

**Final Initial Study
Rotten Robbie #42 Project
City File No. CP 18-028**

San José, California

Prepared By:



**City of San José
200 East Santa Clara Street
San José, California 95113**

In Consultation With:



ECORP Consulting, Inc.
ENVIRONMENTAL CONSULTANTS

55 Hanover Lane
Chico, CA 95926

June 2023

**Final Initial Study/Response to Comment
Rotten Robbie #42 Project File No. CP18-028**

The Rotten Robbie #42 Project Initial Study /Mitigation Negative Declaration (IS/MND) was circulated for public review for a 20-day review period, from August 16, 2021 to September 6, 2021. During the circulation period, the City of San José received five (5) comment letters.

In summary, the comments received on the draft IS/MND did not raise any new issues about the project's environmental impacts or provide information indicating the project would result in new environmental impacts or impacts substantially greater in severity than disclosed in the IS/MND. CEQA does not require formal responses to comments on an IS/MND, only that the lead agency consider the comments received [CEQA Guidelines §15074(b)].

Nevertheless, responses to the comments are included in this document to provide a complete environmental record.

The following pages contain a list of the agencies and persons that submitted comments on the IS/MND and the City's responses to comments received on the IS/MND.

PUBLIC COMMENT LETTERS RECEIVED

COMMENT RECEIVED FROM	DATE RECEIVED
Rae Ann Stahl & Burhan Sukarma	August 23, 2021
Pacific Gas and Electrical Co. (PG&E)	September 7, 2021
Santa Clara Valley Water District (SCVWD)	September 3, 2021
Margot Helm	August 23, 2021
Leslie Levitt	August 16, 2021

Ghosal, Sanhita

From: Rae Ann Stahl [REDACTED]
Sent: Monday, August 23, 2021 1:56 PM
To: Ghosal, Sanhita
Subject: Comments on the Public Review of Draft MND: Julian Street Rotten Robbie #42 Project
Attachments: image001.png

You don't often get email from raeann.stahl@sjsu.edu. [Learn why this is important](#)

[External Email]

Dear Sanhita Ghosal,

I am writing to comment on the Draft MND for Rotten Robbie #42. I live one house away from the property. My husband and I live at [REDACTED] in a Victorian house that was built on this property in 1901. I was not able to read the documents word for word given their length and detail, but do have a few comments to forward. All comments refer to the initial study document.

Project Description 3-11 April 2021

Photo 4. View to the west of western adjoining mixed use commercial/residential property

Comment: The houses in this photo, one of which is mine, are not mixed use, they are all residential properties and zones accordingly.

Environmental Checklist and Discussion 4-5 April 2021

The general architectural design of the proposed building is modern.

Comment: The neighborhood where Rotten Robbie is located is full of historical homes and not modern buildings. A modern building is not appropriate for the neighborhood environment.

Table 4.4-5. Operational-Related Emissions

Comment: The increase in emissions after the building of a much larger building is unacceptable, especially the increase in CO.

ARB has identified the following groups of individuals as the most likely to be affected by air pollution: the elderly over 65, children under 14, athletes, and persons with cardiovascular and chronic respiratory diseases such as asthma, emphysema, and bronchitis. The closest sensitive receptors are the residence located immediately adjacent to the Project site with the closest one at less than 20 feet distance.

Comment: One occupant in the residence located immediately adjacent to the Project site is over 65 and my husband in our residence, also less than 20 feet distance, is also over 65.

Thank you for the opportunity to comment,

Rae Ann Stahl and Burhan Sukarma
[REDACTED] (since 1998)

David Hai Tran | *Policy & Legislative Director*
Office of Councilmember Raul Peralez
City of San José | District 3
200 E. Santa Clara St. 18th Floor | San José, CA 95113
[\(408\) 535-4932](tel:4085354932) | david.tran@sanjoseca.gov | www.sjd3.com

Sent from my iPhone

Begin forwarded message:

From: City of San Jose <webrequests@sanjoseca.gov>
Date: August 16, 2021 at 1:01:31 PM PDT
To: "Tran, David" <david.tran@sanjoseca.gov>
Subject: Public Review of Draft MND: Julian Street Rotten Robbie #42 Project
Reply-To: webrequests@sanjoseca.gov

[External Email]

Public Review of Draft MND: Julian Street Rotten Robbie #42 Project

The Draft Mitigated Negative Declaration for Julian Street Rotten Robbie #42 Project is available online. Public review period will start August 16, 2021 and end on September 6, 2021.

