MINUTES
OF A REGULAR MEETING
OF THE
PITTSBURG PLANNING COMMISSION
October 14, 2008

A regular meeting of the Pittsburg Planning Commission was called to order by Chairperson Ramirez at 7:00 p.m. on Tuesday, October 14, 2008, in the Council Chamber, City Hall, 65 Civic Avenue, Pittsburg, California.

ROLL CALL:

Present: Commissioners Diokno, Garcia, Kelley, Ohlson, Wegerbauer, Chairperson Ramirez

Excused None

Staff: City Manager/Planning Director Marc Grisham, Senior Planner Dana Hoggatt, Associate Planner Kristi Vahl, Assistant Planner Leigha Schmidt, Assistant Planner Ali Endress, Senior Civil Engineer Alfredo Hurtado, Deputy City Attorney Jacob Knapp, and Administrative Assistant to Director Kathy Comtois.

POSTING OF AGENDA:

The agenda was posted at City Hall on Thursday, October 9, 2008.

PLEDGE OF ALLEGIANCE:

Peter Hellman led the Pledge of Allegiance.

DELETIONS / WITHDRAWALS / CONTINUANCES:

There were no deletions, withdrawals or continuances.

COMMENTS FROM THE AUDIENCE:

There were no comments from the audience.
PRESENTATIONS:

There were no presentations.

CONSENT:

Item 1: Minutes of Meeting, September 23, 2008

Commissioner Garcia requested an amendment to the second paragraph of Page 8 of the minutes to include the following sentence.

*He [Commissioner Garcia] noted that there was only one street in and one street out with nothing on the drawings to show exits for the Fire District to get in or out in the event of a fire and the street was blocked.*

And to the motion on Page 12, as follows:

*Motion by Commissioner Garcia to move on Resolution No. 9772, “Alves Ranch AP-08-516 (MP).”*

MOTION:

Motion by Commissioner Ohlson to adopt the Consent Calendar, as amended. The motion was seconded by Commissioner Garcia and carried by the following vote:

Ayes: Commissioners Diokno, Garcia, Ohlson, Wegerbauer, Ramirez

Noes: None

Abstain: Commissioner Kelley

Absent: None

PUBLIC HEARINGS:

Item 2: Alves Ranch Development. AP-08-516 (SUB, DR, MP).

An application by Alves Ranch, LLC for: 1) design review approval of architectural plans for various residential and commercial development; 2) approval of a master plan for a 40.42 acre site; and 3) approval of a vesting tentative subdivision map to subdivide 40.42 acres into four business commercial lots, 170 lots for single-family dwellings, 215 lots for townhomes/condominiums, and a separate three acre lot for the future development of 93 affordable housing units (to be built at a later date). The project site is located on the north side of West Leland Road, immediately north of the existing Vista Del Mar Residential Development, and the site is zoned CO-P (Office Commercial with a Master Plan Overlay, Ord. No. 04-1230) District and RH-P (High-Density Residential with a
Commissioner Garcia understood that the action being asked of the Commission was not to approve the subdivision but rather to consider a resolution of denial. He understood that the way the item had been agendized was atypical. He suggested it should have been placed on the Consent Calendar. In this case, the applicant was essentially being given a second opportunity to appear before the Commission. In his opinion, the item should have been appealed directly to the City Council and should not be before the Commission since the Commission had made its decision at the September 23 meeting to deny the application. He recognized that the Commission must vote on a resolution of denial for action, although he objected to the applicant being allowed to make another presentation to the Commission when all information had been presented during the prior meeting.

Commissioner Garcia also expressed concern with the way the resolution had been written in that staff still held that the application was proper. One of the reasons he had voted to deny the application was because the only way the applicant could make an agreement with the City Council was to allow variances. In his opinion, there should be no right to variances in the agreement. In addition, the applicant had proposed the lowest density on the site, which was not supported. He understood that the Development Agreement (DA) between the City and the applicant had been prepared at the last minute and had been signed prior to the installation of new Councilmembers. He questioned that the DA included a guarantee of 93 affordable units on three acres. He suggested there were questions related to the placement of 93 units of Very Low and Low Incomes units that far away from the nearby BART Station.

Commissioner Garcia again questioned allowing the applicant to make a second presentation on an item that had previously been denied.

Deputy City Attorney Jacob Knapp acknowledged that the item had been considered by the Commission on September 23. The resolution before the Commission was different from the prior resolution and was a resolution for denial. The Commission would be able to vote to adopt the resolution, which would send a recommendation of denial forward to the City Council. He noted that it was appropriate for the item to be agendized as a public hearing for this meeting.

Associate Planner Kristi Vahl presented the staff report dated October 14, 2008. She recommended that the Planning Commission adopt Resolution No. 9773, recommending denial of the Master Plan Application No. 08-516 and denying Design Review and Vesting Tentative Subdivision Map Application No. 08-516 for the Alves Ranch Development.

Ms. Vahl noted that, in the event the Commission wanted to vote to approve the application, staff had included the original Resolution No. 9772 for review and
consideration. If the Commission were to vote in approval of the application, staff asked that the Design Review and Vesting Tentative Map portion of the application be continued to a later date.

PUBLIC HEARING OPENED

PROPOSER:

PETER HELLMAN, 2151 Salvio Street, Suite 301, Concord, representing Alves Ranch, explained that the applicant had heard the testimony from the Commission during the September 23 meeting, had noted the items of concern, and had worked hard to address those items. He presented the Commission with a fact sheet on the application.

