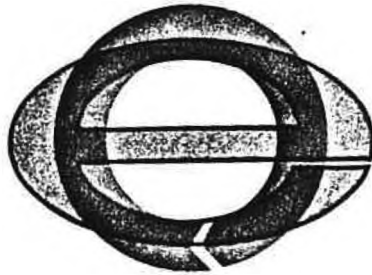


ecology
and
economy
through
reclamation



ROMIC
CHEMICAL CORPORATION

Reclamation of Solvents, Chemicals for All Industries

2081 BAY ROAD

EAST PALO ALTO, CALIFORNIA 94303

TELEPHONE (415) 324-1638

FAX: (415) 324-2965

January 5, 1990

Don Fleming, City Planner
City of East Palo Alto
2200 University Avenue
East Palo Alto, CA 94303

Dear Mr. Fleming:

Following, please find Romic Chemical Corporation's Design Review Plan and Application for Building Permit for building improvements located at properties on our East Palo Alto site. This submittal, provided to you on January 5, 1990, is the result of preliminary discussions during our November 29, 1989 meeting. I hope I have satisfied your request for additional clarity on the site drainage as well as providing an overview of plant operations and specific information on activities conducted within each proposed building improvement.

As I explained in our meeting, our industry and the regulations that govern us continually evolve, as must Romic in order to remain a competent, service-oriented member of our community and industry. This involves looking constantly and critically at our operation and evaluating those areas that may be enhanced by the application of new technology, better ingenuity or, perhaps, renewed common sense. This submittal is the result of such an evaluation.

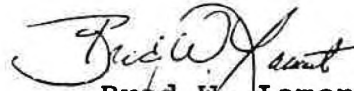
The primary purpose of this submittal is to improve the safety and work efficiency of this operation and, therefore of course, the surrounding community. The overall plan provides a more logical layout of our facility, logically repositioning existing activities and incorporating improved fire protection systems.

Don Fleming/City of East Palo Alto
January 5, 1990
Continued

Page 2 of 2

We are pleased to submit this package to the City of East Palo Alto for your review and we hope your comment and approval. Attached also please find a check to cover the fee associated with filing this application. If you have any questions regarding this matter or require further information, please do not hesitate to call.

Sincerely,



Brad W. Lamont
Operations Manager

BWL/mrf

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ROMIC CHEMICAL CORPORATION

For 26 years Romic Chemical Corporation has operated a solvent recycling facility at 2081 Bay Rd. in East Palo Alto. Romic is in the environmental protection business. By recycling hazardous wastes to the extent possible, we reduce the amount of chemicals present in society, thus reducing the associated risks to health and the environment. Recycling and reuse also preserve natural resources, such as oil and coal.

We recycle chemicals found primarily in the electronics, aerospace, paint, printing and automotive industries. These include paints, thinners, antifreeze, oils, solvents, dry cleaning chemicals and the most universal solvent - water. The majority of our customers are located in the Bay Area.

Romic's operations are closely regulated, monitored and/or permitting by several agencies, including the U.S. Environmental Protection Agency, California Department of Health Services, San Mateo County Health Department, Bay Area Air Quality Management District, East Palo Alto Sanitary District, and Menlo Park Fire Protection District. These agencies regulate all facility processes and approve which chemicals we can accept.

Before being brought to the facility, all chemical wastes undergo extensive analysis in our laboratory. If it is determined that we are permitted for and capable of processing the waste, transportation is scheduled. Romic is a fully licensed hazardous waste transporter and currently operates 13 trucks. Once the waste arrives on site, it is sampled and analyzed again to verify acceptability. Then the waste is stored until it can be processed in one or more of the following ways:

- ◆ **Recycling** is accomplished through distillation and separation, which remove contaminants (such as dirt and water) from solvents, allowing them to be resold for industrial use.
- ◆ **Reuse** is achieved through the fuels program, which blends certain wastes into alternative fuel. This fuel is shipped to cement kilns and burned in place of oil, gas or coal.
- ◆ A **water treatment** system, similar to those found at sewage treatment plants, removes solvents and other contaminants from water. Much of the water is then reused on site.
- ◆ Leftover waste that cannot be recycled or reused is **shipped** out of state to a hazardous waste incinerator.

This is the preferred order of managing wastes that come to our facility. We try to recycle as much as possible through distillation, then reuse what cannot be recycled in the alternative fuels program. The water treatment system is the third alternative. Incineration is a last resort for the estimated 10 percent of waste we cannot recover. All of these processes are simple, proven methods of managing hazardous wastes.

Our 14-acre facility operates 24 hours a day, seven days a week. We currently have some 120 employees - 25% serving in an administrative capacity, 15% assigned to do laboratory work, 15% performing maintenance functions, 30% engaged in production and 15% working in transportation.

Romic takes an aggressive and proactive approach to protecting employees, the community and the environment. We employ fulltime environmental and health and safety managers who are responsible for ensuring our operations are conducted in the safest manner possible. Detailed policies and procedures, continual training, routine inspections, frequent safety meetings, emergency planning, redundant safety measures, frequent monitoring, and extensive record-keeping all ensure continuous protection of health and the environment and the safe operation of our facility.

BENEFITS OF PLANNED IMPROVEMENTS

The primary purpose of this plan is to improve the safety and work efficiency of our operations. For months Romic has worked closely with the Menlo Park Fire Protection District to accomplish this. In evaluating our facility layout, we have decided to relocate existing activities to minimize risk and improve operating efficiency. The proposed plan specifically addresses:

- 1) improving fire suppression systems and water lines,
- 2) relocating non-production personnel from process and storage areas to enhance safety and increase efficiency,
- 3) relocating utility systems to increase the buffer distance from flammable liquid storage areas,
- 4) improving worker safety with an enhanced drum processing system,
- 5) implementing safer drum stacking arrangements, and
- 6) improving segregation of stored chemicals.

FIRE PROTECTION SYSTEMS

The planned improvements will increase safety and fire protection at the facility. Romic already takes numerous precautions to reduce the possibility of fire and has extensive fire protection on hand. Equipment such as non-sparking tools and explosion-proof electrical equipment are used at the facility. Smoking is not permitted in the active areas of the plant and grounding procedures are followed during chemical handling.

There are about 30 portable fire extinguishers throughout the plant, four 300-pound mobile extinguishers, four built-in foam systems, one portable foam system, and several fire hoses providing protection in storage warehouses and process areas. There are three fire hydrants fed by two separate water lines in the active area of the plant, and four others nearby. Sprinkler systems are installed in all buildings except the drum warehouses, which are addressed in this application.

In addition, employees are trained annually on the location and use of firefighting equipment and appropriate response to a fire.

The automatic fire suppression system we plan to install in the existing drum storage buildings (see the attached drawing) would complement existing fire protection systems by automatically coating the warehouse with a foam/water fire suppressant in the event of a fire.

The water line we hope to install (see the dotted line on the attached drawing) will increase water output and cover a more extensive area in the event of a fire. It will also provide a backup water source if one of the lines became inoperative. Connecting the two separate water lines to create a looped water system is essential for installation of the automatic fire suppression systems.

MAINTENANCE SHOPS

One of the best preventative programs Romic has in place is a diligent maintenance schedule for its vehicles and equipment. Romic's transportation department enjoys an enviable safety record, and routine maintenance is one of the most important factors in ensuring our trucks operate safely and properly. The same is true for all operating equipment at the facility.

We recognize the importance and value of maintaining our machines in top condition, and we feel expanded and up-to-date vehicle and plant maintenance shops (see buildings A and C on the attached drawing) will improve safety and efficiency. Rather than expand the existing shops,

however, we feel it is logical to relocate non-production personnel away from process and storage areas. Both shops will meet local fire codes and contain appropriate fire protection systems.

We also plan to relocate the existing boiler area (see building B on the attached drawing) to position it farther from flammable liquid storage areas.

DRUM PROCESSING BUILDING

A drum processing building (see building D on the attached drawing) was destroyed by fire in May of 1989. The cause was determined to be an electrical short in the equipment. Over the past six months, Romic has spent considerable time and energy re-engineering the entire process. The new design incorporates improved worker safety and efficiency and automated fire protection.

STORAGE AREAS

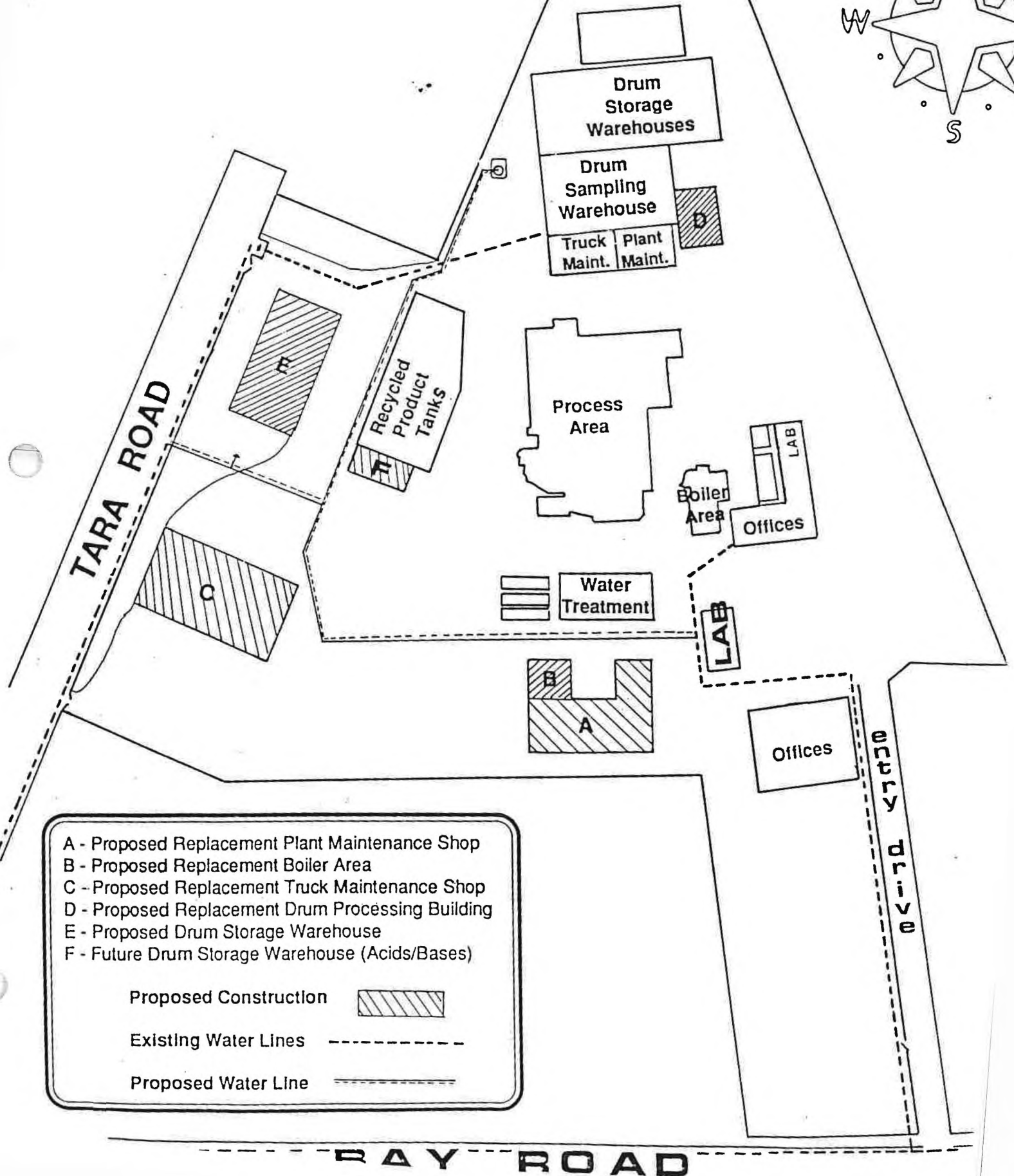
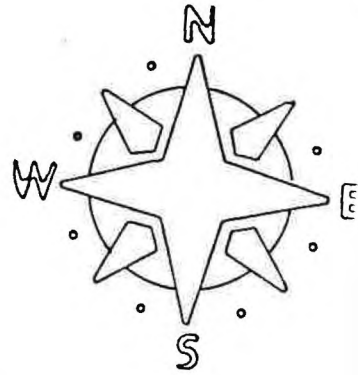
Additional space is needed to improve upon our drum storage practices. Currently drums are stacked in a pyramid formation three drums high. This has proven stable and effective in the past, as evidenced by the fact that no drums have ever fallen in Romic's 26-years history, including during October's 7.1 earthquake. However, industry standards and regulations are changing to reduce the storage height of hazardous materials to a maximum of two drums. Romic wishes to remain at the forefront of safe industrial practices by making its operations as fail-safe as possible. We require additional space (see building E on the attached drawing) to store our drums in a more secure manner. The new warehouse will be constructed with an automatic fire suppressant system.

