

COMMISSION AGENDA

Item No: 5A

Meeting: 05/17/18

DATE: May 7, 2018

TO: Port Commission

FROM: John Wolfe, Chief Executive Officer

Sponsor: Tong Zhu, Chief Commercial Officer & Chief Strategy Officer

Project Manager: Scott Francis, Director, Real Estate

SUBJECT: Request to approve the subdivision of property at 1840 Marine View Drive

A. ACTION REQUESTED

Request Commission approval of the 2005 conveyance of a former portion of property located at 1840 Marine View Drive, also known as Pierce County Tax Parcels 0321361039 and 0321362038 by Jesse Engineering Company to General Metals of Tacoma, Inc. subject to the following conditions, restrictions, and remedies on the remaining 1840 Marine View Drive property, that shall run the land:

- A. Any owner of the Property shall not re-sell less than all of the Property without the prior written consent of the Port of Tacoma.
- B. The property will be used for Industrial purposes. Residential uses are specifically prohibited.
- C. The Port of Tacoma ("Port") shall have a continuing right of first refusal with respect to the Property. If at any time any owner of the Property or any part thereof receives a bona fide offer by a third party to purchase the Property or any part thereof that such owner intends to accept, then such owner shall transmit such offer in writing to the Port, who shall have a continuing right of first refusal, exercisable within ninety (90) business days from the receipt of such third party offer, to purchase the Property from such owner at the same price and terms; provided, that if such terms include payment of the purchase price in installments, then the Port may elect to pay such purchase price entirely in cash at closing, and if such offer includes non-monetary consideration, then the Port may substitute an equal monetary sum. Upon any change in the terms of such sale, or upon the failure of such sale, or upon the Port's election to not exercise its right of first refusal with respect to such offer, the Port's continuing right of first refusal shall continue to apply to the Property. The continuing right of first refusal set forth in this paragraph shall also attach to each subsequent ownership interest in the Property and any part thereof. Provided, however, that the right of first refusal set forth in this paragraph shall not apply to any proposed transfer to any parent or wholly-owned subsidiary of any owner of the Property, so long as in each case persons holding at least fifty one percent (51%) of the equity and managing interests in the

selling entity also hold at least fifty one percent (51%) of the equity and managing interests in the proposed transferee.

Pursuant to RCW 53.25, the above conditions, restrictions, and right of first refusal shall be covenants running with the land and shall be stated in all subsequent deeds to the Property, and any violation thereof shall result in the right by the Port of Tacoma Commission to declare a forfeiture of all interests in the Property or any part thereof and reassume title to the Property or such part thereof.

B. BACKGROUND

- In 1968, Arne K. Strom purchased about 19.1 acres at 1840 Marine View Drive from the Port of Tacoma with a deed restriction that stated, "No sale of any part of the above described property less than the whole thereof shall be valid without the written consent of the Port of Tacoma."
- Strom conveyed the property to Tacoma Boatbuilding.
- Tacoma Boatbuilding went into bankruptcy in 1992. The bankruptcy court ordered the sale of the property in 1996 and it was ultimately sold to Ace Tank & Equipment Co. in 1998 via quit claim deed that made no mention of the deed restrictions.
- Ace Tank & Equipment conveyed the property by quit claim deed to Ace Tank Holdings, LLC and no mention of the deed restrictions were listed in the deed.
- Ace Tank Holdings sold the property to Jesse Engineering in 2005. The title report included generic reference to "reservations, restrictions, agreements...of record", but no specific reference was made to the deed restrictions.
- Jesse Engineering Company completed a boundary line adjustment and sold 5.2 acres of the property to General Metals of Tacoma, Inc. in 2005.
- Jesse Engineering Company conveyed the property to Jesse Investments LLC.
- Jesse Investments LLC currently owns approximately 13.9 acres of property at 1840 Marine View Drive.
- Jesse Investments, LLC is currently in the process of selling this property under a sale-leaseback arrangement.
- Closing has been delayed because a cloud on title caused by the 2005 conveyance of a portion of the property conveyed by Jesse Engineering Company to General Metals of Tacoma, Inc. without the Port's prior approval.
- Jesse Investments requests Port approval for the 2005 sale for a portion of the property, which is part of a larger parcel owned by General Metals of Tacoma, Inc.
- The sale of the property is required to keep Jesse Engineering Company performance bonds, lines of credit and operating accounts in place.

C. SCOPE OF WORK

Port Commission approval of the 2005 partial sale of 5.2-acres is required to clear title. Upon Commission approval, the sale is expected to close quickly. The deed will be reviewed and approved by the Port's attorney.

D. FINANCIAL SUMMARY

Approval of this requested action has no financial impact to the Port beyond limited staff and attorney time.

E. ECONOMIC INVESTMENT / JOB CREATION

Jesse Engineering currently employs about 100 people in Tacoma. Jesse also supports many subcontractors and suppliers of services from numerous businesses in Tacoma. Without approval of this 2005 partial sale, these jobs are at risk.

F. ENVIRONMENTAL IMPACTS / REVIEW

The approval of this request does not cause any environmental impacts or concerns.

G. ALTERNATIVES CONSIDERED AND THEIR IMPLICATIONS

The alternative option is to not approve this request. However, not approving this request may cause the following:

- Delayed sale of this property.
- Adverse impact to Jesse Engineering, including its workforce.

H. NEXT STEPS

Upon Commission approval, the Port will provide the title company formal acknowledgment of the Commission's approval of the partial sale and review the updated deed to make sure it includes the above listed conditions and restrictions.

cc: Tong Zhu