

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Ordinance Assigning Zoning of PD (Planned)
Development) District to Properties Located)
Within the Railroad Avenue Specific Plan Project) ORDINANCE NO. 09-1319
Area, and Adopting the Railroad Avenue Specific)
Plan and Related Zoning Text Amendments)

The City Council of the City of Pittsburg DOES ORDAIN as follows:

SECTION 1. Recitals

- A. On June 20, 2005, the City Council authorized the Mayor to execute an MOU with the Bay Area Rapid Transit District (BART), Contra Costa Transportation Authority (CCTA), Eastern Contra Costa Transit Authority (Tri Delta Transit), Contra Costa County and the cities of Antioch, Brentwood, and Oakley. The agreement obligated each city and the County to prepare ridership development plans for their respective eBART stations within two years. The MOU was subsequently amended on March 19, 2007, with City Council Resolution No. 07-10737, and was amended again on April 7, 2008, with the adoption of City Council Resolution No. 08-10986, to limit the scope of the eBART project to two stations along the corridor, reduce the number of riders expected along that corridor and extend the schedule for the development of the ridership development plans.
- B. Between May 2006 and May 2008, the City of Pittsburg held a stakeholder meeting for business and property owners in the core Specific Plan area; four community workshops open to the public; public educational outreach activities including a Transit-Oriented Development Seminar; and, a bus tour of transit oriented developments in the Bay Area. In addition, a joint Planning Commission/City Council meeting was held on November 27, 2006.
- C. Throughout the Specific Plan planning and development process, input was provided by the public, City staff, outside agencies such as BART, CCTA and Tri-Delta Transit, and advocacy groups, in accordance with Government Code section 65351.
- D. Proposed amendments to the zoning map and ordinance include adoption of PD District zoning, adoption of the Railroad Avenue Specific Plan ("Specific Plan"), and adoption of related zoning text amendments. Specifically, the proposed amendments would include:
 - 1. Adoption of PD District zoning for the areas in closest proximity to the planned eBART Station, including the areas identified in the Specific Plan as the Transit Village, Civic Center and portions of the High School Village (along Railroad Avenue and along California Avenue, east of Harbor Street to Edward Avenue). The proposed Railroad Avenue Specific Plan PD District

would adhere to the boundaries of the proposed General Plan Mixed Use land use designation within the vicinity of the Railroad Avenue Specific Plan.

2. Adoption of the Railroad Avenue Specific Plan, which would contain a comprehensive land use plan with development standards for each proposed land use including, but not limited to, density minimums; parking maximums with flexibility within those parking standards for low-income and senior housing; build-to lines; minimum building and storefront heights; and, streetscape and architectural design standards, that would support transit oriented development in the project area. The Specific Plan would also contain chapters related to circulation, community and natural resources, utilities, and implementation of the Specific Plan within the project area. The uses permitted within the Railroad Avenue Specific Plan PD District would follow the uses allowed in the underlying base zoning districts including the M (Mixed Use) District, the IP (Industrial Park) District, and the GQ (Governmental/QuasiPublic) District, where appropriate.
 3. Adoption of amendments to PMC section 18.53.020, M District Land Use Regulations, to allow single family-attached and multi-family residential at densities permitted by the Railroad Avenue Specific Plan; to allow daycares as a permitted use on the ground floor of buildings, provided that sufficient loading area is present to allow safe pick-up and drop-off; and, to allow catering services on the ground floor of buildings provided that the storefront, is used for retail sales.
 4. Amendment of PMC section 18.76.040 (D), Abandonment of Nonconforming Use in the M District, to expand the applicability of the provisions within this section to apply to the properties that would be re-zoned to PD District.
- E. The Specific Plan is consistent with all elements of the General Plan related to the Specific Plan area. It specifically fulfills the General Plan's policies to support the extension of BART to Pittsburg and to create a specific plan for the area surrounding the transit station that would foster a mix of commercial and residential uses with extensive pedestrian amenities and linkages to surrounding neighborhoods (General Plan Goals and Policies 2-G-20, 2-P-56, 4-P-44, 4-P-70, 4-P-71, 7-P-28 and 7-P-32). It also fulfills policies adopted to allow for expansion, intensification and densification of commercial and residential uses along that portion of the Railroad Avenue corridor closest to the future eBART Station (2-P-54, 2-P-58, 4-G-7 and 4-P-72). Circulation improvements envisioned by the General Plan would also be implemented through the Specific Plan, including the extension of Garcia Avenue to Railroad Avenue (2-P-59); development of transit-oriented development patterns such as smaller blocks and multi-use pathways to support pedestrian and bicycle activity (4-P-39, 4-P-41, 4-P-73, 7-P-39 and 7-P-51); and, improvements in streetscape and public transit amenities such as pedestrian-scaled lighting, benches and bus shelters (4-G-6 and 7-P-29).
- F. The first draft of the Railroad Avenue Specific Plan was released for a 30-day review between April 16, 2008, and May 16, 2008, and a community workshop was held to take comments on the draft plan on May 8, 2008. A second draft of the

