

**CITY OF VALLEJO CITY COUNCIL**

**RESOLUTION NO. CC 17-XX**

**A RESOLUTION OF THE CITY COUNCIL TO  
DENY THE APPEAL AND UPHOLD THE PLANNING COMMISSION'S  
DECISION TO DENY THE MAJOR USE PERMIT AND A SITE  
DEVELOPMENT PLAN FOR THE VALLEJO MARINE TERMINAL LLC  
AND ORCEM CALIFORNIA, INC**

*MAJOR USE PERMIT # UP13-0002 and UP13-0010*

*SITE DEVELOPMENT PLAN # SD13-0010, SD13-0011*

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**I. GENERAL FINDINGS**

WHEREAS, an appeal was filed to the City Council by Miller Starr Regalia on March 15, 2017 representing Vallejo Marine Terminal, LLC (VMT) and Orcem California, Inc. (Orcem), the appellants, of the Planning Commission's decision to deny the Major Use Permit and Site Development Plan applications for the establishment of a water marine terminal (VMT) and a cement processing plant (Orcem) at the site of a former flour milling plant at a property located at 790 and 800 Derr Avenue (the "Project"); and

WHEREAS, after filing of its application, the "Project" underwent a number of revisions to its project description as further described in the City Council Staff Report and presented within this Resolution. The "Project" that is the subject of City Council Resolution, includes the revisions made to the project description by the applicants and include the operational changes outlined in the Revised Operations Alternative as described in the Staff Report; and

WHEREAS, the 32.55 acre proposed Project site is located in the Intensive Use (IU) zoning district. As established in Chapter 16.34 of the Vallejo Municipal Code<sup>1</sup>, the Intensive Use district is the City's heaviest industrial district. The regulations for this district distinguish between "Permitted Uses" (§ 16.34.020-16.34.030) and "Permitted Uses Subject to A Major Use Permit" (§ 16.34.040). The proposed use, as outlined in the project description meet the criteria of a "Heavy Industrial" use (§ 16.34.040 (1)(b)) which requires the issuance of a Major Use Permit (§ 16.34.040). All projects requiring the issuance of a Major Use Permit must be reviewed for approval or denial by the City's Planning Commission (§ 16.82.020) and City Council upon appeal. The City Council must base its decision to approve or deny the Major Use Permit on the required findings as established in Section 16.82.050; and

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<sup>1</sup> All subsequent ordinance references are to the Vallejo Municipal Code unless otherwise noted.

WHEREAS, the negative conditions brought by operations of the project such as air emissions, noise, traffic, and potential delays in emergency service call response times cannot be lessened to an acceptable level; and

WHEREAS, the proposed Project is also subject to approval of a Site Development Plan pursuant to Section 16.90.20; and

WHEREAS, in accordance with Section 16.90.080, the Site Development Plan is hereby submitted to the City's City Council to be considered concurrently with the City Council's consideration of the proposed project's Major Use Permit application; and

WHEREAS, the City's Development Services Director (Director) has the authority to approve or deny an application for a Site Development Plan as established in Section 16.90.010(D). Whenever the Director finds that the decision on any application is beyond his or her purview of authority, the application shall be forwarded to the Planning Commission for its determination (§16.90.050(D).) and to the City Council upon appeal. The Director found the site development plan application for the proposed project was beyond her purview and elected to transfer her authority to the Planning Commission to render a determination on the application; and

WHEREAS, in accordance with Section 16.102.020 of the Municipal Code, decisions made by the Planning Commission are appealable to the City Council by the applicant or any party adversely affected by the decision; and

WHEREAS, in accordance with Section 16.90.080, the Site Development Plan is hereby submitted to the City's City Council to be considered concurrently with the City Council's consideration of the proposed project's Major Use Permit application; and

WHEREAS, the City of Vallejo City Council conducted a duly noticed public hearing to consider the Appeal on May 30, 2017 and June 1, 2017 at which testimony and evidence, both written and oral, was presented to and considered by the City Council; and

WHEREAS, based on recommendations, testimony and evidence in the record and provided at the public hearings, the City Council makes the following factual findings:

## **II. CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS**

Pursuant to California Environmental Quality Act (Public Resources Code Section 21000, et seq. ("CEQA")), Pub. Res. Code Sec. 21080(b)(5) and the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000, et seq.) Section 15270, a project that is denied or rejected is exempt from the requirements of CEQA.

