

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: Rotten Robbie #67 Gas Station Project
PROJECT FILE NUMBER: GP16-011, C17-008, CP17-015

PROJECT DESCRIPTION: General Plan Land Use / Transportation Diagram Amendment from Heavy Industrial to Combined Industrial Commercial, a conforming Rezoning from Heavy Industrial (HI) to Combined Industrial/Commercial (CIC) zoning district, and Conditional Use Permit to allow the demolition of existing structures on site and construction of an approximately 3,750 square foot one-story convenience store, a 3,432 square foot canopy over the auto fueling area, and a 4,813 square foot canopy over the cardlock fueling dispensers on an approximate 1.54- gross acre site. The project proposes six fuel stations for auto dispensers (12 pumps) and 12 fuel stations for cardlock fueling dispensers (24 pumps).

PROJECT LOCATION: 1202 Oakland Road, which is situated on the northeast corner of Commercial Street and Oakland Road.

ASSESSORS PARCEL NO.: 241-11-014, -020, -021, -022

COUNCIL DISTRICT: 3

APPLICANT CONTACT INFORMATION: John Hicks, P.O. Box 1676, Santa Rosa, California, 95402, (707) 333-5080 Representing Robison Oil Corporation, 955 Martin Avenue, Santa Clara, California, 95050

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: Construction of the project could result in impacts to nesting migratory birds.

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

If it is not possible to schedule demolition and construction between September 1st and January 31st (inclusive) 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, 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 1st and August 31st, 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 California Department of Fish and Wildlife (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 demolition, grading and/or building permit.

- E. **CULTURAL RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- 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: Hazardous materials contamination on the site, if discovered in soil, could pose a risk to construction workers and others on or around the project site during excavation and grading, subsurface utility installation, maintenance, or landscaping.

MM HAZ-1.1: Prior to the issuance of any grading permits, the project applicant shall collect shallow soil samples to evaluate the past agricultural use of the property and potential for residual pesticides in the shallow soil. The samples shall be analyzed for organochlorine pesticides (OCPs) and pesticide based metals (arsenic and lead). The soil sampling report indicating the results of the sampling shall be submitted to the City of San José Department of Planning, Building and Code Enforcement, and the Environmental Services Department (ESD) for approval. If results of the soil samples exceed regulatory environmental screening levels, the applicant shall include conditions and procedure for mitigation as part of HAZ-1.2.

MM HAZ-1.2: Separate from the results found in MM HAZ-1.1, prior to the issuance of a demolition or grading permit, a Site Management Plan (SMP) shall be prepared by a qualified hazardous

materials consultant to establish management practices for handling contaminated soil or other materials that may be encountered during construction activities due to residual petroleum contamination from past underground fuel leaks and/or current historical hazardous materials storage and use. Appropriate soil testing, characterization, storage, transportation, and disposal procedures shall be specified in the SMP. The sampling results shall be compared to appropriate risk-based screening levels in the SMP. The SMP shall identify potential health, safety, and environmental exposure considerations associated with redevelopment activities and shall identify appropriate mitigation measures.

The SMP shall be submitted to the Santa Clara County Department of Environmental Health (or equivalent agency) for review and approval. A copy of the approved SMP shall be submitted to the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement and Environmental Compliance Officer of the City of San Jose Environmental Services Department for approval prior to the issuance of any grading permits. The SMP shall include, but is not limited to, the following:

- A detailed discussion of the site background;
 - Proper mitigation as needed for demolition of existing structures;
 - Management of stockpiles, including sampling, disposal, and dust and runoff control including implementation of a stormwater pollution prevention program;
 - Management of underground structures encountered, including utilities and/or underground storage tanks;
 - Procedures to follow if evidence of an unknown historic release of hazardous materials (e.g., underground storage tanks, polychlorinated biphenyls [PCBs], asbestos containing materials, lead-based paint, etc.) is discovered during excavation or demolition activities.
 - Removal of underground storage tanks (USTs) requirements and guidelines.
 - Installation of new underground storage tanks (USTs) requirements and guidelines.
 - A health and safety plan (HSP) for each contractor working at the site that addresses the safety and health hazards of each site operation phase, including the requirements and procedures for employee protection. The HSP shall outline proper soil handling procedures and health and safety requirements to minimize work and public exposure to hazardous materials during construction.
- 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.**

Impact NOI-1: Construction noise and vibration generated by the proposed project could impact nearby sensitive receptors (residential development) to the north.

MM NOI-1.1: Construction Noise and Vibration Plan: The project applicant shall develop and implement a construction noise and vibration logistics plan (Plan) that will be in effect during all phases of construction on the project site. The Plan shall be included as part of the contractors for construction workers and applicable supervisors. All measures shall be printed on all approved construction documents, contracts, and/or project plans. The applicant shall submit a copy of all

approved plans, construction documents, contracts, and/or project plans to the Supervising Environmental Planner prior to the issuance of any demolition, grading, or building permits. The Plan shall include, but is not limited to, the following:

- A list of all potential equipment (including specs) that will be used during all earthmoving activities.
- A schedule of all earthmoving activities.
- Responsibilities of personnel on the site.
- Outreach strategies to inform nearby residences of construction hours and phase.
- Best management practices to reduce construction noise such as, but is not limited to, the following:
 - Construct solid plywood fences around construction sites adjacent to operational businesses, residences, or noise-sensitive land uses.
 - Utilize “quiet” models of air compressors and other stationary noise sources where technology exists.
 - Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment.
 - Locate all stationary noise-generating equipment, such as air compressors and portable power generators, as far away as possible from adjoining noise-sensitive land uses.
 - Prohibit all unnecessary idling of internal combustion engines.
 - Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of “noisy” construction activities to the adjacent land uses and nearby residences.
 - The name and contact information (i.e. telephone number and email address) of the disturbance coordinator, who would be responsible for responding to complaints about construction noise, shall be posted at the construction site and included in the notice sent to neighboring noise-sensitive land uses regarding the construction schedule.

MM NOI-1.2: Construction Equipment: The project applicant shall ensure that the following measures are printed on all approved construction documents, contracts, and/or project plans prior to the issuance of any demolition, grading, or building permits:

- The contractor shall alert heavy equipment operators to the proximity of the adjacent structures so they can exercise care.
 - The contractor shall retain a qualified firm to complete a pre- and post-construction cosmetic crack survey of the buildings adjacent to the southern boundary and shall repair any cosmetic cracking.
 - Limit the use of heavy vibration-generating construction equipment within 30 feet of the northern and southern site boundaries.
- 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.

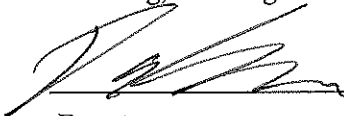
PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **Monday November 6, 2017** any person may:

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

Rosalynn Hughey, Interim Director
Planning, Building and Code Enforcement

10/17/17
Date


Deputy

Circulation period: Tuesday October 17, 2017 to Monday November 6, 2017