



Kelly M. Rem
Attorney at Law

E-mail: krem@lozanosmith.com

September 30, 2025

By E-Mail: city.council@menlopark.gov

City Council
City of Menlo Park
751 Laurel Street
Menlo Park, CA 94025

Re: Public Comment on Behalf of Sequoia Union High School District – City Council Meeting September 30, 2025, at 5:30

Dear City Councilmembers:

We submit this public comment letter on behalf of the Sequoia Union High School District (“District”), regarding item J1 on the meeting agenda for today’s City Council meeting: Consideration of approval of the Parkline Master Plan Project including the adoption of a resolution to certify the final environmental impact report (the “FEIR”). This letter is a follow-up to our verbal public comments delivered on behalf of the District regarding the same Project at the Planning Commission meeting on August 25, 2025, as well as our prior comment letter on the Draft EIR sent August 5, 2024.

First, please note that the last sentence of item J1 states, “Not a CEQA project” which appears inaccurate given that the Parkline Project does require CEQA compliance and the item itself includes the adoption of CEQA findings. The statement is misleading and in and of itself would warrant pulling the item for tonight’s meeting and re-agendizing it for a future meeting.

The purpose of this comment is to reiterate and emphasize the District’s concerns regarding the impacts of this Project and the cumulative impact of the large-scale residential development projects in the Bayfront Area of Menlo Park on District schools. In its comment letter on the Draft EIR for this Project, the District outlined the insufficiency of the EIR’s analysis of the Project’s individual and cumulative impacts on school facilities and on the impacts to the District that do not relate to school facilities as required by the CEQA process. A copy of that letter is included with this letter for ease of reference.

The City and developers have continued to rely on Senate Bill 50 and Government Code section 65996 to support the idea that school impact fees are sufficient to mitigate the impacts on the District. However, as we have outlined previously, the phrase “impacts on school facilities” as used in Senate Bill 50 does not cover all possible environmental impacts that have any type of connection or relationship to schools. The statute does not exempt school-related impacts from

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CEQA review. Courts have affirmed that CEQA requires agencies to analyze and mitigate all significant environmental impacts, including those indirectly affecting school districts. Accordingly, school impact fees alone do not constitute adequate mitigation.

The District has consistently sought meaningful engagement with developers and the City to address the impacts of new development on school facilities. While past efforts with Greystar's Menlo Uptown and Menlo Portal projects did not result in the level of coordination the District had hoped for, the Willow Village agreement demonstrated a successful model of collaboration that benefited all parties and one that the District hoped would set a positive precedent for future projects.

As previously discussed, the Parkline EIR's conclusion that the District can accommodate students from the proposed development is undermined by the City's own admission that it does not know where those students will be placed. The analysis assumes students will be absorbed elsewhere without evaluating the environmental impacts of those alternative locations. Notably, future enrollment trends were excluded from the analysis, despite the scale of nearby development. Without identifying which schools will serve these students, the EIR fails to assess related impacts such as traffic changes, pedestrian safety, and noise among other impacts. These are all issues that CEQA requires agencies to consider. The District raised this concern in its comment letter and its public comment at the Planning Commission meeting, yet the City's response did not adequately address these issues.

Once again, the District wishes to emphasize that it is not opposing development, rather, it is advocating for responsible planning that benefits the entire community. It remains committed to collaborating with both the City and developers to address the deficiencies in the environmental review as it relates to schools and the limitations of current impact fees. The District has consistently proposed constructive solutions, including the integration of school facility improvements through the City's community amenities process. Unfortunately, these suggestions have been repeatedly overlooked. Nonetheless, the District stands ready to continue working with the City to ensure that new development not only expands housing opportunities but also meets the educational needs of the community.

Sincerely,

LOZANO SMITH

A handwritten signature in blue ink that reads "Kelly M. Rem". The signature is written in a cursive, flowing style.

Kelly M. Rem

KMR/ECK/mag

Enclosures

cc: Crystal Leach, Superintendent

ENCLOSURES



Harold M. Freiman
Attorney at Law

E-mail: hfreiman@lozanosmith.com

January 9, 2023

By Email and U.S. Mail: cdsandmeier@menlopark.org

Corinna Sandmeier
Acting Principal Planner
Community Development
City of Menlo Park
701 Laurel Street
Menlo Park, CA 94025

Re: Response of Sequoia Union High School District to Notice of Preparation of the Environmental Impact Report for the Parkline Master Plan Project

Dear Ms. Sandmeier:

This office represents Sequoia Union High School District ("District"). The District appreciates the opportunity to provide comments and input regarding the Notice of Preparation of the Environmental Impact Report ("EIR") for the Parkline Master Plan Project ("Project").

