

**EMPIRE LUMBER MIXED-USE PROJECT**  
**RESPONSE TO COMMENTS**

The Empire Lumber Mixed-Use Project Initial Study and Mitigated Negative Declaration (IS/MND) was prepared and evaluated in compliance with the requirements of CEQA. The IS/MND was circulated for 27 days from December 18, 2020 to January 13, 2021. The City received nine comment letters during the public comment period:

Comment Letters Received by the City from State, County, or Local agencies:

A. Santa Clara Valley Transportation Authority January 13, 2021

Comment Letters Received by the City from individuals and organizations:

B.	Marie Sequeira	December 18, 2020
C.	Jean-Marie White	December 19, 2020
D.	Davide Vieira	December 21, 2020
E.	Ralph Portillo	December 22, 2020
F.	Richard Stewart	December 22, 2002
G.	Terry Christensen	January 4, 2021
H.	David Vieira	January 4, 2021
I.	Joan Cosby	January 8, 2021

This memo responses to public 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 all comment letters are attached.

Text edits to the Initial Study are provided on page 17.

## **Comment Letter A: Santa Clara Valley Transportation Authority – January 13, 2021**

**Comment A-1:** VTA appreciates the opportunity to comment on the Empire Lumber Mixed Use Project Draft Initial Study-Mitigated Negative Declaration. VTA has reviewed the documents and has the following comments:

### Access to Transit

Noted in the 1260 E. Santa Clara Street Mixed-Use Development (Project) Initial Study/Mitigated Negative Declaration (IS/MND) Appendix F (page vii), VTA has suggested that the 24<sup>th</sup> Street Bus Rapid Transit (BRT) Station be relocated to 28<sup>th</sup> Street along the project frontage. VTA considers the relocation of the BRT station important for the future success of transferring between BART and VTA. Relocating the stop also provides access to the future Five Wounds Trail. The 28<sup>th</sup> Street Station was previously environmentally approved and cleared by the VTA Board of Directors in 2008 as part of the Santa Clara-Alum Rock Transit Improvement Project – Final Environmental Impact Report.

The Project Initial Study (page 161) concludes that the Project “would not...conflict with the operation of existing or planned facilities.” The site plan (Figure 3.2-1) and conceptual site plan (Appendix F, page 3) should be redrawn to reflect a relocated BRT station along the Project frontage for the Final IS/MND. It is not apparent from the Initial Study if any assessment occurred to determine if a “planned” 28<sup>th</sup> Street Station could be relocated to the frontage plaza. VTA previously provided a detailed, attached again, that provides dimensions for existing BRT side running station. These dimensions should be used to determine if any conflicts present themselves. The East San José Multimodal Transportation Improvement Plan also documents a relocated BRT station along the project frontage (Appendix F, Figure 20, page 56).

If the station dimensions encroach into the pedestrian plaza, beyond the public ROW, an easement should be conditioned upon approval to provide future access for temporary construction and permanent placement of a 28<sup>th</sup> Street Station along the project frontage.

**Response A-1:** The City has reviewed the conceptual plans for the East San José Multimodal Transportation Improvement Plan in conjunction with the site plans and concluded there is sufficient right-of-way provided for the future BRT station. Therefore, an easement is not required by the project.

### **Comment A-2:** VTA’s BART Silicon Valley (BSV) Phase II Extension Project

This development project is located near 28<sup>th</sup> Street/Little Portugal Station and future BART tunnel to be constructed as part of VTA’s BART Silicon Valley Extension Project. As currently planned, the BART tunnel will be located north of E. Santa Clara Street west of 25<sup>th</sup> Street in this vicinity. The tunnel will require an underground easement surrounding the structure, 76 feet wide and 80 feet tall. No permanent or temporary structures are permitted within the tunnel easement. Additionally, temporary and/or permanent excavations or foundation elements within 25 feet above the tunnel easement may also not be permitted.

The proposed eight-story mixed-use development is located south of E. Santa Clara Street between S. 26<sup>th</sup> Street and S. 28<sup>th</sup> Street. As currently shown, the Empire Lumber development (including the development’s sub-surface parking) is not anticipated to pose any potential conflicts with the BSV tunnel or tunnel easement zone. For more information on planned tunnel alignment, see page 34 pf

the Final SEIS/SEIR Volume III Appendix B. However, given the proximity of both projects, VTA requests that the development's design including but not limited to the building's foundation system, shoring, and support of excavation plans shall be shared with VTA to ensure there are no potential impacts on either project. Additionally, as both projects may be built concurrently, it is recommended that construction activities such as haul routes, times, logistics, etc. be further discussed as design progresses.

**Response A-2:** This comment does not raise any issues with the adequacy of the IS/MND; therefore, no further response is required. However, the project is conditioned to share design plans with VTA. All construction activities will also be coordinated with VTA if the BART Phase II Project and this project are built concurrently through the Department of Public Works.

**Comment A-3:** While not historic in itself, the proposed site is proximate to multiple parcels that were deemed eligible for or listed in the National Register of Historic Places (NRHP) and California Register of Historic Resources (CRHR) – shown on page 8 of Volume III Appendix D in the Final SEIS/SEIR. While the Empire Lumber Mitigated Negative Declaration states the project is not anticipated to have significant impact on cultural resources, VTA's BART Phase II Extension Project will be implementing a program to monitor and evaluate potential impacts to historic structures due to construction of the underground tunnel. Coordination between the developer and VTA will be required in order to accurately evaluate and monitor impacts caused by one or both construction activities.

**Response A-3:** The only historic structure(s) in proximity to the project site are located within the Five Wounds church complex. The nearest building to the project site is located approximately 206 feet away. The church itself is located approximately 350 feet away from the project site, which is outside the typical 300-foot radius used to assess construction vibration impacts.

San José City Policy EC-2.3 establishes a vibration threshold of 0.08 inches/second peak particle velocity (PPV) for sensitive historic structures and 0.20 inches/second PPV for buildings of conventional construction. As discussed on page 134 of the Initial Study, construction vibration levels were calculated to be less than 0.05 inches/second PPV at a distance of 100 feet. At 200 plus feet, the vibration would be negligible. As such, even if construction of the proposed project were to overlap with construction of the BART tunnel, vibration from construction of the proposed project would not increase the severity of any impacts resulting from tunnel construction.

**Comment A-4:** Continued coordination (meetings, plan reviews, sharing of design information) between the VTA's BVS Phase II Project Team, the City of San José, and developer from the initial planning stages through preliminary design and construction phases will be required for successful delivery of both projects.

**Response A-4:** This comment does not raise any issues with the adequacy of the IS/MND; therefore, no further response is required. See Response to A-2.

**Comment A-5:** Bicycle Accommodations

VTA appreciates the inclusion of a bicycle parking room in the proposed project. Bicycle rooms should only have access through indoor corridors/lobbies in order to reduce the risk of theft. The current plans show the bicycle room can be accessed through the parking garage on the main and second levels, high-risk locations for theft. Additionally, the bike rooms are located next to the vehicle driveway ramps, where users to cross vehicular drive aisles. This location is dangerous for access due to sight distance and potential speeding issues by drivers. All doors used to access the bike rooms should utilize ADA-compliant kick plates that allow for bicyclists to easily open doors and maneuver their bikes into and out of the room. VTA strongly recommends the room include extra floor space or larger bike racks for recumbent bikes, bikes with trailers, or other non-standard bicycles that may not fit on standard racks.

**Response A-5:** This comment does not raise any issues with the adequacy of the IS/MND; therefore, no further response is required.

**Comment A-6:** Corrections

Figure 4.17-2 should provide updated route naming. VTA does not have a “community” bus route.

**Response A-6:** Figure 4.17-2 has been revised to remove reference to Community Route 66. The revised figure is attached to this memo.

**Comment Letter B: Marie Sequeira – December 18, 2020**

**Comment B-1:** I would like to make the following comments and concerns regarding the plan for  
**Project Name:** Empire Lumber Mixed Use Project File No.: PDC17-067/ER20-102.

The Empire Lumber site is very close to the Five Wounds Church, which is a City of San José historical landmark and has significance and cultural value to the Portuguese community in particular, and to other communities that share in its richness to the area. It is a beautiful historical church in Manueline architecture and aesthetics. No buildings site can be higher or cast a shadow or overtake the landscape and aesthetic value of the church, thus taking away the intrinsic value that the Five Wounds Church brings to the neighborhood “Little Portugal”. The Five Wounds Church can be seen from the freeway and all around its city blocks. The Envision 2020 plan clear specs that no building shall take away from the communities character of a specific site. The current plan calls for a seven (7) story building, 85 feet – which clearly would overshadow and over take the Five Wounds Church in height and take away from the aesthetic value of the church in community and from view. The current height stated of a seven story building is not acceptable!