Railroad Avenue Specific Plan was released on February 26, 2009, in conjunction with the Draft EIR that was prepared for the project. The second draft Specific Plan was also sent with the Draft EIR to the State Clearinghouse for distribution to state agencies. The Notice of Availability and copies of the second draft Specific Plan and Draft EIR were mailed via first class mail to city, county, state and other agencies and organizations having jurisdiction over or interest in environmental resources and/or conditions within the project area, and to each local agency expected to provide water, wastewater treatment, streets, roads, schools or other essential facilities or services to the project area. A notice of the availability of the second draft Specific Plan was also mailed via first class mail to all individuals who had previously attended public workshops and/or requested to be added to the mailing list for Railroad Avenue Specific Plan update announcements. Copies of the second draft Railroad Avenue Specific Plan were placed at City Hall and the Pittsburg Library and posted on the project website to facilitate public review of the document and all appendices. All recipients of the notice of availability of the second draft Railroad Avenue Specific Plan were notified of a 45-day comment period on the draft document to run concurrently with the Draft EIR comment period of February 26, 2009, through April 13, 2009 (Government Code section 65352).

- G. The Planning Commission held a public meeting on March 24, 2009, during which the public and the Commission submitted comments on the Draft EIR and the Draft Railroad Avenue Specific Plan. The Final EIR, including responses to those and other written public comments, was completed in June 2009.
- H. On July 6, 2009, the City Council adopted Resolution No. 09-11250 certifying the Final EIR, adopting and approving statements of findings and overriding considerations, and approving MMRP for the project. The mitigation measures included in the MMRP were subsequently incorporated into the current Draft Railroad Avenue Specific Plan.
- I. California Government Code and the Pittsburg Municipal Code identify the Planning Commission as the advisory body to the City Council on amendments to the general plan and zoning ordinance. In order to recommend approval of an amendment to the zoning map to establish a PD District or to adopt a Specific Plan, the Commission must find that:
 - 1. The proposed amendments are consistent with the objectives, policies, general land uses and programs specified in the General Plan;
 - 2. The change proposed is compatible with the uses authorized in, and 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.
- J. On August 11, 2009, the Planning Commission held a public hearing on this project, at which oral and/or written testimony was considered, and subsequently adopted

Resolution Nos. 9792 and 9793, making findings and recommending that the Council adopt the Draft Railroad Avenue Specific Plan and related General Plan and zoning amendments with the inclusion of three additional bicycle facilities within the vicinity of the Civic Center block, correction of grammatical errors and modification of some language within the Specific Plan text, and modification of the Specific Plan land use diagram to replace proposed residential development on the northwestern portion of the Civic Center block (all land located north and west of "A" Street, extending south into the Civic Center block from Civic Drive) with open space.

