Community Development
39550 Liberty Street
Fremont. CA 94538

ZONING ADMINISTRATOR

General Order of Business

1. Preliminary (Call to Order – 1:30 p.m.)
2. Public Hearing Items
3. Adjournment

Addressing the Zoning Administrator

Any member of the public may speak on any item under review by the Zoning Administrator after "being recognized" by the Zoning Administrator. After the Zoning Administrator recognizes you, state your name and address. Generally, after the item is introduced, the order of presentation begins with staff introduction and presentation. The project applicant or their authorized representative may then comment. Next, interested members of the public may speak. Additional comments by the applicant or staff, as appropriate, may follow. At the close of testimony, the matter will return to the Zoning Administrator for discussion and action.

General Information

The Zoning Administrator usually holds hearings on the first and third Mondays of each month, except September (9/15 only). Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act. Interested persons must request the accommodation at least 2 working days in advance of the meeting by contacting the Planning Division (510) 494-4440.

Plans and other supporting documents are available at the Development Services Center at 39550 Liberty Street (between Stevenson Boulevard and Walnut Avenue). Plans and other supporting documents may be viewed any day until noon the day of the meeting. Copies will be provided at cost when feasible. The Development Services Center is open 8:00 a.m. to 4:00 p.m., Mondays through Thursdays; and 8:00 a.m. to 12:00 p.m., Fridays.

We appreciate your interest in the conduct of your City's business. Information about the City or the items discussed in this report may be referred to:

Zoning Administrator
City of Fremont
Planning Division
39550 Liberty Street, P.O. Box 5006
Fremont, CA 94537-5006
Telephone: 510-494-4440

City Staff
Barbara Meerjans, Zoning Administrator

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AGENDA
ZONING ADMINISTRATOR PUBLIC HEARING MEETING 1:30 P.M.
CITY OF FREMONT, CALIFORNIA
39550 LIBERTY STREET
RANCHO HIGUERA CONFERENCE ROOM

May 1, 2009

1. PRELIMINARY

1.1 CALL TO ORDER

2. CONSENT CALENDAR - NONE

NOTICE: ITEMS ON THE PUBLIC HEARING CALENDAR MAY BE MOVED TO THE CONSENT CALENDAR IF NO ONE IS PRESENT TO SPEAK ON THE ITEMS. ALL APPLICANTS AND INTERESTED PERSONS ARE ADVISED TO BE PRESENT AT THE START OF THE MEETING.

3. PUBLIC HEARING ITEMS

Item 1. **SOLYNDRA MANUFACTURING FACILITY – 47422 KATO ROAD – (PLN2009-00017)** – to consider a Zoning Administrator Permit to allow the storage and handling of hazardous materials, a Finding for a Building Height Increase to exceed the 40-foot maximum height limit in the I-R zone by 2 feet, a Finding to allow a Floor Area Ratio (FAR) Increase to exceed the 35% FAR limit in the I-R zone by 12% (for a proposed FAR of 47%), and a 428-space Parking Reduction for a new solar panel manufacturing facility on a vacant portion of 47422 Kato Road in the Industrial Planning Area. A Mitigated Negative Declaration was prepared and circulated for public review from October 2, 2008 through November 3, 2008 in accordance with the requirements of the California Environmental Quality Act, and subsequently adopted by the City of Fremont Zoning Administrator on November 3, 2008.
Project Planner – Steve Kowalski, (510) 494-4532, skowalski@fremont.gov

Recommended Action: Approve, based on findings and subject to conditions.

4. ADJOURNMENT

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ZONING ADMINISTRATOR PERMIT

STAFF REPORT
MAY 1, 2009

Project: **SOLYNDRA MANUFACTURING FACILITY (PLN2009-00017)**

Proposal: To consider a Zoning Administrator Permit to allow the storage and handling of hazardous materials, a Finding for a building height increase to exceed the 40-foot maximum height limit in the Restricted Industrial (I-R) zone by 2 feet, a Finding to allow a Floor Area Ratio (FAR) increase to exceed the 35% FAR limit in the I-R zone by 12% for a proposed FAR of 47%, and a Finding for a 428-space parking reduction for a new solar panel manufacturing facility on a vacant portion of the property located at 47422 Kato Road in the Industrial Planning Area.

Recommendation: Approve, based on findings and subject to conditions.

Location: 47422 Kato Road, Fremont, CA 94538
APN: 519-1005-078-00
(See aerial photo next page)

Area: 42.8 acres (±12.8 acres will ultimately belong to the JC Paper property, with the remaining ±30 acres to be purchased by the applicant)

People: Roger Shanks Consulting, Consultant
Solyndra, Inc., Applicant (contact: Alan Miyashiro)
McMorgan & Co., LLC, Property Owner (contact: Chris McEldowney)
Steve Kowalski, Staff Planner (510) 494-4532; skowalski@fremont.gov

Environmental Review: Mitigated Negative Declaration
(prepared under separate file as PLN2008-00294)

General Plan: Restricted Industrial (with Commercial-Industrial Overlay)

Zoning: Restricted Industrial (I-R)

EXECUTIVE SUMMARY:

The applicant is proposing to construct a 609,650 square foot solar panel manufacturing facility on a vacant 30-acre portion of a 42.8-acre site located at 47422 Kato Road. The proposed facility layout contains 530,200 square feet of manufacturing plant floor area, 64,000 square feet of ancillary office space, an 11,450 square foot cafeteria, and a 4,000 square foot employee fitness center. The facility also includes 119,300 square feet of non-habitable mechanical equipment enclosures and an 11,800 square foot hazardous materials enclosure. Development of the facility is expected to occur in multiple phases over a two-year period. The solar panel manufacturing process involves the storage and handling of a variety of hazardous gases, therefore the project requires approval of a Zoning Administrator Permit.