**Response B-1:** The project is subject to review for compatibility and general plan policies. Impacts under CEQA would focus on physical impacts to scenic resources. Further detailed responses are available in Responses B-2 and B-3. This comment does not raise any issues with the adequacy of the IS/MND; therefore, no further response is required.

**Comment B-2:** The report declares no impact on “**Aesthetics**”, but we think it does have an impact on the Church of Five Wounds because of the height of the building at the point nearest the church AND that the overall design of the building (not yet final) is generic and bland, without the slightest gesture to the aesthetics of the community in which it will be built.

**Response B-2:** Pursuant to the CEQA guidelines and as discussed in Section 4.1.2 of the Initial Study (page 25), pursuant to Public Resources Code Section 21099 and Senate Bill 743, certain projects within transit priority areas need not evaluate aesthetics. The proposed project would meet the criteria of SB 743 because 1) the project is mixed-use residential and 2) the project is located within a transit priority area.<sup>1</sup> Consistent with Public Resources Code Section 21099, the project would have a less than significant aesthetics impact.

While the project would have a less than significant aesthetics impact, the Initial Study addressed the CEQA checklist questions for informational purposes given the size and location of the project within the Roosevelt Park Urban Village and found no significant aesthetics impacts based on the thresholds of significance.

**Comment B-3:** The report declares no impact on “**cultural resources.**” Again, we think the Church of Five Wounds is a cultural resource that will be diminished by the height of the project at the point nearest the church. The current design of the building by virtue of its lack of character also diminishes the cultural resources of the area.

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<sup>1</sup> Metropolitan Transportation Commission. *Transit Priority Areas* (2017).  
[http://opendata.mtc.ca.gov/datasets/d97b4f72543a40b2b85d59ac085e01a0\\_0?geometry=-121.873%2C37.346%2C-121.857%2C37.349](http://opendata.mtc.ca.gov/datasets/d97b4f72543a40b2b85d59ac085e01a0_0?geometry=-121.873%2C37.346%2C-121.857%2C37.349)

**Response B-3:** Pursuant to CEQA Guidelines Section 15064.5, a significant cultural resources impact would occur if a project would:

1. Cause a substantial adverse change in the significance of a historical resource;
2. Cause a substantial adverse change in the significance of an archaeological resource;
3. Disturb any human remains.

A substantial adverse change in the significance of a historical resource is defined as physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of a historical resource would be materially impaired [CEQA Guidelines Section 15064.5(b)(1)].

The Five Wounds church complex located approximately 166 feet from the project site and the church itself is located approximately 350 feet away from the project site. The project does not propose any modifications to the Five Wounds Church and would not result in the physical demolition, destruction, relocation, or alteration of the church. In addition, at a distance of more than 300 feet, the design of the proposed building would not alter the immediate surroundings of the church so that the historic significance is materially impaired.

As discussed in Section 4.5.2 of the Initial Study, the proposed project would have a less than significant impact on cultural resources based on the thresholds of significance.

**Comment B-4:** Further, the Envision 2040 general Plan requires “the highest standards of architecture and site design...for the enhancement and development of community character” and the “use of building design to reflect the unique character of a specific site and the context of the surrounding development.” As currently designed, this project does not meet these standards.

The beauty and cultural value of the Five Wounds Church is key to the heart and soul of the Portuguese community in Northern California, and second in population in the United States next to the New England states Portuguese communities. The church has deep roots in San José and is significant to the Portuguese Consulate and the people it represents.

No building site can overtake the height, beauty, aesthetics, and cultural impact that the Five Wounds Church represents. There is no other church in the United States of America like the Five Wounds Portuguese National Church. It cannot be replaced or replicated and it stands as the sentimental to the area known as Little Portugal and can be seen from the 101 freeway and surrounding city blocks unimpeded. It is the Rock that holds this area together.

The Empire Lumber project with a planned 7 story building must be redesigned and cut down significantly in height (less than 5 story) and must adhere to the architecture and site design that enhances the community character.

**Response B-4:** Refer to responses B-1 thru B-3. This comment does not raise any issues with the adequacy of the IS/MND; therefore, no further response is required. Additional analysis to General Plan policies and requirements will be available in staff reports and resolutions to the planning permit.

**Comment Letter C: Jean-Marie White – December 19, 2020**

**Comment C-1:** Here are my thoughts on the MND:

A) Aesthetics: I have found very little information about the looks of the building. So I'm not sure how the City can make a judgement on this topic. Also, it puzzles me that Envision 2040 is mentioned as part of the regulatory framework, but then not mentioned at all in the analysis. Section 21099(d)(2)(A) "This subdivision does not affect, change, or modify the authority of a lead agency to consider aesthetic impacts pursuant to local design review ordinances or other discretionary powers provided by other laws or policies." So I would expect some opinion here. That being said, I do agree that otherwise, it should have no impact on its surroundings, especially on the Found (sic) Wounds Church.

**Response C-1:** See Response B-2.

**Comment C-2:** B) through D) no comments

E) Cultural Resources: I support the MND conclusion. I especially see no impact on the Five Wounds Church.

**Response C-2:** This comment does not raise any issues with the adequacy of the IS/MND; therefore, no further response is required.

**Comment C-3:** F) through U) no comments

**Response C-3:** This comment does not raise any issues with the adequacy of the IS/MND; therefore, no further response is required.

**Comment Letter D: David Vieira – December 21, 2020**

**Comment D-1:** Here are my comments for the public record. Or is someone else collecting comments on this?

The Empire Lumber project elevations that I remember were uninspiring and would negatively impact the aesthetic and cultural focus of the neighborhood; namely, the historic 101-year-old Five Wounds Portuguese National Church. The development does not embody Mediterranean or other similar architectural styles that reflect the ethnic heritage of the area. The sheer size of the building should dictate that the building be broken down and viewed as several smaller buildings from the exterior, in accordance with the Roosevelt Park Urban Village Plan; that is, “buildings wider than 75 feet should be subdivided into portions or segments that read as distinct volumes, like a series of building fronts, of a maximum of 50 feet in width”. Otherwise, the 2.77 acre building will detract from the prominence of Five Wounds Church in the viewshed.

**Response D-1:** See Responses B-2 and B-3.

As discussed on page 121 of the Initial Study, the City concluded that the project meets the goals and policies of the General Plan and the adopted Urban Village Plan.

**Comment D-2:** There are two proposed projects in the planning pipeline not far from the Empire Lumber site that are engaging and even inspiring. Strangis Properties is consulting on a market-rate apartment project at 70 N 27<sup>th</sup> Street. The elevations are faithful to the Five Wounds Urban Village Plan with regard to Mediterranean architecture, and will be a welcome addition to the neighborhood. Another project in the pipeline comes from Reed Community Partners at 1143 S. Santa Clara Street, also under the purview of the Roosevelt Park Urban Village Plan. It will be an affordable apartment project with design inspired by the architecture of southern Portugal. It will be named The Algarve, after the southernmost region of that country. Its artistic flourishes will use Portuguese azulejo tiles as the medium expressing stories from our city’s history. The principals of the Empire Lumber project would do well to research these other two projects.

**Response D-2:** This comment does not raise any issues with the adequacy of the IS/MND; therefore, no further response is required.



**Comment Letter E: Ralph Portillo – December 22, 2020**

**Comment E-1:** I wanted to comment on this project. As you must know there is a decades long effort by the community members to fund and install a pedestrian trail along the eastern boarder of this project. It would connect the Coyote Creek trail to the south with the proposed BART station at 28<sup>th</sup> street and extend to the Silver Creek trail. Considering the location of this project being immediately adjacent to the Five Wounds Trail proposal, much more should be included in the environmental report as it relates to the trail.

Specifically, the City should require that architectural design and building layout take the trail into consideration. Trail facing windows, patios, residences and retail space should be required and integrated with the future trail, including tables, seating and open space that is part of the project. Currently, there is not much mention of the trail in this document – a little on p. 122 (shade on the trail) and there’s discussion of parks on p. 142, but no mention of the trail. Nor is the trail mentioned on p. 160 with the discussion of pedestrians and the project.

**Response E-1:** As discussed on Page 5 of the Initial Study, the intent and purpose of the Initial Study is to identify the environmental (i.e., physical) effects that would result from a proposed project. The Initial Study addresses the projects relationship to the trail with regard to the project’s potential impacts on the trail. As the trail is not part of the proposed project, no detailed discussion of the trail itself is possible or appropriate.

The Initial Study does identify relevant policies from the Roosevelt Park Urban Village Plan which address development adjacent to the future Five Wounds Trail. As discussed on Page 120 of the Initial Study, conflicts with land use policies do not, by themselves, constitute significant environmental impacts. Policy conflicts are considered environmental impacts only when they would result in direct environmental effects. As proposed, the project does not fully comply with the Urban Village policies related to the interface with the trail. As such, City decision-makers will consider consistency of the proposed project with applicable plans and policies that do not directly relate to physical environmental issues when determining whether to approve or deny the project.