Mr. Hellman stated that in 2002, the Planning Commission and the City Council had voted to downzone the property to Low Density Residential, a General Plan land use designation that allowed single-family residential development at a density of 1-7 units per acre. The currently proposed plans had averaged 15 units per acre, although that had been criticized for not being dense enough. The DA, which had been signed in 2004, bound the City to an approved density within the range of the approved General Plan, which provided for a minimum of 14 units per acre allowing a maximum of 560 units on the property. The property was comprised of 31.66 acres in the residential portion, with 560 units representing a density of 17.7 units per acre. He noted that the General Plan and DA together would allow a density range of 14 to 17.7 units per acre. At 475 units, the proposed density would be 15 units per acre, near the midpoint of the range. The current product mix was the most feasible plan for the project. With the exception of apartments, if the density were increased from what had been proposed, then the project would be infeasible and would not move forward.

Mr. Hellman asked that the applicant be allowed to devise plans for the property that were feasible to develop yet still consistent with the General Plan and zoning. He pointed out that no one would benefit if an infeasible plan was imposed. He presented the Commission with information on residential calculations illustrative of what different uses would mean for the property. With the exception of apartments, he noted that as product type became denser, it would be increasingly bleaker for the developer.

Mr. Hellman reiterated that the applicant had a DA that would run through 2022, and the project would take 7 to 12 years to build out. Based on experience, the applicant could only make the best guess as to the highest and best use of the property. Based on his experience, the townhome product would be the only feasible alternative. He noted that the Vista Del Mar development immediately across West Leland Road from the subject site was being built out at 6 and 11 units per acre. Further to the east towards the BART Station, the Oak Hills development had been built out at 5 units to the acre. He suggested that the neighborhood densities of the subject development would be an appropriate bridge to the neighboring communities.
Mr. Hellman commented that on March 26, 2002, Commissioner Garcia had pointed out that those who purchased in the area would consider themselves to be residing adjacent to lower residential properties. He suggested that the subject development represented an appropriate transitional density for the neighborhood.

Mr. Hellman advised that conditions of approval for Neighborhoods A-1 and A-2 had been prepared, copies of which he provided to the Commission. He noted that as part of a condition of a future Final Map approval, the applicant would agree to a condition to provide a denser or more intense development, if such a more dense or intense development were financially feasible. While City staff may argue that was not an appropriate condition of approval, he suggested it would be acceptable to the applicant, and would work. He emphasized that as the development moved forward into the future, if the conditions changed unexpectedly, the developer would come back and increase the density to the maximum committed under the then current General Plan.

Mr. Hellman reiterated that the proposed density was consistent with the General Plan and DA, that higher densities would render the project infeasible, and that if market conditions were to change then the developer would come back and request more density.

In response to concerns with the lack of recreational facilities, Mr. Hellman advised that the plans had been revised to include recreational facilities in Neighborhood A-1. A 1,500 to 2,000 square foot meeting room with kitchenette, pool, spa and large lawn, picnic areas and additional parking had been proposed. The developer would establish a master Homeowner’s Association (HOA) to ensure that the facility would be accessible to all of the residents including those of Neighborhood E, the affordable housing neighborhood. Two tot lots with children’s play equipment would be installed at both ends of the east-west connector road. Each neighborhood would have common outdoor open areas complete with picnic benches, barbecues and wood trellises.

Mr. Hellman commented that the Zoning Ordinance required a minimum of 60 square feet of open space per unit. Neighborhoods A-1 and A-2 would have a project average of 267 square feet, four times the minimum requirement not including the additional recreational facilities.

In response to concerns with respect to emergency vehicle access (EVA), Neighborhood A-1 would include Street A to be connected to the Business Commercial site while Neighborhood A-2 would have multiple points of emergency access and Neighborhood B, west of the entryway would have Street E connected to West Leland Road via an EVA. With respect to Neighborhood C, Street C would be connected to West Leland Road. When developed, Neighborhood E would connect via an EVA. Each neighborhood would have multiple access points for EVA. The plans had already been reviewed and approved by the Contra Costa County Fire Protection District (CCCFPD).
Mr. Hellman commented in response to concerns with Neighborhood E, that a conceptual site plan had been prepared showing how it might be developed with 93 units. The intent was to blend and merge with the surrounding communities with no fencing to wall off that neighborhood from those located to the north or to the east. The City would select a high quality affordable housing provider, and the developer had commenced interviews of potential candidates. Any architectural restrictions would be recorded with the CC&Rs.

In terms of acoustics, Mr. Hellman presented the Commission with additional written information on the sound levels. To address the acoustics, there were only three alternatives as prepared by Charles Salter and Associates, the noise consultants. The options included restricting the development footprint by pulling it completely away from West Leland Road and State Route 4, building an 8 or 10 foot high wall around the project along both frontages, or using the buildings as the acoustic buffer as had been done with the project design. He suggested that the approach that had been taken would be far superior by allowing the architecture to be turned outside to present a better view of the property from State Route 4 or West Leland Road. Additionally, all of the windows would be triple insulated, the buildings would have mechanical air exchange, and exposed balconies would incorporate greenhouse solariums.

Mr. Hellman also noted that the project would create a new business park with 221,500 square feet, representing almost 900 permanent full time jobs. The jobs would be created adjacent to the residential neighborhoods and would be linked to the new homes by a complete system of sidewalks, landscape paseos, and a new Class I bicycle / pedestrian trail.

Mr. Hellman referenced the time spent on the project with discussions with City staff. He emphasized the assessed tax valuation that would be realized for the City, the housing for more than 1,000 residents, and 93 income restricted units along with employment opportunities. He expressed his hope that the Commission would give the plans favorable consideration.

Commissioner Diokno recognized that the developer had addressed many of his previous concerns. Speaking to Neighborhood E, he asked if the homes would be three or four stories in height. He also understood that the project would be built in phases. He asked what section of the development would be built first.

Mr. Hellman explained that per the site plan for Neighborhood E, the edges would be two stories as would the southern edge bordering West Leland Road. The remainder of the units in that residential neighborhood would be three stories to be plotted with real life floor plans. The plans were conceptual and a developer chosen by the City would likely choose its own plans. The first phase would be one to two parcels in the Business Park, which would be the most economic development at this time. He reported that the developer was in discussion with potential developers for Neighborhood E. The two portions of the property identified for the single family neighborhoods were feasible in the
current market, although there were no plans at this time to build in those neighborhoods. Development of the eastern edge of the property depended upon an agreement between the adjoining property owner and the City as to the removal of an existing hill.