The building will exceed the 40-foot height limit of the I-R zone by approximately 2 feet; therefore a finding must be made by the Community Development Director granting the proposed exception. The applicant is also requesting an increase in the maximum allowable floor area ratio (FAR) from 0.35 to 0.47 and a parking reduction of 428 spaces. FAR increases also require a finding by the Community Development Director, while parking reductions require a finding by the Planning Director. As is discussed in the following report, staff supports all of the requested entitlements and recommends that the Zoning Administrator, Planning Director and Community Development Director approve each one subject to the conditions listed in Exhibit "C".

Figure 1: Aerial Photo (2006) of Project Site and Surrounding Area.

SURROUNDING LAND USES:

North:	Warehouses and distribution facilities (I-R zone)
South:	Warehouses, newspaper printing facility (I-R zone)
East:	Smaller industrial buildings (I-R zone)
West:	Interstate 880; smaller industrial buildings across I-880 (I-R zone)

BACKGROUND AND PREVIOUS ACTIONS:

The subject site was involved in a recent subdivision application in which two large lots were subdivided into three smaller parcels to allow the development of the Transcontinental newspaper printing facility at 47540 Kato Road (also known as the Nadev Project, application PLN2007-00356/SAM2008-00010). The JC Paper building currently located at the back of the property was permitted and constructed in 1997. There are no other permits associated with the subject property.

The requested entitlements that are the subject of this application were originally scheduled to be heard by the Zoning Administrator on November 3, 2008. However, on October 28, 2008 the applicant and property owner mutually requested that the Zoning Administrator permit and findings be continued to a date uncertain and action only taken in regards to the Environmental Review

PROJECT DESCRIPTION:

The applicant is proposing to construct a 609,650 square foot solar panel manufacturing facility on a vacant portion of the property located at 47422 Kato Road. The proposed facility will contain 530,200 square feet of manufacturing plant floor area, 64,000 square feet of ancillary office space, an 11,450 square foot cafeteria, and a 4,000 square foot employee fitness center. The facility also includes 119,300 square feet of non-habitable mechanical equipment enclosures and an 11,800 square foot hazardous materials enclosure.

The applicant intends to achieve a minimum LEED Silver certification for the proposed facility design. The building plans feature a two-story floor plan in the plant portion with high ceilings and a mezzanine designed to accommodate floor-level and suspended overhead assembly-line machinery. The proposed building height of the plant will measure 42 feet above the finished grade. The office portion of the facility also contains two floors, but features separate architecture from the plant portion of the facility. The current plan for the office portion features irregularly-shaped rooflines with the highest point consisting of an architectural element at the front corner measuring approximately 50 feet above the finished floor. The applicant will revise the plans so that the overall height of the office portion of the building does not exceed the 42-foot height limit in the final set of plans that are submitted with the building permit application. The utility/mechanical equipment enclosures and hazardous materials enclosure will contain two levels and measure approximately 38 feet to the top of roof. Solar panel arrays will be installed on the rooftop of the building, with a total of approximately 25,777 panels to be installed over the entire facility (each panel is approximately 3' wide x 6' long). These panels are capable of generating up to 3 megawatts of energy. A small penthouse will be constructed on the roof of the building which will contain equipment that will be used to monitor the performance of the solar panels. The building design features post-industrial architecture with straight parapets, louvered metal and composite panel siding and translucent polycarbonate glazing on the plant portion, and glass curtain walls and irregularly-angled metal roofs on the office portion (see Exhibit "B").

Access to the site will consist of a new main driveway off of Kato Road and an existing driveway on the north side of the site that runs parallel to an Alameda County Flood Control District channel and provides truck access to the JC Paper facility at the rear of the property. The existing driveway will remain in its present location and will also provide access to the loading docks and mechanical

equipment and hazardous materials enclosures on the back side of the proposed facility. A total of 546 parking spaces will be provided on the site. The applicant has indicated a potential future need for structured parking in its business plan, so the rearmost portion of the parking lot in the southeast corner of the site will be made available for a future parking structure should the need arise. A stormwater detention basin is proposed at the front of the site between the building and the Kato Road property line. Decorative landscaping will be provided around this detention basin, as well as throughout the parking and pedestrian circulation areas and along the perimeter of the site. The existing berm will be raised 3-4 feet to create adequate depth within the proposed stormwater detention basin, and the existing London Plane trees located along the front property line will be removed and replaced with a new row of the same species to ensure for consistent tree age and health.

PROJECT ANALYSIS:

General Plan Conformance:

The existing General Plan land use designation for the project site is Restricted Industrial. This land use is intended to accommodate a broad range of uses that engage in research and development and product design and sales, with manufacturing allowed in cases where the hazardous materials needed for the manufacturing process can be safely accommodated on the site. The proposal is consistent with the General Plan land use designation for the site in that it features a facility that will design and produce photovoltaic panels on site for installation and use by commercial properties throughout the region. The project is consistent with the following General Plan goals and objectives:

- ***Land Use Fundamental Goal F-9:*** *A large, diversified industrial and commercial base to meet the employment needs of the City's present and future workforce.*

  Analysis: The proposed development will be one of the first of its kind in the Bay Area, and will provide research and development, design engineering, and manufacturing jobs in an emerging clean-energy industry. The facility will employ a maximum workforce size of 590 employees, 350 office jobs and 240 manufacturing jobs. As such, it will provide a significant number and diverse range of job opportunities for the City's workforce, consistent with Land Use Fundamental Goal F-9 of the General Plan.