As should by now be abundantly clear from the District's scoping and comment letters recently submitted to the City regarding other projects, the District is very concerned about the numerous large residential and commercial development projects proposed in the City. The District's Menlo-Atherton High School is located approximately half a mile west of the Project, while the District's TIDE Academy and Sequoia High School are located approximately four miles from the Project. These Project is anticipated to result in extensive impacts on student safety, among other impacts. **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, especially Menlo-Atherton High School, be thoroughly reviewed, analyzed, and mitigated.**

The Project application was submitted by Lane Partners, LLC, on behalf of SRI International. The 63.2-acre Project site is proposed to be located at 333 Ravenswood Avenue, 301 Ravenswood Avenue, 555 Middlefield Road, and 565 Middlefield Road. The Project site currently includes SRI International's research campus. The proposed Project would redevelop the research campus by creating a new office/R&D, transit-oriented campus with no net increase in commercial square footage, up to 550 new rental housing units at a range of affordability levels, new bicycle and pedestrian connections, and 25 acres of publicly accessible open space. The Proposed Project would organize land uses generally into two land use districts within the Project site, including 1) an approximately 10-acre residential district in the southwestern portion of the Project site; and 2) an approximately 53-acre office/R&D district that would comprise the remainder of the Project site. The Proposed Project would also establish a separate parcel of

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land that is proposed to be leased to an affordable housing developer for the future construction of a 100% affordable housing or special needs project which would be separately rezoned as part of the proposed Project for up to 100 residential units. As explained further below, this Project has the potential to cause severe detriment to the District and its students.

The Notice of Preparation (“NOP”) prepared for the Project concludes that the Project may have numerous impacts on the environment, including potential impacts on Public Services, Population and Housing, Transportation, Noise and Vibration, Air Quality and Utilities. The NOP thus correctly concludes that a subsequent full-scope EIR is required.

Preliminarily, the District notes that it is willing to participate in meetings or study sessions with City Staff and the applicant to discuss the proposed Project. The District is hopeful that opening the door to these discussions will yield solutions that benefit the District, the City, and the community as a whole.

The District requests that the following topics be analyzed and considered in the Draft EIR for the Project.

A. 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 Menlo-Atherton High School, TIDE Academy, and Sequoia 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 Menlo-Atherton High School, TIDE Academy, and Sequoia 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.**
- 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 Menlo-Atherton High School. The foregoing categories of information are critical for determining the extent of those impacts.

(a) The 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 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 regarding 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 Menlo-Atherton High School; 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).)

The City has experienced a drastic increase in traffic over the last ten to fifteen years as the City has continued to approve newer corporate campuses and mixed biotechnology, commercial, office, and residential land uses. **The construction resulting from and traffic generated by the Project will severely exacerbate the already stifling traffic in the area, and the safety issues posed thereby. These impacts will severely inhibit the District's ability to operate its educational programs, including at Menlo-Atherton High School.**

The proposed Project is anticipated to impede circulation in the Project area, and clog the access roads to, from, and around the District's Menlo-Atherton High School, including along Middlefield Road. (See, 5 Cal. Code Regs. § 14010(k), which requires that school facilities be easily accessible from arterial roads.) The District's Menlo-Atherton High School is located approximately half a mile west of the Project. Both Menlo-Atherton High School and the proposed Project would be accessed by the same roads, including those mentioned above. In addition to drawing a large number of new residents to the area, the proposed Project will draw thousands of daily office commuters, visitors, and emergency access vehicles from around the Bay Area. The immediate roads surrounding Menlo-Atherton High School, will bear the burden of the increased traffic patterns. Such increases to traffic in the area will not only make it much

more difficult for students and staff to travel to and from Menlo-Atherton High School, but will also **drastically increase the risk of vehicular accidents to District families, students, and staff traveling to and from school.**

In addition to increased risks of vehicular accidents, the traffic and parking impacts posed by the Project may severely impact the safety and convenience of Menlo-Atherton High School 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(1).)

The EIR must analyze and mitigate all of the above traffic and related impacts, including those impacts related to student safety and ability to get to school, the District's ability to implement its transportation and safety mitigation measures for Menlo-Atherton High School, and the District's ability to promote alternative modes of transportation to and from Menlo-Atherton High School. It is important that these traffic impacts are not only assessed through a VMT analysis, but also through a LOS analysis, as traffic congestion surrounding the District's Menlo-Atherton High School caused by the proposed Project will in turn cause significant issues related to safety, noise, and air quality. It is anticipated that these impacts will extend far beyond the Project area. Rather, the District requests that all intersections that could be impacted by the Project, including those within and outside of the Project area, be analyzed for LOS and related safety impacts.

