

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.

PROJECT NAME: World Oil Fueling Station No. 51 Project

PROJECT FILE NUMBER: CP20-026 and ER20-248

PROJECT DESCRIPTION: Conditional Use Permit to demolish an existing cashier kiosk and restroom building and remove an existing above-ground Healy Tank and vent pipes and construct a new 1,486 square-foot convenience store at the existing gas station. The project will also include the construction of landscape planters and a trash enclosure, upgrades to existing driveways, planting of 13 new trees, and installation of a trellis covered walkway.

PROJECT LOCATION: The project site is located at 1165 South Bascom Avenue, on the southeast corner of the intersection of Downing Avenue and South Bascom Avenue, in the City of San José.

ASSESSORS PARCEL NO.: 282-12-022

COUNCIL DISTRICT: 6

APPLICANT CONTACT INFORMATION: World Oil Marketing Company (Atten: John Hundley); 9302 Garfield Avenue, South Gate, California 90502; (526) 528-0100; jhundley@worldoilcorp.com

FINDING

The Director of Planning, Building and Code Enforcement finds the project described above would not have a significant effect on the environment if certain mitigation measures are incorporated into the project. The attached Initial Study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this Mitigated Negative Declaration (MND), has made or agrees to make project revisions that will clearly mitigate the potentially significant 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 would not have a significant impact on this resource, therefore no mitigation is required.
- B. **AGRICULTURE AND FORESTRY RESOURCES** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- C. **AIR QUALITY.**

Impact AIR-1: Construction activities associated with the proposed Project would expose the off-site sensitive receptors to cancer risk and PM 2.5 emissions in excess of BAAQMD thresholds.

MM AIR-1: Cleaner Off-road Construction Equipment. Prior to the issuance of any demolition, grading and/or building permits (whichever occurs earliest), the project applicant shall prepare and submit a construction - operations plan that includes specifications of the equipment to be used during construction to the Director of Planning, Building and Code Enforcement or the Director's designee. The plan shall be accompanied by a letter signed by an air quality specialist, verifying that the equipment included in the plan meets the standards set forth below:

- For all construction equipment larger than 25 horsepower used at the site, equipment shall meet U.S. EPA Tier 4 emission standards. Tier 4 Interim engines shall, at a minimum, meet United States Environmental Protection Agency or California Air Resources Board (CARB) particulate matter emissions standards for Tier 4 Interim engines.
- Alternatively, use of CARB-certified Level 3 diesel particulate filters on off-road equipment with engines greater than 75 horsepower can be used in lieu of Tier 4 Interim engines or in combination with Tier 4 Interim engines.
- The construction contractor shall maintain records documenting its efforts to comply with this requirement, including equipment lists. Off-road equipment descriptions and information shall include, but are not limited to, equipment type, equipment manufacturer, equipment identification number, engine model year, engine certification (Tier rating), horsepower, and engine serial number. The plan shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval prior to the issuance of any demolition, grading and/or building permits (whichever occurs earliest).

- D. BIOLOGICAL RESOURCES** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- E. CULTURAL RESOURCES** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- F. ENERGY** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- G. GEOLOGY AND SOILS** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- H. GREENHOUSE GAS EMISSIONS** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- I. HAZARDS AND HAZARDOUS MATERIALS.**

Impact HAZ-1: Shallow soil may contain residual organochlorine pesticides and/or pesticide-based metals, arsenic and lead from historic pesticide application.

MM HAZ-1: Prior to issuance of a grading permit, the project applicant shall retain a qualified environmental professional to complete a Phase II soil contamination investigation to evaluate past agricultural use. The Phase II shall include shallow soil sampling and analysis for organochlorine pesticides and pesticide-based metals, arsenic, and lead to determine if these chemicals are present above Regional Water Quality Control Board environmental screening levels for construction worker safety and residential uses. The results of the soil sampling and testing must be provided to the Supervising environmental Planner of the City of San José Planning, Building, and Code

Enforcement, and the Environmental Compliance Officer in the City of San José's Environmental Services Department.

If the Phase II results indicate soil concentrations above the environmental screening levels, the applicant must obtain regulatory oversight from the Department of Toxic Substances Control, or the Santa Clara County Department of Environmental Health under their Site Cleanup Program. A Site Management Plan (SMP), Removal Action Plan (RAP), or equivalent document shall be prepared by a qualified environmental consultant under regulatory oversight and approval that identified remedial measures and/or soil management practices to ensure construction worker safety and the health of future site occupants. The plan and evidence of regulatory oversight shall be provided to the Director of Planning, Building, and Code Enforcement of Director's designee and the Environmental Compliance Officer in the City of San José Environmental Services Department.

Impact HAZ-2: The project site may contain residual petroleum contamination in the soil from a prior leaking underground storage tank.

