

**Tesla R&D Manufacturing at Kato Road, Conditional Use Permit, Finding for Modification of Zoning Standards to allow a Floor Area Ratio (FAR) increase and parking reduction, and a Discretionary Design Review
Draft Addendum, and as a separate and independent basis, Draft Mitigated Negative Declaration**

**City of Fremont
March 20, 2020**

NAME OF PROJECT: Tesla R&D Manufacturing at Kato Road

PROJECT NO.: 2020-00157

DESCRIPTION OF PROJECT: Tesla (the Applicant) proposes to implement tenant improvements at their existing facilities located at 47700 Kato Road and at 1055 Page Avenue in the City of Fremont. The facilities would be utilized for battery research and development (R&D) and manufacturing. Tenant improvements to 47700 Kato Road include the addition of a second floor within the existing building and a smaller third floor addition above the existing roofline, both within the zoning height limit and existing building footprint. Additional hazardous materials would be introduced to the site to accommodate the battery R&D and manufacturing processes. A new electrical equipment yard would be constructed between the two buildings on an existing landscaped area.

LOCATION OF PROJECT: 47700 Kato Road and 1055 Page Avenue, Fremont, CA 94538
(APN 519-1010-130-1)

GEOGRAPHIC LOCATION WITHIN CITY: Warm Springs/South Fremont

NAME OF AUTHORIZED AGENT OF APPLICANT: Tesla, c/o Ashley Villoria, 47700 Kato Road, Fremont, CA 94538

MAILING ADDRESS OF APPLICANT/AGENT: Tesla, c/o Ashley Villoria, 47700 Kato Road, Fremont, CA 94538

TYPE OF ENTITLEMENT(S) SOUGHT: Zoning Modification to allow for increased FAR of up to 0.60 and a parking reduction; Conditional Use permit to allow the proposed storage, handling, and use of hazardous chemicals; and Discretionary Design Review Permit

Introduction

An evaluation of the proposed Project is provided in the attached Initial Study Checklist, prepared pursuant to CEQA Guidelines Section 15063. In accordance with CEQA Guidelines Sections 15162, 15163 and 15164 and Sections 15070 et. seq., and as set forth in the analysis below, the Project qualifies for both an Addendum to a previously prepared Negative Declaration and a Mitigated Negative Declaration because the following findings can be made:

- Addendum to previously approved 1996 Negative Declaration: The analysis included in the attached Initial Study also demonstrates that an Addendum to a previously adopted Negative Declaration (the 1996 Negative Declaration for the HMT Technologies Project) applies. The conclusions reached in the 1996 Negative Declaration remain valid, and none of the conditions described in CEQA Section 15162 require a Subsequent Negative Declaration for the Project. The Project would not cause new significant impacts that were not previously identified in the 1996 Negative Declaration, would not result in a substantial increase in the severity of impacts previously identified in the 1996 Negative Declaration, and no new information has been put forward that shows that the Project would cause significant environmental impacts, given that the Project applicant (Tesla) has agreed to adopt mitigation measures that would substantially reduce one or more potentially significant effects on the environment.

- Mitigated Negative Declaration: In accordance with CEQA Guidelines Section 15070 et. seq., the analysis included in the attached Initial Study does identify certain potentially significant environmental effect (those related to hazardous materials and greenhouse gas emissions), but revisions in the Project plans made by, and agreed to be implemented by the applicant (Tesla) would avoid these effects, or mitigate the effects to a point where no significant effects would occur. There is no substantial evidence, in light of the whole record, that the Project as revised may have a significant effect on the environment.

Each of the above provides a separate and independent basis for CEQA compliance.

ADDENDUM TO THE 1996 NEGATIVE DECLARATION

Background

HMT Technology was an independent supplier of high-performance, thin film disks for hard disk drives. These drives were installed in personal computers, network servers and workstations. HMT Technologies started their disk manufacturing operations at their facility at 1220 Page Avenue in 1984. In 1989, the company purchased land across the street at 1055 Page and built a 72,300 square-foot office headquarters and manufacturing building (the 1055 Page building).

