

**111 INDEPENDENCE DRIVE PROJECT
RESPONSE TO COMMENTS DOCUMENT**

STATE CLEARINGHOUSE NO. 2019060108

MENLO PARK, CALIFORNIA

LSA

April 2021

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STATE CLEARINGHOUSE NO. 2019060108

MENLO PARK, CALIFORNIA

Submitted to:

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April 2021

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1.0 INTRODUCTION

1.1 PURPOSE OF THE RESPONSE TO COMMENTS DOCUMENT

This document has been prepared to respond to comments received on the Draft Environmental Impact Report (Draft EIR) prepared for the proposed 111 Independence Drive Project (proposed project). The Draft EIR identifies the likely environmental consequences associated with development of the proposed project and recommends mitigation measures to reduce potentially significant impacts. This Response to Comments (RTC) Document provides responses to comments on the Draft EIR and makes revisions to the Draft EIR, as necessary, resulting from those comments or to make clarifications to material in the Draft EIR. This document, together with the Draft EIR, constitutes the Final EIR for the proposed project.

1.2 ENVIRONMENTAL REVIEW PROCESS

According to the California Environmental Quality Act (CEQA), lead agencies are required to consult with public agencies having jurisdiction over a proposed project and to provide the general public with an opportunity to comment on the Draft EIR.

On June 14, 2019, the City of Menlo Park (City) circulated a Notice of Preparation (NOP) notifying responsible agencies and interested parties that an EIR would be prepared for the proposed project and indicated the environmental topics anticipated to be addressed in the EIR. An Initial Study was circulated with the NOP. The NOP was mailed to public agencies, organizations, and individuals likely to be interested in the potential impacts of the proposed project. A scoping session was held as a public meeting before the Planning Commission on June 24, 2019, to solicit feedback regarding the scope and content of the EIR. Comments received by the City on the NOP were considered during preparation of the Draft EIR.

The Draft EIR was made available for public review on December 4, 2020, and was distributed to local and State responsible and trustee agencies. The Draft EIR and an announcement of its availability were posted electronically on the City's website at: www.menlopark.org/1571/111-Independence-Drive, and a paper copy was also made available for curbside pickup at the Menlo Park Main Library. The Notice of Availability (NOA) for the Draft EIR was provided to all individuals and organizations who made a written request for notice, filed with the San Mateo County Clerk, and posted at the project site.

The CEQA-mandated 45-day public comment period was extended to 60 days to account for the winter holidays and closure of City facilities and ended on February 2, 2021. The City held a public hearing on the Draft EIR with the Planning Commission on January 11, 2021. The City received a total of two comment letters from one local agency and one individual. Copies of all written comments received during the comment period and summaries of the verbal comments received at the public hearing are included in Chapter 3.0, Comments and Responses, of this document.

1.3 DOCUMENT ORGANIZATION

This RTC Document consists of the following chapters:

- **Chapter 1.0: Introduction.** This chapter discusses the purpose and organization of this RTC Document, and the Final EIR, and summarizes the environmental review process for the project.
- **Chapter 2.0: List of Commenters.** This chapter contains a list of agencies and individuals who submitted written comments during the public review period and comments made at the public hearing on the Draft EIR.
- **Chapter 3.0: Comments and Responses.** This chapter contains reproductions of all comment letters received on the Draft EIR, as well as the transcript of verbal comments provided at the public hearing. A written response for each CEQA-related comment received during the public review period is provided. Each response is keyed to the corresponding comment.
- **Chapter 4.0: Draft EIR Text Revisions.** Corrections to the Draft EIR that are necessary in light of the comments received and responses provided, or necessary to amplify or clarify material in the Draft EIR, are contained in this chapter. Double underlined text represents language that has been added to the Draft EIR; text with strikeout has been deleted from the Draft EIR.

2.0 LIST OF COMMENTERS

This chapter presents a list of comment letters received during the public review period and describes the organization of the letters and comments that are provided in Chapter 3.0, Comments and Responses, of this document.

2.1 ORGANIZATION OF COMMENT LETTERS AND RESPONSES

Chapter 3.0 includes a reproduction of each comment letter received on the Draft EIR. The written comments are grouped by the affiliation of the commenter, as follows: local agencies (A); individuals (B); and public hearing comments (C).

The comment letters are numbered consecutively following the A, B, and C designations:

Local Agencies	A#-#
Individuals	B#-#
Public Hearing Comments	C#-#

The letters are numbered and comments within each letter are numbered consecutively after the hyphen.

2.2 LIST OF AGENCIES COMMENTING ON THE DRAFT EIR

The following comment letters were submitted to the City during the public review period.

- A1 Lozano Smith, Attorneys at Law, On Behalf of the Sequoia Union High School District, Kelly M. Rem, February 2, 2021
- B1 Blaine and Annabelle Nye, December 27, 2020
- C1 Planning Commission Hearing, January 11, 2021

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3.0 COMMENTS AND RESPONSES

Written responses to each comment letter received on the Draft EIR and the verbal comments provided at the January 11, 2021, Draft EIR hearing held before the Planning Commission are provided in this chapter. All letters received during the public review period on the Draft EIR and the public hearing transcript are provided in their entirety. Each letter is immediately followed by responses keyed to the specific comments. The letters are grouped by the affiliation of the commenting entity as follows: Local Agencies (A); Individuals (B); and Public Hearing Comments (C).

Please note that text within individual letters that has not been numbered does not raise environmental issues or relate to the adequacy of the information or analysis within the Draft EIR, and therefore no comment is enumerated nor is a response required, per CEQA Guidelines Sections 15088 and 15132. In addition, when general support or opposition is given for the project, that comment is noted but no further analysis is provided in the response, as the commenter is not questioning the adequacy of the information or analysis within the Draft EIR. However, comments related to the merits of the proposed project will be considered by decision-makers taking action on the project.

Where comments on the Draft EIR concern issues requiring technical expertise, the responses to comments, like the initial analysis in the Draft EIR, rely on the knowledge and professional analysis of qualified experts.

Where revisions to the Draft EIR text are called for, the page is set forth followed by the appropriate revision. Added text is indicated with double underlined text, and deleted text is shown in ~~strikeout~~. Text revisions to the Draft EIR are summarized in Chapter 4.0 of this RTC Document.

Bradley R. Sena
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February 2, 2021

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

Ms. Payal Bhagat
City of Menlo Park
Community Development Department, Planning Division
701 Laurel Street
Menlo Park, CA 94025

Re: Response of Sequoia Union High School District to Draft Environmental Impact Report for the 111 Independence Drive Project

Dear Ms. Bhagat:

This office represents Sequoia Union High School District (“District”). On behalf of the District, we are hereby submitting comments regarding the Draft Environmental Impact Report (“Draft EIR”) prepared by the City of Menlo Park (“City”) for the project to be located on an approximately 0.92-acre site having the address of 111 Independence Drive, Menlo Park, CA (the “Property”). According to the Draft EIR, the proposed project, sponsored by SP Menlo, LLC (“Developer”), will consist of redevelopment of the Property with an approximately 145,679 square foot (“sf”), eight-story multi-family apartment building with approximately 105 dwelling units, and an approximately 746 sf commercial space (the “Project”). This Project is anticipated to generate approximately 270 new residents, and a corresponding increase in high school students that attend District schools. The Project will be located approximately 2,400 feet west of the District’s TIDE Academy.

Please note that, concurrently with this letter, the District is transmitting its response to the Draft Environmental Impact Report for the Menlo Uptown Project. Both the Menlo Uptown Project and the instant Project are mixed-use residential projects proposed in the Bayfront Area of Menlo Park a short distance away from the District’s TIDE Academy. Further, the Initial Studies and Draft EIRs for both projects were prepared by the same firm and are substantially similar. For these reasons, the District’s comments in response to both Draft EIRs may substantially overlap.

The Draft EIR, like the Draft EIR prepared for the Menlo Uptown Project, does not comply with the California Environmental Quality Act (“CEQA,” Pub. Res. Code §§ 21000, *et seq.*) and its implementing regulations (Cal. Code Regs., tit. 14, §§ 15000, *et seq.*, “CEQA Guidelines”), for both technical and substantive reasons. Moreover, the Draft EIR, based on an improper

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interpretation of statutes added and amended by Senate Bill (SB) 50, does not include sufficient information to evaluate potential environmental impacts both to schools, and related to schools. **Through this letter, the District wishes to emphasize that this Project, in combination with the numerous other projects currently pending before the City (including the Menlo Uptown Project), has the potential to have a profound negative effect on the District’s students, their families, and residents who will reside in and near the Project.**

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With the foregoing in mind, the District requests that the City revise the Draft EIR to address the serious deficiencies identified in this letter, develop appropriate mitigation measures for impacts that are identified as significant, and then recirculate the revised Draft EIR as required by CEQA. (CEQA Guidelines § 15088.5.)

I. Background: Initial Study, Notices of Preparation, and District’s Scoping Letter

The District previously submitted comments to the City in response to the City’s Notice of Preparation (“NOP”) and Initial Study (“Initial Study”), on July 15, 2019. A copy of the District’s July, 2019 comment letter (referred to as the “Prior Comment Letter”) is attached hereto, and incorporated herein by this reference.

Through the Prior Comment Letter, the District specifically requested that the Draft EIR include a description and evaluation of certain information needed to determine whether impacts related to schools are potentially significant. Through the Prior Comment Letter, the District raised numerous concerns regarding the Project’s potential impacts related to transportation, circulation, traffic, noise, population, housing, and the District’s provision of its public services. Most of the concerns raised by the District were not addressed in the Draft EIR, and the ones that were addressed received no more than a cursory review. Because such information and environmental analysis was not included in the Draft EIR, the document is inadequate as set forth in more detail below.

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II. The Draft EIR does not meet its purpose as an informational document because it fails to provide an adequate description of the environmental setting related to schools.

One of CEQA’s basic purposes is to inform government decision-makers and the public about the potential significant environmental effects of proposed projects and to disclose to the public the reasons for approval of a project that may have significant environmental effects. (CEQA Guidelines § 15002(a)(1) and (a)(4).) In line with this goal, the preparer of an EIR must make a genuine effort to obtain and disseminate information necessary to the understanding of impacts of project implementation. (See, CEQA Guidelines § 15151; *Sierra Club v. State Board of Forestry* (1994) 7 Cal.4th 1215, 1236.)

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An EIR must describe existing environmental conditions in the vicinity of the proposed project from both a local and regional perspective, which is referred to as the “environmental setting.” (CEQA Guidelines § 15125.) This description of existing environmental conditions serves as the “baseline” for measuring the qualitative and quantitative changes to the environment that will result from the project and for determining whether those environmental effects are significant.

(*Id.*; see also, CEQA Guidelines § 15126.2(a); *Neighbors for Smart Rail v. Exposition Metro Line Constr. Auth.* (2013) 57 C4th 439, 447.)

District facilities are a critical part of the Project location’s environment, and should be considered throughout the Draft EIR impact categories. As noted, the Project is located approximately 1,400 feet east of the District’s TIDE Academy. (Draft EIR at 4.3-31.) TIDE Academy’s first year of operations was the 2019/2020 school year. While enrollment was 103 students for the first year of operations, the District anticipates that it will exceed its 400-student capacity at TIDE by the fourth year of operations (2023-2024). The Project is otherwise located within the District’s Menlo Atherton High School attendance boundary. Menlo Atherton High School, which is the county’s largest high school, currently exceeds its capacity by 200 students. The District is inadequately equipped to house these excess students. The proposed Project will be accessed via entrance points on Independence Drive, which road is used by District families, students, and staff to walk, bike, and drive to TIDE Academy from neighborhoods located to the east, west, and south. Independence Drive and the Bayfront Area generally have been, and are anticipated to continue being heavily impacted by traffic, traffic exhaust, and fumes due to increased development in the neighborhood.

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The Draft EIR purports to describe the Project’s environmental setting in each of the five environmental impact categories that are analyzed in the Draft EIR. In doing so, the Draft EIR notes the location of TIDE Academy in a few instances. However, the Draft EIR otherwise fails to present any information needed to assess the Project’s environmental impacts on the District, TIDE Academy, or Menlo Atherton High School. For instance, the Draft EIR fails to address the current and projected future enrollment at TIDE or any other District schools that will be affected by the Project; the District’s educational program objectives at TIDE and or Menlo Atherton High School; a description of how the District currently uses its facilities at TIDE or Menlo Atherton High School; and the current vehicular and pedestrian paths of travel used by District staff, students and their families to get to and from these schools, in the context of a neighborhood that has already been severely impacted by traffic. Without consideration of these factors, it is impossible for the lead agency and public to assess whether there are any impacts posed by the Project on the District’s students, families, and staff, and whether those impacts are significant.

III. The Draft EIR does not meet its purposes as an informational document because it fails to provide an adequate analysis of environmental impacts on and related to schools.

A. The Draft EIR inappropriately relies on information, analysis, and mitigation measures contained in the “program” EIR prepared for the City’s ConnectMenlo project in 2016.

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The Draft EIR improperly “scopes out” numerous environmental impact categories, including “Public Services” impacts related to schools. In doing so, the Draft EIR relies on the analysis of Public Services impacts contained in the Initial Study, which in turn tiers off of the analysis of Public Services impacts contained in the City’s EIR prepared for its General Plan update (referred to as “ConnectMenlo”) in 2016. (Draft EIR at 1-2; Initial Study at 3-41.) Specifically, the Initial Study states as follows:

The ConnectMenlo Final EIR determined that any development associated with ConnectMenlo would occur incrementally over the 24- year building horizon and would be subject to payment of development impact fees, which under Senate Bill 50 (SB 50) are deemed to be full and complete mitigation... Therefore, because the proposed project would comply with existing regulations prepared to minimize impacts related to schools and would be subject to the mandatory payment of developer impact fees pursuant to SB 50, the proposed project would have a less- than- significant impact related to the need for remodeled or expanded school facilities.

(Initial Study at 3-41; emphasis added.)

As noted by the Initial Study, the ConnectMenlo Draft EIR concluded as follows with regard to development impacts on the District and its facilities:

Because future development under the proposed project would occur incrementally over the 24-year buildout horizon and, in compliance with SB 50, would be subject to pay development impact fees that are current at the time of development, impacts related to the SUHSD would be less than significant.

(Connect Menlo Draft EIR at 4.12-40; emphasis added.)

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

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

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

The Initial Study and Draft EIR’s reliance on the ConnectMenlo EIR’s analysis of potential impacts on the District and its facilities is improper and misguided. Circumstances have changed since the time that the ConnectMenlo EIR was prepared, and the development assumptions underlying the ConnectMenlo project approvals have proven inaccurate. Critically, ConnectMenlo was based on the incorrect assumption that development under the program would take place in an incremental fashion, over the course of 24 years. As noted in the instant Project’s Draft EIR, ConnectMenlo envisioned that 4,500 new residential units would be added to the Bayfront Area by 2040. According to the City’s current “ConnectMenlo Project Summary Table,” development currently proposed and/or completed in the neighborhood would result in the construction of 3,257 net new residential units.¹ This does not include the 540 units that have already been completed at 3639 Haven Avenue and 3645 Haven Avenue, which would bring the total number of residential units to 3,797. This equates to 84% of the total authorized buildout under ConnectMenlo. It is clear from this trend that full buildout under ConnectMenlo will be achieved well in advance of 2040. The Draft EIR acknowledges the fact that this assumption was incorrect in providing that “[a]lthough the ConnectMenlo Final EIR assumed a buildout horizon of 2040, the maximum development potential may be reached sooner than anticipated.” (Draft EIR at 3-11, fn. 10.)

The Draft EIR provides that “no new or additional impacts are anticipated as a result of the expedited buildout.” (*Id.*) The District vehemently disagrees with this conclusion. Contrary to the Draft EIR’s assertions, the ConnectMenlo EIR’s analysis regarding the General Plan update’s impacts on the District (and on other public services) was founded on the assumption that development of the Bayfront Area would take place in an “incremental fashion.”

If the City continues to approve new residential development projects at its current pace, the District will be subject to a rapid influx of students to the District’s facilities, which are already at or exceeding capacity. This rapid influx, combined with the existing inadequacies of the District’s school facilities funding sources (as discussed below), will prevent the District from engaging in meaningful long-term facilities planning, and will instead require the District to spend valuable resources on temporary solutions to the District’s facilities problems, such as the purchase and lease of portables. **This influx of students will not only impact the District’s ability to accommodate increased enrollment, but will pose numerous traffic, transportation, safety, air quality, noise, and other impacts affecting the District’s ability to safely and effectively provide its services.** As discussed below, none of these impacts were properly analyzed in the ConnectMenlo EIR, the Initial Study, or the Draft EIR.

Further, ConnectMenlo did not consider either the program or Project’s specific impacts on the District’s TIDE Academy, as this school did not yet exist when the ConnectMenlo EIR was prepared. Because TIDE Academy is located in the Bayfront neighborhood, it is particularly vulnerable to the thousands of residential units authorized by ConnectMenlo, all of which will be constructed in the Bayfront Area. ConnectMenlo did not consider whether/how the placement of thousands of residential units within a few hundred meters from a District high school would impact the District’s program at TIDE Academy. Accordingly, the Draft EIR’s reliance on the

¹ <https://www.menlopark.org/DocumentCenter/View/23346/ConnectMenlo-Project-Summary-Table>

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analysis and mitigation measures described in the ConnectMenlo EIR is inappropriate with respect to impacts on the District.

Finally, as discussed below, ConnectMenlo did not otherwise properly analyze the General Plan update's impacts on or related to the District and its facilities. Accordingly, the Draft EIR's reliance on the ConnectMenlo EIR as the basis for disregarding certain Project impacts on the District is improper.

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B. The Draft EIR and ConnectMenlo EIR fail to identify and analyze all impacts on school facilities under CEQA's threshold of significance for Public Services impacts.

The Initial Study, similar to the ConnectMenlo EIR, states that the proposed Project would have a significant "Public Services" impact on schools if it would:

Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives [for the provision of school services].

(Initial Study at 3-39.)

In purporting to analyze public services impacts on the District under this threshold, the Initial Study and Draft EIR tier from the analysis of the ConnectMenlo Draft EIR. The ConnectMenlo Draft EIR's analysis consisted mostly of noting the current enrollment capacity of Menlo Atherton High School and the District's unspecified plans for construction of a future high school. (ConnectMenlo Draft EIR at 4.12-39-4.12-40.) The ConnectMenlo EIR then went on to conclude that because the developer would pay developer fees as required by SB 50, any impacts on schools would be less than significant. (ConnectMenlo Draft EIR at 4.12-40.) The instant Project's Draft EIR and Initial Study adopt the same conclusion as the ConnectMenlo EIR, albeit without analyzing the District's facilities capacity in any way. (Initial Study at 3-41; Draft EIR at 5-6.)

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Through this short and conclusory analysis, the Initial Study and Draft EIR fail to appropriately analyze the Project's potential impacts under the above-cited Public Services CEQA threshold.

In order to support a determination that environmental impacts are insignificant (and can therefore be scoped out of an EIR), the lead agency must include in either the Initial Study or the EIR the reasons that the applicable environmental effects were determined to be insignificant. (Pub. Res. Code § 21100(c); CEQA Guidelines § 15128.) An unsubstantiated conclusion that an impact is not significant, without supporting information or explanatory analysis, is insufficient; the reasoning supporting the determination of insignificance must be disclosed. (See, *City of Maywood v. Los Angeles Unified Sch. Dist.* (2012) 208 CA4th 362, 393; *San Joaquin Raptor/Wildlife Rescue Ctr. V. County of Stanislaus* (1994) 27 CA4th 713 [findings that project will not pose biological impacts to wetlands must be supported by facts and evidence showing

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that the lead agency investigated the presence and extent of wetlands on the property, which analysis must be disclosed to the public].)

The approach utilized in the ConnectMenlo EIR, the Initial Study, and the Draft EIR oversimplifies the myriad of ways in which large residential and commercial development projects can impact a school district's need for new or physically altered facilities in order to maintain performance objectives. These documents fail to analyze all potential impacts under this standard, including but not limited to: (1) whether the influx of students would require "physically altered" school facilities unrelated to the accommodation of additional enrollment; (2) whether other impacts of the proposed Project, such as increased traffic, noise, or air pollutants in the neighborhood surrounding TIDE Academy, could impact the District's need for new or physically altered school facilities; and (3) whether other impacts of the proposed Project could otherwise interfere with the District's ability to accomplish its own performance objectives.

The District anticipates that its ability to provide adequate service at TIDE Academy will be severely impacted by the Project. For this reason, the Draft EIR should have provided information along the following lines:

1. Existing and future conditions within the District, on a school-by-school basis, including size, location and capacity of facilities.
2. Adequacy of both existing infrastructure serving schools and anticipated infrastructure needed to serve future schools.
3. District's past and present enrollment trends.
4. District's current uses of its facilities.
5. Projected teacher/staffing requirements based on anticipated population growth and existing State and District policies.
6. Description of any impacts on curriculum as a result of anticipated population growth.
7. Cost of providing capital facilities to accommodate students on a per-student basis, by the District.
8. Expected shortfall or excess between the estimated development fees to be generated by the Project and the cost for provision of capital facilities.
9. An assessment of the District's present and projected capital facility, operations, maintenance, and personnel costs.

10. An assessment of financing and funding sources available to the District, including but not limited to those mitigation measures set forth in Section 65996 of the Government Code.
11. Any expected fiscal impacts on the District, including an assessment of projected cost of land acquisition, school construction, and other facilities needs.
12. An assessment of cumulative impacts on schools resulting from additional development already approved or pending.
13. Identification of how the District will accommodate students from the Project who are not accommodated at current District schools, including the effects on the overall operation and administration of the District, the students and employees.

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Without consideration of the above, the Draft EIR fails as an informational document.

Finally, the Initial Study and the Draft EIR fail to analyze adequately cumulative public services impacts on the District due to extensive new development within District boundaries. EIRs must discuss cumulative impacts of a project when the project's effects on the environment, viewed in conjunction with impacts of other past, present, or reasonably foreseeable future projects, is cumulatively considerable. (CEQA Guidelines § 15130(a); see, *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 CA4th 713, 720, finding that piecemeal approval of several projects with related impacts could lead to severe environmental harm.) The purpose of the cumulative impacts analysis is to avoid considering projects in a vacuum, because failure to consider cumulative harm may risk environmental disaster. (*Whitman v. Board of Supervisors* (1979) 88 CA3d 397, 408.)