## **III. FINDINGS RELEVANT TO MAJOR USE PERMIT FOR PROJECT DENIAL AND FOR DETERMINATION OF PROJECT INCONSISTENCY WITH APPLICABLE GENERAL PLAN**

Section 1. In reviewing the request for a Major Use Permit, City Council considered whether the Project would satisfy the following required findings for the approval of a Major Use Permit as established in Section 16.82.05(A) and (B) which state:

- A. The location, size, design, and operating characteristics of the proposed conditional use would be compatible with adjacent uses, building or structures, with consideration given to:
  - 1. the project would be in harmony in scale, bulk, coverage, and density;
  - 2. the availability of civic facilities and utilities,
  - 3. the harmful effect, if any, upon desirable neighborhood character;
  - 4. the generation of traffic;
  - 5. the capacity and physical character of surrounding streets; and
  - 6. any other relevant impact of the proposed use.
- B. The impacts, as described in subsection 1-6 of this section, and the location of the proposed conditional use are consistent with the City General Plan.

Section 2. Based on the written evidence in the record and the oral and written evidence and testimony provided at the public hearing, the City Council hereby finds and determines as follows with respect to the Major Use Permit:

- A. The City Council finds that the Project would not be compatible with the adjacent uses because:
  - 1. The Project's operating characteristics involve a 24-hour operation of a deep-water berth marine terminal and cement processing plant. An average of 7.5 vessels would be moored per month, including up to four deep water vessels and 3.5 barges. When vessels are moored at the wharf and are loading or off-loading, VMT operations would occur 24 hours per day, seven days per week. When vessels are not being loaded or off-loaded, VMT operations would be in two 10-hour shifts, six days per week. The Orcem component of the Project would operate on a 24-hour basis, seven days per week.
  - 2. Trucks would travel to and from the site on a 24-hour basis. The average truck trips arriving and leaving the site would range from 12 to 32 per hour during day time hours (7:00 a.m. – 10 p.m.) and from 20 to 44 per hour during the overnight hours (10 p.m. – 7:00 a.m.).
  - 3. The City Council finds that the Project's operations, the noise

generated by the project, the traffic generated would likely disrupt the quiet enjoyment of adjacent multi-family housing complexes and single-family residences in the project vicinity.

4. The Project is incompatible with adjacent uses, building or structures, with consideration given to harmony in scale, bulk, coverage, and density because even though the site is large enough to accommodate the proposed development it is visible from the immediately surrounding areas to the south and west and the noise, traffic, etc. generated by the Project operations impacts the nearby residences on Sandy Beach in unincorporated Solano County.
5. The Project does not raise any concerns regarding access to and availability to civic facilities and utilities.
6. Truck traffic access is required by the Project, and Lemon Street is no longer a City designated truck route.
7. The Project would not be compatible with the adjacent residential uses, and would result in harmful effects upon desirable neighborhood character, because the project site is located in an area with a mix of smaller-lot residential, commercial/industrial zoning districts and uses. The areas along Lemon Street and Sonoma Boulevard that will accommodate 95% (or 509 daily trips) of the truck traffic include low density single family residential neighborhoods with older one and two-story homes with traditional front yards. Lemon Street, the main route for trucks headed to and from points east and north, is a locally-serving roadway with 11-foot travel lanes, 8-foot parking lanes, and 5-6-foot-wide sidewalks serving a local population of homes and small businesses. Sonoma Boulevard is a four lane State urban highway under Caltrans jurisdiction and is designed to accommodate higher levels of traffic, but also includes several single-family residences, multi-family residences, and Grace Patterson Elementary School. The very high volume of trucks arriving to, and departing from, the project site 24 hours a day would substantially increase noise, traffic, and generate air emissions that would alter the character of the existing residential neighborhoods along Lemon Street and Sonoma Boulevard and would have a harmful effect on the desirability of the neighborhoods and their character. As proposed, the negative conditions brought on by the project cannot be lessened to an acceptable level.