Additional space (see building F on the attached drawing) is also required to implement the preferred practice of keeping acids and bases segregated from other chemicals. Romic currently has segregated areas within its existing drum storage warehouse. However, we wish to provide an additional safety buffer by relocating all acids and bases to a separate structure.



ROMIC FACILITY MAP

and proposed improvements



- A - Proposed Replacement Plant Maintenance Shop
 - B - Proposed Replacement Boiler Area
 - C - Proposed Replacement Truck Maintenance Shop
 - D - Proposed Replacement Drum Processing Building
 - E - Proposed Drum Storage Warehouse
 - F - Future Drum Storage Warehouse (Acids/Bases)
- Proposed Construction
- Existing Water Lines
- Proposed Water Line

סניף מים

RAY ROAD

ENVIRONMENTAL INFORMATION FORM
(To be completed by the Applicant)

TO BE USED FOR ALL DEVELOPMENTS EXCEPT CERTAIN AND MINISTERIAL PROJECTS)

PLANNING DIVISION FILE#: _____

PROJECT TITLE: Romic Chemical Corporation: Site Improvements

PROJECT LOCATION (Address or Description): 2081 Bay Road, East Palo Alto, California

ASSESSOR'S PARCEL#: 063-121-070, -160, -170, -430, and -440 ZONING DISTRICT M-2

NAME OF OWNER: Romic Chemical Corp. NAME OF APPLICANT: Romic Chemical Corp.

Address: 2081 Bay Road Address: 2081 Bay Road

Phone: (415) 324-1638 Phone: (415) 324-1638

Please answer these questions in the space provided. Use additional sheets if necessary.

1. Give a brief description of the project including what the site will be used for if the project is approved. This application is for the construction of 5 buildings on land currently developed by Romic Chemical. The buildings will serve a variety of purposes, with the overall objective of the expansion being to improve worker and plant safety and to improve operation efficiency. (Please refer to Attachment #1, Item 1., continued)

a. Site size: 14 acres

b. Square footage of structure: Please refer to Attachment #1

c. Number of floors: Please refer to Attachment #1

d. Amount of parking provided: Not Applicable

e. Length of road or driveway: Not Applicable

2. Is this part of a larger project? Yes X No . If yes, explain below:

Please refer to Attachment #1

3. What type of permits, licenses, approval, etc. (including those sought from other agencies), are needed to carry out the proposed project?:

Building Permits, Department of Health Services Permits, Environmental Protection Agency Permits, Bay Area Air Quality Management District

4. Describe the natural characteristics (slope, drainage, vegetation, soil stability, etc.) on the project site and in the vicinity of the project:

Please refer to Attachment #1

5. Describe the extent and type of man-made features on the project site and in the vicinity of the project: (size and uses of existing structures including square footage; number and size of lakes or ponds; nature and extent of existing roads, bridges, and skid roads, etc.).

Refer to Attachment #1

6. Environmental aspects of the project. Circle or fill in appropriate blanks.

a. Will grading or filling be required. Yes X No _____. If yes, how much soil will be removed? _____ cubic yards. Will soil be removed from the site? Yes _____, No X. If yes, to where?

Not Applicable

b. Will the project require the removal of trees or other vegetation? Yes ___ No X. If yes, explain below. All trees over 12" in diameter or greater which are to be removed are to be shown on plans.

Not Applicable

c. Are there any unique, rare, threatened, or endangered animals or plants residing on the site or in close enough proximity to be affected by the project? Yes ___ No X.

d. Does the project affect any sensitive habitat including buffer zones identified in the Local Coastal Program? Yes ___ No X. (To be answered for projects in the Coastal District only.)

e. Could the project affect wildlife or fisheries? Yes ___ No X. If yes, explain: Not Applicable

f. Could the project affect or be affected by a natural drainage channel or floodplain? Yes ___ No X.

g. Will the project involve discharge into surface waters? Yes ___ No X

h. Will the project create dust, smoke, fumes, odors, or noise? Yes X No ___ If yes, which? _____. Explain below.

i. Will the project cause a noticeable change in any of the following: pedestrian traffic, vehicular traffic (including bicycles), or use of off-road vehicles? Yes ___ No X. If yes, explain below.

Not Applicable

j. Will the project have an impact on the scenic values of the area? Yes X No _____. If yes, explain below. This project will significantly improve the appearance of our property from auto junk car storage and chemical process equipment storage to landscaped warehouses.

k. Will the project affect any known archaeological or historic resources? Yes ___ No X. If yes, explain below. N/A

l. Will the project create an obvious change in the existing land use? Yes ___ No X.

m. Will the project be a land use not presently in the surrounding neighborhood? Yes ___ No X. If yes, has the project been discussed with neighbors: Yes N/A No ___. If yes, indicate below that issues were discussed with neighbors. Not Applicable

n. Could the project serve to increase development pressures in the vicinity or encourage changes in the use of nearby properties (be realistic and objective)? Yes X No ___. If yes, explain below.
It is our understanding that the City of East Palo Alto is supportive of the redevelopment of the industrial areas of the city. It appears that high tech industries are the preferred redevelopers. The proposed development of Romic's peripheral property will enhance the appearance of Romic in general and will allow for significant improvements in plant safety and plant layout. This development should be consistent with the City's redevelopment goals and will reduce risks to adjacent property owners.


* In the event of a Yes answer for this question, a special Sensitive Habitats Report may be required in advance of project approval. The City will inform the applicant within 2 weeks of the receipt of this application as to the special requirements of Policy 7.5(a) of the Local Coastal Program.

7. Describe any mitigation measures being proposed which will reduce or avoid the potential impacts of the project. _____

Please refer to Attachment #1

The following space is provided for additional information or comments: use additional page, if necessary: _____

CERTIFICATION: I hereby certify that the statements furnished above and in the attached exhibits present the data and information required for this initial evaluation to the best of my ability, and that the facts, statements, and information presented are true and correct to the best of my knowledge and belief. If any of the facts represented here changed, it is my responsibility to inform the City.

DATE: January 5, 1990 Signed 

Do Not Write Below This Line

CHECKLIST REVIEWED AND FOUND TO BE COMPLETE: _____

DATE: _____ SIGNED: _____

ENVIRONMENTAL INFORMATION FORM

ATTACHMENT #1

Page 1 of 4

Item 1., continued

Brief description of project including what the site will be used for if the project is approved.

The buildings consists of:

- A. Maintenance Shop: This building will house all of Romic's plant maintenance equipment and personnel. In addition to maintenance work areas, this building will include several offices and a portion of the building has been designed for the boilers and air compressors which serve the chemical production area.
- B. Truck Maintenance Shop: This building has been specially designed for truck maintenance. It will have office space and several bays for routine maintenance, truck wash areas, and a truck paint spray booth.
- C. Drum Production Building: This building will replace the building lost in the fire in May 1989. It will contain operations which empty and rinse drums as well as repackaging operations.
- D. West Drum Storage Building #2: ~~This is to be located on the site, currently used by Romic to store process equipment and other miscellaneous equipment which is not in use.~~ This building will store 55 gallon drums of chemicals and is designed very similar to the other drum storage building on the site. This building is necessary to comply with the Environmental Protection Agency's request to lower drum stacking height at our storage building from 3 high to 2 high and to accommodate the new automatic fire suppression systems. In order to maintain capacity, we must expand the areas dedicated to drum storage.

ENVIRONMENTAL INFORMATION FORM

ATTACHMENT #1

Page 2 of 4

E. West Storage Building #1: This will be located adjacent to the production storage tanks in the truck parking area. This small, 1,800 square foot building is designed to segregate chemicals which we currently separate in our existing storage building. This segregation offers a much better buffer zone than our current operation.

Item 1.b. and 1.c.:

Square footage of structures and number of floors:

	<u>Square Footage</u>	<u>Number of Floors</u>
A. Maintenance Shop	12,960	1
B. Truck Maintenance Shop	11,200	2
C. Drum Production Building	2,200	1
D. West Drum Storage Bldg. #2	8,125	1
E. West Storage Bldg. #1	1,800	1

Item 2. **Explanation of this project as part of a larger project:**

This project is part of Romic Chemical Corporation's ongoing activities at 2081 Bay Road. The new improvements are located within the active portions of the plant and on adjacent parcels owned by Romic which currently are used for auto salvage or chemical equipment storage.

Item 4. **Description of the natural characteristics (slope, drainage, vegetation, soil stability, etc.) on the project site and in the vicinity of the project:**

The proposed improvements are located in an industrial area between Bay Road and Tara Road. The current land use for the areas of proposed new construction are for the storage of chemical processing equipment, auto salvage, and solvent recovery/treatment. The land on which the projects will be located has a gentle slope onto the existing operations run by Romic. There is

ENVIRONMENTAL INFORMATION FORM

ATTACHMENT #1

Page 3 of 4

Item 4., continued

typically a 2 foot drop from the property boundaries to the improved plant boundary, across 300 to 350 feet. There is little or no vegetation on any of the sites for the proposed construction with the exception of landscaping developed by Romic Chemical Corporation.

The soils underlying the proposed project are comprised of a heterogeneous mixture of clays, silt and sand of suitable character to support the proposed improvements with appropriate foundations. While this project will not have extensive landscaping, perimeter portions of the property will be landscaped thus significantly improving the barren, natural appearance of the current use of the land.

