



Town of Atherton

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September 21, 2009

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CITY OF MENLO PARK
BUILDING

Community Development Department
City of Menlo Park
701 Laurel Street
Menlo Park, CA 94025

RE: Menlo Gateway Project Draft Environmental Impact Report

Ladies and Gentlemen,

The Town of Atherton staff and Transportation Committee have reviewed the Menlo Gateway Project Draft Environmental Impact Report (DEIR) dated July 2009 and have the following comments.

Air Quality

The project would create new area and mobile sources of air pollutants that would exceed BAAQMD's significance thresholds. This is a significant and unavoidable impact where no mitigation measures are available.

Traffic and Circulation

The traffic analysis apparently does not include proposed developments on El Camino Real in the background traffic calculation because they have not yet been approved. We believe this is in error and that those projects should be included in the background traffic.

The project would increase congestion and delays at several intersections and roadway segments during peak hours causing a significant impact to the operation of the intersections listed below (only intersections and segments that could effect a substantial number of Atherton residents are cited):

Marsh Road between Bohannon Drive and Bay Road

The EIR contains a statement “There is no feasible mitigation measure to reduce the proposed project related traffic impacts to the segment of Marsh Road from Scott Drive to Bohannan Drive to less-than-significant levels.”

Marsh Road between Bay Road and Middlefield Road

Also under the traffic section, it is noted that the Bohannan Drive to Bay Road segment of Marsh Road increases by 2508 vehicles. The Marsh Road/Bay Road to Middlefield Road segment was not included in the study, apparently because the report authors did not have the Atherton “significance criteria”. As in the past, Atherton agrees that Menlo Park may apply their significance criteria to impacts in our jurisdiction. It is suspected that the majority of vehicles traveling on that segment (Bohannan Drive to Bay Road) will continue to Middlefield Road, with only a small diversion to Bay Road. This means that Marsh Road between Bay Road and Middlefield Road will be impacted and the impact is not covered by the study. Due to the magnitude of this project, significant traffic impacts may be far reaching. The study limits need to be extended as needed to adequately define the significant impacts.

Middlefield Road North of Marsh Road

The next segment that needs additional study is Middlefield Road north of Marsh Road. The intersection study indicates most of the traffic will go to and come from the north on Middlefield Road. This will then impact that segment of Middlefield Road. It is unclear what route the traffic will take north of Marsh Road. If it goes to 5th Avenue, then the intersection of 5th Avenue and El Camino Real should be studied, along with the intervening County intersections. Here, San Mateo County should be involved since they would have to agree to any widening or other physical changes beyond the Atherton city limits. If it goes to Fair Oaks Lane, then that street and the intersection of Fair Oaks Lane and El Camino Real should be studied.

In addition, impacts to the North Fair Oaks community should be emphasized, including Atherton streets such as Holbrook Lane, Palmer Lane and San Benito Avenue.

US 101 North of Marsh Road

The EIR contains a statement “There is no feasible mitigation measure to reduce this impact to less-than-significant.”

Marsh Road/Bohannan Drive Intersection

Although the EIR contains recommended mitigation measures for reduction of this impact, the document concludes that “The impact would remain significant and unavoidable with implementation of this mitigation measure due to the need for coordination with the City of Redwood City.”

Marsh Road/Middlefield Road (Atherton)

The EIR analysis of traffic at this intersection indicates that it would operate at acceptable levels under cumulative future conditions without the proposed project. Operation projections are level of service (LOS) D during the AM peak hour and LOS E during the PM peak hour. However, addition of the proposed project would increase the delay time and decrease the level of service to LOS D during the AM peak hour and LOS F during the PM peak hour at this intersection. A mitigation measure suggested in the EIR includes adding a second southbound left-turn only lane from Middlefield Road to Marsh Road and widening Marsh Road to provide two receiving lanes. The measure would also require obtaining additional right-of-way to accomplish. Approval by the Town of Atherton is required for implementation.

