

Appendix A

Notice of Preparation and Notice of Preparation Responses



NOTICE OF PREPARATION

The City of Palo Alto is the lead agency requesting input regarding the preparation of an Environmental Impact Report (EIR) for the proposed 4256 El Camino Real Hotel Project, a project pursuant to the California Environmental Quality Act (CEQA). The EIR is being prepared pursuant to CEQA Guidelines Section 15183 (“Projects Consistent with a Community Plan or Zoning”). A Comprehensive Plan Consistency Environmental Checklist is also being prepared and will be released with the Draft EIR. The purpose of this Notice of Preparation is to solicit input on the scope and content of the EIR for the proposed project, pursuant to CEQA *Guidelines* Section 15082.

PROJECT TITLE	4256 El Camino Real Hotel Project
PROJECT APPLICANT	Randy Popp 210 High St Palo Alto California, 94301

PROJECT DESCRIPTION

The proposed project would involve demolition of an existing restaurant building and construction of a five-story hotel building at 4256 El Camino Real in Palo Alto. The hotel would include 100 guest rooms, underground parking with mechanical lifts, and an exterior courtyard. Hotel amenities would include a fitness room, business center, restaurant/café, and bar. The total gross square feet (sf) of the project would be approximately 51,300 sf. The building roof height would be 50 feet, with mechanical equipment and an associated mechanical screen extending no more than 8 feet above the maximum ridge of the roof. The rear of the building would include an outdoor patio area with a pedestrian path, seating, a lounge area, and a gathering space with a fire pit for use by hotel guests. Parking would include 85 parking stalls plus 17 valet aisle spaces for a total of 102 vehicle spaces located in a two-level subterranean garage accessible via a driveway from El Camino Real.

PROJECT LOCATION	The project site is located at 4256 El Camino Real in the City of Palo Alto in Santa Clara County. The project site encompasses approximately 0.60 acres on one assessor’s parcel (Assessor’s Parcel Number 167-08-042). The site is located along El Camino Real northeast of the intersection of El Camino Real and Dinahs Court and approximately 0.25 miles southeast of the intersection of El Camino Real and Arastradero Road/West Charleston Road.
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PROBABLE ENVIRONMENTAL EFFECTS

The City of Palo Alto has determined that an EIR will be prepared for the proposed project. Based on preliminary analysis in an Initial Study, the probable environmental impacts that will be analyzed as part of the EIR are in the issue areas of Noise, Geology and Soils, Biological

Resources (tree protection), Transportation, and Cultural Resources. The specific issue areas to be studied may change based on the conclusions of the final draft Comprehensive Plan Consistency Environmental Checklist and comments received during the EIR scoping period. The project plans may be reviewed at the City's planning offices on the fifth floor of City Hall at 250 Hamilton Avenue, Palo Alto, California, 650-329-2225 or online at <http://bit.ly/4256ECR>.

STREAMLINED CEQA PROCESSING FOR PROJECTS CONSISTENT WITH A COMMUNITY PLAN OR ZONING

The City's preliminary review indicates that the project may qualify for streamlined review under CEQA Guidelines Section 15183, due to its potential conformance with the with the development density established by existing zoning and the 2030 Comprehensive Plan. The purpose of Guidelines section 15183, for eligible projects, is to allow lead agencies to limit the topics subject to study in an EIR to those that are peculiar to the parcel or to the project, have not been addressed as significant effects in a prior EIR, or cannot be substantially mitigated by the imposition of uniformly applied development policies or standards. The primary planning level decision is the adopted 2030 Comprehensive Plan, and the referenced environmental documentation is the 2017 Comprehensive Plan Update Final EIR.

Pursuant to CEQA Guidelines Section 15082(b), your comments regarding the scope and content of the environmental analysis must be submitted no later than 30 days after receipt of this notice. The public review period is from July 5, 2019, until August 5, 2019. Please send your comments no later than August 5, 2019, directly to:

Samuel J. Gutierrez
City of Palo Alto, 250 Hamilton Avenue, Fifth Floor
Palo Alto, CA 94301

Email: Samuel.Gutierrez@CityofPaloAlto.org



Signature (Public Agency)

Associate Planner
Title

July 5, 2019
Date

Twitter: @CA_NAHC

Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws.

