

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

*Project File Number, Description, and Location*

**GP08-07-01, C08-047, CP07-083.** General Plan Amendment to change the Land Use/Transportation Diagram from Medium Low Density Residential 8.0 DU/AC to General Commercial and Conventional Rezoning to rezone from A Agriculture to CN Commercial Neighborhood to allow commercial uses and subsequent permits on a 0.72 gross acre site on the southwest corner of Tully Road and McLaughlin Avenue (APN 499-20-001), BP West Coast Products, LLC, Owner, Bobby Gulshan, WD Partners, Developer. Council District: 7.

California State Law requires the City of San José to conduct environmental review for all pending projects that require a public hearing. Environmental review examines the nature and extent of any potentially significant adverse effects on the environment that could occur if a project is approved and implemented. The Director of Planning, Building & Code Enforcement would require the preparation of an Environmental Impact Report if the review concluded that the proposed project could have a significant unavoidable effect on the environment. The California Environmental Quality Act (CEQA) requires this notice to disclose whether any listed toxic sites are present. The project location **does** contain a listed toxic site.

Based on an initial study, the Director has concluded that the project described above will not have a significant effect on the environment. We have sent this notice to all owners and occupants of property within 500 feet of the proposed project to inform them of the Director's intent to adopt a Mitigated Negative Declaration for the proposed project on **May 26, 2009**, and to provide an opportunity for public comments on the draft Mitigated Negative Declaration. The public review period for this draft Mitigated Negative Declaration begins on **May 5, 2009** and ends on **May 26, 2009**.

A public hearing on the project described above is tentatively scheduled for **May 27, 2009** at **6.30 P.M.** in the City of San Jose Council Chambers, 200 East Santa Clara Street, San Jose, CA 95113. The draft Mitigated Negative Declaration, initial study, and reference documents are available for review under the above file number from 9:00 a.m. to 5:00 p.m. Monday through Friday at the City of San Jose Department of Planning, Building & Code Enforcement, City Hall, 200 East Santa Clara Street, San José CA 95113-1905. The documents are also available at the Dr. Martin Luther King, Jr. Main Library, 150 E. San Fernando St, San José, CA 95112, and the **Tully Community Library**, 880 Tully Road, San José, CA, and online at <http://www.sanjoseca.gov/planning/eir/MND.asp>. Adoption of a Mitigated Negative Declaration does not constitute approval of the proposed project. The decision to approve or deny the project described above will be made separately as required by City Ordinance. For additional information, please call **Ed Schreiner** at (408) 535-7845.

Joseph Horwedel, Director  
Planning, Building and Code Enforcement

Circulated on: May 5, 2009

  
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Deputy

**DRAFT**  
**MITIGATED NEGATIVE DECLARATION**

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

**NAME OF PROJECT:** ARCO Station Renovation at 1100 Tully Road

**PROJECT FILE NUMBERS:** GP08-07-01, C08-047, CP07-083

**PROJECT DESCRIPTION:** General Plan Amendment to change the Land Use/Transportation Diagram from Medium Low Density Residential 8.0 DU/AC to General Commercial and Conventional Rezoning to rezone from A Agriculture to CN Commercial Neighborhood to allow commercial uses on a 0.72 gross acre site and subsequent permits.

**PROJECT LOCATION & ASSESSORS PARCEL NO.:** Southwest corner of Tully Road and McLaughlin Avenue. APN 499-20-001.

**COUNCIL DISTRICT:** 7

**APPLICANT CONTACT INFORMATION:** BP West Coast Products, LLC, 4 Centerpointe Drive, La Palma, CA. Contact: Bobby Gulshan, WD Partners (916) 300-8216.

**FINDING**

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

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

1. **AESTHETICS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
2. **AGRICULTURE RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.

3. **AIR QUALITY** – The project will not have a significant impact on this resource, therefore no mitigation is required.
4. **BIOLOGICAL RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
5. **CULTURAL RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
6. **GEOLOGY AND SOILS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
7. **HAZARDS AND HAZARDOUS MATERIALS:**
  - The project shall develop and implement a management plan for worker safety during construction. The plan shall be reviewed and approved by the Santa Clara County Environmental Health Department to assure the safety of construction workers in accordance with state and local regulatory requirements. Prior to construction, the applicant shall submit a copy of the approved worker safety plan to the City's Environmental Principal Planner.
  - Stockpiling is not anticipated due to the small size of the site; however, field investigation shall be conducted during excavation activities, and any impacted soil shall be segregated, stockpiled, sampled, and removed to a licensed disposal facility based on sampling results. The stockpiled materials shall be placed on and covered with an impermeable liner (typically plastic sheeting). Small quantities of potentially impacted soils may also be stored in sealed drums on the site until the lab results are available.
  - The project applicant shall obtain permits from the Santa Clara Valley Water District (SCVWD) for the destruction and/or construction of any monitoring wells and shall comply with the applicable requirements.
8. **HYDROLOGY AND WATER QUALITY** – The project will not have a significant impact on this resource, therefore no mitigation is required.
9. **LAND USE AND PLANNING** – The project will not have a significant impact on this resource, therefore no mitigation is required.
10. **MINERAL RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
11. **NOISE** – The project will not have a significant impact on this resource, therefore no mitigation is required.
12. **POPULATION AND HOUSING** – The project will not have a significant impact on this resource, therefore no mitigation is required.

13. **PUBLIC SERVICES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
14. **RECREATION** – The project will not have a significant impact on this resource, therefore no mitigation is required.
15. **TRANSPORTATION / TRAFFIC** – The project will not have a significant impact on this resource, therefore no mitigation is required.
16. **UTILITIES AND SERVICE SYSTEMS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
17. **MANDATORY FINDINGS OF SIGNIFICANCE** – With mitigation the project will not substantially reduce the habitat of a fish or wildlife species, be cumulatively considerable, or have a substantial adverse effect on human beings.

**PUBLIC REVIEW PERIOD**

Before 5:00 p.m. on May 26, 2009 Tuesday, any person may:

- (1) Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or
- (2) Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND; or
- (3) File a formal written protest of the determination that the project would not have a significant effect on the environment. This formal protest must be filed in the Department of Planning, Building and Code Enforcement, 200 East Santa Clara Street, San José CA 95113-1905 and include a \$100 filing fee. The written protest should make a "fair argument" based on substantial evidence that the project will have one or more significant effects on the environment. If a valid written protest is filed with the Director of Planning, Building & Code Enforcement within the noticed public review period, the Director may (1) adopt the Mitigated Negative Declaration and set a noticed public hearing on the protest before the Planning Commission, (2) require the project applicant to prepare an environmental impact report and refund the filing fee to the protestant, or (3) require the Draft MND to be revised and undergo additional noticed public review, and refund the filing fee to the protestant.

Joseph Horwedel, Director  
Planning, Building and Code Enforcement



Circulated on: \_\_\_\_\_

Deputy

Adopted on: \_\_\_\_\_

Deputy

Revised 8/26/05 JAC