In this analysis it is noted that the Marsh/Middlefield intersection AM LOS reduces from C to D with a delay increase of 24% or 6.5 seconds (from 27 seconds to 33.5 seconds). The PM LOS stays at LOS D but the delay increases by a significant 42% or 15.2 seconds (from 36.5 seconds to 51.7 seconds). This means that the PM peak hour is more significantly effected than the AM, with more than double the delay increase. This is a significant impact by any test.

Under Public Resources Code section 21081, Menlo Park cannot certify an EIR that identifies significant effects unless certain findings are made. Of relevance here is that Menlo Park must either require mitigation or make a finding that: "Those changes or alterations [i.e., mitigation measures] are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency." (Pub. Resources Code, § 21081(a)(2); see also CEQA Guideline 15091.)

Here, the DEIR analysis is inadequate because it is not sufficient to state that mitigation is infeasible because mitigation measures would require coordination with another public agency. Such a location focuses on the geographic location of the impact, rather than on whether Menlo Park has the power to impose the mitigation through conditions of approval. (Remy, et al., *Guide to CEQA* (2007), p. 388; see also CEQA Guideline 15402.) For example, in the seminal case of *Citizens for Quality Growth v. City of Mount Shasta* (1988) 198 Cal.App.3d 433, 441, the appellate court found that the city erred in not incorporating any proposed mitigation measures after the EIR identified a significant impact. Specifically, the petitioners had contended that the city erred in failing to consider one feasible mitigation measure, which was subject to the jurisdiction of another agency. (*Id.* at 441, fn. 8.) The appellate court rejected the city's argument that it need not consider a mitigation measure outside its jurisdiction, and stated: "Each public agency is required to comply with CEQA and meet its responsibilities, including evaluating mitigation measures and project alternatives.... Upon remand... the City must give this proposal [mitigation measure outside its jurisdiction] due consideration." (*Ibid.* (emphasis in original).) Thus, under *Citizens for Quality Growth*, the DEIR's conclusion that mitigation measures are infeasible because implementation requires coordination with other public agencies is inadequate.

With this amount of delay additional traffic will divert to County and Atherton roadways, specifically Holbrook Lane. This diversion needs additional study similar to the study for the Encinal School project.

In conclusion, the traffic analysis is focused too narrowly on Menlo Park streets, and does not adequately consider the impacts to regional roadways, such as Marsh Road and Middlefield Road, and roadways in other jurisdictions, such as Fair Oaks Lane.

Mitigation

The study needs to consider other approaches to mitigation for the Marsh/Middlefield intersection impacts. One mitigation already identified by the Town of Atherton is the traffic signal at Encinal Avenue. By reducing the backup along Middlefield Road, the delays at the Marsh Road intersection can be at least partially mitigated. This will be far less costly than adding a second lane on Marsh Road to receive dual left turn lanes (that would require a box culvert for the Atherton Channel, a multi-million dollar proposition). Traffic impact fees should be directed from the project to this solution.

Other more creative and less costly solutions, perhaps without impacts of their own (such as covering the channel may have), should be developed and considered.

However, it is noted that widening Middlefield Road and Marsh Road to get traffic more easily out of Town may be far more desirable than widening it into Town. Such a solution would help in the AM peak hour also by reducing the green time required for the movement, freeing green time for the other intersection movements and reducing the delay all around.

The widening, if extended to the four-lane section in the County north of Jennings Lane, could mitigate for the increased traffic on Marsh Road. Perhaps the report's authors could consider a three lane section, two outbound and one inbound. Alternatively the two outbound lanes at the intersection would merge and the three lane section could continue with a center left-turn lane that would mitigate the impacts to the residents of the street by allowing better and safer access, especially in light of the increased traffic volumes. The turn lane would also provide a turn lane for Fair Oaks Avenue. Bike lanes would provide safer right turns into and out of driveways. Removing these turning movements from the through lanes would improve conditions for the through traffic.

