

645 Horning Street Gas Station, Food, and
Storage Project

File No. PDC16-041, PD16-027, PT16-037

Mitigated Negative Declaration and Initial Study

RESPONSES TO PUBLIC COMMENTS & TEXT CHANGES

February 28, 2018

CEQA Lead Agency:



**City of San Jose
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street
San Jose, California 95113 Phone: (408) 535-3555**

SECTION 1 – SUMMARY OF COMMENTS

The 645 Horning Street Gas Station, Food, and Storage Project proposes to demolish the six existing buildings, pavement, landscaping, and fencing and construct new commercial buildings. The project proposes a mix of commercial uses at the site, including a convenience store, six fueling stations (12 total fuel dispensers), automatic carwash, drive-through fast-food restaurant, and self-storage facility with three buildings. An Initial Study and Mitigated Negative Declaration (IS/MND) which addressed the environmental effects of the project under the California Environmental Quality Act (CEQA) was prepared and circulated to public agencies and the public for review. The Initial Study/MND was circulated from August 24, 2017 to September 14, 2017. The City of San Jose received three comment letters during the public comment period, as summarized in the table that follows:

Comment	Name	Date Received
<i>Individual and Organization Comments</i>		
A	Patricia and Sergio Ruiz	September 13, 2017
B	Amah Mutsun Tribal Band	August 28, 2017
<i>Agency Comments</i>		
C	Santa Clara Valley Transportation Authority (VTA)	September 14, 2017

SECTION 2 - RESPONSES TO COMMENTS RECEIVED ON THE IS/MND

This memo responds to comments on the Initial Study/MND as they relate to the potential environmental impacts of the project under CEQA. Numbered responses correspond to comments in each comment letter. Copies of the comment letters are attached.

A. RESPONSE TO COMMENTS FROM PATRICIA AND SERGIO RUIZ

Comment A1: We don't want a gas station on Horning Street it will be a negative impact for our community. It will increase more homelessness activity at night, more illegal dumping, RVs, encampments, will encourage loitering, increase crime, noise, and trash pollution to our neighborhood. There are several fueling stations, storage buildings, car washes, in near vicinity, we don't need more gas pollution!

Response A1: The environmental impacts of redevelopment of the site with a mix of commercial uses, in conformance with City of San José policies and regulations, are addressed throughout the Initial Study. The commenter is expressing concerns regarding the potential for public nuisance conditions. These conditions would be a code enforcement issue rather than a CEQA issue.

As discussed in Section 4.3 Air Quality of the Initial Study, air quality impacts resulting from the operation of the proposed project were found to be less than significant. The lifetime cancer risk is below the Bay Area Air Quality Management District's significance threshold and non-cancer risk as a result of air pollution was calculated to be almost zero.

As discussed in Section 4.12 Noise and Vibration, existing noise levels at the property line of adjacent residential uses already exceed the 55 dBA limit. The project would add to this noise level; however, the project-related effects on the baseline ambient noise environment at noise sensitive residential receptors would result in a change of less than 1 dBA. As such, project-generated noise levels are not predicted to exceed the ambient noise significance threshold (an increase in 3 dB or more in the existing noise environment); thus, any impact would be less than significant.

Additionally, to ensure operational noise associated with the car wash, fast-food restaurant, convenience store, and gas station, would be within the limits established by the San José General Plan and Municipal Code, the project applicant would be required to comply with the stated Standard Permit Condition and submit a noise study to the City's Chief Building Official to ensure all applicable noise attenuation equipment are installed and operating accordingly.

With regard to trash, the project proposes two trash enclosures with metal roofs and gates to deter illegal dumping and trash pollution. The operators of the proposed convenience store, gas station, drive through fast food restaurant, and self-storage facility would be responsible for maintaining their operations in a manner that supports a safe, healthy, and attractive community, in conformance with the City's Municipal Code. Homelessness activity, loitering, and crime concerns, while not specifically related to the analysis contained within the Initial Study/MND, are noted.

Comment A-2: Petition signers of respectfully request the City to limit the zoning to exclude fueling stations and or the perspective land buyer and business owner (Jim Rubnitz) to reconsider the business he wants to build. The residents of Madera Ave, Santa Ana Ave, Horning St, North 12th Street and nearby communities and our supporters who sign this petition would like a more resident friendly business that does not stay open late night hours, and are willing to negotiate. For instance, a reputable grocery store like a Trader Joe's, Smart and Final or Rite Aid, Walgreens, Home Goods. This type of stores would definitely encourage resident's business and will discourage loitering.