AB 52

AB 52 has added to CEQA the additional requirements listed below, along with many other requirements:

1. Fourteen Day Period to Provide Notice of Completion of an Application/Decision to Undertake a Project: Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a lead agency shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, to be accomplished by at least one written notice that includes:
 - a. A brief description of the project.
 - b. The lead agency contact information.
 - c. Notification that the California Native American tribe has 30 days to request consultation. (Pub. Resources Code §21080.3.1 (d)).
 - d. A "California Native American tribe" is defined as a Native American tribe located in California that is on the contact list maintained by the NAHC for the purposes of Chapter 905 of Statutes of 2004 (SB 18). (Pub. Resources Code §21073).
2. Begin Consultation Within 30 Days of Receiving a Tribe's Request for Consultation and Before Releasing a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report: A lead agency shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project. (Pub. Resources Code §21080.3.1, subds. (d) and (e)) and prior to the release of a negative declaration, mitigated negative declaration or Environmental Impact Report. (Pub. Resources Code §21080.3.1(b)).
 - a. For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code §65352.4 (SB 18). (Pub. Resources Code §21080.3.1 (b)).
3. Mandatory Topics of Consultation If Requested by a Tribe: The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:
 - a. Alternatives to the project.
 - b. Recommended mitigation measures.
 - c. Significant effects. (Pub. Resources Code §21080.3.2 (a)).
4. Discretionary Topics of Consultation: The following topics are discretionary topics of consultation:
 - a. Type of environmental review necessary.
 - b. Significance of the tribal cultural resources.
 - c. Significance of the project's impacts on tribal cultural resources.
 - d. If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency. (Pub. Resources Code §21080.3.2 (a)).
5. Confidentiality of Information Submitted by a Tribe During the Environmental Review Process: With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code §6254 (r) and §6254.10. Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. (Pub. Resources Code §21082.3 (c)(1)).
6. Discussion of Impacts to Tribal Cultural Resources in the Environmental Document: If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:
 - a. Whether the proposed project has a significant impact on an identified tribal cultural resource.
 - b. Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code §21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource. (Pub. Resources Code §21082.3 (b)).

7. Conclusion of Consultation: Consultation with a tribe shall be considered concluded when either of the following occurs:
- The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
 - A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached. (Pub. Resources Code §21080.3.2 (b)).
8. Recommending Mitigation Measures Agreed Upon in Consultation in the Environmental Document: Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code §21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to Public Resources Code §21082.3, subdivision (b), paragraph 2, and shall be fully enforceable. (Pub. Resources Code §21082.3 (a)).
9. Required Consideration of Feasible Mitigation: If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to Public Resources Code §21084.3 (b). (Pub. Resources Code §21082.3 (e)).
10. Examples of Mitigation Measures That, If Feasible, May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:
- Avoidance and preservation of the resources in place, including, but not limited to:
 - Planning and construction to avoid the resources and protect the cultural and natural context.
 - Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
 - Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
 - Protecting the cultural character and integrity of the resource.
 - Protecting the traditional use of the resource.
 - Protecting the confidentiality of the resource.
 - Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
 - Protecting the resource. (Pub. Resource Code §21084.3 (b)).
 - Please note that a federally recognized California Native American tribe or a non-federally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed. (Civ. Code §815.3 (c)).
 - Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated. (Pub. Resources Code §5097.991).
11. Prerequisites for Certifying an Environmental Impact Report or Adopting a Mitigated Negative Declaration or Negative Declaration with a Significant Impact on an Identified Tribal Cultural Resource: An Environmental Impact Report may not be certified, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:
- The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code §21080.3.1 and §21080.3.2 and concluded pursuant to Public Resources Code §21080.3.2.
 - The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
 - The lead agency provided notice of the project to the tribe in compliance with Public Resources Code §21080.3.1 (d) and the tribe failed to request consultation within 30 days. (Pub. Resources Code §21082.3 (d)).

