A regular meeting of the Pittsburg Planning Commission was called to order by Chairperson Tumbaga at 7:00 P.M. on Tuesday, December 12, 2006, in the Council Chambers, City Hall, 65 Civic Avenue, Pittsburg, California.

ROLL CALL:

Present: Commissioners Diokno, Garcia, Harris, Ohlson, Ramirez, Chairperson Tumbaga

Excused: Commissioner Thomas

Absent: None

Staff: Planning Director Melissa Ayres, Assistant Planner Kristi Vahl, Administrative Secretary Fara Bowman, and Senior Civil Engineer Alfredo Hurtado

POSTING OF AGENDA:

The agenda was posted at City Hall on Friday, December 8, 2006.

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 – November 14, 2006

Commissioner Ohlson requested amendments to the minutes of the November 14, 2006 meeting, changes of which were not recorded on tape and which were to have been provided to staff.

MOTION:

Motion by Commissioner Ohlson to approve the minutes of the November 14, 2006 meeting, as amended. The motion was seconded by Commissioner Garcia and carried by the following vote:

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

b. City Initiation of a General Plan Study in Conjunction with the Residential Component of Phase II of the Comprehensive Zoning Code Update.

MOTION:

Motion by Commissioner Garcia to approve the City initiation of a General Plan Study in conjunction with the Residential Component of 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, Tumbaga
Noes: None
Abstain: Commissioner Ramirez
Absent: Commissioner Thomas

Commissioner Ramirez noted for the record that he abstained on this item on the advise of the City Attorney because he owns residential property in the study area.
CONTINUED PUBLIC HEARINGS:

Item 1: Universal Auto Sales/Repairs. AP-06-350 (UP)

A continued public hearing on an application filed by Angela Naydeuous requesting approval of a new use permit to modify an existing use permit (Resolution No. 9153) for automotive repair and automotive sales. The business is located at 499 and 475 East Tenth Street, on the northwest corner of Harbor Street and East Tenth Street within the Downtown Service Commercial District. APN 085-185-001; 037.

Assistant Planner Kristi Vahl presented the staff report dated December 12, 2006. She recommended that the Planning Commission adopt Resolution No. 9674, approving AP-06-350 (UP), with the conditions as shown.

[Note: The recording of the meeting begins in the middle of discussion on this item.]

Commissioner Ohlson spoke to Section 2. Findings, Condition 5 of Resolution No. 9674 and inquired whether or not the applicant was in agreement with that condition.

PUBLIC HEARING OPENED

PROONENT:

RACHEL HAMILTON, Architect, 2054 University Avenue, Suite 200, Berkeley, stated that she represented Angela Naydeuous, the applicant, who was in agreement with Condition 5 although she would be installing landscaping on the east side of the building towards the cross street and the building at the west end. She noted that the applicant had hoped to pool her resources in specific areas, however if the landscaping was preferred across the fence, that could be done as well.

Commissioner Ohlson noted that there appeared to be a discrepancy with some of the information that had been provided to the Commission.

Planning Director Melissa Ayres clarified that there were two resolutions in the staff report, one that was attached to the initial staff report and the second is a revised resolution which is being considered by the Commission this evening.

Ms. Hamilton reiterated that the property owner had agreed to comply with Condition 5 of Resolution No. 9674, although rather than concentrate the landscaping in one area it would be spread out across the property. If that was done, she recommended planting a Bougainvillea plant that would add visual interest and which would have thorns as well.

Commissioner Garcia expressed concern with the installation of a slatted fence, which while an improvement over what currently existed, would be solid and not allow views
through. In that regard, he questioned why vines would then be planted against the fence other than to cover the barbed wire.

Ms. Ayres understood that the fence would be of a vinyl material, which was not the City’s preferred look given the City’s investment in the downtown where the use of stone and upgraded materials had been required of other developers. She explained that if a block wall was not to be built, the fence must be solid per the Municipal Code. If the fence was to be accepted as a first phase standard, it should be covered in vines, flowers or ivy.