- ***Local Economy Objective 1.1:*** *A significant increase in businesses providing job opportunities for Fremont workers.*

- ***Local Economy Object 2.1****: An increased number of industrial and commercial businesses generating revenues to the City.*

- ***Local Economy Objective 4.1****: A significant increase in industrial employment and in the diversity of industries in the City.*

  Analysis: The construction of the proposed development will provide a significant number of both "white-collar" and "blue-collar" job opportunities, and the facility will generate large amounts of revenues for the city through property and use taxes, and possibly even point-of-sale sales tax revenues should the applicant's business plan involve the sale of products directly from the manufacturing facility. The applicant uses the latest science

and technologies to create a unique type of product; therefore the proposal will increase the diversity of both job types (designing & manufacturing) and industries in the City.

Zoning Compliance:
The project requires findings to allow an increase in the maximum allowable Floor Area Ratio (FAR) limit in the I-R zone, an increase in the height limit of the I-R zone, and a 428-space parking reduction. Pursuant to Section 8-22132.5(c) of the Municipal Code, the Community Development Director has approval authority over findings to allow height increases up to 5% over the maximum height limit, while Section 22140.5(c) gives the Community Development Director approval authority over findings to allow FAR increases for all projects other than mixed-use developments. The Planning Director has approval authority to allow parking reductions for industrial uses in accordance with Section 8-2203(c)(4) of the Municipal Code.

The following table shows how the proposal complies with the standards for a new industrial development in the I-R zone with the proposed deviations highlighted in gray:

Lot Feature	I-R Standard	Proposed	Proposed Deviation
Front Setback	25'0"	±70'0"	No deviation
Rear Setback	0'0"	±60'0"	No deviation
Side Setbacks	0'0"	±25' left, ±100 right	No deviation
Building Height	40'0"	42'00"	+2'0"
Floor Area Ratio	0.35	0.47	+12%
Parking (office + manufacturing)	982 spaces (320 office + 662 manufacturing)	554 spaces	-428 spaces

As the table shows, the proposal will exceed the 40-foot height limit by 2 feet, for a proposed increase of 5%. The maximum floor area ratio (FAR) for the subject property (0.35) allows for a total floor area of 457,380 square feet. The applicant is proposing a 609,650 square foot facility, resulting in a proposed FAR of 0.47. Furthermore, the zoning ordinance requires 982 parking spaces for a facility of this size, while the applicant is only proposing 554 spaces. All other aspects of the design are in compliance with the I-R zoning standards.

Building Height Increase:
In accordance with Section 8-22132.5(b) of the Municipal Code, in order to approve a Finding to allow a building height increase of up to 5% over the height limit of the applicable zone, the Community Development Director must make the following findings:

(a) The building height increase will not be detrimental to the area's streets, sewer lines and/or other public services, or to the lighting, air quality, or privacy of any other properties in the vicinity of the structure;

(b) An enforceable guarantee approved by the City Attorney's Office insuring the increased building height will not be used to create a more intensive use than the use specified by the approved finding; and

(c) The proposed project would provide extraordinary benefits to the City.

It is staff's opinion that the proposed building height increase will not adversely impact the adjacent properties in that the site is surrounded by large, similarly-scaled industrial buildings on very large lots. In addition, the proposed building will be set back far enough from the property lines so as not to cast shadows or create a looming effect over the adjacent properties. The various public utility service providers in the area (Union Sanitary District for sewer service, Alameda County Water District for water service, and Alameda County Flood Control and Water Conservation District for flood channels and storm drain lines) have all confirmed through the environmental review of the project that it will not adversely impact their existing service systems (see Exhibit "A", Section XVI).

The reason for the height increase is to provide ample overhead space for assembly-line machinery above the floor of the plant. It is not the applicant's intent to utilize the increased height to provide additional habitable floor area over the plant in the future; the machinery used in the manufacturing process is of such a nature as to require very high ceilings. The high ceiling is needed to accommodate mechanical/service mezzanine, not additional habitable floor area.

Finally, staff believes that the environmentally-friendly nature of the product that will be produced in the facility is such that the project that will provide extraordinary benefits not just to the City of Fremont, but to the region as a whole. The applicant will be designing and building technically advanced solar panels to provide renewable energy for commercial and industrial developments using solar power. This power supply will help reduce the consumption of and reliance on non-renewable energy such as oil, coal and natural gas, and will help reduce air pollution caused by the burning of those and other fossil fuels. The design and engineering jobs the business will bring to the City will utilize cutting edge technologies, and the applicant is one of the leaders in the solar power industry. Therefore, it is staff's opinion that the required findings can be made to allow the proposed building height increase in this particular case.

Floor Area Ratio Increase
Pursuant to Section 8-22140.5(b) of the Municipal Code, in order to approve a Finding to allow an FAR increase for an industrial development, the Community Development Director must make the following findings:

(a) An increase in the FAR will not be detrimental to the area's streets, sewer lines and/or other public services or to the lighting, air quality, or privacy of any other properties in the vicinity of the structure;

(b) There will be a provision in place guaranteeing the increased FAR will not be used to create a more intensive use than the use specified by the approved finding; and

(c) The proposed project would provide extraordinary benefits to the City.

Staff believes the proposed FAR increase will not adversely impact the adjacent properties for the same reason it believes the increased height will not; the site is surrounded by large industrial buildings of similar size and scale on proportionally-sized lots. Despite its sheer size, the proposed building will be much longer than it will be tall, so it will not appear unusually massive from the street. And, as mentioned earlier, the Union Sanitary District, Alameda County Water District and Alameda County

Flood Control and Water Conservation District have all confirmed that the project will not overburden their existing service systems.

The building requires such an amount of floor area mainly to accommodate the assembly line machinery needed to run the plant. At build-out, the facility is scheduled to run 6 separate production lines with 20 employees working each line. The applicant does not need additional floor area in its business plan for the site; the vast majority of the floor area proposed will be used solely for manufacturing purposes. Furthermore, as mentioned above in the discussion regarding the proposed building height increase, staff believes that the environmentally-friendly nature of the product that will be produced is such that the project that will provide extraordinary benefits not just to the City of Fremont, but to the region as a whole. As such, it is staff's opinion that all three of the required findings can be made to allow the proposed FAR increase in this particular case.