The NAHC's PowerPoint presentation titled, "Tribal Consultation Under AB 52: Requirements and Best Practices" may be found online at: http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CaIEPAPDF.pdf

SB 18

SB 18 applies to local governments and requires local governments to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. (Gov. Code §65352.3). Local governments should consult the Governor's Office of Planning and Research's "Tribal Consultation Guidelines," which can be found online at: https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf

Some of SB 18's provisions include:

1. **Tribal Consultation:** If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List." If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.** (Gov. Code §65352.3 (a)(2)).
2. **No Statutory Time Limit on SB 18 Tribal Consultation.** There is no statutory time limit on SB 18 tribal consultation.
3. **Confidentiality:** Consistent with the guidelines developed and adopted by the Office of Planning and Research pursuant to Gov. Code §65040.2, the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code §5097.9 and §5097.993 that are within the city's or county's jurisdiction. (Gov. Code §65352.3 (b)).
4. **Conclusion of SB 18 Tribal Consultation:** Consultation should be concluded at the point in which:
 - a. The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
 - b. Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation. (Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p. 18).

Agencies should be aware that neither AB 52 nor SB 18 precludes agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52 and SB 18. For that reason, we urge you to continue to request Native American Tribal Contact Lists and "Sacred Lands File" searches from the NAHC. The request forms can be found online at: <http://nahc.ca.gov/resources/forms/>

NAHC Recommendations for Cultural Resources Assessments

To adequately assess the existence and significance of tribal cultural resources and plan for avoidance, preservation in place, or barring both, mitigation of project-related impacts to tribal cultural resources, the NAHC recommends the following actions:

1. Contact the appropriate regional California Historical Research Information System (CHRIS) Center (http://ohp.parks.ca.gov/?page_id=1068) for an archaeological records search. The records search will determine:
 - a. If part or all of the APE has been previously surveyed for cultural resources.
 - b. If any known cultural resources have already been recorded on or adjacent to the APE.
 - c. If the probability is low, moderate, or high that cultural resources are located in the APE.
 - d. If a survey is required to determine whether previously unrecorded cultural resources are present.
2. If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
 - a. The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.
 - b. The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.

3. Contact the NAHC for:
 - a. A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project's APE.
 - b. A Native American Tribal Consultation List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.
4. Remember that the lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.
 - a. Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources per Cal. Code Regs., tit. 14, §15064.5(f) (CEQA Guidelines §15064.5(f)). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.
 - b. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.
 - c. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code §7050.5, Public Resources Code §5097.98, and Cal. Code Regs., tit. 14, §15064.5, subdivisions (d) and (e) (CEQA Guidelines §15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

If you have any questions or need additional information, please contact me at my email
address: Gayle.Totton@nahc.ca.gov.

Sincerely,



for

Gayle Totton
Associate Governmental Program Analyst

cc: State Clearinghouse

DEPARTMENT OF TRANSPORTATION

DISTRICT 4

OFFICE OF TRANSIT AND COMMUNITY PLANNING

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a California Way of Life.*

August 8, 2019

SCH #2018122054

GTS #04-SCL-2017-00606

GTS ID: 6934

CO-Rt-PM: SCL-82-22.42

Samuel Gutierrez, Associate Planner
City of Palo Alto
250 Hamilton Avenue
Palo Alto, CA 94301

Project – 4256 El Camino Real Hotel Project Notice of Preparation (NOP) of an Environmental Impact Report (EIR)

Dear Samuel:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the above-referenced project. In tandem with the Metropolitan Transportation Commission's (MTC) Sustainable Communities Strategy (SCS), Caltrans' mission signals our agency's approach to evaluate and mitigate impacts to the State Transportation Network (STN). Caltrans' *Strategic Management Plan 2015-2020* aims to reduce Vehicle Miles Traveled (VMT) in part, consistent with the State's goals and targets. Our comments are based on the July 5, 2019 NOP of an EIR.

Project Understanding

The applicant proposes to demolish an existing building and construct a five-story hotel building. The hotel would include 100 guest rooms, underground parking with mechanical lifts, and an exterior courtyard. Hotel amenities would include a fitness room, business center, restaurant/café, and bar. The total gross size of the project would be approximately 51,300 square feet (sf). The building roof height would be 50 feet, with mechanical equipment and an associated mechanical screen extending no more than eight feet above the maximum ridge of the roof. The rear of the building would include an outdoor patio area with a pedestrian path, seating, a lounge area, and a gathering space with a fire pit for use by hotel guests. Parking would include 85 parking stalls plus 17 valet aisle spaces for a total of 102 vehicle spaces located in a two-level

subterranean garage. Five of the parking spaces would include electric vehicle charging stations (EVCS) and 17 of the spaces would be EVCS ready by applicable standards. The project would also provide 12 bicycle parking spaces in the form of six secure bike lockers in the courtyard and six bike rack spaces at the front entry. Access to the site would be provided via two existing driveways on State Route (SR) 82 (El Camino Real). The northern driveway would be right-in only to accommodate drop-offs and deliveries, and the southern driveway would be right-in/right-out from SR-82 (El Camino Real), connecting to the subterranean parking garage and to the northern driveway. A light-emitting diode (LED) flashing light and sign at the top of the garage ramp that would alert pedestrians that a vehicle is approaching the sidewalk.

