



**SAN RAFAEL ZONING ADMINISTRATOR
REGULAR HEARING
May 15, 2024**

**Minutes and Notice of Decision
(Pursuant to San Rafael Municipal Code 14.28.050)**

- 10:01 – 10:17 am
1. **1050 Andersen Drive.** Request to approve a Minor Environmental and Design Review permit for the replacement of three (3) existing outdated underground storage tanks and associated equipment with a single 12,000-gallon aboveground storage tank, along with two (2) dispensers and 45'x26' canopy cover, lighting, and the re grading of an existing driveway at 1050 Anderson Drive; APN: 018-180-72; Planned Development (PD1933) / Public/Quasi-Public (P/QP) Zoning District

Project Planner: Laylonni Laster, Consulting Assistant Planner

PERMITS REQUIRED

Pursuant to San Rafael Municipal Code (SRMC) Section 14.25.040, an Environmental and Design Review permit (PLAN23-148/ ED23-064) is required for accessory structures on developed non-residential properties over one hundred twenty (120) square feet in size and minor site design improvements including driveways, as applicable. This permit is subject to a zoning administrator public hearing.

PROJECT DESCRIPTION

The proposed project at 1050 Anderson Drive includes the demolition and closure of three (3) existing outdated underground fuel storage tanks and associated equipment consistent with Section 25292.05 of the Health and Safety Code, which requires single-walled underground storage tanks to be permanently closed. The project also consists of the installation of one 12,000-gallon aboveground split fuel tank with height of 8'-6" which will be used for fueling Marin Sanitary Service trucks and equipment. Additionally, the project would involve the installation of two (2) fuel dispensers with an 18' tall canopy covering an area of 45'x26', and associated lighting. The project entails the construction of a concrete tank foundation slab and concrete fueling slab with containment berm and catch basin. A low retaining wall will be constructed on three sides of the tank slab. The existing paved driving aisle will be re-graded to accommodate access to the fueling stations. Overall, the estimated cut/fill of the proposed project consists of 17 cubic yards of cut and 102 cubic yards of fill, with a disturbed area of 4,615 square feet.

PUBLIC HEARING

On May 15, 2024, a Zoning Administrator hearing was held to consider the Environmental and Design Review Permit (PLAN23-148/ ED23-064). The Acting Zoning Administrator for this meeting, Renee Nickenig, opened the hearing at 10:01 am.

A. Planner Presentation

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Kavitha Kumar, the Project Planner, and Assistant Planner, Laylonni Laster provided an overview of the staff report which included the executive summary, project description, project findings for approval, and the project conditions.

B. Applicant presentation

The executive vice president of Marin Sanitary Service, John Oranje, and his representative, Michael Culpepper, were present at the meeting. They confirmed that they had reviewed the Conditions of Approval and had no questions or comments on them.

C. Public Comments

No public comments were received prior to the hearing or during the hearing.

D. Zoning Administrator Discussion

The Zoning Administrator reviewed the project for decision.

E. Action

The Zoning Administrator approved the request for an Environmental and Design Review Permit for the replacement of three (3) existing outdated underground storage tanks and associated equipment with a single 12,000-gallon aboveground storage tank, along with two (2) dispensers and 45'x26' canopy cover, lighting, and the re grading of an existing driveway at 1050 Anderson Drive subject to the conditions listed below.

The public hearing for this item was adjourned at 10:17 am.

FINDINGS

The following findings reference the findings previously made to approve ED23-064.

CEQA Findings

The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to CEQA Guidelines Sections 15301 (“Existing Facilities”), 15302 (“Replacement or Reconstruction”), and 15330 (“Minor actions to prevent, minimize, stabilize, mitigate or eliminate the release or threat of release of hazardous waste or hazardous substances”). Furthermore, none of the exceptions found in Government Code §15300.2 apply.

Environmental and Design Review Permit (ED23-064) Findings (SRMC §14.25.090)

A. That the project design is in accord with the general plan, the objectives of the zoning ordinance and the purposes of this chapter;

The site is designated as General Industrial on the General Plan 2040 Land Use Map which allows uses that are ancillary to activities such as manufacturing, storage, warehouse facilities, contractor uses and yards, wholesalers, sand and gravel plants, solid waste management, recycling facilities, and trucking yards or terminals. The current use of the property is for industrial purposes. Removal of single-walled USTs

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consistent with the Health and Safety Code, and installation of the proposed 12,000 gallon aboveground fuel storage tank and associated dispensers and canopy will support the existing use. The proposed project site is within the Planned Development zoning district, specifically within the industrial zone. The project's proposed use complies with the Master Use Permit that is consistent with the PD district development standards. Within the PD, the subject project site is within the designated "Area A", which is part of the operation area for municipal waste management. Area A permits structures, outdoor yards and materials processing areas, ancillary sales, storage of resource and recovery materials, and interim storage uses. Therefore, the proposed installation of the 12,000 gallon aboveground storage tank, dispensers, and canopy structure are permitted within Area A.