Chairperson Tumbaga inquired whether or not the vinyl slatted fence could be allowed for an extended period of time with the requirement for a solid wall at some point in the future.

Ms. Ayres affirmed that such a condition could be imposed on the use permit. As an example, the applicant could request relief from that condition in five years if the funds to provide that improvement were still not available. In this case, the business had been in operation for more than five years and did not apparently have the ability to fund the development of a wall.

Commissioner Diokno suggested that would be a good compromise. In addition to covering the slatted material with vine material, he suggested that would also add height and block the sight of the vehicles behind the fence. He recognized the efforts to improve the downtown.

Chairperson Tumbaga spoke to photographs of the site where the slats in the fence had been shown in a diagonal, providing a good barrier.

Ms. Hamilton acknowledged that a diagonal slat could be accomplished but must be woven or placed vertical between the chain links of the fence. The downside was that the top and bottom edges tended to get jagged due to the light weight material needed to allow the slats to be weaved.

OPPONENTS: None

PUBLIC HEARING CLOSED

Commissioner Garcia agreed that a five year extension for the chain link fence was a good idea, although he questioned whether or not any other property had been required to change a fence in five years. He recommended a change in the condition that rather than “shall” be required in five years, a solid wall “may” be required in five years.

Chairperson Tumbaga supported a compromise to allow the transition and change to the neighborhood. She otherwise supported a requirement requiring the fence to be re-visited
Commissioner Diokno suggested that such a condition would be reasonable.

Commissioner Garcia made a motion to approve “Universal Auto Repair and Universal Auto Sales, AP-06-350 (UP)” with the conditions as shown and with a new condition that the fence shall be reviewed in five years and may have to be upgraded.

Ms. Ayres requested that Condition 3 of Resolution No. 9674 be revised to reflect that the Wing PVC Slat Fence Material was being approved by the Planning Commission rather than being delegated to the Planning Department for review and approval.

**MOTION: AP-06-350 (UP)**

Motion by Commissioner Garcia to adopt Resolution 9674, approving AP-06-350 (UP), a Use Permit to allow automotive repair and automotive sales at 499 and 475 East Tenth Street for “Universal Auto Repair and Universal Auto Sales, AP-06-350 (UP),” APN 085-185-001; 037, with the conditions as shown, with a modification to Condition 3 that the Wing PVC Slat Fence Material was approved by the Planning Commission and with a new condition that the fence shall be reviewed by the Commission in five years and may at the time have to be upgraded. The motion was seconded by Commissioner Ramirez and carried by the following vote:

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

**PUBLIC HEARINGS:**

**Item 2: Lawlor Estates – Development Agreement. AP-06-391 (DA)**

A public hearing on an application filed by Discovery Builders on behalf of Lawlor Estates, LLC, requesting approval of a development agreement to satisfy the affordable housing requirement for Tract 8112 by constructing three accessory dwelling units within Tract 8112, located on the south side of W. Leland Road, west of Chestnut Drive in the RS-O (Single Family with an Overlay (03-1212)) District.

Planning Director Ayres presented the staff report dated December 12, 2006. She recommended that the Planning Commission adopt Resolution No. 9680, recommending City Council approval of the proposed development agreement between the City and Discovery Builders.

**PUBLIC HEARING OPENED**
PROPONENT:

LOUIS PARSONS, Discovery Builders, 4061 Port Chicago Hwy, Suite H, Concord, explained that they had been working with staff on the Development Agreement (DA) which had been thoroughly reviewed by the developer who was in agreement with everything in the document.