Post Date: 08/16/2021 12:30 PM

Public Notice

Intent to adopt a Mitigated Negative Declaration

City of San Jose, California

Project Name: Julian Street Rotten Robbie #42 Project

File No. CP18-028

Project Description: A Conditional Use Permit for the demolition of an existing convenience store and storage building, the removal of two billboards; and to allow the construction of an approximately 3,200-square foot convenience store with the off-sale of alcohol (beer and wine) on an approximately 0.39-gross acre site.

Location: 455 East Julian Street (Northeast corner of East Julian Street and North 10th Street) in the City of San José

Assessor's Parcel No.: 249-52-017

Council District: 3

Applicant Contact Information: Dave Mordick (Robinson Oil), 955 Martin Ave., Santa Clara, CA, 95050; Tel: 408- 257-2222

The City has performed an environmental review of the project. The environmental review examines the nature and extent of any adverse effects on the environment that could occur if the project is approved and implemented. Based on the review, the City has prepared a Draft Mitigated Negative Declaration (MND) for this project. An MND is a statement by the City that the project will not have a significant effect on the environment because the project will include mitigation measures that will reduce identified project impacts to a less than significant level. The project site is present on any list pursuant to Section 65962.5 of the California Government Code.

The public is welcome to review and comment on the Draft MND. The public comment period for this Draft MND begins on **August 16, 2021 and ends on September 6, 2021**. The Draft MND, Initial Study, and reference documents are available online at: www.sanjoseca.gov/negativedeclarations. If requested; a hard copy of the environmental document will be mailed to you. Please allow time for printing and delivery. Please contact Sanhita Ghosal at 408-535-7851 or e-mail at Sanhita.ghosal@sanjoseca.gov, for hard copy requests and with any additional questions, comments, or concerns.

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To view this discussion on the web visit

<https://groups.google.com/d/msgid/nnasj/579270415.278217.1629220816143%40connect.xfinity.com>.

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Response to Rae Ann Stahl & Burhan Sukarma Comment Letter

After introductory remarks, the first comment notes that the properties depicted in Photo 4 of the Draft Initial Study (page 3-11) are not mixed-use properties. This comment is noted for the decision-makers. Page 2-1 of the Draft Initial Study does correctly identify that land uses to the west of the Project include multiple-family residential, single-family residential, and commercial uses.

The second comment of the letter suggests that the general architectural design of the proposed building is modern, yet the Project is located in an area full of historical homes and not modern buildings; thus, a modern building is not appropriate for the neighborhood environment. As stated on pages 4-4 and 4-5 of the Draft Initial Study, the visual character of the site would remain largely unchanged with implementation of the Proposed Project as the Project proposes to demolish the existing storage building and convenience store and replace them with a new, architecturally improved convenience store of roughly similar size. The overall character of the site as a commercial use would remain unchanged. While the general architectural design of the proposed building is modern, the proposed building design is still required to 1) conform to the City's Design Guidelines, and 2) undergo design review to ensure the scale and mass are compatible with surrounding development. The Project site is in the Commercial Neighborhood (CN) Zoning District, which is a district intended to provide for neighborhoods serving commercial users. The Zoning District encourages the development of neighborhood centers and small corner commercial establishments. This Project is an appropriate development for this area as it maintains a commercial use adjacent to numerous residences. The Project is also consistent with General Plan policies relating to scenic quality focused on creating a well-designed, unique, and vibrant public realm that supports community interaction and attract residents, business, and visitors. Therefore, it can be concluded that the Project would not conflict with regulations governing scenic quality and would have a less than significant impact on visual character on the site or surrounding area.

The third comment of the letter states the increase in emissions of a much larger building is unacceptable, especially the increase in carbon monoxide (CO). Section 4.3, Air Quality, of the Draft Initial Study, provides air pollutant emission calculations associated with the Project in comparison with the significance thresholds established by the Bay Area Air Quality Management District (BAAQMD). The City uses the thresholds of significance established by the BAAQMD to assess air quality impacts of proposed development. As shown in Table 4.4-5 of page 4-24 of the Draft Initial Study, the Project's net emissions over the existing baseline would not exceed BAAQMD significance thresholds for any criteria air pollutants. Therefore, the Project would not result in a violation of air quality standards. It is further noted that the proposed new convenience store building would be built to 2019 Title 24 Building Energy Efficiency Standards, which are substantially more efficient than the 2016 standards. Under 2019 Building Energy Efficiency Standards, nonresidential buildings use about 30 percent less energy compared with the 2016 Building Energy Efficiency Standards.

