MINUTES
OF THE REGULAR MEETING
OF THE
PITTSBURG PLANNING COMMISSION
March 27, 2007

A regular meeting of the Pittsburg Planning Commission was called to order by Chairperson Tumbaga at 7:00 P.M. on Tuesday, March 27, 2007 in the Council Chambers, City Hall, 65 Civic Avenue, Pittsburg, California.

ROLL CALL:

Present: Commissioners Diokno, Garcia, Harris, Olson, Ramirez, Thomas, Chairperson Tumbaga

Absent: None

Staff: Planning Director Melissa Ayres, Associate Planner Dana Hoggatt, Associate Planner Christopher Barton, Senior Civil Engineer Alfredo Hurtado, and Jake Knapp, Meyers Nave

POSTING OF AGENDA:

The agenda was posted at City Hall on Friday, March 23, 2007.

PLEDGE OF ALLEGIANCE:

Commissioner Garcia led the Pledge of Allegiance.

DELETIONS/WITHDRAWALS/CONTINUANCES:

Planning Director Melissa Ayres reported that Items Nos. 2, 3, 4 and 5 for the North Park Plaza Expansion, would be continued to the April 24, 2007 meeting, at the request of the applicant.

COMMENTS FROM THE AUDIENCE:

There were no comments from the audience.
PRESENTATIONS:

There were no presentations.

CONSENT:


Commissioner Ohlson requested an amendment to the first bullet under the third paragraph of Page 6, as follows:

- Attachment 2, Draft Zoning Text Amendments, Title 18, Zoning, Page 15 of 57, 18.06.140 Antenna, D, Support Structure; definition as shown had not included guy wires and if included should be defined in that section.

Commissioner Ramirez requested an amendment to the first paragraph under the motion on Page 2, as follows:

Commissioner Ramirez advised that he would recuse himself from the discussion for both items 1 and 2, at the recommendation of the City Attorney, due to a potential conflict of interest as the owner of property located at 487-489 West Eighth Street.

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, Harris, Ohlson, Thomas, Ramirez, Tumbaga

Noes: None

Abstain: None

Absent: None

PUBLIC HEARING:

Item 1: Mount Diablo Recycling Center. AP-06-339 (UP/ DR)

An application by Roger Wilson requesting a use permit and design review approval to demolish a 72,864 square foot section of an existing 176,818 square foot building and replace it with a new 82,611 square foot building section and to establish a large recycling facility on the property. The project is located at the Contra Costa Waste Service, Recycling Center & Transfer Station site located at 1300 Loveridge Road, in the IG (General Industrial) District; APN 073-200-014.
Associate Planner Christopher Barton presented the staff report dated March 27, 2007.

Mr. Barton recommended that the Planning Commission adopt Resolution No. 9691, approving Use Permit Application No. 06-339, as conditioned, and adopt Resolution No. 9692, approving Design Review Application No. 06-339, as conditioned.

Commissioner Ohlson referenced Page 6 of 8 of Resolution No. 9691, Condition 4 as it related to the hours of operation, and the project description as shown for the proposed use on Page 3 of 10 of the March 27 staff report, which had also listed the primary employee work hours. He asked that the hours of operation be better clarified to indicate that the business would be open to the general public Monday through Friday, from 8:00 A.M. to 5:00 P.M., and Monday through Friday from 6:00 A.M. to 3:00 P.M. for the primary employees.

Ms. Ayres acknowledged that the condition could be revised to better clarify the hours of operation for the general public and the employees.

PUBLIC HEARING OPENED

PROONENT:  
ROGER WILSON, Architect, 1250 Addison Street, Berkeley had nothing further to add to the staff report. He clarified that the hours of operation for the general public would be Monday through Friday from 8:00 A.M. to 5:00 P.M. He also acknowledged, when asked, that he had read and was in agreement with the recommended conditions of approval.

OPPONENTS:  None

PUBLIC HEARING CLOSED

Commissioner Ohlson asked that Condition 4 of Resolution No. 9691, be amended, as discussed.

MOTION:  AP-06-339 (UP)

Motion by Commissioner Thomas to adopt Resolution No. 9691, approving AP-06-339 (UP), a Use Permit to establish a large recycling facility within an 82, 611 square foot addition to an existing building located at 1300 Loveridge Road, for "Mount Diablo Recycling," with the conditions as shown and with the stated amendment to Condition 4. The motion was seconded by Commissioner Ohlson and carried by the following vote:
MOTION: AP-06-339 (DR)

Motion by Commissioner Thomas to adopt Resolution No. 9692, approving AP-06-339 DR, Design Review approval to demolish a 72,864 square foot section of an existing 176,818 square foot building and replace it with a new 82,611 square foot building section for use as a large recycling facility and installation of wall signage at 1300 Loveridge Road, for “Mount Diablo Recycling,” with the conditions as shown. The motion was seconded by Commissioner Ohlson and carried by the following vote:

