



# City of Pittsburg Planning Commission Agenda

---

**08/27/2024**

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

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

## **Planning Commission Members**

**Arlene Kobata, Chair  
Sarah Foster, Vice-Chair  
Donna Smith, Commissioner  
Elissa Robinson, Commissioner  
Frank Gordon, Commissioner  
Deandra Stokes, Commissioner  
Ivelina Popova, 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, Pittsburg. 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.

This agenda was posted in City Hall on Friday, August 23, 2024

**CALL TO ORDER**

**ROLL CALL**

**PLEDGE OF ALLEGIANCE**

**DELETIONS, WITHDRAWALS OR CONTINUANCES**

**COMMENTS FROM THE AUDIENCE**

**CONSENT**

1. **Minutes**  
Minutes of August 13, 2024

**COMMISSION CONSIDERATIONS**

2. **Consideration of a Resolution Approving a Major Subdivision, Design Review, and Tree Removal Permit for Railroad Commons, AP-22-0105 (SUBD, DR, TRP).**  
This project involves three separate applications. The first is a public hearing on a request for approval of a Major Subdivision to subdivide an approximate .36-acre parcel into 14 residential parcels for condominium purposes. The second application includes a request for approval of Design Review to construct two, three-story buildings for 14 multi-family dwelling units. The third application includes a request for approval of a Tree Removal Permit to remove four protected trees. The project is located at 101 School Street, within the PD-1319 District (Planned Development, City Council Ordinance No. 09-1319) and has Railroad Avenue Specific Plan (RASP) designation of TOD-M (Transit Oriented Development – Medium). Assessor's Parcel Numbers (APNs) 086-175-012; 086-175-013; 086-175-014.

**PUBLIC HEARINGS**

3. **Recommending City Council introduce and adopt two Ordinances for the Creating Healthy Communities Project: 1) Amending Titles 5, 8, 9, and 18 of the Pittsburgh Municipal Code, to Revise Requirements for a Tobacco Retailer License, Limit Smoking in Specific Locations, Update the Social Host Ordinance, and Add Requirements for Cannabis Businesses, consistent with state law; and 2) Amending Title 18 of the Pittsburgh Municipal Code, Adding Article XXII to Chapter 18.84 to establish Alcohol Performance Standards, AP-23-0145 (RZ – Text Amendment).**  
This is a request for recommendation to the City Council to introduce and adopt two Ordinances for the Creating Healthy Communities

Project: 1) Amending Titles 5, 8, 9, and 18 of the Pittsburgh Municipal Code, to Revise Requirements for a Tobacco Retailer License, Limit Smoking in Specific Locations, Update the Social Host Ordinance, and Add Requirements for Cannabis Businesses, consistent with state law; and 2) Amending Title 18 of the Pittsburgh Municipal Code, Adding Article XXII to Chapter 18.84 to establish Alcohol Performance Standards.

## **ZONING ADMINISTRATOR REPORTS**

### **4. Notice of Intent to Exercise Delegated Design Review Authority**

The Zoning Administrator also submits one notice of intent to Exercise Delegated Design Review Authority.

## **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](http://www.ci.pittsburg.ca.us).

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

**August 13, 2024**

A regular meeting of the Pittsburg Planning Commission was called to order by Chair Kobata at 7:00 p.m. on Tuesday, August 13, 2024, in the Council Chambers at City Hall, 65 Civic Avenue, Pittsburg, California.

**ROLL CALL**

Present: Chair Kobata, Commissioners Gordon, Popova, Robinson, Stokes

Absent: Vice-Chair Foster

Staff: Assistant Director of Community and Economic Development John Funderburg, Associate Planner Alison Spells, Assistant Planner Ariana Ruiz, Administrative Analyst I Candace Hatch

**PLEDGE OF ALLEGIANCE**

Commissioner Robinson led the Pledge of Allegiance.

**DELETIONS / WITHDRAWALS / CONTINUANCES**

1. Railroad Commons, AP-22-0105 (SUBD, DR, TRP)

Staff will be requesting a continuance on this item to a date to be determined. Once a date has been determined, staff will re-notice the item for the Planning Commissions consideration and prepare a staff report.

**COMMENTS FROM THE AUDIENCE**

There were no comments from the audience.

Secretary Funderburg updated the Commissioners on the arrival of Vice-Chair Foster at 7:05 pm.

**CONSENT**

1. Minutes  
Minutes of July 23, 2024

On motion by Commissioner Gordon, to approve the consent item(s), seconded by Commissioner Stokes.

AYES: Foster, Gordon, Kobata, Popova, Robinson, Stokes  
NAYES: None  
ABSTAIN: None  
ABSENT: Smith

**COMMISSION CONSIDERATION**

2. Consideration of a Resolution approving Bancroft Gardens II Residential Subdivision Design Review, AP-16-1170 (DR).

A presentation was made to the Planning Commission by Assistant Planner Ariana Ruiz requesting for an approval of Design Review of floor plans and architectural plans, and conceptual landscape plans of 28 new single-family residential homes within Subdivision 8805, "Bancroft Gardens II Subdivision". There are a total of four floor plans (2 single-story and 2 two-story), each with three architectural types proposed to be used throughout Subdivision 8805 (Mission, French Country, and Prairie). Proposed single-family homes consist of single-story and two-story plans ranging from 1,977 square-feet to 2,569 square-feet. The project site is located at the terminus of Birchwood Drive and is within the RS-6 (Single-Family Residential, minimum 6,000 square-foot lot) Zoning District. (APN's 095-046-001 through -028).

Applicant Mike Dupont spoke on behalf of the project.  
Chair Kobata opened the consideration item, there being no one to speak further on this time, Chair Kobata closed consideration.

On a motion by Commissioner Robinson, to adopt a Resolution approving Design Review approval of floor plans and architectural plans, and conceptual landscape plans of 28 new single-family residential homes within Subdivision 8805, "Bancroft Gardens II Subdivision" (APN's 095-046-001 through -028) AP-16-1170 (DR), seconded by Commissioner Stokes:

AYES: Foster, Gordon, Kobata, Popova, Robinson, Smith, Stokes  
NAYES: None  
ABSTAIN: None  
ABSENT: None

3. New FirstNet/AT&T Wireless Facility, AP-22-0123 (DR, VA).

A presentation was made to the Planning Commission by Associate Planner Alison Spells approval of a Design Review for installation of new of a new, 80-foot-tall faux 'Water Tank' Telecommunications Facility, and a Variance from the required maximum height standards. The project site is located on a leased portion of the 1.89-acre property located at 14165 Simpson Court. The site is located within with 'Community Commercial' (CC) Zoning District. Assessor's Parcel No. 088-570-013. The purpose of the proposed project is to enhance wireless broadband connectivity and capacity for emergency service uses, as well as enhancing services to AT&T Wireless users.

Applicant Michael McLaughlin spoke on behalf of the project.  
Chair Kobata opened the consideration item, there being no one to speak further on this time, Chair Kobata closed consideration.

On a motion by Commissioner Robinson, approving a Design Review for installation of new of a new, 80-foot-tall faux 'Water Tank' Telecommunications Facility, and a Variance from the required maximum height standards. The project site is located on a leased portion of the 1.89-acre property located at 14165 Simpson Court. The site is located within with 'Community Commercial' (CC) Zoning District. Assessor's Parcel No. 088-570-013, seconded by Commissioner Stokes:

AYES: Foster, Gordon, Kobata, Popova, Robinson, Smith, Stokes  
NAYES: None  
ABSTAIN: None  
ABSENT: None

## **ZONING ADMINISTRATOR REPROTS**

The Zoning Administrator submitted one notice of intent to exercise delegated design review authority and one notice of intent to approve a use permit:

- 1) 1062 Beacon Street – Fence Height Exception (FHE) – to construct an eight-foot fence.
- 2) 2585 East Leland Road – Use Permit (UP) and Design Review (DR) – to establish a commercial seafood store and processing operations.

## **STAFF COMMUNICATIONS**

Secretary Funderburg discussed the tentative schedule for upcoming meetings.

One (1) item tentatively being presented at the August 27, 2024, meeting;

1. AP-16-0026 - Design Review approval for installation of a new, 40-foot-tall 'Mono-Eucalyptus' Telecommunications Facility on an existing AT&T Unmanned Telecommunication Facility (facility expansion) located on APN: 094-030-004 along Delta Vista Lane, also a request for approval a Variance application is included in the proposed project to exceed the maximum allowable height in the RS-6 Zoning District from 28' to 40'.

One (1) item tentatively being presented at the September 10, 2024, meeting;

1. AP-24-0028 - Pittsburg Technology Park Specific Plan (Specific Plan) and EIR. The proposed Specific Plan is based on a concept for development of the Plan Area in three phases. Phase I would include the development of a data center and corresponding substation on the 22.05-acre portion of the Plan Area north of the Contra Costa Canal. Phase I development would allow up to 347,740 square feet of estimated development. Future Phases II and III, on the 54.33-acre portion of the Plan Area south of the canal, would be designed to accommodate up to 761,118 square feet of development.

There were no further staff communications.

## **COMMITTEE REPORTS**

There were no committee reports.

## **ADJOURNMENT**

The meeting was adjourned at 8:33 p.m. to August 27, 2024.

Respectfully Submitted,

---

John Funderburg, Secretary

**CITY OF PITTSBURG  
PLANNING COMMISSION  
STAFF REPORT  
August 27, 2024**

**ITEM: Consideration of a Resolution Approving a Major Subdivision, Design Review, and Tree Removal Permit for Railroad Commons, AP-22-0105 (SUBD, DR, TRP).**

ORIGINATED BY: Phase One, Inc. (c/o Kevin Harrell), phase1inc@comcast.net

SUBJECT: This project involves three separate applications. The first is a public hearing on a request for approval of a Major Subdivision to subdivide an approximate .36-acre parcel into 14 residential parcels for condominium purposes. The second application includes a request for approval of Design Review to construct two, three-story buildings for 14 multi-family dwelling units. The third application includes a request for approval of a Tree Removal Permit to remove four protected trees. The project is located at 101 School Street, within the PD-1319 District (Planned Development, City Council Ordinance No. 09-1319) and has Railroad Avenue Specific Plan (RASP) designation of TOD-M (Transit Oriented Development – Medium). Assessor’s Parcel Numbers (APNs) 086-175-012; 086-175-013; 086-175-014.

RECOMMENDATION:

Staff recommends the Planning Commission adopt a Resolution approving Major Subdivision, Design Review, and Tree Removal Permit Application No. AP-22-0105, subject to conditions.

BACKGROUND:

On October 20, 2022, Phase One, Inc. (c/o Kevin Harrell) submitted Planning Application No. AP-22-0105 (SUBD, DR, TRP) requesting approval of a Major Subdivision, Design Review, and Tree Removal Permit applications, with plans to construct a 14-unit condominium project along the east side of Railroad Avenue, between East 17<sup>th</sup> Street and School Street. APNs: 086-175-012; -013; -014. Staff reviewed the application materials submitted and issued a “Deemed Incomplete” notification letter to the applicant. On March 21, 2024, staff received a resubmission of plans from Phase One, Inc. to construct the 14-unit condominium project. Staff has referred and reviewed the proposed project’s plans and associated documents and have prepared the item for a public hearing before the Planning Commission.

On August 13, 2024, this Item was listed on the Planning Commission Agenda. During the August 13, 2024 Planning Commission Hearing, staff requested a continuance of this item to a date to be determined. Staff was granted this continuance, has finalized project components, and prepared the item for Planning Commission Consideration.

PROJECT DESCRIPTION:



Existing Conditions: The project is located on an approximate .36-acre site along the east side of Railroad Avenue, bound to the north by East 17<sup>th</sup> Street, to the east by residentially developed parcels, to the south by School Street, and to the west by Railroad Avenue and City Park. The parcel is located in the PD-1319 District (Planned Development, City Council Ordinance No. 09-1319) and has Railroad Avenue Specific Plan (RASP) designation of TOD-M (Transit Oriented Development – Medium).

The project site is unimproved and contains pervious soils with ruderal vegetation including low-lying grasses and five non-native trees. The project site is bounded by public roadways on three of the four sides of the development location. All sides abutting roadways are improved with sidewalk, curb, and gutter infrastructure. Delta Diablo Sanitary District maintains a recycled water utility line just south of the project boundary. A bus stop for Tri Delta Transit is located along the Railroad Avenue frontage just south of the project site, serving weekday and weekend route 381 (northbound). Paved crosswalks are located within the project vicinity and allow for pedestrian access across Railroad Avenue. An additional bus stop for Tri Delta Transit is located along the Railroad Avenue frontage, across the street from the proposed project, serving weekday and weekend route 381 (southbound).

See Attachment 2 for photos of the project site.

Surrounding Land Uses:

North: East 17<sup>th</sup> Street; Railroad Avenue Beautification Hardscape Park  
West: Railroad Avenue; City Park; Pittsburg City Hall; Pittsburg Superior Courthouse; PUSD (Pittsburg Unified School District) Offices  
South: School Street; Residential development: Cornwall Subdivision No. 2 (subdivided in 1939)  
East: Residential development: Cornwall Subdivision No. 1 (subdivided in 1930)

See Attachment 3 for a map of surrounding land uses.

Proposed Project: The proposed project would subdivide an approximate .36-acre parcel into 14 residential parcels for condominium purposes and 1 common parcel for private driveway, trash enclosure, and secure bicycle parking access. The project would construct two, three-story dwelling clusters to establish 14 multi-family dwelling units with building footprints totaling 6,404 square feet. The two dwelling clusters are identical in terms of design and construction, and all dwelling units proposed share the same floor plan layout. Each unit would total 1,171 gross square feet of living area, and 216 gross square feet of garage space. Garage space does not allow for two vehicles to park side-by-side, but the applicant has proposed an automobile lift system to be installed in each unit, to accommodate up to two private vehicle parking spaces per unit. Bicycle parking for one bicycle is proposed within the garage floor area. The project includes a Tree Removal Permit request to remove five non-native trees from the project site, four of which are protected pursuant to the Pittsburg Municipal Code. A

Tree Replacement Plan is discussed in further detail below in the “Analysis” section of this Report.

One of the proposed multifamily buildings would be located along Railroad Avenue with main unit entry access from the sidewalk, ultimately creating a city-feel in a Transit Oriented Development designated area. The remaining multifamily building would be located on the interior of the project site. Garage access would be located on the interior of the project site, not visible from the Public Right-Of-Way (PROW).

There are two points of entry into the project site – one entrance along East 17<sup>th</sup> Street and one entrance along School Street. Both entry points would have enhanced pavement (e.g., stamped concrete) to create an upscale design to the future residential development. A rolling gate is proposed at both entrance points to provide an additional layer of security to future residents.

The proposed multi-family buildings would stand 40 feet tall with a lot coverage of 40%. The exterior building design can be characterized as contemporary and sophisticated. The proposed multifamily dwelling clusters generally have a rectangular footprint with varied eave heights. The exterior façade would consist of stucco finish, horizontal siding, and stone veneer. The proposed stucco finish would be a neutral color to complement the adjacent developments such as Pittsburg City Hall and Pittsburg Superior Court. There would be two color schemes proposed with the development. The stucco finish would be broken up with accent-colored horizontal siding. Color scheme one proposes the accent color “Winter Solstice” while color scheme two proposes the color “Sequoia Redwood”.

All color scheme details are included in the Architectural Plan Set page A018, included as Attachment 7 to this report.

Bicycle parking for a minimum of 28 bicycles is required pursuant to the Railroad Avenue Specific Plan (RASP) and the City’s adopted Development Review Design Guidelines (“DRDG”) (DRDG 6.A.5). Each garage would include a 2’x6’ bicycle parking space to accommodate one required bicycle parking space. An electrical outlet is included as a Condition of Approval to be located nearby the dedicated 2’x6’ bicycle parking area to accommodate the rising demand for electrical bicycle charging. There is an exterior secure bicycle parking facility proposed as part of this development, which can store up to 14 bicycles. This, in combination with the garage space bicycle parking, satisfies the RASP and DRDG bicycle parking requirement.

Landscaping: The project site landscaping plans propose a mix of plantings, including trees, shrubs, perennials, ornamental grasses, and ground cover. The proposed species require a low to moderate amount of water, compatible with the climate of the project site. The proposed planting for the project site overall includes drought-tolerant plants, shrubs, groundcover, and trees. All species of shrubs and groundcover proposed range in coverage and are fast growing. As described in the Tree Removal

Analysis in this Report, replacement plantings for the protected species would be located off site.

See Attachment 8 for Landscape Plan Set.

Inclusionary Housing: Pursuant to PMC Chapter 18.86 (Inclusionary Housing), the proposed project must comply with Inclusionary Housing regulations. Compliance with the City's Inclusionary Housing Ordinance for the Railroad Commons development will be codified by way of a subsequent Development Agreement. A Condition of Approval pertaining to the requirement to enter into a Development Agreement with the City of Pittsburg for this project is included within the proposed Conditions of Approval. . The project applicant has agreed to this condition and will provide for the required affordable housing.

#### GENERAL PLAN/CODE COMPLIANCE:

Pittsburg 2040 General Plan: The project site is located within the 'Railroad Avenue' subarea of the General Plan and has a 'Mixed-Use (Railroad Avenue Specific Plan Area)' General Plan land use designation. The project is consistent with the General Plan as it would provide a greater mix of uses near the Pittsburg Center BART (Bay Area Rapid Transit) Station. The construction of housing within the Mixed-Use designation would generate an additional demand for retail and service establishments along the Railroad Avenue corridor. The proposed project would help achieve the General Plan Policy 2-P-9.4 by developing housing that supports the primary public-serving uses in the Civic Center area. Additionally, the project works to promote General Plan Policy 2-P-1.3 by ensuring consistency and compatibility between the Land Use Map, land use designations, and implementing plans, ordinances, and regulations.

Railroad Avenue Specific Plan: The Railroad Avenue Specific Plan (RASP) was adopted in 2009 to implement the goals for the Railroad Avenue subarea of the General Plan. The RASP envisions a vibrant, walkable, mixed-use, and transit-oriented activity center around the Pittsburg Center BART Station, complete with housing options, neighborhood retail, public amenities, open space, and strong employment uses. The proposed Railroad Commons development is consistent with the goals and policies prescribed by the Railroad Avenue Specific Plan and the General Plan. More housing would generate a greater demand for goods and services along the Railroad Avenue corridor. Consistent with these plans, the proposed project would add to the goal of a pedestrian-oriented environment and grow the City of Pittsburg economically by creating a demand for goods and services.

Land Use: The project site is located within the RASP PD (Planned Development, Ordinance No. 09-1319) District, and has a RASP land use designation of 'Transit Oriented Development – Medium' (TOD-M). This designation is intended to "allow primarily multi-family residential development" in a well-designed, walkable environment within one-half mile of local and regional transportation facilities. The proposed project

would satisfy the intent of the TOD-M designation as the project site proposes a multi-family housing development within close proximity to both local and regional transportation facilities. The project site is located within one-half mile of the Pittsburg Center BART Station, and is immediately north of a Tri Delta Transit bus stop.

Property Development Regulations: The RASP states that the property development regulations for the TOD-M land use designation shall follow Chapter 4 of the RASP – Land Use, Design, and Development, Section 4.4 – Development Standards. For the TOD-M land use designation, there is an allowed 15-30 dwelling units per acre, a maximum structure height of 40 feet, minimal setback requirements, and a maximum of one and a half parking spaces for every residential unit. Specific design criteria for the TOD-M land use designation are also included in this section that the project would be conditioned to satisfy. The proposed property development regulations for the project are in compliance with the RASP and are shown in Attachment 4 of this report.

RASP Architectural and Site Design Criteria (RASP Criteria Chapter 4.5): Projects located within the RASP must comply with the RASP Architectural and Site Design Criteria (ASDC) cited in Chapter 4.5 of the RASP. As shown in Attachment 5 of this report, the proposed project complies or conditionally complies with the RASP ASDC Criteria. To ensure all RASP ASDC Criterion are met, Conditions of Approval have been included for compliance, and can be reviewed in Attachment 12 to this report.

Development Review Design Guidelines (DRDGs): The City's DRDGs provide additional framework for the Design Review of development projects. As shown in Attachment 6 of this report, the proposed project complies with the DRDGs. Conditions of Approval are still included related to these Guidelines to ensure all Guidelines within the City-adopted DRDG take effect at the time of Building Permit and are properly maintained. The proposed Conditions of Approval to this project are included as Attachment 12 to this report.

Required Findings – Major Subdivision: In accordance with PMC section 17.20.060(C), Tentative Map approval may be granted only if the Planning Commission can make findings: (Government Code Sections 66473.5, 66474, 66474.5.)

- A. The proposed map is consistent with the General Plan and any applicable Specific Plan, or other applicable provisions of this Code;
- B. The site is physically suitable for the type of development;
- C. The site is physically suitable for the proposed density of development;
- D. The design of the subdivision or the proposed improvements will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat (notwithstanding the foregoing, the Planning Commission may approve such a Tentative Map if an Environmental Impact Report (EIR) was prepared with respect to the project and a finding was made that specific

economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the EIR);

- E. The design of the subdivision or the type of improvements will not cause serious public health problems; and
- F. The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision. (The Planning Commission may approve a map if it finds that alternative easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction, and no authority is hereby granted to the Planning Commission to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.)
  - 1. The Planning Commission may modify or delete a Condition of Approval recommended in the Department's report, except a Condition required by this Code or the City Engineer related to public health and safety or by the City approved policies and standards. The Planning Commission may add additional requirements as a Condition of its approval.
  - 2. The Planning Commission may require that the subdivider defend, indemnify, and hold harmless the city, its agents, officers, and employees from any claim, action, or proceedings against the City to attack the approval of a subdivision under Government Code Section 66474.9.

Required Findings – Design Review: In accordance with PMC section 18.36.220(B), Design Review approval may be granted only if the Planning Commission can make findings that:

- A. 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;
- B. The structure will be protected against exterior and interior noise, vibrations and other factors that may tend to make the environment less desirable;
- C. 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;
- D. The structure is in harmony with proposed developments on land in the general area; and

- E. The application conforms with the criteria set forth in any applicable City adopted Development Review Design Guidelines.

Required Finding – Tree Removal Permit: In accordance with PMC Section 18.84.850(E), Tree Removal Permit approval may be granted only if the applicable decision-making body determines that:

- A. The condition of the tree or trees with respect to disease, danger of falling and the potential for endangering other nearby trees warrants removal and such condition represents a risk to public health and safety and cannot be reasonably remedied through less drastic measure; or
- B. The burden to the applicant in preserving the tree or trees greatly outweighs the tree's or trees' benefit to the public or environment; or
- C. If part of a development plan, subdivision or other discretionary project, preservation of the tree or trees would severely reduce the scale or feasibility of the development.

Environmental Review: On July 6, 2009, the City Council adopted Resolution No. 09-11250 certifying the Environmental Impact Report (EIR), adopting and approving statements of findings and overriding considerations, and approving a Mitigation Monitoring and Reporting Program (MMRP) for the RASP. The mitigation measures included in the MMRP were subsequently incorporated into the RASP, which was adopted by City Council on November 2, 2009, through Ordinance No. 09-1319.

The RASP EIR analyzed the traffic and other potential impacts of the RASP implementation. The California Environmental Quality Act (CEQA) provides that after a public agency certifies an EIR, the agency shall consider whether further environmental review is required for a subsequent discretionary decision. CEQA Guidelines Section 15183(a) provides that, if the subsequent activities under review “are consistent with the development densities established by existing zoning, community plan or General Plan for which an EIR was certified,” the agency “shall not prepare additional environmental review, except as may be necessary to examine whether there are project-specific significant impacts which are peculiar to the project or its site...”.

The proposed project is consistent with the residential development intensities established by the RASP and therefore, additional environmental review is not required under CEQA. For the area within the High School Village Subarea of the RASP. Since the adoption of the RASP in 2009, there have been no applications approved to develop residentially within the High School Village Subarea. Additionally, the project is within the limitations of the allowable units and area for TOD-M development and therefore does not require additional environmental review under CEQA.

If the proposed project is approved, Planning Staff would file a Notice of Determination (NOD) with the Governor’s Office of Planning and Research (OPR) State Clearinghouse and Contra Costa County Clerk-Recorder’s Office pursuant to CEQA Guidelines,

section 15094.

Public Notice: On or prior to August 16, 2024, notice of the August 27, 2024 public hearing for this item was posted at City Hall, near the project site, and on the 'Public Notices' section of the City's website; was delivered for posting at the Pittsburg Library; and was mailed via first class or electronic mail to the Applicant, to the property owner, to owners of property located within 300 feet of the project site, to local service agencies expected to provide services to the building, and to individuals who had previously filed written request for such notice, in accordance with Pittsburg Municipal Code (PMC) section 18.14.010 and Government Code section 65091. The notice was also posted on [www.nextdoor.com](http://www.nextdoor.com) ("Nextdoor") and was sent directly to all subscribed residents in the "Power Avenue", "Harbor & School Street", "Navy Street", and "Marina Vista" Nextdoor neighborhoods.

The Public Hearing Notice is included as Attachment 11 of this report.

#### ANALYSIS:

Staff believes the Planning Commission can make the Major Subdivision, Design Review, and Tree Removal Permit findings required to approve the Railroad Commons project.

#### Major Subdivision Findings:

Major Subdivision Finding A: The proposed map is consistent with the General Plan and any applicable Specific Plan, or other applicable provisions of this Code in that the General Plan Land Use Designation is 'Mixed-Use (Railroad Avenue Specific Plan Area)' which encourages a range of uses around and accessible to public transit, including residential development. Additionally, the RASP is the applicable Specific Plan to the project site and has designated this parcel as an area intended for Medium Density Transit Oriented Development. The project would be required to adhere to all City Municipal Code requirements, Development Review Design Guidelines (as adopted by the City Council), as well as all Property Development Regulations, as specified in the applicable Specific Plan.

Major Subdivision Finding B: The site is physically suitable for the type of development in that the existing condition of the site is a partially disturbed parcel within the High School Village Subarea of the RASP that consists of primarily level ground suitable for an infill development project. Furthermore, there are no structures requiring demolition prior to project buildout and offsite improvements to be utilized by the development are already established or have been required by a Condition of Approval of this project.

Major Subdivision Finding C: The site is physically suitable for the proposed density of development in that the project site was included in the RASP Environmental Impact Report (EIR) in 2009 which analyzed the proposal for residential development on this

parcel. More specifically, the EIR classified this land as appropriate for future medium-to-high density residential development.

Major Subdivision Finding D: The design of the subdivision or the proposed improvements will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat (notwithstanding the foregoing, the Planning Commission may approve such a Tentative Map if an Environmental Impact Report (EIR) was prepared with respect to the project and a finding was made that specific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the EIR) in that the project was referred to East Contra Costa County Habitat Conservancy staff to which they responded that the proposed site is exempt from the City's ECCC HCP/NCCP (East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan) Implementation Ordinance (Ordinance No. 07-1293), as the parcel is mapped as "Urban" landcover. As such, staff does not believe this project has the ability to cause substantial environmental damage and will avoid injury to fish or wildlife or their habitat. Furthermore, all applicable mitigation measures from the Specific Plan (RASP) governing the project site shall be incorporated into the project development and conditions of approval as necessary and/or required.

Major Subdivision Finding E: The design of the subdivision or the type of improvements will not cause serious public health problems in that all construction that will follow approval of the Major Subdivision would be subject to the current California Green Buildings Standard Code (CGBSC), Title 24, and current Building Codes at time of development – all of which require specific energy-efficiency and sustainability measures to ensure public health is not affected by the development and rather, is improved and/or protected.

Major Subdivision Finding F: The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision in that the City of Pittsburg will enter into an Agreement with the project-site property owner for use and/or maintenance of the bioretention facility and/or any on-site City utilities.

- a. The Planning Commission may modify or delete a Condition of Approval recommended in the Department's report, except a Condition required by this Code or the City Engineer related to public health and safety or by the City approved policies and standards. The Planning Commission may add additional requirements as a Condition of its approval.
- b. The Planning Commission may require that the subdivider defend, indemnify, and hold harmless the city, its agents, officers, and employees from any claim, action, or proceedings against the City to attack the approval of a subdivision under Government Code Section 66474.9.

Design Review Findings:



Design Review Finding A: The proposed project would conform with good taste, good design and in general would contribute to the character and image of the City as a place of beauty, spaciousness, balance, taste, fitness, broad vistas, and high-quality, in that it would provide an attractive and modern-looking multi-family residential development exemplifying 360-degree architecture that encourages the use of alternative modes of transportation by providing bicycle parking and geographically is relatively close access to the Pittsburg Center BART Station for local commuters.

Design Review Finding B: The project would be protected against exterior and interior noise, vibrations and other factors that may tend to make the environment less desirable, in that, the project, if approved, would be conditioned to comply with all applicable Building Codes at time of development and to provide the following in order to meet the State noise standard: a) mechanical ventilation; b) windows and glass doors rated STC (Sound Transmission Class) 24 or higher; and c) vent ducts with at least two 90-degree turns.

Design Review Finding C: The proposed project would not be of inferior quality as to cause the nature of the neighborhood to materially depreciate in appearance and value in that adjacent developments are also residential which makes this project compatible with surrounding land uses in the area. The proposed projects final buildout will materially appreciate the general area surrounding the project site.

Design Review Finding D: The proposed project would be in harmony with adjacent development in that adjacent development also consist of neutral color schemes, including the Pittsburg Superior Courthouse, Courtyard by Marriott hotel development, and the Pittsburg Unified School District Offices. The proposed multi-family cluster structures have rectangular footprints and varying roof heights. Adjacent developments such as City Hall and Pittsburg Superior Court also have roof heights that vary. In addition to the building height variations, the structures proposed in this development would be three-stories tall. The Pittsburg Superior Court and City Hall are both also three stories in height. The proposed development would have enhanced siding, and well-designed window treatments/accent details, ultimately creating visual appeal in the project area. The proposed development would permit for multi-family residential housing adjacent to an existing developed residential area.

Design Review Finding E: The application conforms with the criteria set forth in the e City adopted Development Review Design Guidelines, in that the proposed structure has an articulated entry and similar neutral color pallet as surrounding structures in the vicinity. All Development Review Design Guidelines would be conditioned upon the Applicant, as detailed in the Conditions of Approval document, included as Attachment 12 to this report.

Tree Removal Permit Finding:

As noted in the Arborist Report dated November 15, 2022, the proposed trees for removal have various health, structure, and form related issues, and pose a hinderance on site developability. The condition of the tree or trees with respect to their health, structure, and form as detailed in the Arborist's Report warrants removal and such condition represents a risk to public health and safety and cannot be reasonably remedied through less drastic measure. Preserving the trees on site would severely reduce the scale or feasibility of the development. The full Arborist Report for the project site is included at Attachment 10 of this report.

Protected Trees and Tree Replacement Plan:

PMC Section 18.84.835(F) defines a "protected tree" as any of the following:

1. A California native tree, as identified in the Calflora online database of wild California plants, that measures at least 50 inches in circumference (15.6 inches diameter) at four and one-half feet above grade, regardless of location or health; or
2. A tree of a species other than a California native that measures at least 50 inches in circumference at four and one-half feet above grade and is either on an undeveloped property, located on public property or within the right-of-way, or located on private property and is found to provide benefits to the subject property as well as neighboring properties, subject to determination by the city planner; or
3. A tree required to be planted, relocated, or preserved as a condition of approval of a tree removal permit or other discretionary permit, and/or as environmental mitigation for a discretionary permit.

The project site consists of five trees, all of which are requested to be removed, and none of which are native to the State of California. Four of the five trees on site are considered protected under PMC Section 18.84.835(F)(2), in that they are a species not native to California, but have a circumference of 50 inches or greater, measured at four and one-half feet above grade. The protected trees, as detailed in the Arborist Report dated November 15, 2022, are identified as tree numbers: 1, 2, 4, and 5. The five trees to be removed pose a conflict with the proposed development and would significantly reduce the feasibility of the development, in that the trees are in areas that would be affected by proposed grading and construction activities. The proposed project is installing 13 new trees as detailed in the landscape plan set for this project which will provide canopy coverage for the site at maturity. The proposed project is also conditioned to provide an in-lieu fee to cover the cost associated with the removal of the protected trees and also offsite tree replacement and installation. The remaining proposed landscape installation consists of drought tolerant planting and tree species that require a low to moderate amount of water.

As a Condition of Approval for the project and included in Attachment 11 of this report, the developer is required to follow proper planting installation, maintenance, and watering of all proposed plantings to ensure that a similar health, structure, or form related issue does not reoccur.

Development Review Design Guidelines (DRDG), Railroad Avenue Specific Plan (RASP), Pittsburg Municipal Code (PMC) Title 17 and 18 Project Consistency:

The proposed project would conform to the RASP Criteria, City's DRDGs, and PMC Title 17 and 18, if Conditions of Approval to the project are included in the Resolution and are adopted by the Planning Commission. The proposed Conditions of Approval to this project are included as Attachment 12 to this report.

ACTION REQUIRED:

Move to adopt a Resolution approving Major Subdivision, Design Review, and Tree Removal Permit Application No. 22-0105 for Railroad Commons, subject to conditions.

ATTACHMENTS:

1. Proposed Resolution
2. Site Photos
3. Map of Surrounding Uses
4. Property Development Regulations Table
5. RASP Architectural and Site Design Criteria Table (ASDC)
6. Development Review Design Guidelines Table (DRDG)
7. Project Architectural Plan Set, dated
8. Project Landscape Plan Set, dated
9. Tentative Map for Condominium Purposes, dated
10. Project Arborist Report, dated November 15, 2022
11. Public Hearing Notice
12. Conditions of Approval (COA)

Prepared by: Kelsey Gunter, Associate Planner

**Proposed**

BEFORE THE PLANNING COMMISSION OF THE CITY OF PITTSBURG

In the Matter of:

Approving a Major Subdivision, ) Resolution No. \_\_\_\_  
Design Review, and Tree Removal )  
Permit for Railroad Commons, )  
AP-22-0105 (SUBD, DR, TRP) )

The Planning Commission DOES RESOLVE as follows:

Section 1. Background

- A. On October 20, 2022, Phase One, Inc. (c/o Kevin Harrell) submitted Planning Application No. AP-22-0105 (SUBD, DR, TRP) requesting approval of a Major Subdivision, Design Review, and Tree Removal Permit applications, with plans to construct a 14-unit condominium project along the east side of Railroad Avenue, between East 17<sup>th</sup> Street and School Street. APNs: 086-175-012; -013; -014. Staff has referred and reviewed the proposed project’s plans and associated documents and have prepared the item for a public hearing before the Planning Commission.
- B. The Project is governed by the Pittsburg General Plan, Railroad Avenue Specific Plan (RASP), Pittsburg Municipal Code (PMC) Title 18 (“Zoning”), Title 17 (“Subdivisions”), and the City of Pittsburg Development Review Design Guidelines (DRDG; Planning Commission Resolution No. 9864).
- C. The Project is subject to the California Environmental Quality Act (CEQA), and the State CEQA Guidelines (Public Resources Code section 21080). On July 6, 2009, the City Council adopted Resolution No. 09-11250 certifying the Environmental Impact Report (EIR), adopting and approving statements of findings and overriding considerations, and approving a Mitigation Monitoring and Reporting Program (MMRP) for the RASP. The mitigation measures included in the MMRP were subsequently incorporated into the RASP, which was adopted by City Council on November 2, 2009, through Ordinance No. 09-1319.
- D. The RASP EIR analyzed the physical impacts of RASP implementation, which includes the Project site. CEQA provides that after a public agency certifies an EIR, the agency shall consider whether further environmental review is required for a subsequent discretionary decision. CEQA Guidelines Section 15183(a) provides that if the subsequent activities under review “are consistent with the development densities established by existing zoning, community plan or general plan for which an EIR was certified,” the agency “shall not prepare additional environmental review, except as may be necessary to examine whether there are project-specific significant impacts which are peculiar to the project or its site...”.

The Project is consistent with the General Plan and RASP and therefore, additional environmental review is not required under CEQA.

- E. PMC section 17.20.060(C) specifies that Tentative Map (Major Subdivision) approval may be granted only if the Planning Commission can make the following required findings: (Government Code Sections 66473.5, 66474, 66474.5.)
1. The proposed map is consistent with the General Plan and any applicable Specific Plan, or other applicable provisions of this Code;
  2. The site is physically suitable for the type of development;
  3. The site is physically suitable for the proposed density of development;
  4. The design of the subdivision or the proposed improvements will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat (notwithstanding the foregoing, the Planning Commission may approve such a Tentative Map if an Environmental Impact Report (EIR) was prepared with respect to the project and a finding was made that specific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the EIR);
  5. The design of the subdivision or the type of improvements will not cause serious public health problems; and
  6. The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision. (The Planning Commission may approve a map if it finds that alternative easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction, and no authority is hereby granted to the Planning Commission to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.)
    - a. The Planning Commission may modify or delete a Condition of Approval recommended in the Department's report, except a Condition required by this Code or the City Engineer related to public health and safety or by the City approved policies and standards. The Planning Commission may add additional requirements as a Condition of its approval.
    - b. The Planning Commission may require that the subdivider defend, indemnify, and hold harmless the city, its agents, officers, and employees from any claim, action, or proceedings against the City to attack the approval of a subdivision under Government Code Section 66474.9.

F. PMC section 18.36.220(B) specifies that the following findings must be made before approval of a Design Review. The Planning Commission may grant approval of a Design Review application if the proposed structures:

1. conform 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. will be protected against exterior and interior noise, vibrations and other factors that may tend to make the environment less desirable;
3. exterior design and appearance are not of inferior quality as to cause the nature of the neighborhood to materially depreciate in appearance and value;
4. are in harmony with proposed developments on land in the general area; and
5. conform with the criteria set forth in any applicable City adopted Development Review Design Guidelines (DRDG).

G. PMC Section 18.84.850(E) specifies that one of the following findings must be made before approval of a Tree Removal Permit. The Planning Commission may grant approval of a Tree Removal Permit if one of the following findings can be made:

1. The condition of the tree or trees with respect to disease, danger of falling and the potential for endangering other nearby trees warrants removal and such condition represents a risk to public health and safety and cannot be reasonably remedied through less drastic measure; or
2. The burden to the applicant in preserving the tree or trees greatly outweighs the tree's or trees' benefit to the public or environment; or
3. If part of a Development Plan, Subdivision or other Discretionary Project, preservation of the tree or trees would severely reduce the scale or feasibility of the development.

H. Planning Application No. 22-0105 for Railroad Commons was listed on the Planning Commission Agenda for August 13, 2024. During the public hearing, staff requested a continuance for Planning Application No. 22-0105 to a date to be determined. The Commission granted staff's request. Staff has finalized the project and has prepared the item for Planning Commission consideration.

I. On or prior to August 16, 2024, notice of the August 27, 2024 public hearing for this item was posted at City Hall, near the project site, and on the 'Public Notices' section of the City's website; was delivered for posting at the Pittsburg Library; and

was mailed via first class or electronic mail to the Applicant, to the property owner, to owners of property located within 300 feet of the project site, to local service agencies expected to provide services to the building, and to individuals who had previously filed written request for such notice, in accordance with Pittsburgh Municipal Code (PMC) section 18.14.010 and Government Code section 65091. The notice was also posted on [www.nextdoor.com](http://www.nextdoor.com) (“Nextdoor”) and was sent directly to all subscribed residents in the “Power Avenue”, “Harbor & School Street”, “Navy Street”, and “Marina Vista” Nextdoor neighborhoods.

- J. On August 27, 2024, the Planning Commission held a public hearing on Planning Application No. 22-0105, at which time oral and/or written testimony was considered.

## Section 2. Findings

- A. Based on the Planning Commission Staff Report entitled, “Consideration of a Resolution Approving a Major Subdivision, Design Review, and Tree Removal Permit for Railroad Commons, AP-22-0105 (SUBD, DR, TRP)” dated August 27, 2024, all the information contained in the Planning Division files on this project, incorporated here 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 August 27, 2024, the Planning Commission finds that:

1. All recitals above are true and correct and are incorporated herein by reference.
2. The proposed development will satisfy the findings required in Section 2 of this Resolution.

### Major Subdivision Findings:

1. Major Subdivision Finding A: The proposed map is consistent with the General Plan and any applicable Specific Plan, or other applicable provisions of this Code in that the General Plan Land Use Designation is ‘Mixed-Use (Railroad Avenue Specific Plan Area)’ which encourages a range of uses around and accessible to public transit, including residential development. Additionally, the RASP is the applicable Specific Plan to the project site and has designated this parcel as an area intended for Medium Density Transit Oriented Development. The project would be required to adhere to all City Municipal Code requirements, Development Review Design Guidelines (as adopted by the City Council), as well as all Property Development Regulations, as specified in the applicable Specific Plan.
2. Major Subdivision Finding B: The site is physically suitable for the type of development in that the existing condition of the site is a partially disturbed parcel in an urban neighborhood in the City that consists of primarily level ground suitable for an infill development project. Furthermore, there are no structures requiring demolition prior to project buildout and offsite

improvements to be utilized by the development are already established or have been required by a Condition of Approval of this project.

3. Major Subdivision Finding C: The site is physically suitable for the proposed density of development in that the project site was included in the RASP Environmental Impact Report (EIR) in 2009 which analyzed the proposal for residential development on this parcel. More specifically, the EIR classified this land as appropriate for future medium-to-high density residential development.
4. Major Subdivision Finding D: The design of the subdivision or the proposed improvements will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat (notwithstanding the foregoing, the Planning Commission may approve such a Tentative Map if an Environmental Impact Report (EIR) was prepared with respect to the project and a finding was made that specific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the EIR) in that the project was referred to East Contra Costa County Habitat Conservancy staff to which they responded that the proposed site is exempt from the City's ECCC HCP/NCCP (East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan) Implementation Ordinance (Ordinance No. 07-1293), as the parcel is mapped as "Urban" landcover. As such, staff does not believe this project has the ability to cause substantial environmental damage or substantially and avoidable injure to fish or wildlife or their habitat. Furthermore, all applicable mitigation measures from the Specific Plan (RASP) governing the project site shall be incorporated into the project development and conditions of approval as necessary and/or required.
5. Major Subdivision Finding E: The design of the subdivision or the type of improvements will not cause serious public health problems in that all construction that will follow approval of the Major Subdivision would be subject to the current California Green Buildings Standard Code (CGBSC), Title 24, and current Building Codes at time of development – all of which require specific energy-efficiency and sustainability measures to ensure public health is not affected by the development and rather, is improved and/or protected. Additional project improvements include the installation of bicycle racks which provide the opportunity to encourage outdoor activity and exercise which will, in turn, benefit the health of future residents on site.
6. Major Subdivision Finding F: The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision in that the City of Pittsburg will enter into an Agreement with the project-site property owner for use and/or maintenance of the bioretention facility and/or any on-site City utilities.



- a. The Planning Commission may modify or delete a Condition of Approval recommended in the Department's report, except a Condition required by this Code or the City Engineer related to public health and safety or by the City approved policies and standards. The Planning Commission may add additional requirements as a Condition of its approval.
- b. The Planning Commission may require that the subdivider defend, indemnify, and hold harmless the city, its agents, officers, and employees from any claim, action, or proceedings against the City to attack the approval of a subdivision under Government Code Section 66474.9.

Design Review Findings:

7. Design Review Finding A: The proposed project would conform with good taste, good design and in general would contribute to the character and image of the City as a place of beauty, spaciousness, balance, taste, fitness, broad vistas, and high-quality, in that it would provide an attractive and modern-looking multi-family residential development exemplifying 360-degree architecture that encourages the use of alternative modes of transportation by providing bicycle parking and geographically is relatively close access to the Pittsburg Center BART Station for local commuters.'
8. Design Review Finding B: The project would be protected against exterior and interior noise, vibrations and other factors that may tend to make the environment less desirable, in that, the project, if approved, would be conditioned to comply with all applicable Building Codes at time of development and to provide the following in order to meet the State noise standard: a) mechanical ventilation; b) windows and glass doors rated STC (Sound Transmission Class) 24 or higher; and c) vent ducts with at least two 90-degree turns.
9. Design Review Finding C: The proposed project would not be of inferior quality as to cause the nature of the neighborhood to materially depreciate in appearance and value in that adjacent developments are also residential which makes this project compatible with surrounding land uses in the area. The proposed project's final buildout will materially appreciate the general area surrounding the project site.
10. Design Review Finding D: The proposed project would be in harmony with adjacent development in that adjacent development also consist of neutral color schemes, including the Pittsburg Superior Courthouse, Courtyard by Marriott hotel development, and the Pittsburg Unified School District Offices. The proposed multi-family cluster structures have rectangular footprints and varying roof heights. Adjacent developments such as City Hall and Pittsburg Superior Court also have roof heights that vary. In addition to the building height variations, the structures proposed in this development would be three stories

tall. The Pittsburg Superior Court and City Hall are both also three stories in height. The proposed development would have enhanced siding, and well-designed window treatments/accent details, ultimately creating visual appeal in the project area. The proposed development would permit for multi-family residential housing adjacent to an existing developed residential area.

11. Design Review Finding E: The application conforms with the criteria set forth in the e City adopted Development Review Design Guidelines, in that the proposed structure has an articulated entry and similar neutral color pallet as surrounding structures in the vicinity. All Development Review Design Guidelines would be conditioned upon the Applicant, as detailed in the Conditions of Approval document.

#### Tree Removal Permit Findings:

12. As noted in the Arborist Report dated November 15, 2022, the proposed trees for removal have various health, structure, and form related issues, and pose a hinderance on site developability. The condition of the tree or trees with respect to their health, structure, and form as detailed in the Arborist's Report warrants removal and such condition represents a risk to public health and safety and cannot be reasonably remedied through less drastic measure. Preserving the trees on site would severely reduce the scale or feasibility of the development. Further, the proposed development is Conditioned to comply with tree replacement and in-lieu fee requirements as specified by the Pittsburg Municipal Code. Specifications pertaining to the in-lieu fee amount will be codified in a subsequent Development Agreement, as conditioned.
- B. The Staff Report entitled, "Consideration of a Resolution Approving a Major Subdivision, Design Review, and Tree Removal Permit for Railroad Commons, AP-22-0105 (SUBD, DR, TRP)" dated August 27, 2024, is referenced hereto as additional support for the findings.

#### Section 3. Decision

Based on the findings set forth above, this Planning Commission hereby approves Planning Application No. 22-0105, subject to the following conditions:

1. See Attachment 12 of the Staff Report for Conditions of Approval for the proposed project.

#### Section 4. Effective Date

This resolution shall take effect immediately upon its adoption.

On motion by Commissioner \_\_\_\_\_, seconded by \_\_\_\_\_ the foregoing resolution was passed and adopted the 27<sup>th</sup> day of August 2024, 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. \_\_\_\_\_ was adopted by the Planning Commission of the City of Pittsburg on August 27, 2024.

---

JOHN FUNDERBURG, SECRETARY  
PITTSBURG PLANNING COMMISSION

AP-22-0105 (SUBD, DR, TRP)  
Attachment 2 – Site Photos



**AP-22-0105 (SUBD, DR, TRP)  
Attachment 2 – Site Photos**



AP-22-0105 (SUBD, DR, TRP)  
Attachment 2 – Site Photos



Attachment 3  
AP-22-0105 (SUBD, DR, TRP) Map of Surrounding Uses



Attachment 3  
AP-22-0105 (SUBD, DR, TRP) Map of Surrounding Uses





**Attachment 4**  
**Property Development Regulations Table**  
 Civic Station AP-22-0105 (SUBD, DR, TRP)

<b>Development Regulations for Transit Oriented Development Residential (TOD-M) District*</b>	<b>Requirement:</b>	<b>Proposed Project:</b>
Maximum Height	25' Minimum and 45' Maximum	40'
Maximum Density (per acre)	15 Dwelling Units Minimum and 30 Dwelling Units Maximum, with 25% density bonus for BART proximity	38.89 Dwelling Units per Acre  (14 units divided by site area of .36 acres)
Front Yard Setback	0' – 15'	5'
School Street-Side Setback	0' – 5'	18'
E. 17 <sup>th</sup> Street-Side Setback	0' – 5'	20'-10"
Rear Setback	0' – 10'	10'
Minimum Site Landscaping 10% of total lot area to be landscaped.	1,584 sq. ft. (10% of 15,842 sq. ft. [site area])	Greater than 1,584 sq. ft.
Minimum Automobile Parking Minimum of one space per residential unit.	Minimum of 14 spaces	30 spaces (14 two-car garages, and 2 surface parking spaces)
Minimum Bicycle Parking	28 bicycle parking spaces required per RASP and DRDG.	14 bicycle parking spaces in garage near electrical outlet (1 per garage) and 14 within a secured bicycle parking locker within the development for a total of 28 bicycle parking spaces.

The project site is located within the Railroad Avenue Specific Plan (RASP) PD (Planned Development, Ordinance No. 09-1319) District, and has a RASP land use designation of Medium Density Transit Oriented Development (TOD-M). The RASP states that the property development regulations for the TOD-M land use designation shall follow Chapter 4.4 (Development Standards) of the RASP.

**Attachment 5**  
**RASP Architectural and Site Design Criteria (ASDC) Table**  
 Railroad Commons; AP-22-0105 (SUBD, DR, TRP)

ASDC Criteria No.	Meets Criteria?
<b>1:</b> Maximize the number of units and building entries fronting the street.	<b>Yes.</b> The proposed project has residential units with building entries fronting the street. Vehicular access is proposed through the garage, not visible from the Public Right of Way.
<b>2:</b> Orient building and store entrances to the street with maximized storefront transparency through inclusion of windows, doors, or outdoor areas incorporated into the structure.	<b>Yes.</b> Street-front entry proposed. The fronts of the proposed structures are architecturally treated with windows, window treatments, and doors.
<b>3:</b> There shall be at least 70% transparency for ground level retail uses and a minimum of 60% transparency for ground level office uses.	<b>Not Applicable.</b> This criterion applies to ground level retail and office uses. The proposed project only includes residential uses.
<b>4:</b> Emphasize the primary entry of buildings (e.g. Entrance lobby) with special architectural elements.	<b>Yes.</b> The primary entry of the residential units is proposed to be an accent color to create contrast.
<b>5:</b> All building facades, including parking garages, facing public rights-of-way shall engage the pedestrian through well-articulated building facades by incorporating elements such as cornices, lintels, sills, awnings, fenestration, varied materials and colors, columns and other architectural elements and features.	<b>Conditionally.</b> Attractive exteriors would be provided on all four sides of the building. Consistent design elements, materials, colors, and landscaping would be used throughout the project to create a visually cohesive development. A Condition of Approval on the project would condition the Developer to ensure 360-degree architecture is installed, as proposed on the architectural plan set.
<b>6:</b> Residential buildings shall incorporate porches, stoops, and balconies to provide variation on all elevations.	<b>Yes.</b> Residential buildings proposed will have variation between units on all elevations with stoops, windows, and architectural features.
<b>7:</b> Prohibit expanses of blank wall in excess of 10-feet along any portion of a building visible from public right-of-way or a parking facility. Where this is necessary due to interior layout of the building, the structure shall contain a mural, display, window box or other decorative element to break up the massing.	<b>Conditionally.</b> The sides of the building would not contain any blank walls, ultimately creating 360-degree architecture.
<b>8:</b> Use varied materials, forms, and colors on buildings to provide visual interest to break up the massing of the structures and to provide visual interest to pedestrians.	<b>Yes.</b> The proposed development includes various materials on the exterior façade of the proposed structures which will ultimately create visual interest to pedestrians.
<b>9:</b> Step back upper stories of buildings over three stories in height to mask building height and reduce massing on the street level.	<b>Not applicable.</b> The proposed project does not exceed three stories in height.
<b>10:</b> Articulate front facades with windows, both along the ground floor and upper residential floors. Carry all exterior materials including veneer, finishes or materials utilized	<b>Conditionally.</b> See comment under ASDC Criterion No. 5.

on the front of the structure around to all sides of the buildings.	
<b>11:</b> Incorporate outdoor stairs, railings, fences, gates, and other outdoor utilitarian elements that are decorative, painted or stained, composed of high-quality materials, and architecturally compatible with the structure to which they are accessory.	<b>Conditionally.</b> The outdoor utilitarian elements will be designed as to complement the proposed development, will be painted or stained, and composed of high-quality materials.
<b>12:</b> Incorporate variations in building elements including roof silhouettes, fenestration patterns and colors in adjoining residential units.	<b>Yes.</b> Varying roof heights are proposed. Differentiation between units is proposed.
<b>13:</b> In areas classified Business Commercial, encourage the use of steel and corrugated metal as an accent material to define lintels, create awnings and enhance roof form. Wood and stucco should be used sparingly within industrial areas.	<b>Not applicable.</b> This criterion does not apply because the project site does not have a RASP land use designation of Business Commercial.
<b>14:</b> All developments must provide a trash enclosure in accordance with Title 18 of the PMC. Shared trash enclosures are encouraged among adjacent uses provided that the enclosure is sized appropriately to handle the refuse and recycling needs of all uses.	<b>Conditionally.</b> The final design and locations of the trash enclosures shall be subject to approval by the City Planner, shall meet the requirements of the PMC and shall be sized to ensure compliance with requirements of SB 1383 of 2016 (three total bins required – refuse, recyclables, organics – in addition to the grease trap), shall comply with Appendix 2 of the City’s DRDG regarding trash enclosures, and comply with all Mount Diablo Resource Recovery Conditions of Approval.
<b>15:</b> Locate all utilities, utility boxes or equipment underground or on the roof and screened from view.	<b>Conditionally.</b> To satisfy this criterion, staff recommends the Commission adopt a condition of approval requiring all air conditioning units, utility boxes, transformers, backflow preventers, meters, and junction boxes be substantially screened from public view using a block or retaining wall screen, wood/architectural screen, or dense landscaping screen consistent with Appendix 1 of the City of Pittsburg’s DRDGs.
<b>16:</b> Parking garages shall be developed as mixed-use structures with ground floor frontage along heavily utilized pedestrian pathways devoted to commercial uses.	<b>Not applicable.</b> This criterion does not apply because the project does not involve a parking garage. Private parking is proposed for each unit in the residential development.
<b>17:</b> Private developments in the Transit Village and Civic Center sub-areas shall include publicly accessible greenways, trails and paths for pedestrians and bicyclists in accordance with the land use and circulation plans set forth in the Specific Plan.	<b>Yes.</b> The proposed project would be subject to the City’s Engineering staff’s requirements for contribution to future bike pathways and sidewalk improvements.

<p><b>18:</b> Public bicycle parking lockers shall be installed on the ground floor of parking garages at a ratio of one bicycle parking locker per 50 parking spaces.</p>	<p><b>Not applicable.</b> The proposed development does not include a public parking garage.</p>
<p><b>19:</b> Utilize ecologically conscious designs that include natural light, shade, and energy efficient materials.</p>	<p><b>Conditionally.</b> The project, if approved, would be subject to all CALGreen Codes, as well as current Building and Fire Codes for site sustainability.</p>
<p><b>20:</b> Projects should include sustainable site and building design elements such as improved insulation, operable windows, energy efficient lighting and appliances, solar energy sources built into the development, natural ventilation and permeable paving materials.</p>	
<p><b>21:</b> The ground floor of live-work lofts shall not be used exclusively for storage of materials.</p>	<p><b>Not applicable.</b> This criterion does not apply because the project does not involve a live-work use.</p>
<p><b>22:</b> Residential developments located within 500 feet of a travel lane on State Route 4 shall have central heating, ventilation, and air conditioning (HVAC) systems with high efficiency filters. Air intake systems for the HVAC systems shall be located as far away from the roadway as possible and shall include an ongoing HVAC maintenance plan.</p>	<p><b>Not applicable.</b> This criterion does not apply because the project is not located within 500 feet of a travel lane on State Route 4. Nevertheless, staff recommends the Commission adopt a condition of approval requiring that high efficiency air filters be installed throughout the heating, ventilation, and air conditioning systems for all buildings.</p>
<p><b>23:</b> All residential projects must comply with development standards and amenities applicable to all multi-family residential and senior projects set forth in Chapter 18.50, Residential Districts, of the PMC unless otherwise specified within the Specific Plan.</p>	<p><b>Not applicable.</b> This criterion does not apply because the project is located within the Railroad Avenue Specific Plan and these standards supersede those standards included in Chapter 18.50.</p>
<p><b>24:</b> All fences in the Transit Village, Civic Center, High School Village, Industrial/Mixed Use and Railroad Avenue Retail Corridor shall comply with the height standards for commercial and residential uses (where applicable) set forth in Chapter 18.84, Special Land Use Regulations Applicable to Specific Uses, in the PMC. Wrought iron and wood fencing is encouraged in these sub-areas. Chain-link fencing is permitted at the discretion of the City Planner and must be vinyl clad in a dark color material with winged slats. Razor wire and barbed wire are not permitted within any of these sub-areas.</p>	<p><b>Yes.</b> Wrought iron and wooden fencing is proposed as part of this development.</p>
<p><b>25:</b> All accessory structures and accessory dwelling units must comply with applicable standards set forth in Title 18 of the PMC.</p>	<p><b>Not applicable.</b> There are no accessory dwelling units or structures proposed or required as part of the project.</p>

**26:** Greenways, trails, and paths for pedestrians and bicyclists that are incorporated into site design and development shall not be fenced, gated or hidden by the wall of a building in such a manner to eliminate the visual connection from the street, public right-of-way, and/or buildings and the greenway, trail and/or path. Structures adjacent to greenways, trails and/or paths shall incorporate balconies and windows to overlook the paths, and all effort shall be made to allow visual connections through and along the paths.

**Yes.** Construction of the project would not result in visual obstruction of an existing or proposed trail or pathway.

**Attachment 6**  
**Development Review Design Guidelines**  
 Railroad Commons (SUBD, DR, TRP)

Design Review Guideline	Meets Guideline?
<b>Section III: Multi-Residential</b>	
<b>3.a:</b> A/C Units should be substantially screened from view by way of permanent screen or appropriately sized plant material.	<b>Conditionally.</b> A Condition of Approval for the proposed development will require that all A/C units screens are to be permanently screened, substantially by one of the DRDG screening methods. Subject to review and approval by the Planning Division prior to final.
<b>3.b:</b> Detached carports and/or garages should have the same roof material and roof pitch as the main dwelling units.	<b>Not applicable.</b> The project does not propose detached carports or garages.
<b>3.c:</b> Projects with many buildings (greater than three) should provide a variety of building sizes and masses resulting in varying elevations from a streetscape perspective.	<b>Not applicable.</b> The project does not propose greater than three buildings.
<b>3.d:</b> Bus stops should share same architectural theme as that of the dwelling units.	<b>Not applicable.</b> There are no proposed bus stops as part of this development.
<b>3.e:</b> Parking lots should not dominate area adjacent to public streets. Structures and parking should be interspersed creating pockets of parking and variety from a streetscape point of view.	<b>Yes.</b> While there are no parking lots proposed with this development, there are two external parking spaces, of which would not dominate area adjacent to public streets.
<b>3.f:</b> Trash enclosures should include area for collection of recyclables.	<b>Conditionally.</b> A Condition of Approval to the project would require the applicant to comply with PMC Title 18, Development Review Design Guidelines, Mount Diablo Resource Recovery, and Senate Bill 1383 of 2016.
<b>3.g:</b> Locate covered walkways in areas near dwelling unit entries and in areas where large expanses of walkways exist.	<b>Not applicable.</b> Proposed porches attached to each unit will cover the entryway to each unit. There are no walkways proposed within the project other than the drive aisles.
<b>Section II. Neighborhood / Subdivision Design</b>	

<p><b>2.a:</b> Subdivision entry monuments should be provided on new major subdivisions, neighborhoods, or villages, if appropriate.</p>	<p><b>Not applicable.</b> Provided the project is a multi-family establishment, an entry monument is not proposed or appropriate.</p>
<p><b>2.b:</b> Perimeter wall and/or sound wall pilasters should not be greater than 50 feet on center.</p>	<p><b>Not applicable.</b> There are no sound walls or masonry walls proposed within the development.</p>
<p><b>2.c:</b> Sound walls exceeding 6 feet in height and visible from the public right-of-way should be treated with decorative features consistent with the neighborhood design.</p>	
<p><b>2.d:</b> All masonry walls should include a wall cap.</p>	
<p><b>2.e:</b> Retaining walls, exceeding three feet tall, adjacent to a public right-of-way should be constructed with the same materials as used for the sound walls.</p>	<p><b>Not applicable.</b> There are no retaining walls proposed as part of the development.</p>
<p><b>2.f:</b> Masonry or sound walls should be staggered when adjacent to public right of ways.</p>	<p><b>Not applicable.</b> No masonry or sound walls are adjacent to the public right of way.</p>
<p><b>2.g:</b> Single story units should be located on corner lots whenever possible.</p>	<p><b>Not applicable.</b> The proposed project is a multi-family development with eleven three-story structures.</p>
<p><b>2.h:</b> Developer should select, at least one of the schemes provided in Appendix 1 of the DRDGs for screening all utility boxes, transformers, backflow preventers, meters and junction boxes.</p>	<p><b>Conditionally.</b> A condition of approval would require all utility boxes and/or transformers to be undergrounded. Where undergrounding is deemed infeasible or not recommended by Pacific Gas &amp; Electric (PG&amp;E), utility boxes and/or transformers would be masked by either faux stone utility box covers, fencing, or a landscape screen.</p>
<p><b>2.i:</b> Construct fence/walls at top-down slope banks. Design fence at top of slope to take advantage of potential views.</p>	<p><b>Not applicable.</b> The site is relatively flat and will not require fences/walls at top-down slope banks.</p>

<p><b>2.j:</b> Dwelling unit driveways should align with on-coming street at three-way intersections when possible.</p>	<p><b>Not applicable.</b> The development does not include any three-way intersections.</p>
<p><b>2.k:</b> Existing trees which have greater than a nine (9) inch trunk caliper should be incorporated into the design of project.</p>	<p><b>Conditionally.</b> There are several protected trees within the project site, as defined by PMC Title 18. A Condition of Approval would be included regarding tree replacement measures.</p>
<p><b>2.l:</b> Landscaped portions of setbacks, excluding sidewalk along public streets, should not be less than the height of the fence or sound wall.</p>	<p><b>Conditionally.</b> A Condition of Approval for the proposed project requires landscaped portions of front and street side yards not to be less than the height of the fences on site.</p>
<p><b>2.m:</b> Landscaping areas shall not be less than three feet wide, between the curbs.</p>	<p><b>Conditionally.</b> A Condition of Approval to the project would require a minimum landscape strip of three feet in width, between the curbs.</p>
<p><b>2.n:</b> Subdivision perimeter walls should be minimized. Install wrought iron fencing at open end of cul-de-sacs, parks and open space.</p>	<p><b>Conditionally.</b> While there are no cul-de-sacs or subdivision perimeter walls proposed within the development, the proposed development is proposed to be fenced with wrought iron material.</p>

**Section VI. Green Building Design Guideline**

<p><b>6.A.1:</b> Solar energy systems should be an option to the homebuyer by the builder.</p>	<p><b>Conditionally &amp; California State Law.</b> California Solar Mandate which took effect in January of 2020 mandates solar on all new construction. A Condition of Approval would note this.</p>
<p><b>6.A.2:</b> For homes without solar energy systems, green roofs or cool roofs, roofing should include the following features:</p> <ul style="list-style-type: none"> <li>a) A minimum of 300 square feet of unobstructed roof area facing within 30 degrees of south.</li> <li>b) South facing sloped roofs should be at an angle of approximately 38 degrees.</li> </ul>	



<p><b>6.A.3:</b> The external design of homes should feature up to date energy efficiency technologies:</p> <ul style="list-style-type: none"> <li>a) <del>For infill housing, homes without solar energy systems should be covered with a cool roof. (See note on 6.A.1 and 6.A.2)</del></li> <li>b) Roof overhangs should be sized to block the high summer sun but allow the lower winter sun to enter windows.</li> </ul>	<p><b>Conditionally.</b> The project is required to meet the Residential Mandatory Measures specified under the California Green Building Standards Code.</p>
<p><b>6.A.4:</b> Deciduous trees of approved native species should be planted to the south and west of the home to shade the home during summer and allow solar heat gain during winter.</p>	<p><b>Yes.</b> The proposed landscaping meets the standards set forth in PMC Title 18.</p>
<p><b>6.A.5:</b> Secure and convenient storage for at least two bicycles should be provided.</p>	<p><b>Yes.</b> The project would provide a 2' x 6' space dedicated to bicycle parking for a minimum of one bicycle parking space. An electrical outlet is proposed for installation nearby or within the dedicated bicycle parking space to allow for electric bicycle charging. Additionally, the developer proposes an exterior bike parking rack, accessible to all tenants of the development, which would provide 14 secure bicycle parking spaces, for a total of two bicycle spaces per unit.</p>
<p><b>6.A.6:</b> Outdoor design and features should maximize landscaping water conservation.</p>	<p><b>Yes.</b> The project would provide drought-tolerant landscaping, including shrubs, drought-tolerant ground cover and bark.</p>

<p><b>6.B.1:</b> Non-invasive, drought tolerant shade trees should be planted in the landscaping strips that are located between curb and sidewalk such that tree canopies will shade as much street surface as possible. Shade trees should be selected and placed so that they will not block solar access to neighboring structures' south-facing roofs.</p>	<p><b>Yes.</b> Non-invasive, drought tolerant trees will be used for landscaping and are placed to shade as much street surface as possible.</p>
<p><b>6.B.2:</b> Streetlights and street trees should be spaced so that street lighting is not blocked and made less effective by street trees.</p>	<p><b>Not Applicable.</b> Streetlights that light the public Right of Way along Davi Avenue, Civic Avenue, and Center Street are not proposed as part of the development project. However, the interior private streets will be lit as Conditioned by the City of Pittsburg's Transportation Engineering Division. As a Condition of Approval, the Developer will provide a photometric graph and table to determine the appropriate streetlight spacing for the project. Further, trees are not proposed to be located within the private drive aisles throughout the project site.</p>
<p><b>6.B.3:</b> Subdivisions should be designed to maximize potential solar energy generation</p>	<p><b>Yes.</b> The proposed project is conditioned to provide solar panels which will yield solar energy generation.</p>
<p><b>6.B.4:</b> Subdivisions should be designed around common open space areas that promote neighborhood community building. Such open spaces can include bicycle and pedestrian only plaza spaces, community garden spaces, or vegetated open space. Privately maintained open space should total <math>\frac{3}{4}</math> acres for every square mile or portion thereof, with a minimum of <math>\frac{3}{4}</math> acres for any project greater than 12 acres No individual privately maintained common open space location should be smaller than <math>\frac{1}{4}</math> acre.</p>	<p><b>Yes.</b> The proposed project is adjacent to existing park uses and walking trails. These accommodations are for public use which the new residents also have the opportunity to enjoy.</p>

<p><b>6.B.5:</b> Vehicular Connectivity: Local streets should form a well-connected network that provides for safe, direct, and convenient vehicular access.</p>	<p><b>Yes.</b> The project is bounded by three public, local streets. The proposed project intends to provide two points of access to the public streets as part of the development project.</p>
<p><b>6.B.6:</b> Bicycle/Pedestrian Connectivity: Subdivisions should include a designated pedestrian route interconnecting all internal uses, site entrances, primary building entrances, public facilities, and adjacent uses to existing external bicycle and pedestrian facilities and streets.</p>	<p><b>Yes.</b> There are existing sidewalks and bike lanes surrounding the project site.</p>
<p><b>6.B.7:</b> New streetlight electrical grid systems should be planned to supply future curbside electric vehicle charging stations. A 220/240V electrical supply should be extended to curbside spaces. The conduit should connect to an installed charging unit or an electrical pedestal or a well where a charging station may be installed in the future. Spacing of charging units, pedestals, or wells should be at least one per 50 potential curbside parking spaces in residential subdivisions.</p>	<p><b>Not applicable.</b> The project does not allow curbside parking.</p>



# FRONT ELEVATION

SCHEME 1  
BUILDING A  
RAILROAD AVE.



# FRONT ELEVATION

SCHEME 2  
BUILDING B



# REAR ELEVATION

SCHEME 1  
BUILDING A



# REAR ELEVATION

SCHEME 2  
BUILDING B



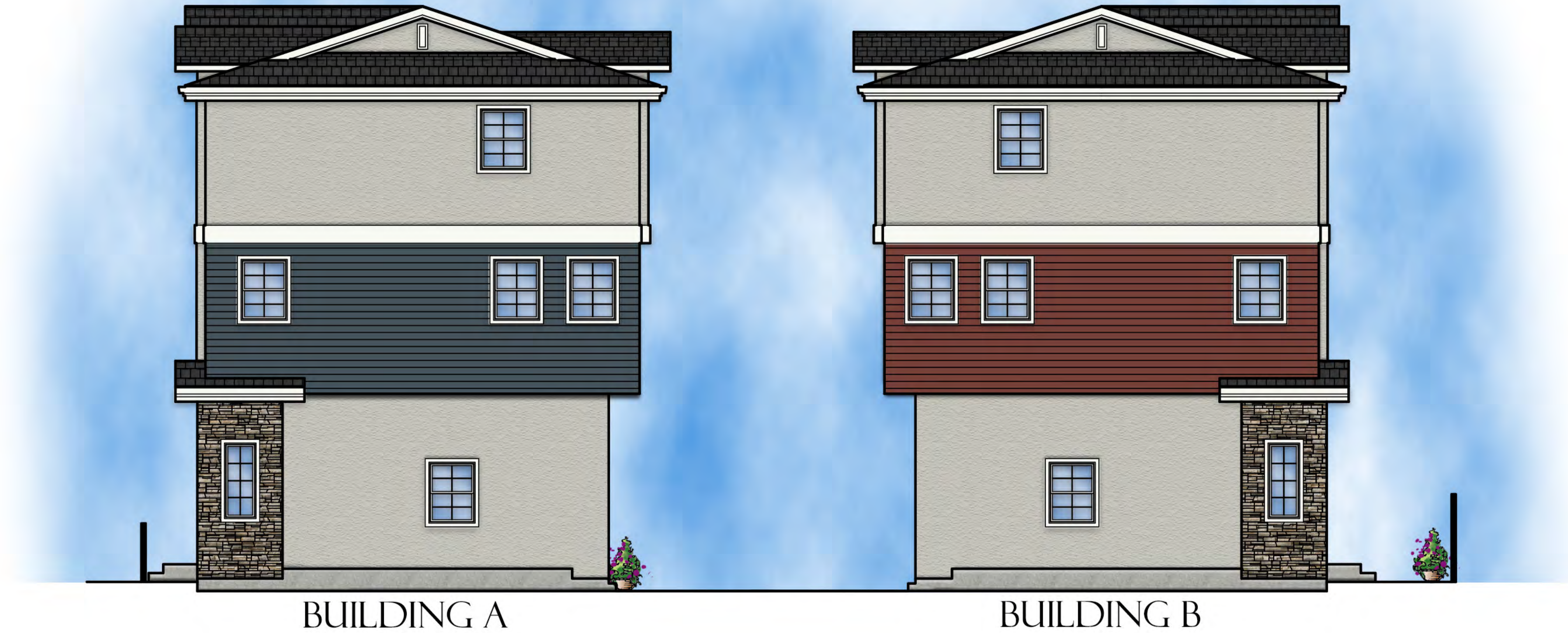
BUILDING B

BUILDING A

# SIDE ELEVATIONS

SCHEME 1 & 2  
E. 17TH ST.









