

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: 2905 S. King Road Ministorage & Light Industrial

PROJECT FILE NUMBER: PDC16-037 & PD16-037

PROJECT DESCRIPTION:

Conforming Rezoning from the A(PD) Planned Development Zoning District to the LI(PD) Planned Development Zoning District for miniwarehouse/ministorage and light industrial uses on a 9.9-gross acre site.

Planned Development Permit to allow the demolition of an approximately 8,050-square foot radio transmission office building and three radio transmitter tower antennas, the removal of 22 ordinance sized trees, and 44 non-ordinance sized trees, and allow the construction of seven ministorage/miniwarehouse buildings equaling approximately 133,000 square feet and four light industrial buildings equaling approximately 65,000 square feet, on 9.9-gross acre site.

PROJECT LOCATION & ASSESSORS PARCEL NO.: The project is located southwest of the intersection of King Road and Barberrry Lane, at 2905 S. King Road. The Assessor's Parcel Numbers (APN) are 670-12-006, 670-12-010, and 670-12-011 on the Santa Clara County Assessor's Parcel Map.

COUNCIL DISTRICT: 7

APPLICANT CONTACT INFORMATION: Gerry De Young, Ruth and Going Inc., P.O. Box 26460, San Jose, CA 95159

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

- I. **AESTHETICS.** The project will not have a significant impact on aesthetics or visual resources, therefore no mitigation is required.
- II. **AGRICULTURE AND FOREST RESOURCES.** The project will not have a significant impact on agriculture or forest resources, therefore no mitigation is required.
- III. **AIR QUALITY.** The project could have a significant impact with respect to community risk at nearby residential receptors from diesel particulate matter (DPM) generated by construction activities.

Mitigation Measure AQ-1: The project applicant shall select equipment during construction to minimize emissions. A construction management plan shall be submitted by the project applicant for review and approval by the Supervising Planner of the Planning, Building, and Code Enforcement Department prior to issuance of any grading and building permits. The construction management plan shall demonstrate that the off-road equipment used on-site to construct the project would achieve a fleet-wide average 85% reduction in PM_{2.5} exhaust emissions or more. Options to achieve this reduction could include, but are not limited to, the following:

- All mobile diesel-powered off-road equipment larger than 25 horsepower and operating on the site for more than two days shall meet U.S. EPA particulate matter emissions standards for Tier 4 engines or equivalent.
- Use of equipment that includes CARB-certified Level 3 Diesel Particulate Filters or alternatively-fueled equipment (i.e., non-diesel).
- Use of added exhaust devices.

- IV. **BIOLOGICAL RESOURCES.** The project could potentially impact nesting birds, including those protected under the Migratory Bird Treaty Act.

Mitigation Measure BIO-1: If possible, construction should be scheduled between September 1 and January 31 to avoid the nesting season for raptors and other migratory birds. If this is not possible, pre-construction surveys for nesting birds shall be conducted by a qualified biologist or ornithologist to identify active nests that may be disturbed during project implementation. Projects that commence construction between February 1 and April 30 shall conduct pre-construction surveys for nesting birds within 14 days of the onset of construction. Between May 1 and August 31, preconstruction surveys shall be conducted no more than 30 days prior to the initiation of construction activities. Pre-construction surveys shall be conducted by a qualified biologist or ornithologist for nesting birds within the onsite trees as well as all trees within 250 feet of the site. If the survey does not identify any nesting birds that would be affected by construction activities, no further mitigation is required.

If an active nest is found in or close enough to the construction area to be disturbed by these activities, the qualified biologist or ornithologist, shall, in consultation with the California Department of Fish and Wildlife (CDFW), designate a construction-free buffer zone (typically 250 feet for raptors and 100 feet for non-raptors) around the nest to ensure that no nests of species protected by the Federal Migratory Bird Treaty Act (MBTA) and California Fish and Game Code will be disturbed during construction activities. The buffer shall remain in place until the breeding season has ended and/or a qualified biologist or ornithologist has determined that the nest is no longer active. The applicant shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the Environmental

Supervising Planner of the Planning, Building, and Code Enforcement Department prior to the issuance of any grading or building permit.

- V. **CULTURAL RESOURCES.** The project will not have a significant impact on cultural resources, therefore no mitigation is required.
- VI. **GEOLOGY AND SOILS.** The project will not have a significant impact due to geology and soils, therefore no mitigation is required.
- VII. **GREENHOUSE GAS EMISSIONS.** The project will not have a significant impact due to greenhouse gas emissions, therefore no mitigation is required.
- VIII. **HAZARDS AND HAZARDOUS MATERIALS.** Historic activities on the project site may have impacted subsurface soil and groundwater from previous agricultural uses and the presence of the existing diesel storage tank.

