CITY OF MENLO PARK

November 7, 2025

Oisín Heneghan
N17 Development
1663 Mission Street, Suite 501
San Francisco, CA 94103
oisin@n17.dev

Electronic Mail Delivery Only

RE: 80 Willow Road (PLN2023-00049) – AB 2011 Determination

Dear Oisín Heneghan,

On May 24, 2024, your representatives submitted a formal development application to develop a mixed-use project located at 80 Willow Road (the "Project". The cover letter to the application invoked Government Code section 65912.100 *et seq*. ("AB 2011") and stated that the Project qualified for streamlined ministerial review. On June 22, 2024, the City issued a letter ("City's First Response") that explained that the Project did not meet certain criteria required to qualify for processing under AB 2011. Subsequently, the State Legislature adopted certain amendments to state housing laws, including through the enactment of AB 2243 (amending AB 2011) and AB 1893 (amending the Housing Accountability Act ("HAA")). On October 10, 2025, your representatives resubmitted a revised development application ("Revised Application") and a reply[1] ("Reply Letter") to the City's First Response. The Reply Letter states that the revised Project is eligible to be processed under AB 2011.

Pursuant to Government Code section 65912.124(a)(1)(C), this letter provides a timely determination that the Project is inconsistent with the objective planning standards specified in AB 2011.

As revised, the Project would develop four buildings ranging in height from approximately 301 feet to 458 feet tall. Project uses would include 665 residential units (of which 100 units, or 15 percent, would be below market rate housing), a 130-room hotel, approximately 301,000 square feet of office space, a preschool and playground, a swim and fitness club, approximately 37,000 square feet of commercial space, and an outdoor common area.

[1] Although the Reply Letter is dated August 29, 2025, the Reply Letter was not submitted to the City until October 10, 2025.

The City has evaluated the revised application materials and determined that the Project does not qualify for processing under AB 2011 for the reasons specified herein. Accordingly, the City will continue to review the formal development application pursuant to the requirements of the Permit Streamlining Act, the Housing Accountability Act, and its standard development review procedures consistent with SB 330.

SITE CRITERIA

1. Section 65912.121(a)[2] – Office, Retail and Parking are not Principally Permitted Uses on the Project Site

In order for a development project to be processed under Section 65912.124, subdivision (a) of Section 65912.121 requires that the project be on a site that is "located within a zone where office, retail, or parking are a principally permitted use." (Gov. Code § 65912.121(a).) "Principally permitted use" means a use that, as of January 1, 2023, or thereafter, may occupy more than one-third of the square footage of designated use on the site **and** does not require a conditional use permit. (Gov. Code § 65912.101(q) (emphasis added).) The Project site is zoned C-1. The City's Municipal Code states that "there are no permitted uses in the C-1 district" without a conditional use permit. (Menlo Park Municipal Code ("MPMC") Ch. 16.30.010.) Office and retail uses require a conditional use permit in the C-1 district. (MPMC Ch. 16.30.020.) Parking is neither a permitted nor conditionally permitted use in the C-1 district. (See MPMC Ch. 16.03.010, 16.03.020.) Therefore, the Project is not located on a site in a zone where office, retail or parking are principally permitted uses. As a threshold matter, the Project is thus ineligible for streamlined, ministerial processing pursuant to AB 2011.

2. Section 65912.123(a) – The Project is not a Housing Development Project

In order for a development project to be processed under Section 65912.124, subdivision (a) of Section 65912.123 requires a project to be a "multifamily housing development project." (Gov. Code § 65912.123(a).) For purposes of AB 2011, a housing development project has the same meaning as defined in Section 65589.5 (the Housing Accountability Act or "HAA"). (Gov. Code § 65912.101(g).) The HAA defines "housing development project" to include projects that consist of (1) residential units only, (2) mixed-use developments in which at least 2/3 of the square footage is designated for residential use, and (3) mixed-use developments of 500 or more units in which at least 1/2 of the square footage is designated for residential use and no portion of the project is designated for use as a hotel. (Gov. Code § 65589.5(h)(2).) The proposed Project is a mixed-use development, but less than 2/3 of the square footage is designated for residential use. Although the project proposes 500 units, it includes a hotel, and so it is not eligible under those provisions.

