

TO: Menlo Park City Council and Staff
 DATE: Aug 26, 2025
 RE: Review of Draft RFP Housing Development in Downtown Menlo Park

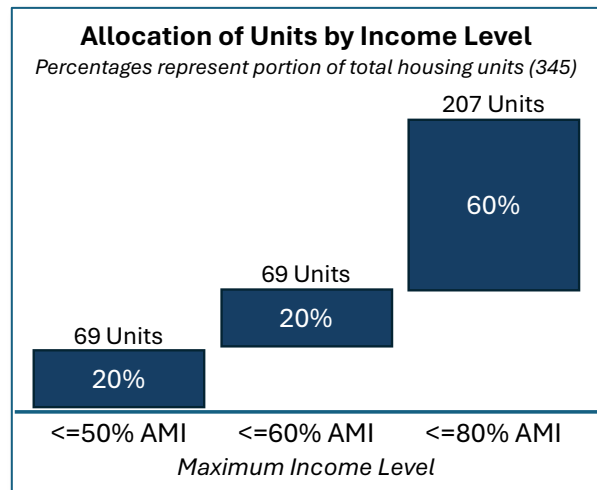
Costs, Funding Sources and Affordable Housing

To its credit, the Menlo Park City Council has set very aggressive affordability goals for the 345 units to be located on the three downtown parking plazas. The RFP contemplates a mix of affordable housing for income levels ranging from extremely low to low income and requires explicit income grouping as follows:

- 100% of units (345) in the range of 15% - 80% of AMI [Low Income or below]
- At least 40% of units (138) at or below 60% AMI
- At least 20% of units (69) at or below 50% AMI [Very low Income]

The Draft RFP encourages a range of dwelling options. Specifically, the RFP states

A diverse mix of unit types is desired, with emphasis on multi-bedroom units suitable for families. Projects should provide a range of unit sizes to serve different household compositions.



The table below indicates the “allowable” monthly rent based on income category and dwelling unit type. The highlighted cells detail the maximum affordable monthly rent for the population targeted.

Maximum Affordable Rent Payment (\$)¹						
as determined by HUD – Effective June 1, 2024						
Income Level	% AMI	Studio	1 BR	2 BR	3 BR	4 BR
Extremely Low	30%	\$1,028	\$1,101	\$1,322	\$1,527	\$1,704
Very Low	50%	\$1,713	\$1,836	\$2,203	\$2,545	\$2,840
Low	80%	\$2,742	\$2,938	\$3,526	\$4,073	\$4,544
HUD Fair Market Rent		\$2,292	\$2,818	\$3,359	\$4,112	\$4,473
Median	100%	\$3,426	\$3,672	\$4,406	\$5,090	\$5,680

This is important because it sets a cap on the maximum revenue stream developers can anticipate from the housing project. To provide units at the above monthly rent, developers will need to work very hard to keep costs as low as possible. Otherwise, this project is not financially feasible.

However, it is essential that this project remain financially viable in order to move forward. Failure is the alternative. That means that in addition to the affordability and quality of the units, there will be great focus on the overall development costs, and on the availability of low-cost funding sources required to make this project work.

¹ Source: 2024 San Mateo County Income Limits as determined by HUD – Effective June 1, 2024. [https://go.boarddocs.com/ca/smccd/Board.nsf/files/D7GPUH664DDA/\\$file/2024%20xx%20Income%20Limits%2007%2008%202024.pdf](https://go.boarddocs.com/ca/smccd/Board.nsf/files/D7GPUH664DDA/$file/2024%20xx%20Income%20Limits%2007%2008%202024.pdf)

Affordable Housing Funding Sources

Affordable Housing Funding represents a critical element to the financial viability of affordable housing projects. Without these funds, many projects would never be completed. However, because the Menlo Park City Council decided to use existing and highly utilized public parking plazas for the location of these affordable homes, and because the City Council has mandated that bidders “provide at least 556 parking spaces (a one-to-one parking replacement ratio)...”² it is unclear whether Affordable Housing Funds can be used for this project.

Two of the developers selected to respond to this RFP (Eden, and Related & Alta) explicitly stated in their Request for Qualifications responses that they did NOT think that Affordable Housing Funding Sources could be used to build the public parking required for this project. They recommended that Menlo Park fund, build, and operate a separate parking structure for replacement parking needs.