Item 5. Describe the extent and type of man-made features on the project site and in the vicinity of the project: (size and uses of existing structures including square footage; number and size of lakes or ponds; nature and extent of existing roads, bridges, and skid roads, etc.).

The proposed improvements will pave and erect high quality steel buildings commonly used in industrial parks in place of junk yards and equipment storage. Site drainage will be controlled. The current land of the undeveloped parcels is unsightly and the auto salvage operation represents a possible environmental hazard.

Item 6.h. Explanation of the projects creation of dust, smoke, fumes, odors, or noise:

The operation will not create any smoke or fumes and will likely decrease the amount of dust due to the proposed paving on the unimproved parcels. The improvements

ENVIRONMENTAL INFORMATION FORM

ATTACHMENT #1

Page 4 of 4

Item 6.h., continued

should not increase the noise at Romic's operation; likewise, odors should not increase due to these improvements. Any operation which will produce air emissions of any type is required to obtain an air permit from the BAAQMD. Romic has agreed that any new process or improvement shall not increase our current level of air emission and we are currently developing process to reduce emissions.

Item 7. Description of mitigating measures being proposed which will reduce or avoid the potential impacts of the project:

This expansion is, in itself, a mitigating measure. It allows for Romic to more safely handle materials, it provides a greater buffer between our utility systems and flammable liquid storage areas, and it allows for the installation of automated fire suppression systems which are applauded by the fire department. The expansion allows us to move non-production employees from the active portion of the plant to facilities specifically designed for both plant and truck maintenance.

As with Romic's environmentally conscious policy, the design of the new expansion incorporates all of the current regulatory requirements for storing and handling hazardous materials and hazardous waste. The rainfall for the entire site is contained, controlled and processed on site. Any area which stores chemicals is designed with fire suppression systems and adequate secondary containment.

DEPARTMENT OF COMMUNITY DEVELOPMENT
2200 UNIVERSITY AVENUE
EAST PALO ALTO, CALIFORNIA 94303
(415) 853-3189

Design Review No. _____
Date Received: _____
Filing Fee: _____
Receipt No. _____

Assessor's Parcel No. & Address: Parcels Numbers 063-121-070, 063-121-160, 063,121-170, 063-121-430, and 063-121-440 located at 2081 Bay Road, East Palo Alto, California

Project Description: Romic Chemical Corp. - Site Improvements

Name of Legal Property Owner: H.M. Schneider/Romic Chemical Corp.

Address: 2081 Bay Road - East Palo Alto, CA Zip 94303

Telephone No.: Home (415) 326-8604 Work (415) 324-1638

Agent's Name: None

Address: Not Applicable

Telephone No.: Not Applicable

Design Information

	<u>Material</u>	<u>Color</u>
Exterior Walls	<u>Steel</u>	<u>Side walls - Earthtone beige</u> <u>Mansards - Dark brown</u>
Roof	<u>Steel</u>	<u>White</u>
Accessory Buildings	<u>Included in the plan</u>	
Driveway	<u>Concrete</u>	<u>Natural</u>
Fences	<u>8' chainlink w/wood slats</u>	<u>Dark brown</u>
Signs	<u>Not applicable</u>	
Trees to be cut-Number	<u>None involved</u>	Size <u>N/A</u>
Grading Required	<u>Yes</u>	Cubic Yards <u>Unknown at this time</u>
Storage Tanks-Size	<u>Possibly a rainwater collection tank</u>	Finish _____

Landscaping Plans: Romic has made substantial landscaping improvements in its parking and corporate office complex area (please refer to rendering). Romic also has committed to improving the Bay Road frontage once Ray Road improves and will make a similar commitment with the frontage on Tara Road.

Applicant Signature:  Date: January 5, 1990

ENVIRONMENTAL CHECKLIST FORM

(To Be Completed By Lead Agency)

I. Background

1. Name of Proponent Romic Chemical Co.
2. Address and Phone Number of Proponent 2081 Bay Road
East Palo Alto CA
3. Date of Checklist Submitted 1/5/90
4. Agency Requiring Checklist EPA Planning
5. Name of Proposal, if applicable Basin Review Application

II. Environmental Impacts

(Explanations of all "yes" and "maybe" answers are required on attached sheets.)

	<u>Yes</u>	<u>Maybe</u>	<u>No</u>
I. Earth. Will the proposal result in:			
a. Unstable earth conditions or in changes in geologic substructures?	_____	_____	_____✓
b. Disruptions, displacements, compaction or overcovering of the soil?	_____	_____✓	_____
c. Change in topography or ground surface relief features?	_____✓	_____	_____
d. The destruction, covering or modification of any unique geologic or physical features?	_____	_____	_____✓
e. Any increase in wind or water erosion of soils, either on or off the site?	_____	_____	_____✓
f. Changes in deposition or erosion of beach sands, or changes in siltation, deposition or erosion which may modify the channel of a river or stream or the bed of the ocean or any bay, inlet or lake?	_____	_____	_____✓

	<u>Yes</u>	<u>Maybe</u>	<u>No</u>
g. Exposure of people or property to geologic hazards such as earthquakes, landslides, mudslides, ground failure, or similar hazards?	_____	_____ ✓ _____	_____
2. Air. Will the proposal result in:			
a. Substantial air emissions or deterioration of ambient air quality?	_____	_____	_____ ✓ _____
b. The creation of objectionable odors?	_____	_____	_____ ✓ _____
c. Alteration of air movement, moisture, or temperature, or any change in climate, either locally or regionally?	_____	_____	_____ ✓ _____
3. Water. Will the proposal result in:			
a. Changes in currents, or the course of direction of water movements, in either marine or fresh waters?	_____	_____	_____ ✓ _____
b. Changes in absorption rates, drainage patterns, or the rate and amount of surface runoff?	_____	_____ ✓ _____	_____
c. Alterations to the course or flow of flood waters?	_____	_____	_____ ✓ _____
d. Change in the amount of surface water in any water body?	_____	_____	_____ ✓ _____
e. Discharge into surface waters, or in any alteration of surface water quality, including but not limited to temperature, dissolved oxygen or turbidity?	_____	_____	_____ ✓ _____
f. Alteration of the direction or rate of flow of ground waters?	_____	_____	_____ ✓ _____
g. Change in the quantity of ground waters, either through direct additions or withdrawals, or through interception of an aquifer by cuts or excavations?	_____	_____	_____ ✓ _____
h. Substantial reduction in the amount of water otherwise available for public water supplies?	_____	_____	_____ ✓ _____
i. Exposure of people or property to water related hazards such as flooding or tidal waves?	_____	_____ ✓ _____	_____

	<u>Yes</u>	<u>Maybe</u>	<u>No</u>
4. Plant Life. Will the proposal result in:			
a. Change in the diversity of species, or number of any species of plants (including trees, shrubs, grass, crops, and aquatic plants)?	_____	_____	_____✓
b. Reduction of the numbers of any unique, rare or endangered species of plants?	_____	_____	_____✓
c. Introduction of new species of plants into an area, or in a barrier to the normal replenishment of existing species?	_____	_____	_____✓
d. Reduction in acreage of any agricultural crop?	_____	_____	_____✓
5. Animal Life. Will the proposal result in:			
a. Change in the diversity of species, or numbers of any species of animals (birds, land animals including reptiles, fish and shellfish, benthic organisms or insects)?	_____	_____	_____✓
b. Reduction of the numbers of any unique, rare or endangered species of animals?	_____	_____	_____✓
c. Introduction of new species of animals into an area, or result in a barrier to the migration or movement of animals?	_____	_____	_____✓
d. Deterioration to existing fish or wildlife habitat?	_____	_____✓	_____
6. Noise. Will the proposal result in:			
a. Increases in existing noise levels?	_____	_____	_____✓
b. Exposure of people to severe noise levels?	_____	_____	_____✓
7. Light and Glare. Will the proposal produce new light or glare?	_____	_____	_____✓
8. Land Use. Will the proposal result in a substantial alteration of the present or planned land use of an area?	_____	_____✓	_____
9. Natural Resources. Will the proposal result in:			
a. Increase in the rate of use of any natural resources?	_____	_____	_____✓

	<u>Yes</u>	<u>Maybe</u>	<u>No</u>
b. Substantial depletion of any nonrenewable natural resource?	_____	_____	✓
10. Risk of Upset. Will the proposal involve:			
a. A risk of an explosion or the release of hazardous substances (including, but not limited to, oil, pesticides, chemicals or radiation) in the event of an accident or upset conditions?	✓	_____	_____
b. Possible interference with an emergency response plan or an emergency evacuation plan?	_____	_____	✓
11. Population. Will the proposal alter the location, distribution, density, or growth rate of the human population of an area?	_____	_____	✓
12. Housing. Will the proposal affect existing housing, or create a demand for additional housing?	_____	_____	✓
13. Transportation/Circulation. Will the proposal result in:			
a. Generation of substantial additional vehicular movement?	_____	_____	✓
b. Effects on existing parking facilities, or demand for new parking?	_____	_____	_____
c. Substantial impact upon existing transportation systems?	_____	_____	✓
d. Alterations to present patterns of circulation or movement of people and/or goods?	_____	_____	✓
e. Alterations to waterborne, rail or air traffic?	_____	_____	✓
f. Increase in traffic hazards to motor vehicles, bicyclists or pedestrians?	_____	_____	✓
14. Public Services. Will the proposal have an effect upon, or result in a need for new or altered governmental services in any of the following areas:			
a. Fire protection?	_____	_____	✓
b. Police protection?	_____	_____	✓
c. Schools?	_____	_____	✓

	<u>Yes</u>	<u>Maybe</u>	<u>No</u>
d. Parks or other recreational facilities?	_____	_____	✓
e. Maintenance of public facilities, including roads?	_____	_____	✓
f. Other governmental services?	_____	_____	✓
15. Energy. Will the proposal result in:			
a. Use of substantial amounts of fuel or energy?	_____	_____	✓
b. Substantial increase in demand upon existing sources of energy, or require the development of new sources of energy?	_____	_____	✓
16. Utilities. Will the proposal result in a need for new systems, or substantial alterations to the following utilities:			
a. Power or natural gas?	_____	_____	✓
b. Communications systems?	_____	_____	✓
c. Water?	_____	_____	✓
d. Sewer or septic tanks?	_____	_____	✓
e. Storm water drainage?	_____	_____	✓
f. Solid waste and disposal?	_____	_____	✓
17. Human Health. Will the proposal result in:			
a. Creation of any health hazard or potential health hazard (excluding mental health)?	✓	_____	_____
b. Exposure of people to potential health hazards?	✓	_____	_____
18. Aesthetics. Will the proposal result in the obstruction of any scenic vista or view open to the public, or will the proposal result in the creation of an aesthetically offensive site open to public view?	_____	_____	✓
19. Recreation. Will the proposal result in an impact upon the quality or quantity of existing recreational opportunities?	_____	_____	✓
20. Cultural Resources.			
a. Will the proposal result in the alteration of or the destruction of a prehistoric or historic archaeological site?	_____	_____	✓

	<u>Yes</u>	<u>Maybe</u>	<u>No</u>
b. Will the proposal result in adverse physical or aesthetic effects to a prehistoric or historic building, structure, or object?	_____	_____	_____✓
c. Does the proposal have the potential to cause a physical change which would affect unique ethnic cultural values?	_____	_____	_____✓
d. Will the proposal restrict existing religious or sacred uses within the potential impact area?	_____	_____	_____✓

21. **Mandatory Findings of Significance.**

a. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	_____	_____✓	_____
b. Does the project have the potential to achieve short-term, to the disadvantage of long-term, environmental goals? (A short-term impact on the environment is one which occurs in a relatively brief, definitive period of time while long-term impacts will endure well into the future.)	_____✓	_____	_____
c. Does the project have impacts which are individually limited, but cumulatively considerable? (A project may impact on two or more separate resources where the impact on each resource is relatively small, but where the effect of the total of those impacts on the environment is significant.)	_____	_____	_____✓
d. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	_____	_____✓	_____

III. **Discussion of Environmental Evaluation**

IV. **Determination**
(To be completed by the Lead Agency)

On the basis of this initial evaluation:

I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures described on an attached sheet have been added to the project. A NEGATIVE DECLARATION WILL BE PREPARED.

