

**MENLO FLATS PROJECT  
RESPONSE TO COMMENTS DOCUMENT**

**STATE CLEARINGHOUSE NO. 2020110243**

**MENLO PARK, CALIFORNIA**

**LSA**

February 2022

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**STATE CLEARINGHOUSE NO. 2020110243**

**MENLO PARK, CALIFORNIA**

Submitted to:

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Project No. CMK2001



February 2022

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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 Menlo Flats 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 clarify 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 November 16, 2020, 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 December 7, 2020, 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 October 25, 2021 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/1774/Development-Projects-Environmental-Docum](http://www.menlopark.org/1774/Development-Projects-Environmental-Docum), 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 ended on December 9, 2021. The City held a public hearing on the Draft EIR with the Planning Commission on November 15, 2021. The City received a total of three comment letters from local agencies and individuals. 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 and follow the format below:

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

The letters are numbered and comments within each letter are numbered consecutively after the hyphen. For example, Letter A1 represents the first local agency letter, and comment A1-1 represents the first enumerated comment within that letter.

### 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 Kelly M. Rem, Lozano Smith, on behalf of Sequoia Union High School District, December 9, 2021
- B1 Mary Jane Marcus, October 25, 2021
- B2 Sheldon Kay, October 30, 2021
- C1 Planning Commission Hearing, November 15, 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 November 15, 2021 Draft EIR public 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 to the extent text within individual letters has not been numbered, it indicates that the text does not raise substantive 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 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.

Kelly M. Rem  
Attorney at Law

E-mail: krem@lozanosmith.com

December 9, 2021

**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 Menlo Flats 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 on an approximately 1.38-acre site having the address of 165 Jefferson Drive, Menlo Park, CA (collectively, the “Property”). According to the Draft EIR, the proposed project, sponsored by Menlo Park Flats Venture, LLC (an affiliate of development company Greystar) (“Developer”), will consist of the demolition of the existing commercial space and redevelopment of the Property with an approximately 248,995-gross-square-foot, eight-story mixed-use building with approximately 158 dwelling units and approximately 15,000 square feet of nonresidential space consisting of 13,400 square feet of commercial office space and a 1,600-square-foot commercial space, as well as associated open space, circulation and parking, and infrastructure improvements (the “Project”). This enormous Project is anticipated to generate a population increase of 406 people, with a corresponding increase of approximately 32 new high school students to the District. The Project will be located approximately 245 feet southwest of the District’s TIDE Academy.

A1-1

The City will recall the District’s recent concerns regarding Menlo Uptown and Menlo Portal, two other projects proposed by the Developer 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 the Developer 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

*Limited Liability Partnership*

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 this third Project, but that has not happened. The District has had no discussions with City staff, and while the Developer representative has met with the District, the meetings have not accomplished anything beyond limited exchange of information. As such, the District once again submits its comments and extensive 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' comments, it remains our hope that coordination can occur regarding this impact and school related impacts before it is again too late to do anything meaningful about those issues.

The Project, like the nearby 111 Independence Drive and Menlo Portal projects, and the Menlo Uptown project located directly across the street from TIDE Academy, are all 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 all four of these projects were prepared by the same firm and are substantially similar. The District submitted extensive comment letters for these projects earlier in 2021. Yet, almost none of the District's concerns have been addressed in the instant Draft EIR. For these reasons, the District, in this letter, reiterates many of its comments submitted in response to the Draft EIRs prepared for the 111 Independence Drive, Menlo Portal, and Menlo Uptown Projects.

A1-1  
cont.

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 December 21, 2020 ("NOP Response"). A copy of the District's NOP Response is attached hereto, and incorporated herein by this reference.

A1-2

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 six general areas the District

believes must be addressed by the Draft EIR in order to adequately evaluate the school impacts: population, housing, transportation/traffic, noise, air quality, and public services (including schools). Within those categories, the District described 27 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.

A1-2  
cont.

**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.)

A1-3

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 245 feet southwest 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 reach 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. The District is not equipped to house these excess students. The proposed Project will be accessed directly via Jefferson Drive, 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 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, District students, TIDE Academy, or Menlo Atherton High School. For instance, the Draft EIR

fails to accurately and fully 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.

A1-3  
cont.

**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.**

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 3-48.) Specifically, the Initial Study states as follows:

The ConnectMenlo Final EIR determined that any development associated with ConnectMenlo would be subject to payment of development impact fees, which under Senate Bill 50 (SB 50) are deemed to be full and complete mitigation... 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 and no new or more severe impacts would occur beyond those examined in the ConnectMenlo Final EIR.

A1-4

(Initial Study at 3-48.)

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. This equates to 72% of the total authorized new buildout under ConnectMenlo.<sup>1</sup> It is clear from this trend that full buildout under ConnectMenlo will be achieved well in advance of 2040. The Initial Study 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.” (Initial Study at 1-6, fn. 10.)

A1-4  
cont.

The Initial Study also provides that “no new or additional impacts are anticipated as a result of the expedited buildout.” (*Id.*) The District strongly disagrees with this conclusion. Contrary to the Draft EIR’s assertions on page 3-13, footnote 11, 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.”

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



**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, 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. **The 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.

A1-4  
cont.

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

A1-5

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.

**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 [for the provision of school services].

A1-6

(Initial Study at 3-48.)

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 concluded 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, without analyzing the District's current facilities capacity in any way. (Initial Study at 3-50; Draft EIR at 5-7.)

Through this short and conclusory analysis, the Initial Study and Draft EIR fail appropriately to 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 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 and understates the various ways in which large residential and commercial development projects, like the Project, 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 services at TIDE Academy will be severely impacted by the Project. For this reason, the District requested that the Draft EIR identify, describe, and/or analyze the following:

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.

A1-6  
cont.

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.)

A1-7

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. 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.<sup>2</sup> (CEQA Guidelines § 15130(a).) Because the District currently exceeds capacity in various locations, it is further anticipated that the Project, when viewed in conjunction with numerous other projects, will cause the District to need new or physically altered school facilities, including at TIDE Academy. At this point, given the barrage of pending and approved development, the need for new or altered facilities has likely become unavoidable.

A1-7  
cont.

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. The environmental documents do not provide this information. Rather, the Initial Study and Draft EIR inappropriately rely on the analysis conducted in the ConnectMenlo EIR, which also failed to properly 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 the remedy for all school impacts caused by the Project on the District demonstrates a misunderstanding regarding the law and developer fees.

A1-8

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

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<sup>2</sup> 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.

commercial development, which statutory amounts may be increased every two years based on the statewide cost index for class B construction.<sup>3</sup>

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 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 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.

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cont.

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.

<sup>3</sup> 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).

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 and Menlo Atherton creates the potential that students 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.)

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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.

A1-9

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 Menlo Atherton High School, and including consideration of bus routes.
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 and Menlo Atherton High School.
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.

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 Jefferson Drive, which borders the Project to the South. The Bayfront Area of Menlo Park has experienced a

A1-10

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.<sup>4</sup> 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).<sup>5</sup>

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. D, at 13.) 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 intersections of Chrysler Drive/Constitution Drive and Chrysler Drive/Independence Drive to drop to an ‘F,’ and would further degrade the levels of service at certain other intersections. (Draft EIR at 4.2-48-4.2-51.) 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 4.2-52-4.2-53.) While the Draft EIR discusses certain improvement measures that the City may take to resolve these deficient intersections, 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 many of the improvement measures will be accomplished.

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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 southwest 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,

<sup>4</sup> 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.

<sup>5</sup> 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.



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 4.2-23-4.2-25 [ConnectMenlo EIR found significant and unavoidable impacts to several different elements of the City’s transportation system due to project buildout].) 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.**

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A1-11

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.<sup>6</sup> 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.<sup>7</sup>

A1-12

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

A1-13

<sup>6</sup> 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.

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

- 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 4.2-17-4.2-20; 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 4.2-35.) 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 4.2-27-4.2-28.) 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 new sidewalks with street trees along the project’s Jefferson Drive frontage, provision of well-lit, accessible sidewalks around the proposed building, and incorporation of pedestrian paseo on the east side of the building to enable residents and employees to walk between the project site and a potential future paseo on an adjacent property. (Draft EIR at 4.2-31.) 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

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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 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.) 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 neither the 111 Independence Drive project, Menlo Portal project, or the Menlo Uptown Project 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.

A1-14

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.

A1-15

**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

A1-16

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 outside during construction, and prevent students from traveling to and from TIDE Academy during construction. The Draft EIR is, 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.

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**

As with its analysis of Air Quality 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 4.5-17.) The Draft EIR discusses how Project construction may pose potentially significant impacts on sensitive receptors due to the generation of excessive groundborne vibration or groundborne noise levels. (Draft EIR at 2-12.) 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:

- 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.

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**A1-17**

**iv. Population and Housing**

The District anticipates that this Project will generate approximately 32 new students, and specifically requested that the Draft EIR analyze:

- 23. Historical, current, and future population projections for the District.
- 24. The impacts of population growth within the District on the District's ability to provide its educational program.

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

- 25. The type and number of anticipated dwelling units indirectly resulting from the Project.
- 26. The average square footage for anticipated dwelling units, broken down by type of unit, indirectly resulting from the Project.
- 27. 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.)

A1-18

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.

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].)

A1-18  
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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-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.”

A1-19

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. The proposed mitigation measures and Project alternatives 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, 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 possibly reach the conclusion that developer fees are adequate to mitigate the Project’s school impacts because all impacts have not been evaluated.

A1-20

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 Project alternatives and/or alternative mitigation measures, such as those proposed below, to fulfill that duty.

**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.”

A1-21

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.

**B. Alternative Mitigation Measures**

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

A1-22

1. *Land Dedication*

One possible mitigation method that the District discussed during its meetings with the Developer in February 2020, but which was not addressed meaningfully in the Draft EIR, 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.

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 section 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 should be made available even after SB 50.

2. *Phasing*

Another method by which the City should 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.

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cont.



## 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 (*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, Administrative Services

A1-23



Comment  
Letter  
A1  
Attach.

Kelly M. Rem  
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December 21, 2020

By U.S. Mail & E-Mail: [PBhagat@menlopark.org](mailto:PBhagat@menlopark.org)

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 Notice of Preparation of Focused Environmental Impact Report for Menlo Flats Project

Dear Ms. Bhagat:

This office represents the Sequoia Union High School District (“District”) with regard to the above referenced matter. The District appreciates the opportunity to provide comments and input regarding the Notice of Preparation of a Focused Environmental Impact Report (“EIR”) for the Menlo Flats Project (“Project”).

The District is very concerned about this Project, along with the two other Greystar projects and one SP Menlo, LLC, project pending before the City in the western Bayfront neighborhood, due to their close proximity to the District’s TIDE Academy and anticipated impacts on student safety. The District has previously submitted comments regarding these other projects, most recently including the proposed Menlo Portal project. Given the similarities between the Menlo Uptown, Menlo Portal, and Menlo Flats projects, and given the nearly identical initial studies prepared for these three projects, the District reiterates many of its prior comments in this letter. **As in the District’s prior letters, the District requests that all direct and indirect impacts related to the Project’s proximity to District schools be thoroughly reviewed, analyzed, and mitigated.**

The Project, sponsored by Menlo Park Flats Venture, LLC (“Developer”), is proposed to be located at the approximately 1.38-acre site at 165 Jefferson Drive (the “Property”). The Developer is proposing to demolish the existing single-story office and industrial space and redevelop the Property with an approximately 253,702-gross-square-foot, eight-story mixed-use building with 158 dwelling units and 15,000 square feet of commercial space (the “Project”). The Project, which will require a number of entitlements from the City, is anticipated to generate approximately 32 new high school students. All three Greystar projects, combined with the SP Menlo project adjacent to Greystar’s proposed Menlo Portal project, are anticipated to generate approximately 216 students within a few hundred meters of the District’s TIDE Academy.