OPPONENTS: None

PUBLIC HEARING CLOSED

MOTION: AP-06-391 (DA)

Motion by Commissioner Garcia to adopt Resolution No. 9680, recommending City Council approval of a Development Agreement between the City and Lawlor Estates, LLC, AP-06-391(DA), with the conditions as shown. The motion was seconded by Commissioner Harris and carried by the following vote:

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

Item 3: City Initiated General Plan Amendments Related Primarily to Measure P and MOUs.

A City initiated proposal to amend the General Plan to 1) establish a new proposed sphere of influence line, 2) designate Norton Valley as Open Space, 3) establish guidelines in the General Plan for developing new greenbelts between designated developable areas and portions of the southern foothills outside the Urban Limit Line and 4) align City policies for conducting traffic studies for new developments with CCTA standards.

Assistant Planner Kristi Vahl presented the staff report dated December 12, 2006. She recommended that the Planning Commission approve all the City initiated General Plan Amendments related primarily to Measure P and Memorandums of Understanding (MOUs).

Commissioner Ohlson spoke to the last paragraph of Page 3 of 6 of Resolution No. 9682 and commented on his understanding that the developer would dedicate the greenbelt which would not allow the building of homes since that area might be too steep. He suggested that paragraph implied that the housing allotment that could not be built on the greenbelt would be allowed to be built elsewhere in the area without increasing the overall number.
Ms. Ayres explained that under the General Plan the Faria/Costa South property, as an example, clear to the City of Concord border, had a Low Density Residential designation which would allow up to three dwelling units per area. She clarified the intent of the paragraph referenced by Commissioner Ohlson was that the City desired a greenbelt along that border, although the density on the property at three units per acre could still be proposed in clusters in other parts of the same property. The ultimate development density would be determined through the Environmental Impact Report (EIR) and subdivision application process.

Ms. Ayres stated that the General Plan would set the guidelines. The intent of that paragraph was that the City would not reduce the density with that policy in the General Plan in that the density would still be determined through the detailed site plan analysis.

Commissioner Diokno inquired of the definition of a greenbelt.

Ms. Ayres advised that a greenbelt could be either a public or private property, determined through site plan review. She cited William Lyons Homes as an example of a developer that did not want to own anything and had, through its DA chosen to dedicate the slopes of its property to the Geologic Hazardous Abatement District (GHAD). She commented that developer Albert Seeno Jr. had often taken the position of keeping open space land within large subdivision in the family and grazing that land. She pointed out that the Oak Hills development had open space pockets the developer continued to own.

As to whether or not the public would have access to the open space area for recreational purposes, Ms. Ayres stated that there was no detailed site plan submitted to the City at this time to determine whether or not that might be the case.

Commissioner Diokno also requested clarification of the definition of a Low Density designation.

Ms. Ayres explained that in this instance the three units per area designation was a mid-point density for both the Low Density Residential and Hillside Low Density Residential as shown in the General Plan density categories. The General Plan specifically limited development the Montreux and Faria Costa properties to 3 du/ac maximum.

In further response to Commissioner Diokno, Ms. Ayres advised that the General Plan contained several policies that would guide development of the site and which would require that a portion of the land be set aside for estate lot and high end housing, but not necessarily every lot. There could be some clustering of development to avoid environmental constraints. She added that the City’s Housing Element mandated estate lots in the subject area.

Commissioner Diokno did not see three units per acre as high end housing.
Commissioner Ohlson commented that he had spoken with representatives of the East Bay Regional Park District (EBRPD) who had inquired whether or not some of the greenbelt would be contiguous to the Black Diamond Regional Preserve.

Ms. Ayres clarified that the property under discussion was nowhere near the Black Diamond Regional Preserve. She acknowledged that she had also recently spoken with the EBRPD and explained this to their representative.

In response to Commissioner Diokno as to whether or not any development on the property would be required to comply with the recently adopted East County Habitat Plan,

Ms. Ayres explained that the plan was a separate document. If the City Council adopted the Habitat Conservation Plan (HCP), it would apply to the property when the property was brought into the City and when development was proposed. She understood that the HCP would be considered for adoption by the City Council in January or February 2007.