Mitigation Measure HAZ-1.1: Prior to issuance of grading permits, the project applicant shall retain a qualified consultant to collect limited soil and groundwater samples at the location of the aboveground diesel fuel storage tank. If the residual contaminants are not detected and/or are found to be below the environmental screening levels for public health and the environment in accordance with Santa Clara County Department of Environmental Health (SCCDEH) or the California Department of Toxic Substances Control (DTSC) requirements, no further mitigation is required.

Mitigation Measure HAZ-1.2: Prior to issuance of grading permits, the project applicant shall retain a qualified consultant to conduct soil sampling to test shallow soils on the site for organochlorine pesticides and pesticide-based metals. If the residual contaminants are not detected and/or are found to be below the environmental screening levels for public health and the environment in accordance with SCCDEH or DTSC requirements, no further mitigation is required.

Mitigation Measure HAZ-1.3: If residual contaminants, as outlined in Mitigation Measure HAZ-1.1 and HAZ-1.2, are found and are above regulatory environmental screening levels (ESLs) for public health and the environment, the project applicant shall implement appropriate management procedures, such as removal of the contaminated soil and implementation of a Site Management Plan (SMP) under regulatory oversight from the SCCDEH or DTSC and a Phase II Environmental Site Assessment. Copies of all environmental investigations shall be submitted to the City's Environmental Services Department and the City's Planning, Building and Code Enforcement (PBCE) Supervising Environmental Planner.

The SMP, if required, shall be prepared by a qualified hazardous materials consultant and include the following:

- Management practices for handling contaminated soil or other materials if encountered during construction or cleanup activities and measures to minimize dust generation, stormwater runoff, and tracking of soil off-site.
- Preliminary Remediation Goals for environmental contaminants of concern to evaluate the site conditions following SMP implementation.

- 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.
- The SMP shall be prepared and submitted to SCCDEH or DTSC for review and approval prior to issuance of grading permits and commencement of cleanup activities. The approved SMP shall detail procedures and protocols for management of soil containing environmental contaminants during site development activities.
- A No Further Action letter (or equivalent assurance) from SCCDEH or DTSC documenting completion of cleanup activities shall be provided to the PBCE Supervising Environmental Planner prior to issuance of a grading permit.

IX. HYDROLOGY AND WATER QUALITY. The project will not have a significant hydrology and water quality impact, therefore no mitigation is required.

X. LAND USE. The project will not have a significant land use impact, therefore no mitigation is required.

XI. MINERAL RESOURCES. The project will not have a significant impact on mineral resources, therefore no mitigation is required.

XII. NOISE. Construction-related vibration levels would exceed 0.2 in/sec PPV at nearby uses to the north and west, which could impact these structures.

Mitigation Measure NSE-1: The project applicant and/or contractor shall adhere to the following measures to reduce vibration impacts from construction activities:

- Submit a list of all heavy construction equipment to be used for the project and the anticipated time duration of using the equipment that is known to produce high vibration levels (vibratory rollers, hoe rams, large bulldozers, etc.) to the Supervising Environmental Planner of the Planning, Building, and Code Enforcement Department for approval. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and to define the level of effort required for continuous vibration monitoring.
- Prohibit the use of heavy vibration-generating construction equipment, such as vibratory rollers or excavation using clam shell or chisel drops, within 20 feet of any adjacent building.
- Prohibit pile driving at the site.
- Notify neighbors of scheduled construction activities and schedule construction activities with the highest potential to produce perceptible vibration during hours with the least potential to affect nearby businesses.
- 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.

- XIII. POPULATION AND HOUSING.** The project will not have a significant population and housing impact, therefore no mitigation is required.
- XIV. PUBLIC SERVICES.** The project will not have a significant impact on public services, therefore no mitigation is required.
- XV. RECREATION.** The project will not have a significant impact on recreation, therefore no mitigation is required.
- XVI. TRANSPORTATION.** The project will not have a significant traffic impact, therefore no mitigation is required.
- XVII. UTILITIES AND SERVICE SYSTEMS.** The project will not have a significant impact on utilities and service systems, therefore no mitigation is required.
- XVIII. 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 27th** 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.

Harry Freitas, Director
Planning, Building and Code Enforcement

 Paulson 2/2/17
Deputy

Circulation period, from February 6, 2017 to February 27, 2017