Ayes: Commissioners Diokno, Garcia, Harris, Ohlson, Thomas, Ramirez, Tumbaga
Noes: None
Abstain: None
Absent: None

Item 2: North Park Plaza Expansion – Drive-Through Restaurant. AP-06-360 (UP)

An application by Ryan Cox of Discovery Builders requesting approval of a use permit to establish a restaurant with drive-through service for a 3,000 square foot restaurant building on a portion of a 6.81-acre parcel located west of the existing in-line retail stores on North Park Boulevard in the North Park Plaza shopping center. The property is located in the CC (Community Commercial) District; APN 088-151-032. (CONTINUED TO APRIL 24, 2007)

Item 3: North Park Plaza Expansion – Service Station with Car Wash. AP-06-361 (UP/DR/VAR)

An application by Ryan Cox of Discovery Builders requesting approval of: 1) a use permit to establish a service station, convenience store and self-service car wash; 2) approval of a variance to reduce the depth of the minimum front yard landscaped setback from 15 feet to 9 feet; and 3) design review approval of plans to construct a pump station canopy and 3.504 square foot structure housing the convenience store and self-service car wash, on a 1.24-acre parcel located east of Loveridge Road and north of North Park Boulevard in the North Park Plaza shopping center. The property is located in the CC (Community Commercial) District; APN 088-151-020. (CONTINUED TO APRIL 24, 2007)

Item 4: North Park Plaza Expansion – Limited Auto Repair. AP-06-362 (UP/DR)

An application by Ryan Cox of Discovery Builders requesting of: 1) a use permit to establish a limited automotive repair use; and 2) design review of plans to construct an
1,825 square foot building housing a lobby/office and three automobile bays on a portion of a 6.81-acre parcel located west of the existing in-line retail stores on North Park Boulevard in the North Park Plaza shopping center. The property is located in the CC (Community Commercial) District; APN 088-151-032. (CONTINUED TO APRIL 24, 2007)

**Item 5: North Park Plaza Expansion – Multi-Tenant Retail Building. AP-06-363 (DR/VAR)**

An application by Ryan Cox of Discovery Builders requesting 1) design review approval of plans to construct a 54,173 square foot multi-tenant building and 2) approval of a variance to reduce the depth of the minimum front yard landscaped setback from 15 feet to 4 feet on portions of two existing parcels totaling 9.24 acres. The property is located in the CC (Community Commercial) District; APN 088-151-030 and 088-151-032. (CONTINUED TO APRIL 24, 2007)

As earlier reported, at the request of the applicant Items 2, 3, 4 and 5 were continued continued to the public hearing scheduled for April 24, 2007.

Commissioner Ramirez advised that he would recuse himself from the discussion of both Items 6 and 7 at the recommendation of the City Attorney due to a potential conflict of interest as the owner of property located at 487-489 West Eighth Street.

**CONTINUED PUBLIC HEARINGS:**

**Item 6: City-Initiated General Plan Amendments in Conjunction with the Phase II Zoning Code Update**

A continued public hearing on a City-initiated proposal to amend the Land Use, Downtown, Open Space & Youth & Recreation, Health & Safety and Housing Elements of the General Plan in order to reflect existing conditions and support private reinvestment in established neighborhoods throughout the City. Other amendments proposed to be made to the General Plan would expand the boundaries of the Mixed Use land use designation to include additional sites along West Tenth Street and West Leland Road, in order to encourage mixed use development and neighborhood-serving commercial nodes in those areas of the City.

Associate Planner Dana Hoggatt presented the staff report dated March 27, 2007. She recommended that the Planning Commission adopt a resolution recommending that the City Council adopt the proposed amendments.

Ms. Ayres reported that a letter had been received this date from Louis Parsons, representing Discovery Builders, requesting a continuance of the item to the next Planning Commission meeting.

PUBLIC HEARING CONTINUED
PROPOSENT: City of Pittsburg
INTERESTED SPEAKER:

LOUIS PARSONS, representing Discovery Builders, advised that he had submitted a letter to staff on the proposal. He recognized that there had been public workshops and a public hearing on the item, although he understood that this was the first time the final consolidated Phase II General Amendments were being considered all at once since he had not been able to review all of the documents, including the March 13 and current documentation, he asked that the item be continued to allow him time to review the information. He added that although staff had indicated a willingness to meet with him to discuss his concerns, he was not prepared to meet with staff at this time.

Commissioner Garcia understood that there would be another public hearing on the proposal before the City Council.

Ms. Hoggatt explained that the item had been tentatively scheduled for submittal to the City Council on May 7, which would allow the developer time to work with staff and discuss any concerns prior to the City Council’s consideration of the item. Based on comments from property owners to date, the Land Use Subcommittee and the Planning Commission during previous meetings, there had been no opposition to the proposed General Plan Amendments. She clarified, when asked, that the action before the Planning Commission was only a recommendation to the City Council. The City Council would take formal action.