The IU-zoned areas in the project vicinity include a mix of residential and commercial uses. While the commercial/industrial businesses operating in the area generate some truck traffic, they

generally do not operate 24 hours a day and the number of truck trips is substantially lower. As such, the intensity of the proposed industrial activity and associated heavy-truck traffic traveling along these corridors may be considered incompatible with the existing setting from a land use context, unless the long-term vision of the area is to transition to heavy industrial uses in the area. This is not likely given that the existing commercial/industrial properties along Lemon Street are relatively narrow and lack the appropriate access and depth to accommodate redevelopment to heavy industrial operations. Therefore, the truck traffic associated with the proposed project would also result in a degradation of the existing commercial/industrial neighborhoods adjacent to the transportation corridors serving the project.

8. The project would not be compatible with the adjacent uses, with consideration given to the generation of traffic because:
  - a. The technical studies analyzing the Project indicate that there will be a use of rail, trucks, and ships to transport materials and commodities to and from the project site. The Project would increase the number of truck trips along city streets by an additional 536 truck trips per day. Up to 300 trucks would travel on Lemon Street and 209 trucks would travel south on Sonoma Boulevard. This increase in truck traffic would impact residents' daily commutes to and from work, and students' and families' daily travel to and from Grace Patterson Elementary School, which is located approximately 0.3 mile southeast of the Project site.
  - b. The Project would generate an estimated 200 rail cars per week between the hours of 7 a.m. to 6 p.m. The use of the railroad to import or export materials will result in temporary closures at rail crossings which will affect downstream intersections in Vallejo and American Canyon. The "gate-down" time at the crossings is between 4.06 to 4.16 minutes which will result in substantial delays at 28 intersections within the City. Thus, the project will detrimentally change the capacity of the streets to accommodate traffic during peak and non-peak hours.
  - c. The 4.06 to 4.16-minute delay of the flow of traffic due to rail car passage and congestion at rail crossing would adversely impact the average response time for emergency vehicles responding to calls for emergency services during "gate-down" times.

- d. The increase in truck trips associated with the Project will make it undesirable to navigate both Lemon Street and Sonoma Boulevard on foot and on a bicycle. The current roadway configuration on Lemon Street includes on-street parking, one lane of traffic in each direction and no separate bike lane. Sonoma Boulevard, which has four lanes of traffic and on-street parking in some areas, has incomplete cycling and pedestrian facilities in areas where there is pedestrian activity leading to and from residential neighborhoods to Grace Patterson School and commercial areas along Magazine Street. Significant areas along Sonoma Boulevard, where truck traffic from the proposed development would travel, do not contain sidewalks. On the east side of Sonoma Boulevard there are no sidewalks between Magazine Street and Sandy Beach Road, for approximately 2,048 feet. This frontage abuts Grace Patterson School. On the west side of Sonoma Boulevard, there are two significant areas without sidewalks; between the gas station/convenience store at Sonoma and Magazine Street and Bayside Village Apartments, and between New Hope Chapel and Sequoia Avenue. In total, the amount of area along the east side of Sonoma Boulevard without sidewalks equals approximately 1,724 linear feet. In addition, there are 1,660 linear foot gaps in the Class II bicycle lanes on Sonoma Boulevard.

Both Lemon Street and Sonoma Boulevard provide bicycle and pedestrian access to commercial uses, services and schools in the area including Grace Patterson Elementary School. The lack of facilities impacts cyclist and pedestrian safety, and a significant increase in daily truck traffic along this corridor would further decrease the perception of safety. The City's General Plan includes policies that promote bicycle use. Specifically, the existing General Plan states that "in order for the bicycle to be a viable transportation alternative, the opportunity to bicycle to virtually any destination should be provided." Furthermore, the draft General Plan 2040 includes a number of policies and actions that address increasing pedestrian safety through education and physical improvements. Without significant improvements to the bicycle and pedestrian transportation system, the considerable increase in heavy-truck traffic in South Vallejo increases the possibility of pedestrian/vehicular and bicycle/vehicular conflicts.