The trail is not mentioned on Page 160 because it is not yet constructed and is not proposed as part of the project. The analysis in the Initial Study focuses on the project’s effect on existing pedestrian facilities, connectivity of existing facilities, and pedestrian improvements proposed by the project.

**Comment E-2:** Additionally, amenities from the project **must** include funding set aside for the development of the trail.

**Response E-2:** As noted on Page 161 of the Initial Study, the proposed project would be required to pay a fair share contribution toward construction of the Five Wounds Trail. The proposed project will be required to comply with the City’s Parkland Dedication Ordinance (PDO) - SJMC 19.38, and Parkland Impact Ordinance (PIO) - SJMC 14.25. The PDO/PIO necessitates the dedication of land, or parkland/trail improvements, or payment of in-lieu fees, or some combination of these three methods to fulfill the projects obligation. Prior to the issuance of building permits, the developer will enter into a Parkland Agreement with the Department of Parks, Recreation and Neighborhood Services that details the method in which

this project is meeting the PDO/PIO. In-lieu fees generated through the proposed developments are deposited into the City's Park Trust Fund, where they are then distributed to capital projects based on the City Council approved annual Capital Improvement Plan budgeting and prioritization process.

**Comment E-3:** Please **do not approve** the environmental review of this project until the future Five Wounds Trail is an integral component of this building project.

**Response E-3:** This comment does not raise any issues with the adequacy of the IS/MND; therefore, no further response is required.

**Comment Letter F: Richard Stewart – December 22, 2020**

**Comment F-1:** We need to get this trail done. It must be documented with project planned that won't have adverse effects on the trail. Trails first, it's more important; we don't want to lose this opportunity to make San José have a trail system for commuters and a safe way to get around the city.

**Response F-1:** This comment does not raise any issues with the adequacy of the IS/MND; therefore, no further response is required.

**Comment Letter G: Terry Christensen – January 4, 2021**

**Comment G-1:** Below and attached as a Word Document are comments on the Initial Study for the Empire Lumber Mixed-Use Project which I am submitting on behalf of BART Transit Village Advocates (BARTTVA).

The Initial Study declares no impact on “aesthetics,” but we think it does have any impact on the Church of Five Wounds because of the height of the building at the point nearest the church AND that the overall design of the building (not yet final) is generic and bland, without the slightest gesture to the aesthetics of the community in which it will be built.

**Response G-1:** See Response B-2.

**Comment G-2:** The Initial Study declares no impact on “cultural resources.” Again, we think the Church of Five Wounds is a cultural resource that will be diminished by the height of the project at the point nearest the church. The current design of the building by virtue of its lack of character also diminishes the cultural resources of the area.

**Response G-2:** See Response B-3.

**Comment G-3:** The Roosevelt Park Urban Village Plan encourages use of “a Mediterranean or other similar architectural styles that reflect the ethnic heritage of the area.” The current design for this project does not do that.

**Response G-3:** This comment does not raise any issues with the adequacy of the IS/MND; therefore, no further response is required.

**Comment G-4:** Similarly, the Roosevelt Park Urban Village Plan states that “new buildings should avoid a monolithic appearance” and “buildings wider than 75 Feet should be subdivided into portions or segments that read as distinct volumes, like a series of building fronts, of a maximum of 50 feet in width.” The current design for this project ignores these policies.

**Response G-4:** The Initial Study identifies relevant policies from the Roosevelt Park Urban Village Plan. As discussed on Page 120 of the Initial Study, conflicts with land use policies do not, by themselves, constitute significant environmental impacts. Policy conflict are considered environmental impacts only when they would result in direct environmental effects. As proposed, the project does not fully comply with the Urban Village policies as outlined in the Initial Study. As such, City decision-makers will consider consistency of the proposed project with applicable plans and policies that do not directly relate to physical environmental issues when determining whether to approve or deny the project.

**Comment G-5:** Policy 4 of the Roosevelt Park Urban Village Plan limits “the area for an 85-foot building mass to 50 percent of the footprint of the block and the remainder must be 55 feet.” This project is not consistent with the plan. The height of the project at the corner of East Santa Clara and South 28<sup>th</sup> Street should be stepped down in respect to the Church of Five Wounds.

**Response G-5:** As discussed on page 26 of the Initial Study, as a condition of project approval, consistent with Building Height Policy 4 in the Urban Village Plan, the project

applicant shall provide the City a height and massing study to demonstrate how the views of the church will be maintained, particularly from the south and southwest. The height and massing study must be submitted and approved by Planning, Building and Code Enforcement prior to issuance of building permits.

**Comment G-6:** Further, the Envision 2040 General Plan requires "the highest standards of architectural and site design... for the enhancement and development of community character" and the "use of building design to reflect the unique character of a specific site and the context of surrounding development." As currently designed, this project does not meet these standards.

**Response G-6:** This comment does not raise any issues with the adequacy of the IS/MND; therefore, no further response is required.

**Comment G-7:** The document as drafted is insufficient in its consideration of the Five Wounds Trail (adjacent to the project's eastern side).

The impact of shade on the trail is discussed on p. 122, but further consideration should be given to the interface between the project and the trail and to the trail as park space.

Parks are discussed on p. 142 of the document, but the trail is not considered.

Pedestrian movement is discussed on p. 160 but the trail is not mentioned.

**Response G-7:** See Response E-1.

**Comment G-8:** According to the Roosevelt Park Urban Village Plan Land Use Policy 7 "New development with residential components that are adjacent to the Five Wounds Trail corridor should provide ground floor residential units that face the trail."

According to the Initial Study document, the first two floors of the project on the side adjacent to the trail will be commercial, not residential, with no guarantee of "eyes on the trail." We doubt that commercial space there will be viable—hence it will most likely be unoccupied with NO eyes on the trail.

**Response G-8:** This comment does not raise any issues with the adequacy of the IS/MND; therefore, no further response is required.

**Comment G-9:** Additionally, it should be noted that park fees generated by the project should go to funding for the Five Wounds Trail. We appreciate that the Transportation Analysis for this project (Appendix F) states that "the project will be required to provide a fair-share contribution toward the construction of the Five Wound Trail" and recognizes the contributions of the Trail to pedestrian circulation and transit access (pp. 54-58).

**Response G-9:** Refer to Response E-2.

**Comment Letter H: David Vieira – January 4, 2021**

**Comment H-1:** I believe that the transportation study numbers for the Empire Lumber project may be inaccurate. If the study firm counted vehicles that actually turned the corner from westbound E Santa Clara St. to S 28<sup>th</sup> St and from northbound S28th St to eastbound E Santa Clara St, then these are certainly undercounted.

Here's why: Northbound vehicles on S 28<sup>th</sup> would cut through the parking lot at the corner to avoid waiting for the signal to change. Likewise, vehicles in the left turn lane for S 28<sup>th</sup> would cut through the parking lot to avoid waiting for the left turn signal to change. Just a few months ago, my brother, who manages that corner property, had permanent bollards and a chain installed at the E Santa Clara St parking lot entrance. His landscape maintenance person was nearly killed (again) this Fall. Now vehicles have no choice but to wait for the signal changes. And that means that there are longer lines of vehicles waiting to turn from each direction. So when the study said that vehicles rarely extended south of Shortridge of S 28<sup>th</sup> waiting for the signal change, that statement is now outdated.

That said, I believe that a longer left turn lane will be necessary from E Santa Clara St to S 28<sup>th</sup> St. Likewise from E Santa Clara St to S 26<sup>th</sup> St. And the signals at both intersections will likely need to be recalibrated as well if the left turn lanes are lengthened. And I can only guess that the signal for northbound vehicles on S 28<sup>th</sup> will also need to be addressed.

**Response H-1:** As noted on page 35 of Appendix F, Transportation Assessment, the data required for the analysis was obtained from traffic counts, the City, and field observations. While there may have been some cut-through traffic prior to the private property modifications noted above, this would have been observable in the field. As shows in Table 6 of Appendix F (page 42) the local intersections studied in the report all operate better than the City standard under existing conditions and project conditions. As a result, no roadway improvements would be required of the project. Furthermore, as noted on page 163 of the Initial Study, the study of intersection operations is utilized by the City for planning and growth management and not used to assess environmental impacts under CEQA.

**Comment H-2:** One more thing. The En Movimiento DOT project will be making drastic changes to E Santa Clara St in the next few years. It appears that the Empire Lumber transportation study has taken this into account to a degree, but I must ask if they've considered all possible ramifications to traffic and transportation in our immediate area post-completion of the Empire Lumber project? We'll be having this same conversation for the Strangis 70 N 278<sup>th</sup> project and the Reed Community Partners 1143 E Santa Clara St project.

