

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE ADOPTING THE 6211 SANTA TERESA BOULEVARD FUEL STATION MITIGATED NEGATIVE DECLARATION, FOR WHICH AN INITIAL STUDY WAS PREPARED, ALL IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AS AMENDED, AND ADOPTING A RELATED MITIGATION MONITORING AND REPORTING PROGRAM

WHEREAS, prior to the adoption of this Resolution, the Director of Planning, Building and Code Enforcement of the City of San José prepared an Initial Study and approved for circulation a Mitigated Negative Declaration for the 6211 Santa Teresa Boulevard Fuel Station Project under Planning File No. CP18-011 (the “Initial Study/Mitigated Negative Declaration”), all in accordance with the requirements of the California Environmental Quality Act of 1970, together with state and local guidelines implementing said Act, all as amended to date (collectively “CEQA”); and

WHEREAS, the 6211 Santa Teresa Boulevard Fuel Station Project (the “Project”) analyzed under the Initial Study/Mitigated Negative Declaration consists of a Conditional Use Permit which would demolish all existing structures, remove the existing underground fuel tanks, and construct a 3,056 square feet (sf) convenience store with 24-hour use, site improvements (paving, exterior lighting, landscaping, and the removal of 14 trees of which 11 are ordinance size), a fuel canopy with four fuel dispensers, and two new underground fuel tanks on an approximately 0.47-gross acre site located at the southeast corner of Santa Teresa Boulevard and Cottle Road (6211 Santa Teresa, Assessor’s Parcel Number 704-01-007), San José, California; and

WHEREAS, the Initial Study/Mitigated Negative Declaration concluded that implementation of the Project could result in certain significant effects on the

environment and identified mitigation measures that would reduce each of those significant effects to a less-than-significant level; and

WHEREAS, in connection with the approval of a project involving the preparation of an initial study/mitigated negative declaration that identifies one or more significant environmental effects, CEQA requires the decision making body of the lead agency to incorporate feasible mitigation measures that would reduce those significant environmental effects to a less-than-significant level; and

WHEREAS, whenever a lead agency approves a project requiring the implementation of measures to mitigate or avoid significant effects on the environment, CEQA also requires a lead agency to adopt a mitigation monitoring and reporting program to ensure compliance with the mitigation measures during project implementation, and such a mitigation monitoring and reporting program has been prepared for the Project for consideration by the decision-maker of the City of San José as lead agency for the Project (the “Mitigation Monitoring and Reporting Program”); and

WHEREAS, the City of San José is the lead agency on the Project, and the City Council is the decision-making body for the proposed approval to undertake the Project; and

WHEREAS, the City Council has reviewed and considered the Initial Study/Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program for the Project and intends to take actions on the Project in compliance with CEQA and state and local guidelines implementing CEQA; and

WHEREAS, the Initial Study/Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program for the Project are on file in the Office of the Director of Planning, Building and Code Enforcement, located at 200 East Santa Clara Street, 3rd Floor Tower, San José, California, 95113, are available for inspection by any

interested person at that location and are, by this reference, incorporated into this Resolution as if fully set forth herein;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE:

THAT THE CITY COUNCIL does hereby make the following findings: (1) it has independently reviewed and analyzed the Initial Study/Mitigated Negative Declaration and other information in the record and has considered the information contained therein, prior to acting upon or approving the Project, (2) the Initial Study/Mitigated Negative Declaration prepared for the Project has been completed in compliance with CEQA and is consistent with state and local guidelines implementing CEQA, and (3) the Initial Study/ Mitigated Negative Declaration represents the independent judgment and analysis of the City of San José, as lead agency for the Project. The City Council designates the Director of Planning, Building and Code Enforcement at the Director's Office at 200 East Santa Clara Street, 3rd Floor Tower, San José, California, 95113, as the custodian of documents and records of proceedings on which this decision is based.

THAT THE CITY COUNCIL does hereby find that based upon the entire record of proceedings before it and all information received that there is no substantial evidence that the Project will have a significant effect on the environment and does hereby adopt the Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program prepared for the Project (Planning File No. CP18-011). The Mitigation Monitoring and Reporting Program for the Project is attached hereto as Exhibit "A" and is fully incorporated herein. The Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program are: (1) on file in the Office of the Director of Planning, Building and Code Enforcement located at 200 East Santa Clara Street, 3rd Floor Tower, San José, California, 95113 and (2) available for inspection by any interested person.