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

Environmental impact reports must address 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 City are cumulatively considerable. All of these impacts are exacerbated by the volume of projects that the City is considering and approving, as the District will be unable to accommodate the influx of students through facilities, infrastructure, and related improvements. When considered together, the collective impacts on traffic, safety, and air quality in the neighborhood will be devastating. **These cumulative impacts on the District's Menlo-Atherton High School, TIDE Academy, and Sequoia High School must be analyzed and mitigated.**

B. Air Quality

- 7. Identify and assess the direct and indirect air quality impacts of the Project on sensitive receptors, such as the District's Menlo-Atherton High School.**
- 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 area.**

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 will have a significant impact on the air quality of the neighborhood surrounding Menlo-Atherton High School due to extensive construction activities and increases in vehicular traffic. Even more pressing, the proposed Project is anticipated to result in significant impacts to sensitive receptors as an increased number of vehicles enter and exit the Project area, 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 Menlo-Atherton High School, must be analyzed in the Draft EIR. This analysis also dovetails with the discussion above regarding the necessity of LOS analysis. Decreased levels of service at intersections generally mean lengthier amounts of time for cars to idle, including near schools, resulting in decreased air quality and the potential for substantial impacts on students.

C. 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 stemming from the implementation of the proposed Project will cause impacts on the District's educational programs at Menlo-Atherton High School. 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 Menlo-Atherton High School.

D. 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 450 anticipated residential units, it is anticipated that the proposed Project's 1,500,000 gsf of Office/R&D District will draw thousands of residents into the area on a permanent, or at least a daily basis. Using the District's previously identified student generation

rate of 0.2, 450 anticipated residential units are likely to generate approximately 90 new high school students to the District. Menlo-Atherton High School is currently already 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.

E. 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.

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 also translate directly into physical, environmental impacts, in that inadequate funding for new school construction results in overcrowding of existing facilities. Without funding to build new facilities or land on which

to expand, students may need to attend schools outside their attendance boundaries, creating significant traffic impacts, among others. 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 volume of development occurring in the downtown area. 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.

F. 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.

CEQA Guidelines, Appendix G, states that a project may have public services impacts on schools if the project would “result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives” for the provision of school services.

There are a myriad of ways in which large residential and commercial development projects can impact a school district’s need for new or physically altered facilities in order to maintain performance objectives. The Draft EIR’s examination of the Project should 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 Project, such as increased traffic, noise, or air pollutants in the neighborhood surrounding Menlo-Atherton High School, could impact the District’s need for new or physically altered school facilities; and (3) whether other impacts of the Project could otherwise interfere with the District’s ability to accomplish its own performance objectives. Consideration of the above-listed categories of information is essential to properly making these determinations.

Lead agencies often cite to SB 50 (specifically, Government Code sections 65995(h) and 65996(a)), for the proposition that the payment of school impact fees (commonly referred to as “developer fees”) excuses them from their obligations to analyze and mitigate impacts posed on school districts by development. This, however, is a misstatement of the law related to developer fees and CEQA. While SB 50 does declare 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)), SB 50 does not excuse lead agencies from analyzing such impacts on school facilities in the first place. Further, **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. County of Madera* (2011) 196 Cal.App.4th 1016.) Thus, the payment of fees does not constitute full mitigation for all impacts caused by development related to traffic, noise, biological, pedestrian safety, and all other types of impacts related to the District and its educational program. The District expects the City to analyze and mitigate all such impacts in the EIR for the Project.

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 the Project be mailed both to the District directly, and also to our attention as follows:

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

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

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

Sincerely,

LOZANO SMITH



Harold M. Freiman

HMF/df

cc: Crystal Leach, Associate Superintendent, Administrative Services (cleach@seq.org)



Kelly M. Rem
Attorney at Law

E-mail: krem@lozanosmith.com

August 5, 2024

By E-Mail: cdsandmeier@menlopark.gov

Corinna Sandmeier, Principal Planner
City of Menlo Park
Community Development Department, Planning Division
701 Laurel Street
Menlo Park, CA 94025

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

Dear Ms. Sandmeier:

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 that proposes to redevelop SRI International's 63.2 acre research campus adjacent to City Hall and near the City's downtown and Caltrain Station (collectively, the "Property"). The Project application was submitted by Lane Partners, LLC, on behalf of SRI International ("Developer").

The 63.2-acre Project site is proposed to be located at 333 Ravenswood Avenue, 301 Ravenswood Avenue, 555 Middlefield Road, and 565 Middlefield Road. The Project site currently includes SRI International's research campus. The proposed Project would redevelop the research campus by creating a new office/R&D, transit-oriented campus with no net increase in commercial square footage, up to 550 new rental housing units at a range of affordability levels, new bicycle and pedestrian connections, and approximately 26.4 acres of publicly accessible open space. The Proposed Project would organize land uses generally into two land use districts within the Project site, including 1) an approximately 10-acre residential district in the southwestern portion of the Project site; and 2) an approximately 53-acre office/R&D district that would comprise the remainder of the Project site. The Proposed Project would also establish a separate parcel of land that is proposed to be leased to an affordable housing developer for the future construction of a 100% affordable housing or special needs project which would be separately rezoned as part of the proposed Project for up to 100 residential units.

