

ALAMEDA COUNTY  
HEALTH CARE SERVICES

AGENCY  
DAVID J. KEARS, Agency Director



DEPARTMENT OF ENVIRONMENTAL HEALTH  
Hazardous Materials Program  
80 Swan Way, Rm. 200  
Oakland, CA 94621  
(415)

FACSIMILE TRANSMITTAL

TO:

444-8263 Floor/Room # \_\_\_\_\_  
Fax Phone Number

Name: Larry Luloff Title/Section \_\_\_\_\_

Agency: \_\_\_\_\_

Address: \_\_\_\_\_

Phone #: ( ) \_\_\_\_\_

FROM:

\_\_\_\_\_ Floor/Room # \_\_\_\_\_  
Fax Phone Number

Date: 5-7-91 Time Sent: 0945

Sender: Scott Seery Title/Section \_\_\_\_\_

Phone #: ( ) 271-4320

Number of Pages Including Transmittal Sheet: 7

Special Instructions/Comments:

As discussed, following is the April 30, 1991  
letter from Mr. Sobek to C+G Contractors.  
Please call with any questions.  
Scott

REPORT - PLANNING COMMISSION MEETING

October 11, 1990  
November 8 and 29, 1990  
December 13, 1990  
January 10 and 24, 1991  
February 14, 1991

91 MAR 19 AM 10:14

APPLICANT: 6000 S. CORPORATION/DALE W. SOBEK (Z-88-1, P-90-18)

RECOMMENDED ACTION: Recommend to City Council

LOCATION: 6000 Stevenson Boulevard, southwesterly corner of Stevenson Boulevard and Albrae Street.

ASSESSORS PARCEL NUMBER: 531-240-3-10

AREA: 41.85 acres

PROPOSAL: P Planned District (a preliminary and precise planned district with C-R, G-I, I-R and C-G Districts uses)

OWNER: Dale W. Sobek

AGENT OF APPLICANT: None

CONSULTANTS: Wallace Roberts & Todd (EIR Consultants)

PREVIOUS ACTION: UA-85-6, UA-86-17, EIR-87-50

EIR: EIR-87-85, a full Environmental Impact Report, has been prepared for the General Plan Amendment (GPA-87-17) related to this proposal.

GENERAL PLAN: (Existing) Industrial  
(Proposed) Retail Commercial and Industrial

ZONING: (Existing) G-I General Industrial District  
(Proposed) P Planned District

LAND USE: Existing industrial warehouses and home improvement and furniture retail uses (such as Home Depot, Sofabed Warehouse, Sawmill, and MMM Carpets)

SITE PLAN AND ARCHITECTURAL REVIEW BOARD (SPARB): SPARB review is not applicable since there is no site plan and architectural considerations associated with this proposal. SPARB review will be required at a later time.

UNION SANITARY DISTRICT: Annexed

ALAMEDA COUNTY WATER DISTRICT: Annexed

FLOOD ZONE: Zone "C"

GEOLOGIC HAZARD ZONE: Not located within a Geologic Hazard Zone

COMMUNITY PARK BENEFIT AREA: N/A

PUBLIC HEARING NOTICE: Public hearing notification is applicable.

12 notices mailed to owners of property within a minimum radius of 300 feet of the site on the following streets: Stevenson Boulevard, Encyclopedia Circle, Albrae Street.

All notices to owners of property mailed on October 1, 1990.

Public hearing notice delivered to Argus on September 26, and October 24, 1990 to be published by October 1, and October 29 1990.

#### CONSIDERATIONS:

**Background:** The site is currently occupied by five buildings, four of which were built by Pullman Trailmobile Company in 1963 for the construction of truck trailers and similar transportation equipment. In 1976, Pullman Trailmobile moved their operations to another location, and in 1978, sold the site to the present owner and applicant.

Subsequent uses of the buildings and various portions of the site included an auto auction yard, waste oil recycling, foam insulation manufacturing, and general warehousing. Four of the buildings on the project site are used as retail outlets for large-sized home furnishings. The retail users include Elegant Windows, MMM Carpets, Sofabed Warehouse, Home Depot, and several furniture discount stores. Currently, the original trailer warehouse is not completely occupied and is partially used as a warehouse and as a retail furniture outlet. A fifth building, a one-story structure on the northwest boundary adjacent to Stevenson Boulevard is used by the applicant as an office. More than 10 acres of parking lots, loading areas and internal roads are used in association with the five buildings.