ADOPTED this ____ day of _____, 2020, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

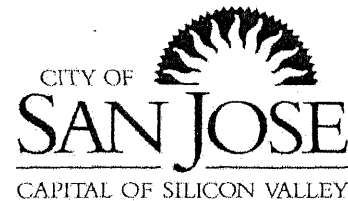
TONI J. TABER, CMC
City Clerk

MITIGATION MONITORING AND REPORTING PROGRAM

6211 Santa Teresa Boulevard Fuel Station Project

File No. CP18-011

April 2020



PREFACE

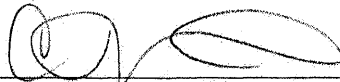
Section 21081.6 of the California Environmental Quality Act (CEQA) requires a Lead Agency to adopt a Mitigation Monitoring and Reporting Program whenever it approves a project for which measures have been required to mitigate or avoid significant effects on the environment. The purpose of the monitoring and reporting program is to ensure compliance with the mitigation measures during project implementation.

The Initial Study/Mitigated Negative Declaration prepared for the 6211 Santa Teresa Boulevard Fuel Station Project concluded that the implementation of the project could result in significant effects on the environment and mitigation measures were incorporated into the proposed project or are required as a condition of project approval. This Mitigation Monitoring and Reporting Program addresses those measures in terms of how and when they will be implemented.

This document does *not* discuss those subjects for which the Initial Study/Mitigated Negative Declaration concluded that the impacts from implementation of the project would be less than significant.

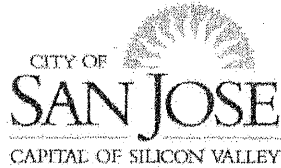
I, Christopher the applicant, on the behalf of 7-Eleven, Inc., hereby agree to fully implement the Mitigation Measures described below which have been developed in conjunction with the preparation of an Initial Study/Mitigated Negative Declaration for my proposed project. I understand that these mitigation measures or substantially similar measures will be adopted as conditions of approval with my development permit request to avoid or significantly reduce potential environmental impacts to a less than significant level.

Project Applicant's Signature



Date

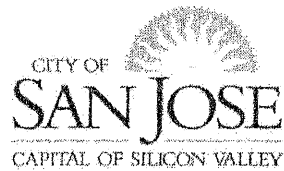
10/1/2020



Planning, Building and Code Enforcement
ROSALYNN HUGHEY, DIRECTOR

6211 Santa Teresa Boulevard Fuel
Station Project
File No. CP18-011

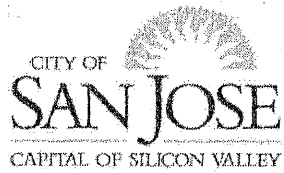
MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
Biological Resources					
Impact a): Demolition and construction activities, including the removal of trees from the project site, could impact nesting migratory birds.					
<p>MM BIO-1: Initial site disturbance activities, including vegetation removal, shall not occur during the general avian nesting season (February 1 – August 31, inclusive). If construction activities cannot be scheduled to avoid breeding season, the project applicant shall retain a qualified biologist to conduct a preconstruction nesting bird survey to determine the presence/absence, location, and status of nests on or adjacent to the project site. The extent of the survey buffer area surrounding the site shall be established by the qualified biologist to avoid direct and indirect impacts to nesting birds. To avoid the destruction of active nests and protect the reproductive success of birds protected by the Migratory Bird Treaty Act and California Fish and Game Code, nesting bird surveys shall be performed not more than 14 days prior to vegetation clearance and structure demolition.</p> <p>Following commencement of construction activities, no additional nesting bird surveys would be required. If active nests are discovered, a 300-foot radius avoidance buffer for raptors, and 50-foot radius avoidance buffers for other birds, shall be established around such active nests and no construction shall be allowed within the buffer areas until a qualified biologist has determined the nest is no longer active</p>	<p>Schedule the demolition or construction to avoid the nesting season (February 1st through August 31st, inclusive). If demolition cannot occur outside nesting season, prepare preconstruction survey, establish buffer zones.</p>	<p>If construction occurs between September 1st and January 31st, inclusive: No compliance actions needed.</p> <p>If construction occurs between February 1st and August 31st, inclusive: Pre-construction surveys needed for nesting birds no more than 14 days prior to construction from February 1st.</p> <p>Submit report to Director of Department of Planning, Building, and Code Enforcement or</p>	<p>Director of Department of Planning, Building, and Code Enforcement or Director's Designee</p>	<p>Confirm that demolition and construction activities are scheduled outside of the avian nesting season.</p> <p>Review the preconstruction survey report indicating the results of the survey and any designated buffer-zones.</p>	<p>Prior to issuance of any tree removal, grading, demolition, or building permits.</p>