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

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

#### **A. Inappropriate Reliance on ConnectMenlo EIR**

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

A "program" EIR is an EIR prepared for a series of small projects that can be characterized as one large project. (14 Cal. Code Regs. § 15168(a).) A project proponent may rely on a program EIR's analysis of the program's environmental impacts, mitigation measures, and alternatives in order to engage in a simplified environmental review for a future project contemplated by the program. (*Id.* at subd. (d).) However, when a program EIR is relied 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 Project's Initial Study provides that the Initial Study "tiers from the ConnectMenlo Final EIR, as appropriate." (Initial Study at 1-11.) The Initial Study later concludes that the proposed Project would have a less-than-significant impact on schools because the "ConnectMenlo Final EIR determined that any development associated with ConnectMenlo would be subject to payment of development impact fees, which under Senate Bill 50 (SB 50) are deemed to be full and complete mitigation." (Initial Study at 3-46.) The ConnectMenlo EIR concluded that "[b]ecause future development under the proposed project would occur incrementally over the 24-year buildout horizon and, in compliance with SB 50, would be subject to pay development impact fees...impacts related to the SUHSD would be less than significant." (ConnectMenlo Draft EIR, p. 4.12-40.) (Emphasis added.)

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

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

As discussed in greater depth throughout this letter, both the program and the Project will pose numerous, significant impacts on the District, its students, and its ability to provide its educational program, none of which were adequately identified and addressed in the ConnectMenlo EIR and, as a result, the Initial Study. ConnectMenlo likewise did not consider either the program or Project's specific impacts on the District's TIDE Academy, as this school did not yet exist when the ConnectMenlo EIR was prepared. Because TIDE Academy is located in the Bayfront neighborhood, it is particularly vulnerable to the thousands of residential units authorized by ConnectMenlo, all of which will be constructed in the Bayfront Area. With regard to Greystar's projects, ConnectMenlo did not consider whether/how the placement of 976 residential units less than 400 meters away from a District high school would impact the District's program at TIDE Academy.

Further, as discussed above, ConnectMenlo was based on the assumption that development under the program would take place in an incremental fashion, over the course of 24 years. The Initial Study acknowledges the fact that this assumption was incorrect in providing that "[a]lthough the ConnectMenlo Final EIR assumed a buildout horizon of 2040, the maximum development potential may be reached sooner than anticipated." (Initial Study at 1-10, fn. 10.) The Initial Study goes on to state, however, that "no new or additional impacts are anticipated as a result of the expedited buildout." (*Id.*)

The District vehemently disagrees with the Initial Study's conclusion. If the City continues to approve new residential development projects at its current pace, the District will be subject to a rapid influx of students to the District's facilities, many of which are already at or exceeding capacity. For instance, TIDE Academy's current capacity is 400 students. The District expects to meet or exceed this 400-student capacity within 3 years without accounting for the Greystar projects. The proposed Greystar and SP Menlo projects in the area, however, will generate over half of the students needed to fill this capacity in a few years' time. 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.

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

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

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

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

SB 50 declares that the payment of the developer fees authorized by Education Code section 17620 constitutes "full and complete mitigation of the impacts of any legislative or adjudicative act on the provision of adequate school facilities." (Gov. Code § 65995(h).) **However,**

**California courts have since acknowledged that developer fees do not constitute full and complete mitigation for school-related impacts other than school overcrowding.** (*Chawanakee Unified Sch. Dist. v. Cty. of Madera* (2011) 196 Cal.App.4th 1016.) Thus, contrary to the assertions of the City in the ConnectMenlo EIR and the Initial Study, the payment of fees do not constitute full mitigation for all impacts caused by development under ConnectMenlo related to traffic, noise, biological, pedestrian safety, and all other types of impacts related to the District and its educational program.

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

The inadequacy of developer fees as a source of funding for school facilities has forced school districts to rely increasingly on other sources of funding, primarily including local bond funds and State bond funds administered under the School Facilities Program (SFP). However, these sources of funds can be equally unreliable. It is currently unclear when/whether those school districts that have applied for State funding will be able to receive such funding. Local bond funds are also difficult to generate, as local bonds are subject to district bonding capacity limitations and voter approval. Either way, the funding formula was never intended to require the State and local taxpayers to shoulder a disproportionate portion of the cost of school facilities.

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

**B. Transportation/Circulation/Traffic Analysis**

- 1. Describe the existing and the anticipated vehicular traffic and student pedestrian movement patterns to and from school sites, including movement patterns to and from TIDE Academy and Menlo Atherton High School, and including consideration of bus routes.**
- 2. Assess the impact(s) of increased vehicular movement and volumes caused by the Project, including but not limited to potential conflicts with school pedestrian movement, school transportation, and busing activities to and from TIDE Academy and Menlo Atherton High School.**

3. **Estimate travel demand and trip generation, trip distribution, and trip assignment by including consideration of school sites and home-to-school travel.**
4. **Assess cumulative impacts on schools and the community in general resulting from increased vehicular movement and volumes expected from additional development already approved or pending in the City and Bayfront neighborhood.**
5. **Discuss the direct, indirect, and cumulative impacts on the circulation and traffic patterns in the community as a result of traffic generated by the transportation needs of students to and from the Project and schools throughout the District during and after the Project build-out.**
6. **Assess the impacts on the routes and safety of students traveling to school by vehicle, bus, walking, and bicycles.**

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

**(a) City Must Consider All Traffic and Related Impacts, Including Impacts of Traffic on Student Safety, Caused by the Project.**

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 be an analysis of safety issues related to traffic impacts, such as reduced pedestrian safety, particularly as to students walking or bicycling to and from TIDE Academy; potentially reduced response times for emergency services and first responders traveling to these schools; and increased potential for accidents due to gridlock during school drop-off and pick up hours. (See, *Journal of Planning Education and Research*, "Planning for Safe Schools: Impacts of School Siting and Surrounding Environments on Traffic Safety," November 2015, Chia-Yuan Yu and Xuemei Zhu, pg. 8 [Study of traffic accidents near Austin, Texas schools found that "[a] higher percentage of commercial uses was associated with more motorist and pedestrian crashes" around schools].)

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

congestion will cause significant impacts on air quality, noise, and safety issues caused by traffic. (Pub. Res. Code § 21099(b)(3).)

Regional vehicular access to the Property is provided by US Highway 101 (US 101), via the Marsh Road on- and off-ramps located to the west and State Route 84 (SR 84 or the Bayfront Expressway) located to the north. Direct local access is provided via Jefferson Drive, which borders the site immediately to the north, west, and south. 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. The City's 2016 General Plan Update calls for an increase of 2.3 million square feet of non-residential space, 400 hotel rooms, 4,500 residential units, 11,570 new residents, and 5,500 new employees in the Bayfront Area. This will result in a total build-out 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.<sup>1</sup> The ConnectMenlo EIR concluded that the General Plan Update would result in significant and unavoidable impacts to roadway segments and increase peak hour delays at intersections from increased traffic, even after the mitigation measures called for in the General Plan Update are implemented (if ever).<sup>2</sup>

**The construction of and traffic generated by the Project will severely exacerbate 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 abilities to operate its educational programs, including at TIDE Academy.**

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.) TIDE Academy is located almost directly across Jefferson Drive from the Property. Both TIDE Academy and the proposed Project would be accessed by the same roads, including Jefferson Drive, Independence Drive, Constitution Drive, and the immediately surrounding streets. In addition to drawing hundreds of new residents to the area, including an estimated 32 new high school students, the proposed Project will draw thousands of daily office commuters, visitors, and emergency access vehicles from around the Bay Area. In addition to the immediate roads surrounding the Property and TIDE Academy, these new residents and commuters will rely heavily on the Bayfront Expressway, Bayshore Freeway, Willow Road, and Marsh Road to the west of TIDE Academy.

As indicated in the City's General Plan, the City's roads are not currently equipped to accommodate such high density development and high levels of traffic. Jefferson Drive is a narrow two-lane road. Accordingly, such increases to traffic in the area will not only make it

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<sup>1</sup> ConnectMenlo: General Plan Land Use & Circulation Elements and M-2 Area Zoning Update Draft EIR (June 1, 2016), Table 3-2.

<sup>2</sup> 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.



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 (immediately to the northwest of the Property). 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.

Likewise, the Project roads and neighborhood are not equipped to handle the parking demands of the visitors and residents drawn by the Project. The proposed 176 parking spaces proposed by the Project will not come close to providing sufficient parking for all residents and visitors of the Project site. As a result, vehicles will spill onto Jefferson Drive and the surrounding streets, which are already suffer from severe parking constraints. While perhaps not an environmental impact on its own, the Project EIR must analyze the indirect impacts on student and pedestrian safety that will be caused by this shortage of parking.

In addition to increased risks of vehicular accidents, the traffic and parking impacts posed by the Project will severely 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(I).) 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.<sup>3</sup> 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.<sup>4</sup> The City has likewise committed to supporting and promoting such safe route to school programs to enhance the safety of school children who walk to school.<sup>5</sup>

As TIDE Academy did not yet exist, none of the above impacts on student safety and the District's ability to provide its educational program were adequately evaluated in the ConnectMenlo EIR. While the Initial Study provides that the City will prepare a transportation impact analysis and examine several intersections, the Initial Study otherwise gives no indication that it will examine the above-described impacts, or what criteria will be used by the City in

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<sup>3</sup> 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.

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

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

evaluating these impacts. The EIR must analyze and mitigate all of the above traffic and related impacts, including those impacts related to student safety and convenience, the District's ability to implement its transportation and safety mitigation measures for the TIDE Academy, and the District's ability to promote alternative modes of transportation to and from TIDE Academy. It is important that these traffic impacts are not only assessed through a VMT analysis, but also through a LOS analysis, as severe traffic congestion surrounding the District's TIDE Academy caused by the Project will in turn cause significant issues related to safety, noise, and air quality.

**(b) City Must Consider Cumulative Traffic and Related Impacts.**

Environmental impact reports 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. (14 CCR 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.) 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- and below-discussed anticipated impacts on the District, combined with the anticipated 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. Contrary to the assertions contained in the Initial Study, all of these impacts are exacerbated by the rapidity at which the City is approving of development projects in the Bayfront Area, as the District and City are unable to accommodate the massive influx of students through facilities, infrastructure, and related improvements.

Based on the City's website, approximately 3,257 new residential units have already been approved or are in the process of being approved by the City in the Bayfront Area.<sup>6</sup> In the immediate vicinity of TIDE Academy, the City has already approved several large residential projects, including the 777 Hamilton Drive project (195 new apartments); the 3639 Haven Avenue project (394 new apartments); and the 3645 Haven Avenue project (146 new apartments). There are now several other large residential projects being considered by the City, including the Willow Village Master Plan Project at 1350-1390 Willow Road, 925-1098 Hamilton Avenue (1,735 proposed residential units); the Menlo Uptown Project located at 180 and 186 Constitution Drive (483 proposed residential units); the Menlo Portal Project at 104-110 Constitution Drive and 115 Independence Drive (320 proposed dwelling units), and the 111 Independence Drive Project (105 multi-family dwelling units). Thus, in approximately four years since the City has certified the ConnectMenlo EIR, close to 70 percent of the total residential build-out envisioned by ConnectMenlo for the period of 2016-2040 is completed or pending before the City.

