

Commonwealth Building 3 Project

Comments on the public Draft Environmental Impact Report

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From: [Perata, Kyle T](#)
To: [Bhagat, Payal](#)
Subject: FW: Draft EIR - Commonwealth Building 3
Date: Thursday, August 11, 2022 8:28:58 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
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FYI



Kyle T. Perata
Acting Planning Manager
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From: Johnston, Jon [mailto:JonJ@MenloFire.org]
Sent: Wednesday, August 10, 2022 2:15 PM
To: Perata, Kyle T <ktperata@menlopark.org>
Cc: Johnston, Jon <JonJ@MenloFire.org>
Subject: Draft EIR - Commonwealth Building 3

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Kyle,

Please find our comments for the Draft EIR – Commonwealth Building 3.

Page ES-17. Fire Protection Impact is Less Than Significant with no mitigation measures required.

Page 4-9. Menlo Park Fire Protection District comments still apply from the ConnectMenlo EIR. While no additional facilities are needed at this time, the M-2 area growth is changing significantly the added call volume, traffic impacts to response times, building height and area requiring ladder trucks, and population increases requiring additional firefighters. The cumulative effect of all projects will change and require additional resources and facilities upgrade to Station 77 which serves this area. Most importantly is traffic and continued decrease in road width and traffic calming measures in this area which adds to the response times. MPFPD adopts response time standards of which may need to be addressed in the very near future as we are at a area of concern for current

response times.



Jon Johnston

Division Chief/Fire Marshal

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Mission Statement: To protect and preserve life and property from the impact of fire, disaster, injury and illness.

menlofire.org



California Department of Transportation

August 12, 2022

SCH #: 2019059106

GTS #: 04-SM-2019-00444

GTS ID: 15782

Co/Rt/Pm: SM/101/3.1

Payal Bhagat, Principal Planner
701 Laurel Street
Menlo Park, CA 94025

Re: Commonwealth Building 3 Project Draft Environmental Impact Report (DEIR)

Dear Payal Bhagat:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the Commonwealth Building 3 Project. We are committed to ensuring that impacts to the State's multimodal transportation system and to our natural environment are identified and mitigated to support a safe, sustainable, integrated, and efficient transportation system. The following comments are based on our review of the July 2022 draft EIR.

Project Understanding

The project proposes to construct approximately 249,500-gross-square-foot (gsf) office building, an approximately 404,000 gsf parking structure accommodating 1,340 parking spaces, and provide new landscaping and a 34,000 square feet (sf) privately owned/ publicly accessible open space (referred to in this document as Jefferson Park) as part of the Commonwealth Building 3 Project. The Project site is within a portion of the existing Commonwealth Corporate Center (Campus Property) at 162 and 164 Jefferson Drive, added to the Campus Property in 2015 as part of the Commonwealth Corporate Center Project.

Travel Demand Analysis

With the enactment of Senate Bill (SB) 743, Caltrans is focused on maximizing efficient

development patterns, innovative travel demand reduction strategies, and multimodal improvements. For more information on how Caltrans assesses Transportation Impact Studies, please review Caltrans' Transportation Impact Study Guide ().

Caltrans' acknowledges that the project Vehicle Miles Traveled (VMT) analysis and significance determination are undertaken in a manner consistent with the Office of Planning and Research's (OPR) Technical Advisory. Due to increased amount of projected vehicle miles traveled in this Project, the VMT impacts are found to be *less than significant with mitigation*, as indicated in the environmental document.

Active Transportation and Transportation Demand Management (TDM)

To support the meaningful implementation of Transportation Demand Management (TDM) measures put forth in the TDM plan, please consider allocating and demarcating space for active transportation users wherever possible upon the paseos and paths proposed. Specifically, pathing for bicyclists can be demarcated through distinct paver color, signage, paint, or any combination of these. This strategy provides a prominent visual message that bicycling is valued and has dedicated space on-site. To the best extent possible, extend such pathing to the nearest transit, shuttle stops, and connecting bicycle facilities to underscore the active transportation network.

