MINUTES
OF A REGULAR MEETING
OF THE
PITTSBURG PLANNING COMMISSION
October 23, 2007

A regular meeting of the Pittsburg Planning Commission was called to order by Chairperson Ohlson at 7:00 P.M. on Tuesday, October 23, 2007 in the Council Chambers, City Hall, 65 Civic Avenue, Pittsburg, California.

ROLL CALL:

Present: Commissioners Diokno, Garcia, Harris, Kelley, Ramirez, Wegerbauer, Chairperson Ohlson
(Commissioner Kelley arrived at 7:10 P.M.)

Absent: None

Staff: Planning Director Melissa Ayres, Associate Planner Dana Hoggatt, Assistant Planner Jason Burke, City Engineer Joe Sbranti, and Assistant City Attorney Jake Knapp.

POSTING OF AGENDA:

The agenda was posted at City Hall on Friday, October 19, 2007.

PLEDGE OF ALLEGIANCE:

Commissioner Harris 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:

a. Minutes - October 9, 2007

MOTION:

Motion by Commissioner Ramirez to adopt the Consent Calendar, as shown. The motion was seconded by Commissioner Harris and carried by the following vote:

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

PUBLIC HEARING:

Item 1: Don Pepe’s Mexican Market. AP-07-467 (UP)

Application by Alberto Montano requesting approval of a use permit in order to establish a grocery store in an existing 2,061 square foot retail space in the Wal-Mart Shopping Center. The retail space is located at 2181 Loveridge Road, CC (Community Commercial) District; APN 088-630-008.

Associate Planner Dana Hoggatt presented the staff report dated October 23, 2007 recommending that the Planning Commission adopt Resolution No. 9739 approving AP-07-467 (UP), as conditioned.

Commissioner Wegerbauer confirmed with staff that although Wal-Mart was not the owner of the shopping center itself, the agent on behalf of the property owner had been required to sign off on the application.

PUBLIC HEARING OPENED

PROPOONENT:

ALBERTO MONTANO, 2392 Woodhill Drive, Pittsburg, explained that he and his business partner had been working to open a grocery store close to Wal-Mart given the Hispanic community in the area and since the closest Mexican grocery store was located farther down Railroad Avenue.

Mr. Montano affirmed in response to Commissioner Garcia that he had read and was in agreement with the staff recommended conditions of approval.
Commissioner Ramirez welcomed the business to the community. He stated it was sorely needed in the proposed area.

OPPONENTS: None

PUBLIC HEARING CLOSED

Commissioner Kelley explained that although she had not been present for the staff presentation she had read the staff report and would participate on the vote.

Planning Director Melissa Ayres explained that Commissioners must be present for the public hearing process although given there was no one other than the applicant to speak for or against the item and since the public hearing had just been opened and closed, she was comfortable with Commissioner Kelley’s participation.

MOTION: AP-07-467 (UP)

Motion by Commissioner Ramirez to adopt Resolution No. 9739, approving AP-07-467 (UP), a Use Permit to establish a grocery store at 2181 Loveridge Road, for “Don Pepe’s Mexican Market, AP-07-467 (UP), as conditioned. The motion was seconded by Commissioner Harris and carried by the following vote:

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

Chairperson Ohlson identified the 10-day appeal process of a decision of the Planning Commission in writing to the City Clerk.

CONTINUED PUBLIC HEARING:

Item 2: United Spiral Pipe LLC, Manufacturing Plant. AP-07-445 (UP/DR/VA)

Application by United Spiral Pipe LLC requesting use permit and design review approval to construct and operate a steel pipe manufacturing facility including one 45-foot tall, 340,000 square foot manufacturing building, one 45-foot tall, 12,000 square foot administration building, and related site improvements on a 44.8 acre site located at 900 East Third Street in the IG (General Industrial) District; APNs 073-030-015 and a portion of 073-210-031. The applicant is also requesting a variance to reduce the minimum parking requirement from 1 space per 1,000 square feet to 1 space per 1,787 square feet. (Continued from 10/09/07).
Ms. Ayres reported that staff had received three letters on the project; one from Anderson & Bonnifield dated October 19, 2007; a letter from Adams, Joseph, Broadwell & Cardozo dated “Received October 23, 2007;” and a letter from Albert D. Seeno Construction Company dated October 23, 2007.

Assistant Planner Jason Burke presented the staff report dated October 23, 2007. He recommended that the Planning Commission adopt Resolution No. 9738, approving Use Permit, Variance, and Design Review Application No. 07-445, subject to conditions.

