

10 Camino Por Los Arboles
Atherton, CA 94027
October 1, 2023

Atherton City Council
80 Fair Oaks Lane
Atherton, CA 94027

Dear Council Members:

I am aware that a special study session has been scheduled for this Wednesday, October 4, to review Atherton's proposed Climate Action Plan ("Plan"). I have actually read all 113 pages and find some provisions of the Energy Section, in particular, to be beyond what Atherton residents would likely support and, in fact, to probably be illegal in some instances. I will explain later.

I doubt that there is a person in Atherton, myself included, that doesn't believe in climate change nor the need to alter our energy use. The Plan, however, is heavily dependent on a PG&E infrastructure that would enable significantly greater electric consumption. Today, that does not exist. It is unlikely by 2030. PG&E can't even support summer air conditioning. Here is a PG&E "reality check": the electric transponder behind my Adam Way construction project was not capable of supporting two houses: ours and the one behind us. Just to get temporary power, my husband and I waited 5 months for a new transponder to be installed, and that transponder is not adequate to provide 600 amps of service to our new house and the adjacent one. It will only support one house: the neighbor's. We are now waiting another year for a second transponder to be installed for our project. That is merely the infrastructure required for two new homes. What will be required for 2,200 Atherton houses to meet your 2030 and 2045 goals?

It is ludicrous to think that Atherton can adopt widespread electric conversion without significant PG&E upgrades --- even for remodels. Atherton homes that used to take 200 amps of power now need up to 600 amps for larger-sized replacement houses and modern use. A small electrical upgrade from 100 to 200 amps costs the homeowner \$30,000 or more in electrician charges. Upgrades to 600 amps are exponentially higher. I have a current upgrade underway in Redwood City. It's costing me \$27,000 to upgrade electric service in a 1,500 SF home, and I'm only upgrading from 100 to 200 amps. This does not include permit costs. As you are contemplating Plan goals, are you giving any thought as to what is actually required, how the goal will be implemented and the cost to residents?

Tom Friedman hypothesizes that it will take 50+ years to improve the nation's infrastructure such that we can convert from fossil fuels to alternative energies such as all-electric homes and vehicles. One of the first commercially-available electric cars sits in The Tech Museum. It sold in 1899 to a Woodside resident. That was 124 years ago, and we are just now truly adopting electric cars. In consumer electronics, technology is usually available 30+ years before widespread adoption is feasible. The upgrades to the electric infrastructure that are needed to implement Bay Area climate action goals will not happen by 2030 nor 2045, nor do I think that Atherton residents have any intention of retrofitting their existing homes to the level that you are suggesting within this time period. While the Plan's overarching goals are worthy, they may not be realistic.

What I find most objectionable about the Plan is the total avoidance of the recent ninth circuit court ruling in *California Restaurant Association v. City of Berkeley*. You are well aware that the ruling was based on provisions of the federal government's Energy Policy and Conservation Act (EPCA) which, among other things, mandates that at least two energy sources be available to property owners: a primary and an optional source. Access to both sources must be available throughout an entire building. While the City Council may mandate all-electric homes in Atherton, that is not consistent with current federal law nor recent court rulings. In fact, the city had a responsibility after the Berkeley ruling to announce that Atherton's gas ban was rescinded.

There was no such public announcement, and there can be no conclusion other than city staff knowingly deciding not to advertise the Berkeley ruling in the hope that residents and builders would think the gas ban is still in effect. It is not. Further, it should be the prerogative of homeowners, not the City Council nor city staff, to decide if they want an all-electric home. Atherton residents have been very clear: they do not want to lose their electric stoves and fireplaces, in particular, yet the proposed Plan largely ignores this.