When asked by Commissioner Ohlson as to the details of the Williamson Act, Ms. Vahl explained that the Williamson Act was legislation allowing tax breaks for agricultural land placed under 10 year preservation contracts. The Williamson Act applied to the Montreux property and the property owner had filed a Notice of Non-Renewal of their contract, although that would not take effect for nine years and the developer would be unable to develop the land until it expired.

Commissioner Diokno spoke to Page 2 of 3 of Attachment 5 (MOU), which had shown Albert Seeno, Jr. in agreement to protect the 800 plus acre property commonly known as Southport. He inquired of the location of that property.

Ms. Ayres advised that Southport was located adjacent to the EBRPD Black Diamond Preserve.

Commissioner Diokno also understood that the greenbelt in the Faria property would extend from the ridgeline of the extreme southern boundary to the next ridgeline inside the City limit.

Ms. Ayres clarified that the greenbelt in the Faria property would extend from the Concord City limit to the first set of ridges, including the tops of the ridges, on the Faria property. She noted that while the City had topographical maps, staff had not attempted to map the property since the General Plan did not have contours and staff did not want to change scales and make mistakes. As a result, the language in the MOU had been used in the proposed general plan amendments so that when there was a subdivision application under consideration, the contours of the greenbelt would be better identified in text that had
PUBLIC HEARING OPENED

PROPOSED: City of Pittsburg

INTERESTED SPEAKERS:

CHRISTINA WONG, East Bay Field Representative for the Greenbelt Alliance, a non-profit organization protecting open space and promoting Smart Growth in the Bay Area, asked the Planning Commission to extend the comment period and delay a decision on the items before the Commission. Ms. Wong noted that the Greenbelt Alliance had only been notified of the public hearing last week and had not been able to find the agenda posted online until recently. She stated the Greenbelt Alliance normally received an e-mail version of the agenda which had not been provided in this case. She stated that the Greenbelt Alliance was a stakeholder in the matter and that during an August 2006 City Council meeting, the former East Bay Field Representative had asked the City Council to notify him of any information on the City’s Hillside Protection Ordinance or hillsides and General Plan Amendments. She stated that that had not been done.

Ms. Wong added that the staff report and additional documentation had only been received this date with no opportunity for review. She urged the Commission to extend the comment period to allow public participation and an open process.

Ms. Wong otherwise wanted to see the Norton Valley and the designated open space areas be protected areas without development. In addition, she wanted to see the City consider no development on the hillsides and did not want to see property annexed until there was a strong Hillside Protection Ordinance in place. She provided a letter to staff and to the Commission from the Greenbelt Alliance at this time.

In response to Commissioner Garcia, Ms. Wong clarified that the Greenbelt Alliance was concerned with the Norton Valley area identified in the staff report, not necessarily that portion within the Urban Limit Line (ULL).

Ms. Vahl clarified that there was a small portion of property within the ULL that would be restricted to a greenbelt area per the MOU and the amendments being proposed. All of the areas south of the ULL are proposed to remain outside the City’s sphere of influence line.

Commissioner Garcia suggested that since the Greenbelt Alliance had been involved in the issues surrounding Measure P, it should be aware of what had been passed.

Ms. Wong reiterated that she was speaking to the area identified in the staff report as designated open space and which the Greenbelt Alliance would like to see protected.
Ms. Ayres clarified that the area was outside the ULL, which was the reason staff was recommending a conversion to Open Space on the General Plan and to respect the passage of Measure P; Urban development was proposed to stop in the community at the ULL.

ROBERT GREEN, Pittsburg, who lived adjacent to the Montreux property, also asked that the matter be delayed given that he too had not been adequately noticed. He expressed concern that the Commission would not stop the scarring of the hillsides once grading had commenced. Mr. Green stated that potential environmental impacts, based on the Initial Study, would jeopardize air, land and views. He also expressed concern with the lack of a development plan and the possibility of approving an MOU with a developer. He questioned the City’s legal recourse if the developer decided to do something different. It was his understanding that if homes were not built in one area, they could be built on the Faria property all the way up.

