

**PLANNING COMMISSION REGULAR MEETING  
COUNCIL CHAMBERS, RICHMOND CITY HALL**

450 Civic Center Drive, Richmond, CA

June 2, 2016

6:30 p.m.

**COMMISSION MEMBERS**

Sheryl Lane, Chair  
Nancy Baer  
Ben Choi, Secretary  
Jen Loy

Marilyn Langlois, Vice Chair  
Andrew Butt  
Jeffrey Kilbreth

The regular meeting was called to order by Chair Lane at 6:30 p.m.

Chair Lane led in the Pledge of Allegiance.

**ROLL CALL**

**Present:** Chair Sheryl Lane; Vice Chair Marilyn Langlois; Secretary Ben Choi; Commissioners Nancy Baer, Andrew Butt (arrived late), Jeffrey Kilbreth and Jen Loy

**Absent:** None

**INTRODUCTIONS**

**Staff Present:** Planning Staff: Senior Planner Lina Velasco; Planner II Jonathan Malagon, Planner II Roberto Feliciano, and Assistant City Attorney Carlos Privat

**MINUTES** - None

**AGENDA**

Chair Lane provided an overview of meeting procedures for speaker registration, public comment and public hearing functions. She said items approved by the Commission may be appealed in writing to the City Clerk by Monday, June 13, 2016 by 5:00 p.m. and as needed, announced the appeal process after each affected item.

**CONSENT CALENDAR**

Chair Lane stated the Consent Calendar consisted of Items 2 and 3, and she asked if Commissioners, public or staff wished to remove any items. Staff stated there was a speaker for Item 3 indicating no position and Commissioners removed Item 3.

**ACTION: It was M/S/C (Baer/Choi) to approve the Consent Calendar consisting of Item 2; which carried unanimously by the following vote: 6-0-1 (Ayes: Baer, Choi, Kilbreth, Langlois, Loy and Lane; Noes: None; Absent: Butt).**

**Item Approved on the Consent Calendar:**

**NEW ITEM**

2. **PLN16-228: “El Agricultor” Food Truck Conditional Use Permit - PUBLIC HEARING** to consider a request for a Conditional Use Permit to operate a mobile vending unit at 425 Cutting Boulevard (APNs: 550-173-012, 550-173-013, 550-173-014, AND 550-173-015). C-2, General Commercial District. Gary Joseph Gragg, owner; Cornelio Navarro, applicant Planner: Jonathan Malagon. Tentative Recommendation: Conditional Approval

**BROWN ACT – PUBLIC FORUM**

CORDELL HINDLER, Richmond, suggested development of an old town movie theater, a hotel and ice skating rink in Richmond.

Noted Present:

Commissioner Butt was noted present at 6: 38 p.m.

**Item Removed from the Consent Calendar:**

3. **PLN16-275: La Bahia Restaurant**  
PUBLIC HEARING to consider a request for a Conditional Use Permit to operate an eating establishment in an existing commercial building at 1096 23<sup>rd</sup> St. (APN: 527-190-004). C-2, General Commercial District. Rose Marie Hernandez, owner; Krissia Giron Hernandez, applicant. Planner: Roberta Feliciano. Tentative Recommendation: Conditional Approval.

Roberta Feliciano gave the staff report and brief summary of the request for a CUP, discussed zoning, General Plan use classification, and stated staff recommends approval of the CUP subject to conditions outlined in Resolution 2016-13.

Chair Lane opened the public hearing and called upon the applicant to speak.

ROSE MARIE HERNANDEZ, Richmond, (through translation) indicated her desire to operate a restaurant in the City of Richmond, employ local residents and asked for approval from the Planning Commission.

Chair Lane opened the public comment period.

Public Comments:

CORDELL HINDLER, Richmond, said he supported approval of the restaurant.

Commissioner Baer said she drove by the property and noticed there is a planting strip on the north side of the site. She asked and confirmed that the applicant would accept an additional condition for the planting of three street trees on the Lowell Street side bordering the driveway and past the building so as not to block a mural being painted.

The public hearing was closed.

**ACTION: It was M/S/C (Kilbreth/Choi) to approve PLN16-275 with staff's recommended conditions and findings, and an additional condition to require the applicant plant three street trees on Lowell Street; which carried unanimously by the following vote: 7-0 (Ayes: Baer, Butt, Choi, Kilbreth, Langlois, Loy and Lane; Noes: None).**

1. **PLN16-084: Richmond Wholesale Meat Conditional Use Permit - PUBLIC HEARING** to consider modification or revocation of Conditional Use Permit CU 96-2 pursuant to RMC Section 15.04.990 for Richmond Wholesale Meat at 2920 Regatta Blvd. (APNs: 560-130-010, 011, 012, 013, 014, 015, 016, 017, 018, 021, 560-140-009, 011, 012, 015, 016, 017, 018, 019, 020, 025, 560-111-003, 005, 006, 007, 008). M-1, Industrial/Office Flex District. PLN LLC, owner; Richmond Wholesale Meat, applicant. Planner: Roberta Feliciano. Tentative Recommendation: Conditional Approval

Recused:

Commissioner Choi recused himself from participating in the matter due to the proximity of his residence, and left the meeting room.

Roberta Feliciano stated on May 2, 2016 the Commission scheduled a public hearing to consider modifying or revoking the existing CUP for Richmond Wholesale Meat Company (RWMC). She described the subject site, its operations, and the concerns expressed from Marina Bay Condos regarding RWMC's operations.

Ms. Feliciano said it is unclear as to what date RWMC began operations on Regatta Boulevard. Building permits were issued as early as 1964 showing there were operations of a warehouse and distribution center. Staff presented a chronology beginning with the 1990 CUP and the most recent CU96-2 approved on January 18, 1996. From 2000 to 2014, some of RWMC's operations were moved to the Factory Street facility, retaining 40 employees at the Regatta Boulevard location which continued to operate as an office and warehouse. An action to revoke the CUP was never initiated.

In January 2015, during the Port of Oakland strikes there were several shipping containers using diesel generators located at a portion of the site which impacted noise complaints and air quality concerns from neighbors and businesses. She then outlined a summary of concerns since consolidation of the Factory Street location to the Regatta Boulevard facility and said there were three community meetings held in February, March and June of 2015 in hopes to address concerns.

RWMC implemented specific measures to mitigate concerns and the staff report and Resolution 2016-12 includes recommended conditions of approval and findings for the applicant to continue implemented measures and several performance standards.

Ms. Feliciano said staff investigated the site's compliance and determined that only the noise exceeds the established standard for the district. The operational noise impact analysis completed by LSA demonstrates that the maximum operational noise for the operator which is all equipment operating simultaneously would exceed the City's noise standards for both daytime and nighttime. She turned over the presentation to Senior Noise Specialist J.T. Stevens with LSA who said would discuss his findings and methodology.

J.T. STEVENS, Senior Noise Specialist, LSA, provided a brief presentation of the steps they arrived at the conclusion of the operations, and mitigation measures necessary to be compliant with the City's Municipal Code.

Vice Chair Langlois referred to page 5 of the staff report and Item 6 states, "limited container parking to only the northeast corner of the site" and if operating outside of that area, the operator is "required to seek amendment to the CUP or apply for a new CUP." She asked if any activity was currently being operated in the restricted area.