I find the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

March 5, 1990
Date

Maith Lawrence
Signature

For CITY OF EAST PALO ALTO

(Note: This is only a suggested form. Public agencies are free to devise their own format for initial studies.)

Attachment to Initial Study of Romic Chemical Company Proposal

Discussion of "Yes" and "Maybe" Responses

- 1b. Some soil displacement could occur as a result of building construction.
- 1c. Some changes in ground surface features are proposed.
- 1g. Risks to the community associated with seismic occurrences could increase in the long term by allowing the storage and processing of hazardous materials in newly constructed buildings.
- 3b. Some changes in drainage are proposed.
- 3i. Since the entire project site is located within a special flood hazard area, there is a possibility of exposure of people or property to water related hazards. According to the Draft Environmental Impact Report of the County Hazardous Materials Management Plan, possible flood impacts include formation of toxic clouds, contamination of surface water and damage to bay wetlands.
- 5d. As noted above, damage to bay wetlands could occur as a result of the release of contaminated materials.
- 8. Changes in land use will occur to the extent that a larger portion of the project site will be utilized for the storage and processing of hazardous materials and other purposes for which structures will be built.
- 10a. There is clearly a risk of release of hazardous substances in the event of an accident or upset conditions associated with any building in which hazardous materials will be stored or processed.
- 14a. Since an increased amount of floor space will be used for the storage and processing of hazardous materials, there is a possibility of increased demand for fire protection services.
- 17a. Any building in which hazardous materials are to be stored or processed poses a potential health hazard. While this risk may be reduced through design techniques, it cannot be eliminated.
- 17b. Permitting the storage and processing of hazardous materials in newly constructed buildings will expose people to potential health hazards. This site is already on the EPA Superfund National Priority List of hazardous waste sites potentially posing the greatest long term threat to human health and/or the environment.
- 21a. Bay wetlands could be adversely affected as a result of flood impacts or the occurrence of a seismic event during high tide.

21b. The short term benefit to be accrued from this project is the potential for increased fire safety relative to the situation which exists on the site at the present time. Long term environmental goals, however, would be adversely impacted as a result of the permitting of a previously nonconforming use. Permitting the storage and processing of hazardous materials in newly constructed buildings would prolong the time period in which the materials would be present in the community. This would be contrary to the General Plan, which calls for the development of "clean" light industry.

The short term benefits promised by this project can be achieved through means other than permitting new uses in violation of local ordinances and the General Plan.

21d. Significant direct environmental effects include possible release of hazardous materials and other impacts discussed above. Indirect effects include possible reduced government revenues and lower personal incomes as a result of businesses being discouraged from locating in the industrial area by the presence of newly permitted hazardous land uses.

ADMINISTRATIVE REPORT

Date: March 7, 1990

TO: Planning Commission
From: Gaither Loewenstein, Interim Planning Director
Subject: Romic Chemical Co. Design Review Application

*not Here
Site visit??*

Application Submittal Date: January 5, 1990

Report Preparation Date: March 7, 1990

Project Address: 2081 Bay Rd., East Palo Alto

Assessor Parcel Number: 063-121-070

-160

-170

-430

-440

- (A) DR 90-01 Design Review approval is requested.
- (B) Initial Study Preliminary environmental review has determined that
an Environmental Impact Report will be required in the
event that this project is approved.

Zoning: M-1

Applicant: Romic Chemical Corporation
2081 Bay Road
East Palo Alto, CA

Owner: Applicant

Discussion

The applicant is proposing the construction of five new buildings on its existing plant site. The purpose of the new construction is to improve worker safety by increasing separation between workers and hazardous materials processing and storage areas. The new construction is also intended to increase the storage capacity of the plant in view of a recent EPA ruling that the plant can no longer stack its hazardous materials three barrels high. Three of the five proposed new buildings are intended for the processing and storage of hazardous materials.

Section 6659.4 of Chapter 33.5 of the East Palo Alto Ordinance Code states the following:

"The storage or processing of materials in areas of special flood hazard that are, in time of flooding, flammable, explosive or that could be injurious to human, animal, or plant life is prohibited".

Section 6652.2 of Chapter 33.5 of the East Palo Alto Ordinance Code defines "Area of Special Flood Hazard" as follows:

"The land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year; sometimes referred to as the "Base Flood". This area is designated as Zone A, AO, AH, A1-A30 on the FIRM."

Analysis of the Flood Insurance Rate Map, contained as an attachment to the application, confirms that the entire project site is presently in an "Area of Special Flood Hazard" as defined above.

Recommendation

Staff recommends that the Planning Commission find:

1. The Planning Commission held a Hearing on DR90-01 at its meeting of March 12, 1990.
2. All interested parties were given an opportunity to be heard.
3. The project would constitute a violation of Section 6659.4 of Chapter 33.5 of the East Palo Alto Ordinance Code.
4. The project poses possible threats to the health and safety of community residents and surrounding natural resources, the existence of which would require the submission of an Environmental Impact Report.

It is therefore recommended that the Planning Commission:

1. Approve the findings; and
2. Deny the Design Review Application.

NOTE: Decisions of the Planning Commission may be appealed to the City Council through the City Clerk within 10 calendar days after the initial decision has been made.

CITY OF EAST PALO ALTO

March 19, 1990

Department of Health Services
Toxic Substances Control Division
2151 Bekeley Way, Annex 7
Berkeley, CA 94704

To Whom It May Concern:

I am writing to express the City's concerns regarding your consideration of Romic Chemical Company's application for a permit modification (EPA Identification Number: CAD 009452657). Our specific concern centers around the fact that the City was never sent a Notice of Preparation indicating that a Negative Declaration was being prepared for this application. As you are probably aware, the California Environmental Quality Act (CEQA) requires that a lead agency send a Notice of Preparation to all responsible agencies on matters of this nature. Since we never have received such a notice, CEQA has been violated in this instance.

The City's planning staff does not support the preparation of a Negative Declaration for the Romic proposal. For a number of reasons, including the fact that the project site is in a flood hazard zone, is subject to strong shaking in the event of an earthquake, is presently in violation of several provisions of the Resource Conservation Recovery Act and is on the EPA list of the nation's most hazardous waste sites, we feel strongly that an Environmental Impact Report is necessary. A full EIR will allow for the consideration of other alternatives for improved plant safety which do not require the construction of additional storage area in a hazardous zone.

Please feel free to call if you have additional questions regarding this matter.

Sincerely,



Gaither Loewenstein
Interim Planning Director

GL/akh

cc: Stan Hall
Hal Toppel
State Clearinghouse - Office of Planning and Research

D#23Plan-gl03199a

JORGENSEN, COSGROVE, SIEGEL,
McCLURE & FLEGEL

ATTORNEYS AT LAW

1100 ALMA STREET, SUITE 210
MENLO PARK, CALIFORNIA 94025-3392
(415) 324-9300

TELECOPIER:
(415) 324-0227

JOHN D. JORGENSEN
JOHN R. COSGROVE
MARVIN S. SIEGEL
WILLIAM L. McCLURE
JOHN L. FLEGEL
JULIA A. MANDEVILLE

March 20, 1990

East Palo Alto Planning Commission
City of East Palo Alto
2415 University Avenue
East Palo Alto, CA 94303

Re: Design Review Application
DR90-1
Romic Chemical Corporation
2081 Bay Road
East Palo Alto, CA

Dear Commissioners:

We have reviewed the Administrative Report dated March 7, 1990, from Gaither Lowenstein, Interim Planning Director to the Planning Commission regarding Romic Chemical Corporation's Design Review Application (DR90-1) for the construction of five buildings at 2081 Bay Road.

In his report, Mr. Lowenstein states, "The new construction is also intended to increase the storage capacity of the plant in view of a recent EPA ruling that the plant can no longer stack its hazardous materials three barrels high." This is both an inaccurate and a misleading statement.

Romic Chemical Corporation is currently permitted by the State Department of Health Services (DHS) under its Hazardous Waste Facility Permit issued pursuant to Federal Environmental Protection Agency (EPA) Regulations to store up to 5,000 barrels of hazardous waste and materials on site. The construction of the new drum storage building will not result in any increase in capacity; it will simply permit Romic to store the drums two barrels high instead of three barrels high. As noted on Page 2 of the "FACT SHEET DRAFT HAZARDOUS WASTE FACILITY PERMIT FACILITY EPA ID NO.: CAD 009452657 ROMIC CHEMICAL CORPORATION 2081 BAY ROAD, EAST PALO ALTO," (a copy of which is attached) ". . .The facility proposes to construct a new drum storage building which will allow safer storage of drummed hazardous waste. The new building does not increase the drum storage capacity currently allowed by their State of California Hazardous Waste Facility Permit."

Romic has voluntarily agreed to comply with the EPA's request regarding drum stacking height rather than continuing to follow the generally accepted industry practice of stacking barrels three high to ensure the operation of a safer facility. In the event the City denies Romic's request for Design Review Approval of the drum storage buildings, Romic has determined that it will be able to continue to meet all EPA, DHS, and Fire District Regulations and handle the same number of barrels by making some minor modifications of its existing facilities. However, we feel that approach will result in a less safe facility and would not be in the best interest of either Romic Chemical Corporation or the community.

The remaining three buildings subject to the Design Review Application are for the construction of a replacement plant maintenance shop, a replacement truck maintenance shop, and a replacement drum processing building. The new drum processing building will replace the existing drum processing operation which was damaged in a fire last May. This will not result in any change in the type or capacity of hazardous waste being processed. The existing plant maintenance and truck maintenance operations will be relocated to the new buildings constructed for those operations to separate them from the existing hazardous waste processing and storage operations for safety reasons.

Apparently, because Mr. Lowenstein has erroneously concluded that the proposed construction will result in an increase in storage capacity of the plant, he states that "The project poses possible threats to the health and safety of community residents and surrounding natural resources, the existence of which would require the submission of an environmental impact report."

