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RE FILE NUMBER _____

June 3, 1980

Selby Brown, Esq.
County Counsel
County of Santa Clara
70 West Hedding Street
San Jose, California

Re: Kaiser Aluminum Permanente Plant

Dear Selby:

This letter is in response to our recent telephone conversation. I understand that preparatory to our meeting now scheduled for your office for June 25 at 10:00 o'clock a.m., you desire that I provide you with some background facts concerning the land use history of the Kaiser Aluminum and Chemical Corporation property and the land use questions that we will be discussing.

I have for some time been attempting to gather information concerning the land use history of Kaiser Aluminum's Permanente property, but with mixed results thus far. Aluminum presently owns at Permanente approximately 155 acres adjoining a much larger tract of land, approximately 3,300 acres, owned by the Kaiser Cement Corporation. Although Cement and Aluminum each have the Kaiser name, any historical connection is now gone, and they are separate and distinct, publicly traded companies having different ownership and management.

Aluminum commenced operations at Permanente under the name "Todd-California Shipbuilding" when it purchased a portion of its present property in 1941 and erected and operated a magnesium plant used in the war effort. The plant was located on a 47.5 acre parcel of property, which parcel is now part of Aluminum's 155 acres.

In 1941 Aluminum contacted the County for necessary governmental building and use permits and was advised by the then District Attorney that no use permit was necessary for the magnesium plant under the then existing County ordinances.

In that same year, the company changed its name to Permanente Metals Corporation. (In 1949, the name was changed to the present

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corporate name.)

In 1942 the company desired to construct a ferro-silica plant on a different and smaller parcel of land at Permanente and again sought the County's advice. Mr. Nestor Barrett and others on behalf of the County advised Aluminum to submit plans and specifications and a use permit would be issued. We cannot now locate a copy of such permit and are thus unable to determine whether the same was in fact ever issued. In any event, contact was made with the County's building department and apparently any necessary building permits ultimately issued. Subsequent to the war, this property was sold to Cement.

In 1948 the company commenced aluminum foil operations. The magnesium plant was no longer in production. Today the property is used for the production of aluminum foil and aluminum research and development. The foil operations employ approximately 125 to 146 people and research and development employs about 42 people. The company has a very significant investment in buildings and equipment on the property including a sewage treatment facility.

Over the years, Aluminum has from time to time sought and obtained building permits from the County for new structures as needed until finally in 1979, a member of the County's planning staff (Lucas Stamos) advised that a then sought building permit for a minor improvement should not be issued on the basis that Aluminum's existing use appeared to be nonconforming.

In 1941 when Aluminum first began its use of the Permanente property, the lands were zoned A-1. This zoning remained until January, 1972, when the Board of Supervisors adopted an interim zoning ordinance pending the outcome of the Monte Bello Ridge Study. In 1973, (December 12, 1973) the property was rezoned "A". Prior to the rezoning a green belt strip of land had been zoned around the property of Cement and Aluminum as a buffer from encroachment by urbanization.

It appears that from 1937 until approximately 1954, Section 12 of the Zoning Ordinance governed the permitted uses in the then A-1

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zone. This ordinance provided that the uses permitted in an "A-1" zone "included all uses not otherwise prohibited by law" except that "any use for which a use permit is required for the establishment of such use in any M-2 (heavy industrial) district" required the obtaining of a use permit as provided in Section 35 of the 1937 zoning ordinance. This ordinance was amended in 1954 and 1960 when present Article 47 was adopted.

A portion of Aluminum's property is in the Cupertino Urban Service area. The Cupertino General Plan of June 22, 1976 shows the company's property as being industrial as does the County's "Plan for the Monte Bello Ridge Mountain Area" (1974) although this plan designates the industrial use as being "existing urban development." Aluminum does not desire to annex to Cupertino, nor does it believe that there would be any public benefit to such annexation.

We would like to discuss your views concerning the zoning status of the company's uses at Permanente and in particular whether because of the zoning and the effect of the zoning ordinance in existence at the time Aluminum's uses commenced, the present use should not be treated as conforming, see e.g. Section 38.7 of the County's Zoning Ordinances.

If I may be of any further assistance to you prior to our meeting, please advise.

Very truly yours,



THOMAS P. O'DONNELL

TOD:js