Ms. Feliciano said the APN numbers include several parcels which are beyond the yellow property line and to the northwest of the site so it does not include what is being used now within the property line. The property belongs to RWMC, but the area in question is where some of the containers were parked during the Port strike and this is not included in the CUP.

Vice Chair Langlois asked what things RWMC would be allowed to do at night between 10PM and 7AM.

Mr. Stevens said the sources in operation are the blower and fan units which run all the time. Refrigeration units would be allowed to run when containers are parked at the north and west docks. RWMC would also be allowed to move containers from the north dock to the northeast lot.

Vice Chair Langlois referred to the letter that informs the applicant in 1996 about the approval of this most recent CU96-2 which states, "The office trailer shall be removed". She asked if this had occurred.

Ms. Feliciano said she was not completely sure the trailer had or had not been removed, but did not remember observing an office trailer during her visits to the site.

Vice Chair Langlois said in reviewing CU96-2, the City Council's direction to review the CUP did not refer to any initial CUP. She is aware of at least 3 applications that came forth—CU96-2, CUP90-47 (for permission to use a trailer as an office), and CUP90-5 (to construct expansion of the freezer which was granted but not fully implemented). She said the company is primarily engaged in distribution and warehousing and she asked where the original CUP was that would provide a basis for RWMC to initially be approved to conduct these activities.

Ms. Velasco replied that when complaints began staff investigated what CUPs RWMC was authorized for. There is no original CUP in the City's records but there is a building permit that was authorized in the late 1960's for the warehouse distribution facility. Staff found records later in the 1990's that at some point triggered CUPs for the operations RWMC has now. The trailer was a 2-year approval and has since expired. In addition, the larger 1990 CUP for expansion was never built and therefore never vested. The only active permit on the site is CU96-2 which is serving the basis for discussion tonight.

Vice Chair Langlois stated that the activities of the CUP are not the activities causing neighbors' problems and she said she was looking for some basis for allowing the operation of such a facility on the site and did not see one that exists.

Ms. Velasco said there was an original permit which may have been a permitted use at the time, given the Marina Bay area's transition from an industrial to a residential area, and will likely transition again.

Vice Chair Langlois referred to a comment raised by the public regarding CUPs being recorded with the County and the requirement for applicants to provide a recorded copy of the CUP with the planning department which is required to keep them on file. She reviewed the Municipal Code and said there is a stated requirement for this. She asked if this was being adhered to.

Ms. Velasco said in the approval letter for the original CUP there was no mention of a resolution and it is not the department's current practice to require applicants to record CUPs. Staff now prepares resolutions which allow the City to codify and document all of the Planning Commission's actions.

Assistant City Attorney Carlos Privat added that the new zoning update will abolish that requirement which has not been enforced by the City over at least 10-11 years since his tenure.

Vice Chair Langlois said during the time RWMC moved its operations from the Regatta Boulevard site to the Factory Street site between 2000 and 2014, it still did maintain ownership of the Regatta Boulevard site and had an office there. She attended many community meetings last year with Marina Bay residents, as well as staff and representatives from RWMC and received mixed reports about the types of activities RWMC conducted at the Regatta Boulevard site. She asked if RWMC conducted wholesale and distribution activities on an ongoing basis without any breaks of 6 months or more.

Ms. Velasco said staff was unable to go back and establish what did and did not occur. Staff checked with wastewater records as RWMC does have to report discharge information, and staff did not find a lapse in that permit. Whether or not RWMC was the actual operator or had a sublease or another tenant is also unknown. They simply show that the industrial wastewater flows were still occurring, but in peaks.

She added that the CUP runs with the property and unless the Planning Commission takes action to revoke the permit, it is active. If they ceased to use it the City failed to revoke it and they can continue to re-establish or continue to operate based on their CUP.

Commissioner Kilbreth asked how staff arrived at 8 feet as the height of the sound wall for the south side of the property.

Mr. Stevens said it was developed based on collaboration between him and City staff. From a noise perspective, this is a height in which all lines of site are broken from the sources. The noise levels take into account only 8 feet and if this was raised the noise reduction would be greater, but it was City staff's expectation to not exceed 8 feet.

Commissioner Kilbreth said in the testimony from residents of Marina Bay and from one of the assertions from the business owner was that there has been a reduction in total business and for various reasons it was better for RWMC to relocate than to remain at the Factory Street facility. He asked if there was too much business activities for the size of the Regatta Boulevard facility given impacts of noise and activities.

He also asked if staff obtained data for the number of average trucks per day or per week or a benchmark for what is typical for a warehouse with a certain number of loading docks and also activities that affect traffic, noise or other activities.

Mr. Stevens said the analysis assumes that all 10 loading docks are in operation. Whether or not there are multiple trucks within an hour this conservative analysis takes that into consideration, but no other benchmarks or data was received regarding other activities.

Chair Lane called upon the applicant for a presentation.

RICH DOELLSTEDT, President, RWMC, said he will speak and sharing his time with David Blackwell. He provided a historical account of when his parents opened RWMC and he and his brothers' involvement with the business today. They have never been labeled as a nuisance, never have been issued citations and have been in compliance with the 1996 CUP. Based on public comments, RWMC contributed towards the holding of four community meetings to address concerns, as well as implemented specific restrictions on business activities.

Mr. Doellstedt noted that Stan Anderson, President of the Marina Bay Neighborhood Council, sent a memo dated April 18, 2016 to the Planning Commission indicating that he saw strong support for RWMC as it now exists. He then spoke of RWMC's employment history, generation of tax dollars and support of local businesses. RWMC has made significant accommodations to co-exist in the neighborhood which, for the most part, have been well-received. He was in favor of the CUP as presented tonight and encouraged the Planning Commission's approval. He also verified that the office trailer was removed.

DAVID BLACKWELL, land use attorney with Allen Matkins, San Francisco, thanked staff for their comprehensive report and said the General Plan promotes this type of use and also recognizes the importance of promoting employment-generating uses. He quoted various sections of the General Plan policies regarding support of local businesses and said there are four grounds to modify a use permit for cause which are included in the staff report, recognizing that there was one that applied here which was exceeding local code requirements which makes the business a per se nuisance.

Mr. Blackwell said the only performance standard which is exceeded is noise which is not very high. Despite this, there is a significant condition being imposed with the sound wall and RWMC is agreeable to that condition, given its substantial expense. He also stated there was no discontinuance of use by RWMC. The business has a very active use; they are addressing all issues and he said he was available to answer any questions.

Vice Chair Langlois said she appreciates the fact that RWMC has been in the community for a long time and contributed a lot, but she noted that in 2015 nuisances began. The bulk of the business had been occurring at a different location which was far removed from any residential use. The company then moved to the Regatta Boulevard site which caused increased activity and nuisances. Since the Factory Street site is so well-suited to the operations, she asked why RWMC did not think about selling the Regatta Boulevard property and focusing attention on the Factory Street site.

Mr. Doellstedt said the business had its ups and downs and they had to make business decisions given cost factors and profit. He did not bring up the fact that RWMC had been a significant profit center as a cold storage business activity at the Factory Street site and this was

discontinued at Regatta Boulevard. Therefore, they moved to a site that was right-sized for their business which reduced much of their activities in freezer space and distribution.

Vice Chair Langlois asked Mr. Doellstedt to describe the operations of the Regatta Boulevard site for warehouse and distribution uses during the 14 year period.

