



COMMUNITY DEVELOPMENT DEPARTMENT

Council Meeting Date: December 13, 2011

Staff Report #: 11-211

Agenda Item #: F-3

REGULAR BUSINESS: Approve a Proposal for Additional Services for the El Camino Real/Downtown Specific Plan and Appropriate \$225,980 from the General Fund Reserve for the Consultant Services

RECOMMENDATION

Staff recommends that the City Council:

- Approve a Proposal for Additional Services by Perkins+Will for the El Camino Real/Downtown Specific Plan (Attachment A);
- Appropriate \$225,980 from the General Fund Reserve (Attachment B); and
- Direct staff to study a potential Specific Plan Fee to defray some or all of the costs of preparing, adopting, and administering the El Camino Real/Downtown Specific Plan.

BACKGROUND

Menlo Park is developing a long-term plan for the El Camino Real and Downtown areas. The completed visioning process (Phase I: 2007-2008) has led into the preparation of a Specific Plan and associated Environmental Impact Report (EIR) and Fiscal Impact Analysis (FIA) (Phase II: 2009-2012). The culmination of the first phase of work was the City Council's unanimous acceptance of the Vision Plan, which serves as the foundation for the Specific Plan. The completed Specific Plan will be a comprehensive, action-oriented set of rules, containing elements such as plans for open space and other public improvements, detailed land use regulations, design guidelines, and implementation measures. The Specific Plan will set up the framework for public and private improvements, although the Specific Plan itself will not undertake or approve any individual project; such projects will need to go through their own approval processes in the future. Both the Vision and Specific Plan processes have benefited from extensive community outreach and participation.

The Specific Plan process is currently transitioning between Task 4 (*Draft Specific Plan, Fiscal Impact Analysis, and Draft EIR*) and Task 5 (*Final Specific Plan, EIR and Amendments*), having completed the *Project Initiation, Existing Conditions Analysis; Vision Refinement; and Development of Framework, Concept Plans, Programs and Guidelines* tasks. Key early milestones of Task 4 were the release of the Draft Specific Plan on April 7, 2010, and the release of the Draft EIR on April 29, 2011, both to strong community interest. The Draft EIR comment period ran through June 20, 2011, and comments were received both in written correspondence and verbal remarks at a June

6, 2011 Planning Commission public hearing. Draft EIR comments that address the adequacy of the EIR or the City's compliance with the California Environmental Quality Act (CEQA) will be responded to in the Final EIR and can potentially result in changes to the Draft EIR text/analysis (non-environmental comments will be noted). The response to comments in the Final EIR will be reviewed at future Planning Commission and City Council meetings.

Additional key milestones of Task 4 were the Planning Commission and City Council's detailed review of, and recommendations/direction on, the Draft Specific Plan itself. The Planning Commission and City Council were originally scheduled to hold one meeting each to provide direction on the Draft Specific Plan, but both bodies expressed an interest and willingness to hold additional meetings in order to more fully explore and address comments, questions, and potential concerns, both from the Commission/Council and the public. The aim of this detailed review was to provide clear and specific direction on improvements and refinements to the plan.

The Planning Commission held five meetings in July-August 2011, and the City Council followed with four meetings in August-October 2011. Concurrent with the Planning Commission and City Council's review, the Housing, Transportation, and Bicycle Commissions conducted sessions on the Draft Specific Plan. Each of these Commissions recommended moving forward with the El Camino Real/Downtown Specific Plan process, subject to specific recommendations that were considered by the Planning Commission and City Council. All of these meetings benefited from diverse public input.

The City Council concluded its review on October 4, 2011 with direction for substantive improvements to the Draft Specific Plan, including:

- Upgrading bicycle routes (shared auto-bike) to dedicated bicycle lanes wherever feasible;
- Reducing the maximum "façade height" (the height of buildings at their visible edge) in the Station Area and El Camino Real South-East zoning districts;
- Limiting the maximum overall height for buildings in the Station Area West zoning district;
- Requiring that potential downtown improvements (Santa Cruz Avenue sidewalk extensions and Chestnut paseo and market place) be implemented in a phased approach, with temporary installations used to evaluate whether they should be permanent, and ensuring that they do not negatively impact existing businesses or the Farmer's Market;
- Adding Parking Plaza 2 to the list of potential garage locations;
- Reducing the maximum height of possible future downtown parking garages; and
- Eliminating the potential use of downtown Parking Plazas 2, 4, and 5 for mixed-use buildings, helping preserve more surface parking.