In 1996, HMT Technology proposed to construct a new approximately 124,010 square-foot, two-story industrial building (now known as the 47700 Kato building), to be added to a 9.3-acre site on which the 1055 Page building already existed. That project (the 1996 Project) required an increase in the permitted floor-area-ratio (FAR) for the site. The combined floor area for both buildings was 196,310 square feet, and the proposed FAR represented an increase from a FAR of 0.35 to 0.48. The proposed use of these buildings pursuant to the 1996 Project was for industrial use that were permissible under the City's then existing Restricted Industrial (R-I) zoning district - specifically to house computer disk manufacturing facilities and associated R&D and office space. These operations required a highly specialized clean-room environment, and housed texturing, thin film application and testing, and the final steps in the disk manufacturing process.

1996 Negative Declaration

Pursuant to the requirements of CEQA, the City of Fremont reviewed the 1996 Project to determine the likelihood of a significant adverse environmental impact occurring as a result of project completion. The City prepared an Initial Study (Environmental Impact Assessment No. 96-119) leading to a Negative Declaration (the 1996 Negative Declaration). The 1996 Negative Declaration found that the 1996 Project was consistent with the General Plan and conformed to the zoning for the site, and that all services and utilities were provided and available to the site. No significant vegetation, wildlife or natural resources were found to be displaced, destroyed or removed by the intended development. The 1996 Negative Declaration included provisions that required the applicant to comply with all City codes, regulations and policies. The applicant was required to continue to operate the 1996 Project facilities in a manner harmonious with the adjacent and nearby uses, and in keeping with the protection of the health, safety and welfare of the general public.

At a public hearing held on July 23, 1996, the Fremont City Council adopted the 1996 Negative Declaration (EIA-96-119), and subsequently approved the 1996 Project (F-96-22). Since that time, both the 1055 Page building and the 47700 Kato building have subsequently been used for other manufacturing and R&D operations. Most recently, these building were occupied by Solar City and used for manufacturing of solar panels and related R&D operations. Starting in 2017, these buildings were acquired by Tesla and now house small-scale battery manufacturing equipment, R&D operations and office space. No additional environmental reviews were required of these subsequent uses of the buildings, as they were determined to be fully compliant with applicable zoning standards.

CEQA Guidelines Section 15164: Addendum to an EIR or Negative Declaration

CEQA Guidelines Section 15164 provide that an addendum to an adopted negative declaration may be prepared if, "only minor technical changes or additions are necessary, or if none of the conditions described in CEQA Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred." An addendum need not be circulated for public review, but can be included in, or attached to the adopted negative declaration. The decision-making body shall consider the addendum with the adopted negative declaration prior to making any decision on the

project. A brief explanation of the decision not to prepare a subsequent EIR should be included in the addendum, the lead agencies findings, or elsewhere in the record. The explanation must be supported by substantial evidence.
CEQA Guidelines Section 15162: Subsequent EIRs and Negative Declarations

CEQA Guidelines Section 15162 provide that when a negative declaration has been adopted, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in light of the whole record, one or more of the following:

- 1) Substantial changes are proposed in the project which will require major revisions of the negative declaration due to the involvement of new significant environmental effects or a substantial increase in severity of previously identified significant effects
- 2) Substantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions of the negative declaration due to involvement of new significant environmental effects or a substantial increase in severity of previously identified significant effects; or
- 3) New information of substantial importance which was not known and could not have been known with the exercise of reasonable diligence at the time the previous negative declaration was adopted, shows the following:
 - (A) The project will have one or more significant effects not discussed in the previous negative declaration.
 - (B) Significant effects previously examined will be substantially more severe than previously shown in a previous EIR.
 - (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
 - (D) Mitigation measures or alternatives that are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponent declines to adopt the mitigation measure or alternative.

If changes to the project or its circumstances occur, or if new information becomes available after adoption of a negative declaration, the lead agency shall prepare a subsequent EIR if required pursuant to the Section 15162. Otherwise, the lead agency shall determine whether to prepare a subsequent negative declaration, and addendum, or no further documentation.

CEQA Determination for the Project

The following provides the City's explanation for its decision to not prepare a subsequent EIR or negative declaration, and the attached Initial Study provides the substantial evidence to support this decision.

Changes to the Project

The Project does not represent a change to the 1996 Project as analyzed in the 1996 Negative Declaration that would be substantial or that would require major revisions of the prior MND.