The remainder of the project site consists of two undeveloped or under-utilized areas. One area (5.9 acres) is located in the west corner of the site. It is asphalted from a previous use as a parking lot and is enclosed by cyclone fencing. The second area is approximately 13 acres and is located along the southeast edge of the property adjacent to the Sante Fe railroad tracks. This area is presently being used by an auto auction company as a vehicle storage area.

On December 7, 1988, the applicant received approval of a tentative parcel map (TPM 4853) to subdivide the 41.85 acre site into six parcels. The bulk of the existing development and improvements are located on parcels #2, 3, 4, and 5. The vacant or under-utilized portions of the site are on parcels #1 and 6, with an area of 5.9 acres and 13.1 acres, respectively. The applicant has submitted a request for an extension of time on the approval of Tentative Parcel Map (TPM) 4853. The extension of time was granted on November 30, 1990 and will expire on December 7, 1991 unless another extension is granted or the final map is consummated. Since this is the first extension for TPM 4853, two additional one-year extensions may be granted for a total of 5 years.

As part of the overall development plan for the site, the applicant has submitted a request for a General Plan Amendment (GPA-87-17 and EIR-87-85) to amend the General Plan designation from Industrial to Retail Commercial. His initial request in regards to GPA-87-17 was to change the entire site from Industrial to the Retail Commercial designation. To coincide with this rezoning/planned district proposal, the extent of the General Plan Amendment has been reduced. [Note: for further information regarding GPA-87-17, refer to Item No. 2 of this agenda.]

**Proposal:** The applicant's original submittal was for a rezoning under Z-88-1 of the entire 41.85 acre site from G-I General Industrial District to C-R Regional Commercial District. However, to utilize a combination of land uses allowed under the C-G, I-R, G-I and C-R Districts, the applicant is now requesting the consideration of a planned district under P-90-18 instead of a rezoning under Z-88-1. The planned district process will be used to establish specific land uses for the site. Site and architectural plans are proposed to be submitted under a separate application as an amendment to the Planned District.

The applicant has filed a letter with staff formally requesting a planned district proposal be considered. Based on this request, staff has taken steps to cancel the rezoning project (Z-88-1) and to open a planned district project

processed or assembled (improved or developed to a higher use by machine or by hand) on the premises, not exceeding a total 16,000 square foot floor area.

e. Teen Center

- Parcel #5:
- a. Combined retail and wholesale sales (including retail sales of items which are assembled on the premises; and wholesale sales and distribution of assembled items to other sites and retail sales of assembled products as allowed in the G-I District); and, retail sales and wholesale sales of large items such as household goods, mechanical equipment, tires, and construction equipment).
  - b. Manufacturing (as listed under Section 8-21601 - Permitted uses of the G-I District).
  - c. Health club
  - d. Lumber and other building material dealer, including home improvement centers.
  - e. Warehousing

- Parcel #6:
- a. Warehousing
  - b. Manufacturing and wholesale uses as permitted in the G-I District under Section 8-21601 (A), (B), (C), & (D) of the G-I District.

Staff is recommending a minor amendment be required for those uses such as the teen center, health club, and eating places with alcoholic beverages to regulate the uses' intensity.

**Planned District justification:** The applicant is proposing a reduced scale alternative as the justification for the use of a planned district. By utilizing a reduced scale alternative, he would be able to develop his site with a variety of retail, service and industrial uses which would have lower traffic volumes than with uses in a standard zoning district. Staff is supportive of the planned district proposal because of the need to mitigate traffic impacts associated with development on the site; and, since the planned district would require development of the site to have a more cohesive design.

**Analysis:** The site is currently designated Industrial on the General Plan. In order to allow C-R Regional Commercial District uses and retail uses from the C-G General Commercial District on Parcels #1, 2, and 3, the General plan designation for these parcels must first be amended to Retail Commercial [see Item #2, GPA-87-17 for details]. In addition, the selected uses from the C-G District may be located on property holding an Industrial General Plan designation. The uses from G-I General Industrial and I-R Restricted Industrial District of Parcel #6 would be consistent with the Industrial General Plan designation and need not be included in the General Plan Amendment request. Under the planned district process, the applicant may develop his site under the C-G, C-R, I-R, or G-I Districts standards and land uses provided these districts are applied to those parcels holding the appropriate General Plan designation (i.e., C-R and C-G Districts with Retail Commercial, or I-R, G-I, and C-G Districts with Industrial).