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<sup>6</sup> See, ConnectMenlo Project Summary, which can be accessed here: <https://www.menlopark.org/1396/Bayfront-Area-projects-overview>

Each of these projects 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. These cumulative impacts on the District's TIDE Academy were neither adequately discussed in the Initial Study, nor evaluated in the ConnectMenlo EIR. **The impacts of the Project must be considered in conjunction with the anticipated impacts of all the other development being considered and approved in this area.**

### C. Air Quality

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

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

It is anticipated that the Project, including when viewed in conjunction with all of the other Greystar developments being considered and approved a few hundred feet from TIDE Academy, will have a significant impact on the air quality of the neighborhood due to extensive construction activities and increases in vehicular traffic. The Belle Haven community is particularly sensitive to such concerns regarding air quality due to the high incidence of asthma throughout the community. Even more pressing, the Project is anticipated to result in significant impacts to sensitive receptors as an increased number of vehicles enter and exit the Project, creating increased levels of air toxins and particulate matter that could negatively impact student health. These impacts, as they relate to the District's students at the TIDE Academy, were not specifically addressed in the ConnectMenlo EIR. Accordingly, they must be analyzed in the EIR.

### D. Noise

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

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

not consider these impacts on the District, and so may not be relied upon by the City as grounds to disregard noise impacts in the Project EIR.

**E. Population**

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

**11. Assess the impacts of population growth within the District on the District's ability to provide its educational program.**

In addition to 158 anticipated residential units, it is anticipated that the proposed Project's 15,000 sf of commercial space will draw thousands of residents into the area on a permanent, or at least a daily basis. Using the District's current student generation rate of 0.2, 158 anticipated residential units is likely to generate approximately 32 new high school students to the District. Without the anticipated increase in students from the Project, the District's student population at TIDE Academy is already expected to exceed capacity by 2023. The second closest District high school to the Property, Menlo Atherton High School, is currently over capacity.

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

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

**F. Housing**

**12. Describe the type and number of anticipated dwelling units indirectly resulting from the Project.**

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

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

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

California school districts are dependent on developer fees authorized by the provisions of Government Code Sections 65995, *et seq.*, and Education Code sections 17620, *et seq.*, for financing new school facilities and maintenance of existing facilities. The developer fees mandated by Section 65995 provide the District a significant portion of its local share of financing for facilities needs related to development.

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

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

Phasing of development is also a crucial consideration in determining the extent of impacts on schools, which is especially relevant considering the rapid build-out of the ConnectMenlo residential units authorized. 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.

**G. Public Services**

**15. Describe existing and future conditions within the District, on a school-by-school basis, including size, location and capacity of facilities.**

**16. Describe the adequacy of both existing infrastructure serving schools and anticipated infrastructure needed to serve future schools.**

**17. Describe the District's past and present enrollment trends.**

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

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

### Conclusion

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

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 attention as follows:

Crystal Leach, Interim Superintendent  
Sequoia Union High School District  
480 James Avenue  
Redwood City, CA 94062

Harold M. Freiman, Esq.  
Lozano Smith  
2001 N. Main St., Suite 500  
Walnut Creek, CA 94596

Please feel free to contact me directly if we can be of any assistance in reviewing the above issues. Thank you.

Sincerely,



Kelly M. Rem

cc: Crystal Leach, Interim Superintendent (*by email*)

**LETTER A1**

Lozano Smith on behalf of Sequoia Union High School District  
Kelly M. Rem, Attorney at Law  
December 9, 2021

- Response A1-1: This introductory comment summarizes the Sequoia Union High School District’s (SUHSD) 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 in 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. The SUHSD’s request for further coordination between the City, the project sponsor, and SUHSD is noted.
- Response A1-2: The City received the December 21, 2020 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 the 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 and those categories requiring analysis were 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. Moreover, although the letter frames the comments as school impacts, the detailed technical replies provided in Responses A1-3 through A1-23 demonstrate that many of the topics are beyond the SUHSD’s scope as a public agency commenting on the City’s Draft EIR. Public Resources Code Section 21153(c) makes clear that a public agency, such as SUHSD, “shall only make substantive comments regarding those activities involved in a project that are within an area of expertise of the agency or that are required to be carried out or approved by the agency.” Although each of the SUHSD comments are responded to below, many of the SUHSD comments on the project’s environmental effects (e.g., comments regarding transportation and air quality) violate this statutory limitation, because the alleged inadequacies in the Draft EIR involve topics that are outside of the SUHSD’s area of expertise.
- 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 page 3-6, in Chapter 3.0, Project Description, of the Draft EIR, and, 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 (refer to Draft EIR, page 4-6). In addition, 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 the TIDE Academy, as it relates to potential impacts of the proposed project within the impact categories identified for further analysis in the Draft EIR – specifically – Sections 4.2, Transportation, 4.3, Air Quality, and 4.5, Noise. As discussed in these sections, the TIDE Academy is located approximately 245 feet southwest of the project site, and is considered a sensitive receptor for the 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 in Section 4.2, Transportation, of the Draft EIR, all impacts related to transportation and circulation would be less than significant with implementation of additional TDM measures to reduce vehicle miles traveled (VMT) generated by the proposed office component of the project (Mitigation Measure TRA-1). 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 4.2-36 of the Draft EIR) and would not substantially increase design hazards (pages 4.2-43 through 4.2-45 of the Draft EIR), which accounts for the current vehicular and pedestrian paths of travel throughout the area, including by District staff, students, and their families. As discussed on pages 4.3-31 through 4.3-34<sup>1</sup> in Section 4.3, Air Quality, of the Draft EIR, construction-period impacts to sensitive receptors, which include the TIDE Academy, would be less than significant with implementation of Mitigation Measure AIR-2, which requires that all off-road diesel-powered construction equipment meet certain emissions reduction standards to ensure that construction emissions are below the Bay Area Air Quality Management District (BAAQMD) significance thresholds. In addition, as described in pages 4.3-34 through 4.3-39,

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<sup>1</sup> As described in Section 4.0, Draft EIR Text Revisions, the page numbering within Section 4.3, Air Quality, of the Draft EIR inadvertently restarted after page 4.3-32 (Figure 4.3-2), and has been renumbered as appropriate.

operational air quality impacts would be less than significant and no mitigation measures would be required. As described on pages 4.5-13 through 4.5-18 in Section 4.5, Noise, of the Draft EIR, potential construction- and operation-period noise impacts to sensitive receptors, which include the TIDE Academy, would be less than significant and mitigation would not be required. 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 – were 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 3-13 through 3-14 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 ConnectMenlo Final EIR, which serves to streamline future environmental review of subsequent development projects. The proposed project is a subsequent project that fits within the scope of the ConnectMenlo Final EIR, as it represents approximately 3.5 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, consistent with CEQA Guidelines Section 15152, 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. 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 project would be subject to the mandatory payment of developer impact fees pursuant to SB 50 and because the development potential would occur incrementally over a 24-year period, 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 3-50, 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 8 percent (158 units at a student generation rate of 0.56 students per multi-family dwelling unit, or 88 students, per student generation calculations in ConnectMenlo Draft EIR Table 4.12-12). This is a conservative calculation given that 113 of the total units would be studios (71.5 percent of the total number of units) which are unlikely to generate 0.56 high school students per unit. Furthermore, this conservative calculation is based on the student generation rate identified in the ConnectMenlo Draft EIR. According to the Fiscal Impact Analysis<sup>1</sup> prepared for the proposed project (which is separate from, and not part of, the Draft EIR), the Statewide figure of 0.2 students per dwelling unit would generate a much lower number of students, or approximately 32 high school students.

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 still currently exceeded. Further, according to the commenter, enrollment at the TIDE Academy is expected to exceed capacity by the 2023/2024 school year. The TIDE Academy was not yet constructed or operational at the time that the ConnectMenlo Final EIR was prepared;

<sup>1</sup> BAE Urban Economics. 2021. *Fiscal Impact Analysis Report for Proposed Menlo Flats Project*. October 25.

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.

This comment speculates that if the City continues to approve new residential projects at the current pace, the District will face a rapid influx of students. The comment asserts that this would result in new impacts to the District. However, despite concerns raised by the commenter regarding SUHSD capacity, the proposed project remains within the scope of the assumptions used in the ConnectMenlo Final EIR. Therefore, the findings of the ConnectMenlo Final EIR and the Draft EIR (including the Initial Study) prepared for the proposed project remain valid without the need for subsequent environmental review beyond what is provided in the EIR. 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. Based on the Fiscal Impact Analysis conducted for the proposed project, SUHSD assesses fees of \$2.30 per square foot of residential space and \$0.378 per square foot of nonresidential space. With approximately 154,730 square feet of residential space and a net reduction of 9,301 square feet of nonresidential office space, the proposed project would pay approximately \$352,605 in fees to

SUHSD.<sup>1</sup> 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.

Furthermore, 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 fiscal impact on the 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 based on the findings of the fiscal impact analysis. The fiscal impact analysis is not required under CEQA, and its results are not related to physical impacts on the environment that require mitigation. However, a fiscal impact analysis was conducted for the proposed project and determined that there would be a net negative (\$231,300) fiscal impact on the SUHSD equal to 0.19 percent of the SUHSD 2019-2020 Unrestricted General Fund budget. The SUHSD comments regarding fiscal impacts are noted and both the comments and non-CEQA analysis will be part of the record before the City when taking action on the proposed project.

Finally, 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, more than two years from the date of preparation of the Menlo Flats 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 Response A1-7 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.

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<sup>1</sup> 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.

**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 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. Please 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 to account for any potential impacts that may not have been addressed in the ConnectMenlo Final EIR, and the TIDE Academy is highlighted as a sensitive receptor on the maps included in Appendix G to the Draft EIR, illustrating that the facility was considered. Refer to Responses A1-9 through A1-17 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 specific to TIDE Academy or any other impact studied in the Draft EIR 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 the TIDE Academy and other SUHSD facilities. Refer to Responses A1-4 and A1-9 through A1-17 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, although projected future decreases in SUHSD enrollment, as noted below, 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<sup>1</sup> 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. While public services were scoped out of the project-level EIR, the cumulative impact on public services was considered in the certified program-level ConnectMenlo Final EIR. 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.

<sup>1</sup> It is noted that although the SUHSD 2021/2022 Budget has been adopted, a comparable Budget Plan does not yet appear to be available for this enrollment year.



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 2020, 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 claims in a footnote to this comment is omitted from the cumulative project list, is included as the last line item in Table 4.A, Cumulative Projects in the Vicinity of the Project Site, on Page 4-5 of the Draft EIR. The City acknowledges that applications on file for 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 Menlo Flats Project, as well as other approved and pending future projects within the Bayfront Area of the City that were identified at the time that the NOP was published for that EIR (September 2021). The 123 Independence EIR will also independently evaluate that project's potential impact to school facilities.

Also refer to Response A1-4 and Response 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 A1-8:

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, air quality, pedestrian safety, and other impacts, even assuming that such topics are "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 Study) 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. The commenter's assertion that SB 50 fees are financially inadequate is an economic consideration which is outside of CEQA's purview.