Mr. Burke clarified that the proposed administration building would be a single story building 19 feet tall, not 45 feet tall as noted in the staff report. He added that upon further review of Pittsburg Municipal Code Section 18.78.046 related to bicycle parking, only 10 bicycle parking racks for projects requiring 100 to 200 parking spaces would be required. If the proposed parking variance was approved, the project would still have to provide 10 bicycle parking spaces. He referred to the change to Design Review, Condition 12 of Resolution No. 9738, to reflect that the “developer shall install bicycle racks to accommodate a minimum of 10 bicycles on site.”

Mr. Burke also recommended an additional condition to Section 3. Decision, of Resolution No. 9738, to read as follows:

*The operation of the project shall be in compliance with all conditions set forth in the BAAQMD UPI permit to operate (PTO) for the project, as such permit is amended, revised or otherwise changed from time to time. Locomotive trips from project operations shall not exceed those permitted in the PTO.*

Mr. Burke explained that two comments had been received during period the public comment on the Notice of Intent to adopt Mitigated Negative Declaration for this project. They included comments received from the law firm of Anderson & Bonnifield and from the Department of Toxic Substances Control (DTSC). A further e-mail had been received from the DTSC related to the actual location of the Camp Stoneman formerly used defense site. He reported that the former Camp Stoneman was not within the project site. Staff was of the opinion that the inclusion of a condition of approval ensuring that the soils and management plan include provisions for the discovery of unexploded ordinances still applied.

Mr. Burke explained that the issues raised in the letter from Anderson & Bonnifield related to air quality, traffic, hazardous materials and bicycle parking did not have merit to sufficiently preclude the approval of the Initial Study and Mitigated Negative Declaration. The comments received related to the traffic study had been erroneously based on the threshold for a traffic impact analysis based on the peak hours of the project, not peak hours of the adjacent roadway. Air quality concerns raised in the comment letter had been
covered in the existing permit to operate and authority to construct permit granted by the Bay Area Air Quality Management District (BAAQMD) as part of the proposed project. Mr. Burke also advised that a hazardous materials response plan related to Pittsburg Municipal Code Section 18.84.285 was not required for the project since Section 18.84.208 Permit Requirements, specified that a hazardous materials plan was only required for facilities that handled a large amount of hazardous material, such as 12,000 tons of hazardous materials. The project site would not include the handling of a large amount of hazardous materials and the identified was therefore not required.

Concerns related to train crossings and traffic impacts from train crossings would not significantly impact emergency vehicle access. The General Plan’s specific requirement for a five minute response time would be met due to the nearby location of the downtown fire station.

Additional concerns related to historic surroundings of the Quonset hut located on the southeastern corner of the project site had also been addressed. Staff was of the opinion that the area surrounding the Quonset hut would not affect the historic nature of the structure due to the current surroundings including industrial rubbish, refuse, and bare grass and dirt. The project would maintain the industrial nature of the surrounding areas, which was the original historic context use of the building.

Mr. Burke added that staff was of the opinion that the Initial Study and Mitigated Negative Declaration would be adequate in light of the concerns raised in the comments letter. Staff was also of the opinion that the Planning Commission could make the findings to grant a use permit for the heavy manufacturing facility within the IG District and could grant a variance for the reduction in the parking requirements, and approve the design review application for the proposed manufacturing facility without further environmental analysis.

Commissioner Diokno spoke to the proposed additional condition to the use permit related to the BAAQMD UPI permit. He inquired of the number of PTO trips anticipated to the site.

Mr. Burke understood that the original PTO covered the project site and the existing UPI facility and would allow 50 trips per day. The proposed project increase would be within the maximum trips allowed for the entire site. The PTO numbers were related to ships and rail cars. The subject project would involve 10 rail cars per train unit and the number of locomotives would remain the same.

Commissioner Wegerbauer understood that the downtown fire station would be moving from its current site. She questioned relying on its location to meet the required emergency response period.

Ms. Ayres reported that the downtown fire station would be relocating from its downtown location to a site across from City Hall, still within the five minute response time to the subject area. Also, the General Plan included a diagram identifying the fact that the
downtown fire station would continue to cover the subject area.

Commissioner Garcia understood that there would be no potentially significant adverse impacts from the rail cars to City traffic as a result of the manufacturing facility.

City Engineer Joe Sbranti explained as related to the Loveridge Road crossing staff anticipated a maximum of 10 cars, which would take an estimated 30 to 40 seconds for those cars to cross Loveridge. That would only occur when deliveries were coming from the east.