The current land uses located on the site are, in summary, retail/wholesales sales, office, warehousing and retail furniture outlet, and home furnishings. The applicant is requesting Parcels #1, 2, and 3 be allowed to have retail and service uses permitted in the C-R and C-G Districts. Parcels #4, 5, and 6 are to have retail, service, warehouse, and manufacturing uses permitted in the C-G, I-R and G-I Districts. By selecting land uses from the four districts, the applicant would be able to retain the existing businesses located on the site as well as add new uses which would complement these existing businesses.

**Site standards:** The current proposal is restricted to establishing land uses and site standards proposed for the site. Architectural and site design is not proposed with this submittal. If this proposal is approved, a major amendment to the planned district would be required when new construction is proposed. [see condition #5] The processing under the major amendment would allow for site plan and architectural review and would serve to update the precise site plan for the development.

(P-90-18).

The composition of the planned district proposed by the applicant is as follows:

- Parcel #1:
- a. Apparel & Accessory Stores (retail)
  - b. Auto & Home Stores (retail)
  - c. Candy-Nut Stores (retail)
  - d. Furniture & Accessories (retail)
  - e. Hardware (retail)
  - f. Antique stores (retail)
  - g. Miscellaneous Retail, except used merchandise stores, nonstore retailers, fuel & ice dealers, adult book stores and head shops
  - h. Paint & Glass Stores (retail)
  - i. Eating places such as a sandwich shop or restaurant, except for drive-in facilities. Sales of alcoholic beverages in conjunction with an eating place shall be permitted, provided the sales of alcoholic beverages is incidental to primary restaurant function.
  - j. Travel Agency
  - k. Pet Stores (retail sales of pets and supplies)
  - l. Camera and Photo supply
  - m. Jewelry Stores
  - n. Services related to retail (such as accounting, tax preparers, mailing and packaging services, marketing services).
- Parcel #2:
- a. Offices (such as legal, accounting, insurance, administrative and executive offices, and real estate, etc.)
  - b. Auto Sales (combined wholesale and retail sales), except public or private auction yards
  - c. Furniture Stores (retail)
  - d. Health Club
  - e. Eating places (minimum 5000 square feet floor area), except for drive-in facilities. Sales of alcoholic beverages in conjunction with an eating place shall be permitted, provided the sales of alcoholic beverages is incidental to primary restaurant function.
  - f. Miscellaneous Retail, except for used merchandise stores, nonstore retailers, fuel & ice dealers, adult book stores and head shops
- Parcel #3:
- a. Warehousing/Manufacturing in combination with retail sales
  - b. Furniture Sales (combined retail and wholesale sales)
  - c. Health Club
  - d. Hardware (retail sales)
  - e. Miscellaneous Retail, except for used merchandise stores, nonstore retailers, fuel & ice dealers, adult book stores and head shops
  - f. Retail sales of large items (such as outdoor furniture, household furniture, gardening equipment)
- Parcel #4:
- a. Combined use of retail sales, manufacturing & warehousing such as large items, wholesale sales, retail sales and bulk purchase.
  - b. Warehousing
  - c. Health Club
  - d. All Permitted Uses listed under following subsections of Section 8-21601 of the G-I District: [Note: see enclosure for excerpt of Zoning Ordinance on the G-I District.]
    - (a) Construction
    - (b) Manufacturing as follows: (1) thru (20)
    - (c) Transportation; communications; electric, gas and sanitary services as follows: (1) thru (6)
    - (d) Wholesale trade, except those listed as conditional uses.
    - (e) Retail trade as follows: (1) thru (5)
    - (f) Services: (1) a, b, & f; (2) a, b, g, h, j, k, m, o, p, v & w
    - (h) The retail sales of goods which are manufactured,

Total: 877

- \* Net increase in traffic; an existing, smaller health club is relocating to this site
- \*\* Unknown, but likely to be negligible during P.M. peak hour.

Although the total expected new traffic exceeds 850, staff does not consider this excess to be significant.

