keep a record of the amount of organic materials delivered to each solid waste facility, operation, activity, or property that processes or recovers organic materials; this record shall be subject to inspection by the City. The records shall include the following information:
 - i. Delivery receipts and weight tickets from the entity accepting the waste. If the material is transported to an entity that does not have scales on-site or employs scales incapable of weighing the self-hauler's vehicle in a manner that allows it to determine the weight of materials received, the self-hauler is not required to record the weight of material but shall keep a record of the entities that received the organic materials.
 - ii. The amount of material in cubic yards or tons transported by the generator to each entity.
- (4) Self-haulers must complete and retain on-site a self-hauling form certifying that all self-hauling activities will be completed in accordance with this chapter or any other applicable law or regulation. A copy of such form shall be completed and remitted annually to the City Manager.
- (5) Except for commercial edible food generators that self-hauling edible food to a food recovery organization or food recovery service and back-haulers, obtain a permit for self-hauling issued by the City Manager prior to self-hauling. The City Manager may issue the permit only if the person requesting a self-haul permit satisfies the following requirements:
 - i. Produces for inspection the vehicle that such person owns or leases and intends to use for hauling solid waste, and which is capable of safely hauling solid waste and organic waste in a safe and sanitary manner so that it is covered and so that such matter will not spill, leak, drip, blow, scatter or fall from the vehicle;
 - ii. Produces evidence that such person has a valid California driver's license to operate the vehicle produced for inspection, that the vehicle is currently registered in the State of California, and a certificate of automobile insurance for the vehicle;

- iii. Provides proof that the applicant has containers for the storage of solid waste on the applicant's property before the materials are self-hauled to a disposal facility; and
- iv. Pays the fee for a self-hauling permit authorized by resolution of the City council.

(b) This section is permissive and does not relieve any owner or occupants of property of the requirements of compliance with regular and routine disposal of all solid waste generated on the premises at least once per week as set forth in section 7.04.060. Nothing in this chapter shall prohibit any generator from regularly disposing of garbage, recyclable material, or organic materials at a solid waste facility, by self-hauling in a manner conforming to this section.

7.04.140 Inspections

Any City enforcement officer and any officer designated by the County of San Mateo is authorized to conduct any inspections or other investigations as reasonably necessary to further the goals of this chapter, subject to applicable laws.

7.04.150 Enforcement and Penalties.

(a) Any violation of this chapter shall be an infraction and a public nuisance and may be punished or enforced in accordance with the provisions of section 1.12.010 or abated in the manner provided by Chapter 8.04. Three or more subsequent violations of this chapter by the same person or persons within a 12-month period may be charged and prosecuted as a misdemeanor. Any City enforcement officer shall have the duty and authority to enforce the provisions of this chapter. In addition, any violation shall be subject to the issuance of administrative citation and imposition of administrative fine in the following amounts, in accordance with Government Code section 53069.4:

1. A fine not exceeding one hundred dollars for a first violation;
2. A fine not exceeding two hundred dollars for a second violation of the same provision of this code within any twelve consecutive month period;
3. A fine not exceeding five hundred dollars for each additional violation of the same provision of this code within any twelve consecutive-month period.

Administrative citations issued by the City enforcement officer for violations of this chapter shall be issued in accordance with and subject to all of the notice, payment, appeal, hearing, late payment, collection, and judicial review provisions applicable to administrative citations that are set forth in section 8.57.030, subdivisions (g) through (m).

(b) Enforcement by County. Violation of any provision of this chapter shall constitute grounds for issuance of a notice of violation and assessment of an administrative fine by any enforcement official designated by the County of San Mateo. Absent compliance within the deadline set forth in the notice of violation, the designated official of the County of San Mateo may commence an action to impose penalties, via an administrative citation and fine. The enforcement official designated by the County may elect to issue the administrative citation pursuant to either (1) the procedures adopted by the County of San Mateo for issuance of administrative citations, or (2) the procedures

set forth above for the issuance of administrative citations by the City enforcement official. The citation shall include a description of the administrative citation appeal process, the time within which the administrative citation may be contested, and instructions for requesting a hearing. The amount of any administrative fine imposed by the County's designated enforcement official shall not exceed the fine amount that could have been imposed by the City's enforcement official if such violation was being prosecuted by the City's enforcement official.

- (c) Any official charged with enforcement of this chapter may extend the compliance deadlines set forth in a notice of violation or citation there are extenuating circumstances beyond the control of the violator that make compliance within the deadlines impracticable, including the following:
 - (1) Acts of God such as earthquakes, wildfires, flooding, and other emergencies or natural disasters;
 - (2) Delays in obtaining discretionary permits or other government agency approvals; or,
 - (3) Deficiencies in organic waste recycling infrastructure or edible food recovery capacity.

- (d) Educational Period. Between January 1, 2022 and through December 31, 2023, any official charged with enforcement of this chapter shall provide educational materials describing obligations under this chapter to any generator, self-hauler, authorized collector or other hauler, commercial edible food generator, food recovery organization, food recovery service, or other person or entity regulated by this chapter that is determined to violate any obligation imposed under this chapter, and shall also provide notice that future violations may be subject to administrative penalties. Any official charged with enforcement of this chapter may do so in lieu of issuing a notice of violation or an administrative citation, however, nothing herein shall limit the authority of such official to take any other enforcement actions as permitted under this chapter.

- (e) Nothing herein shall be interpreted to limit or exclude any other remedies available to the City under this code or otherwise allowed by law, including civil action or prosecution as misdemeanor or infraction. Any such storage, collection, or accumulation of solid waste on a premises outside of the manner permitted under this chapter shall be deemed a nuisance and subject to summary abatement under Section 38773 of the Government Code, and costs of abatement shall be subject to being imposed as a lien against the property.

SECTION 3. CALIFORNIA ENVIRONMENTAL QUALITY ACT

The City Council finds and determines that enactment of this Ordinance is exempt from the provisions of the California Environmental Quality Act ("CEQA"), pursuant to CEQA Guidelines Section 15308 (Actions by Regulatory Agencies for Protection of the Environment), in that the ordinance will strengthen requirements for handling of solid waste and shall result in reduction of short-term climate pollutants. The Town Council also considers the project exempt from review under the California Environmental Quality Act under the "common sense" exemption, CEQA

Guidelines section 15061(b)(3)), since “it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.”

SECTION 4. SEVERABILITY

The City Council hereby declares every section, paragraph, sentence, clause and phrase of this ordinance to be severable. If any section, paragraph, sentence, clause or phrase of this ordinance is for any reason found to be invalid or unconstitutional, such invalidity, or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, sentences, clauses or phrases.

SECTION 5. EFFECTIVE DATE

This Ordinance shall be in full force and effective thirty (30) days after its adoption and shall be published and posted as required by law.

SECTION 6. PUBLICATION

The City Clerk is hereby ordered and directed to certify the passage of this Ordinance by the City Council of the City of Menlo Park, California and cause the same to be published in accordance with State law.

INTRODUCED on the ninth day of November, 2021.

PASSED AND ADOPTED as an ordinance of the City of Menlo Park at a regular meeting of said City Council on the sixteenth day of November, 2021 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

Drew Combs, Mayor

ATTEST:

Judi A. Herren, City Clerk



STAFF REPORT

City Council

Meeting Date:

11/16/2021

Staff Report Number:

21-225-CC

Regular Business:

Receive annual report from Environmental Quality Commission, approve the commission's annual year work plan, and provide direction on the commission's recommendation regarding banning gas powered leaf blowers

Recommendation

Staff recommends that the City Council (1) receive the annual report from the Environmental Quality Commission (EQC), (2) approve the Commission's annual work plan (Attachment A), and (3) provide direction on the Commission's recommendation regarding banning gas powered leaf blowers (Attachment B.)

Policy Issues

The approval of the Commission work plan is consistent with City Council Policy CC-21-004 Commissions/Committees policies and procedures and roles and responsibilities. Each commission is required to develop an annual work plan and seek City Council approval each year. Once approved, the Commission is expected to report out on progresses made to City Council at least annually, but recommended twice a year. The Commission serves as an advisory body to the City Council on environmental issues, and also has the authority to grant or deny heritage tree appeals. The City Council can also send environmental topics/issues for advice to the EQC.

Background

The purpose of this agenda item is to fulfill the responsibilities of the EQC to the City Council by:

1. Presenting an annual update on the commission's work
2. Presenting an annual work plan for approval (Attachment A)
3. Providing advice regarding banning gas powered leaf blowers (Attachment B)

2021-2022 EQC work plan

In January 2021, the commission approved their annual work plan that is intended to carry over into 2022. The commission also amended their work plan in May to respond to the City Council's request to review a ban on gas powered leaf blowers. The EQC proposes to work on the following areas over the next year:

- Providing advice and support on the six climate action plan (CAP) strategy goals, and future CAP strategy goals beyond the six already adopted by the City Council
- Urban canopy preservation
- Green and sustainable initiatives
- Considering a gas powered leaf blower ordinance

In addition, the EQC has formed subcommittees (Attachment D) to support the work plan areas (Attachment

D.)

Addressing gas powered leaf blowers

During the City Council’s 2021 annual work plan process, numerous requests were made from community members desiring a ban on gas powered leaf blowers to enhance the quality of life in Menlo Park and reduce greenhouse gas emissions. The main reasons identified for banning gas-powered leaf blowers (GLBs) included noise, health and safety risks, and environmental impacts.

In addition, the complexity to enact a ban on GLBs was also acknowledged, such as addressing equity, technology and feasibility issues in using electric-powered leaf blowers, ability to enforce the ban to achieve the desired outcome for the community, and understanding the role of potential incentives and legislation from the state and/or air district on phasing out GLBs. As a result, the City Council referred consideration of a gas-powered leaf blower ordinance to the EQC (March 9 and again March 27.)

At City Council direction, the EQC has examined the impacts of GLBs and has provided the following advice:

While impacts [from gas powered leaf blowers] on climate are likely to be far less than 1% of total impacts, there are significant impacts of GLBs on human health, safety and well-being. EQC recommends that City Council consider bans on GLBs done by neighboring cities to avoid reinventing the wheel. As such, the EQC recommends that City Council explore this idea as a health and safety issue, to be handled by the appropriate department. Time and resources spent on this issue by staff and City Council should not detract from those resources already dedicated to CAP implementation, passed 5-0 (London and Price absent.)

Attachment B includes a memo from the EQC on the rationale for this recommendation. Education and enforcement will be key factors to consider in adopting a ban on gas powered leaf blowers.

Analysis

Table 1 is a summary on the EQC’s progress in implementing their annual work plan.

Table 1: EQC’s work plan progress	
Work plan task (from step four of Attachment A)	Progress
Electrify existing buildings Review and recommend/advise on a policy to phase out the use of fossil fuels of existing buildings (CAP strategy goal No. 1)	In August, the EQC provided a recommendation to City Council after reviewing the cost effectiveness and policy options analysis. As a result, City Council provided direction to move forward on five of the six EQC recommendations: <ol style="list-style-type: none"> 1. Raise the utilities user tax (UUT) to voter approved levels 2. Turnkey program for direct installs for low income community members 3. Remove the “hassle factor” to electrify 4. Conduct community engagement 5. Develop a long-term plan to meet the strategy goal Members of the EQC CAP subcommittee consisting of Commissioner Evans, Gaillard, and Kabat and Vice Mayor Nash and City Councilmember Wolosin continue to support and advise on the direction from City Council.
Decarbonize vehicles and advise on whether to work with BGI for promoting citywide goals	The EQC recommended the city utilize the Beyond Gas Initiative under Joint Venture Silicon Valley to implement this CAP measure.

<p>of increasing EVs and decreasing gasoline sales (CAP strategy goal No. 2)</p>	<p>As a result, the City Council approved working with the Beyond Gas Initiative.</p>
<p>Review and recommend/advise on policies and programs to increase access to electric vehicle (EV) charging for multifamily and commercial properties (CAP strategy goal No. 3)</p>	<p>In February, the EQC reviewed the EV charging infrastructure gap analysis, and provided the following advice to City Council:</p> <p><i>EQC requested that the City Council leverage their relationships with existing multifamily property owners, and have at least 10 formal conversations with multifamily property owners in hopes to have at least one EV charger installed at two multifamily properties by August 31, 2021, passed unanimously.</i></p> <p>As a result, the City Council directed staff to track and monitor Peninsula Clean Energy (PCE) incentives, engage with multifamily property owners to participate in PCE EV charging incentives, and approved up to \$10,000 in additional incentives for multifamily property owners to install EV charging.</p>
<p>Recommend that City Council request CAP action #4 be included on Complete Streets Commission (CSC) work plan (reduce vehicle miles traveled (VMT) by 25% or an amount recommended by the CSC)</p>	<p>This action has been included in the CSC annual work plan.</p>
<p>Continue to advise/recommend ways to electrify municipal buildings, fleet and landscaping equipment (CAP strategy goal No. 5)</p>	<p>In October, the EQC reviewed and discussed an upcoming city vehicle purchase as it related to the city’s sustainable fleet policy and this CAP strategy goal, and provided the following advice to the City Council:</p> <p><i>(1) approve the proposed vehicle purchase (2) recommend staff report the outcomes, opportunities, and challenges of pilot patrol electric vehicle (EV), and (3) if the pilot is successful, recommend accelerating the purchase of patrol EVs in fund year 2022 and increasing annual fossil fuel reduction to 10% in the sustainable fleet policy, passed 6-1 (Gaillard dissenting.)</i></p> <p>As a result, the City Council did approve the purchase and authorized the purchase of three Tesla patrol vehicles to pilot.</p>
<p>Continue to advise/recommend a climate adaptation plan to protect the community from sea level rise and flooding (CAP strategy goal No.6)</p>	<p>In October, the EQC reviewed and discussed a proposal to add a climate resiliency/adaptation position, and provided the following advice to the City Council:</p> <p><i>To approve staff resources requested, passed unanimously.</i></p>
<p>Recommend 2021-22 climate action for City Council adoption</p>	<p>The EQC provided a memorandum to the City Council that was received and filed by the City Council October 12. It included additional CAP goals and resources to consider for future budget and City Council annual work plan development.</p>
<p>Recommend/advise City Council on a gas-powered leaf blower ordinance.</p>	<p>In September, the EQC reviewed Commissioner Elkins proposal on gas powered leaf blowers and is providing the following advice to City Council:</p> <p><i>At City Council direction, the EQC has examined the impacts of gas-powered leaf blowers (GLBs) and found that, while impacts on climate are likely to be far less than 1% of total impacts, there are significant impacts of GLBs on human health, safety and well-being. EQC recommends that City Council consider bans on GLBs done by neighboring cities to avoid reinventing the wheel. As such, the EQC</i></p>

recommends that City Council explore this idea as a health and safety issue, to be handled by the appropriate department. Time and resources spent on this issue by staff and City Council should not detract from those resources already dedicated to CAP implementation, passed 5-0 (London and Price absent.)

See Attachment B for additional information. Possible options for City Council to consider are provided in this report.

Advise/recommend City Council support for state adoption of impactful CALGreen and energy reach codes for the 2022 building code update

Continue to provide recommendations/advice that improves communication with the community about the CAP

Recommend City strategy for sharing our policies and analysis with other cities to inspire and help others adopt bold climate action

Receive update on implementation and operation of the heritage tree ordinance and recommend adjustments as needed

Research ways other cities measure health of urban forest and make a recommendation to City Council

Green and sustainable initiatives – Support sustainability initiatives, as needs arise, which may include but not be limited to habitat protection, healthy ecology, environmental health protection, healthy air, surface water runoff quality, water conservation and waste reduction.

- Develop recommendation for pesticide posting ordinance
- Support initiatives improving air and water quality
- Support initiatives protecting environmental health
- Support initiatives that reduce waste
- Support initiatives that conserve water
- Support initiatives that improve the quality of water runoff in the City

Ongoing and/or upcoming work

Possible options for City Council in considering a ban on GLBs

Attachment B includes the rationale and research of the EQC’s recommendation to the City Council regarding gas powered leaf blowers.

If the City Council desires that this task be incorporated into another department/divisions workload to avoid impacting the sustainability division’s implementation of the CAP, staff would need to review the work priorities of other departments to determine possible timeline to begin work, skillsets available, and confirm the potential trade-offs on City services and projects to complete this task.

Some possible next step options for the City Council to consider include:

1. Direct staff to develop an ordinance regulating gas powered leaf blowers. Staff would return in early 2022 with an ordinance.

Consideration and adoption of an ordinance could be straightforward given the number of examples available. Enforcement will be another matter, since on demand enforcement resources are not currently budgeted. It could be assigned to a resource such as code compliance in the police department, but the backlog is already substantial. It is important to note that the city will also be reviewing overall enforcement capacity and authority in early 2022 that would have an impact on any new local laws considered. The City has some experience based on the prohibition on gardeners and landscapers in the early period of the COVID-19 shut down. The City received a substantial number of complaints for non-compliance. Based on prior experience, community frustration will be high if an ordinance is in place without resources to enforce.

Alternatively, the City Council may desire a softer type of enforcement where it encourages the community to support tactful education of property owners using gas powered landscaping services. However, some city resources would still be needed for education and/or enforcement.

In addition, equity considerations will need to be evaluated as part of the type of enforcement utilized if gardeners/landscapers do not have access to incentives to trade in equipment at this time or experience other barriers to access incentives/programs. Additionally, the ordinance will need to determine who would receive the enforcement and/or penalty if applicable: the property owner or the landscaping service?

2. Receive and file the EQC's recommendation at this time and not consider a local ordinance given the state's recent adoption of legislation AB 1346 to ban the sale of gas powered leaf blowers by 2024 (or sooner) as well as other small off-road engines. A statewide incentive program will also be created to help landscaping businesses transition to zero emission equipment. It is important to note that the law will only ban the sale of small gas powered equipment and not their operation. Thus, many communities may still desire a ban on the operation to expedite the transition and align with the state's goals.

Impact on City Resources

Resources expended for the completion of the commission work plan is considered part of the City's baseline operations. Beginning immediate work on developing a gas powered leaf blower ordinance would require resources from the sustainability division initially and would delay other CAP initiatives, such as CAP resource planning and moving forward CAP strategy goal No.1 to electrify existing buildings. If the project is included in the annual City Council work plan process early next year, it will need to be allocated additional resources or may impact other projects and city services.

Environmental Review

This action is not a project within the meaning of the California Environmental Quality Act (CEQA) Guidelines §§15378. Any projects identified through the Commission's pursuit of these goals and priorities would be subject to environmental review under CEQA in the future.

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

Attachments

- A. EQC work plan
- B. EQC recommendation on gas powered leaf blowers
- C. EQC Work Plan Subcommittees

Report prepared by:
Rebecca Lucky, Sustainability Manager



Commission work plan guidelines

- Step 1** Review purpose of Commission as defined by Menlo Park City Council Policy 3-13-01.
- Step 2** Develop a mission statement that reflects that purpose.
- Step 3** Discuss and outline any priorities established by City Council.
- Step 4** Brainstorm goals, projects, or priorities of the Commission and determine the following:
- A. Identify priorities, goals, projects, ideas, etc.
 - B. Determine benefit, if project or item is completed
 - C. Is it mandated by State or local law or by City Council direction?
 - D. Would the task or item require a policy change at City Council level?
 - E. Resources needed for completion? (Support staff, creation of subcommittees, etc.)
 - F. Completion time? (1-year, 2-year, or longer term?)
 - G. Measurement criteria? (How will you know you are on track? Is it effective? Etc.)
- Step 5** Prioritize projects from urgent to low priority.
- Step 6** Prepare final work plan for submission to City Council for review and approval in the following order:
- Work plan cover sheet, listing of members, priority list, work plan worksheet – Steps 1 through 8.
- Step 7** Use your “approved” work plan throughout the term of the plan as a guide to focus in on the work at hand.
- Step 8** Report out on work plan priorities to the City Council, which should include:
- A. List of “approved” priorities or goals
 - B. Status of each item, including any additional resources required in order to complete
 - C. If an item that was on the list is not finished, then indicate why it didn’t occur and list out any additional time and/or resources that will be needed in order to complete



Environmental Quality Commission

Mission Statement

The Environmental Quality Commission (EQC) is committed to helping the City of Menlo Park to be a leading sustainable city that is well positioned to manage present and future environmental impacts, including the grave threat of climate change. The Environmental Quality Commission is charged primarily with advising the City Council on matters involving environmental protection, environmental improvement, sustainability and climate change.

Environmental Quality Commission Work Plan for 2021-2022



**Environmental Quality Commission
2021-2022**

Commission members listing

Commissioner (Chair) Ryann Price

Commissioner (Vice Chair) Janelle London

Commissioner Leah Elkins

Commissioner Josie Gaillard

Commissioner Tom Kabat

Commissioner Deborah Martin

Commissioner James Payne



Environmental Commission Priority List

The Environmental Quality Commission has identified the following priorities during 2021-2022:

1.	<p>Climate Action Plan (CAP) – Continue to recommend/advise on implementation of the City’s adopted 2030 Climate Action Plan initiatives to achieve or surpass the City’s greenhouse gas (GHG) reduction target, which includes:</p> <ul style="list-style-type: none"> • Adoption of an existing building electrification policy (Action #1) • Promotion of City goals for increasing EVs and decreasing gasoline sales (Action #2) • Implementation of a program or policy to expand access to EV charging for multi-family and commercial properties (Action #3) • Reduction of vehicle miles traveled (VMT) by 25% or an amount recommended by the Complete Streets Commission (Action #4) • Elimination of fossil fuels from municipal operations, including fleet vehicles, gardening equipment, furnaces, water heaters, pool heaters, etc. (Action #5) • Development of a climate adaptation plan to protect the community from sea level rise and flooding (Action #6)
2.	<p>Urban Canopy Preservation – Continue to recommend/advise development of a comprehensive urban canopy strategy for Menlo Park, which includes monitoring the effectiveness of the City’s Heritage Tree Ordinance, hearing heritage tree appeals and consider establishing an urban canopy inventory.</p>
3.	<p>Green and Sustainable Initiatives – Support sustainability initiatives, as needs arise, which may include but not be limited to habitat protection, healthy ecology, environmental health protection, healthy air, surface water runoff quality, water conservation and waste reduction.</p>
4.	<p>Gas Powered Leaf Blower Ordinance- Recommend/advise City Council on a gas-powered leaf blower ordinance.</p>



Environmental Quality Commission Work Plan

Step 1

<p>Review purpose of Commission as defined by Menlo Park City Council Policy 3-13-01</p>	<p>The Environmental Quality Commission is charged with advising the City Council on the following matters:</p> <ul style="list-style-type: none"> • Mitigating climate change by reducing community-wide greenhouse gas emissions to zero as rapidly as possible and inspiring other cities to follow, • Preparing the community for the effects of climate change, especially the threat of sea level rise, flooding and drought, • Preserving heritage trees, maintaining the urban canopy, making determinations on appeals of heritage tree removal permits and organizing an annual Arbor Day tree planting event, • Advising on programs and policies related to all other areas of environmental sustainability, including protection of natural areas, recycling and solid waste reduction, environmentally sustainable practices, air and water pollution prevention, and water and energy conservation.
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Step 2

<p>Develop or review a mission statement that reflects that purpose</p>	<p>The Environmental Quality Commission (EQC) is committed to helping the City of Menlo Park to be a leading sustainable city that is well positioned to manage present and future environmental impacts, including the grave threat of climate change. The Environmental Quality Commission is charged primarily with advising the City Council on matters involving environmental protection, environmental improvement, sustainability and climate change.</p>
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Step 3

<p>Discuss any priorities already established by City Council</p>	<ul style="list-style-type: none"> • Make gains on our Climate Action Plan
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Step 4 *The goals and priorities identified below are not listed in order of magnitude.