Consider increasing the amount of bike storage, for both Class I and Class II type storage. The Project's bike parking count currently lists existing bike parking from Building 1 and 2 as part of the Building 3 total proposed bike parking. However, if Building 3 is adding to rather than replacing employees from Buildings 1 and 2, the result may be inadequate bicycle parking/storage. Additionally, consider making supplementary Class I bike storage available to visitors, not just employees. It affords a higher sense of security to visitors and employees alike to provide more secure bike storage in plain sight and encourages more people to choose active transportation methods.

As an additional TDM measure, consider partnering with a public or private bike share program to provide shared bikes, as well as docks on premises, to encourage visitors and employees alike to bike without requirement of their own personal bicycle. This encourages use of active transportation for short-distance trips.

Payal Bhagat, Principal Planner

August 12, 2022

Page 3

To support the use of carpool as stated in TDM Plan in Appendix 3.1-2, please consider reserving and signing (via curb color and posted signs) passenger loading zones for carpools and vanpools at the main building entrance. Appendix 3.1-2 states:

“Allowing carpool participants to park near the building entrances and requiring drive-alone commuters to park further away is a common TDM measure. Preferential parking spaces for carpools provide a prominent visual message to employees that alternative transportation is valued. If the spaces are under-utilized, they may be made available to single-occupant vehicles after peak commute times.” Reserved loading zones and signs underscore this commitment.

Equitable Access

If any Caltrans facilities are impacted by the project, those facilities must meet American Disabilities Act (ADA) Standards after project completion. As well, the project must maintain bicycle and pedestrian access during construction. These access considerations support Caltrans' equity mission to provide a safe, sustainable, and equitable transportation network for all users.

Thank you again for including Caltrans in the environmental review process. Should you have any questions regarding this letter, or for future notifications and requests for review of new projects, please email LDR-D4@dot.ca.gov.

Sincerely,

MARK LEONG

District Branch Chief

Local Development Review

c: State Clearinghouse

From: [Roman, Isabella@DTSC](mailto:Roman.Isabella@DTSC)
To: [Bhagat, Payal](#)
Subject: Commonwealth Building 3 Project DEIR Comment
Date: Friday, August 12, 2022 4:36:42 PM

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Hello,

I represent the Department of Toxic Substances Control (DTSC) reviewing the Draft Environmental Impact Report (DEIR) for the Commonwealth Building 3 Project.

The Hazards and Hazardous Materials section of the Initial Study (IS) discusses site history including past land uses that could have resulted in hazardous materials releases. Specifically, the Site was used for agricultural and railroad purposes. Soil, soil gas and groundwater has been conducted and has identified contaminated areas onsite. The DEIR does not seem to address the presence of these contaminated areas. Additionally, the extent of previous sampling efforts is unclear (i.e., has the whole site been characterized for expected contaminants of potential concern?).

The IS and DEIR discuss soil sampling that identified contaminated soil in the parking lot area. It is unclear whether this parking lot will remain intact. The IS states: "One of the CRECs is associated with petroleum hydrocarbon-contaminated soil associated with a former UST (removed in 1988). The contaminated soil remains in place. However, because it is beneath a recently poured parking lot along the northeastern property boundary, there is no significant environmental concern as long as the contaminants are not further disturbed before they degrade naturally." The DEIR implies that the existing surface parking will be disturbed with the proposed work: "The parking structure, along with the proposed building (Building 3), would replace the majority of the existing surface parking." The documents do not go into detail about the nature or extent of contamination under the parking lot, so the health risk implication is unclear. The Hazards and Hazardous Materials section states that Caltrans regulations, SWPPP and BMPs will be followed to avoid effects on the environment; however, this does not necessarily protect construction workers, off-site receptors (e.g., nearby school), or future on-site receptors. Please provide more information on how public health will be protected during construction and operation of this project.

The IS also identifies elevated VOCs in groundwater and soil gas in the north corner of the property, but states that further investigation has not been conducted. The DEIR does not discuss the presence of these elevated VOCs, and does not provide a plan for further investigation or discussion of whether this will impact construction workers or future on-site receptors.

