



100 Years of Service

Menlo Park Fire Protection District

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October 19, 2016

Menlo Park Planning Commission Members General Plan Update and EIR/FIA Comments

Honorable Chair and Members of the Planning Commission:

The Menlo Park Fire Protection District is the fire and emergency services provider to the City of Menlo Park and other local communities. The Fire District's mission is to protect and preserve life and property from the impact of fire, disaster, injury and illness. These are the most critical and essential services that a public agency can provide.

The Fire District is shocked and dismayed by the City's response to its comment letter on the City General Plan Update and its EIR. The City's response is completely inadequate and does not come close to satisfying CEQA standards. Even more insulting, the City is dismissive of the Fire District's expertise on fire services and operations, and the needs of the District. The City rejects the Fire District's expertise as "opinion." The City disregards the substantial evidence that the Fire District presented in its comment letter showing that the General Plan will have substantial adverse effects on the provision of fire and emergency services. The City's responses simply ignore the Fire District's expertise and reports. The City presents no contrary evidence.

The City and the Fire District are fellow public agencies who serve City residents. The City's treatment of and lack of respect for the Fire District is alarming. The Fire District is not a rival or competitor. The City and Fire District should be working together to ensure the highest level of emergency services to our residents. The Fire District simply does not understand the City's actions and believes they constitute a great disservice to the community.

The Fire District stands behind its comments on the impacts of the General Plan on the Fire District and the inadequacy of the analysis in the EIR. A copy of the Fire District EIR Comment Letter is attached to this letter. Below is a summary of the Fire District's comments on the General Plan, its EIR and the Fiscal Impact Analysis (FIA). The Fire District also objects to the scheduling of the Planning Commission meeting just 9 days after the release of the Final EIR and 2 business days after the release of the Revised FIA. It is an inadequate amount of time to review these documents. We simply don't understand why the City rushing through this process now while other items involving the District can take months or years to resolve? The Fire District reserves the right to supplement the comments contained in this letter prior to the City Council hearing due to this consolidated timeline.

A. GENERAL PLAN EIR COMMENTS

1. Substantial increase in development and service population will impact Fire District

There is no dispute about the facts regarding the substantial increase in development and service population under the EIR. The General Plan will result in an increase in service population of at least 11,570 residents and 5,500 employees. Those 17,000 people would increase the service population of the Fire District by almost 20% and the service population of the area served by Fire Station 77 by almost 100%. The Fire District's comment letter provided substantial evidence of why this significant increase will cause adverse impacts on the District. The City's response does not present evidence to dispute this impact. Rather, the City's response simply states the increase will not result in any impact. This is despite the fact that the increase in service population will result in the need for 12 new fire safety personnel to maintain the current Fire District standard of .87 fire safety personnel per 1,000 service population. The City simply acknowledges this information and continues to stand by its conclusion of no significant impact despite the overwhelming evidence to the contrary. Simply stating that "this impact is less than significant" is fiction and does not make it so.

2. Growth under General Plan causes need to expand Station 77

The Fire District's comment letter explains why the expansion of Station 77 is caused by the Project and is not already planned, as claimed by the City. In the District comment letter, evidence is presented to show that the Station 77 expansion is clearly caused by growth under the General Plan. The City's only response is to repeat its statement in the Draft EIR that the District's Capital Improvement Program (CIP) shows a future planned replacement of Station 77. The CIP cannot be used to show that the rebuild and expansion of Station 77 caused by the General Plan was "already planned." Conversely, the General Plan will cause Station 77 to be expanded in a different form, and in a much sooner timeframe, than the current projected replacement based on the typical 50 year normal life of fire stations.

The City's claim that the need pre-dates the General Plan Update is ridiculous. Station 77 is only 21 years old and was built to meet the projected demand under the existing General Plan for the M2 which allowed for a much lower development density, a maximum building height of three stories and primarily daytime service population. The Fire District has other fire stations that are over 60 and 70 years old in need of immediate replacement in other parts of the City and District that are being disadvantaged by this process, excessive staff time demands and agency focus.

The Fire District's comment letter, Impact Fee Nexus Study adopted by the Fire District Board on February 16, 2106 (Nexus Study); and the Standards of Coverage Assessment Report for the Fire District dated June 16, 2015 (Standards of Coverage Report), all provide evidentiary support that the need to expand and rebuild Station 77 is caused by the General Plan. In particular, the Nexus Study incorporated the growth projections under the General Plan in its analysis. The City's perfunctory dismissal of this evidence is improper. The EIR did not even analyze the impacts of the service population increase on the District. The City's response that this information does not change the Draft EIR's conclusion without any analysis to support this statement is grossly inadequate and unacceptable.