If all of this traffic were forced to use Albrae Street, the Year 2010 p.m. peak hour v/c ratio is expected to increase from 1.06 to 1.13. To mitigate this impact, staff recommends that the following actions be taken:

- o Alternate means of access should be provided from Encyclopedia Circle and Stevenson Boulevard. By providing this additional access, vehicle trips are given the option of not having to make turns at the Stevenson/Albrae intersection. It is the addition of turning movements to this intersection that has the greatest effects on exacerbating congestion. A turning movement at this intersection has approximately three times the impact of a through movement. Providing these other points of access, can convert some turning movements to through movements. The resulting v/c ratio will therefore be somewhere between 1.06 and 1.13, depending upon how much traffic uses these other points of access.
- o Staff also recommends that the applicant promote alternate means of transportation to the project site. This is to be done by the installation of sidewalks around the periphery of the site and the installation of safe, unobstructed pedestrian routes within the site itself. The applicant should also apply other reasonable Transportation Demand Management (TDM) actions appropriate to the site, such as the installation of bicycle racks and the dissemination of public transit information.
- o Notification to future business owners about the expectation of future traffic conditions in this area. This is intended to fully disclose expected traffic conditions in this area to future business owners to avoid any future misunderstandings.
- o The payment of pro-rata off-site street improvement costs. The applicant argues that any off-site traffic improvement fees should be waived for the following reasons:
  - o Project development has been delayed for 2-1/2 years due to EIR processing.
  - o The applicant must bear financial hardship in the magnitude of \$500,000 to \$1,000,000 per year due to the reduced development potential of parcels 1 and 6 on his site.
  - o The applicant is willing to construct a new roadway from Stewart Street to Encyclopedia Circle to reduce traffic impacts.

Staff does not agree that improvement fees should be waived for the first two reasons. With regard to the first item, the time for the EIR processing has been commensurate with the unusual complexity of resolving site-specific hazardous materials and traffic issues. With regard to the second item, staff is recommending a development plan that increases the developability of the site above the current zoning potential.

The third item may have some merit as a credit if it can be demonstrated that this improvement can be of benefit to the general public. It does appear to have some potential for alleviating

The majority of the site was developed under the G-I General Industrial District standards. Parcels #2 thru 5 are developed. Parcel #1 and 6 are currently undeveloped. The site is adjacent to property zoned C-R and G-I. To provide a transition between these two districts, staff is recommending Parcels #1, 2, and 3 be developed under the C-R District standards, in keeping with the land use composition of the three parcels. Parcels #4, 5, and 6 should be developed under the G-I District standards.

Relative to the existing development, exceptions to the requirements specifically listed under the C-R District or the G-I District may be allowed under the Planned District process to provide the transition between the commercial uses and the industrial uses existing and proposed for the site. If the proposal requested by the applicant is approved, this concern would be required to be addressed at the time when a precise site plan amendment is proposed.

**Traffic:** Because of the magnitude of the existing level of service (further outlined in the report for EIR-87-85 and in GPA-87-17), staff worked with the project applicant to develop a project that would have lesser traffic impacts. This effort was an on-going, evolving process that looked at a number of different alternate combination of uses for the project site. To evaluate these various alternatives, the Year 2010 p.m. peak hour level of service for the intersection of Stevenson and Albrae was used as a benchmark.

It is estimated that this intersection, even with additional improvements, can only accommodate an additional 3600 trips before the capacity of this intersection is exceeded. If development were to occur according to the City of Fremont's and Newark's General Plans, an additional 4000 p.m. peak hour trips are projected to go through this intersection. In other words, the demand to use this intersection exceeds its supply by 400 vehicles per hour.

If the remainder of the 6000 S site were developed with industrial uses, as per the existing zoning, approximately 500 new p.m. peak hour trips would be generated. City staff viewed this number as the least amount of traffic the project applicant is entitled to generate. If the site were allowed only this amount of traffic, the Year 2010 p.m. peak hour v/c ratio would be 1.06. Limiting the site traffic to 500 new vehicle trips per p.m. peak hour was considered unacceptable by the project applicant. City staff proposed allowing the addition of 850 new vehicle trips with the condition that additional points of access to the site be developed from Encyclopedia Circle and Stevenson Boulevard. Without this access, all of these vehicle trips would be forced to use Albrae Street, and the Year 2010 p.m. peak hour v/c ratio would increase from 1.06 to 1.13.