The IS and DEIR both do not discuss the former LUST site in the project area (Heublein, Inc site: https://geotracker.waterboards.ca.gov/profile_report?global_id=T0608100258). Please discuss whether this LUST site has the potential to impact construction and/or operation of the project.

The IS and DEIR both state that that the project area is not included on the Cortese List (list of

hazardous materials sites compiled pursuant to Government Code Section 65962.5). The Heublein, Inc site (mentioned above) is a Cortese List site. Please refer to the following link for a list of Cortese List requirements that should be reviewed as part of the CEQA process:
<https://calepa.ca.gov/sitecleanup/corteselist/>. Please revise the DEIR discussion accordingly.

Please feel free to reach out if you have any questions or concerns.

Sincerely,



Isabella Roman (she/her/hers)
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August 15, 2022

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

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

Re: Response of Sequoia Union High School District to Draft Environmental Impact Report for the Commonwealth Building 3 Project

Dear Ms. Bhagat:

On behalf of the Sequoia Union High School District (“District”), we hereby submit comments regarding the Draft Environmental Impact Report (“Draft EIR”) prepared by the City of Menlo Park (“City”) for the project to be located at 162-164 Jefferson Drive, Menlo Park, CA (collectively, the “Property”). According to the Draft EIR, the Commonwealth Building 3 Project (“Project”), sponsored by the Sobrato Organization (“Developer”), will consist of the construction of an approximately 249,500-gross-square-foot (“gsf”) office building, an approximately 404,000 gsf parking structure accommodating 1,340 parking spaces, new landscaping and a 34,000 square foot privately owned, publicly accessible open space (Jefferson Park). The District’s TIDE Academy is located approximately 450 feet northwest of the Project site and approximately 215 feet west of the proposed Jefferson Park and residential land uses. Per the Draft EIR, the Developer has discussed a potential agreement with the District for use of the proposed Jefferson Park during school hours, however no agreement has been finalized, and the parties remain apart on the terms. In addition to the generation of traffic and noise, this Project is anticipated to indirectly generate approximately 37 new students, who would be served by the four elementary/middle school districts and the District.

As the City is aware, the District is very concerned about the numerous large residential and commercial development projects proposed in the Bayfront Area of Menlo Park, including the Menlo Uptown, Menlo Portal, Menlo Flats, 111 Independence Drive, 123 Independence Drive, and Willow Village Master Plan projects. This Project and the others being considered by the City are in very close proximity to the District’s TIDE Academy and are anticipated to result in extensive impacts on student safety, among other impacts, none of which has been meaningfully analyzed in an environmental impact report.

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The City will recall the District's recent concerns regarding Menlo Uptown and Menlo Portal, two other projects proposed by the developer Greystar and approved by the City in September, 2021. The District submitted extensive comment letters in response to the Notices of Preparation, Draft and Final EIRs for both projects, and appealed the Planning Commission's approvals in both cases to the City Council. The appeals were heard by the City Council on September 14, 2021. Following those hearings, the City Council approved both projects despite the District's concerns. However, City Council members gave clear direction to City staff and Greystar that they wanted to see increased coordination and communication with the District in relation to future development projects. It was largely for this reason, as well as the importance that the District places on its relationship with the City, that the District did not further pursue its concerns regarding the Menlo Uptown and Menlo Portal projects. The District remained hopeful that the City and Developer would meaningfully engage the District on Greystar's Menlo Flats project, but that did not happen as the Planning Commission certified the Final EIR for the Menlo Flats project on March 28, 2022, with little discussion with the District.

Nevertheless, the District once again submits its comments and concerns regarding the impacts that substantial development in the City is having and will continue to have on the District. Consistent with the spirit of the City Councilmembers' prior comments, it remains our hope that coordination can occur regarding school related impacts before it is again too late to do anything meaningful about those issues.

The instant Draft EIR 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 interpretation of statutes added and amended by Senate Bill (SB) 50, does not include sufficient information to evaluate potential environmental impacts both on schools, and related to schools. **Through this letter, the District again wishes to emphasize that this Project, in combination with the numerous other projects currently pending before the City, 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.**

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.) In that process, the District requests that the City and Developer coordinate with and engage the District.