Commissioner Ohlson understood the time required to review the voluminous information and suggested if it was not a hardship for staff he could support a short postponement. He inquired how much time Mr. Parsons needed to review all of the documentation.

Ms. Ayres advised that the developer had requested a two week continuance although due to staff time constraints since some staff members would be on vacation within the next few weeks, and since the next meeting agendas of the Planning Commission were full, if the item was continued it would likely not return to the Planning Commission for another six weeks (May 8th). Given that the item was scheduled for submittal to the City Council on May 7, she suggested that the developer could raise any issues with the City Council at that time and meet with staff in the interim.

OPPONENTS: None

PUBLIC HEARING CLOSED

Commissioner Diokno suggested that the Planning Commission could proceed with a recommendation to the City Council which would allow the City Council to proceed and make any changes that could be necessary. In the interim, staff could meet with the developer to discuss his concerns.
MOTION:

Motion by Commissioner Garcia to adopt Resolution No. 9698, recommending that the City Council amend the Land Use, Downtown, Open Space & Youth & Recreation, Health & Safety, and Housing Elements of the General Plan in conjunction with Phase II of the Comprehensive Zoning Code Update. The motion was seconded by Commissioner Harris and carried by the following vote:

Ayes: Commissioners Diokno, Garcia, Harris, Ohlson, Thomas, Tumbaga
Noes: None
Abstain: None
Absent: Commissioner Ramirez [recused]

Item 7: Comprehensive Zoning Code Update- Phase II

A continued public hearing on a City-initiated proposal to amend Pittsburg Municipal Code (PMC) Title 18 (Zoning Ordinance), in order to implement the goals, policies, programs and land use designations in the General Plan.

Associate Planner Hoggatt presented the staff report dated March 27, 2007. She provided the Commission with copies of changes to Planning Commission Resolution No. 9699, Exhibit A: Recommended Zoning Text Amendments, and walked the Commission through each of the revisions, as follows:

- Part I: Page 53 of 57: C. Manufacturing, 1;
- Part I: Page 54 of 57: C, Transportation/Distribution, 1 and 3;
- Part II, Page 17 of 32, Chapter 18.32, Zoning Approvals, Permits and Environmental Review, 18.32.010 Zoning approval, B, Zoning Approval Required: Zoning approval is required before issuance of: 8;
- Part III; Page 32 of 77;
- Part III, Page 68 of 77; GQ District: Additional Use Regulations, L-158; Part V (excerpts): Page 36 of 52, 18.84.295 Aboveground storage tanks;
- Part V (excerpts): Page 36-a of 52, Chapter 18.84, Article 11, Outdoor Storage, Display and Service, 18.84.430, Where permitted, and 18.84.435 Exceptions, D and F;
- Part V (excerpts), Page 36-b of 52;
- Recommending Zoning Map (1); identifying property north of West Leland Road in the Vista Del Mar development as being in a PD which was inaccurate. The property was zoned a combination of Commercial Office with a Master Plan Overlay and High Density Residential with a Master Plan Overlay; and
- Recommending Zoning Map (2); a portion of the map had shown a portion of
the City located west of Kirker Pass Road at the terminus of Buchanan Road.

- The map in the staff report had shown the area as being prezoned, although the property was within the City limits, and the map had been amended to identify a zoning district boundary.

Ms. Hoggatt recommended that the Planning Commission adopt the resolution recommending Council adoption of the proposed amendments as further amended by staff. Commissioner Diokno spoke to Planning Commission Resolution No. 9699, Exhibit A: Recommended Zoning Text Amendments, Part V, (excerpts), Page 36-a of 52, Chapter 18.84, Article 11, Outdoor Storage, Display and Service, 18.84.435, Exceptions, D and the staff recommended revision, and inquired where personal watercraft, such as jet skis, would be identified.

Ms. Hoggatt spoke to Commission Resolution No. 9699, Exhibit A: Recommended Zoning Text Amendments, Part I, Page 45 of 57 where boat sales and rental had not mentioned jet skis or smaller personal watercraft. That section could be expanded to address that concern or the land use classification could be amended to be less specific, and broadened to identify personal watercraft under Marine Vessels.

PUBLIC HEARING CONTINUED

PROPONENT: City of Pittsburg

INTERESTED SPEAKER:

LOUIS PARSONS, Discovery Builders, spoke to the volume of changes and clarified with staff that the changes identified during the staff presentation were to the information in the staff report. He asked that the item also be continued to allow him additional time to review the documents since he had noticed some discrepancies in the information he had reviewed so far. He asked before a final determination was made by the Planning Commission, that he be allowed to review all material in more detail to ensure accuracy and that there were no inconsistencies with the General Plan and recommended zoning maps. He expressed the willingness to provide written comments to staff in two weeks.