As noted in the District's most recent School Fee Justification Study (April 2020), the District anticipates that an estimated 17,516 residential units may be constructed within District boundaries over the next 20 years, including approximately 5,500 units in Menlo Park. (SFJS, Appx. C.) Using the District's current student generation rate of 0.2 new high school students per residential unit, this new development, which will include numerous other development projects in the Bayfront Area, is anticipated to generate well over a thousand new students to the District. (SFJS at 9.) It is therefore likely that the District will exceed its facilities capacity at various locations throughout its boundaries in the coming years, including at TIDE Academy. The District anticipates both that the combined impact of the Project and all other residential development and commercial development projects in District boundaries and the Project neighborhood will significantly impact the District's ability to provide its public service in accordance with established performance objectives, and that the Project's incremental effect is cumulatively considerable.² (CEQA Guidelines § 15130(a).) Because the District currently exceeds capacity in various locations, it is further anticipated that the Project, when viewed in

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² The Draft EIR contains an inventory of "Cumulative Projects in the Vicinity of the Project Site" on pages 4-3-4-5, but fails to include the proposed, very large mixed-use residential and commercial development project at 123 Independence Drive. It is expected that this project, in combination with the instant Project, will significantly impact District students attending TIDE Academy, and it must be considered when analyzing cumulative impacts on and related to schools.

conjunction with numerous other projects, will cause the District to need new or physically altered school facilities, including at TIDE Academy. Although this particular Project represents a small share of student generation compared to the Menlo Uptown project, for example, it still contributes to the overall massive student generation that the District is likely to be faced with, and its proponents must therefore ensure adequate mitigation of the impacts.

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The Initial Study and Draft EIR were required to provide sufficient information for the public and lead agency to assess these impacts and potential mitigation measures. These documents do not provide such information. Rather, the Initial Study and Draft EIR inappropriately rely on the analysis conducted in the ConnectMenlo EIR, which also failed properly to analyze the above impacts.

C. The Draft EIR contains an inadequate discussion of all other “school-related” impacts.

In addition to impacts on the District’s facilities under the Public Services CEQA threshold of significance noted above, the Draft EIR fails adequately to analyze probable Project impacts “related to” schools, as required by CEQA and case law interpreting CEQA. In disregarding these impacts, the Draft EIR and Initial Study attempt to rely on Government Code section 65996, enacted by SB 50. However, reliance on SB 50 and Government Code section 65996 as a panacea to all impacts caused by the Project on the District demonstrates a misunderstanding regarding the law and developer fees.

By way of background, developer fees are fees that may be levied or imposed in connection with or made conditions of any legislative or adjudicative act by a local agency involving planning, use, or development of real property. (Ed. Code § 17620.) “Level 1” developer fees are levied against residential and commercial or industrial developments on a price per square foot basis. If a district is able to establish a sufficient “nexus” between the expected impacts of residential and commercial development and the district’s needs for facilities funding, then the district may charge up to \$4.08 per sf of residential development, and up to \$0.66 per sf of commercial development, which maximum amounts may be increased every two years based on the statewide cost index for class B construction.³

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From a practical standpoint, the amount of developer fees received by school districts typically fall woefully short of alleviating the impacts caused by development. This is due largely to the facts that: (1) statutory developer fee amounts fail to acknowledge the differences in costs of school construction from one district to another, which particularly burdens school districts in the Bay Area, where both land and construction costs exceed other parts of the state; (2) **the developer fee amounts fail to contemplate the special facilities needs of those districts experiencing rapid growth, such as the need for portables**; and (3) the adjustment formula for developer fees is based on a “construction cost index” and does not include indexing related to

³ Due to a Fee Sharing Agreement between the District and its elementary feeder school districts, the District is currently authorized to impose fees of \$1.63 per square foot for residential construction (40% of \$4.08), and \$0.26 per square foot for commercial/industrial construction (40% of \$0.66).

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the increases in land costs, resulting in the actual costs of facilities (i.e., land and improvements) increasing at a greater rate than the adjustment.

The inadequacy of developer fees as a source of funding for school facilities has forced school districts to rely increasingly on other sources of funding, primarily including local bond funds and State bond funds administered under the State’s School Facilities Program (SFP). However, these sources of funds can be equally unreliable. Local bond funds are difficult to generate, as local bonds are subject to school district bonding capacity limitations and voter approval. State funds are also unreliable and take considerable time to obtain, especially during this time of funding uncertainty caused by the outbreak of COVID-19. Either way, the funding formula was never intended to require the State and local taxpayers to shoulder a disproportionate portion of the cost of school facilities.

SB 50 declares that the payment of the developer fees authorized by Education Code section 17620 constitutes “full and complete mitigation of the impacts of any legislative or adjudicative act on the provision of adequate school facilities.” (Gov. Code § 65995(h); see also, Gov. Code § 65996(a).) **However, California courts have since acknowledged that developer fees do not constitute full and complete mitigation for school-related impacts other than impacts “on school facilities” caused by overcrowding.** (*Chawanakee Unified Sch. Dist. v. Cty. of Madera* (2011) 196 Cal.App.4th 1016 (“*Chawanakee*”).) *Chawanakee* addressed the extent to which the lead agency (Madera County) was required to consider school related impacts in an EIR for new development. The court determined that SB 50 does not excuse a lead agency from conducting environmental review of school impacts other than an impact “on school facilities.” The court required that the County set aside the certification of the EIR and approvals of the project and take action necessary to bring the EIR into compliance with CEQA. (*Id.* at 1029.) In so holding, the court explained as follows:

[A]n impact on traffic, even if that traffic is near a school facility and related to getting students to and from the facility, is not an impact 'on school facilities' for purposes of Government Code section 65996, subdivision (a). From both a chronological and a molecular view of adverse physical change, the additional students traveling to existing schools will impact the roadways and traffic before they set foot on the school grounds. From a funding perspective, the capped school facilities fee will not be used by a school district to improve intersections affected by the traffic. Thus, it makes little sense to say that the impact on traffic is fully mitigated by the payment of the fee. In summary ... the impact on traffic is not an impact on school facilities and, as a result, the impact on traffic must be considered in the EIR.

(*Id.* at 1028-29.)

Thus, contrary to the assertions of the Initial Study and Draft EIR, the payment of fees does not constitute full mitigation for all impacts caused by development, including those related to traffic, noise, biological resources, air quality, pedestrian safety, and all other types of impacts “related to” the District and its educational program. The Draft EIR’s approach is significantly flawed and inconsistent with the requirements of *Chawanakee*, as it failed to provide information

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necessary to determine whether the Project results in significant environmental impacts both to and *related to* schools.

Specific areas where the Draft EIR and Initial Study failed adequately to evaluate school-related impacts are discussed below:

i. Traffic/Transportation/Circulation

Though the Draft EIR generally analyzes the traffic impacts anticipated by the Project, its analysis is inadequate, particularly as related to schools. The following issues require the City to revise and recirculate the Draft EIR.

As explained in the Prior Comment Letter, the Draft EIR was required to address potential effects related to traffic, including noise, air quality, and any other issues affecting schools. (Pub. Resources Code, §§ 21000, *et seq.*; Cal. Code Regs., tit. 14, §§ 15000, *et seq.*; *Chawanakee, supra*, 196 Cal.App.4th 1016.) Additionally, specifically related to traffic, the Draft EIR was required to analyze safety issues related to traffic impacts, such as reduced pedestrian safety, particularly as to students walking or bicycling to and from TIDE Academy; potentially reduced response times for emergency services and first responders traveling to these schools; and increased potential for accidents due to gridlock during school drop-off and pick up hours.

The requirement to analyze student safety issues is rooted in both the California Constitution and CEQA. Article I, section 28(c), of the California Constitution states that all students and staff of primary, elementary, junior high, and senior high schools have the inalienable right to attend campuses that are “safe, secure, and peaceful.” CEQA is rooted in the premise that “the maintenance of a quality environment for the people of this state now and in the future is a matter of statewide concern.” (Pub. Res. Code § 21000(a).) Naturally, safety is crucial in the maintenance of a quality environment. “The capacity of the environment is limited, and it is the intent of the Legislature that the government of the state take immediate steps to identify any critical thresholds for health and safety of the people of the state and take all coordinated actions necessary to prevent such thresholds being reached.” (Pub. Res. Code § 21000(d).) The Legislature has made clear in declarations accompanying CEQA's enactment that public health and safety are of great importance in the statutory scheme. (Pub. Res. Code §§ 21000 (b), (c), (d), (g); 21001(b), (d) (emphasizing the need to provide for the public's welfare, health, safety, enjoyment, and living environment.) (*California Building Industry Assn. v. Bay Area Air Quality Management Dist.* (2015) 62 Cal.4th 369, 386.)

In order to fully understand these issues, the District requested that the Draft EIR include the following:

14. The existing and the anticipated vehicular traffic and student pedestrian movement patterns to and from school sites, including movement patterns to and from TIDE Academy, and including consideration of bus routes.

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15. The impact(s) of increased vehicular movement and volumes caused by the Project, including but not limited to potential conflicts with school pedestrian movement, school transportation, and busing activities to and from TIDE Academy.
16. The estimated travel demand and trip generation, trip distribution and trip assignment by including consideration of school sites and home-to-school travel.
17. The cumulative impacts on schools and the community in general resulting from increased vehicular movement and volumes expected from additional development already approved or pending.
18. The direct, indirect, and cumulative impacts on the circulation and traffic patterns in the community as a result of traffic generated by the transportation needs of students to and from the Project and schools throughout the District during the Project build-out.
19. The impacts on the routes and safety of students traveling to school by vehicle, bus, walking, and bicycles.

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The Draft EIR fails to analyze any of the above categories of information. There is, therefore, no way for the lead agency or the public to assess whether the Project will pose a traffic impact related to the District's provision of public services.

As noted in the Prior Comment Letter, the District anticipates that the construction and operation of the proposed Project will have significant impacts on traffic, transportation, circulation, and student safety.

Regional vehicular access to the Property is provided by US Highway 101 (US 101), via the Marsh Road on- and off- ramps located to the west and State Route 84 (SR 84 or the Bayfront Expressway) located to the north. Access to the Project will be provided solely via Independence Drive. The Bayfront Area of Menlo Park has experienced a drastic impact in traffic over the last ten to fifteen years as the City has continued to approve of newer corporate campuses and mixed biotechnology, commercial, office, and residential land uses. ConnectMenlo calls for an increase of 4.7 million square feet of non-residential office space, 850 hotel rooms, 5,430 residential units, 13,960 residents, and 20,150 employees, all within the Bayfront Area.⁴ ConnectMenlo concluded that the additional development would result in significant and unavoidable impacts to roadway segments and increase peak hour delays at intersections from increased traffic, even after the mitigation measures called for in the General Plan Update are implemented (if ever).⁵

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⁴ Menlo Park Small High School Project Final EIR (October 6, 2016), p. 2-12; ConnectMenlo: General Plan Land Use & Circulation Elements and M-2 Area Zoning Update Draft EIR (June 1, 2016), Table 3-2.

⁵ Menlo Park Small High School Project Final EIR (October 6, 2016), pp. 2-15 – 2-16; ConnectMenlo: General Plan Land Use & Circulation Elements and M-2 Area Zoning Update (June 1, 2016), p. 4.13-73.

The Level of Service (LOS) analysis included in the Project’s Draft EIR further reveals that the intersections surrounding the Project site and TIDE Academy, including the intersections of Marsh Road/Bayfront Expressway, Chrysler Drive/Independence Drive, Chilco Street/Constitution Drive, Willow Road/Bayfront Expressway, and University Avenue/Bayfront Expressway, are currently operating at an LOS of ‘D’ or worse at one or more peak hours, and do not meet the City’s desired LOS standards. (Draft EIR, Appx. E, at 10-11.) Per the Draft EIR, traffic generated by the Project, in conjunction with other near term projects expected to be approved, would also cause the levels of service at the intersection of Chrysler Drive/Constitution Drive to drop to an ‘F,’ and would further degrade the levels of service at certain other intersections. (Draft EIR at 4.2-42-4.2-43.) In analyzing intersection Levels of Service under “Cumulative (2040) Plus Project Conditions,” the Draft EIR shows that most intersections in the Project neighborhood will be operating out of compliance with the City’s Circulation Policy goals. (Draft EIR at 4.2-46-4.2-47.) While the Draft EIR discusses certain improvement measures that the City may take to resolve these traffic issues, including the payment of transportation impact fees to fund some (but not all) of the improvement measures, it is unclear from the Draft EIR exactly when or if these measures will be accomplished. (See, e.g., Draft EIR at 4.2-48 [“While the improvements to the westbound approach are included in the City’s TIF program, the improvements on the other approaches are beyond those in the TIF program and payment of the TIF would not entirely address the change to LOS as a result of project traffic”]; see also, Draft EIR, Appx. E, at 16 and 17 [“The implementation timeline of these proposed improvements [to walking, biking, and transit facilities] is unknown”].) In addition to deficient vehicular intersections, the Draft EIR states that the “network of sidewalks, crosswalks, and curb ramps are discontinuous in the vicinity of the proposed project.” (Draft EIR at 4.2-7.) Finally, the Draft EIR goes on to note several sidewalk gaps that exist in the Bayfront Area. (*Id.*)

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The construction of, and traffic generated by, the Project will severely exacerbate the existing inadequacies in the City’s roadways/sidewalks noted above, the already stifling traffic in the general area and Bayfront Area, and the safety issues posed thereby. These impacts will severely inhibit the District’s ability to operate its educational programs, including at TIDE Academy. However, none of these issues were properly analyzed in the ConnectMenlo EIR or the Draft EIR.

The Draft EIR shows that the proposed Project is anticipated to impede circulation in the Bayfront Area, and clog the access roads to, from, and around the District’s TIDE Academy. (See, 5 Cal. Code Regs. § 14010(k), which requires that school facilities be easily accessible from arterial roads.) The TIDE Academy driveway is located a short distance east of the proposed Project. Both TIDE Academy and the proposed Project would be accessed by the same roads, including Marsh Road, Independence Drive, Constitution Drive, Jefferson Drive, and the immediately surrounding streets. In addition to drawing hundreds of new residents to the area, including many new high school students, the proposed Project will draw hundreds of daily office commuters, visitors, and emergency access vehicles from around the Bay Area.

As indicated in the City’s General Plan, and as shown in the Draft EIR, the City’s roads and intersections are not currently equipped to accommodate such high density development and

high levels of traffic. (See, e.g., Draft EIR at 4.2-24-4.2-26 [ConnectMenlo EIR found significant and unavoidable impacts to several different elements of the City’s transportation system due to project buildout].) Independence Drive is a narrow two-lane road with sidewalks on only one side of the street. Accordingly, such increases to traffic in the area will not only make it much more difficult for students and staff to travel to and from TIDE Academy, but will also **drastically increase the risk of vehicular accidents to District families, students, and staff traveling to and from school**. For instance, many students at TIDE Academy access school by turning onto Independence Drive from Marsh Road. This turn is already extremely dangerous, as it requires drivers essentially to complete a 180 degree turn, with no visibility of the cars and/or people traveling on Independence Drive. By packing hundreds of new residents and visitors into the western Bayfront Area, the Project will be magnifying this dangerous road condition, further placing District students, families, and staff in harm’s way. This roadway condition was not discussed in the Draft EIR.

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In addition to increased risks of vehicular accidents, the Draft EIR fails to analyze how traffic and parking impacts posed by the Project will impact the safety and convenience of TIDE Academy students who walk or bike to school. Title 5 of the California Code of Regulations requires that school sites be located within a proposed attendance area that encourages student walking and avoids extensive bussing. (5 Cal. Code Regs. § 14010(l).) To mitigate the impacts of increased traffic in the Bayfront Area, the District has committed to develop and implement a Travel Demand Management Plan. Through this Plan, the District encourages the use of student walking, biking, and other alternative means of student transport to school.⁶ Further, to mitigate the impacts of conflicts and/or dangerous interactions between pedestrians, bicyclists, and vehicles, the District agreed to prepare a “Safe Routes to School Map” that identifies facilities such as traffic lights, crosswalks, and demarcated bikeways that promote safe routes to school.⁷

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The Draft EIR notes the following goals and policies from the City’s General Plan related to the safe promotion of alternative modes of transportation:

- Goal CIRC-1: Provide and maintain a safe, efficient, attractive, user-friendly circulation system that promotes a healthy, safe, and active community and quality of life throughout Menlo Park.
- Goal CIRC-2: Increase accessibility for and use of streets by pedestrians, bicyclists, and transit riders.
- Policy CIRC-2.14. Impacts of New Development. Require new development to mitigate its impacts on the safety...and efficiency...of the circulation system. New development should minimize cut-through and high-speed vehicle traffic on residential streets; minimize the number of vehicle trips; provide appropriate bicycle, pedestrian, and transit

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⁶ Menlo Park Small High School Project Draft EIR (July 8, 2016), p. S-4; The City of Menlo Park’s Comprehensive Bicycle Development Plan (2005) identifies school-aged bicycle commuters as one of the two key bicycle commute groups utilizing the City’s bicycle infrastructure.

⁷ Menlo Park Small High School Project Draft EIR (July 8, 2016), p. S-6.

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connections, amenities and improvements in proportion with the scale of proposed projects; and facilitate appropriate or adequate response times and access for emergency vehicles.

- Policy CIRC-3.4: Level of Service. Strive to maintain level of service D at all City-controlled signalized intersections during peak hours...
- **Policy CIRC-6.4: Employers and Schools. Encourage employers and schools to promote walking, bicycling, carpooling, shuttles, and transit use.**

(Draft EIR at 4.2-17-4.2-19; emphasis added.)

Further, and as noted by the ConnectMenlo EIR (but excluded from the instant Project’s Draft EIR), the City has committed itself to supporting “Safe Routes to School programs to enhance the safety of school children who walk and bike to school” in General Plan Policy CIRC-1.9. (City of Menlo Park General Plan (Nov. 29, 2016), Circulation Element at CIRC-16.)

While the Draft EIR purports to analyze whether the Project complies with the above policies, the Draft EIR does not include adequate information or analysis regarding the transportation needs and patterns of District students, including those attending TIDE Academy. The Draft EIR likewise fails to consider how extreme increases in traffic on roads that are already narrow and crowded will impact the safety of students traveling to and from TIDE Academy. Rather, in assessing whether the Project would be consistent with Policy CIRC-6.4 related to Employers and Schools, the Draft EIR doesn’t even mention schools in simply stating that the “proposed project would develop and implement a TDM plan that includes measures encouraging employers to promote walking, bicycling, carpooling, shuttles, and transit use.” (Draft EIR at 4.2-32.) This analysis is not adequate under CEQA, as it does not provide the public with sufficient information as to whether the Project will comply with the City’s General Plan policies.

The Draft EIR likewise provides only a surface-level analysis regarding the Project’s compliance with other City policies related to the promotion of safe alternative modes of transportation. The Draft EIR notes that there are several existing deficiencies with pedestrian facilities within and in the vicinity of the Project site, including discontinuous sidewalks, crosswalks, and curb ramps, as well as sidewalk gaps. (Draft EIR at 4.2-7.) The Draft EIR also notes that the Project would involve the addition of a small portion of sidewalk intended to encourage the use of pedestrian facilities, and some street lighting along Independence Drive. (Draft EIR at 4.2-30.) However, the analysis completely fails to consider how the probable increase in traffic congestion to the area could exacerbate existing deficiencies with pedestrian facilities, thereby posing severe safety issues to pedestrian use of the Project neighborhood. Contrary to assertions in the Draft EIR, the new criteria established in CEQA Guidelines section 15064.3 for analyzing transportation impacts does not excuse a lead agency from analyzing and mitigating traffic congestion impacts where such impacts may cause significant impacts on air quality, noise, and pedestrian safety. (Pub. Res. Code § 21099(b)(3).)

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The inadequate parking proposed for the Project will also magnify issues related to pedestrian safety. While inadequate parking in and of itself may not be considered a significant impact under CEQA, the Draft EIR is still required to provide sufficient information regarding any secondary impacts that may result from inadequate parking, such as safety impacts to students traveling to and from school. (See, *Covina Residents for Responsible Development v. City of Covina* (2018) 21 CA5th 712, 728.) While the number of parking spaces proposed for the Project would satisfy the City’s Municipal Code requirements, the Draft EIR notes that demand for parking generated by the Project would exceed the proposed supply by at least 37 spaces. (Draft EIR at 4.2-52.) This will result in an increased demand for public parking spaces in the streets surrounding TIDE Academy and the Property, which will in turn lead to more crowded streets and a higher potential for conflicts between vehicles and pedestrians. These secondary impacts on pedestrian and student safety caused by inadequate parking must be analyzed.

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Finally, the Draft EIR’s cumulative traffic impacts analysis is deficient. As noted above, EIRs must discuss cumulative impacts of a project when the project’s effects on the environment, viewed in conjunction with impacts of other past, present, or reasonably foreseeable future projects, is cumulatively considerable. (CEQA Guidelines § 15130(a).) (See, *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 CA4th 713, 720.) While a lead agency may incorporate information from previously prepared program EIRs into the agency’s analysis of a project’s cumulative impacts, the lead agency must address all cumulative impacts that were not previously addressed in the program EIR. (Pub. Res. Code § 21083.3(c); 14 CCR 14183(b)(3).)

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The Project’s above-discussed anticipated traffic and safety impacts on the District, combined with the anticipated traffic and safety impacts of the vast number of development projects that have recently been approved and are being considered for approval in the Bayfront Area, and specifically the western Bayfront Area, are cumulatively considerable. Each of the large mixed-use projects proposed in the Bayfront Area alone promises to drastically increase traffic in the neighborhood, resulting in air quality, noise, and safety issues for District families and staff attending TIDE Academy. When considered together, their collective impacts on traffic, safety, and air quality in the neighborhood will be devastating. All of these impacts are exacerbated by the rapidity at which the City is approving of development projects in the Bayfront Area, as the City’s roadways have not been updated to handle the increase in traffic associated with full buildout under ConnectMenlo. These cumulative impacts on the District’s TIDE Academy were not adequately discussed in the ConnectMenlo EIR or the Project’s Draft EIR.

ii. Air Quality

The Draft EIR analyzes air quality impacts posed by construction and operation of the Project. The Draft EIR further recognizes that the proposed Project would pose a significant environmental impact if it would expose “sensitive receptors,” including schools, to substantial pollutant concentrations. (Draft EIR at 4.3-31.) The Draft EIR does not, however, specifically discuss potential construction and operational air quality impacts as they pertain to the District’s TIDE Academy, and students traveling to and from TIDE Academy. Air quality impacts on the District, its students, and staff have the potential to disrupt classes, prevent students from being

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outside during construction, and prevent students from traveling to and from TIDE Academy during construction. The Draft EIR was, therefore, required to analyze the following:

20. The direct and indirect air quality impacts of the Project on the District's TIDE Academy, including District students, families, and staff walking to and from TIDE Academy.
21. The cumulative air quality impacts on schools and the community in general resulting from increased vehicular movement and volumes expected from additional development already approved or pending in the City and Project neighborhood.