# SIDE ELEVATIONS

SCHEME 1 & 2  
SCHOOL ST.

# SUBDIVISION: 1650, 1611 RAILROAD AVE. & 109 SCHOOL ST.

PITTSBURG, CA

SCHEME	ROOFING TILE	BODY 1	BODY 2	TRIIM, ACCENT & GARAGE DOOR	MASONRY
SCHEME 1 BUILDING A	MOIRE BLACK 	KM5822 SAN FRANCISCO FOG 	KM5812 WINTER SOLSTICE 	KMW43 WHITEST WHITE 	SUMMIT PEAK PRO-FIT ALPINE LEDGESTONE 
SCHEME 2 BUILDING B	MOIRE BLACK 	KM5822 SAN FRANCISCO FOG 	159 SEQUOIA REDWOOD 	KMW43 WHITEST WHITE 	SUMMIT PEAK PRO-FIT ALPINE LEDGESTONE 

FRONT DOOR 1 & AWNINGS	FRONT DOOR 2	FRONT DOOR 3	FRONT DOOR 4
KM4897-5 YIN MIST 	KM5072 JASPER PARK 	KM4925 WILD TRUFFLE 	KMA48 NECTOR OF THE GODS 

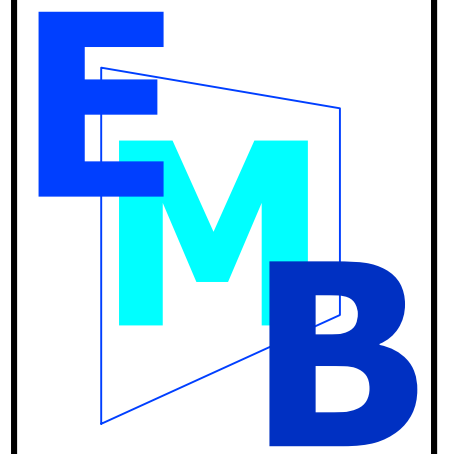
**ROOFING:** LANDMARK SOLARIS SHINGLES OR EQUIVALENT

**STONE:** BORAL CULTURED STONE/CULTURED BRICK EQUIVALENT

**PAINT:** KELLY MOORE OR EQUIVALENT

REVISED: 11/14/2022

# Townhouse @ 1650,1611, Railroad Ave. & 109 School St. Pittsburg, California 94565



**DESIGN GROUP**  
ARCHITECTURE & INTERIOR

EMB DESIGN GROUP  
2501 Elfrasco Drive  
Pittsburg, California 94565  
(925) 890-4299 cell

Townhouse @  
1650, 1611, Railroad ave.  
& 109 School st.

APN #  
000-000-00

Owner :  
KEVIN HARRELL

Design Review  
Phase

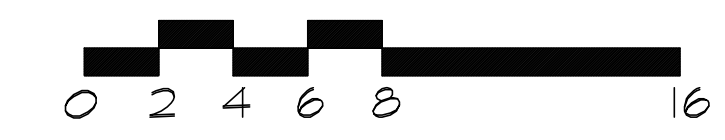
SHEET TITLE  
COVER SHEET  
GENERAL INFO  
SITE PLAN

Date	Issues & Revisions
01/02/24	Plan Check Set
	Plan Check/ Comments #1
	Prelim. Bid Set
	Issue to Consultants
	Permit Set
	Issue to Fire Dept.
	FIRE DEPT COMMENT 3/1/22

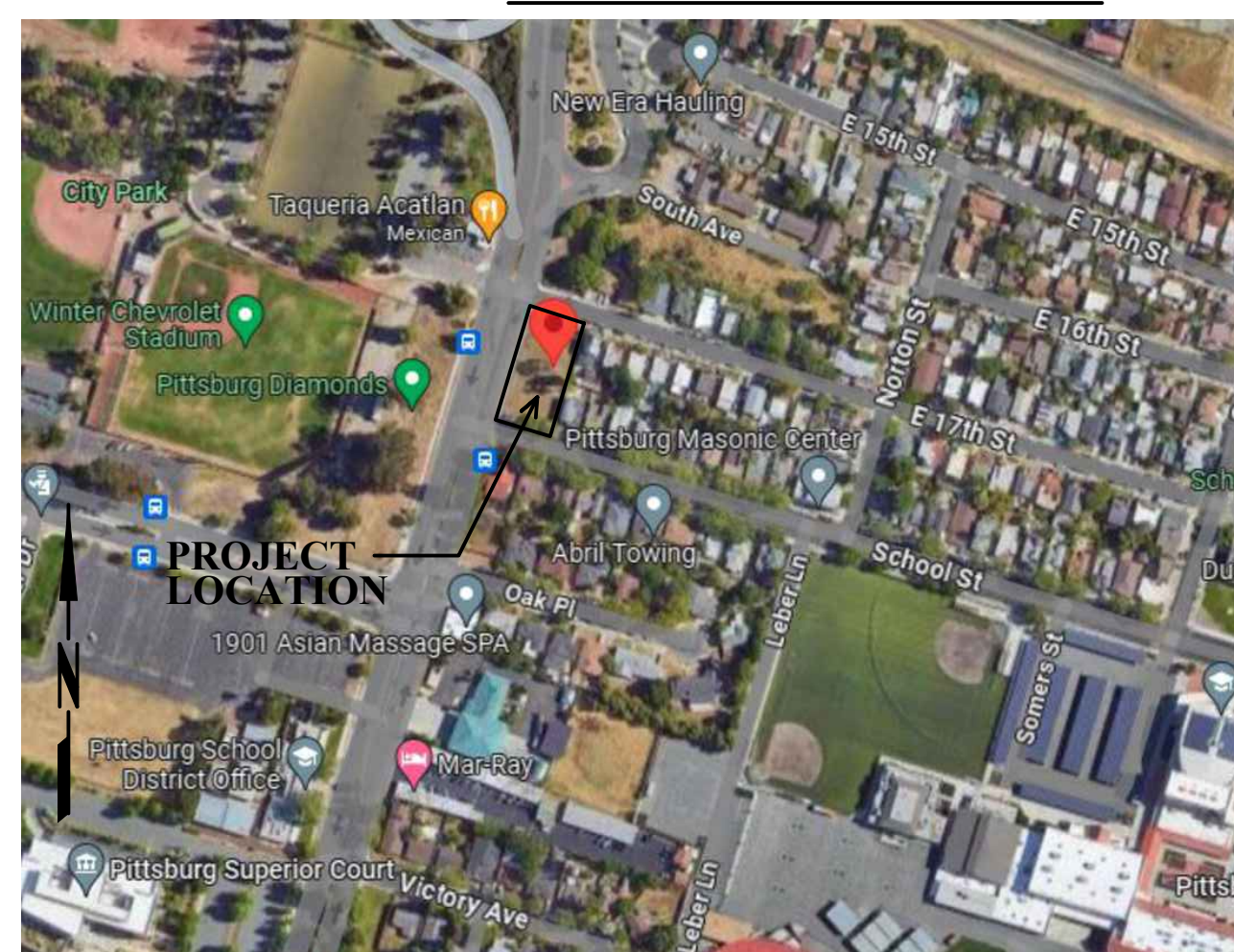
## A-0



RAILROAD AVE. FRONT ELEVATION



### VICINITY MAP



### PROJECT DATA

**GROSS FLOOR AREA PER UNIT**  
PLAN 1: LIVING 1,171 GARAGE 216

**NUMBER OF BEDROOMS**  
PLAN 1: 3

**NUMBER OF UNITS PER BUILDING**  
BUILDING 1: 7 UNITS  
BUILDING 2: 7 UNITS  
**TOTAL UNITS: 14 UNITS**

**PARKING SUMMARY**  
SINGLE CAR GARAGE 14 SPACES  
GUEST PARKING: 2 SPACES  
**TOTAL PARKING PROVIDED: 16 SPACES**

LOT SIZE = 15,842 SQ.FT.  
BUILDING 2 FOOTPRINT = 3,202 SQ.FT. X2  
TOTAL FOOTPRINT = 6,404 SQ.FT.  
FAR = 40%

### BUILDING DATA

TYPE OF CONSTRUCTION:  
OCCUPANCY GROUP: VB  
R-3

### PROJECT TEAM

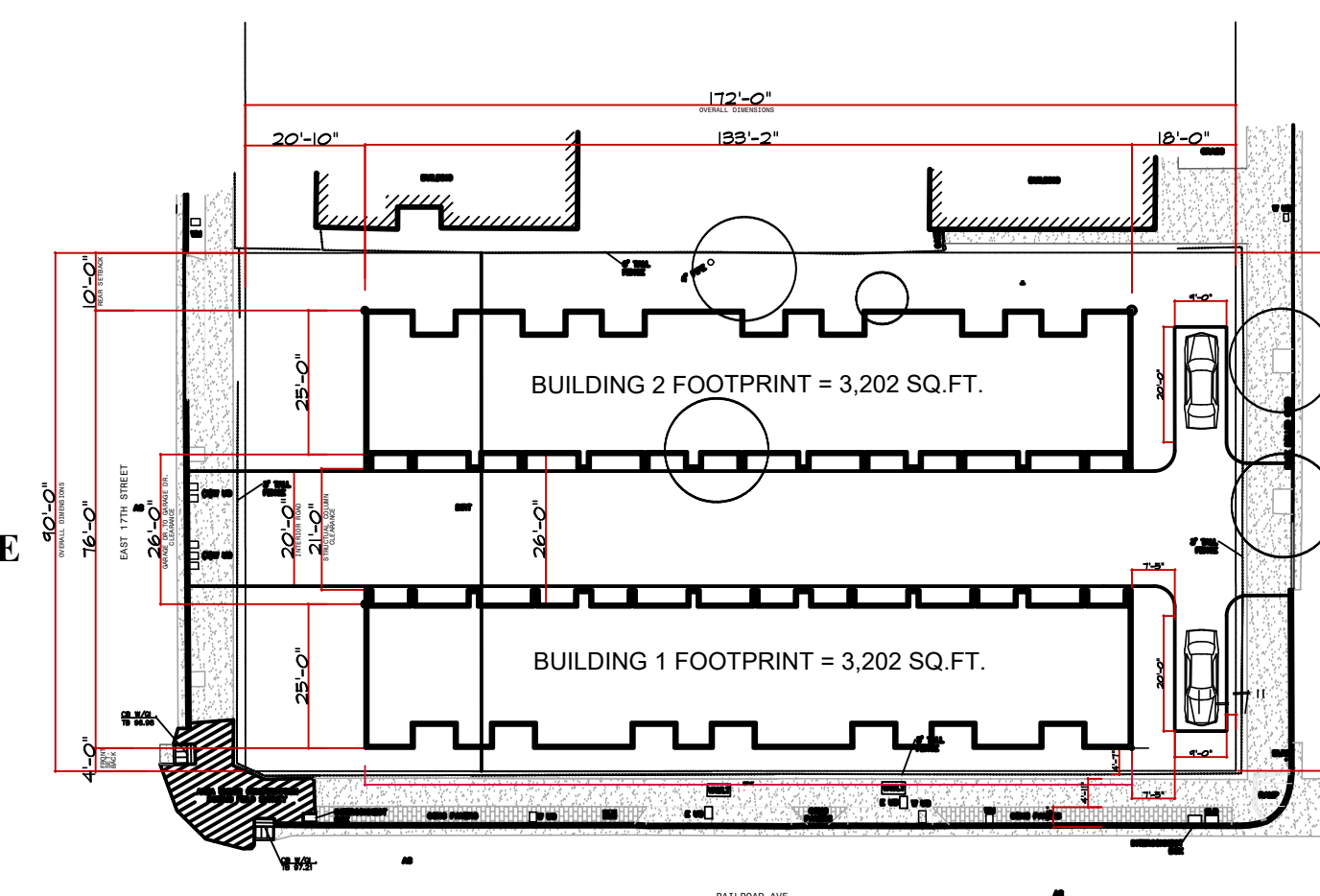
**APPLICANT:** KEVIN HARRELL  
0000 STREET  
PITTSBURG, CA 94565

**DESIGNER:** EMB DESIGN GROUP  
2501 ELFRASCO DRIVE  
PITTSBURG, CA 94565

**CIVIL:** BELLECCI & ASSOCIATES, INC.  
2290 DIAMOND BLVD., STE 100  
CONCORD, CA 94520

**LANDSCAPE:** MSLA LANDSCAPE ARCHITECTURE  
306 CANYON FALLS DRIVE  
FOLSOM, CA 95630

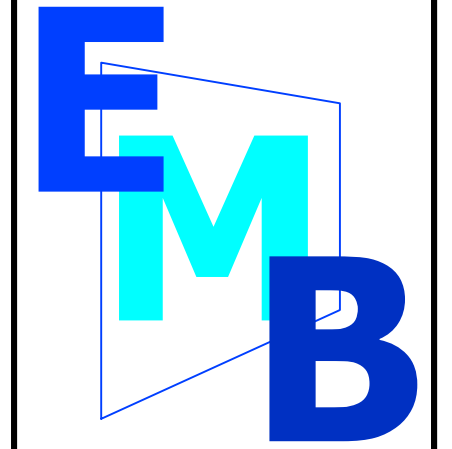
### KEY PLAN



### SHEET INDEX

- A0 COVER SHEET
- A1 PHOTOSIMULATION EXISTING SITE VIEW
- A2 EXISTING SITE PLAN
- A3 PHOTOSIMULATION PROPOSED SITE VIEW
- A4 PROPOSED SITE PLAN
- A5 MASSING PLANS
- A6 FLOOR PLANS
- A7 ELEVATIONS
  
- C1 TENTATIVE MAP
- C2 CIVIL SITE PLAN
  
- 1 TENTATIVE MAP
- 2 GRADING AND UTILITY PLAN
- 3 STORM WATER CONTROL PLAN EXHIBIT
- 4 STORM WATER CONTROL PLAN CALC.
- 5 TENTATIVE MAP HYDROLOGY
- I-1 JOINT TRENCH INTENT
- P1 PRELIMINARY LANDSCAPE PLAN
- P2 FENCING PLAN

# Townhouse @ 1650, 1611, Railroad Ave. & 109 School St. Pittsburg, California 94565



**DESIGN GROUP**  
ARCHITECTURE & INTERIOR

EMB DESIGN GROUP  
2501 Elfrasco Drive  
Pittsburg, California 94565  
(925) 890-4299 cell

Townhouse @  
1650, 1611, Railroad ave.  
& 109 School st.

APN #  
000-000-00

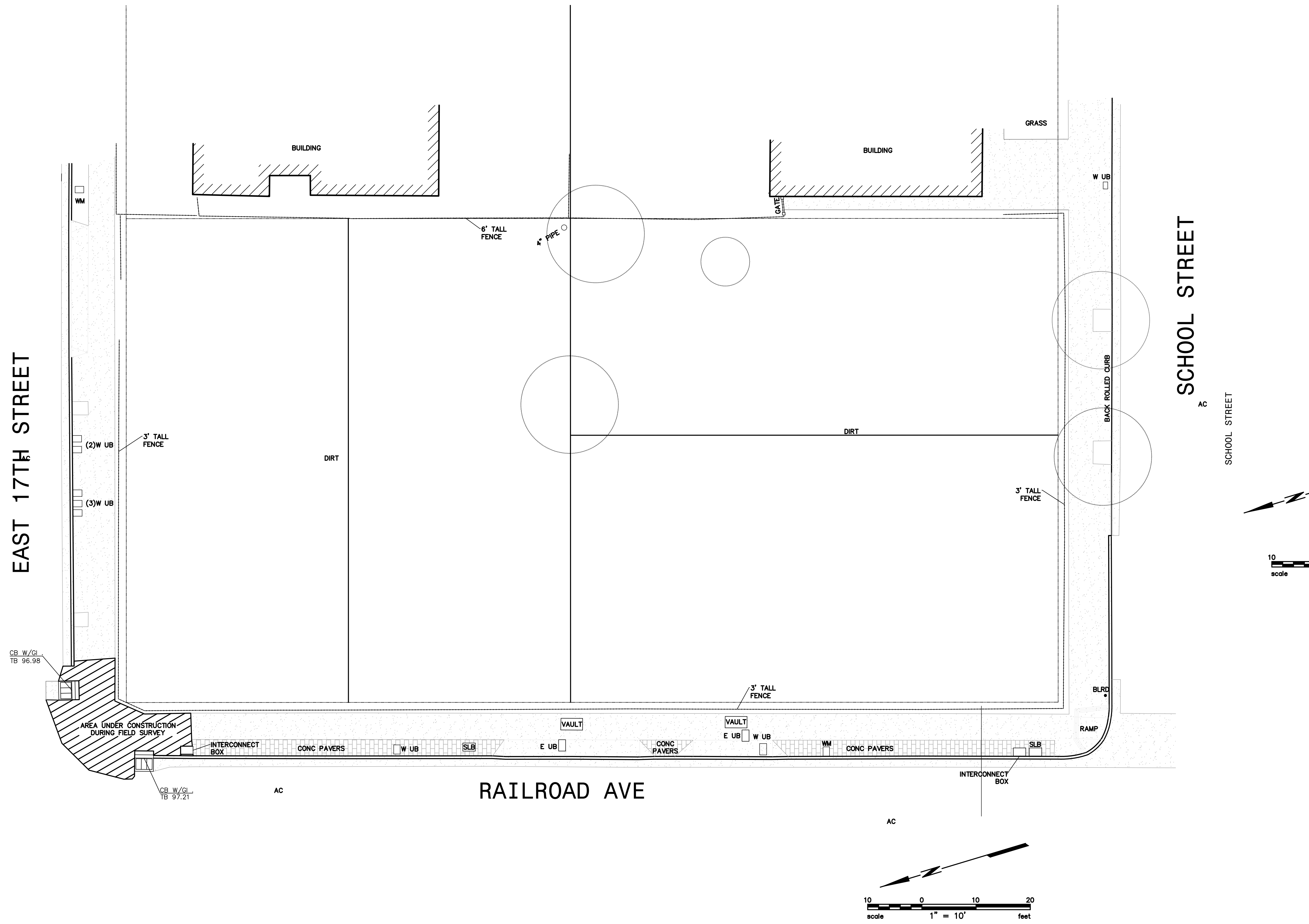
Owner :  
KEVIN HARRELL

**Design Review  
Phase**

SHEET TITLE  
COVER SHEET  
GENERAL INFO  
SITE PLAN

Date	Issues & Revisions
01/02/24	Plan Check Set
	Plan Check/ Comments #1
	Prelim. Bid Set
	Issue to Consultants
	Permit Set
	Issue to Fire Dept.
	FIRE DEPT COMMENT 3/1/22

**A-1**

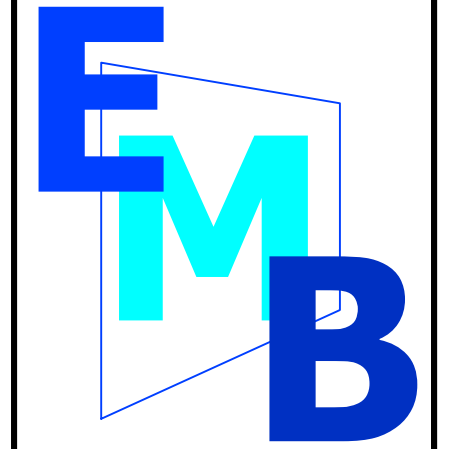








# Townhouse @ 1650,1611, Railroad Ave. & 109 School St. Pittsburg, California 94565



**DESIGN GROUP**  
ARCHITECTURE & INTERIOR

EMB DESIGN GROUP  
2501 Elfrasco Drive  
Pittsburg, California 94565  
(925) 890-4299 cell

Townhouse @  
1650, 1611, Railroad ave.  
& 109 School st.

APN #  
000-000-00

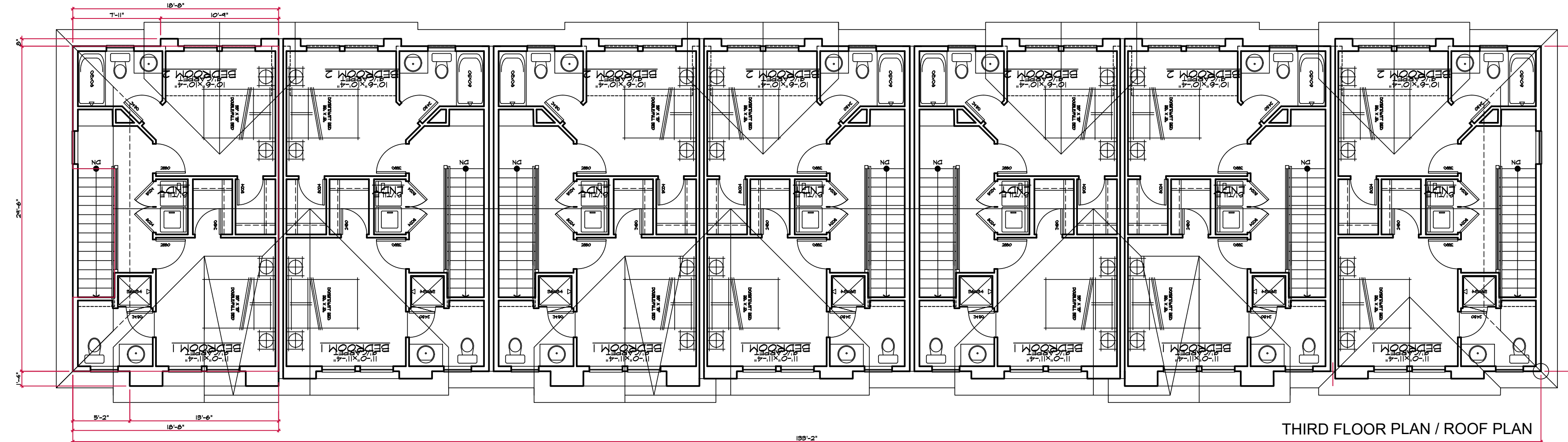
Owner :  
KEVIN HARRELL

**Design Review  
Phase**

SHEET TITLE  
COVER SHEET  
GENERAL INFO  
SITE PLAN

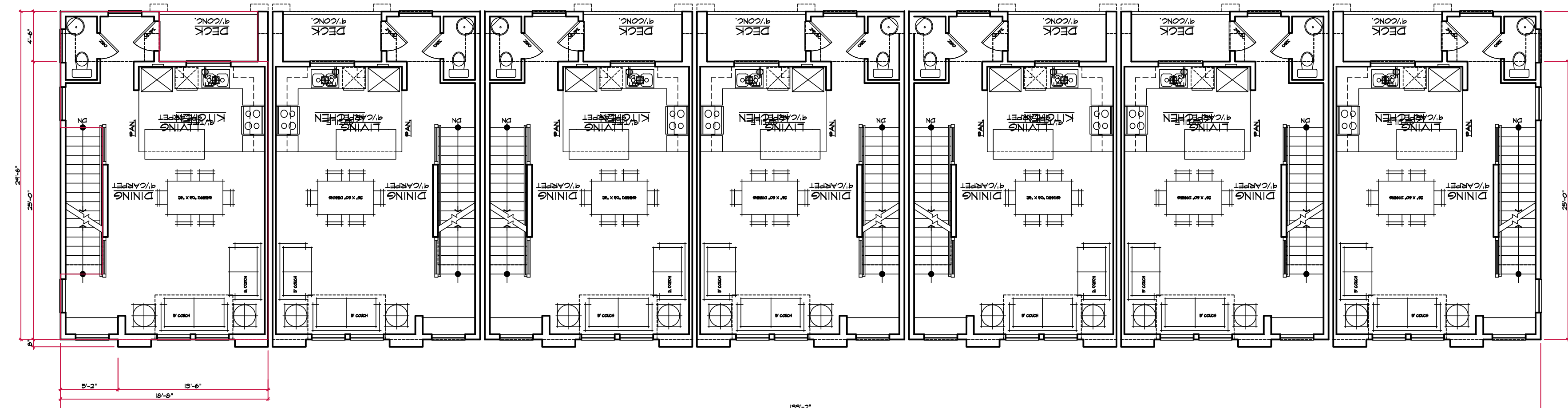
Date	Issues & Revisions
01/02/24	Plan Check Set
	Plan Check/ Comments #1
	Prelim. Bid Set
	Issue to Consultants
	Permit Set
	Issue to Fire Dept.
	FIRE DEPT COMMENT 3/1/22

**A-5**

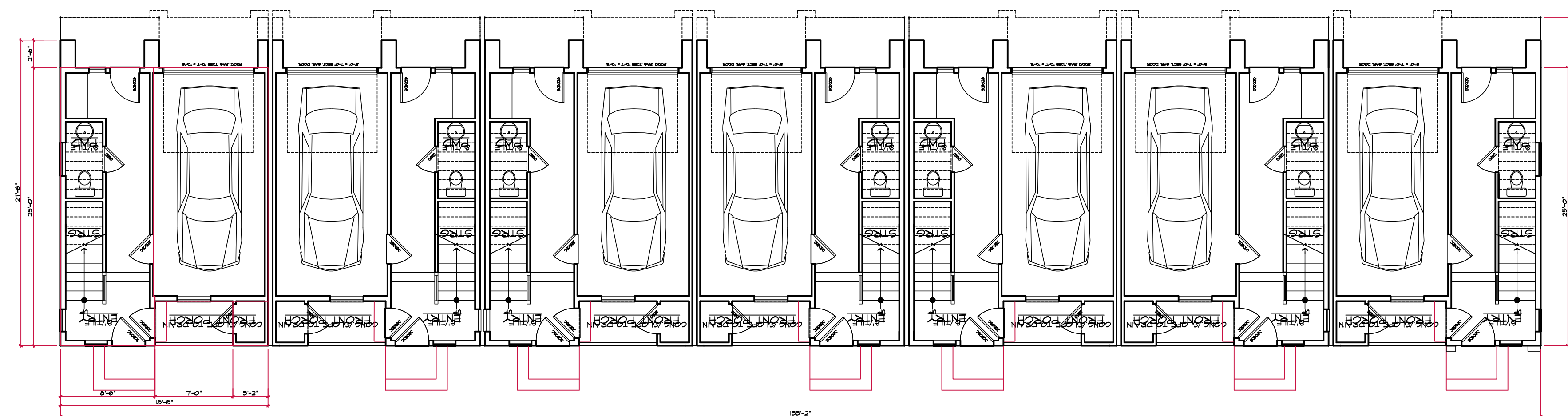


THIRD FLOOR PLAN 506 SQ.FT.

THIRD FLOOR PLAN / ROOF PLAN



SECOND FLOOR PLAN 456 SQ.FT.  
REAR DECK 39 SQ.FT.



FIRST FLOOR PLAN 209 SQ.FT.

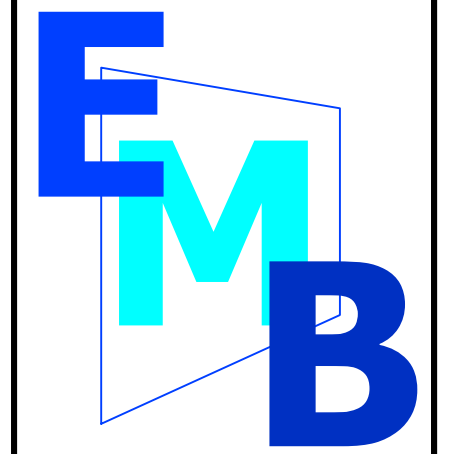
GARAGE 216 SQ.FT.  
STORAGE 12 SQ.FT.  
FRONT PORCH 27 SQ.FT.

THIRD FLOOR PLAN 506 SQ.FT.  
SECOND FLOOR PLAN 456 SQ.FT.  
FIRST FLOOR PLAN 209 SQ.FT.

TOTAL= 1,171 SQ.FT.



# Townhouse @ 1650,1611, Railroad Ave. & 109 School St. Pittsburg, California 94565



**DESIGN GROUP**  
ARCHITECTURE & INTERIOR

EMB DESIGN GROUP  
2501 Elfrasco Drive  
Pittsburg, California 94565  
(925) 890-4299 cell

Townhouse @  
1650, 1611, Railroad ave.  
& 109 School st.

APN #  
000-000-00

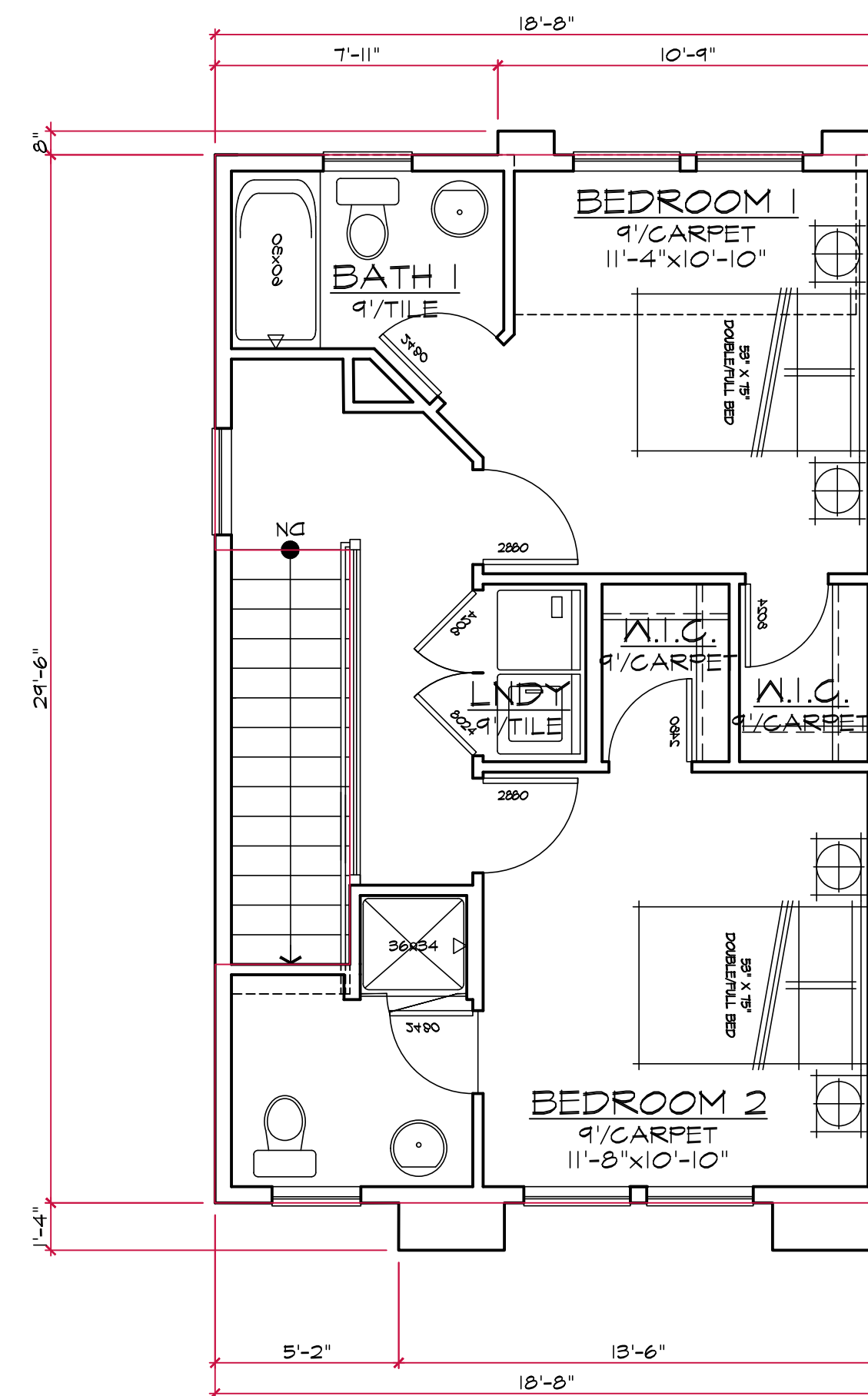
Owner :  
KEVIN HARRELL

**Design Review  
Phase**

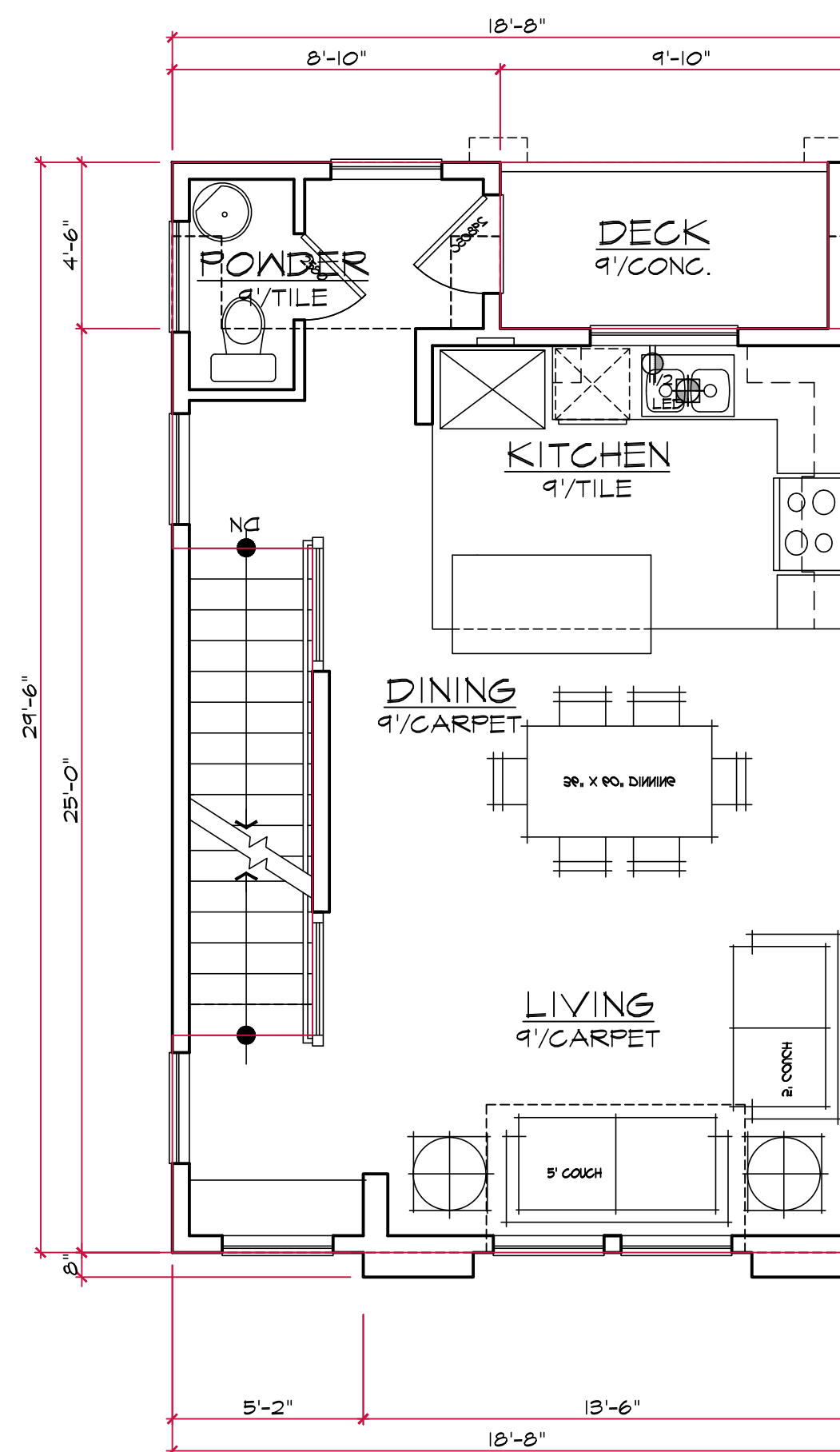
SHEET TITLE  
COVER SHEET  
GENERAL INFO  
SITE PLAN

Date	Issues & Revisions
01/02/24	Plan Check Set
	Plan Check/ Comments #1
	Prelim. Bid Set
	Issue to Consultants
	Permit Set
	Issue to Fire Dept.
	FIRE DEPT COMMENT 3/1/22

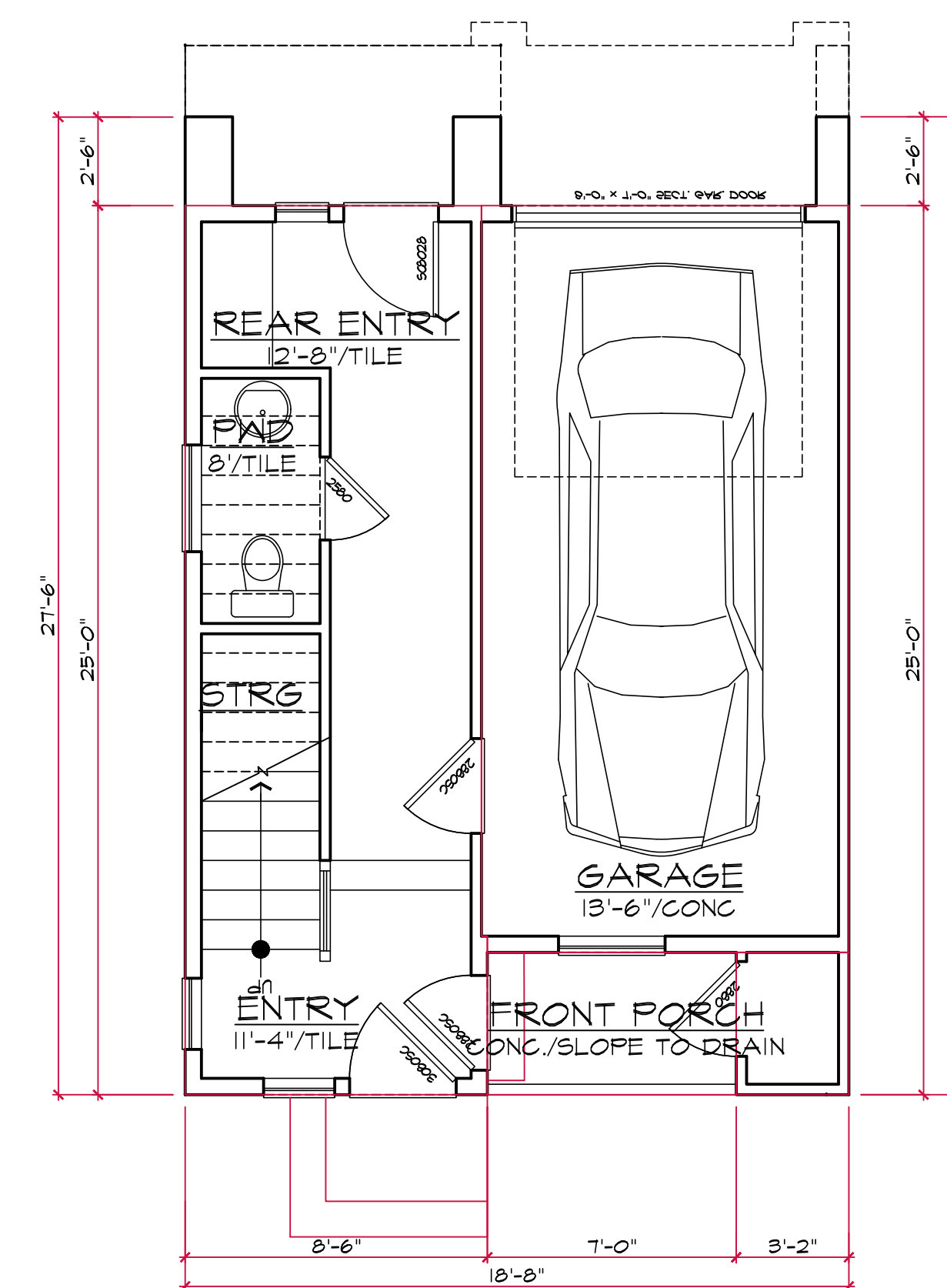
**A-6**



THIRD FLOOR PLAN 506 SQ.FT.



SECOND FLOOR PLAN 456 SQ.FT.  
REAR DECK 39 SQ.FT.

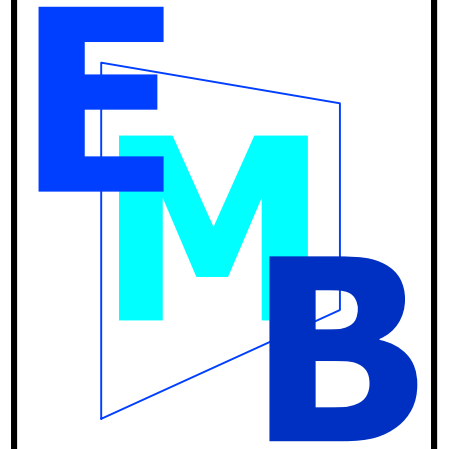


FIRST FLOOR PLAN 209 SQ.FT.  
GARAGE 218 SQ.FT.  
STORAGE 12 SQ.FT.  
FRONT PORCH 27 SQ.FT.

THIRD FLOOR PLAN 506 SQ.FT.  
SECOND FLOOR PLAN 456 SQ.FT.  
FIRST FLOOR PLAN 209 SQ.FT.

**TOTAL= 1,171 SQ.FT.**

# Townhouse @ 1650, 1611, Railroad Ave. & 109 School St. Pittsburg, California 94565



**DESIGN GROUP**  
ARCHITECTURE & INTERIOR

EMB DESIGN GROUP  
2501 Elfrasco Drive  
Pittsburg, California 94565  
(925) 890-4299 cell

Townhouse @  
1650, 1611, Railroad ave.  
& 109 School st.

APN #  
000-000-00

Owner :  
KEVIN HARRELL

**Design Review  
Phase**

SHEET TITLE  
COVER SHEET  
GENERAL INFO  
SITE PLAN

Date	Issues & Revisions
01/02/24	Plan Check Set
	Plan Check/ Comments #1
	Prelim. Bid Set
	Issue to Consultants
	Permit Set
	Issue to Fire Dept.
	FIRE DEPT COMMENT 3/1/22

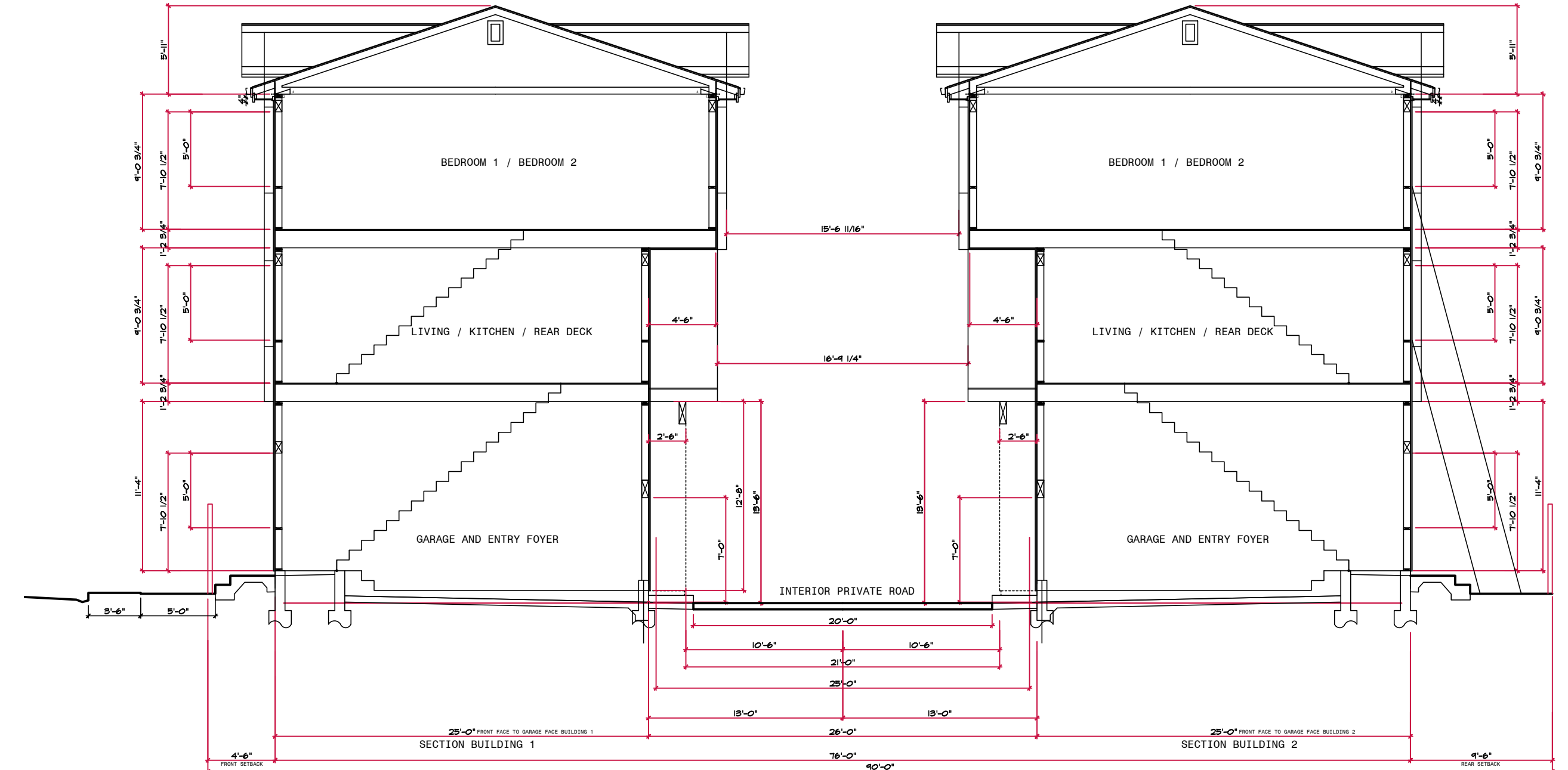
**A-7**



RAILROAD AVE. FRONT ELEVATION



INTERIOR DRIVE WAY



SCHOOL STREET RIGHT SIDE SECTION

# NEW LANDSCAPE PLAN FOR The Railroad Commons Town Homes

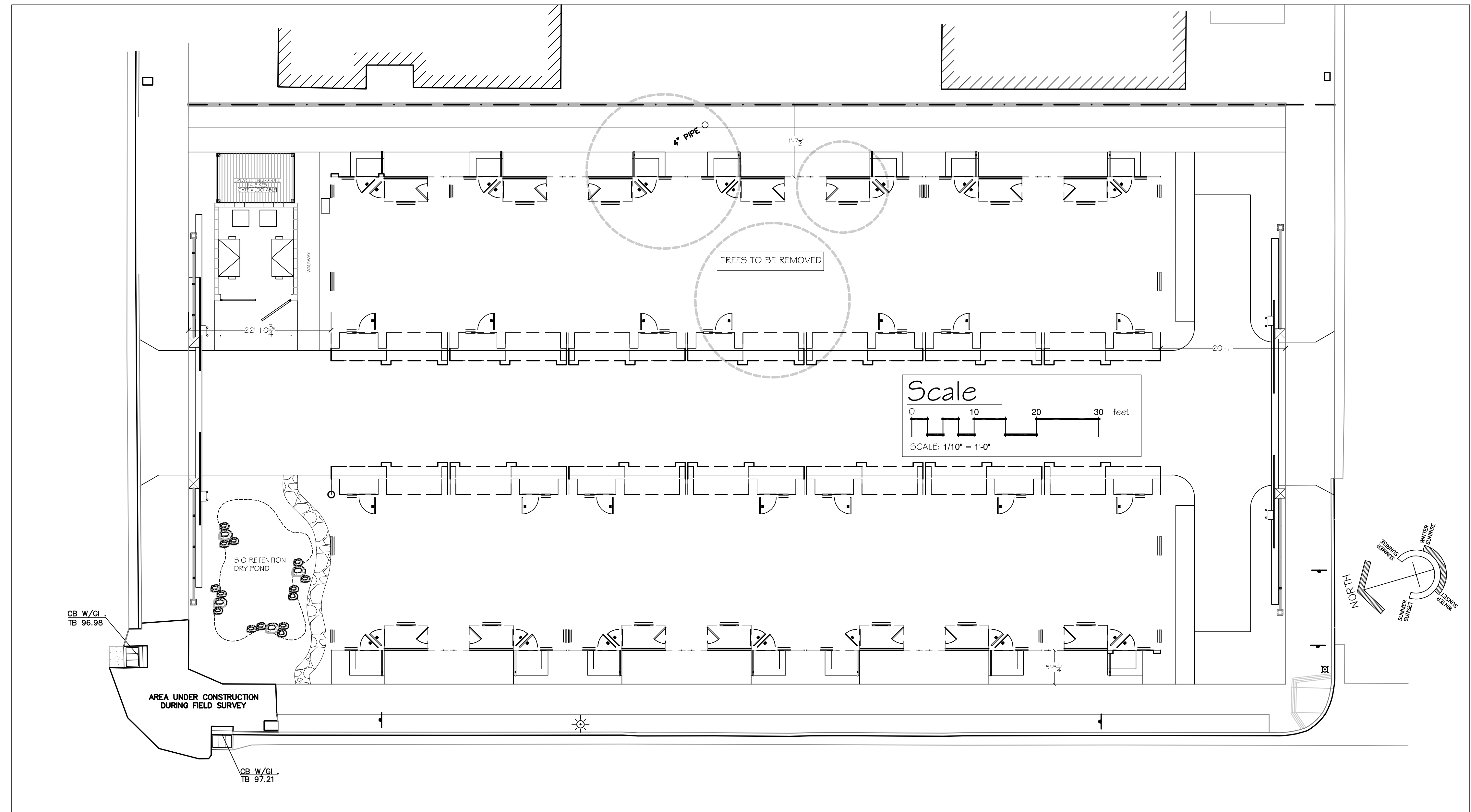
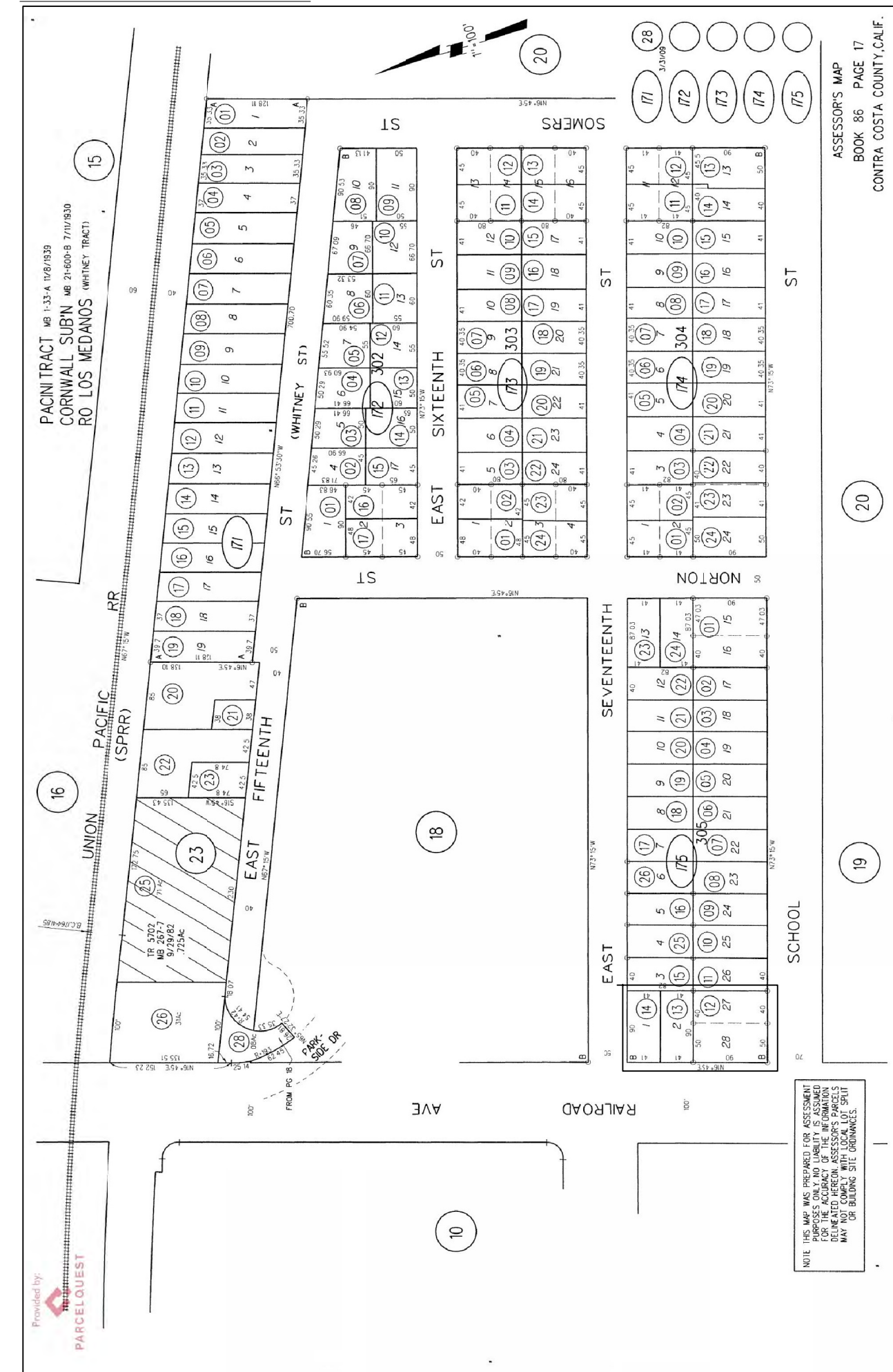
## PROJECT INFORMATION:

kevin Harrel  
 2704 Roosevelt Ln.  
 Antioch, CA 94509  
 phase1inc@comcast.net  
 510-967-8282

## SCOPE OF WORK:

Installation of permeable paver driveway and walkways. Installation of broom finished concrete stoop w/ step and handrail. Installation of concrete pad for garbage enclosure & bike storage. Installation of (2) automatic gates for vehicle access with adjacent wrought Iron fence and columns. Installation of CMU garbage enclosure with metal roof and bike storage kit. Installation of bio swale for all drainage discharge / retention. Installation of plants and trees per plan with 3" mulch covering. Installation of drip irrigation w/ spray irrigation for Bio Swale planting. Installation of various drain lines from downspouts and planting bed drains. Installation of large catch basin in concrete slab for garbage enclosure. All roof drains and drains from driveway or garbage enclosure to be piped into Non-Lid Treatment Media Vault (See Engineers Notes). Install low voltage lighting w/ transformer and photo cell & timer for on/off controll. Installation of 110v electrical for transformer, irrigation controller & 110v lighting for garbage enclosure and bike storage. Install new broom finished sidewalks and curb & gutters as needed per civil engineer. Install large drainage catch basins in driveway.

## VICINITY MAP:



## SHEET INDEX:

- C-P Cover Page
- L-1 Layout Page
- P-2 Planting Page
- D-3 Detail Page
- I-4 Irrigation Drainage Page
- L-5 Lighting Page
- W-6 W.E.L.O. Hydrozone Page

Landscape Plan For

# 1605 Railroad Ave Town Homes

1605 Railroad Ave. Pittsburg, CA 94565

**DreamScapes**

1041 Julie Ct Concord CA 94518  
 Phone: 925.332-5092 Cell: 925.202.1260  
 email: jcaastro@dreamscapesdesign.org

SHEET TITLE:

Cover Page

REVISIONS:

DRAWN BY:

J. CASTRO

DATE:

3-1-24

SCALE:

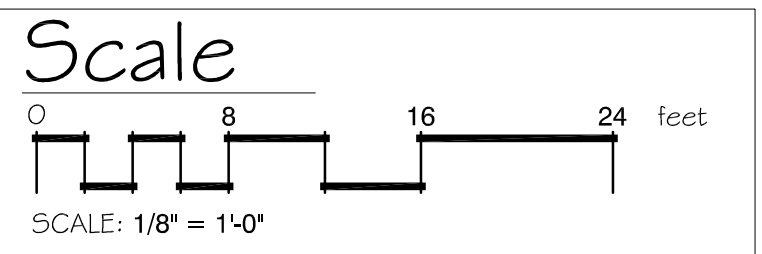
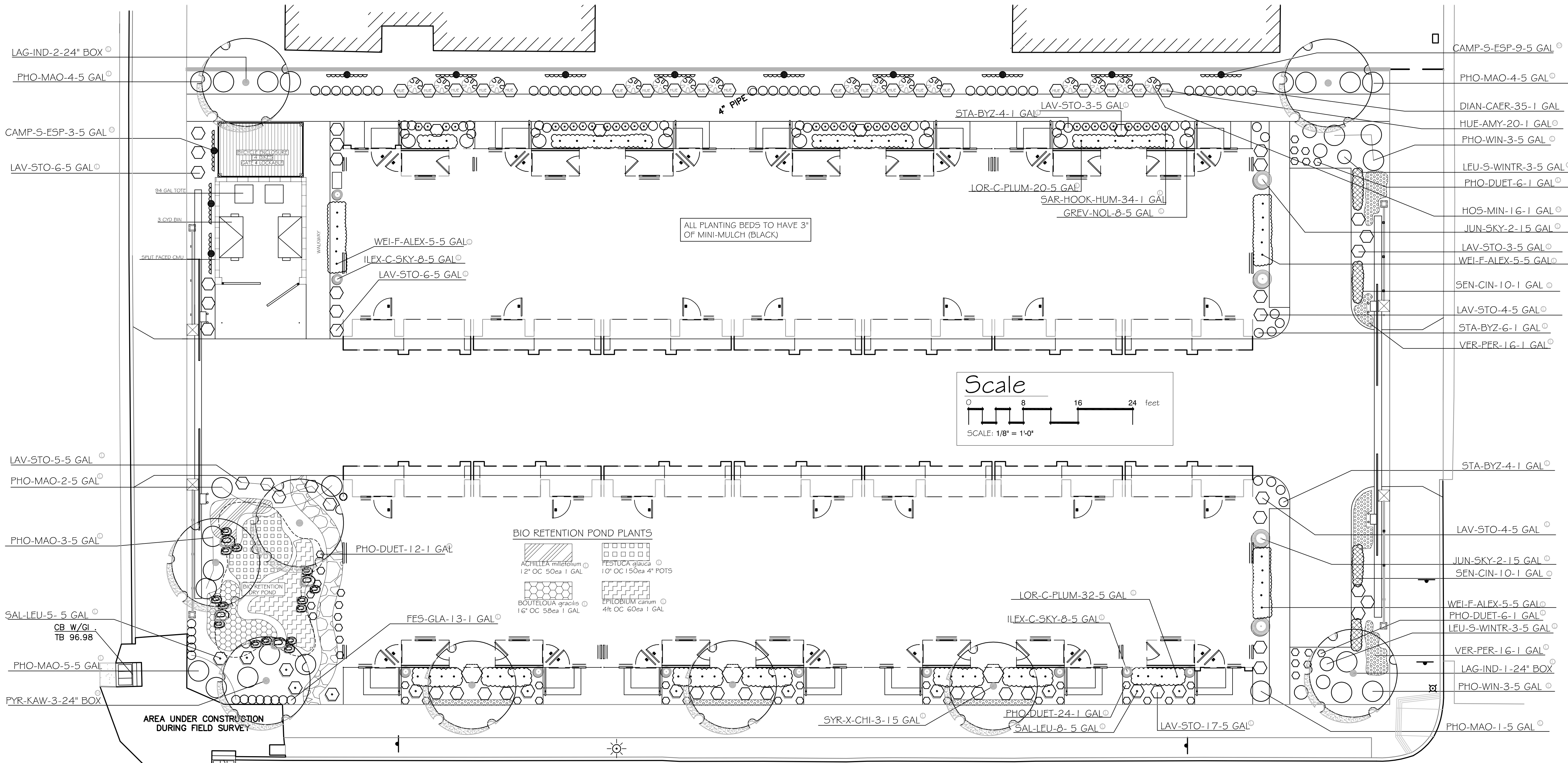
As Shown

PAGE:

C-P

OF:

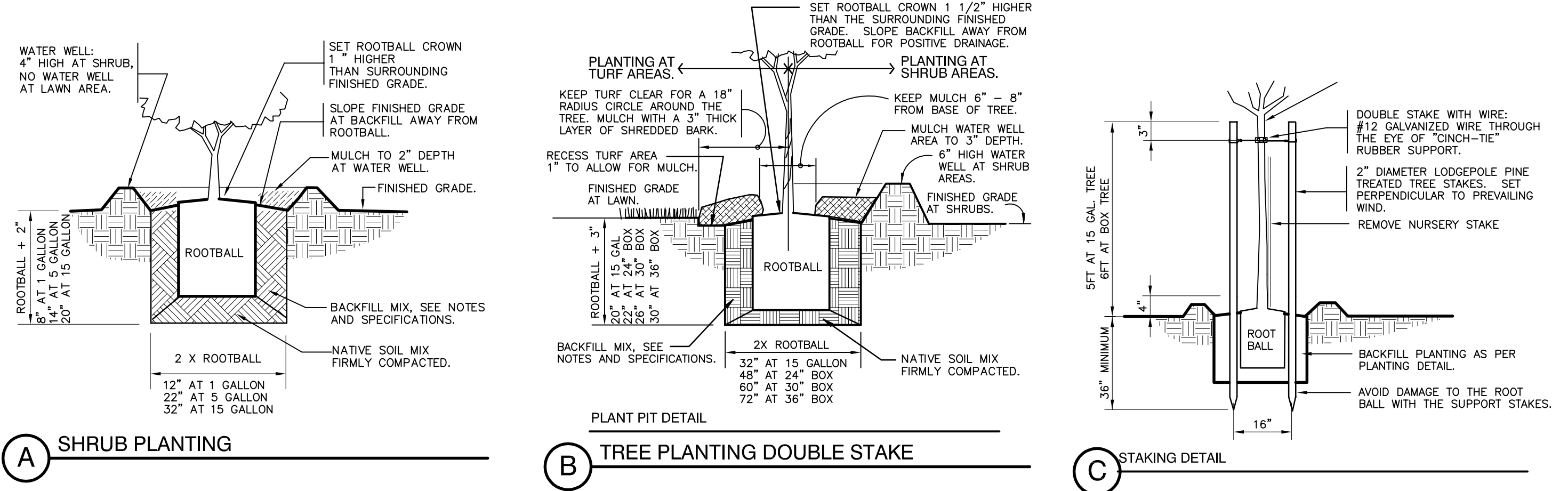




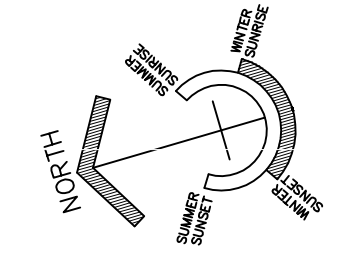
**Plant Schedule**

Key	Botanical	Common	Size	Qty	Water Use
<b>California Native Planting (e.g. western redbud) Trees</b>					
LAG-IND	<i>Logostemonia indica</i>	Crope Myrtle	24"	3	L
SYR-BLOOM	<i>Syringa 'Bloomerange'</i> STD	Bloomerang Lilac Tree	15	3	L
PYR-KAW	<i>Pyrus kawakamii</i>	Evergreen Flowering Pear	24"	3	M
JUN-SKY	<i>Juniperus scopulorum</i> 'Sky Rocket'	Sky Rocket Juniper	15	4	L
<b>Shrubs</b>					
CAM-S-ESP	<i>Camellia sasanqua</i> Espaliered	Espaliered Camellia Sasanqua	5	12	M
LOR-C-PLUM	<i>Loropetalum chinense</i> 'Plum Delight'	Chinese Fringe	5	57	L
LAV-STO	<i>Lavandula stoeches</i>	Spanish Lavender	5	46	L
ILEX-C-SKY	<i>Ilex crenata</i> 'Sky Pencil'	Sky Pencil Holly	5	10	M
LEU-S-WINTR	<i>Leucandendron salignum</i> 'Winter Red'	Winter Red Cone Bush	5	6	M
WEI-F-ALEX	<i>Weigela florida</i> 'Alexandra' Wine & Roses	Wine & Roses Weigela	5	10	L
SAR-HOOK-HUM	<i>Sarcococca hookeriana humilis</i>	Sweet Box	1	34	L
GREV-NOL	<i>Grevillea 'Noellii'</i>	Noell Grevillea	5	8	L
<b>Perennials</b>					
HEU-AMY	<i>Heuchera 'Amethyst Mist'</i>	Amethyst Mist Coral Bells	1	20	M
HOS-MIN	<i>Hosta 'Minuteman'</i>	Minuteman Plantain Lily	1	16	M
SEN-CIN	<i>Senecio cineraria</i>	Dusty Miller	1	20	L
PHO-MAO	<i>Phormium 'Maori Queen'</i>	Maori Queen New Zealand Flax	5	19	L
PHO-DUET	<i>Phormium 'Duet'</i>	Dwarf Varigated Flax	5	48	L
SAL-LEU	<i>Salvia leucantha</i>	Mystic Spires Sage	5	8	L
PHO-WIN	<i>Phormium 'Wings of Gold'</i>	Wings of Gold Flax	5	6	L
STA-BYZ	<i>Stachys byzantina</i>	Lamb's Ear	1	10	M
ACH-MIL	<i>Achillea millefolium</i>	Yarrow	1	50	L
EPI-CAN	<i>Epilobium canum</i>	California Fuchsia	1	60	L
<b>Ornamental Grasses</b>					
DIAN-CAER	<i>Dianella caerulea</i> 'Emerald Fountain'	Becca Flax Lily	1	35	M
FES-GLA	<i>Festuca glauca</i>	Common Blue Fescue	4"	150	L
BOU-GRA	<i>Bouteloua gracilis</i>	BlUe Gama	1	58	L
<b>Groundcovers</b>					
VER-PER	<i>Verbena peruviana</i>	Peruvian Verbena	1	32	L

AGRFORM 20-10-5 FERTILIZER TABS  
2- TABLETS FOR ALL 1 & 5 GAL SHRUBS  
4- TABLETS FOR ALL 15 GAL & 24" BOX TREES



**Planting**



NOTE: This plan is diagrammatic in nature and is meant as a general guide only. It is not fully detailed and exhaustively specified. It is the responsibility of the installer to become familiar with all site conditions and these drawing and to notify the designer of any discrepancies. The installer and owner have sole responsibility for quality control, construction standards and compliance to all building codes. This plan is part of a set of documents and is meant to be used together as a whole.