Mr. Doellstedt said they experienced a lot of growth, some downsizing, different projects and orders, some dry storage, and miscellaneous types of activities. Refrigerated trucks came into the site from time to time, and at one time there were upwards of 40 employees during the 14 years, as well as offices. Their corporate offices were there until about 2008 and then they moved these over to the Factory Street site. He verified they never rented out space at either facility.

Vice Chair Langlois said a member of the public indicated that Mr. Doellstedt now lives out of state. Mr. Doellstedt said he spends a lot of time in Richmond and is responsible for the company's day-to-day activities.

Chair Lane opened the public comment period and asked first for those speakers in support of the request.

Public Comments:

SYLVIA CHEN, RWMC Food Safety Supervisor, spoke about requirements to maintain food temperatures per the FDA, stating all trucks, trailers and ocean carriers are regulated by the California Air Resources Board (CARB). CARB enforces idling of diesel trucks and limit these to 5 minutes. RWMC has signage posted and actively informs drivers to shut down their engines unless there is some requirement for refrigerated units to remain on. She added that the Gen-Set units are designed to control the required temperatures of products.

JOHN ANDERSON, RWMC, spoke about the company's history and reputation as a leading distributor of frozen and refrigerated products locally and nationwide, and said they remain proud to be part of Richmond. He spoke about the Doellstedt family's generosity to the Richmond community and recommended the Commission not modify the CUP but approve staff's recommendations.

JAMES LEE, President of the Richmond Chamber of Commerce, said RWMC has a long history in Richmond and he met with Mr. Doellstedt to hear his story and complaints. He believes he has been fair, trustworthy and has done all he can to accommodate their operations and remedy concerns. He said it is the Chamber's position to support the decision of staff and asked that the CUP be approved.

VINCENT REYES, owner and operator of High Sierra Express, said they are a refrigerated trucking company which has done business with RWMC for over 20 years. In 2011, CARB required all business owners with refrigerated transportation to retrofit refrigeration trucks to capture emissions from polluting the air. They retrofitted their entire truck fleet and are now required to make appointments for deliveries with RWMC. They have a 5-minute limit on idling, and have done everything to comply and exceed all requirements, and he voiced his support for approval of the CUP.

Commissioner Kilbreth said if Mr. Reyes had an appointment for 10AM and asked what he would do if he arrived at the facility at 9:45AM.

Mr. Reyes replied that he would wait along the streets until it was time to drive onto Regatta Boulevard. He noted there was a bridge being repaired on the Marina Bay side and truckers were instructed to not be on the street prior to appointments, but they did their best to arrive on time and to not create additional congestion.

KALYANI GARDEEN said she and her family emigrated 15 years ago from South Africa and has been employee by RWMC for 15 years. Her husband passed away 7 years ago leaving her to raise their 4 children. The entire staff of RWMC has stood by her and her children, and she has managed to support her family and put her children through college. She would not have been able to do this without her job and support from the RWMC family.

HORTENCIA ESPINOZA, Richmond, presented a copy of the Richmond Magazine and said on page 18 it states, "Richmond, Your Home for Business." She said the City is ripe for growth and has many resources for company headquarters and she celebrated when UC Berkeley chose Richmond as its site for Lawrence Livermore Labs. RWMC has been part of the community for over 50 years, has been patient with neighbors who have harassed company officers, confronted and threatened employees, make outside visitor calls to the police and complain about people who speed down Regatta Boulevard. She said that all of Richmond has some sort of industrial neighborhood as its fabric, and people know this when they moved to Richmond. She hoped the Commission will realize the loss of revenue and jobs and thinks residents will continue to complain. She and her family are very active homeowners and 9 year employees of RWMC and asked the Commission to support the CUP.

RYAN SANDOVAL SULLIVAN, Richmond, said he is a lifetime Richmond resident and has worked for RWMC for the past 18 years. RWMC has positively impacted his life when he began working for them at 20 years old. The company takes pride and purpose in what they do and in 2001 some of their operations moved to Factory Street and as their needs evolved, and RWMC moved a portion of business back to Regatta Boulevard where they have been since 1959. They are a family-owned business, treat their employees like family, positively develop their employees, and he thinks the benefits RWMC provides should be considered in the Commission's decision.

SAM DELEON, Operations Manager, RWMC, said he has served the company for the last 18 years and clarified misconceptions, stating they do not have a loud speaker or exterior intercom. Trucks accessing the north loading docks are not unattended but attended to at all times. Any banging noises heard late at night do not occur at their facility. Many idling claims are not from truck engines but rather refrigerated units used to keep perishables under proper storage conditions. A comment was made that they turn down their alarm because of Cal OSHA requirements which is not true. Regarding pictures submitted, the dilapidated structures are not a part of their property, and the company enforces their no idling policy with truckers while on premises.

GEOFF JOHNSON, Chief Operating Officer, RWMC, said since January 2015 RWMC has chosen to be proactive in addressing concerns of neighbors while eliminating impacts of their operation on the community, and they have continued to do the following: 1) no idling signs in both English and Spanish were installed at exterior and interior lots; 2) a no idling policy has been implemented and maintained to minimize noise and diesel fumes from outside truckers; 3)

they state on all delivery order slips “No truck idling on Regatta Boulevard or on their property; Please do not park on Regatta Boulevard; and deliveries should arrive on time for their scheduled appointment times;” 4) All refrigerated storage containers are plugged into electrical outlets and not diesel-operated, the majority of which are parked on the dock facing Regatta Boulevard; 5) After hearing concerns and conducting research, their backup alarm was replaced with a different but still OSHA approved lower decibel multi-frequency alarm with a faster sound dissipation; 6) LED exterior lights have been minimized, lowered, covered and redirected and have minimal impact on the residential neighborhood; and 7) A sound wall was installed around a refrigeration equipment on the south side of their building, as well as a ventilation blower on the west side of the building to reduce sound from equipment.

Mr. Johnson said if the new conditions for the CUP are approved, they will be installing sound walls along the south property line to mitigate any sound levels above the City’s ordinance. This will cost approximately \$300,000 which is a serious investment. He asked the Commission to consider the efforts they have made to address concerns of neighbors.

KATRINKA RUK, Council of Industries, said she is not an employee of RWMC but a resident who lived in the Marina Shores in the 1990s and had the pleasure of playing tennis with her son, walk to pay her PG&E bill and never noticed RWMC when she drove her son to school down Regatta Boulevard or walked to Costco to shop. However, they did have issues regarding a coffee roasting company there which often burned beans, but this was part of the charm of living in a light industrial area.

She cited the contributions of RWMC and said there is no question they are a top employer and good neighbor. They have taken steps to address issues raised by residents. The Council of Industries supports approval of the CUP and she asked that the Commission support it, as well.

JAIME BANKS, Programmer for RWMC for 9 years and former resident of Richmond and Marina Bay Condominiums in 2010, said he used to travel between the Regatta Boulevard and Factory Street campuses a few times a week, but Regatta Boulevard was home. He rode his bike, ran daily and flew his drones in the area, and the worse part was living in an industrial area was that all three exits were regularly blocked by a very long freight train.

In 2012, the City of Richmond completed the bypass on Regatta Boulevard and worked on the Moody Underpass which created a bustling highway out of the Regatta Boulevard which was once a sleepy road reserved for freight. Residents and businesses were affected by construction which increased traffic and frustrations. He thinks claims are exaggerated and asked the Commission for approval of the CUP.

