



MOUNTAIN VIEW LOS ALTOS HIGH SCHOOL DISTRICT

Attachment 4

BOARD OF TRUSTEES

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SUPERINTENDENT

Nellie Meyer, Ed.D.

February 6, 2023

Diana Pancholi, Principal Planner
Community Development Department
500 Castro Street
Mountain View, CA 94041

Dear Ms. Pancholi,

This document serves as the Mountain View Los Altos High School District (MVLA) response to the Draft Subsequent Environmental Impact Report (EIR) for the North Bayshore Master Plan. We have reviewed the report and provide the following information in regard to the adequacy of the findings as related to direct and indirect impacts on the Mountain View Los Altos High School District. We understand that the passage of SB50 limits the levying of developer fees for direct impacts on school districts. However, nothing precludes the City, Developer and School District from working collaboratively to develop a mitigation strategy to address the direct and indirect city growth impacts on the school district.

Student Growth

The City of Mountain View's Draft Subsequent EIR indicates the impact of 700 high school students would be adequately mitigated by developer fees. This is not accurate. In reality, developer fees are woefully inadequate, covering less than ten percent of actual school construction and land costs in the city of Mountain View. Moreover, the updated Draft Subsequent EIR states:

As of the end of the 2021 to 2022 school year, Mountain View High School is over capacity by 770 students. The school currently utilizes portable classrooms in addition to permanent education facilities to accommodate the additional students. The construction of permanent classroom facilities is underway through Measure E bond program funding and has undergone a separate environmental review. After completion of construction, Mountain View High School would have a capacity of 2,379 students.

Despite this increase in capacity, there would not be sufficient capacity to accommodate the estimated 700 high school students anticipated from the project. Based on current enrollment, Mountain View High School would be 637 students over capacity.

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The Draft Subsequent EIR acknowledges that there would not be sufficient capacity for the additional high school students that would result from this project. Therefore, an additional high school campus is necessary to accommodate the estimated 700 high school students.

Indeed, the Draft Subsequent EIR does not take into account projects that were already approved in the northern half of the city, some of which are outside of the North Bayshore precise plan area. These projected students will precede the impact of students generated by the North Bayshore Master Plan and further exacerbate Mountain View Los Altos High School District's lack of capacity to accommodate them.

Cost to House Students Generated From the North Bayshore Master Plan

Construction costs in the Bay Area have escalated dramatically in the last ten years. The State per pupil grant does not reflect this escalation, and therefore, the gap between what the State allows and provides for school construction is significantly less than the actual cost of school construction.

Land-City May Reserve or Designate Real Property for a School Site

In addition to the dramatic escalation in construction costs in the Bay Area, land costs have increased as well. The State of California will provide fifty percent of the cost of land for eligible school construction. However, the remaining fifty percent of the land cost is the responsibility of the local school district. These substantial increases in land costs make it difficult to build schools in accordance with the Department of Education school site guidelines. The land cost escalation issues were anticipated when SB50 was drafted and Government Code section 65998 allows cities to "reserve or designate" real property for a school site.

GOVERNMENT CODE - GOV

TITLE 7. PLANNING AND LAND USE [65000 - 66499.58] (*Heading of Title 7 amended by Stats. 1974, Ch. 1536*)

DIVISION 1. PLANNING AND ZONING [65000 - 66103] (*Heading of Division 1 added by Stats. 1974, Ch. 1536*)

CHAPTER 4.9. Payment of Fees, Charges, Dedications, or Other Requirements Against a Development Project [65995 - 65998] (*Chapter 4.9 added by Stats. 1986, Ch. 887, Sec. 11.*)

65998. (a) Nothing in this chapter or in Section 17620 of the Education Code shall be interpreted to limit or prohibit the authority of a local agency to reserve or designate real property for a schoolsite.

(b) Nothing in this chapter or in Section 17620 of the Education Code shall be interpreted to limit or prohibit the ability of a local agency to mitigate the impacts of a land use approval involving, but not limited to, the planning, use, or development of real property other than on the need for school facilities.

(*Added by Stats. 1998, Ch. 407, Sec. 25. Effective August 27, 1998. Operative November 4, 1998 (Prop. 1A was adopted Nov. 3) by Sec. 31 of Ch. 407. Note: Pursuant to Education Code Section 101122 (subd. (d)), which was added Nov. 8, 2016, by Prop. 51, Chapter 4.9 (Sections 65995 to 65998) as it read on Jan. 1, 2015, continues in effect until Dec. 31, 2020, or earlier date prescribed. Thereafter, Chapter 4.9 may be amended.*)

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California Department of Education's general guidance for a school site recommends approximately 33.5 acres of land for a high school that would serve approximately 1,100 students, which is the number of high school students MVLA estimates will come from this and other approved housing projects in the city of Mountain View.