OPPONENTS: None

Chairperson Tumbaga clarified that like the prior item, the subject item was a recommendation to the City Council which would be the body that would take final action on the proposed zoning text amendments.
Commissioner Ohlson referenced Page 3 of 6 of the March 27 staff report, paragraph one, Environmental, and pointed out that the reference to the Ledger Dispatch should be modified to read the East Contra Costa Times.

Commissioner Ohlson also spoke to the following:

- Resolution No. 9699, Exhibit A, Recommended Zoning Text Amendments, Page 2 of 57, Part I, i, and recommended that water be added to the listed utilities in that section since it was a concern now and in the future;
- Resolution No. 9699, Exhibit A, Recommended Zoning Text Amendments, Page 9 of 32, Part II, Chapter 18.18.040, a, clarified with staff the 10-day appeal period for decisions of the Planning Commission, as opposed to the revision to Page 9 of 32 which had been taken directly from Government Code Section 65856, specifically calling for a 5-day period to appeal a recommendation against changing a land use classification.
- Resolution No. 9699, Exhibit A, Recommended Zoning Text Amendments, Page 29 of 32, Chapter 18.46, Density Bonus and Housing Initiatives, 18.46.020, Definitions, C, Incentive, recommended the removal of the use of the word “incentive” to be replaced with a synonym for the use of the word incentive.

Commissioner Thomas clarified with staff that the definition referenced could be modified with a synonym as long as the intent of the meaning remained. Staff suggested that not everything in the ordinance must be verbatim from Government Code as long as the intent remained.

- Resolution No. 9699, Exhibit A, Recommended Zoning Text Amendments, Page 3 of 8, Chapter 18.72, Master Plan Overlay District, Part IV, 18.72.020, Applicability and Zoning Map Designator, Commissioner Ohlson sought assurance that development would be a specific development rather than general development. As per that section, a Master Plan development must be 40-acres and larger with a Master Plan required for all development.

Ms. Ayres explained that there were few properties with such a designation. The only properties where the section would apply would be to the Vista Del Mar property on the north side of Leland Road, which consisted of a large piece of land with no plans. The purpose of the district was to designate a zoning and require a PD Plan. Anything on the property would require a comprehensive plan showing how it would be developed. She pointed out that section had addressed the 40-acre requirement for a master plan. As such, she was comfortable with the language in that section.
Resolution No. 9699, Exhibit A, Recommended Zoning Text Amendments, Page 7 of 52, Chapter 18.78, Off-Street Parking and Loading, 18.78.030, b, Commissioner Ohlson questioned the reference to the date March 19, 1990 in that section, with Ms. Ayres explaining that staff had proposed no changes to that section with the rules in place that had been in place on that date. She did not want to grandfather something in that might have happened illegally between that date and now.

Ms. Hoggatt added that the section would only be amended to the extent that the land use classifications had changed and the titles of the different land uses were slightly different then they were in the past. The parking standards were the same. The requirements did not change. The chapter was not a large part of the current phase and would be considered in a future phase when there would be more substantial changes to consider.

Resolution No. 9699, Exhibit A, Recommended Zoning Text Amendments, Page 10 of 52, 18.78.030, h, 7, Commissioner Ohlson, asked whether the definition of an automobile include a motor home. He also questioned whether or not short overnight stays in a motor home would be illegal.

Ms. Hoggatt explained that one of the definitions amended for automobile, as identified in Part 1 on Page 15 of 57, had excluded light trucks or vans with a Gross Vehicle Weight (GVW) of more than 15,000 pounds. She was uncertain whether or not a motor home was more than 15,000 pounds.

Resolution No. 9699, Exhibit A, Recommended Zoning Text Amendments Page 17 of 52, 18.78.045, Commissioner Ohlson thanked staff for the change to the number of bicycle parking spaces and the increase from 14 bicycle parking spaces per 201 vehicles parking spaces, to a ratio of 1:10.

Resolution No. 9699, Exhibit A, Recommended Zoning Text Amendments, Page 23 of 52, A, 16, Truck Prohibition, Commissioner Ohlson asked that the wording standard size or small pickup be changed to 15,000 pounds or fewer gross vehicle weight.

Commissioner Garcia made a motion to approve the staff recommendation to adopt Resolution No. 9699, subject to the staff recommended revisions, as identified, and including the recommendations by Commissioner Diokno and Commissioner Ohlson.

