

Responses to Council Questions and Comments

10/7/2024

Item #7: Conduct a Public Hearing, Receive Public Testimony, Provide Comments on the Draft Environmental Impact Report, Consider Planning Commission Recommendation, and Adopt a Resolution Directing Staff to Prepare a Final Environmental Impact Report for the Downtown Housing and Economic Opportunity Overlay and EKN Appellation Hotel Project

- **Question:** In a November 6, 2023 email to the City Council, staff stated that "the City will pay a portion of the approximately \$41,000 of costs related to the Overlay review." How much money has the City expended to date relating to the Overlay review, and please split that between (a) City / M Group staff time and (b) payments to vendors / consultants.

- **Response:** The City has expended \$45,499.36 of planning staff time with an additional \$95,822.17 paid to the city's EIR consultant, FCS (First Carbon Solutions). As the staff report notes, staff expects the total city share of the EIR costs paid to FCS not to exceed \$161,140.

- **Question:** I don't see any discussion of the secondary effects of scarce parking due to the Overlay on traffic and air quality, as required by Save Our Access - San Gabriel Mountains v. Watershed Conservation Authority, 68 Cal.App.5th 8 (2021). Please explain.

- **Response:** The bottom of page 4-29 to 4-30 analyzes the secondary effects of parking including traffic and air quality. Please note that since the adoption of VMT and CEQA Guidelines Section 15064.3, "a project's effect on automobile delay shall not constitute a significant environmental impact." Also, when the potential impacts on air quality is based on meritless claims about traffic impacts, "claims that the project could also, by extension have significant impacts on air quality and GHG emissions" have no merit. (See, *Upland Community First v. City of Upland* 2024 WL 4182599.)

This section of the DEIR explains that:

- Reduced parking promotes public transit and other environmental friendly modes of transportation like walking and biking, which may decrease the amount of vehicles on the road and the secondary effects like traffic and air quality.
- That all sites within the Overlay are already developable and while the proposed ordinance allows these parcels to increase their height, FAR, and lot coverage, the proposed ordinance does not increase density. Therefore, any increase in the number of vehicles due to the ordinance will be negligible.
- As the Overlay is within ½ mile of transit and urban infill, any increase of VMT will be less than compared to development in other parts of the city.
- As the VMT was found to be less than significant, so too will the secondary impacts on air quality and GHG.

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- **Question:** Even though Save Our Access characterizes scarce parking as a social impact rather than an environmental impact, is there anything that prevents a lead agency from analyzing parking scarcity if it chooses to do so?
 - **Response:** Part of the DEIR/FEIR process is responding to comments which describe environmental impacts of the project, which includes parking. As stated in the previous question the DEIR does analyze these secondary effects. Note that pursuant to Public Resources Code Section 21099(d)(1), “aesthetic and parking impacts of residential, mixed-use residential, or employment center projects on an infill site within a transit priority area shall not be considered significant impacts on the environment.”
- **Question:** AB 2097 prohibits Petaluma from enforcing off-street parking minimums within a half-mile of the downtown SMART station, including all three Overlay subareas. Is that why the DEIR does not analyze parking?
 - **Response:** The DEIR does analyze parking. Please see Exhibit G to the DEIR “Traffic Impact Study for the Petaluma Appellation Hotel Project” which concluded that “The proposed parking supply would be adequate to meet City requirements.” However, AB 2097 does prohibit the City from imposing a minimum parking requirement on residential, commercial, or other development project as the Overlay is within one half mile of the downtown SMART station, which is a major transit stop. Furthermore, the CEQA Appendix G checklist was modified more than a decade ago in 2009 to remove parking availability from consideration following the *San Franciscans Upholding the Downtown Plan v. City & Count of San Francisco (2002)* Court decision which found that impacts on parking are not in and of themselves environmental impact under CEQA and that the “social and inconvenience of having to hunt for scarce parking spaces is not an environmental impact.” Subsequent Court cases have since reaffirmed that parking availability is still not a CEQA impact (e.g. *Taxpayers for Accountable School Bond Spending v. San Diego Unified School Dist. (2012)*, and *Save Our Access–San Gabriel Mountains v. Watershed Conservation Authority (2021)*)