I. Background: Initial Study, Notice 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 June 28, 2019 ("NOP Response"). A copy of the District's NOP Response is attached hereto, and incorporated herein by this reference.

Through the NOP Response, 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. The NOP Response contains four general areas the District believes must be addressed by the Draft EIR in order adequately to evaluate the school impacts:

transportation/traffic, noise, population, and housing. Within those categories, the District described 11 subcategories that it requested be evaluated in the Draft EIR. Most of the subcategories were nevertheless not addressed at all 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.

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.)

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 previously noted, a portion of the proposed Project is located on the same road as the District's TIDE Academy. TIDE Academy is located approximately 450 feet northwest of the Project site and approximately 215 feet west of the proposed Jefferson Park and residential land uses (Draft EIR at 3.4-4.) The proposed Project will have two access points, the main being at Commonwealth Drive, and the secondary being directly via Jefferson Drive in the northern part of the site, which has been and will be used by District families, students, and staff to walk, bike, and drive to TIDE Academy from neighborhoods located to the east, west, and south. Jefferson Drive and the Bayfront Area as a whole generally have been, and are anticipated to continue being, heavily impacted by traffic, traffic exhaust, and fumes due to increased development in the neighborhood.

The Draft EIR purports to describe the Project's environmental setting in each of the eight 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 and repeatedly makes the inaccurate statement that Developer has offered to lease Jefferson Park to the District. However, the Draft EIR otherwise fails to present any information needed to assess the Project's environmental impacts on the District, District students, or TIDE Academy. For instance, the Draft EIR fails to accurately and fully address 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, the noise sources and volumes which may affect

school facilities, future population projections for the District, the type and number of dwelling units indirectly resulting from the Project, and the development fees generated by Project development. 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 contains an inadequate discussion of all other “school-related” impacts.

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. (Draft EIR at 4.9-10.) However, reliance on SB 50 and Government Code section 65996 as the remedy for all school impacts caused by the Project on the District demonstrates a misunderstanding regarding the law and developer fees.

Developer fees generally 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 square foot of residential development, and up to \$0.66 per square foot of commercial development, which statutory amounts may be increased every two years based on the statewide cost index for class B construction.¹

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 fact 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 significantly 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 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 increasingly to rely on other sources of funding, primarily including local bond funds

¹ 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). The District will be moving forward with increases to these amounts this year.

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 payment of developer fees does 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.)

Here, for example, the lack of capacity at TIDE Academy creates the potential that students indirectly generated by the Project will need to travel greater distances to attend other District schools. This will result in an overall increase in vehicle miles traveled (VMT) that has not been analyzed or addressed in the EIR. (Cal. Code Regs., tit. 14, § 15064.3.)

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 analyze 27 sub-categories of information that are necessary to determine whether the Project results in significant environmental impacts both on 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.

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:

1. The existing and the anticipated vehicular traffic and student pedestrian movement patterns to and from school sites, including movement patterns to and from school sites, and including consideration of bus routes.
2. 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.
3. The estimated travel demand and trip generation, trip distribution and trip assignment by including consideration of school sites and home-to-school travel.

4. 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.
5. 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. The impacts on the routes and safety of students traveling to school by vehicle, bus, walking, and bicycles.

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.

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 via Commonwealth Drive and Jefferson Drive. As discussed, the District's TIDE Academy is located on the same road as a portion of the Site, approximately 450 feet northwest of the Project site and approximately 215 feet west of the proposed Jefferson Park and residential land uses. 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. 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.² 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).³

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

² 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.

³ 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.