The commenter states that the lack of capacity at existing schools would create the potential that students generated by the proposed project would need to travel greater distances to attend other schools, resulting in an increase in VMT. As previously described by the commenter, the Menlo Atherton High School currently exceeds capacity. As described on page 3-27 of the Draft EIR, the proposed project is anticipated to be fully operational and occupied by mid 2024. As noted in Response A1-6, enrollment projections show a decrease of 1,165 students between 2019 and 2025, which could result in an overall decrease in VMT as additional capacity at nearby schools becomes available. As such, the analysis presented within the Draft EIR appropriately and adequately considers the residential VMT generated by the proposed project as adequate capacity would be available by the time the proposed project is anticipated to be fully occupied.

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 VMT, pedestrian safety, emergency access, traffic hazards, or cumulative conditions. The commenter suggests that the Draft EIR does not discuss VMT related to schools operating at capacity, transportation and circulation to and from the TIDE Academy, or evaluate the impact of increased vehicle traffic generated by the project on the 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 4.2-2. The TIDE Academy is located within the transportation study area.

People traveling to and from the 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 4.2-11 of the Draft EIR. As previously noted, the 2019/2020 school year was the first year of operation for the TIDE Academy, and therefore people traveling to and from the school are accounted for in the cumulative conditions turning movement counts volumes used for intersection level of service analysis (although it should be noted that level of service is no longer an impact threshold for CEQA purposes). Intersection operations analysis is presented for 15 study intersection locations, including intersections adjacent to the TIDE Academy, for the morning and evening peak periods (7:00 to 9:00 a.m. and 4:00 to 6:00 p.m.). Vehicular turning movement volumes are presented in

Draft EIR Appendix E, Transportation Impact Analysis (TIA), Appendix C, VISTRO Traffic Volumes and Project Trip Distribution. As such, the analysis presented within the Draft EIR appropriately and adequately considers people traveling to and from the 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 4.2-29 of the Draft EIR, in Table 4.2.B, the proposed project would generate 71 net new AM peak hour vehicle trips (19 inbound trips and 52 outbound trips) and 47 net new PM peak hour vehicle trips (36 inbound trips and 11 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 C, VISTRO Traffic Volumes and Project Trip Distribution. 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 4.2-23 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 4.2-30 through 4.2-36 of the Draft EIR. As presented on page 4.2-36 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 adding new sidewalks with street trees along the project's Jefferson Drive frontage, providing well-lit and accessible sidewalks around the proposed buildings, and incorporating a pedestrian paseo on the east side of the building to enable residents and employees to walk between the project site and a potential future paseo on an adjacent property. 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 4.2-45 and 4.2-46 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 4.2-43 through 4.2-45 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 4.2-46 through 4.2-47 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.

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 the 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 the TIDE Academy.

As stated on beginning on page 4.2-11 of the Draft EIR, pursuant to SB 743, 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 informational and planning purposes only. The results are summarized in Section 4.2.3, Non-CEQA Analysis of the Draft EIR and presented in Appendix D, 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 analysis will be 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. Pedestrian safety is discussed within the analysis of project impacts related to conflicts with applicable plans, ordinances, and policies on pages 4.2-30 through 4.2-36 of the Draft EIR. As shown on page 4.2-29 of the Draft EIR, in Table 4.2.B, the proposed project would generate 71 net new AM peak hour vehicle trips (19 inbound trips and 52 outbound trips) and 47 net new PM peak hour vehicle trips (36 inbound trips and 11 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, pedestrian plaza, and internal walkways and does not include any design features that could cause potentially hazardous conditions. As discussed on page 4.2-36 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 4.2-43 through 4.2-45 of the Draft EIR, the proposed project would have a less-than-significant impact related to traffic hazards and safety. Also refer to Response A1-9.

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 4.2-30 through 4.2-36 and pages 4.2-43 through 4.2-45 of the Draft EIR. Refer to Responses A1-9 and A1-10. Parking is discussed within Section 4.2.3.2, Parking Assessment of the Draft EIR.

The proposed project's TDM plan is summarized on pages 4.2-26 and 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 that would further reduce the need to drive to other sites and therefore also reduce the demand for vehicular parking. Additionally, the proposed project would add new sidewalks with street trees along the project's Jefferson Drive frontage in an effort to improve the pedestrian environment and encourage more walking.

For these reasons, as presented on pages 4.2-36 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 4.2-43 through 4.2-45 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 4.2-30 through 4.2-36 of the Draft EIR. Table 4.2.C, beginning on page 4.2-30, 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 along Jefferson Drive.

Pedestrian safety is also addressed in Responses A1-9 and A1-10. Impacts related to traffic hazards, which would be less than significant, are analyzed on pages 4.2-43 through 4.2-45 of the Draft EIR.

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 vehicle parking. Secondary impacts resulting from the proposed project, including potential parking shortfalls, are considered in the transportation impact analysis presented in the Draft EIR and Appendix D. A parking assessment is provided within Section 4.2.3.2, Parking Assessment, beginning on page 4.2-58 of the Draft EIR. Consistent with Zoning Code section 16.96.040(c), the project sponsor will request exceptions from the vehicle parking requirement for the minimum number of vehicle parking spaces for the residential use.

The parking demand calculations show a peak residential parking demand for 207 spaces and a peak office parking demand of 36 spaces. The project proposes to provide 138 residential parking spaces and 38 office parking spaces. The proposed supply of parking spaces would meet estimated office demand and fall short of estimated residential demand. However, the parking demand estimates do not account for implementation of the TDM plan and as a result, likely overestimate the parking demand that would be generated by the project. As stated on page 4.2-60 of the Draft EIR, implementation of the proposed TDM plan would reduce project-generated vehicle trips and associated demand for parking. Furthermore, limiting parking supply is considered an effective TDM strategy and 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 incorrectly claims 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 4.3-35 of the Draft EIR. The TIDE Academy is located at 150 Jefferson Drive, approximately 245 southwest feet east of the project site, as identified in the Draft EIR and illustrated in the sensitive receptor maps included in Appendix F to the Draft EIR. Based on the results of the construction HRA as shown in Table 4.3.G in the Draft EIR, the risk to the maximally exposed individual (MEI)<sup>1</sup> would exceed the BAAQMD thresholds for cancer risk and would not exceed thresholds for chronic and acute hazard index, or PM<sub>2.5</sub> concentration. Therefore, the Draft EIR identified Mitigation Measure AIR-2, which requires the use of Tier 2 construction equipment equipped with Level 3 diesel particulate filters. As shown in Table 4.3.H of the Draft EIR, with implementation of Mitigation Measure AIR-2, 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 with mitigation.

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<sub>x</sub>), and particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>). The results shown in Table 4.3.F of the Draft EIR indicate the project would not exceed the significance criteria for ROG, NO<sub>x</sub>, PM<sub>10</sub> or PM<sub>2.5</sub> 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

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<sup>1</sup> The methodology for determining the exposure level for the maximally exposed individual is described on page 4.3-31 of the Draft EIR. The MEI is the hypothetical individual that would experience the greatest exposure to generated emissions due to proximity and/or length of exposure (assumed to be a period of 30 years) and therefore represents the most conservative assumed level of exposure. The comment claims that air quality impacts to students, families, and staff walking to and from TIDE Academy were not analyzed; however, the exposure assumed for the MEI far exceeds any potential exposure for pedestrians in the area. Accordingly, use of the MEI would capture impacts to the users identified in the comment, if any such impacts existed.

health effects. As such, impacts are 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 states that the Draft EIR inadequately analyzed noise and vibration impacts from project construction and operation on the TIDE Academy. However, the Draft EIR discusses and analyzes noise volumes from project construction and operation, including a discussion of how project noise may impact the TIDE Academy.

The Draft EIR provided quantifiable noise data and analysis. Noise and vibration impacts associated with the proposed project were identified and discussed on pages 4.5-13 through 4.5-21 of the Draft EIR. In addition, cumulative noise impacts are evaluated on pages 4.5-21 through 4.5-22 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.G 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.G, noise modeling indicates that the future noise levels along Jefferson Avenue at the TIDE Academy are projected to increase by 0.2 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 20,930 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 245 southwest of the project site. At this distance, noise levels would be reduced by more than 4 dBA, resulting in noise levels of less than 42 dBA at the school. 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 245 southwest of the project site. As shown in Table 4.5.G of the Draft EIR, existing noise levels due to traffic at the TIDE Academy (Jefferson Drive east of Chrysler Drive) are approximately 58.5 dBA CNEL. Construction noise levels would be approximately 85 dBA  $L_{max}$  at a distance of 50 feet. Construction noise is permitted by the City of Menlo Park when activities occur between the hours of 8:00 a.m. and 6:00 p.m. Monday through Friday. In addition, the proposed project would implement ConnectMenlo Final EIR Mitigation Measure NOISE-2a to reduce construction noise levels. 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). The analysis in the Draft EIR determines that the proposed project would not induce unplanned population growth. The topic of population and housing is addressed in Section 4.1, Population and Housing of the Draft EIR and the analysis concludes that all project impacts for this topic 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 113 studios and 45 four-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 4.2-30 through 4.2-36 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.

**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 A1-19, 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 suggests possible mitigation measures, such as land dedication and phased development to address what the commenter perceives as impacts. Please see Response A1-4. The proposed project would not result in a significant physical environmental impact related to school facilities; therefore, there is no basis to require mitigation measures under CEQA.

**Response A1-23:** This comment suggests that the Draft EIR (and other EIRs currently being prepared for separate projects) 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. Further, 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 A1-23, there are 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:** [Maryjane Marcus](#)  
**To:** [Bhagat, Payal](#)  
**Subject:** Menlo Flats project  
**Date:** Monday, October 25, 2021 9:29:04 PM

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**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.**

Hello,

I have written before, but I completely disagree that there are no significant unavoidable impacts. Cultural resources should not be removed, but kept in place, unless the indigenous people of this land want them to be removed. It is not enough to comply with any state mandates because we have centuries of disrupting the homelands and ancestors of Ohlone peoples here.

Have they agreed with removing any artifacts if they are found? I believe they need to be left in place undisturbed and construction halted.

Warmly  
Mary Jane Marcus

--

“The heart is a  
The thousand-stringed instrument

That can only be tuned with  
Love.”

— شمس الدين محمد حافظ / Khwāja Šams ud-Dīn Muhammad Hāfez-e Šīrāzī, The Gift



**LETTER B1**

Mary Jane Marcus  
October 25, 2021

Response B1-1:

This comment states that any potential cultural or tribal cultural resources should not be removed, but kept in place undisturbed, in the event that such resources are encountered. This issue is addressed on pages 3-13 through 3-15 of the Initial Study included as Appendix B to the Draft EIR. As stated in the Initial Study, the ConnectMenlo Final EIR determined that it is highly improbable that archaeological deposits associated with the historic period of Menlo Park and Native American prehistoric archaeological sites exist on locations identified for future development, because these locations are concentrated on sites that are either already developed, and/or in close proximity to existing development. However, future projects that require substantial excavation reaching significant depths below the ground surface could result in the disturbance of unidentified subsurface materials that have the potential to contain prehistoric archaeological resources, including unrecorded Native American prehistoric archaeological sites.

As stated on page 3-14 of the Initial Study, the ConnectMenlo Final EIR identified Mitigation Measure CULT-2a, which would also apply to the proposed project, to reduce potential impacts to a less-than-significant level. Mitigation Measure CULT-2a describes the required actions if a potentially significant subsurface cultural resource is encountered during ground disturbing activities. Included in these requirements is the preparation and implementation of a research design and archaeological data recovery plan, which would include consultation with the appropriate Native American tribe.