JANIS EGGLESTON, Marina Lakes Drive, said she rides her bike, walks and drives regularly down Regatta Boulevard and advocated for revocation of the CUP. She said she learned there is no recorded CUP for CU96-2 which is in violation of the Richmond Municipal Code. Without a valid or effective CUP there is nothing to modify and she thinks revocation has occurred because of RWMC’s failure to record and file the document with the planning department. She also conducted a search and learned it was Mayor Butt who asked there be a revocation hearing, given that there was no restriction to limit the CUP modification or revocation of CU96-2 but it was to cover all CUPs.

In reviewing the information provided by the City Attorney’s office, she was notified there were two other CUPs; CU90-5 and CU96-2 and in each there were no conditions of use on the permit

which limited trucking or noise, but there were conditions imposed regarding livability standards, snarling of truck traffic and other health and safety issues.

Reasons applicable to revoke include 3 that apply; Items 1, 2 and 4 but the staff report only dealt with Item 2 for a nuisance, and analysis was only limited to noise. The issue of odors and diesel fumes were not addressed which neighbors have constantly complained about for the past 18 months. She asked that the report issue a specific finding that there has been a nuisance at RWMC which includes noise as well as odors and fumes which affect the health, welfare and safety of the public, more specifically the Marina Bay community. The standard is 15 minutes of not being able to smell odors and if over this limit, it is considered continuous, frequent or repetitive odor. This condition is not acceptable as it compromises their property interests, livability standards and it is not the kind of compromise residents would expect to make for RWMC conducting their business right outside the Marina Bay property line.

Ms. Eggleston also said she believes the reason for revocation is that RWMC did abandon its property. She conducted a property search of the area and there were other limited liability corporations during the period of 2010 and 2011 that listed that address as their primary corporate office and place of doing business. Therefore, RWMC was out of business for a period of 18 months. She suggested RWMC abandon the distribution operations of the business and move it to Factory Street, stating that when RWMC moved in the past, it reduced a significant amount of activity in their neighborhood and reduced truck traffic problems.

She also conducted a public records search with the Finance Department to determine when RWMC's business license was current and the amount of licensing fee which is contingent upon the number of employees. There is a recorded gap from 2008 to 2011 which she submitted which shows no business license records. Therefore, this evidence supports assertions of abandonment of their business.

In conclusion, she thinks the better remedy is to revoke the non-existing CU96-2 and to require RWMC to re-apply for a CUP that meets current standards and meets performance measures for air quality, odors and fumes.

JANICE HANGAN said she lives near RWMC and at the May 5<sup>th</sup> Commission meeting the Commission discussed modifying the RWMC permit by codifying efforts RWMC already implemented to be a good neighbor. She was delighted to see this addressed in the staff report and urged the Commission to add additional requirements listed in her recent letter to address issues of noise, diesel and dust pollution, blight, and traffic obstruction. She suggested RWMC rent docking stations elsewhere or possibly from the business across the street and convert them to clean idle electric for truckers to use when arriving outside of business hours or needing to wait their turn for their appointments. This would also address obstruction of trucks. RWMC could also own their own clean trucks and hire their own drivers to give more control over truck drivers idling.

She also suggested RWMC only contract with trucking companies that use 2007 or newer clean emission trucks, as exhaust adjustments to older trucks do not always last. She suggested posting large "no idling" signs to indicate truckers can be fined \$300 for idling more than 5 minutes on Regatta Boulevard. Weekends and evenings have not been an issue recently, but she asked to keep it this way and to limit operations to 7AM to 6PM Monday through Friday to address dust pollution and to pave over the dirt lot.

KAREN KEMPLER, Richmond, thanked the Commission and staff for requiring RWMC to install sound walls on its property, codify the concessions it has already made, and to prohibit further changes without permits, but she believes that modifications do not go far enough. She urged the Commission to read and consider recent letters and said records show that RWMC has had problems with trucks parking and idling on Regatta Boulevard as far back as 1989.

She said because of RWMC's move to the smaller facility and its new "just in time" business model, things have gotten worse. Trucks from Tyson Chicken and Boars Head are not calling on the bakery or PG&E for deliveries. She thinks Marina residents should not be required to police the unsafe practices of RWMC and said idling trucks will continue to cause air pollution and traffic hazards. Studies have shown diesel fumes cause asthma, increased cancer risks and premature death. Truckers should not be told to arrive ahead of their appointments, especially outside of RWMC's receiving hours.

She added that the Richmond Bay Specific Plan is the future with an exciting vision for homes, parks, schools, offices, shops, restaurants and a ferry terminal. RWMC's way of doing business represents the past, and she asked that the Commission make further modifications to the CUP.

Vice Chair Langlois referred to the issue of idling. She understands efforts have been made to post signs and she asked if idling has gotten better or worse. She also asked how much idling Ms. Kempler had observed from where she lives.

Ms. Kempler said idling still exists. RWMC may have ended idling on their property but many truckers say they cannot turn off their trucks due to refrigeration and that they do not work for RWMC. She said RWMC wants credit for posting signs and other improvements, but on the other hand, they acknowledge that they cannot control the truckers and depend on residents to call the police. She has driven by and there have been trucks parked half in and half out of Regatta Boulevard with an empty cab while the truck has been idling. She was not sure if drivers run into the office to sign paperwork, but she has noticed trucks just sitting there idling and trucks parked on the median and along the sides of the road. It is obvious they cannot get to one of the RWMC docks.

LESLIE GRADY said she lives directly across from RWMC and significantly impacted. She no longer opens her bedroom windows because of fumes and said she could not attend the last meeting where there was a statement made that RWMC had to call the police because neighbors were harassing someone, which is untrue. She called police after having sat in her car and waited until the police officer showed up. They had a civilized conversation and the police officer told them to leave and they did without any threats. It was 3AM at the time during President's Day weekend when there were trucks idling all weekend long. She noted that when sound was measured from monitors RWMC had only 3 half-trucks parked and not their usual 5-6 full sized trucks parked. She has a video tape of it and said noise was so loud that she had called police two nights prior and complained as well.

She has Lupus disease and this has been affecting her health to the point where she has had more flares in the last year since she was diagnosed 7 years ago, and she asked that something change.

JULIETTE GAFNI said she has lived directly across from RWMC since 2005. When she moved it was a peaceful community and any activities at businesses across the slough was unnoticeable from a visual, sound and health standpoint. Since early 2015 she has dealt with

progressively worsening breathing issues and went from using a steroid nasal spray in January 2015 to using one twice daily with a rescue inhaler when needed. Despite this, she has a constant post nasal drip that forces her to cough and clear her throat.

She believes the diesel fumes are a major contributor for her worsening breathing. RWMC continues to have trucks idling for sometimes hours before dropping off goods. On May 8, 2016 at 7PM which was a Sunday, she observed a green Tyson Chicken truck idling in the Grupo Bimbo parking lot across from RWMC with the engine on and no one in the cab. She went back at 11PM that night and that truck was joined by a Boars Head brand truck with no one in the cab and the truck also idling. She called the police and they confirmed trucks were idling but may be "waiting to unload goods" and did nothing.

At 6:55AM or 5 minutes before RWMC opened, she went back and saw the green Tyson truck and Boars Head truck still in the exact location and they were joined by a second red Tyson Chicken truck and blue truck in the parking lot, as well as a fifth truck idling in the median.