9. The project would not be compatible with the adjacent uses, with consideration given to the capacity and physical character of surrounding streets because:

- a. Lemon Street accommodates one travel lane in each direction and includes on-street parking. Lemon Street is used as a route to access the Grace Patterson Elementary School which is within 0.3 miles of the project site and Lake Dalwigk Park which is located on Lemon Street. The heavy truck traffic generated by the Project has the potential to change the physical character of the street and make it undesirable and possibly unsafe for pedestrians, including children, to cross Lemon Street and Sonoma Boulevard as they travel by foot to and from school and the park.
- b. The burden of the increase of heavy truck traffic along city streets substantially burdens the existing physical capacity of the infrastructure of streets and curbs due to constant and continual vibrations causing stress, fractures, and breakage to asphalt and concrete materials. The negative conditions brought on by a significant increase in extremely heavy trucks on a local street cannot, as proposed, be lessened to an acceptable level.
- c. The Project would not be compatible with the adjacent residential uses because Lemon Street, which is categorized as a minor arterial with one travel lane in each direction and on-street parking, was not designed to accommodate the volume of, 300 project-related truck trips per day, and the weight (significantly over 5 tons) of the trucks that would travel along Lemon Street. Lemon Street was a designated truck route until 2010, but was removed from the City's map of designated truck routes pursuant to Resolution No. 10-294, in order to reduce the financial burden on the City's General Fund associated with frequent maintenance of City streets subjected to truck travel. While the applicants would be required to construct or pay mitigation fees to improve and strengthen the roads at the time of construction of the facility, long-term maintenance of the roadway network serving the site would likely be borne by the City's general fund. The heavy volume of truck trips day after day will result in damage to the roads at a rate that the City will likely be unable to keep pace with or fund over the long-term.

- B. The City Council finds that the Project is not consistent with General Plan Waterfront Development Policy 1 that states "BCDC's Public Access Design Guidelines should be used in reviewing all development proposals. In areas hazardous to public safety or incompatible with public use, in-lieu access at

another nearby location may be provided”. Due to the nature of the planned operations on the site, no public access would be permitted on the Project site. Public access to the waterfront would continue to be provided adjacent to the project site along Derr Street to the north and Sandy Beach Road to the south. However, any access to the waterfront from Derr Street is significantly constrained by the presence of the existing railroad tracks located between Derr Street and the waterfront, which are proposed to be improved and operational as part of the project. As a practical and public safety matter, access to the waterfront directly from Derr Street would, therefore, not be possible as an in-lieu option. The applicant has proposed providing the installation of a new self-propelled personal watercraft launch within the City Marina in lieu of public access to the waterfront from the subject site. The ramp would be located north of the Vallejo Yacht Club. The City Council finds that this proposal does not meet the intent of the policy and the BCDC Public Access Design Guidelines. Two key objectives of the Guidelines include: 1) design public access areas in a way that makes the shoreline enjoyable to the greatest number of people; and 2) design public access for a wide range of users. The proposed public access is located within the Marina and is designed to serve people using a watercraft (e.g., kayak, paddle board). The City Council finds that the proposed location and type of public access does not serve a broad enough sector of the community to be consistent with the General Plan Waterfront Development policy and BCDC’s Public Access Design Guidelines. Thus, the Project is not consistent with the applicable General Plan policy, and this finding cannot be made in the affirmative.

#### **IV. FINDINGS RELEVANT TO SITE DEVELOPMENT PLAN FOR PROJECT DENIAL AND FOR DETERMINATION OF PROJECT INCONSISTENCY WITH THE VALLEJO GENERAL PLAN**

Section 3. In reviewing the request for a Site Development Plan, the City Council considered whether the proposed Project would meet the required findings for approval as prescribed in Section 16.90.050(F) and any other pertinent sections of Chapter 16.90 of the Vallejo Municipal Code:

- A. That the proposed project meets the intent and specific standards and criteria prescribed in pertinent sections of the Municipal Code.
- B. That the proposed development is consistent with the Vallejo General Plan.
- C. That the proposed development meets the intent and specific standards and criteria to serve to achieve groupings of structures which will be well related one to another and which, taken together, will result in a well-composed urban design:
  - 1. That the proposed development meets the intent and specific standards and criteria with consideration given to site, height, arrangement, texture, material, color and appurtenances, the relation of these factors to other structures in the immediate area;