Center, the Facebook Campus Project at former 1601 Willow Road and 312 and 313 Constitution Drive (78.9 acres of mixed use development), the Menlo Flats project at 165 Jefferson Drive, the Menlo Portal project at 104-110 Constitution Drive and 115 Independence Drive, the Menlo Uptown project at 141 Jefferson Drive and 180-186 Constitution Drive, the 111 Independence Drive project, 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 Willow Village project at 1380 Willow Road and the 123 Independence Drive project, 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.**

Construction of the Project will severely exacerbate the already stifling traffic in the neighborhood and the safety issues posed thereby. In addition to drawing approximately 1,996 new office workers, visitors, and emergency vehicles into the area, as currently planned, the Project Site will have a vehicular access point very near the District's vehicular access point for the TIDE Academy along Jefferson Drive. (Draft EIR, ES-1.) This will inevitably lead to congestion along Jefferson Drive as employees and visitors to the additional commercial space will drive along the same narrow, two-lane road to access and leave the new office space on a daily basis.

This congestion is evidenced by the Level of Service (LOS) analysis included in the Project's Initial Study, which 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. (Initial Study, Transportation Impact Analysis, at 29.) Per the Initial Study, traffic generated by the Project, in conjunction with other near term projects expected to be approved, would also cause the level of service at the intersections of Chrysler Drive/Jefferson Drive to drop to an 'E' in the AM, and 'F' in the PM, and would further degrade the levels of service at certain other intersections. (Initial Study, Transportation Impact Analysis, at 43.) In analyzing intersection Levels of Service under "Cumulative (2040) Plus Project Conditions," the Initial Study shows that most intersections in the Project neighborhood will be operating out of compliance with the City's Circulation Policy goals with the Chrysler Drive and Jefferson Drive intersection operating at a 'D' level all day. (Initial Study, Transportation Impact Analysis, at 61.)

The Draft EIR came to the dismissive conclusion that there "would be a general increase in traffic from the Proposed Project" without providing any meaningful analysis on how this increase will affect the students and staff at TIDE Academy. (Draft EIR at 3.1-36.) The District foresees a significant impact stemming from the construction of the Project. **The construction of, and traffic generated by, the Project will severely exacerbate the existing inadequacies in the City's roadways/sidewalks, 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 from 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. 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 3.1-21 [ConnectMenlo EIR considered impacts to intersections significant and unavoidable].) 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.**

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. (Draft EIR 3.1-32-3.1-35.) Through this Plan, the District encourages the use of student walking, biking, and other alternative means of student transport to school.⁴ 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.⁵

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.

⁴ 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.

⁵ Menlo Park Small High School Project Draft EIR (July 8, 2016), p. S-6.

- 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 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 3.1-16-3.1-18; emphasis added.)

Further, and as noted by the ConnectMenlo EIR (but inexplicably 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 (except for CIRC-1.9), 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 3.1-30.) The Draft EIR's description of the proposed TDM plan likewise makes no mention of schools or students, and provides no concrete evidence that the TDM plan will actually work in reducing traffic in the area. (Draft EIR at 3.1.32-3.1.35.) 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, including any "applicable plan, ordinance, or policy...addressing all components of the circulation system." (See, Draft EIR's Transportation Impacts Threshold of Significance No. 1, which states that the Project will have significant transportation impacts if it would "[c]onflict with an applicable plan, ordinance, or policy...addressing all components of the circulation system.")

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 the Project would involve the addition of pedestrian walkways between the proposed building and parking structure and existing buildings as well as several walkways with enhance paving at crosswalks. (Draft EIR at 3.1-24.) 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).)

In discussing parking demand, the ITE Parking Generation Rate estimates 2.39 parking stalls per 1,000 square feet of office space, resulting in an estimated Project-generated demand of 1,312 parking stalls. This net increase of 662 vehicle parking spaces proposed by the Project would not meet this demand when considering the Campus Property as a whole. (Draft EIR at 3.1-47.)

The Project also proposes residential parking that both fails to comply with the City's Municipal Code (thus constituting a significant CEQA impact under Transportation Impacts Threshold of Significance No. 1), and fails to satisfy residential parking demand caused by the Project by 69 stalls. (Draft EIR at 4.2-59.) The Draft EIR assumes, without any supporting information, that the TDM Plan will allow the Project's parking demand to be met. (Draft EIR at 3.1-47.)