She approached the gate at RWMC to ask if any of the five trucks were deliveries for RWMC and they refused to confirm if they were coming to that facility. She went home and 15 minutes later she viewed the green truck backing into the RWMC loading dock from her residence. This truck had been there for 12 hours and she submitted pictures with times as well as a copy of the police report. She said she was tired of being exposed to diesel fumes and trucks blocking the roadway. If no one can enforce this nuisance RWMC and their neighbors should not be allowed to operate so close to a residential community.

Vice Chair Langlois asked if trucks destined for RWMC who could not get in would drive into the property of Grupo Bimbo and park there.

Ms. Gaffney said yes; the trucks park there and when approached by police they claimed that they were possibly going to the meat company but got lost.

LINDA KAISER said she has lived in the Marina Bay community for 11 years and is well aware of the zoning across the Meeker Slough. She explored the area regularly and chose her condo very carefully before investing her life savings into it. In early 2015 RWMC decided to squeeze their operations back into the old facility and this was when she began to see changes in her health. For many years she suffered occasionally from some mild asthma and had one inhaler which she usually discarded often. Now, she presented to the Commission the types of deliveries of medication she was getting for three months which include inhalers, nose spray, and inhibitors, and this began when RWMC moved their operations back to Regatta Boulevard.

She took issue with the idea that residents are anti-business as said she has nothing against RWMC but the business they are running so close to neighbors is too large to contain traffic, diesel fumes, and it is not appropriate in its location. She regularly travels through Regatta Boulevard because she works in Albany and she notices trucks sitting in the median on a regular basis, trucks backing up and blocking traffic on a regular basis and causing road hazards. Noise is not her major complaint, but there are other problems that should not be ignored.

CORDELL HINDLER said he is not anti-business, said he wants to see RWMC thrive, hoped that RWMC is able to continue to operate given their contributions to Richmond and asked for support from the Commission.

PAUL KEISTER said he is a condo owner and resident at Marina Bay since 2007. He thanked staff for the in depth report and research. He confirmed there were great differences in noise beginning in 2015 which was remarkable as well as noise occurring very late into the night. All proposed improvements would be helpful, but he was concerned with allowable hours of operation from 7AM to 10PM and instead asked for hours from 8AM to 6PM.

He asked staff and the Commission to look at the business's capacity, given the massive change and increased activities. He also asked if the hours include weekends which he said impacts neighbors' ability to live peacefully, as well as health concerns with diesel. He lived in an industrial town in Norfolk, Virginia, but thinks this is about having boundaries with such high levels of noise and pollution.

CAROL KALAMARES said she lives near RWMC and said she heard that the original CUP disappeared. She quoted from a document from the second paragraph on page 2 of CU96-2: "Although the applicants states that no increase in staff or operations would be expected as a result of this project, the business has obviously outgrown the existing facility."

She said she has heard compelling reasons from Ms. Eggleston particularly that this entire request for a CUP should be re-applied for by the owner/applicant, as there is compelling evidence from residents. She then referred to the third paragraph on page 3, "Finding 2: The location, size, design and operating characteristics of the proposal development or use will be compatible with, and will not adversely affect, the livability or appropriate development of abutting properties and the surrounding neighborhood" and she thinks there is compelling evidence that a new CUP process be done to conform to more current criteria.

*Rebuttal – Applicant*

RICH DOELLSTEDT, President, RWMC, said there have been no police citations or violations that he is aware of and thinks they are in compliance. As has been highlighted, there have been some unfortunate incidents that have led them to hire a temporary security guard because employees have told them they feel threatened. He spoke of comments of truck idling for many hours into the morning and thinks much of this is exaggerated or erroneous and asked that the Commission review the facts.

Commissioner Butt said obviously Mr. Doellstedt has made some efforts to appease neighbors. He thinks the proposed sound wall will hopefully help towards mitigating the sound issues. He was pretty concerned with diesel fumes from idling trucks and asked how trucks might be better regulated.

Mr. Doellstedt said he was confused as there have been no violations of idling trucks and no factual evidence that this is outside of a normal industrial work site.

Commissioner Butt said if Mr. Doellstedt were to apply for a project and CUP now, industrial uses are not allowed but light industrial uses are allowed. There is a question as to which is which. Clearly, he visited the site yesterday and walked along the trail and around, and there were several large trucks some going into what had been the Price Club and some going into RWMC. There is a lot of truck traffic there with heavy diesel fumes, and aside from the fact there have been no violations, clearly he thinks it is an issue.

Commissioner Butt said one thought was to hire a security guard to make sure trucks are not sitting and idling near the business and RWMC could enforce the concept, given signs are not having a great impact on truck drivers. Another suggestion is to utilize trucks that are current state-of-the-art technology similar to what the Port of Long Beach is doing.

He works in Pt. Richmond and has a front office on the street. When diesel trucks park in front of his office he cannot take the noise for very long and has witnessed drivers leaving their trucks running for 20 minutes when they run into Starbucks. Therefore, he can imagine how residents feel, given accumulation of diesel fumes and noise.

Mr. Doellstedt said he thinks the way fumes and odors are addressed are at a state level and CARB-compliant trucks are required to operate in California. They have been compliant and he was not sure whether they should monitor the 5-minute idling or through the state with CARB compliancy. He said he was not before the Commission to be in the regulation business, but the fact that they are posting things on their invoices, verbally telling suppliers what they want and expect of them to come on time and signage requirements, when reading through the Municipal Code he thinks that 2,000 to 3,000 residents live in the Marina Bay development and the Commission is seeing a handful of minimal complaints. Before making a judgement, he thinks the vast majority of the Marina Bay neighborhood residents have no problems with diesel trucks, noise or idling based on a meeting in mid-April.

Commissioner Butt referred to the dirt lot to the east of RWMC, and asked if this was being utilized for truck parking or access.

Mr. Doellstedt said they use this area for staging of their empty overseas containers that they stage there which they then bring over to the dock as they need them.

Commissioner Butt referred to the dilapidated building which he pointed to, stating it was mentioned as a blighted condition. He noticed in the 1996 plans it was included as part of the company's acreage. He confirmed with Mr. Doellstedt that this building is owned by another company. He said their premises are kept very clean, neat and up to date, and that property does not reflect their image.

Commissioner Kilbreth asked and confirmed it was not Bio-Rad's building, and Mr. Doellstedt said he thinks it is the forklift company who owns it. They have a driveway there but said he could not speak on their behalf.

Chair Lane asked for RWMC's operational hours.

Mr. Doellstedt said they allow truck traffic in at 7AM. They have ebbs and flows of their business and at times they must work in the evenings. They typically stop at around the 6PM time and agree to operate without any truck activity between 10PM and 7AM.

Chair Lane asked how truckers will be notified about hours when they cannot be on the property.

Mr. Doellstedt said all of their gates are closed during those hours they are not in operation. This is why they put on their purchase orders not to show up until their appointment on time.

*Rebuttal – Opponent*

JANICE EGGLESTON, Marina Lakes Drive, said she has not prepared a rebuttal but was available to answer questions.

Vice Chair Langlois said she remembers that at some of the neighborhood meetings she attended last year in early spring 2015 one of the things that many people mentioned that no one has mentioned tonight was the beeping noise when trucks back up. People complained they were hearing this at 4AM and she knows this would drive her and anyone crazy.