*Brainstorm goals, projects or priorities of the Commission	Benefit, if completed	Mandated by State/local law or by City Council direction?	Required policy change at City Council level?	Resources needed for completion? Staff or creation of subcommittees?	Estimated completion time	Measurement criteria How will we know how we are doing?
<p>Climate Action Plan (CAP) – Continue to recommend/advise on implementation of the City’s adopted 2030 Climate Action Plan initiatives to achieve or surpass the City’s greenhouse gas (GHG) reduction target, which includes:</p> <ul style="list-style-type: none"> • Action #1: Review and recommend/advise on a policy to phase out the use of fossil fuels of existing buildings • Action #2: Advise on whether to work with BGI for promoting citywide goals of increasing EVs and decreasing gasoline sales • Action #3: Review and recommend/advise on policies and programs to increase access to EV charging for multi family and commercial properties • Action #4: Recommend that Council request CAP action #4 be included on Complete Streets 	<ul style="list-style-type: none"> • Other cities inspired to join us in adopting bold climate action, as happened with City’s all-electric Reach Code • Reduced GHG emissions • Reduced air pollution • Reduced traffic congestion • Improved public health • Increased community engagement for emissions reductions • Reduced risk of stranding fossil fuel assets • Increased equity and environmental justice • Increased preparedness for sea level rise and other climate threats • Demonstrated environmental leadership • Improved transparency on city goals and activities to meet GHG targets 	<p>Yes <input checked="" type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>Yes <input checked="" type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<ul style="list-style-type: none"> • Subcommittees • Possible partnerships with organizations, businesses, other commissions • Staff time • Consultants/contractors 	<p>2 years</p>	<ol style="list-style-type: none"> 1. City reports progress on CAP metrics such as gasoline sales, EV registrations, natural gas sales, water heater replacements, etc. 2. City adopts policy for phasing out the use of fossil fuels in existing buildings 3. City launches program to assist multi-family and commercial building owners to install EV charging 4. Complete Streets proposes a VMT reduction goal 5. City makes progress on developing a climate adaptation plan 6. Other cities copy Menlo Park’s climate policies and programs

<p>Commission Work Plan (reduce vehicle miles traveled (VMT) by 25% or an amount recommended by the Complete Streets Commission)</p> <ul style="list-style-type: none"> • Action #5: Continue to advise/recommend ways to electrify municipal buildings, fleet and landscaping equipment • Action #6: Continue to advise/recommend a climate adaptation plan to protect the community from sea level rise and flooding • Recommend 2021-22 Climate Action for Council Adoption • Advise/recommend Council support for State adoption of impactful impactful CALGreen and energy reach codes for the 2022 building code update • Continue to provide recommendations/advice that improves communication with the community about the Climate Action Plan • Recommend City strategy for sharing our policies and analysis with other cities to inspire and help others adopt bold climate action 						
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<p>Urban canopy preservation – Continue to recommend/advise development of a comprehensive urban canopy strategy for Menlo Park, which includes monitoring the effectiveness of the new Heritage Tree Ordinance, hearing heritage tree appeals, and consider establishing an urban canopy inventory.</p> <ul style="list-style-type: none"> • Receive update on implementation and operation of the Heritage Tree Ordinance and recommend adjustments as needed • Research ways other cities measure health of urban forest and make a recommendation to Council 	<ul style="list-style-type: none"> • Improved public awareness and satisfaction with Heritage Tree policies • Efficient functioning of the Heritage Tree policies 	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<ul style="list-style-type: none"> • Subcommittee • Staff time budgeted 	Ongoing	<ul style="list-style-type: none"> • Reduction in the number of healthy trees removed • Increase in the diversity and quality of trees within the entire urban canopy • Improved coordination with the planning process • Deliver recommendation on conducting inventory and catalogue of urban tree canopy
<p>Green and sustainable initiatives – Support sustainability initiatives, as needs arise, which may include but not be limited to habitat protection, healthy ecology, environmental health protection, healthy air, surface water runoff quality, water conservation and waste reduction.</p> <ul style="list-style-type: none"> • Develop recommendation for pesticide posting ordinance • Support initiatives improving air and water quality 	<ul style="list-style-type: none"> • Reduced cases of asthma • Clean air • Clean water • Reduced environmental impacts on health • Reduced exposure to pollutants • More efficient water usage • Critical habitat preserved • Less waste generated 	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	<ul style="list-style-type: none"> • Create Subcommittee, if needed 	Ongoing	<ul style="list-style-type: none"> • Council and community view Commission as responsive to environmental concerns

<ul style="list-style-type: none"> • Support initiatives protecting environmental health • Support initiatives that reduce waste • Support initiatives that conserve water • Support initiatives that improve the quality of water runoff in the City 						
<p>Gas Powered Leaf Blower Ordinance- Recommend/advise City Council on a gas-powered leaf blower ordinance.</p>	<ul style="list-style-type: none"> • Clean air • Reduced exposure to pollutants • Improved public health 	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	<ul style="list-style-type: none"> • Subcommittee 	1 year	Recommendation provided to City Council

Step 5

List identified goals, priorities and/or tasks for the Commission	**Prioritize tasks by their significance			
	1 Urgent	2 1-year	3 2-year	4 Long term
<p>Climate Action Plan (CAP) – Continue to recommend/advise on implementation of the City’s adopted 2030 Climate Action Plan initiatives to achieve or surpass the City’s greenhouse gas (GHG) reduction target.</p>	<ul style="list-style-type: none"> Action #1: Review and recommend/advise on policies to phase out the use of fossil fuels of existing buildings Action #2: Advise on whether to work with BGI to promote citywide goals of increasing EVs and decreasing gasoline sales Action #4: Recommend that Council request CAP action #4 be included on Complete Streets Commission Work Plan (reduce vehicle miles traveled (VMT) by 25% or an amount recommended by the Complete Streets Commission) Recommend 2021-22 Climate Action for Council Adoption 	<ul style="list-style-type: none"> Action #3: Review and recommend/advise on policies and/or programs to increase access to EV charging for multi family and commercial properties Action #5: Continue to provide recommendations/advise to electrify municipal buildings, fleet and landscaping equipment Advise/recommend Council support for State adoption of impactful CALGreen and energy reach codes for the 2022 building code update 	<ul style="list-style-type: none"> Action #6: Continue to provide recommendations/advise in developing a climate adaptation plan to protect the community from sea level rise and flooding Continue to provide recommendations/advise on new climate actions to be adopted by Council in 2021 	<ul style="list-style-type: none"> Continue to provide recommendations/advise that improves communication with the community about the Climate Action Plan Recommend City strategy for sharing our policies and analysis with other cities to inspire and help others adopt bold climate action
	<ul style="list-style-type: none"> Track citizen concerns on large 	<ul style="list-style-type: none"> Receive update on operation and 	<ul style="list-style-type: none"> Provide advice on developing an urban 	

<p>Urban canopy preservation – Continue to recommend/ advise development of a comprehensive urban canopy strategy for Menlo Park, which includes monitoring the effectiveness of the new Heritage Tree Ordinance, hearing heritage tree appeals, and consider establishing an urban canopy inventory.</p>	<p>scale tree removal projects and provide advice on future policy improvements as it relates to tree removals</p>	<p>implementation of the Heritage Tree Ordinance and recommend adjustments as needed</p>	<p>forest master plan to City Council</p>	
<p>Green and sustainable initiatives – Support sustainability initiatives, as needs arise, which may include but not be limited to habitat protection, healthy ecology, environmental health protection, healthy air, surface water runoff quality, water conservation and waste reduction.</p>				<ul style="list-style-type: none"> • Develop recommendation for pesticide posting ordinance • Support initiatives improving air and water quality • Support initiatives protecting environmental health • Support initiatives that reduce waste • Support initiatives that conserve water • Support initiatives that improve the quality of water runoff in the City
<p>Gas Powered Leaf Blower Ordinance- Recommend/advise City Council on a gas-powered leaf blower ordinance.</p>		<ul style="list-style-type: none"> • Form a subcommittee • Prepare recommendation to City Council and receive further direction 		

Step 6 Prepare final work plan for submission to the City Council for review, possible direction and approval and attach the Worksheets used to determine priorities, resources and time lines.

Step 7 Once approved; use this plan as a tool to help guide you in your work as an advisory body.

Step 8 Report out on status of items completed. Provide any information needed regarding additional resources needed or And to indicate items that will need additional time in order to complete.

To: City Council
From: Environmental Quality Commission
Date: Sept. 24, 2021

Recommendation

At council direction, the EQC has examined the impacts of gas-powered leaf blowers (GLBs) and found that, while impacts on climate are likely to be far less than 1% of total impacts, there are significant impacts of GLBs on human health, safety, and well-being. EQC recommends that City Council consider bans on GLBs done by neighboring cities to avoid reinventing the wheel. As such, the EQC recommends that City Council explore this idea as a health and safety issue, to be handled by the appropriate department. Time and resources spent on this issue by staff and City Council should not detract from those resources already dedicated to CAP implementation, passed 5-0 (London and Price absent).

Background

Menlo Park residents have increasingly complained to the City Council about the harmful impacts caused by the operation of gasoline-fueled leaf blowers (GLBs) operating in the city. The City Council has directed the Environmental Quality Commission (EQC) to prepare a report and recommendation regarding the continuing operation of GLBs in Menlo Park.

The three concerns repeatedly cited by local residents are (1) noise pollution, (2) air pollution and (3) the effects of each on human health. Our state government has notably committed to address the global climate change crisis by mandating that California reduce its Greenhouse Gas Emissions (GHG) emissions to 40% below 1990 levels by 2030.

<https://www.ca.gov/archive/gov39/2015/04/29/news18938/index.html>.

Governor Newsom's Executive Order No. N-79-20 of September 23, 2020,

has further directed that the California Air Resources Board (CARB) implement strategies to achieve 100% zero emissions from small off-road equipment by 2035, where feasible and cost-effective. Menlo Park itself has set an even bolder goal of becoming carbon neutral (zero emissions) by the year 2030.

This study examines the three concerns above and the extent to which they are addressed - or not addressed - by Menlo Park's existing regulation of GLB use in Menlo Park Municipal Code Chapter 8.07. The study also examines other public health issues related to GLB operation and use. As discussed below, all of the available evidence strongly indicates that public health in Menlo Park would be best served by phasing out GLBs in favor of battery-powered alternatives. The study concludes by examining methods for how to do so in as equitable a manner as possible.

It is important to note at the outset that the pollution that is created by GLBs is NOT a significant contributor to climate change. The emissions from these machines amount to far less than 1% of the world's GHG emissions. This report will demonstrate, however, that GLBs are a significant and pernicious harm to human health and well-being due to their high decibel and low frequency noise profile and their emission of cancer causing chemicals and ozone-forming air pollutants.

Noise Pollution and Health

High Decibel Noise

Menlo Park has committed to minimize noise levels within the city "to protect the peace, health and safety of its citizens from unreasonable noises from all sources including, but not limited to, those specified in this chapter." Menlo Park Municipal Code Chapter 8.07.

In Chapter 8.07, entitled "Leaf Blowers," the city acknowledges that "[i]t has been found that internal fuel combustion engine leaf blowers cause

considerable noise and air pollution and have been the source of numerous complaints by persons working and residing in the city. This chapter is intended to regulate the use of internal fuel combustion engine leaf blowers to minimize noise and air pollution in the city.” To that end, only “certified leaf blowers” may be operated during the permitted hours of 8 am to 5 pm, Monday through Friday. Residents only may operate them on Saturdays from 11 am until 3 pm. Chapter 8.07.020, Section 2 states, “**Certified leaf blower**” means only those leaf blowers measured at sixty-five (65) dB(a) or less at a distance of fifty feet (50’) by an independent laboratory per American National Standards Institute (‘ANSI’) standard B175.2-1996, as certified by the manufacturer.”

Noise ratings of gas-powered backpack leaf blowers available from typical suppliers indicate that most operate at the ANSI standard. See Leaf Blower Ratings, Consumer Reports Buying Guide (Oct 2019)

<https://www.consumerreports.org/products/leaf-blower/ratings-overview/>.

The reality of urban environments like Menlo Park, where smaller lots are common, is that an operating GLB will frequently be within fifty feet of adjacent residents. When an operating GLB is fewer than fifty feet away, hearing protection is recommended. *Id.* Expecting residents to purchase and don ear protection whenever a GLB is operating nearby is neither reasonable nor practicable, particularly for infants and children.

The existing ordinance consequently does not actually address the noise concerns of city residents. Moreover, enforcing the ordinance is difficult as a practical matter because complaint calls are given low priority by the Police Department, which has many competing public safety concerns. By the time a complaint is made and an officer arrives at the scene, the GLB is usually no longer being used. The ordinance’s intent of protecting the peace and health of Menlo Park residents from GLB noise has not been achieved by the attempt to regulate these blowers.

Low Frequency Noise

The existing ordinance also does not take into account the low frequency nature of GLB noise. A study by the Harvard University School of Public Health shows that low frequency sound travels farther and penetrates walls and buildings more effectively than higher pitched sound. Jamie L Banks, Erica Walker, *Characteristics of Lawn and Garden Equipment Sound: A Community Pilot Study*, Harvard T.H. Chan School of Public Health, <https://sciforschenonline.org/journals/environmental-toxicological-studies/JETS-1-106.php>. The study concluded that a single GLB could negatively impact up to ninety surrounding homes in typical urban densities versus six homes for a powerful electric blower. Electric engines operate at higher frequencies, explaining why they are significantly less "noisy" than GLBs. This part of the problem is not addressed by an attempt to regulate decibel levels.

Health Impacts of Excessive Noise

The noise that GLBs generate poses a health risk. Prolonged or repeated exposure to sound levels above 85dB (common with backpack style leaf blowers at close proximity) can cause permanent hearing loss. Center for Disease Control and Prevention, "*Too Loud! For Too Long! Loud noises damage hearing*" <https://www.cdc.gov/vitalsigns/hearingloss/index.html>. Multiple studies have found a correlation between exposure to ambient noise over 55dB and a higher incidence of arterial hypertension and cardiovascular diseases due to increased mental stress. Munzel, Gori, Babisch, Basner, *Cardiovascular effects of environmental noise exposure*, European Heart Journal (Apr. 2014) <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3971384/>.

Another study found that people living in areas with more traffic noise were 25% more likely to exhibit symptoms of depression than those living in quieter neighborhoods. Researchers suspect that greater noise aggravates existing health conditions by inducing higher levels of stress. <https://www.brainfacts.org/thinking-sensing-and-behaving/diet-and-lifestyle/2018/noise-pollution-isnt-just-annoying-its-bad-for-your-health-062718>; see also <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4873188/>

(depression and anxiety increased with the degree of overall noise annoyance).

Studies have also indicated that noise induced stress can cause the release of cortisol, a hormone that helps to restore homeostasis in the body after a bad experience, and a decrease in dopamine, which controls the flow of information from other parts of the body. “Excess cortisol impairs function in the prefrontal cortex—an emotional learning center that helps to regulate ‘executive’ functions such as planning, reasoning and impulse control. . . Changes to this region, therefore, may disrupt a person’s capacity to think clearly and to retain information. . . [and] decrease higher brain function, impairing learning and memory.”

<https://www.scientificamerican.com/article/ask-the-brains-background-noise/>. Excessive noise has specifically been shown to negatively impact cognitive development in children.

<https://www.frontiersin.org/articles/10.3389/fpsyg.2013.00578/full>. Aside from issues of physical or mental health, GLB noise can disrupt children’s ability to learn, as well as adults’ ability to work from home.

Air Pollution and Health

What Type of Pollution is Caused by GLBs?

As mentioned, compared to the transportation and electricity production sectors, GLBs represent a minor source of overall greenhouse gases.

<https://www.epa.gov/ghgemissions/sources-greenhouse-gas-emissions>.

GLBs are, however, a significant contributor to air pollution.

According to the Environmental Protection Agency, air pollution is any visible or invisible particle or gas found in the air that is not part of the natural composition of air. Ozone (also known as ground-level ozone or O₃), a gas, is a major component of smog and is one of the most common air pollutants. Air pollution may also contain particulate matter (PM), carbon

monoxide (CO), and unburned fuel in the form of benzene, formaldehyde, and acetaldehyde.

In addition to pollution from toxic exhaust fumes, gas leaf blowers kick up several particulate matter types in the form of “fugitive dust,” including mold, pollen, animal and bird feces, pesticides, and fertilizers. CARB has stated that leaf blowers are a principal generator of fugitive dust in urban areas.

http://media.metro.net/projects_studies/sustainability/images/3_Fugitive_Dust_Handbook_from_CARB.pdf.¹

The majority of gas-powered leaf blowers in the US use small two-stroke engines (sometimes referred to as small off-road engines, or “SOREs”) that lack an independent lubrication system. The fuel is thus mixed with oil. Approximately 30% of the fuel does not fully combust, resulting in significant emission of toxic pollutants - including carbon monoxide, nitrous oxides, and non-methane hydrocarbons (which together cause smog and acid rain by reacting with sunlight.)

<https://www.sustainability.wustl.edu/rethinking-lawn-equipment-2/>.

A widely cited study conducted at the American Automobile Association's Automotive Research Center and commissioned by Edmunds InsideLine.com, found that a typical two-stroke GLB emits hundreds of times more hydrocarbons than the Ford F-150 Raptor Pickup truck used as a control. "The hydrocarbon emissions from a half-hour of yard work with the two-stroke leaf blower are about the same as a 3,900-mile drive from Texas to Alaska in a Raptor." <https://www.edmunds.com/about/press/leaf-blowers-emissions-dirtier-than-high-performance-pick-up-trucks-says->

¹ Because electric blowers create these same fugitive dust problems (as well as degradation of top soil and harm to beneficial insect habitats), I chose not to get into this factor too extensively. However, there is an argument to be made that all blowers should be restricted in favor of rakes and brooms or, at the very least, that blower use be limited to hardscape only. This is the course taken in Portola Valley. [https://library.municode.com/ca/portola_valley/codes/code_of_ordinances?nodeId=TIT8HESA_CH8.32LEBLUSCHSHGOINEFJA232021#:~:text=It%20is%20unlawful%20to%20use,or%20other%20non%20hard%20scape%20surfaces.&text=%C2%A7%201%2C%202019\)-,8.32.,blowers%20over%20sixty%2Dfive%20decibels](https://library.municode.com/ca/portola_valley/codes/code_of_ordinances?nodeId=TIT8HESA_CH8.32LEBLUSCHSHGOINEFJA232021#:~:text=It%20is%20unlawful%20to%20use,or%20other%20non%20hard%20scape%20surfaces.&text=%C2%A7%201%2C%202019)-,8.32.,blowers%20over%20sixty%2Dfive%20decibels).

edmunds-insideline.com.html. The EPA has also stated that gas-powered lawn and garden equipment is a prevalent source of high levels of air pollution. <https://www.epa.gov/sites/default/files/2015-09/documents/banks.pdf>.

While manufacturers have made steady reductions in two-stroke engine emissions, they are still one of the largest sources of air pollutants in this country, exceeding even the emissions of large automobiles, which are regulated to reduce and capture air pollutants via the use of catalytic converters. <https://sustainability.wustl.edu/rethinking-lawn-equipment-2/>. CARB has projected that due to increased adoption of electric vehicle technology and stricter emissions standards for automobiles, along with the increasing numbers of lawn and garden equipment powered by small gasoline engines, total smog forming pollution emissions from small engines will exceed those from passenger cars by 2020. *Small Engine Fact Sheet, California Air Resources Board, July 2018*, https://ww3.arb.ca.gov/msprog/offroad/sm_en_fs.pdf?_ga=2.57772970.1807115685.1562651154%20-1700486834.1557971923. By 2031, CARB states, small engine emissions will be more than twice those from passenger cars. *Ibid*. CARB has recommended a major shift toward electric equipment in order to hit state emissions reduction targets.

Therefore, small actions such as banning the use of GLBs can make a significant difference in improving regional air quality.

Health Impacts of Poor Quality Air

As seen, air pollution like CO, nitrogen dioxide, and hydrocarbons, as well as harmful chemicals, are released when fossil fuels are incompletely burned and enter the atmosphere. Inhaling such pollutants can cause damage that lasts for years, if not for life, and may even lead to death. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7044178/pdf/fpubh-08-00014.pdf>. Those most vulnerable to illness and premature death related to air pollution include children, pregnant women, the elderly, and those with pre-existing heart or lung disease. <https://www.lung.org/clean->

[air/outdoors/who-is-at-risk](#) and

<https://www.ahajournals.org/doi/10.1161/CIRCULATIONAHA.120.050252>.

In studying the health effects of leaf blower created pollution, CARB found that “with exposure to CO, subtle health effects can begin to occur, and exposure to very high levels can result in death.”