Finally, as described on pages 1-28 and 1-29 of the Initial Study, the City sent letters providing Native American tribes that are traditionally and culturally affiliated with the project site the opportunity for consultation pursuant to Assembly Bill 52. The offer of consultation affords tribal representatives the opportunity to provide the City with any specific knowledge related to the cultural sensitivity of the project site and the opportunity to provide input on potential mitigation measures should resources be encountered. No requests for consultation have been received to date.

**From:** [shelly](#)  
**To:** [Bhagat, Payal](#)  
**Subject:** Re proposed project on Jefferson Ave  
**Date:** Saturday, October 30, 2021 5:51:18 PM

---

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

Not tall enough. Should be bigger so it can house more people. It is out of the way and shouldn't bother too many people.

Better have one big place there than bother people with other places elsewhere.

Just make sure it is not in the way of airplanes.

Sheldon Kay

This is not a joke, I am serious.

B2-1

---

**LETTER B2**

Sheldon Kay  
October 30, 2021

Response B2-1:            This comment, which expresses a preference for the project to include even taller buildings than are currently proposed and does not address 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.

CITY OF MENLO PARK  
Planning Commission

In re:

165 JEFFERSON DRIVE PROJECT  
(MENLO FLATS)

\_\_\_\_\_ /

ENVIRONMENTAL IMPACT REPORT  
SCOPING SESSION  
REPORTER'S TRANSCRIPT OF PROCEEDINGS  
MONDAY, NOVEMBER 15, 2021

Reported by AMBER ABREU-PEIXOTO  
(Via ZOOM Videoconference)  
Certified Shorthand Reporter No. 13546  
State of California

1 ATTENDEES

2

3 The Planning Commission:

4 Michael C. Doran - Chairperson  
5 Henry Riggs  
6 Camille Kennedy  
7 Chris DeCardy - Vice Chairperson  
8 Andrew Barnes

9

10 SUPPORT STAFF:

11

12 Matt Pruter, Associate Planner  
13 Payal Bhagat, Contract Principal Planner

14

15 PROJECT PRESENTERS:

16

17 Andrew Morcos, Greystar  
18 Clark Manus, Heller Manus  
19 Karen Krolewski, PGA

20

21 CONSULTANTS:

22

23 Matthew Wiswell, LSA

24

25

---o0o---

26

27

28 BE IT REMEMBERED that, pursuant to Notice of the  
29 Meeting, and on November 15, 2021, 8:27 p.m., via ZOOM  
30 Videoconference, before me, AMBER ABREU-PEIXOTO, CSR  
31 13546, State of California, there commenced a Planning  
32 Commission meeting under the provisions of the City of  
33 Menlo Park.

34

---o0o---

35

36

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8	Clark Manus, Heller Manus	15
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1 NOVEMBER 15, 2021

8:27 p.m.

2

3

P R O C E E D I N G S

4

5 CHAIR DORAN: Okay. So the next item on the  
6 agenda is the Environmental Impact Report. And I think we  
7 have a combined staff report, with a Study Session to  
8 follow.

9 The Draft Environmental Impact Report, EIR, is a  
10 public hearing, with Andrew Morcos, from Greystar, 165  
11 Jefferson Drive, Menlo Flats.

12 This is a public hearing to receive comments on  
13 the Draft EIR to redevelop a project site with  
14 approximately 158 multifamily dwelling units, inclusive of  
15 20 additional bonus units for the incorporation of on-site  
16 below market rate units per the City's BMR Housing Program  
17 (Chapter 16.96.040), and approximately 14,862 square feet  
18 of commercial space on a 1.38-acre parcel.

19 The proposed mixed-use building would be eight  
20 stories in height, including three levels above-grade  
21 podium parking. The commercial space would be located on  
22 the ground floor and second floor. The project site is  
23 located in the R-MU-B (Residential Mixed Use-Bonus) zoning  
24 district.

25 The project site currently contains one

1 single-story, approximately 24,300-square-foot office  
2 building that would be demolished. The proposed building  
3 would contain approximately 154,032 square feet of gross  
4 floor area of residential uses, with a floor area ratio of  
5 256.3 percent.

6           The proposed commercial component would contain  
7 approximately 14,862 square feet of gross floor area, with  
8 a floor area ratio of 24.7 percent. The proposal includes  
9 a request for an increase in height, density, and floor  
10 area ratio (FAR), under the bonus level development  
11 allowance, in exchange for community amenities.

12           The proposed project would include a below market  
13 rate housing agreement that requires a minimum of 15  
14 percent of units (or 21 units of the 138 maximum units  
15 allowed by the Zoning Ordinance before accounting for the  
16 20 bonus units) be affordable.

17           The applicant is proposing to incorporate 20  
18 additional below market rate [verbatim] units (which are  
19 included in the total 158 units), per the density bonus  
20 provisions in the BMR Housing Program (Chapter 16.96.040),  
21 which allows density and FAR bonuses, and exceptions to  
22 the City's Zoning Ordinance requirements when BMR units  
23 are incorporated into the project.

24           As part of the project, the applicant is  
25 requesting removal of two heritage trees. The Draft EIR



1 was prepared to address potential physical environmental  
2 effects of the proposed project in the following areas:  
3 Population and housing, transportation, air quality,  
4 greenhouse gas emissions, and noise (operation period  
5 traffic and stationary noise).

6           The Draft EIR identified less than significant  
7 effects in the following topic areas: Population and  
8 Housing and Greenhouse Gas Emissions. The Draft EIR  
9 identified less than significant effects with mitigation  
10 for the Air Quality, Transportation, and Noise  
11 (operational traffic and stationary noise) topic areas.  
12 The City is requesting comments on the content of this  
13 focused Draft EIR. The project location does not contain  
14 a toxic site pursuant to Section 6596.2 of the Government  
15 Code. The City previously prepared an initial study for  
16 the proposed project that determined the following topic  
17 areas would have no impact, less-than-significant impacts,  
18 or less-than-significant impacts with mitigation measures  
19 (including applicable mitigation measures from the  
20 ConnectMenlo EIR): Aesthetics, Agriculture and Forestry  
21 Resources, Biological Resources, Cultural Resources,  
22 Energy, Geology and Soils, Hazards and Hazardous  
23 Materials, Hydrology and Water Quality, Land Use and  
24 Planning, Mineral Resources, Noise (construction-period,  
25 groundborne vibration, and aircraft-related noise), Public

1 Services, Recreation, Utilities and Service Systems,  
2 Tribal Cultural Resources, and Wildfire.

3 Written comments on the Draft EIR may also be  
4 submitted to the Community Development Department (701  
5 Laurel Street, Menlo Park) no later than 5:00 p.m., on  
6 December 9th, 2021.

7 We have a staff report on this from Ms. Bhagat, I  
8 believe.

9 Do we have any additions, corrections to the  
10 staff report at this time?

11 MS. BHAGAT: I have a brief presentation that I  
12 would like to go through real quickly, but there's no  
13 corrections or changes to the staff report as currently  
14 presented.

15 CHAIR DORAN: Okay. So just so I understand the  
16 order of the plan, you're going to make a presentation.

17 Is there also a presentation from the applicant?  
18 Do we have a joint -- I think we have a joint staff report  
19 between this and the Study Session.

20 So will it be a single presentation for the two  
21 as well?

22 MS. BHAGAT: So I will go through a brief  
23 presentation, just introducing the project. Then, through  
24 you, we can invite the applicant to give an overview of  
25 the proposal.

1           We also have the City's environmental consultant  
2 present, who would run through the CEQA process and the  
3 findings of the Draft EIR, after which we request that you  
4 open up the public hearing and seek the community's  
5 comments, and then provide comments on the Draft EIR and  
6 then close that portion of the public hearing, following  
7 which, we would open up the Study Session, where I can  
8 just introduce, real quickly, the questions that staff has  
9 for the Commission.

10           And we can just kind of get into the public  
11 comments and then any comments that the Commission might  
12 have on the project after that.

13           There will be no action tonight on this project.

14           CHAIR DORAN: Okay. So there's also no action on  
15 the Draft Environmental Impact Report?

16           MS. BHAGAT: That is correct.

17           CHAIR DORAN: It doesn't require a recommendation  
18 or anything from us?

19           MS. BHAGAT: It does not at this time. It will  
20 come back to you, after we prepare the Final Environmental  
21 Impact Report.

22           CHAIR DORAN: Okay. Well, in that case, if you  
23 want to start off with your presentation, you're welcome.

24           MS. BHAGAT: Thank you.

25           COMMISSIONER TATE: Oh. I'm sorry. One thing,

1 Chair Doran. I'm going to go ahead and leave now at 8:38,  
2 instead of 9 o'clock, since we're just starting this.

3 CHAIR DORAN: Okay. Well, thank you very much.

4 So if you want to proceed with your presentation  
5 now.

6 MS. BHAGAT: Yeah. I'm just bringing up the  
7 slides. Just give me one second.

8 If I can just confirm that everyone can see the  
9 slide?

10 CHAIR DORAN: Yes, I can see it.

11 MS. BHAGAT: Thank you.

12 Good evening Chair, members of the Commission and  
13 members of the community. The project before you this  
14 evening is the redevelopment of an existing site at 165  
15 Jefferson Drive, with the Menlo Flats project.

16 This 1.3, approximately, acre site is located  
17 east, off the Marsh Road, and south of Bayfront  
18 Expressway. Around the west and north side of the project  
19 site is surrounded by the Menlo Uptown project that was  
20 recently approved. This project site is -- look -- is  
21 shown in by the red box in -- on the screen.

22 As the Chair mentioned, the applicant is  
23 proposing to demolish the existing building on-site and  
24 redevelop the site with an eight-story, mixed-use  
25 building, which would have approximately 1,500 square-foot

1 ground floor office, and a little bit of commercial  
2 included in that, and 158 apartment units, which are made  
3 up of studios and four bedrooms.

4 The project is proposed to be developed using the  
5 density bonus provision, after R-MU-B zoning district,  
6 which allows the increase in density and height in  
7 exchange for providing community amenities. The applicant  
8 will be providing 21 units as affordable or at below  
9 market rate.

10 The applicant is proposing to provide community  
11 amenities as fees, as well as providing a physical amenity  
12 on-site.

13 We are currently soliciting comments on the Draft  
14 EIR that was prepared for the project, and public comments  
15 are due 5:00 p.m., on December 9th.

16 After soliciting the comments from commenting  
17 agencies and members of the public, staff will prepare the  
18 Final EIR, which will be presented to the Planning  
19 Commission for consideration at a later date.

20 As I mentioned previously, we will quickly have  
21 two items, essentially, on the agenda: Review of the  
22 Draft EIR, and the Study Session.

23 So at this time, I would just request that we  
24 review the Draft EIR and then close the public hearing for  
25 the Draft EIR and then move into the Study Session. Staff

1 will make a brief introduction before discussing the  
2 project further.

3 And with that, I will turn the meeting over to  
4 the Chair, so that the applicant can make their  
5 presentation.

6 Thank you.

7 CHAIR DORAN: Thank you.

8 So we have a presentation by the applicant now?

9 MR. MORCOS: Good evening, Chair Doran, and  
10 Planning Commissioners.

11 Just wait to get the presentation up. Okay. All  
12 right. Sorry about that.

13 Good evening again. My name is Andrew Morcos,  
14 and I'm here representing Greystar. We're here to give  
15 you an update on Menlo Flats, our third multifamily  
16 project in -- following the ConnectMenlo General Plan  
17 amendment. I'll provide a brief update and overview of  
18 the project and explain how we've incorporated Planning  
19 Commission and the community's feedback to date.