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.) Inadequate parking proposed by the Project will result in an increased demand for public parking spaces in the streets surrounding TIDE Academy and the Project site, which will in turn lead to more crowded streets and a higher potential for conflicts between vehicles and pedestrians. As none of the neighboring projects in the Bayfront Area propose adequate parking, the lack of adequate parking proposed by the Project will further exacerbate parking demand in the area. These secondary impacts on pedestrian and student safety caused by inadequate parking must be analyzed in the Draft EIR and cannot be simply explained away by a reference to a TDM Plan.

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, are 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).)

The Project's above-discussed anticipated traffic and safety impacts, 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, and the City proposes no clear measures that could successfully mitigate the impacts.

ii. Noise

In its analysis of Noise Impacts, the Draft EIR notes that TIDE Academy is a nearby "sensitive receptor." As such, the Draft EIR appears to acknowledge that noise impacts on the District's TIDE Academy must be analyzed. (See, Draft EIR at 3.4-21.) The Draft EIR includes an acknowledgment that it received a comment requesting that construction and operational noise associated with the Proposed Project be analyzed to assess potential effects on TIDE Academy. (Draft EIR at 3.4-1.) The Draft EIR includes discussion how Project construction may pose potentially significant impacts on nearby sensitive receptors due to the construction noise impacts. (Draft EIR at 3.4-20.) Per the Draft EIR, an increase in noise of 10 dB or more would be considered substantial and estimates that the construction noise increase at TIDE Academy would be up to 15 dBA. (Draft EIR at 3.4-18.) The Draft EIR then notes that Mitigation Measure NOI 1.1 requires that noise increase would not exceed 10 dB at TIDE Academy. (Draft EIR at 3.4-20.) Even if the noise control measures in Mitigation Measure NOI 1.1 attain 5 dBA attenuation, the TIDE Academy would still be subject to a substantial noise increase of 10 dB. The Draft EIR makes no effort meaningfully to analyze this substantial noise increase on the District's provision of educational services, instead relying on limits on dB measurements as its deepest form of analysis.

However, 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 in which students are housed. For these reasons, the District requested that the following information be discussed and analyzed in the Draft EIR:

7. 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.

iii. Population and Housing

The District anticipates that this Project will generate approximately 37 new students among the Menlo Park school districts (Draft EIR at 4-9), and specifically requested that the Draft EIR analyze:

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

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

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

As explained in the NOP Response, 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. Timing of development determines when new students are expected to be generated, and it therefore is an important consideration, particularly when considering the cumulative impact of a project in conjunction with other approved or pending development.

While the Draft EIR states that the Proposed Project could generate a demand for up to 77 housing units, that assumption alone does not satisfy the District's concerns about population and housing. The District requests that the Draft EIR be modified to more fully 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].)

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-1.9, CIRC-6.4.) 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."

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. As demonstrated in California case law, the mere 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.

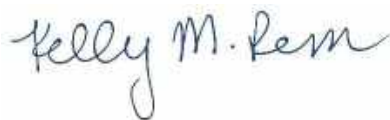
V. Conclusion

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 (*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).)

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, or mitigation measures that would lessen these impacts. The safety of students is paramount to the District, and these safety concerns are not adequately addressed in the Draft EIR as currently constituted. Changes must be made to preserve the safety of the students and allow them to enjoy productive time at school, free from excessive traffic, noise, and pollution. Therefore, the District requests that the Draft EIR be updated and recirculated. Further, the District requests that the City and Developer meaningfully involve the District in that process, so as to promote a positive educational environment for existing and incoming residents of Menlo Park.

Sincerely,

LOZANO SMITH



Kelly M. Rem

KMR/mag

Enclosure

cc: Dr. Darnise Williams, Superintendent
Crystal Leach, Associate Superintendent, Admin. Svcs (District contact for this matter)

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June 28, 2019

By U.S. Mail & E-Mail: tasmith@menlopark.com

Mr. Tom Smith, 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 the Initial Study and Environmental Impact Report for the Commonwealth: Building 3 Project

Dear Mr. Smith:

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 for the Commonwealth: Building 3 Project (“NOP”) regarding the focused environmental impact report (“EIR”) that the City of Menlo Park (“City”) plans to prepare for the Commonwealth: Building 3 Project, located at 162-164 Jefferson Drive, Menlo Park (“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 has previously submitted written comments highlighting some of the District’s concerns regarding the Project on August 30, 2018, which comments are reiterated and incorporated herein by this reference.