Commissioner Garcia understood that the ships from Korea had been designed to be environmentally friendly since they would re-burn their exhaust when entering San Francisco Bay.

Mr. Burke clarified that as the project description had described, clean burning fuels would be used by the ships in the port area. When the ships were docked and whenever possible they would use port side power as opposed to running their generators.

Commissioner Harris referenced the number of employees anticipated for the business, the parking spaces that would be provided and the anticipated trip generation for those employees. He clarified with staff that the employee trip generation was one shift coming on and one leaving, consisting of two different groups of people. Based on the staff analysis, he suggested that would likely involve 100 trips per day.

Mr. Sbranti clarified that the Contra Costa County technical procedures required the City to use a certain criteria to trigger a traffic study. Based on those procedures, “traffic impact studies will be required for all projects that generate 100 vehicle trips during the peak hour of adjacent street traffic.” In this case, the adjacent street traffic used in the analysis was either Harbor Street or Loveridge Road. In both cases, the peak hour was between 3:00 and 4:00 P.M. As a result, those trips would not count against the peak hour of traffic other than miscellaneous trips coming/going from the site between 3:00 and 4:00 P.M.

Mr. Sbranti explained that whether or not a traffic study was required had not been based upon after-the-fact counts. The determination had been based on the information available. He advised that the Commission could condition the ending period of the shifts to remain at 5:00 P.M. so that it would not overlap with the peak hour between 3:00 to 4:00 P.M.

Commissioner Harris disagreed that a traffic study was not needed. In his opinion being very familiar with the area and familiar with the volume of traffic in the area, he suggested the project would generate 100 or more trips.

In response to Commissioner Wegerbauer, Mr. Sbranti again clarified that the analysis in the staff report was accurate that the peak hour was between 3:00 and 4:00 P.M. Data
was available for review to support that determination.

Ms. Ayres explained that the shift changes would occur around 5:00 P.M. although the peak traffic on the adjacent streets was between 3:00 and 4:00 P.M. As a result, the operation would have to have 100 of the 165 anticipated employees coming and going between 3:00 and 4:00 P.M. to trigger a traffic study. As this would not occur on a regular basis, there was no justification requiring a traffic study in place for the project.

Mr. Sbranti cited State Route 4 as an example for any impacts to that roadway with more than 100 trips. If the impact would not occur until 1:00 A.M., State Route 4 could clearly handle the additional traffic at that hour. However during the peak hour, that roadway may not be able to handle that additional traffic. In this instance, the peak hour for the subject project was between 3:00 and 4:00 P.M., and the shift change being at 5:00 P.M. would not trigger a traffic study during that period of time.

Commissioner Garcia understood that the concerns raised by those who had submitted letters were that the City had not been consistent when requiring traffic studies. He cited the area of Century Boulevard known as restaurant row where three traffic studies had been required. The City of Antioch had requested a fourth traffic study in that case resulting in that project being held up for 18 months. He agreed that the subject proposal did not require a traffic study. He noted that had the City been more consistent with its criteria for requiring traffic studies, concerns might not have been raised by those developers who had been required to have more than one traffic study for their specific projects.

Mr. Sbranti pointed out that the project referenced was far different since it involved restaurants with customers at all hours rather than the subject project involving a shift change in employees.

Commissioner Harris clarified with staff that the Johns Manville project consisting of 200 homes would use Harbor Street and that had included a traffic study which had conducted a cumulative study identifying impacts at all of the nearby intersections with Levels of Service (LOS) at A and B. The traffic study in that instance had not been paid by the City but by the developer.

Commissioner Harris reiterated his opinion that a traffic study should be required for the project as well as an Environmental Impact Report (EIR).

Mr. Sbranti clarified that the General Plan did not require a traffic study for all projects.

Commissioner Ramirez questioned how the materials coming from U.S. Steel adjacent to USS-POSCO would be transported to the subject site, either by rail or truck.

Mr. Sbranti suggested the applicant could clarify that information during their presentation.
Commissioner Wegerbauer requested clarification from staff as to how projects were evaluated in terms of the criteria for triggering a traffic study, particularly given the current and future development in Old Town Pittsburg.

Mr. Sbranti explained that normally traffic studies were done in a manner that anticipated cumulative effects of all development. In the case of the restaurant row along Century Boulevard in Pittsburg, the developer in that case had not wanted to study the cumulative effects but the impacts of one restaurant at a time, ultimately resulting in the preparation of four traffic studies.