- The Project site is the same approximately 9.3-acre site located at 47700 Kato Road/1055 Page Avenue, in the City of Fremont, that was fully developed pursuant to the 1996 Project (APN # 519-1010-130-1).
- The current Project's proposed tenant improvements at the Kato building involve construction of an additional floor area of 21,485 square feet at the second floor covering a portion of the central space that is open to the second floor roof, and an additional 8,260 square-foot third floor above. Although these improvements will increase the total floor space of the Kato building by 29,745 square feet, these improvements will not change the footprint of the building or its exterior facades, no grading or excavation is necessary for these improvements, and nearly all construction work will be conducted internally within the existing building.
- The Project will require removal of much of the existing rooftop mechanical equipment, to be replaced by new rooftop mechanical equipment (e.g., air handlers, HVAC systems and fans) that support the new battery manufacturing operations.
- Once these improvements are made, Tesla will move in new equipment to both the Kato and Page building to support its expanded battery manufacturing and R&D operations.

- Minor changes to on-site circulation will be made to better accommodate truck loading and deliveries, and a new electrical substation will be added to balance electrical supply from PG&E.

As indicated in the attached Initial Study, these changes to the project will not result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects pertaining to construction-period effects (noise, dust and water quality), aesthetics, biological resources, cultural resources, energy, geology or soils, hydrology, land use, mineral resource, tribal resources, or wildland fires. The Project will be required to comply with all applicable regulations that apply to these topics.

Hazardous Materials: As part of the manufacturing and R&D processes that Tesla is now proposing to conduct at the facility, a number of different chemicals and materials will be stored, dispensed and used for product research and development. Some of these chemicals and materials are flammable, highly toxic, toxic and/or corrosive in nature, which are typical for battery manufacturing operations, and are different than those analyzed in the 1996 Negative Declaration for computer disk manufacturing. Certain of these material groups that will be used will exceed the limit for standard permitted uses in the I-T zoning district, and a Conditional Use Permit (CUP) is required. The minimum standards established by relevant state and federal regulations apply to the use and handling of the hazardous materials, and the Initial Study identifies Project-specific mitigation measures, including those proposed by Tesla, as well as additional reasonable and appropriate Project-specific mitigation measures based on the Fremont Fire Department's review of the Project. Although full and complete compliance with applicable regulations and mitigation measures cannot fully guarantee that upset and/or accident conditions involving the release of hazardous materials into the environment will not occur, these regulations do reduce the risks of such an accident and provide for the protection of health, life, the environment, resources and property to the extent reasonably foreseeable, and thus does not represent a new significant environmental effect or a substantial increase in severity of previously identified significant effect related to hazardous materials. The 1996 Negative Declaration did require implementation of best management practices for chemical materials use and storage, preparation of a Hazardous Materials Management Plan, and compliance with applicable regulations related to hazardous materials (as also now applies to the current Project). The additional mitigation measures now required of the Project are considerably different from those analyzed in the previous 1996 Negative Declaration in that they are much more rigorous and project-specific, but these mitigation measures would substantially reduce significant effects related to hazardous material use and risk of upset. The Project proponent (Tesla) has agreed to adopt these mitigation measure as part of their project's design and operation.

Exterior Noise: The Project involves replacement of existing rooftop mechanical equipment with new air handling equipment, dust collection systems and exhaust fans. Pursuant to the Fremont Municipal Code (FMC), the maximum noise level at the property line generated by any user located within an industrial zoning district shall not exceed an 70 dBA Ldn, when adjacent users are also industrial or commercial, business, professional or office uses. The cumulative noise level generated by all of the new mechanical equipment on each of the building's rooftops, operating simultaneously, is preliminarily calculated to be 70 dBA Ldn, or less. Pursuant to FMC standards, the Project applicant must analyze and provide documentation of installed exterior mechanical or industrial equipment to ensure that the equipment does not exceed the applicable operational noise standard of 70-dBA at the nearest property line. If the installed equipment is found to exceed this standard, noise control measures must be provided to meet the City's requirements. Typical noise control measures include barriers, enclosures, silencers and acoustical louvers at vent openings. The Project applicant is required to submit a report verifying that noise levels generated by actual Project mechanical equipment will be no greater than applicable noise standards at receiving property line (potentially inclusive of noise barrier parapet walls and/or mechanical louvers), thereby complying with applicable City regulatory standards. With required compliance, the Project's exterior noise sources do not represent a new significant noise impact or a substantial increase in the severity of previously identified significant noise effects.