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As the Air Quality impacts discussion does not provide sufficient information needed to analyze air quality impacts on the District's students and TIDE Academy, the discussion of air quality impacts is lacking, and the Draft EIR is not in compliance with CEQA.

iii. Noise

The Draft EIR's analysis of noise impacts generally contains insufficient quantifiable data and analysis that would allow the public and lead agency to understand whether noise and/or vibration generated from either construction or operation of the proposed Project, including in combination with all past, present, and reasonably foreseeable future projects, would cause significant impacts on the District's educational program at TIDE Academy. Noise impacts could disrupt classes, prevent students from being able to be outside due to overwhelming outside noise that would affect teachers' abilities to monitor and direct students because they cannot be heard, and lastly, could affect the interior of buildings students are housed in. For these reasons, the District requested that the following information be discussed and analyzed in the Draft EIR:

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22. Any noise sources and volumes which may affect school facilities, classrooms, and outdoor school areas.

Because the Draft EIR did not include sufficient quantifiable information related to the generation of noise and vibration impacts on TIDE Academy, the Draft EIR fails to serve its informational purpose.

iv. Population and Housing

The District anticipates that this Project will generate many new students, and specifically requested that the Draft EIR analyze:

23. Historical, current, and future population projections for the District.

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Related, the District requested that the following categories of information pertaining to housing be addressed:

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24. The type and number of anticipated dwelling units indirectly resulting from the Project.
25. The average square footage for anticipated dwelling units, broken down by type of unit, indirectly resulting from the Project.
26. The estimated amount of development fees to be generated by development in accordance with implementation of the Project.

The Draft EIR failed adequately to address the above categories of information.

As explained in the Prior Comment Letter, population growth or shrinkage is a primary consideration in determining the impact that development may have on a school district, as a booming population can directly impact the District and its provision of educational services, largely because of resulting school overcrowding, while a district with declining enrollment may depend on new development to avoid school closure or program cuts. Overcrowding can constitute a significant impact within the meaning of the CEQA. (See, Cal. Code Regs., tit.14, §§ 15064(e).) This is particularly true where the overcrowding results in unsafe conditions, decreased quality of education, the need for new bus routes, and a need for new school construction. (See, *Chawanakee*, *supra*, 196 Cal.App.4th 1016.)

The foregoing categories of information are critical for determining the extent of both physical and fiscal impacts on the District caused by increased population growth. As discussed above, California school districts are dependent on developer fees authorized by the provisions of Government Code sections 65995, *et seq.*, and Education Code sections 17620, *et seq.*, for financing new school facilities and maintenance of existing facilities. The developer fees mandated by section 65995 provide the District the bulk of its local share of financing for facilities needs related to development. The adequacy of the statutory development fees to offset the impact of new development on local school districts can be determined only if the types of housing and average square footage can be taken into consideration. For instance, larger homes often generate approximately the same number of students as smaller homes. At the same time, however, a larger home will generate a greater statutory development fee, better providing for facilities to house the student being generated. It is for these reasons that the Government Code now requires a school district to seek – and presumably to receive – such square footage information from local planning departments. (Gov. Code § 65995.5(c)(3).)

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

Phasing of development is also a crucial consideration in determining the extent of impact on schools. The timing of the development will determine when new students are expected to be

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generated, and therefore is an important consideration particularly when considering the cumulative impact of a project in conjunction with other approved or pending development.

The District requests that the Draft EIR be modified to include the above categories of information so that the lead agency, District, and the public may adequately understand the direct and indirect impacts of the Project on the District. (CEQA Guidelines § 15126.2(a) [requires consideration of indirect impacts].)

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IV. SB 50 does not absolve lead agencies of their responsibility to ensure General Plan consistency.

In *Endangered Habitats League v. County of Orange* (2005) 131 Cal.App.4th 777, the Court held that project approvals and findings must be consistent with the lead agency’s general plan, and that the EIR for such a project must provide sufficient information for the lead agency to make an informed decision regarding such consistency. A project is consistent with the general plan if it will further the objectives and policies of the general plan and not obstruct their attainment. (See *Endangered Habitats League, supra*, 131 Cal.App.4th 777, 782, quoting *Corona-Norco Unified School District v. City of Corona* (1993) 17 Cal.App.4th 985, 994.)

Fostering quality education should be a priority to the City. As discussed above, the City’s General Plan includes goals to support “Safe Routes to School programs to enhance the safety of school children who walk and bike to school,” and to encourage schools to promote walking, bicycling, carpooling, shuttles, and transit use. (General Plan at CIRC-16, CIRC-25.) The General Plan also includes Land Use Policy LU-1.7, which states that the City shall “encourage excellence in public education citywide, as well as use of school facilities for recreation by youth to promote healthy living.” (General Plan at LU-19.)

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As discussed at length above, substantial evidence in the record establishes a significant possibility that the Project, in conjunction with all other projects being considered in the Bayfront Area of Menlo Park, by generating thousands of new residents and vehicles to the area within a few years, will have a negative impact on students, education, and educational facilities. These impacts, which were not adequately analyzed in the Draft EIR, will directly impede the fulfillment of the above General Plan policies and goals. The simple payment of developer fees will not adequately mitigate the impacts of development on the District’s schools. Thus, approval of the Project without adopting any feasible measures to address the negative impacts on schools would be contrary to the City’s General Plan.

V. The proposed mitigation measures are inadequate to reduce the impacts related to schools to a less than significant level.

Based on the deficiencies of the Draft EIR described above, it is District’s position that the Draft EIR’s conclusion that payment of school impact fees will mitigate school impacts to a less than significant level is inaccurate. Since the Draft EIR is lacking in detailed discussion and analysis of existing and projected Project conditions, taking into account both the impact *on* school facilities and the impacts *related to* schools, the City cannot accurately reach the conclusion that

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developer fees are adequate to mitigate the Project’s school impacts because all impacts have not been evaluated.

Furthermore, the Draft EIR’s conclusion that SB 50 limits the City’s ability to prescribe other types of school mitigation for the Project is unsupported by law. Rather, under the Government Code, the City has a duty to coordinate with the District to provide effective school site planning. The City should consider alternative mitigation measures, such as those proposed below, to fulfill that duty.

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A. The Legislature Intended Coordinated Planning for School Sites

Government Code sections 65352 and 65352.2 (all subsequent code sections refer to the Government Code unless otherwise specified) require local cities and counties to coordinate planning of school facilities with school districts. The Legislature confirmed that the parties are meant to coordinate “[o]ptions for the siting of new schools and whether or not the local city or counties existing land use element appropriately reflects the demand for public school facilities, and ensures that new planned development reserves location for public schools in the most appropriate locations.”

The Legislature recognized that new planned development should take into consideration and even “reserve” where schools would be located to serve the development because schools are as integral a part of planning for new development as is any other public service, such as fire, police, water and sewer. As it relates to this case, the intent behind sections 65350, *et seq.*, supports the District’s position that the City must analyze whether the District’s current facilities are adequate to accommodate and serve both its existing population and the new development, particularly in light of the Project impacts and cumulative factors addressed in this letter. The City can help the District provide adequate facilities resulting from any impacts of the Project, which are not addressed by developer fees, by requiring alternative mitigation measures to assure that there are adequate school facilities available to accommodate the District’s needs.

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B. Alternative Mitigation Measures

District proposes the following possible alternative mitigation measures to address impacts related to schools, each of which begin to address the actual school related impacts discussed above.

1. Land Dedication

One possible mitigation method would be for the City to consider adopting findings requiring any developer building as part of the development allowed by the Project to dedicate land and/or funding pursuant to Government Code sections 65970, *et seq.*, which permit the City to require a developer to dedicate land to a school district.

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Section 65974 specifically states that “for the purpose of establishing an interim method of providing classroom facilities where overcrowded conditions exist, . . . a city, county, or city and county may, by ordinance, require the dedication of land, the payment of fees in lieu thereof, or a

combination of both, for classroom and related facilities for elementary or high schools as a condition to the approval of a residential development.” Nothing in SB 50/Government Code section 65996 precludes this approach. Land dedication is a permissible mitigation measure under Government Code sections 65995, et seq. Section 65995(a) specifically states that “[e]xcept for a fee, charge, dedication, or other requirement authorized under Section 17620 of the Education Code, or pursuant to Chapter 4.7 (commencing with Section 65970), a fee, charge, dedication or other requirement for the construction or reconstruction of school facilities may not be levied. . . .” (Emphasis added.) Section 65995 expressly excludes Chapter 4.7, inclusive of section 65974, from this limitation, thus permitting a city to address conditions of overcrowding in school facilities or inadequately sized school sites by requiring, for example, the dedication of land.

A land dedication requirement would be good public planning benefiting all residents of the community, including future residents of the Project. Land suitable for new school facilities in Menlo Park is already extremely scarce; it will only become more so if the Project is implemented and further development occurs. Under Government Code sections 65352 and 65352.2, the City has a duty to help plan for adequate services to its residents by ensuring that future sites are set aside for schools. Failure to do so leads to inadequate services, future controversies, and the potential need for a school district to exercise its rights under eminent domain, displacing existing residents. Therefore, mitigation for the impacts stemming from the Project that are not considered in the Draft EIR are and can be made available even after SB 50.

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2. Phasing

Another method by which the City can work cooperatively with the District within all legal constraints to ensure adequate school facilities with regard to new development allowed by the Project, and which therefore can serve as an appropriate mitigation measure, is the requirement that all future development be phased, including all future development contemplated by ConnectMenlo. Timing development so as to balance the availability of school facilities with new development can significantly aid the District in its attempt to provide for the additional students who will be generated as a result of the Project and development following approval of the Project. Such phasing is not a denial of new development on the basis of insufficient school facilities in contravention to SB 50; it is instead appropriate planning to offset the impacts of new development.

VI. Conclusion

Recirculation is required when the new information added to an EIR discloses: (1) a new substantial environmental impact resulting from the project or from a new mitigation measure proposed to be implemented (CEQA Guidelines § 15162 (a)(1), (3)(B)(1)); (2) a substantial increase in the severity of an environmental impact unless mitigation measures are adopted that reduce the impact to a level of insignificance (CEQA Guidelines, § 15162 (a)(3)(B)(2)); (3) a feasible project alternative or mitigation measure that clearly would lessen the environmental impacts of the project, but which the project's proponents decline to adopt (CEQA Guidelines §15162 (a)(3) (B)(3), (4)); or (4) that the draft EIR was so fundamentally and basically inadequate and conclusory in nature that public comment on the draft was in effect meaningless

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(Mountain Lion Coalition v. Fish & Game Com. (1989) 214 Cal.App.3d 1043); Laurel Heights Improvement Assn. v. Regents of University of California (1993) 6 Cal.4th 1112, 1130, as modified on denial of reh'g (Feb. 24, 1994).)

In this case, as with the Draft EIR prepared for the Menlo Uptown Project, it is the District's position that the Draft EIR is incomplete, and does not adequately analyze the Project's potential impacts related to schools, and mitigation measures that would lessen these impacts. The safety of its students is paramount to the District, and its safety concerns are not adequately addressed in the Draft EIR as currently constituted. Changes must be made to preserve the safety of the children and allow them to enjoy productive time at school, free from excessive traffic, noise, and pollution. Therefore, the District demands that the Draft EIR be updated and recirculated.

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cont.

District encourages the City and Developer to work cooperatively with the District and consider alternative mitigation measures, such as phasing and land dedication, which can assist in adequately mitigating the impacts on the District's schools and the affected surrounding environment.

Sincerely,

LOZANO SMITH



Bradley R. Sena

BRS/mag

Enclosure

cc: Crystal Leach, Interim Superintendent (cleach@seq.org)



Comment
Letter
A1
Attach.

Kelly M. Rem
Attorney at Law

E-mail: krem@lozanosmith.com

July 15, 2019

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

Ms. Kaitie M. Meador, Senior Planner
City of Menlo Park
Community Development Department, Planning Division
701 Laurel Street
Menlo Park, CA 94025

Re: [Response of Sequoia Union High School District to Notice of Preparation of an Initial Study and Environmental Impact Report for the 111 Independence Drive Project](#)

Dear Ms. Meador:

This office represents Sequoia Union High School District (“District”). On behalf of the District, we are hereby submitting comments regarding the Notice of Preparation of the Initial Study and Environmental Impact Report (“NOP”) regarding the focused environmental impact report (“EIR”) that the City of Menlo Park (“City”) plans to prepare for the project located at 111 Independence Drive, Menlo Park, California (“Project”). Specifically, this letter responds to the City’s invitation to submit comments on the proposed scope and content of the focused EIR. The District previously submitted written comments highlighting some of the District’s concerns regarding both this Project and the Commonwealth: Building 3 project, both of which are located within the vicinity of the District’s TIDE Academy. The District requests that these and other projects in that vicinity be considered cumulatively, since their already significant individual impacts have the potential to create substantial problems for the District when combined with one another.

According to the NOP, the proposed Project, sponsored by SP Menlo, LLC (“Developer”), consists of the demolition of an existing single-story, 15,000-square foot (“sf”) office building, and the construction of a new eight-story, 145,350 sf, and 105-unit multi-family residential building with an integrated multi-story and above-grade parking structure on an approximately one-acre site. The Project includes the maximum density permitted at the site through bonus level development, and 115 parking stalls, which is just shy of the maximum parking stalls allowed per unit based on the Project site’s R-MU-B zoning designation. The Project is located approximately 0.25 miles north of the District’s TIDE Academy, located at 150 Jefferson Drive, Menlo Park.

Limited Liability Partnership

2001 North Main Street, Suite 500 Walnut Creek, California 94596 Tel 925-953-1620 Fax 925-953-1625

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The District submits these comments in order to preserve its concerns regarding the proposed scope and content of the focused EIR. Below are specific scoping requests for the EIR, which the City must address in the focused EIR to evaluate adequately the potential environmental impacts of the Project on the District.

Transportation/Circulation/Traffic Analysis

- 1. Describe the existing and the anticipated vehicular traffic and student pedestrian movement patterns to and from school sites, including consideration of bus routes.**
- 2. Assess the impact(s) of increased vehicular movement and volumes, including potential conflicts with school pedestrian movement, school transportation, and busing activities.**
- 3. Estimate travel demand and trip generation, trip distribution and trip assignment by including consideration of school sites and home-to-school travel.**
- 4. Assess cumulative impacts on schools and the community in general resulting from increased vehicular movement and volumes expected from additional development already approved or pending.**
- 5. Discuss the direct, indirect, and cumulative impacts on the circulation and traffic patterns in the community as a result of traffic generated by the transportation needs of students to and from the Project and schools throughout the District during the Project build-out.**
- 6. Assess the impacts on the routes and safety of students traveling to school by vehicle, bus, walking, and bicycles.**

The District has significant concerns about the traffic, transportation, and circulation impacts that the Project may have on the District, including the District's staff, parents, and students that attend the TIDE Academy. The foregoing categories of information are critical for determining the extent of those impacts on the District.

Any environmental analysis related to the proposed Project must address potential effects related to traffic, noise, air quality, and any other issues affecting schools. (Pub. Resources Code, §§ 21000, *et seq.*; Cal. Code Regs., tit. 14, §§ 15000, *et seq.*; *Chawanakee Unified School District v. County of Madera, et al.*, (2011) 196 Cal.App.4th 1016.) Additionally, specifically related to traffic, there must also be an analysis of safety issues related to traffic impacts, such as reduced pedestrian safety, particularly as to students walking or bicycling to and from TIDE Academy; potentially reduced response times for emergency services and first responders traveling to TIDE Academy; and increased potential for accidents due to gridlock during school drop-off and pick up hours. (See, Journal of Planning Education and Research, "Planning for Safe Schools:

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Impacts of School Siting and Surrounding Environments on Traffic Safety,” November 2015, Chia-Yuan Yu and Xuemei Zhu, pg. 8 [Study of traffic accidents near Austin, Texas schools found that “[a] higher percentage of commercial uses was associated with more motorist and pedestrian crashes” around schools].)

As discussed, the District’s TIDE Academy is located just north of the Project’s site. The Project site’s neighborhood is one of the most heavily traversed areas in the City of Menlo Park. The Project site is bordered by Bayfront Expressway (State Route 84) on the north, the Dumbarton rail corridor on the east, U.S. Highway 101 on the south, and Marsh Road on the west. Marsh Road is an arterial or collector roadway that connects major activity centers in Menlo Park, Atherton, and Redwood City. Further, the Project site is located in the Bayfront Area of Menlo Park that has experienced a drastic impact in traffic over the last ten to fifteen years as the City has continued to approve of newer, corporate campuses and mixed biotechnology, commercial, office, and residential land uses. The City’s 2016 General Plan Update calls for an increase of 4.7 million square feet of non-residential office space, 850 hotel rooms, 5,430 residential units, 13,960 residents, and 20,150 employees, all within the Bayfront Area.¹ The General Plan Update Draft EIR concluded that the General Plan Update would result in significant and unavoidable impacts to roadway segments and increase peak hour delays at intersections from increased traffic, even after the mitigation measures called for in the General Plan Update are implemented (if ever).²

Adding to the District’s concerns regarding traffic surrounding the Project site and the TIDE Academy are the number of development projects that have recently been approved by the City and/or completed in the area, including Buildings 1 and 2 on the Commonwealth Corporate Center, the Facebook Campus Project at former 1601 Willow Road and 312 and 313 Constitution Drive (78.9 acres of mixed use development), and the Menlo Gateway Project at 100-190 Independence Drive (cafe/restaurant, health club, 230-room hotel, three office and research and development buildings, and three parking structures covering 15.9 acres). There are several other projects that are being considered by the City, including the Facebook Campus Expansion Projects at 301-309 Constitution Drive, the Menlo Uptown Project at 141 Jefferson Drive and 180-186 Constitution Drive (483 multi-family dwelling units), and Commonwealth Building 3 Project (249,500 sf office space and 324,000 sf parking structure), all of which promise to drastically increase traffic in the neighborhood. **Given the magnitude of development being considered and approved in this area, the District maintains that a focused EIR is inappropriate and in conflict with the letter and spirit of CEQA.** Please see our separate letter related to the Commonwealth: Building 3 project, which was submitted to the City on June 28, 2019. All of these various projects located within the vicinity of TIDE threaten to have significant impacts, both individually and cumulatively, on the students attending TIDE, as well as District staff.

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

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

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Construction of the Project will severely exacerbate the already stifling traffic in the neighborhood and the safety issues posed thereby. In addition to drawing hundreds of additional residents, visitors, and emergency vehicles into the area, as currently planned, the Project site only has one point of vehicular ingress and egress: the driveway connected to Independence Drive. This will inevitably lead to congestion along Independence Drive as all residents and visitors to the new apartment complex will drive along the same narrow, two-lane road to enter and exit the apartment complex on a daily basis. Further, to access the Project site, residents and visitors will often turn right onto Independence Drive from Marsh Road. This turn is extraordinarily dangerous as it requires the driver essentially to complete a 180 degree turn with no visibility of the cars and/or people walking and/or driving on Independence Drive.

The traffic and safety impacts posed by the Project, combined with all the other City-approved development in the area, will severely impact the safety and convenience of TIDE Academy students who walk or bike to school. To mitigate the impacts of increased traffic in the Project site neighborhood in implementing the District's TIDE Academy project, the District committed to develop and implement a Travel Demand Management Plan. Through this Plan, the District encourages the use of student walking, biking, and other alternative means of student transport to school.³ To mitigate the impacts of conflicts and/or dangerous interactions between pedestrians, bicyclists, and vehicles, the District agreed to prepare a "Safe Routes to School Map" that identifies facilities such as traffic lights, crosswalks, and demarcated bikeways that promote safe routes to school.⁴ The Project would undermine the District's abilities to implement its transportation and safety mitigation measures for the TIDE Academy, endangering students, parents, and visitors to the school.

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

Noise

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

It is expected that noise from construction and operation of the Project will cause impacts on the District's educational program at the TIDE Academy. Request No. 7 is intended to clarify that the EIR's consideration of noise issues take into account all of the various ways in which noise may impact schools, including increases in noise levels in the immediate vicinity of TIDE Academy.

Population

³ Menlo Park Small High School Project Draft EIR (July 8, 2016), p. S-4

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

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8. Describe historical, current, and future population projections for the District.

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

Housing

- 9. Describe the type and number of anticipated dwelling units indirectly resulting from the Project.**
- 10. Describe the average square footage for anticipated dwelling units, broken down by type of unit, indirectly resulting from the Project.**
- 11. Estimate the amount of development fees to be generated by development in accordance with implementation of the Project.**

The foregoing categories of information are critical for determining the extent of both physical and fiscal impacts on the District caused by increased population growth. California school districts are dependent on developer fees authorized by the provisions of Government Code Sections 65995, *et seq.*, and Education Code sections 17620, *et seq.*, for financing new school facilities and maintenance of existing facilities. The developer fees mandated by Section 65995 provide the District the bulk of its local share of financing for facilities needs related to development.

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

While the foregoing funding considerations are fiscal issues, they translate directly into physical, environmental impacts, in that inadequate funding for new school construction can result in

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overcrowding of existing facilities. Furthermore, fiscal and social considerations are relevant to an EIR, particularly when they either contribute to or result from physical impacts. (Pub. Resources Code § 21001(g); Cal.Code Regs., tit.14, §§ 15021(b), 15131(a)-(c), 15142 & 15382.)

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

Conclusion

The District is not anti-development. However, the needs of the District must be appropriately considered in the environmental review process for all proposed new development that will impact the District, such as the Project. The District is hopeful that it will be able to collaborate with the Developer and the City in order to identify and propose solutions that alleviate the impacts caused by Developer's Project, and is prepared to provide any information necessary to assist the City in preparation of the EIR and in addressing each of the comment and scope/content issues set forth above.

