

City of Pittsburgh Planning Commission Agenda

January 24, 2017

**City Hall Council Chamber
65 Civic Avenue, Pittsburgh, CA 94565**

**Regular Meeting
7:00 P.M.**

Planning Commission Members

**Mark Gargalikis, Vice-Chair
Patrice Belleci-Shipe, Commissioner
James Coniglio, Commissioner
Wolfgang Croskey, Commissioner
A.J. Fardella, Commissioner
Oliver Guerrero, Commissioner**

Any member of the public who wishes to address the Commission should complete a Speaker's Card, available on the public counter below the dais. Please note on the card the agenda item number, or, for items not listed on this agenda, a brief description of the issue on which you would like to address the Commission. Give the completed form to the Minutes Clerk or a staff member, who will give the card to the Commission Chair. The Chair will invite the speaker(s) to the podium at the appropriate time during the meeting. Each individual will be given three minutes to address the Commission, unless additional time is allowed as provided for spokespersons. Prior to speaking, each speaker is requested to state his or her name and business and city of residence in a clear and audible tone of voice. For items listed under the "Public Hearings" or "Commission Consideration" portions of this agenda, the public hearing or public comment period will follow a brief presentation on the item by Planning Department staff and/or the project applicant.

A decision by the Planning Commission is not final until the appeal period expires 10 calendar days after the date the decision occurred. The applicant, City Council member(s), City Manager, or any affected person may appeal the denial, approval, recommendation, or any condition of approval of an item within the 10-day appeal period. A completed appeal form and the applicable filing fee must be filed with the City Planner, 65 Civic Avenue, Pittsburgh. The appeal form must include the name and address of the appellant and state the reasons for the appeal. The appeal will be set for City Council consideration and appropriate public notification given.

The Commission requests that you refrain from disruptive conduct during the meeting and that you observe the order and decorum of the Council Chamber. Please turn off or set to vibrate all cellular phones, and refrain from making personal, impertinent or slanderous remarks. Boisterous or disruptive behavior while the Commission is in session, and the display of signs in a manner that violates the rights of others or prevents others from watching or fully participating in the Planning Commission meeting is considered counterproductive and will not be tolerated, and the Commission Chair can order any person who engages in such conduct to leave the Council Chamber.

CALL TO ORDER

ADMINISTRATION OF OATH OF OFFICE

Planning Commissioner Oliver Guerrero

ROLL CALL

PLEDGE OF ALLEGIANCE

DELETIONS, WITHDRAWALS OR CONTINUANCES

COMMENTS FROM THE AUDIENCE

PRESENTATIONS

CONSENT

(All items listed under the "Consent" portion of the agenda are considered routine and are adopted under one motion. Any item appearing as a Consent item on this agenda will be considered separately only upon request from a member of the Planning Commission, staff or public.)

1. Minutes

Meeting Minutes of December 20, 2016

2. Marine Express Site Improvements – Extension of Approval of AP-12-864 (UP, DR).

This is a request for a one-year extension of approval for: 1) a use permit for the storage and handling of hazardous materials; and 2) design review of plans for site improvements to a 2.86-acre parcel currently being used as a small scale contractor yard. The proposed site improvements would facilitate the use of the property as contractor yard supporting Marine Express' upriver marine operations, and the storage and repair of Marine Express' fleet and equipment. The property is located at 695 East 3rd Street in the IG (General Industrial) District. Assessor's Parcel Number: 073-020-004.

PUBLIC HEARINGS

3. Recommendation on Amendments to Pittsburgh Municipal Code Title 18 Related to Permitting for Large Family Daycare Homes, AP-17-1214 (RZ).

This is a public hearing on a City-initiated proposal to consider an amendment to Title 18, Zoning, of the Pittsburgh Municipal Code (PMC) in order to permit large family daycare homes of up to 14 children, with limitations related to noise, parking, and

spacing/concentration, consistent with State law. The changes proposed would apply to all residential districts within the city.

WORKSHOP

4. Planning Commission Goals for FY 2017-18

This is a public workshop intended to facilitate a discussion between the Planning Commission and City staff regarding goals for the upcoming 2017-18 fiscal year.

ZONING ADMINISTRATOR REPORTS

STAFF COMMUNICATIONS

COMMITTEE REPORTS

ADJOURNMENT OF PLANNING COMMISSION MEETING

NOTICE TO PUBLIC

NOTICE TO THE DISABLED AND VISUALLY OR HEARING IMPAIRED

In compliance with the Americans with Disabilities Act, the city of Pittsburg will provide special assistance for disabled citizens. Upon request, an agenda for any meeting shall be made available in appropriate alternative formats. The Council Chamber is equipped with sound amplifier units for use by the hearing impaired. The units operate in conjunction with the Chamber's sound system. You may request the sound amplifier from the City Clerk for personal use during Commission meetings. If you need special assistance to participate in this meeting, or are requesting a specially formatted agenda, please contact the City Clerk at 925-252-4850. Notification 48 hours prior to the meeting will enable the city to make reasonable arrangements to ensure accessibility to this meeting or provide the requested agenda format. (28 CFR 35.102-35.104 ADA Title II)

GENERAL INFORMATION

Copies of the open session agenda packets that are distributed to the Planning Commission are on file in the office of the Planning Department, 65 Civic Avenue, Pittsburg, California, and are available for public inspection, beginning no fewer than 72 hours in advance of the meeting, during normal business hours (8:00 a.m. – 5:00 p.m., Monday through Friday, except city holidays). Additionally, if any reports or documents that are public records are distributed to the Planning Commission fewer than 72 hours before the meeting, those reports and documents will also be available for public inspection in the city's Planning Department and at the Commission meeting. The Pittsburg Library is also provided a full agenda packet for your convenience. As a courtesy, the agenda is also located on the city's website at www.ci.pittsburg.ca.us.

**MINUTES
OF A REGULAR MEETING
OF THE
PITTSBURG PLANNING COMMISSION**

December 20, 2016

A regular meeting of the Pittsburg Planning Commission was called to order by Acting Chair / Vice Chair Gargalikis at 7:00 p.m. on Tuesday, December 20, 2016, in the Council Chamber, City Hall, 65 Civic Avenue, Pittsburg, California.

ROLL CALL

Present: Acting Chair / Vice Chair Gargalikis, Commissioners Belleci-Shipe, Coniglio, Fardella

Absent: Commissioner Croskey

Staff: Senior Civil Engineer Richard Abono, Acting Planning Manager/Secretary Hector Rojas, Administrative Assistant Amanda McVey, Assistant City Attorney Nicholas Norvell, Associate Planner Jordan Davis, Contract Planner Christine Gregory

PLEDGE OF ALLEGIANCE

Bruce Ohlson led the Pledge of Allegiance.

DELETIONS / WITHDRAWALS / CONTINUANCES

There were no deletions, withdrawals or continuances.

COMMENTS FROM THE AUDIENCE

There were no comments from the audience.

PRESENTATION

There were no presentations.

CONSENT

1. Minutes of November 22, 2016
2. Harbor Park Minor Subdivision – Extension of Approval of AP-06-370 (MS-676-06).

A request for approval of a five-year extension for the Harbor Park Minor Subdivision (MS-676-06) and minor amendments to the tentative map's conditions of approval. The affected property is located at 420 East 3rd Street, within the CP (Pedestrian Commercial) and RMD-O (Downtown Medium Density Residential with a Limited Overlay, Ord. No. 07-1284) Districts. Assessor's Parcel No. 073-050-001.

On motion by Commissioner Fardella seconded by Commissioner Coniglio to approve the consent calendar and carried by the following vote:

AYES: Belleci-Shipe, Coniglio, Fardella, Gargalikis
NOES: None
ABSTAIN: None
ABSENT: Croskey

PUBLIC HEARINGS

3. Best Prices Auto Sales, AP-16-1179 (UP, DR).

A public hearing on a request for approval of a Use Permit and Design Review to allow auto sales on a 0.18-acre lot with an existing 1,118-square-foot building located at 301 Central Avenue, in the CS (Service Commercial) District. APN: 086-132-007.

Contract Planner, Christine Gregory gave a presentation.

Acting Chair Gargalikis opened the public hearing.

Nathan Thomsspoke as the applicant. Mr. Thoms stated he agreed to all conditions as presented.

There being no one to speak further on the item, Acting Chair Gargalikis closed the public hearing.

On motion by Commissioner Fardella, seconded by Commissioner Coniglioto approve and carried by the following vote:

AYES: Belleci-Shipe, Coniglio, Fardella, Gargalikis
NOES: None
ABSTAIN: None
ABSENT: Croskey

ZONING ADMINISTRATOR REPORTS

4. Notice of Intent to Exercise Delegated Design Review Authority and Submittal of Adopted Zoning Administrator Resolutions.

The Zoning Administrator submit one notice of intent to exercise delegated design review authority for a remodel of the Pittsburg Walmart store at 2203 Loveridge30 Road, and three resolutions previously approved under the delegated authority (Planning Commission Resolution No. 9918).

The Commission acknowledged receipt of the notice of intent and the previously approved resolutions.

STAFF COMMUNICATIONS

Acting Secretary Hector Rojas stated the Historic Resources Commission Meeting will be called to order immediately following the adjournment of the Planning Commission Meeting. He then stated to adjourn the meeting to January 10, 2017.

COMMITTEE REPORTS

Commissioner Fardella reported on the recent Land Use Sub-Committee meeting.

Commissioner Coniglio reported that Transpland did not meet.

ADJOURNMENT

The meeting was adjourned at 7:28 p.m. to January 10, 2017.

Hector Rojas, AICP, Acting Secretary

**CITY OF PITTSBURG
PLANNING COMMISSION
STAFF REPORT**

ITEM: No. 2 – Marine Express Site Improvements – Extension of Approval of AP-12-864 (UP, DR).

ORIGINATED BY: Randall Esch, Marine Express, Inc., P.O. Box 4008, Walnut Creek, CA, 94596

SUBJECT: This is a request for a one-year extension of approval for: 1) a use permit for the storage and handling of hazardous materials; and 2) design review of plans for site improvements to a 2.86-acre parcel currently being used as a small scale contractor yard. The proposed site improvements would facilitate the use of the property as contractor yard supporting Marine Express' upriver marine operations, and the storage and repair of Marine Express' fleet and equipment. The property is located at 695 East 3rd Street in the IG (General Industrial) District. Assessor's Parcel Number: 073-020-004.

RECOMMENDATION:

Staff recommends that the Planning Commission adopt Resolution No. 10054, extending approval of Use Permit and Design Review Application No. 12-864 for one year.

BACKGROUND:

This project was initially presented to the Planning Commission on August 12, 2014. At that meeting, the Commission conducted a public hearing and, by a vote of five to one, rejected the Initial Study and Mitigated Negative Declaration (IS/MND) and denied the application. The applicant appealed the Planning Commission decision, and on December 15, 2014, the City Council adopted Resolution No. 14-12216 (Attachment 2), adopting the IS/MND and approving a use permit for the handling of hazardous materials and design review of plans for site improvements. According to Condition No. 72 of Resolution No. 14-12216, the applicant was given two years to obtain building or grading permits for the project, or to submit a written request for extension of approval.

PROJECT DESCRIPTION:

On December 7, 2016, the applicant filed a written request to extend the approval period in order to allow additional time to acquire required state and federal permits, and to make required modifications to building and engineering plans submitted to the City. The applicant initially requested a three-year extension of approval; however, the Commission may only grant a maximum one-year extension, as described in detail in the "General Plan/Code Compliance," section, below.

Planning Commission Staff Report

Please refer to the attached staff report entitled, "Consideration of an Appeal of a Planning Commission Decision to Deny a Use Permit for Marine Express Site Improvements, AP-12-864 (UP, DR)," dated December 15, 2014, for a detailed description of the project and the findings made by the City Council to approve the project as presented.

GENERAL PLAN/CODE COMPLIANCE:

Please refer to the attached staff report entitled, "Consideration of an Appeal of a Planning Commission Decision to Deny a Use Permit for Marine Express Site Improvements, AP-12-864 (UP, DR)," dated December 15, 2014, for a for a detailed description of the project's compliance with the General Plan, Zoning Ordinance, and California Environmental Quality Act (CEQA).

General Plan/Zoning: The General Plan land use designation and zoning classification for the site have not changed since the initial project approval in December 2014.

Extension of Approval: When a written request for extension of approval is submitted within the effective period of approval, Pittsburg Municipal Code (PMC) section 18.28.080(A) authorizes the original reviewing body to extend the period for initially exercising a use permit for a maximum of one additional year. Additionally, PMC section 18.36.240 gives the Planning Commission authority to extend the period to obtain a building permit in relation to a design review approval upon written request. The entitlements authorized with adoption of Resolution No. 14-12216 were conditioned to expire on December 15, 2016 (Condition No. 72); the applicant submitted a timely request for extension of approval on December 7, 2016.

Environmental: An IS/MND evaluating the potential environmental impacts of this project was prepared in accordance with the guidelines and regulations of CEQA and adopted by the City Council as part of Resolution No. 14-12216. In accordance with CEQA Guidelines Section 15162, there have been no substantial changes to the project or, with respect to the circumstances under which the project is being undertaken, new significant environmental effects or a substantial increase in the severity of previously identified significant effects which require revisions to the IS/MND.

ANALYSIS:

Since receiving approval, the applicant has actively pursued development of the project. Plans were submitted to the City Engineering Division for review in October 2016, and the applicant is currently coordinating with the U.S. Army Corps of Engineers (Corps) to obtain required permits for dredging and filling activities along the waterfront. Unanticipated setbacks were incurred while attempting to identify the elevation of the high tide line in New York Slough at the project site; this activity was necessary to establish the jurisdiction of Corps. An updated application has been submitted to the Corps to determine the type of permit that will be required, and it is anticipated this decision will be reached within the next year.

Planning Commission Staff Report

Staff believes that there is good cause for a one-year extension of the approval at this time, as the extension will promote development of the currently vacant site and help avoid the site remaining undeveloped for a prolonged period of time.

ACTION REQUIRED:

Move to adopt Resolution No. 10054, approving a one-year extension of the term of approval of Use Permit and Design Review Application No. 12-864.

ATTACHMENTS:

1. Proposed Resolution No. 10054
2. Adopted Resolution No. 14-12216
3. City Council Staff Report, dated December 15, 2014
4. Minutes of the December 15, 2014, City Council Meeting
5. Approved Project Plans and Building Renderings, dated May 2014
6. Letter of Request for Extension of Approval, dated December 7, 2016
7. Vicinity Map

Prepared by: Jordan Davis, AICP, Associate Planner

PROPOSED
BEFORE THE PLANNING COMMISSION OF THE CITY OF PITTSBURG

In the Matter of:

Resolution Extending the Term of Approval of	Resolution No. 10054
a Use Permit for the Handling of Hazardous	
Materials, and Design Review of Plans for	
Site Improvements at a Contractor Yard,	
Located at 695 East 3 rd Street, for "Marine	
Express, AP-14-864 (UP, DR).")	

The Planning Commission DOES RESOLVE as follows:

Section 1. Background

- A. On July 31, 2012, Randall Esch, owner of Marine Express, filed Use Permit and Design Review Application No. 12-864, requesting: 1) a use permit approval for the handling of hazardous materials onsite; and 2) design review approval for site improvements to the 2.86 acre parcel, including landscaping, two paved driveways, a 168 square foot guardhouse, an eight-foot tall masonry wall, a 12-stall parking lot, a gravel storage area, concrete pads, a 60-foot by 80-foot slipway, and a 40-foot by 80-foot inlet slip for the moorage of marine vessels. The project site is located at 695 East 3rd Street, in the IG (General Industrial) District. Assessor's Parcel Number: 073-020-004.
- B. The proposed project is governed by the applicable goals and policies of the Pittsburg General Plan and the Pittsburg Municipal Code (PMC).
- C. An Initial Study (IS) evaluating the potential environmental impacts of this project was prepared in accordance with the guidelines and regulations of the California Environmental Quality Act (CEQA). Based on the analysis in that study, the Planning Manager determined that the potentially significant impacts from the project could be reduced to a less than significant impact with the incorporation of specific mitigation measures. Subsequently, a draft Mitigated Negative Declaration (MND) was prepared.
- D. On August 12, 2014, the Planning Commission conducted a public hearing and, by a vote of five to one, rejected the IS/MND and denied the application.
- E. On August 22, 2014, the applicant filed an appeal of the Planning Commission's decision to reject the IS/MND and deny the application.
- F. Subsequent discussions between staff, the project applicant, and consultants produced clarifications to the project description, specifically regarding APHIS (Animal and Plant Health Inspection Service) regulated garbage and sewage offloading. A clarifying document was prepared and attached to the IS/MND as

Appendix F.

- G. On December 15, 2014, the City Council conducted a public hearing to consider the appeal and subsequently adopted Resolution No. 14-12216, adopting the IS/MND and approving Use Permit and Design Review Application No. 12-856 for the Marine Express Site Improvements Project. The entitlements authorized with adoption of Resolution No. 14-12216 were conditioned to expire on December 15, 2016 (Condition No. 72).
- H. Upon written request submitted within the effective period of approval, PMC section 18.28.080 allows the original reviewing body to extend the period to exercise an approved use permit for up to one additional year, and PMC section 18.36.240 gives the Planning Commission authority to extend the period to obtain a building permit in relation to a design review approval.
- I. On December 7, 2016, the applicant filed a written request to extend the approval period authorized by Resolution No. 14-12216 in order to allow additional time to acquire necessary permits from the U.S. Army Corps of Engineers, and to make required modifications to building and engineering plans submitted to the City.
- J. Since the adoption of City Council Resolution No. 14-12216, there have been no General Plan or Zoning Ordinance amendments related to the affected property.
- K. The proposed project is subject to CEQA and the State CEQA Guidelines (Public Resources Code section 21080). On December 15, 2014, the City Council, with the adoption of Resolution No. 14-12216, adopted an IS/MND prepared for the project. Mitigation measures identified within the IS/MND were made conditions of the approval of the project. CEQA Guidelines Sections 15162 states that if there have been no substantial changes to the project, or, with respect to the circumstances under which the project is being undertaken, new significant environmental effects or a substantial increase in the severity of previously identified significant effects, no revisions to an adopted IS/MND shall be required.
- L. On January 24, 2017, the Planning Commission considered the request for a one-year extension of the term of approval of Use Permit and Design Review Application No. 12-864.

