

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: 5260 Monterey Road Gas Station and Convenience Store Expansion Project

PROJECT FILE NUMBER: H19-043 and ER20-008

PROJECT DESCRIPTION: Site Development permit to expand the 1,091 square foot snack shop and service bay building of an existing gasoline station with a 1,920 square foot addition. The new building will total 3,011 square feet. The project will also demolish the existing fueling canopy and construct an approximately 5,000 square foot canopy, replace 10 fuel stations and two new fuel stations. The 10 space parking lot will be reconfigured to include an air/water stall, an electric vehicle charging station, an air/water station and vacuum island, and a handicapped parking space. Four trees will be removed and replaced.

PROJECT LOCATION: The 0.54-acre project site is located at 5260 Monterey Road, on the northeast corner of the intersection of Monterey Road and Roeder Road, in the City of San José.

ASSESSORS PARCEL NO.: 684-29-004

COUNCIL DISTRICT: 2

APPLICANT CONTACT INFORMATION: Monterey Gas Corporation, LLC (Atten: Troy Pham); 5260 Monterey Road, San Jose, CA 95111; (408)914-8195; troy8195@gmail.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** – The project would not have a significant impact on this resource, therefore no mitigation is required.

D. **BIOLOGICAL RESOURCES.**

Impact BIO-1: Construction activities on the project site could adversely affect nesting raptors or other migratory birds.

MM BIO-1: Prior to the issuance of any demolition, grading, tree removal or building permits (whichever occurs first), 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), as amended.

If demolition and construction cannot be scheduled to occur between September 1st and January 31st (inclusive), as amended, 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 (inclusive), as amended, 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 1 and August 31 (inclusive), as amended, 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 within 250 feet of the work 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 construction 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. If construction ceases for two days or more then resumes again during the nesting season, an additional survey shall be necessary to avoid impacts to active bird nests that may be present.

Prior to any tree removal and construction activities or issuance of any demolition, grading or building permits (whichever occurs first), the ornithologist shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of the City of San José Department of Planning, Building and Code Enforcement or the Director's designee.

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: Soil contaminated with petroleum hydrocarbons and volatile organic compounds that exceed regulatory thresholds identified in the Phase I Environmental Site Assessment report may be present beneath the project site, and/or associated with the in-ground lifts and at the western storage area on the site. In addition, the site is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.

MM HAZ-1: Prior to issuance of any demolition or 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. A Site Management Plan (SMP) shall be developed to address existing and unknown contamination that may be encountered during development. The plan shall be submitted 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 for review and approval. The project applicant shall notify the Santa Clara County Department of Environmental Health (SCCDEH) of the approved plan and provide the City with proof of notification

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

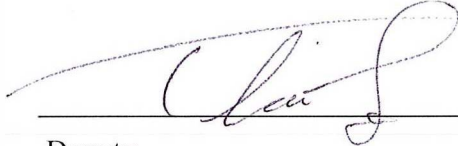
Cumulative impacts would be less than significant. The proposed Project would implement the identified mitigation measures and would have either have no impacts or less-than-significant impacts on riparian habitat or other sensitive natural communities, migration of species, or applicable biological 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 **Thursday, January 13, 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



Deputy

12/09/2021

Date

Bethlehem Telahun
Environmental Project Manager

Circulation period: December 17, 2021 to January 13, 2022