Following the City Council's review, staff and Perkins+Will, the City's primary consultant for the Specific Plan, conducted a detailed review of the Council's direction, to determine what is necessary to fully achieve the required changes. As is discussed in more detail in the following section, staff and the consultant have determined that these

changes exceed what was reasonably anticipated in the original contract, and require City Council approval of additional services and associated costs. In addition, comments received on the Draft EIR exceeded the amount typically expected on this type of plan/project, and also require an adjustment in order to address.

ANALYSIS

Proposal for Additional Services

After the successful completion of the Vision Plan process, the City in August 2008 issued a Request for Proposal (RFP) for consultant services for the Specific Plan, and received four proposals in response. In December 2008, following a detailed public review of the proposals and firms, the City Council selected Perkins+Will to manage the Specific Plan process, including environmental review services to be conducted by a subconsultant, ESA. The City Council concurrently approved the contract which initially required a total appropriation of \$933,950 for consultant services and associated City costs, and the Council has made individual General Fund Reserve appropriations over the succeeding years for the work to be conducted in that particular fiscal year.

The consultant team has successfully completed Tasks 1 through 4, and the City has accordingly been billed for these services, and has made the payments. With a few approved exceptions (described in more detail in the Impact on City Resources section), all of the past work has been completed on budget per the original contract.

As discussed in the Proposal for Additional Services (Attachment A), the consultant typically expects that, once a Draft Plan has been prepared, agreement has been achieved on all major controlling elements of the plan, and no substantive change in content is anticipated as part of the preparation of the Final Plan. As typically scoped, the Final Plan task represents 10 to 15 percent of an overall project cost, and comments received are generally minor comments on, and revisions to, existing text and diagrams, and/or minor new comments for clarity, readability and consistency. The original contract's Task 5 reflects this expectation.

By contrast, the City Council's direction requires new analyses and studies on, and significant revisions to, topics including: street sections, building height and bulk restrictions, land use, development concepts, development intensity, and circulation improvements. These studies/revisions, while deemed necessary by the City Council to ensure that the Specific Plan reflects Menlo Park's diverse community preferences, do exceed what the consultant has encountered on equivalent plans/projects, as shown on Attachment A4, which could not have been anticipated at the point the original contract was proposed and approved. In addition, the earlier Draft EIR review period generated a number of comments regarding the required environmental review of the Draft Specific Plan, which likewise far exceed what the consultant has encountered on comparable plans/projects, as shown in detail on Attachment A5. Such comments, in conjunction with elements of the City Council's direction on the Draft Specific Plan which have the potential to affect the environmental review, require an adjustment as well.

Attachment A provides full detail on the necessary additional services, which would be in addition to the existing contract's unexpended Task 5 services. Staff has worked with the consultant to ensure that all tasks are necessary and reflect the Council's direction, and has also consulted with the Council's Specific Plan Subcommittee (Cline/Keith) on this topic prior to presenting it for full Council consideration. The additional services total \$225,980, and are comprised of \$195,760 of studies/analyses on the Specific Plan itself and \$30,220 of services on the Final EIR. Staff and the consultant will be available at the December 13, 2011 meeting to answer questions about particular elements of the proposal, if needed.

Specific Plan Fee

The appropriation for the original contract came from the General Fund Reserve, as this type of planning can be considered equivalent to a discrete capital (non-operating/recurring) expense. The Proposal for Additional Services would likewise come from the General Fund Reserve. However, as noted in previous staff reports, costs for the Specific Plan preparation (including the EIR) may be applied directly to future development in the project area through fees, although this requires analysis to allocate the costs appropriately, as required by State General Code Section 65456, which reads in part:

The fees shall be established so that, in the aggregate, they defray but as estimated do not exceed, the cost of preparation, adoption, and administration of the specific plan... As nearly as can be estimated, the fee charged shall be a prorated amount in accordance with the applicant's relative benefit derived from the specific plan. It is the intent of the Legislature in providing for such fees to charge persons who benefit from specific plans for the costs of developing those specific plans which result in savings to them by reducing the cost of documenting environmental consequences and advocating changed land uses which may be authorized pursuant to the specific plan.