Section 2. Findings

- A. Based on the Planning Commission Staff Report entitled, "Marine Express Site Improvements – Extension of Approval of AP-12-864 (UP, DR)," dated January 24, 2017, and based on all the information contained in the Planning Division files on this project, incorporated herein by reference and available for review in the Planning Division located at 65 Civic Avenue, and based on evidence presented to the Planning Commission on January 24, 2017, the Planning Commission finds that:

1. All recitals above are true and correct and are incorporated herein by reference.
2. Since the adoption of City Council Resolution No. 14-12216, there have been no General Plan or Zoning Ordinance amendments related to the affected property.
3. The IS/MND for the project was prepared in compliance with Public Resources Code section 21000 et seq., and there have been no substantial changes to the project or with respect to the circumstances under which the project is being undertaken which require revisions to the IS/MND.
4. The design of the project has not changed since the approval of the site plan and architectural plans and elevations for this project.
5. The request for extension of the project review approval was filed within the effective period of approval, in compliance with the requirements of PMC sections 18.28.080 and 18.36.240.
6. There is good cause for a one-year extension of the approval at this time, as it will afford the applicant additional time to secure required permits from the U.S. Army Corps of Engineers, and will promote development of the currently vacant site and help avoid the site remaining undeveloped for a prolonged period of time, ultimately contributing to the local job market and future property and business tax bases for the City.

Section 3. Decision

Based on the findings set forth above, the Planning Commission hereby extends approval of Use Permit and Design Review Application No. 12-864, subject to all of the conditions of Resolution No. 14-12216, with the exception of Condition No. 72, which is replaced by the following:

72. This approval will expire on December 15, 2017, unless, prior to that date, the use has been established and a building permit or grading permit has been issued for the site improvements authorized herein. The approval shall be valid for no more than twelve months from the date of building or grading permit issuance, unless work is commenced and diligently pursued prior to the expiration of the building permit.

Section 4. Effective Date

This resolution shall take effect immediately upon its adoption.

On motion by Commissioner _____, seconded by Commissioner _____, the foregoing resolution was passed and adopted the 24th day of January, 2017, by the Planning Commission of the City of Pittsburg, California, by the following vote:

AYES:

NAYES:

ABSTAIN:

ABSENT:

I hereby certify that the above Resolution No. 10054 was adopted by the Planning Commission of the City of Pittsburg on January 24, 2017.

KRISTIN POLLOT, AICP, SECRETARY
PITTSBURG PLANNING COMMISSION

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Resolution Adopting a Mitigated Negative)
Declaration, Granting a Use Permit for)
Handling and Transport of APHIS Regulated)
Garbage, Sewage, and Consumable)
Hazardous Materials, and Granting Design)
Review Approval for Site Improvements at a)
Contractor Yard at 695 East Third Street)
Assessor's Parcel Number 073-020-004)

RESOLUTION NO. 14-12216

The Pittsburg City Council DOES RESOLVE as follows:

WHEREAS, on July 31, 2012, Randall Esch, the owner of Marine Express, submitted an application to the Planning Division for Use Permit and Design Review Application No. 08-573, requesting: 1) design review approval for site improvements to the 2.86 acre parcel, including landscaping, two paved driveways, a 168 square foot guardhouse, an eight-foot tall masonry wall, a 12-stall parking lot, a gravel storage area, concrete pads, the creation of a 60-foot by 80-foot slipway, and the creation of a 40-foot by 80-foot inlet slip for the moorage of marine vessels; and 2) use permit approval for the handling of hazardous materials onsite. The project site is located at 695 East Third Street in the IG (General Industrial) District. Assessor's Parcel Number 073-020-004; and

WHEREAS, an initial study evaluating the potential environmental impacts of this project was prepared in accordance with the guidelines and regulations of the California Environmental Quality Act (CEQA). Based on the analysis in that study, the Planning Manager determined that the potentially significant impacts from the project could be lessened with the incorporation of specific mitigation measures. Subsequently, a draft Mitigated Negative Declaration (MND) was prepared. On May 23, 2013, the Planning Division posted a Notice of Intent to adopt the Mitigated Negative Declaration (NOI) in the vicinity of the project site and on the city's website, and filed copies of the NOI with the Contra Costa County Clerk and the State Clearinghouse. Copies of the NOI were also mailed to property owners within 700 feet, and posted on the City of Pittsburg Website. The public comment period closed on June 23, 2014; and

WHEREAS, on June 24, 2014, a comment letter was received from the California Department of Fish and Wildlife (CDFW). On July 2, 2014, the City's environmental consultant conducted a site visit with Clinton Elsholz and Robert Stanley of the CDFW, and discussed the content of the comment letter; and

WHEREAS, on July 3, 2014, the Planning Department extended the comment period for certain public agencies through August 4, 2014, in an effort to ensure a thorough review by regulatory agencies. No comment letters from those regulatory agencies were received during this extended comment period; and

WHEREAS, on or prior to August 1, 2014, notice of the August 12, 2014, Planning Commission public hearing to consider this use permit and design review approval was

mailed (via first class mail) to the Applicant and Property Owner, and to all owners of property within 700 feet of the site, and (via first class mail or electronic mail) to all interested individuals who requested such notice. Notice was also delivered to the Pittsburg Library, and was posted at City Hall, in the vicinity of the project site, and on the city's website; and

WHEREAS, on August 7, 2014, the City sent a response letter to the CDFW. All information and clarification items listed therein are incorporated into the Final Initial Study/MND attached herein, which was also sent to the CDFW on August 7, 2014; and

WHEREAS, the IS/MND before the Planning Commission for consideration also included minor clarifications and additions to further define project components, address comments raised in the CDFW letter, and address comments that arose in conversations with other regulatory agencies; and

WHEREAS, on August 12, 2014, the Bay Harbor Park Homeowners Association submitted a comment letter on the IS/MND, which letter was made available to the Planning Commission and to the public; and

WHEREAS, on August 12, 2014, the Planning Commission held a public hearing on the Marine Express Site Improvements application, and heard public testimony from the applicant and residents. Two members of the public shared public testimony expressing opposition to the project; and

WHEREAS, concerns from the public and the commissioners were primarily focused on: 1) the discrepancy between the more intense scope of potential operations analyzed in the IS/MND compared to the applicant's testimony of the daily operations he envisions; 2) concerns related to the transportation and offload of sewage via barge at the site; 3) concerns related to APHIS regulated garbage; 4) the adequacy of the IS/MND; and 5) the requested rezoning of the property; and

WHEREAS, the Planning Commission, by a vote of five to one, denied the application finding that the IS/MND was inadequate, and finding that approval of the project would pose a nuisance to the public as a result of odors; and

WHEREAS, on August 22, 2014, the applicant filed a Declaration of Appeal, and cited the specific reasons for the appeal in an attached letter from David W. Trotter. The appeal alleges a lack of a legal basis upon which to deny the proposed entitlements, lack of substantial evidence to support any findings for the denial of the project, contradiction with the December 14, 2009 Settlement Agreement between Marine Express and the Redevelopment Agency for the City of Pittsburg, contradiction with the City of Pittsburg General Plan, and an adequate IS/MND. Marine Express submitted a subsequent letter on October 14, 2014, providing further information on the processing of APHIS (Animal and Plant Health Inspection Service) regulated garbage, articulating that Marine Express has a proven track record for handling such waste at its Alameda site safely and in compliance with federal regulations, and

WHEREAS, subsequent discussions between staff, the project applicant, and Frank Gordon resulted in clarifications to the project description in the areas of APHIS regulated

garbage and sewage offloading. Staff determined it was prudent to clarify this information in the IS/MND. As such, a clarifying document has been prepared and is attached to the IS/MND as appendix F; and

WHEREAS, on or before December 5, 2014, notice of the December 15, 2014, City Council's public hearing on applicant's appeal from the Planning Commission's decision on this proposed project was mailed (via first class mail) to the applicant and property owner, and was mailed (via first class mail or electronic mail) to owners of properties within 700 feet of the subject site, agencies anticipated to provide service to the project, all interested individuals who requested such notice, and also to those persons who provided testimony at the Planning Commission meeting. Notice was also delivered to the Pittsburgh Library, and was posted at City Hall, in the vicinity of the project site, and on the city website on or prior to December 5, 2014; and

WHEREAS, PMC section 18.16.040 identifies the findings that must be made before approval of a use permit. In order to issue the use permit associated with this project, the Council must find that the proposed use is consistent with the General Plan and Zoning Ordinance; is not detrimental to the health, safety and welfare of the City; will not negatively impact the surrounding neighborhood; and will not adversely affect orderly development, property values, or the tax base within the City; and

WHEREAS, in approving a use permit, PMC Section 18.28.030 authorizes the reviewing body to impose such reasonable conditions to the grant of use permit as it considers necessary to: 1) carry out the purpose and intent of this title and the purpose of the land use district in which the property is located; 2) comply with the general plan; 3) protect the public health, safety and general welfare; and 4) ensure that the operation of the use is compatible with existing and potential uses on properties in the surrounding area; and

WHEREAS, PMC Section 18.36.220.B, identifies findings that must be made before approval of design review. In order to approve the design review entitlement requested as a part of this project, the Council must find that the structure conforms with good taste, good design and in general contributes to the character and image of the City as a place of beauty, spaciousness, balance, taste, fitness, broad vistas, and high quality; the structure will be protected against exterior and interior noise, vibrations and other factors that may tend to make the environment less desirable; the exterior design and appearance of the structure is not of inferior quality as to cause the nature of the neighborhood to materially depreciate in appearance and value; the structure is in harmony with proposed developments on land in the general area; and the application conforms with the criteria set forth in any applicable city-adopted design guidelines; and

WHEREAS, in approving a design review application, PMC Section 18.36.320 authorizes the reviewing body to impose conditions on the design of the project if it finds that the building or structure proposed does not meet the applicable design review standards. [Ord. 07-1284 § 3 (Exh. C), 2007; Ord. 979 § 2 (Exh. A), 1990.]; and

WHEREAS, an appeal before the City Council requires review "de novo", meaning the City Council shall hear the appeal as a new matter. The original applicant has the

burden of proof, and the reviewing body may act upon the application, either granting it, conditionally granting it or denying it, irrespective of the precise grounds of the appeal; and

WHEREAS, PMC Section 18.18.060(E), authorizes the City Council, as the reviewing body, to reverse or affirm in whole or in part, or modify the decision of the Planning Commission; and

WHEREAS, on December 15, 2014, the City Council held a public hearing to consider the applicant's appeal from the Planning Commission's rejection of the IS/MND and denial of Use Permit/Design Review Application No. 12-856, at which time oral and/or written testimony was considered; and

The proposed project conforms with the applicable General Plan land use designation of *Industrial* and the applicable goals and policies of the Pittsburg General Plan to further industrial development within the northeast subarea.

Section 1. Findings

Based on the Planning Commission Staff Report entitled, "Marine Express Site Improvements. AP-12-864 (UP, DR)," dated August 12, 2014, and based on all the information contained in the Planning Division files on the project, incorporated herein by reference and available for review in the Planning Division located at 65 Civic Avenue in Pittsburg, California, in the custody of the Planning Manager, and based on all written and oral testimony presented at the public hearing, the City Council finds that:

1. All recitals above are true and correct and incorporated herein by reference.
2. The Mitigated Negative Declaration (MND) and Revised CEQA Initial Study Checklist for this project were prepared in compliance with CEQA (Public Resources Code Section 21000 *et seq.*), and that the Council has reviewed and considered the information contained therein. The Council further finds on the basis of the whole record before it (including the Revised CEQA Initial Study Checklist) that with the incorporation of both mitigation measures proposed, the project will not have a significant effect on the environment, and that the Mitigated Negative Declaration reflects the Council's independent judgment and analysis.
3. The provision of 12 parking stalls is appropriate for the phase one site improvements requested in this application. Additional parking may be required upon the installation of the two large metal buildings, anticipated during phase two of the project (not entitled herein).
4. The project will not be in conflict with PMC Chapter 8.04 because pursuant to Condition No. 7 of this approval, Marine Express shall contract with and utilize the City's Franchise Refuse Collector for the hauling of all "Garbage" and "Refuse" as defined in PMC Section 8.04.030 (C and G) from the project site.

Use Permit Findings:

5. There is no specific plan applicable to the property, although the project is in accord with the objectives of the Zoning Ordinance, the purposes of the land use district in which it is located and is appropriate to the specific location. The proposed project is consistent with the Zoning Ordinance because the contractor yard would be located on an industrial site that is surrounded by other industrial uses. The project shall include racks for three bicycles and at least 12 parking stalls on-site for employee parking to serve this contractor yard, so as to comply with PMC Chapter 18.78.
6. If all of the mitigation measures from the Mitigated Negative Declaration (generally relating to noise and, hazards and hazardous materials) are incorporated as conditions of project approval, and if the project applicant maintains its applications and permits under the California Emergency Reporting System (CERS) applications and California Accidental Release Prevention Program (CUPA), and complies with all permitting requirements of the Contra Costa County Fire Protection District (CCCFPD), and if APHIS waste is prohibited on site without an APHIS-approved compliance agreement in place, and if all APHIS rules and regulations imposed on the business through an APHIS-approved compliance agreement are adhered to, then the project will not be detrimental to the health, safety, and general welfare of the residents of Pittsburg or well as the agriculture of the United States of America.
7. The project will not adversely affect the orderly development of property within the city because it is an industrial use in an industrial district. Properties in the general vicinity are also utilized for heavy industrial purposes, including USS Posco, United Spiral Pipe, and the CalPine power plant, so the proposed use is consistent with existing development nearby.
8. The project will not adversely affect the preservation of property values if the exterior of the site is maintained in a neat and clean manner. The proposed project will have a beneficial effect on the property value of the site and surrounding neighborhood with the installation of frontage improvements, including a 35-foot deep landscaped front setback, to the existing underutilized and unimproved property. The proposed project will result in site improvements that will remove blight and increase the visual appeal of the property from the East Third Street right-of-way and from the New York Slough. Furthermore, the site improvements will allow the underutilized property to be improved as a fully-functioning contractor yard.
9. The proposed project is consistent with the General Plan because the contractor yard will be located on an industrial site that is surrounded by other industrial uses. The proposed use is classified as a contractor yard, which is consistent with the description of the Industrial General Plan land use designation (General Plan, page 2-20). Establishment of the contractor yard use is also consistent with adopted General Plan goal 2-G-12 and policy 2-P-37, to maintain the industrial character of the area. The use will also create local jobs and contribute to the economic base of the community, which is consistent with the intent of industrial districts (PMC section 18.54.005, subsections A and B.3).

10. If mitigation measure NOI-1 from the Mitigated Negative Declaration (relating to noise) is incorporated as condition of project approval (Proposed Condition No. 3) to ensure that noise generation from equipment at the project site would not exceed normally acceptable levels at the nearest single family residential homes, and if general site maintenance and safe business operations are applied to the project, then the use will not create a nuisance or enforcement problem within the industrial neighborhood, or in the residential neighborhoods nearby. The use is located within an existing neighborhood of industrial uses, and there will not be risk of APHIS-related odors creating a nuisance for nearby residents because odors would not travel beyond the property lines.
11. If the front landscaped area is attractively designed to incorporate various colors, textures and water efficient plant selections, and if the block wall incorporates a decorative cap, then the property frontage would be substantially improved and would benefit the industrialized area. Also, if a condition is added to ensure that the site is kept clean and clear of litter, trash and debris at all times, then the project will not encourage marginal development in the area but will substantially improve and benefit the industrialized area.
12. The project will not create a demand for public services within the city beyond that of the ability of the city to meet in the light of taxation and spending restraints in that the city has sufficient water supply available to serve the project as proposed; additionally, existing treatment facilities of the Delta Diablo Sanitation District are sufficient to treat wastewater generated from the use.
 - a. If the Applicant dedicates the first 10-feet of property at the southern property line to the City and funds the installation of a curb, gutter, and sidewalk to serve the future widening of East Third Street (Proposed Condition No. 46), then the proposed project would be consistent with the city's funding priorities. Furthermore, the project would contribute to the tax base through the creation of new jobs. Finally, the proposed project involves new improvements to existing underutilized and unimproved property and would have a beneficial effect on the property value of the site and surrounding sites. No public funds are associated with the project.

Design Review Findings:

13. The project will conform with good taste, good design and in general contribute to the character and image of the city as a place of beauty, spaciousness, balance, taste, fitness, broad vistas, and high quality if the movable structures on site are finished in a dark green to match the guard shack, if the block wall incorporates a decorative cap, and if landscaping is designed to incorporate a mix of drought tolerant trees, groundcover and accent shrubbery featuring a mixture of colors, textures and heights.
14. The structure will be protected against exterior and interior noise, vibrations and other factors that may tend to make the environment less desirable if noise onsite is

kept within the normally and conditionally acceptable levels outlined in the General Plan.

15. The exterior design and appearance of the structure will not be of inferior quality as to cause the nature of the neighborhood to materially depreciate in appearance and value in that block wall, wrought iron fence, and landscaping proposed along East Third Street will improve the appearance of the property both by screening the equipment to the north of the wall, and by adding visually appealing improvements.
16. The project will not conflict with the approved Colombia Solar project planned to be located to the southeast of the property. The project is industrial in design and nature, which is in harmony with other existing and proposed development in the vicinity.
17. The project will conform to the design criteria set forth in the Development Review Design Guidelines (particularly Guidelines IV.a, IV.k, and IV.p), in that the parking lot will be screened from view from the public right-of-way on East Third Street by the proposed block wall, and the guard shack will have structural reliefs in the form of trim and batons, and the guard house's green trim will be compatible with the adjacent development at Koch Carbon to the East.

Section 2. Decision

Based on the findings set forth above, the City Council hereby adopts the IS/MND and approves Use Permit and Design Review Application No. 12-856 for the Marine Express Site Improvements Project, subject to the following conditions of approval. Where noted in the conditions below, "applicant" shall refer to the project applicant, or any succeeding operator of the business entitled with this approval.

1. The approved use shall be operated substantially as presented to the Planning Commission in the staff report identified in section 2 above, except as modified by the conditions below. Operation of the approved business in a manner inconsistent with this use permit shall be grounds for revocation of the use permit.

Mitigation Measures:

2. (HAZ-1) The project applicant shall secure written approval from the Regional Water Quality Control Board (RWCB) prior to the excavation of the slip way, inlet slip, and any other excavation activities that would result in excavation of soil greater than five feet in depth, as required by the "no further action" letter dated September 7, 2011, attached hereto as Exhibit A. Any contaminated soils brought to the surface by grading, excavation, trenching, or backfilling shall be managed in accordance with all applicable provisions of local, state and federal law. It shall be the responsibility of the applicant to secure this approval if necessary and submit a copy of the approval or a statement explaining why such approval is not applicable to the City of Pittsburgh Planning Division at the time of any grading permit application submittal. It shall be the responsibility of the City of Pittsburgh Planning Division to confirm with the RWCB that all necessary approvals are in place prior to the issuance of any grading permits on the site.