20 But first I want to give an overview of Greystar  
21 in Menlo Park to date. Between this project, Menlo Flats,  
22 our recently-approved projects, Menlo Uptown and Menlo  
23 Portal, and our completed project, Elan Menlo Park, we're  
24 working with the City to provide over 11,000 homes. Over  
25 140 of these homes will be affordable BMRs.

1           Some project highlights of Menlo Flats are that  
2 it consists of 158 homes and made up of studios and four  
3 bedrooms, four baths, and just under 15,000 square feet of  
4 non-residential space. It includes 21 BMR affordable  
5 homes located on-site and equitably distributed throughout  
6 the project.

7           For our community amenity, we're recommending an  
8 in-lieu fee totaling 4.84 million, which I'll go into  
9 further detail on in the next few slides.

10           From an environmental perspective, this project  
11 has ambitious environmental features, including LEED Gold  
12 design certification and 100 percent all electric, no gas,  
13 and ample EV charging opportunities for parking.

14           From an open space perspective, this project  
15 provides 52 -- over 5,200 square feet of  
16 publicly-accessible open space, which exceeds the City's  
17 requirement by about 39 percent.

18           And, finally, a focus on connectivity, including  
19 Paseo, to create a future connection between Constitution  
20 and Jefferson Drive, and ample bike parking altogether  
21 encourage walking and biking from this location.

22           I'd like to dig into the community amenity a bit  
23 more, since it's an important feature of this project and  
24 development proposal. The appraised value, as determined  
25 by the City's consultant, totaled 4.4 million. We're

1 including the administrative fee of 10 percent. That gets  
2 to 4.84 million.

3 I also wanted to pass along some feedback I've  
4 received from community members, as we had community  
5 meetings on how this -- these funds could be spent. One  
6 was a pedestrian bridge or underpass connecting the  
7 Bayfront area to the Onetta Harris Community Center.

8 Another was an expansion-related contribution to  
9 Sequoia Union High School District; housing subsidies to  
10 support and prevent further displacement in Belle Haven;  
11 public transportation improvements in Belle Haven and in  
12 the Bayfront area. There's been interest in a sound wall  
13 adjacent to Highway 101, along Belle Haven.

14 And, finally, some of the ConnectMenlo community  
15 amenity list is still of interest and includes a grocery  
16 store, pharmacy, and undergrounding power lines in -- all  
17 in Belle Haven.

18 To update you on the BMR proposal for this  
19 project, we've taken feedback from Menlo Portal and Uptown  
20 and provided two alternatives here. One provides 21, all  
21 low-income homes, and the other provides a mix of  
22 affordability at very low income, low income, and moderate  
23 income.

24 Here we have a few of Planning Commission's  
25 comments from our previous meetings. First, there was a



1 concern over the diesel generator that we had in our  
2 previous design. In this update, we've removed the diesel  
3 generator and will be using battery inverters for  
4 emergency backup power.

5           Second, there were some comments regarding  
6 parking. For this project, we're actually requesting a  
7 waiver to reduce parking below the minimum required for  
8 158 units and are providing a .87 parking ratio, which is  
9 below the parking ratio of similar multifamily properties  
10 in both Menlo Park and Redwood City.

11           Next, we're continuing to refine the  
12 publically-accessible open space and Paseo. And I'll go  
13 into more detail in the following slides.

14           And, lastly, we are slightly short on bike  
15 parking in this current plan set, but will provide the  
16 required amount. And we're working with our design team  
17 and City to show that in the plan set following this  
18 meeting.

19           Here I want to highlight the bottom right-hand  
20 corner. You'll see where our publically-accessible open  
21 space connects with the Paseo. This is the previous  
22 rendering. And if you look at that same area in the next  
23 rendering, which you'll see here, we've augmented the area  
24 by transitioning the open space through a stadium seating,  
25 to a -- what we hope is a cafe or a nonresidential portion

Page 15

1 of the project. And this also continues to connect with  
2 the Paseo on the right-hand side.

3 As far as community outreach, we initially  
4 presented Menlo Flats to Planning Commission in April of  
5 2020. In June of 2020, we distributed information fliers  
6 to over 6,000 addresses in the neighboring communities,  
7 including all of Belle Haven and had one-on-one  
8 conversations from those fliers. Just last month, we,  
9 again, distributed fliers to over 6,000 addresses in the  
10 same neighborhoods as previously, and hosted two virtual  
11 neighborhood meetings a couple weeks ago, from which I  
12 shared some of the feedback on the previous slides around  
13 community amenities.

14 Lastly, I don't need to go through a Draft EIR  
15 update. LSA and staff will do more than that, but I do  
16 just want to highlight that the Draft EIR found no  
17 significant and unavoidable impacts with mitigation.

18 And with that, I'd like to introduce our design  
19 team. Clark Manus, from Heller Manus; Karen Krolewski,  
20 from PGA, is our landscape architect.

21 And with that, Clark, take it away.

22 MR. MANUS: Terrific. Okay. Thank you, Andrew.

23 Karen and I just want to take you -- Chair and  
24 the Commission -- around the building, as we continue to  
25 adjust the design. I think the last time we were before

1 you, as Andrew said, there were probably a handful of  
2 things that we needed to continue to refine. And I just  
3 want to focus on a couple of those, as we walk around the  
4 building.

5 All of the renderings that you'll see -- there's  
6 a handful of them -- we have updated in order to reflect  
7 the current design and some of the things that were part  
8 of what the staff wanted to resolve.

9 So the first is -- and Karen will talk a little  
10 bit more in detail about sort of the nature of the pocket  
11 park. As you all remember -- and I'll just sort of help  
12 remind you -- one of the things that I think you provided  
13 input on was the porosity ability of the retail space and  
14 the ability for people to be able to gather on that corner  
15 in that pocket park, which leads up to the Paseo, as it  
16 goes around the project. And I think that was one of the  
17 things that we feel very successful in the course of  
18 incorporating as a part of your suggestions. So that was  
19 one of the items on your list.

20 So next.

21 So coming around -- go back one more. Coming  
22 around to the entry side on the southwest, not a lot has  
23 changed here. One of the things that's probably worth  
24 noting is on the left-hand side -- and you'll see this on  
25 the north side, as well as on the Paseo side, we've looked

1 to try and green the building up -- use of vines of  
2 various types. Karen can elaborate on the nature of those  
3 -- in an effort to soften the building. But we've been  
4 pretty comfortable and confident about the expression of  
5 that and the ability to sort of soften the character of  
6 the building.

7 Next.

8 And then coming around on the Paseo side, this  
9 view is actually looking back towards the street. Paseo  
10 is on the left-hand side; north side of the building is on  
11 the right. It actually fronts the Uptown project and the  
12 townhouses that were approved by this Commission  
13 previously. Again, we're using a system that will allow  
14 us to be able to green those walls that are adjacent to  
15 parking areas.

16 As Chair Doran described, in the course of the  
17 nature of the building, there's parking at the lower  
18 portions of the building. So in locations where there are  
19 solid walls, we've looked to use a green screen-like  
20 system that will allow us to use -- as Karen will describe  
21 -- aggressive vines that will allow it to create a nice,  
22 soft feel along that so that Paseo is really very nice and  
23 welcoming.

24 At the corner there, just to take note, there's a  
25 dog wash area, as well as access to bicycle parking for

1 the residents.

2 Next.

3 And then, again, coming around on the right-hand  
4 side is where the access to the garage is beyond and EV  
5 lane. On the left-hand side and to your left would be the  
6 Uptown townhouses. And on the Uptown townhouse site,  
7 there's access to garages.

8 But what we've endeavored to do here is to find a  
9 way that we can make sure that pedestrians feel  
10 comfortable and confident, in terms of the character of  
11 them being able to walk around and access is really only  
12 limited to those people who will be getting their cars  
13 from their garages that are at the lower levels of the  
14 townhouses.

15 Next.

16 And then lastly, this view -- I think,  
17 Commissioners, you probably didn't see this view before.  
18 We've incorporated this as a result of the development and  
19 refinement of the project.

20 The right-hand side is the Uptown townhouses,  
21 which this Commission heard and acted on. All the way in  
22 the back there is the Flats project. On the lower levels,  
23 again, that's the green screen walls that we're using to  
24 conceal parking and also create a nice and sort of lively  
25 character to the facade for the first 30 feet of the

1 building.

2 Next.

3 And next, just to refresh your memory -- again, I  
4 would just sort of say, next to nothing has probably  
5 changed on these plans from when you saw it last. Same  
6 uses at the ground floor: Commercial uses; parking  
7 behind. And the plan on the right is a plan of the  
8 courtyard and a typical residential floor plan that goes  
9 up through the building.

10 Next.

11 And with that, I'd like to turn it over to Karen,  
12 who can take you into a little bit more detail on how the  
13 nature of the public plaza evolved. I think that was one  
14 of the things that I think we have heard you say  
15 consistently, in terms of the public ground.

16 And I think with that, it's all yours, Karen.

17 MS. KROLEWSKI: Thank you, Clark. Yeah. I'm  
18 going to focus on showing you some of the changes to the  
19 plaza at the front of the building.

20 So this is the first slide, showing the overall  
21 relationship with the second story.

22 Next slide.

23 So the images on this slide show the design, as  
24 it's developed so far. So the design includes an exit  
25 from the neighborhood benefit space onto a raised patio.

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1 The patio steps down, with tiered wooden seating, creating  
2 an inviting and activated corner. The seating also  
3 connects to the plaza, which anchors to the corner of the  
4 Paseo and provides a nice activated corner to lead a  
5 person down the Paseo.

6 And at the end of that Paseo, there is also a  
7 connection to the townhomes' site at the back. And Clark  
8 mentioned, on the vine walls that we will be creating for  
9 the project, those will be using a green screen product  
10 which will allow for easy maintenance of the building  
11 facade, as well as allowing for pruning and caring for the  
12 vines.

13 And we've -- are planning for a robust seasonal  
14 color pallet and -- so have picked out three vines for  
15 that green screen, including Bower vine, Carolina Jasmine,  
16 which will have yellow flowers, and also a -- mixed in  
17 there, a California grape, which will have a nice red fall  
18 color.

19 And that wraps up my presentation. And I think  
20 we'd also like to, at this point, wrap up the presentation  
21 as a whole.

22 Thank you to the Commissioners.

23 MR. MORCOS: I actually just want to -- thank  
24 you, Karen. Sorry about that. I just want to add one  
25 thing -- or correct one thing.

1           The space above the stadium seating is no longer  
2 a neighborhood benefit. Our community amenity will be  
3 paid through the in-lieu fee. So apologies for that  
4 error.

5           With that, thank you, Commissioners, and looking  
6 forward to any questions or comments.

7           MR. DORAN: Thank you.

8           Commissioner Riggs, do you have a question? A  
9 clarifying question?

10          No? Okay.

11          I'd like to move on to the EIR consultant for  
12 their presentation.

13          MR. WISWELL: Good evening. I believe we --  
14 there it is -- great.

15          So good evening, Chair and Commissioners. My  
16 name is Matthew Wiswell. I'm with LSA. We are the City's  
17 consultant for environmental review of the Flats project.  
18 With me tonight are Theresa Wallace, LSA's principal in  
19 charge; and Dean Arizabal, LSA's transportation principal.  
20 I will try to keep this as brief as possible, because I  
21 know that you've heard a very similar presentation for our  
22 previous projects in the Bayfront area.

23          Not sure if I can control the slide or not. But  
24 if someone can point me to the next slide, that will be  
25 great.