Public Resources Code section 21084 provides for the categorical exemption of certain projects from CEQA requirements as more particularly set forth in regulations adopted by the Secretary of Resources. 14 Cal. Admin. Code section 15302 provides a categorical exemption for "the replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity of the structure replaced." In Dehne v. County of Santa Clara (1981) 115 Cal.App.3d 827, the Court of Appeals held that a modernization plan for a Kaiser Cement Manufacturing Plant which replaced the old facility with a new plant to meet pollution control and energy standards, increased the size of and repositioned new buildings within the existing 4-6

acres of their facilities was categorically exempt. The project was determined to be categorically exempt even though the new plant substantially extended the useful economic life of the old facility, thereby prolonging the adverse environmental effects caused by the old plant, which without modernization, might have closed in the near future.

Here as in the Dehne case, Romic is simply modernizing its existing operations without any change in the purpose or capacity of the facility. The purpose of the modernization is to implement various safety recommendations by the EPA, DHS, and the Fire District. All of the new construction will occur on the site of Romic's existing facility. For these reasons, Romic's Design Review Application and proposed construction activities are categorically exempt from CEQA.

Finally, Mr. Lowenstein has concluded that Romic's project would constitute a violation of Section 6659.4 of Chapter 33.5 of the East Palo Alto Municipal Code which states as follows: "The storage or processing of materials in areas of special flood hazard that are, in time of flooding, flammable, explosive or that could be injurious to human, animal, or plant life is prohibited." (Emphasis added.)

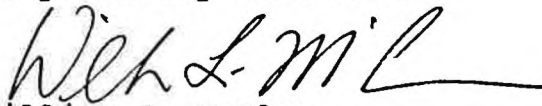
This section comes directly from the Sample Flood Damage Prevention Ordinance developed by the Federal Emergency Management Agency (FEMA). In consulting with individuals at FEMA, the County of San Mateo Planning Department (which had adopted the identical language), and the State Department of Water Resources, there is a consensus that this section only applies to the storage of materials and equipment below the 100 year flood level. If the storage and processing of hazardous materials occurs above the 100 year flood level, the consensus is that Section 6659.4 does not apply and does not prohibit the storage or processing of hazardous waste within an area designated as a flood plain.

Based upon the foregoing, we respectfully request that the Planning Commission make findings that the project does not constitute a violation of Section 6659.4 of Chapter 33.5 of the East Palo Alto Municipal Ordinance provided the finished elevations of any buildings housing hazardous waste be at or above the 100 year flood plain level and that the project is categorically exempt from CEQA pursuant to 14

East Palo Alto Planning Commission
March 20, 1990 - Page 4

Cal. Admin. Code section 15302 and Public Resources Code
section 21084.

Respectfully submitted


William L. McClure

WLM:csk

Enclosures

cc: Romic Chemical Corporation

DEPARTMENT OF HEALTH SERVICES
TOXIC SUBSTANCES CONTROL PROGRAM
2151 BERKELEY WAY, ANNEX 7
BERKELEY, CA 94704



FACT SHEET

DRAFT HAZARDOUS WASTE FACILITY PERMIT

FACILITY EPA ID NO.: CAD 009452657

ROMIC CHEMICAL CORPORATION

2081 BAY ROAD, EAST PALO ALTO, CA 94303

DESCRIPTION OF HAZARDOUS WASTE FACILITY

Romic Chemical Corporation (Romic) has applied to the Environmental Protection Agency (EPA) Region 9, for a federal permit to operate a hazardous waste facility, located at 2081 Bay Road, East Palo Alto, California. This permit is a federal Resource Conservation and Recovery Act (RCRA) permit. The facility is currently allowed to operate pursuant to RCRA interim status. Additionally, Romic has applied to the California Department of Health Services (DHS) for a permit modification to allow the facility to revise their current State of California hazardous waste facility permit and operation plan. The permit modification is to allow the use of the RCRA operation plan. The permit modification does not allow the facility to expand their hazardous waste treatment and storage capacity. The RCRA operation plan contains updated waste analysis procedures which will allow the facility to handle hazardous waste safer and more efficiently.

Romic's current operations are authorized by a permit issued by the California Department of Health Services. The DHS permit allows Romic to store and treat hazardous waste not regulated by federal laws.

Romic proposes to continue to receive, store, treat and recycle hazardous wastes regulated by RCRA. These wastes contain solvents which would be reclaimed using distillation, and blending to produce reusable solvents and fuel-grade materials. The fuel-grade materials would then be used as a fuel supplement in cement processing facilities located at other facilities.

The property that is the current site of the Romic facility has a history of hazardous waste treatment, storage and disposal activities. From the 1940's to the early 1980's, hazardous waste was discharged to two ponds located on-site. In 1980, the ponds were filled in, and covered with a synthetic cover and concrete. The ponds are suspected to be the source of ground water contamination in the area. The extent of ground water contamination and a remedial action plan are currently being evaluated by EPA and DHS but are not covered in this permit.

TYPE OF WASTE AND MANAGEMENT ACTIVITIES

This facility would store, treat and recycle approximately seven million gallons of solvent-bearing hazardous wastes each year. The hazardous wastes are generated from a variety of sources including industrial manufacturers, research facilities and small businesses. In addition to the existing treatment and storage facilities located on-site, the facility proposes to construct a new drum storage building which will allow safer storage of drummed hazardous waste. The new building does not increase the drum storage capacity currently allowed by their State of California hazardous waste facility permit.

EXPLANATION OF DRAFT PERMIT CONDITIONS

EPA has reviewed the Romac Chemical Corporation Part B Application, dated May 8, and August 18, 1989 and supplemental documents, dated August 30, 31 and September 25, 1989 and has deemed them to be complete.

The EPA has prepared a draft permit for this facility. All conditions and terms of the EPA draft permit are required pursuant to RCRA and Title 40, Code of Federal Regulations, Parts 124 and 260 through 270.

The Draft Permit is divided into the following categories:

- Part I : Standard Conditions
- Part II : General Facility Conditions
- Part III : Container Storage
- Part IV : Storage and Treatment in Tanks
- Part VI : Specific Conditions for Corrective Action for Continuing or Newly Discovered Releases.

The standard conditions section of the draft permit contains requirements applicable to all facilities such as severability, permit expiration, inspection and entry, reporting of releases, and waste minimization.

The general conditions section contains operating requirements for the facility such as waste analysis, personnel training, emergency response, recordkeeping and reporting, and closure.

The storage in containers and storage and treatment in tanks sections contain operating requirements for management of wastes in tanks and containers, secondary containment and requirements for the handling of reactive and incompatible wastes.

The corrective action section contains requirements and procedures that the facility must follow to address hazardous waste contamination at existing or newly-identified solid waste

management units. Based on a file review and a facility inspection by EPA and DHS, a RCRA Facility Assessment document has been prepared.

PUBLIC PARTICIPATION

Section 7004(b) of RCRA and Title 40 Code of Federal Regulations require that the public be given 45 days to comment on the draft permit. The comment period for Romic Chemical Corporation will begin on November 15, 1989 and remain open until December 30, 1989. Originally, the public notice was issued on October 18, 1989, however the notice did not get published in the requested newspaper on that date. Therefore, this notice is being reissued to coincide with the newspaper notice.

Comments on the draft permit, permit modification, operation plan and supplementary documents, and the negative declaration must be made in writing and submitted to:

Paris M. Greenlee
Waste Management Engineer
Department of Health Services
Toxic Substances Control Program
Region II,
2151 Berkeley Way, Annex 7
Berkeley CA 94704

and,

Comments on the draft permit, operation plan and supplemental documents to:

Tom Canaday, EPA - Region 9 (H-3-2)
211 Main Street
San Francisco, CA 94105

Written comments will be accepted for 45 days from the date of this notice on the EPA Draft Permit at the EPA address and on the Modified State Permit and Negative Declaration at the DHS address above. An extension of the comment period may be granted if the request for an extension adequately explains why more time is required to prepare comments. A public hearing will be held if there is a significant degree of public interest. Submit requests for a public hearing, including the issues to be raised, to either of the contacts listed above. Written requests for a public hearing must be received by December 30, 1989.

Final decisions to approve, modify or deny the permit will be made after all comments have been considered. Notice of the final decision will be given to the applicant, and to each person who has submitted written comments or requested notice of the final decision.

Oral Report to Planning Commission Re: Romic Design Review Application

March 20, 1990

The applicant is proposing the construction of five new buildings on the existing plant site. Three of the five buildings are to be used for the storage or processing of hazardous materials. An additional 10,000 square feet of storage area would be added, although the applicant contends that this would not constitute an increase in plant capacity.

I would first like to summarize the results of the staff's initial environmental review of the project, which resulted in the conclusion that a full Environmental Impact Report will be necessary if the project is to be approved. I will then discuss staff's recommendation that the application be denied, based on specific zoning ordinance provisions.

Beginning with the initial study, state and federal environmental law states that an environmental impact report should be prepared in cases in which a proposed project has the potential for significant environmental effects which cannot necessarily be mitigated through project design. The California Environmental Quality Act guidelines contain a list of significant effects, several of which may apply to the Romic application. For example, CEQA contends that a project will normally have significant effects on the environment if it will conflict with the adopted environmental plans or goals of the community, expose people or structures to major geologic hazards or involve the use, production, or disposal of materials which pose a hazard to the area's population.

Regarding the project's conflict with existing local ordinances, this proposal appears to violate both ordinance 25-83, pertaining to areas of special flood hazard, as well as Section 6324.6 (d) of the zoning ordinance, which prohibits the manufacturing and storage of potentially hazardous materials in any hazard area.

Concerning the exposure of people and buildings to geologic hazards, the project site would be subject to strong shaking in the event of an earthquake of maximum feasible intensity. This fact, combined with the fact that the project is located entirely within a flood hazard zone, poses potential threats to the public safety. The County Hazardous Materials Plan calls for a geotechnical investigation to determine adequate foundation requirements and additional seismic safety measures to reduce the likelihood of a hazardous material release to an acceptable level.

Finally, with regard to the production and storage of hazardous materials, three of the five proposed buildings would be devoted to these purposes. Moreover, staff has found that the applicant has received letters dating as far back as April 14, 1989 from the federal Environmental Protection Agency citing numerous violations, including the unsafe stacking of storage drums. Although representatives of the applicant have misleadingly characterized this situation as one in which they have merely received some friendly advice from the Fire District and the EPA, the fact is that Romic is presently subject to fines totalling up to \$25,000 per day for existing violations. While agencies such as the County Health Department and the Fire District have been aware of these violations all along, the City of East Palo Alto has never received copies of any correspondence on this matter. We learned of the EPA warning letters only upon obtaining copies of letters which had been sent to the fire district. It is also worth noting that the Romic site is already on the federal EPA Superfund list of potential uncontrolled hazardous waste sites.

For all of the reasons I have just discussed, I have made the determination that an Environmental Impact Report should be required in the event that the project is to be approved. A full EIR will allow for the consideration of other alternatives for improved plant safety which do not require the construction of additional storage area in the flood hazard zone.

