

Hemlock Mixed Use Project

File Nos. PDC18-009, PD18-037, and PT18-020

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Initial Study / Mitigated Negative Declaration

## **RESPONSES TO PUBLIC COMMENTS AND TEXT CHANGES**

February 8, 2019

*CEQA Lead Agency:*



**City of San José**  
**Department of Planning, Building and Code Enforcement**  
**200 East Santa Clara Street**  
**San José, California 95113 Phone: (408) 535-3555**

In Consultation with:

**David J. Powers & Associates**  
1871 The Alameda, Suite 200  
San José, California 95126 Phone: (408) 248-3500

# TABLE OF CONTENTS

SECTION 1	SUMMARY OF COMMENTS .....	3
SECTION 2	AGENCIES AND PERSONS COMMENTING ON.....	4
SECTION 3	RESPONSE TO COMMENTS .....	5
A.	RESPONSE TO COMMENTS FROM ALYAN GYETRAI.....	5
B.	RESPONSE TO COMMENT FROM LARRY AMES .....	5
C.	RESPONSE TO COMMENT FROM ED KETCHUM, AMAH MUTSUN TRIBAL BAND .....	5
D.	RESPONSE TO COMMENTS FROM VALENTIN LOPEZ, AMAH MUTSUN TRIBAL BAND.....	6
SECTION 4	TEXT CHANGES TO THE IS/MND .....	7
SECTION 5	PUBLIC COMMENTS ATTACHMENTS.....	9

## **SECTION 1**

## **SUMMARY OF COMMENTS**

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The Hemlock Mixed Use Project Initial Study/Mitigation Negative Declaration (IS/MND) was circulated for public review for a 30-day review period, from December 10, 2018 to January 9, 2019. During the circulation period, the City of San José received four comment letters as summarized in the Table in Section 2.

In summary, the comments received on the draft IS/MND did not raise any new issues about the project's environmental impacts, or provide information indicating the project would result in new environmental impacts or impacts substantially greater in severity than disclosed in the IS/MND. CEQA does not require formal responses to comments on an IS/MND, only that the lead agency consider the comments received [CEQA Guidelines §15074(b)].

Nevertheless, responses to the comments are included in this document to provide a complete environmental record.

The following pages contain a list of the agencies and persons that submitted comments on the IS/MND and the City's responses to comments received on the IS/MND. The specific comments have been excerpted from the letter and are presented as "Comment" with each response directly following ("Response"). Copies of the actual letters and email submitted to the City of San Jose are attached to this document.

**SECTION 2****AGENCIES AND PERSONS COMMENTING ON  
THE IS/MND**

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	<b>Comment Received From</b>	<b>Date of Letter</b>	<b>Response on Page</b>
<i>Individual and Organization Comments</i>			
<b>A.</b>	<b>Alyan Gyetrai</b>	December 10, 2018	5
<b>B.</b>	<b>Larry Ames</b>	December 10, 2018	5
<b>C.</b>	<b>Ed Ketchem, Amah Mutsun Tribal Band</b>	December 11, 2018	5-6
<b>D.</b>	<b>Valentin Lopez, Amah Mutsun Tribal Band</b>	December 12, 2018	6

## SECTION 3

## RESPONSE TO COMMENTS

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This memo responds to comments on the IS/MND as they relate to the potential environmental impacts of the project under CEQA. Numbered responses correspond to comments in each comment letter. Copies of the comment letters are attached.

### A. RESPONSE TO COMMENTS FROM ALYAN GYETRAI

**Comment A1:** Please make sure adequate parking is built into this plan as street parking is almost non-existent.

**Response A1:** The project is proposing a parking reduction and the project would provide 67 parking spaces, which would be located throughout the two underground parking levels of the proposed development. These parking spaces would be available to the proposed residents and tenants of the proposed building. Parking impacts are not considered to be an environmental issue and are not required to be analyzed under the California Environmental Quality Act (CEQA). As part of the parking reduction requirement, the project, however, includes a transportation demand management (TDM) program which is a combination of services, incentives, facilities, and actions that reduce parking demand. The project's TDM measures include an on-site TDM Administrator, bicycle programs (e.g., bicycle storage, on-site cargo bicycle share program, and biking financial incentives), unbundled parking (residential use only), transit subsidies, pre-tax commuter benefits, and free carpool or vanpools which would reduce the demand for parking by at least 50 percent. In addition, the project is within 625 feet of transit (bus stop) and 500 feet of restaurants and retail stores. The location of the proposed mixed use development and implementation of the TDM would reduce the project's demand for parking (including street parking).

### B. RESPONSE TO COMMENT FROM LARRY AMES

**Comment B1:** FYI, from the City. [This is just east of Santana Row.]

**Response B1:** The commenter stated that the proposed project is east of the Santana Row. The comment does not raise any issues about the adequacy of the IS/MND. No further response is required.

