



## MEMORANDUM

**DATE:** October 19, 2009

**TO:** Planning Commission

**FROM:** Justin Murphy, Development Services Manager  
Community Development Department

**RE:** **Agenda Item D1: Menlo Gateway (Bohannon hotel-office)  
continuance from October 5, 2009**

This memorandum is meant to supplement the staff report prepared for the October 5, 2009 Planning Commission meeting on the Menlo Gateway project.

On October 5, 2009, the Planning Commission continued the study session item regarding the Menlo Gateway project to October 19, 2009. The Commission completed the public comment period for the agenda item. The purpose of the continuance was to allow the Commission time to complete its discussion on the following items in order to forward comments to the City Council:

- Proposed Development Program (i.e., the size, uses and architecture of the project);
- Draft Fiscal Impact Analysis (FIA); and
- Public Benefit Ideas.

The Planning Commission previously provided comments on the Draft Environmental Impact Report (EIR) on September 14, 2009.

Based on the City-Council-approved schedule for the review of this proposal (Attachment A), the City Council is scheduled to hold two meetings on the Menlo Gateway project in November 2009 as follows:

- **November 3:** Study session to consider feedback from Planning Commission and discuss environmental impacts and mitigations, public benefit, fiscal impact analysis and development program.

- **November 17:** Regular business item to provide direction to guide negotiations of the Development Agreement.

After the Council meetings in November, the Planning Commission will have another opportunity to review all aspects of the project, including the Final EIR and the Final FIA, both of which would include response to comments on the respective drafts of the documents, and the Draft Development Agreement, which would be negotiated after the City Council provides direction to the City's negotiating team. The approved schedule currently includes one more Planning Commission meeting. Staff is considering recommending to the Council that an additional Planning Commission meeting be scheduled in order to give the Commission adequate time to review all of the necessary components of the project and formulate a final recommendation.

At this stage of the review process, the Commission should focus on a high-level, big-picture review of a relatively complex project with many interrelated aspects that require a comprehensive understanding. In order to assist the Commission in formulating its comments to the Council, staff has developed the following recommended sequence of discussion topics and questions:

## **1: Fiscal Impact Analysis**

Do Commissioners have any comments regarding the assumptions, methodology or conclusions of the FIA?

## **2. Development Program**

### **2.1. Project Size and Uses**

Assuming there is adequate public benefit and projected revenue from the hotel, could Commissioners recommend support for the proposed project with the following features:

- A 230-room hotel in an 11-story building;
- A health club of approximately 70,000 square feet;
- Offices totaling approximately 700,000 square feet in 8-story buildings that are 140 feet in height; or
- Any other feature?

If not, what features would need to be modified?

### **2.2. Project Architecture**

Do Commissioners have any comments or suggestions about the proposed architecture including, but not limited to: the placement of the buildings and parking structures, the design and materials of the buildings and parking structures, etc.?

### 2.3. Proposed General Plan and Zoning Ordinance Amendments

Do Commissioners believe the proposed amendments an acceptable way to achieve the proposed development program?

If not, what alternative approaches should be considered?

### 2.4. Context to the Surrounding Area

Do Commissioners have any comments about how the proposed project relates to the surrounding area, such as the remainder of the Bohannon East portion of M-2, the Marsh Road interchange, the Haven Area portion of M-2, Bedwell Bayfront Park, and San Francisco Bay?

### 2.5. Other

Are there any other items that a Commissioner would like to comment on regarding the proposed development program?

## 3. **Public Benefit**

Does the Commission want to use a modified version of the ranking exercise as a means of demonstrating the Commission's priorities or values for certain public benefit ideas regardless of cost?

*In the modified version, staff would ask Commissioners to identify his or her 10 most important public benefit ideas instead of a forced ranking of his or her top 10. Staff would then tally the rankings and share the results at the meeting for the Commission to review. For purposes of the ranking exercise, the Commission does not need to be concerned about whether an item would be an EIR mitigation measure or not. If an individual Commissioner thinks that an item should be an EIR mitigation measure, then the Commissioner could decide to omit an item from the top 10. Ultimately, staff will use the legal framework of the on-going EIR process to determine whether or not an item is an EIR mitigation measure.*

If the Commission does not want to use the ranking exercise, then individual Commissioners can provide comments on the topic of public benefit.

## 4. **General**

Understanding that the Planning Commission will receive the Final EIR, Final FIA, Draft Development Agreement, revised project plans, and the typical documentation associated with large development projects (i.e., ordinances, resolutions, etc.), is there any other information that the Commission would like to review or is there any information that the Commission believes should be made available to the Council or

Community prior to making a final recommendation on the project at a future meeting?

### **Correspondence**

Staff has received two pieces of correspondence since the October 5, 2009 Planning Commission meeting. Each piece of correspondence, included as Attachment B, is a follow up to comments provided at the October 5, 2009 meeting.