Parking Reduction:
Pursuant to Fremont Municipal Code Section 8-22003(c)(4), the Planning Director has the authority to grant parking reductions for industrial uses on a case-by-case basis based on the nature and intensity of the specific use.

The parking requirement for manufacturing uses is one (1) space for each 800 square feet of floor area, and one (1) space for each 200 square feet of ancillary office space. Therefore, the parking requirement for the proposed building is 982 spaces (530,200 manufacturing sq. ft./800 sq. ft. = 662 spaces, plus 64,000 office sq. ft./200 sq. ft. = 320). The applicant is proposing to provide 554 spaces on the site, and has reserved space for a 428-space parking structure towards the rear of the lot should the workforce size at the facility expand in the future. The facility is expected to employ a maximum total of 590 full-time employees, with an office/administrative workforce of 150-350 employees and two separate manufacturing shifts of 120 employees each. The maximum amount of employees expected to occupy the entire facility during a single typical weekday shift (excluding those employees whose shifts are coming to an end) is 470; therefore, the proposed number of parking spaces (554) is adequate to serve the maximum number of employees per shift with a surplus of 76 spaces for visitors and shift turnover.

The applicant will employ two 12-hour manufacturing shifts of 120 employees to run the plant. When the floor area of the plant is divided by this workforce size, the average square feet per employee is slightly more than 4,400 square feet. The parking requirement for manufacturing facilities assumes one employee per roughly 800 square feet, thus the requirement of one space per 800 square feet. In this case, the proposed facility's machinery and assembly lines will occupy such a vast amount of floor area and require a much smaller workforce than the average manufacturing plant that staff believes the proposed parking reduction is acceptable. In addition, the provision of space for a future parking structure will ensure that the facility will be able to provide additional parking if the workforce at the facility were to expand.

Storage and Handling of Hazardous Materials:
Section 8-22143.3 of the Municipal Code requires approval of a Zoning Administrator (Z.A.) Permit for large-user sites that engage in the storage and handling of hazardous materials. The proposed facility will contain numerous large tanks of hazardous gases and liquids, therefore the project is required to obtain a Z.A. Permit to ensure that the materials are stored and handled in a safe manner consistent with

industry standards and Fire Department regulations. When reviewing a Z.A. Permit application, the Zoning Administrator must make consider the following items:

(a) The suitability and adequacy of the site for the proposed use;

(b) The estimated effect of the proposed use or design on traffic circulation and on the planned capacity of the street system and on other public facilities or services;

(c) The estimated economic effect of the proposed use on nearby uses;

(d) The estimated impact of the proposed use on the general welfare of persons residing within the community; and

(e) The compatibility of design with adjacent uses within the district and its surroundings.

The site is designated for industrial uses in the General Plan and Zoning Ordinance, and is of adequate size to accommodate not only the proposed facility and required parking, circulation, setbacks and landscaping, but also a future parking structure if the workforce were to ever expand. An 11,800 square foot hazardous materials enclosure will be constructed on the site, and the project will be required to comply with Fire Department regulations and industry standards involving the storage and handling of hazardous materials. During the environmental review of the project, the applicant submitted an Off-site Consequences Analysis which determined the worst-case scenario for an accident involving the release of hazardous contents from the site (in this case, an entire 10,000-gallon tank of Ammonium Hydroxide, the largest tank proposed) would have an estimated toxic endpoint (distance where the hazardous nature of the contents would dissipate to a level that would not impact public health) of less than 0.1 mile (or 528 feet). The closest public school is located approximately ±1,400 feet northeast of the site, well outside of the 0.1-mile radius. There are also no hospitals, senior housing/residential care facilities, residential developments or other sensitive receptors within ¼ mile of the project site. As such, allowing the proposed hazardous materials at the project site will not create an unacceptable risk to public safety and welfare.

A traffic study was also conducted during the environmental review in September 2008 to review the impacts the project will generate on the major roadways and intersections providing access to the site. The study determined that traffic volumes generated by the development would not be large enough to have a significant adverse impact on the street system (see Exhibit "A", Section XV). The various public utility service providers in the area have all confirmed that the proposal will not adversely impact their existing service systems. In addition, the project will not have a significant economic effect on nearby businesses in that it will be the first solar panel manufacturer in the immediate area and will operate in a manner similar to other high-technology firms. For these reasons, staff believes the findings can be made to grant the Z.A. Permit for the proposed use.

Environmental Review:
An Initial Study and Draft Mitigated Negative Declaration were prepared for this project (see Exhibit "A" and Informational Item #1). The Initial Study determined that the project could have a potentially significant impact on wildlife through the removal of potential burrowing owl habitat, and air quality through the generation of dust during demolition and construction activities. In addition, the study

determined that noise from the adjacent freeway and railroad tracks could have a significant impact on the employees working within the proposed facility. The applicant has agreed to implement mitigation measures that would reduce these impacts to a less-than-significant level. As such, a Draft Mitigated Negative Declaration was prepared and circulated for public review for 30 days from October 2, 2008 through November 3, 2008 in accordance with the requirements of the California Environmental Quality Act (CEQA). Minor comments on the draft environmental document were received during the public comment period, but none were of the nature that would change or invalidate the findings of the document. As such, the Zoning Administrator adopted the Mitigated Negative Declaration on Monday, November 3, 2008.

PUBLIC NOTICE AND COMMENT:

Public hearing notification is required for the entitlements being requested. A total of 48 notices were mailed to the owners and occupants of all property within approximately 500 feet of the site. The notices were mailed out on Tuesday, April 21, 2009. A Public Hearing Notice was also published in the Tri-City Voice on this same date.