- K. Pursuant to PMC section 18.48.050, the City Council may amend the Zoning Ordinance (including the zoning map) if it finds that the proposed amended regulation or map is consistent with the policies of the General Plan and the notice and hearing provisions of the Zoning Ordinance.
- L. On September 5 and 6, 2009, in accordance with PMC chapter 18.14 and Government Code sections 65090 and 65091, a "Notice of Public Hearing" for the proposed project was published as a 1/8-page legal advertisement in the East County Times. On September 10, 2009, notice was posted on the City's project website and was emailed or mailed via first class mail to city, county and state and other agencies and organizations having jurisdiction over or interest in environmental resources and/or conditions within the project area, each local agency expected to provide water, wastewater treatment, streets, roads, schools or other essential facilities or services to the project area as well as individuals who had previously attended public workshops and/or requested to be added to the mailing list for Railroad Avenue Specific Plan update announcements. On September 10, 2009, notice was posted at City Hall and was delivered to the Pittsburg Library.
- M. On September 21, 2009, the City Council opened the public hearing, and heard public testimony primarily related to concerns about open space and education facilities needs within the Specific Plan Area, and voted to continue the public hearing to the regularly scheduled October 19, 2009, meeting.
- N. On October 19, 2009, the City Council held a continued public hearing on the General Plan amendments related to the Railroad Avenue Specific Plan, at which time oral and/or written testimony was considered.

SECTION 2. Findings.

- A. All recitals above are true and correct and incorporated herein by reference.
- B. The Final EIR certified for this project was prepared in compliance with Public Resources Code section 21000 et seq, and that the Council has independently reviewed and considered the information contained therein.
- C. The zoning amendments conform and are generally consistent with the objectives, policies, general land uses and programs specified in the General Plan, as amended, in that the proposed PD District zoning, Railroad Avenue Specific Plan,

and zoning text amendments, would fulfill General Plan policies that support the extension of BART to Pittsburg and the creation of a specific plan for the area surrounding the transit station that features a mix of commercial and residential uses with extensive pedestrian amenities and linkages to surrounding neighborhoods (General Plan Goals and Policies 2-G-20, 2-P-56, 4-P-44, 4-P-70, 4-P-71, 7-P-28 and 7-P-32). The amendments would also fulfill policies adopted to allow for expansion, intensification and densification of commercial and residential uses along that portion of the Railroad Avenue corridor closest to the future eBART Station (2-P-54, 2-P-58, 4-G-7 and 4-P-72). Circulation improvements envisioned by the General Plan would also be implemented through the Specific Plan, including the extension of Garcia Avenue to Railroad Avenue (2-P-59); development of transit-oriented development patterns such as smaller blocks and multi-use pathways to support pedestrian and bicycle activity (4-P-39, 4-P-41, 4-P-73, 7-P-39 and 7-P-51); and, improvements in streetscape and public transit amenities such as pedestrian-scaled lighting, benches and bus shelters (4-G-6 and 7-P-29).

- D. A community need is demonstrated for the PD District, Railroad Avenue Specific Plan, and zoning text amendments, in that the eBART project is slated to be constructed and in operation by 2015, and adoption of the PD District zoning under the development standards contained within the Specific Plan would provide a framework to achieve the objectives of a thriving transit oriented development in close proximity to the transit station. Adoption of text amendments to the M District and non-conforming section of the municipal code would ensure consistency among the documents; support active community-serving ground floor uses; and, ensure that existing, non-conforming uses in the area would have limited flexibility to remain in place and expand beyond the expansion capabilities afforded to other non-conforming uses throughout the City.

- E. Adoption of the PD District, Railroad Avenue Specific Plan, and text amendment to the zoning ordinance would be in conformity with public convenience, general welfare and good zoning practice in that the Specific Plan is intended to be a long-range planning document that provides a framework for future transit oriented development while allowing current businesses to exist and expand within certain limitations. The development and parking standards set forth in the Specific Plan were the result of a public planning process during which input was provided by the public, City staff, outside agencies such as BART, CCTA and Tri-Delta Transit, and advocacy groups. The proposed Specific Plan includes development, parking and architectural standards; a multi-modal circulation system that prioritizes pedestrian and bicyclists; policies related to community resources such as transit amenities, streetscape amenities, lighting, public art, and the provision of plazas and other open, public spaces; and, policies related to environmental sustainability and an overall reduction in energy consumption through reduced vehicle use and in site planning and building construction.