**Response H-2:** The En Movimiento DOT Project for a bike boulevard along 28<sup>th</sup> Street and the East San José Multimodal Transportation Improvement Plan will require their own separate environmental review to disclose and mitigate any impacts prior to construction.

**Comment H-3:** Now for parking concerns. Given that our residential streets are nearly full of parked vehicles 24/7 these days, and the 300-400 units at the Empire Lumber site parked at 1 space per unit will only guarantee no available street parking, I have some questions:

- How do neighborhoods in our situation have their streets swept?

- How do neighborhoods in our situation put green waste on the street? Would we be forced to pay for a green waste bin to reliably have our green waste collected? Seems like a “tax” levied on our residents due to the Empire Lumber project.
- Has the city changed its stance on residential parking permits; that is, are they back in favor? If so, how about Empire Lumber footing the bill for this going forward?
- Would the city entertain street signs that would require residents to move their vehicles on street sweeping days? These signs have been installed on the other side of East Santa Clara between N 27<sup>th</sup> and N 24<sup>th</sup> and east of S 24<sup>th</sup> to S 19<sup>th</sup>.

**Response H-3:** Prohibitive parking signs are restricted to streets where parked vehicles on street sweeping days have the greatest negative impacts to street sweeping operations. The program is limited to available funding to install and enforce signs, and to pay for the additional costs of sweeping signed areas. The Department of Transportation’s Street Sweeping Section can be contacted to request an inspection of streets to see if they qualify for street sweeping signs. For more information, see the following link:  
<https://www.sanjoseca.gov/your-government/departments/transportation/roads/street-sweeping>

The project meets the City’s parking requirements with the implementation of a Transportation Demand Management Plan consistent with the Urban Village Plan. The Department of Transportation does not currently have funding to study and provide ongoing enforcement for new Residential Permit Parking areas within the City.

**Comment Letter I: Joan Cosby – January 8, 2021**

**Comment I-1:** I wish to comment on the Empire Lumber Mixed Use Project CEQA Initial Study as the stewardship of the future Five Wounds Trail is very important to our neighborhood, and the trail will serve as a regional asset when fully developed.

The document as drafted is insufficient in its consideration of the Five Wounds Trail which is adjacent to the project's eastern side.

The impact of shade on the trail is discussed on page 122, but further consideration should be given to the interface between the project and the trail and to the trail as park space.

Parks are discussed on page 142 of the document, but the trail is not considered.

Pedestrian movement is discussed on page 160 but the trail is not mentioned.

According to the Roosevelt Park Urban Village Plan Land Use Policy 7 “New development with residential components that are adjacent to the Five Wounds Trail corridor should provide ground floor residential units that face the trail.” According to the Initial Study document, the first two floors of the project on the side adjacent to the trail will be commercial, not residential, with no guarantee of “eyes on the trail.” We doubt that commercial space there will be viable – therefore, most likely to be unoccupied with no eyes on the trail.

**Response I-1:** See Response E-1.

**Comment I-2:** Additionally, it should be noted that park fees generated by the project should go to funding for the Five Wounds Trail. We appreciate that the Transportation Analysis (Appendix F) states that “the project will be required to provide a fair-share contribution toward the construction of the Five Wounds Trail” and recognizes the contributions of the Trail to pedestrian circulation and transit access (pages 54-58).

**Response I-2:** Refer to Response E-2.

**Comment I-3:** I feel that this document is notably deficient in its consideration of the Five Wounds Trail and would appreciate more attention be given due to its proximity to the proposed project. Community members have worked long and hard to make the trail a reality and deserve thoughtful attention be paid to the future development of the Empire Lumber site.

**Response I-3:** The proposed trail and any potential physical environmental effects that could result from the proposed project were addressed in the Initial Study to the extent possible given that the proposed trail is not part of the existing physical conditions of the project area.



This section contains revisions to the text of the Empire Lumber Mixed-Use Project Initial Study dated December 2020. Revised or new language is underlined. All deletions are shown with a ~~line through the text~~.

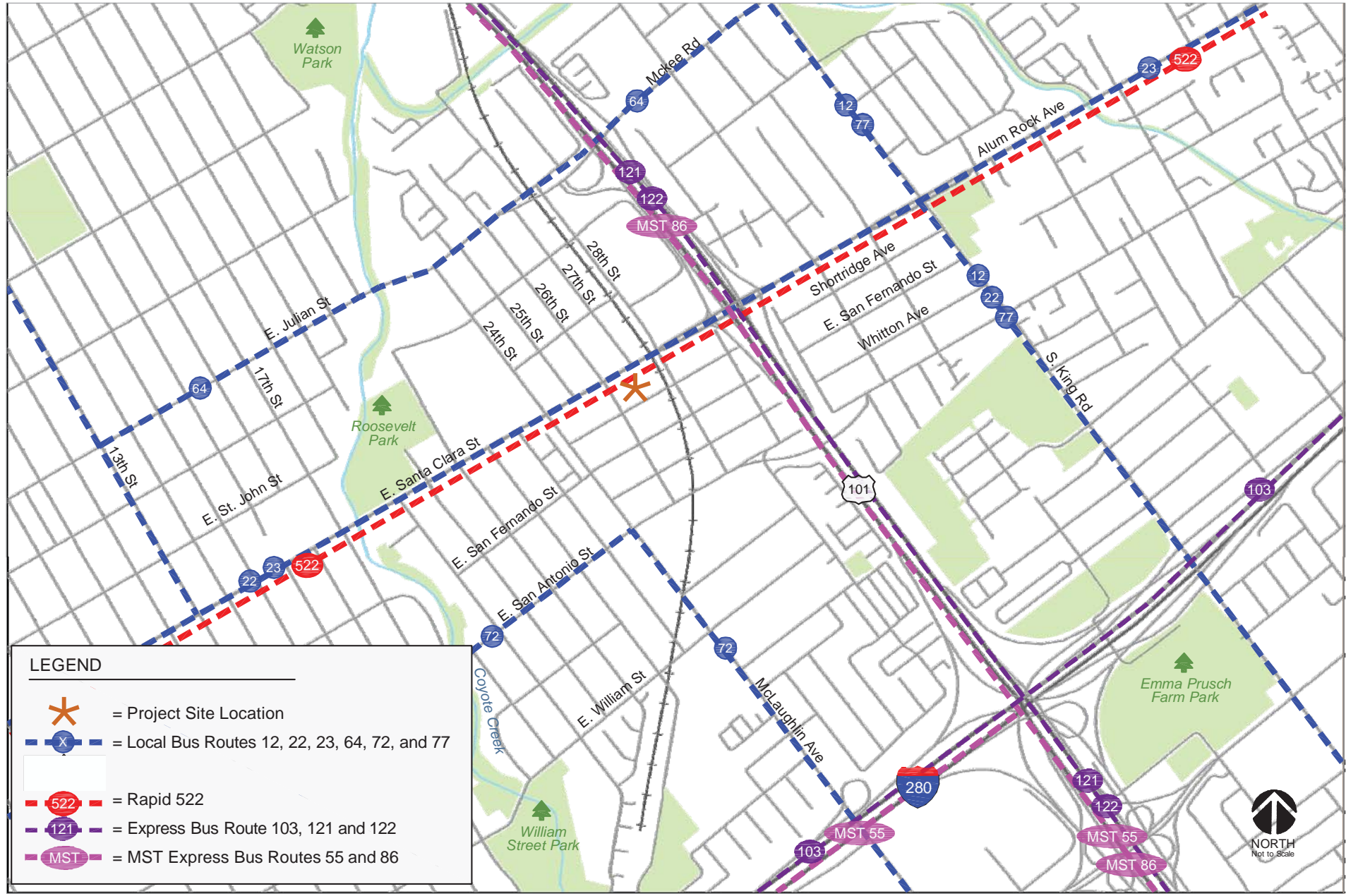
Page 15            The 2<sup>nd</sup> paragraph of Section 3.3 has been **REVISED** as follows:

As mentioned above in Section 2.6, the site has two zoning designations. The northern approximately half of the project site is zoned *CG – Commercial General* (Chapter 20.40 of the City Code) and is intended to serve the needs of the general population. The *Commercial General* zoning allows for a full range of retail and commercial uses with a local or regional market. The southern approximately half of the project site is zoned *LI – Light Industrial* (Chapter 20.50 of the City Code) and is intended for a variety of industrial uses and excludes uses with unmitigated hazardous effects. Uses in the *LI – Light Industrial* zoning district include warehouse, wholesale, and light manufacturing. The current zoning designations are not applicable to the specific development proposed for the project site. As a result, the project proposes a rezoning to ~~*CG(PD) – Commercial General Planned Development*~~ *CP(PD) – Commercial Pedestrian Planned Development*.






