

Closed session report out – September 29, 2026

Report out by City Attorney Nira Doherty

The City Council has authorized me to provide this report out of closed session:

After extensive deliberation, the City Council has carefully considered the Attorney General's July 29, 2026, notice regarding the 80 Willow Rd project. The Attorney General has concluded that the project is consistent with the requirements of AB 2011 (the Affordable Housing and High Roads Jobs Act of 2022) and, as currently proposed, satisfies the definition of a builder's remedy project. This would mean that the City would be required to approve the project as proposed without any environmental review. The Attorney General has further reached conclusions regarding the City's application processing fees, though without any factual basis to support them.

The City Council respectfully disagrees with the Attorney General's analysis. It believes the Attorney General's conclusions are incorrectly reasoned and contrary to law. Prior to and since receiving the Attorney General's notice, the City, with the assistance of legal counsel, has carefully and exhaustively analyzed all of the issues set forth in the Attorney General's letter. The City has taken thorough, good faith positions on each of the issues raised by the Attorney General; further, each of the City's positions is amply supported by applicable law. For that reason, the Council simply does not agree that State law requires approval of the 80 Willow project under the terms set forth in the AG's letter.

The Council recognizes that the financial penalties the Attorney General and applicant have threatened could impose severe consequences on the City. The City Council considers the threat of those penalties as deeply unfair and extremely punitive. Even so, the Council maintains that the Attorney General's position is inconsistent with the Legislature's intent, and that the Attorney General is wielding the threat of those extraordinary penalties to coerce the City into action. The City, in the utmost good faith, believes the law does not require.

Report out by Mayor Betsy Nash

The City Council is united in its position that the Attorney General has incorrectly directed the City to approve the 80 Willow Rd project under the terms of AB 2011. The AG issued its opinion without having the benefit of the City's extensive knowledge of the property and the history of the development application, and without once inquiring with the City about the background of the application.

The Council strongly opposes approval of the project under the terms in the AG's letter. This massive commercial development would severely compound infrastructure challenges in Menlo Park, endanger emergency services response times, and exacerbate the existing jobs/housing imbalance. The project does not deliver the housing that Menlo Park needs, contrary to the very purpose of the builder's remedy law. In addition, questions have been raised of potential

illegality, corruption, and national security around the property owner – as outlined in Representative Liccardo's September 23, 2026, letter to U.S. Treasury Secretary Bessent. Finally, we need to be clear with residents that the City Council does not take this position lightly, but rather it does so because we feel Menlo Park is being ill-served by the State's inappropriate position on various laws. The City Council believes it is important to get this right even if there are financial consequences and service impacts for the city that may be triggered by our effort to vindicate our rights and protect the Menlo Park community.