The Draft EIR also analyzes a Project variant ("Variant") that would expand the Project to include the parcel at 201 Ravenswood Avenue. The Project Variant would include up to 250 additional residential units, resulting in a total of 800 new rental housing units.

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The District's Menlo-Atherton High School ("Menlo-Atherton") is located approximately less than half a mile east of the Project, while the District's TIDE Academy and Sequoia High School are located approximately four miles from the Project. This enormous Project is anticipated to generate a population increase of 1,598 new residents, which would generate a significant amount of new high school students to the District. As explained further below, this Project has the potential to cause severe detriment to the District and its students.

As the City is aware, the District has voiced ongoing concerns about the numerous large residential and commercial development projects proposed and approved in the Bayfront Area of Menlo Park, which are in close proximity to the District's schools, particularly TIDE Academy. The District has consistently urged the City to analyze the extensive impacts on student safety, among other impacts resulting from those projects, but those impacts were not meaningfully analyzed in any environmental impact report.

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

Contrary to Greystar and others, the District concluded successful negotiations with the developers of the Willow Village project, resulting in an agreement where the developer will make a contribution to the District that is above and beyond the legally required impact fees, and those funds will be used to assist the District in providing excellent educational opportunities to its students, including those generated by new development. The agreement is a win-win for the District and the developer, as well as the City. The District is hopeful that it will serve as a signal to other developers.

The District is hopeful that the instant Project's anticipated impacts, as well as ways to mitigate those impacts, will be included in future discussions with the Developer. Meaningful discussion between developers and school districts is a stated goal of the City's Housing Element. In the Draft EIR, the City cites to Housing Element Policy H4.17, which states "[d]evelopers will meet and confer with the affected school districts as part of the development review process to discuss the potential effects of their development on school-related issues and consider appropriate analysis, as needed, to address any potential effects." The goal and policy were adopted as a means to "avoid or minimize environmental impacts and are relevant to the Proposed Project." (Draft EIR, Pg. 3.15-10.)

The District remains hopeful that this goal can be met and that these discussions will yield solutions that benefit the District, Developer, and the community as a whole.

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

The instant Draft EIR does not comply with the California Environmental Quality Act ("CEQA," Pub. Res. Code §§ 21000, *et seq.*) and its implementing regulations (Cal. Code Regs., tit. 14, §§ 15000, *et seq.*, "CEQA Guidelines"), for both technical and substantive reasons. Moreover, the Draft EIR, based on an improper interpretation of statutes added and amended by Senate Bill (SB) 50, does not include sufficient information to evaluate potential environmental impacts both on schools, and related to schools. **Through this letter, the District again wishes to emphasize that this Project, in combination with the numerous other projects currently pending before the City, has the potential to have a profound negative effect on the District's students, their families, and residents who will reside in and near the Project.**

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

I. Background: Initial Study, Notice of Preparation, and District's Scoping Letter

The District previously submitted comments to the City in response to the City's original Notice of Preparation ("NOP") on January 9, 2023. The District's comments are collectively referred to as the "NOP Responses." Copies of the District's NOP Responses are attached hereto, and incorporated herein by this reference.

Through the NOP Responses, 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 Responses contain 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.

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

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

An EIR must describe existing environmental conditions in the vicinity of the proposed project from both a local and regional perspective, which is referred to as the "environmental setting." (CEQA Guidelines § 15125.) This description of existing environmental conditions serves as the "baseline" for measuring the qualitative and quantitative changes to the environment that will result from the project and for determining whether those environmental effects are significant. (*Id.*; see also, CEQA Guidelines § 15126.2(a); *Neighbors for Smart Rail v. Exposition Metro Line Constr. Auth.* (2013) 57 C4th 439, 447.)

District facilities are a critical part of the Project location's environment, and should be considered throughout the Draft EIR impact categories. As noted, Menlo-Atherton is located less than half a mile away from the Project. (Draft EIR at 2-3.) The Project is otherwise located within the Menlo-Atherton's attendance boundary. The District is not equipped to house these excess students. The Project site will be accessed via Ravenswood Avenue, Middlefield Road, Laurel Street, and partially Burgess Drive. (Draft EIR at 2-22.) These streets have been and will be used by District families, students, and staff to walk, bike, and drive to Menlo-Atherton from the surrounding neighborhood. The downtown area as a whole generally has been, and is 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 fifteen environmental impact categories that are analyzed in the Draft EIR. In doing so, the Draft EIR notes the location of Menlo-Atherton 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, Menlo-Atherton High School, TIDE Academy, or Sequoia High School. For instance, the Draft EIR fails to accurately and fully address the current and projected future enrollment at Menlo-Atherton or any other District schools that will be affected by the Project; the District's educational program objectives at Menlo-Atherton; a description of how the District currently uses its facilities at Menlo-Atherton; and the current vehicular and pedestrian paths of travel used by District staff, students, and their families to get to and from these schools, in the context of a neighborhood that has already been severely impacted by traffic. Without consideration of these factors, it is impossible for the lead agency and public to assess whether there are any impacts posed by the Project on the District's students, families, and staff, and whether those impacts are significant.