Page 122            The paragraph under subheading Zoning in Section 4.11.2 has been **REVISED** as follows:

The current zoning designations are not applicable to the specific development proposed for the project site. The project site would need to be rezoned to allow any future redevelopment of the site. As a result, the project proposes a rezoning to ~~*(A)PD – Planned Development*~~ *CP(PD) – Commercial Pedestrian Planned Development* consist with the proposed mixed-use project. **(Less Than Significant Impact)**

Cover Page            The project is not proposing a General Plan Text Amendment and therefore the GPT 15-007 is removed.



**LEGEND**

-  = Project Site Location
-  = Local Bus Routes 12, 22, 23, 64, 72, and 77
-  = Rapid 522
-  = Express Bus Route 103, 121 and 122
-  = MST Express Bus Routes 55 and 86

Hexagon Transportation Consultants, July 6, 2016.

**EXISTING TRANSIT SERVICES**

**FIGURE 4.16-2 (Revised)**

**From:** [Pearse, Brent](#)  
**To:** [Le, Thai-Chau](#)  
**Subject:** VTA Comments on the Empire Lumber Mixed-Use Draft IS-MND [SJ1616]  
**Date:** Wednesday, January 13, 2021 4:51:12 PM  
**Attachments:** [SJ1616 IS-MND VTAComments-Final.pdf](#)  
[Attachement C830 SANTA CLARA AND CAPITOL STATIONS.pdf](#)

---

[External Email]

Thai Chau,

Attached are VTA comments on the Empire Lumber Mixed-Use Draft IS-MND. Thank you for the opportunity comment.

Please let me know if you have any questions.

**Brent Pearse** (He/Him)

Transportation Planner

Direct **408-550-4559**

**WFH Schedule 6-10 a.m.; 1-5 p.m.**



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January 13, 2021

City of San José Department of Planning, Building, and Code Enforcement  
200 E. Santa Clara St., 3<sup>rd</sup> Floor  
San José, CA 95113

Attn: Thai-Chau Le

By Email: [thai-chau.le@sanjoseca.gov](mailto:thai-chau.le@sanjoseca.gov)

Re: Empire Lumber Mixed Use Project Draft Initial Study-Mitigated Negative Declaration

Dear Thai-Chau,

VTA appreciates the opportunity to comment on the Empire Lumber Mixed Use Project Draft Initial Study-Mitigated Negative Declaration. VTA has reviewed the documents and has the following comments:

#### **Access to Transit**

Noted in the 1260 E. Santa Clara Street Mixed-Use Development (Project) Initial Study/Mitigated Negative Declaration (IS/MND) Appendix F (page vii), VTA has suggested that the 24<sup>th</sup> Street Bus Rapid Transit (BRT) Station be relocated to 28<sup>th</sup> Street along the project frontage. VTA considers the relocation of the BRT station important for the future success of transferring between BART and VTA. Relocating the stop also provides access to the future Five Wounds Trail. The 28<sup>th</sup> Street Station was previously environmentally approved and cleared by the VTA Board of Directors in 2008 as part of the Santa Clara-Alum Rock Transit Improvement Project - Final Environmental Impact Report.

The Project Initial Study (page 161) concludes that the Project “would not...conflict with the operation of existing or planned facilities.” The site plan (Figure 3.2-1) and conceptual site plan (Appendix F, page 3) should be redrawn to reflect a relocated BRT station along the Project frontage for the Final IS/MND. It is not apparent from the Initial Study if any assessment occurred to determine if a “planned” 28<sup>th</sup> Street Station could be relocated to the frontage plaza. VTA previously provided a detail, attached again, that provides dimensions for existing BRT side running station. These dimensions should be used to determine if any conflicts present themselves. The East San José Multimodal Transportation Improvement Plan also documents a relocated BRT station along the project frontage (Appendix F, Figure 20, page 56).

If the station dimension encroaches into the pedestrian plaza, beyond the public ROW, an easement should be conditioned upon approval to provide future access for temporary construction and permanent placement of a the 28<sup>th</sup> Street Station along the project frontage.

#### **VTA's BART Silicon Valley (BSV) Phase II Extension Project**

This development project is located near 28<sup>th</sup> Street/Little Portugal Station and future BART tunnel to be constructed as part of VTA's BART Silicon Valley Extension Project. As currently planned, the BART tunnel will be located north of E. Santa Clara Street west of 25th Street in this vicinity. The tunnel will require an underground easement surrounding the structure, 76 feet wide and 80 feet tall. No permanent or temporary structures are permitted within the tunnel easement. Additionally, temporary and/or permanent excavations or foundation elements within 25 feet above the tunnel easement may also not be permitted.

The proposed eight-story mixed-use development is located south of E. Santa Clara Street between S. 26th Street and S. 28th Street. As currently shown, the Empire Lumber development (including the development's sub-surface parking) is not anticipated to pose any potential conflicts with the BSV tunnel or tunnel easement zone. For more information on planned tunnel alignment, see page 34 of the Final SEIS/SEIR Volume III [Appendix B](#). However, given the proximity of both projects, VTA requests that the development's design including but not limited to the building's foundation system, shoring, and support of excavation plans shall be shared with VTA to ensure there are no potential impacts on either project. Additionally, as both projects may be built concurrently, it is recommended that construction activities such as haul routes, times, logistics, etc. be further discussed as design progresses.

While not historic in itself, the proposed site is proximate to multiple parcels that were deemed eligible for or listed in the National Register of Historic Places (NRHP) and California Register of Historic Resources (CRHR) – shown on page 8 of Volume III [Appendix D](#) in the Final SEIS/SEIR. While the Empire Lumber Mitigated Negative Declaration states the project is not anticipated to have significant impact on cultural resources, VTA's BART Phase II Extension Project will be implementing a program to monitor and evaluate potential impacts to historic structures due to construction of the underground tunnel. Coordination between developer and VTA will be required in order to accurately evaluate and monitor impacts caused by one or both construction activities.

Continued coordination (meetings, plan reviews, sharing of design information) between the VTA's BSV Phase II Project Team, the City of San José, and developer from the initial planning stages through preliminary design and construction phases will be required for successful delivery of both projects.

### **Bicycle Accommodations**

VTA appreciates the inclusion of a bicycle parking room in the proposed project. Bicycle rooms should only have access through indoor corridors/lobbies in order to reduce the risk of theft. The current plans show the bicycle room can be accessed through the parking garage on the main and second levels, high-risk locations for theft. Additionally, the bike rooms are located next to the vehicle driveway ramps, where users to cross vehicular drive aisles. This location is dangerous for access due to sight distance and potential speeding issues by drivers. All doors used to access the bike rooms should utilize ADA-compliant kick plates that allow for bicyclists to easily open doors and maneuver their bikes into and out of the room. VTA strongly recommends the room include extra floor space or larger bike racks for recumbent bikes, bikes with trailers, or other non-standard bicycles that may not fit on standard racks.

### **Corrections**

Figure 4.17-2 should provide updated route naming. VTA does not have a "community" bus route.

Thank you again for the opportunity to review this project. If you have any questions, please do not hesitate to contact me at 408-550-4559 or [brent.pearse@vta.org](mailto:brent.pearse@vta.org).

Sincerely,

A handwritten signature in black ink that reads "Brent Pearse". The signature is written in a cursive, flowing style.