(a) *There are potential significant impacts from rebuilding of Station 77*

The City tries to finesse the issue of impacts on the Fire District by arguing the following - even if the Station 77 rebuild is caused by Project, the impact is "less than significant" because the Fire

Station rebuild is categorically exempt from CEQA. The City is being disingenuous. The City required the Fire District to prepare a Mitigated Negative Declaration for the Fire Station 6 rebuild in downtown Menlo Park which cost the District \$75,000 and further delayed the project. Why is the City now applying this categorically exempt rule to Station 77 when it did not apply it to Station 6? In any event, the Fire District is currently preparing a Mitigated Negative Declaration under CEQA for the Station 77 rebuild project which shows the impact is not less than significant. So, the conclusion in the General Plan EIR is not supported by any evidence. It is an unsubstantiated opinion that conveniently serves the City's interests.

3. Mitigation must be adopted to address adverse impact of General Plan on Fire District

The Draft EIR recognized that payment of an impact fee would mitigate the impact of the General Plan on the Fire District. The Fire District comment letter requested that the adoption of the impact fee be required as a mitigation measure or policy in the General Plan. In response to the District letter, the Final EIR reverses field and simply crosses out the impact fee language in the Draft EIR. The fee language is deleted and replaced by a reference to property tax revenue in certain places. The City does not present any evidence to support this change. It appears to be driven by the political reality that the City staff has decided not to consider adoption of the impact fee approved by the Fire District Board. The Draft EIR properly envisioned that this fee would be adopted. Political positions cannot and should not be the basis for substantial evidence to support impact analysis in an EIR.

The District's Impact Fee realistically only applies to commercial development and offers a credit for existing square footage so that fees only apply to new additional square footage, changes in use or increases in service population. The Fire Board recently created a dedicated impact fee fund which can only be used for equipment, apparatus and fire stations. Impact fees cannot be used for employee costs.

The conclusion that an impact fee is needed to address impacts is supported by substantial evidence presented in the Fire District comment letter. The letter contains both expert opinion of District staff supported by studies and analysis. The Nexus Study establishes the need for the fee. The fact that the City staff is refusing to bring the impact fee to the City Council (who are decision-makers) for consideration does not refute the evidentiary basis presented in the fee study.

The City's position that property tax revenue is a substitute for impact fees for the Fire District is inconsistent with the City's own policies on the need for City impact fees. The City has adopted numerous impact fees for new development to address traffic, parks, affordable housing, and other areas. The FIA states that total impact fee revenue that the City would receive from new development under the General Plan is \$187.3 Million. In contrast, the total amount of impact fees that the Fire District would receive is ZERO. In fact, as shown in the FIA, the Fire District is the only special district serving the City which does NOT receive revenue from impact fees.

The City argument that the Fire District can use property tax revenue to address the costs of new development is specious. The fact that new development results in increased property tax does not negate the need for an impact fee. Property tax revenue goes to ongoing operations expense including, wages, fire helmets, SCBA gear, turnouts, tools, training, contract services, supplies, utilities, maintenance, etc. In contrast, impact fee revenue would fund District facilities, apparatus and equipment that are needed to serve new development. Ironically, the same property tax revenue argument that the City uses against the Fire District could be used against the City's imposition of impact fees. According to the FIA, the City will receive an increase of \$20.4 million annually in various taxes, including property tax, from

new development under the General Plan. Why doesn't this large annual increase in property tax revenue support an argument for NO City impact fees – the exact argument the City is making against the District impact fee? Instead, the City argues that it is OK for it to receive both increased property tax revenue and increased impact fee revenue, but not so for the Fire District. This double-standard shows the City's argument is false and disingenuous.

4. Cumulative Impact of Project is significant and must be mitigated

The Fire District's comment letter presents substantial evidence that the General Plan in combination with other planned development within the District's jurisdiction will result in a "significant cumulative impact". This cumulative impact is caused by the projects and plans being proposed in the other jurisdictions including the East Palo Alto General Plan Update, the Facebook Campus Expansion and Downtown Specific Plan in Menlo Park, and the North Fair Oaks Plan in the County of San Mateo.