[https://ww2.arb.ca.gov/sites/default/files/2018-](https://ww2.arb.ca.gov/sites/default/files/2018-11/Health%20and%20Environmental%20Impacts%20of%20Leaf%20Blowers.pdf)

[11/Health%20and%20Environmental%20Impacts%20of%20Leaf%20Blowers.pdf](https://ww2.arb.ca.gov/sites/default/files/2018-11/Health%20and%20Environmental%20Impacts%20of%20Leaf%20Blowers.pdf). Symptoms of acute CO poisoning cover a wide range depending on

severity of exposure, from headache, dizziness, weakness, and nausea, to vomiting, disorientation, confusion, collapse, coma, and at very high concentrations, death. At lower doses, central nervous system effects, such as decreases in hand-eye coordination and attention in healthy individuals, have been noted. https://www.cdc.gov/disasters/co_guidance.html. These

neurological and cardiovascular effects can be especially serious in children. [https://www.lung.org/clean-air/outdoors/who-is-at-risk/children-](https://www.lung.org/clean-air/outdoors/who-is-at-risk/children-and-air-pollution)

[and-air-pollution](https://www.lung.org/clean-air/outdoors/who-is-at-risk/children-and-air-pollution). Older people are more likely to suffer a heart attack, stroke, atrial fibrillation, and pneumonia because of air pollution.

<https://www.nrc.gov/docs/ML1006/ML100601201.pdf> at pg. 97.

Benzene, a component of gasoline, depresses the central nervous system and causes cancer. Acetaldehyde is classified as a Group B2 probable human carcinogen; acute exposure to which causes irritation of the eyes, skin, and respiratory tract. Formaldehyde is highly irritating to eye and respiratory tract tissues, triggering or exacerbating asthma.

<https://www.epa.gov/sites/default/files/2015-09/documents/banks.pdf>

Studies have confirmed these chemicals’ connection to increased cancer risk in gasoline station employees.

<https://www.hoajonline.com/jeees/2050-1323/1/1>. All three are listed as Group 1 known human carcinogens by the American Cancer Society.

<https://www.cancer.org/cancer/cancer-causes/general-info/known-and-probable-human-carcinogens.html>.

It has been firmly established that breathing ozone results in short-term decreases in lung function and damages the cells lining the lungs. It also increases the incidence of asthma-related hospital visits and premature

deaths. Confalonieri, U., B. Menne, R. Akhtar, K.L. Ebi, M. Hauengue, R.S. Kovats, B. Revich, and A. Woodward, 2007: Human health. In: Climate Change 2007: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change [Parry, M.L., O.F. Canziani, J.P. Palutikof, P.J. van der Linden, and C.E. Hanson (eds.)]. Cambridge University Press, Cambridge, UK, and New York, pp. 391-431.

“Adverse health effects from the [GLB] emissions are well known. Benzene, 1,3 butadiene, and formaldehyde are listed among the four top ranking cancer-causing compounds. They cause lymphomas, leukemias, and other types of cancer. Ground level ozone and fine PM cause or contribute to early death, heart attack, stroke, congestive heart failure, asthma, chronic obstructive pulmonary disease, and cancer. Growing evidence suggests these pollutants also contribute to developmental and neurological disorders, including autism. The mounting evidence on the dangers of short term exposure is especially concerning.” See <https://www.epa.gov/sites/default/files/2015-09/documents/banks.pdf> and citations therein.

As for fugitive dust pollution, the epidemiological literature demonstrates statistically significant associations between ambient PM levels and negative human health outcomes, including mortality, hospital admissions, respiratory symptoms, and illness.

http://media.metro.net/projects_studies/sustainability/images/3_Fugitive_Dust_Handbook_from_CARB.pdf. Asthma sufferers are particularly sensitive to pollens and other allergens aerosolized by blowers.

<https://www.aafa.org/air-pollution-smog-asthma/>.

Two new studies just presented at the Alzheimer's Association International Conference 2021 found that reducing air pollution can reduce the risk of cognitive ailments such as dementia and Alzheimer's. See <https://www.newsweek.com/reducing-air-pollution-could-lower-risk-dementia-alzheimers-1613671?amp=1>. “Breathing in

pollutants, especially those that result from the burning of fuel and those so small they are invisible to the naked eye, has been associated with increased risk for a diverse cross-section of diseases, disorders, and other conditions, including but not limited to: mouth cancer, poor bone health and mental illnesses such as bipolar disorder and major depression.” *Ibid.*

As stated by Dr. Mahdiah Danesh Yazdi of the Harvard School of Public Health, “[e]ven if air pollution can’t be fully mitigated, we should strive to do better. Levels of pollutants now considered safe can still have harmful effects and result in bad outcomes.”

<https://www.nytimes.com/2021/06/28/well/live/air-pollution-health.html?referringSource=articleShare>.

Operator Impacts

The health risks associated with lawn and garden equipment are highest for those who operate this equipment continuously.

<https://www.epa.gov/sites/default/files/2015-09/documents/banks.pdf> at pg 12. A study published in *Nature* in 2006 found that emissions from small gas engines “may lead to elevated air pollution exposures for a number of gaseous and particulate compounds, especially for individuals whose occupations require the use of these engines daily, such as landscapers.”

<https://www.nature.com/articles/7500471>. And while workers are exposed to very high levels of pollutants for many hours each day, they are also exposed to very high noise levels that can, as seen, induce permanent hearing loss if proper ear protection is not worn at all times.

Workers are also required to routinely handle gasoline, engine oil, and maintenance chemicals, most often under unsafe conditions.

<https://www.greenindustrypros.com/mowing-maintenance/engines-parts-shop-equipment/article/12228422/gas-can-safety-for-landscapers-and-lawn-care-contractors> Exposure to gasoline fumes is a health hazard as is

skin contact.

<https://wwwn.cdc.gov/TSP/MMG/MMGDetails.aspx?mmgid=465&toxid=8>.

GLBs, particularly those carried on the operator's back, also cause vibration impacts to the body and hands. Prolonged exposure to vibration can cause injuries known as Hand-Arm Vibration Syndrome.

https://www.researchgate.net/publication/334361296_Vibration_Transmitted_to_the_Hand_by_Backpack_Blowers. This condition causes changes in the sensation of the fingers which can lead to permanent numbness of fingers, muscle weakness and, eventually, wasting which can leave a sufferer unable to continue working with power tools.

<https://patient.info/bones-joints-muscles/hand-arm-vibration-syndrome-leaflet>.

Dan Mabe of American Green Zone Alliance (AGZA) has worked with many landscape maintenance professionals while transitioning them to electric tools. He states that workers “love the smoothness of the electric tools – less vibration, they feel less fatigued. And they love the fact they don't have to work with any gas or oil or solvents. They can go home and not feel like a gas can walking into the house.”

<https://cleantechnica.com/2021/06/19/the-fully-electric-future-of-landscape-maintenance/>.

These operators are typically low wage workers, and often do not have a say in which equipment they use. The continued use of GLBs thus puts additional disproportionately high health risks upon a population who are some of the least able to avoid those risks.

Environmental Damage

Even putting aside issues of the localized poisoning of communities, residents, and workers, GLBs are harming our global environment at a rate that should not be dismissed out of hand simply because other sources are larger culprits. “According to the US Department of Energy, 1.2 billion gallons of gasoline are consumed annually in the US for lawn and garden

maintenance, and a significant portion of that is spilled while filling gas tanks. Roughly 25 pounds of CO₂ are emitted per gallon of gasoline burned, which means nearly 15 million tons of CO₂ are emitted per year for lawn maintenance.”

https://afdc.energy.gov/files/u/publication/lawn_equip_2014.pdf.

But even beyond this, the daily use of GLBs produces thousands of pounds of solid toxic and plastics waste yearly in the form of contaminated air and fuel filters, spark plugs, gaskets, and plastic two cycle oil containers that are sent to landfills. Filling gas tanks and mixing two cycle oil often results in spillage of toxic liquids and residual oil from used containers can find its way into water systems and harm local ecosystems. Common fluids used for engine maintenance – such as carburetor cleaners and engine degreasers - are highly toxic fluids themselves which require care in use and special disposal procedures. www.agza.net

Alternatives to Gas

Fortunately, a clean technology exists that can largely replace GLBs and perform most tasks effectively and efficiently. Consumer Reports says that, for ordinary yards, electric leaf blowers perform comparably to gas-powered models. The New York Times consumer product team also found many electric blowers to be as effective as gas powered models, although corded versions still tend to outperform battery versions.

<https://www.nytimes.com/wirecutter/reviews/best-leafblowers/>. The electric Toro F700, for example, “is light, with an easy one-handed speed control, and it moves leaves with a fury . . . at less than \$60.” *Ibid* “The Ego LB5604 doesn’t have the raw leaf-blasting power of the corded models, but in our tests its more focused airstream was better at getting under a dense mat of wet leaves, and its turbo button can produce an extra burst of power.” *Id.*

According to *Chainsaw Journal*, “cordless [electric] leaf blowers offer all the benefits of gas without any of the weakness. No fumes, no mixing gas and

oil, easy to start, and highly maneuverable . . . You can even find professional-grade cordless backpack leaf blowers, such as the DeWalt DCBL590X1, which is powered by a 40V 7.5Ah lithium ion battery pack for increased power and runtime. . . . Some of the backpack cordless models accept dual batteries so they can deliver more blowing power and extended runtime for professional landscaping jobs. The Greenworks cordless 80V backpack leaf blower is on the higher end of the power spectrum with 580CFM and 145MPH.” <https://www.chainsawjournal.com/electric-vs-gas-leaf-blower/>.

While commercial grade electric blowers may cost more upfront than gas fuel models, manufacturers and green organizations make the case that they more than pay for themselves in gas savings and maintenance cost. In one study by the University of Arkansas, comparing the gas blower then currently in use to maintain the campus to two electric models, they found the electric blower to represent an overall savings - “If you look at the amount of gasoline it takes to fuel the leaf blower over a five-year period . . . you see how quickly the cost of refueling these [gas machines] can be.” https://sustainability.uark.edu/resources/publication-series/project-reports/reports-electric_power_tools_ua-2017-ofs.pdf.

An analysis by California State Senator Josh Becker’s office shows that the cost of a commercial grade electric blower is surpassed by the cost of fueling a comparable gas blower after less than 1000 hours of use. <https://docs.google.com/spreadsheets/d/1JNGM0eW3VsOgFSnPJ5NgiOJHSeXNDsvDsM8Wywzz5us/edit#gid=0>. Assuming a blower is used only 2 hours a day for 50 weeks a year, the electric version has paid for itself in 2 years.

AGZA also states that the savings in switching to electric begins at year two. (AGZA.net Service Pro Workshop)

Moreover, electric tools have a much simpler design, with fewer moving parts and do not need to be cleaned and serviced routinely like a gas machine, representing additional cost savings.

Although the Menlo Park Public Works Department currently believes that electric blowers are not up to the task of maintaining city properties, AGZA has shown that, with proper training and education on best practices, even very large areas can be maintained. In AGZA's model, grounds crews are encouraged to use gas tools only for jobs that absolutely cannot be handled without the extra power of gas. In such cases it recommends the use of 4-stroke equipment only which is substantially cleaner than 2-stroke. See www.AGZA.net.

Jose Diaz, a landscaping coordinator in Los Angeles who has given testimony against proposed local gas-powered SORE limitation laws, has even acknowledged that electric "leaf blowers work just fine."
<https://californiaglobe.com/section-2/bill-that-would-ban-sales-of-new-small-gas-powered-engine-machines-introduced-in-assembly/>.

Our city's parks, playgrounds, and public areas, including schools, are some of the places we most want clean air and a quiet background. Our city government should take steps to make this possible even if it involves rethinking the current approach to keeping these areas free of leaves, hazardous materials and debris.

Organizations, Municipalities and Industry are going Electric

At least ninety California municipalities have enacted restrictions on leaf blowers, as outlined in the table below. Most of these towns and cities restrict leaf blower usage by ordinance to certain times of the day, or through their noise regulations. Approximately thirty of these cities have explicit bans on gas-powered leaf blowers, while at least two cities have banned all motorized blowers outright.

California Cities Banning Gas Leaf Blowers (GLB)	Effective date of gas leaf blower ban
--------------------------------------------------	---------------------------------------

Belvedere	1987
Berkeley	1991
Beverly Hills	1976
Carmel	1975
Claremont	1991
Del Mar	Mid 1980s
Encinitas	2019
Hermosa Beach	Early 1990s
Indian Wells	1990
Laguna Beach	1993
Larkspur-Corte Madera	2020
Lawndale	2018 or earlier
Lomita	1986
Los Altos	1991
Los Gatos	2014
Malibu	2019
Manhattan Beach	1998
Mill Valley	1993
Monterey City	2021
Oakland	2021
Ojai (Public Works maintenance zero emissions)	2017
Pacific Grove	2021
Palm Springs	2019
Palo Alto	2005
Piedmont	1990
Portola Valley	2021
Rancho Palos Verdes	2020
Redondo Beach	2018
San Clemente	2021
San Francisco (Recreation and Parks Dept)	Jan. 2023
Santa Barbara City	1997
Santa Monica	2018
Sonoma	2016
South Pasadena (All municipal properties zero emissions, maintained by AGZA)	2016
South Pasadena*	Oct. 2022
West Hollywood	1986

* As reiterated at July 7, 2021 City Council meeting (meeting video available on city website).

Other institutions and organizations that have adopted electric garden equipment include high schools, golf courses, sports complexes, and universities. <https://www.brightview.com/resources/press-release/penn-switches-all-electric-landscaping-equipment-help-brightview>; <https://www.washingtonpost.com/climate-solutions/2021/06/30/electric->

[lawn-care/](#). Yerba Buena High School in San Jose was the nation's first AGZA Green Zone high school and its grounds department performs all routine landscaping maintenance on over 30 acres of serviceable area with all-electric equipment. <https://agza.net/agza-gz-ybhs-press-release/> Pennsylvania State University, with a campus of nearly 8000 acres, has also recently recognized the benefits of switching from gas to electric landscaping equipment and has found that electric equipment performs as well as gas. https://www.collegian.psu.edu/news/campus/penn-state-s-office-of-physical-plant-seeks-to-prevent-pollution-through-electric-landscaping-equipment/article_4112fcaa-0f80-11ec-812d-67faa2311a21.html?fbclid=IwAR0CVKY8qHkp29oiCzu6GSGeIIWW3uWSxN6kvPG6MYRXIOgqX9AzPlfzJPs.²

CARB last submitted a report on GLBs to the California Legislature in February, 2000. At that time, CARB did not recommend a ban on GLBs due to the landscaper's "need" for such equipment despite its detriments to air quality and public health and because of the lack of acceptable alternative tools. <https://ww2.arb.ca.gov/sites/default/files/2018-11/Health%20and%20Environmental%20Impacts%20of%20Leaf%20Blowers.pdf> at p. 56. At that time electric leaf blowers were limited either to corded models or largely underpowered battery models. But at this point, according to CARB's current website, "[l]eaf blowers have . . . been deemed an ideal candidate for electrification in both the residential and commercial market. *Ibid* "Furthermore, in an effort to reduce the amount of PM that is stirred up by the leaf blowers, alternatives such as leaf vacuums can and should be considered by both the commercial and residential sector." *Id.*

Thus, it is only a matter of time before GLBs are banned statewide and Menlo Park should take the lead by demonstrating a commitment to electrification in all ways large and small.³

² The landscaping crews at Penn State still use GLBs in the fall months when electric blowers are not powerful enough for specific tasks.

³ It might behoove the city to think ahead to the time when GLBs will simply be unavailable and only electric blowers will be used – are we going to be satisfied to have them operated such that they continue to harm habitat for beneficial insects, destroy topsoil, and create fugitive dust and associated PM? If we are going to legislate now, perhaps we should consider an ordinance that

State Action will not Adequately Address Citizen Concerns

California State Assemblymember Marc Berman, D-Menlo Park, in response to CARBs statements (above), submitted legislation (AB 1346) that would require new sales of SOREs to be zero-emission by 2024 or whenever CARB determines is feasible, whichever is later. The bill also requires CARB to make funding available for commercial rebates to support the transition to zero-emission SORE. <https://a24.asmdc.org/press-releases/20210329-berman-and-gonzalez-bill-will-phase-out-gas-powered-small-engines>. This bill has now passed both houses of the California Legislature and currently awaits Governor Newsom's signature. <https://www.sacbee.com/news/politics-government/capitol-alert/article254086403.html><https://www.sacbee.com/news/politics-government/capitol-alert/article254086403.html>

While this law will finally begin to address the dangers and nuisance of gas-powered leaf blowers, the fact is that it's impact will not actually be felt for many years. It only bans the sale of GLBs within California and does nothing to prevent the operation of equipment purchased before December 31, 2023, nor any equipment bought out of state. This could potentially leave GLBs operating within the state for years to come.⁴ If the City Council wants to address the concerns of Menlo Park residents over the noise and pollution effects of GLBs in our neighborhoods well past 2030, they need to take steps now to educate residents and workers of the dangers associated with operating and living near GLBs.

restricts blower use to hardscape, and directs that dust and other debris shall not be deposited onto a neighboring property or into a street, gutter, or storm drain, (while, of course, continuing to restrict hours of use and db levels). For an example of such an ordinance see https://encinitas.granicus.com/MetaViewer.php?view_id=7&clip_id=1968&meta_id=101104.

⁴ As noted by landscaper Jose Diaz, "you can buy a gas-powered version in Mexico or Arizona or some place out of state and it's not illegal to bring it in. If you can do that, or with the way we're moving to online shopping, just order a gas-powered lawnmower [or blower] from out of state without consequence, what is the point of this?" <https://californiaglobe.com/section-2/bill-that-would-ban-sales-of-new-small-gas-powered-engine-machines-introduced-in-assembly/>.

On the positive side, the law will provide \$30 million in funding to provide incentives to persuade users to switch from gas equipment to zero emission electric equipment. While it is yet to be decided if these funds will be directed towards local municipalities or whether a statewide program will be created, there will be money available to gardeners who go electric.

Implementing a Ban Equitably

Electric is actually cheaper than gas in the long run. Thus the only financial hardship to professional users would be the upfront cost. If AB1346 is signed by the governor, it will require CARB to make funding available for commercial rebates to support the transition to zero-emission SORE.

<https://a24.asmdc.org/press-releases/20210329-berman-and-gonzalez-bill-will-phase-out-gas-powered-small-engines>.

In Encinitas, \$10,000 was set aside to provide incentives to local professionals to turn in their gas machines. The city staff estimated this could provide up to 50 rebates.

https://encinitas.granicus.com/MetaViewer.php?view_id=7&clip_id=1968&meta_id=101104. Portola Valley was also able to fund a buyback program, allotting \$6000. <https://www.almanacnews.com/news/2019/11/26/portola-valley-town-to-buy-back-leaf-blowers-add-church-to-housing-program>. If Menlo Park is committed to clean and healthy air and the protection of low income workers, it could similarly fund such a program if regional or statewide incentive programs cannot be found.

A phase-in period can also alleviate financial burdens by allowing owners of non-compliant equipment the time to prepare for a switch to clean technology. The California Landscape Contractors Association agrees “that efforts to prohibit outmoded equipment should be accompanied by buy-back programs that permanently remove the equipment from service. At a minimum, bans on outmoded equipment should go into effect at least one year after a decision is made. This would give users crucial lead time to phase

out their non-compliant equipment.” <https://www.clca.org/advocacy-2/current-issues/leaf-blowers/>.

A robust campaign that would educate property owners and commercial users about all the issues involved, from human health, to noise pollution, to habitat preservation, and including information about the costs and savings related to an upgrade to electric, could encourage those who employ landscape crews to pay a little extra to make up for increased costs and any lost productivity that is attributed to battery life. Time currently spent blasting leaves out of planting beds and borders could be saved if property owners can be persuaded that a garden provides beneficial habitats for bugs, birds and other life and does not need to look like a golf course. Homeowners can ask their gardening crews to use blowers only on hardscape. The city could also suggest that property owners themselves could invest in an inexpensive electric blower to be kept available for the workers’ use. Portola Valley Councilman John Richards noted that he knew “of several people in town who have stepped up to purchase electric blowers for their gardeners, or have helped finance them,” after his city’s ban went into effect. https://www.almanacnews.com/news/2021/08/03/portola-valley-quieter-after-gas-powered-leaf-blower-ban?utm_source=express-2021-08-03&utm_medium=email&utm_campaign=express.

South Pasadena is one of the California cities that has most recently approved a ban. They will phase in the law over a one-year period, using that one year to educate residents and landscapers about the dangers of gas blowers. <https://southpasadenan.com/leaf-blower-ban-as-ordinance-takes-effect-city-seeks-to-educate/> The city plans to hold demonstrations of the power and efficiency of electric equipment, partner with AGZA in its outreach campaign, create a webpage dedicated to the ban, distribute information via a city e-newsletter and flyers handed out at farmers markets, city offices and libraries, and publish ads in local newspapers, among other efforts. *Ibid.*

Because workers are the ones most vulnerable to the health impacts of GLBs, helping low income operators to acquire and use cleaner technology should

be a goal of this council. The City of San Mateo recently announced a rebate program which provides residents up to \$100 towards the purchase of an electric blower while professional landscapers can receive a rebate of up to \$500. <https://climaterwc.com/2021/08/11/san-mateo-launches-electric-leaf-blower-rebate-program-to-reduce-noise-pollution/>.

Finally, enforcement issues are less important if education is prioritized. Any fines should be preceded by effective education and multiple documented warnings and the option to fine the employer rather than the worker can be written into any ordinance.

Conclusion

Citizens have made it known that the noise impacts alone are sufficient reason to ban GLBs but the vast evidence shows that routine use of this tool in the vicinity of residential neighborhoods, schools, parks, and other public spaces is exposing the public as well as landscape workers to unnecessary and preventable health risks. Recent racial and socio-economic reckoning makes the need to protect the operators of GLBs more apparent and imperative.

As stated by 350 Bay Area, a local non-profit working to address climate change, “[r]eining in these engines is a climate, health, and environmental justice issue.” <https://350bayareaaction.org/support-ab-1346-and-electrify-landscaping-equipment-for-climate-health-justice/>. And Asm. Berman has stated in connection with AB1346: “[w]e must look beyond transportation if we are to achieve the emissions reductions needed to fight climate change and improve air quality and health in our communities.” <https://a24.asmdc.org/press-releases/20210329-berman-and-gonzalez-bill-will-phase-out-gas-powered-small-engines>.

A recent article in the Almanac on the local efforts to ameliorate the harmful effects of GLBs elicited the following comment from Menlo Oaks resident “Ms Walker:”

“I despair of we [sic] as a society ever doing anything about the climate crisis if we can’t even ban the use of a “gardening” tool that the California Air Resources Board has determined is a major source of air pollution and that has an electric alternative tool already available to use. If we can’t even take this simple step (which would have a beneficial effect on our health), what does it say about our ability to take bold action?”

https://www.almanacnews.com/news/2021/08/03/portola-valley-quieter-after-gas-powered-leaf-blower-ban?utm_source=express-2021-08-03&utm_medium=email&utm_campaign=express.