Equipment Emissions: The Project includes installation of new manufacturing equipment to be used to make batteries. The applicant (Tesla) has coordinated with BAAQMD to determine if any applicable Air District permitting requirements as new stationary sources of emissions apply to this new equipment. Preliminary assessments indicates that the proposed equipment likely generates emission levels that are low enough that stationary source permits will not be required for most or all of the equipment. However, if BAAQMD determines one or more permits are required, emissions standards will apply. With required compliance to these emission standards, the Project's equipment

emissions do not represent a new significant environmental effect or a substantial increase in severity of previously identified significant air quality effects.

Changes to Circumstances

Traffic (Level of Service): Since 1996, traffic levels on local streets, City arterials and the freeway system serving the Project site have substantially increased. Standard practice exercised by the City of Fremont typically requires a level of service (LOS) analysis for projects generating 100 vehicle-trips or more during the weekday PM peak hours. This threshold is consistent with the threshold used by Alameda County Transportation Commission (ACTC) for determining whether a land use project requires preparation of a Traffic Impact Analysis (TIA) to evaluate potential impacts to regional roadways in the surrounding area. An assessment has been conducted for the Project to calculate the net new vehicle trips expected from the Project, based on details of operations for the baseline and proposed uses, and considering the changed traffic conditions. That traffic assessment (attached to and summarized in the Initial Study) concludes that the change in operations at the site, together with implementation of Tesla's TDM Plan, would result in a net reduction in overall daily and peak hour trips as compared to a 2017 baseline condition. Because the Project is estimated to generate less than 100 new PM peak hour trips, the LOS analysis was not required for this Project. The Project would not generate a significant amount of traffic or conflict with any applicable congestion management plans, and no mitigation is required. The Project's traffic does not represent a new significant environmental effect or a substantial increase in severity of previously identified significant traffic effects.

Air Quality (Criteria Pollutant Emissions): In May of 2017, the BAAQMD's updated their CEQA Guidelines, including recommended thresholds of significance for criteria pollution emissions. These currently applicable thresholds are an average daily emissions of 54 pounds per day or 10 tons per year of nitrogen oxides (NO_x), reactive organic gases (ROG), and PM_{2.5}, and 82 pounds per day or 15 tons per year of PM₁₀. Both the daily and annual thresholds apply to the Project's operations. An analysis of Project-related \ criteria pollutant emissions was conducted for the current Project (attached to and summarized in the Initial Study). This analysis concludes that the Project's net increase in average daily emissions would only be 0.64 lbs/day of ROG, 0.06 lbs/day of NO_x, 0.03 lbs/day of PM₁₀, and 0.01 lbs/day of PM_{2.5}. The Project's impact related to operational and construction-related criteria pollutant emissions would be less than significant, with no mitigation required. The Project's criteria pollutant emissions do not represent a new significant environmental effect or a substantial increase in severity of previously identified significant air quality effects.

New Information

GHG Emissions: In 1996, CEQA Guidelines did not include a CEQA threshold for greenhouse gas (GHG) emissions, and analysis of GHG emissions was not conducted. The 1996 Negative Declaration did consider the 1996 Project's overall energy use, and concluded that the proposed building design would incorporate energy-conservation measures as detailed by the Uniform Building Code in effect at the time. The site was served by PG&E, which provided a standard mix of requisite energy sources available for hook-up/activation to the 1996 Project. Current CEQA Guidelines now include a CEQA threshold for greenhouse gas (GHG) emissions, and analysis of the Project's GHG has been conducted. This analysis can be considered "new information" that was not included in the 1996 Negative Declaration. The attached Initial Study includes the following new information relevant to the Project:

- New construction associated with the Project is required to comply with all applicable standards of Title 24 of the California Code of Regulations, and all applicable CALGreen standards. These standards include energy-conserving design and construction mandates. Although construction and operation of the Project would incrementally increase energy consumption, it would comply with all applicable regulations and energy standards, and its use of energy would not be wasteful, inefficient or unnecessary.
- The currently applicable thresholds for GHG emissions are annual emission 1,100 MTCO_{2e}, or 2.8 MTCO_{2e}/year/service population (based on 2030 reduction targets).
- As shown in the Initial Study, emissions from the Project are estimated to be 7,055 MTCO_{2e}/year, or 15.0 MTCO_{2e}/year/service population, which exceeds currently applicable thresholds levels. A reduction of 5,739 CO_{2e}, or a 68% reduction in CO_{2e} emissions from energy use, is required to reduce GHG emissions to below threshold levels.