I would now like to move on to a discussion of staff's recommendation to deny the Design Review application. The basis of this recommendation is a provision in Ordinance 25-83 which prohibits the storage or processing of materials which are hazardous in time of flooding in areas of special flood hazard. Since the project is located entirely in a special flood hazard area and since the proposed use is clearly prohibited in such areas, my recommendation is that the application be denied.

Nancy Templeton, East Palo Alto Sanitation District, was present to respond to questions.

Commissioner Curry inquired whether a vehicle storage building was to be built, and Applicant answered in the affirmative.

Commissioner Goodwill stated that he wants all construction to be completed before the buildings are occupied.

Commissioner Harris reminded Applicant that another appearance for Design Review would be necessary.

Commissioner Curry moved, seconded by Commissioner Becks, to close the hearing. Motion passed, with Commissioner Franco abstaining.

Commissioner Harris stated that there was a need for landscaping and fencing for buffers between the commercial and R-1 zone properties. He proposed a condition that all new construction be subject to Design Review by the Planning Commission.

Commissioner Goodwill stated that he had looked at the property and feels that it is an appropriate location.

Commissioner Goodwill moved, seconded by Commissioner Curry, to approve the application. Motion passed, with Commissioner Franco abstaining.

(B) DR90-1 Design Review of a proposal to construct five buildings at 2081 Bay Road

Staff report was presented by Gaither Loewenstein.

City Attorney Harold Toppel pointed out that there are fundamental differences in Staff's views and Applicant's views. He noted that the Applicant feels that the construction would make the site safer and reduce danger, and that Staff desires an EIR.

Staff agreed that Applicant's proposal may make the site safer, but pointed out that this may be only one alternative. He stated that there may be other alternatives to improve safety without the construction of additional buildings, but that an EIR was necessary to find these alternatives. Staff feels that by creating new facilities, storage would be increased and could result in long-term storage for hazardous waste. He also noted that this may prevent clean industry from coming in.

Commissioner Becks suggested that capacity storage be stipulated to as a condition, but Mr. Toppel indicated this was not a determination to be made by the Planning Commission, that this was a regulated matter.

The public hearing was opened.

Mr. Mike Schneider, President of Romic Chemical Company, addressed the Planning Commission and stated that there were no fines pending against his company and there were no outstanding actions. He also stated that the company was not on a superfund list.

Mr. Brad Lamont, Operations Manager of Romic Chemical, addressed the Planning Commission and gave an overview of the company's operational procedures. He addressed the fire in May of 1989 and outlined the company's plans for improving safety and efficiency including fire safety recommendations. He stressed that the proposed improvements would improve safety at the plant and benefit the community.

Mr. Gene Sullivan, Fire Marshal, addressed the Planning Commission and stated that he had had a meeting with Applicant and that everything at the plant appeared to be up to code. He indicated that the proposed improvements would make the plant safer and would be able to put a potential fire out before the fire department even arrived. He stressed that the plans would not increase anything, only make it safer.

Mr. Rod Keefer, Fire Inspector, addressed the Planning Commission and explained that the plan provided for the separation of incompatible materials.

Mr. William L. McClure, the Attorney for Romic Chemical Company, addressed the Planning Commission and distributed a letter dated March 20, 1990, addressed to the Commission. He emphasized that the plans would not be adding storage but separating what is already being stored. He cited the Fire Code, Section 6659.4, "Standards for Storage of Materials and Equipment," interpreting it to be applicable in time of flooding. He stated that code adherence is not required if storage is over 100-year flood plain level. He noted that the buildings would all be built above the flood plain level. He pointed out that the EPA permits hazardous waste to be stored in potential flood areas.

Mr. McClure reposed to questions posed by Commissioner Curry, indicating that the company operates at varied levels of allowed capacity, with the capability of reaching the maximum capacity of 5,000 barrels at any one time. He further stated that Romic had not paid any fines within the last 12 months.

Leland Francios, 915-B Arno Way, addressed the Planning Commission.

Mr. Schneider again addressed the Planning Commission, encouraging Commissioners Curry and Franco to tour the facility. He stated that his company already had some of the system ready to install.

Commissioner Harris moved, seconded by Commissioner Becks, to close the hearing. The motion passed.

Commissioner Harris stated that there was too much new information, and suggested continuing the matter. He does not feel he can make a decision on the matter at this time.

Mr. Loewenstein reiterated his belief that the plans do not qualify for exemption and that an EIR is necessary.

Mr. McClure noted that it was up to the Commission to make the exemption determination.

A ten-minute recess was called at 9:35 p.m.

A motion by Commissioner Becks, seconded by Commissioner Goodwill, was made to vote on approval of the categorical exemption and the Design Review. The motion was carried.

The categorical exemption and the Design Review was approved by the following roll call vote:

Ayes: Commissioners Becks, Goodwill, Curry and Franco
Abstain: Commissioner Harris

Commissioner Goodwill excused himself and left the meeting at 9:50 p.m.

(C) UP90-1 Use Permit to allow second dwelling at 1825 Stevens

Staff report was presented by Gaither Loewenstein.

Commissioner Harris declared the public hearing open.

Mr. Ram Chander, the Applicant, 1417 Beacon Avenue, San Mateo, was present to respond to questions.

Commissioner Curry stated that he would like to see drought-tolerant plants used for landscaping. He inquired whether Applicant would be moving into one of the units, and Applicant replied in the affirmative and noted that his house in San Mateo was for sale.

Mr. Toppel said that land use can be discussed at this meeting, and then Applicant can return to discuss his plans.

Ms. Mary Flamer, 1820 Stevens Avenue, addressed the Planning Commission and stated her concern that Applicant may not live in one of the units. She stressed the importance of having the owner live on the property to avoid problems presently existing with renters, including possibly drugs.

Commissioner Becks moved, seconded by Commissioner Harris, to close the public hearing. The motion passed.

CITY OF EAST PALO ALTO

DATE: March 23, 1990

MEMORANDUM

Harold Toppel, Law Offices of Atkins & Farasyn
TO: Stan Hall, City Manager *AHA, JW*
FROM: Legal Opinion Regarding Interpretation of Flood
SUBJECT: Zone Ordinance

=====
It is my understanding that the Planning Commission voted 4-0 with one abstention in favor of the design review application by Romic Chemical.

As you know, Gaither Loewenstein of our Planning Department had recommended against approval pending the resolution of issues surrounding a violation of the federal flood zone map requirements.

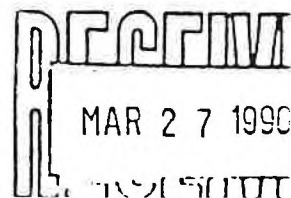
I have been advised that there will be an appeal by a number of citizens regarding the Planning Commission's decision.

Further, I was advised that you had pointed out to the Planning Commission that there appears to be a difference of interpretation of the law between that rendered by our Planning staff and that rendered by the legal and consulting staff of Romic Chemical.

Inasmuch as this matter will be brought to the attention of the City Council, I will need from you a legal opinion as to the position that the City has legally regarding this entire matter taking into consideration the opinion of the attorney and staff of Romic Chemical, as well as the opinion rendered by the City Planning staff. Your comparison and analysis will be very helpful in giving appropriate advice and direction to the City Council as they consider this matter.

Your prompt attention will be greatly appreciated. If there are any questions, please advise accordingly.

cc: William Vines - Mayor
John Bostic
Warnell Coats
Barbara A. Mouton
Pat Johnson
Gaither Loewenstein
Neal J. Martin
Lynda Rahi



CITY OF EAST PALO ALTO

March 26, 1990

Mr. H. M. Schneider, President
Romic Chemical Corporation
2081 Bay Road
East Palo Alto, CA 94303

Dear Mr. Schneider:

The East Palo Alto Planning Commission, at its Regular Meeting on March 21, 1990, voted to approve your company's application for design review of a proposal to construct five new buildings (DR90-1).

In addition, the Commission found the project to be categorically exempt from the provisions of the California Environmental Quality Act.

This decision is subject to appeal through the City Clerk within ten calendar days. If you have any further questions, please feel free to contact me.

Sincerely,



Gaither Loewenstein
Interim Planning Director

GL/akh

D#23Plan-gl03269b

CITY OF EAST PALO ALTO

March 26, 1990

Memo To: Hal Toppel, City Attorney
From: Gaither Loewenstein, Interim Planning Director *gl*
Subject: Environmental Review of Romic Application

As you are aware, the Planning Commission voted on March 20, 1990 to find the Romic application for plant expansion to be categorically exempt from the provisions of CEQA. This action was apparently taken on the advice of Romic's attorney, Bill McClure, who has claimed that the project is exempt under Section 15302 of the Government Code. This section allows for "replacement of a commercial structure with a new structure of substantially the same size, purpose and capacity". Although it can be argued that the proposed buildings are nowhere near the "same size" as the existing structures, it may not be necessary to make this argument.

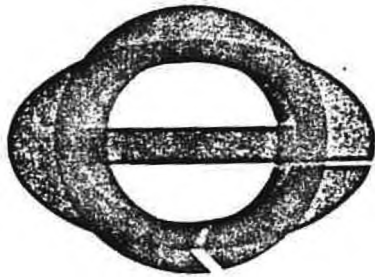
Early on in Article 19 of CEQA, which contains the provisions cited by Mr. McClure, a list of exceptions is provided, whereby projects which are normally exempt may be subject to environmental review. Specifically, Section 15300.2(c) states that "A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances". As I detailed in my written and oral staff reports to the Commission, such circumstances clearly exist in this case, due to the presence of the facility in a special flood hazard zone. It is my opinion, therefore, that the decision to approve a categorical exemption may be of questionable legal veracity.

I should also point out in this regard that Section 15064(2) of CEQA states that "If there is a disagreement between experts over the significance of an effect on the environment, the Lead Agency shall treat the effect as significant and shall prepare an EIR".

For all of the above reasons, I remain convinced that an Environmental Impact Report should be required for this project. I would be interested in your interpretation on this matter.

cc: Stan Hall, City Manager

ecology
and
economy
through
reclamation



ROMIC
CHEMICAL CORPORATION

Reclamation of Solvents, Chemicals for All Industries

2081 BAY ROAD

EAST PALO ALTO, CALIFORNIA 94303

TELEPHONE (415) 324-1638

April 9, 1990

FAX: (415) 324-2965

William Vines
City of East Palo Alto
865 Runnymede
East Palo Alto, CA 94303

Dear Mayor Vines:

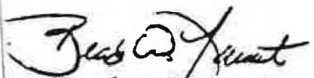
It has come to our attention that an appeal has been filed over the recent decision by the East Palo Alto Planning Commission to approve Romic Chemical's Design Review Plan. We understand that this appeal will be included on the agenda for the April 16th meeting of the East Palo Alto City Council. In an attempt to keep you as informed as possible, we are enclosing a copy of our Design Review Application.

The application is very straightforward. We would like to emphasize that these improvements in no way increase capacity or process capabilities. Our primary purpose is to improve the safety and work efficiency of our operation. The improvements are the result of a series of meetings between Romic and several of our resources. The Menlo Park Fire Protection District has been exemplary in providing ideas, comment and guidance.