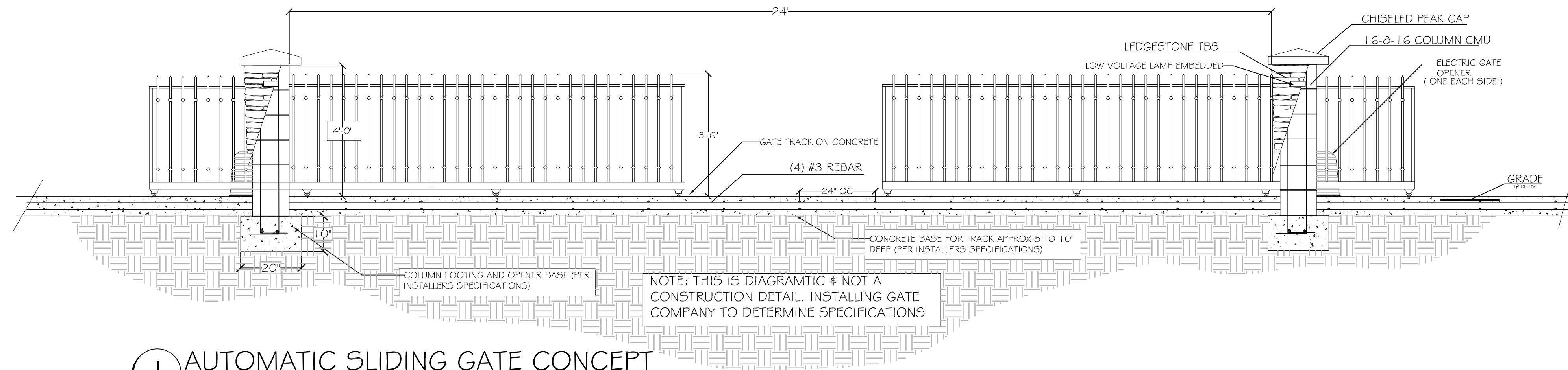
**DreamScapes**  
1041 Julie Ct Concord CA 94518  
Phone: 925.332.5092 Cell: 925.202.1260  
email: jcastro@dreamscapesdesign.org

Landscape Plan For  
**1605 Railroad Ave Town Homes**  
1605 Railroad Ave. Pittsburg, CA 94566

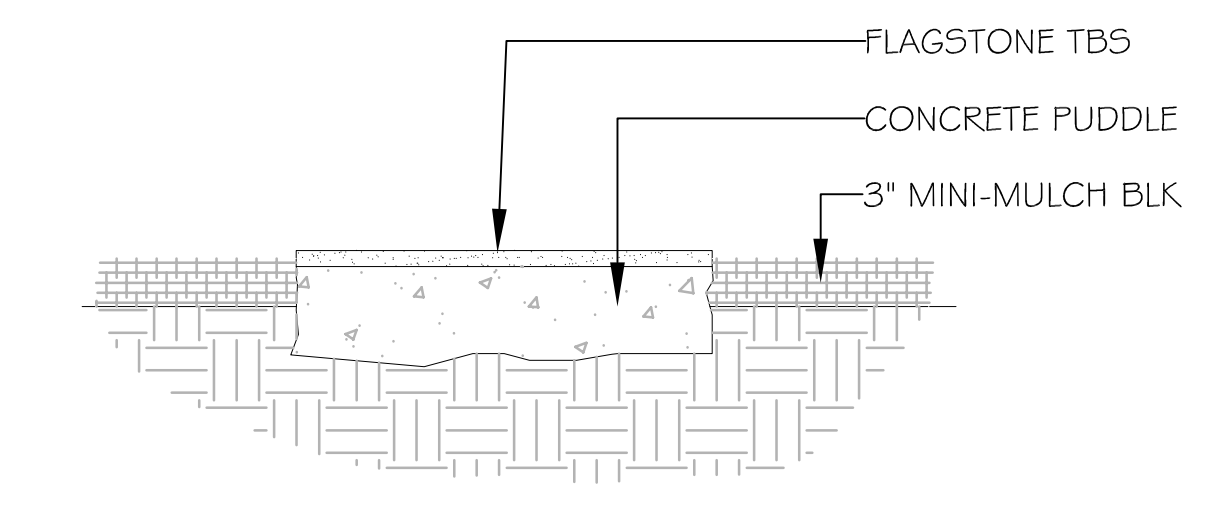
**SHEET TITLE:**  
Planting

**REVISIONS:**

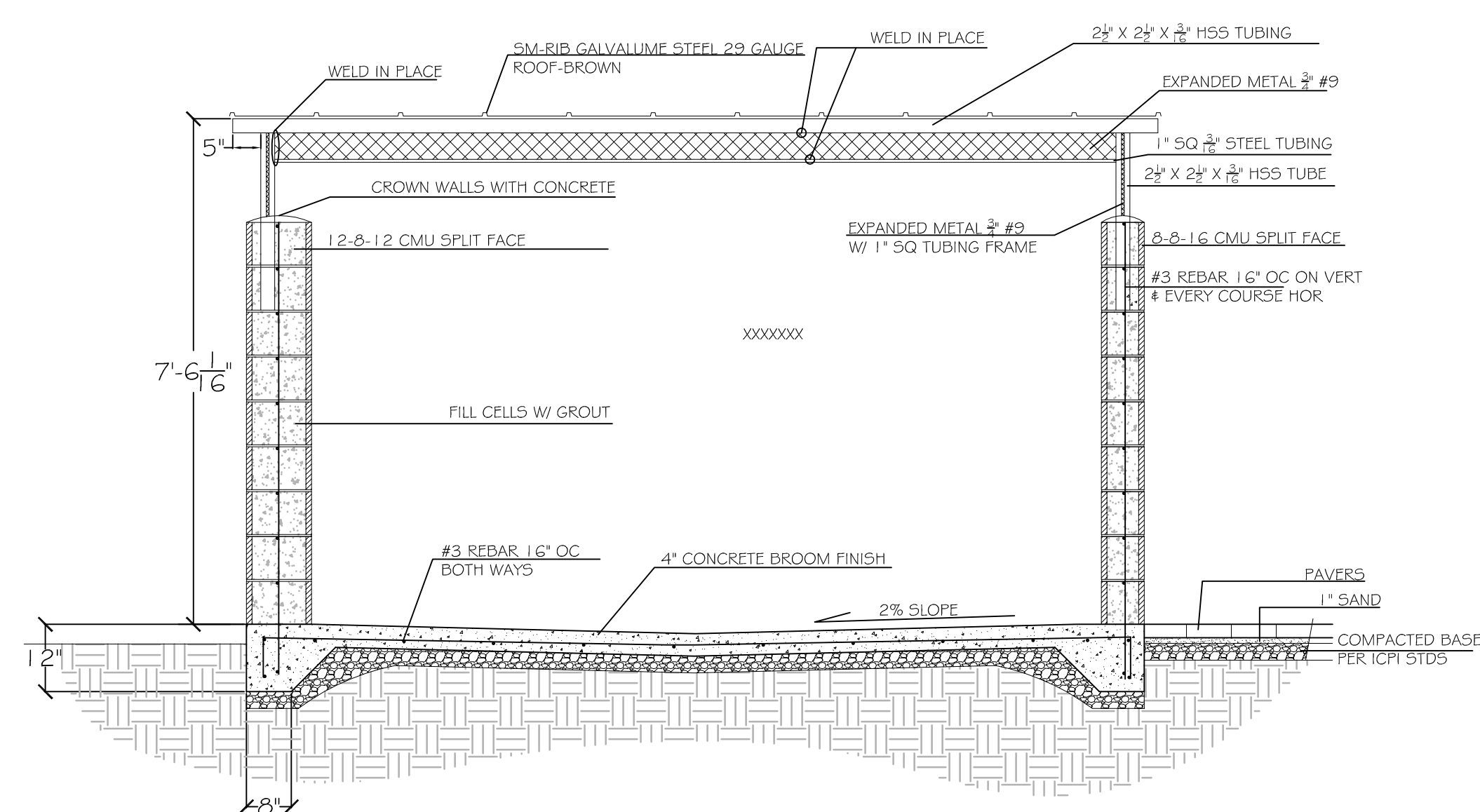

DRAWN BY: J. CASTRO  
DATE: 3-1-24  
SCALE: As Shown  
PAGE: P-2  
OF: SIX



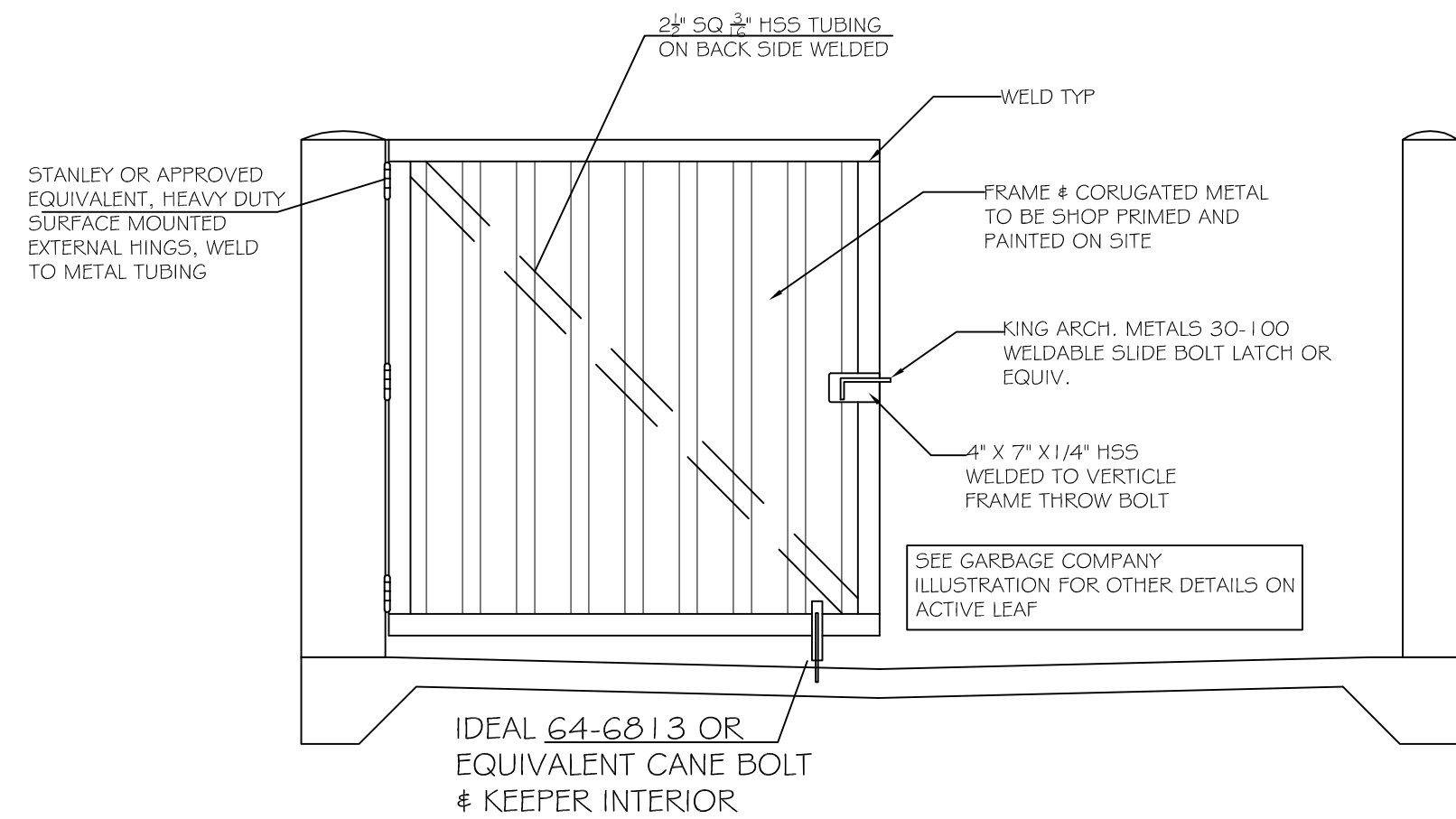
1 AUTOMATIC SLIDING GATE CONCEPT  
Scale 1/2" = 1ft.



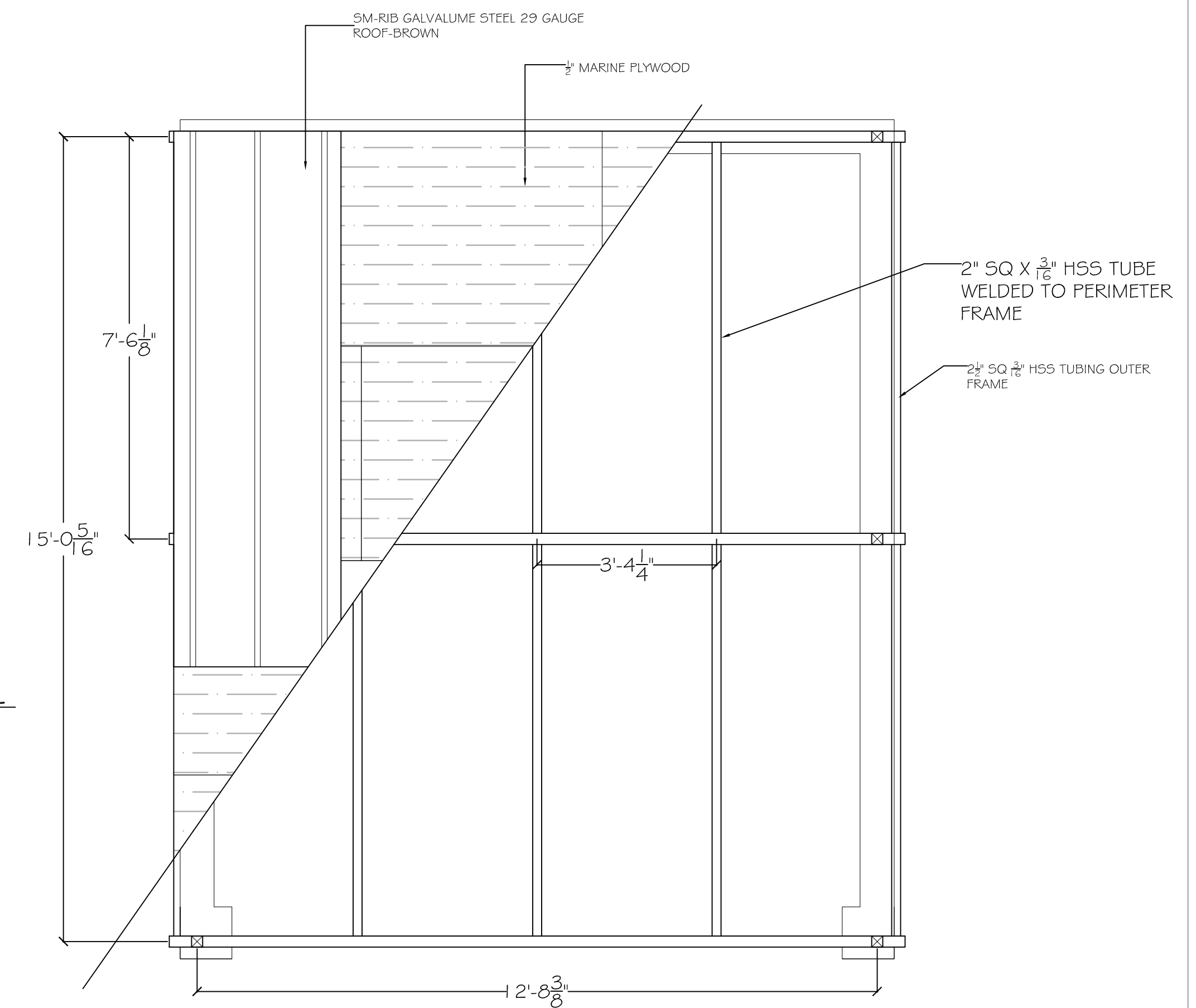
2 FLAGSTONE INSTALLATION  
Scale 1" = 1ft.



3 GARBAGE ENCLOSURE SECTION  
Scale 1/2" = 1ft.



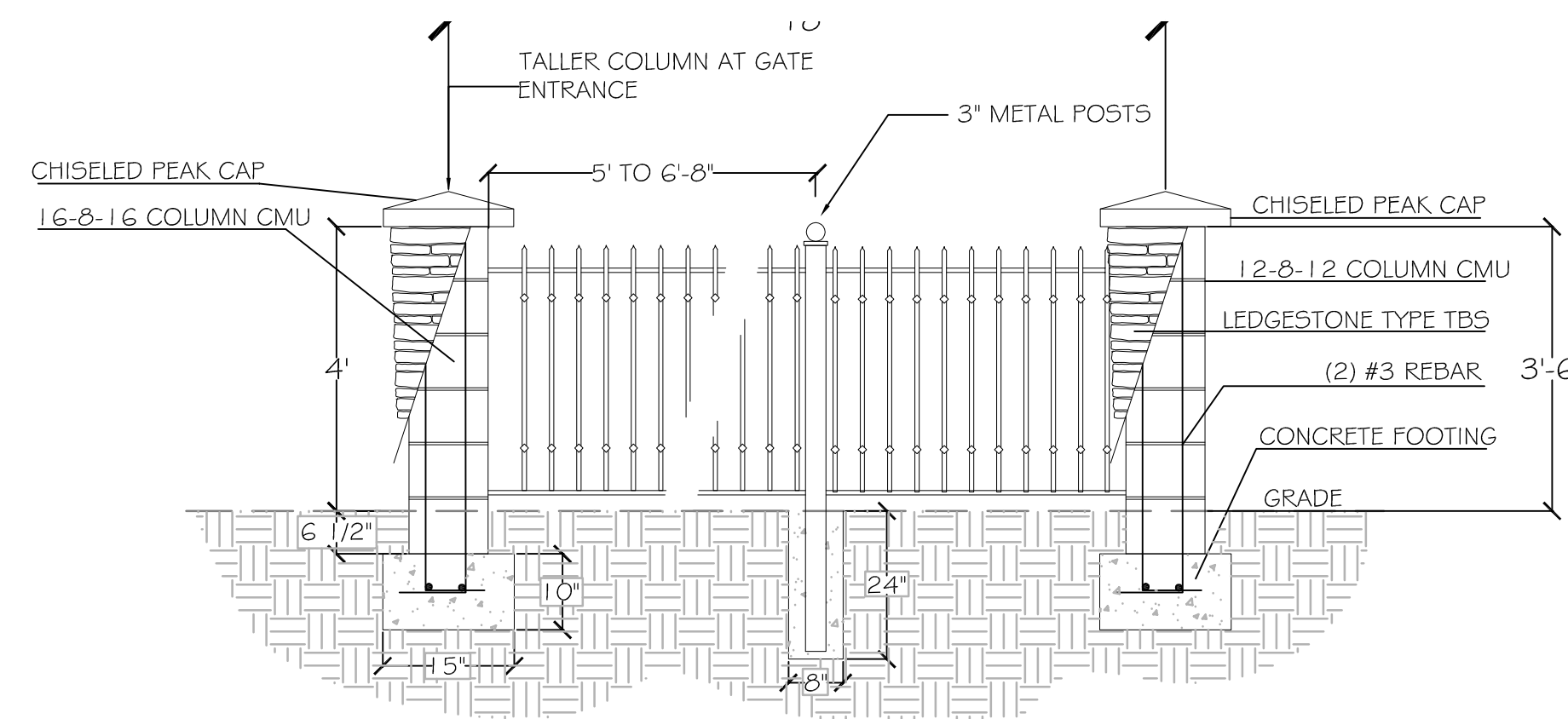
4 GARBAGE ENCLOSURE DOOR DETAIL  
Scale 1/2" = 1ft.



5 GARBAGE ENCLOSURE ROOF FRAMING  
Scale 1/2" = 1ft.



6 Dero Bike Depot™ (Bike Shelter)  
Click to expand



7 GATE SIDE FENCING  
Scale 1/2" = 1ft.

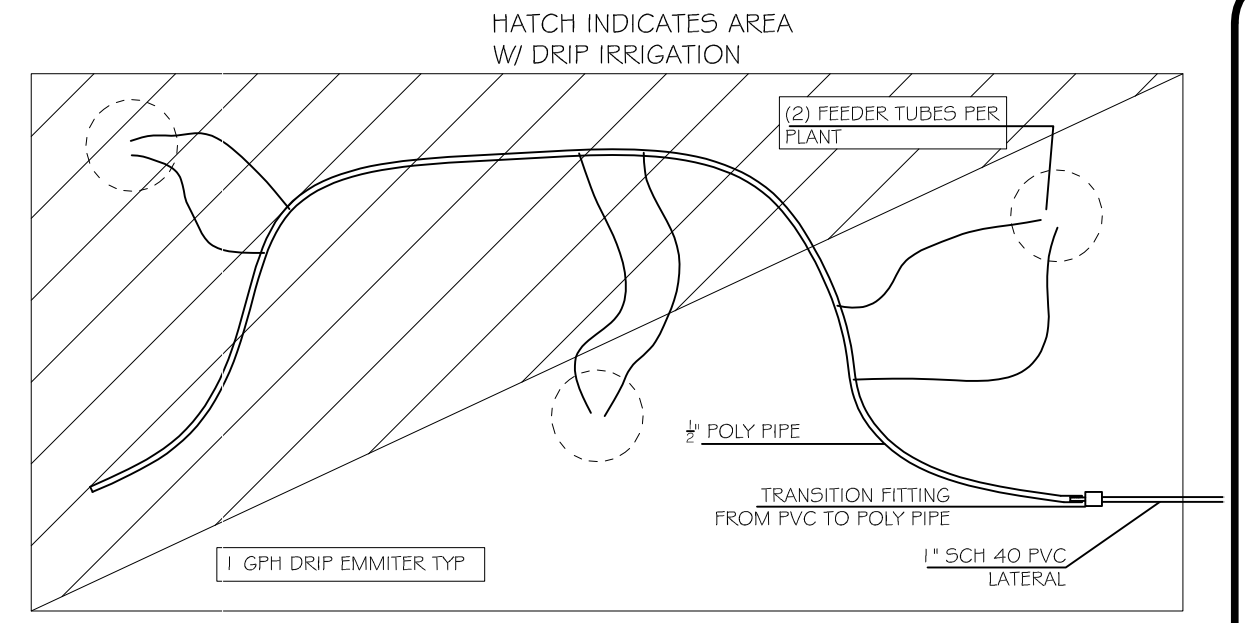
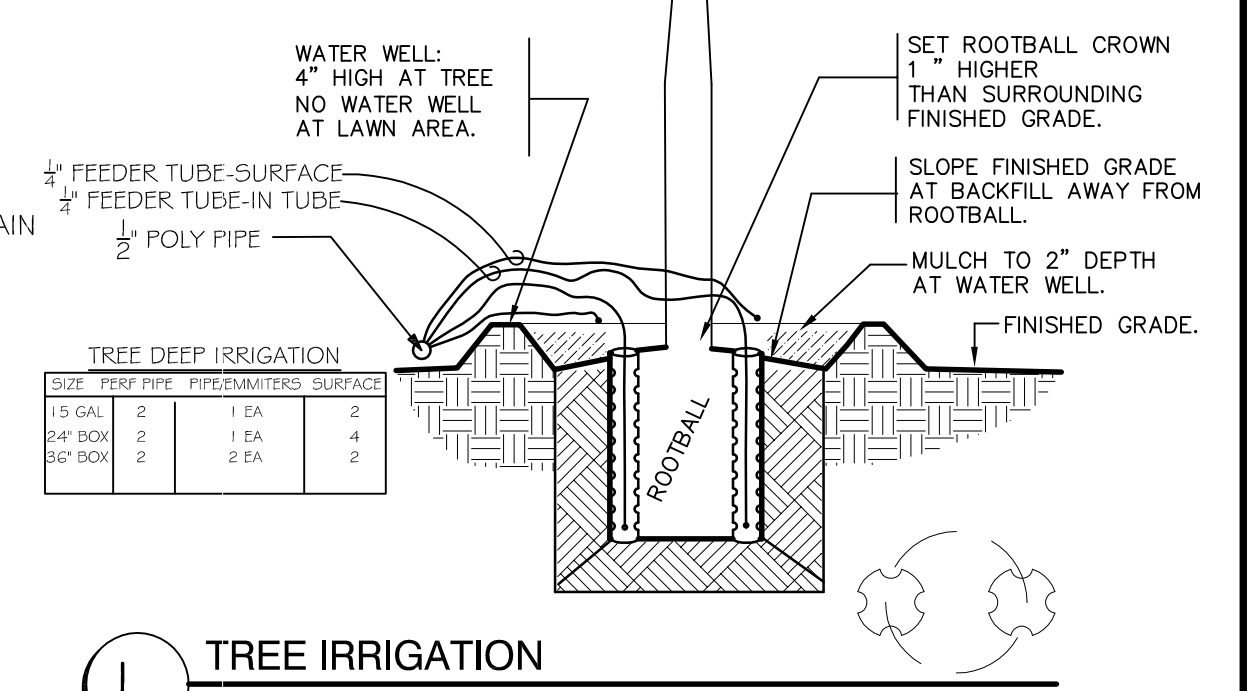
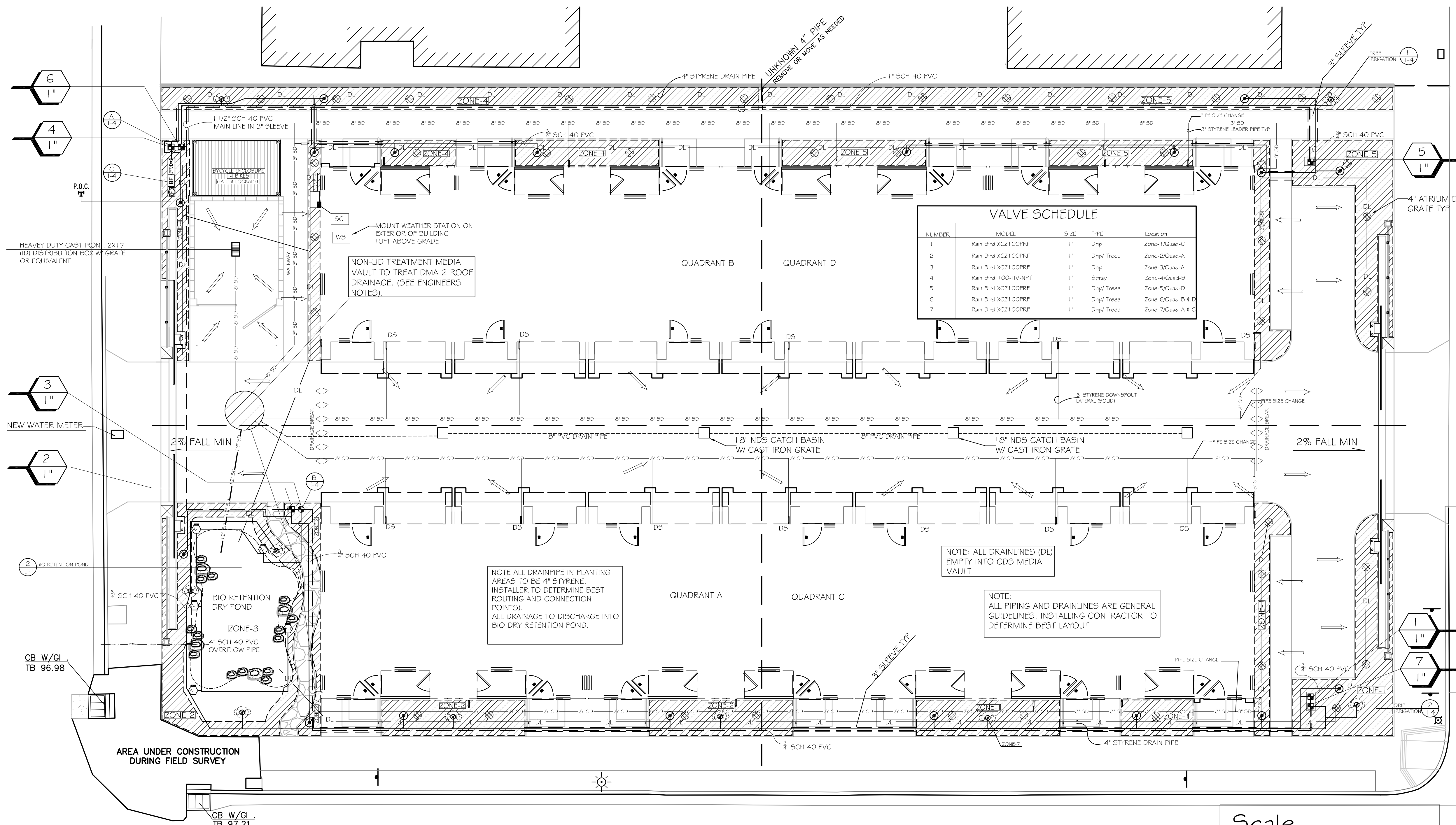
**DreamScapes**  
 1041 Julie Ct Concord CA 94518  
 Phone: 925.332.5092 Cell: 925.202.1260  
 email: jcastro@dreamscapesdesign.com

Landscape Plan For  
**1605 Railroad Ave Town Homes**  
 1605 Railroad Ave. Pittsburg, CA 94565

**SHEET TITLE:**  
 Details

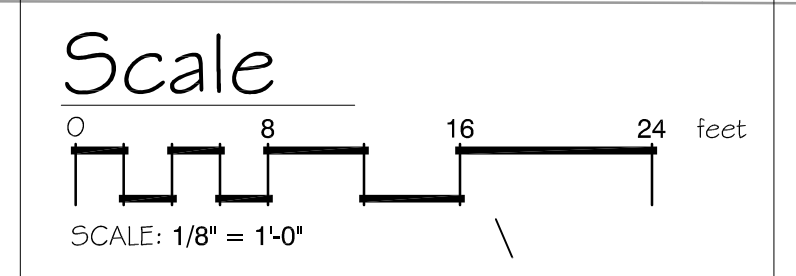
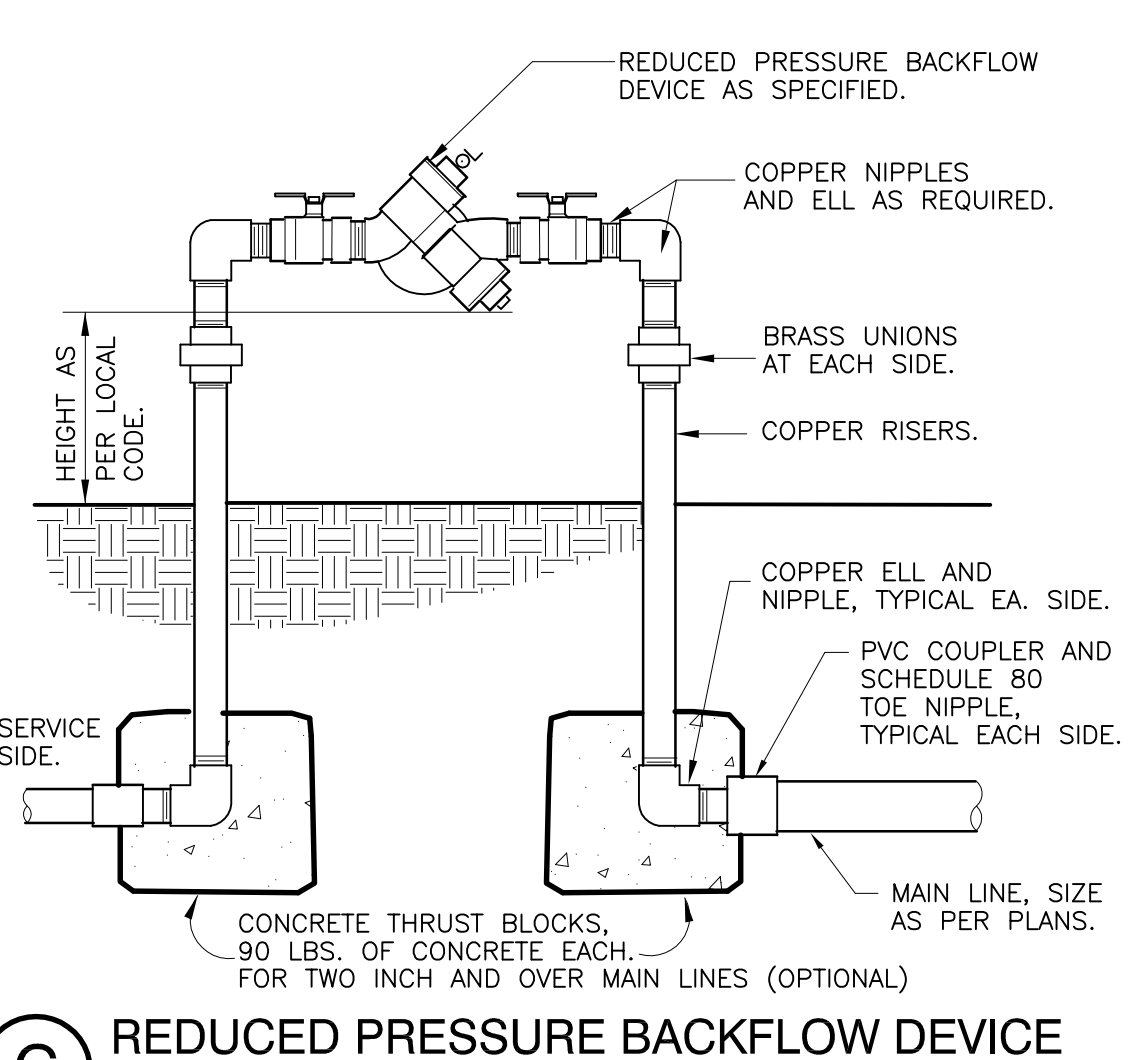
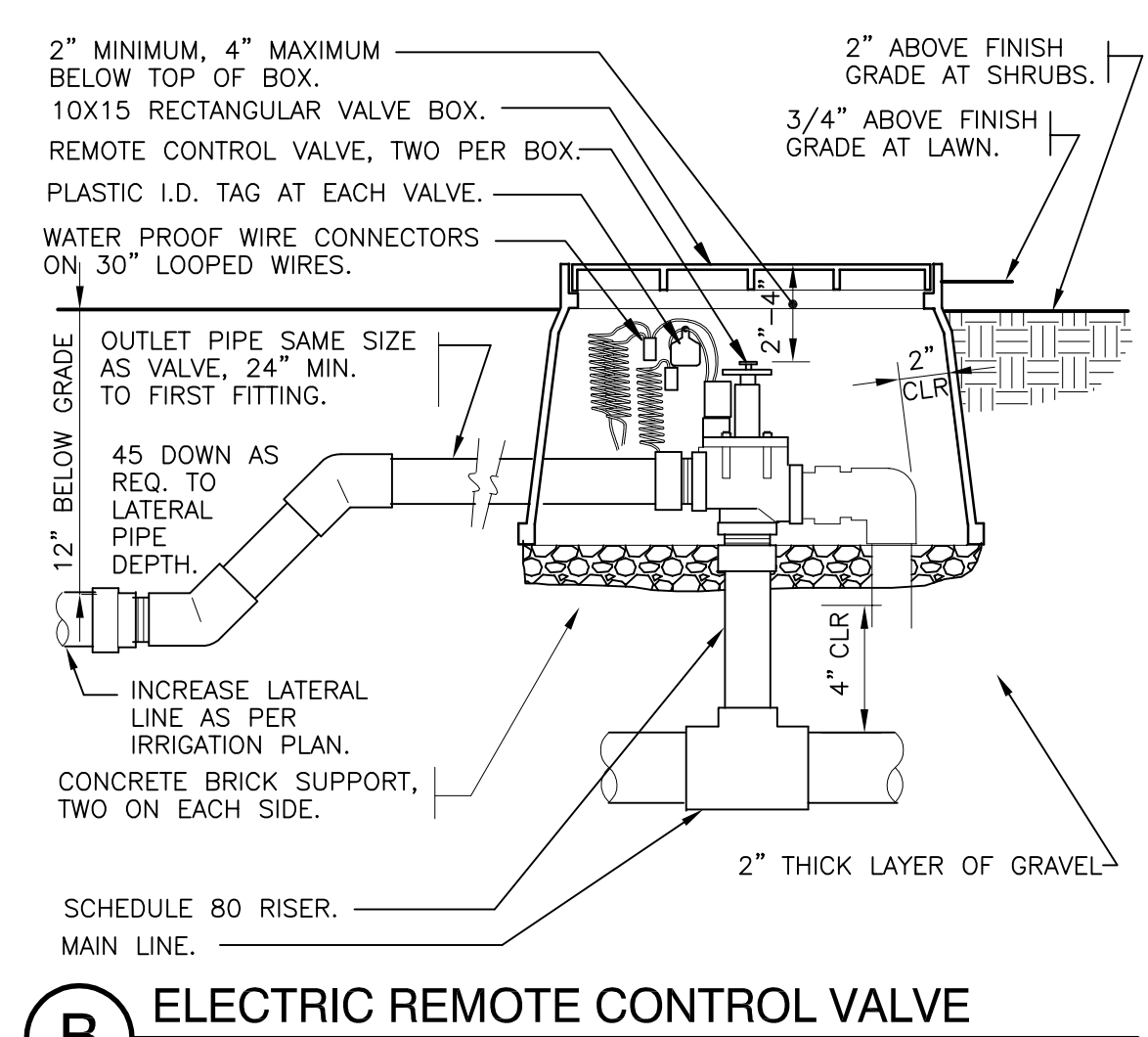
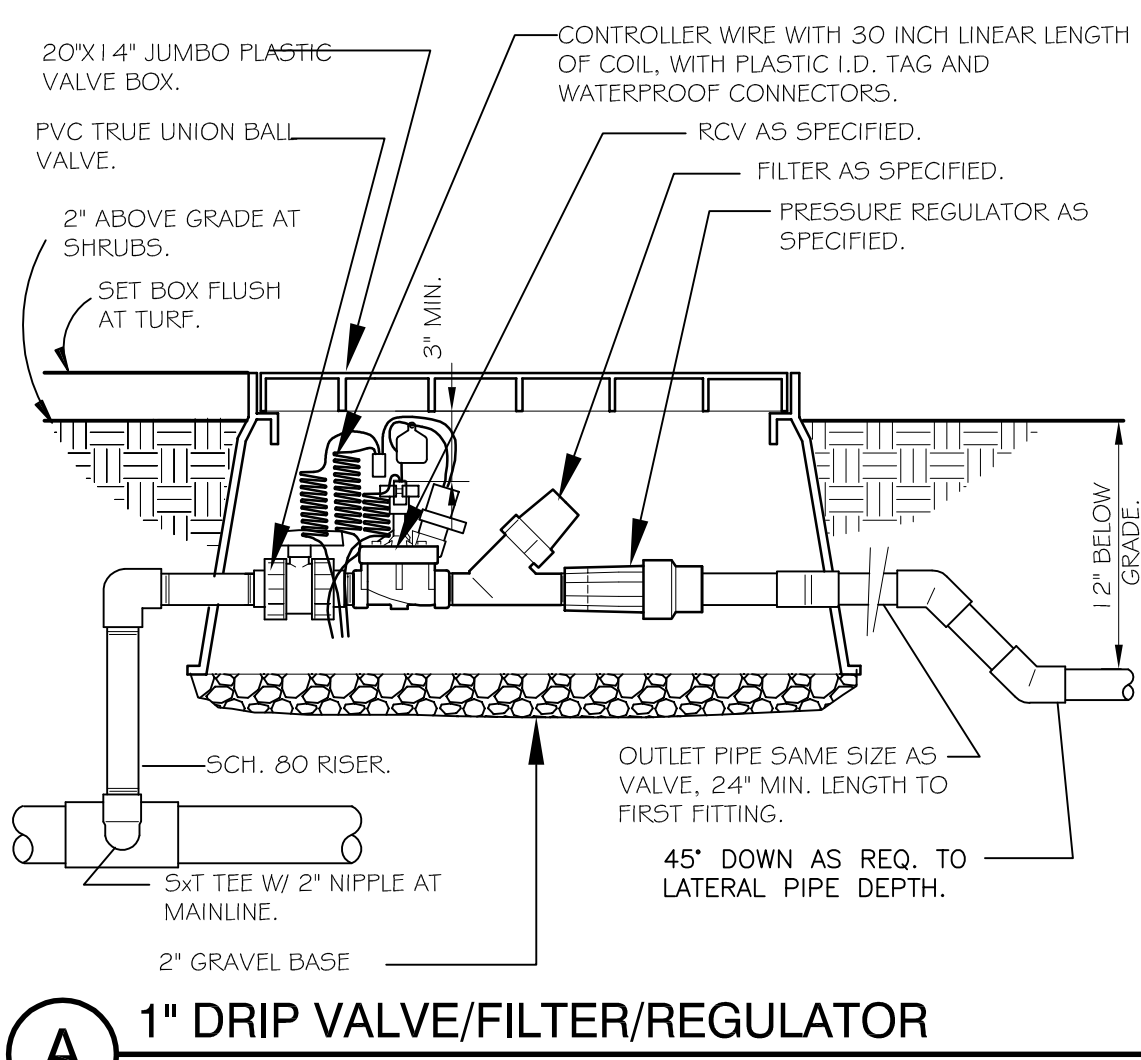
**REVISIONS:**


DRAWN BY: J. CASTRO	PAGE: <b>D-3</b>
DATE: 3-1-24	OF: SIX
SCALE: As Shown	



MANUFACTURER/MODEL	QTY	ABC
Hunter MPI 000-90 With 10" pop-up	6	ADJ
<b>MANUFACTURER/MODEL/DESCRIPTION</b>		
Rain Bird XCZ 100-PRF-BF	6	
Drip Control Kit, 1" Low Flow Valve, 1" pressure regulating back flush filter and 30psi pressure regulator and 1" as needed.		
Rain Bird PGA 1"	1	
Electric Remote Control Valve		
Pipe Transition Point	23	
Pipe transition point from PVC lateral to drip tubing with riser in drip box.		
<b>Area to Receive Poly Drip.</b>		
Install min (2) drip lines to each plant... emitter size to be determined. Use larger emitters in sun area and smaller G.F.M. emitters for shade areas.		
Deep Water Assembly	6	
2-3" perforated pipe on either side of root ball.		
1/2" feeder tubing w/ emitters per chart		
<b>MANUFACTURER/MODEL/DESCRIPTION</b>		
Hunter I-CORE IC-600-55 W/ Expansion Module	1	
WEATHER SENSOR Hunter SOLAR Sync Sensor	1	
Feboos B25Y 1 1/2"	1	
Reduced Pressure Backflow Preventer, existing		
Flow Meter	1	
DLJ Multi-Jet Water Meter, #DLJ150, 1 1/2"		
ZURN 1/2" PRESSURE REDUCING VALVE	1	
Existing POC	1	
Hose Bib	0	
8" Styrene Drain Pipe for Downspouts (solid)		
4" Styrene Drain Pipe (solid)		
Irrigation Lateral Line: PVC Schedule 40		
Irrigation Mainline: PVC Schedule 40		
Valve Callout		
#	Valve Number	
#"	Valve Size	

KEY	DESCRIPTION
⊗	INLET LOCATION Use 6" catch basins with flat black colored grates in lawn areas. Use 4" inlets with black drain grates in planting areas. Use 4" brass grates in concrete areas. Remove strip of brass with acid prior to installation. Some inlets noted on this plan may be existing on site. This plan shows the approximate location of inlets, installer is to relocate or install additional inlets as needed for proper drainage. Connect all drains to existing drain line and reconnect downspouts where needed.



## Irrigation

NOTE: This plan is diagrammatic in nature and is meant as a general guide only. It is not fully detailed and exhaustively specified. It is the responsibility of the installer to become familiar with all site conditions and these drawings and to notify the designer of any discrepancies. The installer and owner have sole responsibility for quality control, construction standards and compliance to all building codes. This plan is part of a set of documents and is meant to be used together as a whole.

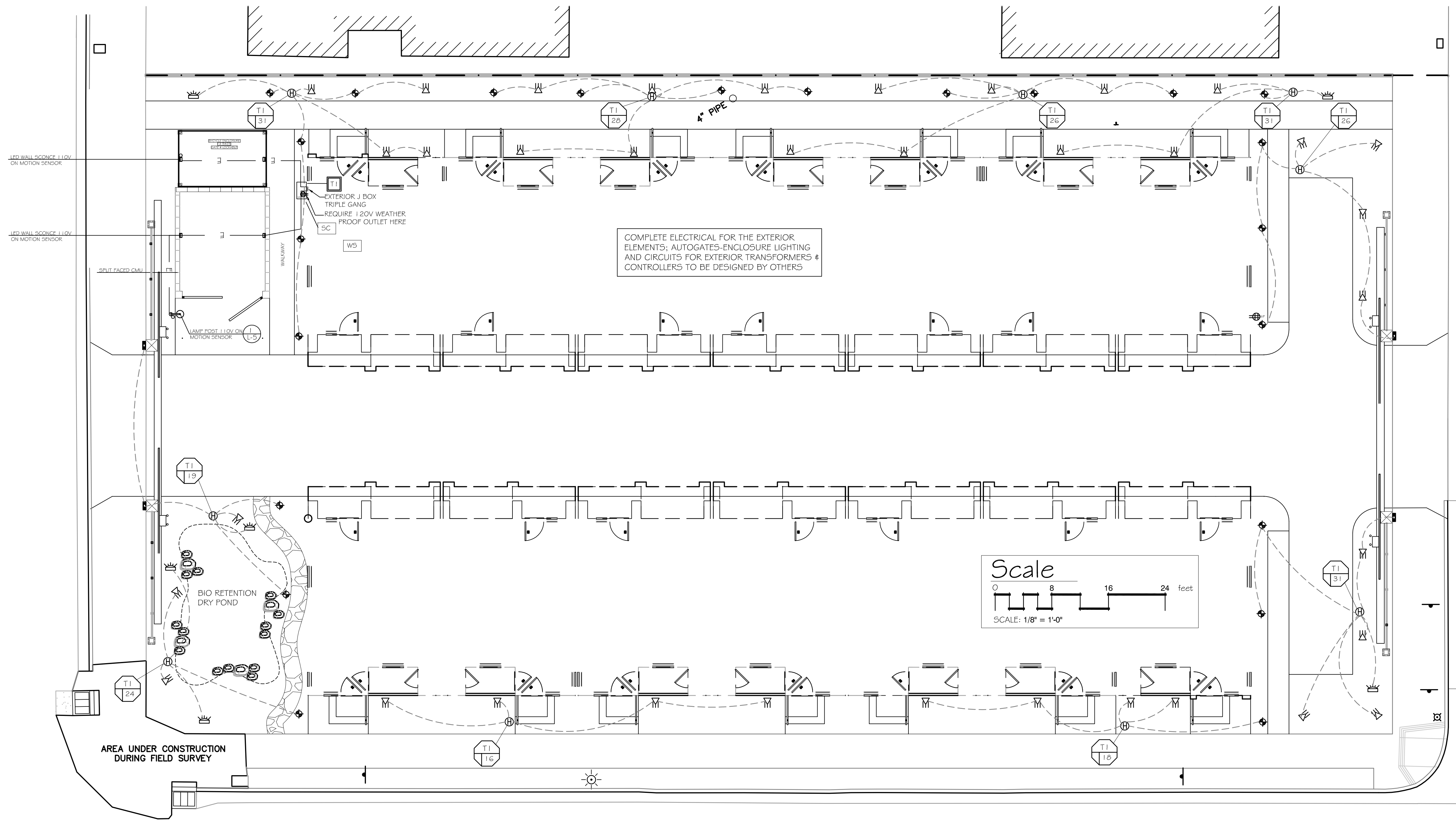
**DreamScapes**  
 1041 Julie Ct Concord CA 94518  
 Phone: 925.332.5092 Cell: 925.202.1260  
 email: jcaastro@dreamscapesdesign.org

Landscape Plan For  
**1605 Railroad Ave Town Homes**  
 1605 Railroad Ave. Pittsburg, CA 94565

**SHEET TITLE:**  
 Irrigation & Drainage

NO.	DATE	DESCRIPTION

**DRAWN BY:** J. CASTRO  
**DATE:** 3-1-24  
**SCALE:** As Shown  
**PAGE:** I-4  
**OF:** Six



MASTER LIGHTING SCHEDULE				
SYMBOL	DESCRIPTION	FIXTURES TOTAL	WATTS	QUANTITY
<b>DIRECTIONAL SPOTLIGHTS</b>				
[Symbol]	Crusader Down Light - CRUS-12-1427	Copper	4W	0
[Symbol]	Guardian Up Light - GUAR-12-427	Copper	4W	36
[Symbol]	Orford Up Light - ORFO-12-L727	Copper	7W	6
<b>ENHANCED AREA LIGHTS/PATHLIGHTS</b>				
[Symbol]	Illuminator 6 - IG-12-L2	Copper	2W	22
[Symbol]	Cartersbury - CANT-12-20	Copper	20W	0
<b>SPECIALTY LIGHTS</b>				
[Symbol]	Genie Niche - GENI-12-L27	Brass	2W	0
[Symbol]	Londoner 5 - LNSO-12-L27	Copper	2W	0
[Symbol]	Londoner 6 - LNSL-12-L27	Copper	2W x 2	4
[Symbol]	Vanguard 6 - VACB-12-L27	Brass	2W	0
[Symbol]	Chamberlain 4 - CH4-12-20	Copper	20W	0
[Symbol]	Chamberlain 6 - CH6-12-20	Copper	20W	0
[Symbol]	Chamberlain 9 - CH9-12-20	Copper	20W	0
[Symbol]	Low Voltage Pendant Light	TBD	X	0
[Symbol]	LED Light Strip AL-SL-WW-5-9PER FT			
[Symbol]	F200 Well Light - F200-12-L27-GR	Plastic	7W	0
<b>WATERPROOF</b>				
[Symbol]	Atlanta 1G / Fountain Lamp - AT1G-12-1427	Brass	4W	0
[Symbol]	Pool / Spa Lamp	TBD	X	0
<b>TRANSFORMERS</b>				
[Symbol]	TRANSFORMER NUMBER			
[Symbol]	13... Uniqe, Multi-Matic 600550L 600Watt			1
[Symbol]	EXTERIOR DBL GANG BOX HUB			0
[Symbol]	UNIQUE, SATELLITE HUB (HUB BRANCH)			0
[Symbol]	3IN. PVC WCAP AS MASTERHUB			10
[Symbol]	TRANSFORMER #			
[Symbol]	BRANCH #			
[Symbol]	WATTS			
[Symbol]	HOMERUN #			
	Total Watts		250	

ELECTRICAL	
SYM	DESCRIPTION
[Symbol]	12V MINI PENDANT LAMP
[Symbol]	120V PENDANT LAMP
[Symbol]	SINGLE POLE SWITCH
[Symbol]	3WAY SWITCH
[Symbol]	DUPLEX RECEPTACLE WP= WATERPROOF
[Symbol]	DBL GANG RECEPTACLE
[Symbol]	GFI DUPLEX OUTLET
[Symbol]	GFI DUPLEX HIDDEN OUTLET
[Symbol]	COMBINATION LIGHT & FAN
[Symbol]	WALL-MOUNTED LIGHT FIXTURE
[Symbol]	RECESSED LIGHT FIXTURE

NOTE: LOW VOLTAGE LIGHTING SYSTEM MAY OPERATE ON/OFF WITH TIMER OR PHOTO ELECTRIC SENSOR AS WELL AS MANUALLY

DreamScapes

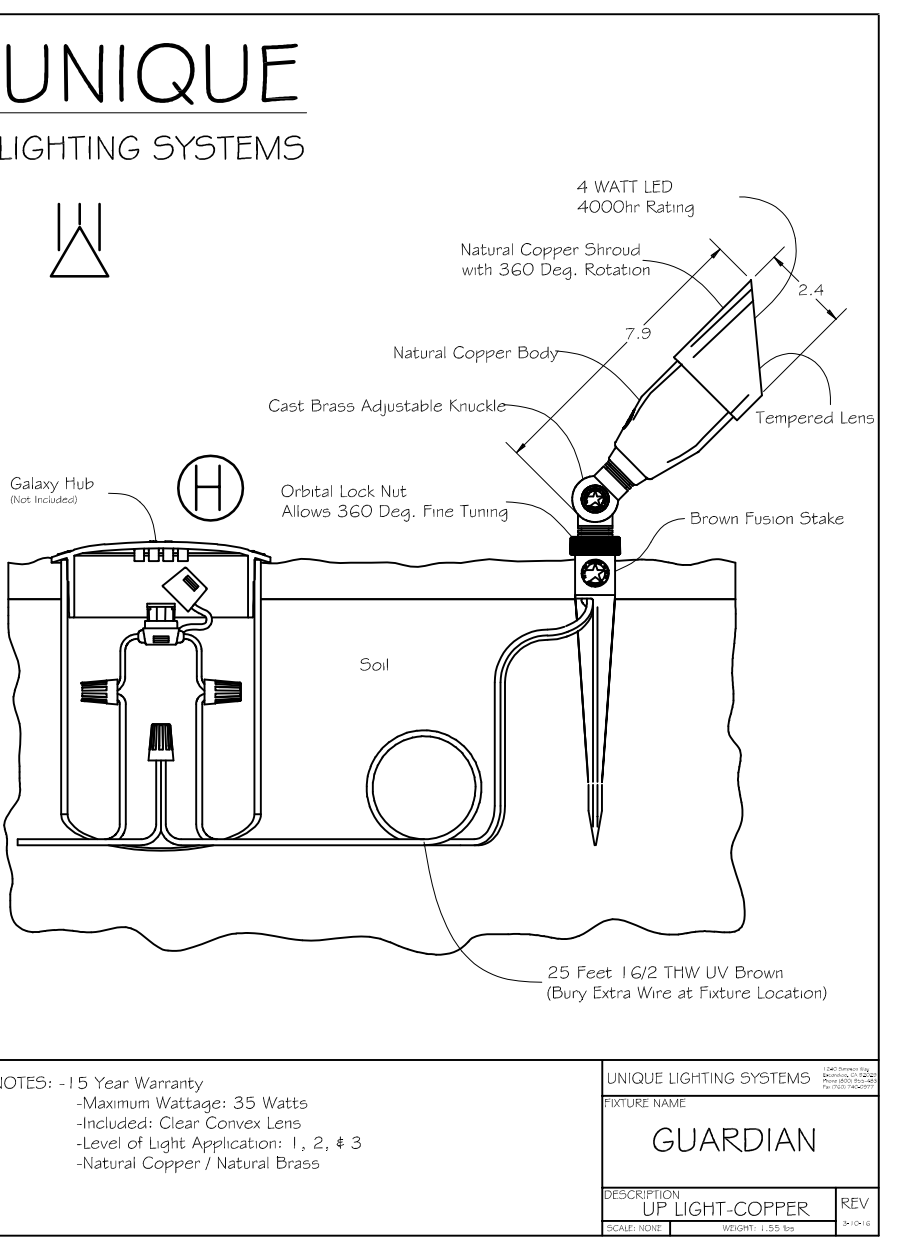
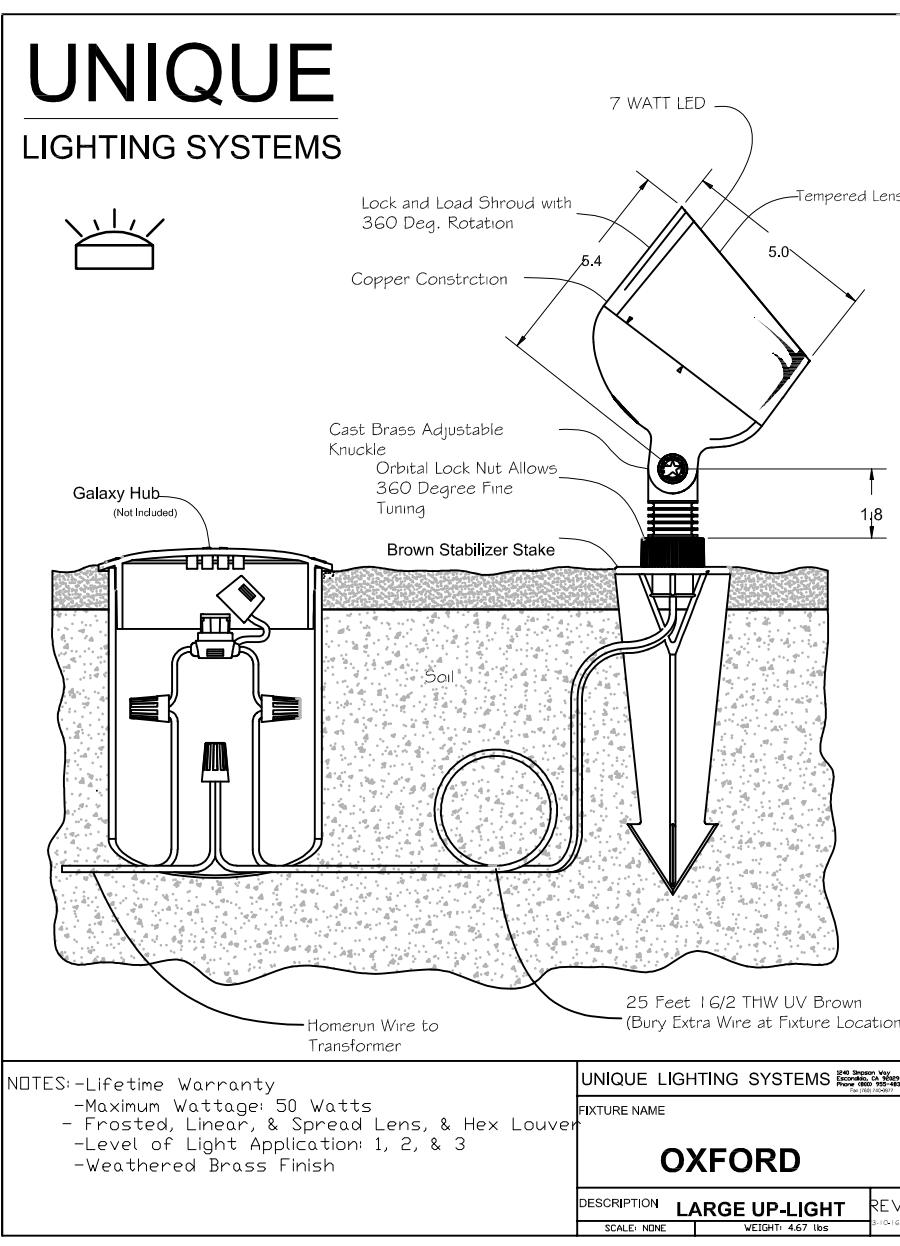
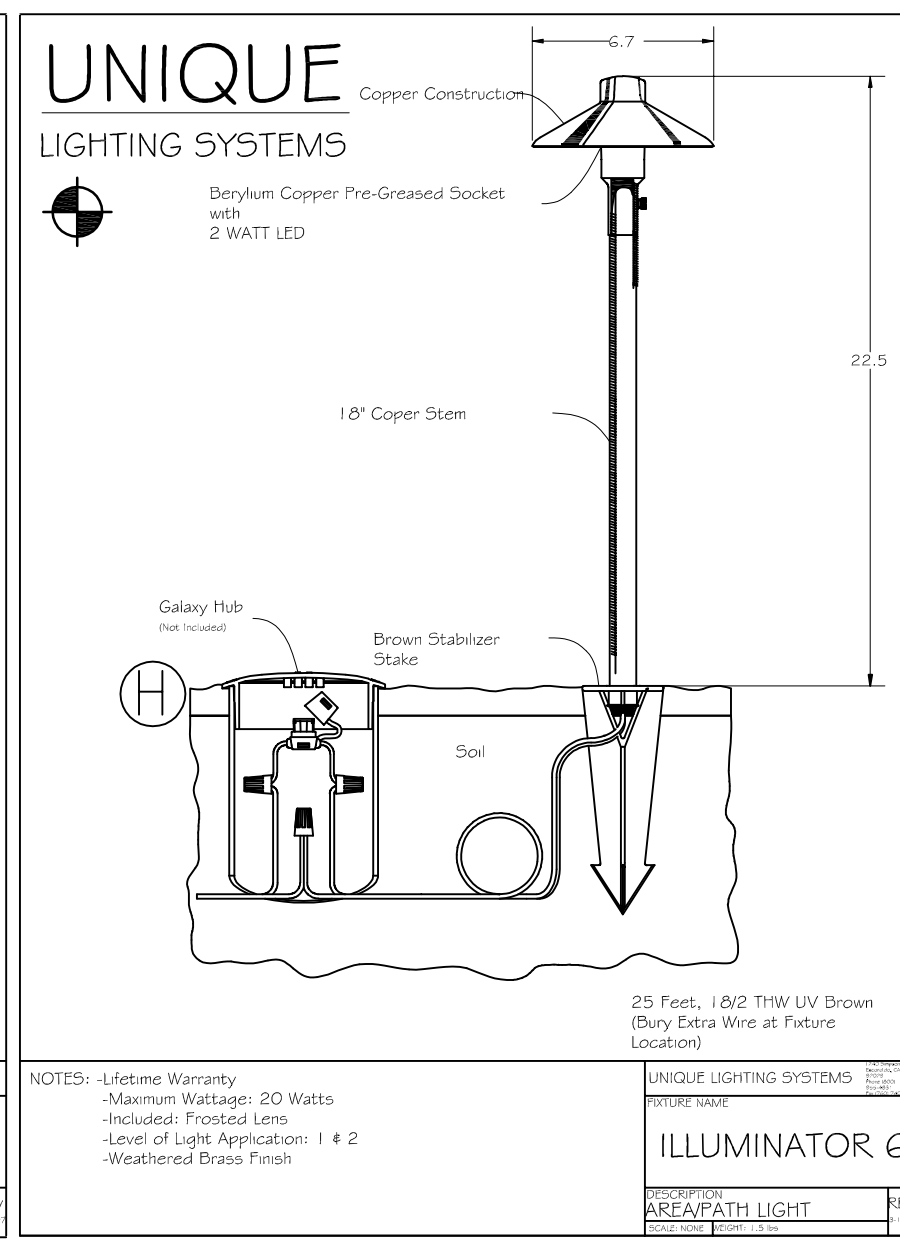
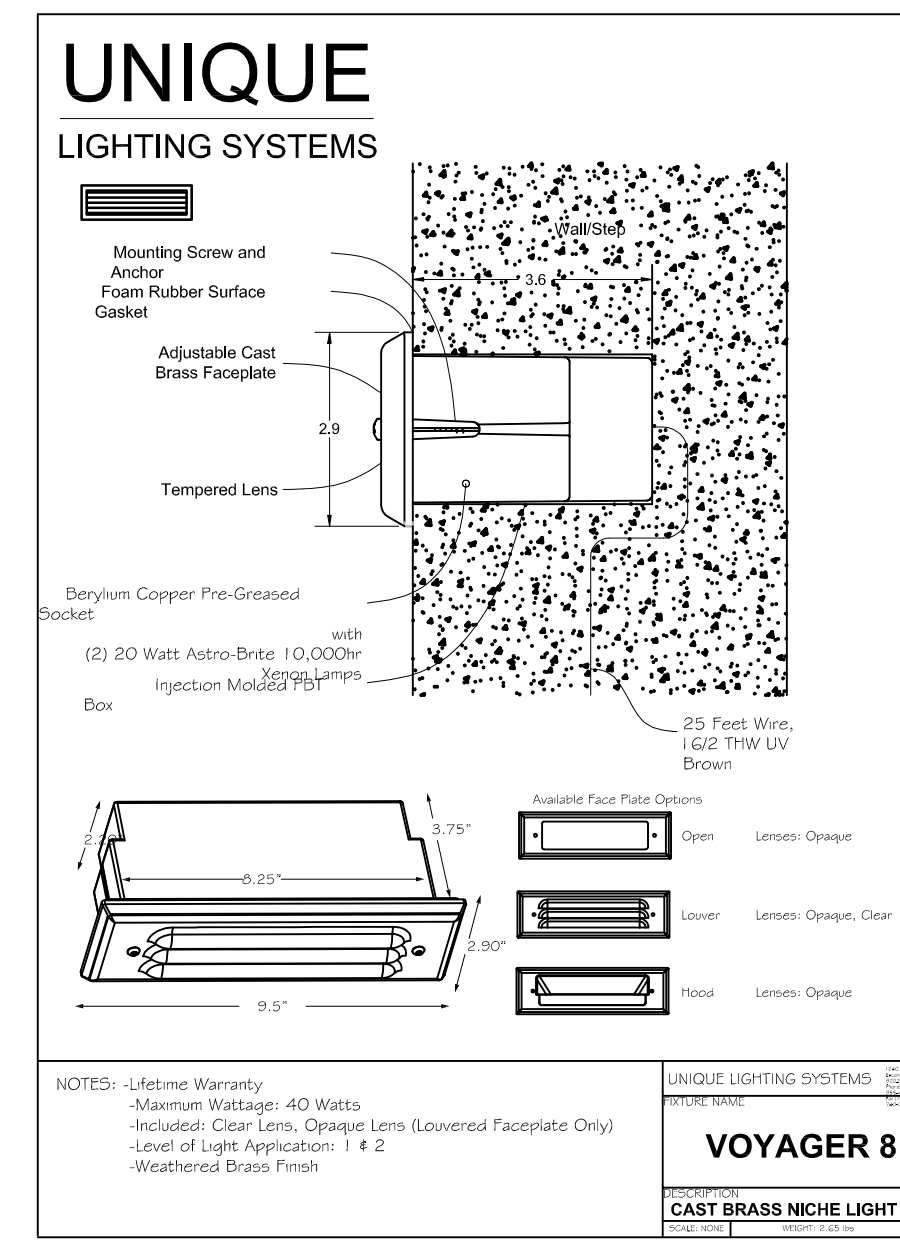
1041 Julie Ct Concord CA 94518  
Phone: 925.332.5092 Cell: 925.202.1260  
email: jcaastro@dreamscapesdesign.org

Landscape Plan For

1605 Railroad Ave Town Homes

1605 Railroad Ave. Pittsburg, CA 94566

LOW VOLTAGE FIXTURES



80 / 100 / 120 / 150 Watt Adjustable LED Shoebox | 12240 to 22950 Lumens | 4000K or 5000K Color Adjustable | 100-277V

Replaces:	400 Watt Metal Halide
Mount:	Arm   Slip Fitter   Trunnion
SKU:	LLS-X-SB4-150/120/100/80-CC
Web ID:	2041

Retail Price: \$181.73  
Inventory Count: 713  
Availability: In Stock

[View Product](#)

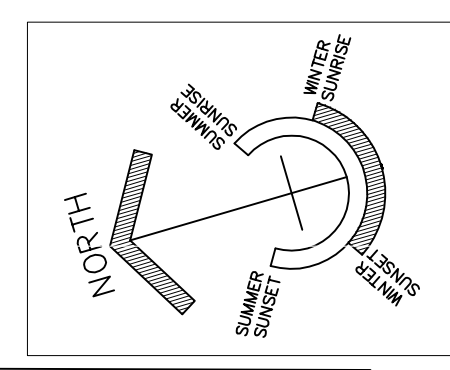
10 Foot Steel Round Pole | 3 Inches Wide | 11 Gauge

Height:	10 ft
Gauge:	11
Size:	3 in round
Weight:	46 lbs
Bolt Circle:	8 in - 10 in
Bolt Projection:	2.75 in
SKU:	MLLG-WL-POLE-10FT-3IN-RD-BZ
Web ID:	2020

DEVELOPER TO SELECT WATTAGE & LUMENS

1 SUGGESTED LAMP POLE

Lighting



NOTE: This plan is diagrammatic in nature and is meant as a general guide only. It is not fully detailed and exhaustively specified. It is the responsibility of the installer to become familiar with all site conditions and these drawing and to notify the designer of any discrepancies. The installer and owner have sole responsibility for quality control, construction standards and compliance to all building codes. This plan is part of a set of documents and is meant to be used together as a whole.

SHEET TITLE:  
Lighting & Electrical

REVISIONS:	

DRAWN BY: J. CASTRO  
DATE: 3-1-24  
SCALE: As Shown  
PAGE: L-5  
OF: SIX





# VESTING TENTATIVE TRACT MAP NO. \_\_\_\_\_ FOR CONDOMINIUM PURPOSES 1650 & 1611 RAIL ROAD AVENUE CITY OF PITTSBURG, CONTRA COSTA COUNTY, CALIFORNIA

Attachment 9  
Railroad Commons, AP-22-0105  
(SUBD, DR, TRP)  
Vesting Tentative Map

**GENERAL NOTES**

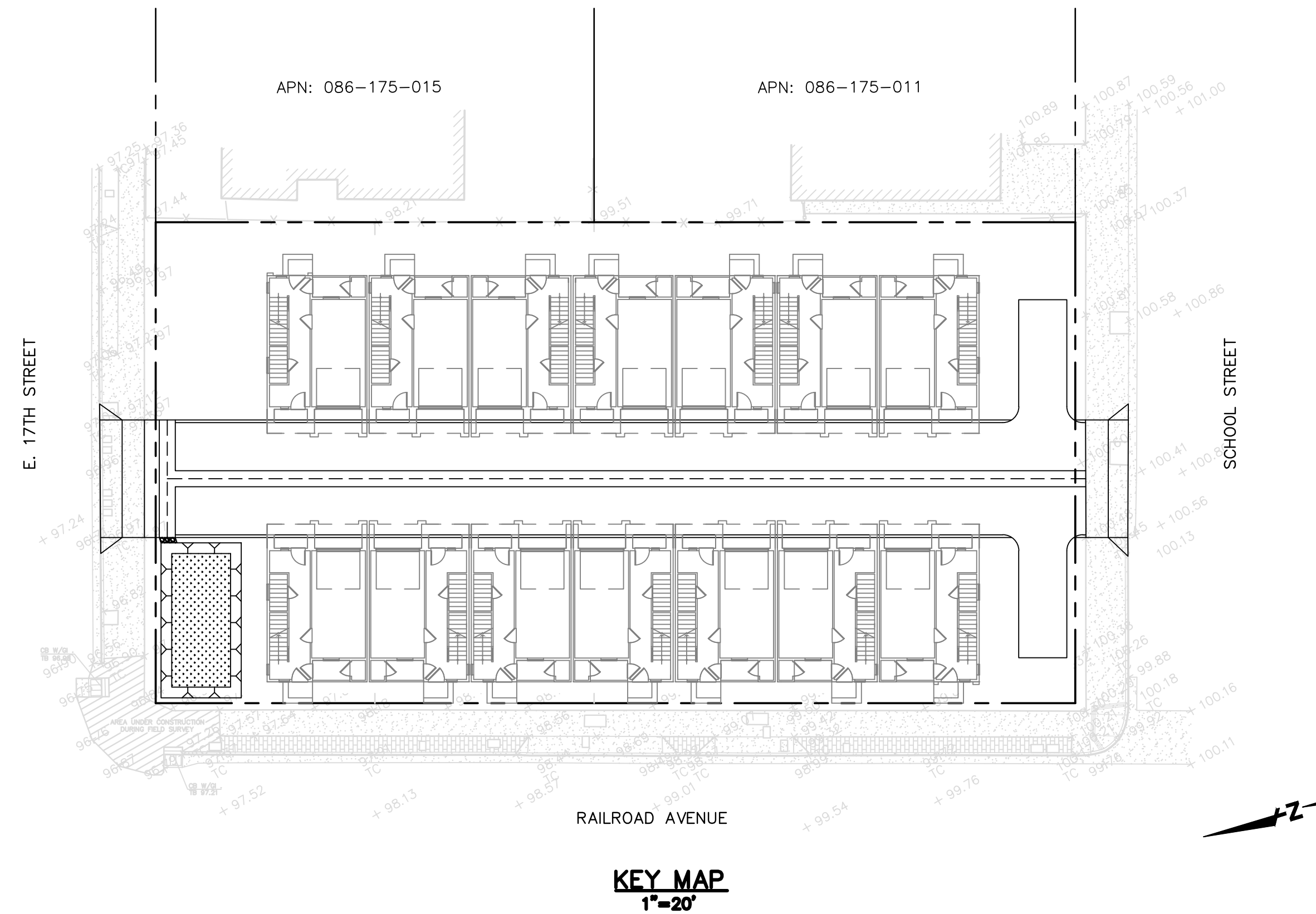
1. **TENTATIVE MAP:** THIS TENTATIVE MAP IS BEING FILED IN ACCORDANCE WITH SECTION 66452 OF THE SUBDIVISION MAP ACT.
2. **MULTIPLE FINAL MAPS:** PURSUANT TO SECTION 66456.1 OF THE SUBDIVISION MAP ACT, THE DEVELOPER RESERVES THE RIGHT TO FILE MULTIPLE FINAL MAPS. ONLY THE IMPROVEMENTS REQUIRED TO SUPPORT THE LEVEL OF DEVELOPMENT, AS DETERMINED BY THE CITY, OF EACH PARTICULAR FINAL MAP NEEDS TO BE COMPLETED OR BOUNDED.
3. **SOURCE OF TOPOGRAPHY:** EXISTING TOPOGRAPHY SHOWN IS BASED ON AN AERIAL TOPOGRAPHY SURVEY COMPLETED IN JULY 2022, BY BKF ENGINEERS..
4. **UTILITIES:** UTILITY SIZING AND LOCATIONS, SITE GRADES, INCLUDING PADS AND STREETS AND LOT DIMENSIONS ARE SUBJECT TO FINAL ENGINEERING DESIGN.
5. **DEDICATIONS, EASEMENTS, AND RIGHT OF ENTRY:** ADDITIONAL AND SPECIFIED DEDICATION OF PROPERTY RIGHTS AND RIGHTS OF ENTRY AS NECESSARY TO ACCOMMODATE ALL DRAINAGE FACILITIES, SEWER FACILITIES, PUBLIC UTILITY EASEMENTS, AND OTHER EASEMENTS AS MAY BE NECESSARY TO PROPERLY SERVE THE LOTS CREATED SHALL BE DEDICATED AS PART OF THE FILING OF FUTURE FINAL MAPS.
6. **UTILITIES:** ALL UTILITIES SHALL BE INSTALLED UNDERGROUND ACCORDING TO THE STANDARDS AND REQUIREMENTS OF THE CITY OF PITTSBURG AND THE APPLICABLE UTILITIES.