She said she understands from the sound presentation the City cannot regulate that backup beeping which is an OSHA standard and not under the noise requirements. She also understands that RWMC has voluntarily switched to a different type of backup mechanism so it is less decibels but still OSHA compliant. She questioned whether or not residents have noticed any improvements with the backup beeping noises between the house of 10PM and 7AM.

Ms. Eggleston said she lives on the Marina Bay side and not as close so she does not hear that noise regularly. Her experience with the difficulty is primarily the air quality, odors, particulate matter she can see forming on her patio and plants, and when using the Bay Trail or in the hot tub or swimming pool she can smell very strong, long-lasting odors of diesel. There is also the Garden Club that drives and runs their gas-powered vehicles, so the diesel smell and fumes coming is very strong and pungent and she can feel it in her respiratory system.

From what she understood from Mr. Doellstedt's previous statements to the Commission and at the Marina Bay Neighborhood Council meeting, RWMC made the Halster or backup truck as Cal Osha-compliant for moving their containers. While this would not affect her as she is too far away, she is still very much affected by the traffic problems and idling. She has witnessed trucks idling for 30 minutes daily around 7AM in the west lot with very high noise levels as well. She understands RWMC hired a security guard but this was not to guard their employees but to enforce the no idling policy that they claim they have in effect. She also witnessed trucks parking next to Marina Bay Parkway and they park on the sides and in the center to move containers out into the street.

She thinks there is no authority over supplier truckers and there are also vendor liability issues RWMC would be held responsible for. RWMC must have some standards imposed on them to enforce the no-idling policy because it is not happening and the daily events contaminate residents.

She asked the Commission to revoke the ineffective and invalid 1996 CUP and that RWMC be made to re-apply for the current operations which is significantly expanded.

Chair Lane asked staff to summarize the recommendation.

Ms. Feliciano stated staff received several public comments and read through written letters. Concerns include noise, truck idling, odors, traffic, bright lights, landscape barrier which would be part of the BCDC permit when RWMC applies for their permit to install the property line wall, and visual blight. Upon careful review of comments there are a couple staff would like the Planning Commission to consider and include:

1. The note on delivery slips from RWMC to state that trucks not arrive prior to their scheduled appointment time; and

2. Based on parking standards, the north side yard shall be paved as approved by the Public Works Director.

Based on findings, statement of fact and subject to recommended conditions of approval in draft Resolution 2016-12, staff recommends that the Planning Commission find that sufficient cause exists to modify CU96-2 and approve the modification of the CUP.

Chair Lane invited questions or comments from Commissioners and there were none.

Commissioner Butt asked RWMC representatives to address issues voiced regarding idling diesel trucks, odors and fumes. There was less attention regarding these concerns as there was in addressing noise issues and suggested mitigations for these and noted they were more serious.

Ms. Velasco said as staff reviewed the issue they contacted the BAAQMD as the expert agency to receive guidance. CARB is now looking at diesel truck requirements and engine change outs on a rolling cycle depending on the year of the vehicle. Over time, engines and emissions from them get cleaner. The City as a non-expert agency is not able to find there is a health risk from the diesel trucks that are serving other operators in the area. She said there are also public roads that serve diesel trucks so the question would be how trucks contribute emissions to one source and business in the area.

The Air District encouraged additional signage, to work with the business to enforce concerns, and staff also reached out to the police department. Their recommendation is for residents to contact police when problems are actively occurring. Staff looked also at adding signage on the street for no parking or idling and she possibly suggested installing a red curb that would not allow parking, but this would have to be addressed by the City Council as far as getting it formally documented which staff can do.

Vice Chair Langlois said she also hears that the main issue is idling of trucks not just on RWMC's property but other sites as well. She asked and confirmed that the law is that trucks cannot idle more than 5 minutes and this is part of the Air District's requirements. She also confirmed that signs have been posted on site and there is a condition that provides guidance about what is the policy so employees are informed and can advise the truckers. Staff is also recommending the hotline number to be provided to the Air District for regulation of odors and idling policies so residents have the number to call. There were two complaints documented in the record but at the time of investigation, no violations were found.

Ms. Velasco said staff also visited the site about 6 times throughout the course of the past year and while she heard sounds from trucks, these were off-site and no trucks were idling in the street. It is a light industrial area that will transition over time, and while truck idling does occur, it is probably occurring sporadically.

Vice Chair Langlois suggested the following:

1. Include a condition regarding no idling past 5 minutes in the CUP. She was happy that the hours of 10PM to 7AM were greatly reduced, and said she would also support reduced hours to add towards quiet time for residents.

2. Additional signage added as to what the fine would be for idling which would serve as an incentive.
3. A condition that RWMC not allow idling of trucks on its property and that this is their responsibility to enforce.
4. Addition of red curb painting on Regatta Boulevard and to ask that the City Council designate that stretch of Regatta Boulevard as “No stopping at any time”.
5. Recognizing there is parking and idling of trucks at the Grupo Bombo lot across the street that deliver to RWMC, the CUP include restriction of trucks parked or idling at nearby properties.

Ms. Velasco said in terms of no idling on site, she encouraged the Commission to require the applicant to follow state law, as signage might get outdated. In terms of the red curb and “no stopping” signs, staff can work with the engineering department and with the Council to evaluate this suggestion, as there may already be signage there.

Vice Chair Langlois asked that a condition be put into place to require that no idling past 5 minutes or per state law be posted on the property. She referred to the potential that the business may be too large for the site, what bothered her is that there is no original CUP. It is not recorded, it has been in clear violation of the City’s ordinance for 10 years, and she was not comfortable with this.

Assistant City Attorney Privat stated it is not a requirement in practice. To require it now would be selective enforcement and it would trigger equal protection claims, and there are no recorded CUPs in the City.

Vice Chair Langlois encouraged staff to address and fix this in the ordinance because it is causing distress among community members who are analyzing the situation and she and they find it to be a contradiction.

Mr. Privat clarified that every CUP holder is treated the same and there is no requirement for recordation of permits.

Ms. Velasco clarified that as part of procedures presented at the last Commission meeting regarding the zoning update, this requirement is proposed to be removed because the City is not doing it in practice. She also noted that the zoning ordinance was adopted in 1997 which was after this, and there is no requirement to have businesses record CUPs. Lastly, she did not confirm prior to the meeting as to whether or not there is an actual recorded CUP of RWMC at the County.

Commissioner Baer voiced concerns relative to the idling issue. When she visited the area she noticed that signs are placed on gates to the facility. They are in black and white along with a couple of other black and white signs posted, so they do not necessarily stand out. There are no signs she saw along the street, and therefore, she suggested current signs to be replaced with signage talking about the state’s idling law and the fine imposed; that there be one sign on the street and that they are different colors than the existing signage that they are posted near.

Commissioner Kilbreth referred to the law regarding 5-minute limit on idling and asked how refrigerated trucks carrying frozen or refrigerated food are treated versus trucks carrying non-perishable items.

Ms. Velasco said there are exceptions and it is difficult to put all of this in a sign. The standard rule that most trucking companies understand is a typical 5 minute no idling rule. There are exceptions and much of it is related to refrigeration. Condition No. 6 asks that the operator post on the site the California Commercial Vehicle Idling regulations and truckers understand the policy. Staff seeks to have RWMC understand it so they can help in the enforcement of what is occurring on their site versus what is occurring on the street.