On the motion, Ms. Hoggatt clarified the further changes to the document as follows:

- Resolution No. 9699, Exhibit A: Recommended Zoning Text Amendments, 18.04.040, i, to add water to the list of utilities;
- Resolution No. 9699, Exhibit A: Recommended Zoning Text Amendments, 18.46.020, Subsection C, revise the definition of incentive and change the use of the word incentive in that definition to a synony.
• Resolution No. 9699, Exhibit A: Recommended Zoning Text Amendments, 18.78.070, Subsection A, 16, change the wording standard size or small pickup to a truck of 15,000 pounds or fewer gross vehicle weight;

• Resolution No. 9699, Exhibit A: Recommended Zoning Text Amendments, Part I, Page 45 of 57 where boat sales and rental had not mentioned jet skis or smaller personal watercraft the section could be expanded to address that concern or the land use classification could be amended to be less specific and broadened to identify personal watercraft under Marine Vessels;

• Include all of the staff recommended revisions, as reflected in the handout presented to the Commission, as identified by staff during the staff presentation.

MOTION:

Motion by Commissioner Garcia to adopt Resolution No. 9699, recommending that the City Council amend the Pittsburg Municipal Code, Title 18, (Zoning Ordinance) in Conjunction with Phase II of the Comprehensive Zoning Code Update, subject to the changes to Planning Commission Resolution No. 9699, Exhibit A: Recommended Zoning Text Amendments, as follows:

• Part 1: Page 53 of 57; C. Manufacturing, 1;
• Part 1: Page 54 of 57; C, Transportation/Distribution, 1 and 3;
• Part II, Page 17 of 32, Chapter 18.32, Zoning Approvals, Permits and Environmental Review, 18.32.010 Zoning approval, B, Zoning Approval Required: Zoning approval is required before issuance of: 8;
• Part III; Page 32 of 77;
• Part III, Page 68 of 77; GQ District: Additional Use Regulations, L-158; Part V (excerpts): Page 36 of 52, 18.84.295 Aboveground storage tanks;
• Part V (excerpts): Page 36-a of 52, Chapter 18.84, Article 11, Outdoor Storage, Display and Service, 18.84.430, Where permitted, and 18.84.435 Exceptions, D and F;
• Part V (excerpts), Page 36-b of 52;
• Recommending Zoning Map (1): identifying property north of West Leland Road in the Vista Del Mar development as being in a PD which was inaccurate. The property was zoned a combination of Commercial Office with a Master Plan Overlay and High Density Residential with a Master Plan Overlay; and
• Recommending Zoning Map (2): a portion of the map had shown a portion of the City located west of Kirker Pass Road at the terminus of Buchanan Road. The map in the staff report had shown the area as being prezoned, although the property was within the City limits, and the map had been amended to identify a zoning district boundary;

And subject to the following additional revisions:
• Resolution No. 9699, Exhibit A: Recommended Zoning Text Amendments,
18.04.040, i, to add water to the list of utilities;

- Resolution No. 9699, Exhibit A: Recommended Zoning Text Amendments, 18.46.020, Subsection C, revise the definition of incentive and change the use of the word incentive in that definition to a synonym;
- Resolution No. 9699, Exhibit A: Recommended Zoning Text Amendments, 18.78.070, Subsection A, 16, change the wording standard size or small pickup to a truck of 15,000 pounds or fewer gross vehicle weight;
- Resolution No. 9699, Exhibit A: Recommended Zoning Text Amendments, Part I, Page 45 of 57 where boat sales and rental had not mentioned jet skis or smaller personal watercraft the section could be expanded to address that concern or the land use classification could be amended to be less specific and broadened to identify personal watercraft under Marine Vessels.

The motion was seconded by Commissioner Harris and carried by the following vote:

Ayes: Commissioners Diokno, Garcia, Harris, Ohlson, Thomas, Tumbaga
Noes: None
Abstain: None
Absent: Commissioner Ramirez [recused]

Commissioner Ramirez returned to the dais at this time.

Item 8: DOW MEI Expansion. AP-05-283 (DR)

An application by Devin Hart of DOW Chemical Company requesting design review approval of plans to add equipment to an existing Methyl Ester Intermediate (MEI) production plant. MEI is a component produced by Dow, which is delivered to Europe for further manufacturing to Fluoroxypyr, a broad leaf weed herbicide registered under the name STARANE® (Registered trademark of Dow Agrosciences LLP). Dow is requesting to expand the MEI plant and increase production in order meet increasing demand of the product. Expansion of the MEI plant will not require additional footprint area or additional height of the existing structure. The project is located within the DOW Chemical Company property located 901 Loveridge Road. The site is zoned IG (General Industrial District) APN 073-220-028.

Associate Planner Christopher Barton presented the staff report dated March 27, 2007. He recommended that the Planning Commission adopt Resolution No. 9693, approving AP-05-283 (DR), with the conditions as shown. He added that staff had received a letter from Adams Broadwell, Joseph & Cardozo, which had suggested that the Initial Study and Negative Declaration had not adequately addressed the impacts of the project.

PROPONEENT:

DEVIN HART, Project Manager Dow Chemical Company, 901 Loveridge Road, Pittsburg,
recognized staff for their adherence to the planning process. He also recognized the environmental experts for their expertise, attention to detail and thorough study of the project. He thanked the Planning Commission for its careful consideration of the application for design review. He concurred with the staff recommendation to approve the project.