As a condition of approval of the North Bayshore Master Plan, and prior to the certification of the Draft Subsequent EIR, we request that the City and Developer designate and reserve a school site for MVLA. The availability of land for school construction in Mountain View is extremely limited. The District is amenable to creative efforts to utilize all real property options and is willing to discuss these options with the Developer.

Indirect Impacts

Chawanakee Unified School District V. County of Madera

In this appellate court case, the court concluded that the phrase in SB50 "impacts on school facilities" does not cover all possible environmental impacts. While the North Bayshore Master plan does consider noise, emissions, traffic, and other indirect impacts, it does not specifically identify those indirect impacts in the operation of a school district. For example, the eighteen "significant unavoidable impacts" created by transportation and traffic may have an indirect impact on transporting students to school if the school is not in the proximity of the North Bayshore Master Plan project. In addition, the buildout of 9,850 units is in a plan that covers a period through 2030. The approximate 10-year buildout of the project would mean an absorption rate of 980 units per year. This construction period would require the MVLA District to provide interim housing over a period of time and is considered an "indirect impact." This issue is not addressed in the Draft Subsequent EIR.

Shoreline Community Redevelopment Area Tax Increment

As noted in the draft EIR:

The Shoreline Community shall work with the Mountain View Whisman School District and the Mountain View Los Altos Union High School District to allocate revenue related to the growth in assessed value due to new residential development within the Community pursuant to/in accordance with the annual tax allocation for each school district, through mutually agreed to and legally binding agreements

The North Bayshore Master Plan indicates the desire to transform a once blighted area into a thriving mixed development area. The businesses and residences that are being planned are currently planned in a de facto redevelopment district. The Shoreline Community, which is managed by the city of Mountain View staff and City Council, currently diverts tax revenue from the schools to the City. MVLA, MVWSD, and the city of Mountain View have formed a Joint Powers Authority (JPA), also known as Shoreline Educational Enhancement Reserve (EER), that began releasing part of the tax increment to schools. The agreement guarantees a minimum of approximately \$1.84 million annually to MVLA. That agreement not only ends on July 1, 2023, but also ceases to provide any share of the tax increment thereafter.

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Through a formula that was developed by the JPA, MVLA received \$3,423,095 this year. Per the county assessor's office, MVLA's normal tax increment would have been \$8,920,000 this year, a deficit of \$5,496,905.

Assessed Value Tax revenue from commercial and residential properties is what community-funded districts use to address day-to-day operating costs and is not intended for building schools. As indicated in the Draft Subsequent EIR, North Bayshore should generate 700 high school students. At the MVLA current per student expenditure rate of \$30,000, this would mean that tax revenue would, at minimum, need to equal \$21,000,000 in the near future.

Closing Comments

Our comments regarding the Draft Subsequent EIR should not be construed to indicate our opposition to the North Bayshore Master Plan. It is critical that all interested parties understand that the new dwelling units are of such magnitude that school mitigation measures for the project exceed the District's ability to absorb the 700 students estimated from this project. We look forward to the cooperation of the City and proponents of the project to meet with MVLA and resolve the apparent challenges in this proposed project. We suggest that the District, City, and proponents of the project delay the approval of the North Bayshore Master Plan and the Draft Subsequent EIR and meet soon to provide creative, viable measures that meet the needs of MVLA and all stakeholders.

Respectfully,



Nellie Meyer
Superintendent
MVLAHSD

cc: Alison Hicks, Mayor
Pat Showalter, Vice Mayor
Margaret Abe-Koga, Councilmember
Ellen Kamei, Councilmember
Lisa Matichak, Councilmember
Lucas Ramirez, Councilmember
Emily Ramos, Councilmember
Dr. Phil Faillace, Board President
Sanjay Dave, Board Vice President
Esmeralda Ortiz, Board Clerk
Thida Cornes, Board Trustee
Catherine Vonnegut, Board Trustee
Mike Mathiesen, Associate Superintendent



OFFICE OF THE CITY MANAGER

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March 9, 2023

Dr. Nellie Meyer
Superintendent
Mountain View Los Altos Union High School District
1299 Bryant Avenue
Mountain View, CA 94040

Dear Dr. Meyer:

City staff has received the Mountain View Los Altos Union High School District's (District or MVLAUHSU) February 6, 2023 letter regarding the Draft Subsequent Environmental Impact Report (DEIR) for the North Bayshore Master Plan.