2. The proposed development meets the intent and specific standards and criteria with consideration given to the relation of the development to the total setting as seen from key points in the surrounding area; and
  3. The proposed development meets intent and specific standards and criteria with consideration given to only elements of design which have some significant relationship to outside appearance being considered.
- D. The proposed development meets the intent and specific standards and criteria with consideration given to a quality and character which harmonizes with, and serves to protect the value of, private and public investments in the area.
- E. The proposed development meets the intent and specific standards and criteria with consideration given to ensure that the design of the development conforms in all significant respects with the proposals of any applicable district plan or development and control map which has been adopted by the city council.

Section 4. Based on the written evidence in the record and the oral and written evidence and testimony provided at the public hearings, the City Council hereby finds and determines as follows with respect to the Site Development Plan based on the required findings as per Section 16.90.050(F) for the Project:

- A. The Project does not meet the intent and specific standards and criteria prescribed in pertinent sections of the Municipal Code if the findings for the requested major use permit for the heavy industrial uses at this site as established in Section Chapter 16.34 cannot be made. As demonstrated in Section III of this Resolution above, these findings cannot be made in the affirmative.
- B. As noted in Section 2B of this Resolution, the City Council finds that the Project is not consistent with General Plan Waterfront Development Policy 1 that states “BCDC’s Public Access Design Guidelines should be used in reviewing all development proposals. In areas hazardous to public safety or incompatible with public use, in-lieu access at another nearby location may be provided”. Due to the nature of the planned operations on the site, no public access would be permitted on the Project site. Public access to the waterfront would continue to be provided adjacent to the project site along Derr Street to the north and Sandy Beach Road to the south. However, any access to the waterfront from Derr Street is significantly constrained by the presence of the existing railroad tracks located between Derr Street and the waterfront, which are proposed to be improved and operational as part of the project. As a practical and public safety matter, access to the waterfront directly from Derr Street would, therefore, not be possible as an in-lieu option. The applicant has proposed providing the installation of a new self-propelled personal watercraft

launch within the City Marina in lieu of public access to the waterfront from the subject site. The ramp would be located north of the Vallejo Yacht Club. The City Council finds that this proposal does not meet the intent of the policy and the BCDC Public Access Design Guidelines. Two key objectives of the Guidelines include: 1) design public access areas in a way that makes the shoreline enjoyable to the greatest number of people; and 2) design public access for a wide range of users. The proposed public access is located within the Marina and is designed to serve people using a watercraft (e.g., kayak, paddle board). The City Council finds that the proposed location and type of public access does not serve a broad enough sector of the community to be consistent with the General Plan Waterfront Development policy and BCDC's Public Access Design Guidelines. Thus, the Project is not consistent with the applicable General Plan policy, and this finding cannot be made in the affirmative.

- C. That the proposed development does not fully meet the intent and specific standards and criteria which serve to achieve groupings of structures which will be well related one to another and which, taken together, will result in a well-composed urban design because:
1. The proposed site development plan does not fully meet the intent and specific standards and criteria with consideration given to site, height, arrangement, texture, material, color and appurtenances, the relation of these factors to other commercial and industrial structures in the immediate area.

The proposed development would replace the existing industrial structures with new buildings and structures. While the new development would be in the same general location as the existing structures and would be of a similar color, material, size and scale, the proposal includes open stockpiles of raw materials which may include limestone, gypsum, pozzolan, and GBFS. In Mode 1 and Phase 2 (GGBFS production only) there would be three stockpile areas on the Orcem site. The smallest stockpile would be located in the southern portion of the site and would be approximately 16 feet high. A second stockpile would be directly to the north of the smaller stockpile and would be approximately 26 feet high. The third and largest stockpile would be in the eastern portion of the site and would be approximately 49 feet high. The stockpiles would be partially screened by a 10 foot wall, the mill and filter building and the silos. However, the stockpiles would still be visible from the Mare Island Strait, Mare Island, Sandy Beach, the existing residences located directly above the subject site, and areas in northwestern Crockett and Rodeo. The existing viewshed from these areas would be detrimentally impacted by the presence of an intensification of open storage areas on the site. While the proposed development would be visually consistent with the predominantly

industrial uses located along the Mare Island's Central Waterfront, most of the land along Vallejo's waterfront is not used for high-intensity industrial uses, and the proposed project represents a degradation in the visual quality of the waterfront.