By providing this additional access, vehicle trips are given the option of not having to make turns at the Stevenson/Albrae intersection. It is the addition of turning movements to this intersection that has the greatest effects on exacerbating congestion. A turning movement at this intersection has approximately three times the impact of a through movement. Providing these other points of access, can convert some turning movements to through movements. The resulting v/c ratio will therefore be somewhere between 1.06 and 1.13, depending upon how much traffic uses these other points of access. (It should be noted that the City of Newark approved the intensification of retail development on the Grossman's site at the Stevenson/Albrae intersection, despite a traffic study demonstrating that the v/c ratio would increase from 1.06 to 1.09.)

The project applicant was given p.m. peak hour trip rate information to design a mix of land uses that would not exceed the 850 new vehicle trips per hour cap. The project applicant's design is summarized below:

| <u>Parcel</u> | <u>Building Use</u> | <u>Building Size</u> | <u>Expected Traffic</u> |
|---------------|---------------------|----------------------|-------------------------|
| #1            | Retail-Commercial   | 100,000              | 450                     |
| #4            | Retail-Commercial   | 50,000               | 225                     |
| #4            | Health Club         | 26,000               | 36*                     |
| #4            | Teen Center         | 12,000               | **                      |
| #4            | Warehouse           | 60,000               | 36                      |
| #6            | Warehouse           | 217,000              | 130                     |

traffic congestion at the Stevenson/Albrae intersection. Staff therefore recommends studying this matter in more detail to evaluate the application of a credit to be applied against traffic impact fees.

- o Proposals to replace existing uses should be subject to an amendment of the Planned District to ascertain their traffic impacts. It was assumed in the analysis that traffic from existing uses would remain the same. If any of the existing uses were to be replaced by higher traffic generators, traffic impacts would increase.

**Request for waiver of fees:** The applicant's request for waiver of fees mentioned above would be relayed to the Council.

**Hazardous Materials:** The Environmental Protection Division (EPD) has identified the site as containing hazardous materials and is currently working with the applicant as to the clean-up of the site. Prior to further development of the site, the clean-up will need to be completed to the satisfaction of the EPD. At this time the EPD does not have sufficient data to determine the potential risks associated with either total site development or individual unit development. The EPD is concerned about the issue of acceptable risk, if proposed uses on this property involve sensitive receptors (i.e. schools, day care facilities, medical facilities, etc.). The issue of acceptable risk would then have to be satisfactorily addressed in an adequate Risk Assessment submitted to the EPD for its review and approval. This assessment would have to address risk issues associated with known and suspected hazardous substances, materials and/or wastes on-site, as well as chemical usage in the surrounding industrial area.

The City of Fremont Hazardous Materials Management Ordinance, Article III, Chapter 12, Section 3-12401(12) establishes regulations pertaining to facility closure. Permittees are required to properly terminate the handling of hazardous materials including wastes to eliminate a need for further maintenance; control, to the extent possible, any threat to public health or safety or to the environment from residual hazardous materials; and demonstrate that hazardous materials/wastes have been removed, disposed, neutralized, or reused in an appropriate manner.

In addition, submittal of a Post Closure Report/Work Plan to the EPD is required no more than 30 days after completion of closure activities to ensure confirmation of compliance to the Closure Plan/Addendums/Work Plans. Report contents shall include, but may not be limited to, analytical laboratory results for all samples collected and appropriate documentation associated with the disposition of all hazardous materials. In the event information presented to date changes or additional information becomes available, the EPD, the Alameda County Water District (AVWD), the Regional Water Quality Control Board (RWQCB), and/or the Alameda County Environmental Health (ACEH) may require further actions associated with the mitigation of this site. At some point development (either staged or total) of this site may be feasible but only after the EPD has sufficient knowledge of site conditions.

Additional information regarding hazardous materials on the site may be found in the reports on the Full Environmental Impact Report (EIA-87-85) and the General Plan Amendment (GPA-87-17) listed earlier on this agenda.

**Site Plan and Architectural Review Board (SPARB):** The applicant is proposing to present the site plan and architectural design for the further development of the site at a later date. If the planned district proposal is approved, the site design and architecture would be required to be compatible with the surrounding industrial and commercial developments. The plans for each parcel would be required to be prepared by a design team which would include a qualified licensed architect by the State of California, a landscape architect, and engineer. The plans would be required to be reviewed by the Site Plan and Architectural Review Board for compatibility with the adjacent development.