In this case, the Harbor Park Cumulative Traffic Study included an analysis of the build out of all areas and the impacts on all intersections surrounding the subject project. It had been determined that the subject application would not affect the peak hour which determined the LOS of the intersections. In this case since it would not impact the LOS and the LOS would not be lowered, a traffic study would not be required for the subject application. Again, in this case there would be a LOS of A and B for some of the key intersections in the area taking into account future anticipated development including future development along Railroad Avenue. The farther away from the subject site the fewer impacts.

Commissioner Garcia noted that Century Boulevard had not required another traffic study since it had been considered in the original EIR which had studied all of the acreage on Century Boulevard.

Commissioner Wegerbauer understood the applicant’s request for a parking variance, although considering the future and long term planning in the downtown area and development planned along Railroad Avenue, she questioned what would happen if the project was in operation and there was a need to expand or in the future there was a change in the use.

Commissioner Wegerbauer inquired what options would be available if more parking was needed. She also questioned what could happen if the site were sold to another user in the future, which might have the same zoning although different parking needs.

Mr. Burke explained that the project included a variance request and use permit for the project as defined, with 165 employees and 197 parking spaces. If the applicant were to expand its operations, the use permit as defined would not be valid for the project and the parking and use permit would have to be reevaluated.

Ms. Ayres added that much of the property consisted of gravel where the business would be storing some of its outdoor coils and pipes. If the business were to cease operations, there was a lot of land that could be used for parking, if needed, should a different use
Chairperson Ohlson spoke to Resolution 9738, Use Permit Condition 10, the second bullet, and requested definition of “overtopping” as defined in that section. Mr. Burke advised him that overtopping was when too much gas was put in and spilled out over the tank.

Chairperson Ohlson also spoke to Resolution No. 9738, Design Review, Condition 17, and asked for the definition of “East Bay” type of fire hydrants.

Mr. Sbranti explained that the intent of the condition was that the fire hydrants be standard whereby if an emergency occurred and outside agencies were to come in, all equipment would fit and be usable.

Chairperson Ohlson also speaking to Resolution No. 9738, Engineering and Construction Condition 37, asked for a definition of the use of the term “wicking” as defined in that condition.

Mr. Sbranti explained that wicking was used for the soil to compact more quickly, which would help the moisture content work with the compaction process. It was a geotechnical term for the wicks to allow the soil to drain more quickly.

PUBLIC HEARING OPENED

PROPOSENT:

ROD SIMPSON, United Spiral Pipe LLC, 900 East Third Street, Pittsburg, suggested that the project would benefit the City. He asked that the Commission approve the project as presented. He stated that a continuance would impact commitments made and could adversely affect the viability of the project.

Mr. Simpson presented a Power Point presentation to the Commission describing the project as a joint venture between U.S. Steel, USS-POSCO and a South Korean steel corporation, consisting of a manufacturing facility to fabricate spiral wound pipes out of coils of hot rolled steel. The facility would produce approximately 300,000 net tons of the pipe, ranging in size from 24 inches in diameter to 64 inches, with a pipe length of 80 feet. The pipe would be used to transmit oil and natural gas over long distances due to the expansion of the oil and gas industry throughout North America needing new pipelines and the replacement of aging pipelines.

The project would create 165 permanent manufacturing jobs. The pipe would be manufactured in a 340,000 square foot building which would house all of the equipment to build, form, weld, test and provide an epoxy coating on the pipeline. A 12,000 square foot office/administration complex would be built in close proximity to the manufacturing
Mr. Simpson explained that the hot rolled steel coils shall be received by either rail or ship, similar or identical to the USS-POSCO process, where almost half of the coils would be received by rail from U.S. Steel and the other half by USS-POSCO by ship.

There would be four ships serving the project from USS-POSCO industries, which ships would be fitted with catalytic converters. Twelve miles outside of the Golden Gate Bridge the fuel oil would be changed to a low sulfur fuel oil and the exhaust would be diverted into the catalytic converter. The port would be one of few in the Bay Area where the ship engines would be shut down completely with electrical short power used during the unloading of product. The hot roll coils for the subject site would be transferred from either the ship or the rail and stored in an area adjacent to the dock by ram truck from the dock to the storage area and then placed on a large steel coil hauler which could carry 8 coils at a time.

A large truck would lift the pallet of coils to be transferred from USS-POSCO to the subject site. The transfer would occur over dedicated roads solely within USS-POSCO property or the subject site. Because of its size and length, all pipe would be shipped by rail.

Aerial shots of the subject site were presented to the Commission, including an architect’s rendering of the proposed design of the development.