3. (NOI-1) Noise generated from the operations at the proposed project site shall not result in noise levels exceeding 75 DBA at the property lines. Cranes that generate 81 DBA of noise or more measured at 50 feet from the source shall only be used when sited down the north-south centerline of the property, 100 feet from the property lines at the Project site. Prior to the use of such equipment within 100 feet of the property lines, the developer shall fund the preparation of a noise study by an acoustical engineer to identify the improvements necessary to reduce noise levels to the standard established in this mitigation measure based on the proposed location of equipment use. Such improvements shall be installed and approved by the city before any cranes are used within 100 feet of the property lines. The acoustical engineer shall be hired by the city, and the cost of preparation of the noise study (including staff management of the consultant) shall be borne by the applicant in accordance with the adopted city fee schedule in effect at the time the study is commenced.

Alternatively, prior to the installation of a crane on the property, the applicant shall provide sufficient evidence to the city that any crane installed will not generate greater than 75 decibels at the source.

It shall be the responsibility of the applicant to notify the Planning Division prior to allowing any crane on the property. If a crane is present on the property, it shall be the responsibility of the Applicant to submit an annual statement that the crane is operating in compliance with this condition of approval. It shall be the responsibility of the Planning Division to promptly inspect the project site in response to noise complaints raised by neighbors or members of the public, and send the applicant a notice of violation if deemed appropriate.

Use Permit Conditions:

4. Prior to bringing any reportable quantity of hazardous materials onto the subject site, the applicant shall update its applications and permits under the California Emergency Reporting System (CERS) and California Accidental Release Prevention Program (CUPA), submit a Hazardous Materials Release Response Plan to the fire district, and receive permits as required by the Contra Costa County Health Services, Contra Costa County Fire Protection District, and the State of California. Reportable quantities of hazardous materials include 55 gallons of a liquid, 500 pounds of a solid, or 200 cubic feet of a non-inert gas.
5. Prior to any grading related to the excavation of the inlet slip and/or slipway, or the construction of the sheet-pile wall, the Applicant shall secure all permits and approvals necessary from the Army Corps of Engineers, the Regional Water Quality Control Board, the Department of Fish and Wildlife, the National Marine Fisheries Service, the Dredged Management and Materials Office, and any other regulatory agencies that may require review. It shall be the responsibility of the Applicant to submit all such applications and shall comply with all required permits, conditions, best management practices, and mitigation measures therein.
6. The project shall comply with BAAQMD 2011 Guidelines: Basic Construction Mitigation Measures Recommended for ALL Proposed Projects (Table 8-1)

- a. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
 - b. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
 - c. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
 - d. All vehicle speeds on unpaved roads shall be limited to 15 mph.
 - e. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
 - f. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
 - g. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.
 - h. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.
7. The Applicant shall not direct haul garbage or refuse from the site through any street or public right-of-way in the City. The applicant shall comply with PMC Chapter 8.04, and shall contract for refuse collection services with the City's Franchise Refuse Collector prior to the final inspection of the Phase 1 site improvements by the Engineering Department. Refuse, as defined in PMC Section 8.04.030(G), from the site shall only be hauled by the City's Franchise Refuse Collector.
8. The Applicant shall not permit its operations and activities pertaining to garbage and refuse handling, processing, transporting and/or disposal to cause or contribute to a violation of the City's obligations under AB 939, the California Integrated Waste Management Act of 1989 (California Public Resources Code §40000, et seq.).
9. The Applicant shall regularly monitor its operations and activities to ensure compliance with the City's diversion requirements under AB 939. Operations and activities at the project site shall be subject to random and/or scheduled inspections by the City for the purpose of monitoring compliance with regulations and requirements related to AB 939. In addition, the applicant shall submit to the City such reports as the City may require in order to facilitate such monitoring.

Design Review Conditions:

10. The two large metal structures shown in the project renderings are a part of phase two of the project and are not approved at this time.
11. Prior to the issuance of a grading permits for the inlet slip and slip-way, the applicant shall secure all required permits from the Army Corps of Engineers, the Regional Water Quality Control Board, the Department of Fish and Wildlife, and the National Marine Fisheries Service, and permits from other local, state, and federal agencies as required.
12. The 12-foot by 14-foot guard shack shall be designed in substantial conformity with the guard shack identified in the project renderings. This includes a slanted roof, a green cornice, tan walls, vertical batons or building articulation, one large window, and trim around all windows and doors.
13. The movable structures on site, including tool sheds and similar structures shall be finished in dark green or tan to match the color scheme of the guard shack and the anticipated color schemes of the future buildings anticipated in phase two of construction.
14. The block wall shall measure eight feet tall, and shall incorporate a decorative cap. Design details of the wall and decorative cap shall be subject to approval by the Planning Division prior to issuance of a building permit to construct the wall.
15. The developer shall install racks for three bicycles on site near the front of the property. The rack shall be "wave" style. The final design and placement of the rack shall be subject to review and approval by the Planning Division, prior to the issuance of a grading permit.
16. The developer shall submit a landscaping and irrigation plan for the property of the site to the Planning Division for review and approval prior to the issuance of a building permit. The plan shall include a mix of drought tolerant trees, ground cover and accent shrubbery. Any proposed turf areas shall not cover more than 25% of the designated landscape area. A minimum of 10% of the site shall be landscaped. All landscaping and irrigation shall be installed in accordance with the approved plan, prior to the issuance of a certificate of occupancy.
17. All landscaping on site shall be kept weed free and maintained in a healthy and thriving condition.
18. The end of each row of parking stalls in the parking lot must be separated from an aisle or driveway by either a landscaped planter or sidewalk/planter combination. A concrete curb must separate the landscaped area from the parking area, and minimum 12-inch wide concrete landings shall be installed behind the curb, for the length of the parking stall, for each segment of curbing that separates a parking stall from a landscaped planter. A landscaped area at least five feet in width shall be located between the western property line and the parking lot.

19. The site shall be kept clean and free of all litter, debris and refuse.
20. Signage for the project is not approved with this resolution. The developer shall submit proposed signs for review and approval to the Planning Division prior to installation.
21. The applicant shall use buildings, shrubbery or a combination thereof to screen from view from the public right-of-way of East Third Street all utility box transformers, backflow preventers, meters and junction boxes, and similar utility equipment. Locations of utility equipment shall be shown on the landscape plan required by Condition 14 of this resolution.

Contra Costa County Flood Control Conditions:

22. If site drainage drains to the storm drain along East Third Street, the applicant shall demonstrate that the curb is strong enough to support the drainage without cracking and breaking. This shall be shown on the final grading and drainage plans submitted to the City Engineering Department, and reviewed and approved by the Planning Division prior to the issuance of a grading permit.
23. The Applicant shall submit hydrology and hydraulic calculations to the Engineering Department to prove the adequacy of the in-tract drainage system and the downstream drainage system.

Contra Costa County Environmental Health (CCEHD) Conditions:

24. The applicant shall obtain a permit from CCEHD for any well or soil boring prior to commencing drilling activities, including those associated with environmental investigation and cleanup, and geotechnical investigation.
25. Any abandoned wells (water, environmental, or geotechnical) and septic tanks must be destroyed under permit issued from CCEHD to the applicant. If the existence of such wells or septic tanks are known in advance or discovered during construction or other activities, these should be clearly marked, kept secure, and destroyed pursuant to CCEHD requirements.
26. The applicant shall be responsible for connecting the project site to public sewer and city water systems.
27. If a sewage pumping vehicle is used to transport waste from marine vessels or other sources, it must operate with a health permit issued from the CCEHD to the applicant, as outlined in Condition Number 66.
28. The City of Pittsburg is its own Local Enforcement Agency for solid waste issues and provides its own regulatory oversight of solid waste related operations and facilities, including solid waste processing or transformation. It shall be the responsibility of the Applicant to secure all solid waste related permits and comply with all solid waste related requirements of the City of Pittsburg.

State Regional Water Quality Control Board (RWCB) Conditions:

29. The Applicant shall comply with all conditions indicated on the "No Further Action Letter" from the RWCB dated September 7, 2011, including Condition No. 6: "No Owners or Occupants of the Site shall conduct any excavation work greater than five feet in depth on the Property that is not routine construction (for example site grading, utility trenching, footing or foundation installation), unless expressly permitted in writing by the Board. Any contaminated soils brought to the surface by grading, excavation, trenching, or backfilling shall be managed in accordance with all applicable provisions of local, state and federal law."

Fire District Conditions:

30. The developer shall submit three (3) copies of site improvement plans indicating all existing or proposed hydrant locations and fire apparatus access for review and approval prior to issuance of a building permit.
31. Access gates for CCCFPD apparatus shall be a minimum of 20-feet in width. Prior to issuance of a certificate of occupancy, electronically operated gates shall be equipped with a Knox Company key-operated switch, and manually operated gates shall be equipped with a non-case-hardened lock or approved CCCFPD lock.
32. Prior to issuance of a certificate of occupancy, the applicant shall provide premises identification. Such numbers shall contrast with their background and be a minimum of six inches high with one-inch stroke or larger as required to be readily visible from the street.
33. The applicant shall not store hazardous materials on the project site without prior review and written approval from the CCCFPD.
34. The applicant shall submit three (3) complete sets of building plans for each building, including specifications of the subject project to CCCFPD for review and approval prior to construction in order to ensure compliance with minimum requirements related to fire and life safety.
35. The applicant shall submit to CCCFPD plan review and inspection fees at the time of plan review submittal.

Engineering Conditions:

Improvement and Grading Plan Review fees:

36. The applicant shall pay one half of the Engineering Grading and/or Improvement Plan Review Fee with the initial submittal of plans, maps, or other documents for plan review. The Plan Check Fees are based upon the Engineer's Estimate, which shall also be provided at the time the plans are submitted. The Improvement Plan Check fees are 6% of the cost of the improvements based upon the approved Engineer's Estimate. The Grading Plan Check Fee is 2.5% of the Engineer's Estimate, or may be based upon cubic yards of grading. The deposit(s) shall be credited toward the final fee(s) as determined at engineering permit issuance based

upon the final, approved Engineer's Estimate. The deposit shall be paid to the Engineering Department.

Improvement and Grading Inspection Fees:

37. The applicant shall pay the Improvement and/or Grading Inspection Fee(s) to the Engineering Department at the time of the Grading or Single Parcel Development Permit is issued. The current Improvement Inspection Fee is 5.75% of the cost of grading, and the Grading Inspection Fee is 3% of the cost of Grading. The Grading Inspection Fee may also be based upon an approved Engineer's Estimate of total cubic yards, according to the current schedule of Grading Fee Charges.
38. The applicant shall pay an NPDES Plan Review (SWPPP and/or C.3 Storm Water Control Plan) fee to the Engineering department in the amounts in effect when the applicant obtains a Grading permit. The applicant understands that the current NPDES plan review fee on file, effective September 1, 2010, shall be paid in accordance to the fee schedule approved by Resolution No. 10-11510, a copy of which is available at the City.
39. The applicant shall pay an NPDES Inspection Deposit (SWPPP and/or C.3 Storm Water Control Plan) fee to the Engineering department in the amounts in effect when the applicant obtains a Grading permit. The applicant understands that the current NPDES plan review fee on file, effective September 1, 2010, shall be paid in accordance to the fee schedule approved by Resolution No. 10-11510, a copy of which is available at the City.

Facility Reserve Charge:

40. The applicant shall pay the City of Pittsburg Facilities Reserve Charge (PMC Chapters 13.08, 13.12 and 13.24) (the "FRC") to the Engineering Department, for water and sewer service in the amounts in effect when the applicant obtains a Building Permit for the two large structures on the property, during the second phase of the project. This FRC fee shall be included as a condition of approval on future design review entitlements for either of the two large structures at the time of permitting.

Traffic Mitigation Fees:

41. The applicant shall pay the Local Transportation Mitigation Fee (PMC Chapter 15.90) (the "LTMF") amount in effect when the applicant obtains a Building Permit. The applicant understands that the LTMF currently on file is \$1.51/sf. The applicant further understands that the LTMF is reviewed and adjusted annually to the current Construction Cost Index (CCI) and may be increased at the City Council's discretion based on revised cost estimates for roadway and transit facilities and other factors that demonstrate an increase is needed to offset traffic impacts caused by new development. The LTMF is calculated by dividing the total fee share of improvement costs by the total number of Dwelling Unit Equivalencies ("DUE") in the City, as described in PMC Chapter 15.90 and the Pittsburg Local Transportation

Mitigation Fee Program Update, copies of which are available from the City. Fees shall be paid prior to issuance of a Building Permit.

42. The applicant shall pay the Regional Transportation-Development Impact Mitigation Fee (PMC Chapter 15.102) (the "RTDIM") amount in effect when the applicant obtains a Building Permit. The applicant understands that the RTDIM currently on file is \$1.47/sf. The RTDIM will be automatically increased or decreased on January 1 of each year based on the percent change in the Engineering News-Record Construction Costs Index – San Francisco Bay Area between September 1 and September 1 of the preceding two calendar years. Fees shall be paid prior to issuance of a Building Permit. If no Building Permit is required, then the fees are payable in the amount in effect when the project commences pursuant to PMC Section 15.102.

Submittals to be made to the Engineering Department for review:

43. The applicant shall submit to the City's Engineering Department, for review and comment, five (5) copies of the engineering plans, prepared by a registered civil engineer, to include but not be limited to the following:
 - a. A Site Plan
 - b. A Grading and Drainage Plan
 - c. A Utilities Plan
 - d. A Landscaping and Irrigation Plan
 - e. A Stormwater Control Plan and Report
 - f. An Erosion and Sedimentation Control Plan
44. The applicant shall submit to the Engineering Department a current geotechnical report that substantiates the design features incorporated into this project including, but not limited to, grading activities, compaction requirements, utility construction, slopes, retaining walls, and roadway sections. The geotechnical report shall be submitted to the Engineering Department for review prior to the approval of any civil plans and issuance of any Engineering permits.
45. The applicant shall submit an Engineer's Estimate to the Engineering Department for review and approval, with the first plans submittal. This estimate shall include all costs associated with the site development improvements, excluding those costs associated with the construction of the building structure itself.

General Engineering Conditions:

46. All grading work shall be done in accordance with the provisions of Chapter 15.88 of the Pittsburg Municipal Code.
47. All site development shall comply with Title 12 (Streets, Sidewalks, and Utilities), Title 13 (Water and Sewers), and Title 15 (Buildings and Construction) of the Pittsburg Municipal Code as determined by the City Engineer. Issuance of a Site Development Permit will be required whereby specific engineering requirements will be made as conditions of approval.

48. All public and pedestrian facilities shall be designed in accordance with Title 24, Handicap Access, and the California Department of State Architect's standards for accessibility compliance.
49. The property owner/applicant shall provide a 10-foot wide offer of dedication to the City for the full length of the parcel, prior to issuance of an Engineering permit, to accommodate the future widening of East Third Street. At time of widening, the property owner shall be responsible for installation of concrete sidewalk, curb and gutter. This dedication shall be shown on the grading plans, and the dedication shall be recorded prior to the issuance of a grading permit.
50. The applicant shall construct a temporary decomposed granite sidewalk along existing frontage curb line with construction of phase one of the project site improvements.

General NPDES Conditions:

51. Prior to issuance of a Grading Permit, the applicant shall submit the following to the Engineering Department for review: an Erosion and Sedimentation Control Plan, and a copy of the Notice of Intent (NOI), which was submitted to the State Water Resources Control Board. The erosion control / SWPPP shall identify Best Management Practices (BMPs) appropriate to the uses conducted on-site to effectively prohibit the entry of pollutants into storm water runoff. The SWPPP measures shall also include erosion control measures to prevent soil, dirt, and debris from entering the storm drain system, in accordance with the regulations outlined in the ABAG Erosion and Sediment Control Handbook. (NPDES requirements)
52. The applicant shall incorporate long-term best management practices (BMP's) for the reduction or elimination of storm water pollutants. The project design shall incorporate wherever feasible, the following long term BMPs to limit pollutant generation, discharge, and runoff. Such source control design measures may include:
 - a. Incorporating landscaping that minimizes irrigation and runoff, promotes surface infiltration where possible, minimizes the use of pesticides and fertilizers, and incorporates appropriate sustainable landscaping practices
 - b. Providing covered trash, food waste, and compactor enclosures
 - c. Use pavers for walkways and other appropriate hardscape surfaces to minimize impervious areas.
 - d. Minimizing the amount of directly connected impervious surface area
 - e. Stenciling all storm drains with "No Dumping, Drains to Delta" permanent markings
 - f. Constructing concrete driveway weakened plane joins at angles to assist in directing run-off to landscaped/pervious areas prior to entering the street curb and gutter
 - g. Plumbing of the following discharges to the sanitary sewer, subject to Delta Diablo Sanitation District's authority and standards:
 - (1) Dumpster drips from covered trash and food compactor enclosures

- (2) Discharges from outdoor covered wash areas for vehicles, equipment, and accessories

h. Discharging of fire sprinkler test water to onsite vegetated areas.

53. Submittal of grading and/or building plans shall be consistent with the approved Stormwater Control Plan. The plans shall include drawings and specifications necessary to implement all measures in the approved Stormwater Control Plan. A copy of a completed "Construction Plan C.3 Checklist", as described in the Stormwater C.3 Guidebook, 4th edition shall be included. Grading and/or building permits, shall not be issued until this condition is met to the satisfaction of the city Engineering and Planning staff.
54. Grading and/or building permit plans (including structural, mechanical, architectural, grading, drainage, site, landscape, and other drawings) shall show the details and methods of construction for site design featured, measures to limit directly connected impervious area, pervious pavements, self-retaining areas, treatment BMPs, permanent stormwater control BMPs, and other features that control stormwater flow and potential for stormwater pollutants.
55. Prior to final inspection approvals by the Engineering Department, the applicant shall submit a Stormwater BMP Operation and Maintenance Plan for review and approval by the Engineering, Planning, and Public Works Departments. Guidelines for the preparation of Stormwater BMP Operation and Maintenance Plans are in Chapter 5 of the Stormwater C.3 Guidebook, 4th edition.
56. Prior to the issuance of the Certificate of Occupancy, the applicant shall submit the final draft of the Stormwater BMP Operation and Maintenance Plan for review and approval by the Engineering Department. The applicant shall also execute the Operations and Maintenance Agreement, which pertain to the transfer of ownership and / or long-term maintenance of stormwater treatment BMPs or hydrograph modification BMPs. The Guidelines for the preparation of Stormwater BMP Operation and Maintenance Plans are found on the Contra Costa County Clean Water Program website (www.cccleanwater.org) or the Stormwater C.3 Guidebook, most current edition.