Staff recommends that the City Council direct staff (including the Contract City Attorney) to study the potential imposition of a Specific Plan Fee in conjunction with the final project approvals. The Council should note generally that this topic, as it potentially affects costs associated with development, relates to the Proposal for Additional Services Task G (Development Intensity/Base and Max FAR Study and Revisions). Unless directed otherwise, staff would proceed under the assumption that a Specific Plan Fee should not significantly adversely affect development feasibility or other key project goals. As a result, it may ultimately be the case that a Specific Plan Fee only offsets a portion of the City's costs.

Next Steps

Assuming the City Council approves the Proposal for Additional Services and appropriates the associated funds, staff and the consultant would immediately commence the required work. Due to the extent of the necessary analyses, studies, and revisions, it would require approximately three months of internal work prior to the Spring 2012 release of the Final Specific Plan and EIR. Table 1 (Attachment

A19) provides a more detailed calendar, which has been expedited to the maximum extent feasible. Following the public release of the Final Specific Plan and EIR, the Planning Commission and City Council are anticipated to respectively review/recommend and review/act on the Specific Plan and EIR, as well as conduct any associated actions required for implementation. There is the potential for very minor tweaks to the Final Specific Plan (such as correcting typographical/formatting errors) prior to final action. However, as currently scoped, there would be no additional analyses, studies, substantive revisions, or meetings without separate approval of another set of additional services.

IMPACT ON CITY RESOURCES

The Specific Plan has required staff resources dedicated to the project, as well as initial appropriations of \$830,550 from the General Fund Reserve for consultant services, \$78,400 for transportation and traffic analysis contingency, and \$25,000 for related City costs. As the project has proceeded, the City has approved supplements as follows:

- Additional Facilitators at Community Workshop #2 (June 2009) - \$2,280
- Consultant Preparation/Attendance at Additional Planning Commission and City Council Meetings (October 2009) - \$10,000
- Water Supply Assessment (WSA) - \$27,010
- Special Districts FIA (Summer 2011) - \$16,170
- General Fund FIA Peer Review (Summer 2011) - \$1,000

The General Fund Reserve appropriations total \$960,960. The remaining costs (\$29,450) have been made up of reallocated operating funds from the Community Development Department and City Manager's Office.

In addition, due to a conflict of interest with the City Attorney (who leases property within the Plan area), the City has contracted with a Contract City Attorney to provide legal services for the project. The Contract City Attorney's review of the Draft EIR was conducted through a contract under the City Manager's discretion. Staff expects the Contract City Attorney's involvement through the completion of the project can continue to be covered under the existing contract. However, if additional funds are needed, staff will present that for City Council consideration with the mid-year budget report.

The City Council prioritized planning work on the El Camino Real/Downtown areas during the project priorities process. Planning fee changes approved by the City Council on November 25, 2008 include overhead allocations for General Plan and Zoning Ordinance Amendments, which could be applied to this project. In addition, costs for the Specific Plan preparation could be applied directly to future development in the project area through fees, although this would require analysis to allocate the costs appropriately, as required by law and as discussed in the Specific Plan Fee section of this report.

The Vision Plan (Phase I) required both staff resources dedicated to the project as well as a General Fund Reserve appropriation of \$176,500 for consultant services and

\$50,000 related City costs (initial outreach, speaker series, printing and mailing of the project newsletters, meeting documents and refreshments, and contingencies).

POLICY ISSUES

The El Camino Real/Downtown Specific Plan will result in policy clarifications or changes related to land use and transportation issues.

ENVIRONMENTAL REVIEW

The Vision Plan (Phase I) was a planning study and as such was not a project requiring environmental review under the California Environmental Quality Act (CEQA). The Specific Plan (Phase II) includes the preparation of a program-level Environmental Impact Report (EIR). The comment period for the Draft EIR closed on June 20, 2011, and responses to the comments will represent the Final EIR, which will be reviewed publicly at future Planning Commission and City Council meetings.

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PUBLIC NOTICE

Public notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting. In addition, the City has prepared a project page for the proposal, which is available at the following address: <http://www.menlopark.org/specificplan>. This page provides up-to-date information about the project, allowing interested parties to stay informed of its progress. The page allows users to sign up for automatic email bulletins, notifying them when content is updated and meetings are scheduled. The project list currently has 970 subscribers.

ATTACHMENTS

- A. [Menlo Park El Camino Real/Downtown Specific Plan/EIR – Proposal for Additional Services, prepared by Perkins+Will and dated December 6, 2011](#)
- B. [Resolution of the City of Menlo Park Appropriating Funds for Additional Consultant Services for the El Camino Real/Downtown Specific Plan](#)