### **Attachments**

- A. Approved Public Outreach and Development Agreement Negotiation Process
- B. Correspondence
  - David Speer, dated October 7, 2009
  - Paul Collacchi, dated October 10, 2009

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**Public Outreach and Development Agreement Negotiation Process**  
**Menlo Gateway (Bohannon Hotel-Office Mixed-Use) Proposal**

#	Meeting Description	Notes / Timing	Method of Notification	Date Scheduled
1.	<b>City Council</b> to review and discuss the Public Meeting Schedule and method of notification	Prior to first public meeting	Council agenda published  Web site project page updated & email bulletin sent	4/14/09
2.	<b>City Council</b> to review Subcommittee Report		Council agenda published  Web site project page updated & email bulletin sent	6/16/09
<b>MILESTONE: Draft Environmental Impact Report (DEIR), Project Plans, and Fiscal Impact Analysis (FIA) issued for public review</b>				
3.  4.  5.	<p><b>Public outreach meetings</b> to educate community about the proposed project, get input on public benefit needs and discuss FIA</p> <ul style="list-style-type: none"> <li>• Belle Haven Neighborhood (Onetta Harris Community Center, evening)</li> <li>• Business Community (Onetta Harris Community Center, afternoon)</li> <li>• City-wide (Civic Center, evening)</li> </ul> <p><i>(Note: all meetings are open to the public and may be attended by any or all Council Members or Commissioners)</i></p>	Prior to deadline for DEIR comments. (not to receive comments, but let people know how they can submit EIR comments)	City-wide postcard mailing for meetings 2, 3, 4, and 5  Chamber of Commerce newsletter  Web site project page updated & email bulletin sent  Notice sent to all appointed commissioners  Press release	7/23/09 (4-6 p.m.)    7/23/09 (7-9 p.m.)    7/29/09
6.	<b>Housing Commission Meeting</b> to review Summary and Population and Housing chapter, and to provide individual comments.	During DEIR review period	Housing Commission agenda published  Web site project page updated & email bulletin sent	8/5/09 (5:30 p.m. start)

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#	Meeting Description	Notes / Timing	Method of Notification	Date Scheduled
7.	<b>Transportation Commission Meeting</b> to review Summary and Traffic and Transportation chapter, and to provide individual comments.	During DEIR review period	Transportation Commission agenda published  Web site project page updated & email bulletin sent	8/5/09 (7:00 p.m. start)
8.	<b>General Commission Meeting</b> to allow other Commissions (Parks & Recreation, Environmental Quality, Bicycle, Library) to review the project.	During DEIR review period	Web site project page updated & email bulletin sent	8/19/09
9.	<b>Planning Commission Public Hearing</b> regarding the draft EIR  <i>(Outcome: Receive public comments on the DEIR – all comments will be responded to in the Final EIR)</i>	After release of the DEIR and FIA – towards the beginning of the <b>60</b> day review period for DEIR	Planning Commission agenda published  Public Hearing Notice published and mailed to project distribution area  Web site project page updated & email bulletin sent	9/14/09
10.	<b>Planning Commission</b> study session item to discuss Public Benefit, FIA, and development program  <i>(Outcome: Commission reviews and comments on project proposal)</i>	Prior to final EIR	Planning Commission agenda published  Web site project page updated & email bulletin sent	10/5/09
11.	<b>City Council</b> study session to consider feedback from the Planning Commission and discuss environmental impacts and mitigations, Public Benefit, FIA, and development program	Prior to final EIR	Council agenda published  Web site project page updated & email bulletin sent	11/3/09

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Menlo Gateway (Bohannon Hotel-Office Mixed-Use) Proposal**

#	Meeting Description	Notes / Timing	Method of Notification	Date Scheduled
12.	<b>City Council</b> regular item to provide direction or parameters to guide development agreement negotiations	At least two weeks after council study session	Council agenda published  Web site project page updated & email bulletin sent	11/17/09
<b><u>MILESTONE:</u> Prepare Final EIR, FIA and negotiate a draft Development Agreement</b>				
<b><u>MILESTONE:</u> Publish Final EIR, FIA, draft BMR Housing Agreement, and Recommended Development Agreement for public review</b>				
13.	<b>Housing Commission</b> review and recommendation for approval of draft BMR Housing agreement	Prior to Planning Commission Public Hearing	Housing Commission Agenda posted  Web site project page updated & email bulletin sent	1/6/10
14.	<b>Planning Commission Public Hearing</b> – Recommendation on final EIR, final FIA, General Plan Amendment (map and text), Zoning Ordinance Amendment, Zoning Map Amendment, Development Agreement, Architectural Control, Tentative parcel Maps, and BMR Housing Agreement	After release of Final EIR	Planning Commission agenda published  Public Hearing Notice published and mailed to project distribution area ( <i>potentially a joint notice with meeting #15</i> )  Web site project page updated & email bulletin sent	1/25/10