The Revised Application plans and accompanying documentation do not make clear which proposed improvements and their square footages are considered to meet the minimum 2/3 residential square footage threshold for a mixed-use "housing development project." Staff analyzed the Project square footage calculations, and as shown in the table below, less than 2/3 of the square footage of the Project is

[2] Unless otherwise specified, all statutory references are to the California Government Code.

designated for residential uses. Therefore, the Project as proposed is not a "housing development project" and is ineligible for streamlined, ministerial processing pursuant to AB 2011.

	Total Non-Residential GSF	Project %	Total Residential GSF	Project %
Proposed Project	639,114	38.82%	1,007,425	61.18%

3. Section 65912.121(e) – Less Than 75% of Site is Surrounded by Parcels Developed with Urban Uses

In order for a development project to be processed under Section 65912.124, subdivision (e) of Section 65912.121 requires that the development project be located on a site where "at least 75 percent of the perimeter of the site adjoins parcels that are developed with urban uses." (Gov. Code § 65912.121(e).) "Urban uses" means "any current or former residential, commercial, public institutional, public park that is surrounded by other urban uses, parking lot or structure, transit or transportation passenger facility, or retail use, or any combination of those uses." (Gov. Code 65912.101(t).) The Project does not satisfy Section 65912.121(e) because less than 75% of the perimeter of the site where the Project is proposed adjoins parcels developed with urban uses.

The Reply Letter takes the position that the Project "site" is limited to portions of existing parcels on which the Project will be developed. This interpretation cannot be correct, because such interpretation would render portions of AB 2011 meaningless. For example, were the position in the Reply Letter correct, then any project developed within a slight setback from the boundaries of a parcel (e.g., 1 foot on all sides) would automatically satisfy the 75% perimeter requirement as long as the parcel on which the project was located contained an "urban use." In other words, only the existing use on the parcel to be developed would be relevant, because the perimeter of the "project site" would be completely surrounded by the existing "parcel" on which the "project site" is located. This would be contrary to Section 65912.121(e)'s meaning, which is to allow AB 2011 projects on existing parcels that are primarily surrounded by urban uses on other parcels. Under the Reply Letter's interpretation, the infill requirement would thus be rendered meaningless. Because statutes must be interpreted to give every provision meaning, the Reply Letter's interpretation cannot be correct. Thus, the relevant question is whether at least 75% of the perimeter of the existing *parcel* is surrounded by "parcels" that are developed with "urban uses."

Less than 75% of the perimeter of the existing parcels where the Project is proposed are surrounded by "urban uses," because the open space area owned by the City of Palo Alto adjacent to the existing parcels is not an "urban use." Although urban uses can include parks, the open space adjacent to the existing parcels is a natural feature preserved for its environmental value, not a park. Therefore, it is not an urban use. The Reply Letter attempts to redefine the Project site so that more than 75% of the site would be surrounded by a "designated remainder" area within the existing legal parcels on which the Project is located. Even assuming arguendo that the Reply Letter were correct and the Project "site" excluded the proposed designated remainder portion of the property, less than 75% of the Project site would be surrounded by parcels developed with urban uses. First, the designated remainder portion of the Project parcel adjoining the Reply Letter's definition of Project site is not an existing adjoining "parcel." This is because the designated remainder area is not an existing legal parcel, nor can it be approved as a new legal parcel because the designated remainder area does not meet City minimum width and area

requirements applicable to parcel creation. Second, the "designated remainder" would not be an "urban use" because it is not any of the uses specified in Section 65912.101(t). Instead, it would be privately owned land containing wetlands and habitat for protected species. Since more than 25% of the perimeter of the Project site as defined in the Reply Letter would adjoin this privately owned wetland and habitat area, less than 75% of the perimeter would be developed with urban uses.

For these reasons, the Project is ineligible for streamlined, ministerial processing pursuant to AB 2011.

