

## 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:** 101 Bernal Road Hydrogen Fueling Project

**PROJECT FILE NUMBER:** PDA98-079-01

**PROJECT DESCRIPTION:** Planned Development Permit Amendment to allow the addition of two Hydrogen Fuel dispensers and construction of a 1,120 square foot equipment compound that will hold the storage and compression equipment needed for Hydrogen Fuel operation.

**PROJECT LOCATION:** The project is located on an approximately 1.21 gross acre site at 101 Bernal Road in San Jose.

**ASSESSORS PARCEL NO.:** 706-01-085

**COUNCIL DISTRICT:** 2

**APPLICANT CONTACT INFORMATION:** Fielder Group (Attn: Jason Lewis), 299 Euclid Avenue, Pasadena, CA, 91101; jason.lewis@fieldergroup.com; (213) 381-0097, Extension: 734418

### 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 significant impacts to Air Quality. Therefore, no mitigation is required.
- D. **BIOLOGICAL RESOURCES** - The project would not have a significant impact on this

resource. Therefore, no mitigation is required.

- E. CULTURAL RESOURCES** - The project would not have a significant impact on this resource. Therefore, no mitigation is required.
- F. GEOLOGY AND SOILS** – The project would not have a significant impact on this resource. Therefore, no mitigation is required.
- G. GREENHOUSE GAS EMISSIONS** – The project would not have a significant greenhouse gas impacts. Therefore, no mitigation is required.
- H. HAZARDS AND HAZARDOUS MATERIALS.**

**Impact HAZ-1:** The proposed project has the potential to expose project construction workers and the environment to on-site hazardous materials due to past soil and groundwater contamination associated with the Fairchild Semiconductor Corporation South San José Plant Superfund Site by rupturing or breaching the slurry wall southwest of the construction area, which is designed to contain existing contamination.

**MM HAZ-1.1:** Prior to the issuance of any demolition or grading permits, whichever comes first, and at least three (3) business days prior to the required field verification of the slurry wall location, the project applicant shall provide the field schedule to the State oversight agency of the Fairchild Semiconductor Corporation South San José Plant Superfund Site (Site), the San Francisco Bay Regional Water Quality Control Board (RWQCB), and shall provide documentation of this required notice to the Director of the City of San José Planning, Building, and Code Enforcement Department (PBCE), or the director's designee, and the Environmental Compliance Officer in the City of San José's Environmental Services Department (ESD). In addition, the project applicant shall copy the RWQCB on any correspondence with the RWQCB's consultant if the slurry wall is encountered or is planned to be encountered and perform any additional investigation, evaluation, or mitigation, as required by the RWQCB, as the State oversight agency of the Site. Evidence of correspondence with the RWQCB and compliance with any additional investigation, evaluation, or mitigation required by the RWQCB to contain the existing contamination shall be provided to the Director of PBCE, or director's designee, and the ESD Environmental Compliance Officer prior to the issuance of any demolition or grading permit.

**Impact HAZ-2:** The proposed project has the potential to expose project construction workers and the environment to on-site hazardous materials due potential contamination of subsurface soils due to leaching and movement of contaminated groundwater through the soil from the Fairchild Semiconductor Corporation South San José Plant Superfund Site and from the current use as a gasoline fueling station.

**MM HAZ-1. 2:** Prior to the issuance of any demolition or grading permit, whichever comes first, the project applicant shall conduct a shallow soil sample in the area of either the hydrogen equipment enclosure area or hydrogen dispensing area. The soil sample may be collected from the existing landscape buffer immediately adjacent to the hydrogen equipment enclosure area or hydrogen dispensing area since these areas are currently paved. The shallow soil shall be sampled for total petroleum hydrocarbons; 1,1,1-trichloroethane (TCA); 1,1-

dichloroethene (DCE); tetrachloroethene (PCE); 1,4-dioxane; 1,1-dichloroethane (DCA); 1,2-DCA; and vinyl chloride. The sampling report, including comparison to RWQCB's environmental screening levels, shall be provided to the Director of Planning of the PBCE, or the Director's designee, and the ESD's Environmental Compliance Officer.

If results of the soil sampling indicate concentrations of chemicals exceeding RWQCB's environmental screening levels, the project applicant shall obtain regulatory oversight from the Santa Clara County Department of Environmental Health (SCCDEH), RWQCB, or equivalent agency prior to the issuance of any demolition or grading permit, whichever comes first. Under regulatory oversight of the applicable agency, the project applicant shall develop a Site Management Plan (SMP) and Health & Safety Plan (HASP), or similar document, as required by the oversight agency, to be implemented prior to and during construction to protect construction worker safety, the public, and the environment. An SMP shall be prepared by a qualified environmental professional and implemented. The contaminated soil excavated from the site shall be hauled off-site and disposed of at a licensed hazardous materials disposal site.

The oversight-agency required plans and evidence of regulatory oversight in preparation and approval of the plans shall be submitted to the City's Director of PBCE, or the Director's designee, and the Municipal Compliance Officer of the ESD prior to issuance of a demolition or grading permit, whichever comes first.

- I. HYDROLOGY AND WATER QUALITY** – The project would not have a significant impact on this resource. Therefore, no mitigation is required.
- J. LAND USE AND PLANNING** – The project would not have a significant impact on this resource. Therefore, no mitigation is required.
- K. MINERAL RESOURCES** – The project would not have a significant impact on this resource. Therefore, no mitigation is required.
- L. NOISE** – The project would not have a significant noise impacts. Therefore, no mitigation is required.
- M. POPULATION AND HOUSING** – The project would not have a significant impact on this resource. Therefore, no mitigation is required.
- N. PUBLIC SERVICES** – The project would not have a significant impact on this resource. Therefore, no mitigation is required.
- O. RECREATION** – The project would not have a significant impact on this resource. Therefore, no mitigation is required.
- P. TRANSPORTATION** – The project would not have a significant impact on this resource. Therefore, no mitigation is required.
- Q. TRIBAL CULTURAL RESOURCES** – The project would not have a significant impact on

this resource. Therefore, no mitigation is required.

**R. UTILITIES AND SERVICE SYSTEMS** – The project would not have a significant impact on this resource. Therefore, no mitigation is required.

**S. WILDFIRE** – The project would not have a significant impact on this resource. Therefore, no mitigation is required.

**T. MANDATORY FINDINGS OF SIGNIFICANCE.**

The Proposed Project 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 and would not eliminate important examples of the major periods of California history or prehistory. With mitigation measures incorporated, the Proposed Project would not cause changes in the environment that would have potential to cause substantial adverse direct or indirect effects on human beings. Therefore, the Proposed Project would not contribute to a cumulatively considerable impact to these resources.

**PUBLIC REVIEW PERIOD**

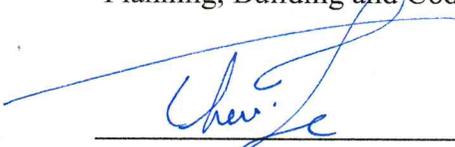
Before 5:00 p.m. on Thursday, August 27, 2020 any person may:

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.

Rosalynn Hughey, Director  
Planning, Building and Code Enforcement

7/23/20 20

Date



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Deputy

Shannon Hill  
Environmental Project Manager

**Circulation Period: July 28, 2020 to August 27, 2020**