This significant impact is supported by the Nexus Study and the Standards of Coverage Report. The City's response to this impact is very weak. The City simply summarily dismisses the Fire District's evidence. The City does not provide contrary evidence. So, the City loses this argument on evidentiary basis. For these reasons, the City must adopt a mitigation measure to address this impact. As stated above, the adoption of the Impact Fee approved by the Fire Board would mitigate this impact.

5. Adverse Effects of Traffic Congestion on Emergency Vehicle Access Not Adequately Mitigated

The EIR makes it clear that development under the General Plan will have significant adverse impacts on City roadways, especially emergency access routes. These roadways include Willow Road, University Avenue, Marsh Road, Bayfront Expressway and Chilco Road. The fact that traffic congestion will get considerably worse under the General Plan is not disputed. Therefore, the Fire District requested that the City impose mitigation measures to address these impacts.

The City's response to the Fire District comments are wholly inadequate. The response generally refers to Fire District and State Building Code standards to address these impacts. However, those Codes do not address roadway impacts. They address, in part, on-site emergency access. But that is not the issue. The issue is roadway congestion. The Fire District proposed specific measures to deal with roadway congestion, such as consideration of alternative emergency access routes or modifications of roadways to enhance emergency access. The City has not given these District proposals serious consideration. Although there are some limited references to these measures in the General Plan, they do not commit to implementing specific measures to address the impacts. As discussed below in Section B, the Fire District requests specific changes to policies in the General Plan Circulation Element to address roadway congestion. In addition, the City should consider imposing mitigation measures under CEQA to reduce vehicle trips from new development or require roadway improvements to reduce congestion.

B. GENERAL PLAN POLICY COMMENTS

The Fire District has worked with City staff to incorporate goals, programs and policies into the General Plan Update to address life safety and emergency services issues. The General Plan is an important document which establishes key policies for the City. Therefore, we ask that the City Council address the impacts of new development on the Fire District through the adoption of General Plan policies. The City Council has broad discretion to adopt policies in the General Plan to address City goals

and values. The provision of a superior level of essential fire and emergency services in the City and the protection of life and property are goals and values that the City and Fire District should share. Therefore, the Fire District requests the following modifications to draft General Plan policies that are critical to the provision of critical fire and emergency services within the City and District.

1. Program LU-I.E. – Revise Program to require adoption of fire services impact fee approved by the Fire District Board (see italicized addition). The reason for the revision is to have the General Plan treat the fire services impact fee the same as it treats the City transportation impact fee. The Circulation Element has a policy requiring new development to pay a transportation impact fee – Program CIRC-6.C. The District’s modification to the policy is consistent with this transportation fee policy. It requires the imposition of an impact fee. It also is consistent with the general policy that new development should pay fees to fund improvements needed to address new development. Certainty, essential emergency services should be treated as importantly as traffic in the City.

New policy to read as follows:

Assessment Districts and Impact Fees. Pursue the creation of assessment districts and/or the adoption of development impact fees (e.g., fire impact fee) to address infrastructure and service needs in the community. *Adopt fire services impact fee approved by MPFPD Board of Directors in compliance with Nexus Study.*

2. Program LU-4.c – Community Amenity Requirements – Add specific reference to Fire District facilities as an example of public safety facilities (see italicized addition). New program to read as follows:

Community Amenity Requirements. Establish Zoning Ordinance requirements for new mixed-use, commercial, and industrial development to support and contribute to programs that benefit the community and City, including public or private education, transit, transportation infrastructure, public safety facilities (*including MPFPD facilities and equipment*), sustainability, neighborhood serving amenities, child care, housing for all income levels, job training, parks and meaningful employment for Menlo Park youth and adults (e.g. first source hiring).

3. Policy LU 7.3 Supplemental Water Supply – Revise Policy to add reference to Fire District (see italicized addition). New policy to read as follows:

Supplemental Water Supply. Explore and evaluate development of supplemental water sources and storage systems, such as wells and cisterns, for use during both normal and dry years, in collaboration with water providers, users *and the MPFPD.*

4. Policy Circ 2.14 – Impact of New Development. Revise Policy to require that new development not adversely affect emergency response times and emergency vehicle access. New policy to read as follows:

Impacts of New Development. Require new development to mitigate its impacts on the safety (e.g., collision rates) and efficiency (e.g., vehicle miles traveled (VMT) per capita) 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 not adversely affect response times and access for emergency response vehicles as established in standards adopted by MPFPD.*

5. Program Circ -3.B – Revise Program to require other options for relieving traffic congestion that adversely affects emergency vehicle response time (See italicized language).