Commissioner Wegerbauer commented that she had viewed a project located in the City of Hercules since the Commission had last met, which had been designed by the same developer.

While the proposed project was a nice transit oriented development a half mile from the BART Station and while feasible, Commissioner Wegerbauer asked how the project related to the needs of the City as a whole. She understood that the project would be phased, that the residential portion would include a number of variances, and that the plans as presented were at the low end of the approved density. She asked how the Commission could approve a single family development with the knowledge it would be phased and with uncertainty about the development’s feasibility in the future. She asked why the developer could not propose a design more toward the high end of the density approved in the DA. She expressed concern with the possible approval of single family homes that may not be built for several years and where the City was giving up required setbacks and the like.

Mr. Hellman recognized the concerns, although he suggested there were plenty of examples of projects in the City and around Northern California that had proven to be infeasible under current market conditions. He acknowledged that if the market was better, a denser development near transit would have been proposed, although the project that had been proposed could really be built.

Commissioner Wegerbauer asked whether or not the townhome density could be increased.

Mr. Hellman commented that the townhomes were three stories and were similar to a development that had been approved and built in the last five years in the City of Hayward. The density for that product would range from 18 to 28 units to the acre depending on the geometry of the site. To reach the high end of the density range, they would need 100 percent tandem parking. The subject development would have 60 to 65 percent tandem parking. He acknowledged that an apartment development would provide more density with a three-story standard walk-up with at-grade parking and carports and that could plot out at 30 to 32 units to the acre, or a mini-podium product could be considered with parking on the first floor either lower or at-grade with three stories of housing built above.

Mr. Hellman cautioned, however, that such housing in the current market cost between $140 and $175 a square foot to build and would not be feasible. A full podium product, one to two stories of at-grade or subterranean parking with four to six wood frame or steel floors above the parking, depending on the unit size, could have a density as high as 80

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units to the acre. That product would cost from $250 to $300 a square foot to build. To justify that development, the applicant would need $450 to $500 a square foot in sales revenue.

Commissioner Garcia explained that six years ago, he had supported low density development, although he had since changed his mind. He understood that variances were still being requested as part of the proposal.

Mr. Hellman clarified that the development would be a Planned Unit Development (PUD). Staff had compared the current multi-family residential development standards in the Zoning Ordinance to the proposed PUD standards, which staff affirmed.

Ms. Vahl clarified that the staff report had not mentioned any variances and the setbacks had been modified during the last meeting at the last minute. The project would not involve any variances.

City Manager/Planning Director Marc Grisham explained that the PUD would set the standards for the project with no variance required. While there had been discussions comparing the project to other developments, he noted that once the PUD was approved it would set the standards in the project.

Commissioner Garcia asked how the project had gone from 14.2 to 15 to 17 units to the acre since the recreational facility was not counted as a unit.

Mr. Grisham noted that the upper number was 25 units to the acre based on the General Plan’s statement for the zoning. There was also a DA in place stipulating the maximum number of units on the site where 17 was the maximum number allowed to be built per acre on the site.

Commissioner Garcia asked if the DA committed the City to the 93 affordable units on the property.

Mr. Grisham explained that the DA committed the City to buying the units. He stated that the density could be achieved on the site with no problem. A minimum density could be set in the PUD as a condition.

Commissioner Garcia asked if the City was trying to ensure the developer met 14 units to the acre.

Mr. Grisham clarified that within the DA, the City had a requirement for affordable housing where three acres was to be provided for the City to develop. He cited the Domus Development affordable housing project on which the City was working, and in that case stated that the City would be looking at a density of 35 or more units to the acre. If the Commission was concerned the density would drop, within the Master Plan
recommendation, or denial, the Commission may specify that Neighborhood E must have unit densities of at least 35 units to the acre. He commented that all of the affordable housing developers he was aware of would likely support that density.

Mr. Hellman added that in the General Plan, Policy 2-P-88 set the maximum number of units for the property at 560 units. He noted that the acreage used in the original calculations was wrong. The correct acreage had been shown in the addendum to the Environmental Impact Report (EIR) as 31.66 acres, the gross acreage for the entire residential area.

Mr. Hellman also commented that by adding the recreational building, nine units would be eliminated, and the total unit count would drop from 475 to 466 units, which would equate to a density of 14.7 units per acre.

Commissioner Garcia asked if the City would guarantee that the developer would be able to make it without the affordable component and if the City met its requirements and did not need that acreage, the developer would then be allowed to build only 12 to 13 units to the acre and had not met the requirements.

Mr. Grisham referred to the creation of a Master Plan where a specific density could be set. In the future, based on best knowledge at that point, if the City no longer supported that density, it could be changed. The same would be true, as an example, of Neighborhood A-2 closest to the BART Station. Given that it could not be built now since it was currently not feasible with the Master Plan, it could be changed in the future and the density could be higher. He stated that there was the ability in the Master Plan to increase the densities in various locations.

Commissioner Wegerbauer asked if the 35 units to the acre located elsewhere in the City were townhomes or condominiums. She understood that the Hayward development that had been mentioned consisted of townhomes with tandem parking, which was less than ideal since side by side parking was desirous. She urged some consideration of storage on the back decks of the townhomes, which would be a benefit to prospective occupants.

Mr. Grisham explained that he was speaking of Neighborhood E, which was viewed as an apartment project. At that level, achieving 35 units to the acre would be simple.

Mr. Hellman affirmed that the Hayward development that had been referenced was a townhome development built in 2002 through 2004, and consisting of three stories.