SECTION 3. Decision.

Based on the findings set forth above, the City Council hereby:

1. Amends the zoning map (PMC section 18.04.020, subsection C) to establish the PD District zoning on the properties described in section above.
2. Adopts Draft Railroad Avenue Specific Plan, attached to this Ordinance as Exhibit A, with the following revisions:
 - A. Modification of Figure 3.2, Land Use Plan, and all related land use diagrams, showing the Civic Center block, to retain the existing two and one-half acre improved park located north of City Hall as open space, and to allow residential development on the remaining approximately two acres of land located to the north, east and west of the existing improved open space.
 - B. Addition of new Specific Plan Policy, 3-P-13, to read as follows:

“A mini-plaza and public promenade shall be constructed at the northwestern corner of the Civic Center block at the intersection of Civic Drive and Davi Avenue, to allow for visual and physical access to City Hall and the approximately two and one-half acre park located north of City Hall. There shall be at least one additional visual and physical connection through any future residential development along the northern part of the Civic Center block to the park.”
 - C. Addition of new Specific Plan Policy, 3-P-14, to read as follows:

“The approximately two and one-half acre park located north of City Hall shall be improved with new tables and benches, a tot lot, interactive water feature, public art, and shade areas, in addition to other amenities, for the benefit of the public.”
 - D. Modification of Figure 6.5, Planned Intersection Improvements, to eliminate mid-block crosswalks shown along East Leland Road between Railroad Avenue and Harbor Street, and at Freed Avenue.
 - E. Modification of Figure 6.8, Planned Bicycle Facility Improvements, and Table 6.1, Existing and Planned Bicycle Facilities in the Specific Plan Area, to include the following bicycle facilities: a Class II bicycle facility along Civic Avenue; a Class III bicycle facility along Davia Avenue from Civic Avenue to Power Avenue; and a Class II or Class III, depending on available right-of-way, along Seventeenth Street from Davi Avenue to Parkside Elementary School.
 - F. Modification of Architectural and Site Design Criteria No. 13, to replace the word “utilize” with “encourage”.
 - G. Correction of grammatical errors identified in the Draft Specific Plan policies 6-P-8, 6-P-17, and 6-P-23.

- H. Modification of language related to the mid-rise office building on the Civic Center block to eliminate reference to a development agreement with the Redevelopment Agency, and to replace it with reference to a Planning Commission design review approval of the Civic Tower mid-rise office building.
3. Amends the text within chapter 18.53 and chapter 18.76 of Pittsburgh Municipal Code, Title 18 (Zoning Ordinance), with recommended text additions identified in boldface type, and recommended deletions identified in strikethrough font:

- A. Chapter 18.76, Non-conforming uses and structures, section 18.76.040, subsection D:

“PMC section 18.76.040 (D), Abandonment of Nonconforming Use in the M District **and in the Railroad Avenue Specific Plan PD District**. Upon approval by the city planner, a nonconforming use that is abandoned or discontinued from a structure located in the M district may be reestablished in that existing structure; provided, that a certificate of occupancy for the structure was issued prior to June 20, 2007.

- 1. In considering the reestablishment of a nonconforming use pursuant to this section, the city planner shall consult with the directors of redevelopment and economic development and shall consider the architecture of the existing structure. The city planner shall approve the reestablishment of the nonconforming use only upon finding that the design of the existing structure could not appropriately accommodate a permitted use without significant remodeling of the structure.
- 2. For purposes of this subsection, nonconforming use shall include all establishments classified under the same land use classification, except as may be limited by a use permit.
- 3. For purposes of this subsection, a nonconforming use within a multi-tenant building is considered to be abandoned or discontinued when the nonconforming use no longer occupies any of the units within the multi-tenant building.”

- B. Chapter 18.53, Mixed Use District, section 18.53.020:

“18.53.020 Land use and development regulations.