### C. RESPONSE TO COMMENT FROM ED KETCHUM, AMAH MUTSUN TRIBAL BAND

**Comment C1:** The subject project is located in the land once controlled by Tamien speakers. These people were taken primarily to Mission Santa Clara. By agreement these lands are now represented by the Muwekma Tribal Band. It is suggest you contact their representative Alan Leventhal.

**Response C1:** The commenter states that the Muwekma Tribal Band best represents the ancestors of the Tamien people in the project area and identifies the appropriate tribal representative. The Muwekma Tribal Band was notified of the project in December 2018 as part of the City's standard circulation process for the Notice of Intent to Adopt an IS/MND

and no responses were received from the tribe's representative. Furthermore, at the time of preparation of this IS/MND, no Native American tribes that are or have been traditionally culturally affiliated with the project vicinity have requested notification from the City of San José under AB 52 regarding projects in the area and their effects on a tribal cultural resource. Therefore, no further action by the City of San Jose is required.

**D. RESPONSE TO COMMENTS FROM VALENTIN LOPEZ, AMAH MUTSUN TRIBAL BAND**

**Comment D1:** Project is outside our traditional tribal territory, we have no comment.

**Response D1:** The commenter stated that the project site is outside of the Amah Mutsun Tribal Band and that the tribe has no comment. The comment does not raise any issues about the adequacy of the IS/MND. No further response is required. Furthermore, refer to Response C1.

## SECTION 4

## TEXT CHANGES TO THE IS/MND

This section contains revisions to the text of the Baywood Hotel Project Initial Study dated December 2018. Revised or new language is underlined. All deletions are show with a ~~line through the text~~.

Page Number	Description of Change
61	<ul style="list-style-type: none"><li>• If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:<ul style="list-style-type: none"><li>○ The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within <u>48 hours after being given access to the site</u>. <del>24 hours after being notified by the NAHC.</del></li></ul></li></ul>
85-86, MND	<b>MM HAZ-1.1:</b> After demolition but prior to the issuance of grading permits, shallow soil samples shall be taken <del>from</del> <u>in</u> the near surface soil and tested for organochlorine pesticides and pesticide-based metals arsenic and lead to determine if contaminants from previous agricultural operations occur at concentrations above established construction worker safety and residential environmental screening levels. The result of soil sampling and testing shall be provided to the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement and the Municipal Compliance Officer of the City of San José Environmental Services Department for review. -
86, MND	<b>MM HAZ-1.2:</b> If contaminated soils are found in concentrations above established regulatory environmental screening levels, the project applicant shall enter into the Santa Clara County Department of Environmental Health's (SCCDEH) Voluntary Cleanup Program (VCP), or equivalent, to formalize regulatory oversight of the mitigation of contaminated soil to ensure the site is safe for construction workers and the public after development. The project applicant must remove contaminated soil to levels acceptable to the SCCDEH (or equivalent oversight agency). The SCCDEH (or equivalent oversight agency) may also approve <u>leaving</u> in-place some of the contaminated soil if the contaminated soil will be buried under hardscape and/or several feet of clean soil.

115, MND	<p><b>MM NOI-1.1:</b> Prior to the issuance of any grading or demolition permits, the project applicant shall submit and implement a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting and notification of construction schedules, equipment to be used, and designation of a noise disturbance coordinator. The noise disturbance coordinator shall respond to neighborhood complaints and shall be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses. <u>The noise logistic plan shall be submitted to the Supervising Environmental Planner of the Department of Planning, Building, and Code Enforcement prior to the issuance of any grading or demolition permits.</u></p>
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## **SECTION 5 PUBLIC COMMENTS ATTACHMENTS**

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Please see copies of the original comments attached to this section.

## Le, Thai-Chau

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**From:** Gmail <zenekar@gmail.com>  
**Sent:** Monday, December 10, 2018 2:46 PM  
**To:** Le, Thai-Chau  
**Subject:** Re: Public Review Draft Mitigated Negative Declaration: Hemlock Mixed-Use Project (PDC18-009/PD18-037/PT18-020)

Please make sure adequate parking is built into this plan as street parking is almost non-existent.

Sent from my iPhone

On Dec 10, 2018, at 2:07 PM, Le, Thai-Chau <[Thai-Chau.Le@sanjoseca.gov](mailto:Thai-Chau.Le@sanjoseca.gov)> wrote:

**PUBLIC NOTICE**  
**INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION**  
**CITY OF SAN JOSE, CALIFORNIA**

**Project Name:** Hemlock Mixed-Use Project  
020

**File No.:** PDC18-009, PD18-037, PT18-

**Description:** Planned Development Rezoning from the CG Commercial General Zoning District to the CP(PD) Planned Development Zoning District to allow for the demolition of an existing residence and an approximately 4,500-square foot commercial building, removal of 10 trees, and construction of a mixed-use project with up to 48 residential units and approximately 18,495 square feet of office space on an approximately 0.47-gross acre site.