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

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

The Draft 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 [Schools]. (Draft EIR at 3.15-11- 3.15-12.)

In purporting to analyze public services impacts on the District under this threshold, the Draft EIR attempts a comprehensive analysis of the areas in which the District requested review the NOP Responses. Notably, the Draft EIR includes projections of the amount of high school students generated by the Project. The District notes that it is currently in the process of reviewing its student generation and related data and reserves the right to provide additional information as it becomes available.

In describing the current state of the District's schools, the Draft EIR states that the District's enrollment was 8,806 as of the 2023-2024 school year, but does not cite a source for this statistic. The Draft EIR notes that TIDE Academy has capacity for 400 students and that 243 students were enrolled at TIDE Academy as of 2022-2023. The Draft EIR stated that total student enrollment at Menlo-Atherton was 2,125 as of 2022-2023. The Draft EIR estimates Menlo Atherton's capacity at 2,600, without providing any methodology for reaching this estimate. Based on the capacity estimate, the Draft EIR concludes that Menlo-Atherton is under capacity. The Draft EIR states that the District's student generation rate is 0.14 student per single family detached housing unit, and 0.09 student per single-family attached unit, and 0.10 for multi-family units. (Draft EIR at 3.15-6.)

In analyzing the impacts of the Project on the District, the Draft EIR takes a simplistic approach. The Draft EIR states that the Project will generate 71 high school students, which represents a 3.3 percent increase from Menlo Atherton's 2022-2023 enrollment numbers. The Draft EIR then states that Menlo Atherton's capacity was 2,125 as of the 2022-2023 school year. The Draft EIR states that the 71 students constitutes approximately 14.7 percent of enrollment capacity at Menlo Atherton. The Draft EIR notes that TIDE Academy has additional enrollment capacity for approximately 157 students, and because of this, the District would be able to accommodate the increase in the number of students potentially generated directly and indirectly by the Project. (Draft EIR at 3.15-17.)

The Draft EIR inexplicably includes two numbers that represent Menlo Atherton's capacity. The first is an estimate of 2,600. (Draft EIR at 3.15-6.) The second is 2,125 as of the 2022-2023 school year, based on CDE data from **September 15, 2023**, that is no longer posted online.

(Draft EIR at 3.15-17.) It is certainly possible that the 2,125 number was mistakenly described as capacity instead of enrollment, based on the Draft EIR's assertion that enrollment of Menlo Atherton High School was 2,125 as of 2022-2023. (Draft EIR at 3.15-6.) Whatever the case may be, this lack of attention to detail is emblematic of the Draft EIR's deficient analysis of the Project's impact on District schools. Not only is the Draft EIR's analysis on this subject short and conclusory, the analysis that actually exists is flawed and contradictory.

Further, it appears that the Draft EIR's conclusion is simply that the District has enough capacity now to accommodate the influx of new students directly or indirectly generated by the Project. Based on the Draft EIR's recitation of TIDE Academy's enrollment and capacity statistics, the unfounded assumption appears to be that TIDE Academy would serve as a backup for students that are not enrolled in Menlo Atherton. However, TIDE is a high school with a specific program focus on preparing students for college and career readiness in STEM fields. TIDE is a small school that delivers personalized education and focuses heavily on project-based learning.¹ Given TIDE's specialized curriculum, it will not be a fit for every student and consideration of TIDE as a means to absorb students from crowded schools ignores the practical reality of TIDE's curriculum.

As this large project will take years to construct, the Draft EIR relies on current enrollment statistics and does not account for or analyze potential future changes in enrollment trends in the Menlo Atherton attendance area.

Through this short and conclusory analysis, the Draft EIR failed to 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 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 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 either Menlo-Atherton or TIDE Academy, could impact the District's need for new

¹ <https://www.seq.org/ABOUT-US/Superintendent/Communications/Newsletters/NEWSLETTER-LINKS/A-New-Model-In-Education/index.html>.

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.

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

As noted in the District's most recent School Fee Justification Study (October 2023), the District anticipates that an estimated 46,323 residential units may be constructed within District boundaries over the next 25 years, including approximately 8,625 units in Menlo Park. (SFJS, Table 5, Pg. 12.) This new development, which will include numerous other development projects, is anticipated to generate well over a thousand new students to the District. 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. (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 Menlo-Atherton and TIDE Academy. At this point, given the barrage of pending and approved development, the need for new or altered facilities has likely become unavoidable.