Emergency Response Coordination. Equip all new traffic signals with pre-emptive traffic signal devices for emergency services. Existing traffic signals without existing pre-emptive devices will be upgraded as major signal modifications are completed. *Consider other modifications to roadways to reduce the impact of traffic congestion on emergency vehicle response.*

We ask the City Council to modify these policies as requested by the Fire District to ensure that the District's concerns about life safety and emergency services are adequately addressed in the General Plan Update.

C. GENERAL PLAN FIA COMMENTS

As stated above, the Revised FIA was released two (2) business days before the Planning Commission meeting. This is inadequate time to review and comment on the document. Therefore, the Fire District will be submitting its detailed comments on the FIA at a future date. This letter contains the Fire District's preliminary comments. Overall, the District believes that development under the General Plan will place demands on the District that will exceed the revenue generated by the development.

1. The FIA counts employees as one-third (1/3) of a resident for estimating service population. The Nexus Study counts employees as 58% of a resident. The 1/3 number underestimates the demands of employees on District. Employees present significant demands on District, especially when many companies in the City basically operate 24/7. The FIA should be revised to count employees as 58% of a resident when calculating service population.

2. The Fire District does not agree with the estimate of property tax revenue under the General Plan. The District does not agree with the assessed value assumptions and methodology. The Fire District also does not agree with the projected assessed value for new development, the calculation of the District's tax revenue from the increased assessed value, and the overall FIA methodology for calculating property tax revenue to District.

3. The FIA's methodology for calculating Fire District expenses from new development is incorrect. The FIA estimates expenses by dividing annual District General Fund expenditures by current service population to establish a cost per service population of \$325 annually. This underestimates the District costs of providing services to protect both persons and property.

4. The FIA underestimates District expenses from new development. The FIA does not include the costs of the 15 additional FTEs to serve project, at \$290,000 per FTE, in the calculation of District expenses (FIA, p. 67). This cost would be \$4,350,000 annually. This personnel cost is not included in the District annual expense calculation (FIA, p. 67-69, Table 36). This cost alone would cause the Fire District to operate at an annual deficit. The FIA also does not include as expenditures the costs of additional capital improvement projects needed to serve new development, such as the rebuild of

Station 77 and other expenses shown in Nexus Study. These additional capital costs would be in addition to the General Fund expenses included in the FIA. The combination of the additional personnel and capital improvement costs due to General Plan development would create millions of dollars in deficit for the Fire District annually.

5. The FIA does not include any revenue from a fire services impact fee. However, as shown above in Item 4, the General Plan would result in a significant annual deficit for the Fire District. This deficit shows the need for an impact fee to address the impacts of the General Plan on the District. The District strongly objects to the statement on page 66 of the FIA that: "If the City Council does not adopt the fee, the MPFPD may be able to rely on other revenue sources, such as the net increase in annual operating revenues identified below, to fund the District's capital improvement plan as needed to serve new development." This statement is unsubstantiated opinion and is contradicted by facts in the FIA, the Nexus Study and this letter. In particular, the Nexus Study clearly shows that the Fire District has a shortfall of revenue to fund needed capital improvements, especially reconstruction of Fire Station 77.

6. The FIA overestimates the annual revenue to District from licenses, permits and charges. The \$985,800 estimate is high.

7. The FIA estimates 14,150 net new residents and 9,900 net new employees resulting from the General Plan. This estimate is higher than the estimated growth in the EIR. Therefore, the EIR underestimated the impacts from new population and employee growth. The impact analysis in the EIR needs to be revised based on the FIA projections before the City can approve the General Plan and EIR.

D. CONCLUSION

The Fire District provides critical services within the City to protect life and property. The importance of these essential services cannot be debated. Therefore, the impacts of the General Plan on the Fire District must be addressed, so it can continue to provide these services. The City should respect the Fire District as the expert on the provisions of fire and emergency services and the needs created by new development. As a fellow public agency, the Fire District asks the City Council to address the concerns raised in this letter by taking the specific actions requested.

Thank you

Harold Schapelhouman, Fire Chief

Cc: Fire Board