2. The proposed site development plan does not fully meet the intent and specific standards and criteria with consideration given to the relation of the development to the total setting as seen from key points in the surrounding area.

The Project would alter the existing visual appearance of the site by demolishing existing industrial buildings and constructing new industrial buildings and structures. Some of the existing buildings were recently designated as local historic landmarks by the Architectural Historical Landmarks Commission, but the designation has been appealed to the City Council. The proposed Orcem buildings would replace the existing buildings in generally the same location and would be similar in scale and mass to the buildings that would be demolished. In addition, what remains of the existing waterfront wharf consisting mostly of damaged wooden piers, would be replaced by VMT. The new wharf would be larger and would create a large concrete platform structure on the waterfront. Overall the improvements to the site would alter the visual characteristics of the site and; although the changes to the site would be consistent with the high-intensity industrial viewshed found on the central waterfront of Mare Island, they would represent an intensification of industrial activities on the mainland waterfront through the addition of open stockpiles of raw materials and the demolition of buildings locally designated as historic. The changes in the viewshed resulting from the project would be most noticeable from the Mare Island Strait, the Sandy Beach residential community and areas on the southwestern side of Mare Island.

3. The proposed industrial development meets the intent and specific standards and criteria with consideration given to only elements of design which have some significant relationship to outside appearance being considered.

The proposed development would alter the visual characteristics of the site by replacing existing industrial structures with new industrial buildings and structures. Some of the structures proposed to be demolished have been declared local historic landmarks by the Architectural Heritage and Landmarks Commission, a designation that has been appealed by the applicants to the City Council. However, the new development would be in the same general location as the existing structures and would be of a similar size and scale, but may represent a greater intensity of visual impact due to the addition of the proposed conveyor system and new structures of a more modern design. The proposed development would be consistent

with the predominantly industrial uses along some areas of the waterfront.

- D. The proposed industrial development does not fully meet the intent and specific standards and criteria with consideration given to a quality and character which harmonizes with, and serves to protect the value of, private and public investments in the area.

The site was historically developed with the General Mills (formerly Sperry) Flour Mill for over 100 years. The site is zoned for industrial uses in the City of Vallejo's zoning ordinance and is identified in the Bay Conservation and Development Commission Bay Plan for water dependent uses which includes uses such as the proposed Orcem cement processing plant. The proposed site development plan includes new industrial buildings and structures that are of a similar size and scale as the existing industrial structures on the project site, but are not designed to resemble the previous structures. The new structures would result in the removal of older buildings, including those recently designated by the City's Architectural Heritage and Landmarks Commission as part of a local historic landmark designation, while being replaced with more modern facilities. The proposed physical development would be consistent with the historically-industrial uses and traditional industrial design characteristics that are located along portions of the waterfront north of the site and along the central waterfront of Mare Island. Areas directly adjacent to the project site include the Mare Island Strait, the Mare Island Regional Preserve located directly across the Strait from the project site, Sandy Beach residential community to the south, residential uses to the east and a combination of industrial and residential uses to the north. The industrial uses in the vicinity of the project site widely range in size, character, and intensity. The proposed project is a significant intensification of the industrial waterfront on the mainland resulting in an increase in the visibility of the site to areas directly adjacent to the site and to more distant (and less populated) areas such as northwest Crockett and Rodeo. The operational aspect of the proposal would negatively impact properties along the truck and train routes, such as Lemon Street, Sonoma Boulevard, and areas adjacent to the railroad corridor. While the proposed project may be harmonious with the few large-scale industrial operations in the vicinity of the site, the proposed project is incongruous with the adjacent residential neighborhoods. In addition, the location of the property requires the significant amount of truck and rail traffic generated by the proposed project to travel through areas that include sensitive land uses, such as residential neighborhoods. This operational aspect of the proposal is incompatible with those neighborhoods and would result in incompatibility and potentially an impact on investment in those areas.