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

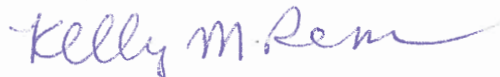
Mary E. Streshly, Superintendent
Sequoia Union High School District
480 James Avenue
Redwood City, CA 94062

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

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

Sincerely,

LOZANO SMITH



Kelly M. Rem

KMR/mag

cc: Mary E. Streshly, Superintendent (mstreshly@seq.org)

LETTER A1

Lozano Smith, Attorneys at Law
On Behalf of the Sequoia Union High School District
Kelly R. Rem
February 2, 2021

- Response A1-1: This introductory comment states that the commenter represents the Sequoia Union High School District (SUHSD) and summarizes the commenter's general opinion that the Draft EIR does not comply with the California Environmental Quality Act (CEQA) and does not adequately evaluate potential impacts to and related to schools. Further, this comment requests recirculation of the Draft EIR. As will be discussed more detailed responses to substantive comments below in Responses A1-2 through A1-23, recirculation is not required because the Draft EIR adequately analyzed potential environmental impacts pursuant to CEQA's legal requirements.
- Response A1-2: The City received the July 15, 2019, comment letter submitted by Lozano Smith, Attorneys at Law, on behalf of SUHSD in response to circulation of the Notice of Preparation (NOP). This letter is included in Appendix A, NOP and Comment Letters of the Draft EIR, and is reproduced as an Attachment to Letter A1 in this Response to Comments (RTC) Document. The commenter expresses the opinion that the concerns listed in Attachment to Letter A1 were not adequately addressed in the Draft EIR. As stated on page 1-2 of the Draft EIR, comments received by the City – including the SUHSD comment letter – were considered during preparation of the EIR; in response to receipt of said comments, analysis was undertaken and included in the Draft EIR. Many of the comments in the Attachment to Letter A1 are repeated in the SUHSD's comment letter on the Draft EIR and will be responded to in detail below in Responses A1-3 through A1-23.
- Response A1-3: This comment expresses the opinion that the Draft EIR does not meet its purpose as an informational document because the environmental setting as presented in the Draft EIR is inadequate as it relates to schools. The comment also generally describes the location, enrollment, and capacity of SUHSD facilities.
- The applicable environmental setting, including surrounding land uses, is discussed on pages 3-2 through 3-3 in Chapter 3.0, Project Description of the Draft EIR. In addition, as discussed in Section 4.0, Setting, Impacts, and Mitigation Measures each topical section of the Draft EIR begins with a description of the applicable physical setting for the project site and its surroundings in Menlo Park (Draft EIR, page 4-6). Applicable information provided in the certified ConnectMenlo Final EIR (refer to Response A1-4, below), from which the environmental analysis for the proposed project

tiers, as applicable, is also provided in each topical section. The Draft EIR discusses the proximity of applicable SUHSD facilities, which includes TIDE Academy, as it relates to potential impacts of the project within the impact categories identified for further analysis in the Draft EIR – specifically – Sections 4.3, Air Quality and 4.5, Noise. As discussed in these sections, TIDE Academy is located approximately 1,400 feet east of the project site, and is considered a sensitive receptor for purposes of the air quality and noise analyses. The TIDE Academy’s status as a sensitive receptor and the analysis is constant regardless of enrollment numbers or educational programming. As discussed on pages 4.3-31 through 4.3-40 in Section 4.3, Air Quality and pages 4.5-13 through 4.5-15 in Section 4.5, Noise of the Draft EIR, potential construction- and operation-period impacts to sensitive receptors, which include the TIDE Academy, would be less than significant and mitigation would not be required. In addition, as discussed in Section 4.2, Transportation of the Draft EIR, all impacts related to transportation and circulation would be less than significant and mitigation would not be required. Specifically, as it relates to proximity of the TIDE Academy, the proposed project would not conflict with any applicable plans, ordinances, or policies addressing components of the circulation system (pages 4.2-29 through 4.2-34 of the Draft EIR) and would not substantially increase design hazards (pages 4.2-38 through 4.2-39 of the Draft EIR). For additional discussion regarding project impacts associated with transportation, air quality, and noise as these conditions relate to SUHSD facilities, refer to Responses A1-9 through A1-17. Also refer to Responses A1-7, A1-9, and A1-16, which address cumulative impacts.

Response A1-4 further addresses tiering from the program level of analysis provided in the ConnectMenlo Final EIR and why impacts to public services – including schools – was determined to be less than significant and why this topic was scoped out of the analysis included in the Draft EIR, via the Initial Study.

Response A1-4:

This comment states that the Draft EIR inappropriately relies on information, analysis, and mitigation measures contained in the ConnectMenlo Final EIR because that document assumed buildout would occur incrementally over an approximately 24-year horizon and, if all development applications on file are approved, the full development potential of the Bayfront Area will be reached sooner than anticipated. This comment further states that the accelerated buildout horizon would result in a rapid influx of students to SUHSD facilities that are already at or exceeding capacity, impacting the SUHSD’s ability accommodate increased enrollment and posing a number of related environmental impacts.

Pages 3-11 through 3-12 of the Draft EIR provide an overview of the ConnectMenlo Final EIR and its purpose as a programmatic level

environmental document. The ConnectMenlo Final EIR was certified in 2016 and serves as the first tier of analysis for any project that fits within the program level of development analyzed in the Final EIR, which serves to streamline future environmental review of subsequent development projects. The proposed 111 Independence Drive Project is a subsequent project that fits within the scope of the ConnectMenlo Final EIR, as it represents approximately 2.33 percent of the citywide growth projected to occur under implementation of ConnectMenlo (page 4.1-10 of the Draft EIR). The Draft EIR and the Initial Study (Appendix B of the Draft EIR) prepared for the proposed project tier from the programmatic level of analysis provided in the ConnectMenlo Final EIR where appropriate, and also provide an independent project-specific level of environmental review, where circumstances have or may have changed such that new or more severe impacts could occur compared to the impacts identified in the ConnectMenlo Final EIR. As further described below, the proposed project is within the scope of analysis provided in the ConnectMenlo Final EIR and impacts to public services, including schools, are appropriately considered and addressed in the Initial Study prepared for the proposed project and were properly scoped out from further analysis in the Draft EIR.

Further, as stated on page 4-3 of the ConnectMenlo Draft EIR, while it is reasonable to assume that future development in the study area would occur incrementally or gradually over the 24-year buildout horizon (e.g., 2016 to 2040), this assumption does not prohibit or restrict when development can occur over the horizon period. The analysis and impact conclusions in the ConnectMenlo Final EIR do not rely on the assumption that development would occur over an incremental 24-year period, and that project impacts would not occur or be less than significant because impacts would be spread out over time. Although in some cases the ConnectMenlo Final EIR does state that impacts could be *further* reduced due to the anticipated incremental pace of development, in no case does this assumption form the basis for determining whether or not an impact could be potentially significant in either the ConnectMenlo Final EIR or the Draft EIR prepared for the proposed project.

Potential environmental impacts of implementation of ConnectMenlo related to schools, both citywide and within the Bayfront Area, were addressed in the ConnectMenlo Draft EIR, in Section 4.12.4, Schools, pages 4.12-27 through 4.12-42; impacts specific to the SUHSD are discussed on pages 4.12-39 through 4.12-40. As discussed on page 4.12-40 of the ConnectMenlo Draft EIR, impacts to SUHSD facilities were determined to be less than significant due to a number of factors. Specifically, future development under ConnectMenlo, as part of the City's project approval process, would be required to comply with existing regulations, including the General Plan policies and Zoning regulations that have been prepared to

minimize impacts related to schools. The City, throughout the 2040 buildout horizon, would implement the General Plan programs that require working with school districts to promote excellence in schools, the analysis of the potential fiscal impact of development on school districts, and the relationship between new housing and school capacity. Furthermore, the ConnectMenlo Final EIR determined that implementation of ConnectMenlo could help to provide additional funding to support enhanced school services. For these reasons, impacts to school facilities were determined to be less than significant. The ConnectMenlo Final EIR impact conclusion related to this topic then goes on to state that for these reasons, *and* because the development potential would occur incrementally over a 24-year period and would be subject to the mandatory payment of developer impact fees pursuant to SB 50, implementation of ConnectMenlo would result in a less than significant impact related to school facilities. The commenter omits a portion of this discussion from the quotation provided from page 4.12-40 of the ConnectMenlo Final EIR. The impact conclusion thus does not rely on the assumption that impacts to schools would be less than significant due to the incremental phasing of development over the 24-year buildout horizon. Rather, as described above, impacts would be less than significant and would be *further* reduced due to the anticipated incremental pace of development.

The Initial Study (Appendix B to the Draft EIR) prepared for the proposed project evaluated potential impacts on school facilities that could occur with development of the proposed project and properly tiers from the analysis and conclusions in the ConnectMenlo Final EIR. As stated on page 3-41, the Initial Study analysis found that:

“because the proposed project would comply with existing regulations prepared to minimize impacts related to schools and would be subject to the mandatory payment of developer impact fees pursuant to SB 50, the proposed project would have a less-than-significant impact related to the need for remodeled or expanded school facilities.”

As stated on page 4.12-39 of the ConnectMenlo Draft EIR, approximately 1,097 new SUHSD students are anticipated to be generated with implementation of ConnectMenlo, of which the proposed project’s contribution would be approximately 5.4 percent (105 units at a student generation rate of 0.56 students per multi-family dwelling unit, or 59 students, per student generation calculations in ConnectMenlo Draft EIR Table 4.12-12). This is a conservative calculation given that 15 of the total units would be studios and 79 units would be one-bedroom units (94 of the total 105 units), each of which are unlikely to generate 0.56 high school students per unit.

As discussed in the ConnectMenlo Draft EIR, the Menlo-Atherton High School, which is operated by the SUHSD, was operating above capacity during the 2014/2015 school year, which was the most recent school year enrollment data available at the time that the ConnectMenlo Final EIR was prepared. At that time, capacity was exceeded by approximately 28 students; the commenter states in Comment A1-3 that capacity at this school is currently exceeded by approximately 200 students. Further, according to the commenter, enrollment at TIDE Academy is expected to exceed capacity by the 2023/2024 school year. TIDE Academy was not yet constructed or operational at the time that the ConnectMenlo Final EIR was prepared; however, the new high school was contemplated at the time and discussed in the ConnectMenlo Final EIR. The commenter states, partially in this comment and in Comment A1-3, that due to the pace of development occurring under ConnectMenlo, SUHSD facilities will be impacted due to increases in enrollment that will further exacerbate capacity issues at schools serving the project area. These comments and the additional information related to ongoing capacity issues at SUHSD facilities are noted.

However, despite concerns raised by the commenter regarding SUHSD capacity issues, the findings of the ConnectMenlo Final EIR and the Draft EIR (including the Initial Study) prepared for the proposed project remain valid. As noted on page 3-30 of the ConnectMenlo Draft EIR, the proposed project is required to conduct a fiscal impact analysis, in compliance with General Plan Policy LU-4.7, which requires mixed-use projects of a certain minimum scale to include analysis of the potential impact on City, school districts, and special districts. The fiscal impact analysis conducted for the proposed project will be considered by City decision makers when taking final action on project approval. The City may, but is not required to, impose conditions of approval to provide additional payment to service providers. Further, as stated on page 4.12-35 of the ConnectMenlo Draft EIR:

“the California State Legislature, under Senate SB 50, has determined that payment of school impact fees shall be deemed to provide full and complete school facilities mitigation. All new developments proposed pursuant to the adoption of the proposed project will be required to pay the school impact fees adopted by each school district. According to California Government Code Section 65995(3)(h), the payment of statutory fees is “deemed to be full and complete mitigation of the impacts of any legislative or adjudicative act, or both, involving, but not limited to, the planning, use, or development of real property, or any change in governmental organization or reorganization...on the provision of adequate school facilities.”

These fees are intended to provide school districts with the funds to plan for and accommodate expanding enrollment within their service areas and are considered full and complete mitigation for potential impacts to school services that could occur as a result of new development, such as the proposed project. As discussed on page 4.12-35 of the ConnectMenlo Final EIR, SUHSD is eligible to levy Level 1 development impact fees on new residential and commercial development and, per Comment A1-8 below, SUHSD is entitled to 40 percent of the total \$4.08 per square foot of residential development and \$0.66 per square foot of commercial development fee. Therefore, SUHSD assesses fees of \$1.63 per square foot of residential space and \$0.26 per square foot of nonresidential space. With approximately 145,679 square feet of residential space and 746 square feet of nonresidential space, the proposed project would pay approximately \$237,650 in fees to SUHSD.¹ Payment of these fees would be full and complete mitigation pursuant to SB 50 and would be required prior to issuance of a building permit. A fiscal impact analysis was conducted for the proposed project and determined that there would be a slight (\$160,911) negative fiscal impact on the SUHSD equal to 0.13 percent of the SUHSD 2019-2020 Unrestricted General Fund budget. Further, it should be noted that payment of fees would occur with the pace of development and issuance of building permits for each development project that would generate new students (i.e., residential and commercial projects). Therefore, with buildout of ConnectMenlo occurring sooner than the buildout horizon projected in the ConnectMenlo Final EIR, payment of mitigation fees would be accelerated in a linear fashion, such that the SUHSD would collect these fees sooner than previously anticipated. Furthermore, the proposed project is not anticipated to be constructed and operational until 2024, approximately three years from the date of preparation of the 111 Independence Drive Project Final EIR. This timeframe would allow the SUHSD the opportunity to plan for student enrollment increases.

Refer to Responses A1-9 through A1-16 regarding project impacts related to traffic, transportation, safety, air quality, and noise, which were adequately analyzed in the Draft EIR. Also refer to Responses A1-7 and A1-9 regarding cumulative impacts. This comment does not provide evidence that the analysis is inadequate, that there would be any new significant impacts not addressed in the Draft EIR, or that impacts would be substantially more severe than those identified in the Draft EIR.

Response A1-5: This comment states that the ConnectMenlo Final EIR did not consider program or project-specific impacts to the TIDE Academy because the

¹ If credits are applied for the existing use on the site, this fee could be slightly reduced. In addition, this estimated fee is based on the current square footage of the proposed project and may be adjusted at the time the fee is levied and prior to issuance of the building permit.

school was not yet contemplated at the time that the ConnectMenlo Final EIR was prepared.

As stated in Response A1-4, construction of a new school within the SUHSD attendance boundaries, and specifically within Menlo Park, was contemplated in the ConnectMenlo Final EIR (refer to page 4.12-34 of the ConnectMenlo Draft EIR); however, the exact location and enrollment of the facility was unknown at the time. According to SUHSD, this high school was planned to accommodate expanding enrollment growth, which the proposed project would contribute to, within this area of the City. According to Comment A1-4, TIDE Academy's first year of operation was for the 2019/2020 school year and current enrollment is 103 students, with a total capacity of 400 students. The commenter states that the school's capacity will be exceeded by the 2023/2024 school year, the year for which the proposed project is expected to be operational; however, it is unclear what this projection is based on and whether or not it includes buildout of ConnectMenlo, which was evaluated in the ConnectMenlo Final EIR, certified in 2016. The proposed project's overall contribution to enrollment at TIDE Academy, if all students were to attend this school, would be approximately 15 percent of total enrollment (conservatively assuming the proposed project would generate 59 new high school students; refer to Response A1-4). However, if the TIDE Academy cannot accommodate these students, even though the school was contemplated and constructed to serve anticipated growth within this area of the City, students could be dispersed throughout the SUHSD's attendance area, as needed. Also refer to Response A1-4 and A1-6.

Finally, as further explained in the following responses, the location of the TIDE Academy, and its designation as a sensitive receptor within the vicinity of the project site, was evaluated throughout the Draft EIR. Refer to Responses A1-9 through A1-16 regarding project impacts related to traffic, transportation, safety, air quality, and noise, which were adequately analyzed in the Draft EIR.

This comment does not provide evidence that the analysis is inadequate, that there would be any new significant impacts not addressed in the Draft EIR, or that impacts would be substantially more severe than those identified in the Draft EIR.

Response A1-6:

This comment generally states that the certified ConnectMenlo Final EIR, and subsequently the Initial Study and Draft EIR prepared for the proposed project, did not adequately analyze potential impacts to schools and that implementation of the proposed project will adversely impact operations of TIDE Academy and other SUHSD facilities. Refer to Responses A1-4 and A1-9 through A1-16 regarding project impacts related to traffic, transportation, safety, air quality, and noise, which were adequately analyzed in the Draft EIR.

In addition, the commenter provides a list of additional data requested for further consideration; however, the list provided does not include environmental impacts required to be analyzed by CEQA in the EIR. As stated in Response A1-4, the proposed project fits within the scope of the development assumptions and analysis provided in the certified ConnectMenlo Final EIR, and the Initial Study and Draft EIR appropriately tier from this program-level of environmental review. The SUHSD reports concerns regarding the capacity for SUHSD facilities to accommodate the cumulative growth from potential future residential developments in the SUHSD, including the proposed project, though projected future decreases in SUHSD enrollment may offset existing capacity constraints prior to the completion of the proposed project. The schools that serve the project site are the newly-completed TIDE Academy and Menlo-Atherton High School, which have a total capacity of 400 and 2,600 students, respectively. As of the 2019-2020 school year, enrollment in these schools totaled 103 and 2,433 students, respectively, though the enrollment at TIDE Academy reflected the school's first year of operations and is therefore not necessarily indicative of longer-term capacity at the school site. These figures suggest that the SUHSD may currently have capacity to accommodate the estimated enrollment growth attributable to the proposed project. In addition, the SUHSD's FY 2020-21 Budget Plan shows projected decreases in enrollment, with a small decrease starting in 2020 and more significant decreases in following years. Overall, the enrollment projections show a decrease of 1,165 students between 2019 and 2025, which could create the capacity necessary to accommodate growth from the proposed project as well as other future residential developments in the SUHSD enrollment area, though this capacity will be spread across all SUHSD schools rather than just the two the serve the project site.

Please see Response A1-4, which supports the Initial Study conclusion that the proposed project would not require or result in the construction of new or physically altered SUHSD facilities. This comment does not provide evidence that the analysis is inadequate, that there would be any new significant impacts not addressed in the Draft EIR, or that impacts would be substantially more severe than those identified in the Draft EIR.

Response A1-7:

This comment states that the Initial Study and Draft EIR fail to analyze the cumulative impacts to public services that could result from implementation of the proposed project, in conjunction with other projects that would be developed in the vicinity of the site. However, it should be noted that, by its very nature, the program-level of review provided in the ConnectMenlo Final EIR considers cumulative impacts of development on SUHSD facilities. The cumulative analysis included on page 4.12-42 of the ConnectMenlo Draft EIR states that the number of students generated by ConnectMenlo in

each district appears to be consistent with enrollment trends and planned school facility expansions.

Further, the cumulative analysis context applicable to the proposed project is described on pages 4-2 through 4-5 of the Draft EIR, and cumulative impacts, including impacts to sensitive receptors such as the TIDE Academy, are evaluated within each topical section of the Draft EIR, as appropriate. The cumulative list of projects was identified in December 2019, which as explained on page 4-3 of the Draft EIR, is the time that the EIR analysis was initiated. The 123 Independence Drive Project, which the commenter notes in a footnote to this comment was as omitted from the cumulative project list, was not proposed at the time that the EIR analysis was initiated or at the time that the NOP was issued, which is the time for which the environmental baseline is established. The 123 Independence Drive Project will be required to undergo separate and independent environmental review. The City acknowledges that the buildout potential envisioned and analyzed in the ConnectMenlo Final EIR is reaching capacity and that future projects may no longer appropriately tier from this program EIR. As such, a comprehensive EIR is being prepared to evaluate the potential impacts of the 123 Independence Drive project. The cumulative analysis included in the 123 Independence EIR will consider the 111 Independence Drive Project, as well as other approved and pending future projects within the Bayfront Area of the City that are identified at the time that the NOP is published for that EIR. This EIR will also independently evaluate that project's potential impact to school facilities.

Also refer to Response A1-4 and Responses A1-9 and A1-16 regarding cumulative impacts. This comment does not provide evidence that the analysis is inadequate, that there would be any new significant impacts not addressed in the Draft EIR, or that impacts would be substantially more severe than those identified in the Draft EIR.

Response A1-8:

This comment expresses the opinion that the Draft EIR does not adequately discuss "school related" impacts and instead relies on the payment of fees to mitigate environmental impacts related to schools. This assumption is incorrect. In no case does the Draft EIR make the claim that payment of school development fees constitutes mitigation for all impacts that could be caused by development, particularly those related to traffic, noise, biological resources, air quality, pedestrian safety, and other impacts "related" to schools, including SUHSD facilities. A description of required development fees and the relationship to the analysis in the ConnectMenlo Final EIR and Draft EIR (including the Initial Stud) is provided in Response A1-4. As discussed throughout the Draft EIR and as further explained in Responses A1-9 through A1-17 below, potential impacts to school facilities

(which are sensitive receptors) located within the vicinity of the project site are considered and were determined to be less than significant.

This comment does not provide evidence that the analysis is inadequate, that there would be any new significant impacts not addressed in the Draft EIR, or that impacts would be substantially more severe than those identified in the Draft EIR.

Response A1-9:

The commenter suggests that the Draft EIR does not provide sufficient information or adequately analyze issues related to transportation, including pedestrian safety, emergency access, traffic hazards, or cumulative conditions. The commenter suggests that the Draft EIR does not discuss transportation and circulation to and from TIDE Academy or evaluate the impact of increased vehicle traffic generated by the project on TIDE Academy.

The Draft EIR adequately and accurately describes the transportation and circulation conditions within the study area, which is defined as the approximately 0.5-mile radius from the project site on Draft EIR page 4.2-1. TIDE Academy is located within the transportation study area.

People traveling to and from TIDE Academy are considered in the description of existing traffic, transit, pedestrian, bicycle, loading, and emergency access conditions in Section 4.2.1.1, Existing Transportation and Circulation System, on pages 4.2.2 through 4.2-12 of the Draft EIR. Additionally, people traveling to and from TIDE Academy are included in the turning movement counts collected for the intersection level of service analysis (although it should be noted that level of service is no longer an impact threshold for CEQA purposes). Turning movement counts were collected at 15 study intersection locations, including intersections adjacent to TIDE Academy, for the morning and evening peak periods (7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m.) in March 2019. Vehicular turning movement counts are presented in Draft EIR Appendix E, Transportation Impact Analysis (TIA), Attachment 1, Turning Movement Counts – All Scenarios. As such, the analysis presented within the Draft EIR appropriately and adequately considers people traveling to and from TIDE Academy.

Project-generated travel demand and trip distribution and assignment are presented on pages 4.2-27 through 4.2-29 of the Draft EIR. The vehicle trip generation estimates for the proposed project were calculated using the trip generation rates from the most recent ITE Trip Generation Manual (10th Edition, 2018) for the proposed land uses. As shown on page 4.2-28 of the Draft EIR, in Table 4.2.B, the proposed project would generate 41 net new AM peak hour vehicle trips (7 inbound trips and 34 outbound trips) and 29 net new PM peak hour vehicle trips (23 inbound trips and 6 outbound trips). Project-generated vehicle traffic was distributed to the surrounding

roadway network based on travel surveys and existing traffic patterns, which reflect surrounding land uses, including school sites. Trip assignment is illustrated in Appendix E, TIA, Attachment 1, Turning Movement Counts – All Scenarios. For these reasons, the estimated travel demand and trip distribution appropriately and adequately consider school sites and home-to-school travel.

The significance thresholds for transportation impacts are presented on page 4.2-24 of the Draft EIR. Analysis of project-specific and cumulative impacts to the transportation and circulation network in the study area are presented in Section 4.2.2.4 Project Impacts, beginning on Draft EIR page 4.2-29. As demonstrated through this analysis, project-specific and cumulative impacts would be less than significant.