General Engineering Conditions regarding Utilities:

57. The applicant shall evaluate the existing, receiving storm, sewer, and water facilities for adequate capacity and provide the results to the City to identify any service or supply problems. The cost for installation of additional facilities shall be borne by the applicant.
58. The design and construction of storm drain, water, and sewer facilities shall be in accordance with section 17.28.020 of the Pittsburg Municipal Code.
59. The applicant shall provide appropriate water service, adequately sized to meet the domestic and fire protection demands for the project.
60. The applicant shall provide appropriate sanitary sewer, adequately sized to accommodate the project's wastewater demand.

61. In accordance with PMC12.36.130 Underground utilities for new construction, the applicant shall ensure that all utility service laterals and equipment (including, but not limited to, electric, communication and cable television lines) installed in and for the purpose of supplying service to any other new construction or use shall be installed underground on the property to be served, and from the property to be served to the point of connection with the utility's distribution facilities, in accordance with utility filed rules as approved by the California Public Utilities Commission."

Community Facilities District Inclusion:

62. The applicant shall deliver written approval in a manner acceptable to the City Finance Director, that the owner of the parcel is electing to annex the subject property into the Community Facilities District CFD 2005-1, prior to the issuance of any Engineering or Building Permits for the proposed 70-foot by 150-foot and/or 40-foot by 80-foot structures anticipated during phase two of the project, whichever permit is eligible to be issued first. The fee will provide funding for an increase of police coverage in the area. The rate of the CFD fee is subject to the City Council Ordinance No 05-1246.

Conditions added after the Planning Commission Public Hearing

63. No APHIS regulated garbage shall be brought onto the project site without the applicant first obtaining an APHIS-approved compliance agreement from the United States Department of Agriculture's (USDA's) APHIS Agency.
64. It shall be the responsibility of the applicant to obtain an approved compliance agreement from the USDA's APHIS Agency, and to maintain current compliance agreements annually as required by the USDA's APHIS Agency. It shall be the responsibility of the applicant shall ensure that operations on the site comply with the terms of the approved compliance agreement from the USDA's APHIS Agency and the APHIS rules and regulations applicable thereto.
65. It shall be the responsibility of the applicant to ensure that not more than 40 cubic yards of APHIS is treated on site in a given day.
66. Pumping and offloading sewage from sewage transportation barges into the Delta Diablo Sanitation District sewer system shall be prohibited at the project site. Only sewage generated by work boats that are being serviced at the contractor yard may be pumped from vessels at the project site into the sewer system.
67. It shall be the responsibility of the applicant to ensure the amount of sewage offloaded from vessels being serviced at the site does not exceed 20,000 gallons per month.

Standard Conditions and Indemnification:

68. The Standard Conditions of Development as adopted by the Pittsburg Planning Commission by Resolution No. 8931 shall apply as condition of approval for this project as applicable. Where there is a conflict between the conditions of approval of Resolution No. 8931 and the specific conditions identified herein, the specific conditions of this Resolution No. 9973 shall apply.

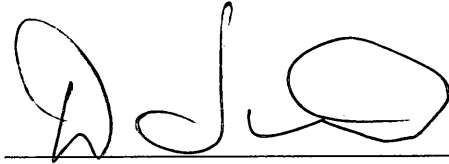
69. Applicant agrees to indemnify, defend, and hold harmless the City, its officials, officers, employees, agents and consultants from any and all administrative, legal or equitable actions or other proceedings instituted by any person challenging the validity of this project approval, subsequent project approval, or other action arising out of, or in connection with, this project approval. The parties shall cooperate in defending such action or proceeding. The parties shall use reasonable efforts to select mutually agreeable defense counsel but, if the parties cannot reach agreement, City may select its own legal counsel at applicant's sole cost and expense. Applicant may select its own legal counsel to represent applicant's interests at applicant's sole cost and expense. Applicant shall pay for City's costs of defense, whether directly or by timely reimbursement to City on a monthly basis. Such costs shall include, but not be limited to, all court costs and attorneys' fees expended by City in defense of any such action or other proceeding, plus staff and City Attorney time spent responding to and defending the claim, action or proceeding.
70. The applicant shall comply with all the requirements of the Development Services Department, including the Engineering, Planning and Building Divisions, as well as the Contra Costa County Fire Protection District, Delta Diablo Sanitation District, Contra Costa Health Services Department, United States Department of Agriculture, the Pittsburg Municipal Code, all other applicable local, state and federal agencies, and any applicable franchise agreements with regard to refuse collection.
71. It is the responsibility of the applicant to contact each local, state, or federal agency for requirements that may pertain to this project.
72. This approval will expire on December 15, 2016, unless, prior to that date, the use has been established and a building permit or grading permit has been issued for the site improvements authorized herein, or a written request for extension of the approval is filed with the Planning Division prior to the expiration date and is subsequently approved by the Planning Commission. The approval shall be valid for no more than twelve months from the date of building or grading permit issuance, unless work is commenced and diligently pursued prior to the expiration of the building permit.

Section 3. Effective Date

This resolution shall take effect immediately upon its adoption.

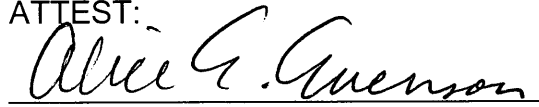
PASSED AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting on the 15th day of December, 2014, by the following vote:

AYES: Casey, Craft, Johnson, Longmire
NOES: None
ABSTAINED: None
ABSENT: Evola

A handwritten signature in black ink, appearing to read 'D. Longmire', written over a horizontal line.

Dwaine "Pete" Longmire, Mayor

ATTEST:

A handwritten signature in black ink, appearing to read 'Alice E. Evenson', written over a horizontal line.
Alice E. Evenson, City Clerk



**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565**

DATE: 12/5/2014

TO: Mayor and Council Members

FROM: Joe Sbranti, City Manager

SUBJECT: Consideration of an Appeal of a Planning Commission Decision to Deny a Use Permit for Marine Express Site Improvements, AP-12-864 (UP/DR).

MEETING DATE: 12/15/2014

EXECUTIVE SUMMARY

On August 12, 2014, the Planning Commission held a public hearing and subsequently denied Use Permit and Design Review Application No. 12-864 for Marine Express Site Improvements, a proposed marine contractor yard at 695 East Third Street. On August 22, 2014, Randy Esch, applicant and Marine Express, Inc. business owner, filed an appeal of the Planning Commission's decision. The Council is asked to consider the draft Mitigated Negative Declaration (MND) for the project, as well as the appeal.

FISCAL IMPACT

There would be no direct fiscal impact to the General Fund as a result of affirming the Planning Commission's decision. Upholding the appeal and approving this application would result in additional business and property tax revenue that would be generated by Marine Express' site improvements and operations.

RECOMMENDATION

City Council adopt a Resolution adopting the Initial Study Checklist and MND, and approving Use Permit / Design Review Application No. 12-864, as conditioned herein.

BACKGROUND

The project site was first developed in the late 1800's and early 1900's for use as a lumber mill storage yard by Redwood Manufacturers Company. Union Oil Company occupied the site in the late 1940's and used it for above ground fuel storage tanks, storage buildings, a fuel dispenser island, and an unloading platform that extended offshore into New York Slough. The aboveground storage tanks were removed between 1974 and 1978. Enrico

Dredging used the site in the early 1980's for a 10,000-gallon underground diesel-fuel storage tank, a conveyor belt, and a truck scale. The fuel-related uses noted above resulted in soil contamination at the project location. Remedial activities were completed to address the on-site release of metals and petroleum hydrocarbons, including the targeted removal of contaminated soil within the project site. The remedial actions were successful in addressing the releases to concentrations below the remedial goals. The analytical results of the soil samples from the targeted areas did not exceed the Regional Water Quality Control Board's (RWQCB's) Environmental Screening Levels for industrial uses. A covenant and Environmental Restriction on the property was recorded on June 16, 2011, prohibiting sensitive land uses, and requiring RWQCB approval for excavation deeper than five feet.

Randall Esch of Marine Express, Inc. purchased the industrial property at 695 East Third Street (Assessor's Parcel Number 073-020-004) in 2007, with the intent of creating a home dock and contractor yard for his marine support service business. Marine Express has been in operation since 1982, and runs its fleet out of four California locations, with an office in Walnut Creek. .

On July 31, 2012, Randall Esch, the owner of Marine Express, submitted a planning application requesting entitlements to activate the site as a contractor yard as permitted by the IG (General Industrial) District. Specifically, Application Number AP-12-864 requested: 1) design review of plans for site improvements to the 2.86-acre parcel, including slabs for two prefabricated metal buildings, landscaping, two paved driveways, a 168 square foot guardhouse, an 8-foot tall masonry wall, a 12 stall parking lot, a gravel storage area, a concrete pad, the creation of a 60-foot by 80-foot slipway, and the creation of a 40-foot by 80-foot inlet slip for the moorage of marine vessels; and 2) a use permit for the storage and handling of certain "hazardous materials (18.84.275.A)," including consumable products such as lube oil and paint thinners similar to those found in a Home Depot or Auto Zone; used oil from large vessels similar to the ships serving USS Posco; sewage from large vessels such as those moored in the San Francisco Bay; and food waste known as Animal and Plant Health Inspection Service ("APHIS") regulated garbage, which is essentially food related garbage subject to certain regulations by the U.S. Department of Agriculture. The requested entitlements would facilitate the use of the property as contractor yard to support Marine Express' marine operations by allowing the storage, construction, repair and support of Marine Express' fleet of vessels and associated marine equipment. More details on the proposed site modifications and hazardous materials are included on pages two and three of Attachment 8, "Planning Commission Staff Report, dated August 12, 2014."

An Initial Study Checklist (IS) evaluating the potential environmental impacts of this project was prepared in accordance with the guidelines and regulations of the California Environmental Quality Act (CEQA). Based on the analysis in that study, the Planning Manager determined that the potentially significant impacts from the project could be lessened with the incorporation of specific mitigation measures. Subsequently, a draft Mitigated Negative Declaration (MND) was prepared. On June 23, 2014, the Planning Division mailed a Notice of Intent to adopt the Mitigated Negative Declaration (NOI) to all adjacent property owners, and property owners within 700 feet of the project site, posted the NOI on the city's website, and filed copies of the NOI with the Contra Costa County Clerk and the State Clearinghouse. One comment letter from the California Department of Fish and Wildlife (CDFW), attached hereto, was received during the 30-day public comment period. A response letter was sent to the CDFW on August 7, 2014. On July 3, 2014, the Planning Department extended the comment period for certain public agencies through August 4, 2014, in an effort to ensure a thorough review by regulatory agencies. No

comment letters from these regulatory agencies were received during this extended comment period.

On July 2, 2014, the City's environmental consultant conducted a site visit with Clinton Elsholz and Robert Stanley of the CDFW, and discussed the content of the comment letter. As a result of this comment letter, minor clarifications and additions have been added to the Initial Study Checklist included herein as Attachment 2. These clarifications further defined project components and address comments raised in the CDFW letter, and in conversations with other regulatory agencies. Specifically, the Initial Study Checklist includes information related to construction and in-water work, the timing of such work as it relates to special status species, and dredging that address the CDFW's comments. There is no habitat onsite or in the area for the terrestrial species of concern to environmental regulators, and the project proponent would avoid the aquatic species of concern by adhering to work windows set forth by National Oceanic Atmospheric Administration (NOAA) Fisheries/National Marine Fisheries Service. None of the additions or clarifications resulted in substantial revisions pursuant to CEQA Guidelines Section 15073.5. Pursuant to this Section, a substantial revision that would result in identification of a new significant effect or new mitigation measure would cause the Initial Study Checklist/Mitigated Negative Declaration (IS/MND) to be recirculated. Thus, there are no triggers for recirculation as a result of these additions. A redline copy showing the revisions described herein and is available at the City Clerk's office upon request.

On August 12, 2014, Bay Harbor Park Homeowners Association delivered to staff a comment letter on the IS/MND; copies of the letter were made available to the Planning Commission and members of the public. The letter was considered late because the comment period on the IS/MND closed on June 23, 2014. The Planning Commission held a public hearing regarding the Marine Express Site Improvements application, and heard public testimony from the applicant and residents. Two members of the public, Kalli Graham and Frank Gordon, shared public testimony expressing opposition to the project. Concerns from the public and the commissioners were primarily focused on: 1) the discrepancy between the more intense scope of potential operations analyzed in the IS/MND compared to the applicant's testimony of the daily operations he envisions; 2) concerns related to the transportation and offload of sewage via barge at the site; 3) concerns related to APHIS regulated garbage; 4) the adequacy of the IS/MND; and 5) the desired rezoning of the property. The Planning Commission, by a vote of five to one, denied the application finding that the IS/MND was inadequate, and finding that approval of the project would pose a nuisance to the public as a result of odors.

On August 22, 2014, the applicant filed a Declaration of Appeal, with a letter from David W. Trotter. stating the specific grounds and reasons for the appeal. The appeal alleges there was a lack of a legal basis upon which to deny the proposed entitlements, that there was substantial evidence to support the findings for the project's approval, a contradiction with the December 14, 2009 Settlement Agreement between Marine Express and the Redevelopment Agency of the City of Pittsburg, a contradiction with the City of Pittsburg General Plan, and the presence of adequate IS/MND. A subsequent letter from David W. Trotter on behalf of Marine Express was sent on October 14, 2014, providing further information on the processing of APHIS, articulating that Marine Express has a proven track record for handling such waste at its Alameda site safely and in compliance with federal regulations. The letter included a recommended condition of approval be added to the resolution to offer decision-makers and the public assurance that the handling, sterilization, and disposal of APHIS-regulated garbage is done safely, in compliance with federal regulations.

Subsequent discussions among staff, the project applicant, and one of the members of the public who expressed opposition at the August 12, 2014, public hearing have resulted in clarifications to the project description, and clarifications to the operations and limits of APHIS processing and sewage offloading.

SUBCOMMITTEE FINDINGS

Staff informed the Economic Development/Waterfront Development and Operations Department Subcommittee, at its December 4, 2014, of the upcoming hearing on the Commission's denial of this application.

STAFF ANALYSIS

Procedures: An appeal before the City Council is heard "de novo" meaning the City Council hears the appeal as a new matter. The original applicant has the burden of proof, and the reviewing body may act upon the application, either granting it, conditionally granting it or denying it, irrespective of the precise grounds of the appeal according to the Pittsburgh Municipal Code (PMC), Section 18.18.060(D). The City Council, as reviewing body, may reverse or affirm in whole or in part, or modify the decision of the Planning Commission (PMC, 18.18.060(E)).

In order to grant the appeal and thus approval of the use permit for this project, the Council must find that the proposed use is consistent with the General Plan and Zoning Ordinance; is not detrimental to the health, safety and welfare of the City; will not negatively impact the surrounding neighborhood; and will not adversely affect orderly development, property values, or the tax base within the City (PMC 18.16.040). In accordance with PMC section 18.28.030, in approving a Use Permit, the reviewing body may impose such reasonable conditions to the grant of use permit as it considers necessary to: 1) carry out the purpose and intent of the title and the purpose of the land use district in which the property is located; 2) comply with the general plan; 3) protect the public health, safety and general welfare; and 4) ensure that the operation of the use is compatible with existing and potential uses on properties in the surrounding area (PMC 18.28.030). Staff placed conditions of approval on the project in order to ensure that the findings for approval could be met.

In order to grant the appeal and approve the design review for this project, the Council must find that: 1) the structure conforms with good taste, good design and in general contributes to the character and image of the city as a place of beauty, spaciousness, balance, taste, fitness, broad vistas, and high quality; 2) the structure will be protected against exterior and interior noise, vibrations and other factors that may tend to make the environment less desirable; 3) the exterior design and appearance of the structure is not of inferior quality as to cause the nature of the neighborhood to materially depreciate in appearance and value; 4) the structure is in harmony with proposed developments on land in the general area; and 5) the application conforms with the criteria set forth in any applicable city-adopted design guidelines.

Clarifications Based on Discussion From the Planning Commission Hearing: Clarifications based on discussion from the Planning Commission hearing are included below. In addition, staff determined it was prudent to clarify this information in the IS/MND. As such, a clarifying document including the information below has been prepared and is attached to the IS/MND as Appendix F. Staff carefully considered all the information in Appendix F and has determined that recirculation pursuant to CEQA Guidelines Section 15075.3 was not

required. Finally, the proposed resolution for this project includes five conditions of approval been added as a result of the comments heard at the Public Hearing.

Project Description: Staff encouraged the applicant to include the entire scope of possible development and operations at the site in the IS/MND analysis to avoid “piecemealing” of the project, which is prohibited under CEQA. As a result, operations described in the IS/MND represent a maximum breadth of activities and upper limit of what would potentially occur on the site in emergency, unique and infrequent situations. To provide clarification, the day-to-day operations at Marine Express would be that of a contractor yard supporting Marine Express’ marine operations through the storage, construction, overhaul, repair, maintenance and support of vessels and associated marine equipment through the repairing, cleaning, painting, welding, machinery repair, and equipment installation; the processing and transportation of 12 cubic yards of APHIS per day; the offloading of sewage from the holding tanks on work boats; the docking of vessels; and the storage and staging of marine equipment and supplies such as fenders and gangways.

Sewage: The IS/MND notes that Marine Express would pump sewage from marine vessels into the Delta Diablo Sanitation District (DDSD) sewer system. After hearing public testimony and concerns regarding this at the Planning Commission meeting, Marine Express has decided to handle this portion of its business at its San Francisco and Alameda locations, and not in Pittsburg. As such, a condition of approval has been included in the proposed resolution to prohibit the offload of sewage transported to the site via barge. The applicant still intends to pump sewage directly from Marine Express’ own vessels and tug boats as needed, similar to offloading of sewage from recreational vessels docked at the City of Pittsburg Marina. The applicant estimates a need to service not more than 20 vessels per month. Tanks of Marine Express’ vessels average less than 1,000 gallons per unit, which is roughly equivalent to the sewage created by four single family homes in a typical day. Marine Express’ largest on-vessel sewage tank is 2,500 gallons, which is roughly equivalent to the sewage generated by 10 single family homes in a typical day. Condition Number 66 has been added to the proposed resolution to prohibit the offloading of sewage via barge, and Condition Number 67 has been added to limit the amount of sewage that may be offloaded from vessels at the site in any single month to 20,000 gallons. Staff does not believe these conditions are necessary for the Council to make the required findings to approve the project, but rather, that these conditions will give the Council and the Public a greater level of comfort with the project.

