

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: 16455 Almaden Expressway Convenience Store, Gas Station, and Car Wash Project

PROJECT FILE NUMBER: CP17-020

PROJECT DESCRIPTION: The project proposes to: 1) convert the existing building that houses the current small food mart, restrooms, and a service station with three service bays to a full convenience store of approximately 2,000 square-foot (sf), 2) construct a new automated car wash, and 3) demolish the existing fueling canopy and reconstruct an approximately 2,200 sf canopy on the approximately 0.77 acre site.

PROJECT LOCATION: 16455 Almaden Expressway, San Jose, CA 95120

ASSESSORS PARCEL NO.: 577-09-029

COUNCIL DISTRICT: 10

APPLICANT CONTACT INFORMATION: Rob Wood, RC Petroleum, 205 North Hill Court, San Ramon, CA 94583; 805-452-3021

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

- A. **AESTHETICS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- B. **AGRICULTURE AND FOREST RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- C. **AIR QUALITY** – The project will not have a significant impact on this resource, therefore no mitigation is required.

D. BIOLOGICAL RESOURCES.

Impact BIO-1: Development of the proposed project could result in direct impacts to nesting birds, if present on the site at the time of construction.

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

If it is not possible to schedule demolition and construction between September 1st and January 31st (inclusive), as amended, to avoid the nesting season, pre-construction surveys for nesting raptors and other migratory nesting birds shall be conducted by a qualified ornithologist to identify active nests that may be disturbed during project implementation on-site and within 250 feet of the site. Projects that commence demolition and/or construction activities between February 1st and April 30th (inclusive), as amended, shall conduct a pre-construction survey for nesting birds no more than 14 days prior to initiation of construction, demolition activities, or tree removal. Between May 1 and August 31 (inclusive), as amended, the pre-construction survey shall be conducted no more than 30 days prior to initiation of construction, demolition, or tree removal activities.

If an active nest is found in or close enough to the project area to be disturbed by construction activities, a qualified ornithologist, in consultation with the CDFW, shall determine the extent of a construction free buffer zone (typically 250 feet for raptors and 100 feet for other birds) around the nest, to ensure that raptor or migratory bird nests would not be disturbed during ground disturbing activities. The construction-free buffer zones shall be maintained until after the nesting season has ended and/or the ornithologist has determined that the nest is no longer active.

The ornithologist shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the Supervising Environmental Planner of the City of San José Department of Planning, Building and Code Enforcement prior to any tree removal activities, demolition, and/or building permits (whichever occurs first).

E. CULTURAL RESOURCES.

Impact CUL-1: The development of the project could potentially result in discovery of prehistoric and archeological resources.

MM CUL-1: Preliminary Investigation: Once the fueling canopy has been demolished and pavement and landscaping removed, a qualified archaeologist shall complete presence/absence exploration, as recommended by the qualified archeologist, to determine if there are any indications of discrete historic-era subsurface archaeological features. The results of the presence/absence exploration, including any treatment recommendations if any, shall be submitted to the Supervising Environmental Planner and Historic Preservation Officer of the City of San José Department of Planning, Building, and Code Enforcement for review and approval prior to issuance of any grading permit.

F. GEOLOGY AND SOILS – The project will not have a significant impact on this resource,

therefore no mitigation is required.

G. GREENHOUSE GAS EMISSIONS – The project will not have a significant impact on this resource, therefore no mitigation is required.

H. HAZARDS AND HAZARDOUS MATERIALS.

Impact HAZ-1: Excavation could result in encountered of contaminated soil and if improperly handled, these activities would result in risks to people and the environment.

MM HAZ-1: Under regulatory oversight from the Santa Clara County Department of Environmental Health (SCCDEH) using their Voluntary Cleanup Program (VCP), or equivalent regulatory agency, the project applicant shall prepare the following documents:

- The regulatory agency may require a Site Management Plan (SMP) or similar document to manage the cleanup of contaminated soils.
- If applicable, a SMP shall be prepared prior to construction to reduce or eliminate exposure risk to human health and the environment, specifically, potential risks associated with the presence of contaminated soils. The SMP shall include, but is not limited to, the following elements to mitigate potential risks associated with environmental conditions:
 - A detailed discussion of the site background;
 - Proper procedures as needed for demolition of existing structures;
 - Management of stockpiles, including sampling, disposal, and dust and runoff control including implementation of a stormwater pollution prevention program;
 - Procedures for transporting and disposing the waste material generated during removal activities;
 - Procedures for stockpiling soil on-site, if such stockpiling is necessary;
 - Provisions for collecting additional soil samples in previously inaccessible areas to confirm the extent of soil contamination, following demolition activities
 - Procedures to ensure that fill and cap materials are verified as clean;
 - Truck routes for export of soil;
 - Staging and loading procedures and record keeping requirements.
 - Procedures to follow if evidence of an unknown historic release of hazardous materials (e.g., underground storage tanks, polychlorinated biphenyls [PCBs], asbestos containing materials, lead-based paint, etc.) is discovered during excavation or demolition activities.
- The SMP shall be submitted to the SCCDEH, or equivalent regulatory agency, for review and approval. Copies of the approved SMP shall be provided to the City's Department of Planning, Building and Code Enforcement, and Environmental Services Department prior to issuance of any grading permits.
- All contractors and subcontractors at the project site shall develop a health and safety plan (HSP) specific to their scope of work and based upon the known environmental conditions for the site. Each HSP shall be implemented under the direction of a Site Safety and Health Officer. The HSP shall include, but not limited to, the following elements, as applicable:

- Provisions for personal protection and monitoring exposure to construction workers;
 - Procedures to be undertaken in the event that contamination is identified above action levels or previously unknown contamination is discovered;
 - Procedures for the safe storage, stockpiling, and disposal of contaminated soils;
 - Provisions for the on-site management and/or treatment of contaminated groundwater during extraction or dewatering activities;
 - Emergency procedures and responsible personnel.
- The HSP shall be submitted to the SCCDEH, or equivalent regulatory agency, for review and approval. Copies of the approved HSP shall be provided to the City's Department of Planning, Building and Code Enforcement, and Environmental Services Department prior to the issuance of any grading permits.

- I. HYDROLOGY AND WATER QUALITY** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- J. LAND USE AND PLANNING** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- K. MINERAL RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- L. NOISE** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- M. POPULATION AND HOUSING** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- N. PUBLIC SERVICES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- O. RECREATION** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- P. TRANSPORTATION / TRAFFIC** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- Q. UTILITIES AND SERVICE SYSTEMS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- R. MANDATORY FINDINGS OF SIGNIFICANCE**

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, therefore no mitigation is required.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **February 19th, 2018** any person may:

1. Review the Draft Mitigated Negative Declaration (MND) as an informational document only;
or
2. Submit written comments regarding the information and analysis in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND.

Thai-Chau Le
Environmental Project Manager

Rosalynn Hughey, Interim Director
Planning, Building and Code Enforcement

1/25/18
Date


Deputy

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