In the following schedule, the letter "P" designates use classifications permitted in the mixed use district. The letter "L" designates use classifications subject to certain limitations prescribed by the "Additional Use Regulations" that follow. The letter "U" designates use classifications permitted on approval of a use permit (Chapter 18.28). The letter "T" designates temporary use classifications permitted on approval of a temporary activity permit. The letter "Z" designates

accessory use classifications permitted on approval of the zoning administrator.

Mixed Use District: Land Use Regulations

Land Use Regulations

P – Permitted

U – Use Permit

T – Temporary Activity Permit

L – Limited (See Additional Use Regulations)

Z – Zoning Administrator

	M
Residential	
Congregate Care Residential	L-157
Day Care Home	
Small	P
Large	Z
Single Family Residential - Attached	P
Multifamily Residential	L-157
Transitional Housing	L-157
Governmental and Quasipublic	
Club and Lodge	U
College, Public or Private	L-32
Cultural Institution	P
Day Care, General	L-145
Government Office	L-27
Park and Recreation Facility	L-2
Public Parking Facility	L-114
Public Safety Facility	U
Public Transit Terminal	L-146
Religious Assembly	L-117
School, Public or Private	L-117
Telecommunication Facility	P
Utility, Minor	P
Commercial	
Animal Sales and Service	
Animal Grooming	L-147
Animals: Retail Sales	P
Artists' Studio	P
Bakery, Commercial	L-159 L-119a
Bank and Savings & Loan	L-121
ATM	P
Commercial Filming and Communications	L-148
Commercial Recreation and Entertainment	
Within Building	U

Limited	U
Eating and Drinking Establishment	
Restaurant, Full-Service	P
Restaurant, Self-Service	P
Restaurant, Take Out	P
Restaurant With Full Alcoholic Service	U
Restaurant With Outdoor Dining	L-128
Tavern	U
Tavern or Restaurant With Live Entertainment	L-129
Food and Beverage Sales	
Grocery	U
Liquor Store	U
Specialty Food Market	P
Food Shop	P
Catering Service	L-148 L-119a
Funeral and Interment Services	L-149
Laboratory, Limited	P
Massage Therapy Services	L-131
Medical Services Office	P
Office, Business and Administrative	P
Personal Improvement Services	L-117
Personal Services	P
Printing and Publishing Services	
Electronic	L-148
Limited	P
Recycling Collection Facility	
Reverse Vending Machine	P
Research and Development Services	L-148
Retail and Wholesale Sales	
General Merchandise, Retail and Rental	L-150
Nursery	L-137
Mail Order or Direct Selling Establishment	L-148
Secondhand Appliance and Clothing Sales	L-139
School, Commercial	L-117
Vehicle/Equipment Sales and Service	
Visitor Accommodations	
Bed and Breakfast Inn	U
Hotel	U
Industrial	
Industrial Services	
Contractor	U
Manufacturing	

Custom	L-160
Accessory Uses	
Accessory Uses	P
Accessory Structures	
Nonresidential Accessory Structure	P
Caretaker's Quarters	U
Temporary Uses	
Christmas Tree Sales	T
Circus and Carnival	T
Commercial Filming, Limited	T
Farmers' Market	T
Holiday Boutique	T
Personal Property Sales	P
Real Property Sales	P
Religious Assembly	T
Retail Sales, Outdoor	T
Rummage Sales	T
Trade Fair	T

M district: Additional Use Regulations

L-2	Publicly-owned facilities permitted. Privately-owned noncommercial facilities, including swim clubs or tennis clubs, shall be subject to a use permit.
L-27	Use permit required for establishments occupying more than 10,000 square feet of gross floor area or more than fifty percent (50%) of the floor area in a shopping center. Use permit required for on-site maintenance or outdoor storage of vehicles.
L-32	Use permit for private institutions; public schools permitted.
L-101	Permitted; provided that such uses shall be separated from each other by a minimum distance of 300 feet, measured from any point upon the outside wall of the structure(s) housing the facility.
L-103	Permitted; provided that such facilities shall be separated from a school, a liquor store, a tavern, and each other by a minimum distance of 1,000 feet, measured from any point upon the outside wall of the structure(s) housing the facility.
L-114	Permitted when owned and operated by a public agency. All other public parking facilities require a conditional use permit.
L-117	Use permit required for establishments within a facility with an occupancy of fifty (50) or more seated persons, as determined by Uniform Building Code standards. Otherwise permitted.