Pedestrian safety is discussed within the analysis of project impacts related to conflicts with applicable plans, ordinances, and policies on pages 4.2-29 through 4.2-34 of the Draft EIR. As presented on page 4.2-34 of the Draft EIR, the proposed project would have a less-than-significant impact related to applicable plans, ordinances, and policies, including Policy CIRC-2.7: Walking and Biking. The proposed project would provide for the safe, efficient, and equitable use of streets by pedestrians and bicyclists through appropriate design and maintenance. The proposed project would provide safe and convenient access for pedestrians and improve pedestrian safety through design efforts, including construction of a public sidewalk and installation of street lighting along Independence Drive to encourage a pedestrian friendly environment. The analysis presented within the Draft EIR appropriately and adequately describes the potential for impacts related to pedestrian safety.

Analysis of emergency access is presented on page 4.2-39 of the Draft EIR. As discussed, although there would be a general increase in vehicle traffic from the proposed project, the proposed project would not inhibit emergency access or substantially affect emergency response times or access to other buildings or land uses in the area, including the TIDE Academy. The analysis presented within the Draft EIR appropriately and adequately describes the potential for impacts related to emergency access.

Traffic hazards are analyzed on pages 4.2-38 through 4.2-39 of the Draft EIR. For purposes of CEQA, hazards refer to engineering aspects of a project (e.g., speed, turning movements, complex designs, substantial distance between street crossings, sight lines) that may cause a greater risk of collisions that result in serious or fatal physical injury than a typical project. The proposed project does not include any design features that could cause hazardous conditions. The analysis presented within the Draft EIR appropriately and adequately describes the potential for impacts related to traffic hazards.

Analysis of cumulative impacts is presented in Section 4.2.2.5, Cumulative Impacts on pages 4.2-39 through 4.2-41 of the Draft EIR. As summarized in this section, consistent with the ConnectMenlo Final EIR, the proposed project, in combination with cumulative projects, would have a less-than-significant impact with respect to conflicts with applicable plans, vehicle miles traveled, hazards, and emergency access. The analysis presented within the Draft EIR appropriately and adequately describes the potential for cumulative impacts.

This comment does not provide evidence that the analysis is inadequate, that there would be any new significant impacts not addressed in the Draft EIR, or that impacts would be substantially more severe than those identified in the Draft EIR. Also refer to Responses A1-9 and A1-16.

Response A1-10:

This comment describes the roadway segment and intersection operations analysis findings from the ConnectMenlo Final EIR and suggests that traffic congestion impacts on TIDE Academy were not adequately analyzed in the Draft EIR. The commenter also suggests that the traffic generated by the proposed project would impede circulation and inhibit operations of TIDE Academy.

As stated on beginning on page 4.2-12 of the Draft EIR, intersection level of service (LOS) is no longer an applicable threshold for determining transportation impacts under CEQA, although these impacts were identified and mitigation measures were required in the ConnectMenlo Final EIR because at the time of certification of the ConnectMenlo Final EIR, LOS was the applicable threshold for analyzing transportation impacts. Consistent with the City's current TIA Guidelines, intersection LOS analysis was conducted for planning purposes only. The results are summarized in Section 4.2.3, Non-CEQA Analysis of the Draft EIR and presented in Appendix E, TIA. Any LOS deficiencies are not subject to mitigation in the EIR, but could be addressed through conditions of approval. For these reasons, an LOS analysis is not required for purposes of evaluating potential environmental impacts pursuant to CEQA and the City elects not to substantively respond to comments contending that LOS impacts were improperly analyzed. (*See Citizens for Positive Growth and Preservation v. City of Sacramento* (2019) 43 Cal.App.5th 609). However, the comments regarding LOS are noted and both the comments and non-CEQA LOS analysis will be a part of the record before the City when taking action on the proposed project.

Response A1-11:

This comment suggests that traffic generated by the proposed project would increase the risk of vehicle collisions. The commenter specifically notes concerns about the Independence Drive and Marsh Road intersection.

Pedestrian safety is discussed within the analysis of project impacts related to conflicts with applicable plans, ordinances, and policies on pages 4.2-29

through 4.2-34 of the Draft EIR. As shown on page 4.2-28 in Table 4.2.B of the Draft EIR, the proposed project would generate 41 net new AM peak hour vehicle trips (7 inbound trips and 34 outbound trips) and 29 net new PM peak hour vehicle trips (23 inbound trips and 6 outbound trips). Project-generated vehicle trips represent an incremental increase in traffic on the surrounding roadways and would not result in substantial increases in delay at study intersections. Additionally, the proposed project would construct a public sidewalk and install lighting and does not include any design features that could cause potentially hazardous conditions. As discussed on pages 4.2-34 of the Draft EIR, the proposed project would have a less-than-significant impact related to applicable plans, ordinances, and policies, including General Plan Policy CIRC-4.4: Safety, and as discussed on pages 4.2-38 through 4.2-39 of the Draft EIR, the proposed project would have a less-than-significant impact related to traffic hazards and safety.

The analysis presented within the Draft EIR appropriately and adequately describes the potential for project impacts related to traffic safety. This comment does not provide evidence that the analysis is inadequate, that there would be any new significant impacts not addressed in the Draft EIR, or that impacts would be substantially more severe than those identified in the Draft EIR.

Response A1-12:

This comment expresses the opinion that the Draft EIR does not analyze how traffic and parking demand generated by the proposed project would affect the safety and convenience of TIDE Academy students who walk or bike to school. The potential impacts of project-generated vehicle traffic on pedestrian safety (which would include those walking to TIDE Academy) and traffic hazards within the study area are discussed on pages 4.2-29 through 4.2-34 and pages 4.2-38 through 4.2-39 of the Draft EIR. Parking is discussed within Section 4.2.3.2, Parking Assessment of the Draft EIR.

The proposed project's TDM plan is summarized on page 4.2-27 of the Draft EIR. Similar to the SUHSD's TDM Plan, which is described in this comment, the TDM plan for the proposed project identifies several measures to reduce project-generated vehicle trips and associated demand for parking. The project proposes to include on-site amenities, which would further reduce the need to drive to other sites and therefore also reduce the demand for vehicular parking. Additionally, the proposed project would construct a public sidewalk and install lighting on Independence Drive to provide a continuous sidewalk along the project frontage and increase pedestrian visibility in an effort to improve the pedestrian environment and encourage more walking.

For these reasons, as presented on pages 4.2-34 of the Draft EIR, the proposed project would have a less-than-significant impact related to applicable plans, ordinances, and policies, including General Plan Policy

CIRC-1.7: Bicycle Safety, Policy CIRC-1.8: Pedestrian Safety, Policy CIRC-2.7: Walking and Biking, among others. Additionally, as presented on pages 4.2-38 through 4.2-39 of the Draft EIR, the proposed project would have a less-than-significant impact related to traffic hazards and safety.

The analysis presented within the Draft EIR appropriately and adequately describes the potential for project impacts related to traffic and pedestrian safety. This comment does not provide evidence that the analysis is inadequate, that there would be any new significant impacts not addressed in the Draft EIR, or that impacts would be substantially more severe than those identified in the Draft EIR.

Response A1-13:

This comment suggests that the Draft EIR does not provide sufficient information as to whether the proposed project would comply with the City's General Plan policies. However, the analysis of compliance with the City's General Plan policies is provided on pages 4.2-29 through 4.2-34 of the Draft EIR. Table 4.2.C, beginning on page 4.2-29, presents the consistency finding and describes the reason for the finding as it specifically relates to the proposed project.

Specifically, the proposed project was found to be consistent with Policy CIRC-6.4: Employers and Schools because the project proposes to provide a TDM plan that implements measures encouraging employers to promote walking, bicycling, carpooling, shuttles, and transit use.

As noted by the commenter, General Plan Policy CIRC-1.9 was excluded from the Draft EIR discussion. This is because General Plan Policy CIRC-1.9 is a citywide policy and is not specific to the proposed project. However, the proposed project would be consistent with this policy and would enhance the safety of children walking and biking to school through the construction of a public sidewalk and the addition of lighting on Independence Drive.

Pedestrian safety is also addressed in Response A1-9. Impacts related to traffic hazards, which would be less than significant, are analyzed on pages 4.2-38 through 4.2-39 of the Draft EIR. Also refer to Response A1-9.

The analysis presented within the Draft EIR appropriately and adequately describes the potential for project impacts related to compliance with the City's General Plan policies. This comment does not provide evidence that the analysis is inadequate, that there would be any new significant impacts not addressed in the Draft EIR, or that impacts would be substantially more severe than those identified in the Draft EIR.

Response A1-14:

This comment states that the Draft EIR does not consider secondary impacts on pedestrian and student safety caused by inadequate parking. However, parking is discussed within Section 4.2.3.2, Parking Assessment, beginning

on page 4.2-50 of the Draft EIR. The proposed parking supply would meet Zoning Code requirements and would be appropriate for a project of this size. The parking demand calculations show a shortfall of about 34 spaces during peak demand for residential parking, which could be accommodated within public parking spaces nearby. As stated on page 4.2-52 of the Draft EIR, the proposed project would not result in secondary impacts related to parking. Additionally, the peak parking demand for the residential use is likely overestimated as it does not account for implementation of the TDM plan. Furthermore, research has confirmed that the availability of parking increases private car ownership and vehicle travel and that increasing parking supply can undermine incentives to use transit and travel by other modes.

The analysis presented in the Draft EIR appropriately and adequately describes the potential for project impacts related to parking and pedestrian safety. This comment does not provide evidence that the analysis is inadequate, that there would be any new significant impacts not addressed in the Draft EIR, or that impacts would be substantially more severe than those identified in the Draft EIR.

Response A1-15: This comment suggests that the cumulative traffic impact analysis provided in the Draft EIR is deficient. Refer to Response A1-9, which addresses this concern.

Response A1-16: This comment states that the Draft EIR was required to analyze air quality impacts of the project on the TIDE Academy and cumulative impacts on schools and the community resulting from increased vehicular movement and volumes.

As discussed in the Draft EIR, the Bay Area Air Quality Management District (BAAQMD) is currently designated as a nonattainment area for State and national ozone standards and national particulate matter ambient air quality standards. BAAQMD nonattainment status is attributed to the region's development history. Past, present, and future development projects contribute to the region's adverse air quality impacts on a cumulative basis. By its very nature, air pollution is largely a cumulative impact. No single project is sufficient in size, by itself, to result in nonattainment of ambient air quality standards. Instead, a project's individual emissions contribute to existing cumulatively significant adverse air quality impacts. If a project's contribution to the cumulative impact is considerable, then the project's impact on air quality would be considered significant.

In developing thresholds of significance for air pollutants, the BAAQMD considered the emission levels for which a project's individual emissions would be cumulatively considerable. Therefore, if the proposed project's

daily average or annual emissions of construction- or operational-related criteria air pollutants exceed any applicable threshold established by the BAAQMD, the proposed project would result in a considerable contribution to a cumulatively significant impact. As shown in Table 4.3.E of the Draft EIR, with implementation of the BAAQMD's required Best Management Practices (Mitigation Measure AIR-1) during construction, construction of the project would result in emissions that are well below the established BAAQMD significance thresholds. Therefore, construction of the proposed project would not result in an impact to students or staff members of the TIDE Academy. As shown in Table 4.3.F of the Draft EIR, operational emissions associated with the proposed project would also be well below the BAAQMD's significance thresholds for regional emissions. As such, the proposed project would not result in individually significant impacts and therefore the proposed project would not result in a cumulatively considerable contribution to regional air quality impacts. Cumulative impacts would be considered less than significant. As such, the proposed project would not result in significant project level or cumulative impacts to schools including the TIDE Academy or the community in general during project construction or as a result of the increased vehicular movement and volumes.

To determine the impact of the proposed project on sensitive receptors within proximity of the project site, such as residents and students, a construction health risk assessment (HRA) was prepared to evaluate construction- period health risk to off-site receptors, as described on pages 4.3-31 through 4.3-32 of the Draft EIR. The TIDE Academy is located at 150 Jefferson Drive, approximately 1,400 feet east of the project site, as identified in the Draft EIR. Based on the results of the construction HRA as shown in Table 4.3.G in the Draft EIR, the risk at the maximally exposed individual (MEI) would not exceed the BAAQMD thresholds for cancer risk, chronic and acute hazard index, or PM_{2.5} concentration. As such, construction of the proposed project would not expose sensitive receptors, including TIDE Academy, to substantial pollutant concentrations and this impact was determined to be less than significant.

The daily and annual emissions associated with project operational trip generation, energy, and area sources are identified in Table 4.3.F of the Draft EIR for reactive organic gases (ROG), nitrogen oxides (NO_x), and particulate matter (PM₁₀ and PM_{2.5}). The results shown in Table 4.3.F of the Draft EIR indicate the project would not exceed the significance criteria for ROG, NO_x, PM₁₀ or PM_{2.5} emissions. The increase in emissions associated with the proposed project would be a small fraction of the Air Basin's emissions. Therefore, the emissions associated with implementation of the proposed project would not be expected to exceed the most stringent applicable State or federal ambient air quality standards, which are

developed and represent levels at which the most susceptible persons (children and the elderly) are protected. In other words, the State and federal ambient air quality standards are purposefully set low to protect children, the elderly, and those with existing respiratory problems. Therefore, implementation of the proposed project is not expected to result in any Basin-wide increase in health effects. As such, impacts were determined to be less than significant. Therefore, the proposed project would not expose sensitive receptors, including students or staff members of the TIDE Academy, to substantial pollutant concentrations during construction or operation of the proposed project.

This comment does not provide evidence that the analysis is inadequate, that there would be any new significant impacts not addressed in the Draft EIR, or that impacts would be substantially more severe than those identified in the Draft EIR.

Response A1-17:

This comment asserts that the analysis of noise and vibration impacts is insufficient to determine the noise impacts of project construction and operation on the TIDE Academy.

Noise impacts associated with the proposed project were identified and discussed on pages 4.5-13 through 4.5-15 of the Draft EIR. As described in the Draft EIR, sources of noise associated with residential uses typically include vehicle traffic and operational noise, such as heating, ventilation, and air conditioning (HVAC) equipment.

As shown in Table 4.5.F of the Draft EIR, traffic noise levels were assessed using the FHWA Highway Traffic Noise Prediction Model (FHWA RD 77-108). As shown in Table 4.5-F, noise modeling indicates that the future noise levels along Jefferson Avenue at the TIDE Academy are projected to increase by 0.1 dBA. This noise level increase would be well below the significance threshold for noise-level increases of 3 dBA or more and would not be perceptible. Therefore, traffic noise associated with the proposed project would not affect teachers or students at the TIDE Academy. As such, traffic-related noise impacts at TIDE Academy would be less than significant.

Implementation of the proposed project would include a total of approximately 14,143 square feet of open space. As discussed on page 4.5-17 of the Draft EIR, noise generated by the open space would include people conversing and occasional dogs barking; however, due to the intermittent nature of these activities, the proposed open space uses would not cause an increase in noise levels of more than 3 dBA. In addition, as required by ConnectMenlo Final EIR Mitigation Measure NOISE-1b, stationary noise sources, and landscaping and maintenance activities would be required to comply with Chapter 8.06, Noise, of the Menlo Park Municipal Code, which sets maximum noise levels at any residential

receiving property to a maximum of 60 dBA during the daytime hours between 7:00 a.m. to 10:00 p.m., and to 50 dBA during the nighttime hours between 10:00 p.m. and 7:00 a.m. In addition, Section 8.06.040 of the Noise Ordinance also contains a number of qualified exceptions to the limitations stipulated in the ordinance, including social gatherings and animals. As such, noise generated by use of the open space would not result in a substantial increase in noise levels at the TIDE Academy.

Other operational-related noise sources would include HVAC equipment. The Draft EIR assumed that the HVAC-related noise would generate 75 dBA L_{max} at 3-feet. At 50-feet, there would be a decrease of approximately 24 dBA over the existing noise levels due to attenuation with distance. As such, HVAC-related noise would be approximately 51 dBA L_{max} at 50-feet. In addition, the HVAC equipment would be screened with a parapet, which would reduce noise levels by approximately 5 dBA. Therefore, HVAC-related noise would be approximately 46 dBA at 50-feet, which would not exceed the City's noise level standards for mechanical equipment of 50 dBA L_{max} at 50-feet. The TIDE Academy is located at 150 Jefferson Drive, approximately 1,400 feet east of the project site. At this distance, noise levels would be reduced by 28 dBA, resulting in noise levels of 22 dBA at the school (not accounting for attenuation from intervening structures). As described on page 4.5-17 of the Draft EIR, HVAC equipment noise associated with the proposed project would not be perceptible at the TIDE Academy.

As discussed in Section 3.13, Noise, of the Initial Study prepared for the proposed project (Appendix B), with implementation of ConnectMenlo Final EIR Mitigation Measure NOISE-1c, the proposed project would result in less-than-significant construction-period noise impacts. In addition, with implementation of ConnectMenlo Final EIR Mitigation Measure NOISE-2a, the proposed project would result in less-than-significant construction-period vibration impacts. As identified above and in the Draft EIR, the TIDE Academy is located at 150 Jefferson Drive, approximately 1,400 feet east of the project site. At this distance, noise levels from construction would be reduced by 28 dBA from distance attenuation, not including noise reductions that would occur from intervening structures between the project site and the TIDE Academy. As shown in Table 4.5.F of the Draft EIR, existing noise levels due to traffic at the TIDE Academy (Jefferson Drive east of Chrysler Drive) are approximately 58.6 dBA CNEL. Construction noise levels would be approximately 85 dBA L_{max} at a distance of 50 feet. With attenuation due to distance, maximum construction noise levels would be 57 dBA L_{max} , which would be lower than ambient noise conditions at the TIDE Academy. Therefore, construction-related noise and vibration would not disrupt activities and uses occurring at the TIDE Academy and this impact would be less than significant.

This comment does not provide evidence that the analysis is inadequate, that there would be any new significant impacts not addressed in the Draft EIR, or that impacts would be substantially more severe than those identified in the Draft EIR.

Response A1-18:

This comment requests additional information related to housing and population growth that would result from the proposed project. The proposed project fits within the overall scope of the program level of analysis provided in the ConnectMenlo Final EIR (see Response A1-4) and the analysis in the Draft EIR determines that the proposed project would not induce unplanned population growth. This topic is addressed in Section 4.1, Population and Housing of the Draft EIR and the analysis concludes that all project impacts would be less than significant.

An estimate of potential development fees to be paid by the project sponsor in advance of building permit approval is provided in Response A1-4. This is calculated based on the currently proposed total square footage of residential and nonresidential development as identified in Chapter 3.0, Project Description of the Draft EIR. Currently, the proposed project consists of 15 studios, 79 one-bedroom units, and 11 two bedroom units. The overall square footage, number of bedrooms, and average unit size may be refined at the building permit stage.

Refer to Response A1-4 for additional information. Also refer to Responses A1-9 and A1-16 regarding cumulative impacts. This comment does not provide evidence that the analysis is inadequate, that there would be any new significant impacts not addressed in the Draft EIR, or that impacts would be substantially more severe than those identified in the Draft EIR.

Response A1-19:

This comment suggests that the proposed project would result in inconsistencies with the City's General Plan that could result in impacts to schools. As discussed in the preceding responses, impacts to schools were adequately evaluated in the ConnectMenlo Final EIR, the proposed project is within the scope of analysis of the certified Final EIR, and project-specific impacts that could result from the proposed project would not occur or would be less than significant. Consistency with General Plan policies is evaluated in the ConnectMenlo Final EIR and in the applicable topical sections of the Draft EIR. The proposed project was determined to be generally consistent with applicable City policies, particularly those that promote safe and convenient access for pedestrians and bicyclists (refer to pages 4.2-29 through 4.2-34 of the Draft EIR and Response A1-9).

Further, as discussed in Response A1-4, payment of required school fees would ensure that the SUHSD receives funds to help plan for and accommodate expanding enrollment within the SUHSD service area. Potential impacts related to school facilities are discussed throughout the

ConnectMenlo Final EIR, the Draft EIR for the proposed project, and in Responses A1-9 through A1-18 of this RTC Document and were determined to be less than significant, in some cases with implementation of required mitigation measures. This comment does not provide evidence that the analysis is inadequate, that there would be any new significant impacts not addressed in the Draft EIR, or that impacts would be substantially more severe than those identified in the Draft EIR.

Response A1-20: This comment states the opinion that the payment of school impact fees will not mitigate school impacts to a less than significant level. As described in Responses A1-3 through A1-20, above, the certified ConnectMenlo Final EIR and the Draft EIR for the proposed project adequately evaluate the potential impacts to and related to schools. Also refer to Responses A1-21 and A1-22 below. This comment does not provide evidence that the analysis is inadequate, that there would be any new significant impacts not addressed in the Draft EIR, or that impacts would be substantially more severe than those identified in the Draft EIR.

Response A1-21: This comment, which suggests that the City should work with the SUHSD to site and plan new facilities, is noted. As described in Responses A1-3 through A1-20 and below in Response A1-22, the proposed project would not result in any potentially significant impacts to school facilities.

Response A1-22: This comment, which suggests potential mitigation measures that the City, in the commenter's opinion, could implement to address perceived impacts of the project and other development within the City on school facilities, is noted. Please see Response A1-4. The proposed project would not result in a significant physical impact related school facilities; therefore, there is no nexus to require mitigation measures to reduce such impacts of the proposed project.

Response A1-23: This comment suggests that the Draft EIR should be recirculated based on the commenter's opinion that the Draft EIR is incomplete and inadequate. Each comment has been specifically addressed and responded to in Responses A1-1 through A1-22, above. None of the comments provide evidence that the analysis is inadequate, that there would be any new significant impacts not addressed in the Draft EIR, or that impacts would be substantially more severe than those identified in the Draft EIR.

CEQA requires recirculation when "significant new information" is added to an EIR after publication of the Draft EIR, but before certification. New information is considered significant under CEQA when: "The EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project

alternative) that the project's applicants have declined to implement." CEQA Guidelines Section 15088.5 states that:

- (a) A lead agency is required to recirculate an EIR when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review under Section 15087 but before certification. As used in this section, the term "information" can include changes in the project or environmental setting as well as additional data or other information. New information added to an EIR is not "significant" unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement." Significant new information" requiring recirculation includes, for example, a disclosure showing that:
- (1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.
 - (2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.
 - (3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project's proponents decline to adopt it.
 - (4) The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded. (*Mountain Lion Coalition v. Fish and Game Com.* (1989) 214 Cal.App.3d 1043)
- (b) Recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR.