**Location:** 376 South Baywood Avenue, San Jose CA 95128 and 2881 Hemlock Avenue, San Jose, CA 95128

**Assessor's Parcel No.:** 277-34-023 and -051.

**Council District:** 6

**Applicant Contact Information:** Adam Askari, 554 Glen Alto Drive, Los Altos, CA 94022; (619) 234-2212

The City has performed an environmental review of the project. The environmental review examines the nature and extent of any adverse effects on the environment that could occur if the project is approved and implemented. Based on the review, the City has prepared a Draft Mitigated Negative Declaration (MND) for this project. An MND is a statement by the City that the project will not have a significant effect on the environment because the project will include mitigation measures that will reduce identified project impacts to a less than significant level. The project site is not present on any list pursuant to Section 65962.5 of the California Government Code.

The public is welcome to review and comment on the Draft MND. The public comment period for this Draft MND begins on **December 10, 2018 and ends on January 9, 2019.**

The Draft MND, Initial Study, and reference documents are available online at: [www.sanjoseca.gov/negativedeclarations](http://www.sanjoseca.gov/negativedeclarations). The documents are also available for review from 9:00 a.m. to 5:00 p.m. Monday through Friday at the City of San José Department of Planning, Building and Code

Enforcement, located at City Hall, 200 East Santa Clara Street; and at the Dr. Martin Luther King, Jr. Main Library, located at 150 E. San Fernando Street.

For additional information, please contact Thai-Chau Le at (408) 535-5658, or by e-mail at [Thai-Chau.Le@sanjoseca.gov](mailto:Thai-Chau.Le@sanjoseca.gov).

Best regards,  
Thai

Thai-Chau Le  
Planner | City of San Jose  
Environmental Planning  
Planning, Building & Code Enforcement  
[Thai-Chau.Le@sanjoseca.gov](mailto:Thai-Chau.Le@sanjoseca.gov)  
1.408.535.5658

## Le, Thai-Chau

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**From:** Lames <lames@aol.com>  
**Sent:** Monday, December 10, 2018 4:00 PM  
**To:** SJ-D6NL@yahoogroups.com  
**Cc:** Le, Thai-Chau  
**Subject:** Fwd: Public Review Draft Mitigated Negative Declaration: Hemlock Mixed-Use Project (PDC18-009/PD18-037/PT18-020)

FYI, from the city.

[this is just east of Sanata Row.]

~Larry

\*\*\*\*\*

-----Original Message-----

From: Le, Thai-Chau <Thai-Chau.Le@sanjoseca.gov>

Sent: Mon, Dec 10, 2018 1:47 pm

Subject: Public Review Draft Mitigated Negative Declaration: Hemlock Mixed-Use Project (PDC18-009/PD18-037/PT18-020)

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1.408.535.5658

## Le, Thai-Chau

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**From:** Le, Thai-Chau  
**Sent:** Tuesday, December 11, 2018 8:40 AM  
**To:** 'Aerieways'  
**Subject:** RE: Public Review Draft Mitigated Negative Declaration: Hemlock Mixed-Use Project (PDC18-009/PD18-037/PT18-020)

Thank you, Ed. I have also sent this notice to Alan.

Best regards,  
Thai

**From:** Aerieways [mailto:aerieways@aol.com]  
**Sent:** Monday, December 10, 2018 11:26 PM  
**To:** Le, Thai-Chau <Thai-Chau.Le@sanjoseca.gov>  
**Subject:** Re: Public Review Draft Mitigated Negative Declaration: Hemlock Mixed-Use Project (PDC18-009/PD18-037/PT18-020)

The subject project is within the area of lands once controlled by Tamien speakers. These people were taken primarily to Mission Santa Clara. By agreement these lands are now represented by Muwekma Tribal Band. I suggest you speak with their representative, Alan Leventhal.

Ed Ketchum  
Amah Mutsun Tribal Band  
Historian

-----Original Message-----

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[Thai-Chau.Le@sanjoseca.gov](mailto:Thai-Chau.Le@sanjoseca.gov)  
1.408.535.5658

## Le, Thai-Chau

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**From:** Val Lopez <vlopez@amahmutsun.org>  
**Sent:** Wednesday, December 12, 2018 2:28 PM  
**To:** Le, Thai-Chau  
**Subject:** Re: Public Review Draft Mitigated Negative Declaration: Hemlock Mixed-Use Project (PDC18-009/PD18-037/PT18-020)

Project is outside our traditional tribal territory, we have no comment.

Valentin Lopez, Chair  
Amah Mutsun Tribal Band  
916-743-5833

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