4. Section 65912.121(h) – The Project Would Require the Demolition of a Historic Structure

In order for a development project to be processed under Section 65912.124, subdivision (h) of Section 65912.121 requires that a project not require the demolition of a historic structure that was placed on a national, state or local historic register. On June 24, 2025, the Sunset Headquarters (including the Project site and existing structures) were determined eligible for the National Register of Historic Places, and were thus placed in the National Register. On July 11, 2025, the Sunset Headquarters were listed in the California Register of Historical Resources pursuant to Section 4851(a)(2) of the Public Resources Code. (See Attachment A). The Revised Application shows the demolition of the Sunset Headquarters and the Project is thus ineligible for streamlined, ministerial processing pursuant to AB 2011.

5. Section 65912.121(g) – The Project Does Not Meet All SB 35 Criteria

In order for a development project to be processed under Section 65912.124, subdivision (g) of Section 65912.121 requires that a project site "[satisfy] the requirements specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4," which are the environmental criteria necessary to qualify for the streamlined, ministerial review process created by SB 35. The Project site does not satisfy Section 65912.121(g) because the Revised Application does not include substantial evidence demonstrating that the Project site is not on wetlands or habitat for protected species. Rather, the Project is indeed located on a site that is both wetlands and habitat for protected species.

a. Wetlands

Development on "a site that is" [. . .] "Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993)" is ineligible for streamlined, ministerial processing pursuant to AB 2011. (Gov. Code §§ 65912.121(g), 65913.4(a)(6)(C).) The Reply Letter recognizes that the existing parcels on which the Project is proposed contain wetlands.

To avoid AB 2011's prohibition on streamlining development on sites that include wetlands, the Reply Letter interprets AB 2011 to distinguish between "parcel" and "project site." Using this interpretation, the Reply Letter concludes that because developed portions (e.g., buildings, landscaping) of the Project would not be located on wetlands, the "project site" is not wetlands, despite the existing parcel containing wetlands. As explained in Section 3 above, this interpretation of AB 2011 is incorrect and would render other provisions of AB 2011 meaningless and surplusage.

Additionally, even assuming, arguendo, that the Reply Letter's interpretation were correct, the Revised Application does not provide substantial evidence that the portion of the existing parcel that will be developed does not contain wetlands. United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993) defines wetlands as:

> Wetlands are lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this classification, wetlands must have one or more of the following three attributes: (1) at least periodically, the land supports predominantly hydrophytes (plants specifically adapted to live in wetlands); (2) the substrate is predominantly undrained hydric (wetland) soil; and (3) the substrate is nonsoil and is saturated with water or covered by shallow water at some time during the growing season of each year.

The WRA Report (dated May 6, 2025) does not include substantial evidence establishing that no portion of the area that will be developed possesses any of the three Wetlands attributes listed above. The Report merely contains a single conclusory statement that BKF surveyed the top of bank line and the riparian dripline and concluded that the project does not contain wetlands. The Report fails to explain how the top of bank line and riparian dripline surveys establish that the area to be developed does not support hydrophytes, or that the soils are not predominantly hydric soils, or that the substrate of the Project site is nonsoil and is not saturated with water or covered by shallow water at *any time* during the growing season in Menlo Park. Without substantial evidence to support this conclusion, the Project cannot be eligible for AB 2011 under any interpretation of Sections 65912.121(g) and 65913.4(a)(6)(C).

b. Habitat for Protected Species

Development on a "site that is" [. . .] "[h]abitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code)" cannot be processed under Section 65912.124. (Gov. Code §§ 65912.121(g), 65913.4(a)(6)(K).) The Reply Letter concludes, using the same interpretation of "project site" as described above, that the Project site does not contain habitat for protected species. As explained above, this interpretation of State law would render other provisions of AB 2011 meaningless and surplusage, and therefore it cannot be correct.