We recognize that the construction of a public parking garage is a critical asset to the Menlo Park business community. Unfortunately, the financial tools available to affordable housing developers do not allow us to build a non-housing component this large without direct subsidy so we did not include this garage in our proposal. However, we did work with our design team to study and set aside a portion of Parking Plaza 1 that will allow for a 5-story, 515-space garage that could be developed by the City or a development entity of their choosing.

-- Eden RFQ Response: Page 4

Related and Alta have proposed a freestanding parking structure for the replacement parking. Affordable housing funding sources do not allow public parking as an eligible use of funds.

-- Related & Alta RFQ Response: Page 34

Other respondents did not address this issue, did not think that there as an issue of using Affordable Housing Funding Sources to build public parking, or chose to overlook this issue until they proceeded farther through the selection process. To address and resolve this question, two things should happen:

- 1) The Menlo Park City Council should request that Menlo Park Legal Counsel provide an opinion as to whether public parking is an allowable use of Affordable Housing Funding Sources.
- 2) The RFP should request respondents confirm that, if their proposal depends on Affordable Housing Funding Sources, those funds can be used to build public parking. Furthermore, if those funds cannot be used to build the required public parking, respondents must confirm how they will fund the needed parking without leaving Menlo Park to fund the construction itself or converting the current free public parking to fee-for-parking.

Elevated Development Costs

It is vital that this project to build affordable housing in Menlo Park succeed. This makes both the definition of project goals and the selection of a “winning” developer critically important. By selecting the downtown Menlo Park the location for the new housing, the Menlo Park City Council has “built in” additional, unnecessary, and perhaps excessive costs for this project. These are costs beyond the cost of building 556 parking spaces.

² City of Menlo Park Draft Request for Proposals, 3.1 (D) Minimum Project Requirements page K-1.15

The requirement to build 345 units and replacement parking on the relatively small 4.83 combined acreage of Plazas 1, 2, and 3 will force developers to build taller buildings – 6 to 8 stories high versus 2 to 3 stories. These taller buildings will be more expensive to build per unit. How much more expensive is hard to know without analysis. The City Council should find out. The City Council can do this by asking RFP respondents to estimate the increased costs of the taller buildings or the Council can complete its own expert analysis.

Similarly, building 345 units in three structures plus new public parking will be difficult to do in the heart of downtown Menlo Park. The constrained space will drive up costs due to material and equipment positioning, staging, and movement. The space will also increase costs associated with road closures, detours, and traffic pattern disruption not to mention the costs of repairing damage caused by heavy equipment on city streets in a tight work space.

To understand these costs, again the Menlo Park City Council can either ask respondents to estimate the increased costs, or the Council can conduct its own expert analysis.

Given the tight financial parameters discussed above and the questions about the use of Affordable Housing Funding Sources, it would be negligent of the Menlo Park City Council to not examine the excess costs and the risks to financial viability driven by the selection of the downtown parking plazas for this project.

It Is the People, not the Parking, that Matters

No matter how you look at Menlo Park's efforts to build affordable housing, it seems like parking is at the center of this issue. That is wrong.

This was never about parking, it has always been about people. How people can get affordable housing near where they work and how people can sustain their downtown businesses that depend on park-and-shop customers not just from all of Menlo Park (32,000 residents across 19 square miles)³ but also from Portola Valley, Atherton, Palo Alto, Redwood City and many other surrounding communities. The housing needs and the business needs are inextricably inter-connected. If the housing development crushes the downtown economy, the housing development will also fail.

Given the importance of driving success for both the housing project and downtown businesses, it is surprising that the RFP does not request more information about the phased impact on parking. The RFP does ask for good details about targeted income levels, dwelling types and even special services needed for certain populations. This is great.

However, the RFP provides no guidelines for resident parking needs [resident specific spaces per dwelling unit] and asks nothing of respondents regarding the phased elimination and replacement of the current 556 public parking spaces.

The RFP should include both of these in the required responses.

- Given the target populations, what assumptions has the developer made regarding required resident parking. Without guidance on needed resident parking, the RFP responses are likely to pose a “apples and oranges” dilemma where different developers such very different resident parking per unit.⁴ Furthermore, developers should detail what steps will be taken to ensure that “excess and unmet” resident parking needs do not consume needed public parking.

³ City of Menlo Park | City Profile | <https://menlopark.gov/Community/City-profile>

⁴ The RFQ responses showed resident parking availability ranging from as low as 0.09 spaces per unit [Eden] to 0.75 spaces per unit [MidPen].

