

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

September 22, 2020

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, the regular meeting of the Planning Commission for September 22, 2020 was conducted telephonically through Zoom with broadcasting live through Granicus on the City's website. Please be advised that pursuant to the Executive Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, the Council Chamber was not open for the meeting. Council Members participated telephonically or through Zoom and were not physically present in the Council Chamber.

Chair Foster called the meeting of the Pittsburg Planning Commission to order at 7:00 p.m. on Tuesday, September 22, 2020, in the Council Chamber at City Hall, 65 Civic Avenue, Pittsburg, California via Zoom teleconference.

ROLL CALL

Present: Chair Foster, Vice-Chair Moreno, Commissioners Nguyen, Coniglio, Bhasin, Robinson

Absent: Commissioner Croskey

Staff: Community Development Director Jill Hecht, City Engineer Richard Abono, Planning Manager/ Secretary Kristin Pollot, Senior Planner Hector Rojas, Deputy City Clerk Amanda McVey, Administrative Coordinator Shelby Rose

PLEDGE OF ALLEGIANCE

Commissioner Nguyen led the Pledge of Allegiance.

DELETIONS / WITHDRAWALS / CONTINUANCES

Item 3, Villas III Apartments at San Marco (Village B and C), AP-20-1498 (DR), was continued to a date uncertain.

COMMENTS FROM THE AUDIENCE

There were no comments from the audience.

CONSENT

1. Minutes of September 8, 2020

On motion by Commissioner Coniglio and seconded by Commissioner Robinson to approve the Minutes of September 8, 2020 and carried by the following vote:

AYES: Bhasin, Coniglio, Moreno, Nguyen, Robinson, Foster
NAYES: None
ABSTAIN: None
ABSENT: Croskey

PUBLIC HEARING

2. K2 Pure Solutions Chlorine Rail Transportation Curtailment Project, AP-18-1313 (UP,DR)

A public hearing on a request for: 1) design review approval of plans to install a liquid chlorine rail tank car loading station at the existing K2 Pure Solutions ECU and Bleach Plant; and 2) approval of a use permit amendment to allow operation of the new loading station. The K2 plant is located at 950 Loveridge Road in the IG (General Industrial) District. Assessor's Parcel No. 073-222-039.

Senior Planner Rojas gave a presentation on the item.

Chair Foster opened the public hearing.

Applicants David Kahn, Coree Truesdell, Howard Brodie, Chuks Mbeledogu, Jane Freed, Christie Robinson, James Brezack and P. McNeel spoke on behalf of this project.

Comments were received through email from the following and were read aloud:

Joanne Fanucchi, Pittsburg
Andrew J. Graff

There being no one to speak further to the item, Chair Foster closed the public hearing.

On motion by Commissioner Moreno and seconded by Commissioner Coniglio to approve the application and carried by the following vote:

AYES: Bhasin, Coniglio, Moreno, Nguyen, Robinson
NAYES: Foster
ABSTAIN: None
ABSENT: Croskey

ZONING ADMINISTRATOR REPORTS

There were none.

STAFF COMMUNICATIONS

Planning Manager / Secretary Pollot stated staff is preparing an information presentation that will be presented at a joint session between City Council and Planning Commission tentatively set for October 5, 2020. For information regarding the shift from

utilizing the Level of Service metrics in traffic engineering methods to Vehicle Miles Traveled (VMT) as it affects how CEQA documents are compiled.

Planning Manager / Secretary Pollot suggested the Commission convene to next regular meeting of Tuesday, October 13, 2020.

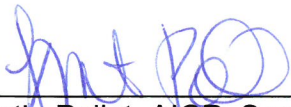
COMMITTEE REPORTS / COMMISSIONER COMMENTS

There were none.

ADJOURNMENT

The meeting was adjourned at 7:56 p.m. to October 13, 2020.