L-119a	Permitted on the ground floor only if the entire storefront, to a minimum depth of 20 feet is primarily used for retail sales (i.e. as a counter area, display area, a seating area or general retail sales and display area). The city planner may grant exceptions when the building is not conducive to the 20-foot requirement; provided that a substantial amount of retail space, visible from the sidewalk, is provided. Additionally, the business may have no more than two catering/delivery vehicles, and parking for those vehicles must be in designated parking spaces in a private parking lot behind or to the side of the building occupied by the business.
L-121	Conditional Use Permit required. In approving the Use Permit, the Planning Commission must find that the location of the proposed bank does not impede or discourage the flow of pedestrian traffic.
L-128	An Outdoor Dining Permit is required for all outdoor dining activities.
L-129	Permitted for live or recorded music in full service and self service restaurants between the hours of 10:00 AM and 10:00 PM when the noise generated is not audible beyond 10 feet (10') from the exterior walls of the use, and does not create a nuisance. When the conditions above are not met, a Conditional Use Permit or Temporary Activity Permit is required.
L-131	Permitted only when the person has applied for and obtained a permit pursuant to the requirements of PMC Chapter 5.64.
L-137	Limited to establishments operating inside of a building.
L-139	Limited to clothing consignment stores.
L-145	Permitted above the ground floor level. Use permit required for facilities occupying the ground floor. Permitted provided that the city engineer has determined that drop off and pick up associated with the use can be made safely without disruption of circulation patterns or modification to the streets that provide access to the site. Otherwise, a use permit is required.
L-146	Permitted when owned by a public agency or transit district. Surface park and ride lots prohibited.
L-147	Use permit required for overnight boarding of animals.
L-148	Permitted above ground floor level. Use permit required for an establishment occupying the ground floor level of a building constructed on a lot with frontage on Railroad Avenue. Otherwise, prohibited.

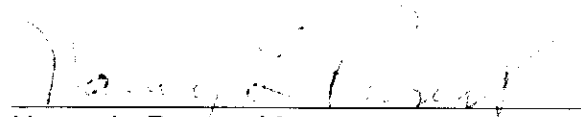
L-149	Prohibited within one-quarter (1/4) mile radius of the Railroad Avenue transit station, as designated in the General Plan. Use permit required elsewhere.
L-150	Establishments occupying fewer than 25,000 square feet of gross floor area are permitted. Use permit required for establishments occupying 25,000 to 50,000 square feet of gross floor area. Establishments occupying more than 50,000 square feet of gross floor area prohibited.
L-157	Permitted. Residential units built within one-quarter mile of a Bay Area Rapid Transit (BART) Station shall be constructed at a density of no fewer than 30 units per acre and no more than 65 units per acre. Permitted in accordance with residential development standards set forth in the Specific Plan, Master Plan, design guidelines or other applicable planning document(s).
L-160	Ceramic studio, candle-making, custom jewelry manufacture and similar use as determined by the city planner permitted. If located on the ground floor of a building on a lot with frontage on Railroad Avenue, the entire storefront, to a minimum depth of twenty feet (20'), must be used for retail sales and display of merchandise.


SECTION 4. Publication.

The City Clerk shall either (a) have this ordinance published once within 15 days after adoption in a newspaper of general circulation or (b) have a summary of the ordinance published twice in a newspaper of general circulation, once 5 days before its adoption and again 20 days after its adoption.

The foregoing ordinance was introduced at a meeting of the City Council of the City of Pittsburg held on October 19, 2009, and was adopted and ordered published at a meeting of the City Council held on November 2, 2009, by the following vote:

AYES: Casey, Evola, Johnson, Kee, Parent
 NOES: None
 ABSTAINED: None
 ABSENT: None


 Nancy L. Parent, Mayor

ATTEST:

 Alice E. Evenson, City Clerk