MINUTES
OF THE REGULAR MEETING
OF THE
PITTSBURG PLANNING COMMISSION
August 22, 2006

A regular meeting of the Pittsburg Planning Commission was called to order by Chairperson Tumbaga at 7:00 P.M. on Tuesday, August 22, 2006, in the Council Chambers, City Hall, 65 Civic Avenue, Pittsburg, California.

ROLL CALL:
Present: Commissioners Diokno, Garcia, Harris, Ohlson, Ramirez, Thomas, Chairperson Tumbaga
(Commissioner Thomas arrived after Roll Call)
Absent: None
Staff: Planning Director Melissa Ayres, Associate Planner Dana Hoggatt, Project Planner Ali Endress, Assistant Planner Kristi Vahl, and Senior Civil Engineer Alfredo Hurtado

POSTING OF AGENDA:
The agenda was posted at City Hall on Friday, August 18, 2006.

PLEDGE OF ALLEGIANCE:
Commissioner Ramirez led the Pledge of Allegiance.

DELETIONS/WITHDRAWALS/CONTINUANCES:
Ms. Ayres reported that agenda Items 1 and 2 would be continued to the Planning Commission meeting of September 12, 2006, although both items had been noticed to the public. As a result, anyone present in the audience desiring to speak to either item could do so.

COMMENTS FROM THE AUDIENCE:
There were no comments from the audience.
PRESENTATIONS:
None

CONSENT:
Commissioner Thomas stated for the record that the clock in the Council Chambers was four minutes fast and that she was, in fact, on time for the meeting.

a. Minutes – August 8, 2006

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

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

CONTINUED PUBLIC HEARINGS:

Item 1: Creekside Village Condominium Conversion. AP-06-310 (SUB)
A continued public hearing on an application by Chris Valeriote of Terra Nova Development requesting approval of a tentative map to convert 88 senior residential apartments from rental units to senior-restricted condominiums. The application includes a request for a reduction in the minimum requirement for private storage space and in the minimum number of required parking spaces. The site is located at 30 Castlewood Drive in a PD (Planned Development, Ordinance 1185) District. APN 089-060-008. (Continued from August 8, 2006)

Planning Director Melissa Ayres recommended that the item be continued to the Planning Commission meeting of September 12, 2006. Given the public hearing, she suggested that those wishing to speak at this time be allowed to do so.

PUBLIC HEARING OPENED

There were no comments from the public.

The item was continued to the Planning Commission meeting of September 12, 2006.
COMMISSION CONSIDERATIONS:

Item 2: Koch Carbon Bulk Storage Warehouse. AP-06-324 (DR)

An application by Joe Ray of Koch Mineral Services, LLC, requesting design review approval to construct a 65.5 foot tall, 118,000 square foot building with related site improvements at an existing marine terminal located on a 12.25 acre site located at 707 East Third Street in the IG (General Industrial) District. APN 073-020-020.

Ms. Ayres reiterated that the item would be continued to September 12, 2006, although if there was anyone to speak to the item those comments should be taken.

PUBLIC HEARING OPENED

There was no one present to speak to the item. The item was continued to the Planning Commission meeting of September 12, 2006.

Item 3: La Huasteca Market. AP-06-323 (DR)

An application by John Rivelli requesting design review approval for a minor storefront remodel and 660 square foot addition to an existing market at 3811 Railroad Avenue. The building is on the east side of Railroad, south of El Dorado Drive and is zoned CC (Community Commercial) District. APN 088-072-064.

Assistant Planner Kristi Vahl presented the staff report dated August 22, 2006. She recommended that the Planning Commission adopt Resolution No. 9657, approving AP-06-323 (DR), with the conditions as shown.

Commissioner Ohlson recommended a grammatical change to the staff report and spoke to Condition 5 of Resolution No. 9657. He requested clarification of the intent of that condition.