**General Plan conformity:** The General Plan Amendment, GPA-87-17, is under consideration on this December 13, 1990 agenda prior to this item. Staff is recommending an approval recommendation for GPA-87-17. If GPA-87-17 is denied, the planned district proposal or the rezoning to C-R Regional Commercial would



9. That any proposed commercial development can be justified economically at the locations proposed to provide for adequate commercial facilities of the types proposed because the I-R, C-G, G-I and the C-R Districts provide for such uses.

#### CONDITIONS

NOTE: An asterisk (\*) has been included for those conditions of approval required as mitigation measures as set forth in EIR-87-85. The EIR findings contained in Exhibit "D" for this project (P-90-18) were based upon having the stated mitigation measures included as conditions approval for the project.

1. Approval of this planned district shall be effective only after compliance with the requirements of Public Resources Code section 21089, pertaining to payment of fees to the California Department of Fish and Game.
2. Conformance with Exhibit "B" and conditions of approval for Tentative Parcel Map 4853.
3. Plans must be submitted to the Development Organization for review to insure conformance with relevant codes, policies, and other requirements of the Fremont Municipal Code.
4. Final plans and elevations for the site and architectural portion of the proposed development shall be submitted as a precise plan amendment to the Planning Commission and City Council for review and approval.
5. Any new structures shall require a major amendment to the Planned District for site plan and architectural approval.
6. Any new uses replacing existing uses in the existing buildings shall require a minor amendment of the Planned District, subject to the approval of the Community Development Director. The existing buildings may be maintained at the G-I District setbacks.
7. Modification of existing buildings as well as any new buildings and related construction proposed for the project site shall comply with the following standards:
  - a. Parcels #1, 2 and 3: C-R District standards
  - b. Parcels #4, 5 and 6: G-I District standards
8. Yard requirements and setbacks not specifically modified herein, shall be governed by the provisions of the Fremont Municipal Code.
9. The uses established for P-90-18 are as follows:
  - (i) Only one health club or similar use shall be in operation within the planned district at one time.
  - (ii) Additional uses may be permitted which the Community Development Director has found to be similar in nature, function or operation to the permitted uses approved for P-90-18. A minor amendment to the planned district shall be required to review additional uses submitted under this provision.
  - (iii) Floor area may be transferred between the following parcels provided traffic volume is not increased overall, subject to the approval of the Community Development Director. In no case shall floor area be transferred between parcels designated Retail Commercial with parcels designated Industrial.
    - (a) Parcels 1, 2, and 3 (Retail Commercial General Plan designation)

\*29

As part of the Hazardous Materials Management Plan, the applicant shall submit to the Environmental Protection Division:

- a. A description of the facility
- b. A Hazardous Materials Inventory Statement
- c. a description of handling practices, including secondary containment criteria
- d. A statement of material separation
- e. A description of security precautions
- f. A description of labeling and warning signs
- g. A description of facility inspection procedures
- h. A description of employee training procedures
- i. A list of emergency equipment
- j. A detailed contingency plan
- k. A detailed closure plan
- l. The signature of a responsible officer

\*30

The report documenting the soil, wipe and groundwater sampling plan shall be submitted to the Environmental Protection Division prior to further development of Parcels #1 through 6.

Staged development of this site may occur only after the Environmental Protection Division (EPD), Alameda County Water District (ACWD), the Regional Water Quality Control Board and the Alameda County Environmental Health determine the site closure measures have been satisfactorily complied with and measures have been implemented to mitigate the existing contamination of the soil, groundwater, surface water and/or atmosphere.

- a. A Post Closure Report must be submitted to the EPD no more than 30 days after completion of all closure activities to ensure confirmation of compliance to the Closure Plan and additional Addendums/Work Plans. Report contents shall include, but may not be limited to, analytical laboratory results for all samples collected and appropriate documentation associated with disposition of all hazardous materials.
- b. Appropriate disposition and associated documentation of all stockpiled soil and foundry sand, as well as facility duct work.
- c. The ACWD is the lead agency responsible for clean-up activities associated with this site. Additional investigation and remediation may be required at this site in accordance with District and State Guidelines. This will include, but may not be limited to, long term groundwater monitoring.
- d. Any other mitigation measures or site closure actions required by the regulatory agencies shall be implemented in a timely manner.
- e. The cost of city inspection time to document investigation and remediation activities shall be borne by the applicant.

