

## ERRATA

### Little Portugal Gateway Mixed-Use Project

<b>File No.</b>	PDC18-021 and PD18-016
<b>Location</b>	1661, 1663, and 1665 Alum Rock Avenue, San José
<b>Council District</b>	5

#### BACKGROUND

The Draft Initial Study/Mitigated Negative Declaration (IS/MND) for Little Portugal Gateway Mixed-Use Project (Project) was published for public review on July 28, 2020 and public circulation ended on August 17, 2020. Since the public review of the IS/MND, there are minor text changes that have been made to the IS/MND. The following errata to the IS/MND is made to correct and clarify the changes. In addition, the City received one public comment letter for the Initial Study on August 25, 2020. Response to the public comment is included as attachment to this Errata.

#### PURPOSE OF ERRATA

The California Environmental Quality Act (CEQA) Guidelines, Section 15073.5, requires that a lead agency recirculate a negative declaration “when the document must be substantially revised.” A “substantial revision” includes: (1) identification of a new, avoidable significant effect requiring mitigation measures or project revisions, and/or (2) determination that proposed mitigation measures or project revisions will not reduce potential effects to less than significance and new measures and revisions must be required.

State CEQA Guidelines specify situations in which recirculation of a negative declaration is not required. This includes, but is not limited to, situations in which “new information is added to the negative declaration which merely clarifies, amplifies, or makes insignificant modifications to the negative declaration.” As noted below, revisions to the proposed project would not change the extent of the project analyzed in the Initial Study/Mitigated Negative Declaration (IS/MND). Changes to the negative declaration would therefore merely clarify the project being analyzed, and modifications would be insignificant. Recirculation of the negative declaration is therefore not required in accordance with Section 15073.5(c).

#### TEXT REVISIONS

This section contains revisions to the text of the Little Portugal Gateway Mixed-Use Draft Initial Study/MND dated July 2020. Revised or new language is underlined. All deletions are shown with a ~~line through the text~~. The revisions to the Initial Study are based on changes made to the project after the MND was published. The changes to the text are minor and do not change the analysis and

findings in the document. Therefore, the Initial Study does not require re-circulation based on these revisions.

Page Number(s)	Description of Change
<p>Pg. 54, Third Paragraph</p>	<p><u>Trees Proposed for Preservation</u></p> <p>Given the red oak tree (approximately two inches in diameter) is in good condition, is not an invasive species, and is a small tree (less than 10 inches in diameter), the tree can be relocated on-site. Trees smaller than 10 inches in diameter have a high probability of surviving since removal of these trees do not require substantial root cutting. The proposed project would widen the sidewalk along the site’s frontage from 10 feet to 16 feet. The red oak street tree (Tree #23) would be relocated approximately five feet from its current location due to the improvements to the sidewalk on Alum Rock Avenue. The tree would be transplanted by a landscaping contractor.</p> <p>Since the coast live oak tree (#17), which is 18 inches in diameter, is in good condition, is a native tree, and is located along the eastern property line of the site and not within the building footprint, the tree is proposed to be preserved. The coast live oak tree could significantly be impacted during construction without mitigation to preserve the tree.</p> <p><b>Impact BIO-2:</b> Project construction activities could result in physical damage to the native coast live oak Tree #17 resulting in a significant impact. (Significant Impact)</p> <p><u>Mitigation Measures:</u> The project shall implement the following measures to reduce impacts to trees proposed for preservation. With the incorporation of these measures, the project would result in a less than significant impact.</p> <p><b>MM BIO-2.1:</b> The project applicant shall contract with a qualified arborist to monitor construction activities near the coast live oak Tree #17. The Critical Root Zone (CRZ) is six multiplied by the diameter (18 inches); therefore, the distance of construction activities shall be at least nine feet away from the trunk edge of the tree where possible. Construction activities within the CRZ shall adhere to the following construction techniques.</p> <ul style="list-style-type: none"> <li>• Prior to construction, exploratory trenching shall be completed to determine which roots would be encountered where the basement level and parking walkway are proposed. Exploratory trenching includes excavation by air knife and hand tools while leaving all roots exposed and as damage free as possible.</li> </ul>