Ms. Vahl explained that the brickwork to be added to the top of the brick façade would be laid in such a way where the bricks would be standing up, like soldiers, essentially providing a cap on the existing brickwork.

Commissioner Ohlson also spoke to Condition 17 and requested clarification from staff as to the intent of that condition. He inquired whether or not the condition was the same as the design review guidelines contained in Resolution No. 8931 as referenced in that condition.

Ms. Ayres commented that the design guidelines were used to evaluate projects where a project might or might not be consistent, which had been discussed in the code compliance
section. The reference in Condition 17 to Resolution No. 8931 was to a list of standard conditions that the Planning Commission had approved years ago and which applied to all projects. The applicant received that list with the staff report and cover letter and was made aware of those conditions.

With respect to the one way exit north from the back parking lot, Commissioner Garcia requested that a Do Not Enter sign be posted.

Ms. Vahl suggested that a condition could be added to address that issue.

Commissioner Garcia also noted that the empty lot was also owned by the applicant and was not to be used to store trucks, trailers and pickups.

Commissioner Diokno affirmed with staff that the main entrance to all of the tenant spaces would be from the front. Since customers would have to walk from the back parking lot to the front, he questioned whether or not there would be lighting on the side walkways for security purposes.

Ms. Vahl understood that there was existing lighting in that area, which the applicant could clarify.

Commissioner Thomas inquired whether or not there would be provisions to deal with the past problems with double parking in the front of the buildings which had been exacerbated by the adjacent dry cleaners that she understood had since moved. She expressed her hope that the applicant would ensure that the double parking would not continue although she recognized that since the dry cleaners had moved that problem had been alleviated somewhat.

Ms. Vahl suggested that the problems with double parking would be prevented with the new landscaping strip which would not allow any driving or parking in front of the business. In addition, the north side would be striped a No Parking Fire Lane.

PROPOONENT:

JOHN RIVELLI, Design & Planning, 420 Orchard View Avenue, Martinez, identified himself as the representative for the applicants, Rafael and Nora Cervantes. He had nothing to add to the record. He had read and was in agreement with the recommended conditions of approval. He commented that he was in the process of being the licensed architect for the project although there would be a licensed engineer of record for the project.

In response to Commissioner Ohlson’s question related to the plans and the definition of “dapped,” Mr. Rivelli explained that when cutting a joist for a beam, less than 30 percent could be cut. He explained that wherever there was a chamfer edge with a pitched roof, the beam could not sacrifice more than a certain percentage in ratio, which was what the
term applied to, the dap, the pitch of the roof.
Commissioner Ramirez noted that the business had a number of violations in the past, which was a concern to him, however after a review of the plans he was now satisfied with the work that would be done which he suggested would be an asset to the neighborhood. Having recently driven past the site, he commented that the inside walls were starting to come down and the sheetrock was out.

Mr. Rivelli explained that the property owner had a separate demolition permit for that area and that work had been inspected. That work had been done so that he could review the existing structure joists and studs. He also clarified when asked, that the adjacent building had lighting where the properties were sharing the same driveway. The subject property also had lighting as shown on the site plan. There was also existing lighting on the gas station side as well. There was additional lighting on the commercial building on the opposite side, which lighting had not been shown on the plans although it could be incorporated into the subject plans.

Mr. Rivelli added that lights would be installed to the rear of the property which should be sufficient to illuminate the parking. He also clarified that the landscaping at the front would consist of shrubs, bushes and existing trees that were on the City property and which would remain. Each side would have two 15 gallon trees and shrubs offering a nice landscaping feature. The sidewalk in the front of the building was six feet wide. Further, there was an overhang over the parapet at 6 feet beyond the sidewalk providing a covered entrance and three feet of existing parapet that would remain, as shown on the site plan.

Mr. Rivelli further noted that the existing windows at the front of the building would remain. He acknowledged that those windows did not match the rest of the building with the exception of the left side. The owner had started off with an extension of the market after which other changes had been made to improve and enhance the appearance of the building. Given the intent to limit the cost of the project, he expressed his hope that the windows would be left as is.