OPPONENT:

TANYA GULESERN, Adams Broadwell, Joseph & Cardozo, Attorney representing the Contra Costa Building and Construction Trades Council, whose members construct and maintain commercial, residential and industrial projects in the City and in Contra Costa County, also represented O.C. Walker and Les Trapps, residents of the City who were also members of the Laborers and Cement Masons. She noted that the Council and its members were of the opinion that it was critical that projects approved by the City provide maximum economic and employment benefits to the local community, while also minimizing environmental impacts.

Ms. Gulesserian advised that her firm had consulted with an Air Quality and Public Health Expert who had over 30 years of experience in environmental engineering to review the data received by the City on the project. Based on that evaluation, she urged the Planning Commission to direct staff to prepare a full Environmental Impact Report (EIR). She suggested that the legal standard to require the City to prepare an EIR was clear and mandated preparation whenever substantial evidence in the record supported a fair argument that a substantial significant impact could occur.

Ms. Gulesserian suggested that the Initial Study had failed to describe the project with sufficient particularity in order to evaluate its impacts, including failure to describe two way tar and light streams that were hazardous waste streams generated by the project. She understood the project would double the production capacity of the existing plant with increased waste streams from the project. She suggested the project description failed to describe the process of routing vent gas streams to the existing Halogen Acid furnaces on the project site, and that there was substantial evidence in the record that the project would result in impacts to air quality and public health.

Ms. Gulesserian suggested that the City had omitted several emission sources in concluding that the impacts were less than significant. She stated that the Initial Study had also only compared the increases to the Bay Area Air Quality Management District (BAAQMD) significant thresholds rather than to the environmental baseline as required under the California Environmental Quality Act (CEQA). Further, there was substantial evidence in the record that the project would result in significant impacts from risk of ammonia releases.

Ms. Gulesserian suggested that the Initial Study had relied on a Risk Management Plan prepared for the existing plant and had not considered the proposed project which would
double the ammonia use. The Initial Study had also focused on the nearest sensitive receptor, one mile from the project site, and indicated that the impacts were less than significant since the Risk Management Plan had only found a potentially significant impact up to .04 miles from the site. That had ignored a per se significant impact on workers or passersby which had not been mentioned in the Negative Declaration. She urged the Commission to direct staff to prepare a full EIR.

In response to Commissioner Thomas, Ms. Gulesserian reiterated her opinion that an EIR should be prepared since there was evidence in the record which had shown potentially significant impacts that would trigger the preparation of an EIR. She also suggested that the streams that would be routed to the Halogen Acid furnaces would generate nitrous oxide particulate matter, an ozone precursor, and Carbon Monoxide. She pointed out that the Bay Area was in violation of State and federal ozone standards.

Commissioner Thomas was unaware of any problems with Dow which had been in the community for a number of years. She questioned whether or not Ms. Gulesserian was suggesting that with the new project the plant would be a problem in the community.

Ms. Gulesserian was unaware of Dow's history in terms of violations of air quality standards, although she suggested that doubling the capacity of a chemical at the plant would result in increased emissions in terms of air quality and health impacts that had yet to be adequately be analyzed, and which should be evaluated through an EIR.

When asked by Commissioner Harris who she represented, Ms. Gulesserian stated that she was concerned that there might not be like employment and economic benefits while the project was impacting the community. She acknowledged that she was also concerned with projects that did not hire union members.

Commissioner Garcia requested clarification from staff whether or not the project would consist of a 50 or 25 percent increase in capacity.

Mr. Barton advised that the production would increase 50 percent.

Commissioner Garcia understood that the Bay Area Quality Management District (BAAQMD) had stated that the Negative Declaration was adequate.

Mr. Barton advised that the BAAQMD must issue an approved permit to the applicant for the project to move forward. To his knowledge that permit had not yet been issued. Staff had forwarded a copy of the Initial Study and the Notice of Intent to adopt a Negative Declaration before the Commission to the BAAQMD, with no response from the BAAQMD to date. He explained that if there were any concerns with information lacking in the required documents, the BAAQMD would typically identify those deficiencies to the City, with the City to make any required changes. To date, the City had received no response.
from the BAAQMD. He clarified, when asked by Commissioner Thomas, that the Planning Commission could take action on the proposal prior to any permits from the BAAQMD.

JOE KRKOSKA, Site Leader, Dow Chemical Company, 901 Loveridge Road, Pittsburg, Stated that the MEI project would meet the company’s continued commitment to the community and the site’s economic viability provided they were able to continue to pursue strategic projects such as what had been proposed.

The project would also embody Dow’s commitment to being a responsible manufacturing neighbor by utilizing state of the art process technology. As a result, the project would drive a reduction in the current air emissions from the plant, although the production would increase.