**ENGINEER'S STATEMENT**

THIS TENTATIVE MAP SUBMITTAL HAS BEEN PREPARED BY ME OR UNDER MY DIRECTION IN ACCORDANCE WITH STANDARD ENGINEERING PRACTICE.

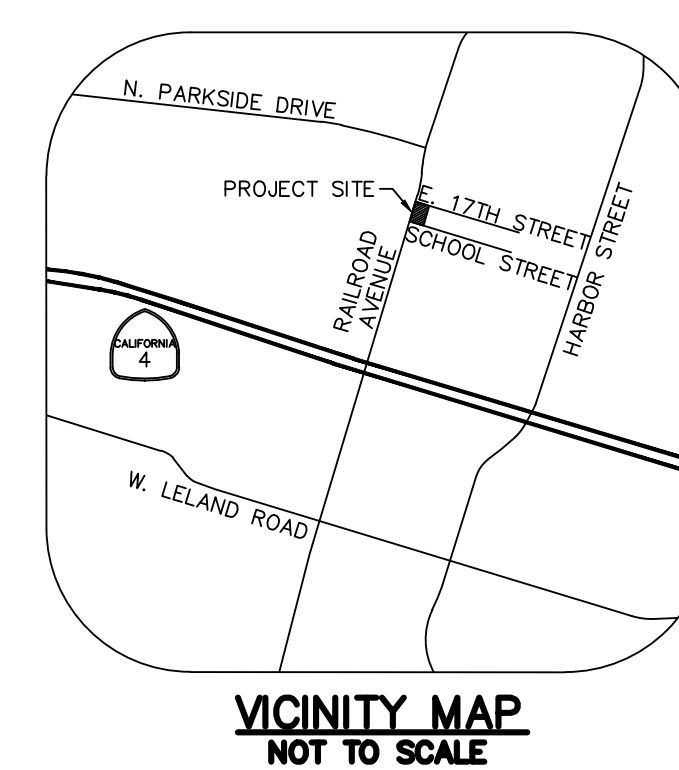
\_\_\_\_\_  
MICHAEL STEELE

P.E. No.C79197 EXP 03/31/2024  
BKF ENGINEERS



**SHEET INDEX**

SHEET NO.	DESCRIPTION
C1.0	TITLE SHEET
C2.0	EXISTING CONDITIONS
C3.0	LOTING PLAN
C4.0	PRELIMINARY GRADING PLAN
C5.0	PRELIMINARY UTILITY PLAN
C6.0	PRELIMINARY STORMWATER MANAGEMENT PLAN



**PROJECT DATA**

<b>OWNER/DEVELOPER:</b>	PHASE 1, CONSTRUCTION AND DEVELOPMENT, INC. 2704 ROOSEVELT LANE ANTIOCH, CA 94509 PHONE: (510) 967-8282														
<b>ENGINEER:</b>	BKF ENGINEERS 1646 N. CALIFORNIA BLVD SUITE 400, WALNUT CREEK, CA 94596 PHONE: (925) 940-2200 CONTACT: MICHAEL STEELE														
<b>ARCHITECT:</b>	EMB DESIGN GROUP PITTSBURG, CA 94565 PHONE: (925) 890-4299 CONTACT: EDDIEBEE60@GMAIL.COM														
<b>TENTATIVE TRACT MAP NO.:</b>	_____														
<b>ASSESSOR PARCEL NO.:</b>	086-175-012 086-175-013 086-175-014														
<b>EXISTING ZONING:</b>	RS-5, SINGLE FAMILY RESIDENTIAL														
<b>PROPOSED ZONING:</b>	-														
<b>NO. OF CONDOMINIUM UNITS:</b>	14														
<b>EXISTING LAND AREA:</b>	±0.35 ACRES														
<b>UTILITIES:</b>	<table border="0"> <tr> <td>WATER SUPPLY:</td> <td>CITY OF PITTSBURG</td> </tr> <tr> <td>FIRE PROTECTION:</td> <td>CITY OF PITTSBURG</td> </tr> <tr> <td>SEWAGE DISPOSAL:</td> <td>DELTA DIABLO</td> </tr> <tr> <td>STORM DRAIN:</td> <td>CITY OF PITTSBURG</td> </tr> <tr> <td>ELECTRIC:</td> <td>PACIFIC GAS &amp; ELECTRIC</td> </tr> <tr> <td>TELEPHONE:</td> <td>AT&amp;T</td> </tr> <tr> <td>CABLE TELEVISION:</td> <td>COMCAST</td> </tr> </table>	WATER SUPPLY:	CITY OF PITTSBURG	FIRE PROTECTION:	CITY OF PITTSBURG	SEWAGE DISPOSAL:	DELTA DIABLO	STORM DRAIN:	CITY OF PITTSBURG	ELECTRIC:	PACIFIC GAS & ELECTRIC	TELEPHONE:	AT&T	CABLE TELEVISION:	COMCAST
WATER SUPPLY:	CITY OF PITTSBURG														
FIRE PROTECTION:	CITY OF PITTSBURG														
SEWAGE DISPOSAL:	DELTA DIABLO														
STORM DRAIN:	CITY OF PITTSBURG														
ELECTRIC:	PACIFIC GAS & ELECTRIC														
TELEPHONE:	AT&T														
CABLE TELEVISION:	COMCAST														

NOTE: THIS TENTATIVE MAP IS FOR A PROJECT WHICH WILL BE CONSTRUCTED IN NOT YET FINALLY DETERMINED PHASES, THEREFORE MULTIPLE FINAL MAPS MAY BE FILED, ONLY THE IMPROVEMENTS REQUIRED TO SUPPORT THE LEVEL OF DEVELOPMENT, AS DETERMINED BY THE CITY, FOR EACH PARTICULAR FINAL MAP NEEDS TO BE COMPLETED.

**PRELIMINARY**  
NOT FOR CONSTRUCTION  
DATE: 01/22/2024

BKF ENGINEERS  
1646 N. CALIFORNIA BLVD  
SUITE 400  
WALNUT CREEK, CA 94596  
(925) 940-2200  
www.bkf.com

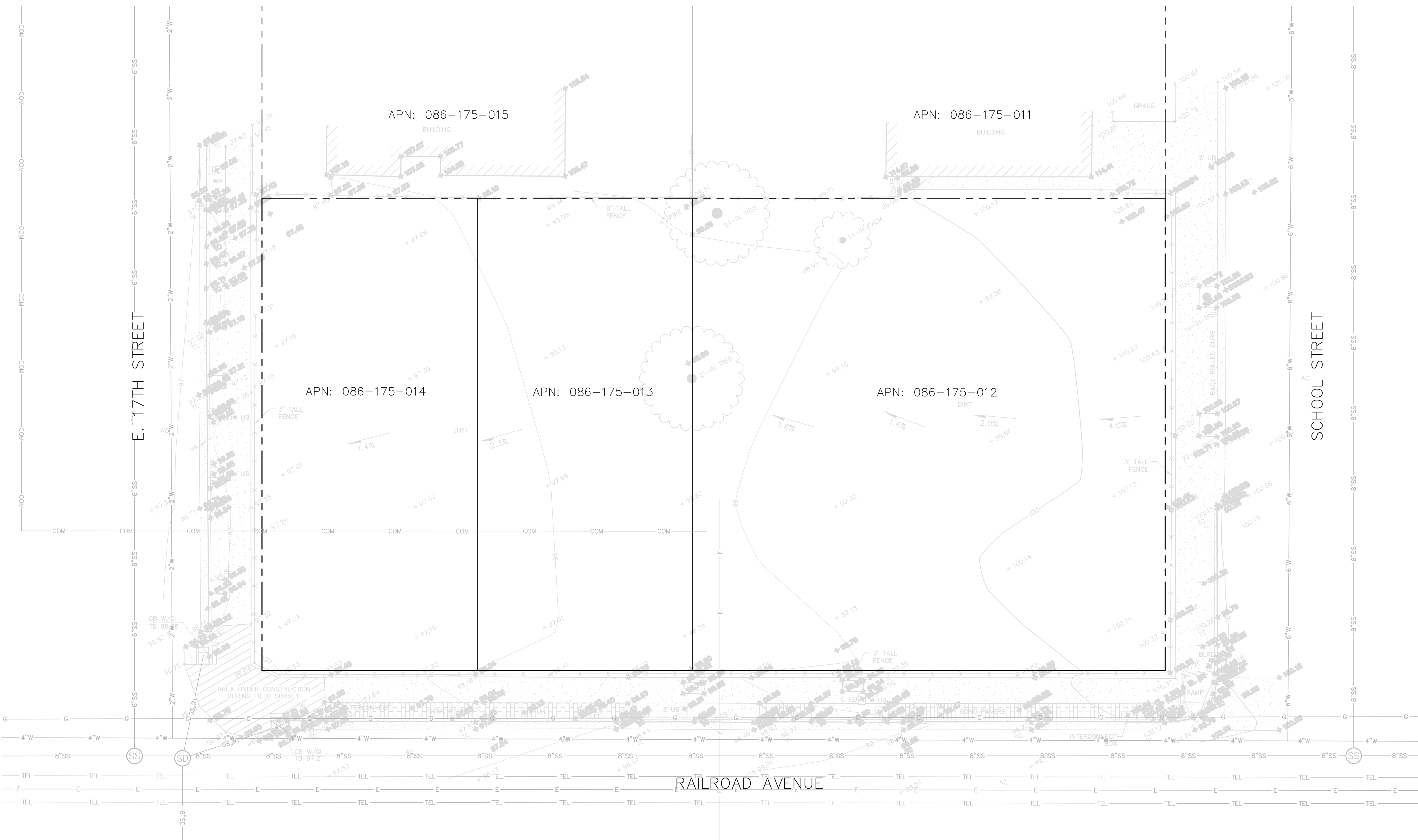


VESTING TENTATIVE MAP  
FOR CONDOMINIUM PURPOSES  
1650 & 1611 RAILROAD AVENUE  
PITTSBURG, CA

**TITLE SHEET**

Revisions	No.	Date	Scale	As Shown	Design	Drawn	Approved	Job No.	Job No.

Drawing Number:  
**C1.0**  
1 OF 6



- LEGEND**
- PROPERTY LINE
  - SD STORM DRAIN
  - SS SANITARY SEWER
  - W WATER MAIN
  - 12" RW RECYCLED WATER
  - COM COMCAST CONDUIT
  - TEL TELECOMMUNICATION CONDUIT
  - E ELECTRICAL CONDUIT
  - G GAS MAIN
  - /// BUILDING FACE
  - CONCRETE

- ABBREVIATIONS**
- CB CATCH BASIN
  - CONC CONCRETE
  - TB TOP OF BOX
  - TC TOP OF CURB
  - UB UTILITY BOX
  - WM WATER METER

**PRELIMINARY**  
NOT FOR CONSTRUCTION  
DATE: 01/22/2024

BKF ENGINEERS  
1666 N. CALIFORNIA BLVD.  
SUITE 400  
WALNUT CREEK, CA 94596  
(925) 940-2200  
www.bkf.com



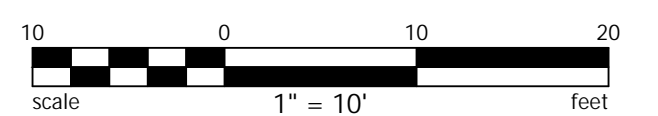
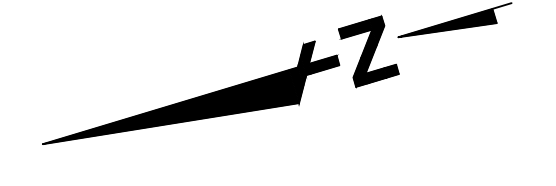
VESTING TENTATIVE MAP  
FOR CONDOMINIUM PURPOSES  
1650 & 1611 RAILROAD AVENUE  
PITTSBURG, CA

**EXISTING CONDITIONS**

Revisions	No.	Date	Description

Date: DATE  
Scale: AS SHOWN  
Design: DESN  
Drawn: DRWN  
Approved: APRV  
Job No.: JOB NO

Drawing Number:  
**C2.0**  
2 OF 6



E. 17TH STREET

SCHOOL STREET

LOT 1  
15,480 SF

APN: 086-175-015

APN: 086-175-011

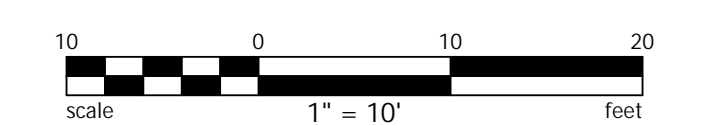
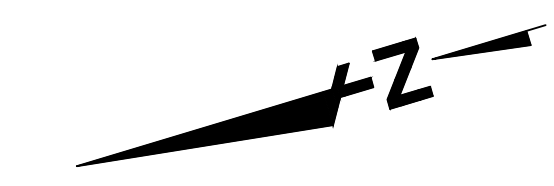
PROPOSED 5' WIDE  
WATER METER  
EASEMENT

AREA UNDER CONSTRUCTION  
DURING FIELD SURVEY

RAILROAD AVENUE

LEGEND

--- PROPERTY LINE  
- - - EASEMENT



**PRELIMINARY**  
NOT FOR CONSTRUCTION

DATE: 01/22/2024

BKF ENGINEERS  
1666 N. CALIFORNIA BLVD.  
SUITE 400  
WALNUT CREEK, CA 94596  
(925) 940-2200  
www.bkf.com



VESTING TENTATIVE MAP  
FOR CONDOMINIUM PURPOSES  
1650 & 1611 RAILROAD AVENUE  
PITTSBURG, CA

LOTING PLAN

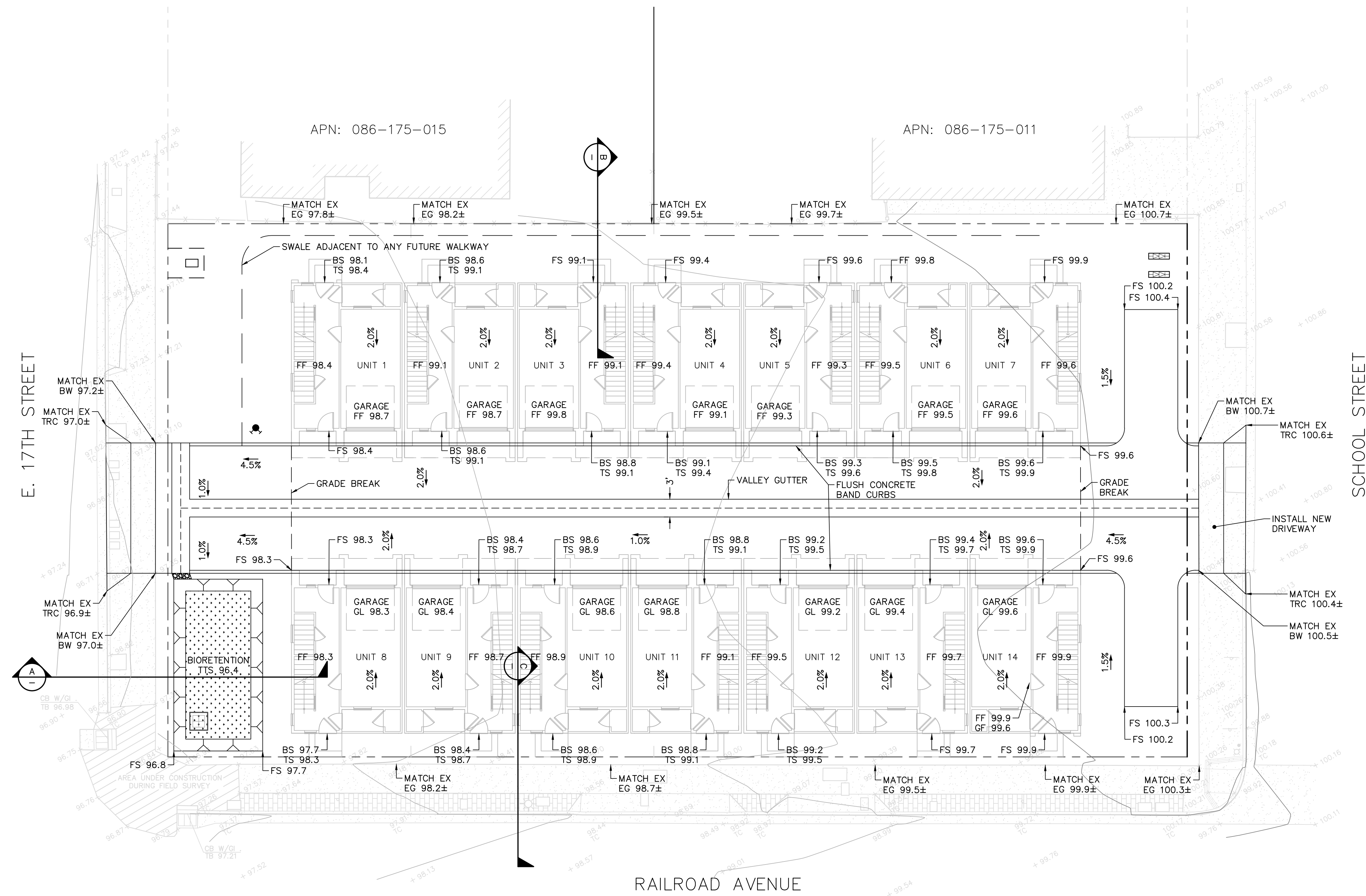
No.	Revisions

Date: DATE  
 Scale: AS SHOWN  
 Design: DESN  
 Drawn: DRWN  
 Approved: APRV  
 Job No.: JOB NO

Drawing Number:

C3.0

3 OF 6



**LEGEND**

—	GRADE BREAK
X.X%	SLOPE ARROW
—	MATCH EX
EG XX.X±	SPOT ELEVATION

**GENERAL NOTES**

- FF GRADES ARE DETERMINED ASSUMING GARAGE FLOPE IS 1% AND UP TO (2) 6-INCH RISERS MAY BE USED AT THE GARAGE DOOR AND THE PORCH.

**ABBREVIATIONS**

BS	BOTTOM OF STEP
BW	BACK OF WALK
EG	EXISTING GROUND
EX	EXISTING
FF	FINISH FLOOR ELEVATION
FS	FINISH SURFACE
GB	GRADE BREAK
HP	HIGH POINT
LP	LOW POINT
TC	TOP OF CURB
TRC	TOP OF STEP
TTS	TOP OF TREATMENT SOIL ELEVATION

**GRADING NOTES**

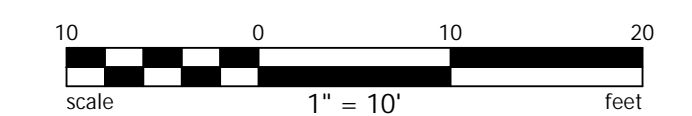
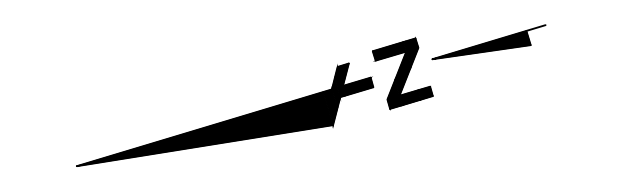
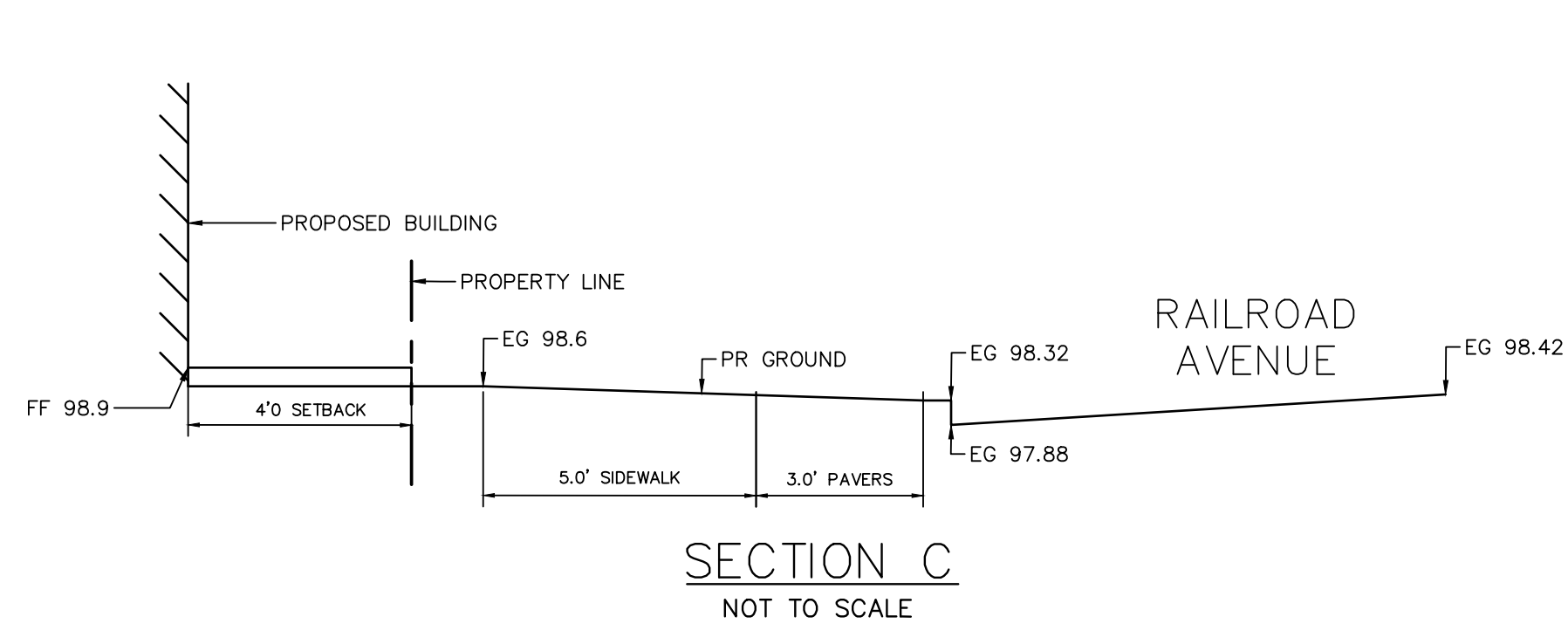
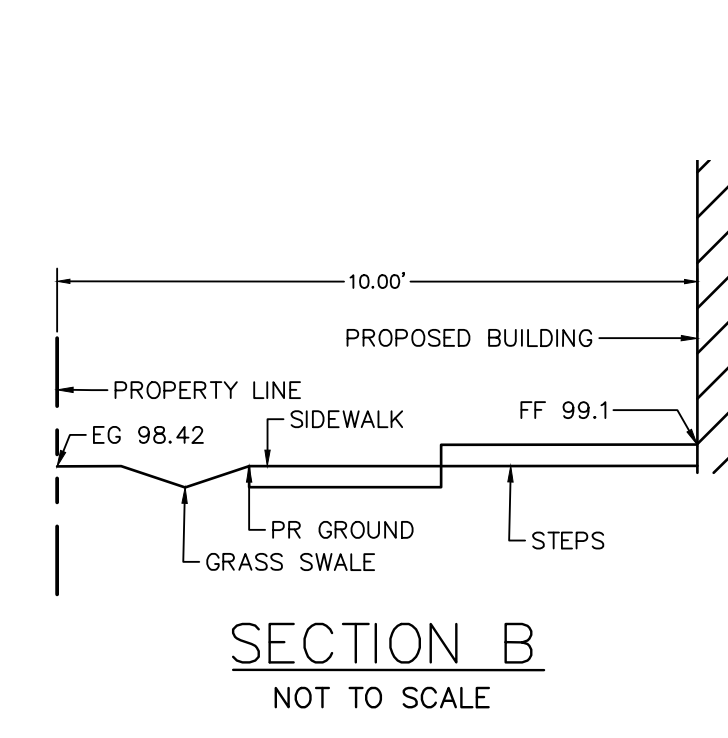
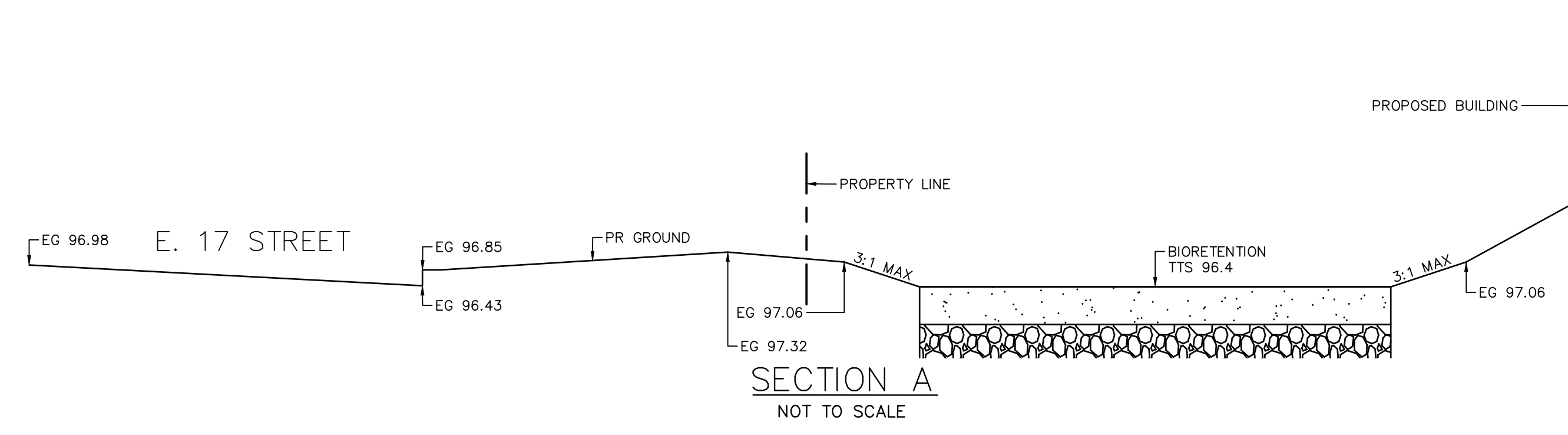
- ALL EXISTING GRADES SHOWN ARE APPROXIMATE AND FIELD CONDITIONS MAY VARY IN THE FIELD DURING CONSTRUCTION.
- EXISTING TOPOGRAPHY PER TOPOGRAPHIC SURVEY BY BKF ENGINEERS DATED 2018.
- DISTANCES SHOWN ARE MEASURED TO THE NEAREST 0.1 FOOT UNLESS OTHERWISE NOTED.

**PRELIMINARY**  
NOT FOR CONSTRUCTION  
DATE: 01/22/2024

BKF ENGINEERS  
1666 N. CALIFORNIA BLVD.  
SUITE 400  
WALNUT CREEK, CA 94596  
(925) 940-2200  
www.bkf.com

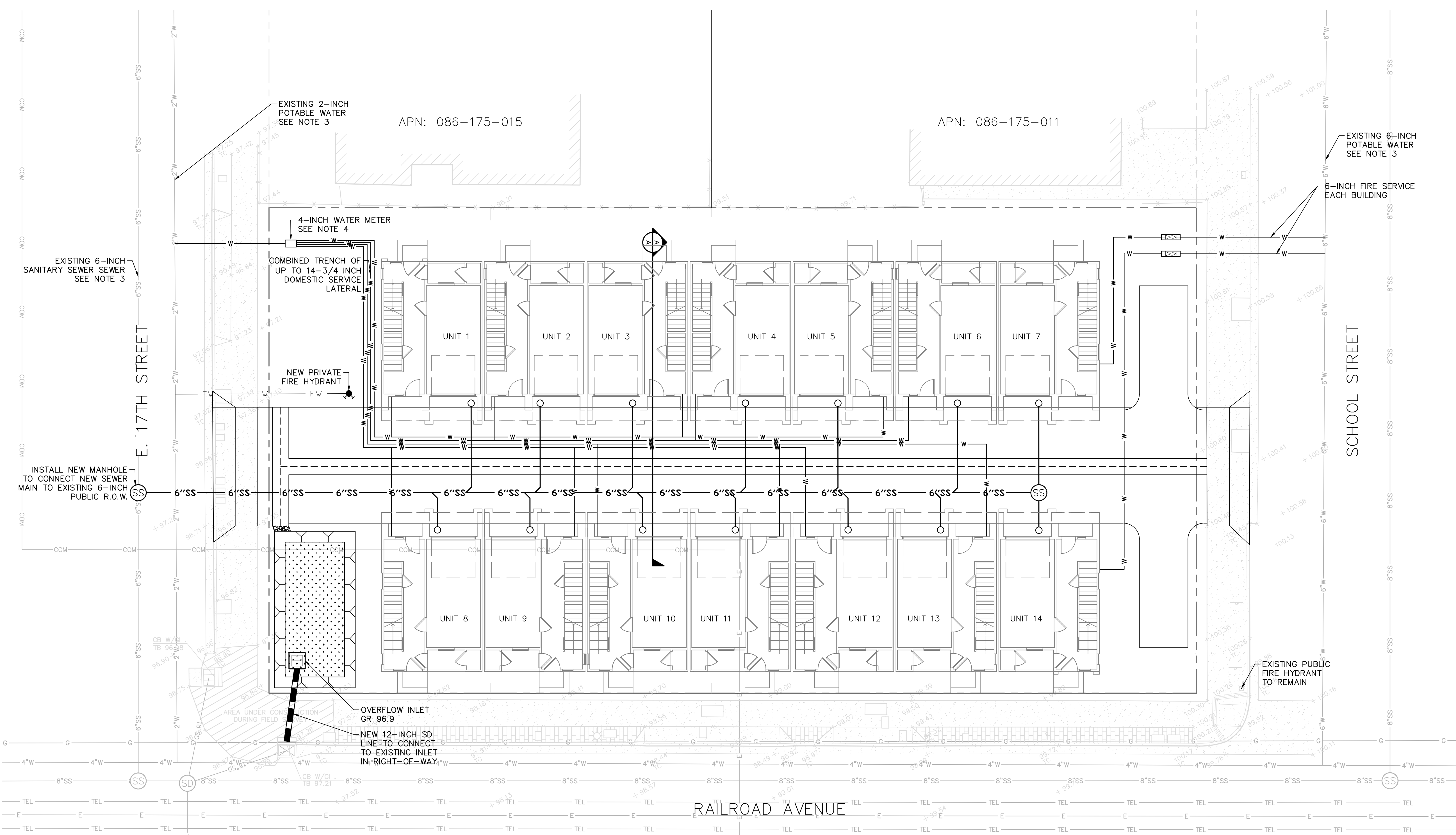


VESTING TENTATIVE MAP  
FOR CONDOMINIUM PURPOSES  
1650 & 1611 RAILROAD AVENUE  
PITTSBURG, CA  
**PRELIMINARY GRADING PLAN**

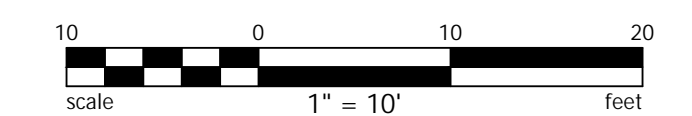
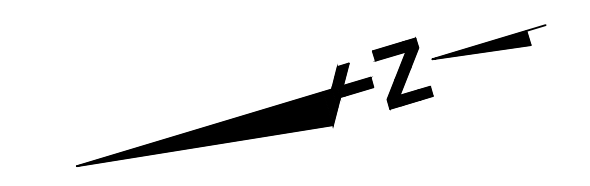
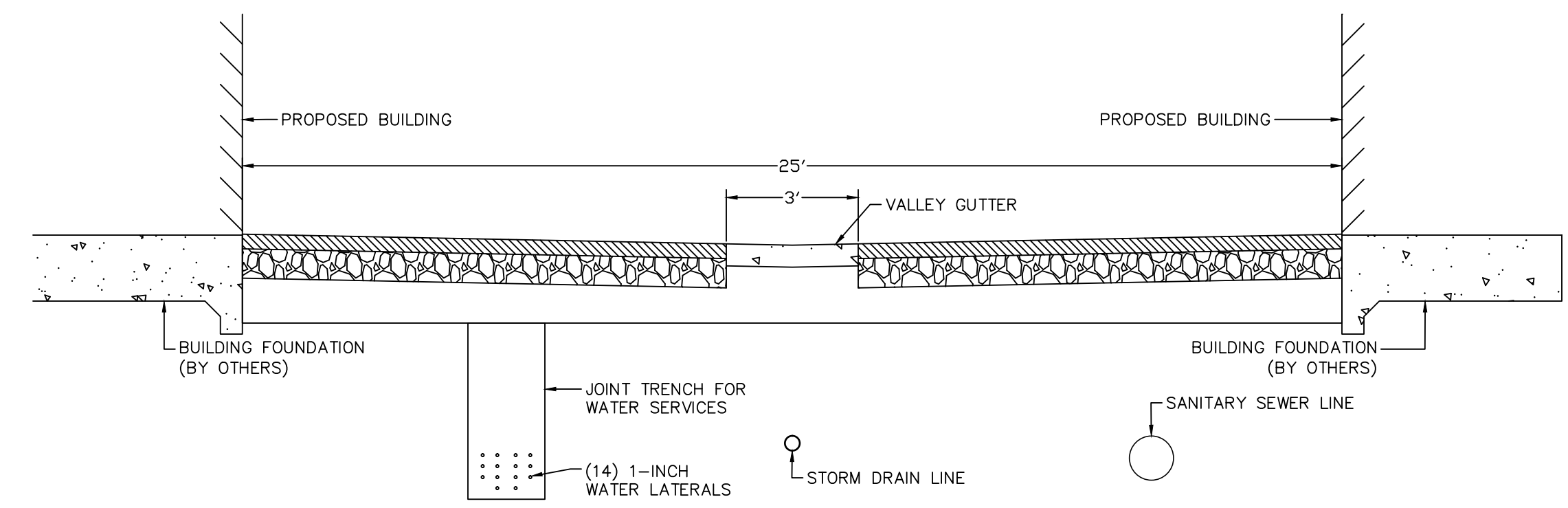


Revisions	
No.	Description

Date: DATE  
Scale: AS SHOWN  
Design: DESN  
Drawn: DRWN  
Approved: APRV  
Job No.: JOB NO  
Drawing Number:  
**C4.0**  
4 OF 6



- LEGEND**
- W — WATER LINE
  - 6"SS — 6" SANITARY SEWER LINE
  - SS — SANITARY SEWER LATERAL
  - ▭ BACKFLOW PREVENTER
  - WATER METER
  - ⦿ FIRE HYDRANT
  - ⊙ SS SANITARY SEWER MANHOLE
- GENERAL NOTES**
- ALL EXISTING GRADES SHOWN ARE APPROXIMATE AND FIELD CONDITIONS MAY VARY IN THE FIELD DURING CONSTRUCTION.
  - EXISTING TOPOGRAPHY PER TOPOGRAPHIC SURVEY BY BKF ENGINEERS DATED 2018.
  - SIZES AND DEPTHS OF UTILITIES ARE BASED OFF RECORD INFORMATION OBTAINED FROM THE CITY OF PITTSBURG AND ARE SHOWN ON THE PLANS AS REFERENCE. BKF MAKES NO CLAIM TO THE ACCURACY OF THIS INFORMATION OR TO THE AMOUNT OF POTENTIAL ADJUSTMENTS NEED TO FINAL DESIGN UPON VERIFICATION IN THE FIELD.
  - UNITS WITHIN EACH CONDOMINIUM BUILDING ARE TO BE SUBMETERED OFF OF 1 MASTER METER WITH SERVICE CONNECTION TO CITY PUBLIC WATER MAIN.



**PRELIMINARY**  
NOT FOR CONSTRUCTION  
DATE: 01/22/2024

BKF ENGINEERS  
1666 N. CALIFORNIA BLVD.  
SUITE 400  
WALNUT CREEK, CA 94596  
(925) 940-2200  
www.bkf.com



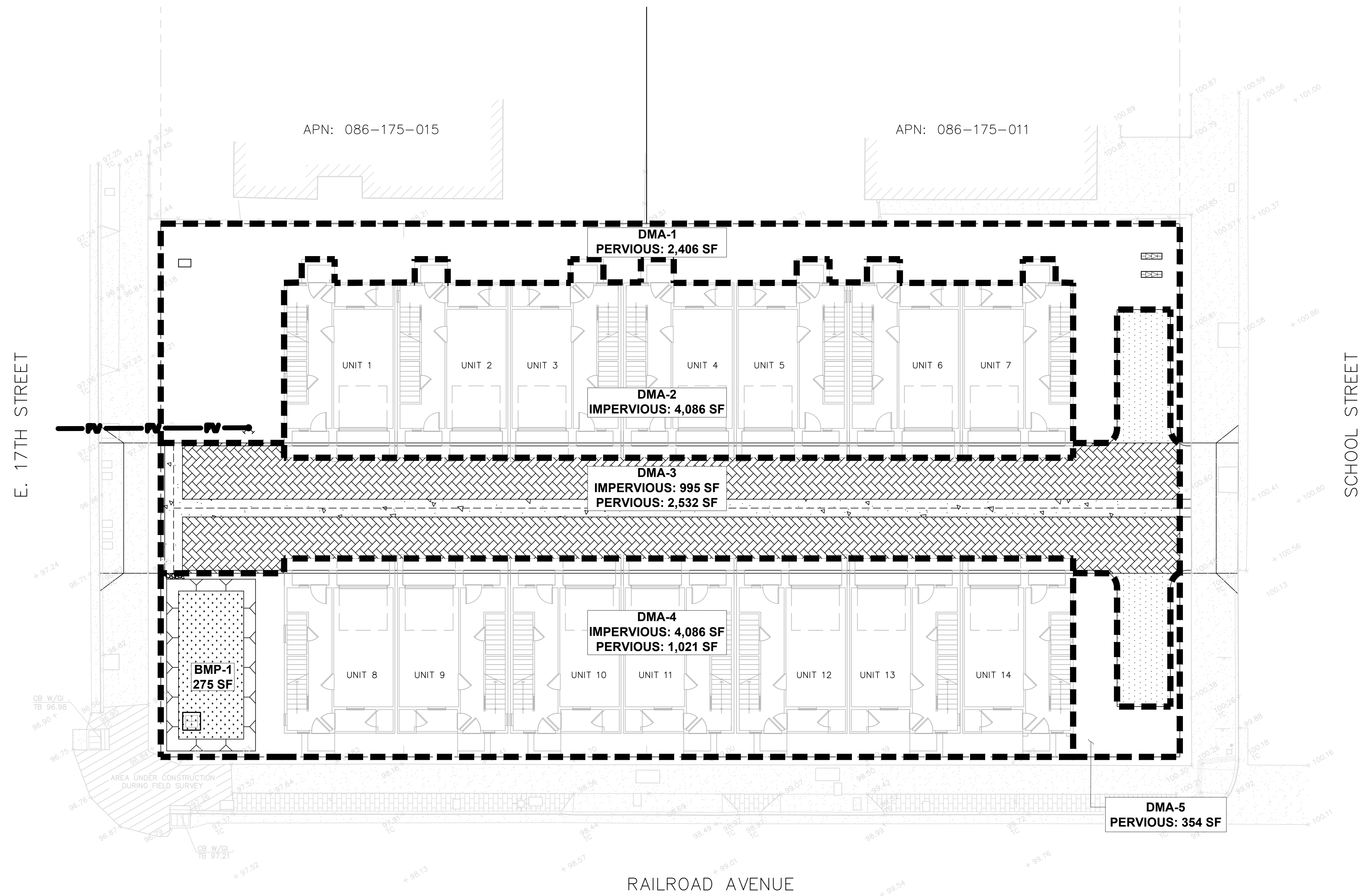
VESTING TENTATIVE MAP  
FOR CONDOMINIUM PURPOSES  
1650 & 1611 RAILROAD AVENUE  
PITTSBURG, CA

**PRELIMINARY UTILITY PLAN**

Revisions	No.	Date	By

Date: DATE  
Scale: AS SHOWN  
Design: DESN  
Drawn: DRWN  
Approved: APRV  
Job No.: JOB NO

Drawing Number:  
**C5.0**  
5 OF 6



- LEGEND**
- DRAINAGE MANAGEMENT AREA
  - BIORETENTION
  - PERVIOUS PAVERS
  - IMPERVIOUS CONCRETE
  - IMPERVIOUS ASPHALT

- STORMWATER CONTROL NOTES**
- STORMWATER QUALITY CONTROL BMP ARE DESIGNED IN ACCORDANCE WITH STANDARDS AND SPECIFICATIONS FROM CONTRA COSTA COUNTY CLEAN WATER PROGRAM C.3 GUIDEBOOK.
  - THIS PROJECT REPLACES MORE THAN 5,000 SQFT OF IMPERVIOUS AND THEREBY CONSIDERED A REGULATED PROJECT. THE PROJECT IS DESIGNED TO TO CONFORM TO C3 REQUIREMENTS. HOWEVER THE PROJECT REPLACES LESS THAN ONE ACRE OF IMPERVIOUS THEREFORE HYDROMODIFICATION MANAGEMENT IS NOT REQUIRED PER C3 REQUIREMENTS.

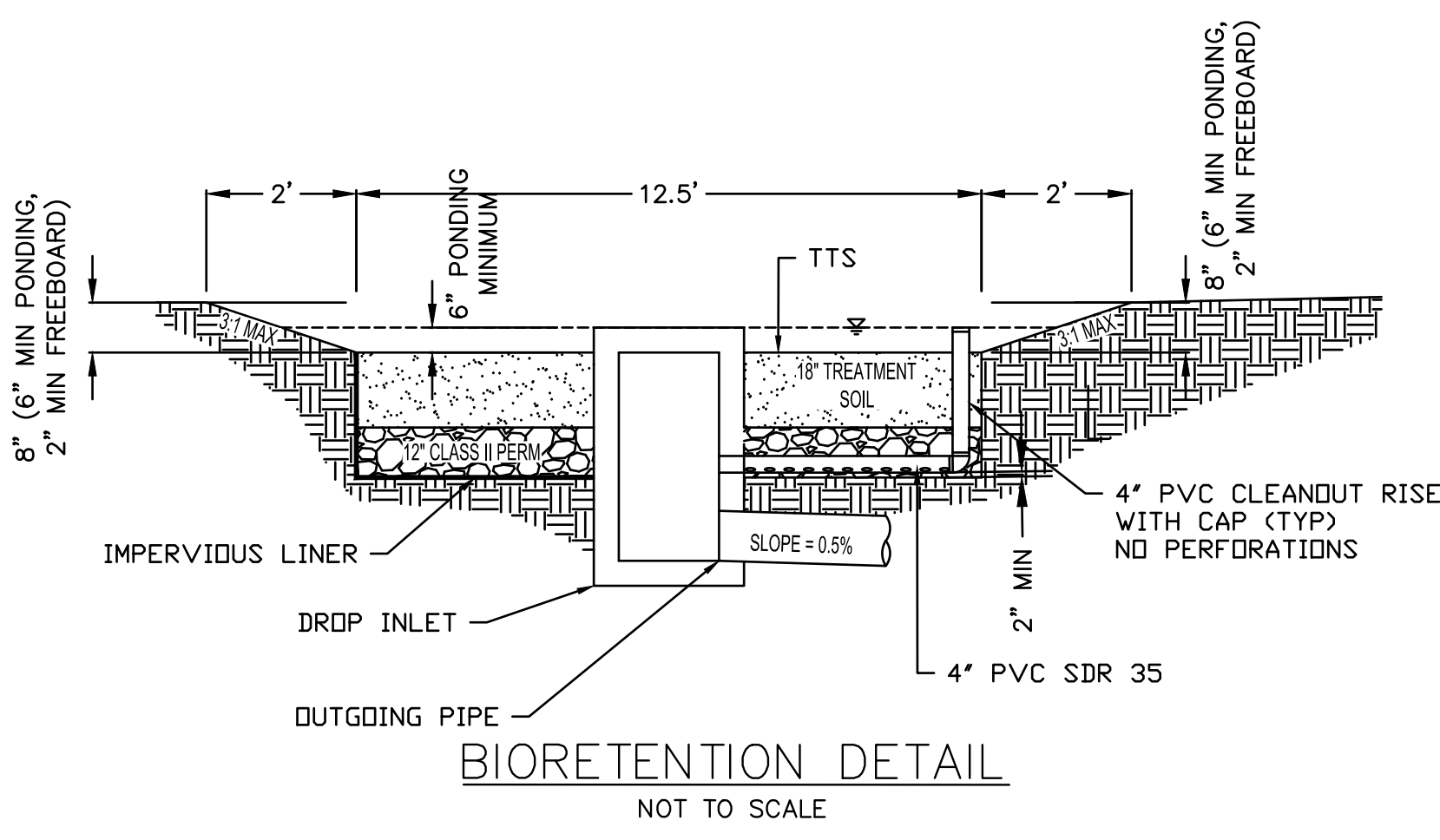
- ABBREVIATIONS**
- BMP BEST MANAGEMENT PRACTICES
  - DMA DRAINAGE MANAGEMENT AREA
  - PERM PERMEABLE

**PRELIMINARY**  
NOT FOR CONSTRUCTION  
DATE: 01/22/2024

BKF ENGINEERS  
1666 N. CALIFORNIA BLVD.  
SUITE 400  
WALNUT CREEK, CA 94596  
(925) 940-2200  
www.bkf.com

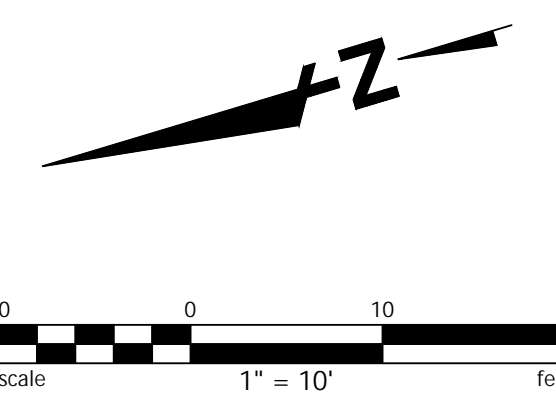


VESTING TENTATIVE MAP  
FOR CONDOMINIUM PURPOSES  
1650 & 1611 RAILROAD AVENUE  
PITTSBURG, CA  
**PRELIMINARY STORMWATER  
MANAGEMENT PLAN**



**STORMWATER TREATMENT SIZING SUMMARY TABLE**

BOUNDARY	TYPE	IMPERVIOUS	LANDSCAPE	PERM. PAVER	DRAINS TO	REQUIRED TREATMENT	AVAILABLE TREATMENT
DMA-1	LANDSCAPE	-	2,406	-	SELF TREATING	-	-
DMA-2	ROOF	4,086	-	-	BMP-1	164	275
DMA-3	GROUND	995	-	2,532	SELF RETAINING	-	-
DMA-4	ROOF/LANDSCAPE	4,086	1,021	-	BMP-1	168	275
DMA-5	LANDSCAPE	-	354	-	SELF TREATING	-	-



Revisions

No.	Date	Scale	Design	Drawn	Approved	Job No.	Job No.
		AS SHOWN	DESIGN				

Drawing Number:  
**C6.0**  
6 OF 6



Attachment 10  
Railroad Commons,  
AP-22-0105 (SUBD, DR,  
TRP)  
Arborist Report

Evergreen Tree Care, Inc.  
2275 Freed Way Ste E  
Pittsburg, Ca 94565  
925-825-8165  
garyjr@etcare.net  
www.evergreentrecare.net

**Arborist Report**

Prepared for

Kevin Harrell

Phase One, Inc.  
Railroad Ave & School St  
Pittsburg Ca 94565

Prepared By  
Evergreen Tree Care, Inc.

November 15, 2022

Gary M. Abrojena  
ISA Certified Arborist WE-7838A  
TCIA Certified Tree Safety Professional #1131  
California Qualified Applicators License #146705





Railroad Ave & School Street  
Pittsburg, Ca 94565

This report was prepared for a Phase One Inc. The purpose of this report is to provide assessment of trees on a planned development on Railroad and School Street, Pittsburg Ca.

This report is to meet the requirements set in the application process by the City of Pittsburg.

This report will include:

1. An assessment of 5 trees currently growing on property.
  - a. Identify species
  - b. Diameter at breast height (DBH)
  - c. Assign an identifying tree number on the map
  - g. Health and structure evaluation
    - a. General health and vigor of a tree is based on a visual inspection of the foliage, annual shoot growth, and its ability to develop woundwood around wounds. This evaluation is based on a visual observation of the root crown (where the tree's trunk enters the ground) and the main structure of supporting scaffolds to the tree's canopy
  - h. Determine suitability for preservation

## **SUMMARY**

The site is located on Railroad Ave and School Street in Pittsburg, California. The five (5) trees within the impacted area are (2) Camphor, (1) Palm Spp., (1) Sycamore, (1) Ash Spp. The trees have been marked and mapped in order to identify them within the report.

Before evaluating the impacts that can and may occur during development or construction, identifying the tree's current condition and its potential to succumb to immediate and future impacts need to be assessed. Impacts during development can put a burden on trees in the vicinity, thus choosing trees to preserve is crucial. Identifying and understanding the tree's current health and condition will allow for higher survival rates during construction impacts and allow for adaptation in its new environmental surroundings.

## **Site Visits**

Initial Site Visit was done on 11/15/22 with Gary M. Abrojena. With the proposed plans we determined the proposed area of construction. During this time field notes were taken to determine DBH, dripline distances, Health, Condition, and any other pertinent information needed.

## **Considering factors when evaluating for preservation:**

### **Health**

Healthy, vigorous trees are better able to tolerate construction impacts such as root injury, soil compaction, changes in grade, addition or loss of moisture in soil, demolition of existing structures, and major changes to surrounding areas or environment due to construction.

### **Structure**

Trees with structural defects, decay, and mechanical damage that cannot be corrected are more likely to fail or will be unable to adapt during and after construction. Such trees may not be suitable for preservation. In high traffic areas where damage to people or property is likely removal may be a better alternative.

### **Species tolerance**

All species of trees respond differently to construction impacts and changes in the environment. Identify species to determine species tolerance to impacts.

### **Estimated Age**

Mature trees have limited physiological capacity to adapt during construction and are less tolerant to an altered environment. Young trees are much more capable of generating new tissue and adapting to change.

### **Species Invasiveness**

Invasive species that spread across a site and displace native / indigenous plants and trees are not always appropriate for retention.

# Rating Guidelines and description

**Condition ratings were as follows:**

- Good:** Good vigor with minimal visible signs or symptoms of pests or disease and displaying good structure.
  - Moderate:** Fair to moderate vigor, with moderate structural defects that may be correctable. Crown displaying a thinner canopy, off-color foliage, twig and small branch dieback.
  - Poor:** Tree in decline and unlikely to respond to treatment  
Sparse foliage, large diameter branch dieback, poor structure that cannot be corrected, epicormic growth along branches and/or trunk.
- 

**Preservation ratings** are based on the health, age and structural condition of the tree and the ability to respond positively to site alterations and construction impacts, as well as the species tolerance.

- Good:** These trees have good vigor and structure and are more likely to recover from construction impacts
  - Moderate:** Trees with fair vigor and structure that can be abated with treatment. These trees require more intense management and monitoring
  - Poor:** These trees have poor vigor and/or structure and are more likely to continue to decline, even with intense remedial efforts.
- 

**Construction impact ratings** are based on the extent of changes occurring in close proximity to the tree. Water absorbing roots are generally located in the top six (6”) to twelve (12”) inches of soil while structural roots can be located at surface level to a depth of three-feet (3’). These roots can be damaged in a variety of ways, compaction from equipment and materials, cuts for grades, retaining walls, foundations, utilities, sewer, bio-retention basins, and landscaping. Another factor is changes in soil surface area through construction of hardscapes along with changes in ground water and flow direction.

- High:** Root loss is too severe to consider retention. Health and structure are compromised to the extent the tree will likely die or fail mechanically
- Moderate:** Root loss within ranges of tolerance but requiring more intense management during construction and possibly post construction treatment
- Low:** None to minor root loss and alterations but still requiring recommendations for potential impacts



Tree ID: #1

Species: Camphor, *cinnamomum camphora*

DBH: 22"

According to Calflora.org tree is a non-native species.

Tree showing signs of decline. Sparse foliage, large diameter branch dieback, poor structure that cannot be corrected, epicormic growth along branches and trunk. Considered to be in spiral decline and poor structure.

40% of tree showing dieback in the upper canopy. Signs of sun scalding along interior branches as well as bark damage and sloughing at base.

Potential root loss is too severe to consider retention.

Health and structure are compromised to the extent the tree will likely die or fail mechanically

It is in my professional opinion that this tree has no suitable retention within the proposed development and should be removed.





Tree ID: #2

Species: Camphor, *cinnamomum camphora*

DBH: 24.5”

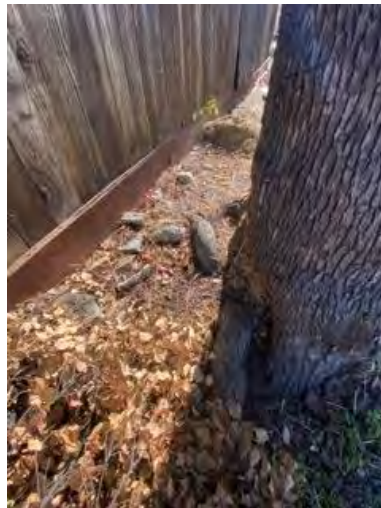
According to Calflora.org tree is a non-native species.

Moderate vigor, with moderate structural defects that may be correctable. Crown displaying a slightly thinner canopy, good foliage color, twig and small branch dieback.

Specimen has a heavy lean towards neighboring property. Heavy lateral scaffolds growing over neighboring property. Risk of limb loss over neighboring property should be considered. While trees with fair-moderate vigor and structure can be abated with

treatment. These trees require more intense management and monitoring. Construction during development may put too much of a burden on this tree. Excessive root loss and compaction will compromise health and integrity. It is likely that this tree will continue to decline to the point that its health and structure are compromised. Once compromised to this extent the tree will likely die or fail mechanically.

It is in my professional opinion that this tree has no suitable retention within the proposed development and should be removed.





Tree ID: #3

Species: Mexican Fan Palm,  
*washingtonia robusta*

DBH: 14"

According to Calflora.org tree is a non-native species.

Invasive species that spread across a site and displace native / indigenous plants and trees are not always appropriate for retention.

Tree has not been maintained. Years of dead fronds attached to the lower trunk. These dead fronds fall and fly off in windy and storm conditions. They can become falling hazards to nearby structures, people, and pets. Neighboring property has fronds falling into the yard. Piles of dead fronds at the base of the tree will become fire hazards and should be

pruned and kept cleaned to mitigate fire hazards.

Based on suitability of retention and its invasiveness it is in my professional opinion that this tree be removed.





Tree ID: #4

Species: Sycamore,

DBH: 18"

Tree showing signs of decline. Sparse foliage, large diameter branch dieback, poor structure that most likely cannot be corrected, epicormic growth along branches and trunk. Consider moderate to poor health and poor structure.

Tree has had past "topping" or "heading cuts". Improper pruning practices have left this tree with sparse foliage and poor structure. Signs of Anthracnose have been noted. Samples can be sent to plant pathologists to be more accurate.

Improper planning and bad tree selection is responsible for most broken sidewalks. Sidewalks look

as if they may have been re-done multiple times. Concrete has been shaved to minimize trip hazards because of root growth under concrete. Possible concrete corrections over the years may have led to possible root pruning.

Current Specimen considered too large for planting area. Sidewalk area with 36"x36" planting area is too small for a tree of this size. Tree is too large and has a root system too aggressive for street planting in an area of this size. Soil volume is a critical element for the success, or failure, of urban trees – the provision of an adequate rooting environment is essential to achieving a good canopy cover.

It is in my professional opinion that this tree has no suitable retention within the proposed development and should be removed.





Tree ID: #5

Species: Ash spp., *fraxinus spp.*

DBH:26.5"

Tree showing signs of decline. Sparse foliage, large diameter branch dieback, poor structure that most likely cannot be corrected, epicormic growth along branches and trunk. Consider moderate to poor health and poor structure.

Signs of possible Verticillium Wilt and Anthracnose have been noted. Samples can be sent to plant pathologists to be more accurate.

Improper planning and bad tree selection is responsible for most broken sidewalks. Sidewalks look as if they may have been re-done multiple times. Concrete has been shaved to minimize trip hazards because of root growth under concrete. Possible

concrete corrections over the years may have led to possible root pruning.

Current Specimen considered too large for planting area. Sidewalk area with 36"x36" planting area is too small for a tree of this size. Tree is too large and has a root system too aggressive for street planting in an area of this size. Soil volume is a critical element for the success, or failure, of urban trees – the provision of an adequate rooting environment is essential to achieving a good canopy cover.

It is in my professional opinion that this tree has no suitable retention within the proposed development and should be removed.





### Tree Condition and Impacts

#	Species	DBH	Condition	Structure	Impact Rating	Preservation Rating
1	Camphor	22"	Poor	Moderate	High	Low
2	Camphor	24.5"	Good	Moderate	High	Low
3	Palm	14"	Good	Good	High	Low
4	Sycamore	18"	Poor-Moderate	Moderate	High	Low
5	Ash	26.5"	Poor-Moderate	Moderate	High	Low

**See explanation of ratings on page 2 and 3.**

## Townhouse @ 1650,1611, Railroad Ave. & 109 School St. Pittsburg, California 94565



**EMB DESIGN GROUP**  
ARCHITECTURE & LANDSCAPE

EMB DESIGN GROUP  
2001 Alameda Drive  
Pittsburg, California 94565  
(925) 296-6200 ext 200

Townhouse @  
1650, 1611, Railroad ave  
& 109 School st

APN #  
000-000-00

Owner:  
KEVIN HARRELL

**Design Review  
Phase**

SHEET TITLE  
PHOTOSIMULATION  
EXISTING  
SITE VIEW

Date:	Issue 1 Revision
01/15/22	Final Check Set
Plan Check:	
Comments #:	
Phase:	BA Set
Issue for Comments:	
Permit Set:	
Issue for Final Check:	
Final Check Comment:	

A-1



PHOTOSIMULATION EXISTING SITE VIEW

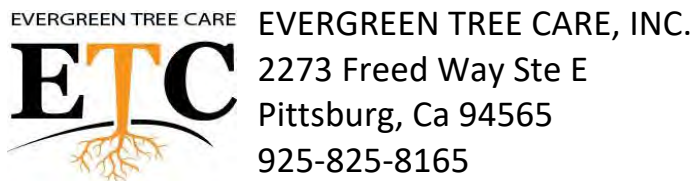
## Conclusion

Based on information regarding the proposed development, the survival rates during construction impacts, and the trees current health and conditions, it is in my opinion that tree removal for all 5 trees are warranted.

If you have any questions and or concerns regarding this report please contact Gary M Abrojena at Evergreen Tree Care, Inc. (925) 382-0382 or [garyjr@etcare.net](mailto:garyjr@etcare.net)

*Gary Abrojena*

Gary M. Abrojena  
ISA Certified Arborist WE-7838A  
TCIA Certified Tree Safety Professional #1131  
California Qualified Applicators License #146705





Community and Economic Development Department – Planning Division

## NOTICE OF PUBLIC HEARING

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

**DATE:** August 27, 2024  
**TIME:** 7:00 P.M.  
**PLACE:** City Council Chamber at City Hall  
65 Civic Avenue, Pittsburg, California

Concerning the following matter:

### **Railroad Commons, AP-22-0105 (SUBD, DR, TRP)**

This is a public hearing on a request for approval of a Major Subdivision Vesting Tentative Map for 14 condominium units (condominium map). The application includes a request for Design Review approval to construct two, three-story dwelling clusters (7 units per cluster) to establish 14 multi-family dwelling units. The proposed project includes a request for Tree Removal Permit approval to remove four protected trees on site. All five trees on site are proposed for removal, and four out of the five are protected pursuant to Pittsburg Municipal Code Section 18.84.835(F). The project proposes two access points to the development, one off E. 17th Street and one off School Street. The proposed project is bound to the north by E. 17th Street, to the east by residentially developed parcels, to the south by School Street, and to the west by Railroad Avenue. The parcel is located in the PD-1319 District (Planned Development, City Council Ordinance No. 09-1319) and has Railroad Avenue Specific Plan (RASP) designation of TOD (Transit Oriented Development) Medium. Project addresses: 1650 and 1611 Railroad Avenue, and 109 School Street, Pittsburg, CA 94565. Assessor's Parcel Numbers (APN): 086-175-012; -013; and -014.

### **Environmental Determination**

On July 6, 2009, the City Council adopted Resolution No. 09-11250 certifying the Environmental Impact Report (EIR), adopting and approving statements of findings and overriding considerations, and approving a Mitigation Monitoring and Reporting Program (MMRP) for the RASP. The mitigation measures included in the MMRP were subsequently incorporated into the RASP, which was adopted by City Council on November 2, 2009, through Ordinance No. 09-1319. The RASP EIR analyzed the traffic and other potential impacts of the RASP implementation. The California Environmental Quality Act (CEQA) provides that after a public agency certifies an EIR, the agency shall consider whether further environmental review is required for a subsequent discretionary decision. CEQA Guidelines Section 15183(a) provides that, if the subsequent activities under review "are consistent with the development densities established by existing zoning, community plan or General Plan for which an EIR was certified," the agency "shall not prepare additional environmental review, except as may be necessary to examine whether there are project-specific significant impacts which are peculiar to the project or its site...". The proposed project is consistent with the residential development intensities established by the RASP and therefore, additional environmental review is not required under CEQA. If the proposed project is approved, Planning Staff would file a Notice of Determination (NOD) with the Governor's Office of Planning and Research (OPR) State Clearinghouse and Contra Costa County Clerk-Recorder's Office pursuant to CEQA Guidelines, section 15094.

**PROJECT PLANNER:** Kelsey Gunter, (925) 252-4824 or [kgunter@pittsburgca.gov](mailto:kgunter@pittsburgca.gov)

**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? Where can I get more information about this project?** The complete file for this project is available for public inspection; please contact the project planner listed above to make necessary arrangements. The complete file for this project is available for public inspection; please contact the project planner listed above to make necessary arrangements. Any persons requiring additional accommodation to review this notice, including visually impaired persons, may contact the Planning Main Line at (925) 252-4920.

**What can I do if I have comments on the project?** Comments or objections to the project can be made by writing or through e-mailed testimony prior to the meeting or provided orally during the meeting. 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.

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.



JOHN FUNDERBURG, SECRETARY  
PITTSBURG PLANNING COMMISSION

*Para información en  
español:  
(925) 252-4920*



City of Pittsburg

Community and Economic Development Department -  
Planning Division  
65 Civic Avenue  
Pittsburg, CA 94565

## NOTICE OF PUBLIC HEARING

**Attachment 12**  
**Railroad Commons, AP-22-0105 (SUBD, DR, TRP)**  
**Conditions of Approval**

1. Conformity with Project Plans. The project shall be constructed in substantial conformity with the Tentative Map, Architectural Plans, and Landscape Plans, as dated in the Staff Report, except as hereinafter may be modified.
2. Development Agreement. Pursuant to PMC Chapter 18.86.020.D.1., the developer shall enter into a Development Agreement with the City of Pittsburg prior to the issuance of the first building's Building Permit. As a part of the Agreement the developer shall deed restrict two of the fourteen units to very low, low, or moderate-income household, as specified in the Development Agreement, for a period of at least 55 years. Further, the Development Agreement shall codify the protected tree replacement regulations, as required by the Pittsburg Municipal Code. The Development Agreement shall be subject to approval by the City Council.
3. Development Phasing. Pursuant to a written subsequent approval notification from the City's Community and Economic Development Department, the City's Public Works – Engineering Division, and the Eastern Contra Costa County Fire Protection District, the development may be constructed in two phases. Phase one of the development shall include one of the two buildings and associated hardscape, trash enclosure, security cameras, and other improvements. Phase two of the development shall have a Building Permit issued no less than 18-months following the issuance of the project's first Building Permit, and shall include the second building, and any associated landscaping, fencing, and security cameras, etc. Further phasing details shall be codified in the Project's Development Agreement.
4. Site Maintenance. The site shall be kept clean and free of all litter, debris and refuse, graffiti, and all landscaping on site shall be kept weed free and maintained in a healthy condition.
  - a. All graffiti shall be removed from the site within 24-hours.
5. Lighting. The developer shall provide a lighting and photometric plan showing the location, type, and design of all outdoor lighting including but not limited to exterior building lighting (fixed and freestanding), lights for pedestrian and/or automobile circulation, security, landscaping, and building accents. The lighting plan shall include light installation along all vehicular accessways and along major walkways. Such lighting shall be directed downward onto the driveways and walkways within the development and away from the adjacent properties in order to minimize light spill and glare. Lighting shall also be installed within all covered and/or enclosed parking areas. Final lighting design and location subject to review and approval by the City Planner and City Transportation Engineer prior to issuance of Building Permit.
  - a. One (1) outdoor lighting sconce shall be placed near the front and rear entryways of each condominium/apartment unit. Final design of the

sconces shall be subject to review and approval by the City Planner prior to the issuance of a Building Permit.

- b. The Developer shall provide a photometric graph and table to determine the appropriate streetlight spacing for the project. An approved lighting software program that clearly indicates the Average Luminance/Minimum Luminance Uniformity ratio of the roadway within the project area is to be used for the lighting calculations (see City Standard Detail T-1 for details). The Developer shall install single-head decorative luminaire poles with LED decorative (“Acorn”) post top light fixtures (as specified on Sheet T-5 of the City of Pittsburg Traffic and Lighting Details), with a height not to exceed 15 feet, throughout the development in accordance with the photometric graph and table.
6. **Trash Collection Area.** Pursuant to Pittsburg Municipal Code Section 17.40.040(H), trash collection areas shall be provided within 250 feet of the units they are designed to serve. Such areas shall have a roof covering and be screened with masonry walls that are similar in design to the main apartment/condominium buildings on site and have a minimum height of five feet. Access gates or doors to any trash area are to be of opaque material.
  - a. Trash enclosures shall be constructed with a low berm at their entrances, or its interior floor shall be sloped slightly so as to prohibit waste liquids from discharging out of the enclosure and entering a storm drain. Storm drains shall not be located within the drainage area of the enclosure.
  - b. All developments must provide a trash enclosure in accordance with Title 18 of the PMC (RASP Ch. 4.5, No 14)
  - c. Trash enclosure shall be coated with an anti-graffiti coating so as to deter graffiti and to aid in graffiti clean-up.
7. **Refuse Management Plan.** The Developer shall prepare and maintain a Refuse Management Plan to promote the safe, efficient, and timely pickup of refuse by Mount Diablo Resource Recovery. The Plan shall specify: 1) the proposed service level needed for the development; 2) the designated pickup days and timeframes; and 3) the proposed pick-up route by Mount Diablo Resource Recovery’s trucks. The Plan shall be submitted to and approved by the City Planner and Mount Diablo Resource Recovery prior to issuance of the first Building Permit.
8. **Trash Enclosure Size.** The development proposes one trash enclosure. The enclosure shall accommodate three dumpster bins (refuse, recyclables, organics) sized to ensure compliance with requirements of Senate Bill 1383 (2016). These trash enclosures must be plumbed to the sanitary sewer and be equipped with water service. The final design of the trash enclosures shall subject to review and approval by the City Engineer.