Commissioner Kilbreth said he thinks the Commission has made some progress with the proposed conditions moving in the right direction, but some things have not been addressed. He asked if it was staff's opinion that the best course is to table this and receive more data until the matter is further analyzed for the Commission to consider altogether. Or, he asked if staff believes the Commission should consider what has been proposed and weigh in and identify other outstanding issues to be returned to the Commission. He thinks if the goal is to make a complete set of recommendations and suggested the matter be tabled to obtain more information and data.

Ms. Velasco said if the Commission feels it does not have adequate information to make a determination she suggested holding over the item and to give staff additional specific direction as to additional analysis.

Chair Lane asked Commissioners to be specific as possible as to what data needs to be analyzed in order for the Commission to make a decision so it can be addressed at a future meeting.

Commissioner Kilbreth said the first question is that of activity level. He thinks the public deserves some kind of clear data on this question. Many assertions are being made that the business is too big for the location, and he asked for data to be collected on the number of trucks per hour per day divided by loading docks, as well as operational data so the Commission can make a judgement.

The second issue is whether odor, specifically from diesel fumes, is an unreasonable nuisance. He lives very close to the Chevron Refinery and has mixed feelings about pollution. At the end of the day, Particulate Matter (PM) can be measured and monitored given it is the most single important thing affecting health. He said diesel trucks are in a "dead heat" with refineries for the greatest source of PM in the world. Therefore, he suggested determining the level of fumes and PM to address health issues. It may not be possible to measure this easily because it is very close to I-580 and the emissions from diesel trucks might not be able to be separated out, and this is also in an industrial zone.

He is concerned however, that there is no data or analysis on diesel fumes from an odor point of view or from a PM measurement point of view, as it can be measured. Particularly hard to blame will be the diesel trucks at RWMC, but there are experts who can assist with this.

Lastly, he feels strongly that it is not the business owner's responsibility to police trucks on Regatta Boulevard but bad trucker behavior occurring in the lots next door or across the street. He thinks the City should dig deep about how its police force or another department can actually enforce this.

Chair Lane said she agrees with the suggestions Vice Chair Langlois provided regarding red curb striping, signage on Regatta Boulevard, and the process to do this. She said the City has

one or two parking enforcement officers and agrees that enforcement and citations should take place. In terms of noise, operational hours need to be enforced in terms of any activity occurring after 10PM, and she thinks the sound wall will hopefully be effective.

In terms of fumes from diesel emissions, Chair Lane deferred to BAAQMD and agrees there are some fumes and odors attributable from RWMC as well as other businesses and from trucks and traffic along Regatta Boulevard as a thoroughfare.

Vice Chair Langlois said it would be interesting to know more about the volume of RWMC's business, but was not sure how this would affect the Commission's ultimate decision. She thought the clear issue is reduction of truck idling and amounts of PM. She referred to Finding 2 in CU96-2 on page 3 which states, "Finding 2: The location, size and design and operating characteristics of the proposed development are useful, be compatible with and will not adversely affect the livability or appropriate development of abutting properties in the surrounding neighborhood." If there is a lot of idling, this is definitely affecting residents' livability standards.

She suggested adding a condition to state, "The property owner is responsible for making sure trucks abide by State idling laws." She asked what the idling time is for refrigerated trucks, given they might be different than regular non-perishable trucks and suggested adding a condition that "Deliveries be scheduled so no trucks would have to idle for more than 5 minutes on premises."

Commissioner Kilbreth said he thinks 95% of the issue is idling off of the company's property and this goes to a question of whose responsibility it is to enforce bad trucking behavior. He does not believe it was RWMC's responsibility to enforce this and he did not think it was appropriate making it a condition.

Vice Chair Langlois said she believes conditioning it for on RWMC's property is appropriate and Commissioner Kilbreth concurred. She said if reports are received that problems occur in neighboring areas, she suggested taking up those businesses' CUPs and require enforcement on their properties, as well.

Commissioner Butt said he agreed it was not the responsibility of the owner to regulate the street and truckers and doing so is probably very difficult. At the same time, he frankly does not see RWMC doing it either. He thinks what would be helpful is a similar approach to the noise issue where an expert comes in, takes some samples, makes some recommendations which result in conditions, and he thinks the noise issues have been largely addressed through mitigation.

In determining where PM is coming from, Commissioner Butt said he would think hypothetically one sample area could be tested is across Meeker Creek Slough directly across from the facility and another could be done ½ mile away in Marina Bay without the facility being right there.

Secondly, there is probably enough data about how much diesel trucks emit and how much refrigerated diesel trucks emit. Mitigations can be identified if there was knowledge about the number coming in and out of the facility and how long they are idling for, information about sources, and where they are going and settling. He would hope some recommendations could be formed after more data is obtained so the business could continue to thrive and for residents to be able to not have odors, health problems, and noise impacting their lives.

Ms. Velasco questioned what the standard was staff should apply in determining whether the use is a nuisance or not a nuisance. There is not that specificity in the ordinance and without a standard to apply she thinks it was simply a measurement.

Commissioner Butt said if this was a new use and RWMC had to prepare an EIR or environmental analysis, he asked how they would address potential nuisances regarding pollutants. He thinks the BAAQMD has not been very helpful in regulating that well and noted significant concerns from residents in a residential development next to I-580. He thinks it is the City's role to try and resolve this health concern and that at some point there should be data available that identifies certain PM from a point source.

Ms. Velasco said there are established numbers for a health risk assessment, and she asked if the Commission wanted staff to determine whether there is a health risk coming from the project or was it to determine whether there is a nuisance or odor problem at the project site.

Commissioner Butt said it is the health risk, given there is a clause in the CUP that talks about risk related to health risks and livability. He identified it and read it as follows: "The use of the facility for which the permit was granted is so conducted or maintained so as to be detrimental to the public health, welfare, or safety so as to be deemed a nuisance." He therefore thought the nuisance clause was directly tied to health.

Ms. Velasco indicated that RWMC existed on the site. Housing came second and, at the time housing was determined to be placed there it was determined those two uses could co-exist. She questioned whether the Commission now wanted to re-establish that question and determine whether a permit should be revoked for a business that was there prior to housing. She said these will be issues the Commission will have to consider as there are introduced developments that may have conflicting needs.

It is the City's vision along with the communities that this area will change over to different uses under the Richmond Bay Specific Plan, but the City has also heard a lot from the business community to let the market drive that transition as opposed to force regulation. If the direction is to complete a health risk assessment, this is something staff can do but the light industrial use is still there and asked whether all other businesses would need to undergo health risk assessments, as well.

Commissioner Butt asked if the primary differentiating factor between light industrial versus standard or heavy industrial primarily was based on health risks and noxious fumes and odors.

Ms. Velasco said not necessarily. Under land use regulations, a use is defined and not necessarily environmental impacts, and this is what the CEQA process is for. Through that process staff identifies appropriate limits, putting limitations on them or sometimes requiring forced ventilation systems, but this tends to be more in the CEQA process as opposed to land use regulations.

Commissioner Butt said he thinks the extreme would be a revocation and he would not be inclined to do this, but it is important to be cognizant of what is occurring at the site. Hypothetically, if the Commission or City does not want to address this given RWMC has operated there for many years the Commission would not be wiser as to identifying and correcting any health impacts. He questioned whether this was a good approach or not.