ENCLOSURES:

Exhibits: Exhibit "A" - Draft Mitigated Negative Declaration and Mitigation Monitoring Plan
Exhibit "B" - Site Plan, Building Elevations, Landscape Sections, Building Sections
Exhibit "C" - Findings and Conditions

Informational: Item 1 – Initial Study

RECOMMENDATION:

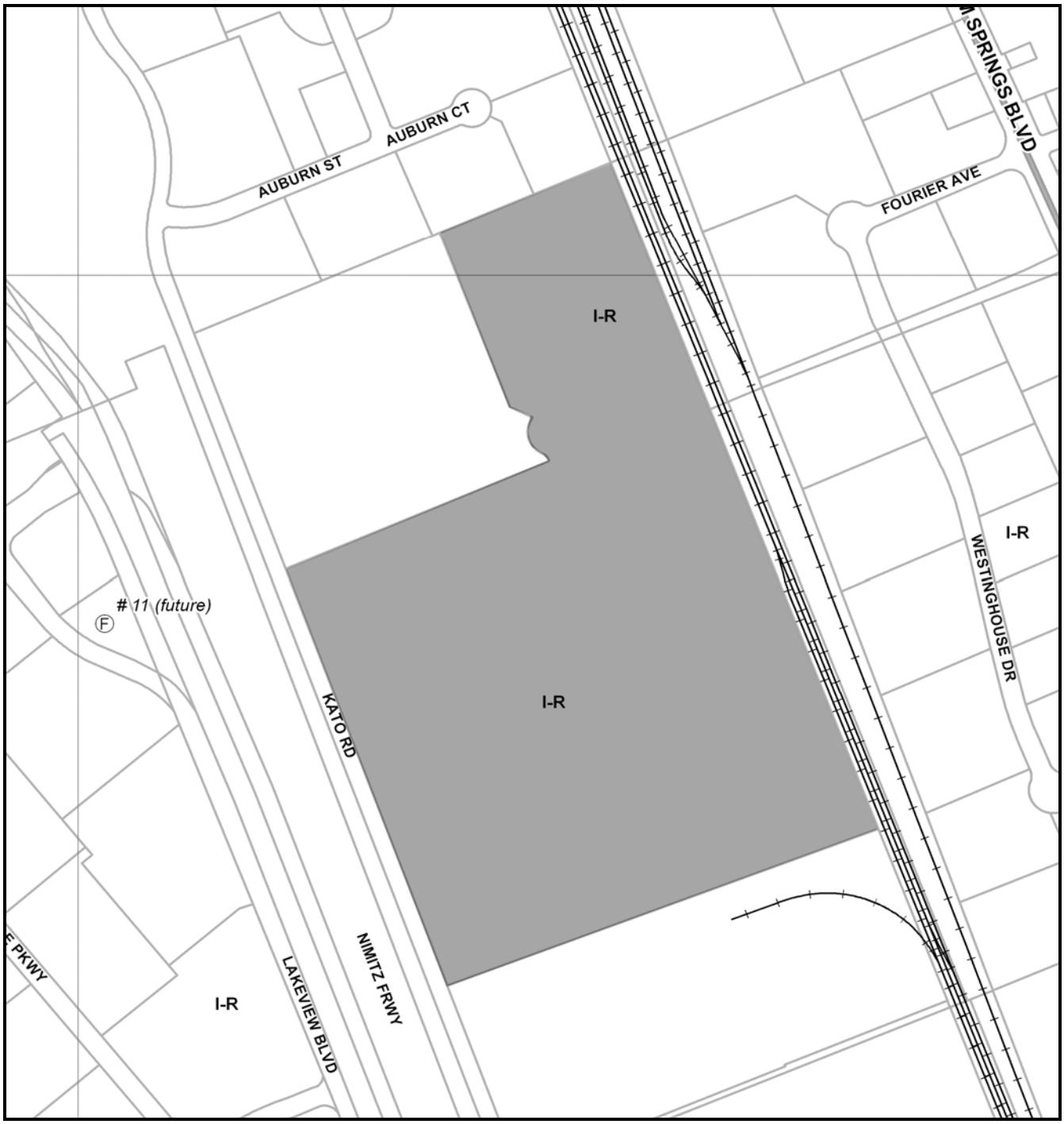
1. Hold public hearing.

2. Find that the Mitigated Negative Declaration and Mitigation Monitoring Plan as shown in Exhibit "A" have evaluated the potential for this project to cause any adverse effect, either individually or cumulatively, on wildlife resources, and find that these actions reflect the independent judgment of the City of Fremont;

3. Find that the requested entitlements do not conflict with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals, objectives, and policies set forth in the Land Use and Local Economy sections of the City's General Plan as enumerated within the staff report.

4. Make the requested findings and approve the requested Zoning Administrator Permit, as depicted in Exhibit "B", subject to the findings and conditions listed in Exhibit "C".