Commissioner Ramirez commended the applicant and found the project to be an asset bringing employment and tax dollars to the City. He questioned whether or not the hot coils would come from USS-POSCO and the ships, to which Mr. Simpson advised that the hot coils would be received by ship from USS-POSCO in Korea and U.S. Steel by rail from plants in the mid-west.

Commissioner Wegerbauer referred to the PowerPoint presentation and inquired of the pile of dirt located adjacent to the building.

Mr. Simpson identified the dirt pile as two landfills from USS-POSCO, one of which was a clean and permanently closed landfill and the other an active landfill from its terminal water treatment plant.

Commissioner Garcia understood that the sludge that was deposited would be removed from the property.

Mr. Simpson explained that the landfill had been engineered with liners and under drains. The sludge was from the terminal water treatment plant and would be dewatered resulting in essentially dried sludge to be deposited at that site. In response to Commissioner Garcia as to the potential historical significance of the Quonset hut, Mr. Simpson
understood that related to the age of the structure.

Chairperson Ohlson spoke to Resolution No. 9738, Design Review Condition 12, and asked that the bicycle racks be spread around the perimeter of the building, with three bicycle racks to be located in front of the administration building and with the remaining racks to be located in pairs around the perimeter close to the entrances to the work stations.

Mr. Simpson affirmed that could be done.

Commissioner Harris questioned whether or not the applicant would be amenable to the preparation of a traffic study and an EIR.

Mr. Simpson suggested that the requirement for an EIR would severely impact if not allow the project to fail given the time to market the project which was critical with four competing pipe mills being built in various portions of the United States, in similar timelines.

As to the timing of the preparation of an EIR, Ms. Ayres explained that would depend on the issues determined needed to be analyzed the project. A typical EIR for a project such as Sky Ranch, as an example, could take one to two years.

Commissioner Harris reiterated his opinion that a traffic study and an EIR should be required for the project.

Mr. Simpson explained that the project had undergone CEQA analysis resulting in a Mitigated Negative Declaration and had gone through the BAAQMD permit process.

Commissioner Garcia agreed that if the project were stalled by the requirement for an EIR the market would bypass the applicant and potential jobs in the community could be lost.

In response to Commissioner Ramirez, Mr. Simpson affirmed that he had read and was in agreement with the conditions of approval as contained in the resolution as amended by staff.

Commissioner Wegerbauer questioned whether or not indigenous plant material could be considered for the landscaping for the project.

Mr. Simpson advised that they had followed Planning Department guidance consistent with the landscape list provided by City staff. He was uncertain whether or not it included indigenous plant material although he was open to its use. He noted that redwood trees would be planted at the entry to recognize the history of a former redwood manufacturing lumber mill on the parcel from 1935 to 1955.
Mr. Burke spoke to Sheet C-10 of the submitted plans which had identified the proposed use of California native species including grasses, shrubs and trees that would be drought tolerant.

INTERESTED SPEAKERS:

RICHARD DRURY, Adams, Broadwell, Joseph & Cardozo, Attorney representing three residents of the City, Plumbers and Steamfitters Local 342, and IBEW Local 302, expressed concern with the impacts the project may have on the workers of the facility if it were allowed without an EIR. He advised that he had submitted extensive comments to staff and the Planning Commission, supported by four experts, in response to the potential impacts of the project.

Mr. Drury asked the Commission to consider Pittsburg Municipal Code Section 18.18.010, which would allow the Planning Commission to take 30 days to consider comments received at or prior to the hearing, before a decision was made. He asked that the Commission take that time to review his comments suggesting that the Commission would agree that the project had the potential for significant adverse environmental impacts that should be analyzed in an EIR. Given the concerns with respect to traffic, ground water and soil contamination that should be reviewed he asked that the project be delayed to allow that evaluation. He suggested that the scope of the development was beyond those routinely requiring the preparation of an EIR.

Mr. Drury asked the Commission to review Exhibit A of the information he had submitted, identified as a map of the property which had been found by an expert master hydrogeologist, and which had found through the DTSC Offices in Berkeley that there was a contaminated plume on the site where the facility would be built consisting of trichloroethylene (TCE) a known human carcinogen.

The plume was at levels of up to 1,500 parts per million at six and a half feet below the property where the facility would be built. It was noted that according to the EPA, at levels of 5 parts per million the vapors from TCE could penetrate the floor and could expose the future workers of the facility to levels creating significant risk of cancer.