More importantly, the WRA Report does not include substantial evidence establishing that no portion of the area that will be developed contains habitat for protected species. The Report merely contains a single conclusory statement that BKF surveyed the top of bank line and the riparian dripline and concluded that the project does not contain habitat for protected species. As the City has previously notified for you, previous environmental studies have identified both the existing parcel and portions of the area that will be developed as habitat for California red-legged frog and central California coast steelhead (Oncorhynchus

mykiss), both of which are protected under the federal Endangered Species Act.[3] In addition, both the existing parcel and portions of the area that will be developed are habitat for Western pond turtle, hoary bat, pallid bat, snowy egret, and saltmarsh common yellowthroat (state-listed as species of special concern) and California red-legged frog (state-listed as threatened) under the California Endangered Species Act.[4]

That the Project will be developed on a portion of the existing parcel that will not include any portions of the San Francisquito creek does not in and of itself mean the area that will be developed is not habitat for protected species. The WRA Report contains no information or substantial evidence establishing that the habitat area of California red-legged frog, central California coast steelhead (Oncorhynchus mykiss), Western pond turtle, hoary bat, pallid bat, snowy egret, saltmarsh common yellowthroat or California red-legged frog is limited only to the San Francisquito Creek itself.

Because there is no substantial evidence that area to be developed is not wetland and does not contain habitat for protected species, the Project is ineligible for streamlined, ministerial processing pursuant to AB 2011.

AFFORDABILITY STANDARDS

6. Section 65912.122(d) – The Project Does Not Meet AB 2011's Bedroom and Bathroom Count Ratio

In order for a development project to be processed under Section 65912.124, subdivision (d) of Section 65912.122 requires affordable units in the project to have the same bedroom and bathroom count ratio as the market rate units. The proposed Project includes market-rate 2-bedroom units with a mix of 1 and 2 bathrooms. In contrast, all (100%) of the low income 2-bedroom units have 1 bathroom. Similarly, the proposed Project includes market rate 3-bedroom units with a mix of 2 and 3 bathrooms but no low income 3-bedroom units contains 3 bathrooms. Because the Project does not provide affordable units in the same bedroom and bathroom count ratio as market rate units, the Project is ineligible for streamlined, ministerial processing pursuant to AB 2011.

7. Section 65912.122(d) – Equitable Distribution of Affordable Units

In order for a development project to be processed under Section 65912.124, subdivision (d) of Section 65912.122 requires affordable units in the project to equitably distributed throughout the project. In Building B3, more than half of the low income units are located below the tenth floor instead of being equitably distributed throughout the building. Because the Project does not distribute affordable units equitably throughout the Project, it is ineligible for streamlined, ministerial processing pursuant to AB 2011.

[3] See https://www.cityofpaloalto.org/files/assets/public/v/1/public-works/engineering-services/webpages/pe-12011-newell-road-san-francisquito-creek-bridge/draft-environmental-impact-report/caltrans_2017_nes.pdf
[4] *Ibid*.

DEVELOPMENT STANDARDS

8. Section 65912.123(b) – Density Calculation

In order for a development project to be processed under Section 65912.124, subdivision (b) of Section 65912.123 requires a project to comply with specified maximum density standards. The maximum permissible residential density for a project in a metropolitan jurisdiction such as Menlo Park is the greater of the residential density allowed on the parcel by the local government, or for sites of one acre in size or greater located on a commercial corridor of less than 100 feet in width, 40 units per acre. The Project site's C-1 (Administrative and Professional District, Restrictive) zoning currently allows a maximum density of 30 units per acre, so the greater 40 units per acre standard applies.[5] At 665 dwelling units proposed on the 6.68 acre site, the Project proposes a density of 99.6 du/acre, far in excess of the density allowed under AB 2011.

The Reply Letter notes that a recent amendment to the HAA enacted by AB 1893 provides that a "builder's remedy project shall be deemed to be in compliance with the residential density standards for the purposes of complying with subdivision (b) of Section 65912.123." (Gov. Code § 65589.5(f)(6)(F)(i).) AB 1893 also amended the HAA to define "builder's remedy project" in great detail (Gov. Code § 65589.5(h)(11)) and to require that "builder's remedy projects" meet certain requirements. (Gov. Code § 65589.5(f).) Thus, a builder's remedy project complies with the residential density standards of AB 2011 only if it meets AB 1893's definition of "builder's remedy project." A "builder's remedy project" must meet the definition of "housing development project." (Gov. Code § 65589.5(h)(11)(A).) As explained in paragraph 2 above, the proposed Project is not a "housing development project." Thus, the Project does not satisfy the definition of "builder's remedy project" and it must comply with the density standards specified in Section 65912.123(b) in order to qualify for processing under Section 65912.124. Because the Project's density is 99.6 du/acre, it exceeds the maximum density specified in Gov. Code section 65912.123(b) and it is ineligible for streamlined, ministerial processing pursuant to AB 2011.