APHIS Regulated Garbage: Marine Express has also clarified that not more than 40 cubic yards of APHIS-regulated garbage would be treated on site per day. This is roughly equivalent to 10 standard commercial dumpsters, and five hours of sterilization. APHIS-regulated garbage is any food-related waste that has crossed state or international boundaries, such as that generated in an airplane or a passenger vehicle traveling from one state to another. APHIS-regulated garbage is not a bio-hazard, and it does not include sharps or sewage. APHIS-regulated garbage must be properly disposed of to protect the agriculture of California and the United States. Marine Express has maintained a compliance agreement with the United States Department of Agriculture (USDA) for the processing of APHIS-regulated garbage for several years and is overseen on a regular, weekly basis by USDA inspectors. Additional information on APHIS is included in this report as Attachment 7.

Currently, Marine Express uses its Alameda County site to process APHIS-regulated garbage for the ships serving USS Posco, Koch Carbon, and the Dow Chemical Company in Pittsburg, as well as other ship-dependent companies in Contra Costa, Solano, and San

Joaquin counties. APHIS-regulated garbage remains exposed to open air on these ships until Marine Express or another provider offloads it into a sealed, APHIS-approved container. Marine Express' job is to contract with ships before they come into port, board them, empty the open-air APHIS containers into sealed, APHIS-approved bins, load the sealed bins onto a marine express vessel, transport it to a Marine Express location approved for the sterilization of APHIS regulated garbage, and sterilize the APHIS-regulated garbage at a temperature of 212 degrees Fahrenheit for 30 minutes to eliminate any risk to American agriculture. The applicant has confirmed that odors from the sterilization process would only be detected by a Marine Express employee standing next to the sterilizer, and would not be detectable beyond the property lines. The byproducts of the sterilization process are water, which is diverted into a sanitary sewer system, and the sterile APHIS solid waste, which is trucked to the Keller Canyon Landfill as needed. At present, Marine Express provides the only on-call APHIS service in the Bay Area through its Alameda site.

The applicant's desire to process APHIS-regulated garbage in Pittsburg would work in conjunction with the existing APHIS processing location in Alameda. This would reduce the miles traveled in the transport of APHIS, and reduce the wait time for nearby vessels requiring APHIS service. Thus, processing APHIS in Pittsburg actually reduces the amount of time that APHIS-regulated garbage is exposed to open air, and facilitates an efficient sterilization process. If a condition is placed upon the project requiring the applicant to obtain an APHIS-approved compliance agreement prior to bringing APHIS-regulated garbage onto the property, and if the project is required to operate in compliance with the terms of that agreement and the APHIS rules and regulations applicable thereto, then staff does not believe that the project would be detrimental to the health, safety, and general welfare of the city, and would not create a public nuisance or enforcement problem.

IS/MND Adequacy: Staff determined it was prudent to clarify some information in the IS/MND based on the discussion at the Planning Commission Hearing. As such, a clarifying document including the information below has been prepared and is attached to the IS/MND as Appendix F. Staff carefully considered all the information in Appendix F and has determined that recirculation pursuant to CEQA Guidelines Section 15075.3 was not required. Staff believes that the IS/MND together with Appendix F, evaluates the potential environmental impacts at great length, and believes that with the inclusion of mitigation measures and conditions of approval, the adoption of the MND is fully warranted.

Desired Rezoning: This project must be evaluated based on the existing zoning district in which it is located. The project is located in the IG District, and has been evaluated accordingly both herein, in the Planning Commission staff report, and in the IS/MND.

Staff believes the City Council can make the required findings to grant the appeal and approve the proposed use permit and design review application, with the addition of the clarifications and upper limits above, subject to conditions. Support for the use permit and design review findings are detailed below:

Use Permit Findings:

Staff believes that the proposed project is consistent with the General Plan because the contractor yard would be located on an industrial site located in an industrial zoning district, surrounded by other industrial uses. The proposed use is classified as a contractor yard, which is consistent with the description of the Industrial General Plan land use designation (General Plan, page 2-20). Establishment of the contractor yard use is also consistent with adopted General Plan goal 2-G-12 and policy 2-P-37, as described in the Code Compliance section of the Planning Commission staff report.

If the block wall proposed on site is a minimum of eight feet tall (Proposed Condition No. 11), as required by PMC section 18.54.010, then the proposed use would be consistent with the Zoning Ordinance, the purposes of the land use district in which it is located and would be appropriate to the specific location at 695 East 3rd Street, in that the contractor yard would be appropriately screened from view from the public right-of-way. The use would create local jobs and contribute to the economic base of the community, which is also consistent with the intent of industrial districts (PMC section 18.54.005, subsections A and B.3). In order to comply with the provisions of the parking chapter of the Zoning Ordinance, staff recommends that the Commission determine that 12 vehicular stalls and racks for three bicycles would be appropriate to serve this contractor yard upon completion of the phase one site improvements. Staff believes that this will adequately serve the needs of the use because the applicant anticipates a maximum of 12 employees upon the completion of the phase one improvements. A condition of approval has been added to the resolution to require the addition of three bicycle parking stalls to the front parking area currently identified on the site plan (proposed Condition No. 13). This will bring both vehicular and bicycle parking at the site into compliance with PMC Chapter 18.78.

Staff believes that the proposed project would not adversely affect the orderly development of property within the city because it is an industrial use that is consistent with the industrial uses in the general vicinity including USS Posco and Koch Carbon. Staff also does not believe that the proposed use would encourage marginal development within the neighborhood; rather, it would constitute an improvement in that the front and most visible part of the proposed project area would be predominantly landscaping. If this front landscaped area is attractively designed to incorporate various colors, textures and water efficient plant selections, and if the block wall incorporates a decorative cap (Proposed Condition No. 11) staff believes that the property frontage would be substantially improved and would benefit the industrialized area. To this end, staff recommends that additional landscaping details, over that provided on the submitted plans, be submitted for staff review and approval prior to issuance of a building permit (proposed Condition No. 7).

The project would not be detrimental to the health, safety, and general welfare of the city, if both of the mitigation measures from the Final Mitigated Negative Declaration relating to hazardous materials and noise are incorporated as conditions of project approval (Proposed Condition Nos. 2 and 3), and if the project applicant maintains his approvals and permits under the California Emergency Reporting System (CERS) applications and California Accidental Release Prevention Program (CUPA) (Proposed Condition No. 4), and if APHIS is handled in accordance with USDA regulations (Proposed Condition Numbers 63 and 64). This would ensure that the hazardous materials processed on site are handled according to all industry standards. At present, the business is operating in good standing among regulatory agencies at its Alameda and Long Beach locations, and recently passed an audit from the California Department of Toxic Substances Control without any deficiencies or recommendations for improvement noted. The applicant recycles waste whenever possible, including petroleum waste from ships, oils, oily debris, solids, and paint waste. All waste is stored in the hazardous materials container that includes a secondary containment area to protect against unforeseen leakage. The applicant does not currently have any hazardous materials onsite, so the applications cannot be submitted at this time. The addition of Condition Nos. 63 and 64 ensures that no APHIS will arrive on the site without an APHIS-approved compliance agreement in place, and that all APHIS rules and regulations therein would be followed to protect the health, safety, and general welfare of the residents of Pittsburg as well as the agriculture of the United States. The addition of Condition Nos. 65, 66, and 67 place limits on the amount of APHIS waste and the amount of sewage that may

be processed at the site. Staff does not believe that these conditions are pertinent to this finding, but does believe that they will give the public an expectation of the APHIS and sewage related activities that would take place.

The intermittent use of cranes or similar equipment onsite could generate noise readings in excess of the conditionally acceptable range at neighboring properties if used near the eastern or western property lines. If mitigation measure NOI-1 is incorporated to require that such equipment be used only down the center-line of the property, or to require the applicant to provide sufficient evidence to the city that any crane installed would not generate greater than 75 decibels at the source, then the project would not result in noise generation above the acceptable limits set forth in Chapter 9 of the General Plan. Because of the distance from the project site to the nearest sensitive receptors, the noise generated by Marine Express would not result in ambient noise levels above the “normally acceptable” level in the nearest residential neighborhoods. With the incorporation of Mitigation Measure NOI-1 (Proposed Condition No. 3), the intermittent noise generated by the project would not be detrimental to the health, safety, and general welfare of the city.

While the existing shoreline would be modified to accommodate the straight sheet-pile wall, inlet slip, and boat ramp, the shoreline is previously modified and does not include wetlands or riparian areas. Construction activities related to the shoreline improvements and excavation would implement best management practices and would require regulatory approvals from federal and state agencies. Therefore, the health, safety, and welfare of the city and its shoreline would be preserved.

The proposed project site is in an existing industrialized area of the city, and is located on a portion of East Third Street that terminates at USS Posco roughly 2000 feet to the east of the subject site and is generally traversed only for industrial-related traffic at USS Posco and Koch Carbon. There would not be risk of APHIS-related odors creating a nuisance for nearby residents with the clarification provided above by the applicant. Noise from equipment would not create a nuisance if mitigation measure NOI-1 from the Mitigated Negative Declaration (relating to noise) is incorporated as condition of project approval (Proposed Condition No. 3). This would ensure that noise generation at the project site would not exceed normally acceptable levels at the nearest single family residential homes, approximately 1300 feet from the property. Staff does not anticipate that the use would create a nuisance or enforcement problem within the neighborhood, provided that standards for general site maintenance and safe business operations are applied to the project.

Lastly, the project is consistent with the city's approved funding priorities, in that there are no public funds associated with the project. If the Applicant dedicates the first 10-feet of property at the southern property line to the city for the creation of a curb, gutter, and sidewalk to serve the future widening of East Third Street (Proposed Condition No. 46), then the proposed project would be consistent with the city's funding priorities. Furthermore, the project would contribute to the tax base through the creation of new jobs. Finally, the proposed project involves new improvements to existing underutilized and unimproved property and would have a beneficial effect on the property value of the site and surrounding sites.

Design Review Findings:

Staff believes that with the addition of some conditions of approval primarily related to landscaping, the wall, and the design of the guard house, the Council can make the findings necessary in order to approve the design review portion of this project. Support for the

findings is detailed on pages nine through 11 of the Planning Commission Staff Report (Attachment 8), under the subheading "Design Review."

Conclusion:

An analysis of the appeal itself is not included herein because the City Council must hear the appeal as a new matter. Staff believes that the City Council can adopt the IS/MND for the project, and make all required findings to approve the use permit and design review applications with the modifications to the project that are described herein, conditioned in the proposed resolution, and included in the Addendum to the IS/MND. As such, staff recommends that the City Council adopt a Resolution adopting the IS/MND, and approve Use Permit / Design Review Application No. 12-864, as conditioned.

ATTACHMENTS: 1. Resolution

2. Final Initial Study and Mitigated Negative Declaration, dated August, 2014
3. Comment Letter from CDFW, dated June 24, 2014
4. Project Plans, date stamped March 20, 2014
5. Project Renderings
6. Declaration of Appeal, dated August 22, 2014
7. Further information related to Appeal, dated October 14, 2014
8. Planning Commission Staff Report, dated August 12, 2014
9. Minutes of Planning Commission Meeting, August 12, 2014
10. Letter from Bay Harbor Park Homeowners Association, August 12, 2014
11. Notice of Public Hearing
12. Vicinity Map

Report Prepared By: Alexandra Endress

**CITY OF PITTSBURG
CITY COUNCIL/AGENCY CONCURRENT MEETING MINUTES**

DATE: December 15, 2014

LOCATION: Council Chambers, City Hall, 65 Civic Avenue, Pittsburg, CA 94565

CITY COUNCIL/AGENCY MEMBERS

Salvatore Evola, Mayor/Chair
Dwayne "Pete" Longmire, Vice-Mayor/Chair
Ben Johnson, Council/Agency Member
Will Casey, Council/Agency Member
Marilyn Craft, Council/Agency Member
Joanne Alvergue, Agency Member
Willie Mingo, Agency Member

APPOINTED OFFICIALS

Joe Sbranti, City Manager/Executive Director
Ruthann Ziegler, City Attorney/Legal Counsel
Alice E. Evenson, City Clerk/Agency Secretary (elected)
Nancy Parent, City Treasurer (elected)

CONVENE IN CLOSED SESSION

Mayor Longmire called the meeting of the City Council to order at 5:05 P.M. in the City Council Chambers at City Hall, 65 Civic Avenue, Pittsburg, CA and convened to Closed Session for the following items:

1. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION FOR THE PITTSBURG ARTS AND COMMUNITY FOUNDATION INC. (Paragraph (1) of subdivision (d) of Section 54956.9):

Name of case: Pittsburg Arts and Community Foundation vs. Sheri Vallero, Contra Costa County Superior Court, Case No. PS14-1177

2. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION FOR THE CITY OF PITTSBURG (Paragraph (1) of subdivision (d) of Section 54956.9):

Name of Case: Vidrio Residential Owners Association v. City of Pittsburg, Contra Costa County Superior Court Case No. C14-01922

3. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION FOR THE SUCCESSOR AGENCY (Paragraph (1) of subdivision (d) of Section 54956.9):

Name of case: in re Marisa Ann Belleci, U.S. Bankruptcy Court for the Northern District of California, Case No. 14-40261

Name of Case: Vidrio Residential Owners Association v. Successor Agency to the Redevelopment Agency of the City of Pittsburg, Contra Costa County Superior Court Case No. C14-01922

4. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION FOR THE CITY OF PITTSBURG (Significant exposure to litigation pursuant to paragraph (2) subdivision (d) of Section 54956.9):

Two (2) cases

5. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION FOR THE CITY OF PITTSBURG (Significant exposure to litigation pursuant to paragraph (4) subdivision (d) of Section 54956.9):

Three (3) cases

6. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION FOR SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF PITTSBURG (Significant exposure to litigation pursuant to paragraph (2) subdivision (d) of Section 54956.9):

Two (2) cases

7. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION FOR SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF PITTSBURG (Significant exposure to litigation pursuant to paragraph (4) subdivision (d) of Section 54956.9):

Three (3) cases

ROLL CALL

Member Evola was present for the Closed Session, and absent and excused for the Planning Commission Appeal following the Closed Session. He returned for the Regular Meeting at 7:25 P.M.

The Council convened at 6:05 P.M. for the Planning Commission Appeal.

PLANNING COMMISSION APPEAL

Consideration of an Appeal of a Planning Commission Decision to Deny a Use Permit for Marine Express Site Improvements, AP-12-864 (UP/DR)

Mayor Longmire opened the Public Hearing.

Randy Esch, appellant, presented the proposed site improvement plan.

Dave Trotter, attorney for the appellant, appeared on Mr. Esch's behalf.

Planning Commissioners Belleci-Shipe, Fardella, and Fogleman all spoke against the project.

Willie Evers spoke against the project.

William Lee stated he hoped if the project went forward a local hire and prevailing wage provision would be put in place.

Frank Gordon spoke in favor of the project.

Chris Fallon spoke against the project.

Lisa Graham spoke against the project.

Kalli Graham spoke against the project.

There being no one to speak further to the issue, Mayor Longmire closed the Public Hearing.

On motion by Member Johnson, seconded by Member Casey to adopt the Initial Study Checklist and Mitigated Negative Declaration, and approve Use Permit/Design Review Application No. 12-864 as conditioned therein and approved by the following vote:

AYES: Casey, Craft, Johnson, Longmire
ABSENT: Evola

The Council took a ten minute recess at 7:15 P.M. and re-convened for Regular Meetings at 7:25 P.M.

ROLL CALL

All Members were present

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

PRESENTATION

Chamber of Commerce

PJ Quesada, Chair of the Chamber Board of Directors presented a recap of the successful 2014 Seafood Festival.

COUNCIL MEMBER REPORTS/REMARKS

Member Johnson attended the holiday parade and several veterans events. He thanked PACF for the successful holiday events in Old Town.

CITY MANAGER REPORTS/REMARKS

City Manager Sbranti introduced Fritz McKinley, the new Community Development Director/City Engineer.

CITIZENS REMARKS

James Couchman commented on several issues: City Park use, odors on Davi Avenue, and the golf course and restaurant.

POWER COMPANY

PUBLIC HEARING

10. Adoption of a Pittsburg Power Company Resolution to Adopt the Revised Renewable Energy Resources Procurement Plan for Island Energy

Chair Longmire opened the Public Hearing. There being no one to speak to the item, Chair Longmire closed the Public Hearing.

On motion by Vice-Chair Johnson, seconded by Member Craft to adopt and carried unanimously.

CITY COUNCIL MEETING

PUBLIC HEARING

11. Adoption of City Council Resolutions Establishing and Enforcing the California Vehicle Code on Private Streets in Harbor Lights II and Heritage Pointe Subdivisions

Mayor Longmire opened the Public Hearing. There being no one to speak to the item, Mayor Longmire closed the Public Hearing.

On motion by Vice-Mayor Johnson, seconded by Member Casey to adopt and carried unanimously.

12. Introduction and Waive First Reading of a City Council Ordinance Amending Pittsburg Municipal Code Title 19 (Signs) in Order to Allow Billboard Signs

Mayor Longmire opened the Public Hearing. There being no one to speak to the item, Mayor Longmire closed the Public Hearing.

On motion by Member Evola, seconded by Vice-Mayor Johnson to adopt and carried unanimously.

CONSIDERATION

13. Adoption by Minute Order of Council Member Committee Assignments for 2015

Vice-Mayor Johnson asked that the Lancaster JPA be added to the assignment list.

On motion by Vice-Mayor Johnson, seconded by Member Casey to adopt and carried unanimously.

CONFLICT OF INTEREST DECLARATIONS

There were no conflict of interest declarations.

COMBINED PITTSBURG ARTS AND COMMUNITY FOUNDATION, PITTSBURG POWER COMPANY, SOUTHWEST PITTSBURG GEOLOGIC HAZARD ABATEMENT DISTRICT II, SUCCESSOR AGENCY AND CITY COUNCIL CONSENT CALENDAR

On motion by Vice-Mayor/Chair Johnson, seconded by Member Casey to adopt without Items 21 and 23, and carried unanimously.