The Draft EIR was 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.

B. 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.

In the City's Fiscal Impact Analysis Report for Parkline Master Plan, the City stated that the Project and Variant would generate fiscal surpluses of \$2.9 million annually for the District. The City further stated that the Project would generate one-time impact fees to the District totaling approximately \$1.4 million while the Variant would generate one-time impact fees totaling approximately \$2.3 million. (Fiscal Impact Analysis at 35-36.)

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 \$5.17 per square foot of residential development, and up to \$0.84 per square foot of commercial development, which statutory amounts may be increased every two years based on the statewide cost index for class B construction.²

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 in the aftermath of funding uncertainty caused by the COVID-19 pandemic. Either way, the funding formula was never intended to require the State and local taxpayers to shoulder a disproportionate portion of the cost of school facilities.

SB 50 declares that the payment of the developer fees authorized by Education Code section 17620 constitutes "full and complete mitigation of the impacts of any legislative or adjudicative act on the provision of adequate school facilities." (Gov. Code § 65995(h); see also, Gov. Code § 65996(a).) **However, California courts have since acknowledged that payment of developer fees does not constitute full and complete mitigation for school-related impacts other than impacts "on school facilities" caused by overcrowding.** (*Chawanakee Unified Sch. Dist. v. Cty. of Madera* (2011) 196 Cal.App.4th 1016 ("*Chawanakee*").) *Chawanakee*

² Due to a Fee Sharing Agreement between the District and its elementary feeder school districts, the District is currently authorized to impose fees of \$2.06 per square foot for residential construction (40% of \$5.17), and \$0.33 per square foot for commercial/industrial construction (40% of \$0.84).

addressed the extent to which the lead agency (Madera County) was required to consider school-related impacts in an EIR for new development. The court determined that SB 50 does not excuse a lead agency from conducting environmental review of school impacts other than an impact “on school facilities.” The court required that the County set aside the certification of the EIR and approvals of the project and take action necessary to bring the EIR into compliance with CEQA. (*Id.* at 1029.) In so holding, the court explained as follows:

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

(*Id.* at 1028-29.)

Here, for example, the Draft EIR intimates that any students that do not enroll in Menlo-Atherton will instead enroll in TIDE Academy. However, 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.)

Contrary to the assertions of the 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 Menlo-Atherton or TIDE Academy; potentially reduced response times for emergency services and first responders traveling to these schools; and increased potential for accidents due to gridlock during school drop-off and pick up hours.

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

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

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

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

The Draft EIR shows that the proposed Project is anticipated to impede circulation and clog the access roads to, from, and around the Menlo-Atherton. (See, 5 Cal. Code Regs. § 14010(k), which requires that school facilities be easily accessible from arterial roads.) Menlo-Atherton is located a short distance from the proposed Project. Menlo Atherton and the proposed Project would be accessed by the same roads, including Middlefield Road, Ravenswood Avenue, and the immediately surrounding streets. (Draft EIR at 3.3-1.) Menlo-Atherton is located on Middlefield Road, which crosses both Ravenswood Avenue and Ringwood Avenue. The District anticipates that the construction and operation of the proposed Project will have significant impacts on traffic, transportation, circulation, and student safety on these areas.

The District's concerns are validated by the City's Transportation Impact Analysis, in which the City conducted a micro-simulation that showed that the intersections of Middlefield Road and Ravenswood Avenue as well as Middlefield Road and D Street/Ringwood Avenue would be adversely affected by the Project. (Transportation Impact Analysis at Pg. iii) Certain improvements were recommended for these areas, including physical intersection improvements, a roundabout, east/west phasing, and modified signal timing, however concrete plans and timing for the improvements were not discussed. (Transportation Impact Analysis at Pg. vii and ix.)

The Draft EIR discusses certain improvement measures that the City may take in relation to transportation. These measures include the payment of transportation impact fees to fund some (but not all) of the infrastructure associated with development (Draft EIR at 3.3-15), the implementation of a Transportation Demand Management Plan (Draft EIR at 3.3-23 and Draft Parkline Transportation Demand Management Plan.) It is unclear from the Draft EIR exactly when or if many of the improvement measures will be accomplished.

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 downtown, and the safety issues posed thereby. These impacts will severely inhibit the District's ability to operate its educational programs, including at Menlo-Atherton. However, none of these issues were properly analyzed in the Draft EIR.