B. That the project design is consistent with all applicable site, architecture and landscaping design criteria and guidelines for the district in which the site is located;

The proposed project site is within the Planned Development zoning district and is or would be required to be consistent with the development standards of the site's planned development agreement. The proposed installation of the 12,000-gallon aboveground storage tank, dispensers, and canopy structure is permitted within designated Area A, which is part of the operational area of municipal waste management. Within the Planned Development, the general development standards require a minimum landscaped area of 10%. After project implementation, the landscaped area would consist of 16.43%, which would meet and exceed the PD standards. According to the PD operational restrictions, materials, vehicles and containers stored within the approved work areas shall, in general, be kept no higher than twenty feet the ground surface. The proposed aboveground storage tank would be at a height of 8'-6" and thus would not exceed the standard.

C. That the project design minimizes adverse environmental impacts;

The project is proposing to remove single-walled underground storage tanks (UST) in compliance with the State Water Resources Control Board's request. The required removal of the UST is intended to protect the health and safety of the people of the state from the dangers of contamination and protect the environment from hazardous substance releases. Additionally, the removal of the existing UST would also include the preparation of a UST Closure Commitment Plan, per the State Water Resources Control Board's request. The UST Closure Commitment Plan would assist Certified Unified Program Agencies (CUPAs) in the arrangement of staff, in the issuance of permits, and inspection. Therefore, the removal of the existing USTs would reduce the potential for adverse environmental impacts related to an outdated UST. The project is categorically exempt from the provisions of the California Environmental Quality Act and none of the exceptions of Section 15300.2 apply. As such, the project design minimizes adverse environmental impacts.

D. That the project design will not be detrimental to the public health, safety or welfare, nor materially injurious to properties or improvements in the vicinity.

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The project proposes to remove outdated USTs, per the State Water Quality Control Board's request. As such, the proposed project would enable compliance with Senate Bill (SB) 445 and the Health and Safety Code, Chapter 6.7 (H&SC) Section 25292.05. Senate Bill 445 was introduced for the immediate preservation of public peace, health, or safety from potential hazardous substance contamination. Additionally, the project is subject to review by the City of San Rafael and appropriate agencies, where applicable. Any conditions of approval from City departments and outside agencies will be incorporated to ensure the project will not be detrimental to the public health, safety, or welfare, nor materially injurious to properties or improvements in the project vicinity. The project is categorically exempt from the provisions of the California Environmental Quality Act and none of the exceptions of Section 15300.2 apply. As such, the proposed project design would not be detrimental to public health, safety, or welfare, nor materially injurious to properties or improvements in the vicinity.

CONDITIONS OF APPROVAL

The following are conditions of approval applied to the proposed project (PLAN23-148/ ED23-064) as provided herein:

Planning Department Conditions of Approval

1. **Approved Project.** This Environmental and Design Review Permit (ED23-064) conditionally approves the replacement of three (3) existing outdated underground storage tanks and associated equipment with a single 12,000 gallon aboveground storage tank, along with two (2) dispensers and 45'x26' canopy cover, lighting, and the re-grading of an existing driveway at 1050 Anderson Drive. Plans submitted for building permit shall be in substantial conformance to the approved plans on file, with regard to building techniques, materials, elevations, and overall project appearance except as modified by these conditions of approval. Minor modifications or revisions to the project shall be subject to review and approval by the Community Development Department, Planning Division. Modifications deemed greater than minor in nature by the Community Development Director shall require review and approval by the Zoning Administrator.
2. **Subject to All Applicable Laws and Regulations.** The approved use and/or construction is subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies. Prior to construction, the applicant shall identify and secure all applicable permits from the Building Division, Public Works Department and other affected City divisions and departments.
3. **Permit Validity.** This Permit shall become effective on May 22, 2024, and shall be valid for a period of two (2) years from the date of final approval or May 22, 2026, and shall become null and void if a building permit is not issued or a time extension granted by May 22, 2026. A permit for the construction of a building or structure is deemed exercised when a valid City building permit, if required, is issued, and construction has lawfully commenced. A permit for the use of a building or a property is exercised when,