- RFP respondents should provide details for the actual number of available public parking spaces on at least a quarterly basis throughout the multi-year construction project. Necessarily, the construction will eliminate spaces before it can replace those spaces. Developers should provide specific, time-based details about how their project affect available parking.

Do Your Homework, Please!

The Housing Element is one of the most important and likely most consequential projects that Menlo Park will undertake in the next decade. This is an opportunity to provide urgently needed affordable housing to our community and to help revitalize downtown Menlo Park.

However, the Menlo Park City Council and City Staff seem to be taking a “seat of the pants” approach to figuring this out. There is a lot that the City Council does not know and has not considered and yet the Council blithely pushes forward with this project.

For instance:

What happens if Menlo Park does not push forward aggressively with developing the downtown parking plazas? Our hands are NOT tied!

One consistent theme throughout the discussion about the development of the downtown parking plazas has been the refrain “our hands are tied.” City Councilmembers and City Staff personal have said this repeatedly. Essentially, even if we wanted to pursue a different path it is too late. “Our hands are tied.”

In the June 3, 2025 City Council meeting⁵, Councilmember Jeff Schmidt said he wanted “to dispel a little myth that the Council is not listening to what residents want” regarding the community’s concerns that the City may be moving forward too quickly with an ill-conceived project.

He asked the City Staff:

If we were to all of a sudden say ‘We do not want to proceed. We need to stop this. The residents are overwhelmingly telling us “No, this is not what we want.”’, could you just remind us what the implications of a decision like that look like? Could you spell it out fairly clearly to everybody listening, if we made that decision then what would happen next and what are the repercussions of that?

The Councilmember seemed to be saying “Please explain to the uninformed people of Menlo Park how *our hands are tied* and there is no other course of action we can take.” He seemed to anticipate a response that would be a litany of the draconian actions and unbearable decisions that would be forced on Menlo Park by the State and other outside powers.

Instead, the City Attorney said:

I think there [are] various options that the City could pursue. There is not a singular path. We would likely start with a recommendation that the Council reconsider some of the deadlines and time commitments in the housing element program, HG4, which is the program that contemplates the development of downtown parking lots into affordable housing. And we would then look to HCD for those to get approval to make those modifications with respect to modifying the deadlines and program HG4. And I think that would be likely the first step. The City would negotiate with HCD to make those modification and then continue on the path of pursuing other housing development projects.

⁵ Menlo Park City Council Video from June 3, 2025 2:58:24 – 3:00:50 | <https://menlopark.gov/Agendas-and-minutes#section-2> | <https://www.youtube.com/watch?v=qKOZCXXUAXs>

Councilmember Schmidt seemed disappointed and stymied not to have elicited the dire warning either he wanted to hear or at least thought he would hear. Where was the warning of “builders remedy?” Where was the catastrophe? In fact he was speechless. It makes one wonder, did he hope he would hear about dire consequences or is he, and the rest of City Council, unaware of the true legal and regulatory issues associated with this project?

This really feels like a topic the City Council should be on top of. If they are not, they should seek the advice of the City Attorney.

Can affordable housing funding sources be used to build public parking lots?

As noted above, the allowable use of Affordable Housing Funding Sources is a key underpinning to the success of this project. However, the Menlo Park City Council and City staff ignored the expert input from two developers indicating that such funds cannot be used to build (replace) public parking.

This really feels like a topic the City Council should be on top of. If they are not, they should seek the advice of the City Attorney.

When will it be time to ask, “Can we do better?”

In the March 4, 2025 City Council Special Meeting to “Review and discuss site selection criteria and previous evaluation of City-owned properties completed for the 2023-2031 Housing Element” Mayor Combs asked two very important questions.

To paraphrase, he asked:

1. Have the criteria and constraints we have placed on the affordable housing project made it impossible, from a design, plan and financial standpoint, for the project to succeed?
2. If there is a risk that the answer to the first question could be “Yes”, should we reopen the consideration of additional sites for affordable housing in Menlo Park *while we continue with the current process?*

Mayor Combs elaborated on the source of his concerns about the approach the City had taken to this project – an approach that he very much “owned” while he was asking these questions:

I do think there [are] a lot of issues which we haven’t analyzed about the extreme concentration of affordable housing in one location and it’s all affordable housing and all sorts of studies have been done to show that, like actually, the best scenarios are scenarios that present mixed income housing.... We did something to check a box and make ourselves feel better. But were we creating the best community and situation?

And he made clear that in his mind at least ...