In this case, as demonstrated in Responses A1-1 through A1-22, there has been no significant new information, changes to the project, or changed circumstances that will result in: (1) new significant impacts; (2) a substantial increase in the severity of an environmental impact; or (3) the availability of new considerably different feasible alternatives or mitigation measures. None of the comments provide evidence that the analysis is inadequate, that there would be any new significant impacts not addressed

in the Draft EIR, or that impacts would be substantially more severe than those identified in the Draft EIR. Impacts associated with transportation, noise, and pollutants are discussed throughout the appropriate topical sections in the Draft EIR and the commenter's concerns related to these items are further addressed in Responses A1-9 through A1-17. All impacts were determined to be less than significant with implementation of recommended mitigation measures and none of the impacts identified in the Draft EIR or Initial Study were specific to SUHSD facilities. These impacts were appropriately addressed in the ConnectMenlo Final EIR and were determined to be less than significant.

Further, new information added to the Draft EIR or in this RTC Document provides additional staff-initiated analysis that does not relate to the comments or concerns expressed in this comment letter and only serves to further ensure all impacts are less than significant. The Draft EIR, with the minor changes identified in this RTC Document, provides an adequate level of information to allow the decision-makers to consider the significant impacts associated with the proposed project and make a determination regarding project approvals. The changes and clarifying information do not preclude meaningful public review and comment. Thus, the Final EIR can be certified and need not be recirculated.

From: Annabelle Nye <annbell1@aol.com>
Sent: Sunday, December 27, 2020 7:42 AM
To: Bhagat, Payal
Subject: 111 Independence Drive.

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

To Payal Bhagat:

We are against this project. Too many stories, too much development in Menlo Park. When is this going to stop? It is impossible to drive down El Camino at certain times of the day even during the Covid pandemic. Menlo Park is overrun with with too many new apartments, offices, cars, etc.

Please stop this development! We are ruining our city.

Blaine and Annabelle Nye

1

LETTER B1

Blaine and Annabelle Nye
December 27, 2020

Response B1-1: This comment, which addresses the merits of the proposed project and not the adequacy of the information or analysis contained in the Draft EIR, is noted. This comment will be considered by City decision-makers prior to making a determination regarding project approval.

925-831-9029

emerickfinch@emerickfinch.com

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CITY OF MENLO PARK
PLANNING COMMISSION

In re)
111 INDEPENDENCE DRIVE)
_____)

PUBLIC HEARING
REPORTER'S TRANSCRIPT OF PROCEEDINGS
MONDAY, JANUARY 11, 2021
MENLO PARK CITY COUNCIL CHAMBERS

Reported by: MARK I. BRICKMAN, CSR, RPR, CRG
License No. 5527

1 ATTENDEES

2 THE PLANNING COMMISSION:

3 Henry Riggs - Chairperson
4 Michael C. Doran - Vice Chairperson
5 Camille Kennedy
6 Chris DeCardy
7 Michele Tate (Not present)
8 Larry Kahle (Not present)
9 Andrew Barnes

10 THE CITY STAFF:

11 Kyle Perata - Principal Planner
12 Payal Bhagat - Contract Planner

13 SUPPORT CONSULTANTS:

14 Matthew Wiswell, LSA
15 Theresa Wallace, LSA

16

17 PROJECT PRESENTERS:

18 Sateez Kadivar
19 Nathan Sampson
20 Paul Letteiri

21 ---o0o---

22

23 BE IT REMEMBERED that, pursuant to Notice
24 of the Meeting, and on December 7, 2020, 7:12 PM at the
25 Menlo Park City Council Chambers, 701 Laurel Street,
Menlo Park, California, before me, MARK I. BRICKMAN, CSR
No. 5527, State of California, there commenced a Planning
Commission meeting under the provisions of the City of
Menlo Park.

26 ---o0o---

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1	MEETING AGENDA	
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3	Staff Presentation:	8
4	Presentation by Project Planners	11
5	EIR Consultant:	27
6	Commission Comments	40
7	Public Comment:	None
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1 JANUARY 11, 2021 7:42 PM

2 P R O C E E D I N G S

3 ---o0o---

4 CHAIRPERSON RIGGS: We now move on to the
5 first of two projects that we have before us that are
6 presented first with their Environmental Impact Report
7 followed by Study Session.

8 In the past we have taken a presentation from
9 the consultant for the EIR, followed that with some
10 questions, and then a presentation from the architect
11 typically on the project overall.

12 Then we backed up I believe and discussed the
13 EIR and tried not to comment on the design until that was
14 appropriate.

15 Staff has proposed a -- a little clarification
16 to that process. So I believe Miss Bhagat, you will take
17 the first project, 111 Independence and perhaps you could
18 add to my comments about how we will address this first
19 project tonight.

20 MS. BHAGAT: Sure. Chair Riggs and members of
21 the Commission, good evening. Good evening to members of
22 the public.

23 The project for you this evening is a
24 redevelopment of an existing .92 acre site located at 111
25 Independence Drive, and I believe I have a presentation

1 prepared for this item that is not coming up for some
2 reason.

3 Kyle, are you able to --

4 MR. PERATA: Yeah. Through the chair, while
5 we wait for Payal's presentation to come up, maybe I
6 could just quickly clarify or add on to your statement
7 from earlier.

8 I just want to make it clear in terms of the
9 presentations, we'll still do the City's presentation,
10 quick overview of the Draft EIR followed by the
11 applicant's presentation on the project because we think
12 that's helpful for the Commission to hear at this time
13 and the members of the public, and it might inform the
14 Draft EIR, public comments from the community and the
15 Commission.

16 And then we'll follow that up with the EIR
17 presentation from our consultant, LSA, and I'm probably
18 speaking to some of Payal's statement here, so we will
19 bifurcate Staff's presentation and a draft EIR overview
20 right here and then we'll pull up later recommended topic
21 areas at the opening of the Study Session item.

22 So we'll still do the applicant's presentation
23 now, but we'll hold the list of kind of considerations
24 that are more general in the project and not seem
25 correlated for the second component for the Draft --

1 sorry. The Study Session.

2 And I might also recommend that the chair read
3 the words for the agenda item before we start. That's
4 not absolutely required. I know that is up to the chair.

5 In the past the chair has typically read it,
6 but if you want to do that now, you can do that now
7 before Payal starts her presentation.

8 Sorry about that. But hopefully that's
9 helpful.

10 Well, this is our first somewhat milder
11 modification on the presentation. Now it will take me
12 just a moment to pull up the text -- all right.

13 CHAIRPERSON RIGGS: Thank you, Mr. Tapia
14 or Mr. Perata, whoever provided the data. Thank you.

15 So tonight we have a Draft Environmental Impact
16 Report for SP Menlo LLC, applicant that is 111
17 Independence Drive. This is a public hearing to receive
18 public comments on the Draft EIR for the proposed multi-
19 family development project consisting of 105 dwelling
20 units and an approximately 746 square foot commercial
21 space in one building with an above-grade multi-story
22 parking garage integrated into the proposed eight-story
23 building.

24 This is located in the R-MU-B Residential Mixed
25 Use, Bonus Zoning District.

1 The Draft EIR identifies less than significant
2 effects in the following topic areas: Population and
3 housing, transportation and greenhouse gas emissions.

4 The Draft EIR identifies less than significant
5 effects with mitigation for the air quality and noise,
6 which is operational traffic and stationary noise topic
7 areas.

8 The California Environmental Quality Act -- we
9 call CEQA -- requires this notice to disclose whether any
10 listed hazardous waste sites are present at the location.

11 The project location does not contain a
12 hazardous waste site included in the list prepared under
13 Section 65962.5 of the Government Code.

14 The City previously prepared an initial study
15 for the proposed project that determined the following
16 topic areas would have no impacts -- that's less than
17 significant impacts or less than significant impacts with
18 mitigation measures -- including applicable mitigation
19 measures from the Connect Menlo EIR;, in other words over
20 overall zoning area EIR that was done in 2016.

21 So those described would be aesthetics,
22 agricultural and forestry resources, biological
23 resources, cultural resources, energy, geology and soils,
24 hazards and hazardous materials, hydrology and water
25 quality, land use and planning, mineral resources, noise,

1 meaning construction period, ground borne vibration and
2 character related noise, public services, recreation,
3 utilities and service systems, tribal cultural resources
4 and wildfire.

5 Written comments on the Draft EIR -- excuse me.
6 EIR may also be submitted to the Community Development
7 Department at 701 Laurel Street, Menlo Park no later than
8 5:00 PM on February 2nd, 2021.

9 So back to Ms. Bhagat.

10 MS. BHAGAT: Thank you, Commissioners. And
11 thank you, Kyle.

12 So I was mentioning the project before you is a
13 redevelopment of an existing site at 111 Independence
14 Drive.

15 The project site is located east of Marsh Road
16 between 101 and the Marsh Road interchange.

17 The project is planned to develop a 15,000
18 square foot single -story office building, which is
19 supposed to be demolished as -- as part of the
20 redevelopment.

21 The -- the applicant requests Environmental
22 Review, Use Permit, Architectural Control and Below
23 Market Rate Housing Agreement to redevelop the project
24 site with 105 apartment units and 726 square feet of
25 commercial open space.

1 Since this project is a bonus level density
2 with increased density project, this project will be
3 required to provide community amenities as part of the
4 proposal.

5 Now, the focus of tonight's meeting, as Kyle
6 mentioned earlier, is of course to receive comments on
7 the Focused Draft Environmental Impact Report that is
8 attached to this project consistent with the California
9 Environmental Quality Act or CEQA requirements, and
10 second to hold a Study Session to review the design
11 aspects of the project.

12 So in order to move through these two
13 components, as Kyle was touching upon briefly, Staff
14 would like to propose the following:

15 After my presentation, the applicant will --
16 will make a presentation on the project design, following
17 which the -- the City's environmental consultant LSA will
18 review the findings of the Draft Impact -- the Draft
19 Environmental Impact Report and also review the CEQA
20 process.

21 After that subject, the Commission will open up
22 the public comments where we solicit comments from the
23 community on the Draft EIR and do the item by asking
24 questions and providing Commission comments.

25 For the Study Session component, Staff would

1 like to do a brief introduction of the several topic
2 areas on Commission integration, following which the
3 Commission is welcome to ask questions of Staff and the
4 applicant, and then we would request that you open the
5 public hearing one more time to solicit the community's
6 comments on the design aspects and then close the item
7 with the Commission's comments.

8 I will be available throughout this process to
9 respond to any questions that you might have.

10 I would again like to remind the community that
11 the Draft Envir -- the Draft EIR is available for public
12 review currently and that the last date to provide
13 comments is February 2nd. Comments can be provided via
14 e-mail or by mail, sent to City Hall.

15 And this concludes my presentation and we will
16 seek comments provide an overview of the project design.

17 Thank you.

18 CHAIRPERSON RIGGS: Thank you, Miss Bhagat.
19 Tell us again who will make the presentation for the
20 applicant.

21 MS. BHAGAT: It will be Sateez Kadivar and his
22 team.

23 CHAIRPERSON RIGGS: Thank you.

24 MR. KADIVAR: Good evening. Nathan, do you
25 want to pull up the slide presentation? Can everybody

1 hear me? I think they ought to pull it up for me and
2 give me control.

3 Can you all hear me?

4 CHAIRPERSON RIGGS: Yes, we can hear you,
5 although we see Nathan on screen, not you.

6 MR. KADIVAR: Okay. All right. So I'm dialed
7 in. My Internet was not behaving too well and I've got
8 four kids competing with this. So I've gone the -- THE
9 safer route here.

10 Good evening, Planning Commissioners.
11 Certainly good to be before you again now for the third
12 time.

13 It's a big milestone tonight with the Draft
14 EIR, so we are quite excited about this and hope you
15 share our enthusiasm.

16 This being the third time I thought I would
17 start with providing a little of the history of the
18 project and how we arrived at tonight.

19 It's been quite the journey with a lot of staff
20 effort over the last four or five years now.

21 We've actually had -- I was counting -- four
22 different people from the Planning Staff that have been
23 at one point the lead planner on this project beginning
24 with Deanna, then Kyle, then Kaitie and now Payal.

25 So there 's a deep theme here that if you work

1 on this project, you get promoted within the City of
2 Menlo Park. So let's look for Payal's ascension here.

3 So in 2016, when Connect Menlo was being
4 finalized, is when we began discussions with -- with
5 Deanna, and that led to our architectural plans being
6 submitted in March of 2017.

7 It was a very collaborative process with --
8 with the team, and that led to a -- a subsequent set of
9 plans that we then had the development review team
10 meeting with all the various key -- key City departments,
11 and that was late 2017.

12 Based on that input, of course we prepared a
13 set of plans that was much more detailed, and that was
14 what was presented to you in June of 2018, our first
15 Planning Commission Study Session.

16 Several of you here were present -- present for
17 that, and then I think all of you were present for the
18 subsequent one a year later in June of 2019.

19 So there were several areas of feedback from
20 2018 which were then addressed in 2019. I'd like to go
21 through those first before we get into how we addressed
22 the feedback from the last Study Session.

23 Knowing full well that the main focus of
24 tonight is the EIR, I thought this would be a helpful,
25 helpful background.

1 So one of the main issues back then was the
2 parking ratio. At that time which were in 1.4, well
3 within the allowable guidelines. However you had
4 suggested that we lower it even further which we did down
5 to 1 -- to the 1.1 range.

6 At that time open space, opening up the front
7 plaza to improve the public accessibility was a -- a key
8 point for one of the commissioners, which we subsequently
9 did and everybody was satisfied with that, as well.

10 Going back to 2018, the initial community
11 amenities was being discussed. It was quite preliminary
12 in terms of that the process hadn't really been fully
13 established by -- by the City in terms of the process,
14 but subsequent to that meeting and some input, strong
15 recommendations from Staff led to the cafe inclusion in
16 the subsequent plan set.

17 So they -- and -- and I would like to remind
18 everybody that the cafe is one of the items on the
19 community amenities list. So that was kind of where that
20 started.

21 And back then the EMR issue that was being
22 raised for us was to equally distribute the BMR units
23 both geographically within the building as well as across
24 multiple income levels, which we then did do in the June
25 2019 session, distribute them both horizontally and

1 vertically, and at that time we proposed a 50/50
2 moderate/low income split, whereas initially we were --
3 we were all moderate.

4 And that brings us to tonight where I'd like to
5 start off with the highlights of a few changes made based
6 upon the 2019 Study -- Study Session.

7 First and foremost, a big ticket item here
8 obviously is our BMR proposal is now across three income
9 levels: Moderate, low and very low.

10 I'm not totally privy with all the other
11 projects, but I believe we -- we might be somewhat unique
12 in this offering, and this is in response to really
13 continuous consistent feedback from the community and
14 Commissioners over the last several years, really.

15 Next, and maybe equally important, we have
16 provided a formal community amenities proposal going
17 through a lengthy multi-step process with the City and
18 several consultants.

19 The result is two additional BMR units in
20 addition to the previously discussed cafe, and again
21 these -- both these items, the BMR units and the cafe is
22 from the community amenities list.

23 Now we know we have received last time mixed
24 feedback from you specifically on the cafe based upon the
25 last time. Some Commissioners loved the idea, and

1 certainly Staff did, as well, having highly recommended
2 it, but some Commissioners were not as big of proponents.

3 What we really worked diligently on is if you
4 consider the totality of the project. We're really
5 addressing a significant amount of the hot buttons of
6 every Commissioner, of Staff and community.

7 So while you might not, you know, individually
8 all of you be a fan of the cafe, we certainly you are of
9 the BMR and the approach we've taken there of the
10 multiple income levels.

11 Next, switching gears, we look at
12 environmental. We have providing twenty-two EVSE stalls
13 from the outset, which is thirty-five percent more than
14 required, to keep that in mind, and this is no small
15 point. This is an all electric building.

16 We also made a small refinement with reduced
17 parking a even a little bit further while keeping the
18 bike parking maxed out. So again we have minimum auto
19 parking and maximum bike parking.

20 Lastly, there was some feedback last time about
21 the primary facade color. You might recall -- this is
22 interesting. This is different because this is something
23 that we had batted around on our side, as well, and we
24 have decided to revise it to a gray. We feel it's a
25 warmer and more residential.

1 As a reminder this tearing down an office
2 building and not adding an office stock, which is allowed
3 in the R-MU zoning. So the project is really a hundred
4 percent geared towards reducing the jobs/housing
5 imbalance.

6 I'm sure I don't -- we'll talk more about the
7 community amenities proposal. I think it's more
8 appropriate in the second portion of the program. Really
9 the EIR is the main agenda item this evening or at least
10 certainly at the outset.

11 So I will hand this over now to BDE. Nathan, I
12 see you and you will provide a little bit of the -- the
13 essential.

14 MR. SAMPSON: Yeah. Thanks, Sateez. My name
15 is Nathan Sampson. I've been the project designer on
16 this since it came to our office five years ago. John
17 Manus is on the phone, also. He's the president of BDE.

18 I'm just excited to be here. After five years
19 I'm pretty sure we're getting close to the finish line
20 here.

21 Just to orient to the site. We have a
22 trapezoidal site that has a curved section of it along
23 Independence Drive. North is up on this page.

24 When you look at the site from Independence,
25 this is the curve, Independence in the lower right. You

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1 can see our site right here, the Menlo Park Gateway
2 building and 101 off to the lower right.

3 And then just from Marsh Road off -- off-ramp,
4 you can also see the and the adjacent office buildings
5 that are going up.

6 Our guiding documents, as previously mentioned,
7 we are just part of the Menlo Park planning code,
8 Ordinance 1026 and we are the R-MU district, which is why
9 we have both the cafe and residential.

10 You can also just kind of see our site right
11 here if you're curious.

12 A lot of this stuff you guys have heard
13 already, but just to recap. We have 105 units that's
14 maintained. We are maintaining a mix of units from
15 studios, one beds, two beds.

16 Since we last saw you guys, we gained a few
17 bedrooms, but -- two bedrooms, I believe. So we went
18 from 114 to 116 bedrooms.

19 We're maintaining the fourteen onsite
20 affordable units. The retail we'll go through in a
21 moment. I'll show you guys what that is.

22 The required parking, when we first went in,
23 like Sateez said, we went in very high. Working with the
24 City and community, we've taken down to 109, which is
25 still well within our range. It gives us a little bit

1 more than one to one per residential unit so we can have
2 something like visitor parking.

3 Part of our project is a public open space that
4 fronts on to Independence Drive, and within our building,
5 we provide 160 resident bike parking which is spread out
6 to within two rooms, and if you look at the ratio, this
7 is actually 1.52 if I remember correctly, so we're
8 actually a little above the max, and if you look at 1.5
9 straight on.

10 And then just to keep this a bike friendly
11 area, we do have seventeen exterior bike parking stalls.

12 Just looking at the plan, you can see the curve
13 of Independence here in gray. You can also see the plaza
14 which I'll let Paul Letteiri talk about in a little more
15 detail.

16 Starting in the lower right-hand corner, you
17 can see our garage access at this point. We have a
18 single garage access point for all 105 stalls.

19 This line that you can kind of see my mouse
20 running along right here is a gate. So we have five
21 stalls that are within an open garage that anyone can
22 drive in to, and then all of our residential parking is
23 in back located within three levels of parking.

24 Along the frontage of Independence, we have
25 amen -- amenities including a dog wash, a cafe, which is

1 right here spilling into this nice little court. So
2 we've actually created some outdoor space for the cafe to
3 make it a viable, especially in this COVID time. Outdoor
4 space is key.

5 We do have fitness, lounge, amenity and a lobby
6 all fronting on to the plaza. We've gone through an
7 effort to make sure that all spaces around the building
8 are utilized and integrated with our neighbors.

9 Anything from paving to making sure our EVSE
10 reaches all the way into the site, which matches up with
11 paving.

12 I'm going to skip over the next two floors,
13 floors two and three, because they are very similar to
14 this floor, two more levels of parking.

15 All of our amenities across the front are
16 raised up above flood plane and are double height, and
17 then there's one level of residential units just facing
18 out over the amenities.

19 Going up to a typical floor, this is our fourth
20 floor. Many things have stayed the same since you've all
21 seen it last. We've gone through a lot of refinement,
22 mainly getting unit plans ready.

23 But essentially this floor shows we have a club
24 room over in the corner that gives you access to a
25 heavily amenitized common courtyard, and then you can see

1 all the units just kind of wrapping around the building.

2 And then the front here is a private courtyard.

3 These are all private decks. That is the result of our
4 curved facade.

5 Going up to a more typical floor, this is our
6 top floor. You can see the overall footprint of the
7 building, and then a nice little -- a little park -- roof
8 deck. Sorry. A little roof deck over in the corner here
9 with the club feeling to it, a nice little amenity for
10 the residents.

11 As mentioned previously, we did go away from
12 our blue pallet and we are proposing a warmer gray
13 pallet. It's a -- two different grays on here, but our
14 primary one is a very neutral dark warm gray.

15 I've used a similar pallet like this on here
16 and I think that everyone's happy with. I've never had a
17 complaint on that.

18 Going to the pallet really quick, we are
19 proposing vinyl windows. This is our primary body color
20 right here. It's a little bit darker. Keep in mind this
21 is on screen, so the colors aren't going to be perfect.

22 Along the arc of the building, there is some
23 accent colors that go inside the frames. This is just
24 giving you an idea. We're not going to get colors
25 perfect here.

1 The project does have concrete, a nice warm
2 earthen material, and we have proposed the panel still,
3 which is a real wood on a resin panel.

4 All the metal work on the project is using a
5 consistent theme, which is a steel railing. It's a
6 IMETCO panel. You get a quarter there for a little bit
7 of scale.

8 And one of the comments that we got on our last
9 round was providing bird safe glazing. So all of our
10 glass panels, which is minimal, have been converted to
11 opaque.

12 Mentioning earlier about the arc of the
13 building. There's this curve that we're doing which I'll
14 show in the next photo to help blend with the adjacent
15 buildings and just places our building in context, and
16 because of this arc, this is something that's come up and
17 I believe everyone's been very receptive of this, which
18 is we have building modulation requirements, and we
19 weren't totally compliant with them, but what we proposed
20 is exceeding them by providing additional setback, and we
21 do that by using this curve and just doing this gray
22 area.

23 So we're close on this. The compliant, we're
24 only about ten percent off, and again with all this gray
25 area as additional setback, we exceed it.

1 And the reason we would do this is -- it's
2 really right here. It's basically the yin and yang. So
3 we are planning with the Menlo Gateway building's curve
4 to help complement the site, which is something we rarely
5 get the opportunity to do.

6 And then some of the things I mentioned earlier
7 which is why I'm going to let Paul speak about is we've
8 worked on our neighborhood, neighbor connectivity which
9 is a lot of siting, which we've also added additional
10 interest along our garage facade, because this was of the
11 comments that came up.

12 And now with that, Paul are you on?

13 MR. LETTEIRI: I'm here. I'm here on cue.

14 Paul Letteiri with The Guzzardo Partnership,
15 landscape architects for the project.

16 Yeah. I think we -- we've made a lot of
17 refinements to the -- to the plan in the year and a half
18 since the last time you saw it.