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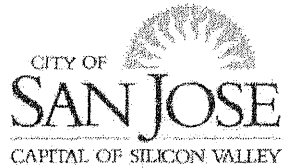
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<p>(e.g., the nestlings have fledged and are no longer reliant on the nest). No ground disturbing activities shall occur within this buffer until the qualified biologist has confirmed breeding/nesting is complete and the young have fledged the nest. Nesting bird surveys are not required for construction activities occurring between August 30 and February 1, inclusive.</p>		<p>Director's Designee prior to obtaining any tree removal or grading/demolition permits.</p>			
<p>Hazards and Hazardous Materials</p>					
<p>Impact b): Project implementation may encounter residual concentrations of contaminants in soil and groundwater that exceed environmental screening levels during construction activities that could expose construction workers, neighboring uses, and the environment to hazardous materials.</p>					
<p>MM HAZ-1: Prior to the issuance of any demolition or grading permits, the applicant shall contact the Santa Clara County Department of Environmental Health (SCCDEH), or equivalent, to discuss the proposed redevelopment project and perform any other necessary investigations and studies to address the potential residual contamination as deemed necessary. The regulatory agency may require a Site Management Plan (SMP), or similar document, to manage the cleanup of potentially contaminated soils. If applicable, a SMP shall be prepared prior to construction to reduce or eliminate exposure risk to human health and the environment, specifically, potential risks associated with the presence of contaminated soils. If required, the SMP shall include, but is not limited to, the following elements to mitigate potential risks associated with environmental conditions:</p>	<p>Conduct further site investigations to assess residual contamination and prepare an SMP if required by SCCDEH.</p>	<p>Prior to the issuance of any demolition, grading, or building permits.</p>	<p>SCCDEH Director of Department of Planning, Building, and Code Enforcement or Director's Designee City of San José Environmental Services Department Municipal Compliance Officer</p>	<p>SCCDEH reviews and comments on the necessary documents. Receive the SCCDEH-approved SMP, Removal Action Work Plan or equivalent confirmation.</p>	<p>Prior to the issuance of any demolition, grading, or building permits and during construction activities</p>



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<ul style="list-style-type: none"> • A detailed discussion of the site background; • Proper mitigation as needed for demolition of existing structures; • Management of stockpiles, including sampling, disposal, and dust and runoff control including implementation of a stormwater pollution prevention program; • Management of underground structures encountered, including utilities and/or underground storage tanks; • Procedures to follow if evidence of an unknown historic release of hazardous materials (e.g., underground storage tanks, polychlorinated biphenyls [PCBs], asbestos containing materials, lead-based paint, etc.) is discovered during excavation or demolition activities. • 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, or similar document, shall be submitted to the Santa Clara County Department of Environmental Health (SCCDEH), or equivalent, for review and approval. A copy of the documentation shall be submitted to the Director of Planning, Building, and Code Enforcement or Director's designee and Municipal Compliance Officer of the City of San Jose Environmental Services Department 					



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for approval prior to the issuance of any grading permits.					
<p>MM HAZ-2: Prior to any Underground Storage Tank (UST) removal activities, including excavation, the project applicant shall contact the San José Fire Department and the SCCDEH and coordinate any necessary field inspections with any required permits and paperwork from both agencies. The project applicant must coordinate with the oversight agency any pre and post removal sampling of the UST and surrounding soil/and or groundwater. The project applicant must also complete and submit an Underground Storage Tank System Closure Permit Application with the SCCDEH and an Underground Storage Tank System Closure Application (UN-003) with the City of San José Fire Department.</p>	<p>Report soils samples if residual petroleum hydrocarbons observed and contamination detected above risk-based thresholds. Conduct further investigation and mitigation as warranted including updating the SMP or equivalent document to include the investigation/clean-up effort.</p> <p>Apply for additional permit, as warranted.</p>	<p>Prior to the removal of any USTs.</p>	<p>SCCDEH; San José Fire Department;</p> <p>Director of Department of Planning, Building, and Code Enforcement or Director's Designee City of San José Environmental Services Department Municipal Compliance Officer</p>	<p>Review possible soil samples and associated revisions to the SMP or equivalent document.</p> <p>Confirm condition has been met.</p>	<p>Prior to removal of any USTs</p>

Source: 6211 Santa Teresa Boulevard Fuel Station Project Initial Study, April, 2020.