Page 4-25 of the Draft Initial Study identifies the following groups of individuals as the most likely to be affected by air pollution: the elderly over 65, children under 14, athletes, and persons with cardiovascular and chronic respiratory diseases such as asthma, emphysema, and bronchitis. Page 4-25 of the Draft Initial

Study then notes that the closest sensitive receptor to the Project Site is the residence located immediately adjacent to the Project Site, at a distance of less than 20 feet distance. The final comment of the letter states that at least one resident of this closest residential dwelling is over 65 years old. This comment is noted for the decision-makers. A Health Risk Assessment was prepared for the Proposed Project to evaluate health risks associated with the potential increase in the emission of gasoline vapors. As shown in Table 4.4-6 on page 4-29 of the Draft Initial Study, impacts related to cancer risk from gasoline dispensing would not surpass significance thresholds at the nearest residences. Additionally, impacts related to non-cancer risk (chronic and acute hazard index) from gasoline dispensing were determined not surpass significance thresholds at the nearest residences.

September 7, 2021

Sanhita Ghosal
City of San Jose
200 E Santa Clara, Tower 4F
San Jose CA 95113

Re: Julian Street Rotten Robbie #42 File No.: CP18-028
445 E Julian Street, San Jose

Dear Sanhita:

Thank you for providing PG&E the opportunity to review your proposed plans for Julian Street Rotten Robbie #42 File No.: CP18-028 dated 8/16/2021. Our review indicates your proposed improvements do not appear to directly interfere with existing PG&E facilities or impact our easement rights. However, PG&E recommends that no trees be planted directly underneath any overhead electric lines within the public right of way.

Please note this is our preliminary review and PG&E reserves the right for additional future review as needed. This letter shall not in any way alter, modify, or terminate any provision of any existing easement rights. If there are subsequent modifications made to your design, we ask that you resubmit the plans to the email address listed below.

If you require PG&E gas or electrical service in the future, please continue to work with PG&E's Service Planning department: <https://www.pge.com/cco/>.

As a reminder, before any digging or excavation occurs, please contact Underground Service Alert (USA) by dialing 811 a minimum of 2 working days prior to commencing any work. This free and independent service will ensure that all existing underground utilities are identified and marked on-site.

If you have any questions regarding our response, please contact the PG&E Plan Review Team at (877) 259-8314 or pgeplanreview@pge.com.

Sincerely,

PG&E Plan Review Team
Land Management

Response to PG&E Comment Letter

The applicant will comply with all application requirements. This comment does not address the adequacy of the IS/MND. No further CEQA analysis is required.

Ghosal, Sanhita

From: Shree Dharasker <sdharasker@valleywater.org>
Sent: Friday, September 3, 2021 3:53 PM
To: Ghosal, Sanhita
Cc: Michael Martin
Subject: RE: Public Notice of Intent to Adopt a Mitigated Negative Declaration for the Julian Street Rotten Robbie #42

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[External Email]

Hi Ms. Ghosal,

The Santa Clara Valley Water District (Valley Water) has reviewed the draft Initial Study/ Mitigated Negative Declaration (IS/MND) and has the following comments:

Valley Water has no right of way or facilities at this location. The project is located in flood zone D, where flood hazards are undetermined but possible, per Flood Insurance Rate Map # 06085C0232 H effective May 18, 2009. Valley Water records indicate that there are (6) properly destroyed wells on the subject property. Because the wells are considered properly destroyed, no action is necessary to protect them or to bring them into compliance with the District Well Ordinance. While the District has records for most wells located in the County, it is always possible that a well exists that is not in the District's records. If previously unknown wells are found on the subject property during development, they must be properly destroyed under permit from the District or registered with the District and protected from damage. For more information, please call the District's Well Ordinance Program Hotline at 408-630-2660.

Please contact me if there are further questions.