9. Green Building. Pursuant to the RASP Chapter 4.5, Criterion 19 and 20, the Developer shall utilize ecologically conscious designs that include natural light, shade, and energy efficient materials. Project should include sustainable site and building design elements such as improved insulation, operable windows, energy efficient lighting and appliances, solar energy sources built into the development and natural ventilation.
10. Garage Spaces. Garage parking spaces are subject to the following standards:
  - a. Any proposed private, attached one-car garages directly accessible to the dwelling unit shall be built to standards of the RS zone and any applicable building code regulations at time of development. All garages shall be constructed with a vehicle lift within them, to maximize off-street parking for the development.
  - b. As per the California Green Building Standards Code Book, the Developer shall install prewiring for an electric vehicle charging station (EVCS) within each condominium/apartment garage.
11. Bicycle Parking. Pursuant to Development Review Design Guidelines section 6(A)(5), secure and convenient storage for at least two bicycles should be provided. Storage may either be a wall-mounted or designated area within the garage floor plan. Bicycle parking area shall include an electrical outlet for electric bicycle parking.
  - a. The Developer shall provide a 2' x 6' parking space with a nearby electrical outlet in each apartment/condominium garage. Developer shall submit Building Permits in substantial compliance with this requirement.
  - b. The "Welcome Package" for new residents shall include an optional wall-mounted bicycle rack to hold a minimum of one bicycle, free of charge to the resident.
  - c. In addition to the private, secure bicycle parking area for 14 bicycles, the Developer shall install a secure bicycle parking rack within the development, with the ability to accommodating the secure storage of a minimum of fifteen (15) bicycles.
    - i. Final design of bicycle parking facilities is subject to review by the City Planner at time of Building Permit.
12. Addressing. Prior to issuance of a certificate of occupancy for each building, the Developer shall install minimum six-inch high block style numbers on the façade of each apartment unit, or four-inch for condominium unit, for purposes of address identification. The numbers shall be in a color that is contrasting to the background surface to which they are adhered and shall be readily visible from the closest drive aisle. The construction drawings submitted for each unit shall identify the location of the address box or number(s) on the unit façade, along with a detail or keynote

that describes how the house number will be illuminated or made identifiable from the street or shared driveways. Final design and location of numbers subject to review and approval by the City Planner.

13. Mailboxes. If the developer proposes the installation of a shared mailbox to serve the residential units, the final design of the shared mailbox shall be subject to review and approval by the Planning Division prior to installation. The final location of the shared mailboxes shall be subject to review and approval by the United States Postal Service (USPS) prior to installation.
14. Rooftop equipment. All rooftop mechanical equipment shall be fully screened from public view. In the event that the building is built, and it is discovered that any roof top mechanical equipment is visible (as seen by the naked eye) from any ground-level public vantage point, then the developer shall provide additional screening around the equipment to completely conceal it. Any additional screening required to comply with this agreement shall be subject to review and approval by the Planning and Building Divisions prior to the issuance of a certificate of occupancy.
  - a. Roof vents shall be painted the same color as roofing material to which they are adjacent. Downspouts, side vents, attached utility boxes, and hose bibs shall be painted the same color or colors as the surface or surfaces to which they are adjacent.
15. Equipment Screening. All utility equipment, including utility boxes, transformers, meters, and junction boxes shall be undergrounded whenever possible. All air conditioning units and utility equipment (which cannot be undergrounded) shall be substantially screened from public view by way of a permanent screen or appropriately sized plant material (City of Pittsburg DRDG II.h and III.a). The final method and design of the screening shall be reviewed and approved by the Planning and Engineering Divisions prior to issuance of an engineering or building permit.
16. Exterior Materials. Articulate front facades with windows, both along the ground floor and upper residential floors. Carry all exterior materials, including veneer, finishes or materials utilized on the front of the structure around to all sides of the building.
  - a. At time of Building Permit, the elevation plans shall clearly indicate the proposed types of materials for the finished product (paint, stucco, cementitious siding, wooden siding, brick, stone, etc.). Such materials shall be carried around the entire structure, creating 360-degree architecture.
  - b. This Condition of Approval includes the installation of the brick/stone work along the north and south sides of each building, as well as the installation of window awnings along the north and south sides of each building.
17. Landscaping. Prior to issuance of a Building Permit, the developer shall submit a detailed landscaping and irrigation plan and other documentation as required by the state model water efficient landscaping ordinance or other local water efficient



landscaping ordinance in effect at the time the developer applies for a building permit. Prior to issuance of the first certificate of occupancy for each of the buildings, the developer shall complete and submit all certifications confirming that the landscaping and irrigation were installed in compliance with the approved detailed landscaping and irrigation plan, as required pursuant to the applicable ordinance in effect at the time the developer applies for a building permit.

- a. The project shall incorporate the most recent acceptable best management practices for water-efficient landscape design, consistent with PMC section 18.84.310.
  - b. Prior to issuance of the first Certificate of Occupancy of each building, the Developer shall complete all installation of landscaping and automatic irrigation systems around that building, in accordance with Article VII (Landscaping, Irrigation and Hydroseeding) of PMC Chapter 18.84, or other applicable water efficient landscape ordinance, subject to approval by the Community and Economic Development Department.
  - c. All setback areas fronting on or visible from an adjacent public street and all recreation, leisure and open space areas shall be landscaped in an attractive manner and provided with a method for the maintenance thereof;
  - d. Decorative design elements such as fountains, pools, benches, sculpture, planters, exterior recreational facilities, and similar elements may be permitted providing such elements are incorporated as a part of the landscaping plans, except where otherwise prohibited;
  - e. Permanent and automatic irrigation facilities shall be provided in all planted landscaped areas;
  - f. Landscaping shall be comprised of 10% of the total lot area. Landscaping may include decorative hardscape, plazas, rooftop gardens, water features, and public art installation (RASP pg. 88).
  - g. Landscaping strip width shall not be less than three feet in width.
  - h. All landscaping installed shall be privately maintained.
  - i. Landscaping plan set shall not include any invasive species, and shall not include the installation of any crepe myrtles.
18. Fencing. All fencing on site crossing a roadway shall be constructed of wrought iron material and shall be a maximum of six feet in height. The fencing crossing the drive aisles on site shall be secured so as to not allow pedestrians to cross through the site. Consistent with the RASP and DRDG, landscaping in a similar

height to the fence shall be installed on the ends of the fencing material to further enhance the security and exterior appearance. by landscaping in a comparable height

19. Enhanced Pavement. Pursuant to Railroad Avenue Specific Plan, the Developer shall incorporate permeable surfaces and pavers, or applicable substitution, for parking lots, driveways, and alleys (RASP Ch. 4.5).
  - a. Developer shall provide enhanced pavement at the north and south entryways to the project site (along School Street and East 17<sup>th</sup> Street). Enhanced pavement may be stamped, brick pavers, or an alternative form of pavement/material, subject to review and approval by the Planning Division at time of Building Permit.
20. Inclusionary Housing. The Developer is required to comply with PMC Chapter 18.86 regarding Inclusionary Housing requirements. The Development Agreement shall specify the terms and conditions pertaining to compliance with the City's Inclusionary Housing Ordinance and entered into prior to the City's issuance of the first Certificate of Occupancy.
  - a. A note shall be included with the terms and conditions of the affordable housing requirements on the Final Condominium Map for the project.
21. Security Cameras. The developer shall provide exterior security cameras at each entry point to the project site as part of the proposed development.
  - a. Location and installation details to be reviewed and approved by the City of Pittsburg Police Department prior to Building Permit issuance.
  - b. The proposed cameras shall be web-based, and the internet protocol (IP) addresses of each camera shall be provided to the Pittsburg Police Department for investigative purposes.
22. Tree Removal Permit. The project site contains a total of five trees, of which all five trees are proposed for removal.
  - a. Tree replacement. The Developer shall enter into a Development Agreement for project "Railroad Commons, AP-22-0105". As part of the Development Agreement, a tree replacement and in-lieu fee amount shall be described and codified, pursuant to PMC Article XIX, "Tree Preservation and Protection".
  - b. Any change in the proposed replacement plan, and/or species list shall be reviewed and approved by the Planning Division prior to installation.
23. RASP EIR Mitigation Measures. The developer shall comply with the environmental impact mitigation measures identified below:

- a. AQ-1.1 Implement dust control measures. To reduce particulate matter emissions during construction, the City shall ensure that all development proposed under the Railroad Avenue Specific Plan complies with the dust control strategies developed by BAAQMD. These dust control strategies shall include:
  - i. Cover all trucks hauling construction and demolition debris from the site;
  - ii. Water all exposed or disturbed soil surfaces at least twice daily;
  - iii. Use watering to control dust generation during demolition of structures or break-up of pavement;
  - iv. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved parking areas and staging areas;
  - v. Sweep daily (with water sweepers) all paved parking areas and staging areas during the earthwork phases of construction;
  - vi. Provide daily clean-up of mud and dirt carried onto paved streets from the site;
  - vii. Enclose, cover, water twice daily, or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.);
  - viii. Limit traffic speeds on unpaved roads to 15 mph;
  - ix. Install sandbags or other erosion control measures to prevent silt runoff to public roadways; and
  - x. Replant vegetation in disturbed areas as quickly as possible.
- b. AQ-1.2 Reduce emissions from heavy-duty diesel-powered equipment. The City shall ensure that all development proposed under the Railroad Avenue Specific Plan implements measures to reduce the emissions of pollutants generated by heavy-duty diesel-powered equipment during demolition and construction:
  - i. Keep all construction equipment in proper tune in accordance with manufacturer's specifications.
  - ii. Use late model heavy-duty diesel-powered equipment at the Project Site to the extent that it is readily available in the San Francisco Bay Area.
  - iii. Use diesel-powered equipment that has been retrofitted with after-treatment products (e.g., engine catalysts) to the extent that it is

readily available in the San Francisco Bay Area.

- iv. Use low-emission diesel fuel for all heavy-duty diesel-powered equipment operating and refueling at the Project Site to the extent that it is readily available and cost effective in the San Francisco Bay Area (this does not apply to diesel-powered trucks traveling to and from the site).
  - v. Utilize alternative fuel construction equipment (i.e., compressed natural gas, liquid petroleum gas, and unleaded gasoline) to the extent that the equipment is readily available and cost effective in the San Francisco Bay Area.
  - vi. Limit truck and equipment idling time to five minutes or less.
  - vii. Rely on the electricity infrastructure surrounding the construction sites rather than electrical generators powered by internal combustion engines to the extent feasible.
- c. AQ-6.1 Develop and implement a plan to reduce operational air emissions. Prior to approval of building entitlements and permits, the project developers shall be required to demonstrate to the City that stationary source emissions reduction measures have been included to reduce operational emissions resulting from development in the project area to the maximum extent practicable. A plan for reducing stationary sources shall be approved by City staff. The plan shall include measures such as, but not limited to, incorporating energy-saving appliances for heating and air conditioning units and energy efficient lighting.
- d. NO-1.1 Implement construction best management practices to reduce construction noise. The construction contractor(s) shall implement the following measures during the construction under the Railroad Avenue Specific Plan:
- i. Restrict construction activities to the hours of 8:00 a.m. to 5:00 p.m.
  - ii. Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures and acoustically attenuating shields or shrouds, wherever feasible).
  - iii. Impact tools (e.g., jackhammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or
  - iv. electrically powered wherever possible to avoid noise associated with compressed air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used; this muffler can

lower noise levels from the exhaust by up to 10 dBA. External jackets on the tools themselves shall be used where feasible, and this could achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever feasible.

- v. Construction contractor shall use “quiet” gasoline-powered compressors or other electric-powered compressors and use electric rather than gasoline or diesel-powered forklifts for small lifting.
  - vi. Stationary noise sources, such as temporary generators, shall be located as far from adjacent receptors as possible, and they shall be muffled and enclosed within temporary sheds, incorporate insulation barriers, or other measures to the extent feasible.
  - vii. Erect temporary plywood noise barriers around the construction site, to shield adjacent uses.
  - viii. Prohibit trucks from idling along residential streets serving the construction site.
- e. NO-3.1 Implement site and architectural design measures to reduce noise levels for new residential development with ambient noise levels greater than 65 dBA CNEL. Per the General Plan, new development located near a roadway that produces noise levels greater than 65 dBA CNEL (measured at the façade of a proposed residential use) shall be required to have an acoustical analysis prepared by a qualified acoustical engineer to ensure that all feasible site planning and architectural design measures were incorporated to reduce interior noise levels to a maximum of 45 dB CNEL. Measures to achieve acceptable noise levels include adjusting the configuration of the proposed residential buildings and placing exterior living areas such as patios and balconies away from high traffic roadways. Recommendations from the acoustical study must be incorporated into building and site design and submitted to the City for approval prior to issuance of a building permit.
- f. BIO-1 Conduct a nesting bird survey within the Specific Plan Area. Project applicants shall be required to comply with the following activities prior to construction during the nesting season, March 1st to August 1st. Outside the specified time period, no mitigation would be required.
1. Between March 1st and August 1st, the applicant shall have a qualified biologist conduct nest surveys 30 days prior to any demolition/construction activities that are within 500 feet of potential nest trees. A pre-construction survey report shall be submitted to (California Department of Fish and Wildlife, CDFW) and the City of Pittsburg that includes, at a minimum: (1) a description of the methodology including dates of field visits, the names of survey personnel with resumes, and a list of references cited, and persons contacted; and (2) a map showing the location(s) of any bird nests observed

on the project site. This report shall be consistent with the requirements from the East Contra Costa County (Habitat Conservation Plan). If no active nests of the Migratory Bird Treaty Act, California Department of Fish and Game, or U.S. Fish and Wildlife Service protected species are identified then no further mitigation is required.

2. Should active bird nests be located in the survey area, the applicant, in consultation with the City of Pittsburg and CDFW, shall delay construction in the vicinity of active nest sites during the breeding season (March 1st through August 1st) while the nest is occupied with adults and/or young.
  3. A qualified biologist shall monitor any occupied nest to determine when the nest is no longer used. If the construction cannot be delayed, avoidance shall include the establishment of a non-disturbance buffer zone around the nest site. The size of the buffer zone will be determined in consultation with the CDFW but will be a minimum of 100 feet. The buffer zone shall be delineated by highly visible temporary construction fencing.
  4. No intensive disturbance (e.g., heavy equipment operation associated with construction or use of cranes) or other project related activities that could cause nest abandonment or forced fledging, shall be initiated within the established buffer zone of an active nest between March 1st and August 1st.
  5. If demolition/construction activities are unavoidable within the buffer zone, the project applicant shall retain a qualified biologist to monitor the nest site to determine if construction activities are disturbing the adult or young birds. If abandonment occurs the biologist shall consult with CDFG or USFWS for the appropriate salvage measures. This could include taking any nestlings to a local wildlife rehabilitation center.
  6. Trees that support active nests which are to be removed shall only be removed during the non-breeding, non-nesting season.
- g. CR-1 Treatment of unexpected paleontological resources. Should paleontological resources be identified at project construction sites during any phase of construction, the construction contractor/supervisor shall cease operation at the site of the discovery and immediately notify the City of Pittsburg Planning Department. The project applicant shall retain a qualified paleontologist to provide an evaluation of the find and to prescribe mitigation measures to reduce impacts to a less- than-significant level. In considering any suggested mitigation proposed by the consulting paleontologist, the City of Pittsburg Planning Department shall determine whether avoidance is necessary and feasible in light of factors such as the nature of the find, project design, costs, specific plan policies and land use assumptions, and other considerations. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other

parts of the project site while mitigation for paleontological resources is carried out.

**Engineering Conditions of Approval:**

**Engineering Fees and Deposits:**

1. Major Subdivision Map Processing Fee The applicant shall pay the subdivision map processing fee according to the following amounts as applicable to the project:

1 <sup>st</sup> – 3 <sup>rd</sup> Final Map Check		4 <sup>th</sup> Final Map Check
5-50 lots	\$4,000	\$4,000 + \$800/ea. additional map check
51-150 lots	\$4,500	\$4,500 + \$1,0650/ea. additional map check
151 or more	\$5,000	\$5,000 + \$1,330/ea. additional map check

50% of this fee shall be submitted with the first plan submittal. The remaining balance shall be paid in full to the Engineering Division prior to the City Council's approval of the final map.

2. Improvement Plan Check Fee The total improvement plan review fee is 4.5% of the engineer's estimate for the cost of improvements. An initial payment of 50% of the estimated total improvement plan review fee is to be submitted to the Engineering Division with the engineer's estimate with the first plans submittal. The remainder of the fee shall be due payable prior to the issuance of an engineering site development permit.
3. Improvement Inspection Fee. The applicant shall pay an improvement inspection fee according to the following rates as applicable to the project:

Percent of Engineer's Estimate	Total Estimated Project Costs
7.5%	≥ \$500,000
5%	\$500,001 - \$5 million
4.6%	\$5 million<

The improvement inspection fee shall be due payable prior to the issuance of an engineering site development permit.

4. Grading Plan Check Deposit  
The total grading plan review fee is 2.5% of the engineer's estimated cost for grading, or it may be based upon cubic yards of earth disturbance as set forth in the City's Master Fee Schedule. An initial payment of 50% of the estimated total grading plan review fee is to be submitted to the Engineering Division with the engineer's estimate with the first plans submittal. The remainder of the fee shall be due payable prior to issuance of a grading permit.
5. Grading Inspection Fee

The grading inspection fee is 3% of the engineer's estimated for 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 as set forth in the City's Master Fee Schedule.

6. In Lieu Parkland Dedication Fee

The applicant shall pay an in-lieu parkland dedication fee equivalent to providing 5 acres of park area per one thousand persons residing within the new development and shall be based on the fair market value of developed parkland, or as established with separate agreement as approved by the City Engineer.

7. Facility Reserve Charge

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 Division, for water and sewer service in the amounts in effect when the applicant obtains a building permit. The applicant understands that the current FRC on file, effective August 20, 2005, shall be paid in accordance with the fee schedule approved by Resolution No. 05-10290, and amended by Resolution No. 12-11778, on February 21, 2012, a copy of which is available at the City.

8. Local Traffic Mitigation Fee

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 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.

9. Regional Traffic Mitigation Fee

The applicant shall pay the Regional Transportation-Development Impact Mitigation Fee (PMC Chapter 15.103) (the "RTDIM") amount in effect when the applicant obtains a building permit. 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.

10. Geographical Information System

The applicant shall pay the Geographic Information System fee as set forth in the City's Master Fee Schedule, at the rate in place at the time of Engineering Permit issuance for construction of Site Improvements. The current fee is \$129 per



dwelling unit (*for residential projects*) and \$129 per unit plus \$0.06/sf (*for non-residential projects*).

11. NPDES Plan Review Fee The applicant shall pay a National Pollutant Discharge Elimination System (“NPDES”) plan review fee for review of stormwater control plans and processing of closeout agreements and/or review of Storm Water Pollution Prevention Plans (“SWPPP”). The current fee is:

- \$4,2146 for the first 10,000 sf up to 1st acre
- Add additional \$157/acre for projects greater than 1 acre, up to the first 5 acres
- Add additional \$34/acre for projects greater than 5 acres

12. NPDES Site Inspection Deposit. The applicant shall pay an NPDES inspection deposit for city staff’s inspection of C.3 compliant facilities constructed, and/or inspection of construction site for compliance with Best Management Practices in accordance with the City’s Municipal Regional Stormwater NPDES Permit. The current rate is:

- \$15,000 for the first 10,000 sf up to 1st acre
- \$30,000 for projects greater than 1 acre

This deposit shall remain in place for the duration of the first year of the project. If the project is completed prior to the project’s one-year anniversary, the remaining balance of the deposit will be returned to the applicant.

13. Supplemental Studies.

If additional engineering studies are deemed necessary by the City Engineer, i.e. geotechnical, structural, hydraulic, etc., or expedited reviews are requested by the applicant, the applicant shall pay for all costs related to the extra work. The costs may include the preparation of special studies, additional staff time, and/or reviews of the special studies if studies are prepared by the applicant’s engineer.

Engineering Submittals: The applicant shall submit electronic, pdf. files of the engineering plans to the Engineering Division for review and approval through the Accela permitting portal. The plans shall be prepared by a registered civil engineer, to include but not be limited to the following:

14. Final Map. The applicant shall submit the final map for condominium purposes with closure calculations, prior to City Council’s approval of each final map, improvement, or grading plans.

15. Improvement Plans. The improvement plans should include, but not be limited to, the following:

- Site Plan

- Grading and Drainage Plan
- Utilities Plan
- Landscaping and Irrigation Plan
- Joint Trench Plan
- Offsite Improvements Due to Project Impacts

16. Geotechnical Report. The applicant shall submit a current geotechnical report that supports 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 Division for review prior to the approval of any civil plans and/or the issuance of an engineering permit.

National Pollutant Discharge Elimination System (NPDES):

17. Permit Coverage under the State General Construction Permit.

The applicant shall submit a copy of the Notice of Intent (NOI) submitted to the State Water Resources Control Board for coverage under the Construction general Permit, and a copy of the Stormwater Pollution Prevention Plan (SWPPP). The 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 Stormwater Pollution Prevention Plan shall also include measures to prevent soil, dirt, and debris from entering the storm drain system, in accordance with California Stormwater Quality Association's (CASQA's) construction handbook.

18. Consistency with Stormwater Control Plan

Grading, improvement, and/or building plans shall be consistent with the approved Stormwater Control Plan. The applicant shall submit a complete Stormwater Control Plan and Narrative Report compliant with the requirements set forth in the City's most current NPDES permit. The C.3 treatment facilities shall be adequately sized to treat the stormwater runoff from the associated drainage management areas. The grading and/or building plans shall include drawings and specifications necessary to implement all measures in the approved Stormwater Control Plan. Design features should incorporate low impact development design standards as outlined in the most current edition of the Contra Costa Clean Water Program's C.3 Guidebook. These features include limiting directly connected impervious area, and incorporating pervious pavements, self-retaining areas, treatment BMPs, permanent stormwater control BMPs, and other features that control stormwater flow and potential for stormwater pollutants. Grading and/ or building permits shall not be issued until this condition is met to the satisfaction of the Engineering and Planning Divisions.

19. Operations and Maintenance Plan

The applicant shall submit a Stormwater BMP Operation and Maintenance Plan for the continuous maintenance of all C.3 facilities constructed to meet the C.3

requirements of the project. The final plan shall be submitted to the Engineering Division prior to the certificate of occupancy.

20. Operation and Maintenance Agreement and Right of Entry

The applicant shall execute the Operations and Maintenance Agreement and Right of Entry, which pertain to the transfer of ownership and / or long-term maintenance of stormwater treatment BMPs or hydrograph modification BMPs prior to the issuance of a certificate of occupancy. 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](http://www.cccleanwater.org)) or the Stormwater C.3 Guidebook, most current edition.

Utilities

21. Capacity Evaluation. 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 required to be constructed to accommodate the project shall be borne by the applicant.

Site Design Conditions:

22. Water Conveyance. The applicant shall provide proper water line size to meet the domestic and fire protection demands for the subdivision.
23. Fire Hydrants. The applicant shall provide fire hydrant locations approved by Contra Costa County Fire Prevention District. The applicant shall relocate the existing hydrant at the corner of School Street and Railroad Avenue to the back of sidewalk.
24. Sidewalk and Curb Return Improvements. The applicant shall remove and replace all damaged sidewalk surrounding the project site on School Street, Railroad Avenue, and E 17<sup>th</sup> Street. The existing driveways along Railroad Avenue shall be removed and replaced with 6' curb and sidewalk. The curb and sidewalk along School Street shall be removed and may be replaced with rolled curb and gutter conforming to the existing rolled curb and gutter on School Street.  
In addition, the applicant shall remove and replace the curb ramp at the corner of Railroad and E 17<sup>th</sup> Street and Railroad and School Street and Railroad with current ADA compatible curb return improvements.
25. Tree Removal Replacement. The applicant shall enter into a Development Agreement with the City of Pittsburg, as Conditioned. The Development Agreement shall specify the tree removal replacement requirements of the project, as required by the Pittsburg Municipal Code. Replacement and/or in-lieu fee must be installed and/or submitted to the Engineering Division prior to final Engineering approval of the project.

26. Water Use Calculations. The applicant shall provide estimated water use calculations to show compliance with the City's water efficient landscape ordinance.

Engineering Exactions (CFD inclusion):

27. Annexation Documentation for CFD 2005-1. Community Facilities District 2005-1 is for Public Safety Services, the fee will provide funding for an increase of police coverage in the area. The rate of the CFD 2005-1 fee is subject to City Council Resolution No. 05-10342. The applicant shall deliver written approval in a manner acceptable to the City Engineer, that the owner of the parcel is electing to annex the subject property into the 2005-1 Public Safety Services Community Facilities District (CFD 2005-1), prior to the recordation of the first Final Map.
28. Annexation Documentation for CFD 2007-1. Community Facilities District 2007-1 is for Park Maintenance. The rate of the CFD 2007-1 fee is subject to City Council Resolution No. 07-10698. The applicant shall deliver written approval in a manner acceptable to the City Engineer, that the owner of the parcel is electing to annex the subject property into the 2007-01 Park Maintenance Community Facilities District (CFD 2007-1), prior to the recordation of the first Final Map.
29. Annexation Documentation for CFD 2014-1. Community Facilities District 2014-1 is for the Railroad Avenue Specific Plan area. The rate of the CFD fee is subject to City Council Resolution No. 14-12094. The applicant shall pay the one-time CFD fee for Community Facilities District (CFD 2014-1), prior to issuance of any building permits.
30. Annexation Documentation for CFD 2017-1. Community Facilities District 2017-1 is for fire facilities and fire safety and emergency services. The rate of the CFD 2017-1 fee is subject to City Council Resolution No. 17-13311. The applicant shall deliver written approval in a manner acceptable to the City Engineer, that the owner of the parcel is electing to annex the subject property into the 21017-1 Fire Facilities and Fire Safety and Emergency Services Community Facilities District (CFD 2017-1), prior to the issuance of any building or engineering permits.

**Building Division Conditions of Approval**

1. On the cover sheet, please indicate the building Design Codes applicable to this project. The City of Pittsburg has adopted and enforces the following building Design Codes: 2022 California Administrative Code (CAC), 2022 California Building (CBC), 2022 California Historical Building Code (CHBC), 2022 California Existing Building Code (CEBC), 2022 California Green Building Standards Code (CGBSC), 2022 California Mechanical Code (CMC), 2022 California Plumbing Code (CPC), 2022 California Electrical Code (CEC), 2022 California Energy Code (CEC Part 6), 2022 California Fire Code and the Pittsburg Municipal Code (RMC). Reference CBC Sec. 107.

2. On the cover sheet, please verify the Drawing Index includes all plan sheets. Reference CBC Sec. 107.
3. On the cover sheet, provide or verify the Code Analysis includes the proposed tenant's Use, Occupancy Group, Type of Construction, Separated or Nonseparated Mixed Occupancies, whether or not the building is Fire Sprinkled, Floor Area (S.F.), Number of Stories and Occupant Load. Reference CBC Sec. 111, 302.1, 401, 503, 508, 601, 903 and 1004.1.
4. The preparation of plans or specifications for commercial buildings and tenant improvements shall be performed by a licensed architect or engineer (Exception: Interior alterations that involve only non-bearing partitions). The licensed architect or engineer shall affix a stamp to the plans as evidence of the person's responsibility for the documents. Licensed Mechanical, Plumbing and Electrical Contractors may design the systems that they are to install.
5. The Site Plan shall include code compliant accessible parking spaces and access aisles, and an accessible route from accessible parking spaces to all entrances and exterior ground floor exits. The clear width for sidewalks and walks shall be 48" minimum. The slope of the accessible route shall not exceed 1:20 (5%) in the direction of travel for walking surfaces, 1:12 (8.3%) in the direction of travel for ramps, and the cross slope shall not exceed 1:48 (2%). The slope of curb ramps shall not exceed 1:12 (8.3%). Where the accessible route crosses onto a vehicular route of travel, provide a 36" long continuous detectable warning mat where the pedestrian path crosses or adjoins the vehicular way, such as a driveway, to warn of potential hazards.
6. At least one accessible route shall be provided within the site from accessible parking spaces and accessible loading zones; public streets and sidewalks; and public transportation stops to the accessible building or facility entrance they serve. Where more than one route is provided, all routes must be accessible.
7. At least one accessible route shall connect accessible buildings, accessible facilities, accessible elements, and accessible spaces that are on the same site.
8. All exterior and interior accessibility requirements for this project, shall be designed and built to chapter 11B of the California Building Code.

**Eastern Contra Costa County Fire Protection District Conditions of Approval:**

The following is required for Fire District approval in accordance with the 2022 California Fire Code (CFC), the 2022 California Building Code (CBC), and Contra Costa County Fire Protection District current Fire Ordinance.

### **CFC Chapter 33 Fire Safety During Construction (Fire Prevention Program)**

*The owner or owner's authorized agent shall be responsible for the development, implementation, and maintenance of an approved, written site safety plan establishing a fire prevention program at the project site applicable throughout all phases of the construction, repair, alteration, or demolition work. The plan shall address the requirements of this chapter and other applicable portions of the code, the duties of staff and staff training requirements. **The plan shall be submitted and approved before a building permit is issued.** Any changes to the plan shall be submitted for approval (CFC §3303.1).*

- Program requirements are defined in Chapter 33 of the California Fire Code and NFPA 241.
- The fire prevention program superintendent shall develop and maintain an approved pre-fire plan in cooperation with the Fire Chief.
- The Fire Chief and Fire Code Official shall be notified of changes affecting the utilization of information contained in such pre-fire plans.
- The Fire Prevention Program for Fire Safety During Construction shall comply with NFPA 241.

*Based on our preliminary review, the following items do not comply with Contra Costa County Fire Protection District requirements:*

**1.** The project as proposed requires Aerial Fire Apparatus Access Roads. The proposed access does not comply with the California Fire Code. The project shall comply with the following **California Fire Code Appendix D, Section D105.**

- The distance between the Building #2 and a compliant aerial apparatus access road (E 17th St or School St) exceeds 30 feet.
- The road that runs between the buildings does not comply with the required 26-foot width for an Aerial apparatus access road and is closer than the minimum distance allowed (15 feet).
- The width between buildings narrows as it goes towards the top (approximately 15'-6"), which does not allow the use of the aerial ladder in an emergency.

**2.** The project proposes two access/exit gates, one on E 17th Street and one on School Street. CCCFPD's Ordinance added Section D103.5: access gates shall slide horizontally or swing inward and **shall be located a minimum of 30 feet from the street.**

- Both gates' distances are less than the required 30 feet.

**3.** The proposal of an alternate roadway surface material (e.g., grasscrete or any porous grass pavers) shall require an application and fees for an Alternate Materials and Methods review.

Alternate materials for paving systems involving plastic components or involving turf/sod installed over the paving system will not be permitted. (CCCFPD standard FPS-020)

- An Alternate Means and Methods review is required for the use of permeable pavers for an apparatus access road.

*The following are notes for the developer for the official Fire District review of the project:*

1. The developer is required to submit a Fire Land Development application and plan submittal to Contra Costa County Fire Protection District for review and approval.

- **For submittal requirements, information, or questions about the permit process or CCCFPD Standards, please email the CCCFPD Permit Technicians at [permittech@cccfd.org](mailto:permittech@cccfd.org).**
- The Land Development plans shall comply with the California Fire Code and CCCFPD's Ordinance amendments/additions.
- **The Land Development application is a separate submittal from the building construction plans. These plans shall be approved prior to submitting building plans for review.**

2. The following are deferred submittals that the developer may be required to apply for as a result of a Fire Land Development Review:

- a) Automatic Fire Sprinkler System
- b) Fire Alarm
- c) Fire Pump
- d) Private Fire Service Main Underground
- e) Alternate Means and Methods
- f) Emergency Responder Communication Coverage

**ALL PLAN SUBMITTALS SHALL BE SUBMITTED THROUGH THE FIRE DISTRICT'S PUBLIC PORTAL WEBSITE:**

**<https://confire.vision33cloud.com/citizenportal/app/landing>**

**Our preliminary review comments shall not be construed to encompass the complete project. Additional plans and specifications may be required after further review.**

*To schedule a Fire District Inspection of the Access and Hydrant installation prior to construction or the storage of combustible materials on the job site, contact the Fire District (minimum 2 working days in advance) at 925-941-3300 ext. 3902 OR schedule through the Fire District's Public Portal Website under the corresponding permit number.*

**CITY OF PITTSBURG  
PLANNING COMMISSION  
STAFF REPORT  
August 27, 2024**

**ITEM:** **Recommending City Council introduce and adopt two Ordinances for the Creating Healthy Communities Project: 1) Amending Titles 5, 8, 9, and 18 of the Pittsburg Municipal Code, to Revise Requirements for a Tobacco Retailer License, Limit Smoking in Specific Locations, Update the Social Host Ordinance, and Add Requirements for Cannabis Businesses, consistent with state law; and 2) Amending Title 18 of the Pittsburg Municipal Code, Adding Article XXII to Chapter 18.84 to establish Alcohol Performance Standards, AP-23-0145 (RZ – Text Amendment).**

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

SUBJECT: This is a request for recommendation to the City Council to introduce and adopt two Ordinances for the Creating Healthy Communities Project: 1) Amending Titles 5, 8, 9, and 18 of the Pittsburg Municipal Code, to Revise Requirements for a Tobacco Retailer License, Limit Smoking in Specific Locations, Update the Social Host Ordinance, and Add Requirements for Cannabis Businesses, consistent with state law; and 2) Amending Title 18 of the Pittsburg Municipal Code, Adding Article XXII to Chapter 18.84 to establish Alcohol Performance Standards.

RECOMMENDATION: Staff recommends that the Planning Commission adopt a resolution hereby recommending that the City Council introduce and adopt two Ordinances for the Creating Healthy Communities Project: 1) Amending Titles 5, 8, 9, and 18 of the Pittsburg Municipal Code, to Revise Requirements for a Tobacco Retailer License, Limit Smoking in Specific Locations, Update the Social Host Ordinance, and Add Requirements for Cannabis Businesses, consistent with state law; and 2) Amending Title 18 of the Pittsburg Municipal Code, Adding Article XXII to Chapter 18.84 to establish Alcohol Performance Standards, AP-23-0145 (RZ – Text Amendment).

BACKGROUND: The proposed request is to amend various Chapters of the Pittsburg Municipal Code (PMC) for the Creating Healthy Communities Ordinances. The following information details the City of Pittsburg’s previous ordinances adopted regarding the topics of tobacco, alcohol, and cannabis uses in the City. The background discussion below provides detail of the associated State legislation and propositions granting local governments the authority to enforce regulations specific to alcohol, tobacco and cannabis sale, marketing, and use. The background concludes with information pertaining to the formation of the Creating Healthy Communities Ad-Hoc Subcommittee, public outreach initiatives, as well as previous reports prepared specific to underage use of alcohol, tobacco, and cannabis, which further prompted and increased the urgency of developing the proposed Ordinances.

*PMC Title 8 – Chapter 8.20 “Smoking in Public and Workplaces”*

On August 1, 1994, the City of Pittsburg City Council adopted Title 8, Chapter 8.20 “Smoking in Public and Workplaces” (City Council Ordinance No. 94-1087). The intent of



the Ordinance was to generally promote the health, safety, and welfare of all people in the community against the health hazards of harmful effects of the use of addictive tobacco products. It prohibited indoor smoking in various public spaces and within certain areas of workplaces.

The Ordinance was modified in both 1995 and 2014 with City Council Ordinances 95-1098 and 14-1382 to further clarify the Smoking in Public and Workplaces Ordinance and to regulate the use of electronic smoking devices. The Creating Healthy Communities Ordinances propose an amendment to Smoking in Public and Workplaces.

*PMC Title 5, Division II, Chapter 5.68, "Tobacco Retailer License"*

On May 3, 1999, the City of Pittsburg City Council adopted Ordinance No. 99-1157, Adding New Chapter 5.68 to Division II of Title 5 of the Municipal Code Concerning Tobacco Advertisements and Retailer License Requirements, referred to as "Tobacco Retailer License". The purpose of the Ordinance was to (1) promote the welfare of minors by discouraging the commercial exploitation of the potential underage tobacco users, (2) discourage actions that promote the unlawful sale of tobacco products to minors, (3) discourage the unlawful purchase or possession of tobacco products by minors. PMC Title 5, Chapter 5.68 has not been amended since its adoption in 1999. The Creating Healthy Communities Ordinances propose an amendment to the Tobacco Retailer License.

*PMC Title 9, Division II, Chapter 9.25, "Social Host Ordinance"*

On July 15, 2013, the City of Pittsburg City Council adopted Title 9, Division II, Chapter 9.25 "Social Host Ordinance" with Ordinance No. 13-1374. The City Council found that underage drinking is a serious threat to public health and safety and gatherings on private property where alcohol is consumed by underaged persons is a serious problem in the City of Pittsburg. The intent of the Ordinance was to protect the public peace, health, safety or general welfare by minimizing occurrences of underage drinking and by minimizing gatherings that threaten the safety on the streets and in the neighborhood. Social host ordinances prevent underage drinking parties by holding the host (e.g., parents or other adults) accountable for these parties. As adopted, the Social Host Ordinance only applies to underage use of alcohol. In Contra Costa County, Orinda and Moraga, have amended their social host ordinances to include cannabis. The Creating Healthy Communities Ordinances propose an amendment to the Social Host Ordinance.

*PMC Title 18, Division V, Chapter 18.88, "Cannabis Uses"*

On February 16, 2016, Title 18, Division V, Chapter 18.88 "Cannabis Uses" was adopted with City Council Ordinance No. 16-1403. This prohibited medical cannabis cultivation in the City. Title 5 and 18 were amended with City Council Ordinances No. 16-1414 and No. 16-1415, to further regulate and/or ban medical cannabis uses in the City and to regulate and/or ban non-medical cannabis uses in the City. Further, City Council Ordinance No. 18-1448 was adopted to amend Title 18 to allow for use of cannabis in medical and non-medical product manufacturing. City Council Ordinance No. 21-1492 further amended Title

5 and 18 to allow for commercial cannabis business permitting. The Creating Healthy Communities Ordinances propose an amendment to PMC Chapter 18.88.

*California Assembly Bill 71 of 2003 (AB-71)*

On October 12, 2003, AB-71 was enacted which requires a statewide licensing program for tobacco manufacturers importers, wholesalers, distributors, and retailers. Effective January 1, 2004, California Business and Professions Code Division 8.6, Cigarette and Tobacco Products Licensing Act of 2003, Chapter 1, General Provisions and Definitions, Section 22971.3 explicitly permits cities and counties to enact local tobacco retail licensing ordinances and allows for the suspension or revocation of a local license for a violation of any state tobacco control law. A local tobacco retail license is generally adopted to (1) create more comprehensive restrictions than State law on the sale or marketing of tobacco products in the retail environment; (2) allow for meaningful penalties for violation of tobacco control laws such as license suspension; and (3) help fund local enforcement of tobacco control laws through the licensing fee.

*California Proposition 64 of 2016 (Proposition 64)*

On November 9, 2016, Proposition 64 legalized specified personal use and cultivation of marijuana for adults 21 years of age or older; reduces criminal penalties for specified marijuana-related offenses for adults and juveniles; and authorizes resentencing or dismissal and sealing of prior, eligible marijuana-related convictions. The proposition includes provisions on regulation, licensing, and taxation of legalized use. California Business and Professions Code Division 10, Cannabis, Chapter 20, Local Control, Section 26200(a) authorizes local governments to regulate adult use cannabis businesses through “local zoning and land use requirements, business license requirements” or to completely prohibit such sales within the jurisdiction.

*California Parent Teacher’s Association Regulation of Liquor Licenses Near Schools*

In May 1997, California State Parent Teacher’s Association Convention Delegates adopted Regulations for Liquor Licenses Near Schools, which was later reviewed and deemed relevant in November 2017. These regulations encourage councils and districts to urge city and county agencies to develop and implement legislation that would deny the licensing of any establishment which sells alcoholic beverages within 600 feet of schools.

*American Lung Association (ALA), State of Tobacco Control (SOTC)*

In January 2024, the ALA released its annual report of SOTC, which is a report that tracks the progress on key tobacco control policies at the local level by assigning grades to municipalities based on jurisdiction-specific tobacco control and reform. While the State of California is considered a leader in combating the tobacco industry at the federal level, the City of Pittsburg, included in the Contra Costa County section of the SOTC report, has consistently scored an “F” over the last several years. This grade was determined by evaluating the following criteria in the City: “Smokefree Housing”, “Reducing Sales of

Tobacco Products”, “Restriction on Flavored Tobacco Products”, and “Smokefree Outdoor Air”. The 2024 annual SOTC Report is included as Attachment 2 to this Staff Report.

#### *California Proposition 31 of 2022 (Proposition 31)*

On November 8, 2022, California voters passed Proposition 31, which upholds Senate Bill 793 of 2020 (SB 793) that prohibits the sale of certain flavored tobacco products, including flavor enhancers. The prohibition includes flavored e-cigarettes and vapes, flavored e-juice, pods, and cartridges, menthol cigarettes, flavored little cigars and cigarillos, flavored smokeless tobacco products, flavored blunt wraps, flavored loose-leaf roll-your-own tobacco, flavored tobacco rolling papers, and tobacco product flavor enhancers. The following items are not prohibited by state law and would not be prohibited with the Creating Healthy Communities Ordinances Amendment: flavored hookah/shisha, flavored loose-leaf pipe tobacco, and flavored premium cigars costing \$12 or more.

#### *Formation of the Creating Healthy Communities Ad-Hoc Subcommittee*

On August 15, 2022, the Pittsburg City Council Agenda included a Presentation titled “A study on Tobacco, Alcohol and Cannabis Policy Options”, in conjunction with a Report titled “Tobacco and Cannabis Policy Options”. The Report, included as Attachment 3 to this Staff Report, referenced the American Lung Association’s SOTC of 2022, as well as the City of Pittsburg’s overall grade of “F”. The Presentation and Report detailed options for policy improvements related to tobacco, alcohol, and cannabis sales, marketing, and use within the City. At the meeting, City Manager Garrett Evans suggested the formation of an Ad-Hoc Subcommittee to ensure that any policy adoption is comprehensive and supports the concerns of both the Pittsburg City Council and the Pittsburg community. Vice Mayor Shanelle Scales-Preston and Council Member Jelani Killings volunteered to join the Ad-Hoc Subcommittee, which was later formalized with a Minute Order at the September 19, 2022, City Council Meeting.

On December 2, 2022, the Creating Healthy Communities Ad-Hoc Subcommittee met to discuss initiatives related to tobacco, alcohol, and cannabis in the City. Discussion during the Subcommittee meeting reviewed potential policy options pertaining to the creation of a healthy community for the City of Pittsburg. The Subcommittee expressed support and enthusiasm for the development of the Ordinance.

On July 19, 2023, the Creating Healthy Communities Ad-Hoc Subcommittee met to discuss the progress of the Ordinance drafting. Members of the Subcommittee were supportive of the proposal to prohibit smoking in multi-unit housing developments and other outdoor facilities. Other topics discussed included quantity of compliance checks under the Tobacco Retailers License, process for issuance of administrative citations for tobacco retailers, and whether the City should move forward with more restrictive regulations for tobacco sales, use, and marketing than what State law prescribes. After receiving the comments and feedback, staff further defined compliance checks and administrative citations in the final draft of the Creating Healthy Communities Ordinance.

Additionally, staff revised the Ordinance to comply with state law, rather than surpassing what state law dictates, as requested by the Ad-Hoc Subcommittee.

On October 30, 2023, the Creating Healthy Communities Ad-Hoc Subcommittee met to discuss the draft Ordinance and to provide feedback on a potential second Ordinance specifically focused on Alcohol Performance Standards. Members of the Subcommittee recommended exclusion of grocery and drug stores from any proximity limitations included in the proposed Ordinance, as the community benefit of these establishments outweigh proximity restrictions. Further, the Subcommittee recommended Alcohol Performance Standards to be included in the overall Creating Healthy Communities project.

The Creating Healthy Communities Ad-Hoc Subcommittee met throughout 2024 to discuss finalization of the draft Ordinances and associated public outreach and notification processes.

In August 2024, staff distributed a notification to all interested parties and to all active businesses involving the sale, service, advertisement, or use of tobacco, alcohol, and cannabis products, notifying them of the proposed Creating Healthy Communities Ordinances and detailing how they may obtain additional information on the matter if needed. This outreach included a publication in the East County Times local newspaper, posting of the proposed Ordinances on the City's social media, mailing via first class mail and emailing of the proposed Ordinances to all licensed alcohol and tobacco sales and service establishments, and hand delivery of the proposed Ordinances to businesses in the City of Pittsburg that currently sell or serve alcohol or tobacco products.

#### PROJECT DESCRIPTION:

Existing Conditions: The PMC provides guidance and instruction for regulating tobacco, alcohol, and cannabis uses in the City through various provisions including, but not limited to, Title 5, Division II, Chapter 5.68 "Tobacco Retailer License", Title 8, Chapter 8.20 "Smoking in Public and Workplaces", Title 9, Division II, Chapter 8.20 "Social Host Ordinance", and Title 18, Division V, Chapter 18.88 "Cannabis Uses". While the provisions listed within these chapters have allowed the City to enforce the law and address any public nuisances pertaining to tobacco, alcohol, and cannabis in the City, the proposed Text Amendment includes revisions to comply with most recent state law, to better define, regulate, and enforce the sale, marketing and use of alcohol, tobacco, and cannabis products in the City, and to overall, create a healthier community.

Proposed Project: The Creating Healthy Communities Ordinances Amendment began with an analysis of the PMC regulations specific to tobacco, cannabis, and alcohol uses. In particular, the analysis included the review of sales, marketing, and use of all three substances in the City. Each substance was evaluated based on its existing health impact on the public, existing law in effect, potential policy options for the local government to adopt, and the legal authority of the local government with relation to the substance in general. Upon completion of the analysis, a report titled "Tobacco and Cannabis Policy Options" (Attachment 3) was presented to the members of the City Council on August 15,

2022. At that meeting, a “Creating Healthy Communities” Ad-Hoc Subcommittee was established with the goal to regulate (1) tobacco, alcohol, and cannabis sales; (2) tobacco and cannabis use (especially in youth); (3) cannabis use (especially in youth); and (4) to establish alcohol performance standards.

The Creating Healthy Communities Ordinances would be applicable and implemented through text amendments to Titles 5, 8, 9, and 18 of the PMC. The Ordinances would be applicable City Wide with regard to alcohol, tobacco, and cannabis sales, marketing, and use within the City.

PMC Title 5, Division II, Chapter 5.68 would be amended by eliminating the current Tobacco Retailer’s License requirement, which only applies to retailers that have been found guilty of one or more tobacco-related violations. The remaining Chapter would provide regulations regarding the following:

1. Require a tobacco retail license for all tobacco retailers with an annual fee; violating any state, local, or federal law constitutes a license violation.
2. Prohibit smoking in tobacco retailers.
3. Prohibit self-service displays.
4. Prohibit the sale of flavored tobacco products consistent with the exemptions in California law.
5. Prohibit the sale of electronic cigarette products.
6. Prohibit the distribution of tobacco samples or promotional items.
7. Prohibit the redemption of coupons and discounts.
8. Require a minimum package size for cigars of at least five cigars per pack, unless the price per cigar is a minimum of \$10.00 per cigar, excluding all applicable taxes and fees.
9. Prohibit new tobacco retailers within 600 feet of a school, day care, club or lodge used exclusively as a youth center, city-owned park space open to the public, religious assembly, or library.
10. Prohibit new tobacco retailers within 500 feet of existing tobacco or cannabis retailers, excluding grocery and drug stores.

PMC Title 8, Chapter 8.20 would be amended to:

1. Revise definitions.
2. Revise the prohibition of smoking in enclosed and unenclosed spaces. State law allows local governments to regulate smoking locations.
  - a. Prohibit smoking in multi-unit residences (two or more units), including in areas:
    - i. Inside the unit
    - ii. On associated balconies or porches
    - iii. In indoor common areas
    - iv. In outdoor common areas.
  - b. Prohibit smoking in outdoor, unenclosed areas, including:
    - i. Dining areas

- ii. Recreational areas
- iii. Within 25 feet of business entrances
- iv. Service areas
- v. Public events
- vi. Outdoor worksites
- vii. Tobacco shops.

PMC Title 9, Division II, Chapter 9.25 would be amended to:

1. Expand the scope of the existing Social Host Ordinance to include gatherings where unlawful use of cannabis occurs.

PMC Title 18, Division V, Chapter 18.88 would be amended to:

1. Revise definitions
2. Establish Cannabis Performance Standards for commercial cannabis businesses in the City of Pittsburg.

PMC Title 18, Division V, Chapter 18.84, Article XXII would be added to:

1. Establish Alcohol Performance Standards for all alcohol sales in the City of Pittsburg. This includes:
  - a. Use Permit Requirements
  - b. Regulations regarding proximity to youth-oriented facilities and proximity to other alcoholic beverage sales or service establishments
  - c. Posting and Signage Requirements
  - d. Hours of Operation limitations
  - e. Property upkeep requirements
  - f. Advertisement regulations
  - g. Inspections and enforcement
  - h. Overall business operations for alcoholic beverage sales and service establishments.

The Creating Healthy Communities Ordinances Amendments to Titles 5, 8, 9, and 18, if adopted by the City Council, would amend, append, or repeal the PMC Sections as identified in Attachment 4 to this Staff Report.

#### GENERAL PLAN/CODE COMPLIANCE:

General Plan: This is a City-initiated, City-wide project to amend the text within Titles 5, 8, 9, and 18 of the PMC. The proposed amendments would implement standards related to the sale, marketing, and use of alcohol, tobacco, and cannabis in the City with the intent to create a healthier community for the City of Pittsburg. The proposed amendments would not change or conflict with any General Plan Goal or Policy prescribed by the General Plan. The proposed Healthy Communities Ordinances (“Ordinances”) is in compliance with the General Plan, in that:

1. The proposed Ordinances would prohibit an overconcentration of tobacco and cannabis uses by establishing a minimum separation distance of 500 feet between tobacco and/or cannabis retailers. Further, the proposed Ordinances would prohibit alcoholic beverage sales or service establishments from locating within six hundred feet of a sensitive land use, as described in the proposed Ordinances.
2. The proposed Ordinances would prohibit issuance of new tobacco retailer's license if within 600 feet of a an existing, legally established school, day care, club or lodge used exclusively as a youth center, city-owned park space which is open to the public, religious assembly, or library, as measured from the main entrance of the tobacco retailer to the nearest access point of the other use, following the shortest publicly accessible path of travel, including but not limited to streets, alleys, sidewalks, pathways, or trails. Further, no new license may be issued to authorize tobacco retailing less than 1,000 feet from any legally established school, as measured by the shortest direct line distance as measured from the main entrance of the tobacco retailer to the nearest parcel boundary of the other use. The proposed regulations ensure compliance with General Plan Policy 2-P-1.2 and Policy 2-P-1.3, which promotes "land use compatibility through development standards, use restrictions, environmental review, and design considerations and ensures "consistency and compatibility between the Land Use Map, land use designations, and implementing plans, ordinances, and regulations." In addition, the Policy 2-A-2.b requires the implementation of Zoning Code amendments and internal Planning staff procedures to "consider project compatibility during development review with existing surrounding land uses and ensure that mitigation is provided to make certain that sensitive uses—such as residences, schools, and parks—are not subject to hazardous or unhealthy conditions." As part of the Creating Healthy Communities Ordinances, specific buffers between noncompatible uses are proposed, and land use regulations have been added to ensure compliance with these General Plan Policies.
3. General Plan Action 2-A-2.a requires the City to ensure that buffers, including landscaping, berms, parking areas, and storage facilities, are used to separate potentially incompatible uses in the City. The proposed Ordinances would require a minimum separation of 600 feet between alcohol sales or service establishments and developments primarily utilized by sensitive receptors. In addition, the General Plan Action 2-A-2.b requires the City to ensure "that sensitive uses—such as residences, schools, and parks—are not subject to hazardous or unhealthy conditions". Adoption of the proposed amendment would require the City to review all proposals for new alcohol sales or service establishments in the City to ensure compliance with all standards included herein. The proposed amendment allows for inspection and enforcement of noncompliant establishments, which further complies with the General Plan's Goals and Policies.

The proposed Creating Healthy Communities Ordinances would be consistent with General Plan Goals and Policies to facilitate a cleaner, health equitable, and safer community for the residents of the City.

Land Use – Zoning Text Amendment Request (Rezone): The proposed Text Amendments include a request to amend the text within PMC, Title 18, Zoning, Division V, Chapter 18.88, Sections 18.88.010 and 18.88.051 and the addition of Article XXII to Chapter 18.84 of Division V of Title 18 of the PMC. The proposed Text Amendments also include a request to amend PMC Titles 5, 8, and 9. The proposed Ordinances Amending PMC 5, 8, 9, and 18 are attached to the Resolution for this item.

Required Findings – Zoning Text Amendment: PMC Section 18.16.020 identifies the Planning Commission as the advisory body to the City Council on proposed changes to the Zoning Text, and PMC Section 18.48.030(A) requires that the Planning Commission determine, prior to making its recommendation, whether or not:

- A. the change proposed is consistent with the Objectives, Policies, general Land Uses and Programs specified in the General Plan and applicable Specific Plan;
- B. in the case of a Base District, Overlay District or General Land Use Regulation, the change proposed is compatible with the uses authorized in, and the regulations prescribed for, the Land Use District for which it is proposed;
- C. a community need is demonstrated for the change proposed; and
- D. its adoption would be in conformity with public convenience, general welfare and good zoning practice.

Environmental: This amendment of the PMC is exempt from the requirements of the California Environmental Quality Act (CEQA) under the general rule of applicability of the State CEQA Guidelines, Section 15061(b)(3), in that the activity in question consists of text amendments that would not result in a physical impact on the environment. The proposed amendments to the PMC do not include any mapping changes that would allow new uses in areas not previously permitted, and the text amendments and clarifications proposed would not result in any direct significant negative physical impacts on the environment. If the Commission recommends City Council adoption of the Creating Healthy Communities Ordinances Amendments, and if the City Council adopts the Creating Healthy Communities Ordinances Amendments, staff will file a Notice of Exemption with the Contra Costa County Clerk-Recorder's Office pursuant to Public Resources Code Sections 21108(b) and 21152(b).

Public Notice: On or prior to August 16, 2024, notice of the August 27, 2024, Planning Commission public hearing to consider this item 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) as a 1/8 page advertisement; was mailed via first class mail or electronic mail to all tobacco retailers and alcoholic beverage sales or service business owners and landlords of the alcoholic beverage sales or service



establishment; was hand-delivered to businesses within the City of Pittsburg that sell or serve tobacco or alcoholic beverages; and was mailed via first class mail or electronic mail to all interested parties and individuals and organizations that requested such notice, in accordance with PMC sections 18.14.010, and Government Code section 65090 and 65091. The notice was also posted on [www.nextdoor.com](http://www.nextdoor.com) (“Nextdoor”) and was sent directly to all subscribers of the City of Pittsburg. The Public Hearing Notice is included as Attachment 4 to this Staff Report.

#### ANALYSIS:

Zoning Text Amendment Findings (Rezone – Text Amendment): In order for the Planning Commission to recommend approval of a Rezone – Text Amendment application to the City Council, the Planning Commission must find that the Text Amendment proposed is consistent with the objectives, policies, general land uses, and programs specified in the General Plan; that there is a community need; that the amendment proposed would be in conformity with public convenience, general welfare and good zoning practice, and, in the case of an Base District, Overlay District or General Land Use Regulation, that the change proposed is compatible with the uses authorized in, and the regulations prescribed for, the land use district for which it is proposed. Staff believes all findings to support the recommendation to City Council for adoption of the Creating Healthy Communities Ordinances Amendments request can be made in the affirmative.

The proposed Creating Healthy Communities Ordinances amendments are consistent with the Objectives, Policies, general Land Uses and Programs specified in the General Plan, in that the proposed amendments only further solidify the goals and policies of the 2040 General Plan with regard to the consideration of project compatibility with existing surrounding land uses.

The proposed Creating Healthy Communities Ordinances would establish a buffer between alcohol, tobacco, and cannabis retailers or businesses and would establish a buffer between the retailer and any sensitive use or receptor. In addition, the Ordinances propose to regulate smoking in multi-unit housing, which would further ensure equitable health for residents. Smoking in enclosed and unenclosed spaces has been studied and has been found to create adverse health effects to those suffering from second-hand smoke illnesses. Eliminating the potential for smoking in enclosed and unenclosed areas in the City will help to ensure that sensitive uses and sensitive receptors are not subject to hazards or unhealthy conditions from potential second-hand smoke.

A community need is demonstrated for the Creating Healthy Communities Ordinances, in that various data from credible research that has been conducted with alarming findings listed below. Further information and citations to this data is included in Attachment 3 to this Staff Report.

1. In California, research indicates over 67% of current and former adult smokers started by the age of 18 and almost 100% start by age 26.
2. In 2019-20, 28.6% of California high school students had used any tobacco product and 9.7% used tobacco in the last 30 days.

3. Vapes were the most used tobacco product among California high school students (8.2%).
4. Among youth who currently use e-cigarettes, 84.9% used flavored e-cigarettes. Use of disposable e-cigarettes (such as Juul and PuffBar) increased about 1,000% (from 2.4% to 26.5%) among high school e-cigarette users and more than 400% (from 3% to 15.2%) among middle school e-cigarette users during 2019-2020.
5. Among high school students who currently vape, 51% reported paying for their vapes.
6. Among those who reported buying vapes from the store, tobacco or smoke shops (40.1%) and vape shops (33.9%) were the most popular store types for purchasing vapes.
7. Flavored tobacco products are used by most youth and young adult tobacco users (86.4%) in California.
8. Mentholated and flavored products have been shown to be “starter” products for youth who begin using tobacco and that these products help establish tobacco habits that can lead to long-term addiction.
9. In a 2022 national study of high school students, marijuana use reached the highest levels ever recorded; 21% of 12<sup>th</sup> graders used cannabis in the past month and 30% of 12<sup>th</sup> graders used cannabis in the past year.

The adoption of the Creating Healthy Communities Ordinances would be in conformity with public convenience, general welfare and good zoning practice, in that Performance Standards for alcohol and cannabis, the inclusion of Cannabis in the Social Host Ordinance amendment, and the proposed Tobacco Retailer License regulations will discourage the youth in the community from potential exposure to second-hand smoke and underage cannabis or tobacco use.

The Ordinances would overall establish a cleaner and safer environment within the City of Pittsburg in terms of air quality, public nuisances, and other community-benefitting regulations, as described in the proposed Ordinances.

ACTION REQUIRED:

Move to adopt a Resolution recommending City Council introduce and adopt two Ordinances for Creating Healthy Communities: 1) Amending titles 5, 8, 9, and 18 of the Pittsburg Municipal Code, to revise requirements for a Tobacco Retailer License, Limit Smoking in Specific Locations, update the Social Host Ordinance, and Add Requirements for Cannabis Businesses, consistent with state law; and 2) Amending Title 18 of the Pittsburg Municipal Code, Adding Article XXII to Chapter 18.84 to establish Alcohol Performance Standards, AP-23-0145 (RZ – Text Amendment).

ATTACHMENTS:

1. Resolution
  - a. Exhibit A, Ordinance Amending Titles 5, 8, 9, and 18 of the Pittsburg Municipal Code, to revise requirements for a Tobacco Retailer License, Limit

Planning Commission Staff Report  
Creating Healthy Communities  
August 27, 2024

Smoking in Specific Locations, update the Social Host Ordinance, and Add Requirements for Cannabis Businesses, consistent with state law.

- b. Exhibit B, Ordinance Amending Title 18 of the Pittsburg Municipal Code, Adding Article XXII to Chapter 18.84 to establish Alcohol Performance Standards.
2. American Lung Association 2024 Report – State of Tobacco Control
3. Tobacco and Cannabis Policy Options, Dated August 15, 2022
4. Public Hearing Notice for Creating Healthy Communities

Prepared by: Kelsey Gunter, Associate Planner

PROPOSED  
BEFORE THE PLANNING COMMISSION OF THE CITY OF PITTSBURG

In the Matter of:

Recommending City Council introduce and	)	Resolution No.
adopt two Ordinances for the Creating	)	
Healthy Communities Project: 1) Amending	)	
Titles 5, 8, 9, and 18 of the Pittsburg Municipal	)	
Code, to Revise Requirements for a Tobacco	)	
Retailer License, Limit Smoking in Specific	)	
Locations, Update the Social Host Ordinance,	)	
and Add Requirements for Cannabis	)	
Businesses, consistent with state law, and 2)	)	
Amending Title 18 of the Pittsburg Municipal	)	
Code, Adding Article XXII to Chapter 18.84 to	)	
establish Alcohol Performance Standards,	)	
<u>AP-23-0145 (RZ – Text Amendment)</u>	)	

The Planning Commission of the City of Pittsburg DOES RESOLVE as follows:

Section 1. Background

A. The proposed request is to amend various Chapters of the Pittsburg Municipal Code (PMC) for the Creating Healthy Communities Ordinances. The following information details the City of Pittsburg’s previous ordinances adopted regarding the topics of tobacco, alcohol, and cannabis uses in the City. The background discussion below provides detail of the associated State legislation and propositions granting local governments the authority to enforce regulations specific to alcohol, tobacco and cannabis sale, marketing, and use. The background concludes with information pertaining to the formation of the Creating Healthy Communities Ad-Hoc Subcommittee, public outreach initiatives, as well as previous reports prepared specific to underage use of alcohol, tobacco, and cannabis, which further prompted and increased the urgency of developing the proposed Ordinances.

B. *PMC Title 8 – Chapter 8.20 “Smoking in Public and Workplaces”*

On August 1, 1994, the City of Pittsburg City Council adopted Title 8, Chapter 8.20 “Smoking in Public and Workplaces” (City Council Ordinance No. 94-1087). The intent of the Ordinance was to generally promote the health, safety, and welfare of all people in the community against the health hazards of harmful effects of the use of addictive tobacco products. It prohibited indoor smoking in various public spaces and within certain areas of workplaces. The Ordinance was modified in both 1995 and 2014 with City Council Ordinances 95-1098 and 14-1382 to further clarify the Smoking in Public and Workplaces Ordinance and to regulate the use of electronic smoking devices. The Creating Healthy Communities Ordinances propose an amendment to Smoking in Public and Workplaces.

C. *PMC Title 5, Division II, Chapter 5.68, “Tobacco Retailer License”*

On May 3, 1999, the City of Pittsburg City Council adopted Ordinance No. 99-1157, Adding New Chapter 5.68 to Division II of Title 5 of the Municipal Code Concerning Tobacco Advertisements and Retailer License Requirements, referred to as “Tobacco Retailer License”. The purpose of the Ordinance was to (1) promote the welfare of minors by discouraging the commercial exploitation of the potential underage tobacco users, (2) discourage actions that promote the unlawful sale of tobacco products to minors, (3) discourage the unlawful purchase or possession of tobacco products by minors. PMC Title 5, Chapter 5.68 has not been amended since its adoption in 1999. The Creating Healthy Communities Ordinances propose an amendment to the Tobacco Retailer License.

*D. California Assembly Bill 71 of 2003 (AB-71)*

On October 12, 2003, AB-71 was enacted which requires a statewide licensing program for tobacco manufacturers importers, wholesalers, distributors, and retailers. Effective January 1, 2004, California Business and Professions Code Division 8.6, Cigarette and Tobacco Products Licensing Act of 2003, Chapter 1, General Provisions and Definitions, Section 22971.3 explicitly permits cities and counties to enact local tobacco retail licensing ordinances and allows for the suspension or revocation of a local license for a violation of any state tobacco control law. A local tobacco retail license is generally adopted to (1) create more comprehensive restrictions than State law on the sale or marketing of tobacco products in the retail environment; (2) allow for meaningful penalties for violation of tobacco control laws such as license suspension; and (3) help fund local enforcement of tobacco control laws through the licensing fee.

*E. PMC Title 9, Division II, Chapter 9.25, “Social Host Ordinance”*

On July 15, 2013, the City of Pittsburg City Council adopted Title 9, Division II, Chapter 9.25 “Social Host Ordinance” with Ordinance No. 13-1374. The City Council found that underage drinking is a serious threat to public health and safety and gatherings on private property where alcohol is consumed by underaged persons is a serious problem in the City of Pittsburg. The intent of the Ordinance was to protect the public peace, health, safety or general welfare by minimizing occurrences of underage drinking and by minimizing gatherings that threaten the safety on the streets and in the neighborhood. Social host ordinances prevent underage drinking parties by holding the host (e.g., parents or other adults) accountable for these parties. As adopted, the Social Host Ordinance only applies to underage use of alcohol. In Contra Costa County, Orinda and Moraga, have amended their social host ordinances to include cannabis. The Creating Healthy Communities Ordinances propose an amendment to the Social Host Ordinance.

*F. PMC Title 18, Division V, Chapter 18.88, “Cannabis Uses”*

On February 16, 2016, Title 18, Division V, Chapter 18.88 “Cannabis Uses” was adopted with City Council Ordinance No. 16-1403. This prohibited medical cannabis cultivation in the City. Title 5 and 18 were amended with City Council Ordinances No. 16-1414 and No. 16-1415, to further regulate and/or ban medical cannabis uses in the City and to regulate and/or ban non-medical cannabis uses in the City. Further, City Council

Ordinance No. 18-1448 was adopted to amend Title 18 to allow for use of cannabis in medical and non-medical product manufacturing. City Council Ordinance No. 21-1492 further amended Title 5 and 18 to allow for commercial cannabis business permitting. None of the amendments proposed or established Performance Standards for cannabis uses within the City. The Creating Healthy Communities Ordinances propose an amendment to PMC Chapter 18.88.

*G. California Proposition 64 of 2016 (Proposition 64)*

On November 9, 2016, Proposition 64 legalized specified personal use and cultivation of marijuana for adults 21 years of age or older; reduces criminal penalties for specified marijuana-related offenses for adults and juveniles; and authorizes resentencing or dismissal and sealing of prior, eligible marijuana-related convictions. The proposition includes provisions on regulation, licensing, and taxation of legalized use. California Business and Professions Code Division 10, Cannabis, Chapter 20, Local Control, Section 26200(a) authorizes local governments to regulate adult use cannabis businesses through “local zoning and land use requirements, business license requirements” or to completely prohibit such sales within the jurisdiction.

*H. American Lung Association (ALA), State of Tobacco Control (SOTC)*

In January 2024, the ALA released its annual report of SOTC, which is a report that tracks the progress on key tobacco control policies at the local level by assigning grades to municipalities based on jurisdiction-specific tobacco control and reform. While the State of California is considered a leader in combating the tobacco industry at the federal level, the City of Pittsburg, included in the Contra Costa County section of the SOTC report, has consistently scored an “F” over the last several years. This grade was determined by evaluating the following criteria in the City: “Smokefree Housing”, “Reducing Sales of Tobacco Products”, “Restriction on Flavored Tobacco Products”, and “Smokefree Outdoor Air”.

*I. Formation of the Creating Healthy Communities Ad-Hoc Subcommittee*

On August 15, 2022, the Pittsburg City Council Agenda included a Presentation titled “A study on Tobacco, Alcohol and Cannabis Policy Options”, in conjunction with a Report titled “Tobacco and Cannabis Policy Options”. The Report referenced the American Lung Association’s SOTC, as well as the City of Pittsburg’s overall grade of “F”. The Presentation and Report detailed options for policy improvements related to tobacco, alcohol, and cannabis sales, marketing, and use within the City. At the meeting, City Manager Garrett Evans suggested the formation of an Ad-Hoc Subcommittee to ensure that any policy adoption is comprehensive and supports the concerns of both the Pittsburg City Council and the Pittsburg community. Vice Mayor Shanelle Scales-Preston and Council Member Jelani Killings volunteered to join the Ad-Hoc Subcommittee, which was later formalized with a Minute Order at the September 19, 2022 City Council Meeting.

*J. California Proposition 31 of 2022 (Proposition 31)*

On November 8, 2022, California voters passed Proposition 31, which upholds Senate Bill 793 of 2020 (SB 793) that prohibits the sale of certain flavored tobacco products, including flavor enhancers. The prohibition includes flavored e-cigarettes and vapes, flavored e-juice, pods, and cartridges, menthol cigarettes, flavored little cigars and cigarillos, flavored smokeless tobacco products, flavored blunt wraps, flavored loose-leaf roll-your-own tobacco, flavored tobacco rolling papers, and tobacco product flavor enhancers. The following items are not prohibited by state law and would not be prohibited with the Creating Healthy Communities Ordinance Amendment: flavored hookah/shisha, flavored loose-leaf pipe tobacco, and flavored premium cigars costing \$12 or more.

*K. December 2022 Creating Healthy Communities Ad-Hoc Subcommittee*

On December 2, 2022, the Creating Healthy Communities Ad-Hoc Subcommittee met to discuss initiatives related to tobacco, alcohol, and cannabis in the City. Discussion during the Subcommittee meeting was high-level and discussed potential policy options pertaining to the creation of a healthy community for the City of Pittsburg. The Subcommittee expressed support and enthusiasm for the development of the Ordinance.

*L. July 2023 Creating Healthy Communities Ad-Hoc Subcommittee*

On July 19, 2023, the Creating Healthy Communities Ad-Hoc Subcommittee met to discuss the progress of the Ordinance drafting. Members of the Subcommittee were supportive of the proposal to prohibit smoking in multi-unit housing developments and other outdoor facilities. Other topics discussed included quantity of compliance checks under the Tobacco Retailers License, process for issuance of administrative citations for tobacco retailers, and whether the City should move forward with more restrictive regulations for tobacco sales, use, and marketing than what State law prescribes. Staff has taken this feedback and further defined compliance checks and administrative citations in the final draft of the Creating Healthy Communities Ordinance. Additionally, staff revised the Ordinance to comply with State law, rather than surpassing what State law dictates, as requested by the Subcommittee.

*M. October 2023 Creating Healthy Communities Ad-Hoc Subcommittee*

On October 30, 2023, the Creating Healthy Communities Ad-Hoc Subcommittee met to discuss the draft Ordinance and to provide feedback on a potential second Ordinance specifically focused on Alcohol Performance Standards. Members of the Subcommittee recommended exclusion of grocery and drug stores from any proximity limitations included in the proposed Ordinance, as the community benefit of these establishments outweigh proximity restrictions. Further, the Subcommittee recommended Alcohol Performance Standards to be included in the overall Creating Healthy Communities project.

*N. 2024 Creating Healthy Communities Ad-Hoc Subcommittee*

The Creating Healthy Communities Ad-Hoc Subcommittee met throughout 2024 to discuss finalization of the draft Ordinances and associated public outreach and notification processes.