Respectfully Submitted,



Kristin Pollot, AICP, Secretary

From: [Amanda McVey](#)
To: [Shelby Rose](#)
Subject: FW: planning comm. public comment on item 2
Date: Tuesday, September 22, 2020 6:20:15 PM

From: Joanne Fanucchi <jfanucchi9@gmail.com>
Sent: Thursday, September 17, 2020 7:51 PM
To: meetingcomments <meetingcomments@ci.pittsburg.ca.us>
Subject: planning comm. public comment on item 2

External Sender: Use caution before opening links or attachments

What? Oh No! A loading station for Bleach? Chemicals spill. If the corporation is unloading here, where's it going and what's the route? How dangerous is this. You're supposed to be looking at decreasing the toxic industries' bad side effects, not allowing them to grow.

No new permits for petrochemical and other toxic industries here. We're trying to clean up what's been left behind for our children now. We don't want to add to their future burdens.

So many other question come to mind immediately before i could make a truly informed decision on this.

--

Joanne Fanucchi, MS.TCM, L.Ac.

Shelby Rose

From: Amanda McVey
Sent: Tuesday, September 22, 2020 5:14 PM
To: Shelby Rose
Subject: FW: FOR PUBLIC COMMENT ON AGENDA ITEM NO. 2: K2 Pure Solutions Chlorine Rail Transportation Curtailment Project, AP-18-1313 (UP, DR)
Attachments: 4509-009cp - 2020-09-22 SAFER CA Ltr to Pittsburg Planning Commission re AP-18-1313 Hearing.pdf

From: Andrew J. Graf <Agraf@adamsbroadwell.com>
Sent: Tuesday, September 22, 2020 4:10 PM
To: PlanningCommissioner <PlanningCommissioner@ci.pittsburg.ca.us>; meetingcomments <meetingcomments@ci.pittsburg.ca.us>
Cc: Hector Rojas <H Rojas@ci.pittsburg.ca.us>
Subject: FOR PUBLIC COMMENT ON AGENDA ITEM NO. 2: K2 Pure Solutions Chlorine Rail Transportation Curtailment Project, AP-18-1313 (UP, DR)

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Chair Foster and Commission Members,

SAFER California strongly objects to the proposed approval of the K2 Pure Solutions Chlorine Transportation Curtailment Project.

The City's CEQA analysis is inadequate as a matter of law and is not supported by substantial evidence. The Commission cannot consider approving the Project until the City prepares a legally adequate environmental impact report that fully analyzes and mitigates the Project's significant impacts on air quality, public health, and hazardous materials.

In our December 2019 letter, SAFER California and air quality and hazards expert, Dr. Phyllis Fox, identified numerous deficiencies with the City's Initial Study and Negative Declaration. The City's responses to our comments are inadequate and fail to cure these defects.

The City also plans to add permit conditions to the Project to mitigate potentially significant air quality and hazardous materials impacts, without preparing an EIR. Specifically, the City proposes to (1) add mitigation measures to the Project's Risk Management Plan; (2) add a condition limiting annual rail loading or offloading operations; and (3) add a condition capping weight capacity for rail tank cars at 90 tons. The City cannot rely on a Negative Declaration for a project that requires mitigation measures such as these. An EIR is required.

We urge the Commission to deny the conditional use permit amendment and design review. The City must prepare an EIR for the Project because substantial evidence supports a fair argument that the Project would result in potentially significant air quality, public health and hazardous impacts that the City has failed to address.

Thank you for your consideration of these comments.

Andrew J. Graf
Associate Attorney
Adams Broadwell Joseph & Cardozo

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Of Counsel

*Not admitted in California.
Licensed in Colorado.