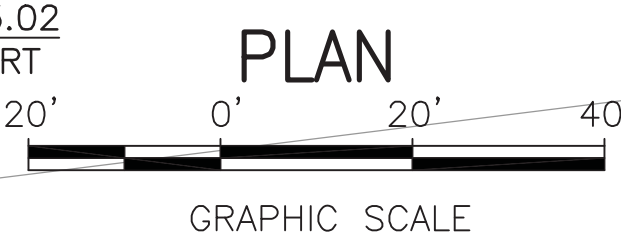
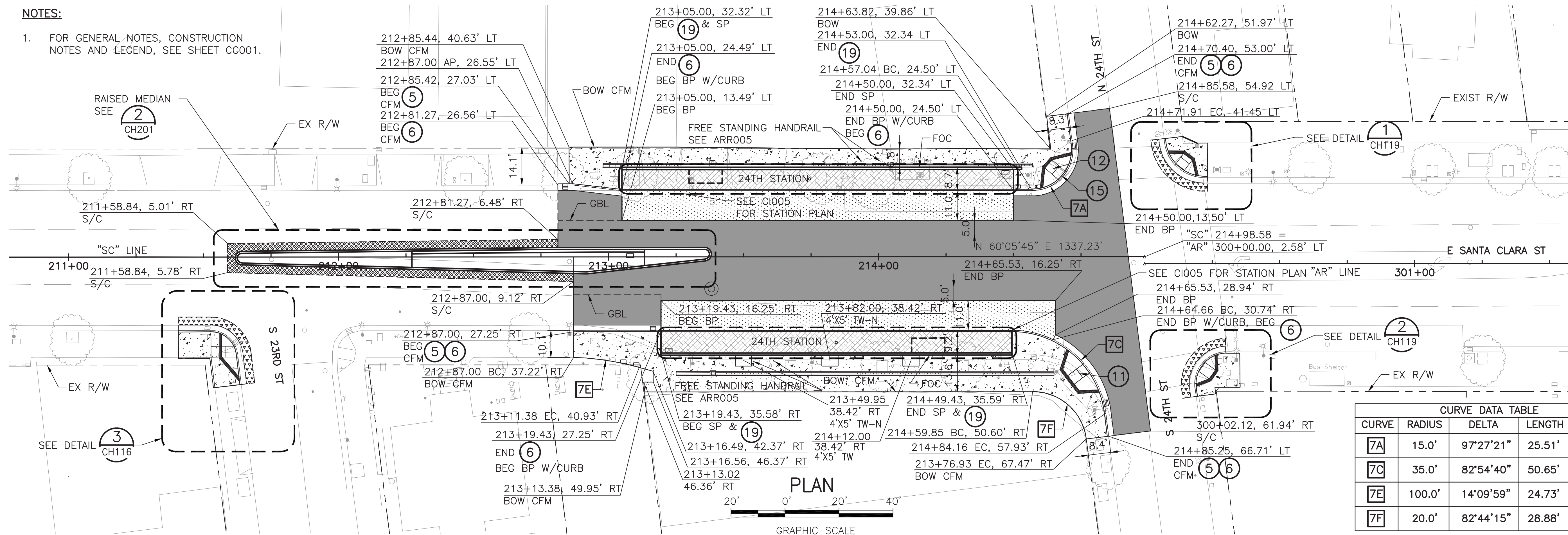
Brent Pearse  
Transportation Planner

SJ1616

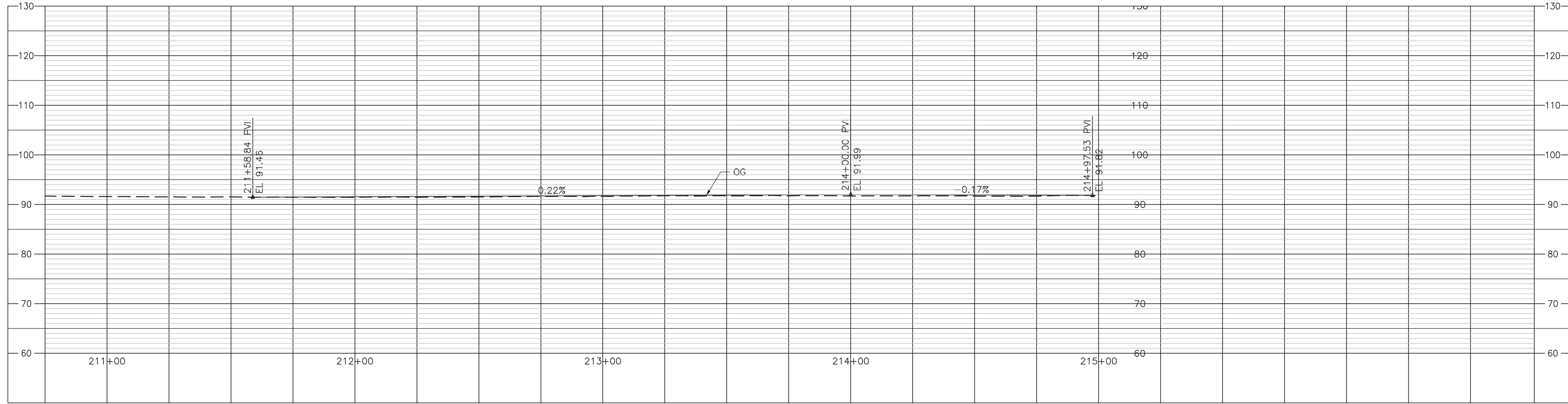
Attachment: BRT Station Detail

**NOTES:**

1. FOR GENERAL NOTES, CONSTRUCTION NOTES AND LEGEND, SEE SHEET CG001.



CURVE DATA TABLE				
CURVE	RADIUS	DELTA	LENGTH	TANGENT
7A	15.0'	97°27'21"	25.51'	17.09'
7C	35.0'	82°54'40"	50.65'	30.92'
7E	100.0'	14°09'59"	24.73'	12.43'
7F	20.0'	82°44'15"	28.88'	17.61'



**PROFILE** SCALE: 1"=20' HORIZ  
1"=10' VERT

username: mmskeen  
 dateandtime: Sep 20, 2013 4:15pm  
 \$DATE\$ \$TIME\$  
 C:\Users\Mmskeen\Desktop\Wd1-Plotting\C830-CG007.dwg

DESIGNED BY C. BENSON					
DRAWN BY S. LEONG					
CHECKED BY M. JOHNSON					
IN CHARGE C. BENSON					
DATE May 9, 2013					
CONFORMED					
REV	DATE	BY	SUB	APP	DESCRIPTION
A	11/27/13				

**CH2MHILL** 1737 NORTH FIRST ST, SUITE 300  
SAN JOSE, CALIFORNIA 95112-4524  
PHONE: (408) 436-4909

SUBMITTED \_\_\_\_\_ APPROVED \_\_\_\_\_

**VTA** SANTA CLARA Valley Transportation Authority

**SANTA CLARA-ALUM ROCK BUS RAPID TRANSIT PROJECT**

ROADWAY PLAN AND PROFILE  
STA 211+00 TO STA 301+00  
24TH STATION

CADD FILENAME C830-CG007.dwg	
SIZE D	SCALE AS SHOWN
CONTRACT NO. C830(13058)	REV. A
AREA CODE SC	SHEET NO. CG007
	PAGE NO. 95

**From:** [Marie Sequeira](#)  
**To:** [Le\\_Thai-Chau](#)  
**Subject:** The Empire Lumber project review - comments and concerns  
**Date:** Friday, December 18, 2020 2:30:19 PM

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[External Email]

Hello,

I would like to make the following comments and concerns regarding the plan for **Project Name:** Empire Lumber Mixed Use Project File No.: PDC17-067/ER20-102.

The Empire Lumber site is very close to the Five Wounds Church, which is a City of San Jose historical landmark and has significance and cultural value to the Portuguese community in particular, and to other communities that share in its richness to the area. It is a beautiful historical church in Manueline architecture and aesthetics. No building site can be higher or cast a shadow or overtake the landscape and aesthetic value of the church, thus taking away the intrinsic value that the Five Wounds Church brings to the neighborhood "Little Portugal". The Five Wounds Church can be seen from the freeway and all around its city blocks. The Envision 2040 plan clear specs that no building shall take away from the communities character of a specific site. The current plan calls for a seven (7) story building, 85 feet – which clearly would overshadow and over take the Five Wounds Church in height and take away from the aesthetic value of the church in community and from view. The current height stated of a seven story building is not acceptable!

- The report declares no impact on "**aesthetics**," but we think it does have an impact on the Church of Five Wounds because of the height of the building at the point nearest the church AND that the overall design of the building (not yet final) is generic and bland, without the slightest gesture to the aesthetics of the community in which it will be built.
- The report declares no impact on "**cultural resources**." Again, we think the Church of Five Wounds is a cultural resource that will be diminished by the height of the project at the point nearest the church. The current design of the building by virtue of its lack of character also diminishes the cultural resources of the area.
- Further, the Envision 2040 General Plan requires "the highest standards of architectural and site design... for the enhancement and development of community character" and the "use of building design to reflect the unique character of a specific site and the context of surrounding development." As currently designed, this project does not meet these standards.

The beauty and cultural value of the Five Wounds Church is key to the heart and soul of the Portuguese community in Northern California, and second in population in the United States next to the New England states Portuguese communities. The church has deep roots in San Jose and is significant to the Portuguese Consulate and the people it represents.

No building site can overtake the height, beauty, aesthetics, and cultural impact that the Five Wounds Church represents. There is no other church in the United States of America like the Five Wounds Portuguese National Church. It cannot be replaced or replicated and it stands as the sentimental to the area known as Little Portugal and can be seen from the 101 freeway and surrounding city blocks unimpeded. It is the Rock that holds the area together.

The Empire Lumber project with a planned 7 story building must be redesigned and cut down significantly in height (less than 5 story) and must adhere to the architectural and site design that enhances the community character.



E Santa Clara St  
San Jose, California  
Google



Five Wounds Portuguese National Church has stood sentinel on East Santa Clara Street since 1916, 30 years before Hwy 101 was constructed through East San José.

The **Manueline** ([Portuguese: \*estilo manuelino\*](#), IPA: [\[jɨˈtɪlu mɐnweˈʎinu\]](#)), occasionally known as **Portuguese late Gothic**.