*O. Public Outreach Conducted for the Creating Healthy Communities Project*

In August 2024, staff distributed a notification to all interested parties and to all active businesses involving the sale, service, advertisement, or use of tobacco, alcohol, and cannabis products, notifying them of the proposed Creating Healthy Communities Ordinances and detailing how they may obtain additional information on the matter if needed. This outreach included a publication in the East County Times local newspaper, posting of the proposed Ordinances on the City's social media, mailing via first class mail and emailing of the proposed Ordinances to all licensed alcohol and tobacco sales and service establishments, and hand delivery of the proposed Ordinances to businesses in the City of Pittsburg that currently sell or serve alcohol or tobacco products.

P. The proposed amendments are governed by the applicable goals, policies, and regulations of the Pittsburg General Plan and Pittsburg Municipal Code (PMC).

Q. Pittsburg Municipal Code ("PMC") Section 18.16.020 identifies the Planning Commission as the advisory body to the City Council on proposed changes to the Zoning Map and Zoning Text. Prior to making a recommendation, the Planning Commission must find, in accordance with PMC Section 18.48.030(A), that:

1. The change proposed is consistent with the objectives, policies, general land uses, and programs specified in the General Plan and applicable Specific Plan;
2. In the case of a Base District, Overlay District, or General Land Use Regulation, 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; and
4. Its adoption will be in conformity with public convenience, general welfare, and good zoning practice.

R. These amendments of the PMC is exempt from the requirements of the California Environmental Quality Act (CEQA) under the general rule of applicability of the State CEQA Guidelines, Section 15061(b)(3), in that the activity in question consists of text amendments that would not result in a physical impact on the environment. The proposed amendments to the PMC do not include any mapping changes that would allow new uses in areas not previously permitted, and the text amendments and clarifications proposed would not result in any direct significant negative physical impacts on the environment. If the Commission recommends City Council adoption of the Creating Healthy Communities Ordinances Amendments, and if the City Council adopts the Creating Healthy Communities Ordinances Amendments, staff will file a Notice of Exemption with the Contra Costa County Clerk-Recorder's Office pursuant to Public Resources Code Sections 21108(b) and 21152(b).



- S. On or prior to August 16, 2024, in accordance with Government Code sections 65090 and 65091, and PMC Section 18.14.020, a “Notice of Public Hearing,” for the August 27, 2024 Public Hearing on this item was published in the East County Times as a 1/8- page legal advertisement; was posted at City Hall; was posted at the Pittsburg Branch Library, was mailed via first class or electronic mail to local service agencies whose services might be affected by this project, was hand delivered to businesses within the City of Pittsburg that are currently licensed to sell or serve alcohol or tobacco products, and to individuals who had previously filed written request for such notice. The notice was also posted on www.nextdoor.com (“Nextdoor”) and was sent directly to all subscribers of the City of Pittsburg.
- T. On August 27, 2024, the Planning Commission considered a Resolution Recommending City Council introduce and adopt two Ordinances for the Creating Healthy Communities Project: 1) Amending Titles 5, 8, 9, and 18 of the Pittsburg Municipal Code, to Revise Requirements for a Tobacco Retailer License, Limit Smoking in Specific Locations, Update the Social Host Ordinance, and Add Requirements for Cannabis Businesses, consistent with state law; and 2) Amending Title 18 of the Pittsburg Municipal Code, Adding Article XXII to Chapter 18.84 to establish Alcohol Performance Standards, AP-23-0145 (RZ – Text Amendment).

## Section 2. Findings

- A. Based on the Planning Commission Staff Report entitled, “Recommending City Council introduce and adopt two Ordinances for the Creating Healthy Communities Project: 1) Amending Titles 5, 8, 9, and 18 of the Pittsburg Municipal Code, to Revise Requirements for a Tobacco Retailer License, Limit Smoking in Specific Locations, Update the Social Host Ordinance, and Add Requirements for Cannabis Businesses, consistent with state law; and 2) Amending Title 18 of the Pittsburg Municipal Code, Adding Article XXII to Chapter 18.84 to establish Alcohol Performance Standards, AP-23-0145 (RZ – Text Amendment).” dated August 27, 2024, 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 Creating Healthy Communities Ordinances amendments are consistent with the Objectives, Policies, general Land Uses and Programs specified in the General Plan and applicable Specific Plan, in that the proposed amendments only further solidify the goals and policies of the 2040 General Plan with regard to the consideration of project compatibility with existing surrounding land uses. The General Plan requires the City to ensure that sensitive uses—such as residences, schools, and parks—are not subject to hazardous or unhealthy conditions. The proposed Creating Healthy Communities Ordinances would establish a buffer between alcohol, tobacco, and cannabis retailers and would establish a buffer between the retailer and any sensitive use or receptor. In addition, the Ordinances propose to regulate smoking in multi-unit housing, which would further ensure

equitable health for residents. Smoking in enclosed and unenclosed spaces has been studied and has been found to create adverse health effects to those suffering from second-hand smoke illnesses. Eliminating the potential for smoking in enclosed and unenclosed areas in the City will help to ensure that sensitive uses and sensitive receptors are not subject to hazards or unhealthy conditions from potential second-hand smoke.

3. A community need is demonstrated for the Creating Healthy Communities Ordinances, in that various data from credible research that has been conducted with alarming findings listed below. Further information and citations to this data is included in Attachment 3 to this item's Staff Report.
  - a. In California, research indicates over 67% of current and former adult smokers started by the age of 18 and almost 100% start by age 26.
  - b. In 2019-20, 28.6% of California high school students had used any tobacco product and 9.7% used tobacco in the last 30 days.
  - c. Vapes were the most used tobacco product among California high school students (8.2%).
  - d. Among youth who currently use e-cigarettes, 84.9% used flavored e-cigarettes. Use of disposable e-cigarettes (such as Juul and PuffBar) increased about 1,000% (from 2.4% to 26.5%) among high school e-cigarette users and more than 400% (from 3% to 15.2%) among middle school e-cigarette users during 2019-2020.
  - e. Among high school students who currently vape, 51% reported paying for their vapes.
  - f. Among those who reported buying vapes from the store, tobacco or smoke shops (40.1%) and vape shops (33.9%) were the most popular store types for purchasing vapes.
  - g. Flavored tobacco products are used by most youth and young adult tobacco users (86.4%) in California.
  - h. Mentholated and flavored products have been shown to be "starter" products for youth who begin using tobacco and that these products help establish tobacco habits that can lead to long-term addiction.
  - i. In a 2022 national study of high school students, marijuana use reached the highest levels ever recorded; 21% of 12<sup>th</sup> graders used cannabis in the past month and 30% of 12<sup>th</sup> graders used cannabis in the past year.
4. Adoption of the two Creating Healthy Communities Ordinances would be in conformity with public convenience, general welfare and good zoning practice, in that Performance Standards for Alcoholic Beverage Sales and Service Establishments,

Performance Standards for Cannabis Businesses, the inclusion of Cannabis in the Social Host Ordinance amendment, and the proposed Tobacco Retailer License regulations will discourage the youth in the community from potential exposure to second-hand smoke and underage alcohol, cannabis, or tobacco use. The Ordinances would overall establish a cleaner and safer environment within the City of Pittsburg in terms of air quality, public nuisances, and other community-benefitting regulations, as described in the proposed Ordinances.

The Staff Report entitled “Recommending City Council introduce and adopt two Ordinances for the Creating Healthy Communities Project: 1) Amending Titles 5, 8, 9, and 18 of the Pittsburg Municipal Code, to Revise Requirements for a Tobacco Retailer License, Limit Smoking in Specific Locations, Update the Social Host Ordinance, and Add Requirements for Cannabis Businesses, consistent with state law; and 2) Amending Title 18 of the Pittsburg Municipal Code, Adding Article XXII to Chapter 18.84 to establish Alcohol Performance Standards, AP-23-0145 (RZ – Text Amendment)” dated August 27, 2024, is referenced hereto as additional support for the findings.

### Section 3. Recommendation

Based on the findings set forth above, the Planning Commission hereby recommends that the City Council introduce and adopt two Ordinances for the Creating Healthy Communities Project: 1) Amending Titles 5, 8, 9, and 18 of the Pittsburg Municipal Code, to Revise Requirements for a Tobacco Retailer License, Limit Smoking in Specific Locations, Update the Social Host Ordinance, and Add Requirements for Cannabis Businesses, consistent with state law; and 2) Amending Title 18 of the Pittsburg Municipal Code, Adding Article XXII to Chapter 18.84 to establish Alcohol Performance Standards, AP-23-0145 (RZ – Text Amendment).

### 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 27<sup>th</sup> day of August 2024, 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. \_\_\_\_\_ was adopted by the Planning Commission of the City of Pittsburg on August 27, 2024.

---

JOHN FUNDERBURG, SECRETARY  
PITTSBURG PLANNING COMMISSION

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Amending Titles 5, 8, 9, and 18 of the Pittsburg )	
Municipal Code to Revise Requirements for a )	ORDINANCE NO. 24-
Tobacco Retailer License, Limit Smoking, )	
Update the Social Host Ordinance, and Add )	
<u>Requirements for Cannabis Businesses )</u>	

WHEREAS, tobacco use remains the number one cause of preventable death in California killing 40,000 California adults each year; and

WHEREAS, in 2006, the U.S. Surgeon General concluded that there is no risk-free level of exposure to secondhand smoke; and

WHEREAS, exposure to secondhand smoke is responsible for an estimated 41,000 deaths from heart disease and lung cancer among adult nonsmokers each year; and

WHEREAS, electronic smoking device aerosol may be considered a health hazard; research has found at least twelve chemicals in electronic smoking device aerosol known to the State of California to cause cancer, birth defects, or other reproductive harm, such as formaldehyde, acetaldehyde, lead, nickel, chromium, arsenic, and toluene; and

WHEREAS, the California Environmental Protection Agency includes cannabis smoke on the Proposition 65 list of chemicals known to the state of California to cause cancer; and

WHEREAS, research demonstrates that secondhand smoke in multi-unit housing can and does transfer between units, seeping into smoke-free areas from areas where smoking occurs; and

WHEREAS, the U.S. Surgeon General has concluded that eliminating smoking in indoor spaces is the only way to fully protect nonsmokers from secondhand smoke exposure; and that separating smokers from nonsmokers, cleaning the air, and ventilating buildings cannot completely prevent secondhand smoke exposure; and

WHEREAS, smoking is a leading cause of fire-related injury and death; and

WHEREAS, research consistently demonstrates that a majority of multi-unit housing residents, including a large portion of smokers, supports smoke-free policies in multi-unit residences, and that support is even greater among residents with children; and

WHEREAS, California state law allows local governments to adopt ordinances that permit residential rental agreements to prohibit smoking tobacco products within rental units; and

WHEREAS, cigarette butts are the most common form of litter collected during cleanup programs and waste from electronic smoking devices has become a recognized and growing form of litter; and

WHEREAS, California cities and counties have the legal authority to adopt local laws that prohibit all tobacco use indoors and outdoors in areas not already covered by state law; and

WHEREAS, in California, research indicates over 67% of current and former adult smokers started by the age of 18 and almost 100% start by age 26; and

WHEREAS, in 2019-20, 28.6% of California high school students had ever used any tobacco product and 9.7% used tobacco in the last 30 days; and

WHEREAS, vapes were the most commonly used tobacco product among California high school students (8.2%); and

WHEREAS, among youth who currently used e-cigarettes, 84.9% used flavored e-cigarettes; and

WHEREAS use of disposable e-cigarettes (such as Juul and PuffBar) increased about 1,000% (from 2.4% to 26.5%) among high school e-cigarette users and more than 400% (from 3% to 15.2%) among middle school e-cigarette users during 2019-2020; and

WHEREAS, among high school students who currently vape, 51% reported paying for their vapes. Among those who reported buying vapes from the store, tobacco or smoke shops (40.1%) and vape shops (33.9%) were the most popular store types for purchasing vapes; and

WHEREAS, flavored tobacco products are used by the majority of youth and young adult tobacco users (86.4%) in California; and

WHEREAS, mentholated and flavored products have been shown to be “starter” products for youth who begin using tobacco and that these products help establish tobacco habits that can lead to long-term addiction; and

WHEREAS, the availability of inexpensive tobacco products leads to increased tobacco use as evidenced by more than 100 academic studies that conclusively show that when tobacco products are made more expensive, fewer people use tobacco, fewer initiate tobacco use, and more people quit tobacco use; and

WHEREAS, youth are particularly responsive to changes in tobacco prices, and evidence suggests that tobacco companies deliberately target youth with price reductions; and

WHEREAS, although federal and state law ban the sale of individual cigarettes, neither federal nor California state laws restrict the sale of individual little cigars and cigars; and

WHEREAS, research indicates that the density and proximity of tobacco retailers increase smoking behaviors, including number of cigarettes smoked per day, particularly in neighborhoods experiencing poverty; and

WHEREAS, both youth and adult tobacco users are more likely to also use cannabis; and

WHEREAS, in a 2022 national study of high school students, marijuana use

reached the highest levels ever recorded; 21% of 12<sup>th</sup> graders used cannabis in the past month and 30% of 12<sup>th</sup> graders used cannabis in the past year; and

WHEREAS, according to the FDA, national poison control centers received more than 10,000 single substance exposure cases involving edible products containing THC between January 2021 and May 2022. More than 3 out of 4 of those were children and teens; and

WHEREAS, state law explicitly permits cities and counties to enact local tobacco retail licensing ordinances, and allows for the suspension or revocation of a local license for a violation of any state tobacco control law (Cal. Bus. & Prof. Code § 22971.3); and

WHEREAS, California courts have affirmed the power of the city council to regulate business activity to discourage violations of law. See, e.g., Cohen v. Board of Supervisors, 40 Cal. 3d 277 (1985); Bravo Vending v. City of Rancho Mirage, 16 Cal. App. 4th 383 (1993); Prime Gas, Inc. v. City of Sacramento, 184 Cal. App. 4th 697 (2010); and

WHEREAS, the city council has a substantial interest in protecting youth and underserved populations from the harms of tobacco use; and

WHEREAS, the addition of new drugstores and grocery stores in the city for the benefit of the community outweighs the benefits of proximity restrictions on drugstores and grocery stores to tobacco retailers; and

WHEREAS, the city council finds that a local licensing system for tobacco retailers is appropriate to ensure that retailers comply with tobacco control laws and business standards of the city in order to protect the health, safety, and welfare of our residents.

NOW, THEREFORE, the City Council of the City of Pittsburg Does ORDAIN as follows:

(new language in ***bold italic***, deleted language in ~~strikethrough~~)

Section 1. Amendment. Section 8.20.020 of the Pittsburg Municipal Code is hereby amended as follows:

**8.20.020 Purpose.**

The compelling purpose and intent of this chapter includes, but is not limited to, generally promoting the health, safety and welfare ***by discouraging the inherently dangerous behavior of smoking around non-tobacco users, especially children; by protecting the public from exposure to secondhand smoke where they live, work, and play; and by affirming and promoting a healthy environment in the city.*** ~~of all people in the community against the health hazards and harmful effects of the use of addictive tobacco and smoking products, and compliance with California Labor Code Section 6405.4.~~

Section 2. Amendment. Section 8.20.030 of the Pittsburg Municipal Code is hereby amended as follows:

**8.20.030 Definitions.**

The following words and phrases, whenever used in this chapter, shall be construed as

hereafter set out, unless it is apparent that they have a different meaning:

“Area open to the public” means any area available to and customarily used by the general public.

“Bars” means a facility primarily devoted to the serving of alcoholic beverages for consumption by guests on the premises, in which the serving of food is incidental. Bar includes those facilities located within a hotel, motel or other similar transient occupancy establishment. However, when located within a building in conjunction with another use, including a restaurant, bar includes only those areas used primarily (more than half of the total gross sales are derived from the sale and service of alcoholic beverages) for the sale and service of alcoholic beverages. Bar does not include the dining areas of a restaurant, regardless of whether alcoholic beverages are served therein.

~~“Bowlers’ settee” means the area immediately behind the bowling lane in which score is kept and seating is provided for bowlers waiting their turn to bowl.~~

~~“Bowling center concourse” means that area separated from the bowling lane, bowlers’ settee and visitors’ settee by at least one step or a physical barrier.~~

~~“Bowling lane” means the bowler’s approach, the foul line and the lanes.~~

***“Business” means any sole proprietorship, partnership, joint venture, corporation, association, landlord, or other entity formed for profit-making purposes. A business also includes owner-operated entities with no Employees in which the owner is the only worker.***

***“Common area” means every enclosed area or unenclosed area of a multi-unit residence that residents of more than one unit are entitled to enter or use, including, but not limited to, halls, pathways, lobbies, courtyards, elevators, stairs, community rooms, playgrounds, gym facilities, swimming pools, parking garages, parking lots, grassy or landscaped areas, restrooms, laundry rooms, cooking areas, and eating areas.***

“Distribute” means to give, sell, deliver, dispense, issue or cause or hire any person to give, sell, deliver, dispense, issue or offer to give, sell, deliver, dispense or issue.

***“Electronic Smoking Device” means any device that may be used to deliver any aerosolized or vaporized substance to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah.***

~~“Electronic cigarette” means “a device that can provide an inhalable dose of nicotine by delivering a vaporized solution” as defined in California Health and Safety Code Section 119405(b), as that section may be amended from time to time, or any device designed to vaporize a liquid solution that releases flavored vapor.~~

~~“Electronic cigarette paraphernalia” means any device designed to provide an inhalable dose of nicotine or a flavored liquid solution through vaporization, nicotine-based or flavored solution-based cartridges for use with electronic cigarettes, and any other item designed for the vaporization, preparation, storing, or consumption of electronic cigarette products.~~

~~“Electronic cigarette product” means any substance containing nicotine or a flavored liquid~~

~~solution for vaporization, including any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body, but does not include any cessation product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco dependence.~~

~~“Employee” means any person who is employed by any employer in consideration for direct or indirect monetary wages or profit.~~ ***person who is employed or retained as an independent contractor by any employer in consideration for direct or indirect monetary wages or profit, or any person who volunteers his or her services for an employer.***

~~“Employer” means any person, partnership, corporation, including municipal corporation or public entities, who employs the services of two or more persons or two or more people to conduct business within the establishment.~~ ***business or nonprofit entity that retains the service of one or more Employees.***

~~“Enclosed” means closed in by a roof and walls with appropriate openings for ingress and egress.~~

***“Enclosed area” means all space between a floor and a ceiling that is bounded by walls, doorways, or windows, whether open or closed, covering more than 50 percent of the combined surface area of the vertical planes constituting the perimeter of the area. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent.***

~~“General public” means shoppers, customers, patrons, patients, students, clients and other similar invitees of a commercial enterprise or nonprofit entity.~~

***“Multi-unit residence” means property containing two or more units, including, but not limited to, apartment buildings, common interest developments, senior and assisted living facilities, and long-term health care facilities. Multi-unit residences do not include the following:***

***(1) a hotel or motel that meets the requirements of California Civil Code section 1940(b)(2);***

***(2) a mobile home park;***

***(3) a campground;***

***(4) a marina or port;***

***(5) a single-family home, except if used as a health care facility subject to licensing requirements; and***

***(6) a single-family home with an accessory dwelling unit or second unit permitted pursuant to California Government Code sections 65852.1, 65852.2, or 65852.22 or an ordinance of the city adopted pursuant to those sections, except where the accessory dwelling unit or second unit is used as a health care facility subject to licensing requirements.***



***“Outdoor dining area” means any publicly or privately owned outdoor area, including streets and sidewalks, that is available to or customarily used by the general public or an employee, and that is designed, established, or regularly used for consuming food or drink.***

~~“Park,” “city park,” or “recreation area” means the land and easements owned or leased by the city which, by ordinance, resolution, encroachment permit, regulation or agreement, are dedicated to or operated by the city for purposes of sports or public recreation. The terms shall include the buildings, parking lots, plazas, streets and sidewalks within the territorial boundaries establishing the park or recreation area.~~

***“Person” means any natural person, business, corporation, partnership, cooperative association, personal representative, receiver, trustee, assignee, or any other legal entity.***

~~“Place of employment” means any enclosed area under the control of a public or private employer which employees normally frequent during the course of employment, including but not limited to work areas, employee lounges, conference rooms and employee cafeterias. A private residence is not a place of employment unless it is used as a child care or health care facility.~~

***“Place of Employment” means any area under the legal or de facto control of an employer that an employee or the general public may have cause to enter in the normal course of the operations, regardless of the hours of operation.***

***“Public place” means any place, publicly or privately owned, which is open to the general public regardless of any fee or age requirement.***

***“Recreational area” means any publicly or privately owned area that is open to the general public for recreational purposes, regardless of any fee or age requirement. The term “recreational area” includes, but is not limited to, facilities, parks, playgrounds, athletic fields, restrooms, picnic areas, spectator and concession areas, walking paths, gardens, hiking trails, bike paths, riding trails, roller and ice-skating rinks, skateboard parks, amusement parks, and aquatic areas.***

***“Service area” means any publicly or privately owned area, including streets and sidewalks, that is designed to be used or is regularly used by one or more persons to receive a service, wait to receive a service, or to make a transaction, whether or not such service or transaction includes the exchange of money. The term “service area” includes, but is not limited to, areas including or within 25 feet of information kiosks, automatic teller machines (ATMs), service lines, bus stops or shelters, or cab stands.***

***“Smoke” or “Smoking” means:***

***(1) inhaling, exhaling, or burning, any tobacco, nicotine, cannabis, or plant product, whether natural or synthetic;***

***(2) carrying any lighted, heated, or activated tobacco, nicotine, cannabis, or plant product, whether natural or synthetic, intended for inhalation; or***

***(3) using an electronic smoking device or hookah.***

~~“Smoking” means inhaling or exhaling from, or burning or carrying, any lighted cigarette, cigar, pipe, weed, plant, or other combustible substance whose smoke is intended to be inhaled, or inhaling or exhaling from, or carrying, any operating electronic cigarette.~~

“Sports arena” means sports pavilions and stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, halls and other similar places where members of the public assemble to engage in physical exercise, participate in athletic competition, or witness sports events.

**“Tobacco product” means:**

**(1) any product that is made from or derived from tobacco, or that contains nicotine, that is intended for human consumption or is likely to be consumed, whether inhaled, absorbed, or ingested by any other means, including but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus;**

**(2) any electronic smoking device and any substances that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine; or**

**(3) any component, part, or accessory of (1) or (2), whether or not any of these contains tobacco or nicotine, including but not limited to filters, rolling papers, blunt or hemp wraps, hookahs, mouthpieces, and pipes.**

**“Tobacco product” does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.**

~~“Tobacco or smoking product” means any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipes, tobacco, snuff, chewing tobacco and dipping tobacco, and any electronic cigarette, electronic cigarette paraphernalia, and electronic cigarette product.~~

**“Unenclosed area” means any area that is not an enclosed area.**

**“Unit” means a personal dwelling space, even one lacking cooking facilities or private plumbing facilities, and includes any associated exclusive-use area, such as a private balcony, porch, deck, or patio. “Unit” includes, without limitation, an apartment; a condominium; a townhouse; a room in a senior facility; a room in a long-term health care facility, assisted living facility, community care facility, or hospital; a room in a hotel or motel; a dormitory room; a room in a single-room occupancy facility; a room in a homeless shelter; a mobile home; a camper vehicle or tent; a single-family home; and an accessory dwelling unit or second unit.**

~~“Vending machine” means any electronic or mechanical device or appliance the operation of which depends upon the insertion of money, whether in coin or paper bill, or other thing representative of value, which dispenses or releases a tobacco product and/or tobacco accessories.~~

~~“Visitors’ settee” means seating provided immediately behind the bowlers’ settee.~~

Section 3. Amendment. Section 8.20.040 of the Pittsburg Municipal Code is hereby

amended as follows:

#### **8.20.040 City-owned facilities.**

A. Smoking is prohibited in all buildings, vehicles or other enclosed areas occupied by city employees, owned or leased by the city, or otherwise operated by the city.

~~B. Smoking is prohibited within the boundaries of any city park or recreation area.~~

Section 4. Amendment. Section 8.20.050 of the Pittsburg Municipal Code is hereby amended as follows:

#### **8.20.050 Prohibition of smoking in enclosed places.**

Smoking is prohibited in the following *enclosed* areas within the city:

~~A. **Places of employment**; All enclosed areas available to and customarily used by the general public and all businesses patronized by the public, including, but not limited to, retail stores, the common areas of hotels and motels, pharmacies, banks, shopping malls, and all places of employment unless otherwise excepted herein;~~

~~B. **Public places**; Waiting rooms, hallways, wards and semi-private rooms of health facilities, including, but not limited to, hospitals, clinics, physical therapy facilities, doctors' offices, except that health facilities shall also be subject to the provisions of PMC 8.20.060 regulating smoking in places of employment; except that patient smoking areas in long-term health care facilities, as defined in Section 1418 of the Health and Safety Code are permitted;~~

~~C. Elevators, public restrooms, indoor services lines, busses, taxicabs and other means of public transit under the authority of public entities, and in ticket, boarding and waiting areas of public transit depots;~~

~~D. Museums and galleries;~~

~~E. Theaters, auditoriums, concert facilities and halls which are used for motion pictures, stage dramas and musical performances, ballets or other exhibitions, except when smoking is an integral part of any such production; provided, however, in outdoor facilities, designated smoking areas may be provided which shall be segregated from nonsmoking areas. Where seating area is provided in an outdoor facility, no more than 40 percent of the total seats of the facility may be designated as smoking seats;~~

~~F. Retail food marketing establishments, including grocery stores, and supermarkets;~~

~~G. Public schools and other public facilities under the control of another public agency, which are available to and customarily used by the general public, to the extent that the same are subject to the jurisdiction of the city;~~

~~H. Sports arenas, both indoor and outdoor, and convention halls;~~

~~I. Bowling centers, including but not limited to bowling lanes, bowlers' settees, visitors' settees and game rooms; provided, however, that a designated smoking area may be provided on the bowling center concourse and bar. The owner, manager or operator of the~~

~~bowling center shall post signs as prescribed by PMC 8.20.080 and remove all ashtrays from nonsmoking areas;~~

~~J. C. Private residences during hours of operation when used as child care or health care facilities. Board and care facilities shall provide smoke free living quarters for nonsmoking boarders;~~

~~K. Bingo parlors, except a separate enclosed room, may be designated as a smoking room. The owner, manager or operator of the bingo parlor shall post signs as prescribed by PMC 8.20.080 and remove all ashtrays from the nonsmoking room;~~

~~L.D. Notwithstanding any other provision of this section, any owner, operator, manager or other person who controls any establishment described in this section may declare that entire establishment as a nonsmoking establishment.~~

Section 5. New Section. Section 8.20.055 of the Pittsburg Municipal Code is hereby added as follows:

**Section 8.20.055 Prohibition of smoking in unenclosed places.**

**Smoking is prohibited in the following unenclosed areas within the city:**

**A. Places of employment;**

**B. Recreational areas;**

**C. Outdoor dining areas;**

**D. Service areas; and**

**E. Public places when being used for a public event, including a farmer's market, parade, craft fair, or any event which may be open to or attended by the general public, provided that smoking is permitted on streets and sidewalks being used in a traditional capacity as pedestrian or vehicular thoroughfares, unless otherwise prohibited by this chapter or other law.**

Section 6. New Section. Section 8.20.057 of the Pittsburg Municipal Code is hereby added as follows:

**Section 8.20.057. Smoke-free Buffer Zones.**

**A. Smoking is prohibited within twenty-five (25) feet of entrances, exits, open windows, and ventilation intake systems into an enclosed area in which smoking is prohibited under Section 8.20.050 except while actively passing on the way to another destination and provided smoke does not enter any area in which smoking is prohibited.**

**B. Smoking in all unenclosed areas is prohibited within twenty-five (25) feet from any unenclosed areas in which smoking is prohibited under Section 8.20.055, except while actively passing on the way to another destination and provided smoke**

does not enter any area in which smoking is prohibited.

**C. The smoking prohibitions in Section 8.20.055, shall not apply to unenclosed areas on private residential properties that are not multi-unit residences.**

Section 7. Amendment. Section 8.20.070 of the Pittsburg Municipal Code is hereby amended as follows:

**8.20.070 Optional smoking areas.**

Notwithstanding any other provisions of this chapter to the contrary, the following areas shall not be subject to the smoking restrictions of this chapter:

A. A private residence **that is not a multi-unit residence**, including one which may serve as a place of employment, except when **or** covered by PMC 8.20.050(JC);

B. Outdoor patio areas of restaurants;

C. Bars, except as provided otherwise in this chapter; and until January 1, 1997, or until adoption of regulatory standards pursuant to Labor Code Section 6404.5(f)(1), (2) and (3), and compliance with those standards;

D. Licensed cardrooms until January 1, 1997, or until adoption of regulatory standards pursuant to Labor Code Section 6404.5(f)(1), (2) and (3), and compliance with those standards;

**EB.** Hotel and motel rooms rented to guests; provided, however, that each hotel and motel designates not less than 35 percent of their guest rooms as nonsmoking rooms and removes ashtrays from these rooms; **Twenty percent of the guestroom accommodations in a hotel, motel, or similar transient lodging establishment;**

F. Areas of the lobby in a hotel, motel or other similar transient lodging establishment designated for smoking by the establishment. Such an establishment may permit smoking in a designated lobby area that does not exceed 25 percent of the total floor area of the lobby or, if the total area of the lobby is 2,000 square feet or less, that does not exceed 50 percent of the total floor area of the lobby. For purposes of this paragraph, "lobby" means the common public area of such an establishment in which registration and other similar or related transactions, or both, are conducted and in which the establishment's guests and members of the public typically congregate;

Meeting and banquet rooms in a hotel, motel, other transient lodging establishment similar to a hotel or motel, restaurant or public convention center, except while food or beverage functions are taking place, including setup, service and cleanup activities, or when the room is being used for exhibit purposes. At times when smoking is not permitted in such a meeting or banquet room pursuant to this paragraph, the establishment may permit smoking in corridors and prefunction areas adjacent to and serving the meeting or banquet room if no employee is stationed in that corridor or area on other than a passing basis;

G. Retail stores that deal exclusively in the sale of tobacco or smoking products and paraphernalia;

~~HC.~~ “Private smokers’ lounges,” which are enclosed areas in or attached to a retail or wholesale tobacco shop that is dedicated to the use of tobacco or smoking products, including, but not limited to, cigars and pipes;

~~ID.~~ *Repealed by Ord. 1382;*

~~JE.~~ Medical research or treatment sites, if smoking is integral to the research and treatment being conducted;

~~K.~~ In places of employment, employers may provide specific smoking areas for employees provided all of the following conditions are met:

~~1.~~ Air from the smoking room shall be exhausted directly to the outside by an exhaust fan. Air from the smoking room shall not be recirculated to other parts of the building.

~~2.~~ The employer shall comply with any ventilation standard or other standard utilizing appropriate technology, including, but not limited to, mechanical, electronic and biotechnical systems, adopted by the Occupational Safety and Health Standards Board or the Federal Environmental Protection Agency. If both adopt inconsistent standards, the ventilation standards of the Occupational Safety and Health Standards Board shall be no less stringent than the standards adopted by the Federal Environmental Protection Agency.

~~3.~~ The smoking room shall be located in a nonwork area where no one, as part of his or her work responsibilities, is required to enter. For purposes of this subsection, “work responsibilities” does not include any custodial or maintenance work carried out in the breakroom when it is unoccupied.

~~4.~~ The smoking area shall be completely separated from the remainder of the building by solid partitions or glazing without openings other than doors, and all doors leading to the smoking area shall be self-closing. The doors shall be provided with a gasket so installed as to provide a seal where the door meets the stop on both sides and across the top.

~~5.~~ The smoking areas shall maintain a minimum negative pressure of 0.005 inch water column relative to nonsmoking areas.

~~6.~~ The employer shall submit written verification and test results to the city manager or his designee prepared by a licensed mechanical contractor or engineer that the HVAC system has been designed and tested and meets the requirements set forth in subsections (K)(1) through (5) of this section.

~~7.~~ If the HVAC system is part of a smoke removal system or pressurization system, any modifications to these systems to provide smoking areas will require approval from the fire district. Written verification of this approval shall be provided to the city manager.

~~8.~~ If the specific smoking area is an employee break room, lunch room or other area which may be used by nonsmoking employees, then a separate nonsmoking break room, lunch room or other area shall be provided of equal or larger size and include at least equal facilities.

~~9.~~ No employer is required to provide reasonable accommodation to smokers, or to provide breakrooms for smokers or nonsmokers.

Section 8. New Section. Section 8.20.075 of the Pittsburg Municipal Code is hereby added as follows:

**Section 8.20.075 Smoking prohibited in multi-unit residences.**

**A. Beginning July 1, 2024 smoking is prohibited anywhere on the premises of a multi-unit residence, including units, enclosed or unenclosed common areas, other outdoor areas, or within twenty-five (25) feet of any operable doorway, window, opening, or vent of a multi-unit residence.**

**B. Notwithstanding subsection (A), smoking is permitted in designated smoking areas if they meet the following conditions:**

- 1. Must be an unenclosed area;**
- 2. Must be at least twenty-five (25) feet from any:**
  - a. outdoor recreation area such as a tennis court, swimming pool, or picnic area; or**
  - b. outdoor area primarily used by children such as a playground;**
  - c. operable doorway, window, opening or other vent into an enclosed area that is located at the multi-unit residence and is a nonsmoking area;**
- 3. Have receptacles designed for and primarily used for disposal of tobacco waste and that are maintained free of tobacco-related litter;**
- 4. Must have a clearly marked perimeter; and**
- 5. Must be identified by conspicuous signs.**

**C. No person with legal control over any nonsmoking area of a multiunit residence shall permit smoking in the nonsmoking area, except as provided in subsection (B).**

**D. No person with legal control over a common area in which smoking is prohibited by this chapter or other law shall permit the presence of ashtrays, ashcans, or other receptacles designed for or primarily used for disposal of smoking waste within the area.**

**E. Smoking is prohibited in adjacent unenclosed property within twenty-five (25) feet in any direction of any doorway, window, opening, or other vent into an enclosed area of a multi-unit residence.**

**F. "No Smoking" signs shall be posted as required by Section 8.20.080 of this Chapter, but are not required inside any unit of a multi-unit residence. Signs shall be maintained by the person or persons with legal control over the common areas or the authorized representative of such person.**

Section 9. New Section. Section 8.20.077 of the Pittsburg Municipal Code is hereby added as follows:

**Section 8.20.077 Required and implied lease terms for all new and existing units in multiunit residences.**

**A. After July 1, 2024, every lease or other rental agreement for the occupancy of a unit in a multi-unit residence entered into, renewed, or continued month to month shall be amended to include the following provisions:**

- 1. A clause providing that it is a material breach of the agreement to smoke or allow smoking:**
  - a. in the unit, including exclusive-use areas such as balconies, porches, or patios; and**
  - b. in any common area of the multi-unit residence other than a designated smoking area.**
- 2. A clause providing that it is a material breach of the agreement for tenant to violate any law regulating smoking while anywhere on the property, or to allow any other person subject to the control of the tenant to engage in such behavior.**
- 3. A clause expressly conveying third-party beneficiary status to all occupants of the multi-unit residence as to the smoking provisions of the lease or other rental agreement. Such a clause shall provide that any tenant of the multi-unit residence may sue another tenant/owner to enforce the smoking provisions of the agreement but that no tenant shall have the right to evict another tenant for a breach of the smoking provisions of the agreement.**

**B. Whether or not a landlord complies with subsection (A) of this Section, the clauses required by those subsections shall be implied and incorporated by law into every agreement to which subsection (A) applies as of July 1, 2024.**

**C. This Chapter shall not create additional liability for a landlord to any person for a tenant's breach of any smoking provision in a lease or other rental agreement for the occupancy of a unit in a multi-unit residence if the landlord has fully complied with the provisions of this Chapter.**

**D. Failure to enforce any smoking provision required by this chapter shall not affect the right to enforce such provision in the future, nor shall a waiver of any breach constitute a waiver of any subsequent breach or a waiver of the provision itself.**

Section 10. Amendment. Section 8.20.080 of the Pittsburg Municipal Code is hereby amended as follows:

**8.20.080 Posting requirements.**

A. "Smoking" or "No Smoking" signs, whichever are appropriate, with letters of not less than one inch in height or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly, sufficiently and conspicuously posted in every building or other place where smoking is controlled by this chapter, by the owner, operator, manager or other person having control of such building or other place. ~~Where smoking is permitted in designated areas of the building or structure, a sign stating "Smoking is Prohibited Except in Designated Areas" shall be posted at each entrance to the building or structure.~~



~~B. Every hotel or motel regulated by this chapter shall have posted at its entrance a sign clearly stating that nonsmoking rooms are available, and every patron shall be asked as to his or her preference.~~

~~C. Each restaurant shall post a sign outside, clearly visible at the entryway, indicating whether it permits smoking. Letters on the sign shall be not less than one inch in height. A sign indicating the international “No Smoking” symbol satisfies the requirements of this subsection.~~

Section 11. Repeal. Section 8.20.080 of the Pittsburgh Municipal Code is hereby repealed:

**~~8.20.090 Vending machines.~~**

~~Coin-operated cigarette vending machines may be located only on those premises which have either a Type 42, Type 48 or Type 61 license from the Department of Alcoholic Beverage Control. Cigarette vending machines must be located no less than 25 feet from any entry into the premises.~~

Section 12. Amendment. Section 8.20.100 of the Pittsburgh Municipal Code is hereby amended as follows:

**8.20.100 Distribution of free samples and coupons.**

A. No person, firm, association or corporation in the business of selling or otherwise distributing cigarettes or other tobacco ~~or smoking~~ products for commercial purposes shall in the course of such business distribute, or direct, authorize or permit any agent or employee to distribute: (1) any cigarette or other tobacco ~~or smoking~~ product, including any smokeless tobacco product; or (2) coupons, certificates or other written material which may be redeemed for tobacco ~~or smoking~~ products without charge, to any person on any public street or sidewalk or in any public park or playground or on any other public ground or in any public building.

B. No agent or employee of any person, firm, association or corporation in the business of selling or otherwise distributing cigarettes or other tobacco ~~or smoking~~ products for commercial purposes shall in the course of such business distribute: (1) any cigarette or other tobacco ~~or smoking~~ product; or (2) coupons, certificates or other written material which may be redeemed for tobacco or smoking products without charge, to any person on any public street or sidewalk or in any public park or playground or on any other public ground or in any public building.

C. For purposes of this section, “public ground” and “public building” include sports arenas as defined in PMC 8.20.030 and any entertainment facility whether enclosed or not ~~(except a bar)~~ for which a charge is made for admission, whether publicly or privately owned.

Section 13. Repeal. Section 8.20.110 of the Pittsburgh Municipal Code is hereby repealed:

**~~8.20.110 Out of package sales.~~**

~~No person shall sell or offer for sale cigarettes, smokeless tobacco, or other tobacco or smoking products not in the original packaging provided by the manufacturer.~~

Section 14. Amendment. Section 8.20.130 of the Pittsburg Municipal Code is hereby amended as follows:

**8.20.130 Penalties.**

A. It is unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to the restrictions of this chapter to fail to properly post signs required hereunder.

B. It is unlawful for any person to smoke in any area restricted by the provisions of this chapter.

C. Any person or business who violates subsection (A) or (B) of this section, or any other provision of this chapter, shall be guilty of an infraction, punishable as provided in PMC 1.12.020 **and subject to administrative citations as set forth in PMC 1.20.030.**

***D. Each instance of smoking in violation of this chapter shall constitute a separate violation. For violations other than smoking, each day of a continuing violation of this chapter shall constitute a separate violation.***

***E. In addition to other remedies provided by this Chapter or otherwise available at law or in equity, any violation of this chapter may be remedied by a civil action brought by the City Attorney, including, without limitation, administrative or judicial nuisance abatement proceedings, civil code enforcement proceedings, and suits for injunctive relief.***

***F. Any person may bring a civil action to enforce this chapter to prevent future violations and may sue to recover actual or statutory damages, including court costs, and attorney fees.***

***G. Owners, operators, property managers, and officers of homeowners' associations for residential properties, whether rental or owner-occupied, are required to post signs in accordance with Section 8.20.080 and provide notice to residents or tenants of the requirements of this Chapter. Owners, operators, and property managers of rental property must include the requirements of Section 8.20.077 in the lease or other rental agreement. If the owners, operators, property managers, and officers of rental property and homeowners' associations for residential properties have satisfied these requirements, they shall not be responsible for violations of the requirements of this Chapter by tenants or residents, or guests of tenants or residents.***

***H. An owner, operator, or manager ("owner") of a commercial establishment shall not be responsible for violations of this chapter within an area under the owner's control, by a patron or other member of the public ("patron"); provided, that the owner:***

- 1. Has posted signs in accordance with this chapter; and***

**2. Has verbally asked the patron not to smoke.**

***This limitation shall not limit the liability of an employer for the actions of employees in places of employment, or any other violation of this chapter by the employer.***

Section 15. Amendment. Section 8.20.140 of the Pittsburg Municipal Code is hereby amended as follows:

**8.20.140 Nonretaliation.**

No person or employer shall discharge, refuse to hire, or in any manner retaliate against any employee or applicant for employment because such employee or applicant exercises any rights afforded by this chapter. ***No person or landlord shall terminate a tenancy, or modify the terms of a tenancy, or in any manner retaliate against any tenant because such tenant makes a complaint regarding violation of this Chapter or exercises any rights granted to him or her under this Chapter.***

Section 16. Amendment. Section 8.20.150 of the Pittsburg Municipal Code is hereby amended as follows:

**8.20.150 Other applicable laws.**

This chapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable ***state or federal*** laws, including but not limited to Labor Code Section 6404.5., ***unless the applicable state or federal law does not preempt additional local regulation.***

Section 17. Amendment. Section 5.68.010 of the Pittsburg Municipal Code is hereby amended as follows:

**5.68.010 Purpose.**

The purpose of this chapter is to promote the welfare of minors by discouraging the commercial exploitation of potential underage tobacco users; by discouraging actions that promote the unlawful sale of tobacco products to minors; ~~and as well as the unlawful purchase or possession of tobacco products to minors~~ ***by encouraging responsible tobacco retailing, but not to expand or reduce the degree to which the acts regulated by federal or state law are criminally proscribed or to alter the penalties provided therein.***

Section 18. Amendment. Section 5.68.020 of the Pittsburg Municipal Code is hereby amended as follows:

**5.68.020 Definitions.**

The following words and phrases, whenever used in this chapter, shall be construed as hereafter set out, unless it is apparent that they have a different meaning:

A. "Advertising display sign" means a sign, signboard, billboard, poster, freestanding sign, balloon, pennant, or banner, that is temporarily or permanently placed on or affixed to the ground, the sidewalk, a pole or post, a fence, or a building, or is displayed in the windows or doors of a commercial establishment, and that is used to advertise or promote products.

**XX. "Arm's Length Transaction" means a sale in good faith and for valuable consideration that reflects the fair market value between two informed and willing parties, neither of which is under any compulsion to participate in the transaction.**

**XX. "Cigar" means any roll of tobacco other than a cigarette wrapped entirely or in part in tobacco or any substance containing tobacco and includes products known as or labeled little cigars, small cigars or cigarillos.**

**XX. "Cigarette" means: (1) any roll of tobacco wrapped in paper or in any substance not containing tobacco; and (2) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described herein.**

**XX. "Compliance checks" means systems the director uses to investigate and ensure that tobacco retailers are following and complying with the requirements of this chapter. Compliance checks may involve the use of persons between the ages of 18 and 20 who purchase or attempt to purchase tobacco products. Compliance checks may also be conducted by the director or other units of government for educational, research, and training purposes or for investigating or enforcing federal, state, or local laws and regulations relating to tobacco products.**

**XX. "Coupon" means any voucher, rebate, card, paper, note, form, statement, ticket, image, or other issue, whether in paper, digital, or other form, used for commercial purposes to obtain an article, product, service, or accommodation without charge or at a discounted price.**

B. "City manager" means the city of Pittsburg city manager or ~~his or her~~**their** designee.

C. "Director" means the individual designated by the city manager in writing to administer this chapter, who may be the city's health officer, a city department head, or other city staff person.

**XX. "Electronic smoking device" means any device that may be used to deliver any aerosolized or vaporized substance to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah. Electronic smoking device includes any component, part, or accessory of the device, and also includes any substance that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine. Electronic smoking device does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.**

**XX. "Flavored Tobacco Product" means any tobacco product that contains a taste**

*or smell, other than the taste or smell of tobacco, that is distinguishable by an ordinary consumer either prior to, or during the consumption of, a tobacco product, including, but not limited to, any taste or smell relating to fruit, menthol, mint, wintergreen, chocolate, cocoa, vanilla, honey, molasses, or any candy, dessert, alcoholic beverage, herb, or spice.*

***XX. “Full Retail Price” means the price listed for a tobacco product on its packaging or on any related shelving, advertising, or display where the tobacco product is sold or offered for sale, plus all applicable taxes and fees if such taxes and fees are not included in the listed price.***

***XX. “Little Cigar” means any roll of tobacco other than a cigarette wrapped entirely or in part in tobacco or any substance containing tobacco and weighing no more than 4.5 pounds per thousand. “Little Cigar” includes, but is not limited to, tobacco products known or labeled as small cigar, little cigar, or cigarillo.***

D. “Mobile billboard” means any sign, placard, billboard, or other display advertisement upon or affixed to a vehicle which is used primarily to advertise a product illegal to sell to minors, when the supporting vehicle or trailer is parked within a public right-of-way or on private property and visible to the public for a duration of time and in a manner which clearly indicates that the sign is for advertising products illegal to sell to minors or which carry a specific brand name, logo, indicia of a product illegal to sell to minors. For the purposes of this division, mobile billboard shall not include any advertisement on the side of a van, truck, or other vehicle which is primarily used for the transportation of goods or products.

E. “Person” means any individual, firm, partnership, cooperative association, private corporation, personal representative, receiver, trustee, assignee or other legal entity.

***XX. “Proprietor” means a person with an ownership or managerial interest in a business. An ownership interest shall be deemed to exist when a person has a 10% or greater interest in the stock, assets, or income of a business other than the sole interest of security for debt. A managerial interest shall be deemed to exist when a person has or shares ultimate control over the day-to-day operations of a business.***

F. “Promote” or “promotion” means a display of any logo, brand name, character, graphics, colors, scenes, designs, or recognizable color or pattern of colors, or any other indicia or product identification with, or similar to, or identifiable with, those used for any particular brand of tobacco product.

G. “Publicly visible location” means any outdoor location that is visible from any street, sidewalk, or other public thoroughfare, or any location inside a commercial establishment immediately adjacent to a window or door where such location is visible from any street, sidewalk, or other public thoroughfare.

***XX. “Sale” or “Sell” means any transfer, exchange, barter, gift, offer for sale, or distribution for a commercial purpose, in any manner or by any means whatsoever.***

***XX. “Self-Service Display” means the open display or storage of tobacco products in a manner that is physically accessible in any way to the general public without the assistance of the retailer or employee of the retailer and a direct face-to-face transfer between the purchaser and the retailer or employee of the retailer. A***

vending machine is a form of self-service display.

**XX. “Smoking” means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated product containing, made, or derived from nicotine, tobacco, marijuana, or other plant, whether natural or synthetic, that is intended for inhalation. “Smoking” includes using an electronic smoking device.**

**XX. “Tobacco Product” means:**

**(1) any product containing, made of, or derived from tobacco or nicotine that is intended for human consumption or is likely to be consumed, whether inhaled, absorbed, or ingested by any other means, including but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus;**

**(2) any electronic smoking device and any substances that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine; or**

**(3) any component, part, or accessory of (1) or (2), whether or not any of these contains tobacco or nicotine, including but not limited to filters, rolling papers, blunt or hemp wraps, hookahs, mouthpieces, and pipes.**

**“Tobacco product” does not mean drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.**

~~H. “Tobacco product” means any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipes, tobacco, snuff, chewing tobacco and dipping tobacco.~~

~~I. “Tobacco retailer” means any person who sells, offers for sale, or exchanges or offers to exchange, for any form of consideration, tobacco, tobacco products or tobacco paraphernalia; “tobacco retailing” means the doing of any of these things.~~

Section 19. Amendment. Section 5.68.040 of the Pittsburg Municipal Code is hereby amended as follows:

**5.68.040 License requirements generally.**

~~A. Tobacco Retailer’s License Required. It is unlawful for any retailer, individual, or entity who has been found to be in violation of one or more of the provisions of this chapter or other provision of this code or any applicable state or federal laws governing the sale and distribution of tobacco within the last 12 months, to sell or offer for sale any tobacco products within the city without first obtaining and maintaining a valid tobacco retailer’s license from the city for each location where such sales are conducted. Licenses are valid for one year and licensees must apply for renewal annually for a total of five years. If there are no further violations of the provisions of this chapter or applicable state or federal laws regulating the sale and distribution of tobacco in that five year period, a tobacco retailer’s license will no longer be required in order to sell tobacco products in the city. **person to engage in tobacco retailing in the City without first obtaining and maintaining a valid tobacco retailer’s license for each location at which tobacco retailing is to occur after July 1, 2024. Tobacco retailing without a valid tobacco retailer’s license is a**~~

*nuisance as a matter of law.*

***B. Lawful Business Operation. In the course of tobacco retailing or in the operation of the business or maintenance of the location for which a license issued, it shall be a violation of this article for a licensee, or any of the licensee’s agents or employees, to violate any local, state, or federal law applicable to the sale of tobacco products.***

***C. Smoking Prohibited. Smoking, including smoking for the purpose of sampling any tobacco product, is prohibited within the indoor area of any retail establishment licensed under this chapter other than a “private smokers lounge” as specified in PMC 8.20.070(C). Smoking is also prohibited outdoors within 25 feet of any retail establishment licensed under this article.***

***D. Minimum Legal Sales Age. No person engaged in tobacco retailing shall sell a tobacco product to a person under 21 years of age.***

***E. Display of License. Each tobacco retailer license shall be prominently displayed in a publicly visible location at the licensed location.***

***F. Positive Identification Required. No person engaged in tobacco retailing shall sell a tobacco product to another person without first verifying by means of government-issued photographic identification that the recipient is at least 21 years of age.***

***G. Self-service Displays Prohibited. Tobacco retailing by means of a self-service display is prohibited.***

***H. On-site Sales. All sales of tobacco products shall be conducted in-person in the licensed location. It shall be a violation of this article for any tobacco retailer or any of the tobacco retailer’s agents or employees to engage in the delivery sale of tobacco products or to knowingly or recklessly sell or provide tobacco products to any person that intends to engage in the delivery sale of the tobacco product in the City.***

***I. Sale of Electronic Smoking Devices Prohibited. It shall be unlawful for any tobacco retailers to sell, offer for sale, or possess with intent to sell or offer for sale, any electronic smoking device.***

***J. Sale of Flavored Tobacco Products Prohibited. It shall be unlawful for any tobacco retailer to sell any flavored tobacco product except as provided within California Health and Safety Code Section 104559.5(c), (d), and (e). A public statement or claim made or disseminated by the manufacturer of a tobacco product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such tobacco product, that such tobacco product has a taste or smell other than tobacco shall constitute presumptive evidence that the tobacco product is a flavored tobacco product.***

Section 20. New Section. Section 5.68.145 of the Pittsburg Municipal Code is hereby added as follows:

**5.68.145 Tobacco Product Pricing and Packaging.**

**A. Packaging and Labeling.** No tobacco retailer shall sell any tobacco product to any consumer unless the tobacco product: (1) is sold in the manufacturer's packaging intended for sale to consumers; (2) conforms to all applicable federal labeling requirements; and (3) conforms to all applicable child-resistant packaging requirements.

**B. Display of Price.** The price of each tobacco product offered for sale shall be clearly and conspicuously displayed on the tobacco product or on any related shelving, posting, advertising, or display at the location where the item is sold or offered for sale.

**C. Distribution of Tobacco Samples.** It is unlawful for any person to distribute free or nominally priced tobacco products.

**D. Prohibition of Tobacco Coupons and Discounts.** No tobacco retailer shall: (1) honor or redeem, or offer to honor or redeem, a coupon to allow a consumer to purchase a tobacco product for less than the full retail price; (2) sell any tobacco product to a consumer through a multiple-package discount or otherwise provide any such product to a consumer for less than the full retail price in consideration for the purchase of any tobacco product or any other item; or (3) provide any free or discounted item to a consumer in consideration for the purchase of any tobacco product.

**E. Minimum Package Size for Cigars.** No tobacco retailer shall sell:

**1. Any cigar unless it is sold in a package of at least at least 5 cigars; provided, however, that this subsection shall not apply to a cigar that has a price of at least \$10.00 per cigar, including all applicable taxes and fees.**

Section 21. New Section. Section 5.68.115 of the Pittsburg Municipal Code is hereby added as follows:

**5.68.115 Limits on Eligibility for a Tobacco Retailer License.**

**A. Mobile Vending.** No license may issue to authorize tobacco retailing at other than a fixed location. No new tobacco retail license will be issued to a moveable place of business.

**B. Licensed Cannabis Businesses.** No license may issue to authorize tobacco retailing at a location licensed for commercial cannabis activity by the State of California under Business and Professions Code Division 10 or by the city of Pittsburg.

**C. Proximity to Youth-Oriented Facilities.** No license may issue to authorize tobacco retailing within 600 feet of an existing, legally established school (as defined by PMC 18.08.060(V)), general day care (as defined by PMC 18.08.060(F)), club or lodge (as defined by PMC 18.08.060(B)) used exclusively as a youth center, city-owned park space which is open to the public, religious assembly (as defined by PMC 18.08.060(T)) or library, as measured from the main entrance of the tobacco



**retailer to the nearest access point of the other use, following the shortest publicly accessible path of travel, including but not limited to streets, alleys, sidewalks, pathways, or trails. However, no license may issue to authorize tobacco retailing less than 1,000 feet from any legally established school, as measured by the shortest direct line distance as measured from the main entrance of the tobacco retailer to the nearest parcel boundary of the other use.**

**D. Proximity to Other Tobacco and Cannabis Retailers. No license may be issued to authorize tobacco retailing within 500 feet of an existing licensed tobacco or cannabis retailer location as measured by a straight line from the nearest point of the property line of the parcel on which the applicant's business is located to the nearest point of the property line of the parcel on which an existing licensee's business is located.**

**E. Grocery stores and drugstores shall be exempt from subsections (C) and (D), above.**

Section 22. Amendment. Section 5.68.060 of the Pittsburg Municipal Code is hereby amended as follows:

**5.68.060 Application procedure.**

An application for a tobacco retailer's license shall be submitted in the name of the retailer, individual or entity, who, ~~following a finding of violation as specified in PMG 5.68.040,~~ proposes to conduct retail tobacco sales on the business premises, and shall be signed by such retailer, individual or entity or agent with written authority to act for same. All applications shall be submitted on a form supplied by the director, or his or her designee, and shall contain the following information:

A. The name, address, and telephone number of the applicant;

B. The business name, address, and telephone number of each establishment where tobacco is to be sold;

**C. Proof that the location for which a tobacco retailer's license is sought has been issued all necessary state licenses for the sale of tobacco products;**

**D. Whether or not the retailer, individual or entity has admitted violating, or has been found to have violated, this chapter or any other local, state, or federal law governing the sale of tobacco products and, if so, the dates and locations of all such violations within the previous five years; and**

~~E.~~ Any other information as the director determines is necessary for implementation of this article.

Section 23. Amendment. Section 5.68.070 of the Pittsburg Municipal Code is hereby amended as follows:

**5.68.070 License Issuance or denial.**

Upon receipt of a completed application for a tobacco retailer's license, including payment of the license fee, the director, or his or her designee, **may approve or deny the application for a license, or it may delay action for a reasonable period of time to complete any investigation of the application or the applicant deemed necessary.** ~~will issue a license, which each licensee must prominently display at the location where tobacco retail sales are conducted.~~

**The director, or his or her designee, may deny an application for a tobacco retailer's license based on any of the following:**

- A. The information presented in the application is inaccurate or false. Intentionally supplying inaccurate or false information shall be a violation of this chapter;**
- B. The application seeks authorization for tobacco retailing at a location for which this chapter prohibits a licensed to be issued;**
- C. The application seeks authorization for tobacco retailing for a proprietor to whom this chapter prohibits a license to be issued;**
- D. The application seeks authorization for tobacco retailing in a manner that is prohibited pursuant to this chapter, that is unlawful pursuant to any other chapter of this Code, or that is unlawful pursuant to any other law; or**
- E. Any other any other suitable reason the granting of a license to the applicant is not consistent with the public health and welfare, including the applicant's history of noncompliance with this chapter and other laws relating to the sale of tobacco products.**

Section 24. Amendment. Section 5.68.080 of the Pittsburg Municipal Code is hereby amended as follows:

**5.68.080 Fees for license.**

~~The fee for a tobacco retailer's license shall reflect the actual cost of processing the license, including inspection of the tobacco retailer's business premises and implementation of the licensing program, and shall not exceed \$500.00 annually as determined by the city council.~~ **The fee to issue or to renew a tobacco retailer's license shall be established from time to time by resolution of the city council. The fee shall be calculated so as to the total cost of administration and enforcement of this chapter, including, but not limited to, issuing a license, administering the license program, retailer education, retailer inspection and compliance checks, documentation of violations, and prosecution of violators, but shall not exceed the cost of the regulatory program authorized by this chapter. All fees and interest upon proceeds of fees shall be used exclusively to fund the program. Fees are nonrefundable except as may be required by law.**

Section 25. New Section. Section 5.68.116 of the Pittsburg Municipal Code is hereby added as follows:

**5.68.116 Compliance checks.**

**A. Compliance with this chapter shall be monitored by the director. In addition, the city may designate additional persons to monitor compliance with this chapter. All licensed premises must be open to inspection by city staff or designated persons during regular business hours.**

**B. The City shall inspect each tobacco retailer at least one (1) time per 12-month period to ensure compliance with this chapter.**

**C. Nothing in this section shall create a right of action in any licensee or other person against the city or its agents.**

Section 26. New Section. Section 5.68.117 of the Pittsburg Municipal Code is hereby added as follows:

**5.68.117 License renewal and expiration.**

**A tobacco retailer's license is invalid if the appropriate fee has not been timely paid in full or if the term of the license has expired. The term of a tobacco retailer license is one (1) year. Each tobacco retailer shall apply for the renewal of their tobacco retailer's license and submit the license fee no later than 30 days prior to expiration of the current license. A retailer that fails to timely submit a renewal application and fee is ineligible for license renewal and must submit a new application pursuant to section 5.68.060. The City shall make a decision on any renewal application within 90 days, during which time the license shall remain valid.**

Section 27. Amendment. Section 5.68.100 of the Pittsburg Municipal Code is hereby amended as follows:

**5.68.100 Suspension of license.**

A. Grounds for Suspension. In order to discourage violations of law, a tobacco retailer's license may be suspended, as set forth in subsection (B) of this section, by the director upon a finding, after giving the licensee notice and opportunity to be heard, that the licensee or his or her employee, following the issuance of a tobacco retailer's license, has violated any of the provisions of this chapter, this code or any applicable state or federal laws as otherwise allowed by law.

B. Time Period of Suspension of License.

1. Upon the first time that the director makes a finding as set forth in subsection (A) of this section, the license to sell tobacco products may be suspended for up to ~~3060~~ days;
2. Upon the second time that the director makes a finding as set forth in subsection (A) of this section within 12 months of the first determination, the license to sell tobacco products may be suspended for up to ~~90420~~ days;
3. Upon the third and each subsequent time that the director makes a finding as set forth in subsection (A) of this section within 12 months of the prior determination, the license to sell

tobacco products may be suspended for up to one year.

C. Appeal of Suspension. The decision of the director to suspend a tobacco retailer's license is appealable to the city manager as provided in Chapter 1.08 PMC.

Section 28. New Section. Section 5.68.118 of the Pittsburg Municipal Code is hereby added as follows:

**5.68.118 Exceptions.**

***Nothing in this chapter shall be construed to penalize the purchase, use, or possession of a tobacco product by any person not engaged in tobacco retailing.***

Section 29. Repeal. Section 5.68.140 of the Pittsburg Municipal Code is hereby repealed:

**~~5.68.140 Self-service displays.~~**

~~A. Prohibition. It is unlawful for any person or tobacco retailer within the city to sell, permit to be sold, offer for sale, or display for sale any tobacco product by means of self-service display, rack, counter top or shelf that allows self-service sales for any tobacco product other than vendor-assisted sales.~~

~~B. Vendor Assistance. All tobacco products shall be offered for sale exclusively by means of vendor/employee assistance, with tobacco products in a locked case requiring employee assistance to retrieve the tobacco products.~~

Section 30. Amendment. Section 9.25.010 of the Pittsburg Municipal Code is hereby amended as follows:

**9.25.010 Findings and purpose.**

The city council finds as follows:

A. The city of Pittsburg, pursuant to the police powers delegated to it by the California Constitution, has the authority to enact laws which promote the public health, safety and general welfare of its residents.

B. The occurrence of loud or unruly gatherings, or gatherings where persons under the age of 21 are present and where alcoholic beverages **or cannabis** are in the possession of, or are being consumed by, any person under the age of 21, is harmful to the community and the underage persons and is a public nuisance.

C. The city of Pittsburg has made numerous and substantial efforts to enforce underage drinking laws. Despite these efforts, alcohol use by youth remains a serious problem in the city, contributing significantly to the incidence of adolescent crime, addiction, truancy, driving under the influence of alcohol, and motor vehicle crashes involving alcohol and causing injury and/or death.

***D. Cannabis use by youth is also a serious problem in the city. Frequent cannabis***

***use during adolescence is associated with risk of cannabis addiction; impairments in attention, memory, and learning; and mental health issues. Cannabis use also poses risks to those on the road. In California, the percentage of driver fatalities testing positive for legal and/or illegal drugs increased from 43% in 2018 to 50% in 2019.***

~~DE~~. Residents have failed to prevent the occurrence of loud or unruly gatherings, including those where alcohol **or cannabis** is served to, consumed by or possessed by underage persons, which seriously disrupt neighboring residents' quiet enjoyment of their property.

~~EF~~. Control of loud or unruly gatherings and control of gatherings where alcohol **or cannabis** is served to a minor is necessary because such activity is determined to be a public nuisance.

~~H-FG~~. Persons held responsible for allowing, permitting or hosting loud or unruly gatherings or gatherings where alcohol **or cannabis** is served to persons under 21 will be more likely to properly supervise or stop such gatherings.

~~GH~~. Law enforcement, fire, and other emergency response services personnel have responded, sometimes on multiple occasions, to loud or unruly gatherings or gatherings where alcohol **or cannabis** is served to, consumed by, or in the possession of underage persons, on private property, and responses to such gatherings result in a disproportionate expenditure of public safety resources of the city, which are supplemented by the general municipal taxes paid by residents and taxpayers, and such responses result in a delay of responses to regular and emergency calls to the rest of the city.

~~HI~~. Problems associated with loud or unruly gatherings or gatherings where alcohol **or cannabis** is served, consumed by, or in the possession of underage persons are difficult to prevent or deter unless the city has the legal authority to issue an administrative citation or an administrative fine.

~~IJ~~. The intent of this chapter is to protect the public health, peace, safety and quiet enjoyment of residential property, and general welfare.

~~JK~~. Section 25658 of the Business and Professions Code makes it unlawful for a person under the age of 21 years to purchase or attempt to purchase or consume alcoholic beverages and makes it unlawful for any person to sell any alcoholic beverage to any person under the age of 21.

***L. Section 26140 of the Business and Professions Code prohibits the sale of cannabis to persons under the age of 21. (Those 18 years of age or older may use cannabis for medicinal use with a doctor's recommendation).***

~~KM~~. According to local, state, and federal surveys, alcohol is overwhelmingly and consistently the most widely used drug at all adolescent age levels. A child who begins alcohol use prior to age 15 is four times as likely to experience alcohol dependence than one who refrains from alcohol until age 20 or older.

***N. According to a state survey, almost one-third (31.2%) of high school students reported ever having used marijuana, while 15% reported using it in the last 30 days. Marijuana was the most popular product, used by more high school students than all tobacco products combined (15% vs. 9.7%).***

~~L~~O. The city council of the city of Pittsburg determines that this chapter is a reasonable and necessary means to protect and promote the health, safety, and general welfare of the youth and other residents of the city of Pittsburg.

Section 31. Amendment. Section 9.25.020 of the Pittsburg Municipal Code is hereby amended as follows:

**9.25.020 Definitions.**

The following words and phrases, whenever used in this chapter, shall be construed as hereafter set out, unless it is apparent that they have a different meaning:

A. "Alcohol" means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.

***B. "Cannabis" shall have the same meaning as set forth in Section 5.70.120.***

~~B.~~ C. "Gathering" means a group of persons who have assembled, or are assembling, for a social occasion or for a social activity.

~~C.~~ D. "Loud or unruly gathering" means a party or gathering which threatens public health, peace, safety or general welfare because of loud or unruly conduct. Such loud or unruly conduct includes but is not limited to:

1. Excessive noise;
2. Excessive traffic;
3. Obstruction of public streets or crowds that have spilled into public streets;
4. Public drunkenness or unlawful public consumption of alcohol or alcoholic beverages;
5. Service to or consumption of alcohol or alcoholic beverages by any underage person, except as permitted by state law;
6. Assaults, batteries, fights, domestic violence or other disturbance of the peace;
7. Vandalism;
8. Litter; and
9. Any other conduct which constitutes a threat to public health, safety, quiet enjoyment of residential property or general welfare.

A loud or unruly gathering shall constitute a public nuisance.

~~D.~~ E. "Response recovery cost" means the costs associated with responses by law enforcement or other emergency response providers to loud or unruly gathering, including but not limited to:

1. Salaries and benefits of law enforcement or other emergency response personnel for the amount of time spent responding to, remaining at, or otherwise dealing with loud or unruly gatherings, and the administrative cost attributable to such response(s);

2. The cost of any medical treatment to or for any law enforcement or other emergency response personnel injured responding to, remaining at or leaving the scene of a loud or unruly gathering;
3. The cost of repairing any city equipment or property damaged, and the cost of the use of such equipment, in responding to, remaining at or leaving the scene of a loud or unruly gathering.

Section 32. Amendment. Section 9.25.030 of the Pittsburg Municipal Code is hereby amended as follows:

**9.25.030 Unlawful gatherings.**

A. No person shall suffer, permit, allow, or host a gathering where three or more persons under the age of 21 are present and where alcoholic beverages **or cannabis** are in the possession of, or are being consumed by, any person under the age of 21.

B. No person shall suffer, permit, allow or host a loud or unruly gathering.

C. This chapter does not apply to any gathering involving the use of alcoholic beverages that is protected by Article 1, Section of the California Constitution.

***D. This chapter does not apply to any gathering involving the use of medicinal cannabis lawfully served to, or in the possession of a qualified patient or primary caregiver, as those terms are defined by Health and Safety Code Section 11362.7, in conformance with Health and Safety Code Section 11362.77.***

Section 33. Amendment. Section 18.88.010 of the Pittsburg Municipal Code is hereby amended as follows:

**18.88.010 Definitions.**

“Cannabis” shall have the same meaning as set forth in California Health and Safety Code Section 11018 et seq. Consistent with state law, it does not include industrial hemp, as defined in California Health and Safety Code Section 11018.5.

***“Cannabis products” has the same meaning as in Section 11018.1 of the Health and Safety Code, and includes cannabis products intended for use on, or consumption by, an animal. Cannabis products are not considered food, as defined by Section 109935 of the Health and Safety Code, a drug, as defined by Section 109925 of the Health and Safety Code, or a cosmetic, as defined by Section 109900 of the Health and Safety Code.***

“Commercial cannabis business” means business engaged in commercial activity involving cannabis and holding one or more state licenses. A single commercial cannabis business may hold multiple state licenses under a single city commercial cannabis permit.

“Fully enclosed and secure structure” means a space within a building that complies with the applicable building code, and has a complete roof enclosure supported by connecting walls extending from the ground to the roof, a foundation, slab or equivalent base to which

the floor is secured by bolts or similar attachments, is secure against unauthorized entry, and is accessible only through one or more lockable doors. Walls and roof must be constructed of solid materials that cannot be easily broken through, and must be constructed with nontransparent material.

“Indoors” means inside a fully enclosed and secure structure or within a private residence.

“Medical cannabis” means cannabis used for medical purposes in accordance with the Compassionate Use Act, California Health and Safety Code Section 11362.5, and the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”), California Business and Professions Code Section 26000 et seq.

“Medical cannabis cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis as defined in California Business and Professions Code Section 26000 et seq.

“Medical cannabis delivery” means the transfer of medical cannabis or medical cannabis products from a medical cannabis dispensary to a qualified patient or primary caregiver, as well as the use by a dispensary of any technology platform to arrange for or facilitate the transfer of medical cannabis or medical cannabis products.

“Medical cannabis dispensary” or “dispensary” means (1) any facility, building, structure or location, whether fixed or mobile, where a primary caregiver makes available, sells, transmits, gives or otherwise provides medical cannabis to three or more of the following: a qualified patient or a person with an identification card, or a primary caregiver, in strict accordance with California Health and Safety Code Section 11362.5 et seq.; or (2) any facility, building, structure or location where three qualified patients and/or persons with identification cards and/or primary caregivers meet or congregate in order to collectively or cooperatively distribute, sell, dispense, transmit, process, deliver, exchange or give away cannabis for medicinal purposes pursuant to California Health and Safety Code Section 11362.5 et seq., and such group is organized as a medical cannabis cooperative or collective as set forth in the Attorney General’s guidelines. The terms “primary caregiver,” “qualified patient,” and “person with an identification card” shall be as defined in California Health and Safety Code Section 11362.5 et seq.