Page Number(s)	Description of Change
	<ul style="list-style-type: none"> <li>• The proposed development’s basement levels shall be shored during construction to maintain the nine-foot foot clearance from the roots of the tree.</li> <li>• The walkway along the eastern border of the site, which is adjacent to the tree, shall be constructed on top of the existing grade and shall not require more than four to six inches of excavation.</li> <li>• The project applicant shall construct the retaining wall so that it is at least nine feet north of the coast live oak tree. Alternatively, within nine feet of the tree, a fence that has small post holes and no continuous footing can be constructed.</li> <li>• Grade changes shall not be more than four to six inches within nine feet of the coast live oak tree. Vegetation within nine feet of the tree shall be planted by hand while retaining encountered roots.</li> </ul> <p>If the coast live oak tree does not survive construction activities <u>or if its preservation is determined infeasible due to the proximity of on-site construction activities</u>, the project applicant shall be required to replace the tree pursuant to San José Municipal Code Chapter 13.32. The tree shall be replaced by five trees in accordance with the City’s tree replacement ratio requirements. The species of the tree to be planted shall be determined in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement.</p> <p>With the implementation of the above mitigation measures to protect the existing coast live oak tree (Tree #17) during construction, the project would not have a significant impact on trees proposed for preservation <u>or would mitigate its removal in accordance with the City’s Municipal Code.</u> (Less Than Significant Impact with Mitigation Incorporated)</p>
Pg. 192, Second Paragraph	<p><del>Based on the City’s development projections for the Alum Rock Planning Area, there are no current or future projects within the vicinity of the project site. There is one project (under construction) within the vicinity of the project site. This project is a mixed-use development with 71 affordable residential units and 12,175 square feet of commercial space (Quetzal Gardens Project) which will be located at 1695 Alum Rock Avenue, approximately 60 feet east of the project site. there are no current or future projects within the vicinity of the project site. The nearest projects to the site</del> Other nearby projects include two pending projects more than 0.3 miles east of the project site on Alum Rock Avenue. These projects include the Alum Rock Mixed-Use Project which proposes 94</p>


Page Number(s)	Description of Change
	affordable housing units and 39,000 square feet of retail space, located at 1936 Alum Rock Avenue (0.4 miles east of the site), and Sunset at Alum Rock Avenue Mixed Use project which proposes 738 multi-family units and 26,500 square feet of retail space to be located at 2101 Alum Rock Avenue (0.6 miles east of the site).
Pg. 193, Third Paragraph	<p>Table 4.21-1 shows <u>the combined community risk impacts from emissions resulting from project construction (a TAC source), stationary TAC sources, and roadway TAC sources both the project and cumulative community risk impacts at the construction MEI. Diesel emissions from construction of the Quetzal Gardens (a mixed-use affordable housing development) project located at 1695 Alum Rock Avenue, approximately 60 feet east of the site, is also a TAC source. Construction of the affordable housing development is anticipated to be complete by July 2021. The earliest that construction would begin for the Little Portugal Gateway project would be January 2021 and, therefore, construction of both projects would occur simultaneously for approximately five months. Both projects are required to implement Standard Permit Conditions which reduce fugitive dust emissions to a less than significant level by controlling dust and exhaust, limiting exposed soil surfaces, and reducing PM<sub>10</sub> and PM<sub>2.5</sub> exhaust emissions from construction equipment. Based on the conclusions of the of Quetzal Gardens Project Initial Study, with the implementation of these Standard Permit Conditions, construction of the affordable housing development would not expose nearby sensitive receptors to significant TAC emissions (or TACs that exceed BAAQMD thresholds).</u></p> <p><u>As a result shown in Table 4.21-1, the combined effects of project construction (with and without the implementation of mitigation measure MM AIR-1.1) and the above TAC sources on the off-site MEI would be less than significant. The combined annual cancer risk, PM<sub>2.5</sub> concentration, and hazard risk values would not exceed the cumulative threshold. Therefore, the project, combined with the other TAC sources in the area, would not result in a significant cumulative impact due to TAC emissions.</u></p>
Pg. 194, Third Paragraph	<p>The geographic area for archaeological resources, human remains, and tribal cultural resources is limited to the project site and adjacent parcels because it is assumed the surrounding projects would affect similar resources. <del>The current and future projects identified in this section are approximately 0.4 miles (Alum Rock Mixed Use Project at 1636 Alum Rock Avenue) and 0.6 miles (Sunset at Alum Rock Avenue Mixed Use Project at 2101 Alum Rock Avenue) from the site</del> <u>There are no current or future projects immediately adjacent to the project site. The mixed-use affordable housing project under construction is approximately 60 feet east of the site and would not have the potential to combine impacts to archaeological resources and human remains with the proposed project.</u></p>
Pg. 195, First Paragraph	<p>The geographic area for cumulative geological impacts would be locations within the immediate vicinity of the site since geological impacts are limited to the project site and nearby properties. <del>There are no other current or future</del></p>