And what mitigation is proposed for the increased traffic on Middlefield Road between Marsh and Fair Oaks Lane, to the Middlefield/Fair Oaks intersection, to Fair Oaks Lane and to the El Camino Real intersections with Fair Oaks Lane and 5th Avenue? How would residents of Heritage Court access Middlefield Road? Would traffic be diverted to Holbrook Lane to the detriment of that residential neighborhood?

The following criteria are suggested for impacts to local streets:

Daily volumes that are in excess of the Atherton General Plan Circulation Element standard of 1,000 vehicles per day for residential streets are considered to be already impacted. Any additional traffic added to these streets would increase this discrepancy. Mitigation would be required as follows:

1. Actions of project will not further degrade the Level of Service or average delay at the public street intersections adjacent to the impacted streets.
2. If traffic is increased on any already impacted residential street as a result of project actions there needs to be a compensating improvement to average delay at the street's intersections. The compensating improvement to average delay will be in proportion to the increase in traffic on the residential street.

How this mitigation is accomplished is the purpose of the study. A collaborative effort by the impacted responsible agencies and the traffic and engineering consultants should begin to address the mitigation of these far reaching impacts.

Bicycles

If Marsh Road were to be widened, bicycle lanes could be added to Marsh Road to provide non-motorized access to the project. This is also an effective mitigation for traffic by helping to get people out of their cars. The bike lanes would need to be extended through the County and Menlo Park (supposedly included in Menlo Park plans already), with adequate treatment through the US 101 interchange by modifying the ramps to create intersections that can more easily be crossed by bicycles, or by creating bicycle lanes between the ramp lanes and the through lanes. A separate bicycle/pedestrian bridge from the project to Bohannon Drive at Scott Drive may be even more desirable and effective in converting drivers to riders.

A comprehensive bicycle solution may be far more effective than street widening and signal modifications. If it is easy and safe to ride to work, many will do it. If there is one unsafe bottleneck on the route, such as Marsh Road from Middlefield Road to Fair Oaks Avenue, few will ride. Note that Marsh Road is shown as a suggested east-west bicycle route on the San Mateo County Comprehensive Bicycle Route Plan from Fair Oaks Avenue to the Bayfront Expressway. The portion from Middlefield to Fair Oaks Avenue is excluded because there is not room to ride. It would be necessary for the entire length of Marsh Road to have Class 2 bike lanes, so the County and Atherton need to be included in planning these mitigations.

Implementation

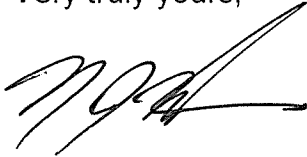
However, the comment regarding the Marsh/Middlefield intersection also states:

“However, the implementation of this mitigation measure is under the jurisdiction of the City of Atherton, and therefore, the impact to this intersection would not be reduced to a less-than-significant level.”

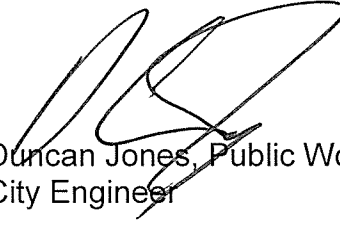
The EIR should include a recommendation that the City of Menlo Park and the developer work with the Town of Atherton to require and facilitate implementation of the mitigation needed within the Atherton jurisdiction. At the very least the report should recommend designating Menlo Park project traffic impact fees go towards mitigation projects on the regional roadways such as Marsh Road, Middlefield Road and El Camino Real. The report should also contain recommendations that Menlo Park apply traffic impact fees to other jurisdictions to mitigate traffic impacts on their local streets.

Thank you for allowing us to comment on the DEIR.

Very truly yours,



Neal J. Martin, Town Planner



Duncan Jones, Public Works Director/
City Engineer

Cc: City Council
Planning Commission
Transportation Committee
Jerry Gruber, City Manager
Theresa DellaSanta, City Clerk
Wynne Furth, City Attorney
Lisa Costa Sanders, Deputy Town Planner