14. Minutes of November 17, 2014
15. Adoption of a Pittsburg Power Company Resolution to Approve a Power Purchase Agreement between the Whitney Point Solar, LLC and the Pittsburg Power Company
16. Adoption of a City Council Resolution to Authorize the City Manager to Negotiate and Execute a Memorandum of Understanding for Subdivision 9363, Greystone Place
17. Adoption of a City Council Ordinance Amending the Required Building Setbacks for the Mariner Walk Development (AP-14-1025)
18. Adoption of a City Council Ordinance Amending Pittsburg Municipal Code Section 18.84.220 to Allow Electric Fences (AP-14-988 [RZ])
19. Adoption of a City Council Resolution to Authorize FY 2014/15 Budget Adjustments to Increase Pension Obligation Bond Expense Allocations, Reduce Various Allocations that Fund Internal Service Expenses, and Reduce Health Insurance Budgets
20. Receive and File Staff's Report on the Review of Development Impact Fees Received by the City of Pittsburg that are Subject to AB 1600 Reporting Requirements
22. Adoption of a City Council Resolution to Authorize Allocation of Keller Canyon Mitigation Funds for Purchase of Rapid Deployment Shelter

The following items were considered separately.

21. Receive and File the Investment Report as of September 30, 2014

On motion by Member Evola, seconded by Mayor/Chair Longmire to adopt and carried unanimously.

23. Adoption of a City Council Resolution to Name Two Parks in Honor of Police Officers Killed in the Line of Duty

Members of the families of those officers killed in the line of duty were present and were proud to have their officers so honored.

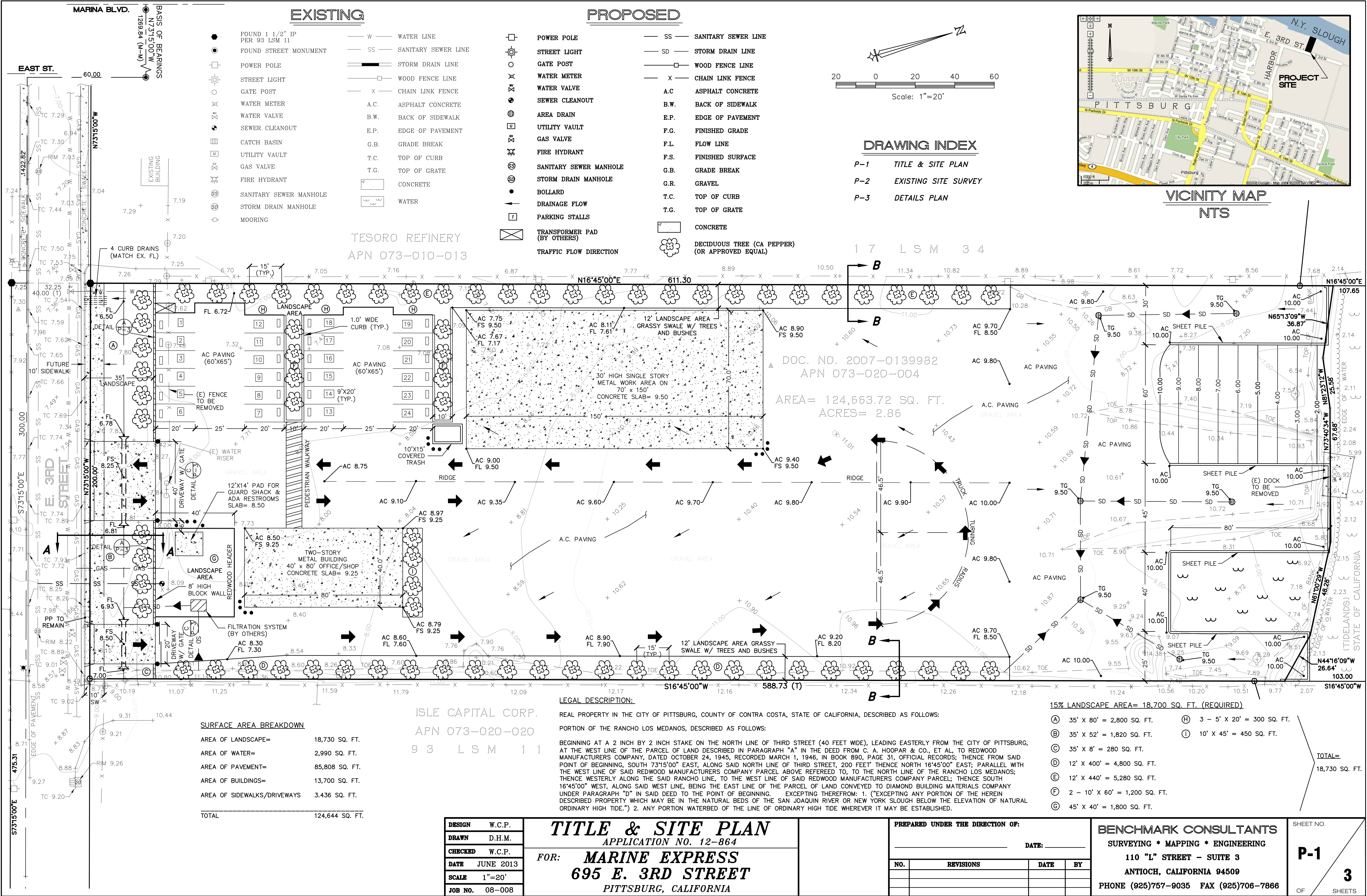
On motion by Member Evola, seconded by Vice-Mayor/Chair Johnson to adopt and carried unanimously.

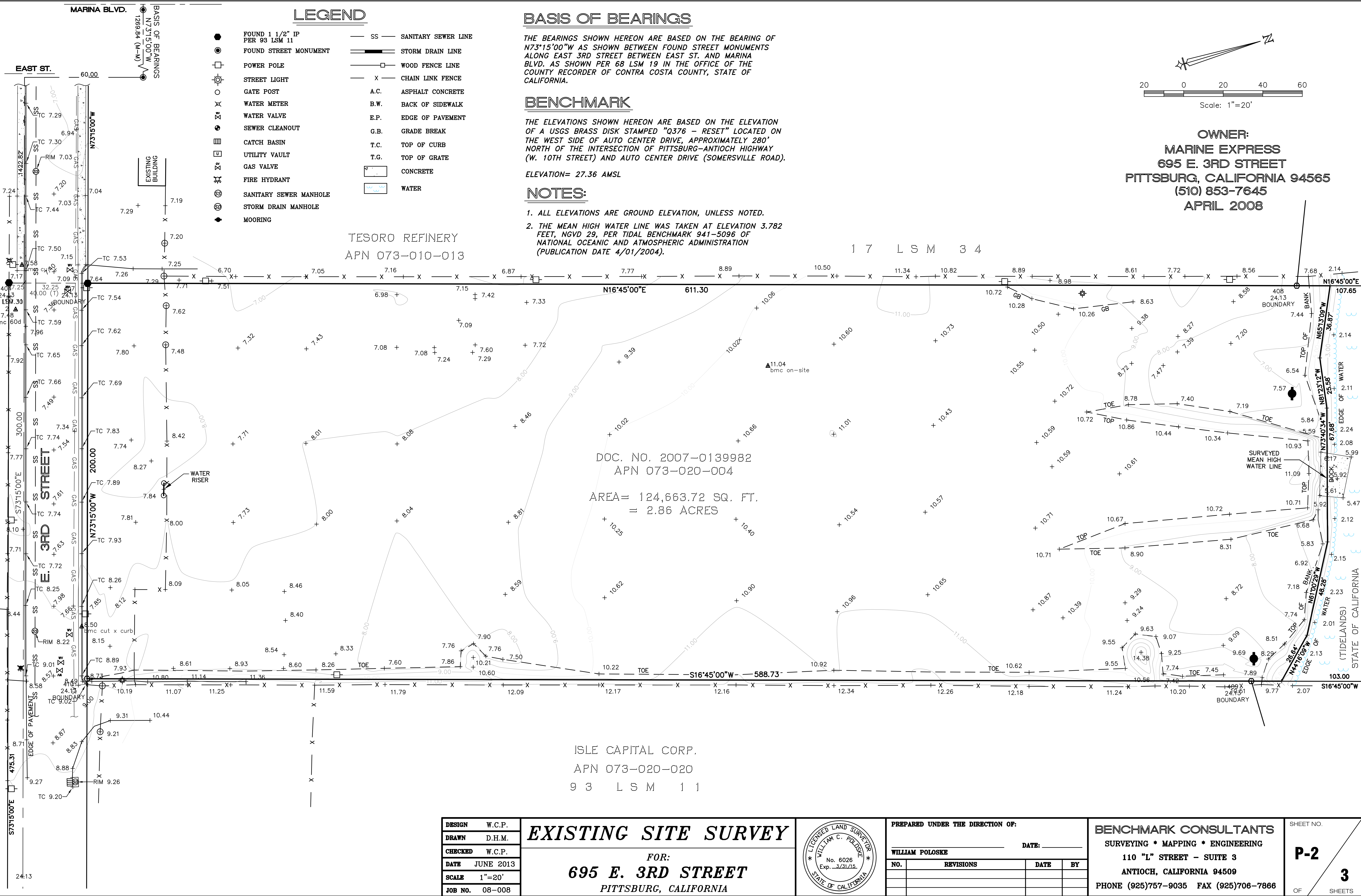
ADJOURNMENT

The City Council meeting was adjourned at 8:05 P.M. to January 20, 2015.

Respectfully submitted,

Alice E. Evenson, City Clerk

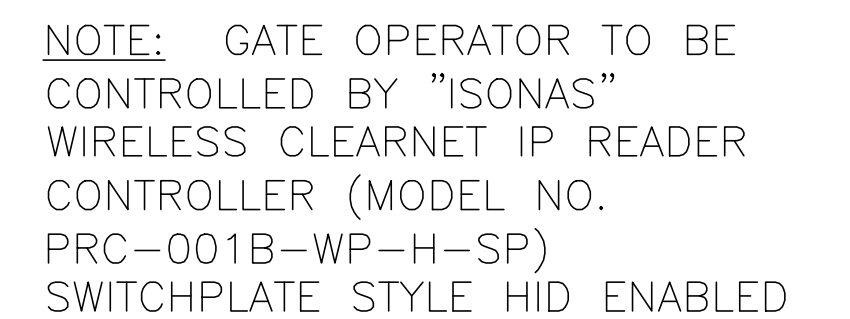






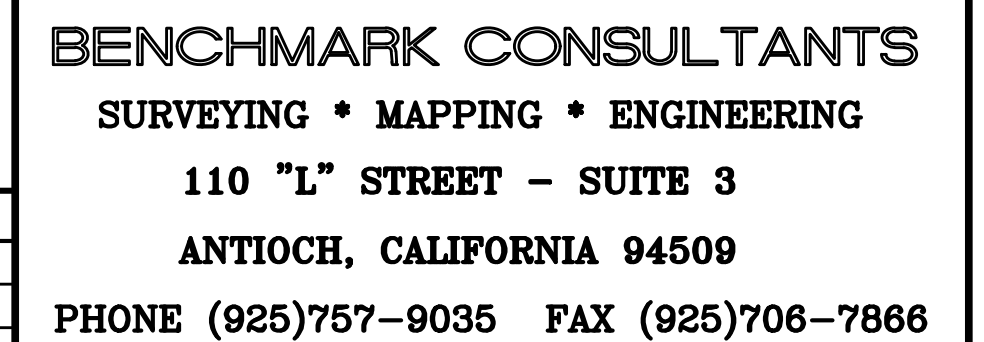
SECTION "A-A"

NOT TO SCALE



DETAIL "C"
SWING GATE OPERATOR DETAIL
NOT TO SCALE

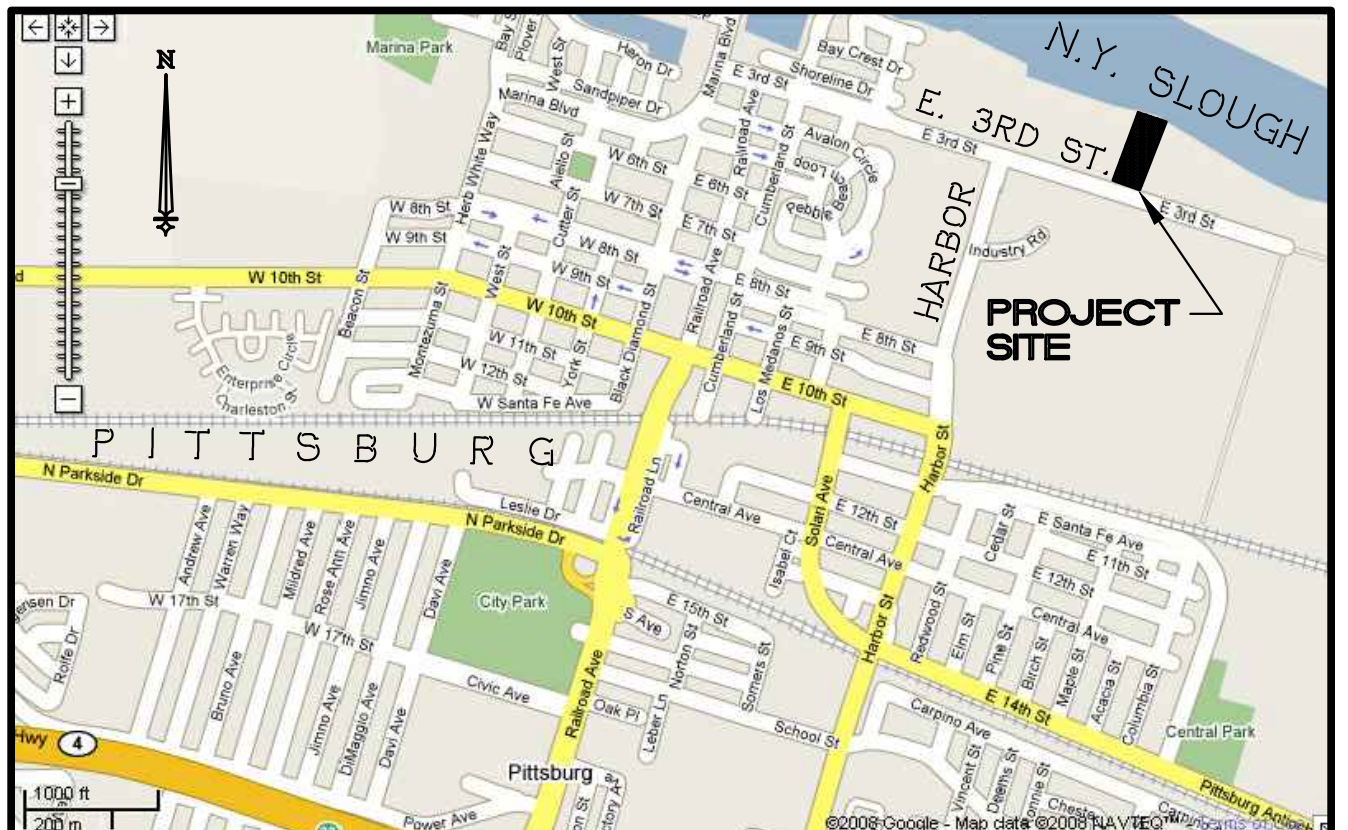
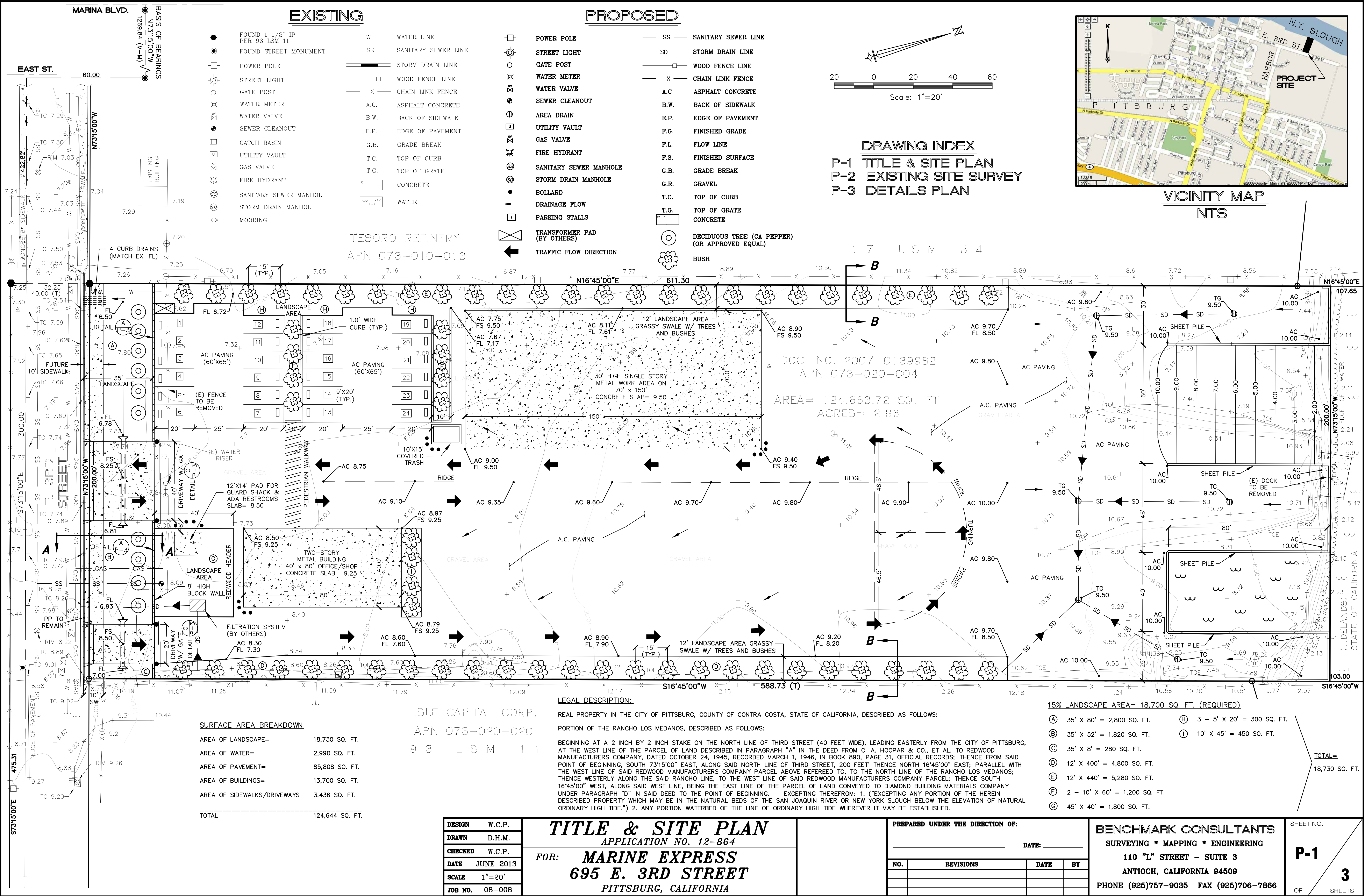
FOR:
695 E. 3RD STREET
PITTSBURG, CALIFORNIA



SHEET NO.