Mr. Green suggested that the normal process should be followed rather than allowing the developer to proceed as desired. He expressed concern that the City could be open to potential lawsuits, by its citizens or by the developer. He also expressed concern with the potential loss of open space.

Mr. Green further spoke to the issues revolving around Measure P and the development of the Buchanan Road Bypass, which would allow access to the property under discussion. He again asked that action on the item be delayed to allow the entire community to provide input.

Commissioner Garcia requested clarification from staff whether or not density from the Faria property could be transferred to other properties.

Ms. Ayres stated no and explained that as stated in the MOU, the density allowed in the General Plan on areas within the greenbelt could be relocated to other portions of the same property only, and only if supported by the City after submitted and review of a development application and completion of CEQA analysis on that plan.

Ms. Vahl added that no density transfer would apply to the Montreux property since the requirement for the greenbelt for that property was in the lower one fifth, an area already designated for open space.

OPPONENTS: None

PUBLIC HEARING CLOSED

Commissioner Diokno inquired of the status of the Hillside Ordinance. He questioned whether or not there was an urgency to act on the item at this time.
Ms. Ayres explained that staff was reviewing an administrative draft of the Hillside Ordinance/Guidelines submitted by the consultants. It was expected that a final draft document would be available for public review in January 2007. Comments on the draft were expected to be considered by the Land Use Committee, comprised of two Councilmembers and Planning Commissioners, for additional feedback prior to final revisions for the environmental review and public process before the Planning Commission and the City Council.

Ms. Ayres clarified that the issue before the Commission was General Plan Amendments the City had obligated itself to consider after the passage of Measure P in 2005. The intent was to bring the General Plan up to reflect the will of the public with the passage of Measure P including taking away development potential in the Norton Valley, removing the 2020 Sphere of Influence (SOI) which had shown future annexation of the Norton Valley, and to implement provisions in the MOU which had already been adopted by the City Council restricting growth in the southern foothills. She commented that there would be no harm if the matter was delayed given that nothing was waiting for the item.

Commissioner Diokno expressed concern with the lack of public participation and questioned whether or not notification had been provided. He suggested that the issue was important enough that more than normal public notification should have been provided.

Ms. Ayres responded that notification had been included in the local newspaper, on the City’s website, at City Hall, in the Library, and with placard postings throughout the community.

Ms. Ayres further commented that if a recommendation was made by the Commission to the City Council this evening it would not be considered by the Council until January 16, 2007, which would also allow the speaker opportunity for additional time for public review and input.

Commissioner Garcia suggested that the matter be forwarded with a positive recommendation to the City Council, which would also consider the item when additional public input could be provided.

In response to the Chair, Ms. Ayres clarified that the Planning Commission was only being asked to make a recommendation to the City Council. Ultimately the City Council would have to decide whether or not to follow through on the MOU and amend the General Plan.

Commissioner Ohlson expressed concern whether or not there had been sufficient notification and public involvement. He referenced the comments provided from the Greenbelt Alliance requesting specific notification that had not been provided. He suggested it was reasonable for the Planning Commission to delay action on the item for
another month.

Commissioner Ramirez understood that public notification had been provided and if the item was not delayed there was still an opportunity for the public to speak again before the City Council. He saw no reason to delay action at this time.

Commissioner Harris made a motion to approve the staff recommendation.

Commissioner Diokno sought additional public input suggesting there had not been an opportunity for the public to study the issue. If the item were forwarded to the City Council with a positive recommendation, he suggested that the Commission would be shirking its duty and not giving an informed recommendation. He would like to hear from all sides.

Commissioner Garcia inquired of staff whether the property was located within the County or within the City limits.

