

MITIGATED NEGATIVE DECLARATION

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

PROJECT NAME: Empire Lumber Mixed Use Project

PROJECT FILE NUMBER: PDC15-067 and ER20-102

PROJECT DESCRIPTION: The Planned Development Rezoning from CG Commercial General Zoning District and LI Light Industrial Zoning District to CG(PD) Commercial General Planned Development Zoning District to allow for the demolition all existing structures and associated parking and construct a new mixed-use building on-site on the 2.77-acre project site. The mixed-use building would be seven stories with a maximum height of 85 feet. The building would contain up to approximately 60,330 square feet of commercial space and up to 408 residential units, as well as indoor parking garage space. The proposed building would have one level of below-grade parking and two levels of above-grade parking. The commercial space and residences would wrap the parking levels on the first and second floors.

PROJECT LOCATION: The 2.77-acre project site is comprised of seven parcels located at 1260 East Santa Clara Street, between South 26th Street and South 28th Street, in the City of San José.

ASSESSORS PARCEL NO.: 467-33-001, -002, -003, -004, -006, -007, and -008.

COUNCIL DISTRICT: 3

APPLICANT CONTACT INFORMATION: Pacific States Industries Development (Attn: Joe Burch); P.O. Box, 1300 Morgan Hill, CA 95038; 408-271-2210; jburch@pacificstates.com.

FINDING

The Director of Planning, Building and Code Enforcement finds the project described above would not have a significant effect on the environment if certain mitigation measures are incorporated into the project. The attached Initial Study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this Mitigated Negative Declaration (MND), has made or agrees to make project revisions that will clearly mitigate the potentially significant effects to a less than significant level.

MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

- A. AESTHETICS** – The project would not have a significant impact on this resource, therefore no mitigation is required.

B. AGRICULTURE AND FORESTRY RESOURCES – The project would not have a significant impact on this resource, therefore no mitigation is required.

C. AIR QUALITY.

Impact AIR-1: Construction activities associated with the proposed project would expose children near the project site to temporary TAC emissions in excess of acceptable risk thresholds.

MM AIR-1.1: All diesel-powered off-road equipment larger than 50 horsepower and operating at the site for more than two days continuously shall meet U.S. EPA particulate matter emissions standards for Tier 2 engines or equivalent.

MM AIR-1.2: All diesel-powered portable equipment (i.e., air compressors, concrete saws, and generators) operating on the site for more than two days shall meet U.S. EPA particulate matter emissions standards for Tier 4 engines or equivalent.

MM AIR-1.3: All forklifts shall meet Tier 4 requirements or use alternative fuels such as propane.

MM AIR-1.4: Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs first), the project applicant shall submit to the Director of Planning or Director's designee a construction operations plan that includes specifications of the equipment to be used during construction prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest). The plan shall be accompanied by a letter signed by an air quality specialist, verifying that the equipment included in the plan meets the standards set forth in Mitigation Measure AIR-1.1 to 1.3.

D. BIOLOGICAL RESOURCES.

Impact BIO-1: Construction activities associated with the proposed project would remove 41 trees which could provide nesting and/or foraging habitat for migratory birds.

MM BIO-1.1: The project applicant shall schedule demolition and construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st (inclusive), as amended.

MM BIO-1.2: If it is not possible to schedule demolition and construction between September 1st and January 31st (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests shall be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 1st through April 30th inclusive) and no more than 30 days prior to the initiation of these activities during the last part of the breeding season (May 1st through August 31st inclusive). During this survey, the ornithologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests.

MM BIO-1.3: If an active nest is found sufficiently close to work areas to be disturbed by

construction, the ornithologist, in consultation with the California Department of Fish and Wildlife, shall determine the extent of a construction free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests shall not be disturbed during project construction. The no-disturbance buffer shall remain in place until the biologist determines the nest is no longer active or the nesting season ends. If construction ceases for two days or more then resumes again during the nesting season, an additional survey shall be necessary to avoid impacts to active bird nests that may be present.

MM BIO-1.4: Prior to any tree removal, or approval of any grading permits (whichever comes first), the project applicant shall submit the ornithologist's report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning, Building and Code Enforcement or the Director's designee, prior to issuance of any grading or building permits.

- E. CULTURAL RESOURCES**– The project would not have a significant impact on this resource, therefore no mitigation is required.
- F. ENERGY** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- G. GEOLOGY AND SOILS** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- H. GREENHOUSE GAS EMISSIONS** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- I. HAZARDS AND HAZARDOUS MATERIALS.**

Impact HAZ-1: Construction activities associated with the proposed project could expose construction workers and nearby land uses to hazardous materials.