For purposes of this chapter, a “medical cannabis dispensary” shall not include the following uses, as long as the location of such uses is otherwise regulated by applicable law and complies strictly with applicable law, including but not limited to California Health and Safety Code Section 11362.5 et seq.:

1. A clinic licensed pursuant to Chapter 1 of Division 2 of the California Health and Safety Code;
2. A health care facility licensed pursuant to Chapter 2 of Division 2 of the California Health and Safety Code;
3. A residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the California Health and Safety Code;
4. A residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the California Health and Safety Code;
5. A residential hospice or a home health agency licensed pursuant to Chapter 8 of



Division 2 of the California Health and Safety Code.

“Medical cannabis products” means medical cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.

“Nonmedical cannabis” means cannabis that is intended to be used for nonmedical purposes pursuant to California Health and Safety Code Section 11362.1 et seq. and California Business and Professions Code Section 26000 et seq.

“Outdoors” means any location within the city that is not within a fully enclosed and secure structure or a private residence.

“Person” means any individual, partnership, co-partnership, firm, association, joint stock company, corporation, limited liability corporation, collective, cooperative, or combination thereof in whatever form or character.

“Private residence” means a house, an apartment unit, a mobile home or other similar dwelling.

“Solid fence” means a fence constructed of substantial material, such as wood or metal, that prevents viewing the contents from one side to the other side of the fence.

Section 34. Amendment. Section 18.88.051 of the Pittsburg Municipal Code is hereby amended as follows:

**18.88.051 Performance standards for all commercial cannabis businesses.**

A. Licensee shall at all times comply with state law including but not limited to the manufactured cannabis safety regulations at Title 17 California Code of Regulations Sections 40100 et seq. Licensee shall adhere to manufacturing practices as set forth in Title 21 of the Code of Federal Regulations, Parts 210, 211, 225, and 226.

B. All inventory of cannabis raw materials and finished products shall be kept in secured storage areas or as otherwise approved by the chief of police as specified within an approved security plan, to which only authorized personnel shall have access. Use and movement of all cannabis products shall be logged from acceptance of shipment to delivery at retail location for inventory accuracy and management. Records shall be made available to the police department or any other agency with regulatory authority within 72 hours of written request therefor.

C. Licensee shall require all prospective employees to submit to a live scan at a designated service provider and a background check by the California Department of Justice (DOJ) and local law enforcement. The cost of the background check shall be borne by the licensee or the prospective employee. Licensee shall not employ any person in violation of PMC 18.88.045.

D. All raw or concentrated cannabis shall be securely stored in areas approved as specified in the operating agreement or as otherwise approved by the chief of police.

E. By-products of any cannabis business operation, including but not limited to those by-products resulting from testing, cultivation, trimming, or manufacturing processes shall be disposed of pursuant to local and state laws.

F. The city manager may require measures to be taken to eliminate odors, in the event odors resulting from cannabis are shown to have continually occurred. These measures may include, but are not limited to, installation of industrial grade HEPA filtration and/or activated carbon filtration systems. Any required measures shall be taken at the sole cost of the licensee.

G. Required Changes. City shall have the discretion to require changes to any of the terms within this section, upon reasonable notice to licensee.

H. Licensee shall, to the fullest extent allowed by law, give preference to residents of the city of Pittsburg for employee hiring.

I. All signage shall be approved and placed in accordance with PMC Title 19. The police department and planning division shall reserve sole discretion in determining approved language and imagery at the project site.

J. All cannabis businesses open to the public shall prominently display signage near the public entrance designed to alert consumers to the possible health impact of cannabis use and smoke.

***K. Licensees shall provide each customer with a single-page flat or folded brochure with each purchase that includes all of the following information:***

***(1) A recommendation that new consumers start with lower doses.***

***(2) That care should be taken for the delayed effects of edibles, including warnings that it can take up to four hours to feel the full effects from eating or drinking cannabis and that consuming more within this time period can result in more adverse effects that may require medical attention.***

***(3) The dangers of purchasing illegally sold cannabis and cannabis products, including the increased risk that untested cannabis may contain unsafe additives or harmful contaminants such as mold or pesticides.***

***(4) Warnings against consuming cannabis or cannabis products while pregnant or breastfeeding and that exposure to cannabis during pregnancy may harm the baby's health, including causing low birth weight.***

***(5) The potential for cannabis use to contribute to mental health problems, including psychotic disorders such as schizophrenia and increased thoughts of suicide and suicide attempts, and that these risks are greatest for frequent users and when using products with high THC levels.***

***(6) The link between higher THC content and the likelihood of experiencing adverse effects and impairment, including severe anxiety and the disruption of memory and concentration.***

***(7) Cautions that driving while under the influence of cannabis is a DUI and that cannabis use increases the risk of motor vehicle crashes.***

**(8) Evidence that starting cannabis use at a young age or using frequently may lead to problem use and may harm the developing brain.**

**(9) That smoking cannabis may make breathing problems worse and that prolonged use of inhaled cannabis products may cause recurrent, severe nausea and vomiting.**

**The City shall create and post the brochure in consultation with the Contra Costa County Department of Public Health. The brochure shall be printed in a type size not smaller than 12 points.**

**M. Cannabis or cannabis products intended for use by inhalation or combustion, including accessories intended to be used as part of cannabis cartridges and integrated cannabis vaporizers, shall not contain any artificial, synthetic, or natural flavoring or any descriptor of flavor that would imply to a reasonable consumer that the product or accessory contains flavors other than the natural flavor or aroma of cannabis, including, but not limited to, menthol, mint, mango, strawberry, grape, orange, clove, cinnamon, pineapple, vanilla, coconut, licorice, cocoa, chocolate, cherry, coffee, popcorn, and bubblegum.**

**K.O.** City may require additional provisions in the operating agreement.

Section 35. Effective Date. This Ordinance shall be in full force and effect thirty (30) days after its adoption.

Section 36. Severability. If any section, subdivision, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions.

Section 37. Publication. The ordinance shall be posted and published in accordance with the California Government Code.

The foregoing ordinance was introduced at a meeting of the City Council of the City of Pittsburg held on [redacted], 2024, and was adopted and ordered published at a meeting of the City Council held on [redacted], by the following vote:

- AYES:
- NOES:
- ABSTAINED:
- ABSENT:

\_\_\_\_\_  
Juan Antonio Banales, Mayor

ATTEST:

\_\_\_\_\_  
Alice E. Evenson, City Clerk

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Amending Title 18 of the Pittsburg	)	ORDINANCE NO. 24-
Municipal Code, Adding Article XXII to	)	
Chapter 18.84 to establish Alcohol	)	
<u>Performance Standards</u>	)	

WHEREAS, the City of Pittsburg, pursuant to the police powers delegated to it by the California Constitution, has the authority to enact laws which promote the public health, safety and general welfare of its residents; and

WHEREAS, the proposed amendment is a reasonable and necessary means to protect and promote the health, safety, and general welfare of the City of Pittsburg’s residents; and

WHEREAS, the California Environmental Protection Agency includes alcoholic beverages on the Proposition 65 list of chemicals known to the state of California to cause cancer; and

WHEREAS, the California State Parent Teacher’s Association encourage its units, councils and districts to contact and urge city and county agencies to develop and implement legislation that would deny the licensing of any establishment which sells alcoholic beverages within 600 feet of schools; and

WHEREAS, staff has drafted a set of Alcohol Performance Standards to be applicable City-wide for all alcoholic beverage sales or service establishments.

NOW, THEREFORE, the City Council of the City of Pittsburg does ORDAIN as follows:

Section 1. Amendment. Title 18 is hereby amended to add Article XXII to Chapter 18.84 as set forth below:

**Article XXII. Alcoholic Beverages.**

18.84.1000 - Purpose and Applicability

These regulations are established to comply with state law and state agency regulations, to better define, regulate, and enforce the sale, service, marketing, and consumption of alcohol in the city, and overall, to create a healthier community. The city finds that the imposition of standards and conditions are tailored to allow the business establishment to flourish while meeting the city’s public health and safety needs. This approach would also avoid placing unnecessary conditions on existing businesses with a history of compliance with city laws and requirements.

18.84.1005 – Definitions

The following words and phrases as used in this chapter are defined as follows:

- A. "ABC license" means the license issued by the State of California Department of Alcoholic Beverage Control.
- B. "Alcoholic Beverage" means alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, that meets the following criteria: (1) contains one-half of one percent or more of alcohol by volume; (2) is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances; and (3) sales of which require a State of California Department of Alcoholic Beverage Control License.
- C. "Alcoholic Beverage Sales or Service Establishment" means any business that requires a State of California Department of Alcoholic Beverage Control License.
- D. "Sensitive Use" or "Sensitive Land Use" means schools, youth and day care centers, residences, parks, playgrounds, hospitals, elder care facilities, places of religious assembly, and other locations as deemed appropriate by the Zoning Administrator.

#### 18.84.1010 – Use Permit Required

No person shall dispense for sale or other consideration, alcoholic beverages, including beer, wine, malt beverages, and distilled spirits, for on-site or off-site consumption without first obtaining a Use Permit unless the sale or service is associated with a bona fide eating place, as defined by the State of California Department of Alcoholic Beverage Control ("ABC"), in which case, the applicable land use regulation specific to the zoning district shall apply.

#### 18.84.1015 – Specific Findings Necessary for Use Permit for Alcoholic Beverage Sales or Service Establishment

The City Council or Planning Commission may only grant a Use Permit for an Alcoholic Beverage Sales or Service Establishment if it makes all the following findings, in addition to the findings required for approval of the Use Permit in accordance with PMC Section 18.16.040:

- A. The location and operating characteristics of the proposed alcohol sales will not adversely affect sensitive land uses, as defined by PMC Section 18.84.1005. For the purposes of this chapter, "adversely affect" means to impact in a substantial, negative manner the safety, economic value, habitability, or use of properties in the immediate area; and
- B. The impacts of any nearby discretionary land use that is already subject to a Use Permit and that also engages in alcoholic beverage sales or service are not increased; and
- C. Conditions are placed on the use that reduce, manage, minimize, mitigate, or eliminate impacts to public health and safety, including, but not limited to, interior and

exterior restrictions such as noise controls, location and use of parking areas, sound barriers, and other performance standards.

#### 18.84.1020 – Performance Standards for Alcoholic Beverage Sales and Service Establishments

An alcoholic beverage sales and service establishment shall meet the minimum standards below.

- A. A Use Permit shall be reviewed and approved by the Planning Commission or City Council prior to operating or establishing a business. Additionally, no person shall dispense for sale or other consideration, alcoholic beverages, including beer, wine, malt beverages, and distilled spirits, for on-site or off-site consumption without first obtaining a Use Permit, unless the sale or service is associated with a bona fide eating place, as defined by the State of California Department of Alcoholic Beverage Control, in which case, the applicable land use regulation specific to the underlying zoning district shall apply.
- B. A copy of the Use Permit, conditions of approval, and the ABC license must be kept on the premises and presented to any law enforcement officer or authorized city official upon request.
- C. The use shall not be located within 600 feet of sensitive land uses in the surrounding area as measured from the main entrance of the alcohol sales or service establishment to the nearest access point of the other use, following the shortest publicly accessible path of travel, including but not limited to streets, alleys, sidewalks, pathways, or trails. However, in no event shall an alcoholic beverage sales or service establishment be located less than 1,000 feet from any legally established school, as measured by the shortest direct line distance as measured from the main entrance of the alcoholic beverage sales or service business to the nearest parcel boundary of the other use.
  - 1. This minimum distance requirement shall not apply if the sale or service of alcoholic beverages is associated with a bona fide eating place, as defined by the State of California Department of Alcoholic Beverage Control, in which case, the applicable land use regulation specific to the underlying zoning district shall apply.
  - 2. This minimum distance requirement shall not apply to uses within the “Downtown” Subarea of the General Plan.
- D. The use shall not be located in a census tract with more than the recommended maximum concentration of the applicable on- or off-premises sales use, as recommended by the State of California Department of Alcoholic Beverage Control Board, or with a high crime rate as reported by the Pittsburg Police Department unless

the City Manager in consultation with the Chief of Police, has made a determination of public convenience or necessity as provided for by State law.

- E. A legal non-conforming alcohol sales or service establishment use is one that is defined by PMC Chapter 18.76, in addition to those locations in a census tract with more than the recommended maximum concentration of the applicable on- or off-premises sales use, as recommended by the State of California Department of Alcoholic Beverage Control Board. If the use of alcohol sales or service is considered a legal non-conforming, the use is subject to non-conforming use limitations described therein.
- F. Sale of alcoholic beverages shall be limited to 8:00 AM to 10:00 PM, daily, unless the City Council or Planning Commission has approved a Use Permit allowing for additional hours of operation.
- G. The possession of alcoholic beverages in open containers and the consumption of alcoholic beverages are prohibited on or around the premises for off-sale alcoholic beverage sales and service establishments. For on-sale alcoholic beverage sale and service establishments, consumption of beverages must follow the PMC regulations and applicable Outdoor Dining Permit, as required by PMC 18.84.430, for regulations for outdoor sale, service, or consumption of alcoholic beverages.
- H. The sale of the following products shall be prohibited unless the City Council or Planning Commission has approved a Use Permit allowing for:
  - 1. Wine in containers less than 750 milliliters.
  - 2. Distilled spirits in containers less than 375 milliliters.
  - 3. Malt beverage products, including flavored malt beverage products, with alcohol content greater than 5.5% by volume. A 'flavored malt beverage' product is a malt beverage product to which is added an alcoholic or other flavoring ingredient and is labeled or packaged in a manner that is similar to labeling or packaging used for non-alcoholic beverages such as sodas, teas, lemonades, fruit punches, energy drinks, and slushes.
  - 4. Wine with an alcoholic content greater than 14% by volume unless in corked bottles and aged at least two years.
  - 5. Single containers of beer or malt liquor less than 24 ounces.
- I. The owner or operator of the use shall prevent loitering or other activity that would be a nuisance to the public. Notices shall be prominently displayed that prohibit loitering and littering and request patrons not to disturb neighbors or block driveways.

- J. The alcoholic beverage sales or service establishment shall be maintained free of litter and graffiti at all times. The owner or operator is responsible for daily removal of trash, litter, and debris from the premises and on all abutting sidewalks and streets within twenty feet of the premises.
- K. Alcoholic beverage sales or service establishments shall be limited to 10% window signage. All signage proposed shall follow PMC Title 19 for sign regulations.
- L. No alcoholic beverage sales or service establishments located in a building or structure with exterior windows shall block visibility into the interior business area through the use of curtains, closed blinds, tints, or any other material that hides, obstructs, blurs, or unreasonably darkens the view into the establishment.
- M. The following signs shall be prominently displayed in a readily visible manner:
  - 1. "California State Law prohibits the sale of alcoholic beverages to persons under 21 years of age."
  - 2. "No loitering or public drinking."
- N. All businesses that engage in retail alcoholic beverage sales or service shall be subject to inspection by the Chief of Police, or their designee, to ensure that criminal or nuisance activities are not occurring on or near the premises.
- O. The alcoholic beverage sales or service establishment shall not result in jeopardizing, endangering, or any other adverse effects to the health, peace or safety of persons residing or working in the surrounding area.
- P. The alcoholic beverage sales or service establishment shall not result in repeated nuisance activities within the premises or in close proximity of the premises, including but not limited to disturbance of the peace, illegal drug activity, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, sale of stolen goods, public urination, theft, assaults, batteries, acts of vandalism, excessive littering, loitering, graffiti, illegal parking, excessive loud noises, especially in the late night or early morning hours, traffic violations, curfew violations, lewd conduct, or police detentions and arrests.
- Q. The alcoholic beverage sales or service establishment shall not result in violations to any applicable provision of any other city, state, or federal regulation, ordinance, or statute.
- R. The alcoholic beverage sales or service establishment shall operate with characteristics that are compatible with, and will not adversely affect, the livability or appropriate development of abutting properties and the surrounding area.



- S. If the alcoholic beverage sales or service establishment operates in violation of the Alcohol Performance Standards as described in PMC Section 18.84.1020, any adopted Condition of Approval, or any other regulation prescribed by the PMC, the Planning Commission may revoke the Use Permit using the “Grounds for Revocation of Use Permit or Variance” pursuant to PMC Section 18.28.100. Revocation of the establishment’s Business Permit may also commence, pursuant to PMC Section 5.12.200, “Grounds for Revocation”.
  
- T. A copy of these Alcohol Performance Standards shall be posted in a conspicuous and unobstructed place visible from the entrance of the establishment for public review.

Section 2. Effective Date. This Ordinance shall be in full force and effect thirty (30) days after its adoption.

Section 3. Severability. If any section, subdivision, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions.

Section 4. Publication. The ordinance shall be posted and published in accordance with the California Government Code.

The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Pittsburg held on \_\_\_\_\_, 2024, and was adopted and ordered published at a meeting of the City Council held on \_\_\_\_\_, by the following vote:

- AYES:
- NOES:
- ABSTAINED:
- ABSENT:
- ATTEST:

---

Juan Antonio Banales, Mayor

---

Alice E. Evenson, City Clerk

# Contra Costa County

	Antioch	Brentwood	Clayton	Concord	Danville	El Cerrito	Hercules	Lafayette	Martinez	Moraga	Oakley	Orinda	Pinole	Pittsburg	Pleasant Hill	Richmond	San Pablo	San Ramon	Walnut Creek	Contra Costa County Unincorporated
<b>Overall Tobacco Control Grade</b>	<b>F</b>	<b>F</b>	<b>A</b>	<b>A</b>	<b>C</b>	<b>A</b>	<b>C</b>	<b>A</b>	<b>C</b>	<b>F</b>	<b>A</b>	<b>D</b>	<b>A</b>	<b>F</b>	<b>C</b>	<b>A</b>	<b>B</b>	<b>C</b>	<b>B</b>	<b>A</b>
<b>Total Points</b>	<b>1</b>	<b>0</b>	<b>11</b>	<b>10</b>	<b>6</b>	<b>14</b>	<b>5</b>	<b>12</b>	<b>6</b>	<b>0</b>	<b>11</b>	<b>4</b>	<b>10</b>	<b>1</b>	<b>7</b>	<b>14</b>	<b>9</b>	<b>6</b>	<b>8</b>	<b>14</b>
<b>Smokefree Outdoor Air</b>	<b>F</b>	<b>F</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>A</b>	<b>B</b>	<b>A</b>	<b>A</b>	<b>F</b>	<b>A</b>	<b>B</b>	<b>A</b>	<b>D</b>	<b>B</b>	<b>A</b>	<b>F</b>	<b>A</b>	<b>A</b>	<b>A</b>
Dining	0	0	4	2	0	4	2	4	4	0	4	4	4	0	2	4	0	4	4	4
Entryways	0	0	0	0	0	4	4	4	4	0	4	4	4	0	3	4	0	4	4	4
Public Events	0	0	4	2	0	4	4	4	4	0	4	4	4	0	3	4	0	4	0	4
Recreation Areas	0	0	4	2	4	4	4	4	4	0	4	4	4	4	4	4	0	4	4	4
Service Areas	0	0	4	2	0	4	2	4	4	0	4	0	4	0	4	4	0	4	4	4
Sidewalks	0	0	0	1	0	1	0	1	0	0	0	0	0	1	0	0	0	0	1	0
Worksites	0	0	0	0	0	1	0	0	1	0	0	0	0	0	0	0	0	0	1	0
<b>Total Points</b>	<b>0</b>	<b>0</b>	<b>16</b>	<b>9</b>	<b>4</b>	<b>22</b>	<b>16</b>	<b>21</b>	<b>21</b>	<b>0</b>	<b>20</b>	<b>16</b>	<b>20</b>	<b>4</b>	<b>17</b>	<b>20</b>	<b>0</b>	<b>20</b>	<b>18</b>	<b>20</b>
<b>Smokefree Housing</b>	<b>F</b>	<b>F</b>	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>	<b>C</b>	<b>B</b>	<b>C</b>	<b>F</b>	<b>C</b>	<b>F</b>	<b>C</b>	<b>F</b>	<b>C</b>	<b>A</b>	<b>B</b>	<b>C</b>	<b>A</b>	<b>A</b>
Nonsmoking Apartments	0	0	4	4	4	4	1	2	0	0	1	0	1	0	1	4	4	0	4	4
Nonsmoking Condominiums	0	0	4	4	4	4	0	2	0	0	1	0	1	0	1	4	0	0	4	4
Nonsmoking Common Areas	0	0	4	4	4	4	4	4	4	0	4	0	4	0	4	4	4	4	4	4
<b>Total Points</b>	<b>0</b>	<b>0</b>	<b>12</b>	<b>12</b>	<b>12</b>	<b>12</b>	<b>5</b>	<b>8</b>	<b>4</b>	<b>0</b>	<b>6</b>	<b>0</b>	<b>6</b>	<b>0</b>	<b>6</b>	<b>12</b>	<b>8</b>	<b>4</b>	<b>12</b>	<b>12</b>
<b>Reducing Sales of Tobacco Products</b>	<b>F</b>	<b>F</b>	<b>A</b>	<b>A</b>	<b>D</b>	<b>A</b>	<b>F</b>	<b>A</b>	<b>F</b>	<b>F</b>	<b>A</b>	<b>F</b>	<b>A</b>	<b>F</b>	<b>C</b>	<b>A</b>	<b>A</b>	<b>F</b>	<b>F</b>	<b>A</b>
Tobacco Retailer Licensing	0	0	4	4	1	4	0	4	0	0	4	0	4	0	2	4	4	0	0	4
<b>Total Points</b>	<b>0</b>	<b>0</b>	<b>4</b>	<b>4</b>	<b>1</b>	<b>4</b>	<b>0</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>4</b>	<b>0</b>	<b>4</b>	<b>0</b>	<b>2</b>	<b>4</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>4</b>
<b>Restrictions on Flavored Tobacco Products</b>	<b>Y</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>Y</b>	<b>N/A</b>	<b>Y</b>	<b>N/A</b>	<b>Y</b>	<b>N/A</b>	<b>Y</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>Y</b>	<b>Y</b>	<b>N/A</b>	<b>N/A</b>	<b>Y</b>
Flavored Tobacco Products	1	0	0	0	0	1	0	1	0	1	0	1	0	0	0	1	1	0	0	1
<b>Total Points</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>1</b>
<b>Emerging Issues Bonus Points</b>																				
Emerging Products Def - Secondhand Smoke	0	0	1	1	1	1	1	0	0	0	1	0	1	1	1	1	1	0	1	1
Emerging Products Def - Licensing	0	0	0	1	1	1	0	1	0	0	1	0	0	0	1	1	1	0	0	1
Emerging Products Def - Cannabis	1	0	1	1	0	1	1	0	1	0	1	0	0	0	0	1	0	0	1	1
Retailer Location Restrictions	1	0	0	0	1	1	1	0	0	0	1	0	0	1	0	1	1	0	0	1
Sale of Tobacco Products in Pharmacies	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	1	0	0	0	1
Minimum Price of Cigarettes	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Minimum Pack Size of Cigars	0	0	0	0	0	1	0	0	0	0	0	0	1	0	0	1	1	0	0	1
<b>Total Points</b>	<b>2</b>	<b>0</b>	<b>2</b>	<b>3</b>	<b>3</b>	<b>5</b>	<b>3</b>	<b>2</b>	<b>1</b>	<b>0</b>	<b>4</b>	<b>0</b>	<b>2</b>	<b>2</b>	<b>2</b>	<b>6</b>	<b>4</b>	<b>0</b>	<b>2</b>	<b>6</b>

# **Tobacco and Cannabis Policy Options**

**Report to the City Council**

**City of Pittsburgh**

**Leslie K. Zellers, JD  
Independent Consultant  
Public Health Policy and Law**

**August 15, 2022**

## Table of Contents

<b>I. Introduction .....</b>	<b>3</b>
<b>II. Tobacco Sales, Marketing, and Use.....</b>	<b>3</b>
A. Reducing Youth Access to Tobacco Products .....	3
B. Reducing Exposure to Secondhand Smoke .....	6
C. Advertising/Marketing .....	9
<b>III. Cannabis Sales, Marketing, and Use .....</b>	<b>10</b>
A. Health Impact .....	10
B. Existing Law .....	11
C. Policy Options.....	12
D. Legal Authority .....	12
<b>IV. Alcohol Sales, Marketing, and Use.....</b>	<b>13</b>
A. Health Impact .....	13
B. Existing Law .....	13
C. Policy Options.....	15
D. Legal Authority .....	15
<b>V. Next Steps/Recommendation .....</b>	<b>15</b>
<b>VI. Conclusion .....</b>	<b>16</b>
<b>Appendix A: Potential Policy Options.....</b>	<b>17</b>
<b>Appendix B: American Lung Association State of Tobacco Control 2022 .....</b>	<b>19</b>
<b>Appendix C: Licensed Tobacco Retailers.....</b>	<b>20</b>
<b>Appendix D: Contra Costa County Cannabis Laws.....</b>	<b>22</b>

## I. Introduction

The City Council has asked for a report providing policy options and recommendations for the City to reduce (1) tobacco sales; (2) tobacco use (especially in youth); (3) cannabis sales; and (4) cannabis use (especially in youth). Based on Council's direction, the report includes federal and state regulations on tobacco advertising and restrictions intended to reduce the exposure to youth. For comparison, the report also includes federal and state regulations on alcohol, and cannabis sales and advertising.

Each section of the report – tobacco, cannabis, and alcohol -- includes information on the health impacts of these substances, existing laws regulating the products, potential policy options, and information on the City's legal authority to regulate in these areas.

A full list of potential policy options is provided in Appendix A. Throughout the report, potential policy options are indicated with a check box:

## II. Tobacco Sales, Marketing, and Use

The dangers of tobacco use and exposure to secondhand smoke are well documented. More than 40,000 Californians die each year from smoking-related disease, making tobacco use the number one cause of preventable death. In Contra Costa County, more than 6,500 people die each year due to smoking-related illness or diseases, such as cancer, heart disease, and respiratory diseases. More than one in 10 youth in the County currently use tobacco products, including electronic smoking devices.

The Contra Costa County Health Services Department and the California Department of Public Health recommend policies to reduce youth access to tobacco products and to reduce exposure to secondhand tobacco smoke. Pittsburg has adopted few of the recommended policies. The American Lung Association provides an evaluation of local tobacco control policies through a State of Tobacco Control Report (Attachment A). Pittsburg currently has an overall "F" grade on this report. Pittsburg could improve its tobacco control grade and protect residents from the dangers of tobacco by requiring a license to sell tobacco products for all tobacco retailers; prohibiting the sale of flavored tobacco products; requiring smoke-free multi-unit housing; and prohibiting smoking in most outdoor areas.

### A. Reducing Youth Access to Tobacco Products

This section of the report describes the health impacts of tobacco products on minors; existing laws regulating youth access to tobacco products; and potential policy options for the City to consider.

## *1. Health Impacts*

Based on the California Student Tobacco Survey, 32.5% of high school students in Contra Costa County had ever used a tobacco product in 2019–20, and 14.3% had used tobacco in the last 30 days. Electronic smoking devices such as vapes were the most popular tobacco product, with 28.9% of high school students having ever used them and 12.8% being current users. The vast majority (92.0%) of current tobacco users reported using a flavored tobacco product, with the highest use of flavored products being among e-cigarette users (95.8%).<sup>1</sup>

Young people who use e-cigarettes are more likely to start smoking cigarettes than their peers who do not vape. Nicotine levels in e-cigarettes are highly variable, with some reaching levels near combustible cigarettes. Nicotine is harmful to developing brains: younger users are more likely to become addicted, have more difficulty quitting and may be at higher risk for addiction to other substances in the future.<sup>2</sup>

Based on a study in 2018, more than 86% of tobacco retailers in California sold flavored noncigarette tobacco products, over 91% of tobacco retailers sold menthol cigarettes,<sup>3</sup> and, as of 2016, 8 out of 10 tobacco retailers near schools sold flavored non-cigarette tobacco products.<sup>4</sup>

## *2. Existing Law*

Federal law prohibits the sale of candy and fruit-flavored cigarettes but does not prohibit the sale of menthol cigarettes or flavored, non-cigarette products, such as cigars, little cigars, smokeless tobacco, hookah tobacco, electronic smoking devices (i.e., vaping), and the e-liquid used in these devices. The U.S. Food and Drug Administration (FDA) recently announced plans to ban menthol cigarettes and all flavored cigars in the United States. Agency officials say this ban could help prevent some of the roughly 500,000 U.S. deaths linked to tobacco each year. However, these regulations have not yet been drafted, and the proposed changes will take several years to adopt and implement.

California law (SB793) adopted on August 23, 2020, prohibits the sale of most flavored tobacco products but provides three exemptions:

- Hookah and shisha products (if sold by an adult-only hookah tobacco retailer);
- Premium cigars with a wholesale price of no less than \$12; and
- Loose leaf tobacco (other than tobacco for roll-your-own-cigarettes).

The California law was scheduled to take effect on January 1, 2021, but opponents submitted a proposed referendum to overturn the law. The State law is suspended until the referendum is held in November 2022. If the voters uphold SB 793, the law will become effective immediately. However, a lawsuit filed by tobacco companies challenging the State law could delay implementation even further.

The State of California requires a license to sell tobacco products but it permits local tobacco retail licenses. A local tobacco retail license is generally adopted to:

- Create more comprehensive restrictions than State law on the sale or marketing of tobacco products in the retail environment;
- Allow for meaningful penalties for violation of tobacco control laws such as license suspension; and
- Help fund local enforcement of tobacco control laws through the licensing fee.

Pittsburg currently requires a tobacco retailer license only for retailers that have violated a law against the sale or distribution of tobacco products, such as selling tobacco products to a minor.<sup>5</sup>

### *3. Policy options:*

To reduce youth access to tobacco products, the City could consider requiring a local tobacco retail license (TRL) for *all* tobacco retailers. A TRL requires all tobacco retailers to purchase and renew an annual permit from the City of Pittsburg to sell tobacco products. The local permit is in addition to the tobacco retail license required by State of California. The TRL would:

- Require a tobacco retail license for all tobacco retailers, renewed annually, with the fee determined based on the cost of implementing and enforcing the program.

A comprehensive tobacco retailer permit program incorporates additional limits on retailer locations and the types of tobacco products that are sold. These policy options include:

- Prohibit the sale of flavored tobacco products, including menthol cigarettes
- Prohibit the sale of all e-cigarettes/vaping products
- Limit the total number of tobacco retailers, e.g.,:
  - Prohibit tobacco sales near youth-populated areas, e.g., prohibit new tobacco retailers
    - within 1,000 feet of a school or other youth-populated areas
    - within 500 feet of other tobacco retailers
  - Cap the maximum number of tobacco retail licenses allowed in the city
- Prohibit the sale of tobacco products at pharmacies
- Require a minimum package size for tobacco products, such as little cigars, cigarillos, and cigars
- Require a minimum retail sales price for tobacco products, e.g. \$10 per pack
- Prohibit the redemption of coupons and discount offers for tobacco products
- Prohibit harassment of people who purchase, use, or possess tobacco
- Affirm that any person who purchases, uses, or possesses tobacco products will not be subject to criminal penalties

Retailers who violate tobacco control laws, such as by selling tobacco to minors, would be subject to penalties, including license suspension.

Most communities that have adopted a restriction on the sale of flavored tobacco products delay the effective date of the ordinance by approximately six months. This grace period gives the cities an opportunity to educate retailers and to allow retailers to sell their existing inventory of flavored tobacco products.

Local tobacco retailer licensing laws reduce youth access to tobacco products. A review of 41 California communities with strong tobacco retailer licensing ordinances found that youth sales rates declined in 40 of these communities after the ordinances were enacted, with an average 69% decrease in the youth sales rate.<sup>6</sup>

In Contra Costa County, 9 cities and the County require a comprehensive tobacco retailer license. (See Appendix A – note that the American Lung Association report was issued in early 2022 and does not include policies adopted more recently, such as Antioch.)

#### *4. Legal authority*

State law explicitly permits cities and counties to enact local tobacco retail licensing laws, and allows for the suspension or revocation of a local license for a violation of any state tobacco control law.<sup>7</sup>

California local governments also have the legal authority to prohibit the sale of flavored tobacco products, restrict the location of tobacco retailers, and prohibit the sale of tobacco products in pharmacies. Lawsuits in California<sup>8</sup> and other states<sup>9</sup> have upheld local ordinances that prohibit the sale of flavored tobacco products, finding that the laws were not preempted by the Family Smoking Prevention and Tobacco Control Act (TCA). In general, courts have decided that local restrictions on flavored tobacco products are permissible because they are restrictions on the *sale* of products requirements that change the way tobacco products are made (known as a “product standard” in the TCA).<sup>10</sup>

As mentioned above, the State of California adopted Senate Bill 793, which would ban the sale of flavored tobacco products including menthol, with exemptions for pipe tobacco, hookah, and premium cigars.<sup>11</sup> If voters uphold the flavored tobacco law in November 2022 it will take effect immediately. However, tobacco companies are likely to revive the lawsuit challenging the legality of SB 793.<sup>12</sup> Local governments may adopt laws that exceed the requirements of SB 793.

### *B. Reducing Exposure to Secondhand Smoke*

#### *1. Health impact*

The U.S. Surgeon General has concluded that there is no safe level of exposure to secondhand smoke and the California Air Resources Board has classified secondhand smoke as a toxic air



contaminant. Secondhand smoke is responsible for more than 4,000 heart disease-related and lung cancer deaths each year in California.

According to the Centers for Disease Control, the only way to fully protect nonsmokers is to eliminate smoking in all homes, worksites, and public places. Studies have shown that exposure to secondhand smoke outdoors can reach levels attained indoors depending on the amount of wind and number and proximity of smokers. Additionally, residents of multi-unit housing can be exposed to neighbors' secondhand smoke, which seeps under doorways, through wall cracks, and vents.

The COVID-19 pandemic has highlighted the risks of smoking. Smoking doubles the risk of developing respiratory infections and doubles the risk of getting sicker from COVID-19. Research shows that smokers with COVID-19 are twice as likely to be admitted to the intensive care unit, need medical ventilation, or die.

## *2. Existing law*

Although state law prohibits smoking in places of employment, it does not regulate smoking in multi-unit housing units or in most outdoor areas.<sup>13</sup> Six cities in Contra Costa County plus the unincorporated County currently prohibit smoking in multi-unit housing; 14 cities and the County prohibit smoking in outdoor areas such as outdoor dining, entryways, and public events. (See Appendix A.)

Pittsburg currently has no protections against smoking in multi-unit housing. The city prohibits smoking in city-owned parks and recreational areas.<sup>14</sup> The Municipal Code explicitly permits smoking in outdoor patios of restaurants, tobacco shops, and up to 65% of motel and hotel rooms.

## *3. Policy options*

To protect residents, employees, and visitors from exposure to secondhand smoke, the City could consider prohibiting smoking in:

- Multi-unit residences
- Outdoor dining
- Around business entrances, including retail, supermarkets, places of worship, etc.
- Public events
- Service areas: areas where people line up for a service such as transit stops, ATMs, movie theaters, etc.
- Outdoor worksites, e.g., construction sites
- Tobacco shops

A smoke-free multi-unit housing law would prohibit smoking in multi-unit residences with two or more units, including apartments, condominiums, townhomes, duplexes, triplexes, and fourplexes. The recommended best practices for a smoke-free multi-unit housing law<sup>15</sup> include prohibiting smoking:

- Inside the unit
- On associated balconies, porches
- In indoor common areas: laundry rooms, elevators, stairwells, mail rooms, etc.
- In outdoor common areas: walkways, landscaped areas, parking lots, pools, recreational areas (Property owners would have the option of creating a designated smoking area.)

Smoking includes cigarettes, e-cigarettes, and cannabis/marijuana.

### Implementation/Enforcement

Communities generally have experienced high rates of compliance with laws prohibiting smoking in outdoor areas and in multi-unit housing. Residents and businesses will be notified of the new laws, and no-smoking signs can be posted. As a last resort, the City can cite an individual for smoking in violation of the law; however staff will first conduct education to encourage compliance or will issue warnings. The following elements aid in implementation of such laws:

1. **A phase-in period** – the smoke-free housing requirements would become effective at a later date to allow time to notify residents and residents and property owners/managers of the new requirements. During this period the City can conduct additional outreach through mailings and online meetings. The City also can provide information about cessation services to residents who wish to quit smoking.
2. **Lease requirements** - the ordinance should require landlords to incorporate the smoke-free requirements into the lease for new and existing tenants. This means that a violation involving a person smoking inside their unit could be enforced by the landlord as a lease violation and/or by the City.
3. **Signage** – The presence of no-smoking signs is critical both in educating the public about prohibited behavior and in providing support to members of the public who wish to notify or remind people who are smoking about the law.

Following the education period about the new ordinance, enforcement is complaint-driven. In general, communities that have adopted smoke-free multi-family housing laws have not been overwhelmed by complaints and most have found education and warnings about the new law to be sufficient.

Finally, if Council wishes to adopt new restrictions on smoking in multi-unit housing and/or outdoor areas, I recommend that the City:

- Update the existing municipal code limits on smoking in indoor areas to reflect current state law.

#### 4. *Legal Authority*

California's smoke-free workplace law permits local governments to adopt laws limiting smoking that are stronger than the state law.<sup>16</sup>

#### C. *Advertising/Marketing*

Another area of concern for youth is exposure to tobacco advertising and marketing.

##### 1. *Health impact*

Cigarette and smokeless tobacco companies spend billions of dollars each year to market their products. In 2019, the largest cigarette and smokeless tobacco companies spent \$8.2 billion on advertising and promotional expenses in the United States alone.<sup>17</sup>

Scientific evidence shows that tobacco company advertising and promotion influences young people to start using tobacco.<sup>18</sup> Tobacco companies historically targeted young people and other populations in product advertisements.<sup>19</sup> Studies have demonstrated that even brief exposure to tobacco product advertisements can influence the perceptions and attitudes of youth about smoking and the use of tobacco products.<sup>20</sup>

##### 2. *Existing laws*

Since the 1970s, federal law has prohibited cigarette companies from advertising on television and radio — media subject to the jurisdiction of the U.S. Federal Communications Commission.<sup>21</sup> Similar restrictions took effect in 1986 for smokeless tobacco.<sup>22</sup> The 1998 Master Settlement Agreement between major tobacco companies and the states prohibits the settling tobacco companies from advertising:

- On billboards;
- On storefronts with ads that are 14 square feet or larger;
- Using cartoon characters in advertising; or
- That targets youth.<sup>23</sup>

California law prohibits tobacco billboards within 1,000 feet of schools and public playgrounds<sup>24</sup> and prohibits advertising for blunt wraps lower than 4 feet above the floor or within 2 feet of a candy, snack, or nonalcoholic beverage display.<sup>25</sup> Neither of these laws is being actively enforced and both are potentially preempted by federal law in light of the law in light of the U.S. Supreme Court decision in *Lorillard Tobacco Co. v. Reilly*.<sup>26</sup>

Pittsburg prohibits tobacco advertising within 1,600 feet of the perimeter of an elementary or secondary school, public playground or playground area in a public park.<sup>27</sup>

Additionally, state law prohibits alcohol retailers from covering more than 33% of windows and clear doors with signs of any sort, including for alcohol or tobacco.<sup>28</sup> Pittsburg prohibits window signs that cover more than 15 percent of the ground floor window area.<sup>29</sup>

### *3. Policy options*

To limit tobacco advertising and marketing in the City, Pittsburg could:

- Limit the number, location, and/or type of tobacco retailers in the City. Tobacco advertising may only be displayed on stores that sell tobacco products. If fewer retailers sell tobacco products, it will result in less advertising.
- Increase enforcement of the storefront signage. For example, code enforcement could verify compliance with this law.

Other policy options, such as limiting tobacco advertising on television, the internet, or in magazines, are beyond Pittsburg's control or involve substantial legal risk.

### *4. Legal Authority*

The regulation of tobacco advertising regulations face two legal obstacles: the First Amendment and federal preemption by the Federal Cigarette Labeling and Advertising Act.<sup>30</sup> Because tobacco advertisements constitute commercial speech, entitled to some First Amendment protection, any regulation of tobacco advertisements remains subject to First Amendment considerations. In addition, while state and local governments retain some authority to restrict tobacco advertisements, federal law largely preempts them from imposing content-based restrictions on these advertisements.

## *III. Cannabis Sales, Marketing, and Use*

Cannabis sales and use are legal in California. Proposition 64, passed in 2016, legalized adult use and sale of cannabis. Medicinal cannabis use has been legal in California since 1996. The regulation of the adult use and medicinal market is now combined under a coordinated set of laws and regulations by the state Department of Cannabis Control.

### *A. Health Impact*

Although cannabis has therapeutic uses for certain conditions in adults and even for rare seizure disorders in children, the wide availability of cannabis poses public health risks. Frequent cannabis use during adolescence is associated with risk of cannabis addiction; impairments in attention, memory, and learning; and mental health issues.<sup>31</sup> Cannabis use

during pregnancy is associated with low offspring birth weight.<sup>32</sup> Highlighting growing concerns related to the effects of cannabis on the developing brain, the US Surgeon General issued an advisory in 2019 recommending that adolescents and pregnant individuals abstain from cannabis use, noting in particular the harms associated with higher-potency THC products.<sup>33</sup>

In Contra Costa County, one-third (33.1%) of high school students reported having tried marijuana, while 18.4% reported using it in the last 30 days.<sup>34</sup>

## B. Existing Law

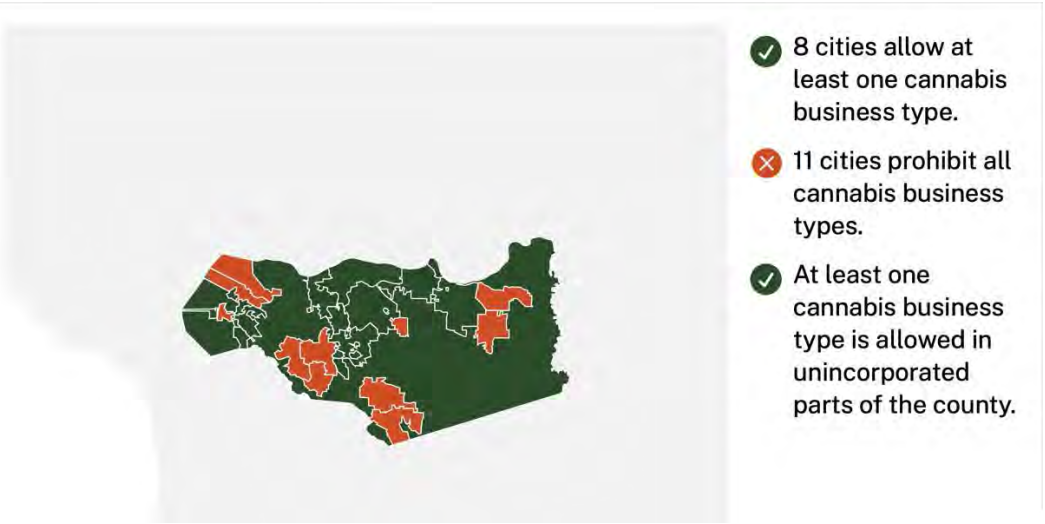
Cannabis possession and sale remain illegal under federal law.<sup>35</sup> Marijuana is a Schedule I Controlled Substance, meaning that it “has a high potential for abuse,” does not currently have an “accepted medical use,” and has no “accepted safety for use . . . under medical supervision.”<sup>36</sup> Efforts to decriminalize cannabis have repeatedly been introduced in the U.S. Congress but none has yet passed.<sup>37</sup>

Because cannabis is a controlled substance under federal law, it is illegal to advertise cannabis including written ads such as newspaper ads and any ads on the internet.<sup>38</sup> The legality of cannabis advertising on mediums such as television and billboards varies by state. In California cannabis billboards are prohibited on interstate highways.<sup>39</sup> Television stations also have policies against accepting ads for cannabis businesses.<sup>40</sup> Similarly, certain websites have policies prohibiting ads for cannabis. For example, Google, Facebook, Instagram, and Twitter all prohibit ads for both marijuana and tobacco.<sup>41</sup> (Twitter has an exception for “approved CBD topical advertisers”.)

California regulates the sale and marketing of cannabis in a variety of ways. For example,

- Cannabis businesses may not advertise or market marijuana or marijuana products within 1,000 feet of a day care center, k-12 school, playground, or youth center.<sup>42</sup>
- Cannabis retailers are not allowed within 600-foot of a k-12 school, day care center, or youth center.<sup>43</sup>
- A licensed retailer may only sell cannabis goods, cannabis accessories, and licensees’ branded merchandise or promotional materials. It may not sell alcohol or tobacco products.<sup>44</sup>
- Cannabis products may not be “attractive to children,” including cartoons, use of the term “candy,” or likenesses to characters that are used to advertise to children.<sup>45</sup>
- All packages containing cannabis goods must be resealable, tamper-evident, and child-resistant.<sup>46</sup> All cannabis goods must leave stores in opaque exit packaging.<sup>47</sup>
- Edible cannabis products have a THC limit of 10 milligrams per serving and 100 milligrams per package for both the medicinal and adult-use markets.<sup>48</sup>

According to the Department of Cannabis Control, 8 cities in Contra Costa County allow at least one cannabis business type and 11 cities prohibit all cannabis businesses (See Appendix D for additional information).



Pittsburg has authorized retail cannabis dispensaries but not yet approved any businesses.<sup>49</sup>

Contra Costa County regulates cannabis businesses in the unincorporated areas beyond what is required in state law. For example, cannabis retailers:

- May not sell flavored cannabis products meant to be inhaled
- May not sell electronic smoking devices or e-liquid that contain THC
- Must display a sign with a warning about the legal status and health effects of cannabis
- May not sell more than 800mg of edible THC to a single person in a single day<sup>50</sup>

C. Policy Options

To minimize the public health impacts of cannabis use, the City could consider:

- Expanding the existing social host ordinance to include cannabis (see [Section IV](#) for additional information on social host ordinances)

Pittsburg’s existing social host law was adopted in 2013 and it only applies to underage use of alcohol.<sup>51</sup> In Contra Costa County, Orinda and Moraga, have amended their social host ordinances to include cannabis.<sup>52</sup> Social host ordinances prevent underage drinking parties by holding the host (e.g., parents or other adults) accountable for these parties.<sup>53</sup>

D. Legal Authority

Local governments have the authority to regulate adult use cannabis businesses through “local zoning and land use requirements, business license requirements” or to completely prohibit such sales within the jurisdiction.<sup>54</sup> A bill pending in the state legislature would require local governments to allow delivery of medicinal cannabis.<sup>55</sup>

## IV. Alcohol Sales, Marketing, and Use

### A. Health Impact

According to the Centers for Disease Control, underage drinking is a significant public health problem in the United States. Excessive drinking is responsible for more than 3,900 deaths and 225,000 years of potential life lost among people under age 21 each year.<sup>56</sup> In California, 37% of youth use alcohol before the age of 15 and 19% binge drink.<sup>57</sup>

### B. Existing Law

There are three main ways that alcohol to minors is regulated: (1) price; (2) access to the product; and (3) marketing.

#### 1. Price

Both the federal and California<sup>58</sup> governments impose a tax on alcohol products.<sup>59</sup> Rates vary based on type of alcohol (beer, wine, distilled spirits), and alcohol content. In general, distilled spirits are taxed at a higher rate than most beer and wine. The Community Preventive Services Task Force recommends several effective strategies for preventing excessive drinking, including increasing alcohol taxes.<sup>60</sup>

#### 2. Access

In California, individuals under the age of 21 may not purchase, publicly possess, or consume alcohol products.<sup>61</sup> (The purchase of tobacco is now also limited to individuals 21 or older.) The state requires licenses to sell alcohol products and monitors retailers for compliance with age-of-sale laws.<sup>62</sup> State law imposes a variety of other requirements to reduce youth access to alcohol, including:

- Requiring keg purchases to collect the purchaser's identification number, name, and address; and kegs must be registered and labeled<sup>63</sup>
- Requiring servers at bars and restaurants to participate in a Responsible Beverage Service Training Program (RBSTP) to ensure they are educated on the dangers of serving alcohol to minors and over-serving alcohol to patrons<sup>64</sup>
- Prohibiting driving with a Blood Alcohol Content of 0.08 (age 21 and over) and 0.01 or higher (under the age of 21)<sup>65</sup>
- Prohibiting possession and consumption of open containers of all alcoholic beverages in motor vehicles<sup>66</sup>
- Prohibiting the use of false identification or lying about the one's age to obtain alcohol<sup>67</sup>
- Requiring a minimum age to serve alcohol at a restaurant (18 years old) or bartend (21 years old)<sup>68</sup>

The City of Pittsburg has limited laws regulating minors' access to alcohol. One example is a "social host" law, which prohibits hosting events where underage drinking occurs. This law could be expanded to include the use of cannabis and/or controlled substances.

### *3. Marketing/Advertising*

Alcohol advertising is governed both by federal regulations and self-regulation by industry members.

Federal regulations have requirements for the labeling and advertising of distilled spirits, wine, and malt beverages.<sup>69</sup> For example, advertisements must include the brand name, alcohol content (distilled spirits), and information on the type of product (grape wine, sparkling grape wine, fruit wine, etc.).<sup>70</sup> Alcoholic beverage ads may not include misleading health claims or contain false or misleading statements.<sup>71</sup>

In addition to the federal regulations, the Distilled Advertising Council of the United States (DISCUS), the Beer Institute, and the Wine Institute all have self-regulating codes designed to limit the targeting of advertisements to audiences under 21 years of age.<sup>72</sup> Compliance with the codes is mandatory for members of the organizations, but voluntary for non-members.

Generally, all three codes state that no more than 28.4 percent of the audience for an ad may be individuals under 21 and that ad content should not appeal primarily to individuals under 21.<sup>73</sup> This means that alcohol ads should not appear on television shows that are primarily aimed at children.

The DISCUS Code of Responsible Practices for Beverage Alcohol Advertising and Marketing contains provisions relating to appropriate content, product placements, media placements, and promotional events.<sup>74</sup> The Code prohibits advertising and marketing that "primarily appeal" to individuals under the age of 21, meaning advertising and marketing materials may not have special attractiveness to those individuals compared to the attractiveness for individuals 21 and over. It also requires individuals who appear in advertising to be at least 25 years old, and to "reasonably appear to be 21 years of age or older." The Code also provides guidance for complying with these requirements, providing examples of violations including depiction of a child or other images or characters that primarily appeal to individuals below 21, the depiction or mention of Santa Claus, and use of the term "spring break."

The Beer Institute's Advertising/Marketing Code and Buying Guidelines contains similar provisions, and emphasize that beer and brewers should be portrayed responsibly and should not be understood to promote noncompliance with laws relating to alcohol consumption.<sup>75</sup> The Beer Institute also states that it will provide



manufacturers of parent control software the names and website addresses of all members to facilitate the exercise of parental responsibility regarding beer.

The Wine Institute’s Code of Advertising Standards is also similar.<sup>76</sup> It prohibits advertising in “media with substantial underage appeal,” including juvenile magazines, television programs, etc., and like DISCUS requires models in advertisements to be at least 25 and appear older than 21. The Code also includes a provision prohibiting wine advertisements from suggesting that wine directly contributes to personal success or achievement.

The Federal Trade Commission formally and informally monitors compliance with these codes.<sup>77</sup>

### C. Policy Options

State alcohol policy environments influence underage drinking, as well as excessive drinking among adults. Other communities have adopted policies to prevent underage and excessive drinking, including:

- Reducing the number and concentration of alcohol outlets<sup>78</sup>
- Requiring conditional use permits (CUPs) for new establishments selling or serving alcohol that regulate such conditions as hours of operation, types of alcoholic beverages that can be served, and outdoor lighting requirements
- Deemed approved ordinances (DAOs) for preexisting establishments selling or serving alcohol
- Responsible beverage service (RBS) training required for staff of establishments selling or serving alcohol
- Special outdoor events policies governing alcohol service and consumption at such events such as street fairs<sup>79</sup>

Recommended policies for the City of Pittsburg are to:

- Increase compliance with laws limiting window advertising of alcoholic beverages<sup>80</sup>

### D. Legal Authority

While the State has the exclusive right to license alcohol businesses,<sup>81</sup> local governments retain significant authority to regulate the location and operating standards of these businesses.<sup>82</sup>

## V. Next Steps/Recommendation

We ask that Council provide direction to staff on which policy options to pursue. Staff and the consultant will conduct outreach to the community about potential policy options, including:

- Organizing and hosting up to three community meetings;
- Administering an online survey seeking additional information regarding community understanding and education on tobacco and cannabis use in the City as well as support for potential policies; and
- Sending a letter to tobacco retailers in the City of Pittsburg about potential policies that affect the retail environment.

## VI. Conclusion

The City has the opportunity to help prevent youth from using tobacco by prohibiting the sale of flavored tobacco products and reducing the availability of tobacco in the City. The also City can help further protect residents, employees, and visitors from exposure to secondhand smoke in public places and where people live. These policies would demonstrate the City's commitment to protecting the health of its residents, and would improve the City's performance on the American Lung Association's State of Tobacco Control grades.

## Appendix A: Potential Policy Options

### Reducing Youth Access to Tobacco

To reduce youth access to tobacco products, the City could consider requiring a local tobacco retail license (TRL) for *all* tobacco retailers:

- Require a tobacco retail license for all tobacco retailers, renewed annually, with the fee determined based on the cost of implementing and enforcing the program.

A comprehensive tobacco retailer permit program incorporates additional limits on retailer locations and the types of tobacco products that are sold. These policy options include:

- Prohibit the sale of flavored tobacco products, including menthol cigarettes
- Prohibit the sale of all e-cigarettes/vaping products
- Limit the total number of tobacco retailers, e.g.,:
  - Prohibit tobacco sales near youth-populated areas, e.g., prohibit new tobacco retailers
    - within 1,000 feet of a school or other youth-populated areas
    - within 500 feet of other tobacco retailers
  - Cap the maximum number of tobacco retail licenses allowed in the city
- Prohibit the sale of tobacco products at pharmacies
- Require a minimum package size for tobacco products, e.g., little cigars, cigarillos, and cigars
- Require a minimum retail sales price for tobacco products, e.g. \$10 per pack
- Prohibit the redemption of coupons and discount offers for tobacco products
- Prohibit harassment of people who purchase, use, or possess tobacco
- Affirm that any person who purchases, uses, or possesses tobacco products will not be subject to criminal penalties

### Reduce Exposure to Secondhand Smoke

To protect residents, employees, and visitors from exposure to secondhand smoke, the City could consider prohibiting smoking in:

- Multi-unit residences
- Outdoor dining
- Around business entrances, including retail, supermarkets, places of worship, etc.
- Public events
- Service areas: areas where people line up for a service such as transit stops, ATMs, movie theaters, etc.
- Outdoor worksites, e.g., construction sites
- Tobacco shops

A smoke-free multi-unit housing law would prohibit smoking in multi-unit residences with two or more units, including apartments, condominiums, townhomes, duplexes, triplexes, and

fourplexes. The recommended best practices for a smoke-free multi-unit housing law<sup>83</sup> include prohibiting smoking:

- Inside the unit
- On associated balconies, porches
- In indoor common areas: laundry rooms, elevators, stairwells, mail rooms, etc.
- In outdoor common areas: walkways, landscaped areas, parking lots, pools, recreational areas (Property owners would have the option of creating a designated smoking area.)

Smoking includes cigarettes, e-cigarettes, and cannabis/marijuana.

I also recommend that the City:

- Update the existing municipal code limits on smoking in indoor areas to reflect current state law.

### **Reduce Tobacco Advertising and Marketing**

To limit tobacco advertising and marketing in the City, Pittsburg could:

- Limit the number, location, and/or type of tobacco retailers in the City. Tobacco advertising may only be displayed on stores that sell tobacco products. If fewer retailers sell tobacco products, it will result in less advertising.
- Increase enforcement of the storefront signage. For example, code enforcement could verify compliance with this law.

### **Regulating Cannabis**

To minimize the public health impacts of cannabis use, the City could consider:

- Expanding the existing social host ordinance to include cannabis

### **Prevent Underage Drinking**

Recommended policies to prevent underage and excessive drinking include:

- Increasing compliance with laws limiting window advertising of alcoholic beverages

Appendix B: American Lung Association State of Tobacco Control 2022

### Contra Costa County

	Antioch	Brentwood	Clayton	Concord	Danville	El Cerrito	Hercules	Lafayette	Martinez	Moraga	Oakley	Orinda	Pineole	Pittsburg	Pleasant Hill	Richmond	San Pablo	San Ramon	Walnut Creek	Contra Costa County Unincorporated
<b>Overall Tobacco Control Grade</b>	F	F	C	C	D	A	D	A	D	F	C	F	C	F	D	A	B	D	A	A
<b>Total Points</b>	0	0	11	10	8	17	5	16	6	0	11	3	10	1	7	17	12	6	16	17
<b>Smokefree Outdoor Air</b>	F	F	B	C	D	A	B	A	A	F	A	B	A	D	B	A	F	A	A	A
Dining	0	0	4	2	0	4	2	4	4	0	4	4	4	0	2	4	0	4	4	4
Entryways	0	0	0	0	0	4	4	4	4	0	4	4	4	0	3	4	0	4	4	4
Public Events	0	0	4	2	0	4	4	4	4	0	4	4	4	0	3	4	0	4	0	4
Recreation Areas	0	0	4	2	4	4	4	4	4	0	4	4	4	4	4	0	4	4	4	4
Service Areas	0	0	4	2	0	4	2	4	4	0	4	0	4	0	4	4	0	4	4	4
Sidewalks	0	0	0	1	0	1	0	1	0	0	0	0	0	0	1	0	0	0	1	0
Worksites	0	0	0	0	0	1	0	0	1	0	0	0	0	0	0	0	0	0	1	0
<b>Total Points</b>	0	0	16	9	4	22	16	21	21	0	20	16	20	4	17	20	0	20	18	20
<b>Smokefree Housing</b>	F	F	A	A	A	A	C	B	C	F	C	F	C	F	C	A	B	C	A	A
Nonsmoking Apartments	0	0	4	4	4	4	1	2	0	0	1	0	1	0	1	4	4	0	4	4
Nonsmoking Condominiums	0	0	4	4	4	4	0	2	0	0	1	0	1	0	1	4	0	0	4	4
Nonsmoking Common Areas	0	0	4	4	4	4	4	4	4	0	4	0	4	0	4	4	4	4	4	4
<b>Total Points</b>	0	0	12	12	12	12	5	8	4	0	6	0	6	0	6	12	8	4	12	12
<b>Reducing Sales of Tobacco Products</b>	F	F	A	A	D	A	F	A	F	F	A	F	B	F	C	A	A	F	A	A
Tobacco Retailer Licensing	0	0	4	4	1	4	0	4	0	0	4	0	3	0	2	4	4	0	4	4
<b>Total Points</b>	0	0	4	4	1	4	0	4	0	0	4	0	3	0	2	4	4	0	4	4
<b>Restrictions on Flavored Tobacco Products</b>	F	F	F	F	D	A	F	A	F	F	F	F	D	F	F	A	A	F	A	A
Flavored Tobacco Products	0	0	0	0	1	4	0	4	0	0	0	0	1	0	0	4	4	0	4	4
<b>Total Points</b>	0	0	0	0	1	4	0	4	0	0	0	0	1	0	0	4	4	0	4	4
<b>Emerging Issues Bonus Points</b>																				
Emerging Products Def - Secondhand Smoke	0	0	1	1	1	1	1	0	0	0	1	0	1	1	1	1	1	0	1	1
Emerging Products Def - Licensing	0	0	0	1	1	1	0	1	0	0	1	0	0	0	1	1	1	0	0	1
Retailer Location Restrictions	1	0	0	0	1	1	1	1	0	0	1	0	0	1	0	1	0	0	0	1
Sale Of Tobacco Products In Pharmacies	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	1	0	0	0	1
Minimum Price Of Cigarettes	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Minimum Pack Size Of Cigars	0	0	0	0	0	1	0	0	0	0	0	0	1	0	0	1	1	0	0	1
<b>Total Points</b>	1	0	1	2	3	4	2	3	0	0	3	0	2	2	2	5	3	0	1	5

Appendix C: Licensed Tobacco Retailers<sup>84</sup>

License #	Taxpayer	DBA	Licensed Location	City	State	Zip
091222547	RRS JOHAL CORPORATION	PITTSBURG CHEVRON	3702 RAILROAD AVE	PITTSBURG	CA	94565-5206
091225405	WALMART INC.	WAL-MART STORE #1615	2203 LOVERIDGE RD	PITTSBURG	CA	94565-5021
091229831	WALGREEN CO.	WALGREENS #07376	2901 RAILROAD AVE	PITTSBURG	CA	94565-5224
091232773	RALPHS GROCERY COMPANY	FOODS CO #764	300 ATLANTIC AVE	PITTSBURG	CA	94565-5234
091234302	ARMSCO, INC.	PITTSBURG 76	2150 RAILROAD AVE	PITTSBURG	CA	94565-4923
091238760	SAFEWAY, INC.	SAFEWAY STORE #1215	660 BAILEY ROAD	PITTSBURG	CA	94565-4565
091244517	RICE WINE LIQUORS,INC	RICE WINE LIQUORS	147 ATLANTIC AVE	PITTSBURG	CA	94565-5219
091245780	DHARMINDER SINGH SANDHU, ET AL	VINTAGE LIQUORS	1339 BUCHANAN RD	PITTSBURG	CA	94565-6406
091296306	WINCO FOODS LLC	WINCO FOODS #63	2400 N PARK BLVD	PITTSBURG	CA	94565-4115
091309792	GREEN DESERT OIL GROUP, INC.	ARCO AM/PM	1190 E LELAND RD	PITTSBURG	CA	94565-5319
091321449	VINTNERS DISTRIBUTORS INC.	CAL CHEVRON	1235 CALIFORNIA AVE	PITTSBURG	CA	94565-4112
091324506	RADC ENTERPRISES, INC	LOVERIDGE SHELL	2253 LOVERIDGE RD	PITTSBURG	CA	94565-5021
091340727	CSB ENTERPRISES INC.	PITTSBURG LIQUOR & DELI	2279 RAILROAD AVE	PITTSBURG	CA	94565-4924
091348804	OMARI, INC.	EZ STOP FOOD MARKET	1000 POWER AVE	PITTSBURG	CA	94565-3770
091359077	LA AURORA MARKET AND MARINA MINI MART LLC	LA AURORA MARKET	290 W 10TH ST	PITTSBURG	CA	94565-2414
091364662	NMSO INC	68187	2971 RAILROAD AVE	PITTSBURG	CA	94565-5224
091382352	AVIN INVESTMENTS, INC.	PITTSBURG VALERO	1005 RAILROAD AVE	PITTSBURG	CA	94565-2524
091386624	KALRA BROTHERS INC.	BONFARE MARKET 29	4102 RAILROAD AVE	PITTSBURG	CA	94565-6534
209555776	SUNRISE CAPITAL GROUP, LLC	SUNRISE CAPITAL GROUP, LLC	13 W 6TH ST	PITTSBURG	CA	94565-2126
226531328	J&R KAHLON INC	PEOPLES MARKET & LIQUOR	109 ARMY ST	PITTSBURG	CA	94565-4001
230535296	BP PRODUCTS NORTH AMERICA, INC.	ARCO 7144	2102 W LELAND RD	PITTSBURG	CA	94565-4327
234461248	SLVR NIGHT LIQUORS, INC	SILVER KNIGHT LIQUORS, INC	3738 RAILROAD AVE	PITTSBURG	CA	94565-5206
249002112	DAJUBHAI INC	7 ELEVEN 16693C	774 PORT CHICAGO HWY	PITTSBURG	CA	94565-1504
250318464	EAGLE MINI MART	EAGLE MINI MART	3870 RAILROAD AVE	PITTSBURG	CA	94565-6540

252180736	GOLDEN STAR GAS STATION	GOLDEN STAR GAS	901 E 14TH ST	PITTSBURG	CA	94565-2718
253641088	GLOBAL RESOURCES TRADING	FISHERMEN'S CATCH	27 MARINA BLVD	PITTSBURG	CA	94565-2068
255101952	EHAB ENTERPRISES INCORPORATED	GOLDEN STAR MARKET	44 W 10TH ST	PITTSBURG	CA	94565-2534
258790848	S&K GLOBAL LLC	CIGARETTES 4 LESS	2167 LOVERIDGE RD	PITTSBURG	CA	94565-5019
262659776	AMIGOS MARKET & LIQUOR	AMIGO'S MARKET & LIQUOR	3801 RAILROAD AVE	PITTSBURG	CA	94565-6527
264035520	HIGH DEFINITION LLC	HIGH DEFINITION LLC	995 EAST ST	PITTSBURG	CA	94565-2517

Appendix D: Contra Costa County Cannabis Laws<sup>85</sup>

Cities and Counties	Retail (storefront)	Retail (delivery)	Distribution	Testing	Manufacturing	Cultivation
Contra Costa County	✓	✓	✓	✓	✓	✓
Antioch	✓	✓	✓	✓	✓	✓
Brentwood	✗	✗	✗	✗	✗	✗
Clayton	✗	✗	✗	✗	✗	✗
Concord	✓	✓	✓	✓	✓	✗
Danville	✗	✗	✗	✗	✗	✗
El Cerrito	✓	✗	✗	✗	✗	✗
Hercules	✗	✗	✗	✗	✗	✗
Lafayette	✗	✗	✗	✗	✗	✗
Martinez	✓	✓	✓	✓	✓	✗
Moraga	✗	✗	✗	✗	✗	✗
Oakley	✗	✗	✗	✗	✗	✗



Cities and Counties	Retail (storefront)	Retail (delivery)	Distribution	Testing	Manufacturing	Cultivation
Orinda	✗	✗	✗	✗	✗	✗
Pinole	✗	✗	✗	✗	✗	✗
Pittsburg <sup>86</sup>	✓	✓	✓	✓	✓	✗
Pleasant Hill	✗	✓ Medical only	✗	✗	✗	✗
Richmond	✓	✓	✓	✓	✓	✓
San Pablo	✗	✗	✗	✗	✗	✗
San Ramon	✗	✗	✗	✗	✗	✗
Walnut Creek	✗	✓ Medical only	✗	✗	✗	✗

This table is based on data compiled by the California Department of Cannabis Control in February 2022.

- 
- <sup>1</sup> SHU-HONG ZHU ET AL., TOBACCO USE AMONG HIGH SCHOOL STUDENTS IN CONTRA COSTA COUNTY: FINDINGS FROM THE 2019–20 CALIFORNIA STUDENT TOBACCO SURVEY (University of California San Diego, 2021).  
<https://cchealth.org/tobacco/pdf/Findings-from-the-2019-20-CSTS.pdf>
- <sup>2</sup> *Youth Vaping, Smoking & Nicotine Use*, TRUTH INITIATIVE, <https://truthinitiative.org/our-top-issues/vaping-issue>.
- <sup>3</sup> NINA C. SCHLEICHER ET AL., CALIFORNIA TOBACCO RETAIL SURVEILLANCE STUDY 2018 (Stanford University School of Medicine, 2019).
- <sup>4</sup> California Department of Public Health, California Tobacco Control Program. 2016 Healthy Stores for a Healthy Community Survey Results-all counties. 2016.
- <sup>5</sup> PITTSBURG, CAL., MUN. CODE TITLE 5 CHAPTER 5.68.040 (2022).
- <sup>6</sup> TOBACCO RETAILER LICENSING IS EFFECTIVE (American Lung Association in California, 2018).  
<https://www.co.monterey.ca.us/Home/ShowDocument?id=71196>
- <sup>7</sup> CAL. BUS. & PROF. CODE § 22971.3 (2019).
- <sup>8</sup> R.J. Reynolds Tobacco Co. v. Cnty. of San Diego, 529 F. Supp. 3d 1147 (S.D. Cal. 2021); R.J. Reynolds Tobacco Co. v. Cnty. of Los Angeles, No. CV-20-4880-DSF, 2020 U.S. Dist. LEXIS 141961 (C.D. Cal. Aug 07, 2020).
- <sup>9</sup> R.J. Reynolds Tobacco Co. v. City of Edina, 482 F. Supp. 3d 875 (D. Minn. 2020); Nat’l Ass’n of Tobacco Outlets, Inc. v. City of Providence, No. CA 12-96-ML, 2012 WL 6128707, at \*13 (D. R.I. 2012), *aff’d*, 731 F.3d 71 (1st Cir. 2013); U.S. Smokeless Tobacco Mfg. Co. v. City of New York, 708 F.3d 428, 430 (2d Cir. 2013); Indeps. Gas & Serv. Stations Ass’ns, Inc. v. City of Chicago, 112 F. Supp. 3d 749, 751 (N.D. Ill. 2015).
- <sup>10</sup> 21 U.S.C. § 387(g).
- <sup>11</sup> S.B. 793, 2021–2022 Leg., Reg. Sess. (Cal. 2020).
- <sup>12</sup> *R.J. Reynolds Tobacco Co. v. Becerra*, No. 20-CV-1990-CAB-WVG, 2021 WL 3472697 (S.D. Cal. Aug. 6, 2021).
- <sup>13</sup> CAL. LAB. CODE § 6404.5 (2016); CAL. GOV’T. CODE § 7596–7598 (2019); CAL. HEALTH & SAFETY CODE § 104495 (2019).
- <sup>14</sup> PITTSBURG, CAL., MUN. CODE TITLE 8 CHAPTER 8.20.040 (2022).
- <sup>15</sup> Policy Evaluation Tracking System and American Nonsmokers’ Rights Foundation, Policy Brief: Smoke-Free Multi-Unit Housing, May 2022.
- <sup>16</sup> CAL. LAB. CODE § 6404.5(h) (2016); City of San Jose v. Dep’t of Health Services, 66 Cal. App. 4th 35, 44 (1998).
- <sup>17</sup> 2019 FTC CIGARETTE REP.; 2019 FTC SMOKELESS TOBACCO REP.
- <sup>18</sup> Siobhan N. Perks et al., *Cigarette Brand Preference and Pro-Tobacco Advertising Among Middle and High School Students—United States, 2012–2016*, 67 Morbidity and Mortality Weekly Report 4 (2018).
- <sup>19</sup> *Id.*; NAT’L CTR. FOR CHRONIC DISEASE PREVENTION AND HEALTH PROMOTION, PREVENTING TOBACCO USE AMONG YOUTH AND YOUNG ADULTS: A REPORT OF THE SURGEON GENERAL (2012).
- <sup>20</sup> Douglas A. Luke et al., *Family Smoking Prevention and Tobacco Control Act: Banning Outdoor Tobacco Advertising Near Schools and Playgrounds*, 40 Am. J. Preventive Med. 3 (2011) (citing Nat’l Cancer Inst., *The Role of the Media in Promoting and Reducing Tobacco Use: Tobacco Control Monograph No. 19*, (2008)).
- <sup>21</sup> 15 U.S.C. § 1335; 15 U.S.C. § 1338–1339.
- <sup>22</sup> 15 U.S.C. § 4402(c); 15 U.S.C. § 4404–4405.
- <sup>23</sup> *Master Settlement Agreement § III(a), VII(c), II(ii), II(xx), III(c), III(d), VII(c), § II(l), III(b), VII(c); Smokeless Tobacco Master Settlement Agreement § III(a), VII(c), § II(dd), II(rr), III(c), III(d), VII(c); § II(j), III(b), VII(c)*.
- <sup>24</sup> CAL. BUS. & PROF. CODE § 22957, 22958, 22961. The law applies to public and private elementary, junior high, and high school and public playgrounds.
- <sup>25</sup> CAL. BUS. & PROF. CODE § 22958(a), 22962. Blunt wraps are defined as cigar papers or cigar wrappers that are designed for smoking or ingestion of tobacco products and contain less than 50 percent tobacco.
- <sup>26</sup> Lorillard Tobacco Co. v. Reilly, 533 U.S. 525 (2001).
- <sup>27</sup> PITTSBURG, CAL., MUN. CODE TITLE 5 CHAPTER 5.68.120 (2022).
- <sup>28</sup> CAL. BUS. & PROF. CODE § 25612.5(c)(7) 25617, 25619.
- <sup>29</sup> PITTSBURG, CAL., MUN. CODE TITLE 19 CHAPTER 19.12.030(C)(4) (2022).
- <sup>30</sup> *Lorillard Tobacco Co.*, 533 U.S. 525; 15 U.S.C. §§ 1331–1340; 21 U.S.C. § 387c.
- <sup>31</sup> Wayne Hall & Michael Lynskey, *Assessing the Public Health Impacts of Legalizing Recreational Cannabis Use: The US Experience*, 19 World Psychiatry 2 (2020).