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- if required, a valid City business license has been issued, and the permitted use has commenced on the property.
4. Building Permit. Prior to the commencement of work, a building permit shall be obtained from the Building Division.
 5. Construction Hours. Except as otherwise provided in subsection B of the San Rafael Municipal Code Section 8.13.050, or by the planning commission or city council as part of the development review for the project, on any construction project on property within the city, construction, alteration, demolition, maintenance of construction equipment, deliveries of materials or equipment, or repair activities otherwise allowed under applicable law shall be allowed between the hours of seven a.m. (7:00 a.m.) and six p.m. (6:00 p.m.), Monday through Friday, and nine a.m. (9:00 a.m.) and six p.m. (6:00 p.m.) on Saturdays, provided that the noise level at any point outside of the property plane of the project shall not exceed ninety (90) dBA. All such activities shall be precluded on Sundays and holidays. Violation of the foregoing may subject the permittee to suspension of work by the chief building official for up to two (2) days per violation.
 6. Colors, Materials, and Lighting. Colors, materials and lighting shall be designed to avoid creating undue off-site light and glare impacts. New or amended building or site colors, materials and lighting shall comply with San Rafael Municipal Code Section 14.16.227, subject to review and recommendation by the police department, public works department, and community development department.
 7. Exterior Lighting. Any exterior lighting shall be subject to a 90-day post installation inspection to allow for adjustment and assure compliance with San Rafael Municipal Code Section 14.16.227 - Light and glare. The project proponent is responsible for hiring a qualified lighting - 5 - expert to conduct the inspection and to prepare a summary analysis verifying the projects meets City standards to be submitted to the Planning Division.
 8. Rooftop Equipment. Equipment placed on the rooftop of a building or in an exterior yard area shall be adequately screened from public view. See Chapter 14.16 for exclusions to maximum height requirements and Chapter 14.25 for design review requirements.
 9. Temporary Fences. Temporary security fences may be erected around construction sites during the time a valid building permit is in effect for construction on the premises. Temporary security fences need not comply with San Rafael Municipal Section 14.16.140 and must be immediately removed upon completion of the construction authorized by the building permit.
 10. Landscape Maintenance. All landscaping shall be maintained in good condition and any dead or dying plants, bushes, trees, or groundcover plantings shall be replaced with new healthy stock of a size appropriate and compatible with the remainder of the growth at the time of replacement.
 11. Approved Materials and Colors. The approved materials and colors for the project shall be indicated on project plans submitted for building permit and implemented in the field. Any changes in materials or colors shall be subject to prior review and

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approval by the City Planning Division, and a determination as to whether the change is major or minor. Any changes to the approved materials or colors shall be clearly indicated on plans and receive written verification that this change has been reviewed and approved by the Planning Division.

12. Provide a lighting plan with the deferred submittal for the 45'x26' canopy and associated lighting.

Public Works Department Conditions of Approval

13. This project includes more than 50 CY of earthwork therefore a grading permit shall be required from the Department of Public Works prior to start of construction. Application material can be found on the City's website: <https://www.cityofsanrafael.org/grading-permits/>
14. A construction vehicle impact fee shall be required at the time of building permit issuance, which is calculated at 1% of the valuation, with the first \$10,000 of valuation exempt.
15. A minor temporary encroachment permit is required from the Department of Public Works prior to conducting any work within or any time the Public Right-of-Way (ROW) is restricted. This includes placing debris boxes in the street. Encroachment permits can be applied for online on the city of San Rafael website: <https://www.cityofsanrafael.org/encroachment-permits/>
16. The proposed driveway will need to be compliant with ADA requirements.

Fire Department Conditions of Approval

17. Provide emergency procedures signage, per CA Fire Code (CFC) 2304.3.5.
18. Provide operating instructions signage, per CFC section 2304.3.4.
19. A Fire Prevention permit is required if a pull station is utilized for this project. Submit a separate (deferred) Fire Alarm permit. The deferred permit shall be signed off at or prior to the fire department's final inspection.

ACTION TAKEN: On May 15, 2024, the Zoning Administrator Conditionally Approved the request for an Environmental and Design Review Permit subject to the Findings and Conditions above. The requested Environmental and Design Review Permit is file number PLAN23-148 and ED23-064.

This Notice of Zoning Administrator decision is provided in compliance with SRMC Section 14.28.050 - Notice of decision. Any aggrieved party may appeal this decision pursuant to SRMC Section 14.28.030 - Filing and time limit of appeals, by submitting a letter of appeal and the appropriate fees within five (5) working days of the date of approval, or by **May 22, 2024, at 5:00 p.m.** This approval shall become effective at the end of the appeal period.

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Once a permit approval has been implemented/established in compliance with all City requirements, it shall run with the land and be valid for the time period specified; e.g., duration of the project/use.

Margaret Kavanaugh-Lynch

May 29, 2024

Margaret Kavanaugh-Lynch, Acting Zoning Administrator

Date