\*31

A site remediation plan shall be submitted and approved by the city's Environmental Protection Division. Site remediation shall be implemented prior to any further development and written approvals received from the Regional Water Quality Control Board, Alameda County Water District and the State Department of Health Services. Site closure measures shall include the following to minimize the need for further maintenance, and minimize or eliminate the threat to human health and environment from post-closure contamination of groundwater, surface water or the atmosphere.

- a. Removal and disposal of existing drummed and containerized hazardous material in Building 1 to a permitted off-site disposal facility, including the testing and removal of the soil underlying areas of potential contamination;
- b. Sampling and testing of stockpiled soil and foundry sand, including decontamination or removal for disposal for any contaminated materials;

from view including PG&E meters.

19. Outside Lights - Other than public roadway lights, no exterior lighting shall be permitted except that which has a concealed source. The applicant shall be required to install low pressure sodium light fixtures for outside lights. Fixture design, location, intensity, height and other features shall be subject to the review and approval of the Community Development Director at the time of Development Organization submittal.
20. Garbage/Trash Containers - Garbage or trash containers shall be suitably concealed behind permanent screening or fencing contiguous to the structure.
21. All new buildings and modifications of existing structures and site layout shall be designed by a full design team consisting of a qualified licensed architect by the State of California, a landscape architect and an engineer. The Covenants, Conditions and Restrictions (CC&R's) for the development shall require a signed statement by each buyer that requires the use of a California registered architect for the design of each unit. A copy of such agreement shall be required to be given to the buyer, plus a copy kept by the developer.
22. The architectural style is not restricted, but buildings close to one another must have compatible design qualities.
23. Joint access and parking easements between parcels shall be required to be in place prior to further development of the site.
24. Hazardous materials users must comply with the requirements of the Hazardous Materials Management Ordinance including permit application.
25. A Post Closure Report must be submitted to the Environmental Protection Division no more than 30 days after completion of all closure activities to ensure confirmation of compliance to the Closure Plan and additional Addendums/Work Plans. Report contents shall include, but may not be limited to, analytical laboratory results for all samples collected and appropriate documentation associated with the disposition of all hazardous materials.
26. Thirty days prior to the commencement of grading or construction, a Level I Site Assessment, subject to the approval of the Environmental Protection Division Manager, shall be completed by a qualified professional registered in the State of California to determine if residual contamination is present in the parcel proposed for development. Special concerns may be placed upon contamination located beneath the footprint of the proposed structure(s). If the results of the assessment identifies the presence of residual contamination, all work shall halt until the appropriate actions have been approved to mitigate the contamination or it is determined no adverse risk exists to workers. If mitigation is deemed necessary, then an appropriate work plan shall be submitted to the Environmental Protection Division for approval.
27. Until all the required mitigation activities have been completed, the applicant shall disclose pertinent information relating to on-site contamination to all potential buyers and tenants.
28. At a minimum, long term groundwater monitoring is required at this site in accordance with regulations/guidelines established by the Alameda County Water District and Regional Water Quality Control Board (RWQCB). Future reports associated with monitoring and potential investigation and remediation shall be submitted to the appropriate agencies including the Environmental Protection Division, the Alameda County Water District, the RWQCB, and the Alameda County Environmental Health (ACEH) as prescribed to verify the required mitigation measures are being incorporated, and mitigation is being completed correctly.

The cost of each agency's review shall be borne by the applicant. Should the city determine the need for a consultant's service to monitor the implementation measures, the applicant shall be responsible for the reimbursement of the consultants' cost and administrative fees.