- 
- <sup>32</sup> Sarah E. Paul, et al., *Associations Between Prenatal Cannabis Exposure and Childhood Outcomes: Results from the ABCD Study*, 78 JAMA Psychiatry 1 (202).
- <sup>33</sup> Kelly C. Young-Wolff et al., *California Cannabis Markets—Why Industry-Friendly Regulation Is Not Good Public Health*, 3 JAMA Health Forum 7 (2022).
- <sup>34</sup> Zhu, *supra*\_note 1.
- <sup>35</sup> Possession of 1,000 kilograms or more of a “substance containing a detectable amount of marihuana, or 1,000 or more marihuana plants” is punishable by no less than 10 years imprisonment without the possibility of parole. For 100 kilograms or more, or 100 plants or more, a person will be subject to 5–40 years without the possibility of parole. Possession of a “personal use amount” of marihuana is punishable by civil penalties not to exceed \$10,000. 21 U.S.C. § 841 (2020); 21 U.S.C. § 844a (2020).
- <sup>36</sup> 21 U.S.C. § 812 (2020); 21 C.F.R. § 1308.11 (2021).
- <sup>37</sup> For example, Representative Jerry Nadler (D-NY) introduced a bill to the House of Representatives on May 28, 2021 that would decriminalize marijuana and defer to the states’ powers of prohibition. Marijuana Opportunity Reinvestment and Expungement Act of 2021, H.R. 3617, 117th Cong. (2021).
- <sup>38</sup> 21 U.S.C. § 843 (2022).
- <sup>39</sup> Cal. Bus. & Prof. Code § 26152(d).
- <sup>40</sup> For example, NBC does not accept ads “for cannabis or cannabis-related businesses,” and ESPN “does not accept advertisements for CBD/Cannabis related products or services on any network or platform.” CNN, *NBC Rejects Super Bowl Commercial for Marijuana Marketplace and Delivery Service*, ABC COLUMBIA (Feb. 11, 2022, 5:43 PM), <https://www.abccolumbia.com/2022/02/11/nbc-rejects-super-bowl-commercial-for-marijuana-marketplace-and-delivery-service/#:~:text=AdWeek%20reported%20that%20an%20NBC,related%20businesses%E2%80%9D%20on%20any%20platform;AdvertisingStandards&Guidelines,ESPN> [https://www.espn.com/adspecs/guidelines/en/ESPN\\_AdStandardsGuidelines.pdf](https://www.espn.com/adspecs/guidelines/en/ESPN_AdStandardsGuidelines.pdf) (last visited May 2, 2022).
- <sup>41</sup> *Advertising Policies Help*, GOOGLE, [https://support.google.com/adspolicy/answer/6014299?hl=en&ref\\_topic=1626336](https://support.google.com/adspolicy/answer/6014299?hl=en&ref_topic=1626336) (last visited May 2, 2022); *Advertising Policies*, FACEBOOK, [https://www.facebook.com/policies/ads/prohibited\\_content/unsafe\\_supplements](https://www.facebook.com/policies/ads/prohibited_content/unsafe_supplements) (last visited May 2, 2022); *Advertising Policies*, FACEBOOK, [https://www.facebook.com/policies/ads/prohibited\\_content/tobacco](https://www.facebook.com/policies/ads/prohibited_content/tobacco) (last visited May 2, 2022); *Drugs and Drug Paraphernalia*, TWITTER <https://business.twitter.com/en/help/ads-policies/ads-content-policies/drugs-and-drug-paraphernalia.html> (last visited May 2, 2022); *Tobacco and Tobacco Accessories*, TWITTER <https://business.twitter.com/en/help/ads-policies/ads-content-policies/tobacco-and-tobacco-accessories.html> (last visited May 2, 2022).
- <sup>42</sup> CAL. BUS. & PROF. CODE § 26152(g).
- <sup>43</sup> CAL. BUS. & PROF. CODE § 26054.
- <sup>44</sup> CAL. CODE REGS. tit. 4, § 15407 (2022).
- <sup>45</sup> CAL. CODE REGS. tit. 4, § 17408 (2022).
- <sup>46</sup> CAL. BUS. & PROF. CODE § 26120(a).
- <sup>47</sup> CAL. BUS. & PROF. CODE § 26070.1.
- <sup>48</sup> CAL. CODE REGS. tit. 4, § 17304 (2022).
- <sup>49</sup> PITTSBURG, CAL., MUN. CODE Title 5 Chapter 5.70.150 (2022).
- <sup>50</sup> CONTRA COSTA COUNTY, MUN. CODE CHAPTER 413-4 (2022).
- <sup>51</sup> PITTSBURG, CAL., MUN. CODE TITLE 9 CHAPTER 9.25 (2022).
- <sup>52</sup> ORINDA, CAL., MUN. CODE TITLE 9 CHAPTER 9.24 (2021); MORAGA, CAL., MUN. CODE TITLE 9 CHAPTER 9.06 (2021).
- <sup>53</sup> *Contra Costa Social Host Ordinance Fact Sheet* (2008). [https://cchealth.org/aod/pdf/social\\_host\\_ordinance.pdf](https://cchealth.org/aod/pdf/social_host_ordinance.pdf)
- <sup>54</sup> CAL. BUS. & PROF. CODE § 26200(a).
- <sup>55</sup> S.B. 1186, 2022 Sess. (Cal. 2022).
- <sup>56</sup> Centers for Disease Control and Prevention. Alcohol-Related Disease Impact Application website. Accessed April 19, 2022.
- <sup>57</sup> California Healthy Kids Survey, 2009-2016.

- 
- <sup>58</sup> <https://alcoholpolicy.niaaa.nih.gov/apis-policy-topics/beer/30> (beer); <https://alcoholpolicy.niaaa.nih.gov/apis-policy-topics/wine/32> (wine); <https://alcoholpolicy.niaaa.nih.gov/apis-policy-topics/distilled-spirits/31> (distilled spirits).
- <sup>59</sup> <https://www.law.cornell.edu/uscode/text/26/5001> (federal). The federal government imposes an excise tax on alcohol.
- <sup>60</sup> Excessive Alcohol Consumption. The Guide to Community Preventive Services websiteexternal icon. Accessed September 16, 2020.
- <sup>61</sup> <https://alcoholpolicy.niaaa.nih.gov/apis-policy-topics/minimum-ages-for-on-premises-servers-and-bartenders/38>; Cal Bus & Prof Code sections 2308, 2308.1, 25663
- <sup>62</sup> <https://www.abc.ca.gov/licensing/apply-for-a-new-license/license-application-requirements/>
- <sup>63</sup> <https://alcoholpolicy.niaaa.nih.gov/apis-policy-topics/keg-registration/27>
- <sup>64</sup> Business and Professions code §§ 25680-25686 and California Code of Regulations Title 4 §§162-166 (starting July 1, 2022). <https://www.abc.ca.gov/education/rbs/>
- <sup>65</sup> *Adult Operators of Noncommercial Motor Vehicles*, ALCOHOL POLICY INFORMATION SYSTEM, <https://alcoholpolicy.niaaa.nih.gov/apis-policy-topics/adult-operators-of-noncommercial-motor-vehicles/12#page-content> (last visited Aug. 5 2022); *Youth (Underage Operators of Noncommercial Motor Vehicles)*, ALCOHOL POLICY INFORMATION SYSTEM, <https://alcoholpolicy.niaaa.nih.gov/apis-policy-topics/youth-underage-operators-of-noncommercial-motor-vehicles/13> (last visited Aug. 5 2022).
- <sup>66</sup> *Open Containers of Alcohol in Motor Vehicles*, ALCOHOL POLICY INFORMATION SYSTEM, <https://alcoholpolicy.niaaa.nih.gov/apis-policy-topics/open-containers-of-alcohol-in-motor-vehicles/34> (last visited Aug. 5 2022).
- <sup>67</sup> *False Identification for Obtaining Alcohol*, ALCOHOL POLICY INFORMATION SYSTEM, <https://alcoholpolicy.niaaa.nih.gov/apis-policy-topics/false-identification-for-obtaining-alcohol/39> (last visited Aug. 5 2022).
- <sup>68</sup> *Minimum Ages for on-Premises Servers and Bartenders*, ALCOHOL POLICY INFORMATION SYSTEM, <https://alcoholpolicy.niaaa.nih.gov/apis-policy-topics/minimum-ages-for-on-premises-servers-and-bartenders/38> (last visited Aug. 5 2022) (California does not have a minimum age for selling alcohol at a off-premises location, e.g., a gas station or a supermarket).
- <sup>69</sup> (27 CFR Part 5), wine (27 CFR Part 4), and malt beverages (27 CFR Part 7).
- <sup>70</sup> <https://www.law.cornell.edu/cfr/text/27/part-5/subpart-H> (distilled spirits); <https://www.law.cornell.edu/cfr/text/27/4.62> (wine); <https://www.ecfr.gov/current/title-27/chapter-1/subchapter-A/part-7/subpart-N> (malt beverages).
- <sup>71</sup> <https://www.law.cornell.edu/cfr/text/27/4.64>
- <sup>72</sup> <https://www.distilledspirits.org/wp-content/uploads/2021/03/2021-DISCUS-Code-of-Responsible-Practices-for-Beverage-Alcohol-Advertising-and-Marketing.pdf> (DISCUS); <https://www.beerinstitute.org/wp-content/uploads/2018/12/BEER-6735-2018-Beer-Ad-Code-Update-Brochure-for-web.pdf> (Beer Institute); <https://wineinstitute.org/our-work/responsibility/social/ad-code/> (Wine Institute).
- <sup>73</sup> <https://consumer.ftc.gov/articles/0391-alcohol-advertising>
- <sup>74</sup> <https://www.distilledspirits.org/wp-content/uploads/2021/03/2021-DISCUS-Code-of-Responsible-Practices-for-Beverage-Alcohol-Advertising-and-Marketing.pdf>
- <sup>75</sup> <https://www.beerinstitute.org/wp-content/uploads/2018/12/BEER-6735-2018-Beer-Ad-Code-Update-Brochure-for-web.pdf>
- <sup>76</sup> <https://wineinstitute.org/our-work/responsibility/social/ad-code/>
- <sup>77</sup> <https://consumer.ftc.gov/articles/0391-alcohol-advertising>
- <sup>78</sup> *Underage Drinking*, CENTERS FOR DISEASE CONTROL AND PREVENTION, <https://www.cdc.gov/alcohol/fact-sheets/underage-drinking.htm> (last visited Aug. 5, 2022).
- <sup>79</sup> Sue Thomas et al., *Underage Alcohol Policies Across 50 California Cities: An Assessment of Best Practices*, 7 SUBSTANCE ABUSE TREATMENT, PREVENTION, AND POL'Y 26, (2016).
- <sup>80</sup> *Id.*
- <sup>81</sup> CAL. CONST., art. 20; CAL. CONST., art. 22.
- <sup>82</sup> See, e.g., HSH, Inc. v. City of El Cajon, 44 F.Supp.3d 996 (2014); Korean American Legal Advocacy Foundation v. City of Los Angeles, 23 Cal. App. 4th 376 (1994); City of Oakland v. Superior Court, 45 Cal. App. 4th 740 (1996); Suzuki v. City of Los Angeles, 44 Cal. App. 4th 263 (1996).

---

<sup>83</sup> Policy Evaluation Tracking System and American Nonsmokers' Rights Foundation, Policy Brief: Smoke-Free Multi-Unit Housing, May 2022, on file with author.

<sup>84</sup> CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION, Verification of Permits, Licenses, or Accounts, <https://services.cdtfa.ca.gov/webservices/verification.jsp>. According to the CDTFA, this report does not include licenses issued to individuals (sole proprietors, married co- owners, and domestic partners). To verify or updated the list of licenses, visit their website.

<sup>85</sup> DEPARTMENT OF CANNABIS CONTROL CALIFORNIA, *Where Cannabis Businesses Are Allowed*, <https://cannabis.ca.gov/cannabis-laws/where-cannabis-businesses-are-allowed/>.

<sup>86</sup> Department of Cannabis Control data indicates that Pittsburg does not allow retail cannabis sales. However, the Pittsburg Municipal Code authorizes cannabis sales in certain circumstances. PITTSBURG, CAL., MUN. CODE TITLE 5 CHAPTER 5.7 (2022).



65 Civic Avenue  
Pittsburg, CA 94565  
P: (925) 252-6900  
F: (925) 252-4814  
[pittsburgca.gov](http://pittsburgca.gov)

Community and Economic Development Department – Planning Division

## NOTICE OF PUBLIC HEARING

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

**DATE:** August 27, 2024  
**TIME:** 7:00 PM  
**PLACE:** Pittsburg City Hall, Council Chambers (Third Floor)  
65 Civic Avenue  
Pittsburg, CA 94565

Concerning the following matter:

### **Creating Healthy Communities Ordinance; AP-23-0145 (RZ – Text Amendment)**

This is a City-initiated, City-wide project to amend the text within Title 5, 8, 9, and 18 of the Pittsburg Municipal Code. The public hearing for this item is a request for Planning Commission recommendation to the City Council for adoption of two Ordinances related to “Creating Healthy Communities” and includes amendments to various sections of the Pittsburg Municipal Code, related to the marketing, sale, and use of alcohol, tobacco, and cannabis. Specifically, the text amendments are to revise the requirements for a Tobacco Retailer License, update the Social Host Ordinance, add requirements for cannabis businesses, consistent with state law, and to establish alcoholic beverage sales and service performance standards. More information: <https://www.pittsburgca.gov/services/community-development/planning/advanced-planning-special-projects/www-pittsburgca-gov-healthycommunities>

### **Environmental Determination**

This amendment of the municipal code is exempt from the requirements of the California Environmental Quality Act (CEQA) under the general rule of applicability of the State CEQA Guidelines, Section 15061(b)(3), in that the activity in question consists of text amendments and updates to the Pittsburg Municipal Code for consistency with State Law and this would not result in a physical impact on the environment. The proposed amendments to the Pittsburg Municipal Code do not include any mapping changes that would allow new uses in areas not previously permitted, and the text amendments and the clarifications proposed would not result in any direct significant negative physical impacts on the environment.

**PROJECT PLANNER:** Kelsey Gunter; (925) 252-4824 or [kgunter@pittsburgca.gov](mailto:kgunter@pittsburgca.gov)

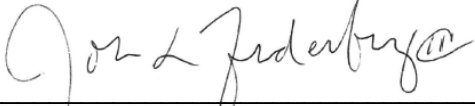
### **Why am I receiving this notice?**

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

The complete file for this project is available for public inspection; please contact the project planner listed above to make necessary arrangements. Comments or objections to the project can be made by writing or through e-mailed testimony prior to the meeting or provided orally during the meeting. 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. 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.

*Para información en  
español:  
(925) 252-4920*

  
JOHN FUNDERBURG, SECRETARY  
PITTSBURG PLANNING COMMISSION

**Project Title:** Creating of Healthy Communities Ordinance, AP-23-0145 (RZ – Text Amendment)  
**Location:** City Wide



## City of Pittsburg

Community and Economic Development Department - Planning  
Division  
65 Civic Avenue  
Pittsburg, CA 94565

### NOTICE OF PUBLIC HEARING

**CITY OF PITTSBURG  
PLANNING COMMISSION  
STAFF REPORT  
August 27, 2024**

**ITEM: Notice of Intent to Exercise Delegated Design Review Authority**

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

SUBJECT: The Zoning Administrator also submits one notice of intent to Exercise Delegated Design Review Authority.

RECOMMENDATION:

Staff recommends that the Commission acknowledge receipt of the attached Notice of Intent to Exercise Delegated Design Review Authority.

BACKGROUND:

*Delegated Design Review Authority*

Delegated Design Review Authority: Planning Commission Resolution No. 9444, as later amended by Resolution No. 9918, allows for delegation of nine categories of design review applications from the Planning Commission to the Zoning Administrator, as follows:

1. Freestanding signs: Applicable to signs not already part of a sign program; must be consistent with sign standards and architecturally compatible with associated building.
2. Wireless Communication Equipment: New or replacement antennas on existing poles and their related equipment.
3. Minor Building Remodels: Limited to changes in building colors, awnings, fenestration, and finishes.
4. Changes to Existing Parking Lots.
5. Changes to Existing Landscaping.
6. Additions to Existing Buildings: Additions must be smaller than 2,500 square feet and designed to complement existing building architecture.
7. New Model Homes in Approved Subdivisions. Must be consistent with the general size, quality of architecture and materials, and general character of the originally approved models. Must comply with approved zoning development standards.



## Planning Commission Staff Report

8. Ancillary Structures: Structures in any district where visual impacts are minimal, including miscellaneous mechanical equipment associated with legal uses in the Industrial Districts.

The intent of the delegation is to allow a more efficient approval process for non-controversial design review applications, without compromising the integrity of the design review process or removing from public scrutiny those projects that would be most visible or of high interest to the general public. Prior to approving any delegated design review application, the Zoning Administrator must notify the Commission of his or their intent to exercise delegated design review authority. Copies of resolutions approving any delegated design review application must also be provided to the Commission.

### PROJECT DESCRIPTION:

Since the last Commission meeting, staff has received one application requiring Delegated Design Review Authority under Resolution No. 9918:

#### **1. Chlorine Pipe Re-Route Project, AP-24-0082 (ADR)**

This is a Zoning Administrator consideration of an application for Administrative Design Review (ADR) to re-route existing chlorine pipeline at Corteva Agriscience campus located at 901 Loveridge Road. K2 Pure currently supplies chlorine gas, a CalARP Program regulated substance, directly to Corteva via pipeline. Corteva uses a chlorine header pipeline supported on pipe rack and pipe bridge structures to distribute the chlorine from K2 to various users on site. The header currently runs east two blocks from K-2 Pure and splits into branches running north and south for distribution. Corteva plans to close its production units leaving Douglas Products as the only remaining chlorine user on the north header branch. Corteva therefore proposes to build a new chlorine header branch (that is shorter in-length) directly from K2-Pure to Douglas Products, then de-inventory, air-gap and abandon the existing north header branch in place.

The site is classified "Industrial" in the Pittsburg General Plan land use map and zoned "IG – General Industrial" Assessor's Parcel Nos. 073-220-040 & 50.

This project is delegated to staff under Category 4 (Changes to Existing Parking Lots) and Category 8 (Ancillary Structures) Structures in any district where visual impacts are minimal, including miscellaneous mechanical equipment associated with legal uses in Industrial Districts of Planning Commission Resolution No. 9918.

### GENERAL PLAN/CODE COMPLIANCE:

Delegated Design Review Authority: Resolution No. 9918 established nine categories of design review applications upon which the Commission would authorize the Zoning Administrator to act. Resolution No. 9918, and PMC section 18.10.100, direct staff to notify the Planning Commission of intent to exercise delegated design review authority on any application that falls within one of those nine categories, prior to approving the

## Planning Commission Staff Report

application. Upon receiving such notification, a majority of the Commission may direct that the matter be scheduled for future consideration by the entire Commission.

Resolution No. 9918 also directs staff to keep the Commission informed about delegated design review application approvals by providing copies of resolutions adopted by the Zoning Administrator.

### ANALYSIS:

Not applicable.

### ACTION REQUIRED:

Acknowledge receipt of the attached Notices of Intent.

### ATTACHMENTS:

1. Chlorine Pipe Re-Route Project, AP-24-0082 (ADR), NOI
2. PC Resolution No. 9918

Prepared by: John Funderburg, Zoning Administrator



Community and Economic Development Department – Planning Division

**PROJECT REFERRAL & REQUEST FOR COMMENTS/CONDITIONS**

<b>Project Name:</b>	<b>Chlorine Pipe Re-Route Project</b>
<b>Project No:</b> AP-24-0082	<b>Application Type:</b> Administrative Design Review (ADR)
<p><b>Project Description:</b> Application for Administrative Design Review (ADR) to re-route existing chlorine pipeline at Corteva Agriscience campus located at 901 Loveridge Road, Pittsburg, California, 94565. K2 Pure currently supplies chlorine gas, a CalARP Program regulated substance, directly to Corteva via pipeline. Corteva uses a chlorine header pipeline supported on pipe rack and pipe bridge structures to distribute the chlorine from K2 to various users on site. The header currently runs east two blocks from K-2 Pure and splits into branches running north and south for distribution. Corteva plans to close its production units leaving Douglas Products as the only remaining chlorine user on the north header branch. Corteva therefore proposes to build a new chlorine header branch (that is shorter in-length) directly from K2-Pure to Douglas Products, then de-inventory, air-gap and abandon the existing north header branch in place.</p> <p>The site is classified “Industrial” in the Pittsburg General Plan land use map and zoned “IG – General Industrial” where pursuant to PMC Section 18.54.100, Design Review (Section 18.36) is required for additions to existing facilities.</p> <p>Assessor’s Parcel Nos. 073-220-040 &amp; 50</p>	
<b>Applicant:</b>	David O’Sullivan
<b>Mailing Address:</b>	901 Loveridge Road, Pittsburg, CA 94565
<b>Phone:</b> (925)432-5157	<b>E-mail:</b> David.O’Sullivan@corteva.com

**Instructions for the Referral Agency:**

Enclosed are plans for the project identified above which is proposed in the City of Pittsburg. Please review these plans and provide this office with your feedback on

availability of services/potential design or code conflicts/requirements for additional permits and recommended conditions of project approval.

**Deadline for Comments:**

**Please submit your comments no later than Friday, August 9<sup>th</sup>, 2024.**

Comments should be sent to **Maurice Brenyah-Addow** at the mailing address noted above, through e-mail at: [mbrenyah-addow@pittsburgca.gov](mailto:mbrenyah-addow@pittsburgca.gov), or by fax at: (925) 252-4814. If you have any questions regarding this project, please call **Maurice Brenyah-Addow** at (925)252-4261. A list of referral agencies for this project is provided on the next page.

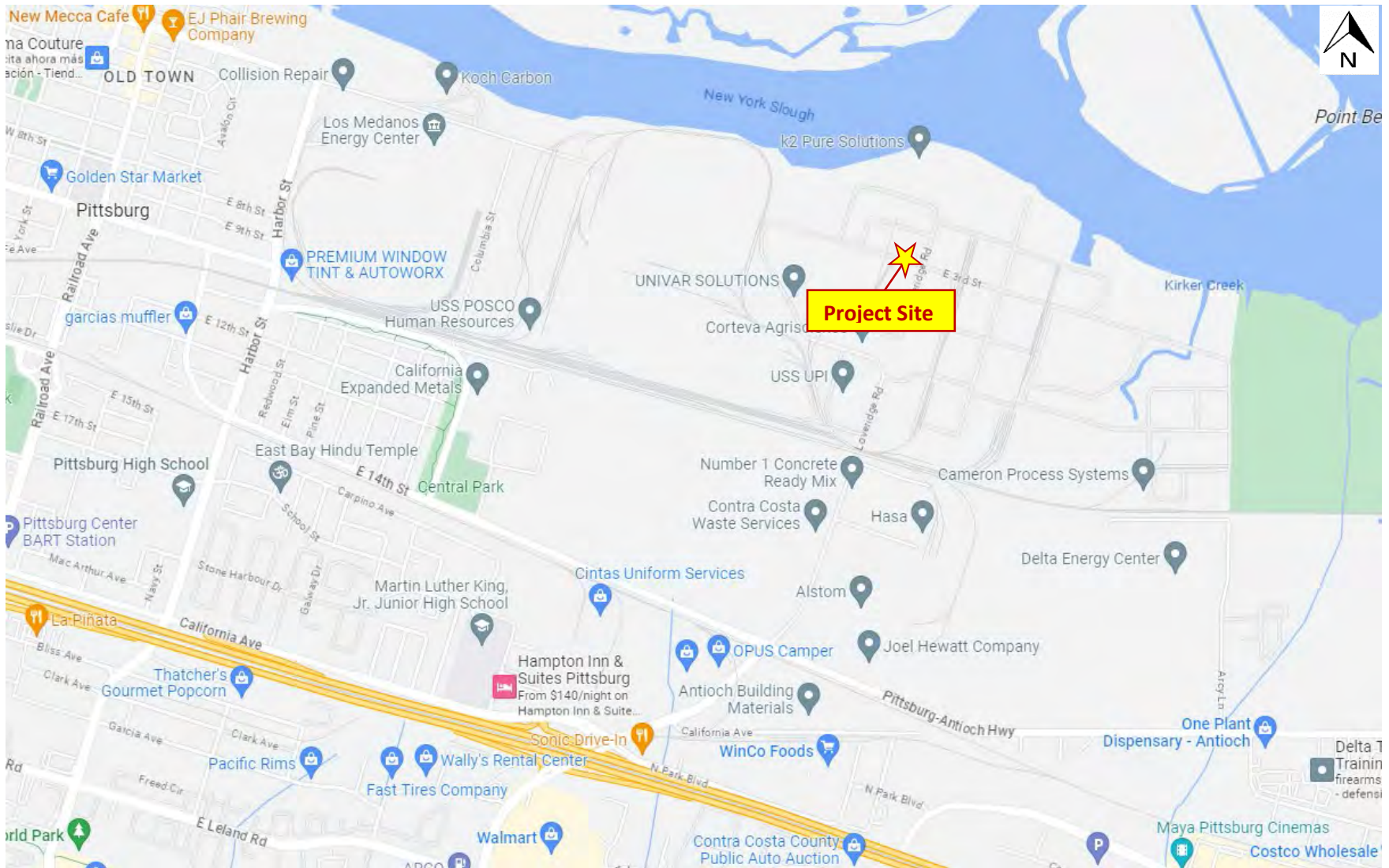
## List of Referral Agencies:

<b>Federal/State/Regional</b>	<input type="checkbox"/> Ambrose Recreation & Park District
<input type="checkbox"/> US Army Corps of Engineers	<input type="checkbox"/> Contra Costa Mosquito & Vector Control District
<input type="checkbox"/> US Fish and Wildlife Service	<input type="checkbox"/> Bay Point Municipal Advisory Comm.
<input type="checkbox"/> Dept. of Fish and Game – Region 3	<input type="checkbox"/> City of Antioch Community Development Department
<input type="checkbox"/> State RWQCB	<input type="checkbox"/> City of Concord Planning Division
<input type="checkbox"/> US Postal Service – Pittsburg	<input type="checkbox"/> City of Concord Transportation Department
<input type="checkbox"/> Caltrans - District 4	<input type="checkbox"/> Antioch Unified School District
<input type="checkbox"/> Sonoma State - Historical/Archaeological	<input type="checkbox"/> Mt. Diablo Unified School District
<input type="checkbox"/> Association of Bay Area Governments	<input type="checkbox"/> Pittsburg Unified School District
<input type="checkbox"/> Bay Area Air Quality Management District	<b>City of Pittsburg</b>
<input type="checkbox"/> East Bay Regional Park District	<input checked="" type="checkbox"/> Planning Division
<input type="checkbox"/> Native American Heritage Commission	<input checked="" type="checkbox"/> Building Division
<b>Contra Costa County</b>	<input checked="" type="checkbox"/> Engineering Division
<input type="checkbox"/> Assessor's Office	<input checked="" type="checkbox"/> Transportation Division
<input type="checkbox"/> Community Development Department	<input checked="" type="checkbox"/> Public Works Division
<input checked="" type="checkbox"/> Environmental Health	<input checked="" type="checkbox"/> Waste Reduction Coordinator
<input checked="" type="checkbox"/> Fire Protection District	<input type="checkbox"/> Successor Agency
<input checked="" type="checkbox"/> Flood Control District	<input checked="" type="checkbox"/> Economic Development
<input checked="" type="checkbox"/> Health Services Department	<input checked="" type="checkbox"/> City Attorney
<input checked="" type="checkbox"/> Hazardous Materials Programs	<input checked="" type="checkbox"/> City Manager
<input type="checkbox"/> LAFCO	<input checked="" type="checkbox"/> Police Dept.
<input type="checkbox"/> Library (Pittsburg Branch)	<input type="checkbox"/> HCP Coordinator
<input checked="" type="checkbox"/> Public Works Dept. (Transportation Eng.)	<input checked="" type="checkbox"/> NPDES Coordinator
<b>Transportation</b>	<b>Utilities</b>
<input type="checkbox"/> BART Planning/Environmental Compliance Division	<input checked="" type="checkbox"/> Contra Costa Water District
<input type="checkbox"/> Central Contra Costa Transit Authority	<input checked="" type="checkbox"/> Delta Diablo Sanitation District
<input type="checkbox"/> Metropolitan Transportation Commission	<input type="checkbox"/> AT&T
<input type="checkbox"/> Tri-Delta Transit	<input checked="" type="checkbox"/> PG&E – 1-877-259-8314 for utility easements
<input type="checkbox"/> TRANSPLAN	<input checked="" type="checkbox"/> Pittsburg Disposal Service
<input type="checkbox"/> Contra Costa Transportation Authority	<input type="checkbox"/> Comcast Cable Communications, Inc.
<input type="checkbox"/> TRANSPAC	<input checked="" type="checkbox"/> Other: Additional External Agencies
<b>Local</b>	<input type="checkbox"/> Other:
<input checked="" type="checkbox"/> Supervisor Federal Glover	<input type="checkbox"/> Other:

# Chlorine Pipe Re-Route Project - Vicinity Map

## Administrative Design Review (ADR)

AP-24-0082	901 Loveridge Roads, Pittsburg, CA 94565
Administrative Design Review (ADR)	Assessor's Parcel Nos. 073-220-040 & -50



# Chlorine Pipe Re-Route Project- Vicinity Map

## Administrative Design Review (ADR)

AP-24-0082	901 Loveridge Roads, Pittsburg, CA 94565
Administrative Design Review (ADR)	Assessor's Parcel Nos. 073-220-040 & 50





# Re-route Chlorine Piping From K2 Pure to Douglas Products

Planning Department Review

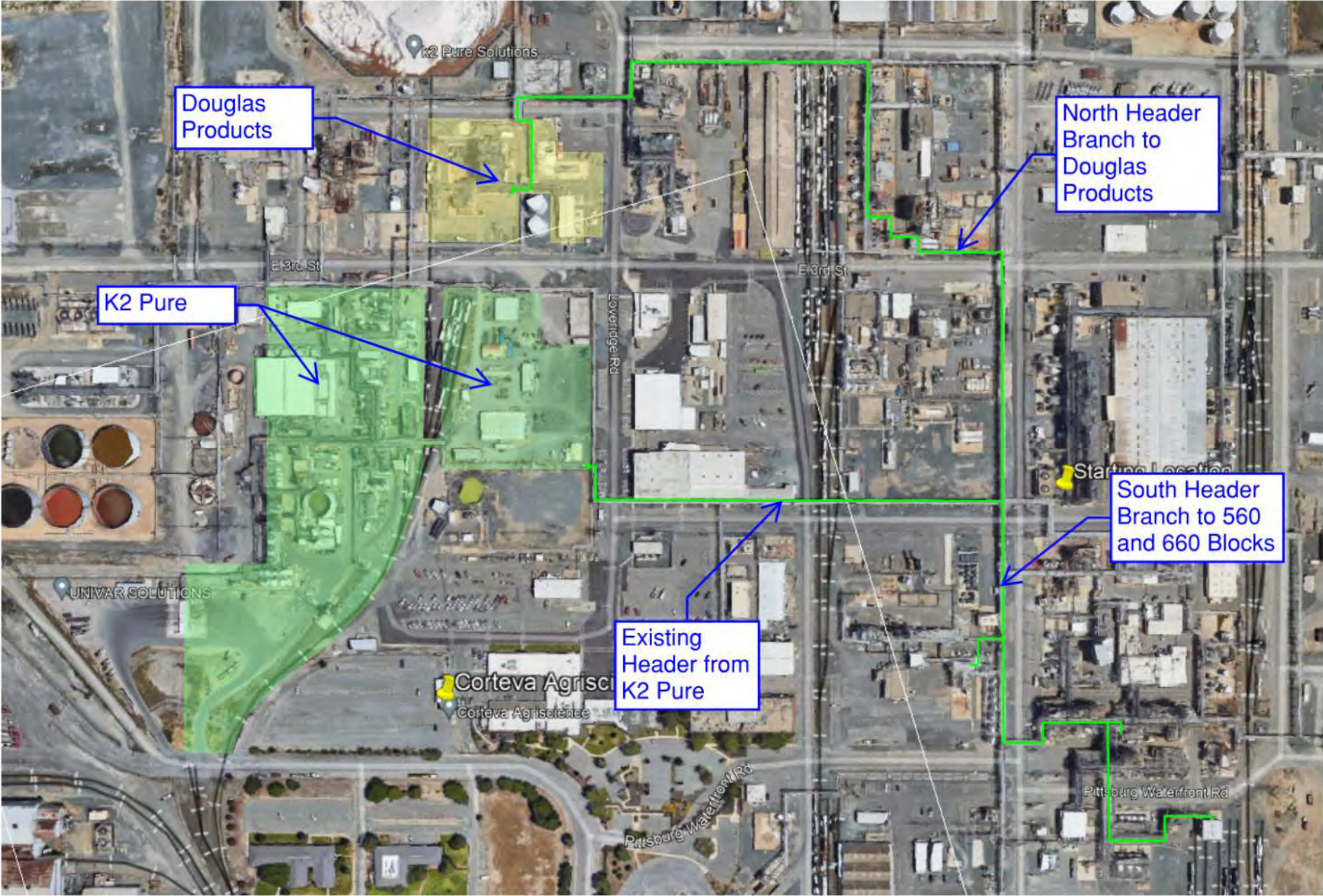
JULY, 18 2024



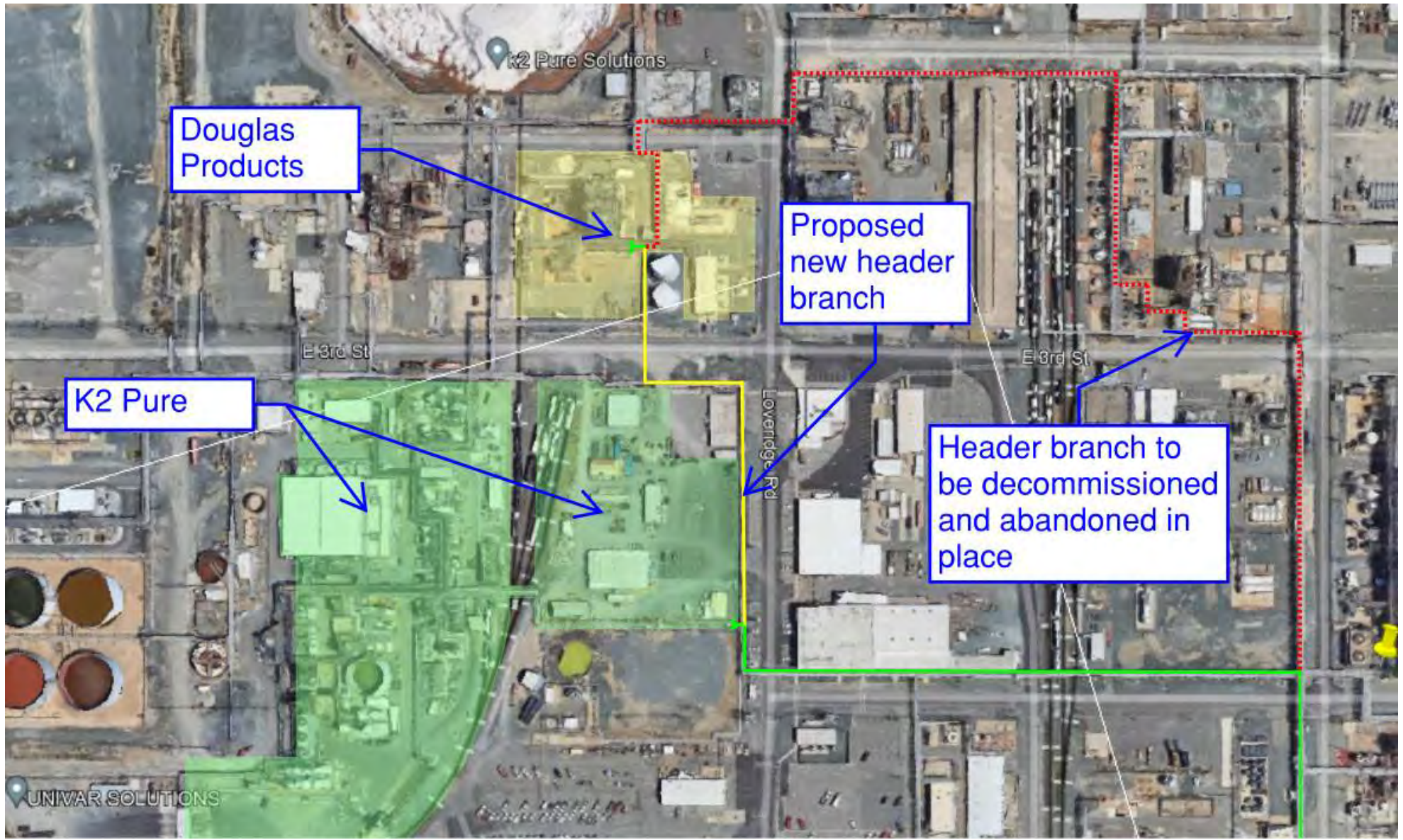
# Project Scope Overview

- K2 Pure currently supplies chlorine gas, a CalARP Program regulated substance, directly to Corteva via pipeline.
- Corteva uses a chlorine header pipeline supported on pipe rack and pipe bridge structures to distribute the chlorine from K2 to various users on site. The header currently runs east two blocks from K-2 Pure to G-Street, where it splits into branches running north and south for distribution (see following slide illustrating configuration of existing chlorine header).
- After completing the announced closure of the Corteva production units, the only remaining chlorine user on the north header branch will be Douglas Products.
- Corteva is proposing to build a new chlorine header branch directly from K2-Pure to Douglas Products, then de-inventory, air-gap and abandon the existing north header branch in place. See illustrations on the following slides.
- Entire project is within fenced Corteva Property which is not accessible to the Public.

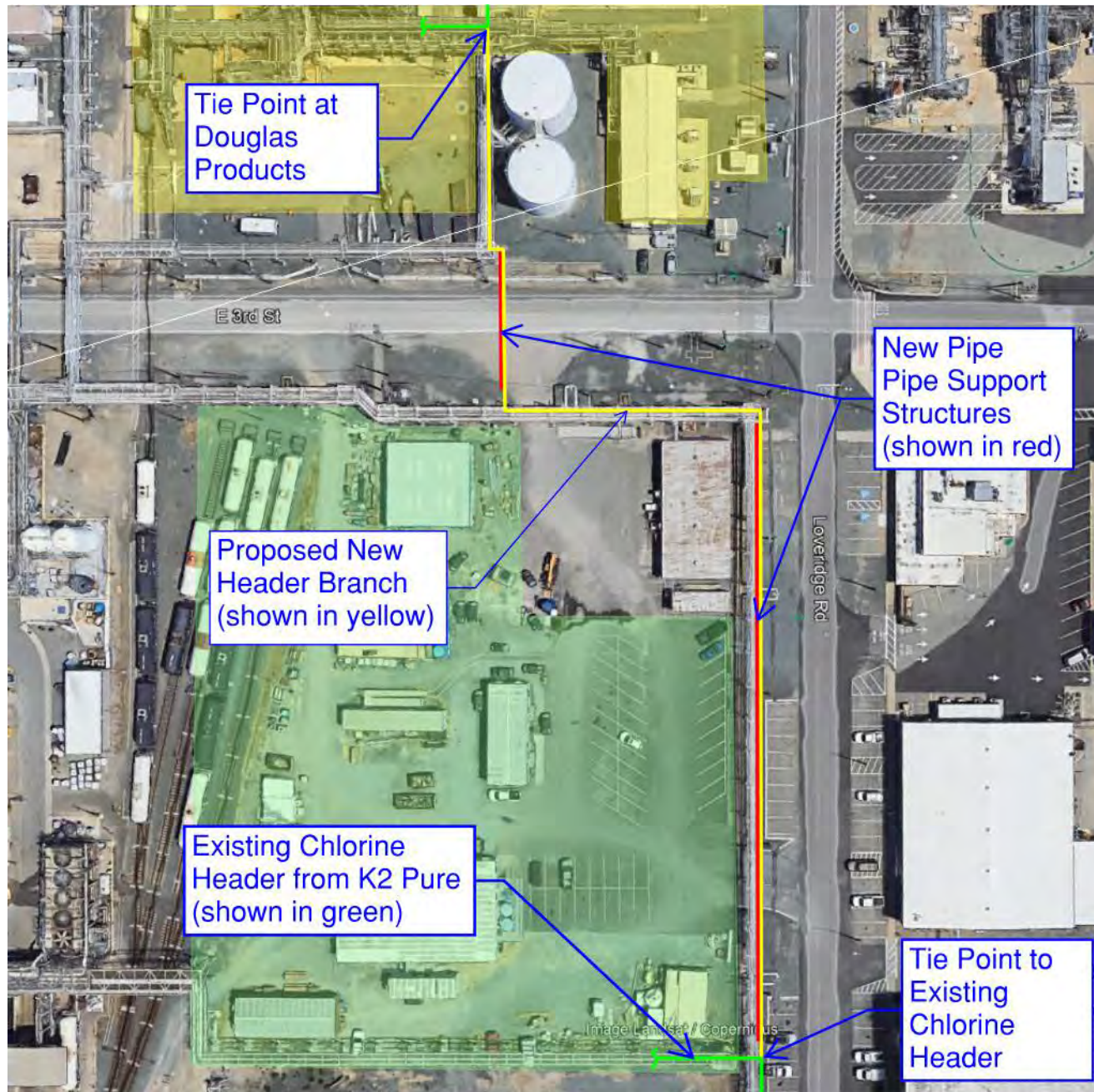
# Existing Chlorine Header



# Overview of Proposed Change



# Proposed New Chlorine Header Branch



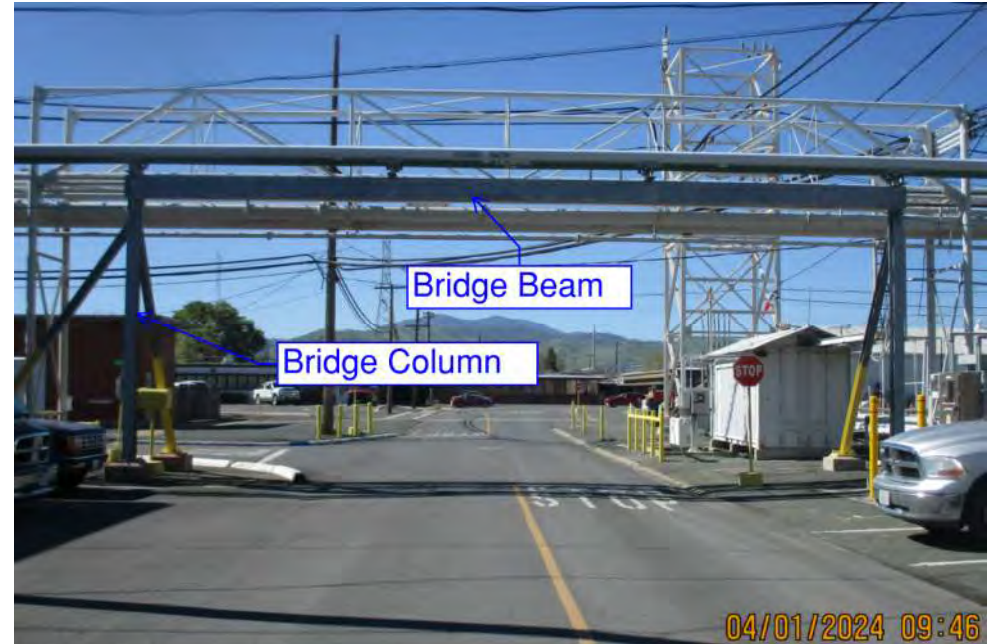
# New Chlorine Header Support Structures

- For approximately 370 feet along E-Steet, the new chlorine header will be supported on new interconnected steel T-supports located immediately adjacent to the existing old pipe rack structure. These T-supports will be similar to those constructed in 2011 to support the existing chlorine header (see photo on next page).
- Bridge beams spanning up to 55 feet over 3<sup>rd</sup> Street and over driveways along E-Street will be used to support the new chlorine header. These bridge beams will also be similar to those constructed in 2011 to support the existing chlorine header (see photo on next page).
- The clear height below the new chlorine header supports will be greater than existing clearances.
- All new pipe support bridge beam spans will exceed widths of existing roads and driveways.
- None of the new structures will be visible from off site.

# Similar Existing Support Structures

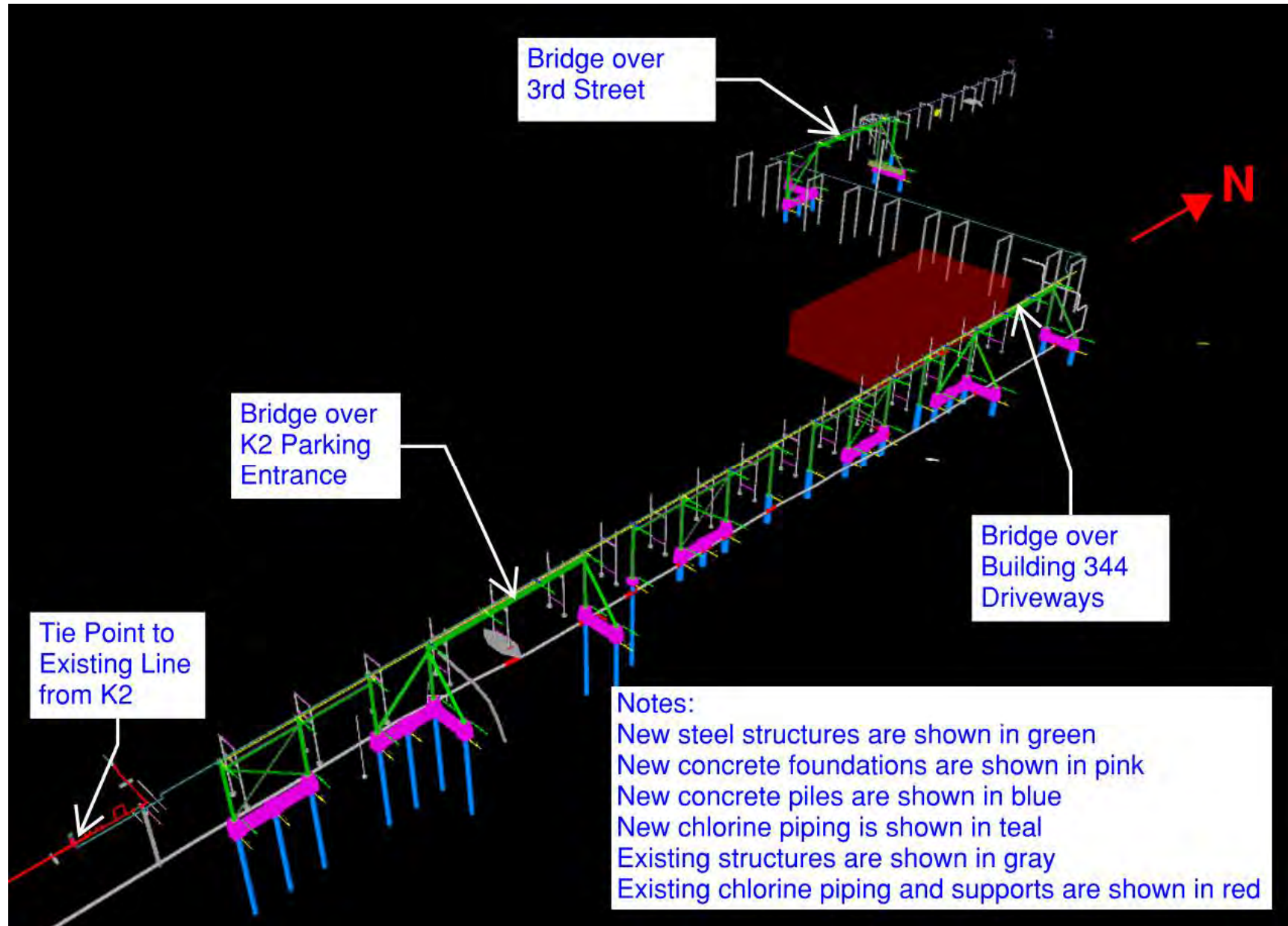


Interconnected Steel T-Supports built in 2011 adjacent to Older Pipe Rack



Steel Pipe Bridge built in 2011 adjacent to Older Pipe Bridge

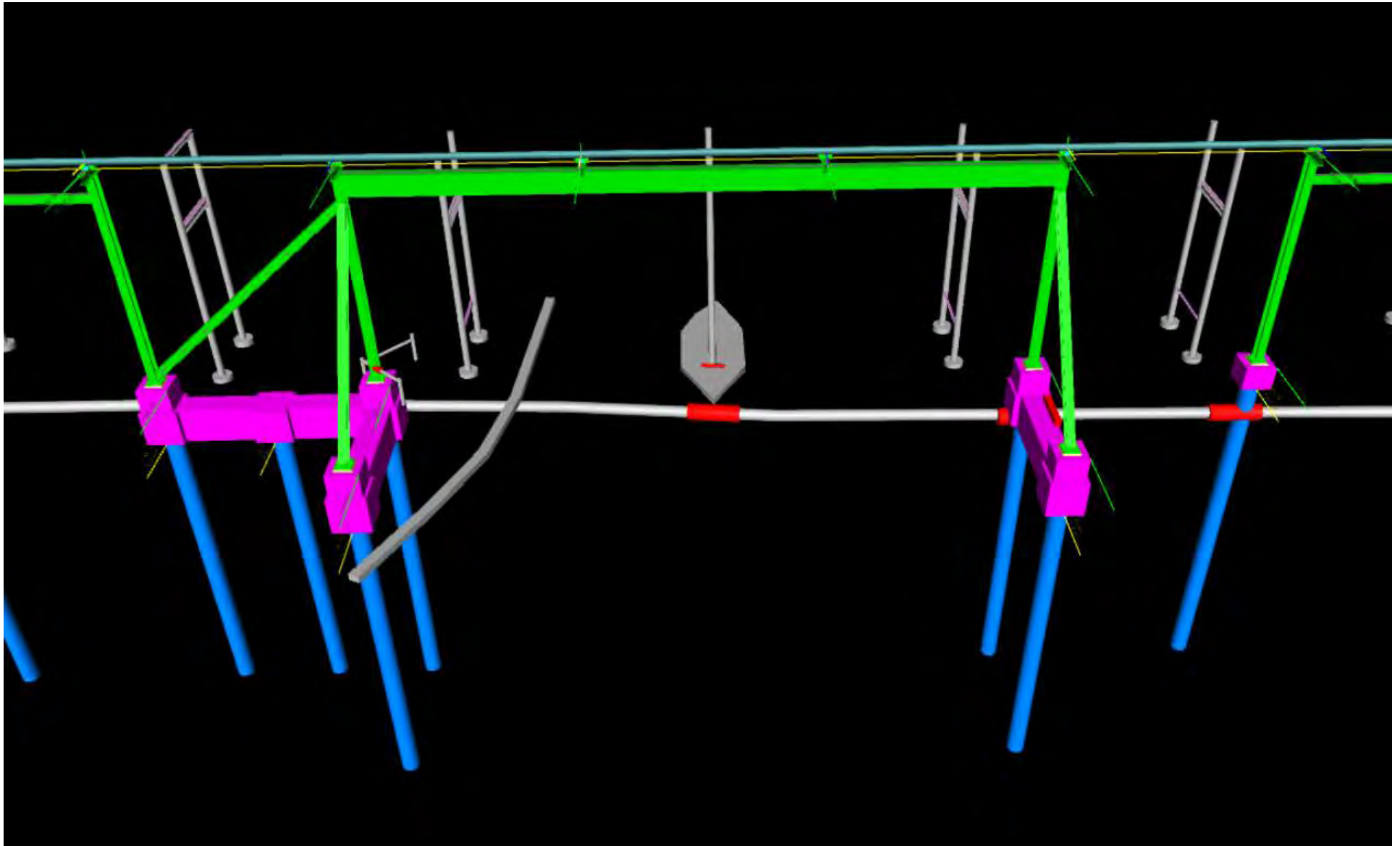
# Current Overall 3D Model of Project



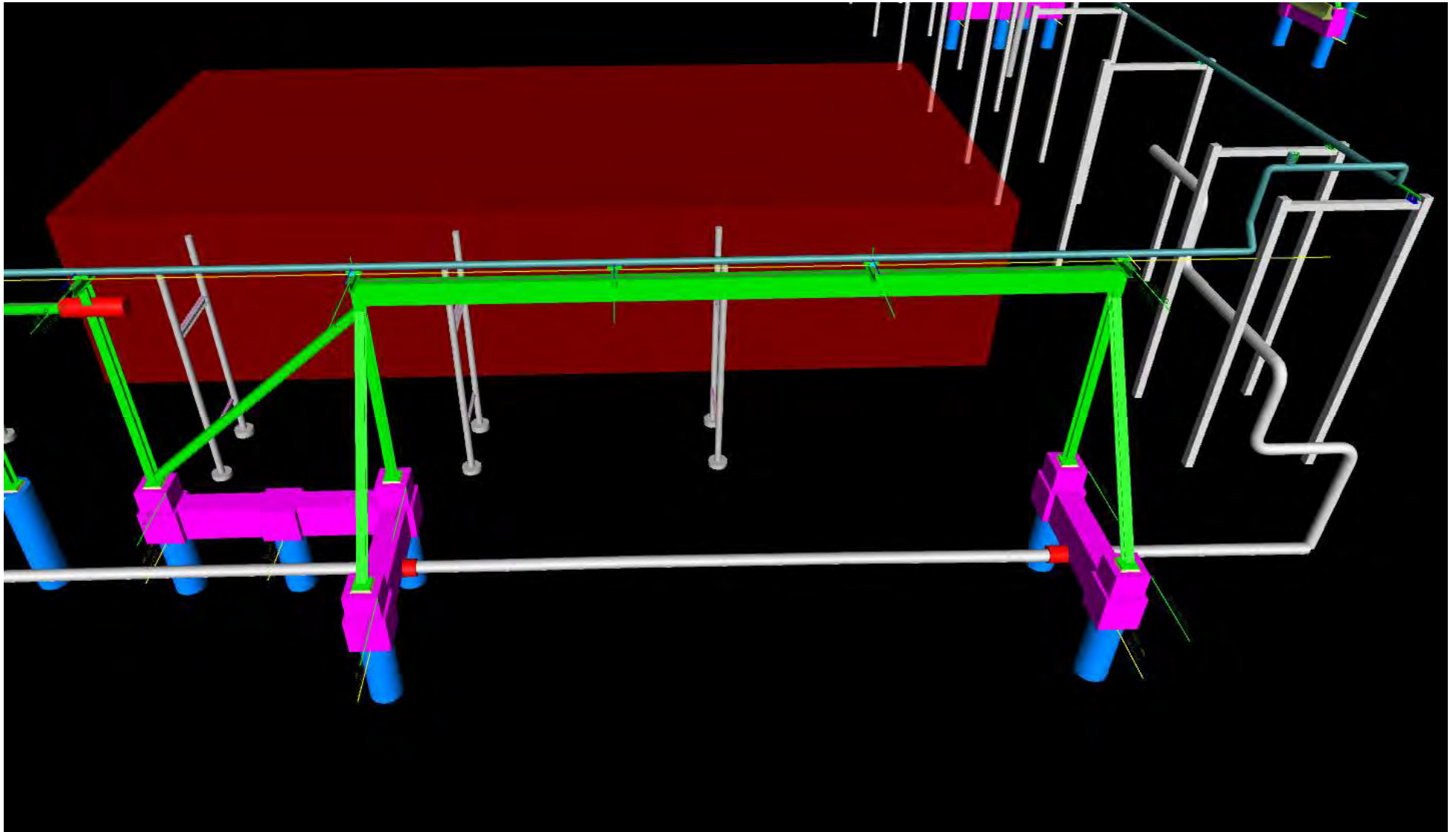




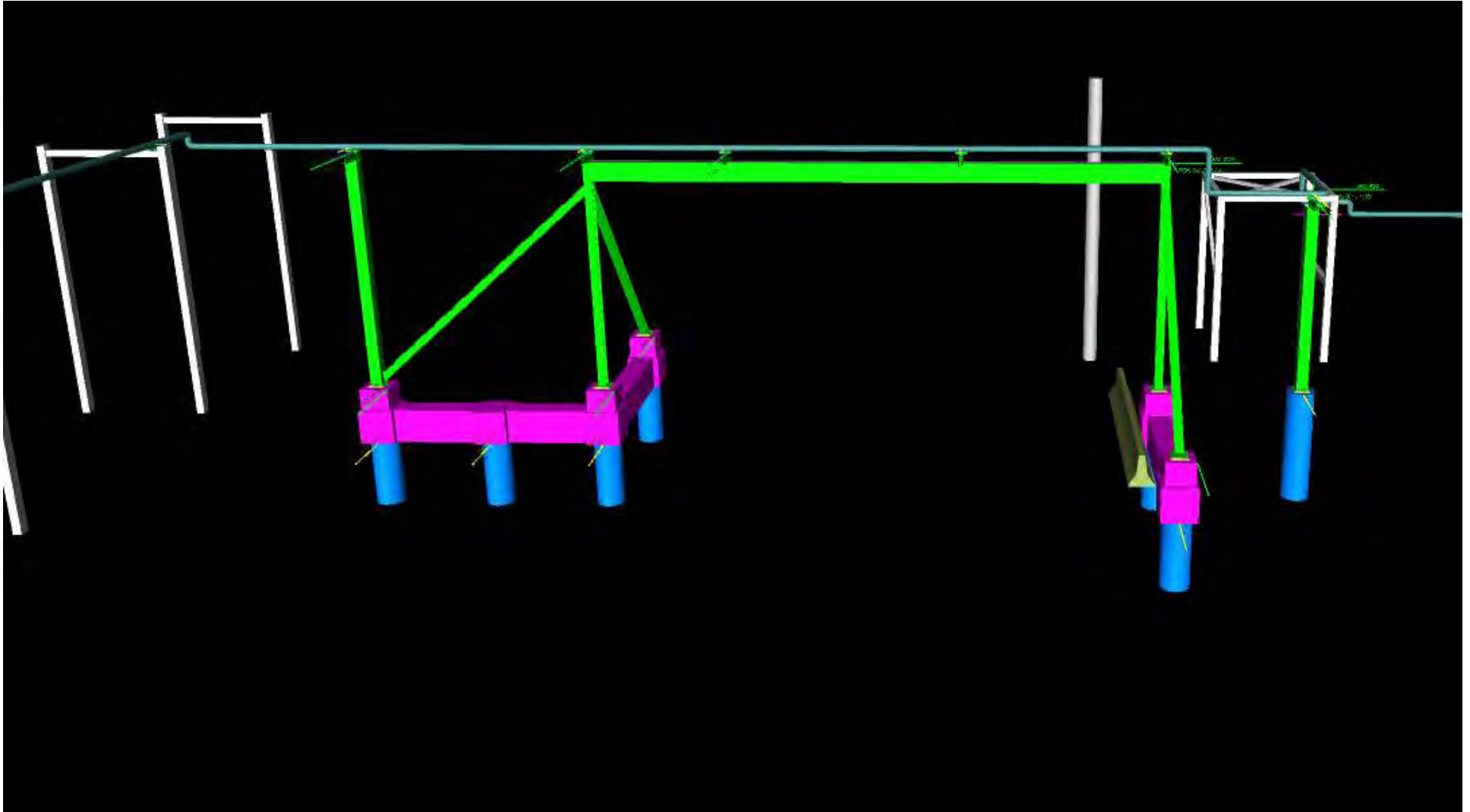
# Bridge over K2 Parking Entrance



# Bridge over Building 344 Driveways



# Bridge over 3<sup>rd</sup> Street



# Photos along New Chlorine Piping Route



Tie-in Location (Looking South)  
(Elevation of new piping along E-Street will match existing)



View Along E-Street from Building 344  
(New supports will be just in front of existing pipe rack along E-Street to tie-in location)

# Photos along New Chlorine Piping Route (Continued)



**K2 Parking Entrance from E-Street**  
(Elevation of new bridge beam will be near that of upper level of existing pipe rack)



**Building 344 Driveways**  
(Elevation of new bridge beam will be near that of upper level of existing pipe rack/bridge)

## Photos along New Chlorine Piping Route (Continued)



Existing Pipe Rack along 3<sup>rd</sup>-Street  
(New chlorine line will be supported on upper level of this lightly loaded pipe rack)



End of Existing N-S Pipe Rack to Douglas Products (Looking North)  
(New chlorine line will be supported on upper level of this lightly loaded pipe rack. New N-S bridge over 3<sup>rd</sup> Street will be slightly east of the existing pipe rack)

# Benefits of New Chlorine Header Branch

- There will be a net reduction in length of approximately 1600 feet of CalARP Program regulated chlorine header piping on the Corteva site, and there will be no change in the amount of chlorine used on site.
- About 65% of the new chlorine header branch will be supported on new structures designed and constructed to current code. The remainder will be on existing pipe racks that are not nearly full, were constructed circa 1989, and are not expected to require retrofit to meet CalARP Program seismic guidelines.
- The need to seismically retrofit about 1050 feet of much older existing pipe racks to meet CalARP Program seismic guidelines will be eliminated, and the expected seismic performance of the chlorine header support structures will be improved.

BEFORE THE PLANNING COMMISSION OF THE CITY OF PITTSBURG

In the Matter of:

Resolution Amending the Categories of Eligible )  
Projects and Revising the Procedures for ) Resolution No. 9918  
Delegating Design Review Authority of Certain )  
Types of Projects to the Zoning Administrator )

The Planning Commission DOES RESOLVE as follows:

Section 1. Background

- A. On August 26, 2003, the Planning Commission adopted Resolution No. 9444 in an effort to streamline the planning review process for certain projects that the Commission had determined to be routine in nature and have minimal visual impacts on the surrounding community. This resolution authorized various types of projects to be reviewed by the Zoning Administrator rather than the Planning Commission, including "Wireless Communication Antennas, Monopoles and Related Structures and Equipment."
- B. On August 14, 2012, in response to recent Commission concerns regarding the approval process for wireless telecommunication equipment, a study session was conducted with the Planning Commission to review proposed updates to the existing design review delegation procedures. At this study session, the consensus of a majority of Commissioners was to keep all staff proposed changes, with an added clarification on the recommended voting process (Section B) for calling up items to be reviewed by the Commission.
- C. Proposed changes to the existing staff delegated design review authority (as presented during the August 14, 2012, study session) generally include: 1) a modification to the text of category 2, "Wireless Communication Antennas, Monopoles and Related Structures and Equipment," intended to separate out construction of new wireless telecommunications facilities from requests for modifications to existing facilities, with the only latter retaining eligibility for delegated review by the Zoning Administrator; 2) a revision to Category 3 to clarify that it applies to all minor building remodels and not just 'storefront' remodels; 3) a consolidation of Category 7 (changes in building colors) into Category 3; 4) a clarification to Category 9 to confirm application within all districts, not just Industrial areas; and 5) a clarification within Section B clarifying that a Commissioner's request to rescind delegated authority for a specific application, otherwise eligible for Zoning Administrator review, must be supported by a majority of the Commissioners present.
- D. Pittsburgh Municipal Code (PMC) Section 18.10.020, *Powers and Duties of the Planning Commission*, grants primary design review authority to the Planning



Commission. In 2003 the Planning Commission delegated its review and approval authority of certain routine and non-controversial application types to the Zoning Administrator through the adoption of Resolution No. 9444. Changes or revisions to Resolution No. 9444 fall within the same category as the original delegation, which the Commission has authority to approve under PMC 18.10.020.

- E. PMC Section 18.10.030 identifies the City Planner as the Zoning Administrator, and in accordance with PMC Section 18.10.100, the City Planner will continue to give notice to the Planning Commission of intent to exercise any authority that the Commission previously granted, including the authority to review and approve staff delegated design review applications.
- F. Staff would continue to be responsible for reviewing delegated applications for compliance with the General Plan, City Codes and adopted Design Guidelines, and the Zoning Administrator would continue to be required to make findings for approval and identify evidence to support the required findings, consistent with PMC Section 18.36.220(B). Approved resolutions would continue to be signed by the Zoning Administrator and no separate staff reports would be prepared on these items.
- G. Copies of all Zoning Administrator approved resolutions would continue to be forwarded to the Commission in its packet for the next regularly scheduled meeting.
- H. The proposed action delegating certain Planning Commission discretionary authority to the Zoning Administrator is not considered a project, as defined by the Public Resources Code section 21065, of the California Environmental Quality Act (CEQA).
- I. On September 25, 2012, the Planning Commission considered the proposed revisions to the staff delegated design review authority process as previously established by adoption of Resolution No. 9444.

## Section 2. Decision

- A. The Planning Commission hereby delegates discretionary Design Review Authority to the Zoning Administrator, for the following types of applications, when categorically or statutorily exempt from the provisions of CEQA:
  - 1. Freestanding Signs. Applicable to signs not already part of a sign program; must be consistent with sign standards and architecturally compatible with associated building.
  - 2. Wireless Communication Equipment. New or replacement antennas on existing poles and their related equipment.

3. Minor Building Remodels. Limited to changes in building colors, awnings, fenestration, and finishes.
  4. Changes to Existing Parking Lots.
  5. Changes to Existing Landscaping.
  6. Additions to Existing Buildings. Additions must be smaller than 2,500 sq. ft. and designed to complement existing building architecture.
  7. New Model Homes in Approved Subdivisions. Must be consistent with the general size, quality of architecture and materials, and general character of the originally approved models. Must comply with approved zoning development standards.
  8. Ancillary Structures. Structures in any district where visual impacts are minimal, including miscellaneous mechanical equipment associated with legal uses in Industrial Districts.
- B. In compliance with PMC Section 18.10.100, staff shall prepare a list and brief description along with a copy of the project plans when applicable, of new pending applications for which the Zoning Administrator intends to exercise delegated design review authority, and submit it to the Commission at a Commission meeting prior to taking any action on the applications. Any member of the Planning Commission may then request at that time to have the matter scheduled for future consideration by the entire Commission. The Commission must approve the request as a group through a majority vote, prior to scheduling the item for future consideration.
- C. Staff shall continue to prepare resolutions of approval, when appropriate, describing the project, project location, applications being filed, required findings to approve the project and identifying evidence to support the required findings. Resolutions shall be signed by the Zoning Administrator and continue to have conditions of project approval, where applicable.
- D. To keep the Commission informed about what applications are processed under this proposal, copies of all Zoning Administrator approved resolutions shall be forwarded to the Commission in its packet for the next regularly scheduled meeting.
- E. If the Zoning Administrator does not believe he/she can make the required design review findings to approve a project, and the applicant is unwilling or unable to make the changes requested, the application shall automatically be referred to the Commission for action on the design review application.

Section 3. Effective Date

This resolution shall take effect immediately upon its adoption.

On motion by Commissioner Wirick, seconded by Commissioner Gargalikis, the foregoing resolution was passed and adopted the 25<sup>th</sup> day of September, 2012, by the Planning Commission of the City of Pittsburg, California by the following vote:

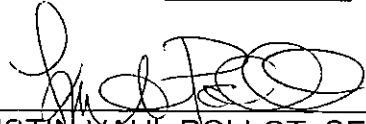
AYES: Fardella, Fogleman, Gargalikis, Kelley, Ohlson, Wirick

NAYES:

ABSTAIN:

ABSENT: Diokno

I hereby certify that the above Resolution No. 9918 was adopted by the Planning Commission of the City of Pittsburg on September 25, 2012.



---

KRISTIN VAHL POLLOT, SECRETARY  
PITTSBURG PLANNING COMMISSION