In addition to drawing hundreds of new residents to the area, including many new high school students, the proposed Project will draw hundreds of daily office commuters, visitors, and emergency access vehicles from around the Bay Area. 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 Menlo-Atherton, but will also **drastically increase the risk of vehicular accidents to District families, students, and staff traveling to and from school.**

In addition to increased risks of vehicular accidents, the Draft EIR fails to analyze how traffic and parking impacts posed by the Project will impact the safety and convenience of Menlo-Atherton 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 related to the Project, the City has committed to develop and implement a Travel Demand Management Plan (Draft EIR at 3.3-23 and Draft Parkline Transportation Demand Management Plan). This Plan would encourage employers and schools to bike, walk, carpool, and use transit. (Draft EIR at 3.3-30.)

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.
- **Policy CIRC-6.4: Employers and Schools. Encourage employers and schools to promote walking, bicycling, carpooling, shuttles, and transit use.**

(Draft EIR at 3.13-14-3.13-15; emphasis added.)

While the Draft EIR purports to analyze whether the Project complies with the above policies, the Draft EIR does not include adequate information or analysis regarding the transportation needs and patterns of District students, including those attending Menlo-Atherton. 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 Menlo Atherton. The Draft EIR further fails to consider the impact of students traveling to TIDE Academy or other District schools. Rather, in assessing whether the Project would be consistent with Policy CIRC-6.4 related to Employers and Schools, the Draft EIR states that “[t]he TDM plan estimates that vehicle trips could be reduced by between 30 and 45 percent, depending on whether transit passes or subsidies are provided.” (Draft EIR at 3.3-23.)

The Draft EIR's description of the proposed TDM is both speculative and conditional. The description in the Draft EIR makes no mention of schools or students and provides no concrete evidence that the TDM plan will actually work in reducing traffic in the area. (Draft EIR at 3.3-23.) The Draft Parkline Transportation Demand Management (TDM) Plan (“Draft TDM Plan”) merely states that many of the improvements the City of Menlo Park's Transportation Plan, adopted on November 17, 2020, are focused on enhancing access to Menlo Atherton. The Draft TDM then lists “key pedestrian projects” along Middlefield Road and Ravenswood Avenue with

no timelines for completion. This analysis is not adequate under CEQA, as it does not provide the public with sufficient information as to whether the Project will comply with the City's General Plan policies.

The Draft EIR likewise provides only a surface-level analysis regarding the Project's compliance with other City policies related to the promotion of safe alternative modes of transportation. The analysis completely fails to consider how the probable increase in traffic congestion to the area could exacerbate existing deficiencies with pedestrian facilities, thereby posing severe safety issues to pedestrian use of the Project neighborhood. Contrary to assertions in the Draft EIR, the new criteria established in CEQA Guidelines section 15064.3 for analyzing transportation impacts does not excuse a lead agency from analyzing and mitigating traffic congestion impacts where such impacts may cause significant impacts on air quality, noise, and pedestrian safety. (Pub. Res. Code § 21099(b)(3).)

The Draft EIR is also 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.) Any secondary impacts on pedestrian and student safety caused by inadequate parking must be analyzed in the Draft EIR.

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 Menlo Park are cumulatively considerable. Each of the large mixed-use projects proposed in the City promises to drastically increase traffic in the neighborhood, resulting in air quality, noise, and safety issues for District families and staff attending Menlo-Atherton. When considered together, their collective impacts on traffic, safety, and air quality in the neighborhood will be devastating. These cumulative impacts on Menlo-Atherton were not adequately discussed in the Draft EIR, and the City proposes no clear measures that could successfully mitigate the impacts.

ii. Air Quality

The Draft EIR analyzes air quality impacts posed by construction and operation of the Project. The Draft EIR further recognizes that the proposed Project would pose a significant environmental impact if it would expose "sensitive receptors," including schools, to substantial pollutant concentrations. (Draft EIR at 3.4-17.) The Draft EIR does not, however, specifically discuss potential construction and operational air quality impacts as they pertain to Menlo-Atherton, and students traveling to and from Menlo-Atherton. 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 Menlo-Atherton. The Draft EIR is, therefore, required to analyze the following:

1. The direct and indirect air quality impacts of the Project on sensitive receptors, such as the District's Menlo-Atherton High School.
2. 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 area.

In its analysis of air quality impacts on sensitive receptors, the City states BAAQMD regulations would be followed and thresholds would not be exceeded. Based on this, the City determined that the impact on sensitive receptors would be less than significant as it relates to asbestos, criteria air pollutants, and toxic air contaminants. (Draft EIR at 3.4-38-3.4.41.) Thus, the Draft EIR's assumption that the Project will comply with air quality plans and applicable regulations appears to serve as the deepest form of analysis related to air quality impacts on the District's students. There is no specific mention of District schools or students in this section of the Draft EIR. The District reiterates its desire for a more comprehensive analysis of air quality impacts.