Existing Zoning
Shaded Area represents the Project Site



Existing General Plan

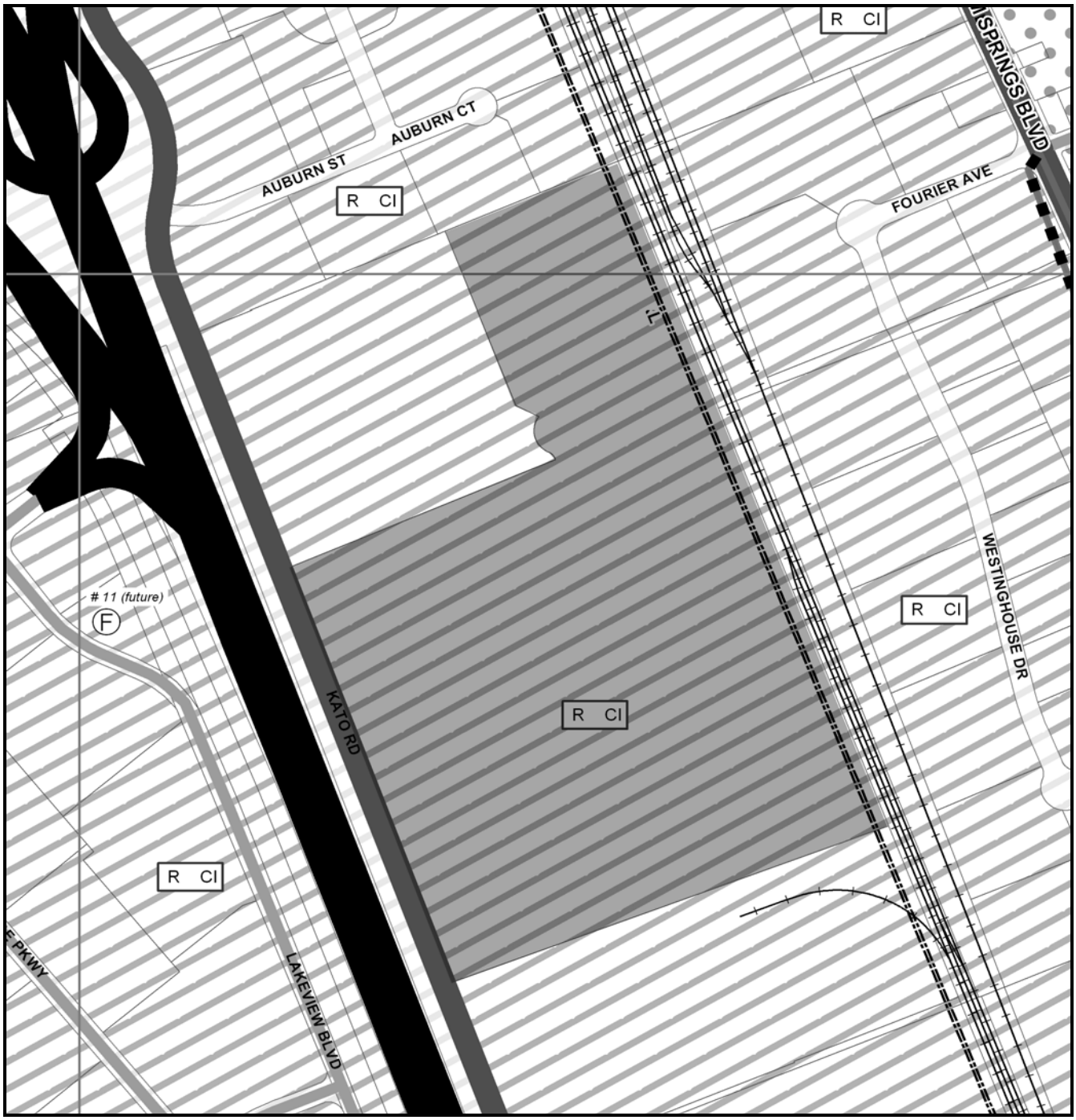


EXHIBIT "C"
Findings and Conditions of Approval
PLN2009-00017 Solyndra Manufacturing Facility
47422 Kato Road

FINDINGS:

The findings below are made on the basis of information presented at the public hearing and contained in the staff report to the Zoning Administrator dated May 1, 2009, incorporated hereby:

Building Height Increase:

(a) The building height increase will not be detrimental to the area's streets, sewer lines and/or other public services, or to the lighting, air quality, or privacy of any other properties in the vicinity of the structure in that the City's Transportation Department and the public utility service providers in the area have all confirmed through the environmental review of the project that it will not adversely impact their existing service systems, and the proposed building will be set back far enough from the property lines so as not to impact the natural lighting, privacy or air quality of the adjacent properties;

(b) There will be an enforceable guarantee in place approved by the City Attorney's Office insuring the increased building height will not be used to create a more intensive use than the use specified by the approved finding; and

(c) The project would provide extraordinary benefits to the City in that the applicant will be designing and building technically advanced solar panels to provide renewable, clean energy which will help reduce the consumption of and reliance on non-renewable energy such as oil, coal and natural gas, and the air pollution generated by the burning of those and other fossil fuels.

Floor Area Ration Increase:

(a) The Floor Area Ratio increase will not be detrimental to the area's streets, sewer lines and/or other public services, or to the lighting, air quality, or privacy of any other properties in the vicinity of the structure in that the City's Transportation Department and the public utility service providers in the area have all confirmed through the environmental review of the project that it will not adversely impact their existing service systems, and the proposed building will be set back far enough from the property lines, and be of similar scale to the adjacent properties so as not to impact the natural lighting, privacy or air quality of the adjacent properties;

(b) There will be a provision in place guaranteeing the increased FAR will not be used to create a more intensive use than the use specified by the approved finding in that a condition of approval has been included which prohibits the construction of additional floor area without prior approval by the Community Development Director; and

(c) The project would provide extraordinary benefits to the City in that the applicant will be designing and building technically advanced solar panels to provide renewable, clean energy which will help

reduce the consumption of and reliance on non-renewable energy such as oil, coal and natural gas, and the air pollution generated by the burning of those and other fossil fuels.

Parking Reduction:

(a) The parking reduction will not be detrimental to the area in that the applicant will provide more than enough spaces on the site to accommodate a full-size work shift. The maximum amount of employees expected to occupy the entire facility during a single normal weekday shift (excluding those employees whose shifts are coming to an end) is 470 and the applicant will be providing 554 spaces on the property, or 76 spaces more than a full work shift;

(b) There will be a provision in place guaranteeing that no additional floor area will be allowed to be constructed without additional parking being provided simultaneously during construction of such an addition; and

(c) The project would provide extraordinary benefits to the City in that the applicant will be designing and building technically advanced solar panels to provide renewable, clean energy which will help reduce the consumption of and reliance on non-renewable energy such as oil, coal and natural gas, and the air pollution generated by the burning of those and other fossil fuels.