Chairperson Ramirez spoke to the applicant's fact sheet and the statement made that in 2002 the Planning Commission and the City Council had voted to downsize the property to Low Density Residential. He asked if that was an accurate statement.
Mr. Hellman advised that he had copies of the Planning Commission meeting minutes from that discussion.

Commissioner Garcia recalled that he had not been satisfied with the project at that time in that the project was not paying its fair share to the City. He could not recall that action had been taken.

OPPONENTS: None

PUBLIC HEARING CLOSED

In response to Commissioner Diokno, Mr. Grisham explained that whether the Commission approved or denied the application, whatever action would be forwarded to the City Council. The City Council would act on the Plan and the EIR. During a subsequent meeting, the Commission would be asked to consider the design issues.

Senior Planner Dana Hoggatt added that that scenario would assume the Commission recommended approval of the Master Plan. If the Commission adopted Resolution No. 9773 recommending denial, then per the City Code, that recommendation of denial would terminate the proceedings. Resolution No. 9773 was written to concurrently deny the subdivision and design review requests, and if that resolution was adopted, those items would not come back to the Commission.

Commissioner Garcia stated that he had not changed his mind on the proposal. He preferred to see a higher density proposal. He cited a KB Home development along Leland Road that had garages at the rear with the homes facing each other. He did not see that the property was the proper place for the project. In response to the additional material presented to the Commission by the developer, he pointed out that it was a lot of information just presented and the Commission did not have the opportunity to review that material. In his opinion, the matter should have gone before the City Council for consideration with a better proposal than what had been presented to the Commission at this time.

Commissioner Garcia also expressed concern with the miscalculation in the acreage. He recognized that other Commissioners had yet to speak, but he was prepared to make a motion to adopt Resolution No. 9773.

Commissioner Diokno stated that many of his objections had been addressed in the changes the applicant had presented. He noted that as the applicant has indicated, after Phase 1 was built, the developer would be willing to re-evaluate Neighborhoods A-1 and A-2 and may reapply for a higher density in the future as the market permitted. He would like to allow the developer the flexibility to make that decision.
Commissioner Diokno commented that he had presented the Commission with a list of seven conditions dated October 14, 2008, that he would like to see imposed on the development, although he recognized that staff would likely have to modify some of the language.

Mr. Grisham suggested that Condition 7 of Commissioner Diokno’s conditions could be amended to include language that Neighborhoods A-1 and A-2 would have a density up to 28 units to the acre.

Commissioner Wegerbauer supported an additional condition that the density be at the higher end of what would be allowed by the DA, or that the development could exceed what had been permitted in the DA if the higher density were economically feasible.

In order to create a better development in Neighborhood A-2, Commissioner Wegerbauer wanted to see what was relevant for the City and make it a good development as opposed to sporadic townhomes with minimum density.

Mr. Grisham suggested that the best approach to resolve that issue would be to call out specific densities for Neighborhoods A-1 and A-2 to see which would achieve the maximum density of 560 units to the project. He commented that it was difficult for staff to deal with allowances and what that meant and it would be easier to deal with it through calling out the specific densities in those neighborhoods. A higher density could be set in Neighborhoods A-1 and A-2 in the Master Plan, and the developer would have to design to that density. Tandem parking could allow higher density to be achieved. Since the project would be within walking distance to the BART Station, there should be elements to encourage residents to have only a single vehicle or be more walking oriented, whether walking to the business park or to the BART Station.

Chairperson Ramirez echoed the comments made by Commissioner Garcia. He, too, commented on the amount of information just presented to the Commission, which the Commission did not have the opportunity to review. He read into the record the staff recommendation to deny the applications. He agreed that the matter should have gone before the City Council, suggesting that the Commission should support the staff recommendation, and if the applicant so chose, a denial could be appealed to the City Council.

Mr. Grisham advised, when asked, that any recommendation would be forwarded to the City Council. In the event of a split vote, the project would move forward to the City Council for a decision. If the Commission were to vote for an approval, the project would move forward automatically to the City Council. With a denial of the application, the developer must take a positive action to initiate an appeal process.

Commissioner Garcia stated that he would like to move approval of Resolution No. 9773, which would allow the developer the opportunity to go to the City Council since he was
certain the developer would appeal regardless. If the Council supported the Commission’s decision, staff would have an idea of what the Commission was looking for in a project, and the developer would have to return with a revised project.

Commissioner Garcia did not see that the Commission could make all the changes the developer was requesting unless staff revised the resolution and it came back to the Commission again with new drawings for approval.

Commissioner Garcia made a motion to adopt Resolution No. 9773 recommending that the City Council deny a master plan and denying a design review and vesting tentative subdivision map proposal for the Alves Ranch Development, “Alves Ranch. AP-08-516 (MP, DR, SUB).” The motion was seconded by Chairperson Ramirez.

Commissioner Diokno understood that regardless of the vote, the application would be forwarded to the City Council. He suggested that the Commission would be remiss as advisors not to come up with something other than to deny the application. He preferred to send something to the City Council with recommendations.

**MOTION: AP-08-516 (MP, DR, UB) FAILED**

Motion by Commissioner Garcia to adopt Resolution No. 9773: 1) recommending that the City Council deny a master plan; and 2) denying a design review and vesting tentative subdivision map proposal for the Alves Ranch Development, “Alves Ranch. AP-08-516 (MP, DR, SUB).” The motion was seconded by Chairperson Ramirez and FAILED by the following vote:

- Ayes: Commissioners Garcia, Ramirez
- Noes: Commissioners Diokno, Kelley, Ohlson, Wegerbauer
- Abstain: None
- Absent: None

**MOTION: AP-08-516 (MP) APPROVED**

Motion by Commissioner Diokno to adopt Resolution No. 9772, recommending that the City Council adopt an Ordinance approving a Master Plan for the Alves Ranch Development, “Alves Ranch. AP-08-516 (MP),” subject to the conditions as outlined in Commissioner Diokno’s written memorandum dated October 14, 2008; including a condition for a density of 28 units to the acre for Neighborhoods A-1 and A-2, and the block directly east of Neighborhood C. The motion was seconded by Commissioner Wegerbauer and CARRIED by the following vote:
Ayes: Commissioners Diokno, Kelley, Ohlson, Wegerbauer
Noes: Commissioners Garcia, Ramirez
Abstain: None
Absent: None

Ms. Vahl advised that the public hearing for the design review and vesting tentative subdivision map requests would have to be continued to a date uncertain.