Mr. Krkoska added that MEI was an intermediate used in the production of a crop production product registered under the trade name Starane®, which had been used for specific treatment of problem weeds in farm crops since its launch in Europe in 1984. He added that Starane® was registered in over 56 countries for the protection of over 20 different crops.

In order to respond to increased market demand, Dow had designed changes to the existing plant to allow an increase in production while at the same time reducing current air emissions. The proposed project would be highly integrated into the existing structure and would reuse the majority of the existing facilities while not increasing the plant footprint aesthetically or otherwise.

The project also would incorporate a sound and environmentally friendly design and had been evaluated by a neutral third party hired by the City that had determined no significant environmental impact would result from the project. A wide range of potential impacts had been evaluated for the proposed project including emissions, potential chemical exposures, aesthetics, and transportation issues both during construction and during the steady state operations. The project was also an integral part of the site viability.

Mr. Krkoska reiterated that the project would result in a net reduction of air emissions. Approval of the project would involve process vents being directed to Dow’s existing industrial furnaces for air abatement control. Use of the industrial furnaces for that purpose had been evaluated and approved in 2006 by the Department of Toxic Substances Control (DTSC) within all permits.

Mr. Krkoska advised that the project would not result in new risks of upset or accidental release relating to ammonia or any other material. On-site operations would be conducted in accordance with Dow’s approved Risk Management Plan and its approved Accidental Release Response Plan. All truck transport would be in accordance with the Department of Transportation (DOT), all within permits and regulatory requirements.
Mr. Krkoska went on to note that no new power generation would be necessary for the project, with power generated on-site exceeding Dow’s electricity demand. The project had been carefully evaluated by the City and would be safe for employees and neighbors while providing an economic benefit to the community, just as the MEI plant had done for well over a decade. The project team had conducted its work carefully and methodically and under the guidance of many to ensure effectiveness.

Mr. Krkoska looked forward to approval of the project to allow Dow to proceed to construction for a project that was a key to Dow and the community.

Commissioner Diokno understood that the facility had been built in 1991 and had been functioning since 1992. He inquired whether or not there had been any reported incidents concerning safety at the site.

Mr. Krkoska explained that Dow tracked everything from a pump seal drip to something that could be considered more significant. He reported that there had been no off-site impacts and no site-wide impacts from any event that had occurred at the MEI facility. There was continuous safety training on site levels, department levels for Dow employees, improvement organizations and the like with the same training requirements for everyone on-site.

Commissioner Thomas inquired of Mr. Krkoska’a response to the comments made by Ms. Gulesserian.

Mr. Krkoska advised that Dow had hired additional employees and if the project remained on schedule they would return to operations late this year or early next year and would bring people on board early for training to take place. He also clarified that the Dow site was a non-union operation although Dow employed union craftsmen on-site in various capacities. In general, those union employees were engaged in ongoing maintenance. The Dow employees were not union members. Dow operators at the facility had a minimum wage of $72,000 a year, with built in over-time, company matching portion of a 401k Plan, medical/dental coverage and defined benefit pension plans.

Mr. Krkoska added that Dow was not engaged in operations that would be to the detriment of employees. Craftsmen were also paid on a similar wage scale, with engineers in the $90,000 plus range, as were the engineering contractors involved in the design and construction of various projects.

Mr. Krkoska reiterated that the air emissions would be reduced because vent streams would be routed to the Halogen Acid furnace, which had been reviewed by the DTSC. Dow would operate within the permit requirements that DTSC had issued and would operate within any requirements imposed by the BAAQMD.
In response to Commissioner Garcia, Mr. Krkoska explained that PMI Contractors was part of a union organization responsible for all rotatable equipment on-site and involved people that lived and worked in Pittsburg and Antioch. PMI also had a contract for other equipment on-site.

ZACK WALTON, representing Dow Chemical, advised that Dow had timely submitted its application to the BAAQMD. The BAAQMD might not approve the application until the City completed its CEQA evaluation. As a responsible agency, Mr. Walton explained that the BAAQMD had the opportunity to review the Negative Declaration and if there were concerns would have provided written comments to the City to that effect. To date, no comments had been received from the BAAQMD.

Mr. Walton disagreed with many of the comments made by Ms. Gulesserian. He noted that the project description was in the CEQA documentation and design review application, with the City having evaluated that issue. Also, the industrial furnaces had been evaluated. While there would be an expansion, the plant emissions as a result of the project would be directed to a furnace that had already been evaluated by the DTSC. The DTSC had approved the operation of the furnace for that purpose and had conducted a risk assessment during its original evaluation. The DTSC had concluded that risks were insignificant and that process vents to the furnace as a result of the proposed project were the same types of constituents evaluated in the risk assessment.

As to the assertion that emissions would increase and that emissions from the furnaces had not been evaluated, Mr. Walton noted that the Initial Study had clearly identified the emissions and had documented a net reduction in plant emissions. He encouraged the Planning Commission to approve the project.