Shree Dharasker
Associate Engineer-Civil
Community Projects Review Unit
(408)630-3037

From: Ghosal, Sanhita <Sanhita.Ghosal@sanjoseca.gov>
Sent: Monday, August 16, 2021 1:46 PM
To: plan.review <plan.review@vta.org>; Roads@CountyRoads.org; jbbroadbent@baaqmd.gov; wallyc@abag.ca.gov; kristin.garrison@wildlife.ca.gov; sfbaynwrc@fws.gov; mediaoffice@energy.state.ca.us; cepacomm@calepa.ca.gov; ombcomm@arb.ca.gov; hhilken@baaqmd.gov; dorothy.e.talbo@rda.sccgov.org; ebugarin@bayareametro.gov; LDIGR-D4@dot.ca.gov; philip.crimmins@dot.ca.gov; Colleen Haggerty <CHaggerty@valleywater.org>; CPRU-Dropbox <CPRU@valleywater.org>; ben.aghegnehu@rda.sccgov.org; pgeplanreview@pge.com; jfong@baaqmd.gov; Nate LeBlanc <nleblanc@sjdowntown.com>; mazavedo@sjdowntown.com; janet.laurain <jlaurain@adamsbroadwell.com>; richard@lozeaudrury.com; michael@lozeaudrury.com; hannah@lozeaudrury.com; komal@lozeaudrury.com; maya@lozeaudrury.com; vlopez@amahmutsun.org; huskanam@gmail.com; amahmutsuntribal@gmail.com; canutes@verizon.net; kanyon@kanyonconsulting.com; chochenyo@AOL.com; ams@indiancanyon.org; kwood8934@aol.com; cnijmeh@muwekma.org; cvltribe@gmail.com; marellano@muwekma.org; qgeary@tamien.org;

ada.marquez@sjsu.edu; scvas@scvas.org; Shani@scvas.org; Jbhlaw@pacbell.net; Sutherland, Kathy <kathysutherland@pacbell.net>; Knies, Scott <sknies@sjdowntown.com>; wtbrooks@brookshess.com; es@stanfordalumni.org; mhophan@spur.org; conservation@lomaprieta.sierraclub.org; jeanann2@aol.com; lames@aol.com; infosj@spur.org; ltolkoff@spur.org; abrownstevens@greenbelt.org; bschmidt@greenbelt.org; clerk@openspaceauthority.org; achristie@spur.org; advocacy@preservation.org; andre@luthard.com; planning@cityofcampbell.com; planning@cupertino.org; planinfo@fremont.gov; nthomas@ci.milpitas.ca.gov; plandiv.info@cityofpaloalto.org; planning@santaclaraca.gov; RBrilliot@santaclaraca.gov; JDavidson@SantaClaraCA.gov; ACrabtree@SantaClaraCA.gov; Debbie Pedro, Community Development Director: <dpedro@saratoga.ca.us>; freed@saratoga.ca.us; Ablizinski@sunnyvale.ca.gov; tryan@ci.sunnyvale.ca.us; Connolly, Mark <mark.connolly@pln.sccgov.org>; rob.eastwood@pln.sccgov.org; Robe@campbellca.gov; planning@losgatosca.gov; planning@morganhill.ca.gov; Terry.Linder@morganhill.ca.gov; community.development@mountainview.gov; mfossati@ci.milpitas.ca.gov
Cc: Ghosal, Sanhita <Sanhita.Ghosal@sanjoseca.gov>; Seth Myers <smyers@ecorpcorconsulting.com>
Subject: Public Notice of Intent to Adopt a Mitigated Negative Declaration for the Julian Street Rotten Robbie #42

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

Project Name: Julian Street Rotten Robbie #42
File No.: CP18-028

Description: A Conditional Use Permit for the demolition of an existing convenience store and storage building, the removal of two billboards; and to allow the construction of an approximately 3,200-square foot convenience store with the off-sale of alcohol (beer and wine) on an approximately 0.39-gross acre site.

Location: 455 East Julian Street (Northeast corner of East Julian Street and North 10th Street) in the City of San José

Assessor's Parcel No.: 249-52-017
Council District: 3

Applicant Contact Information: Dave Mordick (Robinson Oil), 955 Martin Ave., Santa Clara, CA, 95050, Tel: 408- 257-2222

The City has performed an environmental review of the project. The environmental review examines the nature and extent of any adverse effects on the environment that could occur if the project is approved and implemented. Based on the review, the City has prepared a Draft Mitigated Negative Declaration (MND) for this project. An MND is a statement by the City that the project will not have a significant effect on the environment because the project will include mitigation measures that will reduce identified project impacts to a less than significant level. The project site is present on any list pursuant to Section 65962.5 of the California Government Code.