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**From:** [Jean-Marie White](#)  
**To:** [Le, Thai-Chau](#)  
**Cc:** [Terry Christensen](#)  
**Subject:** Feedback on Mitigated Negative Declaration - PDC17-067/ER20-102  
**Date:** Saturday, December 19, 2020 2:05:09 PM

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[External Email]

Hi,

Here are my thoughts on the MND:

A) Aesthetics: I have found very little information about the looks of the building. So I'm not sure how the city can make a judgement on this topic. Also, it puzzles me that Envision 2040 is mentioned as part of the regulatory framework, but then not mentioned at all in the analysis. Section 21099 (d) (2) (A) "This subdivision does not affect, change, or modify the authority of a lead agency to consider aesthetic impacts pursuant to local design review ordinances or other discretionary powers provided by other laws or policies." So I would expect some opinion here. That being said, I do agree that otherwise, it should have no impact on its surroundings, especially on the Found Wounds Church.

B) through D) no comments

E) Cultural Resources: I support the MND conclusion. I especially see no impact on the Five Wounds Church.

F) through U) no comments

Thank you,  
Jean-Marie White

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**From:** [davide \[REDACTED\]](#)  
**To:** [Le, Thai-Chau](#)  
**Cc:** [Pham, Kieulan](#); [Setiawan, Jessica](#); [terry.christensen \[REDACTED\]](#); [Miguel Avila](#)  
**Subject:** RE: Public Review Draft MND: Empire Lumber Mixed Use Project (PDC17-067/ER20-102)  
**Date:** Monday, December 21, 2020 6:01:45 PM

---

[External Email]

Hello Thai,

Here are my comments for the public record. Or is someone else collecting comments on this?

The Empire Lumber project elevations that I remember were uninspiring and would negatively impact the aesthetic and cultural focus of the neighborhood; namely, the historic 101-year-old Five Wounds Portuguese National Church. The development does not embody Mediterranean or other similar architectural styles that reflect the ethnic heritage of the area. The sheer size of the building should dictate that the building be broken down and viewed as several smaller buildings from the exterior, in accordance with the Roosevelt Park Urban Village Plan; that is, “buildings wider than 75 feet should be subdivided into portions or segments that read as distinct volumes, like a series of building fronts, of a maximum of 50 feet in width”. Otherwise, the 2.77 acre building will detract from the prominence of Five Wounds Church in the viewshed.

There are two proposed projects in the planning pipeline not far from the Empire Lumber site that are engaging and even inspiring. Strangis Properties is consulting on a market-rate apartment project at 70 N 27<sup>th</sup> Street. The elevations are faithful to the Five Wounds Urban Village Plan with regard to Mediterranean architecture, and will be a welcome addition to the neighborhood. Another project in the pipeline comes from Reed Community Partners at 1143 E Santa Clara Street, also under the purview of the Roosevelt Park Urban Village Plan. It will be an affordable apartment project with designs inspired by the architecture of southern Portugal. It will be named The Algarve, after the southernmost region of that country. Its artistic flourishes will use Portuguese azulejo tiles as the medium expressing stories from our city’s history. The principals of the Empire Lumber project would do well to research these other two projects.

Regards,  
Davide Vieira

---

**From:** Le, Thai-Chau <Thai-Chau.Le@sanjoseca.gov>  
**Sent:** Friday, December 18, 2020 9:37 AM  
**To:** davide [REDACTED]; 'terry.christensen [REDACTED]'; [REDACTED]  
**Cc:** Pham, Kieulan <kieulan.pham@sanjoseca.gov>; Setiawan, Jessica <jessica.setiawan@sanjoseca.gov>  
**Subject:** Public Review Draft MND: Empire Lumber Mixed Use Project (PDC17-067/ER20-102)

Hi Terry and Davide,

The new IS/MND is out for public review. Please let me know if you have trouble accessing any of the documents or pages. Please also feel free to forward this notice to all those who may be interested.

Please let me know if you have any questions. Otherwise, have a great holiday!

Best regards,  
Thai

---

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

**Project Name:** Empire Lumber Mixed Use Project  
067/ER20-102

**File No.:** PDC17-

**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.

**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.

**Assessor's 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](mailto:jburch@pacificstates.com).

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 18, 2020 and ends on January 13, 2021**. The Draft ND, Initial Study, and reference documents are available online at: [www.sanjoseca.gov/negativedeclarations](http://www.sanjoseca.gov/negativedeclarations).

In response to the COVID-19 and Shelter-in-Place policy, hard copies are no longer available at the typical locations such as 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 during normal business hours. Therefore, if requested, a hard copy will be mailed to you. Please allow time for printing and delivery. Please contact Thai-Chau Le at 408-535-5658 or e-mail at [Thai-Chau.Le@sanjoseca.gov](mailto:Thai-Chau.Le@sanjoseca.gov) for hard copy requests or for additional questions or concerns.

Thai-Chau Le

Supervising Planner | Planning, Building & Code Enforcement  
City of San Jose | 200 East Santa Clara Street  
[Thai-Chau.Le@sanjoseca.gov](mailto:Thai-Chau.Le@sanjoseca.gov) | (408) 535 - 5658

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**From:** [Ralph Portillo](#)  
**To:** [Le, Thai-Chau](#)  
**Cc:** [Terry Christensen](#)  
**Subject:** 406-unit Empire Lumber project at S. 28th and E. Santa Clara Streets - Environmental Review  
**Date:** Tuesday, December 22, 2020 2:46:06 PM

---

[External Email]

Hi Thai-Chau,

I wanted to comment on this project. As you must know there is a decades long effort by community members to fund and install a pedestrian trail along the eastern border of this project. It would connect the Coyote Creek trail to the south with the proposed BART station at 28<sup>th</sup> street and extend to the Silver Creek trail. Considering the location of this project being immediately adjacent to the Five Wounds Trail proposal, much more should be included in the environmental report as it relates to the trail.

Specifically, the City should require that architectural designs and building layout take the trail into consideration. Trail facing windows, patios, residences and retail space should be required and integrated with the future trail, including tables, seating and open space that is part of the project. Currently, there's not much mention of the trail in this document -- a little on p. 122 (shade on the trail) and there's discussion of parks on p. 142, but no mention of the trail. Nor is the trail mentioned on p. 160 with the discussion of pedestrians and the project.

Additionally, amenities from the project **must** include funding set aside for the development of the trail.

Please **do not approve** the environmental review of this project **until** the future Five Wounds Trail is an integral component of this building project.

Regards,  
Ralph Portillo  
Board Member – Five Wounds Trail

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

**From:** [Richard Stewart](#)  
**To:** [Le, Thai-Chau](#)  
**Cc:** [Terry Christensen](#)  
**Subject:** Fwd: Empire Project and the Five Wounds Trail  
**Date:** Tuesday, December 22, 2020 10:15:59 PM

---

[External Email]

Sent from my iPhone

Begin forwarded message:

**From:** Richard Stewart <[REDACTED]>  
**Date:** December 22, 2020 at 10:10:41 PM PST  
**To:** Terry Christensen <[REDACTED]@edu>  
**Subject:** Re: Empire Project and the Five Wounds Trail

We need to get this trail done. It must be documented with project planned that won't have adverse effects on the trail. Trails first, it's more important; we don't want to lose this opportunity to make San Jose have a trail system for commuters and a safe way to get around the city.

Richard Stewart  
Spartan Keyes neighborhood

Sent from my iPhone

On Dec 22, 2020, at 11:58 AM, Terry Christensen  
<[REDACTED]> wrote:

Friends of Five Wounds Trail (with apologies to those on the BARTTVA email list who have already received messages about this project),

The City has put the environmental review of the 406-unit Empire Lumber project at S. 28th and E. Santa Clara Streets--directly adjacent to the Five Wounds Trail between Shorridge and E. Santa Clara.

We have until January 13 to submit comments. Please send to [Thai-Chau.Le@sanjoseca.gov](mailto:Thai-Chau.Le@sanjoseca.gov)

Here's what the City said about the document: "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."

Note that the consultant found "no significant effect on the environment" because of mitigation measures. If you disagree on any count, let them know. Here's a link to the project study by the consultant: <https://www.sanjoseca.gov/Home/ShowDocument?id=67951>

There's not much mention of the trail in this document -- a little on p. 122 (shade on the trail) and there's discussion of parks on p. 142, but no mention of the trail. Nor is the trail mentioned on p. 160 with the discussion of pedestrians and the project.

So overall, few mentions of the trail, although it is directly adjacent to the eastern side of the project. According to the Initial Study document (link above), the first two floors of the project on the side adjacent to the trail will be commercial. If so, **we need to be vigilant and insist that these floors actively contribute to "eyes on the trail." We must also insist that park fees generated by this project are directed to funding for the trail.**

Please let the City know that this document is notably deficient in its consideration of the Five Wounds Trail. Email your comments to [Thai-Chau.Le@sanjoseca.gov](mailto:Thai-Chau.Le@sanjoseca.gov)

Happy trails... stay safe and happy holidays, too.