91 MAR 19 AM 10:14

RESPONSES TO SOBEK LETTER DATED FEBRUARY 27, 1991

Report for EIR-87-85

- 1) Human Health & Safety, paragraph 1 - The project EIR is an informational document which must disclose all existing conditions so that decisionmakers can make an informed decision. Much technical data and evidence exists for this site which supports the statement that the past use and storage of hazardous materials poses a potential threat to human health and safety. Clean-up of the site is required by local, state and federal laws, regardless of any restriction that may have on the applicant's ability to generate income.
- 2) Traffic & Circulation, paragraph 3 (mitigation) - With approval of the general plan amendment and planned district rezoning, the applicant will be permitted to have retail commercial land uses on the site which are more intense and generate more traffic than those presently allowed under the industrial designation. The applicant is required to mitigate any potential impacts caused by the intensification of use on the property, just as other applicants are required to do. *(TRAFFIC TO RESPOND, ALSO)*
- 3) Paragraph 9 & 10 (fire services) - Although the traffic improvements will reduce the response time for fire service provision to the site by improving access, the additional retail commercial development on the site would create a need for a greater number of responses to the site. The developer would be subject to the current fire service impact fee to off-set the additional cost of fire service response and capital costs related to manpower, vehicles, equipment and facility maintenance.
- 4) Cultural Resources, paragraph 12 - Utilities trenching consists of subsurface excavation, and the same precautions should be taken for such trenching as with any other type of subsurface excavation. Archaeological deposits may lie as close as 18" under the ground level surface, and may be unearthed by very limited subsurface excavation.

Report for GPA-87-17

- 5) Other Traffic Mitigation Measures and Fees - Traffic to respond

Report for P-90-18

- 6) Hazardous Materials - Environmental Protection division to respond  
Unacceptable Conditions:
- 7) Condition #5 - Ruby to respond
- 8) Condition #8 - Ruby to respond
- 9) Condition #10 - Wildlife and burrowing owls were not known to inhabit the site at the time the original environmental assessment was prepared in 1987. However, since that time, burrowing owls have been found on vacant parcels throughout the industrial area of Fremont, particularly in those areas lying west of I-880. Because of the birds' prevalence in the surrounding industrial area, a burrowing owl survey is added as a condition to all developments in this portion of Fremont. Although not an endangered species, the burrowing owl is protected by State and Federal law, and listed by the California Department of Fish and Game as a "species of special concern," due to the birds' declining population in the region. Any "taking" or disturbance of a burrowing owl habitat is a violation of Federal law, and a penalty of six months in jail or a \$500 fine may be assessed for each owl unlawfully pursued, captured or killed.

- 10) Condition #14 - Ruby to respond (standard condition for development)
- 11) Condition #16 - Ruby to respond (standard condition for development; need for upgraded landscaping on parcels where expansion is to occur)
- 12) Condition #17 - Ruby to respond (standard condition for development; need for upgraded landscaping on parcels where expansion is to occur)
- 13) Condition #19 - Ruby to respond (standard condition)
- 14) Condition #21 - Ruby to respond (standard planned district condition)
- 15) Condition #23 - Ruby to respond (standard condition when one property is subdivided but circulation, access and parking is to be shared)
- 16) Condition #26 - This condition was recommended as a mitigation measure by the EIR. The EIR suggests mitigation measures, and the Conditions of Approval for a project serve as the method by which those measures are implemented to reduce impacts to a level of nonsignificance. *good*
- 17) Condition #28 - Payment of public agency review by the applicant is allowed by State and Federal law. If the applicant is notified that compliance with law is required but chooses not to comply, the applicant can be held responsible for reimbursement of the costs. A property owner's rights do not ~~give~~ allow contamination of groundwater and soil which could have adverse health and safety impacts on the public. *good*
- 18) Condition # 29 - ~~There may presently be no hazardous materials use or storage on the site; however, any future use or storage of hazardous materials will require submittal of a Hazardous Materials Management Plan.~~ *leave*
- 19) Condition #30 & 31 - Environmental Protection division to respond
- 20) Condition #33 - Traffic to respond
- 21) Condition #35 - Ruby to respond (final subdivision public report required with filing of final parcel map?)
- 22) Condition #36 - This condition applies to present owner, and is a mitigation measure suggested in the EIR to reduce traffic impacts. A TDM program must be implemented in order for the City to make the Statement of Overriding Considerations, justifying approval of the project in light of the projected traffic volumes.
- 23) Condition #37 - This also is a condition suggested as a mitigation measure in the EIR, and one which will help to implement the TDM program by making public transit facilities more accessible. The final map has not yet been filed, and there is no loss in duplicating conditions in the rezoning action.
- 24) Condition #40 - As stated in response #3, above, response time for the provision of fire services is not the only consideration. Fire impact fees are required with all development in order to cover a pro-rata share of capital costs.
- 25) Condition #41 - See response #4, above.

*This will*