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

iii. Noise

In its analysis, the Draft EIR notes that Menlo-Atherton is 200 feet east of the Project site and that a school is a noise sensitive land use. (Draft EIR at 3.7-5.) As such, the Draft EIR appears to acknowledge that noise impacts on Menlo-Atherton must be analyzed and does so minimally. The Menlo Park Municipal Code sets noise thresholds of 60 dBA L_{eq} for daytime hours. (Draft EIR at 3.7-19.) The Draft EIR states that the temporary increase from noise resulting from construction would be considered substantial if the analysis predicts a 10 dB or more increase in the ambient noise level compared to the existing ambient noise level. The Draft EIR states that the noise level at Menlo-Atherton as a result of the daytime construction noise would be 71-75 dBA L_{eq} for Phase 1 construction and 60-63 dBA L_{eq} for Phase 2 construction. (Draft EIR at 3.7-21.) Thus, the noise levels at Menlo-Atherton during daytime construction would exceed the noise thresholds set by the Menlo Park Municipal Code. Construction of the Project is expected to occur over approximately 51 months. (Draft EIR at 3.7-19.)

The Draft EIR determined that daytime construction noise would be a potentially significant impact. (Draft EIR at 3.7-25.) The Draft EIR concluded that even with the implementation of mitigation measures, the impacts related to construction noise would be significant and unavoidable with mitigation. (Draft EIR at 3.7-28.)

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 specific significant impacts on the District's educational program at Menlo-Atherton. The Draft EIR's analysis only projects the dBA at Menlo-Atherton and states that the noise impact is significant and unavoidable.

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:

1. 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 Menlo-Atherton, the Draft EIR fails to serve its informational purpose.

iv. Population and Housing

The District anticipates that this Project will generate a significant increase in new students, and specifically requested that the Draft EIR analyze:

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

The District notes that it is currently in the process of reviewing its student generation data and such data is subject to change.

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

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

As explained in the NOP Response, population growth or shrinkage is a primary consideration in determining the impact that development may have on a school district, as a booming population can directly impact the District and its provision of educational services, largely because of resulting school overcrowding, while a district with declining enrollment may depend on new development to avoid school closure or program cuts. Overcrowding can constitute a significant impact within the meaning of the CEQA. (See, Cal. Code Regs., tit.14, §§ 15064(e).) This is

particularly true where the overcrowding results in unsafe conditions, decreased quality of education, the need for new bus routes, and a need for new school construction. (See, *Chawanakee, supra*, 196 Cal.App.4th 1016.)

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

In the City's Fiscal Impact Analysis Report for Parkline Master Plan, the City stated that the Project and Variant would generate fiscal surpluses of \$2.9 million annually. The City further stated that the Project would generate one-time impact fees to the District totaling approximately \$1.4 million while the Variant would generate one-time impact fees totaling approximately \$2.3 million. (Fiscal Impact Analysis at 35-36.)

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 or further explore the above categories of information so that the lead agency, District, and the public may adequately understand the direct and indirect impacts of the Project on the District. (CEQA Guidelines § 15126.2(a) [requires consideration of indirect impacts].)

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

In *Endangered Habitats League v. County of Orange* (2005) 131 Cal.App.4th 777, the Court held that project approvals and findings must be consistent with the lead agency's general plan, and that the EIR for such a project must provide sufficient information for the lead agency to

make an informed decision regarding such consistency. A project is consistent with the general plan if it will further the objectives and policies of the general plan and not obstruct their attainment. (See *Endangered Habitats League, supra*, 131 Cal.App.4th 777, 782, quoting *Corona-Norco Unified School District v. City of Corona* (1993) 17 Cal.App.4th 985, 994.)

Fostering quality education should be a priority to the City. As discussed above, the City's General Plan includes goals to support "Safe Routes to School programs to enhance the safety of school children who walk and bike to school," and to encourage schools to promote walking, bicycling, carpooling, shuttles, and transit use. (General Plan at CIRC-1.9, CIRC-6.4.) The General Plan also includes Land Use Policy LU-1.7, which states that the City shall "encourage excellence in public education citywide, as well as use of school facilities for recreation by youth to promote healthy living."

As discussed at length above, substantial evidence in the record establishes a significant possibility that the Project, in conjunction with all other projects being considered or approved in 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.

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.”

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.

1. Land Dedication

One possible mitigation method which was not addressed 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. It appears that this Project will be constructed in phases, and future projects within the City should be required to follow suit. Timing development so as to balance the availability of school facilities with new development can significantly aid the District in its attempt to provide for the additional students who will be generated as a result of the Project and development following approval of the Project. Such phasing is not a denial of new development on the basis of insufficient school facilities in contravention to SB 50; it is instead appropriate planning to offset the impacts of new development.

VI. **Conclusion**

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. (See CEQA Guidelines § 15162(a); *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).) 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

Enclosures

cc: Crystal Leach, Superintendent