Equitable solutions can be found to help landscape professionals transition from gas to electric with minimal financial impact. The benefits to the workers themselves, the public at large and the very planet are well worth the resources the city will need to expend to implement a ban.

Recommendation

The Sub-committee therefore proposes that the Environmental Quality Commission recommend that the City Council direct city staff to prepare a report regarding the implementation of a ban on gas-powered leaf blowers in Menlo Park.

EQC subcommittees as of July 2021

Building Decarbonization Subcommittee (Commissioners Evans, Gaillard and Kabat)

Created January 2021 and membership updated July 2021

This subcommittee of 2-3 people will assist staff in developing policies and plans to convert 95% of Menlo Park's existing buildings to all-electric by 2030. Work will include:

- Researching the technical and financial feasibility of converting the City's existing building stock to all-electric
- Researching financing options available to assist community members with conversions
- Researching policy and funding mechanisms to assist low-income households with conversions
- Reviewing legal frameworks for key policies
- Facilitating City collaboration with key regional agencies, such as Peninsula Clean Energy
- Collaborating with City staff and contractors in drafting key policies
- Preparing materials to help educate the public about building electrification
- Assisting City staff in completing electrification of municipal buildings
- Developing Council recommendations for 2021 CAP actions related to building decarbonization

This subcommittee supports CAP actions #1 & 5.

Transportation Decarbonization Subcommittee (Commissioner Payne)

Created January 2021

This subcommittee of 3 people will assist staff in developing policies and plans to eliminate the use of fossil fuels in transportation in Menlo Park by 2030. Work will include:

- Researching the technical and financial feasibility of policies and programs to increase access to EV charging, especially during the day and for residents of multi-family housing
- Reviewing the offerings of service providers who may be able to assist the City and community members in building out its EV charging network
- Reviewing legal frameworks for proposed policies
- Serving as a liaison to the Complete Streets Commission in developing and achieving a City goal to reduce Vehicle Miles Traveled by 25% through 1) rezoning to support increased housing density near transit and 2) the build out of a network of connected bike/ped paths throughout town
- Tracking and promoting the City's goals of 1) making all new vehicles be electric by 2025 and 2) reducing gasoline sales each year by 10%
- Assisting City staff in converting the municipal vehicle fleet to all-electric by identifying new electric vehicle offerings for staff and Council consideration
- Developing Council recommendations for 2021 CAP actions related to transportation decarbonization

This subcommittee supports CAP actions #2, 3, 4 and 5

Climate Adaptation Subcommittee (Commissioners Elkins and Price)

Created January 2021

This subcommittee of 2 people will research and inform City staff and Council on strategies for preparing the City for the effects of climate change. Work will include:

- Attending meetings of the San Mateo County Flood and Sea Level Rise Resiliency District Board and reporting back to EQC
- Working with staff and Council members to engage community members who will be most affected by sea level rise to educate them and take their input on how best to address the issue
- Tracking Menlo Park's plans for sea walls and/or levees to protect the community against sea level rise and keeping the EQC apprised of those plans
- Making recommendations to City Council on proposed development in the City's future flood zones
- Researching other potential effects of climate change on the City, including wildfire, drought and heat waves, and identifying plans to address those effects
- Developing a proposal for capturing 10% of the City's 2005 greenhouse gas emissions by 2030 through direct carbon removal

This subcommittee supports CAP action #6

Climate Outreach Subcommittee (Commissioners Gaillard and Kabat)

Created January 2021

This subcommittee of 3 people will devise strategies for educating members of the public about Menlo Park's climate action plan to reduce greenhouse gas emissions by 90% by 2030. Work will include:

- Identifying opportunities for Staff and the EQC to educate the public about climate change and Menlo Park's climate action plan
- Preparing educational materials and promoting them, either in conjunction with Staff or as private citizens
- Devising a plan, including proposed venues, for regularly presenting the public with information about ways to electrify buildings, decrease gasoline consumption, reduce vehicle miles traveled and prepare for climate-related emergencies
- Relaying to EQC any public feedback on the CAP and related policy proposals
- Supporting the City's formal outreach effort on climate policies, as directed by Staff

This subcommittee supports CAP action #1, 2, 3, 4 and 6

Trees and Sustainable Initiatives Subcommittee (Commissioners Elkins and Payne)

Created January 2021

This subcommittee of 2 people will support Staff in addressing all sustainability matters not addressed by the Climate Action Plan. Work will include:

- Organizing the City's Arbor Day Tree Planting event
- Assessing the effectiveness of the City's new Heritage Tree Ordinance and making recommendations to EQC for any changes needed
- Supporting Staff in development of an inventory and catalogue of the urban tree canopy
- Receiving public concern related to non-climate sustainability concerns, including: habitat protection, healthy ecology, environmental health protection, healthy air, surface water runoff quality, water conservation and waste reduction

- Recommending appropriate responses or programs to address public concerns about non-climate sustainability matters

This subcommittee supports EQC goals for Urban Canopy Preservation and Green and Sustainable Initiatives not related to the Climate Action Plan

Gas powered leaf blower policy subcommittee (Commissioner Elkins)

Created May 2021

This subcommittee will provide city council with advice on potential policy and/programs to reduce or eliminate the use of gas powered leaf blowers in the community

Agenda item N1
Jill Morgan

Hi,

I am writing to express my support for a ban on gas-powered leaf blowers in Menlo Park.

Thanks,

Jill Morgan

Agenda item N1
Francesca Segre

I support the Environmental Quality Commission's unanimous recommendation that the Council direct staff to prepare a report on a gas leaf blower ban.

It's well past time to ban gas leaf blowers for our air, our ears, our lungs, our future.

Thank you,

Francesca Segre

Agenda item N1
Shaun Maguire

Here is my comment on the Gas Leaf Blower item for advice to the Council.

I strongly support the banning of all gasoline powered leaf blowing activity in the City of Menlo Park.

I have read the report from the EQC sub-committee and I am appalled by the reporting that a half-hour use of a two stroke engine leaf blower creates as much pollution as driving an F150 truck 3,900 miles.

In a time when as a community we are striving to change building codes and buying electric vehicles for the city this seems to me to be "low-hanging fruit" to achieve a reduction in pollution and greenhouse gases while at the same time creating health benefits for the users of the GLBs and the public at large.

I own a powerful electric blower which works very well, and I understand there are commercial versions with larger battery capacities that provide an alternative to the GLBs.

I would go further than just GLBs. I would ban all garden maintenance machinery that have similar emissions characteristics as the GLBs.

I think there should be a six month adoption period and there should also be some type of help given to those making the switch. There will need to be enforcement of the new requirement.

Right now there are cases in my neighborhood where GLBs are blithely used on Saturdays by commercial gardeners.

Sincerely,

--

Shaun Maguire

Agenda item N1
Karen Rohlf

I'm a Menlo Park homeowner and support the ban on gas powered leaf blowers. They pose a significant threat to our environment as well as a health hazard for the people operating them as well as to the neighbors who are exposed to their noise and fumes.

With the improvement in the quality of electric leaf blowers/batteries (performance as well as cost), it seems that there are very few instances in which the increased power of gas leaf blowers is actually needed.

My concern is about the enforcement of this regulation. Palo Alto has a ban on gas powered leaf blowers and yet the problem persists. I do not know if Los Altos has been any more successful in enforcing their ban.

I do not believe the financial burden should fall on the shoulders of individual gardeners nor do I think it is an effective use of police resources to enforce an ordinance like this (by the time the police get to the scene of any violation, the gardener is long gone). However, given the divisiveness and anger that already exists in the world today, we do not need individuals deputizing themselves and confronting gardeners who are using the gas blowers.

Before we put any more regulations on the books, we have to have an effective implementation plan for the enforcement of that regulation. I believe that putting regulations on the books that are not consistently enforced is a recipe for disaster. Whatever implementation plan is devised, there needs to be an education campaign for homeowners, landscape companies and individual gardeners as well as monetary penalties to those hiring people who use gas blowers.

Sincerely,

.

Karen Rohlf

Agenda item N1
Clint Gilliland

Please vote to accept the EQC recommendation.

I am annoyed mostly by the noise from gasoline powered leaf blowers and lawn mowers. The fumes are not pleasant but are bad for the environment.

The noise level is quite high even indoors. The duration of the use in one yard may be up to an hour. Then an adjacent yard for another hour.

High Decibel Noise

Even electric blowers emit an annoying noise but at a lower level. The problem with electric blowers is the job duration which makes them annoying, too. The rules should not only have noise level limits but some form of noise level/duration limits.

Thank you,

Clint Gilliland

Agenda item N1

Richard Recht

City Council,

Please make a contribution to lessening degradation of the natural environment, as well as the sound environment, by setting Menlo Park on the path to elimination of gas-powered leaf blowers.

Thank you,

Richard Recht

Agenda item N1
Lisa Williams

Dear City Council Members,

Thank you for addressing the matter of gas leaf blowers in our city.

In addition to adapting to climate change, society is adapting to COVID. COVID has changed where people elect to work. More and more companies are giving their employees the permanent option of working remotely from home. So, the impacts of Gas Leaf Blowers (GLBs) on those working from home will continue to affect many more people.

Our current city ordinance Chp 8.07 states, "Certified leaf blower" means only those leaf blowers measured at sixty-five (65) dB(a) or less at a distance of fifty feet ...

Most residential buildings in Menlo Park are closer than 50 feet apart. This means GLBs are being operated closer than 50 feet from one's neighbor subjecting neighbors to greater than the permitted 65 dB(a) at 50 feet. This makes the existing ordinance virtually impossible to comply with.

The study done by J Banks*, in Support of Bill 22-234, District of Columbia, City of Washington, 7/16/18 reported how one GLB can affect multiple surrounding households at various dB levels. The study found that 90 plus surrounding households can be impacted by one GLB.

*Citing: J Banks, statement in support of Bill 22-234, DC COW, 7/16/18

https://static1.squarespace.com/static/57e80a57414fb52bddd431f1/t/5b50edab575d1ff383c36b99/1532031883098/2018.07.16_DC+COW+Bill+22-234+Report_Final.pdf page 6 of 12

The study scientifically tested the impact of three popular GLBs manufacture's models.

- Echo PB760 at 65 dB at 50 feet affect 23 homes
- Redmax EBZ8500 and Stihl BR700x at 77 and 75 dB at 50 feet affects 91 homes

In comparison, the study shows an equivalent battery powered leaf blower impacts between 1 and 6 neighboring homes. This difference is due to the physics related to the noise waves generated by the 2-stroke engine versus a battery.

The passage of AB 1346 will move CA one step closer to phasing out Small Off-Road Engines. GLBs fall into this category of engines. However, this bill will not prevent the use of GLBs until well beyond Jan 2024 (the projected date this bill goes into effect).

Respectfully I urge the Council to support the EQC recommendation to direct staff to prepare a report on a gas leaf blower ban. Such a ban will demonstrate that the Council is in tune with what residents have asked for. A ban will effectively remove an environmentally polluting tool with a zero emissions equivalent, thus reducing pollution and health risks to both gardeners and the public, and improve the general quality of life.

Sincerely,
Lisa Williams, Menlo Park resident (Linfield Oaks)

Agenda item N1
Mary Kenney

Dear Menlo Park City Council,

I am writing to strongly urge you to accept the EQC recommendation to direct staff to prepare a report on a gas leaf blower ban at the City Council meeting on Tuesday, October 16, 2021..

Compared to many other local cities, Menlo Park has remained behind the curve on this issue for far too long. Allowing their continued use is embarrassing and befuddling given our parallel efforts to become an environmentally conscious community and green city. The daily assault on our neighborhoods from the egregious noise and pollution not to mention the health of the workers who use them demands a strong message from you against their use.

This is a community day-to-day, quality-of-life and health issue that far outweighs the individual benefits. Again, please vote to allow the City staff to explore a permanent and meaningful ban on these blowers. The future will thank you, as do I, for your consideration.

Mary Kenney

Agenda item N1

Elliot J. Krane

Dear Council Members,

Thank you for the opportunity to comment on a proposed ban of gas-powered leaf blowers (GLBs) in Menlo Park.

The annoyance of hearing GLBs near and far at virtually any time of the day in virtually every community in Menlo Park is well known to every citizen of our city. As a faculty physician at Stanford I would like to share my personal views on the health related hazards of GLBs and advocate for their ban. These views are my own and do not represent the views of Stanford University.

Noise Pollution: My views on noise pollution were made known during public comment regarding the declaration of Caltrain quiet zones in Menlo Park, but bear repeating here: GLBs emit approximately 100dB of largely low-frequency noise that remains at deleterious levels of 60 - 70dB even as much as 100 feet away, and penetrates readily through walls and windows.

Environmental noise pollution produces many adverse health effects to children and adults alike, including increased cardiovascular morbidity and mortality (such as increased blood pressure, heart attacks and strokes), learning impairment and attention disabilities in children, and even an increase in the community rate of diabetes. It increases stress as many of you must have experienced, with downstream cardiovascular, neurological and psychological adverse effects of that stress. And it must be highlighted that the citizens who are most at risk for adverse health effects are the landscapers and gardeners themselves who operate the equipment for hour upon hour every day of the week.

Chemical Air Pollution: GLBs use 2-stroke engines, which are an important cause of air pollution in our community. Combusting a mixture of oil and gasoline and lacking exhaust filtration and catalytic converters, they emit a toxic mixture of partially and wholly uncombusted gasoline, benzene, butadiene, acetaldehyde, formaldehyde, NOx and ozone, most or all of which are known carcinogens. And in addition to the composition of the exhaust, the amount of exhaust is nontrivial. A 2011 study widely cited by the New York Times, the Washington Post and the Wall Street Journal compared a 50cc 2-stroke leaf blower and Ford F-150 Raptor with a 6 liter 411 horsepower engine. Each were each run for 30 minutes while measuring the pollutant output.

The hydrocarbon emissions from operating the GLB for only 30 minutes were the equivalent of driving the Ford 150 3,887 miles. Other studies have found less impressive but no less important results: GLBs release 300x the levels of hydrocarbons as vehicles, and running one for 1 hour is equivalent to the pollution of an auto driving 1,100 miles.

Particulate Air Pollution: Furthermore, leaf blowers (gas-powered and electric alike) create a jet of wind approaching an air speed of 200mph, a tornado of wind that propels particulate pollution of all sizes into the air, from micrometer to millimeter, including dust containing brake lining powder that has settled on road surfaces, pathogens such as fungi and their spores, landscaping chemicals such as herbicides, and microscopic particles of soil. These small particulates provoke asthma and other respiratory disease in children and increase the severity of chronic lung diseases in the elderly. Additionally, a larger particle propelled into the air can damage or even destroy the eye of a nearby child or pet. The air around a GLB contains carcinogens and particulates that damage the health of the landscape workers who breathe the particulates during their workday.

Children are the most vulnerable to the exposures because of their more rapid respiratory rate, greater volume of inhaled air per pound of body weight, proximity to the ground, and because their organs are still developing and are more vulnerable to toxins.

The City has a duty to protect the health of its residents, workforce and visitors, and a pernicious phenomena that damages everyone's health today is noise, chemical pollution and dust created by gas-powered leaf blowers.

Banning GLBs and returning to rake and broom will certainly increase the cost to homeowners paying landscaping crews to groom their property by increasing the time required to complete the job, but the community cost pales in comparison to the societal cost of the mental and physical health effects of exposure to the noise and air pollution of GLBs.

I join my fellow citizens in urging a GLB ban in Menlo Park.

Sincerely

Elliot J. Krane, MD

Agenda item N1
Janet Gilmore

I urge the Council to accept the Environmental Quality Commission's recommendation regarding the ban on gas-powered leaf blowers. The blowers are unhealthy to the individuals using them and to those in the vicinity of where they are used. In addition, gas blowers contribute to air and noise pollution. Climate change is real and we must do everything we can to reduce greenhouse gas emissions.

As part of this ban, I also strongly support the EQC's recommendations to implement an educational campaign for both property owners and landscape companies as well as to fund a trade-in program for landscapers. We shouldn't place the burden of converting to electric blowers on those who are maintaining our landscape.

Thank you,
Janet Gilmore

Agenda item N1
Pat Walker

Although my husband and I live in the Menlo Oaks unincorporated area, our property borders on Menlo Park (Vintage Oaks) neighbors. All three properties that straddle our fence line have weekly landscaping services that use gas-powered leaf blowers (GLBs). As such, we suffer the direct effects of GLBs that would be alleviated, in part, by a Menlo Park ban on the use of GLBs. We would still be exposed to the particulate matter in the dust clouds that leaf blowers raise, but we would be spared the hydrocarbon fumes and the intense noise.

I urge the City Council to pass this ban, which is important for our health and that of other neighbors who are home during the day (retirees, pre-school-age kids, after-school kids, home office workers, caregivers). Also, it is a matter of environmental justice for the employees of the landscaping services who have no say in what equipment their employers tell them to use. If all landscaping services must use electric blowers, then no employer can cut costs by insisting their employees use GLBs.

Thank you.

Pat Walker

Agenda item N1
Amy Lupo

I am emailing to urge you to support the Environmental Quality Commission's unanimous recommendation that the Council direct staff to prepare a report on a gas leaf blower ban. This is item N.1 on the 11/16/21 council meeting agenda.

It is time these loud smelly blowers be banned in Menlo Park. Please show the people of this city that you are serious about reducing carbon emissions in Menlo Park. These are heavily polluting, and the work can easily be done instead with electric blowers, as shown by our neighboring city of Palo Alto.

I urge you to support a ban on gas powered leaf blowers.

Thank you,

Amy Lupo

Agenda item N1
Geoff McCavitt

I am a long term resident of MP who is in favor of a ban on all gas-powered gardening equipment (especially leaf blowers).

As someone who frequently works from home, and walks my neighborhood daily, I am regularly assaulted by the noise and air pollution associated with the use of these so called labor-saving tools. My preference is for an outright ban, but appreciate the need for a transition period, to allow gradual elimination of gas-powered blowers, and conversion to electric blowers (or, heaven forbid the use of a rake and broom!). Further, I support creation and administration of a city-run “blower replacement fund”, to provide a voucher (or money) to professional gardeners and homeowners alike, to defer at least a portion of the costs associated with switching to electric.

At a minimum, Council should consider a plan like the one in place in Burlingame, where blower use is limited to one day per week in each neighborhood.

Thank you.

Geoff McCavitt

Agenda item N1

Mary Hofstedt

I'm writing briefly to express my support for the ban on gas-powered leaf blowers in our city.

Other local communities have made this important change to curb emissions, and the state as a whole is working on this issue - and I strongly encourage Menlo Park to follow suit.

Thank you,

Mary Hofstedt

Agenda item N1
Ritu Asija, M.D.

Please vote to accept the EQC recommendation

The noise and air pollution are harmful to us, our children and our pets. It is particularly important given the worsening air quality we are experiencing on a yearly basis. Any additional air pollution can worsen the harm we are already experiencing.

Thank you,
Ritu Asija, M.D.
Department of Pediatrics
Stanford School of Medicine

Agenda item N1 David Axelrod MD

Mayor, City Councilmembers, and Environmental Quality Commission of Menlo Park

Re: Gas-Powered Leaf Blower (GPLB) Ban (Agenda Item N1., 11-16-2021)

Dear Menlo Park City Council,

Thank you for the opportunity to comment on a proposed ban of the use of gas-powered leaf blowers (GPLBs) in Menlo Park. I am a faculty pediatrician (specifically a pediatric cardiologist) at Stanford's Children's Hospital, and I will offer my personal views on the health-related hazards of GPLBs for all Menlo Park citizens, but especially for our kids. I will briefly discuss views that are my own and do not necessarily represent the views of Stanford University.

Decades of rigorous scientific research have taught us that pollution and environmental exposures disproportionately affect our children. My training in pediatrics and my current practice in the pediatric intensive care unit provides me a constant reminder of why this is the case: babies and children breathe faster than adults, they inhale a larger volume of air when indexed to their body weight, and they spend more time at ground level--crawling, walking, or sitting where many environmental toxins settle. Finally, and perhaps most importantly, children's developing lungs, hearts, and brains are uniquely sensitive to environmental exposures as they mature. An important principle in my daily practice in the intensive care unit is that children's lungs continue to develop and grow alveoli (the gas-exchanging sacs of the lung) at least through the ninth year of life – therefore any toxic exposure experienced today will be amplified on a logarithmic scale in the future.

There are two negative health effects of the use of GPLBs that I would like to highlight: air pollution (both from dust/particulate matter and chemicals) and noise pollution. These concepts have been very well summarized by Leah Elkins in the Environmental Quality Commission agenda item C-2 document from September 22, 2021.

Air Pollution: GPLBs combust a mixture of oil and gasoline, and unlike cars they have no exhaust filter or catalytic converters. The emissions contain carcinogens such as uncombusted gasoline, benzene, formaldehyde, and ozone. For reference, GPLBs release three hundred times as much hydrocarbon as most cars and trucks.

Particulate Air Pollution: All leaf blowers (both gas-powered and electric alike) work by propelling particulate matter into the air. With air speeds as high as 200 miles per hour, they send dust into the air – and into kids' lungs—that contains everything from brake lining powder that has settled on road surfaces, to chemicals such as herbicides, and microscopic particles of soil. This particulate matter damages lungs – it's harmful for everyone today and deleterious for decades for the developing lungs of our kids.

Noise Pollution: The motors in GPLBs emit approximately 100 decibels of low-frequency noise (greater than 85 decibels is considered dangerous). Research demonstrates that this noise increases blood pressure and the risk of heart attack and stroke, it impairs development and learning in children, and increases stress hormones like cortisol. It also disrupts critically important sleep as it passes through windows and walls, even at a distance of 100 feet away. You may ask: "Who sleeps at 10 in the morning, as our laws require leaf blowers to be used during daytime?" Our most vulnerable – our babies and small children – rely on this sleep during the day for brain development and growth.

I appreciate that there are important economic, political, and societal implications of imposing an immediate ban on GPLB use. I will trust experts in these respective fields to offer a creative and equitable proposal that addresses the needs of the workforce using the GPLBs and the community who needs their yards and fields kept tidy. I am not an expert in these areas, but I will submit that this ban will also help protect the health of the gardeners, workers, and citizens using GPLBs and inhaling the gas and particulate matter as they work. They, too, deserve protection from these environmental toxins.