MM HAZ-2: Prior to demolition or issuance of grading permits, the project applicant shall retain a qualified environmental consultant to evaluate the proposed site improvements and the potential to encounter residual soil contamination. The evaluation must include whether there is a potential for vapor intrusion conditions beneath the proposed building. A Site Management Plan (SMP) shall be developed to address existing and unknown contamination that may be encountered during development. The SMP shall be developed to establish management practices for handling contaminated soil or other materials encountered during construction activities. The SMP shall identify potential health, safety, and environmental exposure considerations associated with development activities and shall identify appropriate mitigation measures. The project applicant shall notify the SCCDEH and City's Planning, Building, and Code Enforcement or the Director's designee prior to construction and provide a copy of the SMP.

The SMP must be in place to inform the contractor of site conditions to ensure they are aware of procedures to follow during construction if previously unexpected contamination is discovered. The SMP shall include procedures to ensure that an environmental professional is on-call to assist with evaluating the extent of soil contamination, if found. The environmental professional shall make the determination if it requires notification to the County. If petroleum contamination is found and below environmental screening levels and/or is a very small pocket, then no notification is required. The County shall be notified if extensive contamination previously undiscovered is found.

Additionally, the project applicant and contractor shall prepare a Health and Safety Plan (HSP) for construction activities planned at the site as part of the SMP prior to the issuance of grading permits for project construction to address potential health and safety hazards associated with implementation of the work plan and the proposed development activities. The HSP shall govern activities of all personnel present during field activities. Any contractor performing a task not covered in the HSP shall be required to develop a job hazard analysis specific to that task prior to performing the task.

- J. HYDROLOGY AND WATER QUALITY** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- K. LAND USE AND PLANNING** – The project would not have a significant impact on this resource, therefore no mitigation is required.

L. MINERAL RESOURCES – The project would not have a significant impact on this resource, therefore no mitigation is required.

M. NOISE.

Impact NOI-1: Vibration associated with the construction with the project could have a significant impact on the surrounding structures.

MM NOI-1: Construction Vibration. The following measures shall be implemented where vibration levels due to construction activities would exceed 0.2 in/sec PPV at nearby buildings to reduce the impacts to a less than significant level:

- Prohibit the use of large, heavy vibration-generating construction equipment within 30 feet of adjacent residential buildings.
- Prohibit the use of large, loaded trucks within 13 feet of any vibration sensitive receptors.
- Use a smaller vibratory roller, such as the Caterpillar model CP433E vibratory compactor, when compacting materials within 20 feet of adjacent commercial buildings. Only use the state compaction mode when compacting materials within 15 feet of residential buildings.
- Avoid dropping heavy equipment and use alternative methods for breaking up existing pavement, such as a pavement grinder, instead of dropping heavy objects, within 30 feet of adjacent residential buildings.
- Designate a person responsible for registering and investigating claims of excessive vibration. The contact information of such person shall be clearly posted on the construction site.

Prior to the issuance of any demolition, grading, or building permits, the project applicant shall prepare a confirmation plan that describes the notification process to neighboring property owners and tenants of scheduled construction activities. A copy of the notification plan shall be submitted to the Director of Planning, Building, and Code Enforcement or Director's designee for review and approval.

N. POPULATION AND HOUSING – The project would not have a significant impact on this resource, therefore no mitigation is required.

O. PUBLIC SERVICES – The project would not have a significant impact on this resource, therefore no mitigation is required.

P. RECREATION – The project would not have a significant impact on this resource, therefore no mitigation is required.

Q. TRANSPORTATION – The project would not have a significant impact on this resource, therefore no mitigation is required.

R. TRIBAL CULTURAL RESOURCES – The project would not have a significant impact on this resource, therefore no mitigation is required.

S. UTILITIES AND SERVICE SYSTEMS – The project would not have a significant impact on this resource, therefore no mitigation is required.

T. WILDFIRE – The project would not have a significant impact on this resource, therefore no mitigation is required.

U. MANDATORY FINDINGS OF SIGNIFICANCE.

Cumulative impacts would be less than significant. The proposed Project would implement the identified mitigation measures and would have either have no impacts or less-than-significant impacts on riparian habitat or other sensitive natural communities, migration of species, or applicable biological resources protection ordinances. Therefore, the proposed Project would not contribute to any cumulative impact for these resources. The Project would not cause changes in the environment that have any potential to cause substantial adverse direct or indirect effects on human beings.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **Friday, September 16, 2022** 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.

CHRISTOPHER BURTON, Director
Planning, Building and Code Enforcement

August 24, 2022

Date

Deputy

Bethlehem Telahun
Environmental Project Manager

Circulation period: August 26, 2022 to September 16, 2022