The Initial Study identifies Mitigation Measure GHG-1: GHG Emissions Reduction or Offset, which requires the Project applicant to submit annual reports to the City of Fremont Planning Manager describing reductions or offsets in energy use and/or GHG emissions to meet this required reduction. This mitigation measure is required of the Project, is new and is considerably different from any information presented in the previous 1996 Negative Declaration but would substantially reduce significant GHG emissions effects on the environment. The Project proponent (Tesla) has agreed to adopt these mitigation measure as part of the Project's design and operation.

CEQA Determination - Addendum

Pursuant to CEQA Guidelines Section 15164, the lead agency (the City of Fremont) may prepare an addendum to a previously adopted negative declaration if some changes or additions are necessary, but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred. Pursuant to these CEQA Guidelines referenced above, the explanations cited above to support a decision not to prepare a subsequent EIR, and the supportive substantial evidence as provided in the attached Initial Study, the environmental review for the Project can be satisfied through preparation of an Addendum to the 1996 Negative Declaration. The attached Initial Study demonstrates that the Project would not result in any new or more severe significant environmental effects beyond those identified in the prior 1996 Negative Declaration. There are new mitigation measures considerably different from those analyzed in the previous Negative Declaration that will reduce significant impacts, which the Project proponent (Tesla) has agreed to adopt as part of the Project's design and operation.

This document serves as an Addendum to the 1996 Negative Declaration for the HMT Technology Project (Project No. F-96-22 and DES 96-1622), and no further environmental review is required.

MITIGATED NEGATIVE DECLARATION FOR THE TESLA 47700 KATO ROAD AND 1055 PAGE AVENUE IMPROVEMENTS

As a separate and independent basis, the prepared Initial Study provides a basis for the City to adopt a Mitigated Negative Declaration for the proposed Project, in accordance with CEQA Guidelines Section 15070, *et seq.* Consistent with CEQA's requirements for adoption of a Mitigated Negative Declaration, there is no substantial evidence, in light of this Initial Study and the record as a whole, that the Project, together with the mitigation measures recommended herein, may have a significant effect on the environment.

Public Hearing: A public hearing is required for this Project. Said public hearing will either be: held at 7:00 P.M., on Thursday, April 9, 2020, at the Council Chambers, City Hall, 3300 Capitol Avenue, Fremont, California, at which time any and all interested persons may appear and be heard; or, if the City of Fremont has deemed it necessary in the interest of public health to limit the attendance of public assemblies to prevent or mitigate the effects of Coronavirus 2019 (COVID-19), said public meeting may be held via teleconferencing and made accessible telephonically or otherwise electronically to impose and promote social distancing under the authority of Executive Order N-25-20, as amended. Due to the closure of City offices in response to the County Order, environmental documents are only available for review by the public online at: <http://www.fremont.gov/430/Environmental-Review>.

Any comments as to whether the Draft Mitigated Negative Declaration should become final or whether an EIR should be prepared for the project must be submitted within 20 days of the posting of this Draft Mitigated Negative Declaration. **Due to the effects of COVID-19 promoting social distancing, early submission of public comment in writing via email is strongly recommended. The comment period begins March 20, 2020 and ends April 9, 2020.**

Any person who wishes to appeal such final action must do so within ten days of the date it becomes final by the filing of an appeal with the Community Development Department and by payment of the required appeal fee. If the City offices remain closed, please contact the undersigned below for further instructions on filing an appeal.

Posted within the Development Services Center on March 20, 2020.

Notice of Intent to be sent to:

- Posting of Notice
- Mailed to owners of contiguous property
- Publish notice

- County Clerk
- Clearinghouse

IF THERE ARE ANY QUESTIONS OR COMMENTS, PLEASE CONTACT:

Clifford Nguyen	Deputy Planning Manager/Zoning Administrator	(510) 494-4454
NAME	TITLE	PHONE NUMBER