I am proud to support the submitted written commentary of my fellow citizens – many of them physicians and experts in child health -- in urging us to lead an immediate ban on the use (not just the sale) of GPLBs in Menlo Park. It is our duty—in fact a mandate for our city-- to protect our children and banning the use of GPLBs is one small step that will put us on the right side of history.

Sincerely,

David Axelrod MD

Menlo Park resident

Clinical Professor, Pediatrics (Cardiology)

Stanford University School of Medicine



STAFF REPORT

City Council
Meeting Date: 11/16/2021
Staff Report Number: 21-226-CC

Regular Business: Introduction and first reading of Ordinance No. 1080 amending Ordinance No. 1074, modifying the City Council’s regular meeting schedule

Recommendation

Staff recommends that the City Council waive the first reading and introduce Ordinance No. 1080 (Attachment A) amending Ordinance No. 1074, modifying the City Council’s regular meeting schedule.

Policy Issues

According to the Menlo Park Municipal Code (MPMC), Section 2.04.010, “A regular meeting of the City Council shall be held on the second and fourth Tuesday of every month commencing at five p.m., unless the City Council adopts a different schedule by resolution at the beginning of the year.” This ordinance codified the City Council’s current practice of conducting regular meetings on the second and fourth Tuesday of every month with a 5 p.m. start time. The 5 p.m. start time was selected due to the heightened risk of the COVID-19 pandemic and the flexibility of schedules to meet at an earlier start time. Pre-COVID-19, the regular City Council meeting start time was 7 p.m. The proposed action amends Ordinance No. 1074 and adopts a set City Council monthly regular meeting calendar for the second and fourth Tuesday, commencing at 6 p.m.

Background

State law requires the City Council to publish in advance the days and times of all regular public meetings. Establishing regular meetings is important because certain actions (such as adoption of ordinances) can only be taken at regular meetings. This can be done through an ordinance establishing regular hearing dates and times, by adoption of a resolution every year or a combination of ordinance and resolution. The current MPMC establishes every Tuesday at 5 p.m. as a regular City Council meeting.

Analysis

Updating the MPMC Section 2.04.010 Regular meetings—Days and time to 6 p.m. from 5 p.m. will have a more predictable meeting schedule, making it easier for the public to attend and makes scheduling of other City and regional commission meetings more convenient for City Council, staff and the public. It has been noted that the 5 p.m. start time is difficult due to increased work commitments with the COVID-19 restrictions decreasing within some organizations. Also, there is limited flexibility in the code to update regular meeting days and times outside of the beginning of a calendar year.



Impact on City Resources

There is no impact on City resources.

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

Environmental Review

This action is not a project within the meaning of the California Environmental Quality Act (CEQA) Guidelines §§ 15378 and 15061(b)(3) as it is a minor change that will not result in any direct or indirect physical change in the environment.

Attachments

A. Ordinance No. 1080 – regular meeting start time of 6 p.m.

Report prepared by:

Judi A. Herren, City Clerk

ORDINANCE NO. 1080**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
MENLO PARK AMENDING SECTION 2.04.010 OF
CHAPTER 2.04 (CITY COUNCIL) OF TITLE 2
(ADMINISTRATION AND PERSONNEL) OF THE MENLO
PARK MUNICIPAL CODE**

WHEREAS, the City of Menlo Park ("City") wishes to change the time when the City Council holds its regularly scheduled meetings and the methods for canceling a City Council meeting.

THE CITY COUNCIL OF THE CITY OF MENLO PARK DOES ORDAIN AS FOLLOWS:

SECTION 1. AMENDMENT OF CODE. Section 2.04.010 of the Menlo Park Municipal Code is amended to read as follows (addition in underline, deletions in ~~strikethrough~~):

2.04.010. Regular Meetings – Days and time. **

A regular meeting of the City Council shall be held on the second and fourth Tuesday of every month commencing at ~~five (5)~~ six (6) p.m., unless the City Council adopts a different schedule by resolution ~~at the beginning of the year.~~ A regular meeting of the City Council may be canceled (i) by notice at a prior City Council meeting, or (ii) by notice to all of the City Council members of not less than twenty-four (24) hours prior to the meeting and by posting a notice of cancellation at all locations where public notices are regularly posted by the city.

SECTION 2. EFFECTIVE DATE AND PUBLISHING. This ordinance shall take effect 30 days after adoption. The city clerk shall cause publication of the ordinance within 15 days after passage in a newspaper of general circulation published and circulated in the city or, if none, the posted in at least three public places in the city. Within 15 days after the adoption of the ordinance amendment, a summary of the amendment shall be published with the names of the City Councilmembers voting for and against the amendment.

SECTION 3. CEQA. The City Council finds that this ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Sections 15060(c)(3) because this activity is not a project as defined by Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3.

SECTION 4. SEVERABILITY

If any section, subsection, subdivision, sentence, clause, phrase or portion of this ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, then such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares it would have adopted this Ordinance and each section, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that one or more section, subsection, subdivision, sentence, clause, phrase, or portion thereof be declared invalid or unconstitutional.

INTRODUCED on the sixteenth day of November, 2021.

PASSED AND ADOPTED as an ordinance of the City of Menlo Park at a regular meeting of said City Council on the sixteenth day of November, 2021 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

Drew Combs, Mayor

ATTEST:

Judi A. Herren, City Clerk



STAFF REPORT

City Council

Meeting Date: 11/16/2021

Staff Report Number: 21-223-CC

Regular Business: Adopt Resolution No. 6686 approving the 2021 San Mateo County Multijurisdictional Local Hazard Mitigation Plan

Recommendation

Staff recommends that the City Council adopt Resolution No. 6686 (Attachment A) approving the 2021 San Mateo County Multijurisdictional Local Hazard Mitigation Plan (LHMP):

- Volume 1: Planning area wide elements (Attachment B); and
- Volume 2: City of Menlo Park annex plan (Attachment C.)

Policy Issues

According to Menlo Park Municipal Code Section 2.44.050(5), the City's director of emergency services (e.g., city manager) is empowered to request, contract for, receive, and implement state and federal aid for all types relating to disaster preparedness and relief.

Responding to federal mandates in the Disaster Mitigation Act of 2000 (Public Law 106-390), the 2021 San Mateo County multijurisdictional LHMP updates the County's previous plan, adopted in 2016.

Background

On August 30, 2016, the City Council adopted Resolution No. 6339 (Attachment D) to approve an update to the Menlo Park LHMP annex to the 2016 multijurisdictional LHMP. The document typically gets updated every five years. Federal Emergency Management Agency (FEMA) notified the County of its approval of the multijurisdictional LHMP pending adoption by the Board of Supervisors and the respective planning partners' governing bodies. Changes to the annex plan are limited to typographical updates and any substantive changes can be made through annual updates.

The planning area for the multijurisdictional LHMP encompasses the entire geographic area of San Mateo County. The multijurisdictional LHMP is a two-volume FEMA plan. The California Governor's Office of Emergency Services (Cal OES) approves the multi-agency multi-hazard mitigation plan to certify its compliance with the federal Disaster Mitigation Act requirements. The multijurisdictional LHMP is not an emergency response or management plan, but it does identify weaknesses and refocuses emergency response planning. The purpose of it is to make better decision-making to eliminate or reduce current and future risks.

The multijurisdictional LHMP:

- Systematically assesses local natural and human-caused hazards, such as flooding, drought, wildfire, landslides, severe weather, terrorism, cyber threats, pandemic, and the impact of climate change;
- Identifies mitigation actions that will be implemented by the County and its planning partner jurisdictions

to reduce the level of injury, property damage, and community disruption that might otherwise result from such hazards;

- Gathers resources from throughout the County and creates a uniform LHMP that can be consistently implemented; and
- Ensures eligibility for FEMA and Cal OES grants, of which Menlo Park has two grants, one hazard mitigation grant underway and one Building Resilient Infrastructure and Communities (BRIC) grant pending approval totaling \$55 million.

The development process to prepare the multijurisdictional LHMP included the following activities:

- Identification of potential planning partners. Partners who chose to participate submitted Letters of Intent committing resources to the development effort;
- Identification and assessment of the risks of natural and human-caused hazards;
- Development of actions to mitigate the risks and a plan to implement the actions over the next five years;
- Public involvement in the development and review of the multijurisdictional LHMP; and
- Review and approval of the multijurisdictional LHMP by Cal OES and FEMA.

The 2021 multijurisdictional LHMP builds on the adopted 2016 Plan, with multiple distinguishing features that ensure broader commitment to implementation and positive impact for the citizens of San Mateo County including:

- Expansion of the participating partners from 28 planning partners to 36;
- Inclusion of all 20 San Mateo County Cities/Towns from 18 cities/towns previously;
- Increase in public participation to the survey from 250 responses to over 2,000; and
- Incorporation of new and critical risk areas from approximately 500 mitigation actions to over 700, with two new additions of establishing an equity lens risk rating and identifying sea level rise as a hazard of concern.

Table 1 summarizes the timeline of key events in the development of the 2021 San Mateo County multijurisdictional LHMP. For more details on the outreach activities led by the County, please refer to Page 3-10 of Attachment B.

Table 1: Multijurisdictional LHMP timeline	
Date	Tasks
March 15	County released first survey, which closed May 15.
March 25	County hosted first public workshop.
June 4	County released second survey, which closed July 11.
June 23	County hosted Climate Resilient Communities Event, which focused on residents from East Palo Alto, the Belle Haven neighborhood of Menlo Park, and unincorporated North Fair Oaks .
August 5	Draft multijurisdictional LHMP posted online with approximately a 20-day public comment period.
August 12	County hosted second public workshop.
August 17	City Council informational update (Attachment E) on the draft multijurisdictional LHMP.
August 30	County submitted its draft multijurisdictional LHMP to Cal OES and FEMA for concurrent review.
October 13	FEMA notified the County of its approval of the multijurisdictional LHMP pending adoption by the Board of Supervisors and the respective planning partners' governing bodies.
November 16	County of San Mateo Board of Supervisors and the City are scheduled to adopt a resolution to approve the multijurisdictional LHMP.

The County of San Mateo Board of Supervisors would need to adopt the multijurisdictional LHMP, and the City would need to adopt Volume 1 and Volume 2 no later than December 20, 2021 in order to remain eligible to apply for and/or continue to receive hazard mitigation project funding from the suite of grant programs under FEMA’s Hazard Mitigation Assistance program. Within the past two years, Menlo Park pursued funding for two projects:

- Chrysler Pump Station reconstruction:
- The City was awarded \$5 million as part of the hazard mitigation grant program for the Chrysler Pump Station reconstruction. On November 16, the City Council will consider a zoning and general plan amendment for a land exchange to reconstruct the Chrysler Pump Station, partially funded by a FEMA hazard mitigation grant.
- SAFER Bay:

The City anticipates an award of \$50 million for the SAFER Bay sea level rise protection construction project as part of the Building Resilient Infrastructure and Communities (BRIC) grant program. On November 9, the City Council conducted a study session on the FEMA BRIC grant and provided staff direction to return with a resolution to accept the grant funds, if awarded, and approve a memorandum of understanding with the project partners; return with a request for staffing to identify a project manager; identify financial resources to loan the project during construction while awaiting FEMA reimbursements through the grant.

Analysis

In January 2021, San Mateo County Department of Emergency Management and Office of Sustainability embarked on an ambitious effort to engage the community, community-based organizations and city/town and special district partners to participate in a planning process to identify critical community and

infrastructure risks and identify potential mitigating actions to ensure a more resilient San Mateo County.

In February 2021, a 36-member planning partnership was formed to develop the multijurisdictional LHMP including:

- County departments (emergency management, sustainability, public works, planning and building, parks, information services department, health and agriculture, weights and measures);
- All 20 cities and towns in the County; and
- Fifteen (15) special districts.

Utilizing \$225,000 in grant funding to support the development of the multijurisdictional LHMP, San Mateo County Department of Emergency Management was the lead coordinating agency, in close partnership with Sustainability and Planning & Building, for this multijurisdictional effort.

All participating planning partners were responsible for assisting in the development of the hazard and vulnerability assessments and the mitigation action strategies for their respective jurisdictions. Each planning partner was responsible for the review and approval of their individual sections (annex plan or Volume 2) of the plan. City staff from Public Works, Community Development, Informational Technology, Sustainability, and Menlo Park Fire Protection District revised the 2016 LHMP annex plan and identified several new opportunities to mitigate any potential losses from the effects of disasters. The Menlo Park Fire Protection District has prepared its own annex plan as a special district. In partnership with the City and other neighboring municipalities, the San Mateo County Flood and Sea Level Rise Resiliency District (OneShoreline) is leading several mitigation actions along the Bayfront Canal-Atherton Channel watershed to reduce the frequency and impacts of flooding.

The multijurisdictional LHMP presents the accumulated information in a unified framework to ensure a comprehensive and coordinated plan covering all planning partners within San Mateo County.

The County project team developed a robust community outreach program and worked actively to address equity in the multijurisdictional LHMP by establishing a framework with key actions for each step of the planning process. Elements of the equity approach included:

- Ensuring diverse leadership:
Approximately half of the 13-member Steering Committee included community partners from organizations such as Climate Resilient Communities, MidPen Housing Corporation, Puente, the County Commission on Disabilities, Senior Coastsiders, and the North Fair Oaks Community Alliance. The Steering Committee met six times from February to July and provided valuable input to the plan development process.
- Applying an equity-lens to action development:
With input from the Steering Committee and the planning partners, the project team developed an equity screening tool and other resources to support the development of equitable hazard mitigation actions. 14 planning partners, including the City, applied the equity screening tool in their annex plans. The County defines equity lens as “a critical thinking approach to undoing institutional and structural biases, which evaluates burdens, benefits and outcomes to underserved communities” and uses FEMA’s Social Vulnerability Index to support risk rating.
- Engaging hard-to-reach populations:
Office of Sustainability negotiated contracts with seven community-based organizations to assist with community outreach, education, and administering the surveys in order to reach socially vulnerable populations. The organizations serve the following areas: unincorporated coastal communities, Half Moon Bay, Pacifica, East Palo Alto, the Belle Haven neighborhood of Menlo Park, unincorporated North

- Fair Oaks, Daly City, South San Francisco and San Bruno.
- Translation and interpretation services:
The survey and outreach materials were translated into multiple languages to improve accessibility among populations with limited English proficiency. The website utilizes Google Translate for accessibility in multiple languages and interpretation services were offered for public workshops.

Table 2 summarizes the public outreach activities done by City staff to promote the multijurisdictional LHMP surveys and public meetings on social media, such as Twitter, Facebook and Nextdoor, and on the weekly digest newsletter. It also includes approximately how many recipients subscribe to City’s electronic newsletter/email blasts and follow the City’s social media accounts.

Month	Outreach activity	Total number of recipients
April	Weekly digest newsletter 2 Twitter posts 2 Facebook posts	3,910
May	Weekly digest newsletter	1,750
June	Email blast Nextdoor post Climate Resilient Communities LHMP workshop	4,910
July	Facebook post Weekly digest newsletter	2,160
August	City Council meeting	996

Approximately 85 residents from the 94025 ZIP code responded to the two outreach surveys and 10 residents attended the June LHMP workshop hosted by Climate Resilient Communities.

The Menlo Park annex plan focuses on actions to mitigate flood, earthquake and sea level rise/climate change, which are categorized as “high” risk hazards within the city boundaries. It lists 34 mitigation actions 13 short-term (one to five years), three medium-term (five to 10 years), three long-term (10 years or greater), and 15 ongoing (continual.) The following are a sample of the projects that are underway:

- Develop mitigation controls and ensure force protection measures are in place in relation to vulnerable critical facilities (such as police stations, emergency operation center, City Hall) within the city;
- Update the Chrysler Pump Station to improve flood protection in the Bayfront Area;
- Produce hazards maps that take into account the impacts of flooding due to climate change;
- Prepare a climate adaption and resiliency plan;
- Continue to participate with OneShoreline on flood control projects;
- Update the City’s stormwater master plan to identify areas vulnerable to localized flooding and identify capital projects to mitigate those areas;
- Implement the City’s 2030 climate action plan goals and present strategies to achieve those goals;
- Replace the roof on Reservoir 2, which is deteriorating, to ensure continued public health protection, system reliability, and ensure the functionality of the existing emergency water storage; and
- Implement the Water System Master Plan to meet the fire flow demand and provide alternative emergency water supply.

On October 12, the Environmental Quality Commission members recommended additional staffing resources were needed to help implement the climate adaptation and resiliency plan. Staff will bring forward a recommendation to add a climate resiliency position to the City Council December 7 (tentatively scheduled.)

From the maps created by the County in Volume 2 (Attachment C), the City of Menlo Park is vulnerable to several natural hazards:

- Very high and moderate liquefaction susceptibility;
- Severe to moderate-heavy earthquake scenario effects;
- Flood hazard zones;
- Sea level rise; and
- Tsunami hazard area (no occupied property.)

The multijurisdictional LHMP will be updated annually. As awareness of additional hazards develop and new strategies and projects are conceived to offset or prevent loss due to natural and human-caused hazards, the multijurisdictional LHMP will be evaluated and revised on an annual basis during the five-year plan timeframe. It could also be integrated and used in conjunction with other emergency and related plans, such as Emergency Operation Plan (EOP) and the general plan element. The City is in the process of updating the safety element and creating an environmental justice element. The primary goal of the safety element is to identify ways to reduce potential risk of personal injury, property damage, and economic and social dislocation resulting from natural and human-caused hazards. The safety element update will incorporate climate adaptation and strategies for resiliency. Further, the safety and environmental justice elements may consider incorporating CalEnviroScreen, and provide the framework for it to be incorporated to an update to the LHMP in the future as well.

Impact on City Resources

Adopting the multijurisdictional LHMP would qualify the City to apply for and continue to receive pre- and post-disaster grants from FEMA. As noted above, the City of Menlo Park has currently received a grant for \$5 million for the Chrysler Pump Station improvements through FEMA's hazard mitigation grant program and the City's FEMA BRIC grant application for \$50 million is under further review for the SAFER Bay sea level rise protection construction project.

Implementation of the multijurisdictional LHMP and increased levels of community outreach on the hazards and mitigation strategies identified in the LHMP will require additional resources. Staff from multiple City departments are coordinating to consider additional resource needs with a focus on climate resiliency, and is anticipated to be ready for City Council consideration as part of the December 7, 2021 agenda.

Environmental Review

This action is not a project within the meaning of the California Environmental Quality Act (CEQA.) Guidelines §§ 15378 and 15061(b)(3) as it will not result in any direct or indirect physical change in the environment. However, as future mitigation action projects are developed, they will be individually reviewed by staff to determine if they are deemed a "project" under CEQA.

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

Attachments

- A. Resolution No. 6686
- B. Hyperlink – 2021 San Mateo County Multijurisdictional LHMP Volume 1:
menlopark.org/DocumentCenter/View/30040/ATT-B_-SMC-MJLHMP-Volume-1
- C. Hyperlink – 2021 San Mateo County Multijurisdictional LHMP Volume 2:
menlopark.org/DocumentCenter/View/30041/ATT-C_-SMC-MJLHMP-Volume-2
- D. Resolution No. 6339
- E. Hyperlink – August 17, 2021 Informational item staff report:
menlopark.org/DocumentCenter/View/29396/N2-20210817-CC-Local-hazard-mitigation-plan-annex

Report prepared by:

Calvin Chan, Senior Planner

Joanna Chen, Management Analyst I

Reviewed by:

Brian Henry, Assistant Public Works Director - Maintenance

RESOLUTION NO. 6686

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK
AUTHORIZING THE ADOPTION OF THE 2021 SAN MATEO COUNTY
MULTIJURISDICTIONAL LOCAL HAZARD MITIGATION PLAN**

WHEREAS, all of San Mateo County has exposure to natural hazards that increase the risk to life, property, environment, and the economy; and

WHEREAS, pro-active mitigation of known hazards before a disaster event can reduce or eliminate long-term risk to life and property; and

WHEREAS, the Disaster Mitigation Act of 2000 (Public Law 106-390) established new requirements for pre- and post-disaster hazard mitigation programs; and

WHEREAS, a coalition of San Mateo County stakeholders with like planning objectives has been formed to pool resources and create consistent mitigation strategies to be implemented within each partner's identified capabilities within the San Mateo County Planning Area; and

WHEREAS, the coalition has completed a planning process that engages the public, assesses the risk and vulnerability to the impacts of natural hazards, develops a mitigation strategy consistent with a set of uniform goals and objectives, and creates a plan for implementing, evaluating, and revising this strategy.

NOW, THEREFORE, BE IT RESOLVED, by the Menlo Park City Council that the City Council:

- Adopts Volume I and Volume II – City of Menlo Park specific annex, of the San Mateo County Local Multijurisdictional Local Hazard Mitigation Plan.
- Will use the adopted and approved portions of the Local Hazard Mitigation Plan to guide pre- and post-disaster mitigation of the hazards identified.
- Will coordinate the strategies identified in the Local Hazard Mitigation Plan with other planning programs and mechanisms under its jurisdictional authority.
- Will continue its support of the on-going countywide mitigation efforts and continue to participate in the Planning Partnership as described by the Local Hazard Mitigation Plan.
- Will help to promote and support the mitigation successes of all Planning Partners.

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I, Judi A. Herren, City Clerk of Menlo Park, do hereby certify that the above and foregoing City Council resolution was duly and regularly passed and adopted at a meeting by said City Council on the sixteenth day of November, 2021 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this ___ day of November, 2021.

Judi A. Herren, City Clerk

RESOLUTION NO. 6339

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO
PARK AUTHORIZING THE ADOPTION OF THE SAN MATEO COUNTY
LOCAL HAZARD MITIGATION PLAN UPDATE AND ANNEX**

WHEREAS, all of San Mateo County has exposure to natural hazards that increase the risk to life, property, environment and the County's economy; and

WHEREAS; pro-active mitigation of known hazards before a disaster event can reduce or eliminate long-term risk to life and property; and

WHEREAS, The Disaster Mitigation Act of 2000 (Public Law 106-390) established new requirements for pre- and post-disaster hazard mitigation programs; and

WHEREAS; a coalition of San Mateo County, Cities, Towns and Special Districts with like planning objectives has been formed to pool resources and create consistent mitigation strategies within the San Mateo County planning area; and

WHEREAS, the coalition has completed a planning process that engages the public, assesses the risk and vulnerability to the impacts of natural hazards, develops a mitigation strategy consistent with a set of uniform goals and objectives, and creates a plan for implementing, evaluating and revising this strategy.