19 It looks -- it looks pretty similar to what it
20 was before, but there are some significant differences,
21 we think.

22 One of them is we now have a proper width of
23 planting strip across the street and the street trees are
24 now there, because the previous plan the street trees
25 were in the plaza.

1 We had some issues with -- with utilities, and
2 in the time we've had between, we've been able to ferret
3 out exactly where those utilities are and be able to get
4 the trees to miss them.

5 So now there's a five foot sidewalk and a
6 fifteen foot planting strip is there. Before we had a
7 very skinny strip and the trees are all set back, which I
8 think really helps the folks that will use this open
9 space from the street scene itself. I think it feels --
10 I think it feels a lot better that way.

11 We've -- we have the -- the transformers at the
12 upper left there. I guess Nathan you can point these
13 things out, right?

14 We have those screened -- a metal grill sort of
15 screen fence we have our imagery. I think we showed you
16 something similar the last time.

17 We've done some things like now since the lobby
18 has a direct connection from the street, the stairs there
19 at the bottom of the plan there directly connect to the
20 lobe.

21 We have the handicap access through that --
22 through that ramp system where you come up in the bottom,
23 the middle and you can go right or left to get to the
24 front doors of the building.

25 We still have the wood seating elements and we

Page 24

1 still have a -- a little podium space that can be an art
2 piece on it to be selected yet.

3 So it has some -- some character to it, and we
4 have fairly rich paving pattern and paving materials
5 throughout. It's all -- it's all pretty much pavers.

6 Any of the pedestrian surfaces, with the
7 exception of the public sidewalk, which was ordained to
8 be concrete, we have -- we have pavers in those other
9 spaces.

10 And I think our street tree quantities, they've
11 been moved around a bit. The reason there's none in that
12 center space is because that's where the utility conflict
13 is. It can't really be solved by having any trees in it.

14 So the utility doesn't follow the street line.
15 It kind of wanders around.

16 I think -- I think in our EVA zone up on top is
17 stamped asphalt, so it has a -- more than a utilitarian
18 feel to it. Awesome color and texture to it.

19 The basketball court that's there will be
20 smooth, and we still have the dog run is that dark green
21 zone at the upper right.

22 CHAIRPERSON RIGGS: Paul, could I just
23 interrupt for a second? Potentially there are people
24 listening who are not Commission members or architects.

25 An EVA zone is an emergency vehicle access zone

1 MR. LETTEIRI: Sorry about that. Ill watch
2 the jargon in any future descriptions. Thank you.

3 Yes. And then there's -- I said the bocce
4 court on the other side, the orange, orange area, and
5 we've integrated the -- the EVA that's labeled there on
6 the bottom right, which has now been defined as an
7 emergency vehicle access that's on the adjacent parcel,
8 we've integrated our paving so it's the same paving
9 pattern across it.

10 So once it's all built it will feel like one
11 continuous space there, which I think came up last time.

12 Go to the next slide, please.

13 Our -- or -- the next two slides. We've made
14 some modifications to the podium area. The pool shape
15 got a little more interesting. We've added bathrooms up
16 there so that -- there you go.

17 And it requires some minor alterations to how
18 the space works, but the amenities that were there in the
19 previous plan are still there now, and, you know, we've
20 got a little bit better relationship between the pool and
21 the rest of the world to -- in terms of grade changes and
22 proportion of space.

23 I think before the pool was a little bit too
24 cramped. There really wasn't enough room to furnish it,
25 and now I think we have enough room to do that.

1 If you can go on to the next -- the next slide.

2 The roof deck is small. It's really a view
3 space and an indoor/outdoor space. Small amount of
4 planting, paving -- pedestal paving and some decking
5 material up there, so it's pretty simple, and we think it
6 will be a great spot -- a great view from up there, so
7 really wanted to maximize that.

8 Next one.

9 And the -- the imagery page, largely the same
10 position, although not identical. I'll just point out a
11 couple.

12 On the left side there, there's a metal panel
13 that sort of has some horizontal openings in it.
14 Thinking that that's our transformers screening element.
15 It's on the ground plane. I think we're showing it as
16 being six feet tall. So it's roughly the height of the
17 transformers.

18 They're more significant because we have an all
19 electric building. We also will have an all electric
20 fireplace and all electric barbecues and all the rest of
21 it. Everything else will be -- just the rest of it is
22 just the sense of mostly what's happening on the podium
23 in the middle in terms of materials and colors, and the
24 eighth floor, our roof deck is nowhere near the size of
25 any of those images, but the general character is what

1 we're looking to get to.

2 So we can charge on to our last slide, I
3 believe. Yes.

4 So that concludes our presentation.

5 MS. BHAGAT: The Planning Commission -- sorry.
6 Please go ahead.

7 CHAIRPERSON RIGGS: Oh. Just confirming that
8 that concludes the presentation, and Miss Bhagat, do we
9 want to move to the EIR at this point?

10 MS. BHAGAT: Yes. So we would like to invite
11 Matthew Wiswell, the consultant from LSA, to go over the
12 Environmental Impact Report findings and review the
13 findings of the EIR.

14 MR. WISWELL: Matthew Wiswell from LSA here
15 joining you again. Before I get started, if I could just
16 ask whoever's in charge to promote Amanda Levy next.

17 All right. So good evening. Matthew Wiswell
18 from LSA here. We are the City's principal for
19 environmental review of the proposed 111 Independence
20 Drive. With me is Theresa Wallace who is LSA's principal
21 in charge, Theresa Wallace, who is our transportation
22 consultant for the project.

23 So the first slide. The purpose of the -- the
24 topics I'll cover tonight in my presentation, including
25 the purpose of tonight's hearing, an overview of the CEQA

1 process, the timeline that has occurred thus far and
2 going forward as well as points along the way that
3 involve opportunities for public comment.

4 I'll also briefly go over the purpose of CEQA,
5 the Connect Menlo EIR again and its relationship to this
6 project, and then give an overview of the Draft EIR
7 findings.

8 And after my presentation has concluded, as
9 we've heard, you'll have an opportunity to provide your
10 comments.

11 So as I mentioned, the purpose of tonight's
12 meeting is to hear your comments on the EIR. The public
13 comment period began on December 4th and written comments
14 must be received by the close of business on February
15 2nd.

16 The focus of your comments should be on the
17 adequacy of the analysis provided in the Draft EIR. The
18 merits of the project will be considered, but as a
19 separate action at a future meeting.

20 And I want to note while we're happy to answer
21 any questions tonight, we would ask that any comments of
22 a technical nature be provided again in writing so that
23 way we can take the time to provide thorough written
24 responses.

25 We want to make sure we're provided accurate

1 responses and they need to be placed in the technical
2 analysis or talk to our specialists to make sure we do it
3 correctly.

4 I also want to note that we have a court
5 reporter here I believe to record the comments in a
6 transcript.

7 All comments received tonight will be prepared.
8 Each comment on the EIR will then be formally responded
9 to in writing.

10 This slide shows the purpose of CEQA and -- and
11 the overview of the CEQA process. CEQA requires that all
12 lead agencies -- actually -- sorry about that. No, never
13 mind. Sorry.

14 So this slide is on CEQA or the California
15 Environmental Quality Act. It is a state law that
16 requires environmental evaluations of the project.

17 Generally CEQA requires that lead agencies or
18 all agencies that approve projects evaluate environmental
19 impacts associated with those projects.

20 This evaluation must adequately inform
21 decision-makers, other agencies and the general public
22 about the potential environmental consequences of
23 project's approval.

24 If environmental impacts are identified, then
25 the lead agency needs to identify ways to mitigate or

1 avoid those impacts.

2 So the CEQA documents are disclosure documents.
3 They are used to provide information in the CEQA document
4 to make informed decisions about a project and to
5 disclose potential environmental impacts associated with
6 the construction and operation of a project.

7 And it's important to note that the
8 environmental document does not dictate whether or not
9 the project is approved.

10 So I just briefly wanted to touch on the
11 Connect Menlo EIR and its relationship to the project.

12 So the environmental analysis for the project
13 on the Connect Menlo Final EIR, which was certified in
14 November 2016.

15 The Connect Menlo EIR provided a program level
16 analysis of development potential envisioned for the
17 entire city, including the increased development
18 potentially specifically in the Bayfront area where the
19 project site is located.

20 This EIR evaluated the impacts of approximately
21 2.3 million square feet of non-residential space, hotel
22 rooms and up to 4,500 residential units.

23 So the proposed project does fit within the
24 proposed development assumptions of the Connect Menlo
25 EIR.

1 As we've discussed before, the City of East
2 Palo Alto challenged the City's certification of the EIR
3 and after litigation, the parties entered into a
4 settlement agreement that allows for effects that were
5 not analyzed as significant in -- in a prior EIR who are
6 subject to the to subject provision, but requires certain
7 projects, including those utilizing bonus level
8 development on the total project to conduct a Focused EIR
9 with regard to housing and transportation at a minimum.
10 Environmental review of the project also complies with
11 the terms of the settlement agreement.

12 Here's my timeline: So this slide shows the
13 overall schedule for the environmental review process.
14 On June 14th, 2019, the City issued a -- a Notice of
15 Preparation or an NOP notifying interested parties and
16 responsible agencies that an EIR would be prepared and an
17 initial study was included for review.

18 The comment period provides public -- public
19 comments on the scope and the content of the EIR ended on
20 July 15th, 2019, and all of those comments that were
21 received were considered during preparation of the Draft
22 EIR.

23 So the City along with LSA then prepared the
24 Draft EIR and the standard 45-day comment period was
25 extended to sixty days.

1 After the close of the comment period on
2 February 2nd, we will prepare the written responses to
3 each of the comments received on the adequacy of the EIR
4 analysis in what's called a Response to Comments
5 Document.

6 The Response to Comments Document will also
7 include any revisions to the Draft EIR if any are
8 necessary.

9 Together, with the draft to the EIR and
10 Response to Comments Document, that is the Final EIR.

11 The Final EIR will be published and available a
12 minimum of ten days for any additional hearings that are
13 held.

14 Once the Final EIR is complete, the City will
15 consider certification of the EIR and after that will
16 consider approval of the project as a separate action.

17 Of course the public may attend these hearings
18 and provide comments on the Final EIR after which time
19 you can see is currently anticipated in the early summer
20 of 2021.

21 So this slide gives a short overview of the
22 CEQA process with the items shown in blue as those
23 opportunities for public comment.

24 So as you can see, there was a thirty-day
25 period after the NOP was published and now we're in a

1 sixty-day period for the comment period for the Draft
2 EIR, and then finally there will be an opportunity for
3 public comments during final certification period, as
4 well.

5 So as I mentioned before, initial study was
6 circulated with -- with the Notice of Preparation that an
7 EIR would be prepared.

8 Based on the conclusions of the initial study,
9 the topics shown on this slide in -- in the right three
10 columns were not anticipated to result in significant
11 effects and therefore they were deemed to be adequately
12 addressed through the program level EIR prepared Connect
13 Menlo.

14 And then those topics on the left there are the
15 ones that are included in the -- in the EIR itself.

16 So based on in this analysis, the population
17 and housing, transportation, air quality, greenhouse gas
18 emissions and noise were further evaluated in the EIR.

19 This is a an overview of the Draft EIR's
20 findings and goes over more in-depth in the next couple
21 of slides.

22 The main takeaway is that there are -- there
23 were no significant unavoidable impacts identified and
24 that all of these impacts could be reduced to a less than
25 significant level with the implementation of identified

1 mitigation measures.

2 So for the topic of population and housing,
3 housing needs assessment or an HNA was prepared in
4 compliance with the terms of the settlement agreement and
5 to provide background and comments for this section.

6 Briefly, the project would fit within the
7 growth -- growth projections identified in the Connect
8 Menlo EIR and would not induce any unplanned population
9 growth.

10 In addition, the project would increase the
11 availability of housing and would not increase
12 displacement pressures in the surrounding neighborhoods
13 of East Palo Alto.

14 In conclusion, considering the new housing
15 provided by the project, the reduced worker housing
16 demand associated in removing the existing job generating
17 uses on the site and the minor increase in a demand for
18 workers, worker housing associated with commercial space
19 at the site as well as any new services offsite.

20 No mitigation measures will be required for the
21 project.

22 So for transportation, a transportation impact
23 analysis or a TIA was prepared consistent with the City's
24 TIA guidelines.

25 Under CEQA, as -- as I think we've discussed

1 here before, roadway congestion or level of service is no
2 longer the metric of evaluation for transportation
3 impacts.

4 Instead in compliance with SB-743 and the
5 City's updated TIA guidelines, vehicle miles traveled or
6 VMT is being used.

7 The threshold considered VMT per person or per
8 capita, which is really a measurement of the amount of
9 distance that a resident, employee or a visitor to the
10 project site drives.

11 What makes these projects like -- like the one
12 we have tonight, each land use is independently
13 evaluated.

14 So the analysis for the residential component
15 of the project determines that what implementation of a
16 Transportation Demand Management Plan or TDM plan
17 proposed by the project.

18 The project itself would be below the
19 established threshold which needs to be fifteen percent
20 below the regional average VMT.

21 So, for example, if -- if the regional average
22 for one hundred, the project would be 85 or above.

23 So for -- for the commercial use, if the space
24 was too small to require the analysis of VMT and was
25 exempted from further analysis.

1 The EIR also determined that the project would
2 generally comply with the associated transportation
3 related plans and policies, would not any design hazards
4 or result in inadequate emergency access.

5 Consistent with the City's TIA guidelines, a
6 level of service analysis was also conducted for local
7 planning purposes.

8 Two intersections were identified in the near-
9 term as exceeding the City's average critical movement
10 delay threshold and five were determined to exceed that
11 threshold during preloading conditions.

12 Intersection improvements were recommended to
13 be included as private plans of improvement of potential
14 impact.

15 For the topic of air quality, the analysis
16 determined that the implementation of the Bay Area Air
17 Quality Management District, or BAAQMD, that basic
18 construction measures would be required to reduce
19 construction periods.

20 Air quality impacts are less than impact less,
21 which is consistent with the findings of the Connect
22 Menlo EIR. The project would not exceed regional air
23 quality emissions thresholds during operation.

24 The EIR did also include a construction and
25 regional health assessment, or HRA, mitigation measures

1 outlined in the Connect Menlo EIR required for each
2 individual projects.

3 The HRA determines whether or not receptors
4 remaining or sustained residential uses or schools or
5 other sensitive uses could be exposed to toxic air
6 contaminants.

7 The analysis determined that offsite sensitive
8 receptors would not be exposed to substantial increases
9 in those toxic areas of the project and no mitigation
10 measures would be required there.

11 No mitigation measures would be required to rid
12 exposures of future residents to indoor particulate
13 matter associated with existing conditions related to a
14 high level roadway, and that -- that really includes the
15 installation of HVAC and air filtration systems taking
16 that away.

17 For the topic of greenhouse gas emissions,
18 all -- all of the impacts would be less than significant
19 with implementation of those creative construction
20 measures for BAAQMD that I just mentioned would further
21 reduce the TSG emissions during construction.

22 The project would be well below BAAQMD
23 thresholds for operational emissions, and the project
24 would generally comply with principal plans, policies and
25 regulations that were adopted for the purpose of using

1 greenhouse emissions, including the State's scoping plan,
2 Plan Bay Area and the City's Climate Action Plan.

3 Finally for noise, the analysis determined that
4 transportation related increases in noise would not
5 exceed the City's standard.

6 Because the project would locate residential
7 land uses in an area that is considered acceptable noise
8 acceptable, mitigation measures would be required to
9 reduce interior noise.

10 It includes the installation of mechanical
11 installation like HVAC and air conditioning, but windows
12 remain closed and use of noise reducing window materials
13 and are consistent with the finding of the Connect Menlo
14 EIR.

15 So the EIR also evaluated a range of
16 alternatives to the proposed project with the objective
17 of avoiding or reducing potential impacts of the project.

18 These alternatives were developed in
19 consultation with City Staff and considered the comments
20 received during the NOP scoping period.

21 Under CEQA alternatives to a project generally
22 must meet the basic objectives of the project. So while
23 there were a number of alternatives that were considered,
24 the EIR included a full analysis of three alternatives
25 total, the CEQA requires no project alternative as well

1 as two development alternatives.

2 So as you'll see in this table, the base level
3 alternative would see development on the site under the
4 maximum base residential density allowed in the zoning
5 district without community amenities and without bonus
6 level.

7 So that would result in seventy-seven fewer
8 residential units than the proposed project, but an
9 increase in commercial space by approximately 5,200
10 square feet.

11 While this would reduce some of the impacts
12 compared to the proposed project, it would only be a
13 slight reduction due to the reduced development intensity
14 and less construction, but none of the impacts would be
15 entirely avoided and similar mitigation measures would be
16 required.

17 The second alternative would be the maximum
18 buildout alternative which looks at the development under
19 the site -- under the maximum residential density allowed
20 at the bonus level in the zoning district.

21 This would include the same number of
22 residential units at the proposed project, but also an
23 increase in commercial space of 92 square feet.

24 Under this alternative negative impacts will be
25 reduced or avoided and similar mitigation measures would

1 be required.

2 Ultimately it was determined that in terms of
3 environmental impacts, particularly the base level
4 alternative, would be the environmental --
5 environmentally superior alternative, but it wouldn't
6 meet some of the basic purposes of the projects to the
7 same -- same extent this alternative would also not meet
8 some of the objectives of Connect Menlo in the proposed
9 project.

10 So that concludes my overview of the CEQA
11 process and the results of the EIR analysis. Comments
12 will be collected by the City and should be submitted to
13 Payal as shown on this slide.

14 Even if you make verbal comments at
15 tonight's -- tonight's meeting, we would also encourage
16 you to submit your comments in writing so we can fairly
17 respond and make sure that we do respond to all of them.

18 And with that, we can take your comments.

19 CHAIRPERSON RIGGS: All right. Thank you for
20 the presentation, Matthew, and Commissioners, do we have
21 questions or comments on the EIR?

22 Mr. DeCardy.

23 COMMISSIONER DECARDY: This is a process
24 question. Are we also having public comments on the EIR?

25 CHAIRPERSON RIGGS: Oh, absolutely.

1 COMMISSIONER DECARDY: Thank you. Then I'll
2 wait.

3 CHAIRPERSON RIGGS: All right. Any other
4 questions?

5 I have a couple of clarification questions,
6 although I may or may not expect the answer.

7 When it's determined that the traffic impact
8 would be not significant, is this due to the comparison
9 of the existing R&D use and its traffic levels or is this
10 based on a -- a by due to the 2016 Connect Menlo EIR?

11 MR. WISWELL: That is a great question and one
12 [Amanda Leahy from Kittelson]
13 that I will see if Theresa Wallace from LSA is on and can
14 answer.

14 [LEAHY]
15 MS. WALLACE: Yeah. Hi, everyone. This is
16 Theresa Wallace with LSA. The transportation study, the
17 CEQA impacts we reviewed the vehicle miles per capita for
18 each of the proposed land uses.

19 So the findings were less than significant
20 because the proposed project would not exceed the VMT
21 threshold.

22 CHAIRPERSON RIGGS: In comparison to what?
23 [LEAHY]

24 MS. WALLACE: In comparison to ex -- existing
25 condition. So -- well, I guess it's not really in
26 comparison to anything.

27 So each of the proposed projects land uses, so

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1 the residential land use for VMT per capita for that
2 proposed land use was evaluated.

3 So the -- so the -- the per capita vehicle
4 miles traveled for a land use within the project's
5 transportation analysis zone, that VMT was pulled from
6 the City's model and was found to be less than the
7 threshold.

8 So the --

9 CHAIRPERSON RIGGS: So --
[LEAHY]

10 MS. WALLACE: And the threshold is the
11 regional average.

12 CHAIRPERSON RIGGS: All right. So it's
13 compared not to existing traffic, but to a City model
14 which presumably was prepared as part of the 2016 Connect
15 Menlo project? Does that sound right?

16 [LEAHY]
17 MS. WALLACE: The -- the model has been
18 updated, I believe. I think Kyle may be prepared to
19 answer this a little bit better.

20 MR. PERATA: I can try. And I'll punt it to
21 our transportation team if I need to, but I think what
22 the -- the model itself is the Men -- the Menlo Park --
23 the City's current model, and you're right.

24 We did work on it as part of Connect Menlo when
25 we did our initial kind of VMT report out to Connect
Menlo. At that time it was -- those were informational,

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cont.

1 you know, levels of service threshold.

2 We have updated model, as Amanda said, with
3 more land use.

4 The important thing that I think you're trying
5 to clarify, VMT, vehicles miles traveled is different
6 than roadway congestion.

7 It is studying the total vehicle miles traveled
8 from the project and it's normalized per capita and it
9 doesn't compare to existing conditions in terms of is it
10 a change from the VMT at the office or R&D was
11 generating.

12 It's more of the City's model identifies VMT
13 based on its transportation analysis zones for the number
14 of zones within the city.

15 I'm not going to get too detailed here, but
16 basically you find the VMT for that zone and then you
17 compare the project to that VMT.

18 And what -- the threshold is actually fifteen
19 percent below the regional average. So for this project,
20 it's 13.7. I have it right over here. 13.7 mile --
21 vehicle miles traveled is the residential land use
22 threshold that they have to be below in order to be less
23 than significant.

24 And then the analysis found that the project's
25 VMT generation with the TDM plan applied would be less

1 than that in terms of the total VMT that each individual
2 per capita would travel.

3 Does that help?

4 CHAIRPERSON RIGGS: It helps me hit you back
5 with a question, which is to confirm. Since this isn't a
6 real comparison, somehow we are persuading the state that
7 this is a valid way to evaluate this project.

8 So it has to compare to something and it
9 appears -- or I'm -- I'm -- I'm inferring here that a
10 baseline was established with Connect Menlo in 2016 that
11 this shall be the standard VMT for this zone.

12 Now, in order to do that in 2016, was that
13 standard -- since it was obviously more VMT or LOS,
14 either one, impact than existing conditions, was that
15 justified to the state at that time with mitigations in
16 the Connect Menlo EIR, and thus that is our baseline and
17 that's why you can present this project here tonight and
18 say that it is within standards?

19 MR. PERATA: So Kristian has joined to
20 basically bail me out here. So I'll turn it over to her.
21 I did miss the crux of the question here, so I appreciate
22 the clarifying question.

23 MS. CHOI: Good evening, Chair Riggs.
24 Kristian Choi, our transportation manager with the City.

25 If you might remember last year we came to the

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cont.

1 Planning Commission to update our Transportation Impact
2 Analysis guidelines and at that time we established the
3 threshold that we were going to use to evaluate
4 development projects. So kind of developing what our
5 average threshold was.

6 And so we looked at both an office threshold,
7 residential threshold and then kind of other types of
8 uses like retail.