9. Section 65912.123(c) – Height Limit

In order for a development project to be processed under Section 65912.124, subdivision (c) of Section 65912.123 requires a project to comply with specified maximum height standards. (Gov. Code § 65912.123(c).) The height limit is the greater of the height allowed on the parcel by the local government or, on sites along a commercial corridor of less than 100 feet in width, 35 feet. The Project site's C-1 zoning allows a height of 40 feet for mixed nonresidential and residential structures. The Project proposes a maximum height of 458 feet, far in excess of the height allowed under AB 2011.

The Reply Letter notes that amendments to AB 2011 enacted by AB 2243 allow a project to use incentives, concessions, and waivers pursuant to State Density Bonus Laws ("SDBL") to deviate from the height standards specified in Section 65912.123(c). (Gov. Code § 65912.124(f)(2).) The City acknowledges that if the Project qualifies for incentives, concessions, and/or waivers, the Project may be eligible to exceed 40 feet in height without the Project being inconsistent with AB 2011. However, the application does not yet

[5] Willow Road has a right-of-way width of 70 feet, and the Project Site is not within one-half mile of a major transit stop. Therefore, the provisions of Section 65912.123(b)(1)(D) and (E) are not applicable.

include a single, enumerated list identifying proposed incentives, concessions, or waivers, so the City is unable to make a determination about the SDBL applicability at this time.

10. Section 65912.123(d)(1)(B) – 25-foot Parking Setback

In order for a development project to be processed under Section 65912.124, subdivision (d)(1)(B) of Section 65912.123 requires all parking to be set back at least 25 feet from any property line that fronts a commercial corridor. (Gov. Code § 65912.123(d)(1)(B).) None of the application materials demonstrate that the Project complies with this standard. Willow Road and Middlefield Road are commercial corridors. Sheet C8.00 ("Fire Truck Access Plan") of the materials submitted on October 10, 2025 contains some measurements showing that Building B1 and Building B3 are within 25 feet of the property lines along Willow Road and Middlefield Road. Sheet A0.60 ("Area Calculation Diagrams – GFA") of the materials submitted on October 10, 2025 depicts parking spaces located at the edge of building B1 along both Willow Road and Middlefield Road and at the edge of Building 3 along Willow Road. Because parking is located within 25 feet of the property lines along Willow Road and Middlefield Road, the proposed Project does not qualify for processing under Section 65912.124. The City acknowledges that if the Project qualifies for incentives, concessions, and/or waivers, the Project may be eligible to exceed these parking setback standards. However, the application does not yet include a single, enumerated list identifying proposed incentives, concessions, or waivers, so the City is unable to make a determination about the SDBL applicability at this time.

11. Section 65912.123(d)(1)(C) – Frontage within 10 Feet of Street

In order for a development project to be processed under Section 65912.124, subdivision (d)(1)(C) of Section 65912.123 requires the ground floor of buildings to "abut within 10 feet of the street for at least 80 percent of the frontage." (Gov. Code § 65912.123(d)(1)(C).) "Street" includes sidewalks. (Gov. Code § 65912.101(s).) Thus, on the ground floor, at least 80% of the frontage of each building must be set back from the sidewalk by no more than 10 feet. None of the application materials demonstrate that the Project complies with this standard. Sheet C8.00 ("Fire Truck Access Plan") of the materials submitted on October 10, 2025 contains some measurements that suggest that most of the frontage of the ground floor of Buildings B1, B2, and B3 is not within 10 feet of the edge of the sidewalk. For example, Sheet C8.00 shows the frontage of Building B1 to be 17.5 feet away from an unidentified monument. Building B3 is set back even farther from Willow Road. The frontage of Building B2 appears to be set back from Middlefield Road by much more than 10 feet. Such setbacks are inconsistent with section 65912.123(d)(1)(C). Therefore, the Project is ineligible for streamlined, ministerial processing pursuant to AB 2011. The City acknowledges that if the Project qualifies for incentives, concessions, and/or waivers, the Project may be eligible to exceed these frontage setback standards. However, the application does not yet include a single, enumerated list identifying proposed incentives, concessions, or waivers, so the City is unable to make a determination about the SDBL applicability at this time.