NOW, THEREFORE, BE IT RESOLVED that the City of Menlo Park:

- 1) Adopts in its entirety, Volume I and the introduction, chapter 11 the City of Menlo Park jurisdictional annex, and the appendices of Volume 1 of the San Mateo County Hazard Mitigation Plan (HMP).
- 2) Will use the adopted and approved portions of the HMP to guide pre- and post-disaster mitigation of the hazards identified.
- 3) Will coordinate the strategies identified in the HMP with other planning programs and mechanisms under its jurisdictional authority.
- 4) Will continue its support of the Steering Committee and continue to participate in the Planning Partnership as described by the HMP.
- 5) Will help to promote and support the mitigation successes of all HMP Planning Partners.

I, Pamela Aguilar, City Clerk of the City of Menlo Park, do hereby certify that the above and foregoing Resolution was duly and regularly passed and adopted at a meeting by said Council on the thirtieth day of August, 2016, by the following votes:

AYES: Carlton, Cline, Keith, Ohtaki

NOES: None

ABSENT: Mueller

ABSTAIN: None

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this thirtieth day of August, 2016.



Pamela Aguilar, CMC
City Clerk



2021 SMC MULTIJURISDICTIONAL LOCAL HAZARD MITIGATION PLAN

City Council Meeting – November 16

TEAM MEMBERS

Department	Name
Administrative Services	Whitney Loy
City Manager's Office	Rebecca Lucky
Community Development	Chuck Andrews Calvin Chen
Police	Scott Mackdanz
Public Works	Joanna Chen Brian Henry Chris Lamm Nicole Nagaya Justin Murphy
Menlo Park Fire Protection District	Ryan Zollicoffer



MULTIJURISDICTIONAL LOCAL HAZARD MITIGATION PLAN (LHMP)



- Identifies strategies that would reduce risk or eliminate long-term risk to life and property from a hazard event
- Describes a systematic process of learning about the hazards that could affect the community, setting clear goals, identifying appropriate actions, and following through with an effective mitigation strategy
- Outlines various strategies to reduce vulnerability and exposure to future events

MULTIJURISDICTIONAL LHMP (CONT'D)

- Goals include:
 - Protect health and safety
 - Promote hazard mitigation
 - Integrate climate change strategies to increase resiliency
 - Improve community emergency management capability

MULTIJURISDICTIONAL LHMP (CONT'D)

- Updated comprehensively every 5 years
- Minor revisions may be made through annual updates
- Adoption allows the City to be eligible for FEMA and California Governor's Office of Emergency Services (Cal OES) grants
 - One hazard mitigation grant underway and one Building Resilient Infrastructure and Communities (BRIC) grant pending approval totaling \$55 million.
- 2-volume Federal Emergency Management Agency (FEMA) plan
 - Volume 1: An overview of the planning process, risk assessment, goals and objectives, countywide actions and plan maintenance strategy;
 - Volume 2: Background information of each jurisdiction-specific mitigation action plan.



MENLO PARK ANNEX PLAN



- Phase 1
 - Develop City of Menlo Park profile, analyze the current trends, and review the previous 2016 multijurisdictional LHMP

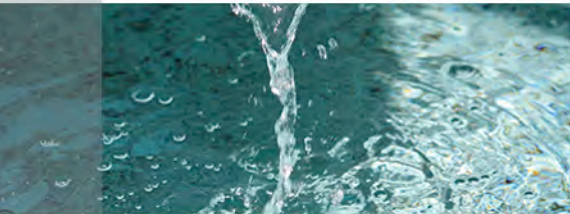
- Phase 2
 - Examine existing capabilities for implementing hazard mitigation strategies
 - Review existing integration between LHMP and City plans/programs and identify opportunities for future integration

- Phase 3
 - Analyze and review risk assessment and outline hazard mitigation action plan



PROJECT TIMELINE

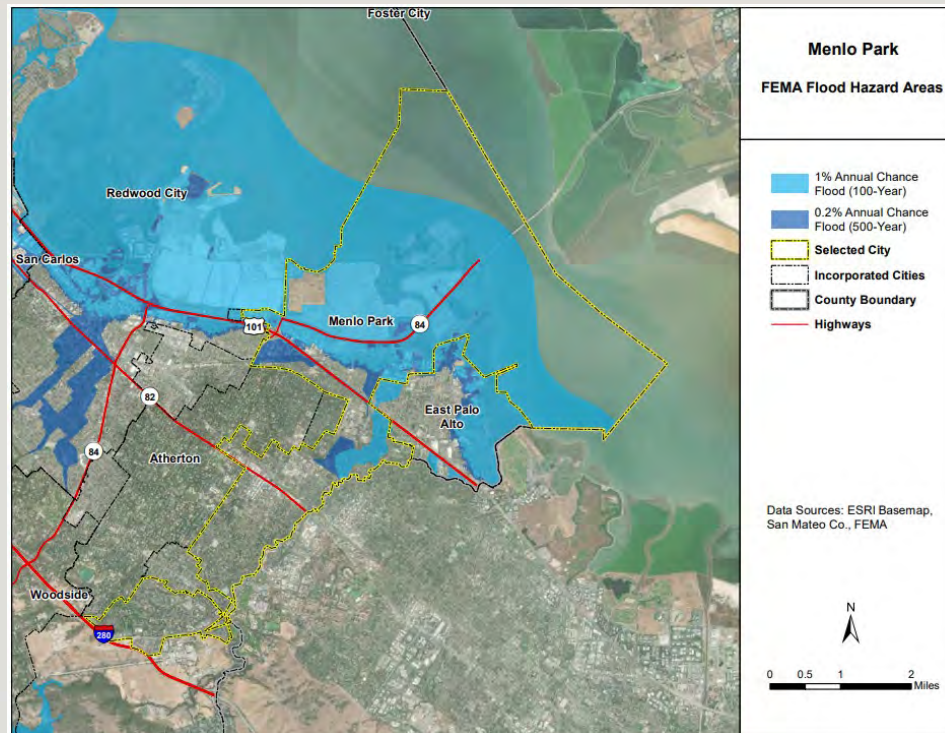
	Feb	March	April	May	June	July	Aug	Sept	Nov
Project milestones	Identify planning partners	Submit Phase 1, 2, and 3 assignments and host six steering committee meetings					Review draft Plan review and submit to Cal OES and FEMA	Receive results from Cal OES and FEMA	Conduct a SMC Board meeting
Outreach and engagement (O&E) milestones	Develop O&E plan and launch project website	Post media release #1 to announce survey #1 and public workshop #1			Post media release #2 to announce survey #2 and Climate Resilient Communities public meeting		Post media release #3 to announce public workshop #2 and release draft Plan for public comment		
City's O&E milestones		Promote through weekly digest newsletter, social media posts, and email blast					Conduct City Council meeting		Conduct City Council meeting



MENLO PARK ANNEX PLAN



- Equity screening tool
- 34 action items
- Focus on actions to mitigate flood, earthquake, and sea level rise/climate change



PROJECTS UNDERWAY

- Update the Chrysler Pump Station to improve flood protection in the Bayfront Area;
- Update the City's stormwater master plan to identify areas vulnerable to localized flooding and identify capital projects to mitigate those areas;
- Implement the City's 2030 climate action plan goals and present strategies to achieve those goals; and
- Implement the Water System Master Plan to meet the fire flow demand and provide alternative emergency water supply.

RECOMMENDED ACTION & NEXT STEPS

- Adopt Resolution No. 6686 approving the 2021 San Mateo County multijurisdictional LHMP
- Once all participating agencies in San Mateo County adopt the Plan, will be finalized and submitted to FEMA and CalOES
- Annual updates would begin in fall 2022



THANK YOU



STAFF REPORT

City Council
Meeting Date: 11/16/2021
Staff Report Number: 21-227-CC

Regular Business: **Consideration of a City Council meeting date to discuss the composition of the Community Engagement and Outreach Committee and future charge**

Recommendation

Staff recommends that the City Council consider a City Council meeting date to discuss the composition of the Community Engagement and Outreach Committee (CEOC) and future charge.

Policy Issues

According to the City Council procedures manual (Attachment A), special meetings may be called by the Mayor or by three members of the City Council.

Background

The CEOC was established by the City Council on April 27, 2021 and was charged to assist the City in ensuring a broad and inclusive community outreach and engagement process. Committee members were asked to help guide and provide feedback on the types and frequency of activities/events/meetings and the strategies and methods for communicating with the various stakeholders in the community. The roles and responsibilities of the CEOC are:

- Serve as an ambassador of the housing element update project and encourage people to participate in the process
- Help guide and provide feedback on the community engagement plan
- Serve as a community resource to provide information to and receive input from the community on matters related to community engagement and public outreach

At the May 25, 2021 City Council meeting, the City Council appointed the following applicants, with two placeholders for District 5 members:

- Michal Bortnik – District 4
- Rich Cline – District 4
- Tiffany Dao – District 4
- Yadira DiSiena – District 1
- Lesley Feldman – District 2
- Max Fennell – District 3
- Carol Marshall Mayer – District 4
- Dan McMahan – District 2

- Nehezi Ollarvia – District 2
- Victoria Robledo – District 1
- Aaron Spaulding – District 3
- Soody Tronson – District 4

On June 8, 2021, the City Council appointed Richard Li, from District 5, to the CEOC. The second District 5 position remained vacant.

Since the creation of the CEOC, the City has received a total of five resignations.

At the November 9, 2021, City Councilmember Taylor and Vice Mayor Nash, with the support of the City Council, requested a special Saturday City Council meeting to discuss the housing element notice of preparation (NOP) and CEOC. Staff has considered this request and has identified some logistical issues for the City Council to consider as identified below.

Analysis

Scheduling and topics of meeting(s)

The City Council could consider holding a joint meeting with the CEOC, but this would require all eight (8) of the remaining CEOC members to be in attendance to constitute a quorum. If the City Council prefers a joint meeting, then staff would begin polling CEOC members for their availability to ensure that the quorum is achievable. As an alternative, the City Council could hold a special City Council meeting and invite the CEOC to attend. With this approach, any member of the CEOC would be able to speak as a member of the public.

The City Council should also consider which topics to cover in the meeting. One key factor regarding meeting content is the availability of the material requested at the October 26, 2021 City Council meeting in order to inform a decision on the land use alternative to be described in the NOP and studied in the environmental impact report. The project team is focused currently on the Housing Commission meeting on November 17, 2021. A summary of that meeting along with the other requested information will be prepared in anticipation of a City Council meeting after Thanksgiving.

The City Council may have greater opportunities logistically by scheduling one meeting focused on the CEOC and one meeting focused on the land use alternative. In order to maintain the overall project timeline to comply with State law, City Council direction on the land use alternative is needed no later than the middle of December 2021.

CEOC composition and charge

Staff is also requesting, at that special meeting, the City Council provide direction on the composition of the CEOC and current and future charge. Potential agenda topics for the special meeting for City Council consideration could include:

1. Receive comments from CEOC and the public regarding outreach efforts and investment to date;
2. Provide direction to clarify CEOC's scope and charge regarding the housing element, environmental justice element and safety element, with enriched outreach for District 1. Options could include:
 - a. Augment the M-Group contract to add additional outreach

- b. Hire a community-based organization (CBO) to deepen community outreach
3. Consider options and provide direction regarding representation from District 1 (the current CEOC does not include active District 1 representatives.) Options could include:
 - a. Reappoint former District 1 representatives (if willing)
 - b. Identify other interested parties and request their participation

Impact on City Resources

There is no impact on City resources.

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

Environmental Review

This action is not a project within the meaning of the California Environmental Quality Act (CEQA) Guidelines §§ 15378 and 15061(b)(3) as it is a minor change that will not result in any direct or indirect physical change in the environment.

Attachments

- A. Hyperlink – February 2, 2018 City Council procedures manual:
menlopark.org/DocumentCenter/View/22124/E4-20190715-City-Council-procedures-manual-CC

Report prepared by:
Judi A. Herren, City Clerk



STAFF REPORT

City Council

Meeting Date: 11/16/2021

Staff Report Number: 21-231-CC

Informational Item: City Council agenda topics: December 7 – 14, 2021

Recommendation

The purpose of this informational item is to provide the City Council and members of the public access to the anticipated agenda items that will be presented to the City Council. The mayor and city manager set the City Council agenda so there is no action required of the City Council as a result of this informational item.

Policy Issues

In accordance with the City Council procedures manual, the mayor and city manager set the agenda for City Council meetings.

Analysis

In an effort to provide greater access to the City Council's future agenda items, staff has compiled a listing of anticipated agenda items, Attachment A, through December 14, 2021. The topics are arranged by department to help identify the work group most impacted by the agenda item.

Specific dates are not provided in the attachment due to a number of factors that influence the City Council agenda preparation process. In their agenda management, the mayor and city manager strive to compile an agenda that is most responsive to the City Council's adopted priorities and work plan while also balancing the business needs of the organization. Certain agenda items, such as appeals or State mandated reporting, must be scheduled by a certain date to ensure compliance. In addition, the meeting agendas are managed to allow the greatest opportunity for public input while also allowing the meeting to conclude around 11 p.m. Every effort is made to avoid scheduling two matters that may be contentious to allow the City Council sufficient time to fully discuss the matter before the City Council.

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

Attachments

A. City Council agenda topics: December 7 – 14, 2021

Report prepared by:
Judi A. Herren, City Clerk

Tentative City Council Agenda

#	Title	Department	Item type	City Council action
1	General fund quarterly report out	ASD	Consent	Receive and file
2	Mid-year budget amendment	ASD	Regular	Approve
3	Quarterly personnel update (July-Sept)	ASD	Consent	Receive and file
4	Transmittal of the annual report on the status of the transportation impact, storm drainage, recreation in-lieu, below market rate housing in-lieu, and construction impact fees collected as of June 30, 2020 (copy)	ASD	Consent	Receive and file
5	Closed Session: Consideration of how to proceed with the settlement on a National claim	CAO	Closed Session	
6	Second Reading Redistricting Ordinance + Amendments to Conflict of Interest Code	CAO, CMO	Consent	Adopt ordinance
7	Appeal of Planning Commission approval use permit for a new single-family residence at 153 Oak Ct.	CDD	Public Hearing	Decide
8	Housing Element update	CDD	Regular	Receive and file
9	Placeholder - Springline	CDD	Public Hearing	Approve
10	Placeholder Springline	CDD	Consent	Adopt ordinance
11	\$10,000 Incentive for Multifamily EV charging	CMO	Consent	Approve
12	Adopt Community Amenity Implementing Regulations and Updated Amenities List	CMO	Regular	Adopt resolution
13	Adopt Resolution No. XXXX approving the City Council Community Funding Subcommittee's recommendations regarding the 2021-22 community funding allocation	CMO	Regular	Adopt resolution
14	Adopt Resolution No. XXXXto continue conducting the City's Council and advisory body meetings remotely due to health and safety concerns for the public	CMO	Consent	Adopt resolution
15	Adopt Resolution No. XXXXto continue conducting the City's Council and advisory body meetings remotely due to health and safety concerns for the public	CMO	Consent	Adopt resolution
16	Appoint City Council representatives and alternates to various local and regional agencies and as liaisons and members to City Council advisory bodies	CMO	Regular	Approve
17	Appoint City Councilmembers to various standing and ad hoc subcommittees, disband inactive ad hoc subcommittees, and direct a review of ad hoc subcommittee objectives and estimated duration	CMO	Regular	Approve
18	Approve and appropriate \$10,000 for seed money to support the newly formed Menlo Park Sister Cities Association and ongoing sister cities program	CMO	Consent	Approve
19	City Council calendar review and adoption	CMO	Consent	Approve
20	Info presentation item on CAP No.1	CMO	Presentation	Receive and file
21	Provide direction to the City's voting delegate regarding regional vacancies for the next City Selection Committee meeting December XX, 2021	CMO	Regular	CMO
22	Resource needs for Climate Action Plan	CMO	Regular	Direction to staff, Decide
23	Selection of the 2022 Mayor and Vice Mayor	CMO	Regular	Approve
24	Ordinance: updating MPMC City Council regular meeting start time to 5 p.m.-second read adoption	CMO	Consent	Adopt ordinance
25	Redistricting Ordinance - First Reading	CMO, CA	Regular	Approve
26	Police and Public Works Tesla Implementation Plan	PD, PW		

Tentative City Council Agenda

<i>#</i>	<i>Title</i>	<i>Department</i>	<i>Item type</i>	<i>City Council action</i>
27	Adopt Resolution No. XX approving updates to the purchasing policy	PW	Consent	Adopt resolution
28	Approve a Cost Sharing Agreement with San Mateo County for the Coleman-Ringwood Avenues Transportation Study	PW	Consent	Approve
29	Approve application for Haven Avenue Streetscape for state funds	PW	Consent	Adopt resolution
30	Approve Middle Avenue (700 ECR) Purchase and sale agreement	PW	Regular	Approve
31	Approve update to VMT thresholds	PW	Regular	Approve
32	Authorize the Mayor to sign a letter of intent to join Commute.org	PW	Consent	Approve
33	Sharon Rd. - project approval	PW	Consent	Approve
34	Professional services for Measure T issuance	PW, ASD	Consent	Approve
35	Chrysler pump station general plan amendment and rezoning - 2nd reading	PW, CDD	Consent	Adopt ordinance
36	Award MPCC Solar Microgrid	PW, CMO	Public Hearing	Contract award or amend



STAFF REPORT

City Council

Meeting Date: 11/16/2021

Staff Report Number: 21-228-CC

Informational Item: Response to questions from City Councilmembers on housing element update

Recommendation

The purpose of this informational item is to provide the City Council and members of the public an update on housing element update-related questions and comments received from City Councilmembers following the October 26, 2021 meeting. This is an informational item and does not require City Council action.

Policy Issues

State housing law requires that jurisdictions throughout California adequately plan to meet the housing needs of everyone within their community, as well as future residents, by regularly updating their General plan's housing element. The Regional Housing Needs Allocation (RHNA) identifies the specific number of housing units at each income level category required to comply with State mandates. Additionally, the Affirmatively Furthering Fair Housing (AFFH) Act requires that all local public agencies facilitate deliberate action to explicitly address, combat, and relieve disparities resulting from past patterns of segregation to foster more inclusive communities.

As part of the housing element update, the City is also updating its safety element and preparing its first environmental justice element of the general plan. The components of the housing element update will consider land use, housing and environmental policies. The City will prepare an environmental impact report (EIR) to comply with the project's California Environmental Quality Act (CEQA) requirements. The purpose of an EIR is to provide the public and decision-makers with information about the potential effects a proposed project could have on the environment. Although not required by State law, the City will also prepare a fiscal impact analysis (FIA) to provide information about potential financial effects for the City, school districts and special districts.

Background

The housing element update is a City Council priority. The sixth cycle housing element deadline for jurisdictions in the Bay Area, which is set by the California Department of Housing and Community Development (HCD), is January 15, 2023, and covers the planning period for 2023-2031. On October 26, 2021, the City Council conducted a meeting to consider land use strategy options to meet the City's RHNA for the sixth housing element cycle. The staff report and the recording of the meeting are included as hyperlinks in Attachments A and B, respectively.

At this meeting, the project team presented the initial three land use scenarios previously presented to the Planning Commission and Housing Commission October 4, 2021, and also included a fourth, Option D, which reflected the recommendation of the Housing Commission:

- Option A, Moderate Upzoning Throughout the City;
- Option B, Mixed Use Development Focused on Middlefield/Willow;
- Option C, Mixed Use Development Focused in Downtown/El Camino Real; and
- Option D, Mixed Use Development Focused in Downtown/El Camino Real and Sharon Heights.

In general, members of the City Council recognized the intent of the land use strategies to achieve compliance with HCD requirements; however, they shared concerns regarding each site's actual ability to yield affordable units absent specific policy considerations or commitments from property owners. Therefore, the City Council did not identify a specific land use strategy direction to pursue. However, in an effort to further discussion and consideration, the City Council agreed to submit written questions and comments to the project team by November 1, 2021, and for the project team to respond.

In addition to providing more detailed site-specific information, initial affordable housing strategy feedback from the Housing Commission will be provided at an upcoming City Council meeting. This additional information is intended to help inform the identification of the preferred land use strategy to prepare the project description for the notice of preparation of the EIR. The Housing Commission will be holding a study session November 17, 2021 to review and discuss initial affordable housing strategies.

Analysis

The project team has compiled and summarized the questions/comments submitted by individual City Councilmembers following the October 26, 2021 meeting and initial responses are provided for review in Attachment C. Please note that the project team continues to evaluate the potential sites and strategies that may affect the responses. As an informational item, there should not be detailed, substantive discussion on the content at the November 16 meeting. The intent of providing this document in advance of the follow-up City Council meeting is to share the questions provided by the City Councilmembers and allow adequate time to review them along with the responses, and to give the City Councilmembers and opportunity to provide feedback to the project team if a question was misinterpreted and/or identify items that may need additional clarification for the follow-up meeting. The City Councilmembers may provide such comments at the meeting of November 16 or email the project team. If necessary, the project team will submit an updated version of Attachment C for consideration with the next City Council report.

Impact on City Resources

On November 10, 2020, the City Council authorized up to \$1.69 million for the preparation of the housing element, including consultant services and partial funding for two full-time equivalent staff positions for the fiscal year 2020-21. On March 23, 2021, the City Council authorized the city manager to negotiate a scope of work and fee and execute an agreement with the M-Group for a fee, not to exceed \$982,000.

Environmental Review

This agenda item is not a project within the meaning of the CEQA Guidelines §§ 15378 and 15061(b)(3) as it will not result in any direct or indirect physical change in the environment. As part of the housing element Update process, an EIR will be prepared.

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

Attachments

- A. Hyperlink – October 26, 2021 City Council staff report: menlopark.org/DocumentCenter/View/29892/H2-20211026-CC-Housing-Element-RHNA
- B. Hyperlink – October 26, 2021 City Council video: youtube.com/watch?v=0_QhIRHAVZg&t=9048s
- C. Response to City Councilmember questions on the housing element

Report prepared by:

Geoff Bradley, AICP, Principal, M-Group

Deanna Chow, Assistant Community Development Director

Responses to questions from City Councilmembers on Housing Element Update (November 16, 2021)

City Councilmember questions have been summarized and where more than one question relates to the same topic, questions may have been summarized together. Questions have been numbered and responses are shown in italics.

1. The City must ensure that the Housing Element Update plans for feasible and realistic development of affordable housing during RHNA 6. It's important to understand the feasibility of affordable housing development because the standards for submitting a compliant Housing Element have become stricter, the City would be subject to SB35 streamlining if the Housing Element doesn't yield the required affordable units, and the community needs to clearly understand what types and amounts of development could be anticipated through implementation of the Housing Element Update.