Response A-2: This comment does not specifically relate to the analysis in the Initial Study/MND. The commenter's opinions regarding the requested uses and hours of operation are noted.

B. RESPONSE TO COMMENTS FROM AMAH MUTSUN TRIBAL BAND

Comment B-1: This Project is within the boundaries of the Tamien people. At this time it agreed that the Muwekma Tribal Band best represents these ancestors. Please contact the Muwekma Tribal Band.

Response B-1: This comment that the Muwekma Tribal Band best represents the ancestors of the Tamien people in the project area is acknowledged. The Muwekma Tribal Band was notified of the project as part of the City's standard circulation process for the Notice of Intent to Adopt an Initial Study/MND. As discussed in Section 4.5 Cultural Resources of the Initial Study, the project will follow the City's Standard Permit Conditions regarding archaeological resources and human remains and notify the most-likely descendants, should they be encountered during project construction.

C. RESPONSE TO COMMENTS FROM SANTA CLARA TRANSPORTATION AUTHORITY

Comment C-1: Currently the pedestrian accommodations along the project's street frontages consist of 5-foot attached sidewalks along Oakland Road, and approximately 9-foot attached sidewalks on Horning Street. The Initial Study notes that a 5-foot attached sidewalk would continue to be provided along Oakland Road, and a 10-foot attached sidewalk would be provided along Horning Street. VTA recommends that that City work with the project sponsor to provide detached sidewalks containing buffers between pedestrians and automobiles with landscaping elements, such as closely planted trees, shrubs, or light posts along the project frontages. Resources on pedestrian quality of service, such as the Highway Capacity Manual 2010 Pedestrian Level of Service methodology, indicate that such accommodations improve pedestrian perceptions of comfort and safety on a roadway.

Response C-1: Currently there is a sidewalk on Oakland Road and no sidewalk on Horning Street. The project would construct new approximately 10 feet sidewalks on Horning Street and Oakland Road that would conform with the sidewalk design along the street frontage to the west, adjacent to existing industrial uses. Along both segments, there are no detached sidewalks. VTA's comments and recommendations regarding sidewalk design and landscaping in the public right-of-way are noted.

Comment C-2: The existing intersections around the site lack crosswalks and safety features. VTA recommends providing a high-visibility crosswalk connecting the north and south sides of Homing Street along Oakland Road in order to accommodate pedestrians south of the site, and those connecting to the VTA bus stop for Local Line 66 at Homing/Oakland. Additionally, VTA supports the recommendation by Hexagon to add a mid-block crossing along Oakland Road at or near Boardwalk Way in order to support safe, pedestrian connections to the proposed retail uses (TIA, p. 5). VTA notes that such pedestrian facility improvement would also reduce walking distances for the residential uses on the east side of Oakland Road.

Response C-2: The applicant will be contributing to a traffic controlled pedestrian crosswalk as part of this project. VTA's recommendations for additional pedestrian improvements in the vicinity are noted

Comment C-3: VTA supports the project's inclusion of eight bicycle parking spaces. VTA supports bicycling as an important transportation mode, and recommends including such bicycle parking spaces as a Condition of Approval. VTA's Bicycle Technical Guidelines provide guidance for estimating supply, siting and design for bicycle parking facilities. This document may be downloaded from www.vta.org/bikeprogram.

Response C-3: This recommendation for including bicycle parking spaces as a Conditional of Approval and the availability of the VTA's Bicycle Technical Guidelines are noted.

Comment C-4: VTA has an existing bus stop on southbound Oakland Road, just south of Horning Street. Due to the increase in transit demand generated by the proposed project, VTA recommends the project install a new bus stop bench to VTA standards. A custom bench may be substituted upon VTA review.

Response C-4: As discussed in Section 4.16 Transportation/Traffic, it was found there would be a minimal increase in mass transit demand from the construction of the project. In addition, the existing bus stop mentioned by VTA is not within the frontage of this project. Therefore, no project-sponsored transit or transit infrastructure improvements were recommended.

CONCLUSION

The comments received during the public circulation period for the 645 Horning Street Gas Station, Food, and Storage Project Initial Study/MND did not raise any new environmental issues or provide information indicating the project would result in additional impacts or impacts of greater severity than described in the circulated Initial Study. Therefore, the Initial Study/MND represents an adequate level of environmental review for the project.

SECTION 3 – TEXT CHANGES TO THE IS/MND

No text changes are required.

SECTION 4 – PUBLIC COMMENTS ATTACHMENTS

Please see copy of the original comment in the following pages.