9 And so the Office of Planning and Research, the
10 State Office of Planning and Research, they gave us
11 guidelines on how we could set up those thresholds.

12 And so for residential, we could look at the
13 average VMT per capita for citywide or kind of the
14 region.

15 And so we presented those results and the --
16 the Planning Commission as well as the City Council then
17 eventually adopted using the regional average. And then
18 the requirement is fifteen percent below that regional
19 average.

20 So we defined those regional averages back last
21 year and we used the travel demand models of the City to
22 establish what the average was.

23 So we didn't do this specifically for Connect
24 Menlo. We did it for -- to -- we used the model that was
25 developed as part of Connect Menlo. We updated it in

1 order to determine what these averages should be, and
2 then the City, both the Planning Commission and the City
3 Council, then adopted those thresholds.

4 CHAIRPERSON RIGGS: All right. So this model
5 is not based on history. This base -- this model is
6 based on the intended use of the zone?

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7 MS. CHOI: Correct, yes. It does have our
8 existing land uses in there, though.

9 CHAIRPERSON RIGGS: All right. So what we
10 know from the information in the EIR is not whether or
11 not the traffic will increase as a result of this
12 project; only whether or not it is within the
13 expectations of the process that we went through refined
14 last year for this kind of development in this zone.

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cont.

15 So it's reasonable to presume that traffic may
16 increase, but in terms of VMT, we were not determining
17 that at all with the EIR.

18 Is that correct?

19 MS. CHOI: Yeah. So now with the VMT as our
20 threshold, it's focused on reducing the vehicles miles --
21 vehicle miles traveled depending on the type of land use.
22 In this case for residential VMT per capita.

23 CHAIRPERSON RIGGS: Okay. And -- and that's
24 an understandable goal. It's just that he wouldn't want
25 people to misinterpret that we have followed a guideline

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1 that would indicate whether or not we're going to
2 increase traffic. We haven't done that.

3 We've more established whether it will be a
4 reasonable amount of traffic for this type of use, and
5 the City has already asked that it be fifteen percent
6 below an average guideline point and that we did meet
7 that?

8 MS. CHOI: Yes. That's correct.

9 CHAIRPERSON RIGGS: Okay. That's fair.

10 And then just as an aside, the LOS study, which
11 is not part of the EIR, but as long as it was done by LSA
12 or through LSA, that did find some increases, but
13 mitigations were assigned to that?

14 MS. CHOI: Yeah. So there are some
15 improvements that are -- are identified to ad -- address
16 some of the delays that would be caused by the increase
17 in traffic, but there are some potential feasibility
18 impacts that we'll still need to be evaluated.

19 CHAIRPERSON RIGGS: And then some of these
20 mitigations are doable, but some are in question due to
21 the amount of land for -- available for right --
22 right-of-way. Is that correct?

23 MS. CHOI: Yes. That's correct. Or there can
24 be other tradeoffs, as well.

25 CHAIRPERSON RIGGS: Okay. All right. Thank

1
cont.

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cont.

1 you. Thank you all for gathering to clarify that point.

2 Any other questions before we go to public
3 comment?

4 MR. PERATA: Yes.

5 CHAIRPERSON RIGGS: Yes.

6 MR. PERATA: Through the chair, I -- I just
7 want to clarify one thing. It's somewhat semantic, but
8 in terms of the level of service recommended
9 improvements, those aren't mitigation measures, and
10 there's a distinction there because in the Draft EIR and
11 the Final EIR, if it was to be approved, there would be a
12 mitigation monitoring reporting program that would be
13 tied to that.

14 And so these would be -- what we're talking
15 about here are any improvements for intersections for
16 level of service and roadway congestion.

17 Those would need to added for conditions of
18 approval, and their -- their improvement measures to
19 bring it back to existing conditions.

20 The -- the distinction is more of a legal CEQA
21 distinction that I wanted to make for everyone's benefit
22 real quick.

23 CHAIRPERSON RIGGS: Understood. I will use
24 the term "mitigation" if I can help it. Thank you.

25 Any other questions before we move to public

1 comment?

2 All right. So Kyle and Payal, if -- if I am
3 correct, we are in a position to take public comment at
4 this point?

5 MS. BHAGAT: Yes, sir.

6 CHAIRPERSON RIGGS: All right. Thank you.

7 So to the public, if you would like to comment
8 on this EIR we will review the building design later, but
9 at -- at this moment if you would like to comment on this
10 document during this hearing, this is the time.

11 There is a hand icon on the right side of your
12 screen where the Go-To Meeting control panel is. If you
13 click on that hand, it will signify that you would like
14 to make a comment.

15 I will note that one can always make a written
16 comment addressed to the City regarding 111 Independence
17 Drive EIR. It would be received up to and including
18 February 2 if I -- if I understand it.

19 But the opportunity to speak publicly tonight
20 is at this moment.

21 All right. Mr. Tapia, do you see anything?

22 MR. TAPIA: Good evening, Chair Riggs, members
23 of the public. Yeah. At this moment, I'm not seeing any
24 virtual hands or any virtual correspondence being
25 submitted, but we can give it a second or two.

1 CHAIRPERSON RIGGS: There isn't a large
2 residential population in this area quite yet, but there
3 is going to be.

4 All right. Seeing no -- no comments from the
5 public, I'm going to close the public hearing and bring
6 it back to the Commissioners for comments, and Mr.
7 Barnes.

8 COMMISSIONER BARNES: Thank you. Thank you,
9 Chair Riggs and thank you, Staff for -- and the applicant
10 team for presenting us with this information.

11 I want to really acknowledge the utilization of
12 VMT in this project and the benefits that it has.

13 I mean, if we -- if we go back to level of
14 serv -- level of service, the LOS and, you know, often
15 advocated by folks looking along the induced demand
16 pipeline, which is if you just wave and create more lanes
17 of traffic, you can solve your congestion problems,
18 and -- but when, what in fact has been proven is the more
19 capacity you add, the more people who come, particularly
20 a way of finding another technological method, you just
21 fill up that capacity in a heartbeat. People just go
22 towards that.

23 What VMT does is it disabuses folks of the
24 notion that you can add capacity and what it says for
25 particular development, as the letters stand for, what

3

1 are the vehicle miles traveled that are going to be
2 associated with that development given the product type,
3 given the location and it addresses the different
4 modalities for getting to a particular development, and
5 it -- it works on many different levels.

6 It works on reducing the amount of cars on the
7 road, works on mitigate, because you're not adding
8 capacity, the impacts to the climate of -- of traffic.

9 And it make -- it also looks and says: Look,
10 we -- when we build something, we don't know in Menlo
11 Park from the traffic's coming from Redwood City, if the
12 traffic's coming from Mountain View.

13 All anyone needs to do is be on 101 coming on
14 the south in a non-pandemic time as the Dumbarton Bridge
15 backs up and you're backed up all the way down 101 when
16 you're trying to come along Willow.

17 Interestingly enough if you look at traffic
18 numbers on Willow pre-pandemic in 2019 and then the
19 numbers for 2016, it's the same amount of traffic that
20 was Willow Road.

21 The challenge was because the Dumbarton Bridge
22 was all jammed up, it just felt like there were more
23 cars, but in fact it was the same amount of cars, just
24 moving slowly.

25 So this VMT is a -- is the -- is the -- the way

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cont.

1 to accurately assess for specific projects what that
2 specific project is going to do in relation to impacts on
3 the surrounding areas.

4 So I'm glad that it's forward. It's taken a
5 while to get here. It was not in place at the time of
6 Connect Menlo, but it's here now and we've got an updated
7 version, and it's -- I think it's a wonderful benchmark
8 for a go-forward basis of how circulation works, how
9 traffic works and how it is we mitigate some of the kind
10 of challenges associated with transportation.

11 So I'll add that. Thank you.

12 CHAIRPERSON RIGGS: Thank you, Mr. Barnes.

13 Any other comments about our EIR? Mr. DeCardy?

14 COMMISSIONER DECARDY: Yeah. I appreciate the
15 conversation about the vehicle and traffic impacts.

16 This is a clarifying question. This is all
17 talking about the mitigation of the Transportation Demand
18 Management Plan put in place by the applicant.

19 The Staff -- where are we with that plan? is
20 it -- does it exist, is it specific or is it saying that
21 a plan is going to be developed, and in order to be
22 successful, we'll reach this level?

23 MS. BHAGAT: I will start and then Matthew can
24 join in.

25 So the applicant did provide specific

3
cont.

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1 Transportation Demand Management Plan that both evaluated
2 as part of the transportation analysis for the project.

3 So that became part of the project. I don't
4 want to say mitigation, but it is -- it is part of the
5 project transportation, and as part of the conditions of
6 approval of the project, Staff will monitor the
7 implementation of the TDM program that the applicant has
8 committed to.

9 So we will have to on an annual basis deal with
10 the implementation of the TDM to make sure that they are
11 fulfilling everything that they said they will maintain.

12 MR. PERATA: Thank you. I would -- that was
13 perfect, and the only thing that I would add is that
14 those specific measures are included on page 4.2-36 of
15 the EIR as well as the amount of production that we
16 expect from either of those measures.

17 CHAIRPERSON RIGGS: Thank you.

18 COMMISSIONER DECARDY: Thank you. I
19 appreciate the I didn't see it. Thank you.

20 CHAIRPERSON RIGGS: Any other comments or
21 questions, suggestions?

22 All right. Seeing none, I want to express my
23 appreciation. I know a great deal of work goes into an
24 EIR and a great deal of time, and I particularly
25 appreciate the backup to my challenging question.

1 I think with that, Miss Bhagat, we might want
2 to move on to the Study Session. Is that correct?

3 MS. BHAGAT: Yes, sir.

4 CHAIRPERSON RIGGS: By the way, if I'm
5 pronouncing your name incorrectly. Is it Bhagat?

6 MS. BHAGAT: It is Bhagat, yes.

7 CHAIRPERSON RIGGS: All right. Thank you.
8 It's Marathi turned into English. It can be spelled
9 quite correctly, but you're close enough. Thank you. I
10 appreciate it.

11 MR. PERATA: If I could say something quickly
12 before we close the presentation, Leo was about to pull
13 up the agenda. I think, Chair Riggs, if you could
14 formally close the previous item F2 and then open
15 formally the Study Session item, that would be preferred.

16 CHAIRPERSON RIGGS: Thank you. I'm limited on
17 my hardware tonight.

18 All right. We'll close the EIR review. We'll
19 move on to item G1, which is the Study Session.

20 (This portion of the hearing closed at 8:55
21 PM).

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1 STATE OF CALIFORNIA)
2 COUNTY OF SAN FRANCISCO)

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4 I, the undersigned, hereby certify that the
5 discussion in the foregoing meeting was taken at the
6 time and place therein stated; that the foregoing is a
7 full, true and complete record of said matter.

8 I further certify that I am not of counsel or
9 attorney for either or any of the parties in the
10 foregoing meeting and caption named, or in any way
11 interested in the outcome of the cause named in said
12 action.

13
14 IN WITNESS WHEREOF, I have
15 hereunto set my hand this
16 _____ day of _____,
17 2021.

18 _____
19 MARK I. BRICKMAN CSR 5527
20
21
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23
24
25

PLANNING COMMISSION HEARING C1

January 11, 2021

Response C1-1:

This series of comments requests more information regarding the methodology and analysis of transportation impacts in the Draft EIR. Specifically, the commenter asks for clarification as to what the traffic generated by the proposed project is compared to – existing baseline conditions or the assumptions provided in ConnectMenlo and contained in the City’s traffic model – or some other method. The commenter questions whether the analysis focuses on the potential of the project to increase traffic or does the project generate a reasonable amount of traffic for the proposed uses.

As explained in Section 4.2.1.2, Analysis Scope and Methodology, beginning on page 4.2-12 of the Draft EIR, Vehicle Miles Traveled (VMT) is the required transportation metric and the legally required threshold for transportation impacts pursuant to CEQA and the City’s TIA Guidelines. This section of the Draft EIR fully explains the VMT metric and the approach to analysis of VMT, including use of the City’s 2020 travel demand model, how VMT is estimated within the City’s transportation analysis zones (TAZ), and the established threshold of 15 percent below the regional average, which is 13.7. The VMT analysis is presented on pages 4.2-35 through 4.2-38 of the Draft EIR. As discussed, VMT per capita is an efficiency metric, versus an absolute numerical value, and as such, applies only to the proposed project without regard to the VMT generated by the previously existing land use.

For local planning purposes, Section 4.2.3.1, Intersection Level of Service Analysis, beginning on page 4.2-41 of the Draft EIR, provides the LOS analysis, which is an evaluation of the proposed project’s potential to increase congestion at study area intersections. An LOS analysis is not required for purposes of evaluating potential environmental impacts pursuant to CEQA and the City elects not to substantively respond to comments regarding effects to LOS. (*See Citizens for Positive Growth and Preservation v. City of Sacramento* (2019) 43 Cal.App.5th 609). LOS impacts were identified and mitigation measures were required in the ConnectMenlo Final EIR because at the time of adoption of the ConnectMenlo Final EIR, LOS was the applicable threshold for analyzing transportation impacts. Consistent with the City’s current TIA Guidelines, intersection LOS analysis was conducted for planning purposes only. The results are summarized in Section 4.2.3, Non-CEQA Analysis of the Draft EIR and presented in Appendix E, TIA. Any LOS deficiencies are not subject to mitigation in the EIR, but could be addressed through conditions of approval.

- Response C1-2: This comment requests clarification regarding the LOS analysis for the proposed project and the recommendations to improve intersection operations. An LOS analysis is not required for purposes of evaluating potential environmental impacts pursuant to CEQA. Please refer to Response C1-1.
- Response C1-3: This comment, which expresses general support for the use of the VMT metric in the transportation analysis, is noted. The commenter is not questioning the adequacy of the information or analysis within the Draft EIR, and no further response is required.
- Response C1-4: This comment requests the status of the TDM plan. The TDM plan is presented on page 4.2-27 of the Draft EIR and the anticipated VMT reduction rate for each specific measure is included in Table 4.2.E on page 4.2-36 of the Draft EIR. As shown in Table 4.2.E, implementation of the TDM plan would result in an estimated reduction of approximately 29 percent of the VMT generated by the proposed project, which would comply with the City's Zoning Ordinance and reduce project-generated VMT to a less-than-significant level.

4.0 DRAFT EIR TEXT REVISIONS

This chapter presents specific changes to the text of the Draft EIR that are being made to clarify and supplement materials in the Draft EIR that are City-initiated. No revisions have resulted from comments received on the Draft EIR (refer to Chapter 3.0, Comments and Responses). In no case do these revisions result in a greater number of impacts or impacts of a greater severity than those set forth in the Draft EIR. Where revisions to the main text are called for, the page and paragraph are set forth, followed by the appropriate revision. Added text is indicated with double underlined text. Text deleted is shown in ~~strikeout~~.

4.1 CITY-INITIATED TEXT CHANGES

The following includes and incorporates into Section 4.4, Greenhouse Gas Emissions, of the Final EIR an analysis of the proposed project's potential impacts related to greenhouse gas emissions using the Statewide 2030 target.

Pages 4.4-19 through 4.4-20 are revised as follows:

The BAAQMD's most recent quantitative threshold is 4.6 metric tons of CO₂e per year per service population. This numeric operational threshold set by the BAAQMD was calculated to achieve the State's 2020 target for GHG emissions levels (and not the SB 32 specified target of 40 percent below the 1990 GHG emissions level). BAAQMD has not yet updated the operational threshold to achieve target GHG emissions levels for 2030. Construction of the proposed project is estimated to begin spring 2021 and would occur for approximately 21-months. The proposed project, therefore, would not be fully constructed and operational until 2023. Because the proposed project would begin operations in the post-2020 timeframe, the BAAQMD 2020 efficiency target of 4.6 metric tons of CO₂e per year per service population, which has been the threshold most recently applied to development projects, would not directly apply, as using it would not achieve the State's post-2020 GHG reduction goals.

CARB has completed a Scoping Plan, which will be utilized by the BAAQMD to establish the 2030 GHG efficiency threshold. However, BAAQMD has yet to publish a quantified GHG efficiency threshold for the 2030 target. Therefore, pursuant to CEQA Guidelines Section 15064.4(a), the City has the discretion to, in the context of a particular project, both quantify a project-specific threshold and conduct a qualitative analysis. Therefore, a scaled threshold consistent with State goals detailed in SB 32, Executive Order B-30-15, and Executive Order S-3-05 to reduce GHG emissions by 40 percent below 1990 levels by 2030 and 80 percent below 1990 levels by 2050 respectively was developed for evaluation of the proposed project for 2023, when the proposed project is anticipated to be operational. This EIR also includes an evaluation of the proposed project in 2030, the year of the updated Statewide target.

Based on the calculations, discussed in more detail below, to quantitatively determine significance, this EIR uses a threshold of 4.1 metric tons of CO₂e per capita service population (employees plus residents) per year, which was calculated for the buildout year of 2023 based on the GHG reduction goals of SB 32 and Executive Order B-30-15. This threshold is scaled from

the BAAQMD 2020 target threshold to fit the Statewide 2030 target (40 percent below 1990 levels of emissions). This EIR uses a threshold of 2.76 metric tons of CO₂e per capita service population (employees plus residents) per year for the year 2030.

The scaled threshold was calculated as follows:

- The 2020 threshold was based on the 2020 target (1990 levels of emissions by 2020). Based on the current 2030 target (40 percent below 1990 levels by 2030), 40 percent below the 2020 threshold (1990 level) of 4.6 metric tons of CO₂e per capita service population (employees plus residents) per year would represent the 2030 threshold (2.76 metric tons of CO₂e per capita service population per year).
- The threshold between 2020 and 2030 is scaled at 4 percent per year (40 percent across the 10-year period).
- With an anticipated project operation date of 2023, the proposed project's target would be 4.1 metric tons of CO₂e per capita service population per year. This threshold is 12 percent below the 2020 target at a 4 percent per year reduction from the 2020 target for the 3-year period between 2020 and 2023.
- Given the above, the quantitative analysis below is based on the following scaled threshold and the proposed project would have a significant impact related to greenhouse gas emissions if it would:
 - Result in operational-related GHG emissions of greater than 4.1 metric tons of CO₂e per capita service population (employees plus residents) per year in 2023 (the project opening year) and less than 2.76 metric tons of CO₂e per capita service population per year in 2030.¹
 - Conflict with applicable plans, policies and regulations adopted for the purpose of reducing GHG emissions (qualitatively discussed).

Page 4.4-24 is revised as follows:

2030 Operational Analysis

An analysis was conducted to evaluate whether the proposed project would meet a scaled threshold for the year 2030, consistent with State goals detailed in Senate Bill (SB) 32, Executive Order B-30-15, and Executive Order S-3-05 to reduce GHG emissions by 40 percent below 1990 levels by 2030 and 80 percent below 1990 levels by 2050 respectively. The additional analysis is provided below.

¹ This threshold is based on the BAAQMD's threshold of 4.6 metric tons of CO₂e per capita service population, but scaled to reflect the updated Statewide 2030 target (40 percent below 1990 levels of emissions).

Long-term operational greenhouse gas emissions associated with the proposed project for year 2030 were calculated using the California Emissions Estimator Model version 2016.3.2 (CalEEMod). Trip generation rates used in CalEEMod for the project were based on the project’s trip generation estimates, which assumes the proposed project would typically generate approximately 763 net new average daily trips (refer to Table 4.2.B in Section 4.2, Transportation, for trip generation estimates). Consistent with ConnectMenlo requirements, the proposed project would comply with specific green building requirements for LEED certification, provide outlets for EV charging, enroll in the USEPA Energy Star Building Portfolio Manager, use new modern appliances and equipment, and comply with current CALGreen standards, which was included in CalEEMod. The proposed project would not increase the demand for natural gas as the City’s reach codes would require the buildings to be all electric. When project-specific data were not available, default assumptions from CalEEMod were used to estimate project emissions. Model results are shown in Table A below. CalEEMod output sheets are included in Appendix A.¹

¹ Supplemental modeling data for the 2030 analysis is incorporated into Appendix A to the RTC Document.

Table A: Proposed Project Year 2030 GHG Emissions (Metric Tons Per Year)

<u>Emissions Source</u>	<u>Operational Emissions</u>				
	<u>CO₂</u>	<u>CH₄</u>	<u>N₂O</u>	<u>CO₂e</u>	<u>Percent of Total</u>
<u>Area Source Emissions</u>	<u>2.9</u>	<u><0.1</u>	<u>0.0</u>	<u>3.1</u>	<u>0</u>
<u>Energy Source Emissions</u>	<u>1.6.7</u>	<u><0.1</u>	<u><0.1</u>	<u>107.5</u>	<u>17</u>
<u>Mobile Source Emissions</u>	<u>495.5</u>	<u><0.1</u>	<u>0.0</u>	<u>495.9</u>	<u>80</u>
<u>Waste Source Emissions</u>	<u>2.5</u>	<u>0.1</u>	<u>0.0</u>	<u>6.2</u>	<u>1</u>
<u>Water Source Emissions</u>	<u>7.2</u>	<u>0.2</u>	<u><0.1</u>	<u>13.0</u>	<u>2</u>
<u>Total Annual Emissions</u>				<u>625.7</u>	<u>100</u>
<u>Total Annual Service Population Emissions (Metric Tons/Year/Service Population)</u>				<u>2.3</u>	<u>=</u>
<u>Service Population Threshold¹</u>				<u>2.76</u>	<u>=</u>
<u>Exceed?</u>				<u>No</u>	<u>=</u>

Source: LSA (February 2021).

¹ This threshold is based on the BAAQMD thresholds using a Statewide 2020 target (achieve 1990 levels by 2020) regressed to fit the Statewide 2030 target (40 percent below 1990 levels of emissions) for year 2030.

As shown in Table A, in 2030, mobile source emissions are the largest source of emissions, at approximately 80 percent of total CO₂e emissions, followed by energy source emissions at approximately 17 percent of the total. In addition, water and waste source emissions are approximately 2 percent and 1 percent of the total, respectively.

Based on the project-specific thresholds developed for this analysis, greenhouse gas emissions generated by the proposed project would be less than significant if the proposed project would result in operational-related greenhouse gas emissions of less than 2.76 metric tons of CO₂e per service population (residents plus employees) in 2030. The proposed project would develop 105 residential units, which would provide housing for approximately 270 people. The proposed project would also result in approximately five employees; therefore, the total service

population (residents plus employees) would be 275 people (refer to Section 4.1, Population and Housing). Therefore, the project's greenhouse gas emissions would result in a greenhouse gas efficiency of 2.3 metric tons CO₂e per service population, which would be well below the 2.76 metric tons of CO₂e per service population threshold in 2030. Therefore, the operational greenhouse gas emission impact of the proposed project in 2030 would be ***less than significant (LTS)***.