The project team acknowledges this feedback, and beyond the responses included in this document, the team will be preparing additional information regarding the potential housing opportunity sites when the project team returns to City Council to further discuss the preferred land use scenario to meet the City's RHNA.

2. What is the current timeline of decision points leading to RHNA 6 approval?
 - a. At what points on the timeline do Council, commission, and the CEOC play a role and what is each body's role?
 - b. At what points on the timeline do residents, stakeholders (schools, special districts, etc.), property owners, and developers provide input?

The City Council is the final decision-making body on the Housing Element, with the Planning and Housing Commissions serving as recommending bodies. During the process, the project team will be checking in with the City Council, the City Subcommittee and the various Commissions to provide updates and receive feedback and/or direction. One of the key upcoming milestones will be City Council direction on a land use scenario to be studied in the EIR. This City Council meeting is targeted for early December so the City can release the Notice of Preparation for the EIR.

The CEOC's role is focused on outreach and engagement for the project to help expand the City's reach and community input, particularly from community members who have historically not participated in the process. The CEOC is intended to have a role throughout the project.

Input from residents and other stakeholders in the community is important. The project team invites all stakeholders to participate in the various events and activities during the process to not only learn more about the project, but to provide input that will help inform policies and implementation programs. The project team has already conducted broad outreach, including a communitywide survey and community meetings, as well as more focused meetings to targeted stakeholders such as the school districts, service providers and housing developers. The project team will also be reaching out to the school districts and certain special districts as part of the preparation of the EIR and fiscal impact analysis.

3. Please provide citywide maps that show:
- Existing zoning as described in the presentation and staff report requesting Council direction (including minimums and maximums at base and bonus levels, as applicable).

A map and an accompanying spreadsheet showing the requested development standards for existing multi-family residential, mixed use residential are provided as Attachment A.

- Proposed zoning as described in the presentation and staff report requesting Council direction (including minimums and maximums at base and bonus levels, as applicable).

The project team is seeking guidance from the City Council on proposed zoning changes. To meet the targeted numbers, the project team is recommending that all housing opportunity sites be zoned to allow for at least 30 du/ac. This means that certain designations within the Specific Plan area would require an amendment to allow for the increased density at the base level. Proposed housing opportunity sites could be rezoned to an existing zoning district or a new district. Maximum densities that help to achieve the desired level of affordable housing may necessitate densities of approximately 60 to 100+ dwelling units per acre depending on the mix of uses and the characteristics of the site.

- All housing units to be studied in the EIR.

The project team is preparing maps to be shared at the next City Council meeting as part of the continued conversation on land use scenarios.

- Major transit stops in Menlo Park for AB 1763 purposes. Which sites fall under AB1763 (sites within 1/2-mile of transit)?

Assembly Bill 1763 removes density restrictions for 100 percent affordable housing projects located within a half-mile of a major transit stop. A major transit stop is defined by Public Resources Code Section 21064.3 as follows:

“Major transit stop” means a site containing any of the following:

- An existing rail or bus rapid transit station.*
- A ferry terminal served by either a bus or rail transit service.*
- The intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.*

Please see Attachment B for a preliminary map showing a half mile radius around the existing major transit stops within the City.

4. At the October 26 City Council meeting, it was acknowledged that not all potential housing opportunity sites would develop as 100% affordable, but an inclusionary housing strategy would be needed. This is why 2,200 units were proposed. Please elaborate on this. How many housing units should be included in the EIR to achieve affordability target numbers, given that there is a low likelihood that all new development required by the Housing Element Update will be 100% affordable?

The City's Regional Housing Need Allocation (RHNA) for the 6th cycle is 2,946 units. Of these units, 740 must be met with very low income units, 426 must be met with low income units, 496 must be met with moderate income units, and 1,284 must be met with above moderate income units. The State Department of Housing and Community Development (HCD) recommends a buffer of the housing allocation between 15 to 30 percent to ensure that an adequate supply of sites is provided throughout the planning period. With a 30 percent buffer, the total RHNA allocation for the 6th cycle is 3,830 units.

The City currently has a number of approved and pending projects that could be attributed to the City's RHNA 6th cycle. These major "pipeline" projects (i.e., projects for which the City has received an application at a minimum) total 3,647 units, which would exceed the City's total RHNA. However, as explained above, the number alone does not meet the RHNA requirement - the City must also demonstrate how units can be met by income level (very low, low, moderate and above moderate income). Table 5 of the October 26, 2021 staff report (menlopark.org/DocumentCenter/View/29892/H2-20211026-CC-Housing-Element-RHNA) provides a breakdown of the pipeline projects by income category and identifies the remaining units needed to meet the City's RHNA Cycle 6 requirements for each income category.

Due to the major pipeline projects' contribution to the City's RHNA Cycle 6 requirements, the remaining housing units that the City needs to plan for is approximately 1,500 affordable units (802 very low-, 299 low- and 389 moderate-income units). This number includes the 30 percent buffer explained above.

The proposed land use scenarios in the October 26 staff report include the use of the State's "default density" of 30 du/ac. State law allows cities to assume lower-income affordable housing for sites that meet or exceed certain "default" densities, which is 30 du/ac for Menlo Park, to address affordability targets established by RHNA for very low and low-income households. Using the State's "default" density approach, units at 30 du/ac can be anticipated to be 100 percent affordable because that is the anticipated minimum level of density needed for affordable development projects. Of these units, 50 percent are allocated at the very low-income level and 50 percent are allocated at the low-income level. HCD allows for units to be carried over into a higher affordability level (i.e., very low to low, low to moderate, and moderate to above moderate.)

While use of the default density meets HCD's requirements for meeting the City's RHNA, the project team understands that the density must also be combined with other strategies to reduce constraints and incentivize the production of affordable housing. The use of various density bonuses granted to affordable housing can help achieve the desired densities needed for affordable housing without rezoning for higher densities. For example, with the passage of AB 1763, 100 percent affordable housing projects are permitted up to an 80 percent density bonus above the maximum allowed density and an unlimited density bonus for properties located within a half mile of a major transit stop.

The four land use scenarios presented in the October 26 City Council staff report each yield approximately 1,800 units, and as explained above 1,500 units must be created. The 1,800 units are derived from the use of varying potential development ratios on sites in different geographic areas in the City where the estimated maximum number of units is 3,800. The project team suggested studying approximately 2,200 units in the Environmental Impact Report (EIR), which provide flexibility to refine the sites while

meeting the RHNA without studying an amount of housing that would overstate the potential environmental impacts.

5. Which sites would require modification or an increase in the Affordable Housing Overlay (AHO), and how large would it need to be to generate affordable housing development?

The City's AHO is currently applied the El Camino Real/Downtown Specific Plan Area and certain properties zoned R-4-S (AHO) along Willow Road and Haven Avenue. The City's Affordable Housing Overlay (AHO) is one tool available to help incentivize affordable housing. Depending on the mix of affordable units in the project, the AHO permits up to a 60 percent density bonus where State Density Bonus law (for non-100% affordable projects) currently allows up to 50 percent bonus. For projects that are 100 percent affordable, State Density Bonus law mandates greater density bonuses, including no limit for sites within a half-mile of a major transit stop.

The project team recommends that every housing opportunity site be eligible for the city's Affordable Housing Overlay (AHO). This will give affordable housing developers the best chances of acquiring a site that can be utilized for deeply affordable housing.

A review of nine (9) recently approved or constructed projects in San Mateo County and northern Santa Clara County demonstrates a range of densities from 68 du/ac to 140 du/ac for 100% affordable housing projects for seniors, families, individuals and people with special needs including developmental disabilities. This sample from eight different cities has the following averages: density of 99 du/ac, an FAR of 2.88, unit sizes of 643 s.f., and a parking ratio of 0.81 spaces per unit.

The City Council could consider modifying the AHO to allow 100% affordable projects to achieve similar development parameters with higher density bonuses allowed, prorated smaller units on a density basis, increased FAR, increased height and reduced parking ratios. The City Council may also consider other incentives such as an increased fee waiver for impact fees or streamlined processing, which would need to be evaluated with potential impacts to financial and staffing resources.

6. How will the AHO be expanded so that mixed use and mixed income projects will be able to access it? Has the project team spoken to mixed use developers to understand what is needed to make projects viable and if redevelopment is likely under current assumptions?

The AHO is applied to the Downtown/ECR Specific Plan area and several parcels zoned R-4-S(AHO) along Willow Road and Haven Avenue. Four of the five R-4-S(AHO) sites have been or currently are being developed. Two of the four projects have utilized the provisions of the AHO. Although these two projects were 100 percent affordable developments, the AHO can be applied to mixed-income projects. The density bonus is dependent upon the percentage of affordable units and the level of affordability. The overlay can be expanded to other sites where housing is allowed, including properties allowing mixed use developments. The project team recommends that every housing opportunity site be eligible for the city's AHO.

Staff has reached out to for-profit and non-profit housing developers and conducted a focus group with two non-profit housing developers. The project team will continue to

explore opportunities to reach out to mixed-use and mixed-income developers to understand the challenges and conditions needed to help develop mixed-use projects.

7. Has the project team received positive indication from property owners with potential housing opportunity sites along Sand Hill Road that they believe housing development on their properties is feasible? How will feasibility be ensured?

In October 2021, the project team mailed letters to owners of potential housing opportunity sites in the Sharon Heights area and other sites (approximately 75 letters in total) identifying the potential for the sites to be included in the Housing Element Update and inviting feedback and questions. To date, no responses have been received from these property owner, but the team will continue to explore ways to make contact with these property owners to receive feedback.

8. How can the City maximize the development potential of downtown parking lots and the Flood School site in a phased way to allow growth without overwhelming the community at once, but also without locking in lower densities permanently and losing development potential on the sites?

The downtown parking lot are located in the Downtown/El Camino Real Specific Plan. The highest base density in the Specific Plan is 50 dwelling units per acre (du/ac) and bonus density is 60 du/ac. The Downtown parking lots are within an area that a base density of 25 du/ac and a bonus density of 40 du/ac. As part of the Housing Element, the Downtown parking lots could be rezoned with one of the existing Specific Plan zoning districts or rezoned with a new designation to achieve the desired densities. There are also other tools that can complement the zoning and achieve higher densities when certain criteria are met. The City's AHO and Density Bonus Law all allow for greater densities beyond what is allowed by the zoning designation when affordable housing is provided. For example, the downtown parking lots are all located within a half mile of a major transit stop. Therefore, 100 percent affordable residential developments would not be restricted by density limitations. To help phase or not overwhelm the community, the City Council could consider focusing residential development on a few select parking lots rather than all eight lots.

The floor area ratios (FAR), height limits, parking ratios, and other development standards in the Specific Plan Area should also be evaluated to determine if adjustments are needed to minimize constraints on achieving the development potential for a site. Regulations can also include the use of minimum densities and/or a FAR sliding scale to correspond with density (e.g. higher the density, the greater the FAR).

The former Flood School site setting is very different than the downtown parking lots. This site is immediately adjacent to Highway 101, single-family homes, and not within a half-mile of a major transit stop. However, the site is vacant and there is interest in redevelopment of the site by the property owner. To help guide development on the site so it is not underutilized, a similar strategy of requiring a minimum density could be implemented.

9. If the City were to upzone existing multifamily residential developments, what renter protections would be needed to avoid displacement?

Redevelopment of existing residential uses is not a strategy currently being proposed. If the council directs this, then we would suggest focusing on properties where additional units could be provided without the need for removing existing units. The City's current relocation assistance program applies to all properties consisting of more than four rental units. Relocation payments would be available to tenant households whose annual household income does not exceed 80 percent of the area median household income for San Mateo County as adjusted for household size according to the Department of Housing and Urban Development (HUD) and displaced for the following reasons:

- 1. The landlord seeks to withdraw all rental housing units from the rental housing market per the Ellis Act*
- 2. The landlord seeks to recover possession to demolish or otherwise remove a residential rental housing unit from residential rental housing use after having obtained all proper permits from the city, if any such permits are required*
- 3. The landlord seeks to recover possession to remodel, renovate or rehabilitate the unit(s) resulting in permanent displacement of tenants*
- 4. The landlord seeks the conversion of a building into a condominium, community apartment or stock cooperative*
- 5. A change of real property from a residential use to a non-residential use that requires a city permit.*

Under the ordinance, the landlord would be responsible for paying relocation payments equivalent to three months of the HUD-published fair market rent (FMR) for San Mateo County for a comparable sized unit. Special circumstance households would be eligible for one additional month of rent.

In addition, pursuant to State law (AB 1482), the City adopted ordinances related to rent increase limits, just cause eviction protections, and minimum lease terms to provide tenant protections. As part of the Housing Element Update, additional displacement strategies could be considered.

10. Please address the email from Misha Silin sent to the City Council email log (hiago.app/en/organizations/menlo-park/emails/107014) regarding assumptions about the amounts of affordable and market rate housing development needed to meet the City's projected needs under RHNA 6.

The default density mechanism is a very important analysis as it documents compliance with state law that requires an adequate supply of land zoned for housing densities that are capable of supporting multifamily development. However, this is just the first step in the creation of a viable plan for housing. The end result must demonstrate a scenario that acknowledges existing housing market dynamics (primarily driven by higher cost housing with a low percentage of required affordable units) and shows how a portion of the overall development can increase the needed affordable housing considerably. The project team understands that this will require a comprehensive approach that includes adequate land resources, density, development regulations and funding resources for the creation of affordable housing.

11. What decisions (including timing and deciding bodies) would be necessary to downzone housing density in the Bayfront?

The Housing Crisis Act prohibits the City from enacting any policy, standard, or condition that would change a property's land use designation (be it in the general plan, a precise plan, or the zoning code) to a less intensive use. The Housing Crisis Act also prohibits the City from adopting new standards related to "height, density, or floor area ratio, new or increased open space or lot size requirements, or new or increased setback requirements, minimum frontage requirements, or maximum lot coverage limitations" if the new standards would limit the amount of housing that could be produced as compared to what the City previously permitted. Despite these prohibitions, the Housing Crisis Act does allow cities to limit residential development on a particular property if it concurrently increases the residential capacity elsewhere in the City so that "no net loss" of residential capacity occurs within the City. However, the City must first obtain HCD's approval for the concurrent rezoning, or the effort to reduce residential capacity would not be valid.

In order to downzone any properties in the Bayfront, the City would need to obtain HCD's approval and undertake the requisite environmental review, which review could be combined with the Housing Element EIR. Depending on the proposed changes, affected properties could require a General Plan amendment, rezoning and/or Zoning Ordinance amendment. The City Council would make the final decision on these items following a recommendation by the Planning Commission.

- a. For downzoning in the Bayfront, would density and height be counted at the base level or bonus level?

The intent of the Housing Crisis Act mandates described above is to ensure that any reduction in housing intensity is offset elsewhere. If the Council is interested in pursuing downzoning of properties in the Bayfront, staff would recommend downzoning from the bonus level height and density to the base level height and density within the Bayfront residential district (R-MU.) Such a policy would require the City to upzone properties elsewhere in the City to make up the difference between the base and bonus level height and density standards in the Bayfront.

- b. For downzoning in the Bayfront, would the number of units counted be based on the number of housing units studied in the ConnectMenlo EIR or on potential maximum buildout?

Any downzoning would be considered from the level of housing allowed by the General Plan and zoning regulations for the specific parcels in question. If either the zoning or the General Plan allow more housing than the other, then the higher numbers would be used as the basis for calculating the housing intensity reduction. This calculation would be used to determine the level of residential capacity increases elsewhere in the City.

12. Where and how many housing units are allowed in the Bayfront, accounting for pending pipeline projects separately and any additional allowable housing units?

In the Bayfront area, housing units are allowed in the R-MU (Residential-Mixed Use) zoning district. Approximately 48.68 acres are zoned R-MU. The maximum density in the R-MU zoning district is 100 du/ac at the bonus level. If all R-MU-zoned land were developed at the maximum bonus level density, the total number of units would be approximately 4,868 units. At present, the City has received applications for 3,242 units.

Of the 3,242 units, three projects with a combined 923 units have been approved and three projects with a combined 2,319 units are under review. There are nine remaining R-MU zoned parcels with a combined area of approximately 12.75 acres. If developed at the maximum bonus level density of 100 du/ac, this could result in approximately 1,275 additional units. A map of R-MU-zoned parcels and projects with inset table showing the locations, status, and unit counts of approved and proposed projects is provided as Attachment C.

13. There is concern about counting pending, non-SB 330 pipeline projects (Willow Village and SRI/Parkline) toward RHNA 6 targets because it gives the impression that approval of those projects is assumed. Please address.

Pending projects are simply projects that have been submitted for review and demonstrates the level of current development interest and activity and does not prejudice the City's future decisions. However, there is no requirement to document all pending housing related development applications. The City could decide to show only approved projects and include pending projects within the site inventory only and not include them in the pipeline projects category. The Willow Village project is proposing 1,729 units and the SRI/Parkline is proposing 400 units. If these projects are removed from the pipeline projects, additional units would be need to be identified on other sites.

14. What would be the RHNA 6 target numbers if all current SB 330 projects (approved and proposed) are counted toward the RHNA 5 cycle rather than RHNA 6?

The October 26, 2021 City Council staff report included the following Table 5 on page H-2.12:

Table: Net new RHNA needed					
	Very low 0-50% AMI	Low 51-80%AMI	Moderate 81-120%AMI	Above moderate >120%AMI	Total new housing units
6th Cycle RHNA	740	426	496	1,284	2,946
30% Buffer	222	128	149	385	884
6th Cycle RHNA with 30% Buffer	962	554	645	1,669	3,830
6th Cycle RHNA Credit					
Pipeline projects	134	230	230	3,053	3,647
Accessory dwelling units	26	25	26	8	85
Credit subtotal	160	255	256	3,061	3,732
Total net new units needed	802	299	389		1,490
Note: AMI = Area Median Income					

The current Bayfront SB 330 projects are Menlo Uptown, Menlo Portal, Menlo Flats, and 123 Independence Drive. In addition, the 111 Independence Drive project is an

approved Bayfront multifamily residential project and it is possible that it could receive building permits during the 2022 calendar year. As a result, even though it is not an SB 330 project, it could be counted toward RHNA 5 cycle and has been included in the analysis of this response. All of these projects were captured under the totals for Pipeline Projects in the table above.

If the projects listed above were counted toward the RHNA 5 cycle instead of the RHNA 6 cycle, the new target numbers for affordable units, including a 30% buffer recommended by HCD, would be as shown at the bottom of the table below:

Table: Net new RHNA needed – excluding Bayfront SB 330 Projects and 111 Independence Drive Project					
	Very low 0-50% AMI	Low 51-80%AMI	Moderate 81-120%AMI	Above moderate >120%AMI	Total new housing units
6th Cycle RHNA	740	426	496	1,284	2,946
30% Buffer	222	128	149	385	884
6th Cycle RHNA with 30% Buffer	962	554	645	1,669	3,830
6th Cycle RHNA Credit					
Pipeline projects	120	98	151	2,292	2,661
Accessory dwelling units	26	25	26	8	85
Credit subtotal	146	123	177	2,300	2,746
Total net new units needed	816	431	468		1,715
Note: AMI = Area Median Income					

In summary, the City would need to plan for 225 additional affordable units.

Total Net New Units Needed (with SB 330 projects in RHNA 6)	802	299	389		1,490
Total Net New Units Needed (without SB 330 projects and 111 Independence in RHNA 6)	816	431	468		1,715
Difference	-4	-132	-79		-225

- There are locations that could be prime candidates for housing which are not included in the current potential housing opportunity sites because they do not meet the criteria established by HCD. However, they should still be identified and rezoned consistent with the RHNA 6 housing opportunity sites.

The project team will consider additional sites for inclusion in the planning process with the understanding that not all will be identified as Housing Opportunity Sites subject to housing element criteria. Identification of additional potential sites, will assist in long term planning for the city and its residents and businesses.

16. What options are available to adopt objective standards for future SB 9 projects? What happens if the City has no objective standards for these projects when the law goes into effect on January 1, 2022?

Absent any specific SB 9 regulations adopted by the city, projects submitted after the new year would have to be reviewed and approved based on any existing objective standards that the City currently has. All existing objective standards which apply to housing developments would apply to SB 9 projects as long as those standards aren't preempted by State SB 9 development standards (such as minimum square footage and setbacks of housing developments).

17. What is an SB 10 implementing program, and what would be the pros and cons of implementing such a program?

SB 10 allows cities to adopt an ordinance to zone any parcel for up to 10 units of residential density per parcel, at a height specified in the ordinance. The parcels selected must be in a transit-rich area (1/2 mile from major transit stop) or an urban infill site (nearly all of Menlo Park). This ordinance and any projects under it would be considered exempt from CEQA. The City Council would need to make a finding that the ordinance is consistent with the City's obligation to affirmatively further fair housing. The ordinance would need to be approved by a 2/3 vote of the City Council (4 members). A potential downside of utilizing SB 10 is that, the new law prohibits a local SB 10 ordinance from reducing the density of parcel and prohibits a subsequent reduction in density of any parcel subject to the ordinance.

18. Please provide a plan for analyzing feasibility of housing sites as suggested by the Housing Leadership Council and MidPen?

The project team is reaching out to several non-profit housing developers and the HLC to request their assistance in evaluating potential housing opportunity sites. The plan is to select a representative sample of sites and ask each group to evaluate them for feasibility and feedback on recommendations that can be incorporated into the plan for housing.

19. How can development of the Safety Element be expedited?

The project team believes that the most effective path to an updated Safety Element is to keep it on track with the Housing Element and related EIR for adoption in late 2022. This will ensure that it is consistent with the updated Housing Element and Environmental Justice Element.

20. Please provide more check-ins and meetings with the Council subcommittee and the full Council to make the process more iterative.

The project team recognizes this request and intends to continue providing updates and seeking feedback from the City Council and/or the Council subcommittee as the project progresses. Beyond check-ins and meetings with the Council, the project team will continue to perform outreach in the community and share opportunities for public feedback as well as updates on progress through the City's website, social media channels, weekly Council digest, and other avenues to gather input and distribute information.

21. City Council should receive regular updates as work on the Environmental Justice Element progresses.

The preparation of the Environmental Justice Element is an important part of the Housing Element Update project. Following the release of the Notice of Preparation, the project team will be focusing on conducting outreach and engagement for the Environmental Justice Element. As work progresses, the project team will be providing updates to the City Council. The Housing Element webpage (beta.menlopark.org/housingelement) is also a good resource for past and upcoming activities.