Comment A

Patricia and Sergio Ruiz

Received September 13, 2017

Patricia and Sergio Ruiz
547 Madera Ave
San Jose, CA 95112
(408) 569-5044

9/13/17

City of San Jose Department of Planning, Building & Code Enforcement,

On behalf of our neighbors,

First of all we strongly disagree on the proposal on 645 Horning Street Gas Station, Food, and Storage Project.

File No.: PDC16-041, PD16-027, PT16-037

Assessors's Parcel Number: 235-18-001

We don't want a gas station on Horning Street it will be a negative impact for our community. It will increase more homelessness activity at night. More illegal dumping, RVs encampments, will encourage loitering, increase crime, noise, and trash pollution to our neighborhood. There are several fueling stations, storage buildings, car washes, in near vicinity, we don't need more gas pollution!

Petition signers of respectfully request the City to limit the zoning to exclude fueling stations and or the perspective land buyer and business owner (Jim Rubnitz) to reconsider the business he wants to build. The residents of Madera Ave, Santa Ana ave, Horning St, North 12th Street and nearby communities and our supporters who sign this petition would like a more resident-friendly business that does not stay open late night hours, and are willing to negotiate. For instance, a reputable grocery store like a Trader Joe's, Smart and Final or Rite Aid, Walgreens, Home Goods. This type of stores would definitely encourage resident's business and will discourage loitering.


Sincerely,

Name


Signature


Phone No.

address

1. Patricia Ruiz  408 569-5044 547 Madera Ave.
San Jose, CA 95112
sergpat@hotmail.com

2. Patricia Marquez (408) 899 1081 1026 N 12th St
San Jose CA 95112

3.  Isidra Kentura 408 2985752 1013 N 12th St San Jose

Melanie Handstrom  408-658-5878 melanetro@yahoo.com
Rahel Lyr 560-754-1307 1019 N. 12th St 95112
San Jose 95112

4. Madeline Parg 546 Horning St. 408-299-8206

Name Signature Phone No. address

5. Marybeth 408 642-7813 527 Horning St SJCA 95112

6. George Graves 408 995 0826 533 Horning St. #5 SJCA 95112

7. Jessica Nwari 408 771 7033 533 Horning St SJ 95112

8. Wz Huerfano 408 297 5106 533 Horning St SJ 95112

Name Signature Phone No. address

9. Lidia Castilla Anfell 408 708 4947 552 Horning St #6 SJ 95112

10. _____

11. _____

12. _____

Patricia and Sergio Ruiz
547 Madera Ave
San Jose, CA 95112
(408) 569-5044

9/13/17

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Sincerely,

Name

Signature

Phone No.

address

1. Sophy Sui Sophy Sui (408) 627-1856 1015 N 12th St,

2. Carlos Maldonado (408) 981-3666 540 Madera Ave

Rosa Maldonado (408) 981-3664 540 Madera Ave

Sergio Ruiz (408) 569-2032

547 MADERA AVE

Rafael M. Ruiz (408) 896-6362

558 MADERA AVE

Comment B

Amah Mutsun Tribal Band

Received August 28, 2017

Le, Thai-Chau

From: Aerieways <aerieways@aol.com>
Sent: Monday, August 28, 2017 12:55 PM
To: Le, Thai-Chau
Subject: Re: CEQA Public Notice of Intent: PDC16-041/PD16-027/PT16-037 Horning Street Gas Station, Food, and Storage Project

This project is within the boundaries of the Tamien people. At this time it is agreed that the Muwekma Tribal Band best represents these ancestors. Please contact the Muwekma Tribal Band.

Ed Ketchum
Amah Mutsun Tribal Band
Historian

-----Original Message-----

From: Le, Thai-Chau <Thai-Chau.Le@sanjoseca.gov>
Sent: Thu, Aug 24, 2017 11:38 am
Subject: CEQA Public Notice of Intent: PDC16-041/PD16-027/PT16-037 Horning Street Gas Station, Food, and Storage Project

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

Project Name: 645 Horning Street Gas Station, Food, and Storage Project
File No.: PDC16-041, PD16-027, PT16-037

Description: Planned Development Rezoning, Permit, and Tentative Map to demolish six existing buildings, and remove all associated pavement, landscaping, and fencing; and to construct a mix of new commercial buildings including an approximately 3,814-square foot convenience store, six fueling stations (12 total fuel dispensers), an approximately 1,341 square foot automatic carwash, an approximately 2,494-square foot fast-food restaurant with a drive-through, and self-storage facility with three buildings totaling approximately 92,116 square feet on an approximate 3.26 gross acre site.