Mr. Drury noted that the Mitigated Negative Declaration had not mentioned the plume. He stated that USS-POSCO was aware of the plume, evidenced by a letter from the DTSC to USS-POSCO on August 17, 2007, informing USS-POSCO of the plume. He suggested that information had been hidden from the public. He urged that potential health risk be evaluated in an EIR.

Mr. Drury went on to note that the DTSC had written a letter to the City on October 9, 2007 concluding that the project may have significant adverse environmental impacts contrary to the conclusions of City staff. He noted that a Mitigated Negative Declaration was not allowed legally if a project may have significant adverse environmental impacts.
Mr. Drury advised that a professional traffic engineer had also concluded that the project would generate between 145 and 240 trips. Under the City’s General Plan, Policy 3-P-9, any project which generates more than 100 peak hour traffic trips would require a traffic impact study. He suggested that the staff argument that a traffic study was not warranted was different from the argument made in the Mitigated Negative Declaration. He submitted a copy of the General Plan provisions he had referenced for Commission review. He noted that per the letter from Anderson & Bonnifield, they also had a traffic analyst who had reached the same conclusion that the project would generate more than 100 peak hour trips.

Mr. Drury referenced the case Endangered Habitat League v. Orange County where the court had held that a project which was inconsistent with the General Plan, had per se, significant adverse environmental impacts and that an EIR was legally required.

Mr. Drury further commented that he had submitted comments from an Environmental Scientist and noted expert who had concluded that the Mitigated Negative Declaration had ignored or underestimated numerous sources of air pollution, including a propane heater, epoxy coating facility, vehicle trips, rail transport, ship transport and electrical generation. The expert had concluded that adding the ignored or underestimated sources together the project would generate nitrous oxide emissions of 1,945 pounds per day where the California Environmental Quality Act (CEQA) significance threshold was 80.

H suggested the project would also generate 129 pounds a day of reactive organic gases, and 95 pounds per day of particulate matter fewer than 10 microns where the threshold was 80 pounds per day.

Mr. Drury noted that the BAAQMD had written a letter to the City asking that the City analyze the impacts of diesel ship emissions that would increase under the project from 24 ships to 36 ships. While the proponent had indicated that the ships had catalytic reduction controls, the permit had indicated that for the first 25 ships, catalytic reduction was required. For the next 25 ships, no selective catalytic reduction would be required under the permit.

Mr. Drury suggested that based on his expert’s information, an EIR was legally required and would not slow down the project since most of the work for an EIR had already been done in the documents presented to the City. He asked that the Commission consider his submittal of information and take the 30 days allowed under the Municipal Code to review all of the information. He submitted for the record another copy of his comments per compliance with Public Resources Code, Section 21177.

Mr. Drury emphasized that he was not opposed to the project but wanted to ensure that employee job sites would be clean and safe and employers and community members would not be exposed to pollution in the future.
KENT PARR, representing Mt. Diablo Recycling Center, advised that a letter had been submitted to the City last week. He stated that Mt. Diablo Recycling Center stood by comments made by its traffic expert. Mr. Parr, Mt. Diablo (his client), noted that approximately a year ago USS-POSCO had opposed an expansion of the recycling center based on the fact that the Loveridge Road/Pittsburg/Antioch Highway intersection had an LOS of F. He commented that the carbon monoxide hot spots had been addressed in an LFR report, dated June 19, 2007, which study had concluded that there was no problem with the hot spots although the report had indicated that the traffic count had not required a study of carbon monoxide hot spots. He suggested that it had been documented that the traffic count had not been done correctly. He questioned the opinion that a carbon monoxide hot spot study was not needed since there were no nearby intersections with a LOS of D or F.

Mr. Parr went on to comment that the BAAQMD had issued a letter dated June 1, 2007 requiring further studies of certain chemicals if there was to be an increase in marine traffic, which he suggested would occur with the subject proposal.

Commissioner Garcia suggested that the letter from Mt. Diablo Recycling Center on the traffic study should be ignored just as the Commission had ignored the recommendations from USS-POSCO at the time the Mt. Diablo Recycling Center had requested an expansion of its facility.

Mr. LEE, President of United Spiral Pipe, LLC, thanked staff and the Commission for their hard work. He noted that they had decided to build in the community since they trusted in the City to fully support the project. He also trusted the Commission would make the right decision and approve the permit request, without appeal.

Mr. Lee emphasized that time was of the essence. He reiterated that there were competitors in the market who were moving ahead. He was proud he had worked with USS-POSCO for 30 years and that this joint venture would benefit the City. He disagreed that there were environmental issues with the project, as previous speakers had suggested. He suggested that the project would not generate any toxic materials. He questioned whether the project would be able to move forward if not approved at this time. He expressed his hope that the Commission would make the right judgment and approve the project.