The public is welcome to review and comment on the Draft MND. The public comment period for this Draft MND begins on **August 16, 2021 and ends on September 6, 2021.**

The Draft MND, Initial Study, and reference documents are available online at:
www.sanjoseca.gov/negativedeclarations.

If requested; a hard copy of the environmental document will be mailed to you. Please allow time for printing and delivery. Please contact Sanhita Ghosal at 408535-7851 or e-mail at Sanhita.ghosal@sanjoseca.gov, for hard copy requests and with any additional questions, comments, or concerns.

- Christopher Burton, Director
Planning, Building and Code Enforcement

Response to SCVWD Comment Letter

The applicant will comply with all application requirements. This comment does not address the adequacy of the IS/MND. No further CEQA analysis is required.

Ghosal, Sanhita

From: Margot Helm [REDACTED]
Sent: Monday, August 23, 2021 10:14 AM
To: District3; Nguyen, Mindy
Cc: Ghosal, Sanhita
Subject: Fw: Public Review of Draft MND: Julian Street Rotten Robbie #42 Project

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[External Email]

Hi, Raul & Mindy-

I'm a resident of the Julian/St. James (aka Northside) neighborhood, and I wanted to provide my feedback on the Rotten Robbie #42 project proposal.

I have no problem with renovations of the gas station's support structures or the removal of billboards, but **I am strongly opposed to adding another point of sale for alcohol, which I believe will negatively impact our neighborhood's health and safety.** We already experience a lot of theft & violence in our community centered around the existing quickie marts that sell alcohol, like the 7-11 on 6th & St. James, the James Market on 14th & St. James, and even the Walmart on 17th & Santa Clara. Adding alcohol sales at the Rotten Robbie does not improve our community, and will likely make it less safe for the surrounding residents.

Thanks for your support for the City of San Jose,
Margot Helm
North 16th Street

----- Forwarded Message -----

From: City of San Jose <webrequests@sanjoseca.gov>
To: [REDACTED]
Sent: Monday, August 16, 2021, 01:01:30 PM PDT
Subject: Public Review of Draft MND: Julian Street Rotten Robbie #42 Project

Public Review of Draft MND: Julian Street Rotten Robbie #42 Project

The Draft Mitigated Negative Declaration for Julian Street Rotten Robbie #42 Project is available online. Public review period will start August 16, 2021 and end on September 6, 2021.

Post Date: 08/16/2021 12:30 PM

Public Notice

Intent to adopt a Mitigated Negative Declaration

Response to Margot Helm Comment Letter

The comment letter expresses concern over the sale of alcohol and potential theft and safety. This comment does not address the adequacy of the IS/MND. No further CEQA analysis is required.

Ghosal, Sanhita

From: Leslie Levitt [REDACTED] >
Sent: Monday, August 16, 2021 1:29 PM
To: Ghosal, Sanhita
Cc: Peralez, Raul; cindy.chavez@bos.sccgov.org
Subject: Public Review of Draft MND: Julian Street Rotten Robbie #42 Project - Opposed

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I am opposed to the alcohol sales element of this project.

Several years ago Downtown neighborhoods and our City Council representatives (especially Cindy Chavez) went through an extensive process of understanding and then supposedly limiting new outlets in this area for alcohol sales. Here the same issue pops up again and the City appears to side with the business owner with zero institutional memory or respect for neighborhood and citizen interest.

Looking at the even bigger picture, a gas station does not belong at this site at all. Is this City Planning in action - to promote a gas station and a new alcohol sales outlet in the middle of a residential neighborhood?

With all the publicity surrounding Reid Hillview Airport, we should be asking the same environmental risk questions about housing right next to (as it the case for this site) a gas station.

Les Levitt
[REDACTED] S. 14th Street

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Response to Leslie Levitt Comment Letter

The comment letter expresses concern over the sale of alcohol and the placement of a gas station near residential. More information regarding the potential impacts to residential can be found in the Initial study. All impacts were found to be less than significant with incorporation of mitigation measures and best practices. This comment does not address the adequacy of the IS/MND. No further CEQA analysis is required.