Thank you for providing comments. I understand that Assistant City Managers Aarti Shrivastava and Audrey Seymour Ramberg will be meeting with your team on March 16 to discuss your comments on the DEIR as well as the avenues for our continued collaboration. **The goals of this letter and follow-up meeting are to provide reassurance that the City recognizes that housing development affects the District and reiterate that we stand with the District as a partner in creating solutions.**

General Points Related to the DEIR

We would like to note that the responses to your comments will be separately provided in the Final EIR and will relate to the specific considerations of the California Environmental Quality Act (CEQA) and State law. As such, this letter and any subsequent meetings are not intended to be and should not be considered as a formal response to your comments on the DEIR. In the meantime, I am sharing the following general points:

- Students generated by the project—While the EIR uses the student generation rates provided by the District, the City considers these to be overstated. Rates may be lower due to a range of factors, such as declining fertility rates, different occupancy characteristics of tall, high-rent, amenity-rich buildings, and different occupancy characteristics of the smaller units expected in the North Bayshore Master Plan area. A demographer hired by the City highlighted these factors, identifying possible growth scenarios lower than those projected by the District. This information was shared with the District in 2019.
- 30-year time frame for residential growth—The North Bayshore Master Plan includes a 30-year timeline with eight phases for buildout. Development will be spread out over these phases due to the complex requirements of demolishing office space, subdividing lots, preparing them for residential buildings and open space, rebuilding streets, and building

infrastructure and other requirements. Other factors, including market dynamics, economic factors, and market absorption rates, will affect and potentially slow the build-out of housing units. As a result, the generation of students is expected to be gradual and spread out over the time span of the Master Plan.

- Limits of State law—State law imposes significant limitations on the imposition of fees for school facilities. In short, when reviewing projects, the City is prohibited from requiring school fees which exceed those already authorized by statute. In particular, State law provides as follows:

“A State or local agency may not deny or refuse to approve a legislative or adjudicative act, or both, involving, but not limited to, the planning, use, or development of real property . . . on the basis of a person’s refusal to provide school facilities mitigation that exceeds the amounts authorized pursuant to this section or pursuant to Section 65995.5 or 65995.7, as applicable. (Government Code Section 65995(i)) **In addition, payment of fees “shall be the exclusive method of considering and mitigating impacts on school facilities,” and “are...deemed to provide full and complete school facilities mitigation.”** (Government Code Sections 65996 (a) and (b))”

Avenues for City/District Collaboration on School Capacity

We understand that these technical and statutory considerations cannot speak to the District’s interests to plan for school capacity to meet the needs of the Mountain View community. We further understand that Mountain View is a great place to live, in large part due to its excellent schools. As required by State law, the City is planning for more housing and more affordable housing. This will allow Mountain View residents to remain in the community and continue to attend District schools. It will allow teachers and other critical workers to live closer to work. And it will allow Mountain View to remain a Community for All where residents and students from diverse backgrounds can enjoy Mountain View’s excellent schools and quality of life. However, it will also create a need for an increase in school capacity. **The City is prepared to assist the District in its efforts to expand school capacity, primarily through the Council-adopted School Strategy, exploration of potential sites for a high school, and increased Shoreline Community Fund payments made possible as part of an updated Shoreline Area Plan.** Each of these avenues for City support to the District is discussed below.

School Strategy

As mentioned above, one avenue for City/District collaboration to address school capacity is the School Strategy adopted by the City Council in October 2020. This strategy is in recognition of the limit faced by both the City and the District to impose requirements on project applicants and

our shared goal to enhance school resources. This strategy seeks to enhance school resources through: (i) a program for Transfer of Development Rights (TDR) to facilitate school purchase of land; (ii) potential collaboration for shared open space; and (iii) working with applicants for large master plans to voluntarily identify the potential to locate or augment school sites.

Identification of Potential Sites for a High School

Our staffs have met recently to discuss how we might work together to identify possible locations for future high school development and the use of TDR per the school strategy as a potential source to help fund the purchase. **One idea discussed is exploration of a smaller high school at NASA Ames in the context of the University of California Berkeley campus being planned for the site and NASA Ames' interest to create an educational hub. In addition, the Shenandoah Square site owned by the Army may again be an area for exploration.** While the option to pursue shared use of this site had been placed on pause at the Federal level, the City received a letter from the Department of the Army in mid-February asking to reengage on plans for the Shenandoah Square site. While we expect the Army continues to have an interest to meet the housing needs of soldiers on the site, they are also expressing an interest to explore benefits to the residents of Mountain View. We have a meeting scheduled for later this month to learn more about the Army's plans for the site and will keep you apprised of what we learn.

Use of Shoreline Regional Park Community Funds

The Education Enhancement Reserve Joint Powers Agreement (EER JPA) is another avenue for collaboration and source of support for the District. Focused on the educational needs of the Shoreline Regional Park Community (Shoreline Community), the EER JPA has been in place for more than 15 years and provides MVLAUHSD and the Mountain View Whisman School District (MVWSD) with an annual payment from the Shoreline Community. In Fiscal Year 2022-23, this payment to MVLAUHSD was \$3,423,095, which is well above the guaranteed minimum payment of \$1.8 million stipulated in the agreement. Since the first agreement was enacted in 2006, the Shoreline Community has made payments to MVLAUHSD totaling \$32,551,064.