Let me be specific as to what concerns me most about the proposed Climate Action Plan:

1. In Sections E1 and E1.1, you are mandating that new construction be all-electric by 2030 (or earlier), at a time when EPCA is likely to still be the “law of the land”. This provision of the Plan is illegal until EPCA is amended or replaced. That is improbable in the next 8 years due to national defense concerns over a highly vulnerable electric grid and a lack of alternative energy infrastructure. You may certainly express that the all-electric home is a goal, with appropriate incentives. You can also explore electric-preferred codes, but you may not legally require all-electric construction while EPCA “rules”.
2. Also in Section E1.1, you recommend charging higher permit fees for gas vs. electric. I presume that this is the electric “incentive” that you reference in Section E1. If so, it is ill-conceived. Permit fees are based on level of effort and time spent in the permitting process. There is NO DIFFERENCE in the level of effort nor the time spent in issuing a gas-included permit versus all-electric. Today, they are bundled. This “goal” is merely a thinly veiled attempt to discourage gas use. Under California law, fees must be justified. How are you going to justify a higher gas fee when there’s absolutely no difference in the permitting process vis-à-vis electric? You can’t --- and state law requires justification of higher fees for comparable services.
3. The Plan aspires to 26% of Atherton homes being all-electric by 2030 and 78% by 2045. This is to be achieved through electric upgrades associated with major remodeling, gas appliance conversions and potential ordinances regarding home sales. Do you seriously intend to mandate that a homeowner must retrofit their home for all-electric use before they can sell it? What gives you the legal right to dictate such and how do you plan to “police” this? Even exploring a city ordinance that would mandate “all-electric” sales goes way too far and is likely illegal. The “sale provision”, if adopted, would mean that any new home being built now --- with gas-approved stoves and fireplaces --- would need to be retrofitted within 20 years to be all-electric. It would apply to our Adam Way project which has gas fireplaces in the main house, a gas stove and a gas barbeque. The house won’t even be completed until late 2024 --- with approved gas plans and permits --- yet it would need to be retrofitted within 20 years if it were sold. This is insane.

I need not remind you that any significant upgrade of electrical services at a given property will require PG&E’s involvement. You need several applications (not just one), design drawings, load calculations, service panel upgrades, hefty fee payments and a likely transformer replacement. This now takes as much as one year of work with a PG&E representative, as well as PG&E’s engineering department. I fear that you are recommending (or mandating) electric conversions in the Plan without any idea of what “real world” implementation looks like, how long it takes and what it costs. Are you going to tell a homeowner that they may need to go through a one-year utility upgrade before they can remodel or sell their home if they are not already all-electric? If these goals were implemented today, a one-year PG&E wait would be realistic.

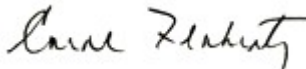
4. You are potentially requiring that HVAC systems, hot water heaters, stovetops and other gas appliances be replaced with electric ones at time of replacement, time of major home renovation, or contingent with a home sale. Unless California passes a law banning the sale of all gas appliances, I don’t know how you plan to implement this. You don’t need a permit to replace an appliance, so how do you know that a gas stove isn’t replaced with a gas stove? Frankly, it will be. Until California bans all gas appliances, Atherton has no legal right to do tell me that I have to replace my gas stove or my

gas fireplace with an electric one nor do I intend to do so. In fact, my gas stove and gas fireplace were the only things that kept us warm and provided a cooking means when we experienced a three-day electric outage this past winter.

While you want all gas appliances to be replaced with electric ones, what if there's no available 220v electrical outlet installed at the appliance location or if there's no available service panel capacity? Does the homeowner need to bust through the walls to add electrical wiring and add a dedicated circuit to their service panel or replace the panel if blank circuits don't exist? I have actually been quite surprised to discover how many electric service panels have no additional capacity as we have been remodeling homes in Southern California and Idaho the past 6 years. We have had to replace 100% of the service panels. A service panel upgrade is a major undertaking and requires public utility approval and inspection. It's also expensive and a lengthy utility company process (months). You may want to consider mandating appliance conversions if existing service panel capacity is capable of such, although I still don't know how you are going to "police" this.

While I have challenged certain provisions in E1 and E2, there are Plan recommendations that have merit: the public awareness and educational provisions, the proposed communication and coordination with PG&E, website links to information and resources, and the adoption of recommendations in city-owned facilities and vehicles. At the end of the day though, while federal law still prevails and electric capacity and infrastructure are lacking, it should be left up to the Atherton homeowner to choose to implement Atherton's Climate Action Plan recommendations or not. Even the State of California hasn't gone as far as this Plan reaches. It's one thing to have "reach" goals. It's quite another to have well-intentioned but impractical (or illegal) mandates. Atherton residents do not support all-electric mandates. The Energy sections of this Plan need further work.

Respectfully,

A handwritten signature in cursive script, appearing to read "Carol Flaherty".

Carol Flaherty

CC: George Rodericks