For the reasons presented above, the Project is not eligible for streamlined, ministerial review pursuant to AB 2011. Although the City will not process the Revised Application pursuant to the provisions of AB 2011, the City will continue to process the Revised Application under the Permit Streamlining Act, the HAA,

CEQA, and applicable local processing requirements. Should you have any questions, please contact me at cchan@menlopark.gov.

Thank you,
Calvin Chan
Senior Planner

State of California • Natural Resources Agency
Gavin Newsom, *Governor*

DEPARTMENT OF PARKS AND RECREATION
OFFICE OF HISTORIC PRESERVATION
Armando Quintero, *Director*

Julianne Polanco, State Historic Preservation Officer
1725 23rd Street, Suite 100, Sacramento, CA 95816-7100
Telephone: (916) 445-7000 FAX: (916) 445-7053
calshpo.ohp@parks.ca.gov www.ohp.parks.ca.gov

July 11, 2025

Mayor Drew Combs
City of Menlo Park
701 Laurel St.
Menlo Park, CA 94025

RE: **Sunset Headquarters** Determined Eligible for the National Register of Historic Places

Dear Mayor Combs:

I write to notify you that on June 24, 2025, the above-named property was determined eligible for the National Register of Historic Places (National Register). As a result of being placed in the National Register, this property has also been listed in the California Register of Historical Resources, pursuant to Section 4851(a)(2) of the Public Resources Code.

Eligibility for the National Register affords a property the honor of inclusion in the nation's official list of cultural resources worthy of preservation and provides a degree of protection from adverse effects resulting from federally funded or licensed projects. Registration provides several incentives for preservation of historic properties, including special building codes to facilitate the restoration of historic structures, and certain tax advantages.

There are no restrictions placed upon a private property owner regarding normal use, maintenance, or sale of a property eligible for the National Register. However, a project that may cause substantial adverse changes in the significance of a registered property may require compliance with local ordinances or the California Environmental Quality Act. In addition, registered properties damaged due to a natural disaster may be subject to the provisions of Section 5028 of the Public Resources Code regarding demolition or significant alterations if imminent threat to life safety does not exist.

If you have any questions or require further information, please contact the Registration Unit at (916) 445-7000.

Sincerely,

Julianne Polanco
State Historic Preservation Office

Enclosure: National Register Notification of Listing

WEEKLY LIST OF ACTIONS TAKEN ON PROPERTIES:
6/23/2025 THROUGH 6/27/2025

The National Register's sample nominations page has been updated to provide many more examples of successful nominations on a variety of topics, https://www.nps.gov/subjects/nationalregister/sample-nominations.htm

KEY: State, County, Property Name, Address/Boundary, City, Vicinity, Reference Number, NHL, Action, Date, Multiple Name

CALIFORNIA, LOS ANGELES COUNTY,
Frankel, Morris S. and Nadine E., House,
2146 Westridge Road,
Los Angeles, SG100011973,
LISTED, 6/24/2025

CALIFORNIA, NEVADA COUNTY,
North Star House (Additional Documentation),
12075 Old Auburn Rd,
Grass Valley vicinity, AD10001191,
ADDITIONAL DOCUMENTATION APPROVED, 6/25/2025

CALIFORNIA, SAN MATEO COUNTY,
Sunset Headquarters,
80 Willow Road,
Menlo Park, SG100011963,
OWNER OBJECTION DETERMINED ELIGIBLE, 6/24/2025

Key to Prefix Codes:

AD - Additional documentation
BC - Boundary change (increase, decrease, or both)
FD - Federal DOE property under the Federal DOE project
FP - Federal DOE Project
MC - Multiple cover sheet
MP - Multiple nomination (a nomination under a multiple cover sheet)
MPS - Multiple Property Submission
MV - Move request
NL - NHL
OT - All other requests (appeal, removal, delisting, direct submission)
RS - Resubmission
SG - Single nomination