MOTION:

Motion by Commissioner Wegerbauer to continue the public hearing on Tentative Subdivision Map and Design Review Application No. 08-516 to a date uncertain following the anticipated City Council action on the Master Plan and Environmental Impact Report (EIR) Addendum. The motion was seconded by Commissioner Diokno and carried by the following vote:

Ayes: Commissioners Diokno, Garcia, Kelley, Ohlson, Wegerbauer, Ramirez
Noes: None
Abstain: None
Absent: None

COMMISSION CONSIDERATIONS:


An application by Primo Quesada of Ramar Foods requesting four modifications to the site plan and elevations for Ramar Foods approved by the Planning Commission on February 23, 2005, under Resolution No. 9555. The property is located at 335 Central Avenue in the CS-O (Service Commercial with a Limited Overlay, Ord. No. 05-1239) District. APN 086-132-002.

Assistant Planner Ali Endress presented the staff report dated October 14, 2008. She recommended that the Planning Commission adopt Resolution No. 9770, amending approved Design Review Application No. 04-164 in accordance with the Commission’s direction provided at the September 23, 2008, meeting.

PROPONENT:

PRIMO QUESADA, Jr., 1101 Railroad Lane, Pittsburg, was pleased to be able to move forward with the project. He suggested that it was clear based on the discussions during the September 23 Commission meeting that the only issue were the doors on the eastern and western elevations. In response to the concerns that the doors were too residential in appearance, he had discussed with staff an alternative option for double swing doors. The doors would have to be custom made. The residential door located on the southeast
side of the building near the large freezer had also been deemed to be too residential and a commercial flat steel safety door with a window would be installed.

Commissioner Diokno thanked the applicant for working with staff to resolve the issues on the development. He also understood that the applicant was willing to change one of the conditions pertaining to the rooftop of the lattice that screened the air conditioning units, with the lattice to be replaced with solid wood painted the same color as the equipment.

Mr. Quesada affirmed that a T-111 wood façade could be used to screen the rooftop equipment and comply with the conditions of design approval for a solid wood screening of the air conditioning equipment. Ways to anchor the wall to keep it sound were being explored and the T-111 barrier would be installed on three sides of the equipment with the north side invisible to the public while allowing proper air flow for the equipment. The T-111 siding would also be raised approximately 6 to 12 inches to allow further air flow underneath the siding and provide resistance to gusts of wind. He added, when asked, that he had read and was in agreement with the staff recommended conditions.

Commissioner Wegerbauer was also pleased that the applicant had worked with staff. She clarified with the applicant that the new replacement doors could be installed within 7 to 10 days.

OPPONENTS: None

Mr. Grisham noted that item 3 on Page 1 of 7 of the staff report would have to be amended to reflect that the applicant would either provide a T-111 siding on three sides with ventilation at the bottom based on the ability to adequately secure it to the building, or that there would be no screening of the rooftop equipment in lieu of the lattice. Staff was of the opinion that the lattice was amateurish and not appropriate, and that it would be better to see the equipment.

MOTION: AP-04-164 (DR)

Motion by Commissioner Garcia to adopt Resolution No. 9770 granting design review approval for Ramar Foods request for amendments to Design Review Application No. 04-164 with regard to the screening of ground and rooftop mechanical equipment and the design of doors on the eastern and western elevations, “Ramar Foods Request for Amendments to AP-04-164 (DR),” as conditioned, with an amendment to Condition 3 to reflect that the applicant would either provide a T-111 siding on three sides with ventilation at the bottom based on the ability to adequately secure it to the building, or that there be no screening of the rooftop equipment. The motion was seconded by Commissioner Diokno and carried by the following vote:
Ayes: Commissioners Diokno, Garcia, Kelley, Ohlson, Wegerbauer, Ramirez  
Noes: None  
Abstain: None  
Absent: None

**Item 4: Assembly Masters Extension of Approval. AP-07-459 (DR).**

An application by Hal Westphal of Assembly Masters requesting an extension of design review approval to install a 500 square foot temporary storage structure behind an existing 3,000 square foot building. The subject site is located at 270 East Tenth Street in the CSD (Downtown Service Commercial) District. APN 085-205-009.

Assistant Planner Ali Endress presented the staff report dated October 14, 2008. She recommended that the Planning Commission deny the request for an extension of approval of Design Review Application No. 07-459 because the applicant had failed to comply with the project conditions of approval requiring improvements to the existing permanent building on site.

**PROPOENENT:**

GREG BARCLAY, Co-Owner of Assembly Masters, 270 East Tenth Street, Pittsburg, explained that the original application had been submitted in 2007, not 2008. The building had been built for storage purposes for the circuit board company, a Pittsburg business operating for the past 30 years under Hal Westphal's [his father in-law] ownership. He described the circuit board assembly process. He noted that one of their largest customers representing approximately 90 percent of their revenues had requested the storage of equipment on the site to allow expansion of their own operations in an existing building. That storage was needed quickly, or that customer could have been lost. An application had been made to the City in July 2007 and had been approved on September 11, 2007.

In order to preserve that customer relationship, Mr. Barclay had assumed that once the project had been approved, he could proceed with the building. He had been unaware that the remodel on the front of the site was to have been done first.