Commissioner Harris inquired when the project operation would start if approval was granted at this time.

Mr. Lee advised that they planned to start operations in December 2008 with construction planned to commence in November 2007.

Mr. Sbranti clarified that a grading permit had not yet been approved by the City but was in
review.

Commissioner Harris expressed concern with how the process was being done. As a long time resident of the City and familiar with the industry in the area, absent an EIR he was uncertain whether or not toxins would be associated with the project. Not opposed to the project, he wanted to see things done right. If the project were not approved at this time he questioned that it would fail. He was confident any delays would not prevent the project from successfully moving forward.

Mr. Simpson asked for a recess to allow the applicant to adequately respond to the comments that had been made.

Chairperson Ohlson declared a recess at 8:42 P.M. The Planning Commission meeting reconvened at 8:46 P.M. with all Commissioners present.

Mr. Simpson suggested that the project would be a good one for the City and that the Mitigated Negative Declaration was adequate for the project. He stressed that the Mitigated Negative Declaration had scrutinized all the CEQA reports and studies and that the BAAQMD had approved a permit for the project on June 21, 2007. The applicant had complied with everything the DTSC had required as had USS-POSCO. In addition, a Soils Management Plan had already been submitted to the DTSC, without comment.

Mr. Simpson suggested that the project would be successful for the City, providing a clean project within the City for everyone and for generations to come.

Commissioner Wegerbauer asked the applicant to respond to the submittal of Exhibit A as submitted by Mr. Drury.

Mr. Simpson stated that he had received the information from Adams, Broadwell, Joseph & Cardozo this date without an opportunity for adequate review.

Mr. Burke explained that he had reviewed the information provided by Adams, Broadwell, Joseph & Cardozo, specifically Exhibit A. As to the reference to the Solid Waste Management Unit 4, he noted that the plume had moved under the project site. Per the submitted grading plans from the applicant, that area would be excavated to a depth of 1 foot and then re-compacted with the areas underneath the building excavated to approximately 6 feet. He did not see a real concern that the grading at 1 foot would encounter ground water contamination. Where the actual building would be located which would be farther from the origin of the plume, the maximum depth of the grading would be 6 feet. The depth of the plume varied and the shallow portion varied from 6.5 to 8 feet. The plume would be closer to the surface near the source and then as it dissipated would disappear deeper into the ground. At that point, the plume would be well below the minimum depth and well below the depth excavated for the construction of the building.
Commissioner Wegerbauer inquired whether or not staff had been aware of the plume prior to the submittal of Exhibit A from Adams, Broadwell, Joseph & Cardozo, to which Mr. Burke advised that he was unaware of the plume or the DTSC information cited by Mr. Drury. The Soils Management Plan had defined all of the solid waste management units on the project site.

Commissioner Wegerbauer liked the project and acknowledged the statements made by the representatives of the company that no environmental concerns would be created, although she acknowledged concerns by others as to how the site would be developed. She questioned how that would be addressed.

Mr. Simpson explained that to address indoor air quality in the building vapor barriers underneath the concrete floors would be installed, an accepted method for environmental health.

LUCAS PAZ, Hydrologist, stated that he had been working on the project since its inception. He advised that the existing contamination sources at the site were known in discussion with the DTSC when the Soils Management Plan had been developed, and at which time the project had been configured.

Mr. Paz noted that at that time, the plume had been part of the discussion and the existing conditions at the site would not change as a result of the project. The project would add additional layers of fill to the site which would create an additional barrier to the subsurface plume. The project would therefore improve the conditions from the existing site status with respect to the location of the plume. He added that the separation between the plume and the existing surface where excavation had been proposed would involve considerable differences in the depth of excavation which would not enter the plume area.

Commissioner Ramirez questioned the applicant’s position if the project were delayed if an EIR were required.

Mr. Simpson advised that such direction would have to be evaluated and decided by the owners. He reiterated that they were dealing with a tight timeline and short time to market the project due to their competitors.

PUBLIC HEARING CLOSED

Commissioner Diokno was disappointed in receiving voluminous information at the last minute. He also was disappointed on hearing that projects would not be viable if the Commission did not issue an approval. While he would have preferred that a full EIR be prepared for the project, he noted per Exhibit A, the main concentration of the plume would
be off site near SE parking lot asphalt storage field area and exposure to employees would be at a minimum since it would be empty most of the time. The part of the plume on which the building would sit had the least concentration of toxins. If the building was located on that site it would not disturb the toxins in the ground or cause undue exposure to the workers.