1           While we wait for that, I'll just go to the  
2 purpose of tonight's meeting, which is to hear your  
3 comments on the Draft EIR that was published on October  
4 25th. The focus of your comments should be on the  
5 adequacy of the analysis provided in the Draft EIR.

6           And while we're happy to answer questions or  
7 clarify material on the Draft EIR tonight, we would ask  
8 that any comments of a really technical or specific nature  
9 be provided again in writing, so that we can provide you  
10 with written responses.

11           We want to be sure that we're providing you the  
12 most accurate responses that you may need. And, you know,  
13 we want to confer with our technical specialists, who  
14 aren't here tonight, to do that.

15           I believe a court reporter is also recording the  
16 comments, and a transcript of all the comments received  
17 tonight will also be prepared. Each comment that we  
18 receive on the EIR will then be formally responded to in  
19 writing, and all comments must be received by December  
20 9th, which I believe Payal noted already.

21           There we go. That's a little better. So this  
22 slide shows the overall schedule for the environmental  
23 review process. On November 16th, the City issued a  
24 Notice of Preparation, or an NOP, notifying interested  
25 parties and responsible agencies that an EIR would be

1 prepared, and that an initial study was included for  
2 review. I see that we've lost our presentation now, but I  
3 can continue on.

4 All public comments that we received should be  
5 provided during -- or all comments provided during the  
6 30-day period were considered during preparation of the  
7 EIR. After that the City and the LSA team prepared the  
8 Draft EIR, and we're currently in a 45-day review period.

9 As Payal noted, after the close of the comment  
10 period on December 9th, we'll prepare the written  
11 responses to each substantive comment received on the  
12 adequacy of the EIR analysis, in what's referred to as a  
13 "Response to Comments" document.

14 Together, the Draft EIR, which is what you're  
15 reviewing tonight, and that future Response to Comments  
16 document will constitute the Final EIR. And then -- so  
17 the Final EIR will be published and available for review  
18 for a minimum of 10 days before any hearing is held.

19 Just to give you some background on CEQA, or the  
20 California Environmental Quality Act, it's the state law  
21 that requires the environmental evaluation of a project.  
22 Generally the purpose of CEQA is to inform the City's  
23 decision-makers, other agencies, and the general public  
24 about the potential environmental consequences of project  
25 approval.

1 I'm on Slide 4 here, if we want to skip forward  
2 to that one.

3 Wonderful. Thank you.

4 If any environmental impacts are identified, then  
5 the lead agency needs to identify ways to mitigate or  
6 avoid those impacts. And when an EIR is required,  
7 alternatives to the project must also be identified and  
8 evaluated.

9 Next slide, please.

10 The environmental analysis for the project tiers  
11 from the ConnectMenlo Final EIR. As you all know, the  
12 ConnectMenlo EIR provided a program-level analysis of the  
13 development potential envisioned for the entire city,  
14 including the increased development potential in the  
15 Bayfront area.

16 This EIR, for ConnectMenlo, evaluated the impacts  
17 of approximately 2.3 million square feet of nonresidential  
18 space, 400 hotel rooms, and 4,500 residential units. This  
19 Menlo Flats project fits within those development  
20 assumptions of the ConnectMenlo EIR.

21 A Settlement Agreement with the city of East Palo  
22 Alto also requires that certain projects that tier from  
23 the ConnectMenlo EIR, including those utilizing bonus  
24 level development, like the proposed project, to conduct a  
25 focused EIR with regard to housing and transportation

1 specifically. And this environmental review of the  
2 project complies with those terms of the Settlement  
3 Agreement.

4 Next slide, please.

5 So as I mentioned before, an initial study was  
6 circulated with the NOP, that an EIR would be prepared.  
7 Based on the conclusions of the initial study, the topics  
8 shown on this slide were not further evaluated because the  
9 project is not anticipated to result in significant  
10 effects related to those issues or because the initial  
11 study found that those topics were adequately addressed  
12 through the program level EIR for ConnectMenlo. The  
13 topics on the left, shown under "Potentially Significant  
14 Impact," were identified for further evaluation in the  
15 EIR.

16 Next slide, please.

17 So this slide gives an overview of the findings  
18 for each topic evaluated in the Draft EIR, which I will go  
19 over in the next couple of slides. The main takeaway is  
20 that no significant unavoidable impacts were identified,  
21 and that all impacts can be reduced to a  
22 less-than-significant level, with implementation of  
23 mitigation measures.

24 Next slide, please.

25 For the topic of population and housing, a

1 Housing Needs Assessment, or HNA, was prepared in  
2 compliance with the terms of the Settlement Agreement and  
3 to provide background and context for this EIR section.  
4 Briefly, the project would fit within the growth  
5 projections identified in the ConnectMenlo EIR and would  
6 not induce any unplanned population growth. Initially the  
7 project would increase the availability of housing and  
8 would not increase displacement pressures on surrounding  
9 communities, including Belle Haven and East Palo Alto. No  
10 mitigation measures required for that one.

11 For the topic of transportation, a Transportation  
12 Impact Analysis -- or a TIA -- was prepared, consistent  
13 with the City's TIA guidelines. Under CEQA, as we -- I  
14 think -- all know at this point, roadway congestion or  
15 level of service is no longer the metric for evaluation of  
16 transportation impacts.

17 And compliance with SB 743, and the City's  
18 updated TIA guidelines, VMT, or Vehicle Miles Traveled, is  
19 the threshold of significance. The threshold considers  
20 VMT per person or per capita, which is a measurement of  
21 the amount of distance that a resident, employee, or a  
22 visitor drives.

23 For mixed-use projects, each land use is  
24 independently evaluated. The analysis for residential --  
25 the residential component of the project determined that

1 implementation of the Transportation Demand Management  
2 plan, proposed by the project, would reduce VMT below the  
3 established threshold, which is 15 percent below the  
4 regional average VMT.

5 For the office use, the additional TDM measures  
6 were identified as a mitigation measure to ensure that  
7 this use would also be below the threshold.

8 The EIR also determined that the project would  
9 generally comply with the applicable  
10 transportation-related plan and policies, would not create  
11 any design hazards, or result in inadequate emergency  
12 access.

13 And then, finally, consistent with the City's TIA  
14 guidelines, a level of service analysis was also conducted  
15 for local planning purposes. Two intersections were  
16 identified in the near terms, exceeding the City's  
17 thresholds, and five additional intersections were  
18 determined to exceed the threshold during cumulative  
19 conditions. Intersection improvements were recommended to  
20 be included as project conditions of approval.

21 For the topic of air quality, the analysis  
22 determined that implementation of BAAQMD's basic  
23 construction measures would be required to reduce  
24 construction period impacts to a less-than-significant  
25 level, which is consistent with the findings of the

1 ConnectMenlo EIR. And the project would also not exceed  
2 regional air quality emissions during operation.

3 The EIR also included an operational and  
4 construction Health Risk Assessment, or an HRA, consistent  
5 with the mitigation measures outlined in the ConnectMenlo  
6 EIR. The HRA determines whether or not sensitive  
7 receptors, including residential uses, schools, or other  
8 similar sensitive uses could be exposed to toxic air  
9 contaminants.

10 The analysis determined that mitigation measures  
11 would be required to ensure that construction equipment is  
12 equipped with specific emissions' controls to reduce  
13 exposure of offsite receptors to TACs during construction.  
14 This analysis determined that both on and offsite  
15 receptors would not be exposed to substantial increases in  
16 TACs with the project during operation.

17 For greenhouse gas emissions, all impacts would  
18 be less than significant and implementation of the basic  
19 control measures I just mentioned would further reduce the  
20 GHG emissions during construction.

21 The project would be well below the BAAQMD's  
22 thresholds for operational emissions. And the project  
23 would generally comply with all the applicable plans and  
24 policies and regulations adopted for the purpose of  
25 reducing greenhouse gas emissions, including the state's

1 Scoping Plan, Plan Bay Area, and the City's Climate Action  
2 Plan.

3           And, finally, for noise, the analysis determined  
4 that transportation-related increases in noise would not  
5 exceed the City's standards because the project would  
6 locate residential uses in an area that is considered  
7 conditionally acceptable. Noise environment by the City  
8 mitigation measures would be required to reduce interior  
9 noise impacts. These include the installation of  
10 mechanical ventilation so that windows can remain closed,  
11 and the use of noise-reducing window materials. These are  
12 also consistent with the ConnectMenlo EIR mitigation  
13 measures.

14           So the -- as I mentioned previously, the EIR also  
15 evaluated a range of alternatives to the proposed project  
16 with the objective of avoiding or reducing potential  
17 impacts of the project. These alternatives were developed  
18 in consultation with City staff and consider the comments  
19 received during the NOP scoping period, as well as  
20 comments on the -- on previous projects in the area as  
21 well.

22           Under CEQA, alternatives to a project must  
23 generally meet most of the basic project objectives.  
24 While a number of project alternatives were considered,  
25 the EIR included full analysis of four alternatives,



1 including the CEQA-required no-project-alternatives and  
2 three different development alternatives, which are  
3 summarized in this slide.

4           So there's the base-level alternative, which  
5 looked at development of the site under the maximum base  
6 residential density allowed in the zoning district without  
7 any community amenities and without any bonus-level  
8 development. This would include 111 fewer residential  
9 units than the proposed project and a decrease of about  
10 6,000 square feet of nonresidential space.

11           Also some the impacts would be slightly lessened  
12 due to the reduced size of the project. None of the  
13 impacts would be entirely avoided, and similar mitigation  
14 measures would still be required.

15           We looked at an all-residential alternative,  
16 which evaluated the development at the maximum level of  
17 residential use in the zoning district, which, in this  
18 case, is 159 units -- one less than -- or one more than  
19 the proposed project, but without any nonresidential  
20 space.

21           Instead of providing any community amenities  
22 on-site, the project sponsor would pay the community  
23 amenity fee. While some of the impacts would be slightly  
24 lessened, only the VMT impact would be entirely avoided  
25 under this alternative because there wouldn't be any

1 office space.

2           And, finally, the reduced parking alternative  
3 analyzed the reduction in nonresidential parking that  
4 would be required to achieve a maximum VMT reduction  
5 possible. The VMT reduction is estimated based on a  
6 formula from the California Air Pollution Control  
7 Officers, which compares the proposed parking to the  
8 demand rate from the Institute of -- the parking demand  
9 from the Institute of Transportation Engineers. Based on  
10 this formula, reducing the office parking supply by nine  
11 spaces provides the maximum VMT reduction.

12           It should also be noted that the reduced parking  
13 alternative would result in fewer parking spaces than the  
14 minimum required by the zoning ordinance and, therefore,  
15 would require the approval of a variance, which the  
16 proposed project, as is, doesn't require.

17           All that being said, even with the maximum VMT  
18 reduction possible, there would still be a VMT impact, and  
19 the same mitigation measures as the project would be  
20 required.

21           So, ultimately, it was determined that the -- in  
22 terms of environmental impacts, the all-residential  
23 alternative would be the environmentally superior  
24 alternative. However, this alternative would not fully  
25 achieve some of the basic project objectives related to

1 providing on-site nonresidential space.

2 Next slide, please.

3 So with that, that concludes my presentation and  
4 overview of the CEQA process and the EIR. As we noted,  
5 comments will be collected by the City and should be  
6 submitted to the e-mail address, or, if you prefer to  
7 write them in a letter, to the address listed there.

8 Even if you make verbal comments tonight, we  
9 would again encourage you to also submit your comments in  
10 writing, so that we can thoroughly respond to them.