Mr. Barclay explained that the customer he was trying to preserve had ultimately been lost due to a buy out from another corporation in January 2008, resulting in a 90 percent loss of their revenue. As a result and due to the economy, the business had been extremely slow and his partner had medical issues resulting in his absence from the business. In March 2008, he had submitted an application for the storefront remodel along with the payment of associated fees. The project had been stalled when he was required to hire an architect to produce drawings, which would require money he did not have due to the financial impacts on the business. He was hopeful that the customer that had been lost may come back, although the business was operating week to week, had
local employees and was working to keep the company alive. He noted that he could not obtain building permits for the storage area until the remodel in the front had been completed, and that remodel could not be completed since he did not have the funds.

Given the current situation, Mr. Barclay stated he was doing everything he could to cooperate and had shown a good faith effort. He would like to remain in the City and continue to employ local residents, although he suggested that he would likely not have the funds to pay an architect for at least the next two to three months. At that time, he may be able to do little by little what could be done to comply with the conditions.

OPPONENTS: None

Commissioner Ohlson understood that the building was not in compliance with the drawings. He asked whether or not the building was safe.

Mr. Grisham explained that in order to determine the safety of the building a building permit must be pulled and the building inspected, which had not been done given the non-compliance with the original conditions of approval.

In order to determine the safety of the building, Mr. Grisham advised that the Commission would have to authorize staff to allow the applicant to proceed with the building permit to allow occupancy of the temporary building at the rear.

Commissioner Garcia commented that it was unusual that a building had gone up without approvals. He asked whether or not it would be possible for the Building Department to inspect the building since it was already in existence to determine its safety. He recognized that the business had been in the City for 30 years and that the economy was very poor, although that did not excuse non-compliance.

Mr. Grisham concurred that would be feasible, although the Commission would have to direct staff to take such action. When Commission policies had been established and not carried out, such situations were brought to the Commission’s attention. The Commission may direct the building permit process to move forward on the temporary building. The Commission may also extend the period of time, 90 days as an example, to allow the applicant to come back with an architectural design for the front of the building. That would allow staff the flexibility to work with the applicant on a schedule for any other façade improvements.

Commissioner Garcia affirmed with Mr. Grisham that the resolution before the Commission could be extended for a 90 day period.

Commissioner Wegerbauer commented that she was of the opinion that when an applicant appeared before the Commission and stated that something would be done, it must be done. She had been a member of the Commission when the project had been
approved. She emphasized that the Commission must be consistent in terms of other applicants who did not comply with the approved conditions. She did not want to set a precedent. She also acknowledged the comments from the applicant but asked about the staff time and asked whether or not the fees could be kept by the City or be paid within 90 days. She would like to work with the applicant to give him some time, although she also wanted to be fair on both sides.

Ms. Endress advised that a fee was required from an applicant requiring an extension of approval and that fee in this case would be $500. The applicant had paid that fee.

Commissioner Ohlson was not convinced that 90 days would be long enough in that he did not want to put a time limit that would require the applicant to do something where he may not have the money to pay for that work. He did not want the City to put so much pressure on the applicant that he would be forced out of business. He asked the Commission to consider a 120- or 180-day extension.

Chairperson Ramirez suggested that 120 days was reasonable.

Commissioner Garcia made a motion to continue Resolution No. 9775 for 120 days.
Mr. Grisham understood that the applicant should move immediately to obtain a building permit for the temporary structure separate from the design issues at the front of the building.

Mr. Knapp verified with Commissioner Garcia the intent that the resolution grant the applicant a 120-day extension.

Ms. Endress asked if the Commission would like the building permits approved for the building as constructed or for the building as constructed with the painting modifications as approved in the original application, which had required the building to be painted light brown with a slate trim.

Commissioner Wegurbauer supported the original approved condition.

Commissioner Garcia also supported the originally approved conditions.

**MOTION: AP-04-164 (DR)**

Motion by Commissioner Garcia to continue Resolution No. 9775 and approve the applicant’s request for an extension of design review approval to install a 500-square foot temporary storage structure behind an existing 3,000 square foot building located at 270 East Tenth Street in the Downtown Service Commercial District, for 120 days. The motion was seconded by Commissioner Kelley and carried by the following vote:
Ayes: Commissioners Diokno, Garcia, Kelley, Ohlson, Wegerbauer, Ramirez
Noes: None
Abstain: None
Absent: None

**Item 5: California Theater Remodel. AP-08-533 (DR).**

An application by Maria Aliotti representing the Redevelopment Agency of the City of Pittsburg requesting design review approval for exterior renovations and improvements to the California Theater at 351 Railroad Avenue. The site is in the CP-1 (Pedestrian Commercial) District. APN 085-108-004.

Assistant Planner Leigha Schmidt presented the staff report dated October 14, 2008. She recommended that the Planning Commission approve Design Review Application No. 08-533, as conditioned.

**PROPONENT:** City of Pittsburg Redevelopment Agency

In response to Commissioner Wegerbauer, Maria Aliotti, representing the Redevelopment Agency (RDA), explained that the RDA had been working on the design since 2006.

Only the façade design was under consideration at this time for the project, which would be phased. Phase 1 would consist of the reinforcement of the box and rehabilitation of the façade with the interior work to be done at a later time.

Commissioner Garcia understood that a “pot” located on each end of the roofline of the façade was original to the building design.

Ms. Aliotti introduced the Architect who had researched the historical aspects of the project.

NAOMI MIROGLIO, Architectural Resources Group, Pier 9, Embarcadero, San Francisco, explained that a cover sheet had been included on the plans attached to the staff report. The cover sheet included a historic photograph of the building, which had depicted the urns on the building.

Commissioner Ohlson was pleased to see the RDA getting the paperwork together to straighten out the building even given the current economy. He found it to be a good project he hoped would succeed.