Page Number(s)	Description of Change
	<p><del>projects within the vicinity of the project site. Both the proposed project and mixed-use affordable housing project (60 feet east of the site) are required to implement the City’s Standard Permit Conditions and California Building Code that minimize potential damage from seismic shaking and risk to life and property. Therefore, the project has no potential to combined impacts to geological resources or soils would be less than significant with other projects.</del></p>
<p>Pg. 197, Fourth Paragraph</p>	<p>The geographic area for cumulative land use impacts is the <u>City boundaries</u> <del>the project’s immediate vicinity. Since there are no current or probable future projects within the project site’s immediate vicinity, the project would not result in cumulative land use impacts.</del> <u>All current/probable San José projects and the proposed project are subject to conformance with applicable land use plans (including the General Plan) for the purposes of avoiding or mitigating environmental effects. For these reasons, current and future projects within the City, combined with the proposed project, would not result in significant cumulative land use impacts.</u></p>
<p>Pg. 197, Fifth Paragraph and Pg. 198, First Paragraph</p>	<p>The geographic area for cumulative hazardous materials impacts would be the immediate vicinity of the site. There <del>are no current or future projects</del> <u>is one project (a mixed-use affordable housing project) located 60 feet east of the site within the vicinity of the project site.</u> Based on soil sampling completed at the site in May 2018, contaminants were detected on-site. With the implementation of mitigation measures MM HAZ-2.1 through MM HAZ-2.3, contaminated soils would not impact off-site properties. With the implementation of standard permit conditions, demolition of the existing on-site building would not result in the exposure of lead and asbestos at adjacent properties. <del>Given the distance of the nearest probable/current project from the proposed project, Therefore, the proposed project would not have the potential to combine hazardous materials impacts with other projects in the area.</del></p>

The revisions to the Initial Study/MND do not change the analysis or findings of the Initial Study/MND. The proposed changes identified above would only remove mitigation required for an on-site coast live oak tree and would note that a nearby mixed-use affordable housing project is under construction in the cumulative discussion. These revisions would not result in any new significant environmental effects or a substantial increase in the severity of previously identified significant effects. The new information is not significant and recirculation is not required. In conformance with Section 15074 of the CEQA Guidelines, the MND, technical appendices and reports, together with the Errata and the information contained in this document are intended to serve as documents that will inform the decision-makers and the public of environmental effects of this project.

Rosalynn Hughey, Director  
 Planning, Building and Code Enforcement

Date: October 15, 2020

  
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Deputy

Attachment:

Public Responses to Comments and Text Changes for The Little Portugal Gateway Mixed-Use Project, July 2020.