P-3

3
SHEETS



VICINITY MAP
NTS

DRAWING INDEX
P-1 TITLE & SITE PLAN
P-2 EXISTING SITE SURVEY
P-3 DETAILS PLAN

SURFACE AREA BREAKDOWN

AREA OF LANDSCAPE=	18,730 SQ. FT.
AREA OF WATER=	2,990 SQ. FT.
AREA OF PAVEMENT=	85,808 SQ. FT.
AREA OF BUILDINGS=	13,700 SQ. FT.
AREA OF SIDEWALKS/DRIVEWAYS	3,436 SQ. FT.
TOTAL	124,644 SQ. FT.

ISLE CAPITAL CORP.
APN 073-020-020
93 LSM 11

LEGAL DESCRIPTION:
REAL PROPERTY IN THE CITY OF PITTSBURG, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:
PORTION OF THE RANCHO LOS MEDANOS, DESCRIBED AS FOLLOWS:
BEGINNING AT A 2 INCH BY 2 INCH STAKE ON THE NORTH LINE OF THIRD STREET (40 FEET WIDE), LEADING EASTERLY FROM THE CITY OF PITTSBURG, AT THE WEST LINE OF THE PARCEL OF LAND DESCRIBED IN PARAGRAPH "A" IN THE DEED FROM C. A. HOOPAR & CO., ET AL, TO REDWOOD MANUFACTURERS COMPANY, DATED OCTOBER 24, 1945, RECORDED MARCH 1, 1946, IN BOOK 890, PAGE 31, OFFICIAL RECORDS; THENCE FROM SAID POINT OF BEGINNING, SOUTH 73°15'00" EAST, ALONG SAID NORTH LINE OF THIRD STREET, 200 FEET; THENCE NORTH 16°45'00" EAST, PARALLEL WITH THE WEST LINE OF SAID REDWOOD MANUFACTURERS COMPANY PARCEL ABOVE REFERRED TO, TO THE NORTH LINE OF THE RANCHO LOS MEDANOS; THENCE WESTERLY ALONG THE SAID RANCHO LINE, TO THE WEST LINE OF SAID REDWOOD MANUFACTURERS COMPANY PARCEL; THENCE SOUTH 16°45'00" WEST, ALONG SAID WEST LINE, BEING THE EAST LINE OF THE PARCEL OF LAND CONVEYED TO DIAMOND BUILDING MATERIALS COMPANY UNDER PARAGRAPH "D" IN SAID DEED TO THE POINT OF BEGINNING. EXCEPTING THEREFROM: 1. ("EXCEPTING ANY PORTION OF THE HEREIN DESCRIBED PROPERTY WHICH MAY BE IN THE NATURAL BEDS OF THE SAN JOAQUIN RIVER OR NEW YORK SLOUGH BELOW THE ELEVATION OF NATURAL ORDINARY HIGH TIDE.") 2. ANY PORTION WATERBED OF THE LINE OF ORDINARY HIGH TIDE WHEREVER IT MAY BE ESTABLISHED.

15% LANDSCAPE AREA= 18,700 SQ. FT. (REQUIRED)

(A) 35' x 80' = 2,800 SQ. FT.	(H) 3 - 5' x 20' = 300 SQ. FT.
(B) 35' x 52' = 1,820 SQ. FT.	(I) 10' x 45' = 450 SQ. FT.
(C) 35' x 8' = 280 SQ. FT.	
(D) 12' x 400' = 4,800 SQ. FT.	
(E) 12' x 440' = 5,280 SQ. FT.	
(F) 2 - 10' x 60' = 1,200 SQ. FT.	
(G) 45' x 40' = 1,800 SQ. FT.	
TOTAL= 18,730 SQ. FT.	

DESIGN	W.C.P.
DRAWN	D.H.M.
CHECKED	W.C.P.
DATE	JUNE 2013
SCALE	1"=20'
JOB NO.	08-008

TITLE & SITE PLAN
APPLICATION NO. 12-864
FOR: **MARINE EXPRESS**
695 E. 3RD STREET
PITTSBURG, CALIFORNIA

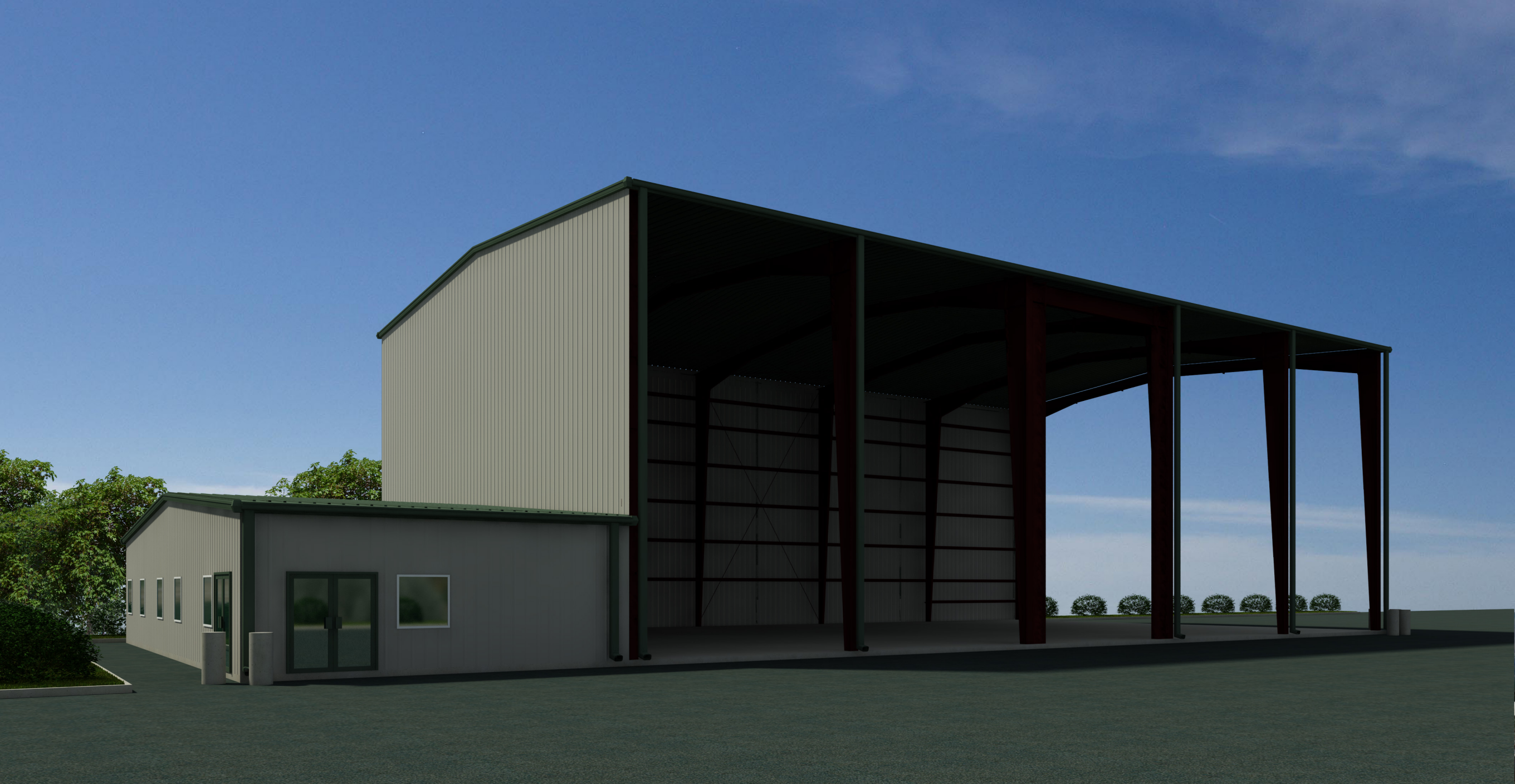
PREPARED UNDER THE DIRECTION OF:			
DATE: _____			
NO.	REVISIONS	DATE	BY

BENCHMARK CONSULTANTS
SURVEYING * MAPPING * ENGINEERING
110 "L" STREET - SUITE 3
ANTIOCH, CALIFORNIA 94509
PHONE (925)757-9035 FAX (925)706-7866

SHEET NO.
P-1
3
OF SHEETS









MARINE EXPRESS

12-07-2016

Ms. Devina Uribe:
City of Pittsburg
Engineering Technician II
65 Civic Ave
Pittsburg, CA 94565

RECEIVED

DEC - 7 2016

BUILDING DIVISION

Subject: Approval Extension Request –AP 12-864, Contractor Yard Improvements

Marine Express, respectfully requests the City of Pittsburg extend approval of the Marine Express site improvement project for an additional 3 years. The current approval is set to expire on December fifteen of this year. Marine Express has delayed construction of the project due to permit applications.

Additionally, we will be constructing the project in the following two phases:

Phase I to consist of the construction of the storm water pollution protection improvements, landscaping, paved driveway, 168 square-foot guardhouse, 8-foot tall masonry wall, and a parking lot.

Phase II to consist of the constriction of the 40-foot by 80-foot inlet slip for the moorage of marine vessels and a 60- foot by 80-foot slipway.

Phase III TBD

Please let us know if you have any further questions. Thank you for your time.

Sincerely,

Randall M. Esch
Marine Express Inc.

Vicinity Map

Project Title: Marine Express Site Improvements, AP-12-864 (UP, DR)
Location: 695 East 3rd Street, APN: 073-020-004



**CITY OF PITTSBURG
PLANNING COMMISSION
STAFF REPORT**

**ITEM: No. 3 – Recommendation on Amendments to Pittsburg Municipal Code
Title 18 Related to Permitting for Large Family Daycare Homes, AP-17-
1214 (RZ).**

ORIGINATED BY: City of Pittsburg, 65 Civic Avenue, Pittsburg, CA 94565

SUBJECT: This is a public hearing on a City-initiated proposal to consider an amendment to Title 18, Zoning, of the Pittsburg Municipal Code (PMC) in order to permit large family daycare homes of up to 14 children, with limitations related to noise, parking, and spacing/concentration, consistent with state law. The changes proposed would apply to all residential districts within the city, including the M (Mixed Use) and GQ (Governmental and Quasi-Public) Districts, where residential uses are permitted.

RECOMMENDATION:

Staff recommends that the Planning Commission adopt Resolution No. 10053, recommending City Council approval of the proposed zoning text changes relating to the permitting process for large family daycare homes.

BACKGROUND:

In October 2016, the City's finance staff discovered that there were a number of large family daycare homes (8-14 children) operating in the City with no business license on record. Upon this discovery, a total of 27 letters were sent out to various providers in Pittsburg, informing them that they needed to obtain the proper business license and zoning approval in order to continue doing business in the City. The daycare providers that were provided notice have generally been operating in Pittsburg anywhere from 1 to 10 years without the proper city approvals.

On October 17, 2016, the City received a letter from the Child Care Law Center, on behalf of (at least) one child care provider in Pittsburg, asserting that the City's existing municipal code requirements for large family daycare homes are non-compliant with state law. According to state law, cities may treat large family daycare homes in one of three ways: 1) classify them as a permitted use; 2) require a nondiscretionary permit that is subject to certain specific reasonable conditions; or 3) require a nondiscretionary permit that is subject to certain specific reasonable conditions, with written notice to property owners within a 100 foot-radius at least 10 days before the zoning administrator reaches a decision regarding the permit; the hearing associated with the third option would only be held if the occupant or another affected person requests a hearing. (Health & Safety Code § 1597.46(a))

Upon review in conjunction with the City attorney, staff concurs with the assertion of the Child Care Law Center that the existing PMC regulations currently indicate that a

discretionary (zoning administrator level) use permit is required, whereas state law allows for only nondiscretionary permits.

On November 28, 2016, staff presented the issue to the Land Use Subcommittee for consideration, along with two proposed options for zoning text amendments that would fix the inconsistency with state law. During this meeting, there was testimony from various members of the public and lengthy discussion about the issue. At the conclusion of the discussion, there was unanimous support by the four subcommittee members to move forward with a proposed change that would make large family daycare homes permitted uses in all residential districts, subject to reasonable limitations consistent with the acceptable standards for review outlined by the applicable state law.

PROJECT DESCRIPTION:

PMC Title 18 (Zoning), provides two different classes of daycare homes: 1) small facilities, allowing up to eight children, and 2) large facilities, allowing up to fourteen children (see PMC 18.08.040.b). Currently, small family daycare homes are permitted in all residential districts with no limitations. In order to ensure that the PMC is consistent with state law, staff is proposing that the permitting process for large family daycare homes in all residential areas be changed from the current discretionary zoning administrator use permit process, to a permitted use with reasonable limitations, consistent with the standards of review allowed under state law.

The California Child Day Care Facilities Act (CA Health and Safety Code, section 1596.70 et seq.) limits local zoning regulatory authority to reasonable standards related to four narrow factors: 1) spacing and concentration, 2) traffic control, 3) parking, and 4) noise control. To address these limited standards of review, staff proposes the following limitations be placed on new large family daycare homes. Please note, any existing legally established facilities not complying with these limitations would be considered 'grandfathered' in under the new code, if adopted:

1. Outdoor activities would be prohibited before 8:00 a.m. on weekdays and 9:00 a.m. on weekends, and would not be allowed after 9:00 p.m. any day of the week. This limitation is proposed in order to help control noise that may emanate from the premises from children playing outdoors.
2. A minimum of one paved off-street drop-off/pick-up parking space would be required on site (note, this requirement would be in addition to any required parking for the residential unit, which would remain the primary use of the site).
3. The off-street parking space would need to be reserved exclusively for child loading and drop-off during all hours of operation, and parents would need to be provided notice about the availability of the designated drop-off/pick-up location.
4. The use would need to be separated from other large family day care homes by a minimum of 100 feet in all directions, as measured from property line to property line.

Planning Commission Staff Report

The 100-foot radius was selected to match the noticing requirement outlined by state law, even though this proposed amendment would not require any actual notices.

Staff is also proposing to include a voluntary alternative permitting process for the rare circumstances that may occur when a large family daycare provider cannot comply with all of the limitations identified above. The proposed alternative process, would allow for application of a special zoning administrator permit, which would be processed in accordance with the applicable requirements of the state law, including the California Child Day Care Facilities Act (CA Health & Safety Code Section 1597.46(a)(3)), as amended from time to time.

GENERAL PLAN/CODE COMPLIANCE:

General Plan: The proposed amendments would be consistent with the objectives, policies, general land uses and programs in the General Plan, in that the revised permitting process would be consistent with state law. Further, although there are no specific General Plan policies related to permitting, accessibility and availability of in-home child care facilities within the City, the amendments would not be inconsistent with any existing General Plan policy direction.

Pursuant to PMC Section 18.16.020 and 18.48.030, the Planning Commission shall include written findings to support any recommendation it makes to the City Council to amend the Municipal Code.

Required Findings: In order to recommend approval of an amendment to the Zoning Ordinance, the Commission must find (in accordance with PMC Section 18.48.030) that:

1. The changes proposed are consistent with the objectives, policies, general land uses and programs specified in the General Plan.
2. In the case of a base district, the change proposed is compatible with the uses authorized in, and the regulations prescribed for, the land use district for which it is proposed.
3. A community need is demonstrated for the change proposed.
4. Its adoption will be in conformity with public convenience, general welfare and good zoning practice.

Environmental: This project is exempt from the requirements of the California Environmental Quality Act under the general rule of applicability of the state CEQA Guidelines, section 15061, in that there is no possibility that the activity in question would have a significant negative physical impact on the environment. The amendments proposed are procedural in nature and are intended to ensure that the City's zoning requirements for large family daycare homes are consistent with state law.

Planning Commission Staff Report

Public Notice: On or prior to January 14, 2017, notice of the January 24, 2017, public hearing to consider this application was posted at City Hall and on the 'public notices' page of the City's website; was delivered to the Pittsburg Library; was published in the local newspaper (East Contra Costa County Times); and was mailed via first class mail or electronic mail to interested parties and individuals and organizations that requested such notice, in accordance with PMC sections 18.14.010, and Government Code section 65091.

ANALYSIS:

Staff believes that Planning Commission can make the required findings to recommend City Council approval of the amendments as presented. The proposed amendments are consistent with state law, and the proposed streamlined permitting process within residential districts would be appropriate in that in-home day care facilities are already defined by the PMC as residential uses (PMC 18.08.040). The proposed zoning change would not only streamline the permitting process, but it would also minimize processing fees for potential child care providers, thereby encouraging more facilities to locate in Pittsburg and helping to remove barriers for families in need of quality child care. In Contra Costa County alone, child care costs have increased by over 17% in the last seven years, while the total number of licensed facilities has steadily declined. In addition, Contra Costa County currently only has enough licensed facilities to accommodate 30% of the children in the county with working parents.

Staff believes there is clearly a need for more quality, licensed, accessible, and affordable child care options for residents in Contra Costa County, and since there is little to no history in Pittsburg of complaints against these facilities, it would be appropriate to recommend approval of the proposed amendments in an effort to streamline the permitting process for new large family day care homes.

ACTION REQUIRED:

Move to adopt Resolution No. 10053, recommending City Council approval of the zoning text changes proposed zoning text changes relating to the permitting process for large family day care homes.

ATTACHMENTS:

1. Proposed Resolution No. 10053
2. Proposed Resolution Exhibit A - Proposed PMC Changes
3. Public Hearing Notice

Prepared by: Kristin Pollot, AICP, Planning Manager

PROPOSED
BEFORE THE PLANNING COMMISSION OF THE CITY OF PITTSBURG

In the Matter of:

Resolution Recommending that the City	)	
Council Amend Title 18 of the Pittsburgh	)	
Municipal Code as it Relates to Permitting	)	Resolution No. 10053
for Large Family Daycare Homes, AP-17-	)	
1214 (RZ)	)	

The Planning Commission DOES RESOLVE as follows:

Section 1. Background

- A. This is a City-initiated proposal to consider an amendment to Title 18, Zoning, of the Pittsburgh Municipal Code (PMC) in order to permit large family daycare homes of up to 14 children, with limitations related to noise, parking, and spacing/concentration, consistent with state law. The changes proposed would apply to all residential districts within the City, including the M (Mixed Use) and GQ (Governmental and Quasi-Public) Districts, where residential uses are permitted.

- B. In October 2016, the City's finance department discovered that there were a number of large family daycare homes (8-14 children) operating in the City with no business license on record. Upon this discovery, a total of 27 letters were sent out to various providers in Pittsburgh, informing them that they needed to obtain the proper business license and zoning approval in order to continue doing business in the City. The daycare providers who were provided notice have generally been operating in Pittsburgh anywhere from 1 to 10 years without the proper city approvals.