...the riddle how you don’t sort of strangle downtown in the process of a 4 year construction process has just not been answered by anyone. We may be in a situation in the not too distant future where we are forced to explore other options because some of the assumptions that we have made about what we’re willing to accept in density, what we are willing to accept in terms of affordable housing mix, what we are willing to accept in terms of parking replacement, may present to us with an option of which we don’t want to pursue.
[emphasis added]

Mayor Combs pointed out that one of the primary reasons that City Staff recommended, and the Council chose, the downtown parking plazas was because they were owned by the City and the City “was getting the land for free, or with zero cost.” However, the Mayor pointed out that mandating the replacement of the 556 parking spaces effectively negated that advantage.

He then asked:

What is the possibility that what we get from those responding to the RFQ is either something that is like, well, we can't deliver that, or we can deliver it, but it's like 10 stories, or it's something wholly out of scale.

This suggestion – *to think of alternatives if the current plan is a path to failure while also to moving forward with the current plan* – was met with vehement opposition from the other City Councilmembers.

Councilmember Schmidt had already gone on at length in the meeting about the dire consequences and repercussions of the “builders remedy” if Menlo Park were to even consider other options. This warning was not echoed or supported by the City Attorney. In fact, when discussing the *possibility of considering* adjustments, Staff and Legal counsel agreed that it was “possible” that the City would need to negotiate with HCD if a decision was made and deadlines and the number of housing units changed, and that there was “some potential” for some back and forth with HCD. In no instance did Staff or Legal Counsel invoke the risk of the “builders remedy.”

Nonetheless, Councilmember Schmidt took the words of “possible” and “potential” to create a false imperative: either move forward blindly on the current course of action or face the wrath of the “builders remedy.”⁶

After Mayor Combs had asked it if was worth it to start thinking about alternatives if the current plan risks failure, Councilmember Schmidt tried to raise another concern that taking time now to avoid a horrific outcome for the Housing Element project might take critical Staff time away from other City priorities. That comment sounded a bit like the Captain of the Titanic telling crew members to spend less time looking for icebergs because they then might not have time to arrange the deck chairs.

In response to the suggestion to think about alternatives *while still proceeding with the current plan*, Councilmember Nash said:

So, I believe this conversation is premature as has been discussed on the dias. I think that I, personally, am very eager to see the responses to the RFQ and to see what is proposed, how many we get, and I think that at that point there will be a lot of discussion.

When Councilmember Nash said this, the RFQs were due just one month later. That makes some sense. If the RFQs showed that the project was a complete no-go, alternatives could be considered. If the project was a “slam dunk” then maybe there was no need to spend time on alternatives that are not needed.

So, what did we learn from the RFQ responses?

Two of the respondents – *two of the six that have been selected to receive the RFP* – stated flat out that the Public Parking replacement was a non-starter and could not be part of the project.

Was that feedback helpful to the City Council as they move forward?

All of the RFQ respondents that provided any design detail indicated that building heights would be at least 5 stories high and two respondents suggested building 6-8 stories high. Perhaps this is not the “10 stories” that Mayor Combs was concerned about, but it is getting close.

⁶ As noted above, Councilmember Schmidt again went fishing for “dire consequences and repercussions” just a month later in the June 3, 2025 City Council Meeting. In that meeting, the City Attorney made clear that a change in plan was not a world ending event.

Was that feedback helpful to the City Council as they move forward?

As a result of the RFQ – *a process that was designed to shed light on the feasibility of the project, and a process that was supposed to weed out developers who could not deliver on the vision described in the RFQ* – the City Council chose to move forward with six of the seven respondents.

Included in the RFP Process Going Forward

- Alliant Communities
 - No building height detail
- Eden Housing
 - Stated affordable housing funding sources could not be used for public parking.
 - Originally excluded from RFP by City Staff
- MidPen Housing
 - Provided no unit detail by location
- PATH Ventures
 - Provided no details at all
 - Originally excluded from RFP by City Staff
- Presidio Bay Venture
- Related Companies
 - Said that affordable housing funding sources could not be used for public parking

Not included in the RFP Process Going Forward

- The Pacific Companies
 - Provided no details at all; originally excluded from RFP by City Staff

If the RFQ was our learning process, what did we learn? If the RFQ was supposed to indicate whether this project is feasible, what did we decide?

Again, it feels like we are just pushing forward blindly either because, as Councilmember Schmidt claims without legal support, to do otherwise will invoke “builders remedy.” Or perhaps we are just pushing forward blindly because the Menlo Park City Council is not on top of the facts and does not care enough to consider alternatives.