Commissioner Garcia agreed with the comments related to the receipt of information at the last minute. He acknowledged the applicant’s concerns with any delays since such projects were all about the timing given the competition in the industry. Given that an EIR could take a year to complete, he was confident that staff along with USS-POSCO and the applicant could work with those concerned to address any concerns. He suggested that the project was important for the City. He suggested that it had been wrong for USS-POSCO to oppose the Mt. Diablo Recycling Center expansion project and suggested that it was wrong for the individual representing Mt. Diablo Recycling Center to now oppose the lack of a traffic study in this case.

Commissioner Garcia noted the number of jobs that could be brought to the City and the number of jobs that had been lost in the industry since the City had been unable to compete. He supported the project and suggested that the applicant work with the attorneys to address their issues.

Chairperson Ohlson stated that as a general rule he also preferred EIRs however in this case the site was a brownfield (not virgin land) and it has been used as a heavy industrial site and therefore he could support the project moving forward.

**MOTION: AP-07-445**

Motion by Commissioner Garcia to adopt Resolution No. 9738, approving a Mitigated Negative Declaration and granting 1) Use Permit approval to operate a Heavy Manufacturing Facility with Outdoor Storage; 2) a Variance to reduce the minimum off-street parking requirement for the Heavy Manufacturing Use; and 3) Design Review approval of site improvement and plans to construct a Large Manufacturing Building and an Administrative Office; on a 44.8-acre site located at 900 East Third Street (APN 073-030-015 and a portion of 073-210-031), for “United Spiral Pipe LLC, Manufacturing Plant, AP-07-445 (UP\DR\VA)”, as conditioned, and subject to:

- Staff recommended changes as reflected in the memorandum dated October 23, 2007; and

- Revision of Design Review Condition 12, that the bicycle racks be spread around the perimeter of the building, with three bicycle racks located in front of the administration building and the remaining bicycle racks located in pairs around the perimeter close to the entrances to the work stations.
The motion was seconded by Commissioner Ramirez and carried by the following vote:

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

Chairperson Ohlson identified the 10-day appeal process of a decision of the Planning Commission in writing to the City Clerk.

**COMMISSION CONSIDERATION:** None

**STAFF COMMUNICATIONS:**

1. Notices of Intent (to review/approve project at staff level).
   
   A. Los Medanos Village Freestanding Sign. AP-07-479
   B. Bank of America. AP-07-472 (SR)
   C. Praxair. AP-07-475 (AD)

**COMMITTEE REPORTS:**

Chairperson Ohlson reported that the TRANSPLAN Committee had met with reports received on the State Transportation Improvement Program (STIP) Submittal List; and when the Vision and Goals of the Draft 2008 Countywide Comprehensive Transportation Plan Update had been reviewed. Minutes from the prior TRANSPLAN Committee meeting were made available for Commission review.

**COMMENTS FROM COMMISSIONERS:**

Commissioner Wegerbauer reported on a potential water leak at Buchanan Road near some of the landscaping on the south side of Buchanan Road near the Stop and Go light at Harbor Street.

Commissioner Diokno questioned whether or not the City turned off its automatic sprinklers during the winter, to which Mr. Sbranti explained that a new system was in the process of being implemented in all City parks that would sense when it rained and which would then automatically shut down the system.

Commissioner Kelley reported that the traffic on Buchanan Road continued to block the intersection.

In response to Commissioner Ramirez, Ms. Ayres advised that a meeting on the Railroad
Avenue Corridor Design and Visioning Workshop had been scheduled for Saturday, October 27, 2007 from 8:00 A.M. to 5:00 P.M. at the Elks Lodge in conjunction with the City Council approval of a grant for U.C. Berkeley graduate students to study the Railroad Avenue Corridor. The graduate students would be working jointly with American Institute of Architects (AIA), to bring this charrette to the City. The event was open to the public and free of charge.

Ms. Ayres added that she was unaware that a specific meeting had been scheduled for October 30 for the Commission to have a workshop on the Sign Ordinance, although she would confirm and contact Commissioners to clarify whether or not that workshop would be held.

ADJOURNMENT:

There being no further business, the meeting adjourned at 9:14 P.M. to a regularly scheduled meeting on November 13, 2007, in the City Council Chambers at 65 Civic Avenue, Pittsburg, CA.

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MELISSA AYRES, Secretary
Pittsburg Planning Commission