- C. On October 17, 2016, the City received a letter from the Child Care Law Center, on behalf of (at least) one child care provider in Pittsburgh, asserting that the City's existing municipal code requirements for large family daycare homes are non-compliant with state law. According to state law, cities may treat large family daycare homes in one of three ways: 1) classify them as a permitted use; 2) require a nondiscretionary permit that is subject to certain specific reasonable conditions; or 3) require a nondiscretionary permit that is subject to certain specific reasonable conditions, with written notice to property owners within a 100 foot-radius at least 10 days before the zoning administrator reaches a decision regarding the permit; the hearing associated with the third option would only be held if the occupant or another affected person requests a hearing. (Health & Safety Code § 1597.46(a))

- D. Upon review in conjunction with the City attorney, staff has concurred with the assertion of the Child Care Law Center that the existing PMC regulations do currently indicate that a *discretionary* (zoning administrator level) use permit is required, whereas state law only allows for *nondiscretionary* permits.
- E. On November 28, 2016, staff presented the issue to the Land Use Subcommittee for consideration, along with two proposed options for zoning text amendments that would fix the inconsistency with state law. During this meeting, there was testimony from various members of the public and lengthy discussion about the issue. At the conclusion of the discussion, there was unanimous support by the four subcommittee members to move forward with a proposed change that would make large family daycare homes permitted uses in all residential districts, subject to reasonable limitations consistent with the acceptable standards for review outlined by the applicable state law.
- F. PMC section 18.48.020, states that an amendment to the zoning regulations shall be initiated by a motion of either the City Council or the Planning Commission. During the November 28, 2016, Land Use Subcommittee meeting, there was unanimous support for moving forward with amendments to the PMC in order to correct the inconsistency with state law. Staff has deemed this action sufficient to initiate the zoning change under the provisions of PMC 18.48.020.
- G. In order to recommend approval of an amendment to the Zoning Ordinance, the Commission must find (in accordance with PMC section 18.48.030) that:
1. the amendment is consistent with the objectives, policies, general land uses and programs in the General Plan;
 2. the land use regulation is compatible with uses and regulations of the land use district for which it is proposed;
 3. there is a community need for the change proposed; and
 4. the change will be in conformity with the public convenience, general welfare, and good zoning practice.
- H. This project is exempt from the requirements of the California Environmental Quality Act under the general rule of applicability of the state CEQA Guidelines, section 15061, in that there is no possibility that the activity in question would have a significant negative physical impact on the environment. The amendments proposed are procedural in nature and are intended to ensure that the City's zoning requirements for large family daycare homes are consistent with state law.
- I. On or prior to January 14, 2017, notice of the January 24, 2017, public hearing to consider this application was posted at City Hall and on the 'public notices' page

of the City's website; was delivered to the Pittsburg Library; was published in the local newspaper (East Contra Costa County Times); and was mailed via first class mail or electronic mail to interested parties and individuals and organizations that requested such notice, in accordance with PMC sections 18.14.010, and Government Code section 65091.

- J. On January 24, 2017, the Planning Commission held a public hearing to consider possible amendments to PMC Title 18 related to permitting for large family daycare homes, AP-17-1214 (RZ).

Section 2. Findings

- A. Based on the Planning Commission staff report entitled, "Recommendation on Amendments to Pittsburg Municipal Code Title 18 Related to Permitting for Large Family Daycare Homes, AP-17-1214 (RZ).," dated January 24, 2017, and based on all the information contained in the Planning Division files on the project, incorporated herein by reference and available for review in the Planning Division located at 65 Civic Avenue in Pittsburg, and based on all written and oral testimony presented at the meeting, the Planning Commission finds that:
1. All recitals above are true and correct and are incorporated herein by reference.
 2. The proposed amendments are consistent with the objectives, policies, general land uses and programs in the General Plan, in that the revised permitting process would be consistent with state law. Further, although there are no specific General Plan policies related to permitting, accessibility and availability of in-home child care facilities within the City, the amendments would not be inconsistent with any existing General Plan policy direction.
 3. The proposed amendments are compatible with uses and regulations of the land use district for which they are proposed, in that in-home child day care facilities are defined in the PMC as residential uses (PMC 18.08.040); thereby, revising the land use regulations to permit such uses, subject to limitations, in residential districts would be appropriate.
 4. There is a community need for the change proposed in that child care costs in Contra Costa County have increased by over 17% in the last seven years and the County currently only has enough licensed child care facilities to accommodate 30% of the children in the county with working parents. These facts indicate a need for more quality, licensed, accessible, and affordable child care options for residents in Contra Costa County.
 5. The proposed change would be in conformity with the public convenience, general welfare, and good zoning practice, in that permitting large family day care homes, subject to limitations, would streamline the permitting process

and minimize processing fees for child care providers, thereby encouraging more facilities to locate in Pittsburg and helping to remove barriers for families in need of quality child care.

Section 3. Decision

- A. Based on the findings and the authority set forth above, the Planning Commission hereby recommends that the City Council adopt an ordinance amending the 'Large Family Day Care' regulations outlined in the schedules contained in PMC sections 18.50.010, 18.53.020, and 18.60.030, as identified the attached "Exhibit A."

Section 4. Effective Date

This resolution shall take effect immediately upon its adoption.

On motion by Commissioner _____, seconded by Commissioner _____, the foregoing resolution was passed and adopted the 24th day of January, 2017, by the Planning Commission of the City of Pittsburg, California by the following vote:

AYES:

NAYES:

ABSTAIN:

ABSENT:

I hereby certify that the above Resolution No. 10053 was adopted by the Planning Commission of the City of Pittsburg on January 24, 2017.

KRISTIN POLLOT, AICP, SECRETARY
PITTSBURG PLANNING COMMISSION

Planning Commission Resolution No. 10053, "Exhibit A"

Amend the schedule in PMC section 18.50.010, as follows (new text shown in underline font, and text proposed for deletion is shown in ~~strikethrough font~~):

RR, RS-40, RS-10, RS-6, RS-5, RS-4, RM, RMD, RH, AND RHD – LAND USE REGULATIONS

	RR	RS-40	RS-10	RS-6	RS-5	RS-4	RM	RMD	RH	RHD
Residential										
Day care home										
Large	<u>L-163 Z</u>	<u>L-163 Z</u>	<u>L-163 Z</u>	<u>L-163 Z</u>	<u>L-163 Z</u>	<u>L-163 Z</u>	<u>L-163 Z</u>	<u>L-163 Z</u>	<u>L-163 Z</u>	<u>L-163 Z</u>

RR, RS-40, RS-10, RS-6, RS-5, RS-4, RM, RMD, RH, AND RHD – ADDITIONAL USE REGULATIONS

<u>L-163</u>	<u>Permitted, provided that (1) outdoor activities shall not occur before 8:00 a.m. on weekdays and 9:00 a.m. on weekends, and shall not occur after 9:00 p.m. any day of the week; (2) a minimum of one paved off-street drop-off/pick-up parking space is provided on site (note, this is in addition to any required parking for the residential unit); (3) the off-street parking space is reserved exclusively for child loading and drop-off during all hours of operation, and parents shall be provided notice about the availability of the designated drop-off/pick-up location; and (4) the use is separated from other large family day care homes by a minimum of 100 feet in all directions, as measured from property line to property line. Zoning administrator approval required for any use that does not meet all of these requirements. Zoning administrator approval process (when required) shall adhere to the requirements of State law, including the California Child Day Care Facilities Act (CA Health & Safety Code Section 1597.46(a)(3)), as amended from time to time.</u>
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Amend the schedule in PMC section 18.53.020, as follows (new text shown in underline font, and text proposed for deletion is shown in strikethrough font):

M DISTRICT – LAND USE REGULATIONS

	M
Residential	
Day care home	
Large	<u>L-163 Z</u>

M DISTRICT – ADDITIONAL USE REGULATIONS

<u>L-163</u>	<u>Permitted, provided that (1) outdoor activities shall not occur before 8:00 a.m. on weekdays and 9:00 a.m. on weekends, and shall not occur after 9:00 p.m. any day of the week; (2) a minimum of one paved off-street drop-off/pick-up parking space is provided on site (note, this is in addition to any required parking for the residential unit); (3) the off-street parking space is reserved exclusively for child loading and drop-off during all hours of operation, and parents shall be provided notice about the availability of the designated drop-off/pick-up location; and (4) the use is separated from other large family day care homes by a minimum of 100 feet in all directions, as measured from property line to property line. Zoning administrator approval required for any use that does not meet all of these requirements. Zoning administrator approval process (when required) shall adhere to the requirements of State law, including the California Child Day Care Facilities Act (CA Health & Safety Code Section 1597.46(a)(3)), as amended from time to time.</u>
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Amend the schedule in PMC section 18.60.030, as follows (new text shown in underline font, and text proposed for deletion is shown in strikethrough font):

GQ DISTRICT – LAND USE REGULATIONS

	GQ
Residential	
Day care home	
Large	<u>L-163 Z</u>

GQ DISTRICT – ADDITIOINAL USE REGULATIONS

<u>L-163</u>	<u>Permitted, provided that (1) outdoor activities shall not occur before 8:00 a.m. on weekdays and 9:00 a.m. on weekends, and shall not occur after 9:00 p.m. any day of the week; (2) a minimum of one paved off-street drop-off/pick-up parking space is provided on site (note, this is in addition to any required parking for the residential unit); (3) the off-street parking space is reserved exclusively for child loading and drop-off during all hours of operation, and parents shall be provided notice about the availability of the designated drop-off/pick-up location; and (4) the use is separated from other large family day care homes by a minimum of 100 feet in all directions, as measured from property line to property line. Zoning administrator approval required for any use that does not meet all of these requirements. Zoning administrator approval process (when required) shall adhere to the requirements of State law, including the California Child Day Care Facilities Act (CA Health & Safety Code Section 1597.46(a)(3)), as amended from time to time.</u>
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City of Pittsburg

Community Development Department – Planning Division

65 Civic Avenue, Pittsburg, CA 94565 | Tel: (925) 252-4920 | Fax: (925) 252-4814

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the **PLANNING COMMISSION** of the City of Pittsburg will conduct a public hearing on:

DATE: January 24, 2017
TIME: 7:00 p.m.
PLACE: City Council Chamber at City Hall
65 Civic Avenue, Pittsburg, California

Concerning the following matter:

Recommendation on Amendments to Pittsburg Municipal Code Title 18 Related to Permitting for Large Family Daycare Homes, AP-17-1214 (RZ).

This is a public hearing on a City-initiated proposal to consider an amendment to Title 18, Zoning, of the Pittsburg Municipal Code (PMC) in order to permit large family daycare homes of up to 14 children, with limitations related to noise, parking, and spacing/concentration, consistent with State law. The changes proposed would apply to all residential districts within the city.

PROJECT PLANNER: Kristin Pollot, (925) 252-6941 or kpollot@ci.pittsburg.ca.us

Why am I receiving this notice? You are receiving this notice because you have either previously requested notifications from the Planning Division, or a project has been proposed in your neighborhood and all property owners within a minimum 300-foot radius of the project site are required to be notified under the Pittsburg Municipal Code.

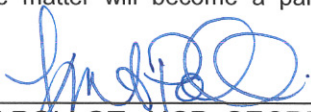
Where can I get more information about this project?

The complete file for this project is available for public inspection at the Planning Division, weekdays during the hours of 8:00 AM to 12:00 PM and 1:00 PM to 5:00 PM. You can also find out more about the project by contacting the project planner listed above.

What can I do if I have comments on the project?

Comments or objections to the project can be made by writing or through oral testimony during the public hearing. Written comments citing the project name may be emailed to the project planner listed above, or may be mailed or delivered to: Pittsburg Planning Division, 65 Civic Avenue, Pittsburg, CA 94565. You may also register your comments or objections by attending the public hearing on the date and time listed above.

Pursuant to Section 65009 of the California Government Code, if you challenge this matter in court, you may be limited to those issues you or someone else raised at the public hearing described in this notice, or in written correspondence on the matter delivered to this agency at, or prior to the public hearing. Any written correspondence delivered to the Planning Division before the hearing body's action on the matter will become a part of the administrative record.


KRISTIN POLLOT, AICP, SECRETARY
CITY OF PITTSBURG

**CITY OF PITTSBURG
PLANNING COMMISSION
STAFF REPORT**

ITEM: No. 4 – Planning Commission Goals for FY 2017-18

ORIGINATED BY: City of Pittsburg, 65 Civic Avenue, Pittsburg, CA. 94565

SUBJECT: This is a public workshop intended to facilitate a discussion between the Planning Commission and City staff regarding goals for the upcoming 2017-18 fiscal year.

RECOMMENDATION:

Staff recommends that the Planning Commission receives this status report on goals for the current 2016-17 fiscal year, and discuss goals to recommend to the City Council for the upcoming 2017-18 fiscal year.

BACKGROUND:

Each year the Planning Commission is asked to review and develop new draft goals for the group to pursue in the upcoming year, subject to approval by the City Council.

On April 18, 2016, the City Council adopted citywide goals for the current 2016-17 fiscal year. Attachment 1 of this report includes a list of the six overarching City Council goals for fiscal year (FY) 2016-17, and a list of the five Planning Commission goals, with status updates, for FY 2016-17.

The Planning Commission is now being asking to develop new draft goals for FY 2017-18. The City Council is currently planning to consider all goals at a goal setting workshop tentatively scheduled for March 6, 2017.

PROJECT DESCRIPTION:

Staff suggests that the FY 2016-17 goals be used as a baseline for the new FY 2017-18 goals. For discussion purposes, staff is suggesting the following revisions (see Attachment 2 for exact wording proposed):

Goal 1 should be broadened to include other social media options for increasing public participation, not just Facebook.

Goal 3 should be broadened to encourage all type of alternative energy businesses and infrastructure, not just electric vehicle charging and solar photovoltaic installations.

Goal 4 should be removed, as the goal is considered met (in terms of Planning Commission involvement).

Planning Commission Staff Report

Two new goals should be considered, to: 1) begin initial project scoping for the 2040 General Plan Update, and 2) continue supporting implementation of the Railroad Avenue Specific Plan.

GENERAL PLAN/CODE COMPLIANCE:

Not applicable.

ANALYSIS:

Not applicable.

ACTION REQUIRED:

No formal action is required; however, staff is requesting feedback and direction on preferred goals for FY 2017-18.

ATTACHMENTS:

1. Adopted City Council and Planning Commission goals for FY 2016-17
2. Proposed Planning Commission goals for FY 2017-18

Prepared by: Kristin Pollot, AICP, Planning Manager

Approved City Goals FY 2016-2017

Goal 1: Achieve and maintain a structurally balanced budget.

Goal 2: Prioritize public safety.

Goal 3: Improve public facilities and infrastructure.

Goal 4: Continue economic development, diversified housing, and facilitate growth of existing businesses.

Goal 5: Increase efficiency of City operations and services.

Goal 6: Improve the quality of life for Pittsburg residents.

Approved Planning Commission Goals FY 2016-2017

Goal 1: Consider using Facebook as way of increasing public participation at Planning Commission meetings.

Status: Ongoing. The Planning Division has not created its own Facebook page for public noticing; however, several members of City staff have formed a focus group to review ways to better utilize social media for coordinated city messaging (which would include Planning Commission meeting notices). Staff will keep the Planning Commission apprised of any recommendations or changes to the City's use of social media for community outreach, that result from these efforts. In addition, planning staff continues to utilize the city's website and e-notification system as a way to transmit noticing information electronically.

Goal 2: Stay informed on the state of the city by inviting various department/division heads to give presentations on an annual basis.

Status: Ongoing. In 2015, the Planning Commission received presentations from the City's Economic Development Department and the Police Department. For the 2016 calendar year, the Planning Commission received presentations on the 5-year Capital Improvement Program and the history of the Pittsburg Center BART Station & the planned multi-modal project. Additional presentations are planned for 2017.

Goal 3: Consider recommending amendments to the zoning ordinance in order to identify and remove barriers for alternative energy sources. As part of this effort consider: 1) establishing minimum requirements for electric vehicle charging stations in multifamily and commercial projects; and 2) increasing lot coverage allowances exclusively for solar photovoltaic installations.

Status: Ongoing/Goal Partially Met. In September 2016, the Planning Commission initiated a study to establish requirements for the installation of plug-in electric vehicle supply equipment. Planning staff is currently drafting the proposed amendments and is planning to return to the Planning Commission soon, with a formal recommendation.

Goal 4: Continue to monitor case law, state, and federal regulations relative to medical marijuana cultivation, dispensaries, and deliveries.

Status: Goal Met. In 2016, the State of California voted to legalize marijuana for recreational use. In response, the City of Pittsburg clarified its current stance on the topic by amending the zoning code to ban recreational businesses and deliveries in the city, regulate personal cultivation, and ban medical marijuana businesses and deliveries. In addition, the voters in the City of Pittsburg also approved a measure that would allow the city to collect sales tax on marijuana sales in the future, should the City Council decide to change their stance on allowing such businesses to locate in Pittsburg. No further work is anticipated by the Planning Commission at this time.

Goal 5: Encourage the geographic distribution of affordable units throughout the City, consistent with the City's Inclusionary Housing Ordinance.

Status: Ongoing. The city continues to encourage new residential developments to include a maximum percentage of affordable units on-site, pay housing related in-lieu fees, or construct income restricted accessory dwelling units on site as a means of ensuring equitable distribution of new affordable units.

Proposed Planning Commission Goals FY 2017-2018

Goal 1: Consider using Facebook or other social media as a way of increasing public participation at Planning Commission meetings.

Goal 2: Stay informed on the state of the city by inviting various department/division heads to give presentations on an annual basis.

Goal 3: Consider recommending amendments to the zoning ordinance as needed in order to identify and remove barriers for alternative energy businesses and infrastructuresources. ~~As part of this effort consider: 1) establishing minimum requirements for electric vehicle charging stations in multifamily and commercial projects; and 2) increasing lot coverage allowances exclusively for solar photovoltaic installations.~~

Goal 4: ~~Continue to monitor case law, state, and federal regulations relative to medical marijuana cultivation, dispensaries, and deliveries.~~

Goal 5: Encourage the geographic distribution of affordable units throughout the City, consistent with the City's Inclusionary Housing Ordinance.

Potential New Goals:

- Begin initial project scoping for the '2040 General Plan' comprehensive update.
- Continue to support implementation of the Railroad Avenue Specific Plan in conjunction with the opening of the new Pittsburg Center BART Station.