Location: 645 Horning Street, which is situated on the north side of Horning Street at its intersection with Oakland Road.

Assessor's Parcel No.: 235-18-001

Council District: 3

Applicant Contact Information: Jim Rubnitz, 17610 Blanchard Drive, Monte Sereno, CA 95030, (408) 813-6416

The City has performed environmental review on the project. Environmental review examines the nature and extent of any adverse effects on the environment that could occur if a 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 if protective measures (mitigation measures) are included in the project.

The public is welcome to review and comment on the draft Mitigated Negative Declaration. The public comment period for this draft Mitigated Negative Declaration begins on **August 24, 2017 and ends on September 14, 2017**

The draft Mitigated Negative Declaration, initial study, and reference documents are available online at: <http://www.sanjoseca.gov/index.aspx?nid=2165> . The documents are also available for review from 9:00 a.m. to 5:00 p.m. Monday through Friday at the City of San Jose Department of Planning, Building & Code Enforcement, located at City Hall, 200 East Santa Clara Street; and at the Dr. Martin Luther King, Jr. Main Library, located at 150 E. San Fernando Street.

For additional information, please contact Thai-Chau Le at (408) 535-5658, or by e-mail at Thai-Chau.Le@sanjoseca.gov.

Best regards,
Thai

Thai-Chau Le
Planner | City of San Jose
Environmental Planning
Planning, Building & Code Enforcement
Thai-Chau.Le@sanjoseca.gov
1.408.535.5658

Comment C

Santa Clara Valley Transportation Authority
(VTA)

Received September 14, 2017



September 14, 2017

City of San Jose
Department of Planning and Building
200 East Santa Clara Street
San Jose, CA 95113

Attention: Thai-Chau Le

Subject: City File No. PDC16-041 / Horning Street Gas Station

Dear Mr. Le:

Santa Clara Valley Transportation Authority (VTA) staff have reviewed the Initial Study for a gas station, convenience store, and fast-food restaurant on the north side of Horning Street at the intersection with Oakland Road. We have the following comments.

Pedestrian and Bicycle Accommodations and Access to Transit

Currently the pedestrian accommodations along the project's street frontages consist of 5-foot attached sidewalks along Oakland Road, and approximately 9-foot attached sidewalks on Horning Street. The Initial Study notes that a 5-foot attached sidewalk would continue to be provided along Oakland Road, and a 10-foot attached sidewalk would be provided along Horning Street. VTA recommends that that City work with the project sponsor to provide detached sidewalks containing buffers between pedestrians and automobiles with landscaping elements, such as closely planted trees, shrubs, or light posts along the project frontages. Resources on pedestrian quality of service, such as the Highway Capacity Manual 2010 Pedestrian Level of Service methodology, indicate that such accommodations improve pedestrian perceptions of comfort and safety on a roadway.

The existing intersections around the site lack crosswalks and safety features. VTA recommends providing a high-visibility crosswalk connecting the north and south sides of Horning Street along Oakland Road in order to accommodate pedestrians south of the site, and those connecting to the VTA bus stop for Local Line 66 at Horning/Oakland. Additionally, VTA supports the recommendation by Hexagon to add a mid-block crossing along Oakland Road at or near Boardwalk Way in order to support safe, pedestrian connections to the proposed retail uses (TIA, p. 5). VTA notes that such pedestrian facility improvement would also reduce walking distances for the residential uses on the east side of Oakland Road.

VTA supports the project's inclusion of eight bicycle parking spaces. VTA supports bicycling as an important transportation mode, and recommends including such bicycle parking spaces as a Condition of Approval. VTA's Bicycle Technical Guidelines provide guidance for estimating

City of San Jose
September 14, 2017
Page 2

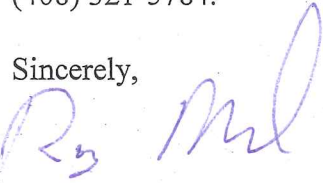
supply, siting and design for bicycle parking facilities. This document may be downloaded from www.vta.org/bikeprogram.

Bus Service

VTA has an existing bus stop on southbound Oakland Road, just south of Horning Street. Due to the increase in transit demand generated by the proposed project, VTA recommends the project install a new bus stop bench to VTA standards. A custom bench may be substituted upon VTA review.

Thank you for the opportunity to review this project. If you have any questions, please call me at (408) 321-5784.

Sincerely,



Roy Molseed
Senior Environmental Planner

cc: Michael Liw, San Jose Development Services

SJ1620