**Public Outreach and Development Agreement Negotiation Process**  
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#	Meeting Description	Notes / Timing	Method of Notification	Date Scheduled
15.	<p><b>City Council Public Hearing</b> – Certification of Final EIR, Acceptance of Final FIA, Approval of General Plan Amendment (map and text) resolution, Introduction of an Ordinance Amending the Zoning Ordinance, Introduction of an Ordinance Rezoning Property, Introduction of an Ordinance Approving the Development Agreement, Architectural Control, Tentative Parcel Maps, and BMR Housing Agreement</p> <p><i>(Note: may require two meetings)</i></p>	Approximately/minimum of 6 weeks after Planning Commission recommendation.	<p>Council agenda published</p> <p>Public Hearing Notice published and mailed to project distribution area <i>(potentially a joint notice with meeting #14)</i></p> <p>Web site project page updated &amp; email bulletin sent</p>	3/2/10
16.	<p><b>City Council</b> – Adoption of the Ordinances for Amending the Zoning Ordinance, Rezoning Property, and Approving the Development Agreement (consent item)</p>	Next available Council meeting after first reading	<p>Council agenda published</p> <p>Web site project page updated &amp; email bulletin sent</p>	3/9/10

*Note: all dates tentative and subject to revision.*

**Rogers, Thomas H**

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**From:** David Speer [dspeermenlo@yahoo.com]  
**Sent:** Wednesday, October 07, 2009 12:00 PM  
**To:** Murphy, Justin I C; Rogers, Thomas H  
**Subject:** My comments on Fiscal Impact Analysis made at Monday's Planning Commission  
Justin and Thomas,

When our group pushed for a separate Fiscal Impact Analysis on this project, those items that I mentioned in the Planning Commission meeting on Monday night, and summarized below, were critical that they be included in the discussion and in the FIA. We made this very clear when BAE was chosen to do the work by Council members Cohen and Fergusson at the meeting I attended in the fishbowl.

To make sure that the message in my presentation comes out correctly in the minutes, in my presentation and analysis regarding the shortcomings of the Fiscal Impact Analysis document, these are what should be included:

1. Regarding pages 17 and 18, that the Sales Tax differential in addition be compared to that sales tax currently generated in M-2 zone, so that compared to office buildings we have some idea of M-2's current value to Menlo Park
2. Under the Fiscal Impact of Potential Change, on page 70, what would be the loss of Sales Tax Revenue, you cannot just assume parcels nearby this. The other large landowners in M-2 (AMB Properties and Tarlton Properties) would want this zoning, almost immediately, and thus really consider the loss of ALL sales tax if M-2 were converted. (Note – Paul Collacchi had referenced that this had already been done earlier)
3. Acknowledge that the net new housing demand that this project would create is being "outsourced" to the rest of the region even if the housing is not in Menlo Park, and thus the costs (which should be calculated using Menlo Park's rates) are being outsourced as well
4. The FIA include the net new indirect jobs and that the additional housing demand as a cost to the region, with some of that absorbed by Menlo Park
5. Do a sensitivity analysis in the FIA instead of just assuming the only 10% of the housing, but do a range of say, what would 25% or 60% or 80% of the net new housing demanded from this project cost to the City of Menlo Park, and also the resulting costs to the school districts from this housing if it were in Menlo Park.

These items above were critical in having an open discussion with the community and elected officials of how this project would / could start the "domino effect" within M-2, and how the housing impacts could affect Menlo Park city services (costs to City) and Menlo Park schools (Costs to them, increase in students) in the future.

Limiting all analysis to the assumption that since 10% of people who live in Menlo Park work here, and using that to impute the potential housing impacts does not provide the framework for a logical, fair discussion and analysis.

Contact me if you have questions. Please let me know if these are NOT going to be included, as I think that was always the Council's intent.

David Speer

Cc: Morris Brown  
Paul Collacchi  
Elias Blawie

(B1)

10/15/2009

October 10, 2009

The Honorable Henry Riggs  
Chairman, Menlo Park Planning Commission

Dear Mr. Chairman,

It strikes me now that my comments of Tuesday Oct 6, 2009 may have been confusing to the Planning Commission. To be clear, I support fully mitigating and collecting full impact fees for development projects, including the Bohannon project even if Menlo Park must use a Developer's Agreement as the vehicle for doing so.

- The BAE consultant made clear in his presentation that there are many "routine" impacts fees, collected by other cities not currently collected by Menlo Park.
- I have made clear in an earlier letter through my attorney, that Menlo Park currently lacks appropriate CEQA standards to compel full or near full mitigation of green house gases ("GHG") emitted by this and other development projects.

*In this instance, because Menlo Park's impact fee and CEQA legal infrastructure is not ripe, I do feel it appropriate to impose routine impact fees and CEQA mitigations using the Developer Agreement as the vehicle, if required.*

To that end I recommend the following:

1. Have the Planning Commission instruct the BAE consultant to list all those impact fees mentioned by him that are routinely imposed by other cities but not by Menlo Park.
  - a) For each impact fee type, have the consultant assign a "reasonable" fee rate, based on rates charged by communities that possess a valid nexus study, and determine the total impact fee that would be charged the Bohannon project using the fee rate.
  - b) Have the BAE consultant publish each fee rate, total fee, and the total amount of fees in the Final FIA.

I do not object to collecting justifiable impact fees and mitigations, I simply object to mislabeling "exactions" as "public benefits", and I recommend Menlo Park develop nexus studies and CEQA standards required to impose exactions rather than negotiate them as public benefits.

Thank you for your consideration.

Sincerely,

Paul Collacchi  
1 Lake Ct  
Redwood City, CA 94062

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