11 And with that, I will take any questions.

12 CHAIR DORAN: Thank you. I do want to open it up  
13 to public comment, but if we have clarifying questions  
14 from the Commission, we can do that now.

15 Not seeing any. So I would like to open it up to  
16 public comment at this time.

17 Mr. Pruter, do we have any hands raised now?

18 MR. PRUTER: Thank you, Chair Doran.

19 We do not at this time, but as a reminder for  
20 folks interested in commenting, if you could press the  
21 hand icon on your interface, you can provide us with  
22 public comment. And if you're calling by phone, you can  
23 press \*9 as well.

24 And I see none at this time. So we can wait a  
25 few moments, if you'd like.

1 CHAIR DORAN: Yeah. Let's give it a little  
2 while.

3 Still no hands raised?

4 MR. PRUTER: At this time, I still see no hands  
5 raised. So you can close it, if you feel you'd like to.  
6 Thank you.

7 CHAIR DORAN: Yeah. I'm going to close public  
8 comment now, bring it back to the Commission for questions  
9 and comments on the Draft EIR.

10 Commissioner DeCardy?

11 COMMISSIONER DECARDY: And, Mr. Wiswell, thank  
12 you for the presentation, the thorough presentation and  
13 all your hard work.

14 I want to start by really just commending you and  
15 the City for the fourth alternative, the reduced parking  
16 alternative. I think it's fabulous that that was  
17 included. I hope that this is the beginning of including  
18 such an alternative in every one of these EIRs in the  
19 future. I think having that information is just fantastic  
20 for the community to be able to understand, especially in  
21 this part of our community, where transportation, traffic,  
22 vehicle movement has been such an issue for such a long  
23 time.

24 So my first thing is just to really thank you and  
25 thank the City and hope this is a precedent that we'll use

1 again and again.

2 And then I do, on that specific thing, on -- have  
3 a clarifying question, which is -- so the reduction of  
4 nine spaces, which is from the office building or the  
5 commercial, is about a 25 percent reduction.

6 So my first question is, the reduced parking was  
7 for the office, but not for the residential. And if you  
8 could explain why.

9 MR. WISWELL: Sure. Yeah. So I mentioned that  
10 the reduced parking is based on the idea that reducing  
11 parking, reduces VMT in some cases. And the way that you  
12 determine that is by comparing the provided parking to the  
13 estimated parking demand. And in this case, the  
14 residential parking is already so low that any further  
15 reduction would not result in any VMT decrease, if that  
16 makes sense.

17 So there's the -- the potential VMT reduction is  
18 capped at about 12 percent. And based on the formula  
19 provided by the Air Pollution Control Officers, they've  
20 already hit the max for residential. They can't -- any  
21 further reduction wouldn't provide any additional VMT  
22 decrease.

23 COMMISSIONER DECARDY: So to a certain degree,  
24 you're beholden to having to use that input in your  
25 analysis.

C1-1

C1-1  
cont.

1 Is that the way to say that?

2 MR. WISWELL: That's correct. Yes.

3 COMMISSIONER DECARDY: Okay. That's helpful.

4 And then not being an analytical expert in this,  
5 is -- so this 25 percent reduction, is it really just the  
6 nine spaces is the important thing? Like, if this  
7 happened to be a commercial project that had 100 spaces,  
8 is the same answer going to be nine? Or is the same  
9 answer 25 percent? Or is it actually neither one of  
10 those, if you extrapolated, would be the way to think  
11 about it?

12 MR. WISWELL: Sure. The 25 percent is more  
13 correct.

14 COMMISSIONER DECARDY: Okay. So -- and then I  
15 guess my question is, the preferred -- the stated  
16 preferred alternative now is the project. But what's the  
17 downside of having this additional VMT benefit?  
18 Presumably there's some environmental benefit to that  
19 amount of reduced VMT.

20 And isn't the only hassle the need for a  
21 variance, which actually has nothing to do with the  
22 environment, other than, I suppose, us printing a whole  
23 bunch of paper to look at a variance or something.

24 So walk through why that wasn't the preferred  
25 alternative to the project.

C1-1  
cont.

C1-1  
cont.

C1-2

1 MR. WISWELL: Sure. So I will say, just --  
2 first, if I can make a clarification.

3 It's the environmentally superior alternative;  
4 not necessarily preferred.

5 COMMISSIONER DECARDY: Okay.

6 MR. WISWELL: CEQA doesn't get into the business  
7 of recommending projects or not.

8 COMMISSIONER DECARDY: Fair enough.

9 MR. WISWELL: So as I kind of touched on in my  
10 presentation, even with the reduced parking alternative,  
11 it would still require a mitigation measure for VMT for  
12 the office use specifically. And so we had another  
13 alternative that's all residential. And since it doesn't  
14 have any office space, it doesn't require that  
15 transportation mitigation measure.

16 So when we look at what the environmentally  
17 superior alternative is, it's generally the one that  
18 requires the fewest mitigation measures.

19 COMMISSIONER DECARDY: I see. But it's still --  
20 right. So that's the superior one.

21 But relative to the project, if you were just  
22 looking at the project to the no-parking alternative,  
23 everything is equal, except you get the benefit of the VMT  
24 reduction from the reduced 25 percent, and you have to do  
25 a variance. That's the way to look at that, if you're

1 just comparing across the EIR to those -- those two  
2 aspects of -- those two of the four that you put in there?

3 MR. WISWELL: I might want to ask Eric Phillips  
4 to weigh in on this. I know that there may be an issue  
5 with the amount of parking that can be reduced from the  
6 legal side -- or maybe Payal can weigh in -- because it  
7 would be less than the zoning code requires.

8 Payal, do you want to touch base more on that?

9 MS. BHAGAT: Sure. I can try to take that.

10 So, Vice Chair, the issue is if you compare the  
11 two projects out of the -- sort of the environmental scope  
12 of the environmentally superior project, the issue is that  
13 this is an SB 330 project, the current project that is  
14 being proposed. Therefore, legally speaking -- and Eric  
15 can speak to that some more -- staff cannot add a  
16 requirement that the applicant go through a discretionary  
17 review process, such as a variance, because SB 330 statute  
18 doesn't allow us to do that.

19 So, in other words, we couldn't say, "Do the" --  
20 reduce the parking for the office by nine spaces;  
21 therefore, be not compliant with the zoning code, which  
22 requires you to do a variance so that we could reduce the  
23 VMT by 12 percent.

24 MR. WISWELL: And I would just note there -- even  
25 if we do this, all it does is take a few -- a couple

C1-2  
cont.



1 measures out of the transportation mitigation measure. It  
2 doesn't completely avoid it. And there still will be some  
3 additional measures needed. It just -- it change -- it  
4 would change how many additional measures would be needed.

5 COMMISSIONER DECARDY: I appreciate that. Thank  
6 you.

7 So mostly I'll just go back to the beginning on  
8 this, which is, I think it's fabulous that this is in the  
9 EIR. I think it's clear that this is information that is  
10 hugely helpful to a community that has been deeply  
11 impacted by traffic. And I think it gives us, as a city,  
12 a whole lot more information in the future to understand  
13 that building more parking and making roads bigger does  
14 not take care of our vehicle-miles-traveled problem. And  
15 this puts it -- that in really stark relief, in a really  
16 helpful way.

17 So I'll just go back to the beginning and thank  
18 you for making that happen, and appreciate the  
19 clarifications.

20 CHAIR DORAN: Do we have other Commissioners that  
21 would like to speak?

22 Okay. Well, I'm not seeing anyone else that  
23 wants to speak on the Draft EIR.

24 I want to ask Ms. Bhagat. Is there anything else  
25 you need from the Commission now, or can I close the

C1-2  
cont.

1 public hearing portion?

2 MS. BHAGAT: Chair, if there are no other  
3 comments from any of the Commissioners, then we can go  
4 ahead and close the public hearing on this portion and  
5 move on to the Study Session.

6 CHAIR DORAN: Okay. I'm not seeing any other  
7 comments from the Commission. So I'm going to close the  
8 public hearing portion of the meeting.

9 We will now move to the Study Session.

10

11 (WHEREUPON, Agenda Item F4 ended.)

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1 CERTIFICATE OF REPORTER

2

3 I, AMBER ABREU-PEIXOTO, hereby certify that the  
4 said proceedings were taken remotely in shorthand by me, a  
5 Certified Shorthand Reporter of the State of California,  
6 and was thereafter transcribed into typewriting, and that  
7 the foregoing transcript constitutes a full, true, and  
8 correct report of said proceedings which took place;

9

10 That I am a disinterested person to the said  
11 action.

12

13 IN WITNESS WHEREOF, I have hereunto set my hand  
14 this 10th day of January, 2022.

15

16

17 \_\_\_\_\_  
18 AMBER ABREU-PEIXOTO, CSR No. 13546

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## **PLANNING COMMISSION HEARING C1**

November 15, 2021

Response C1-1: This comment seeks clarification on the Reduced Parking alternative. The Reduced Parking alternative is described on pages 6-15 through 6-20 of the Draft EIR. As described in the Draft EIR, the intent of the Reduced Parking alternative is to achieve the maximum VMT reduction allowed per the California Air Pollution Control Officers Association's (CAPCOA) guidelines. The VMT reduction is estimated using an equation that compares the proposed parking ratio against the ITE parking demand rate. By utilizing a ratio, the VMT reduction is based on the percentage of parking reduced, rather than the total number of parking spaces removed (i.e., other projects with similar features would need to reduce parking by a similar percentage, not just number of parking spaces, to achieve a similar VMT reduction.)

Response C1-2: This comment seeks clarification on the environmentally superior alternative. As discussed on pages 6-21 through 6-23 of the Draft EIR, the environmentally superior alternative would be the one that would have the fewest impacts, and therefore require the fewest mitigation measures, while still meeting the basic objectives of the proposed project. While the No Project alternative would be environmentally superior in the technical sense in that contribution to the impacts identified in the Draft EIR would not occur, it would also fail to achieve any of the project's objectives and would fail to further the goal and intent of the General Plan and Zoning Ordinance. Therefore, the All Residential alternative is considered the environmentally superior alternative as it would not require the implementation of Mitigation Measure TRA-1, while the remaining alternatives would all require implementation of all of the mitigation measures identified in the Draft EIR. It is important to note that with the incorporation of feasible mitigation measures, neither the proposed project nor the alternatives would result in significant, unavoidable environmental impacts.

## 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 revision is made to the first sentence of the third paragraph of the Notice of Availability that was included under the cover of the Draft EIR, to include the correct size of the project site:

**PROJECT LOCATION AND EXISTING CONDITIONS:** The approximately ~~1-981.38~~ project site is located at 163 Jefferson Drive, north of US Highway 101 (US 101) in the City of Menlo Park.

The following revision is made to the first sentence of the third paragraph on page 4.2-40 of the Draft EIR, to include the correct transportation analysis zone (TAZ) for the project site. The correct TAZ and corresponding vehicle miles traveled (VMT) are shown in Table 4.2.F.

**Proposed Office Use VMT.** Table 4.2.F shows the average daily VMT per employee for workers within the City of Menlo Park, the VMT threshold (15 percent below citywide average), and for TAZ ~~3070~~ 3072, the TAZ in which the project site is located.

The page numbers in Section 4.3, Air Quality, inadvertently restarted after 4.3-32. The pages in Section 4.3, Air Quality, following page 4.3-32 are renumbered as 4.3-33 through 4.3-40.

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