**OPPONENTS:** None
MOTION: AP-08-533 (DR)

Motion by Commissioner Garcia to adopt Resolution No. 9776, granting design review approval for exterior renovations at 351 Railroad Avenue, for “California Theater. AP-08-533 (DR),” as conditioned. The motion was seconded by Commissioner Kelley and carried by the following vote:

Ayes: Commissioners Diokno, Garcia, Kelley, Ohlson, Wegerbauer, Ramirez
Noes: None
Abstain: None
Absent: None

Commissioner Kelley stepped down from the dais due to a potential conflict of interest with the next item.

Item 6: New Bethel Missionary Baptist Church. AP-08-543 (DR).

An application by Frances Greene of New Bethel Baptist Church requesting design review approval of architectural plans in order to re-instate expired approvals necessary to resume construction of a 20,652 square foot church and related site improvements at 360 Central Avenue, RS-5 (Single-Family Residential) District. APN 073-151-002.

Associate Planner Kristi Vahl presented the staff report dated October 14, 2008.

Ms. Vahl recommended that the Commission adopt Resolution No. 9774, approving Design Review Application No. 08-543, as conditioned. In the event the Commission decided to approve the entire project as proposed by the applicant, she explained the item would have to come back to the Commission as a public hearing with a request for a variance from certain development standards.

Commissioner Wegerbauer asked whether or not the use permit was active whereby the building was being used by the congregation.

Ms. Vahl explained that the use permit would be determined to be active once building permits had been pulled and would remain active for nine months after the use ceased to operate.

Mr. Grisham commented that the project had involved a 20-year process. The Planning Commission and the City Council had been unbelievably lenient since the building had remained blighted and unfinished. Staff was of the opinion that approval should be just for the first two of the three project phases and not for the entire project since staff had brought the matter forward to the Commission reluctantly. The project had been on the top ten list of problem properties in the City.
PROONENT:

FRANCES GREENE, 56 Barrie Drive, Pittsburg, introduced the Project Contractor Eugene Reynolds to the Commission. She spoke to the parking lot area and noted that the foundation was in existence for the sanctuary. She asked that the parking be moved back since the foundation would be impacted.

Ms. Vahl understood that the footings had been installed for the foundation which work had commenced absent Planning Commission approval of the third phase.

Ms. Greene disagreed with the staff comments.

Commissioner Garcia recalled that the project was to be done in three phases. Initially, the first phase had been approved and subsequently the second phase had been approved. A third phase had not been approved or considered by the Commission which could be verified by the original resolutions of approval.

Ms. Greene recalled that the foundation was a part of the third phase of the project, and she had paid a fee to the Building Department for that work.

Mr. Grisham explained that in some instances the issuance of a Building Permit did not mean that the Planning Commission had taken action. He understood that the City had verifications on record.

Ms. Vahl clarified that foundation permits by themselves were not subject to the review of the Planning Commission.

Ms. Greene added that the windows had been installed, but they had been boarded up to ensure they would not be broken.

Commissioner Diokno asked when the project would be complete.

Ms. Greene explained that the project was to be completed by January 30.

EUGENE REYNOLDS, Contractor, commented that the City’s Inspector had inspected the property as had the CCCFPD, which had inspected the building in 2007. Staff had provided a punch list of items that needed to be completed for the building. The CCCFPD had asked for a new design on the fire protection of the building. That had required a new fire plan which had been reviewed by the CCCFPD, who had not moved quickly to review the plans. As a result, the project had been delayed. Once the plans had been received and approved by the CCCFPD and the work done, in 2008, the project had passed its deadline when the project was to be completed. The City had notified the applicant that the project would be shut down. The project was shut down by the City and
had remained shut down for the past six months. Had the City not shut down the project, the first two phases would have been completed.

Commissioner Diokno asked if everything were to move smoothly and permits issued when Phases 1 and 2 would be completed.

Mr. Reynolds estimated that the two phases could be completed within 90 days. The only items remaining to be done were the punch list items. He added that the original landscaping plan was not the plan being presented to the Commission. He acknowledged that the project had experienced money problems.

Ms. Greene added that there was financing in place for Phase 3. As to the landscaping, she noted that the landscaper was working on the irrigation and the like when the project had been shut down, and the work had yet to be completed.

Commissioner Ohlson understood that the building had been under construction for the past 20 years and it was not being used as a meeting place.

Ms. Greene explained that the land had been purchased by the church and the project had commenced. At that time, the Pastor of the church had become ill and passed on. No meetings had occurred inside the building.

Mr. Reynolds commented that there had also been different designs during the course of the project.

The sanctuary had been refurbished and the illness of the Pastor had not allowed the opportunity to finish the work and had also affected the congregation and the church finances.

Ms. Greene also noted that her husband had become ill and passed on as well. She reiterated that the landscaping would have been completed had the project not been shut down by the City.

Mr. Grisham clarified that in the time he had been with the City, there had been additional timeframes extended to the project. He was pleased to learn that the project could be completed in 90 days, and he wished that could be conditioned on the application since 20 years was too long for the project to sit unfinished in the community.

Commissioner Ohlson understood that citizens were concerned with the external appearance of the building. Even if landscaping was not installed that needed irrigation, weed abatement during the time the project had been shut down could have been done. He understood that was a City requirement.
Ms. Greene suggested that the property had been abated. She commented that she had been under the impression she would have been able to appear before the Commission sooner to allow the recommencement of the project.

Commissioner Ohlson understood that the required parking lot would be located where future Phase 3 would be built.

Ms. Vahl noted that that was a potential revision. In order for the church to occupy the site and for the Commission to provide an approval, the applicant must meet the minimum parking standards. The minimum parking standard for the building was 66 parking spaces. The building currently had 15 parking spaces in the front.

Mr. Grisham suggested that the parking in the area referenced could be configured as long as it met the proper landscaping requirements. He was uncomfortable with any approvals for Phase 3 pending the completion of Phases 1 and 2, with adequate parking.