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VIA E-Mail Only

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65 Civic Avenue
Pittsburg, CA 94565
Email: PlanningCommissioner@ci.pittsburg.ca.us
meetingcomments@ci.pittsburg.ca.us

Hector J. Rojas, AICP
Senior Planner
Email: hrojas@ci.pittsburg.ca.us

Re: **Comments on Agenda Item No. 2: K2 Pure Solutions Chlorine Rail
Transportation Curtailment Project, AP-18-1313 (UP, DR)**

Dear Commission Members and Mr. Rojas:

We write on behalf of Safe Fuel Energy Resources California ("SAFER CA") regarding Planning Commission Agenda Item No. 2, *K2 Pure Solutions Chlorine Rail Transportation Curtailment Project, AP-18-1313 (UP, DR)* ("Project"), being considered at the September 22, 2020 Commission hearing. The agendaized action concerns (1) design review approval of plans to install a liquid chlorine rail tank car loading station at the existing K2 Pure Solutions ECU and Bleach Plant, (2) approval of a use permit amendment to allow operation of the new loading station, and 3) adoption of an Initial Study/Negative Declaration ("Negative Declaration") pursuant to the California Environmental Quality Act ("CEQA").¹

SAFER CA objects to the proposed approval of the Project. The City's CEQA analysis is inadequate as a matter of law and is not supported by substantial evidence. The City continues to improperly rely on a Negative Declaration which

¹ Pub. Resources Code § 21000 *et seq.*
4509-009acp

fails disclose and mitigate the Project's significant impacts. The Commission cannot consider approving the Project until the City prepares a legally adequate environmental impact report ("EIR") that fully analyzes and mitigates the Project's significant impacts on air quality, public health and hazardous materials, as required by CEQA.

SAFER CA advocates for safe processes during the construction and operation of California's industrial facilities to protect the health, safety, standard of life and economic interests of its members. For this reason, SAFER CA has a strong interest in enforcing environmental laws, such as CEQA, which require the disclosure of potential environmental impacts of, and ensure safe operations and processes for, California's industrial facilities. Failure to adequately address the safe handling of hazardous materials and impacts to air quality and public health, among other impacts, poses a substantial threat to the environment, worker health, surrounding communities and the local economy.

SAFER CA's members live, work, recreate, and raise their families in the City of Pittsburg, Contra Costa County, and the surrounding area. These individuals and families would be directly affected by the Project's adverse environmental impacts. Moreover, SAFER CA's participating labor organizations may work on the project itself, making them the first in line to be exposed to any hazardous materials, air contaminants, and other health and safety hazards that may exist onsite.

SAFER CA submitted written comments to the City on December 19, 2019, supported by expert comments from air quality and hazards expert, Dr. Phyllis Fox, which identified numerous deficiencies with the City's Negative Declaration. SAFER CA's comments provided substantial evidence supporting a fair argument that the Project may result in significant air quality, public health, and hazardous materials impacts which the City failed to disclose and mitigate.² Our comments urged the City to prepare and EIR to accurately disclose and fully mitigate these impacts. The City's responses to our comments are inadequate and fail to cure the defects identified in our December 2019 comments.³

² Letter to Planning Commissioners, City of Pittsburg from Sara Dudley, Adams Broadwell Joseph & Cardozo re: Initial Study / Negative Declaration, K2 Pure Solutions Chlorine Rail Transportation Curtailment Project, AP-18-1313 (UP, DR) (Dec. 19, 2019).

³ H. Rojas, City of Pittsburg, Planning Commission Staff Report re: K2 Pure Solutions Chlorine Rail Transportation Curtailment Project, AP-18-1313 (UP, DR) (Sept. 22, 2020), attach. 6.
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The Staff Report explains that the City plans to add permit conditions to the Project to mitigate potentially significant air quality and hazardous impacts identified by Dr. Fox, without preparing an EIR. Specifically, the City proposes to (1) add mitigation measures to the Project's Risk Management Plan; (2) add a condition limiting annual rail loading or offloading operations; and (3) add a condition capping weight capacity for rail tank cars at 90 tons.⁴ The City cannot rely on a Negative Declaration for a project that requires mitigation measure such as these. An EIR is required.

We urge the Commission to deny the conditional use permit amendment and design review. The City must prepare an EIR for the Project because substantial evidence supports a fair argument that the Project would result in potentially significant air quality, public health and hazardous impacts that the City failed to address.

Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew J. Graf".

Andrew J. Graf
Associate

AJG:acp

⁴ *Id.*, attach. 1.
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