The EER JPA was amended in 2019 to include an increase in the payment from the Shoreline Community, applying the District's full tax rate allocation to the assessed value on all new residential development. Consequently, when new housing comes online in the North Bayshore Area over time, the payment to the District will increase significantly.

The current EER JPA expires on June 30, 2023. City and District staff have been meeting since August 2019, as required by the agreement, to share information, talk about interests, and negotiate a successor agreement. From these discussions, it has become clear that more time is needed to craft a long-term agreement that balances school needs related to housing growth in North Bayshore with the community needs fulfilled by the Shoreline Community. More time is

also needed to be able to inform these discussions by the Google North Bayshore Master Plan, which is anticipated to come to the City Council for adoption in Q2 2023.

Short-Term Successor EER JPA

At the November 29, 2022 EER JPA Board meeting, the Board provided direction to staff to develop a short-term agreement for adoption as soon as possible to provide certainty for a payment in Fiscal Year 2023-24. **I committed that my staff would continue to work diligently to develop a timely new agreement and that this would include a Fiscal Year 2023-24 payment in an amount no less than the Fiscal Year 2022-23 payment (i.e., \$3,423,095) for MVLAUHS.**

Since that time, our staffs have held multiple calls and meetings to develop terms for the short-term agreement. **City staff has provided a draft agreement to both districts that includes the minimum payment as stated above, plus an adjustment payment based on the growth in property tax revenue in the Shoreline Community, plus an additional one-time payment.** After the EER JPA Board meeting, MVWSD staff communicated an interest in having some certainty that a new bond issuance by the Shoreline Community in Fiscal Year 2023-24, if any, would not preclude the ability of the Shoreline Community to make future payments to the District. In response, City staff included a term in the short-term agreement that the Shoreline Community will not issue bonds in Fiscal Year 2023-24.

I am hopeful that the EER JPA Board will be able to meet early in Q2 2023 to vote to recommend adoption of the agreement to each of the agencies' respective elected bodies.

Long-Term Successor EER JPA and Updated Shoreline Area Plan

At the November 29, 2022 EER JPA Board meeting, the Board also provided direction that our staffs continue to meet to negotiate a longer-term agreement and present an update to the Board before summer 2023 with a timeline and process for that negotiation. As context for a longer-term successor EER JPA agreement, the City intends to update the 1977 Shoreline Area Plan, which defines the developments and improvements that accomplish the purposes of the Act that created the Shoreline Community in 1969. This is proposed as one of the City Council's priority projects in its Fiscal Years 2023-25 Work Plan, which Council supported at its February 28, 2023 Study Session.

As presented during the November EER JPA Board meeting, schools were not contemplated in the development of the original Shoreline Area Plan, which is the guiding document for acceptable uses of Shoreline Community funds. As noted in that staff report, an updated Shoreline Area Plan can more effectively contemplate support for school capacity during the remainder of the *development phase* of the Shoreline Community. This development phase will focus on private housing development, affordable housing creation, and public improvements to

build out the core infrastructure to support the area, including, but not limited to, transportation, utilities, and sea level rise protection.

Following the development phase, the Shoreline Area Plan will transition to a *steady state phase of infrastructure reinforcement, maintenance, and operation*. During this phase, the Shoreline Community will continue to be responsible for regional assets—such as a 750-acre park, extensive wetlands that are home to Federally protected species, and irrigated meadowlands—as well as regional obligations, such as a 650-acre closed landfill and a system of tidal marshes, sloughs, creeks, and a storm retention basin which must be improved and managed to protect the Shoreline Community and broader area from sea level rise.

In the steady state phase, the use of Shoreline Community funds will be more narrowly scoped to continue to support this defined set of regional benefits and obligations with the rest of the revenue paid out to the taxing entities. This approach will address specific concerns about the impacts of new development and support increased school capacity while also supporting long-term growth in the region that will result in higher assessed value, increased property tax revenue, and a significant, sustainable revenue stream for all taxing entities.

In closing, I am pleased to document in writing the City's intentions to assist the District by helping to identify a school site and continuing and increasing payments from the Shoreline Community through a long-term successor EER JPA. I am hopeful that we can continue to work together on school capacity and our many other areas of collaboration.

Regards,



Kimbra McCarthy
City Manager

KMC/HM/6/MGR/611-03-09-23L

cc: Mountain View Los Altos Union High School District Board of Trustees

Mike Mathiesen, Chief Business Officer, Mountain View Whisman School District

City Council

ACM—Ramberg, ACM/CDD