- E. The project site is not subject to a district plan nor a development and control map beyond the current Municipal Code and the General Plan.

- F. The proposed site development plan does not conform to the height requirements (VMC Section 16.34.060) nor the site development standards requiring equipment screening (VMC Section 16.70.020) of the Municipal Code. The height limit in the Intensive Use zone district is 75 feet and the project includes structures that exceed this limit such as the storage silos which are 131 feet 3 inches and the vertical vent which is 164 feet 1 inch. The equipment on site is required to be screened from public view. The Project site is generally screened from major thoroughfares such as Sonoma Boulevard due to its location along the waterfront. However, the site can be seen from the Strait, from Mare Island, from the Sandy Beach residential development and from areas in northwestern Crockett and Rodeo. The Orcem Project provides screening around their portion of the site, but many of the structures are taller than the proposed screening due to their industrial nature. In addition, because of the orientation of the site along the Strait, the conveyor system serving the ships would also not be screened and would be visible from the Strait, from Mare Island, from the Sandy Beach residential development.
- G. The City Council finds that the Project is not consistent with General Plan Waterfront Development Policy 1 that states “BCDC's Public Access Design Guidelines should be used in reviewing all development proposals. In areas hazardous to public safety or incompatible with public use, in-lieu access at another nearby location may be provided”. Due to the nature of the planned operations on the site, no public access would be permitted on the Project site. Public access to the waterfront would continue to be provided adjacent to the project site along Derr Street to the north and Sandy Beach Road to the south. However, any access to the waterfront from Derr Street is significantly constrained by the presence of the existing railroad tracks located between Derr Street and the waterfront, which are proposed to be improved and operational as part of the project. As a practical and public safety matter, visual access to the waterfront directly from Derr Street would, therefore, not be possible as an in-lieu option. The applicant has proposed providing the installation of a new self-propelled personal watercraft launch within the City Marina in lieu of public access to the waterfront from the subject site. The ramp would be located north of the Vallejo Yacht Club. The City Council finds that this proposal does not meet the intent of the policy and the BCDC Public Access Design Guidelines. Two key objectives of the Guidelines include: 1) design public access areas in a way that makes the shoreline enjoyable to the greatest number of people; and 2) design public access for a wide range of users. The proposed public access is located within the Marina and is designed to serve people using a watercraft (e.g., kayak, paddle board). The City Council finds that the proposed location and type of public access does not serve a broad enough sector of the community to be consistent with the General Plan Waterfront Development policy and BCDC’s Public Access Design Guidelines. Thus, the Project is not consistent with the applicable General Plan policy, and this finding cannot be made in the affirmative.

**V. RESOLUTION DENYING THE APPEAL AND UPHOLDING THE PLANNING COMMISSION’S ACTION TO DENY THE APPLICATION FOR A MAJOR USE PERMIT AND SITE DEVELOPMENT PLAN:**

NOW, THEREFORE, LET IT BE RESOLVED that based on the findings above, the evidence and testimony, both written and oral, presented at the City Council hearing and information contained in the staff report attached hereto and incorporated herein by this reference, the City Council hereby DENIES the appeal and upholds the Planning Commission’s decision to deny the requested Major Use Permit and Site Development Plan for the VMT/Orcem project. Further, based on the forgoing, the City Council hereby finds that this action is EXEMPT from the provisions of the California Environmental Quality Act, pursuant to California Public Resources Code Section 21080(b)(5) and the State CEQA Guidelines Section 15270.

APPEAL DENIED at a regular meeting of the City Council of the City of Vallejo, State of California, on the \_\_\_\_day of 2017, by the following vote to-wit:

- AYES:
- NOES:
- ABSTAIN:
- ABSENT:

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BOB SAMPAYAN, MAYOR  
City of Vallejo City Council

Attest:

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DAWN ABRAHAMSON, CITY CLERK  
City of Vallejo City Council

DRAFT