Commissioner Ohlson expressed concern about placing parking on an area designated for future development. He would like it clarified that the City was not requiring the applicant to place the parking on the area designated for Phase 3, but that reasonable parking be provided.

Ms. Vahl reiterated that the area was not a requirement for the parking, although the recommended approval had envisioned the building as a standalone and had not considered a Phase 3.

Mr. Grisham explained that the parking lot could be configured where it would not impact the unapproved Phase 3. Commissioner Ohlson asked whether or not the building would be able to be used pending the approval of Phases 1 and 2, which the applicants affirmed.

Mr. Reynolds expressed his hope to move swiftly after this winter and start early next spring on Phase 3. He reiterated that if the City were to issue approvals, Phases 1 and 2 could be completed within 90 days. As to the parking issues, he commented that a former Commission had approved the parking to be brought within a 20-foot pass at the rear of the building and to use the front parking since the sanctuary was not being used. A subsequent Planning Commission had changed that requirement. In speaking with staff, he noted that they did not have the funds to pave the area of the pass and take it back out other than using base rock. At that time, the parking spaces in the front had been approved for the space and for bringing the paving to the 20-foot pass in two wings, which had been done. The drainage system had also been installed with curb and gutters to be completed with the remainder of the parking lot for Phase 3.

Mr. Grisham explained that 20 years had passed and they were now dealing with a new application. Staff would not have recommended that Phases 1 and 2, which would
require a sufficient amount of parking as identified in the staff report, be allowed to be completed with just a gravel parking lot at the rear. A total of 66 parking spaces including the 15 parking spaces in the front must be constructed, with not just a gravel parking lot, but with paving. That would be just for Phases 1 and 2.

Chairperson Ramirez asked whether or not the applicant had the funds to provide the required paving for the parking and complete it in 90 days.

Mr. Reynolds commented that issue was a new expense he was not expecting. He understood that base rock would be allowed in the parking lot. In speaking with staff, that would have been acceptable and he had not expected to provide additional parking.

Mr. Grisham did not believe that had been a suggestion made by current staff.

Commissioner Garcia noted that there was always a parking lot at the rear that had been paved and that did not go to the railroad tracks. He commented that he had recommended to Ms. Greene in the past that the church consider selling that rear half of the property to get enough funds to complete the church. After the initial proposal, when Phases 1 and 2 had been proposed, the parking lot had become larger.

Mr. Reynolds clarified that the recommendation had been that he would place base rock around between the parking lot and the building for the disposal trucks to go around and back up. He had not recommended a base rock parking lot.

Mr. Grisham suggested that the project conditions as identified were clear on what needed to be done. The recommendation was that sufficient parking spaces be provided.

Mr. Grisham noted that the Phase 3 area could continue in its undeveloped state as long as sufficient asphalt parking and parking spaces were provided on the site.

Ms. Vahl clarified, when asked, that the parking requirement was one parking space for each 50 square feet of assembly area. The classroom area of Phase 2 and the area on the eastern portion had been used in that calculation.

Mr. Grisham added that a reduced number had been used for the calculations.

Ms. Greene commented that someone had contacted her about purchasing the space at the rear, indicating that they were working with the City on permits. However, with the current economy, she was uncertain of the status of that interest.

Commissioner Garcia pointed out that the driveway and landscaping were to be completed in 2006. The same Contractor had indicated that work would be done in a short period of time but all of the work was not complete. He suggested that 90 days was too optimistic and he would recommend a more realistic time period.
Ms. Greene asked for a 120-day period to complete the project.

Mr. Grisham explained that no timeframe condition had been placed in the resolution.

Commissioner Ohlson asked that weed abatement be conducted on a regular basis, such as every six weeks, to ensure that the property was well maintained. If the boards were to remain on the windows, he would recommend they be painted.

Mr. Reynolds commented that the windows had been replaced frequently, at great cost, which was the reason the windows had been boarded over.

Commissioner Wegerbauer asked if the applicant was in agreement with the terms and conditions as reflected in the resolution.

Mr. Reynolds agreed with the exception of the condition related to the sanctuary.

Mr. Grisham advised that had not been a recommendation, just a staff illustration as to how that area could be designed.

Commissioner Wegerbauer made a motion to adopt Resolution No. 9774, granting design review approval of architectural plans for the New Bethel Missionary Baptist Church at 360 Central Avenue, as conditioned, with improvements to be completed within 120 days.

Mr. Grisham reiterated that a timeframe had not been imposed in the resolution and the motion would be acceptable minus the reference to 120 days.

OPPONENTS: None

MOTION: AP-08-543 (DR)

Motion by Commissioner Wegerbauer to adopt Resolution No. 9774, granting design review approval of architectural plans for the New Bethel Missionary Baptist Church at 360 Central Avenue, as conditioned. The motion was seconded by Commissioner Garcia and carried by the following vote:

Ayes: Commissioners Diokno, Garcia, Ohlson, Wegerbauer, Ramirez
Noes: None
Abstain: None
Absent: Commissioner Kelley [recused]

Commissioner Kelley returned to the dais at this time.
ZONING ADMINISTRATOR REPORTS:

The Planning Commission acknowledged receipt of the following

7. Notice of Intent to Exercise Delegated Design Review Authority:
   Bay Harbor Park Painting Project. AP-08-561 (AD).

PLANNING DIRECTOR / STAFF COMMUNICATIONS:

There were no Planning Director/Staff Communications.

COMMITTEE REPORTS:

There were no committee reports.

PLANNING COMMISSIONERS’ COMMENTS:

There were no Planning Commissioners’ comments.

ADJOURNMENT:

There being no further business, the meeting adjourned at 9:45 p.m. to a Regular Meeting scheduled on October 28, 2008, in the City Council Chamber at 65 Civic Avenue, Pittsburg, CA.

MARC S. GRISHAM, AICP, Secretary
Pittsburg Planning Commission