According to the NOP, the Sobrato Organization (“Sobrato”) is the sponsor of the Project, and the Project would become part of the 13.3 acre Commonwealth Corporate Center (the “Site”). A portion of the Site is located approximately 200 feet east of the District’s new TIDE Academy, which is also located on Jefferson Drive. The Site currently houses two four-story office buildings constructed in 2015 (Buildings 1 and 2), and 779 surface parking spaces. Sobrato now proposes to construct an approximately 249,500 square foot (sf) office building (Building 3) on the Site, and an approximately 324,000 sf parking structure as part of the Project. Building 3 would have a maximum height of 69 feet (four stories) and, when combined with Buildings 1 and 2, would occupy a combined floor area of approximately 509,420 sf. The proposed parking structure would be four stories, and would provide 1,061 parking spaces. Building 3 will remove the majority of the existing parking spaces on the Site.

In addition to the proposed Building 3 and parking structure at the Site, the NOP provides that Sobrato intends to convert an approximately 32,000 sf portion of the Site from a parking lot to a

Limited Liability Partnership

community park (Jefferson Park) that would be privately owned but publicly accessible. The stated intent of this park would be for use by the District's TIDE Academy for physical education classes and parking, with spaces for approximately 20 to 24 staff members.

While the District sincerely appreciates Sobrato's collaboration and stated willingness to convert a portion of the Site into a park for District use, **the District remains concerned that Sobrato has not yet taken any concrete steps to formalize this intended conversion.**

The District therefore 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 adequately evaluate 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: 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 on the same road as a portion of the Site, approximately 200 feet east of the proposed Project. 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 Site, 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

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.

Drive (483 multi-family dwelling units), and the 111 Independence Drive Project (106 multi-family dwelling units), 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.**

Construction of the Project will severely exacerbate the already stifling traffic in the neighborhood and the safety issues posed thereby. In addition to drawing approximately 1,996 new officer workers,³ visitors, and emergency vehicles into the area, as currently planned, the Project Site will have a vehicular access point very near the District's vehicular access point for the TIDE Academy along Jefferson Drive. This will inevitably lead to congestion along Jefferson Drive as employees and visitors to the additional commercial space will drive along the same narrow, two-lane road to access and leave the new office space on a daily basis.

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 is to encourage the use of student walking, biking, and other alternative means of student transport to school.⁴ 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.⁵ 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.

³ Initial Study, Commonwealth: Building 3 Project (May 2019), p. 3-101.

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

⁵ Menlo Park Small High School Project Draft EIR (July 8, 2016), p. S-6

Population

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

The City's Initial Study acknowledges that, "[a]lthough the Project would not result in onsite residential population increases, the new employees could generate households within Menlo Park and the region. Using the average of 1.88 workers per work household in San Mateo County, the Project would generate approximately 1,062 new households."⁶

The District, therefore, specifically requests that historical, current, and future population projections for the District be addressed in the EIR. Population growth or shrinkage is a primary consideration in determining the impact that development may have on a school district, as a booming population can directly impact the District and its provision of educational services, largely because of resulting school overcrowding, while a district with declining enrollment may depend on new development to avoid school closure or program cuts. Overcrowding can constitute a significant impact within the meaning of 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.

⁶ Initial Study, Commonwealth: Building 3 Project (May 2019), p. 3-101.

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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 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

As discussed in the District's letter sent to the City regarding the Project on August 30, 2018, 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 its continued collaboration with Sobrato and the City will yield solutions that alleviate the impacts caused by Sobrato'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

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

Sincerely,

LOZANO SMITH



Kelly M. Rem

KMR/gc

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