MM HAZ-1.1: Prior to issuance of grading permits, shallow soil samples shall be taken on-site to determine the location of any contaminated soils with concentrations above worker safety thresholds established by the Regional Water Quality Control Board (RWQCB). Once the soil sampling analysis is complete, a report of the findings shall be provided to the Director of Planning, Building and Code Enforcement for review and approval.

MM HAZ-1.2: Any soils with residual chemicals exceeding the RWQCB Environmental Screening Levels (ESLs) for commercial uses or hazardous waste limits would be characterized, removed, and disposed of off-site at a licensed hazardous materials disposal site.

MM HAZ-1.3: All measures will be printed on all construction documents, contracts, and project plans prior to issuance of grading permits.

MM HAZ-1.4: If contaminated soils are found in concentrations above established thresholds, a Site Management Plan (SMP) shall be prepared by a qualified hazardous materials consultant to establish management practices for handling contaminated soil or other materials encountered during construction activities. The sampling results shall be compared to

appropriate risk-based screening levels in the SMP. The SMP shall identify potential health, safety, and environmental exposure considerations associated with redevelopment activities and shall identify appropriate mitigation measures. The SMP shall be submitted to the Supervising Environmental Planner of the City of San José Department of Planning, Building and Code Enforcement and Santa Clara County Department of Environmental Health (or equivalent regulatory agency) for approval prior to commencing construction activities. The SMP shall include, but is not limited to, the following:

- Proper mitigation as needed for demolition of existing structures;
- Management of stockpiles, including sampling, disposal, and dust and runoff control including implementation of a stormwater pollution prevention program;
- Management of underground structures encountered, including utilities and/or underground storage tanks;
- Procedures to follow if evidence of an unknown historic release of hazardous materials (e.g. underground storage tanks, polychlorinated biphenyls [PCBs], asbestos containing materials, lead-based paint, etc.) is discovered during excavation or demolition activities;
- Traffic control site improvements;
- Noise, work hours, and other relevant City regulations;
- Mitigation of soil vapors (if required);
- Procedures for proper disposal of contaminated materials (if required); and monitoring, reporting, and regulatory oversight arrangements.

J. HYDROLOGY AND WATER QUALITY – The project would not have a significant impact on this resource, therefore no mitigation is required.

K. LAND USE AND PLANNING – The project would not have a significant impact on this resource, therefore no mitigation is required.

L. MINERAL RESOURCES – The project would not have a significant impact on this resource, therefore no mitigation is required.

M. NOISE.

Impact NOI-1: Nearby land uses would be exposed to increased noise levels for a period of more than 12 months during project construction.

MM NOI-1.1: A construction noise logistics plan, in accordance with General Plan Policy EC-1.7, shall be required prior to issuance of a grading permit. A typical construction noise logistics plan will include, but not be limited to, the following measures to reduce construction noise levels:

- Consistent with the Standard Permit Conditions, temporary noise barriers will be constructed to screen stationary noise-generating equipment when located within 200 feet of adjoining sensitive land uses. Temporary noise barrier fences will provide a five dBA noise reduction if the noise barrier interrupts the line-of-sight between the noise sources and receptor and if the barrier is constructed in a manner that eliminates any cracks or gaps.
- Locate cranes as far from adjoining noise-sensitive receptors as possible.

- During final grading, substitute graders for bulldozers, where feasible. Wheeled heavy equipment are quieter than track equipment and shall be used where feasible.
- Substitute nail guns for manual hammering, where feasible.
- Substitute electrically powered tools for noisier pneumatic tools, where feasible.
- The contractor shall prepare a detailed construction plan identifying the schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise disturbance.

- N. POPULATION AND HOUSING** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- O. PUBLIC SERVICES** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- P. RECREATION** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- Q. TRANSPORTATION** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- R. TRIBAL CULTURAL RESOURCES** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- S. UTILITIES AND SERVICE SYSTEMS** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- T. WILDFIRE** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- U. MANDATORY FINDINGS OF SIGNIFICANCE.**

Cumulative impacts would be less than significant. The proposed Project would implement the identified mitigation measures and would have either have no impacts or less-than-significant impacts on riparian habitat or other sensitive natural communities, migration of species, or applicable biological resources protection ordinances. Therefore, the proposed Project would not contribute to any cumulative impact for these resources. The Project would not cause changes in the environment that have any potential to cause substantial adverse direct or indirect effects on human beings.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **Wednesday January 13, 2021** any person may:

1. Review the Draft Mitigated Negative Declaration (MND) as an informational document only;
or

2. Submit written comments regarding the information and analysis in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND.

Rosalynn Hughey, Director
Planning, Building and Code Enforcement

12/16/2020

Date

Deputy

Thai-Chau Le
Environmental Project Manager

Circulation period: December 18, 2020 to January 13, 2021