Attachments

- A. Summary of existing multi-family, mixed use and commercial zoning table and map
- B. Major Transit Stop map
- C. R-MU zoned parcel map

Select Zoning Regulations and Density Information for Multifamily Residential, Specific Plan, and Commercial Zoning Districts																
Zoning District	Residential Currently Allowed?	Municipal Code or SP-ECR/D Chapter	Number of Parcels	Total Acreage	Does Zoning District Have Conditional Development Districts (X)?	Number of Parcels in Conditional Development Districts	Acreage of Parcels in Conditional Development Districts	Estimated Existing Dwelling Units	Approximate Existing Dwelling Units per Acre	Number of DU Under Construction?	Number of DU Approved?	Number of DU Proposed?	Maximum Base FAR	Maximum "Bonus Level" FAR	Maximum Base Height (Ft)	Maximum "Bonus Level" Height (Ft)
Multifamily Residential																
R-3	Yes	16.20	1356	157.36	Yes	338	30.12	2908	18.48	0	0	3	0.45	N/A	35	N/A
R-3 near SP-ECR/D	Yes	16.20	217	41.49	No	0	0.00	834	20.10	2	0	0	0.75	N/A	40	N/A
R-3-A	Yes	16.24	328	78.67	Yes	281	68.43	1129	14.35	0	0	0	0.45	N/A	N/A	N/A
R-3-C	Yes	16.26	1	0.86	No	0	0.00	33	38.36	0	0	0	0.45	N/A	35	N/A
R-4	Yes	16.22	28	1.48	Yes	17	0.89	38	25.59	0	0	0	1.00	N/A	40	N/A
R-4-S	Yes	16.23	7	28.53	No	5	21.33	915	32.07	58	0	0	0.90	N/A	40	N/A
C-2-B	Yes	16.40	6	2.35	No	0	0.00	0	0.00	0	0	0	0.90	N/A	40	N/A
R-MU	Yes	16.45	31	51.04	No	0	0.00	0	0.00	0	923	2319	0.90	2.25	40	70
R-L-U	Yes	16.28	47	5.68	Yes	1	0.95	245	43.15	0	0	0	1.50	N/A	35	N/A
SP-ECR/D																
ECR NW	Yes	Chapter E	12	4.14	No	0	0.00	20	4.83	3	0	0	1.10	1.50	38	38
ECR NE-L	Yes	Chapter E	48	10.52	No	0	0.00	125	11.88	0	0	0	0.75	1.10	38	38
ECR NE	Yes	Chapter E	18	7.33	No	0	0.00	29	3.96	27	0	8	1.10	1.50	38	48
ECR NE-R	Yes	Chapter E	10	10.77	No	0	0.00	163	15.13	183	0	0	1.10	1.50	38	48
ECR SW	Yes	Chapter E	80	17.27	No	0	0.00	67	3.88	4	10	0	1.10	1.50	38	38
ECR SE	Yes	Chapter E	5	20.74	No	0	0.00	0	0.00	215	0	0	1.25	1.75	60	60
SA W	Yes	Chapter E	17	2.99	No	0	0.00	7	2.34	0	0	0	2.00	2.25	48	48
SA E	Yes	Chapter E	28	10.71	No	0	0.00	34	3.17	0	9	0	1.35	1.75	60	60
DA	Yes	Chapter E	82	15.11	No	0	0.00	146	9.66	0	0	0	0.85	1.00	38	38
D	Yes	Chapter E	99	22.16	No	0	0.00	2	0.09	0	7	0	2.00	2.25	38	38
Total			2420	489.21	N/A	642	121.73	6695	N/A	492	949	2330				
Commercial*																
C-1	No	16.30	23	117.59	Yes	10	78.10	0	0.00	0	0	400	0.30	N/A	35	N/A
C-1-A	No	16.32	9	2.94	No	0	0.00	0	0.00	0	0	0	0.40	N/A	35	N/A
C-1-C	No	16.36	15	90.45	Yes	1	16.48	0	0.00	0	0	0	0.25	N/A	35	N/A
C-2	No	16.38	8	8.46	No	0	0.00	0	0.00	0	0	0	0.40	N/A	30	N/A
C-2-A	No	16.39	5	1.46	No	0	0.00	1	0.68	0	0	0	0.40	N/A	One Story	N/A
C-2-B	Yes	16.40	6	2.35	No	0	0.00	0	0.00	0	0	0	0.90	N/A	40	N/A
C-2-S	Yes	16.37	4	3.18	No	0	0.00	0	0.00	0	0	0	0.50	N/A	N/A	N/A
C-4	No	16.42	19	26.15	Yes	2	21.04	2	0.08	0	0	0	0.40	N/A	30	N/A
Total	N/A	N/A	89	252.59	N/A	13	115.62	3	N/A	0	0	400				

*The O and LS districts are not included in this table because additional housing in District 1 is not being considered as part of the 2023-2031 Housing Element Update.

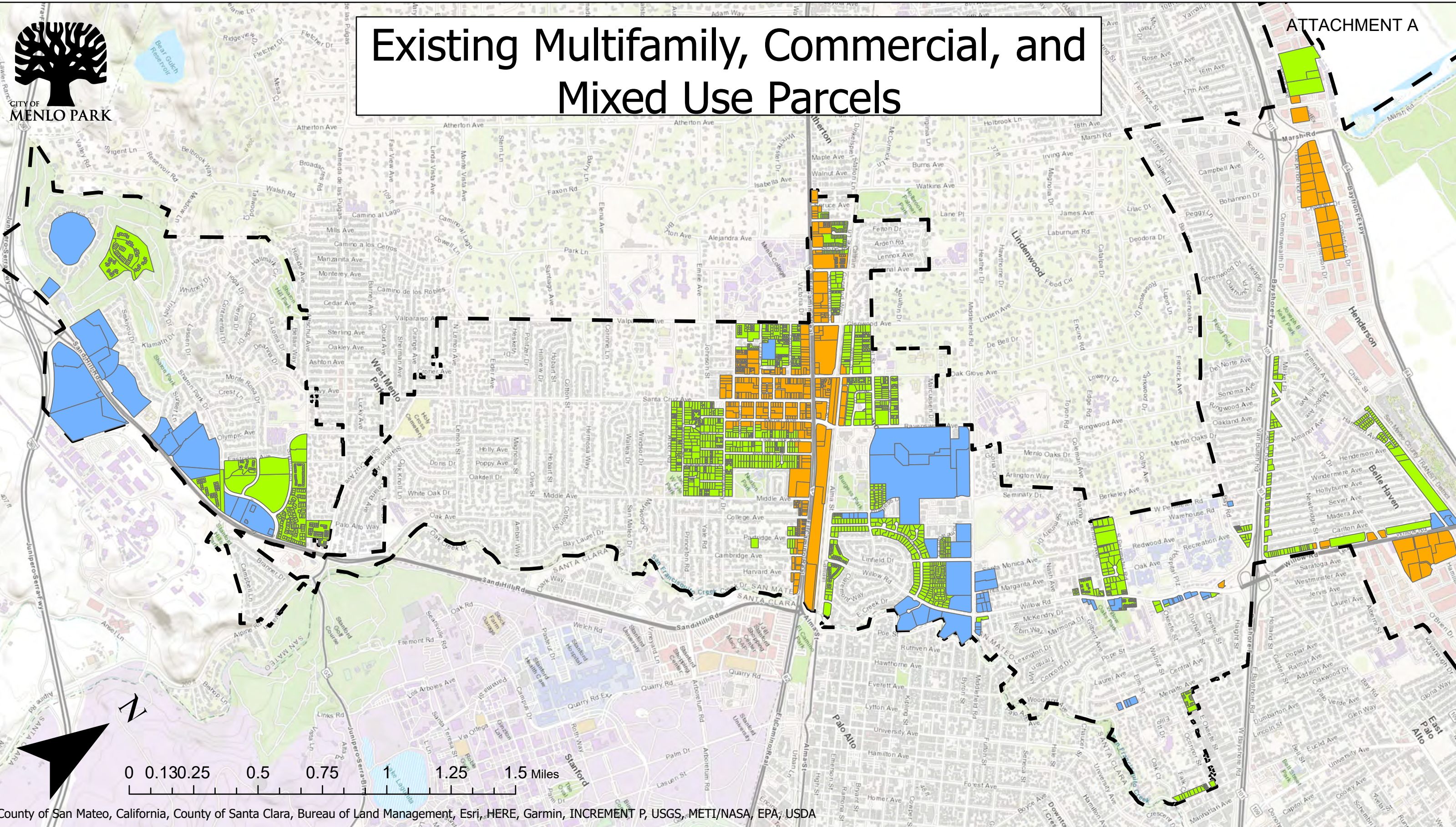
Select Zoning Regulations and Density Information for Multifamily Residential, Specific Plan, and Commercial Zoning Districts														
Zoning District	Minimum Base Density (DU/AC)	Maximum Base Density (DU/AC)	Minimum "Bonus Level" Density (Public Benefit or Community Amenity) (DU/AC)	Maximum "Bonus Level" Density (Public Benefit or Community Amenity) (DU/AC)	Maximum City BMR Bonus (15%) at Base Density	Maximum City BMR Bonus (15%) at "Bonus Level" Density	Maximum State Density Bonus Law Bonus (50%) at Base Density	Maximum State Density Bonus Law Bonus (50%) at "Bonus Level" Density	Maximum City Affordable Housing Overlay Bonus (60%) at Base Density	Maximum City Affordable Housing Overlay Bonus (60%) at "Bonus Level" Density	Maximum State AB 1763 Bonus (80%) at Base Density	Maximum State AB 1763 Bonus (80%) at "Bonus Level" Density	Maximum State AB 1763 Bonus Near Major Transit Stop (Unlimited, Assumed 100%) at Base Density	Maximum State AB 1763 Bonus Near Major Transit Stop (Unlimited, Assumed 100%) at Bonus Level Density
Multifamily Residential														
R-3	N/A	13.1	N/A	N/A	15	N/A	20	N/A	21	N/A	24	N/A	26	N/A
R-3 near SP-ECR/D	13.1	30.0	N/A	N/A	35	N/A	45	N/A	48	N/A	54	N/A	60	N/A
R-3-A	N/A	13.1	N/A	N/A	15	N/A	20	N/A	21	N/A	24	N/A	26	N/A
R-3-C	N/A	13.1	N/A	N/A	15	N/A	20	N/A	21	N/A	24	N/A	26	N/A
R-4	N/A	40.0	N/A	N/A	46	N/A	60	N/A	64	N/A	72	N/A	80	N/A
R-4-S	20.0	30.0	N/A	N/A	35	N/A	45	N/A	48	N/A	54	N/A	60	N/A
C-2-B	N/A	30.0	N/A	N/A	35	N/A	45	N/A	48	N/A	54	N/A	60	N/A
R-MU	20.0	30.0	30.1	100.0	35	115	45	150	48	160	54	180	60	200
R-L-U	N/A	54.5	N/A	N/A	63	N/A	82	N/A	87	N/A	98	N/A	109	N/A
SP-ECR/D														
ECR NW	N/A	25.0	N/A	40.0	29	46	38	60	40	64	45	72	50	80
ECR NE-L	N/A	20.0	N/A	30.0	23	35	30	45	32	48	36	54	40	60
ECR NE	N/A	25.0	N/A	40.0	29	46	38	60	40	64	45	72	50	80
ECR NE-R	N/A	32.0	N/A	50.0	37	58	48	75	51	80	58	90	64	100
ECR SW	N/A	25.0	N/A	40.0	29	46	38	60	40	64	45	72	50	80
ECR SE	N/A	40.0	N/A	60.0	46	69	60	90	64	96	72	108	80	120
SA W	N/A	50.0	N/A	60.0	58	69	75	90	80	96	90	108	100	120
SA E	N/A	50.0	N/A	60.0	58	69	75	90	80	96	90	108	100	120
DA	N/A	18.5	N/A	25.0	21	29	28	38	30	40	33	45	37	50
D	N/A	25.0	N/A	40.0	29	46	38	60	40	64	45	72	50	80
Total														
Commercial*														
C-1	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
C-1-A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
C-1-C	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
C-2	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
C-2-A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
C-2-B	N/A	30.0	N/A	N/A	35	N/A	45	N/A	48	N/A	54	N/A	60	N/A
C-2-S	N/A	18.5	N/A	N/A	21	N/A	28	N/A	30	N/A	33	N/A	37	N/A
C-4	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Total														

*The O and LS districts are not included in this table because additional housing in District 1 is not being considered as part of the 2023-2031 Housing Element Update.



Existing Multifamily, Commercial, and Mixed Use Parcels

ATTACHMENT A

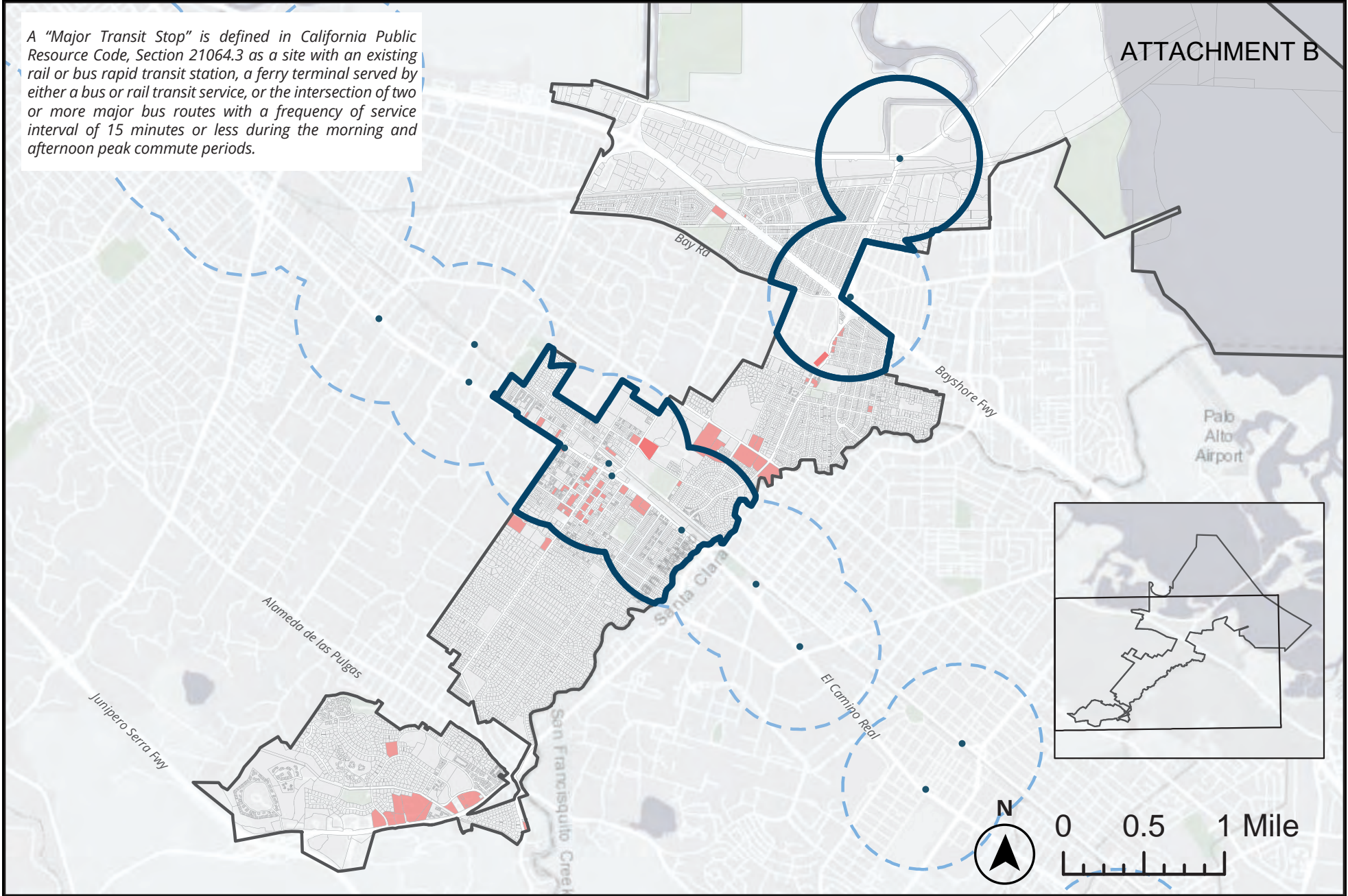


Legend







- Multifamily Parcels
- Commercial Parcels
- Mixed Use Parcels
- City Limits

The following multifamily residential districts are included on this map: R-3, R-3 near the El Camino Real and Downtown Specific Plan (SP-ECR/D), R-3-A, R-3-C, R-4, R-4-S, C-2-B, R-MU, and R-L-U. The following SP-ECR/D districts are also included on the map: ECR NW, ECR NE-L, ECR NE, ECR NE-R, ECR SW, ECR SE, SA W, SA E, DA, and D. The following commercial districts are also included on the map: C-1, C-1-A, C-1-C, C-2, C-2-A, C-2-B, C-2-S, and C-4. Please note that the O and LS districts were not included because zoning for additional housing in District 1 is not being considered as part of the 2023-2031 Housing Element Update.

A "Major Transit Stop" is defined in California Public Resource Code, Section 21064.3 as a site with an existing rail or bus rapid transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.



Major Transit Stops

- | | | | |
|-------------------------------------------------------------------------------------|----------------|-------------------------------------------------------------------------------------|-------------------------------------------------|
|  | Potential Site |  | Major Transit Stop |
|  | Other Parcel |  | 1/2 Mile Radius From Stop Within Menlo Park |
|  | City Boundary |  | 1/2 Mile Radius From Stop Outside of Menlo Park |



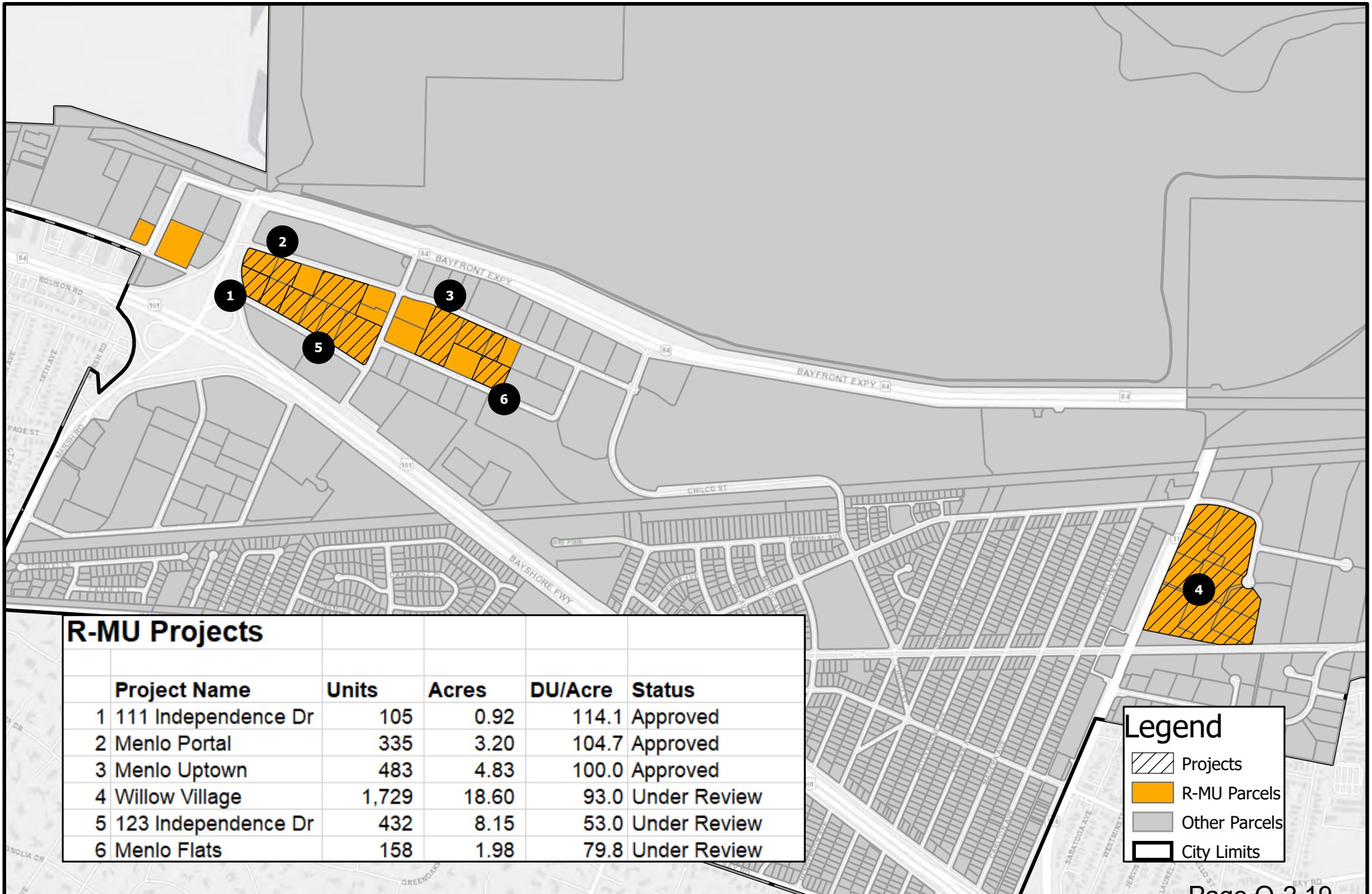
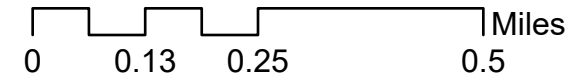
Projection: NAD83 StatePlane California III FIPS 0403 (US Feet)

CITY OF MENLO PARK

R-MU Zoned Properties and Project Sites



ATTACHMENT C



R-MU Projects

	Project Name	Units	Acres	DU/Acre	Status
1	111 Independence Dr	105	0.92	114.1	Approved
2	Menlo Portal	335	3.20	104.7	Approved
3	Menlo Uptown	483	4.83	100.0	Approved
4	Willow Village	1,729	18.60	93.0	Under Review
5	123 Independence Dr	432	8.15	53.0	Under Review
6	Menlo Flats	158	1.98	79.8	Under Review

Legend

- Projects
- R-MU Parcels
- Other Parcels
- City Limits