Vice Chair Langlois asked whether there were ever any instances where a business outgrows the site it is on because its operational levels increase so much, given the fact there are only 10 loading docks with so many trucks coming in that are waiting as opposed to possibly another site with 20 loading docks. She questioned whether RWMC could scale back their volumes so the operations would fit into the light industrial model.

Ms. Velasco said she believes a business can outgrow its site. During the times she visited the site it was not as active, but she recognized there were probably peak times during the day when it is very busy and trucks may get backed up. But, there is no standard in the zoning ordinance that identifies RWMC is allowed 10 trucks per hour or per bay. So again, staff is trying to apply standards that are codified. Other than that, it is a subjective opinion.

She said staff can obtain trucking information as to the number coming in per day, but noted volumes vary over the year and she asked for the number of months or weeks staff should measure this.

Chair Lane said in following Commissioner Butt's request over health impacts, she confirmed with him that health impacts are related to the idling of diesel trucks and how this influences neighboring residents' health. From a City staff standpoint, she asked Ms. Velasco if she believes staff or the consultant could review and develop recommendations for next steps.

Ms. Velasco said the City would have to hire a consultant to prepare the analysis. The trucking data would need to be acquired from RWMC and distances measured. Overall, typically when there are these types of adjacent uses it is usually easier within the residential units to install ventilation systems as opposed to instilling restrictions on the industrial facility. She was unsure of what mitigations an actual industrial operator would incorporate. RWMC may have to limit their fleets to being only a certain engine type if a cause is found.

Commissioner Kilbreth said he would have thought those were exactly the two things the City could do if there was a health impact identified. The City could require a certain quality of truck engine. It is similar to them trying to get Chevron to bring electricity to the wharf. He believes the Commission can request this if they find cause. Similarly, based on the activity data if there was too much activity for the size of the building and docks for trucks to operate the Commission could ask for a reduction in activity levels.

He said when the Commission reviews a CUP for a restaurant it is limited for so many people and a level of right-sizing the activity level for the physical space or a standard land use practice. The problem is that the Commission simply does not have the data.

He personally believes the biggest problem here is truck idling on Richmond City streets and unowned land, but until the Commission gets the data he was not sure there was a significant health problem or any reason to blame RWMC. If their activity is perfectly normal for the size of their facilities then the result is that the area is industrial with residential built next to it. Industrial was there first and they do not want to push people out. He thinks the conditions recommended are good and he personally would make the wall 10 feet high and would reduce hours to 9:00 o'clock.

Commissioner Kilbreth concluded, stating there are two remaining issues which are partly a question of public confidence and he suggested taking a month or two to review these

operations. When the Commission approved the project on Marina Way and Wright (the Bay Walk project), the Commission had data on PM levels for a building that was built right next to I-580 and already have that as a benchmark, which are just I-580 effects. Therefore, RWMC and the City could obtain measurements of PM levels at the southern wall of this property and see how different that is from what exists for the Bay Walk project. With this project, the Commission decided it was okay because of ventilation systems and how often people were outside so they already have a benchmark. The question is, is this worse and how much time and money would it take to measure what the PM levels are as compared to the values they obtained for Bay Walk. He thinks it would not be that difficult and should not cost that much.

Commissioner Baer said she was supportive of obtaining additional data about PM because this is the biggest unresolved concern. She did not see the data about the business being too big as very useful and would not know what the Commission would do with it once received and also was not sure it was the Commission's call.

Chair Lane said it sounds like Commissioner Baer wanted more information about PM levels related to operations on the site.

Commissioner Loy said she would be concerned when looking into the PM data about finding the right experts to ensure that what the Commission is doing is attributing PM data to this applicant. She did not want RWMC to be blamed for the increase in traffic on I-580 and for idling trucks which the applicant has no control over. She thinks the PM data will be needed for the activity at the business, but does not know how to say the business has outgrown its space. Perhaps there is something in the code that determines the type of activity that can operate at this space. With a restaurant it is about egress and how many people can get in and out of emergency exits and how many people can be fed from a business perspective.

Therefore, she was not sure it was in the Commission's purview to determine whether RWMC has outgrown its space. She does not want to penalize this business over and above everybody else that has trucks and making deliveries in this neighborhood. This is something the City will deal with over the next few years with the Richmond Bay Specific Plan but also what she was concerned with was where they will end up with that data.

Commissioner Kilbreth said he agreed it was tricky but the point here is whether there was not an adequate CUP initially and the Commission was trying to understand this business. Secondly is whether there is a real problem but it was not RWMC's problem but the City of Richmond's enforcement of traffic, parking and idling laws. He would think the City Council and City Manager would benefit from some data so they could do the right thing the same way in another case the owner of this business is doing the right thing about noise.

If the Commission does not ask for the data and does not give the City Council and City Manager a formal request of their role then he questioned where the Commission was. He said he would like the data not to do things necessarily to, for or with RWMC but to be able to know if or what the City should do.

Chair Lane said in listening to Commissioners' comments, noting that she agrees with Commissioner Loy and Baer in focusing on health impacts, what the Commission is requesting in terms of data information is appropriate and adequate and ultimately something with which they can make a decision. She did not want to look at the business and attribute it to other issues that may be occurring at the site.

She also hears staff's point about the fact that light industrial was there first and residential came afterwards, and she did not think it was good to push out business. She would like to be specific as to how long they should review the matter in order to get enough information Commissioners feel would help in making a decision. Most of the conditions in the staff report or those made by Commissioners she would agree with along with the City's responsibility regulating traffic, idling and parking off site. She then suggested a motion to hold the item over to a date certain.

Commissioner Butt asked if staff feels they have enough information and direction from the Commission.

Ms. Velasco said she was not sure there was consensus, but she confirmed that the Commission was seeking: 1) a health risk assessment and 2) obtain daily and hourly anticipated deliveries and pickups or how many trucks are coming on and off site, how long they are idling for, and 3) sampling of PM which is related to the health risk. She anticipated a health risk assessment would take approximately 2 to 3 months and in the meantime, RWMC will continue to operate business as usual, noting the delay would extend the timeframe for constructing the sound wall.

Commissioner Butt made a motion to continue the public hearing to August 4, 2016 and to allow public comments on new information at that time. He said he sympathizes with both sides, stating RWMC owns the site but does not always have control over what trucks do on property it does not own. RWMC has been in existence there a very long time, are a good business and are trying to address concerns of neighbors. He recognized it is difficult to live across from this type of business and he hoped to arrive at some compromise in the end.

**ACTION: It was M/S/C (Butt/Langlois) to direct staff to return with additional research as summarized by Ms. Velasco; to continue the public hearing to the August 4, 2016 Planning Commission meeting and to allow public comments on new information; which carried unanimously by the following vote: 4-0-2-1 (Ayes: Baer, Butt, Kilbreth and Langlois; Noes: None; Abstain: Loy and Lane; Recused: Choi).**

Noted Present:

Commissioner Choi was noted present to participate in the remainder of the meeting.

**COMMISSION BUSINESS**

**4. Reports of Officers, Commissioners and Staff**

Ms. Velasco stated she provide a copy of the next module of the zoning update for Commissioners at the upcoming meeting.

**5. Adjournment** - The meeting was adjourned at 10:04 p.m. to the regular meeting on June 16, 2016.