Ms. Ayres explained that the properties where the General Plan land use changes had been proposed were in the Norton Valley, located in an unincorporated area of the County outside the city’s ULL. The areas where the greenbelt areas had been proposed were located in unincorporated areas of the County inside the ULL. The one General Plan Amendment proposed related to changing the peak hour traffic studies would be applied Citywide.

Chairperson Tumbaga was not opposed to a continuance and hearing further comments from the public since it was possible the Commission might make a different recommendation from the staff recommendation, or that additional information might allow the Commission to make a more informed recommendation or changes to the staff recommendation.

MOTION: To approve/FAILED

Motion by Commissioner Harris to adopt Resolution No. 9682, recommending that the City Council amend the Land Use Element, the Growth Management Element, and the Open Space, Youth and Recreation Element of the General Plan, for the “City Initiated General Plan Amendments Related Primarily to Measure P and MOUs”. The motion was seconded by Commissioner Ramirez and FAILED by the following vote:

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

Commissioner Harris pointed out that Commissioner Diokno worked for County Supervisor Federal Glover. As such, he questioned whether or not he should be voting on the matter.
He recommended that Commissioner Diokno step down from the dais.

Commissioner Diokno pointed out that Commissioner Harris was a developer in the community, to which Commissioner Harris stated that he was not involved with the development of the property.

Commissioner Diokno stated that he had no financial interest in the development of the property and would therefore participate in the discussion.

Ms. Ayres clarified that there was no reason why Commissioner Diokno or Commissioner Harris could not vote on the matter before the Planning Commission.

**MOTION: To continue/FAILED**

Motion by Commissioner Diokno to continue the adoption of Resolution No. 9682, recommending that the City Council amend the Land Use Element, the Growth Management Element, and the Open Space, Youth and Recreation Element of the General Plan, for the “City Initiated General Plan Amendments Related Primarily to Measure P and MOUs,” to the Planning Commission meeting of January 9, 2007. The motion was seconded by Commissioner Ohlson and FAILED by the following vote:

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

Given the tie vote on both motions, Chairperson Tumbaga clarified with staff and for the record that no action had been taken and that the item would automatically be referred to the City Council meeting of January 16, 2007.

Commissioner Ramirez requested that the City Council be advised of the “no decision” from the Planning Commission. Ms. Ayres affirmed that would be handled by an attachment of the Commission minutes to the Council staff report.

**COMMISSION CONSIDERATION:**

There was no Commissioner Consideration.

**STAFF COMMUNICATIONS:**

There were no staff communications.

**COMMITTEE REPORTS:**
There were no committee reports.

COMMENTS FROM COMMISSIONERS:

Commissioner Ohlson referenced the Delta Hawaii Apartments at the corner of Stoneman Avenue and Harbor Street and noted the lack of a gate at the pick-up truck ramp where a tree remained in the ramp area.

Ms. Ayres commented that she believed the gate was a condition of approval of the Tentative Map. She stated the Final Map had not yet been approved and the applicant was not yet obligated to comply with the conditions pending the Final Map process.

Commissioner Ohlson also requested an updated list of Planning Commissioners with member information. He also asked for a reasonable number of bicycle racks in shopping centers, pursuant to the number of stores in the center, particularly with the upcoming remodel of the Atlantic Plaza Shopping Center.

Ms. Ayres advised that staff was in the process of compiling all of the information from the discussions of the Zoning Code Update and would include modifications in the proposed zoning code requirements for bicycle racks when it is brought back for Council action next year.

Commissioners Garcia, Ramirez and the Chair wished everyone a Merry Christmas and Happy New Year.

ADJOINMENT:

There being no further business, the meeting adjourned at 8:32 P.M. to a regular meeting of the Planning Commission on January 9, 2007 at 7:00 P.M. in the City Council Chambers at 65 Civic Avenue, Pittsburg, CA.