Little Portugal Gateway Mixed-Use Project

File Numbers: PDC18-021 and PD18-016

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Initial Study/ Mitigated Negative Declaration

## **RESPONSES TO PUBLIC COMMENTS**

September 15, 2020

*CEQA Lead Agency:*



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

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## Appendices

Appendix A: Draft Initial Study/MND Comment Letters



**SECTION 1.0      RESPONSES TO COMMENTS ON THE DRAFT  
INITIAL STUDY/MND**

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The Draft Initial Study/Mitigated Negative Declaration (MND) for the Little Portugal Gateway Mixed-Use project, dated July 2020, was circulated to affected public agencies and interested parties for a 20-day review period from July 28, 2020 through August 17, 2020. While not required by the CEQA Guidelines, this document includes written responses to comments received by the City of San José on the Draft Initial Study/MND. The City received one public comment letter for the Draft Initial Study on August 25, 2020.

The specific comments are presented with a response directly following. Copies of the comment letter/email received by the City of San José is included in Appendix A of this document. This memorandum includes responses to comments on the Initial Study/MND as they relate to the environmental impacts of the project under CEQA. The comment letter received on the Draft Initial Study/MND is listed below.

<b><u>Comment Letter and Commenter</u></b>	<b><u>Page of Response</u></b>
A.      Matt Gustafson (dated August 25, 2020) .....	2

**A. Matt Gustafson (dated August 25, 2020)**

**Comment A.1:** Thank you for sharing this information. I had a couple follow-up items on this project:

1. I recall reading about this project being subject to the Ellis Act, since it is removing affordable housing. Do you have more information on this?
2. For the record, under the Initial Study/MND Section 4.21 (p. 192) "Mandatory Findings of Significance," report states "there are no current or future projects within the vicinity of the project site." Quetzal Gardens, located two doors down at 1695 Alum Rock Ave, has been under construction since January 2020. It's a 71-unit mixed-use affordable housing project set to open in July 2021.

**Response A.1:** The Ellis Act Ordinance applies when an owner or developer plans to demolish or remove apartments from the rental market. The proposed project would remove a seven-unit apartment building and, therefore, would be subject to the Ellis Act. In compliance with the Ellis Act, tenants will receive relocation assistance and a relocation specialist will work with the tenants to find a new residence. This comment is not related to the CEQA/Initial Study analysis and, therefore, no further response is required.

Comment A.1 noted that there is a future mixed-use affordable housing project located at 1695 Alum Rock Avenue which is currently under construction. Text revisions to Section 4.21, Mandatory Findings of the Initial Study were made to include this project as a part of the cumulative discussion (refer to the Initial Study/MND Errata for the text revisions). The revisions to the Initial Study do not result in new significant impacts or increase the severity of identified impacts.

**Appendix A: Draft Initial Study/MND Comment Letter**

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**From:** Matt Gustafson <[matthew.s.gustafson@gmail.com](mailto:matthew.s.gustafson@gmail.com)>

**Sent:** Tuesday, August 25, 2020 4:02 PM

**To:** Blanco, Maira <[Maira.Blanco@sanjoseca.gov](mailto:Maira.Blanco@sanjoseca.gov)>

**Cc:** [davide@vieiracorp.com](mailto:davide@vieiracorp.com); Piozet, Jennifer <[Jennifer.Piozet@sanjoseca.gov](mailto:Jennifer.Piozet@sanjoseca.gov)>;  
[Terry.Christensen@sjsu.edu](mailto:Terry.Christensen@sjsu.edu)

**Subject:** Re: Public Review of Draft Mitigated Negative Declaration: Little Portugal Gateway Mixed-Use Project, 1661-1665 Alum Rock Avenue (File Nos. PDC18-021 and PD18-016)

[External Email]

Hello Maira,

Thank you for sharing this information. I had a couple follow-up items on this project:

1. I recall reading about this project being subject to the Ellis Act, since it is removing affordable housing. Do you have more information on this?
2. For the record, under the [Initial Study/MND](#) Section 4.21 (p. 192) "Mandatory Findings of Significance," report states "there are no current or future projects within the vicinity of the project site." Quetzal Gardens, located two doors down at [1695 Alum Rock Ave](#), has been under construction since January 2020. It's a 71-unit mixed-use affordable housing project set to open in July 2021.

Thank you,  
Matt