Putting the politics of redevelopment aside, I feel if you take the proposed improvements at face value you have to conclude that they are both logical and necessary. Even taken within the context of redevelopment, the improvements clearly fall within the recommendations of the Draft Environmental Impact Report for the Ravenswood Industrial Area Redevelopment Plan. The plan states that "Siting and design of buildings on the 81-acre parcel should incorporate fire safety features approved by Menlo Park Fire Protection District." By submitting our Design Review Plan, Romic is trying to be consistent with the City's own findings.

I hope that the City Council supports the Planning Commission's decision. If you need any further information, please do not hesitate to call. If you would like to tour our facility and discuss these improvements in greater detail, we would be happy to accommodate you.

Sincerely,


Brad W. Lamont
Operations Manager

cc: Eugene Sullivan, Menlo Park Fire Protection District
Planning Commissioners
Stan Hall

ATKINSON · FARASYN

ATTORNEYS AT LAW

660 WEST DANA STREET

P.O. BOX 279

MOUNTAIN VIEW, CALIFORNIA 94042

(415) 967-6941

J. M. ATKINSON (1892-1982)
L. M. FARASYN (1915-1979)

PAUL B. SMITH
LEONARD J. SIEGAL
HAFOLD S. TOPPEL
ROBERT K. BOOTH, JR.
STEVEN G. BAIRD

April 13, 1990

Mr. Stanley Hall
City Manager
City of East Palo Alto
2415 University Avenue
East Palo Alto, CA 94303

Re: Application of Flood Zone Ordinance to
Property Owned by Romic Chemical Company

Dear Stanley:

You have requested our opinion concerning application of the City's Flood Zone Ordinance to the property owned by Romic Chemical Company. Specifically, the question has been raised as to whether such ordinance prohibits any and all storage of hazardous materials within a designated flood zone, as argued by the City's Planning Director, or whether such storage is prohibited only if the material is located at or below the elevation which is subject to flooding, as argued by legal counsel for Romic Chemical.

The provision which is the subject of this dispute is contained in Ordinance No. 25-83 adopted by the City on January 3, 1984. It is our understanding that this ordinance is virtually identical to the model flood plain management ordinance prepared by the state for adoption by local agencies as a requirement for participation in the Federal Flood Insurance Program. It would appear that the same ordinance was adopted by the County of San Mateo. There is no dispute that the property owned and operated by Romic Chemical Company is located within an area subject to flooding, as designated on the FEMA (Federal Emergency Management Agency) Map prepared for the City of East Palo Alto. Although the risk of flooding may have been reduced through the construction of levies and other preventive measures to control flood water, the official map has not been changed and the City must deal with the designation of the property as it currently exists.

The question of interpretation relates to Section 6659.4 of the ordinance, entitled "Standards for Storage of Materials and Equipment," which reads as follows:

"(a) The storage or processing of materials in areas of special flood hazard that are,

Mr. Stanley Hall
City Manager
City of East Palo Alto
April 13, 1990
Page 2

in time of flooding, flammable, explosive or that could be injurious to human, animal, or plant life is prohibited.

- (b) Storage of other material or equipment in areas of special flood hazard may be allowed in accordance with applicable statutes, ordinances and health and safety regulations if not subject to major damage by floods and if firmly anchored to prevent flotation and if readily removable from the area within the time available after flood warning."

It is the position of the Planning Director that paragraph (a) quoted above flatly prohibits any and all storage of hazardous materials under any circumstances within a designated flood zone. Under this interpretation of the ordinance, the business presently conducted by Romic Chemical would presumably become a nonconforming use, although it could be argued that Romic would be entitled to apply for a variance to allow continuation of such use.

In contrast to the interpretation advanced by the Planning Director, the attorney for Romic has argued that the words "in time of flooding" contained in paragraph (a) means that the storage of hazardous materials is prohibited in areas below the flood line that would result in contact between such materials and flood waters, but storage would be allowed if the materials are kept above the elevation which is subject to flood hazard. Romic's counsel further argues that this interpretation is supported by paragraph (b) of Section 6659.4, which refers to the storage of "other material" (i.e. nonhazardous) in areas that would be subject to inundation in the event of flood. The storage of such materials would be allowed if they are not subject to water damage and if they are firmly anchored to prevent flotation. Romic's counsel thus concludes that paragraphs (a) and (b) merely establish different standards for the storage of hazardous and nonhazardous materials, with the former being required to be elevated to the point where no contact with water will occur in time of flood.

As indicated above, Ordinance No. 25-83 is a uniform law prepared by the state for adoption by local agencies. In 1987, the state issued a revised "Model Floodplain Management Ordinance" to replace the earlier version. This model ordinance should have been adopted by the City of East Palo Alto to supersede Ordinance No.

Mr. Stanley Hall
City Manager
City of East Palo Alto
April 13, 1990
Page 3

25-83, but apparently such action was never taken. The significance of the revised ordinance is that it contains no provision comparable to Section 6659.4 concerning standards for storage of materials and equipment. If the policy of the Federal Emergency Management Agency or the Federal Insurance Administration was to prohibit the storage of hazardous materials within a potential flood zone, regardless of the elevation at which such materials are stored, one would expect such prohibition to be expressly articulated in the ordinance. Instead, the revised model ordinance merely requires that certain construction designs and methods be used for nonresidential projects, such as elevation or floodproofing of the structure. As a basis of comparison, the revised model ordinance would tend to suggest that Section 6659.4, as applied to the storage of hazardous materials, was intended to be a standard rather than a prohibition.

With respect to the language of the existing ordinance, we are advised that Romic's legal counsel has communicated with representatives of the Federal Emergency Management Agency, the State of California and the County of San Mateo, all of whom apparently interpret Section 6659.4 as requiring that hazardous materials be elevated above the flood plain, but otherwise would allow such materials to be stored within an area of potential flooding. Presumably, a written statement to this effect will be obtained from each of these agencies by Romic's attorney and presented to the City Council at the time of the hearing on the appeal. Since we are dealing with a uniform law, it is entirely appropriate to consider statutory interpretations made by other governmental agencies operating under the same law. I would consider these interpretations to be particularly persuasive if made by those agencies responsible for the preparation of the model ordinance or administration of the Federal Flood Insurance Program.

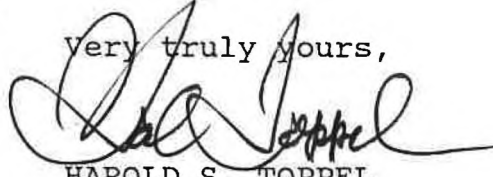
At the time the Romic application was heard by the Planning Commission, I advised the Commission that Ordinance No. 25-83 was still a locally adopted ordinance and if a question of interpretation was presented, the Commission had authority to resolve that question. I would give the same advice to the City Council. Section 6659.4 is certainly ambiguous to some extent and the opposing interpretations advanced by the Planning Director and Romic's legal counsel are neither arbitrary nor capricious. I do not believe this is a legal question having only a single answer. It is a question of statutory interpretation to arrive at a decision that makes sense under the circumstances. The Planning Commission felt that Section 6659.4 did not, in itself, prohibit the business currently being conducted by Romic upon its property.

Mr. Stanley Hall
City Manager
City of East Palo Alto
April 13, 1990
Page 4

Based upon testimony presented by the Menlo Park Fire District, the Planning Commission concluded that the improvements were required in order to increase the level of safety at the Romic facility. Furthermore, as indicated by the Fact Sheet published by the State Department of Health Services, the proposed improvements would not expand the treatment and storage capacity of the Romic plant. As long as such new improvements were constructed above the minimum elevation prescribed by the FEMA Map, the Commission decided that the project would not violate paragraph (a) of Section 6659.4. From a legal point of view, I have no problem with this decision.

If there is any additional information concerning this matter which you feel I can provide, please give me a call.

Very truly yours,



HAROLD S. TOPPEL
East Palo Alto City Attorney

HST/ns

cc: Mr. William Vines
Mr. John Bostic
Mr. Warnell Coates
Ms. Barbara Mouton
Ms. Pat Johnson
Mr. Gaither Lowenstein
Ms. Lynda Rahi

CITY OF EAST PALO ALTO

RECEIVED

APR 18 1990 4:32

CITY OF EAST PALO ALTO
CITY CLERK'S OFFICE

April 18, 1990

Memo To: Harold Toppel, City Attorney
From: Gaither Loewenstein, Interim Planning Director
Subject: Categorical Exemption of Romic Application

I have reviewed the court decision in the case of Dehne v. County of Santa Clara, 115 Cal. App. 3d 827(1981), upon which Bill McClure has based his argument that the Romic project is categorically exempt from CEQA. I believe that this case is irrelevant to the Romic application, since the Santa Clara plant was not located in a hazardous zone. As I indicated in my March 26 memo, Section 15300.2(c), which is found in Article 19, upon which Dehne v. County of Santa Clara is based, clearly states that "a categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances". In this case, it is evident that such circumstances indeed exist, by virtue of the presence of the Romic facility in a flood zone which is subject to strong shaking in the event of an earthquake.

Please give me your interpretation of the above passage and its applicability to the Romic categorical exemption. I would also appreciate an interpretation of Section 15064(2) of CEQA, as I requested in my March 26 memo. I remain convinced that the decision to grant a categorical exemption in this case was inconsistent with State law.

cc: [REDACTED]

CITY MANAGER AGENDA SUMMARY SHEET

ORIGINATING DEPT: Planning DATE 5-3-90

BACK-UP MATERIAL:

RESOLUTION _____ REPORTS X MAPS _____ NOTIFICATIONS ✓

PUBLICATIONS _____

BACKGROUND SUMMARY: Subject: Appeal of Planning Commission

Decision Re: Romic Chemical Corp.

The planning commission approve design review for Romic chemical plant expansion. Mr. John Coyle has appeal the decision approved by the planning commission.

Stanley Hall
Signature

CITY MANAGER REVIEW SUMMARY & COMMENTS:

I have review this subject matter and concur with the staff position.

Stanley Hall
Signature

RECOMMENDATION:

Grant the appeal - overturn the decision of the planning commission

APPROVAL FOR AGENDA: YES ✓ NO _____

COUNCIL AGENDA: ✓ AGENCY AGENDA

JORGENSEN, COSGROVE, SIEGEL,
McCLURE & FLEGEL
ATTORNEYS AT LAW
1100 ALMA STREET, SUITE 210
MENLO PARK, CALIFORNIA 94025-3392
(415) 324-9300

TELECOPIER:
(415) 324-0227

JOHN D. JORGENSEN
JOHN R. COSGROVE
MARVIN S. SIEGEL
WILLIAM L. McCLURE
JOHN L. FLEGEL
JULIA A. MANDEVILLE

May 7, 1990

City Council of East Palo Alto
City of East Palo Alto
2415 University Avenue
East Palo Alto, CA 94303

Re: Appeal of Design Review Approval
DR90-1
Romic Chemical Corporation
2081 Bay Road
East Palo Alto, CA

Dear Council Members:

We have reviewed the Staff Report submitted by Stanley H. Hall and the Interim Planning Director recommending that the City Council grant the appeal of John Coyle and overturn the decision of the Planning Commission approving Romic Chemical Corporation's Design Review Application (DR90-1) for the construction of five buildings at 2081 Bay Road.