--

Terry Christensen  
CommUniverCity  
and  
Professor Emeritus  
San Jose State University



sources.

**From:** [Terry Christensen](#)  
**To:** [Le, Thai-Chau](#)  
**Subject:** Empire Lumber Project  
**Date:** Monday, January 4, 2021 12:44:48 PM  
**Attachments:** [Empire CEQA Comments.docx](#)

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[External Email]

Thai-Chau,

Below and attached as a Word Document are comments on the Initial Study for the Empire Lumber Mixed-Use Project which I am submitting on behalf of BART Transit Village Advocates (BARTTVA).

Thanks. Terry Christensen

### **BART Transit Village Advocates Comments on Empire Lumber Mixed-Use Project**

- The Initial Study declares no impact on "**aesthetics**," but we think it does have an impact on the Church of Five Wounds because of the height of the building at the point nearest the church AND that the overall design of the building (not yet final) is generic and bland, without the slightest gesture to the aesthetics of the community in which it will be built.
- The Initial Study declares no impact on "**cultural resources**." Again, we think the Church of Five Wounds is a cultural resource that will be diminished by the height of the project at the point nearest the church. The current design of the building by virtue of its lack of character also diminishes the cultural resources of the area.
- The Roosevelt Park Urban Village Plan encourages use of "a Mediterranean or other similar architectural styles that reflect the ethnic heritage of the area." The current design for this project does not do that.
- Similarly, the Roosevelt Park Urban Village Plan states that "new buildings should avoid a monolithic appearance" and "buildings wider than 75 Feet should be subdivided into portions or segments that read as distinct volumes, like a series of building fronts, of a maximum of 50 feet in width." The current design for this project ignores these policies.
- Policy 4 of the Roosevelt Park Urban Village Plan limits "the area for an 85-foot building mass to 50 percent of the footprint of the block and the remainder must be 55 feet." This project is not consistent with the plan. The height of the project at the corner of East Santa Clara and South 28<sup>th</sup> Street should be stepped down in respect to the Church of Five Wounds.
- Further, the Envision 2040 General Plan requires "the highest standards of architectural and site design... for the enhancement and development of

community character" and the "use of building design to reflect the unique character of a specific site and the context of surrounding development." As currently designed, this project does not meet these standards.

- The document as drafted is insufficient in its consideration of the Five Wounds Trail (adjacent to the project's eastern side).
- The impact of shade on the trail is discussed on p. 122, but further consideration should be given to the interface between the project and the trail and to the trail as park space.
- Parks are discussed on p. 142 of the document, but the trail is not considered.
- Pedestrian movement is discussed on p. 160 but the trail is not mentioned.
- According to the Roosevelt Park Urban Village Plan Land Use Policy 7 "New development with residential components that are adjacent to the Five Wounds Trail corridor should provide ground floor residential units that face the trail."
- According to the Initial Study document, the first two floors of the project on the side adjacent to the trail will be commercial, not residential, with no guarantee of "eyes on the trail." We doubt that commercial space there will be viable—hence it will most likely be unoccupied with NO eyes on the trail.
- Additionally, it should be noted that park fees generated by the project should go to funding for the Five Wounds Trail. We appreciate that the Transportation Analysis for this project (Appendix F) states that "the project will be required to provide a fair-share contribution toward the construction of the Five Wound Trail" and recognizes the contributions of the Trail to pedestrian circulation and transit access (pp. 54-58).

--

Terry Christensen  
CommUniverCity  
and  
Professor Emeritus  
San Jose State University

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**From:** [davide \[REDACTED\]](#)  
**To:** [Le, Thai-Chau](#)  
**Cc:** [Terry.Christense \[REDACTED\]](#); [Matthew Gustafson; \[REDACTED\]](#)  
**Subject:** Public Review Draft MND: Empire Lumber Mixed Use Project (PDC17-067/ER20-102)  
**Date:** Monday, January 4, 2021 5:55:46 PM

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[External Email]

Hello Thai,

I believe that the transportation study numbers for the Empire Lumber project may be inaccurate. If the study firm counted vehicles that actually turned the corner from westbound E Santa Clara St to S 28<sup>th</sup> St and from northbound S 28<sup>th</sup> St to eastbound E Santa Clara St, then these are certainly undercounted.

Here's why: Northbound vehicles on S 28<sup>th</sup> would cut through the parking lot at the corner to avoid waiting for the signal to change. Likewise, vehicles in the left turn lane for S 28<sup>th</sup> would cut through the parking lot to avoid waiting for the left turn signal to change. Just a few months ago, my brother, who manages that corner property, had permanent bollards and a chain installed at the E Santa Clara St parking lot entrance. His landscape maintenance person was nearly killed (again) this Fall. Now vehicles have no choice but to wait for the signal changes. And that means that there are longer lines of vehicles waiting to turn from each direction. So when the study said that vehicles rarely extended south of Shortridge on S 28<sup>th</sup> waiting for the signal change, that statement is now outdated.

That said, I believe that a longer left turn lane will be necessary from E Santa Clara St to S 28<sup>th</sup> St. Likewise from E Santa Clara St to S 26<sup>th</sup> St. And the signals at both intersections will likely need to be recalibrated as well if the left turn lanes are lengthened. And I can only guess that the signal for northbound vehicles on S 28<sup>th</sup> will also need to be addressed.

One more thing. The En Movimiento DOT project will be making drastic changes to E Santa Clara St in the next few years. It appears that the Empire Lumber transportation study has taken this into account to a degree, but I must ask if they've considered all possible ramifications to traffic and transportation in our immediate area post-completion of the Empire Lumber project? We'll be having this same conversation for the Strangis 70 N 27<sup>th</sup> project and the Reed Community Partners 1143 E Santa Clara St project.

Now for parking concerns. Given that our residential streets are nearly full of parked vehicles 24/7 these days, and the 300-400 units at the Empire Lumber site parked at 1 space per unit will only guarantee no available street parking, I have some questions:

- How do neighborhoods in our situation have their streets swept?
- How do neighborhoods in our situation put green waste on the street? Would we be forced

to pay for a green waste bin to reliably have our green waste collected? Seems like a “tax” levied on our residents due to the Empire Lumber project.

- Has the City changed its stance on residential parking permits; that is, are they back in favor? If so, how about Empire Lumber footing the bill for this going forward?
- Would the city entertain street signs that would require residents to move their vehicles on street sweeping days? These signs have been installed on the other side of East Santa Clara between N 27<sup>th</sup> and N 24<sup>th</sup> and east of S 24<sup>th</sup> to S 19<sup>th</sup>.

These are my comments and observations for now. Please confirm that they have been entered into the public record for the Empire Lumber project.

Regards,  
Davide Vieira

*All you leave behind are memories -- make them good ones*

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**From:** [Joan Cosby](#)  
**To:** [Le, Thai-Chau](#)  
**Subject:** Comments on Empire Lumber Mixed Use Project CEQA Initial Study  
**Date:** Friday, January 8, 2021 4:15:41 PM

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[External Email]

Dear Thai-Chau,

I wish to comment on the Empire Lumber Mixed Use Project CEQA Initial Study as the stewardship of the future Five Wounds Trail is very important to our neighborhood, and the trail will serve as a regional asset when fully developed.

• The document as drafted is insufficient in its consideration of the Five Wounds Trail which is adjacent to the project's eastern side.

• The impact of shade on the trail is discussed on page 122, but further consideration should be given to the interface between the project and the trail and to the trail as park space.

• Parks are discussed on page 142 of the document, but the trail is not considered.

• Pedestrian movement is discussed on page 160 but the trail is not mentioned.

• According to the Roosevelt Park Urban Village Plan Land Use Policy 7 "New development with residential components that are adjacent to the Five Wounds Trail corridor should provide ground floor residential units that face the trail."

• According to the Initial Study document, the first two floors of the project on the side adjacent to the trail will be commercial, not residential, with no guarantee of "eyes on the trail." We doubt that commercial space there will be viable - therefore, most likely to be unoccupied with NO eyes on the trail.

• Additionally, it should be noted that park fees generated by the project should go to funding for the Five Wounds Trail. We appreciate that the Transportation Analysis for this project (Appendix F) states that "the project will be required to provide a fair-share contribution toward the construction of the Five Wound Trail" and recognizes the contributions of the Trail to pedestrian circulation and transit access (pages 54-58).

I feel that this document is notably deficient in its consideration of the Five

Wounds Trail and would appreciate more attention be given due to its proximity to the proposed project. Community members have worked long and hard to make the trail a reality and deserve thoughtful attention be paid to the future development of the Empire Lumber site.

Thank you.

Joan Rivas-Cosby  
Chair, Friends of Five Wounds Trail

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