Zoning Administrator Permit for Hazardous Materials:

(a) The site is suitable and adequate for the proposed use in that it and all of its neighboring properties are designated for industrial uses in the General Plan and Zoning Ordinance, and it is large enough to accommodate not only the proposed facility and required parking, circulation, setbacks and landscaping, but also a future parking structure if the workforce were to ever expand;

(b) A traffic study was conducted during the environmental review of the project which determined that it will not have a significant adverse effect on traffic circulation and on the planned capacity of the street system, and the public facilities and services providers (water, sewer, flood control/storm drains) in the area have all confirmed that the project will not adversely impact the capacity of their existing service systems;

(c) The project will not have an adverse economic effect on nearby uses in that it will be the first large-scale solar panel manufacturer in the immediate area and will operate in a manner similar to other high-technology firms.

(d) The project will not have a significant adverse impact on the general welfare of persons residing within the community in that no sensitive receptors (residential neighborhoods, schools, senior housing facilities, etc.) are located close enough to the site to be exposed to the risk of an accidental release of any of the proposed hazardous materials being stored and handled on site; and

(e) The proposed design is compatible with adjacent uses within the district and its surroundings in that it is similarly proportioned to the size of the parcel as the adjacent industrial properties, and of similar height to other buildings in the area (both existing and under construction).

CONDITIONS OF APPROVAL:

1. The project shall substantially conform to Exhibit "B" (Site Plan, Building Elevations, Building Sections, Landscape Sections), except as modified by conditions herein.

2. Final plans shall be submitted to the Development Organization for review to ensure conformance with relevant codes, policies, and other requirements of the Fremont Municipal Code.

3. No additional square footage will be permitted above and beyond the totals contained in Exhibit "B" without approval from the appropriate approval authority. Such an addition will further increase the Floor Area Ratio and further increase the parking deficit on the site; therefore approval of a further FAR increase by the Community Development Director and a Parking Reduction by the Planning Director will be required for any additions.

4. The building shall be limited to two floors wherever the 40-foot height limit is being exceeded (excluding mechanical equipment enclosures/penthouses); the excess height is only being permitted to accommodate the overhead clearance needed for the manufacturing portion of the facility, not to accommodate additional habitable floor area in the future.

5. Prior to issuance of a permit, the following measures shall be included in a dust control plan and noted on construction plans with the contact information for a designated contact person responsible for the on-site implementation of the dust control plan:

   a) Water all active construction and site preparation work areas at least twice daily and more often during windy periods;

   b) Cover all hauling trucks or maintain at least two (2) feet of freeboard on all loads;

   c) Pave, apply water at least twice daily, or apply non-toxic soil stabilizers on all unpaved access roads, parking areas and staging areas;

   d) Sweep daily with water sweepers all paved access roads, parking areas, and staging areas, and sweep streets daily with water sweepers if visible soil material is deposited onto adjacent roads;

   e) Apply hydroseed or non-toxic soil stabilizers to inactive construction areas (i.e., previously-graded areas that are inactive for a period of 10 days or more);

   f) Enclose or securely cover all exposed stockpiles;

   g) Replant vegetation in disturbed areas as quickly as possible; and

   h) Suspend any unmitigated construction activities that cause visible dust plumes to extend beyond the job site.

6. To mitigate the identified potential impact to future occupation of the site by burrowing owls, the following measures shall be shall be written into the construction drawings:

   a) No more than 30 days prior to the start of construction activity, a focused survey for burrowing owls shall be conducted by a qualified biologist, in accordance with the most recent version of the California Department of Fish and Game (CDFG) protocol to identify active burrows on and within 250 feet of construction and staging areas. The preconstruction surveys shall be conducted regardless of the time of year in which construction occurs. If there is a gap of more than a month in project activity in an undisturbed construction area, the area shall be re-surveyed prior to re-initiation of activity. Prior to the commencement of construction after the survey, a written verification by the biologist of the survey result shall be submitted to the City. If no occupied burrows are found in the survey area, no further action is necessary;

   b) In addition to preconstruction surveys, the contractor, in consultation with a biologist, shall provide an educational presentation for job site construction workers that explains and identifies burrowing owl considerations so as to avoid other accidental incidents when a biologist is not present. Written verification of participation in an educational program shall be provided by the biologist prior to initial commencement of work on the site and signs or posters shall be maintained on site in a prominent location visible to workers that identify burrowing owls;

   c) If occupied burrows are found in the survey area, on-site passive relocation techniques (e.g., one-way doors) may be used to encourage owls to move to alternative burrows outside of the impact area. Notification shall be given to the City upon discovery. A protection plan shall be prepared by the biologist and submitted for City review. Relocation or disturbance of owls cannot occur during the nesting season (April through August). A qualified biologist may verify through non-invasive methods that the burrow is no longer occupied and prevention measures may then be incorporated to prevent reoccupation during the nesting season; and

   d) If a burrow is occupied during the nesting season, impacts shall be avoided by establishing a 250 foot buffer around the burrow where no activity shall occur. The size of the buffer area may be adjusted if a qualified biologist determines it would not be likely to have adverse effects on the burrow. No project activity shall commence within the buffer area until the nesting season has ended, or a qualified biologist confirms that the burrow is no longer occupied or that the young have fledged.