Commissioner Garcia understood that co-generation would not require additional electricity. He pointed out that Dow had been in the community for many years and had been a good employer. He commented that when USS Steel had modernized POSCO, the waste material had been reduced almost 90 percent as a result of new industrial technology. The documentation had shown that the project would not result in significant air impacts along Loveridge Road and State Route 4.

Commissioner Garcia suggested that the project would be good for the community and would keep the plant in the community. He also suggested that no one would notice any changes when the project had been built. He suggested that the Negative Declaration met all of the requirements. He supported the approval of the project.

Commissioner Ohlson commented that having been to the site on a business basis, he had experienced some of the safety regulations imposed by the company. He had also spoken with a Dow employee who had been very happy to work for the company. Given the limited visual impacts and since the Commission was only considering design review,
he was prepared to support the project.

Commissioner Harris stated that he had a family member who was a retired Dow employee and he was aware that Dow offered very good medical benefits.

Commissioner Thomas commented that based on the information presented she could support the project.

Commissioner Ramirez added that his neighbor had been the longest working employee at Dow, had recently retired and had nothing but good things to say about the company. He could support the project as well.

Commissioner Garcia commented that while he appreciated unions, which oftentimes kept wages up, Dow had been a good neighbor and he had many friends who had been pleased to be employees of Dow. He supported the application.

Chairperson Tumbaga noted that she appreciated the concerns raised by Ms. Gulesserian. She recognized the volume of material as part of the application and she trusted those who had prepared the studies had provided material that would allow the Commission to make good sound decisions. She trusted that information was accurate and correct.

MOTION: AP-05-283 (DR)

Motion by Commissioner Garcia to adopt Resolution No. 9693, approving Design Review Application No. AP 05-283 for plans to add equipment to an existing three to five story tall steel lattice frame rack system within an existing Methyl Ester Intermediate (MEI) production plant, “Dow Chemical Company MEI Project, AP-05-283 (DR), (Application Type),” with the conditions as shown. The motion was seconded by Commissioner Thomas and carried by the following vote:

Ayes: Commissioners Diokno, Garcia, Harris, Ohlson, Ramirez, Thomas, Tumbaga
Noes: None
Abstain: None
Absent: None

STAFF COMMUNICATIONS:

The Planning Commission acknowledged receipt of the following Notice of Intent (to review/approve project at staff level):

a. Dow Chemical Company – SVA Project. AP-07-419 (DR)
Ms. Ayres reported that there would be a Sign Workshop scheduled for the afternoon of April 12, with a field trip and discussion of the sign code and signs in the community. Also, the City Council requested an additional Hillside Ordinance workshop which had been scheduled for Wednesday, April 18 at 7:00 P.M. in the Council Chambers. A list of all issues raised during the prior discussion would be identified with recommended changes to the document.

Chairperson Tumbaga commented that a member of the public had encouraged a better format to allow discussion between the public, the City Council and the Planning Commission.

Ms. Ayres explained that during the next workshop the thought was that it could be more of an informal setting.

**COMMITTEE REPORTS:**

There were no committee reports.

**COMMENTS FROM COMMISSIONERS:**

Commissioner Diokno reported on his attendance at the recent Planner’s Conference in San Diego which he had found to be beneficial. He appreciated the City’s support of his attendance at that event.

Commissioner Ramirez also spoke to the benefits of attending the Planner’s Conference.

Commissioner Thomas reported on her attendance at the Planner’s Conference, the benefits of the sessions she had attended, and reported that the cities of Pittsburg and Orinda had been commended for getting information to their Planning Commissioners in a timely manner prior to public hearings.

Commissioner Ohlson also spoke to his attendance at the Planner’s Conference. He otherwise spoke to the North Park Plaza development and while he understood that there were a number of future projects that would be coming to the Commission for consideration for that site, he would like to see the shopping center be connected by a sidewalk to the rest of the City.

Ms. Ayres advised that the project had not been agendized for discussion at this meeting, but would be considered by the Planning Commission at its April 24 meeting.

Commissioner Ohlson added that the Atlantic Plaza Shopping Center had no connection from its sidewalk to any City owned sidewalks without having to walk across the parking lot. He asked as part of the remodel of that center that a crosswalk be striped onto the asphalt, one at each end of the building, and one that traveled north from the center of the building to the stop sign at the crosswalk, with trees along the crosswalk.
Ms. Ayres advised that the project also had not been agendized for discussion for this meeting but would also be considered by the Planning Commission on April 24.

**ADJOURNMENT:**

There being no further business, the meeting adjourned at 9:27 P.M. to a regular meeting of the Planning Commission on April 10, 2007, at 7:00 P.M. in the City Council Chambers at 65 Civic Avenue, Pittsburg, CA.

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MELISSA AYRES, Secretary  
Pittsburg Planning Commission