Landscape Architecture

Any tree removal and/or planting will require a Caltrans landscape architecture review and an Encroachment Permit. For more information, please see the encroachment permit section at the end of the letter. The proposed relocation of the three London plane street trees would require substantial excavation to sufficiently protect the root ball and continued health of the trees. Due to potential challenges such as conflicts with the roadway and utilities, the applicant should consider planting new street trees comparable to the London plane trees.

Travel Demand, Design and Construction

- Construction vehicles should not operate during AM and PM peak hours on El Camino Real.
- We concur with mitigation measure TRA-1; requiring the installation of convex mirrors at the bottom of the ramp to assist drivers with the sharp turns; and the installation of red curb between the two project driveways to prohibit on-street parking and ensure adequate sight distance from project driveways.
- This project is an ideal candidate to apply Transportation Management Associate (TMA) policies, as promoted by the Sub-Regional Transportation Alliance, spearheaded by the City of Menlo Park.

Multimodal Planning

This project is near a Priority Development Area (PDA) in the City of Palo Alto. PDA's are identified by the Association of Bay Area Governments as areas for investment, new homes, and job growth. To support PDA goals, the proposed project should be conditioned to contribute fair share impact fees toward the proposed Corridor Improvement-Class IV Bikeway on SR 82 (El Camino Real) and as a condition of approval, per the Caltrans District 4 Bike Plan. Please include

the Mitigation, Monitoring, and Reporting Plan in the environmental document.

Lead Agency

As the Lead Agency, the City of Palo Alto is responsible for all project mitigation, including any needed improvements to the STN. The project's fair share contribution, financing, scheduling, implementation responsibilities and lead agency monitoring should be fully discussed for all proposed mitigation measures.

Encroachment Permit

Please be advised that any work or traffic control that encroaches onto the State right-of-way (ROW) requires an encroachment permit that is issued by Caltrans. To obtain an encroachment permit, a completed encroachment permit application, environmental documentation, and six (6) sets of plans clearly indicating the State ROW, and six (6) copies of signed and stamped traffic control plans must be submitted to: Office of Encroachment Permits, California DOT, District 4, P.O. Box 23660, Oakland, CA 94623-0660. To download the permit application and obtain more information, visit <https://dot.ca.gov/programs/traffic-operations/ep/applications>.

Thank you again for including Caltrans in the environmental review process. Should you have any questions regarding this letter, please contact Mark Leong at 510-622-1644 or mark.leong@dot.ca.gov.

Sincerely,



WAHIDA RASHID
Acting District Branch Chief
Local Development - Intergovernmental Review

c: State Clearinghouse

From: Sharlene Carlson <EMAIL ADDRESS REDACTED FOR PRIVACY>
Sent: Thursday, August 1, 2019 6:34:51 PM
To: Gutierrez, Samuel <Samuel.Gutierrez@CityofPaloAlto.org>
Cc: Julie Baskind <EMAIL ADDRESS REDACTED FOR PRIVACY>; Anne Mason <EMAIL ADDRESS REDACTED FOR PRIVACY>; Gerhardt, Jodie <Jodie.Gerhardt@CityofPaloAlto.org>
Subject: Re: 4256 El Camino Real Hotel Notice of Preparation (NOP)

Hello Sam,

Thanks for reaching out to solicit our input on next steps. Palo Alto Redwoods and our attorneys have reviewed the NOP. We believe that it is inadequate because it does not address all of the issue areas for which we provided comments in response to the IS/MND.

In addition to the issues identified in the NOP, the following issues need to be analyzed in the EIR - visual character, land use (consistency with the General Plan), dewatering (water quality), and cumulative impacts.

Since we made extensive comments to the IS/MND (attached for easy reference) we won't provide more specific written comments now. I am happy to discuss this with you if you have questions.

Regards,

Sharlene