The appeal of Mr. Coyle is based upon the mistaken belief that the Planning Commission "voted to waive the EIR for the Romic Chemical application." To the contrary, the Planning Commission made findings that the proposed project was categorically exempt from CEQA.

Public Resources Code section 21084 provides for the categorical exemption of certain projects from CEQA requirements as more particularly set forth in regulations adopted by the Secretary of Resources. 14 Cal. Admin. Code section 15302 provides a categorical exemption for "the replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity of the structure replaced." In Dehne v. County of Santa Clara (1981) 115 Cal.App.3d 827, the Court of Appeals held that a modernization plan for a Kaiser Cement Manufacturing Plant which replaced the old facility with a new plant to meet pollution control and energy standards, increased the size of and repositioned new buildings within the existing 4-6 acres of their facilities was categorically exempt. The project was determined to be categorically exempt even

though the new plant substantially extended the useful economic life of the old facility, thereby prolonging the adverse environmental effects caused by the old plant, which without modernization, might have closed in the near future.

Here as in the Dehne case, Romic is simply modernizing its existing operations without any change in the purpose or capacity of the facility. The purpose of the modernization is to implement various safety recommendations by the EPA, DHS, and the Fire District. All of the new construction will occur on the site of Romic's existing facility. For these reasons, Romic's Design Review Application and proposed construction activities are categorically exempt from CEQA.

The State Department of Health Services (DHS) has been reviewing Romic's application for a Hazardous Waste Treatment Storage Permit, which includes all of the improvements contained in this application. In connection with that application, DHS prepared its own environmental check list. Contrary to the findings of the City's staff, DHS concluded that the exact same project could not have a significant effect on the environment.

In its reports, the staff states that the fact that "the site is located in a flood hazard area and the significant probability that the site will be subject to strong shaking and possible liquefaction in the event of an earthquake of maximum feasible intensity," indicates that the City should require a full blown EIR, thus delaying construction of these various safety improvements. It should be pointed out that this project will be constructed to meet California's vigorous earthquake standards and all state and federal guidelines for construction of hazardous waste facilities. The Environmental Protection Agency (EPA) has adopted specific regulations which authorize the location and construction of hazardous waste facilities within a flood plain, provided they are "designed, constructed, operated and maintained to prevent washout of any hazardous waste by a 100 year flood." (40 CFR Ch.1 §264.18.) This project has been designed to meet these EPA regulations and applicable FEMA regulations to avoid any washout of hazardous material during a 100 year flood.

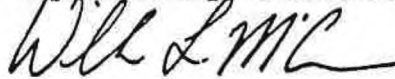
With respect to the issue of capacity, Romic Chemical Corporation is currently permitted by the State Department of Health Services (DHS) under its Hazardous Waste Facility Permit issued pursuant to Federal Environmental Protection Agency (EPA) Regulations to store up to 5,000 barrels of hazardous waste and materials on site. The construction of

the new drum storage building will simply allow safer storage of drummed hazardous waste permitting Romic to store the drums two barrels high instead of three barrels high. Any change or increase in capacity would require modification of Romic's Hazardous Waste Facility Permit.

In reviewing the Staff Reports to the City Council and the appeal letter from Mr. Coyle, we feel that no new issues or information has been raised which was not considered by the Planning Commission during their deliberations and approval of Romic's Design Review Application.

In conclusion, we feel that it is in the best interest of Romic, the City of East Palo Alto, and the residents of the City that these needed health and safety improvements be implemented as soon as possible. Accordingly, we respectfully request that you deny the appeal and uphold the decision of the Planning Commission approving Romic's Design Review Application.

Respectfully submitted



William L. McClure

WLM:csk

Enclosures

cc: Romic Chemical Corporation

CITY OF EAST PALO ALTO

ORAL REPORT FROM INTERIM PLANNING DIRECTOR TO CITY COUNCIL RE: ROMIC APPLICATION

May 7, 1990

On March 20, 1990, the Planning Commission voted to approve the Romic Chemical expansion application and to find the project categorically exempt from the provisions of the California Environmental Quality Act (CEQA). I would like to briefly summarize the concerns of staff regarding both the Design Review approval and the decision to exempt this project from further environmental review.

Beginning with the issue of the categorical exemption, Section 15300.2(c) of CEQA states that "a Categorical Exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances". In this case, there are numerous circumstances which can be said to be unusual, including the nature of the materials to be processed and stored in the proposed new buildings, the fact that the site is located in a flood hazard area and the significant probability that the site will be subject to strong shaking and possible liquefaction in the event of an earthquake of maximum feasible intensity. For all of these reasons, a categorical exemption is a totally inadequate environmental review mechanism for this application. The wording of Article 19 which I have just cited makes this abundantly clear. Staff is therefore convinced that in order to be consistent with State environmental law a full Environmental Impact Report must be prepared for this project.

Regarding the Design Review approval itself, staff initially recommended to the Planning Commission that the project be denied. This recommendation was based on a provision of an East Palo Alto ordinance which states that the storage of materials which are hazardous in time of flooding is prohibited in a flood zone area. Although Romic's attorneys have disputed staff's interpretation of this provision, the City Attorney has concluded that both staff's and Romic's interpretations are legally plausible. The decision, therefore, appears to be in the hands of the City Council. Staff continues to recommend that this project be denied based on the fact that it involves the storage and processing of hazardous materials in a flood zone area.

In closing, I feel that it is essential that the issue of capacity expansion be addressed. When the applicant and other supporters of this project state that the application does not involve an increase in capacity, they simply mean that they are not applying to the State for an increase in capacity at this time. Once the expanded facility is approved and built, there is nothing preventing Romic from applying to the State for an increase in permitted capacity, a decision over which the City would have no legal authority. The applicant has provided no assurances that this will not

be the case. Therefore, the only way to assure that the capacity of this plant will not be expanded in the future is for the City Council to deny the Romic Design Review application.

It is possible that other options exist for improving plant safety without expanding the size of the plant. A full Environmental Impact Report would make these options more clear. Under the present circumstances, however, staff continues to recommend that the project as proposed be denied.

ATKINSON · FARASYN

ATTORNEYS AT LAW

660 WEST DANA STREET

P.O. BOX 279

MOUNTAIN VIEW, CALIFORNIA 94042

(415) 967-6941

PAUL B. SMITH
LEONARD J. SIEGAL
HAROLD S. TOPPEL
ROBERT K. BOOTH, JR.
STEVEN G. BAIRD

J. M. ATKINSON 1892-1982
L. M. FARASYN 1955-1979

M E M O R A N D U M

TO: Honorable City Council
City of East Palo Alto

FROM: Robert K. Booth, Jr.
City Attorney

DATE: May 30, 1990

RE: CEQA Requirements - Romic Application

In connection with your consideration of the design review application of Romic Chemical on June 4, 1990, the following is information regarding the California Environmental Quality Act (CEQA). Per your request, the City Planner, Mr. Toppel and I have met and discussed this subject extensively and this report represents the opinion of both departments.

CEQA applies to any project for which a discretionary approval must be obtained from a public agency (Public Resources Code §21080), except that there are a large number of categories for which CEQA review is not authorized. If a project is exempt from CEQA, no further action by the City Council is necessary.

It is our understanding that following a fire several months ago, Romic, in conjunction with the Menlo Park Fire District, agreed to make a number of improvements, including sprinkling, relocation of certain buildings, and a reduction in stacking height of drums from three tiers to two tiers, necessitating construction of additional sheds. It is further our understanding that there is no evidence that any expansion of the number of drums, the amount of materials processed or stored, or

any other type of expansion of the facilities is covered in the instant application. Some persons have speculated that future expansion may be in Romic's plans; until such an expansion is in fact applied for, CEQA would not apply. We recommend that approval of the current application by the City Council include a condition that any increase in capacity for the amount of materials processed, or storage, be first preceded by preparation of an environmental impact report (EIR) under CEQA.

We believe the instant application, because it does not contain any expansion, and because it is in response to serious fire safety concerns expressed by the Fire Department, is exempt from CEQA under Public Resources Code §21080(b) for "specific actions, necessary to prevent or mitigate an emergency."

In addition to the specific statutory exemption set forth above, Section 21084(a) authorizes the State and local agencies to develop by regulation, long lists of categorical exemptions. These are contained in 14 Cal. Administrative Code Sections 15000 and following.

The current project is exempt under a number of sections of the regulations. Section 15301 exempts repair or minor alteration of existing private structures, facilities, and mechanical equipment involving negligible or no expansion of use including plumbing and electrical systems and restoration or rehabilitation of deteriorated or damaged structures, facilities or mechanical equipment to meet current standards of public health and safety. Furthermore, under this section, although it is not a part of the instant application, additions to existing structures are exempt if no more than 50% of the floor area or 2,500 square feet is being added or 10,000 square feet if the area in which the project is located is not environmentally sensitive.

Furthermore, said section also exempts the addition of safety or health protection devices in conjunction with existing structures, facilities or mechanical equipment.

Section 15302 exempts replacement or reconstruction of existing structures and facilities where the new structure will be

located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced, including replacement of commercial structures with new structures of substantially the same size, purpose and capacity.

As noted above, the Staff and the City Attorneys' opinion is that the proposed project is categorically exempt under any or all of the foregoing sections. The Staff encourages the Council to place an appropriate condition that an environmental impact report be prepared before approval of any expansion, or capacity increase in the amount of materials processed or stored or other significant changes in use or operations of the facility.



Robert K. Booth, Jr.
City Attorney

RKB:fmc

cc: Stanley Hall
Bruce Balshone, City Planner

MEMBERS OF THE COUNCIL

WILLIAM VINES-MAYOR
JOHN BOSTIC-VICE MAYOR
PAT JOHNSON
BARBARA MOUTON
WARNELL COATS



DEPARTMENT OF COMMUNITY DEVELOPMENT
2200 UNIVERSITY AVENUE
EAST PALO ALTO, CA 94303
TEL: (415) 853-3189

DATE: May 30, 1990
TO: Stanley Hall, City Manager
FROM: Bruce Balshone *B.B.*
SUBJECT: Romic Chemical Corporate Design Review Application

You requested me to provide you with my opinion on whether the Romic Chemical Corporate, which locates at 2081 Bay Road, East Palo Alto, is expanding its facilities.

As you are aware, I am a relatively new employee of the City of East Palo Alto. My employment has been only three weeks. My involvement in the Romic Chemical case consists of being present at the City Council Meeting on May 7, 1990, where Mr. Gaither Loewenstein, the former interim planning director, prepared and delivered the staff report on the Romic appeal to the East Palo Alto City Council.

When I reviewed the Romic planning file, it was rather limited and unorganized that I was unable to make any conclusion on Romic's proposal. All the files in the Planning Department, as I have indicated verbally to you before, are unorganized.

Because of the short term of my employment with the City and the lack of information that I can find regarding this case, Mr. Loewenstein is far more qualified to make this interpretation on what type of expansion Romic is proposing under their design review application. May I suggest that you have Mr. Loewenstein prepare the staff report and make the presentation to the City Planning Commission on this matter since he had been working on this application and is more familiar with the case.