7. To mitigate noise exposure within the office areas from manufacturing plant noise and off-site transportation noise sources, the following measure shall be required:

   a) Prior to issuance of the building permit, an acoustical assessment by a qualified acoustical consultant shall verify that final construction details of the office area of the project design achieve the 45 dB Leq noise standard.

8. The applicant shall incorporate and utilize on-site water recycling for cooling towers, reverse osmosis concentrate, and fume scrubbers to achieve a minimum of 25% water conservation.

9. The applicant shall incorporate the use of the latest technology in water-conserving plumbing fixtures and irrigation systems throughout the development. This shall include the use of high efficiency toilets, urinals, and appliances that use water, as well as auto shut-off plumbing fixtures. Water-efficient landscaping and irrigation shall include weather-based controllers, drip irrigation systems for non-turf areas, and the provision of drought-tolerant landscaping in lieu of irrigated turf wherever possible.

10. The applicant shall design the facility to accommodate the future use of recycled water for cooling towers and landscape irrigation by installing a separate, on-site recycled water distribution system (also known as “purple pipe”).

11. The applicant shall meet all requirements of the currently adopted edition of the California Building, Fire and City of Fremont Municipal Codes in effect at the time of building permit application.

12. Fire Department access shall meet the requirements of the 2007 California Fire Code (CFC) Chapter 5.

13. Exiting shall meet the requirements of 2007 CFC Chapter 10.

14. The applicant shall provide for approval a site plan/utilities plan with the location of public and on-site fire hydrants locations. Installations of private on-site fire hydrants are not to exceed 300 feet intervals. The distances measured for hydrant spacing shall be in accordance w/ CFC Appendix “C" associated standards and as the fire engine travels on the EVA roadway.

15. Provide fire flow information for the site. Contact Alameda County Water District staff at 510-668-4419 to obtain water flow information.

16. A Fire Department driveway access serving structures over 30 feet in height shall have a minimum 26-foot unobstructed linear width. These driveways/access roads shall be designated as Fire Lanes. Driveways/access roads shall meet Fire Department standards for surface type, distance, weight loads, turn radius, grades, and vertical clearance. Approved turnarounds shall be required for all distances over 150 feet from a public street. The applicant shall provide red curbs, curb lettering and fire lane signs. Inside turning radii of 22½ feet and outside radii of 37½ feet are required.

17. All building addresses shall be visible from the public street.

18. The applicant shall have a key box (Knox brand) located outside of buildings/gates and provide keys to the Fire Department.

19. If an elevator is provided, the car size shall accommodate a 24” x 84” medical gurney.

20. The applicant shall install a monitored N.F.P.A. 13 fire sprinkler system complying with local amendments. Provide cathodic protection for the underground fire service or a soils report stating why protection is not required.

21. A separate permit is required for the underground fire service, fire sprinklers, fire alarm systems, assembly areas and special hazard fire suppression systems.

22. Fire Department Connections (FDCs) for all sprinkler systems must be located not more than 100 feet from a fire hydrant per N.F.P.A 14. All inlets shall have Knox type caps and signs/address placards installed at the connection.

23. The fire alarm monitoring system must be complaint with 2007 CBC Section 508, 2007 CFC Chapter 9 and N.F.P.A. 72 2002 edition. Upon completion a "UL" serial numbered certificate shall be provided at no cost to the City of Fremont Fire and Life Safety Inspector. Fire alarm system devices shall be distinctively and descriptively annunciated by an address or a zone* to the FACU, annunciator and the central station for alarm, supervisory and trouble signals. Regardless of the amount of devices. *Each zone shall only consist of one device or one panel function (phone line 1, phone line 2, battery fault, ground fault and AC loss).

24. The applicant shall comply with Fremont code requirements for installation of fire retardant roof coverings.

25. Roof mounted solar photovoltaic panels/equipment shall follow the CA State Fire Marshal's installation guidelines (Solar Photovoltaic Installation Guideline dated 4/22/08). Submit plans for Fire Department review prior to permit and installation.

26. The applicant shall provide a 20-foot wide all-weather paving surface for emergency vehicle access within 150 feet of all construction or combustible material storage. This access shall be provided before any construction or combustible material storage will be allowed.

27. The applicant shall provide the fire hydrant required fire flow on site prior to construction or storage of combustible materials. Fire hydrant jumper lines must be at least 6 inches in diameter. This must be completed and inspected before any construction or material storage will be allowed.

28. Fire department access roadways shall be provided to within 150 feet of all exterior portions of the building.

29. The applicant must immediately notify the Fremont Fire Department's Hazardous Materials Unit of any underground pipes, tanks or structures; any suspected or actual contaminated soils; or other environmental anomalies encountered during site development activities. Any confirmed environmental liabilities will need to be remedied prior to proceeding with site development.

30. Provide a Risk Management Plan and a Hazards Materials Business Plan to the Fire Department for review and approval.

31. A striping and signing plan shall be required for the project site. Striping and signing plans shall show but not be limited to stop sign/legend, limit line, fire lane designations with curbing and fire lane signing. Striping and signing requirements shall be in accordance to the California Manual Uniform Traffic Control Devices (MUTCD) and latest edition of State of California Standard Plans and Specifications.

32. Where applicable, all curbing which outlines fire lanes shall be painted red with white lettering reading "No Parking - Fire Lane". Text shall be a minimum of four inches tall and shall be placed every 30 feet or portion thereof, on top of designated curbing or striping. Install R26F (No Stopping Fire Lane) signs @ 100' intervals.

33. This zoning administrator permit shall be subject to revocation by the Zoning Administrator or City Council at such time as any of the following conditions are found to exist:

    a. Conditions of approval have not been fulfilled;

    b. The use has resulted in a substantial adverse effect on the health and/or general welfare of users of adjacent or proximate property; or

    c. The use has resulted in a substantial adverse impact on public facilities or services.

END OF CONDITIONS