Commissioner Diokno suggested it would be advantageous for the property owner to extend the windows down to allow views into the restaurant.

Mr. Rivelli verified with the property owner in the audience his willingness to make that modification.

Commissioner Ramirez inquired whether or not there were any plans to remodel the interior, to which Mr. Rivelli clarified that no interior remodeling was planned other than relocating the air conditioning and now modifying the windows.

OPPONENTS: None
MOTION: AP-06-323 (DR)

Motion by Commissioner Garcia to adopt Resolution No. 9657, approving Design Review Application No. AP-06-323 (DR), granting design review approval for 1) a 660 square foot commercial addition, 2) a minor storefront remodel, 3) an upgraded parking lot, and 4) upgraded landscaping located at 3811 Railroad Avenue for “La Huasteca Addition AP-06-323 (DR),” with the conditions as shown and subject to the following additional conditions:

- The southwest windows on the building to be extended to the brick fascia; and
- An additional Do Not Enter sign to be placed at the rear parking lot.

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

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

Item 4: CP District – Study Session.

A City-initiated project to amend Title 18 (Zoning Ordinance) of the Pittsburg Municipal Code in order to establish a new commercial zoning district, the Pedestrian Commercial District, in Pittsburg’s downtown commercial core. The Pedestrian Commercial District is intended to create a vibrant destination area for pedestrian shoppers and visitors downtown. The Pedestrian Commercial District will include provisions for: property development regulations, permitted and conditionally permitted uses, performance standards, blank walls, nonconforming uses and structures, and maintenance.

Ms. Ayres requested that any typographical or grammatical errors be provided to staff in writing to allow for modification to the document since the item would be brought back as a formal public hearing on September 12. She added that the study session had been noticed to the public to allow for public input.

Contract Planner Ali Endress presented the staff report dated August 22, 2006. She recommended that the Planning Commission hold a public hearing to solicit public comments and to allow the Commission to provide comments to staff on the proposed regulations, particularly in the areas of discrepancy between the property owners, business owners, redevelopment staff, Main Street, and the Land Use Subcommittee that had been addressed in the analysis section of the report.

Ms. Endress added that staff had received an e-mail dated August 22, 2006, from Isac Gutfreund, the owner of property located at 395 Railroad Avenue, who had raised a
number of concerns with the proposed CP District. Copies of the e-mail were provided to the Commission.

CRAIG SEMMELMEYER, Main Street Property Services Inc., developer of the Old Town Pittsburg Design Guidelines & Principles, and the leasing agent for the Vidrio project, commented on the fact that downtowns in the San Francisco Bay Area over the past several years had been in a state of decline. He stated that Pittsburg’s downtown area was not unique in that regard. He noted that the automobile effect of a shopping center with a multitude of different owners and divested interests had led to the flight of many department and retail stores to a more homogenized shopping center. There was now a trend back towards downtowns. He stated that the successful downtowns were those taking the principles of the shopping centers and bringing them to a downtown area.

Mr. Semmelmeyer described his experience in developing downtowns. He stated that based on that experience, Pittsburg’s downtown offered an opportunity for office and retail tenants to locate in the downtown. He suggested that with downtown experiencing difficult times, a retail tenant would not likely locate when the majority of the space was surrounded by office tenants. He suggested that the new CP District would direct retail onto Railroad Avenue where it could create synergy and activity on the side streets. He suggested that retail and restaurant uses would create economic activity seven days a week, day and night. He urged the support of the Planning Commission for the development of the CP District which he suggested would create a vital Old Town Pittsburg.

In response to Commissioner Thomas as to whether or not Mr. Gutfreund’s e-mail had been addressed, Chairperson Tumbaga explained that as staff had reported, the e-mail had just been received this evening and staff had not had the opportunity to review the concerns that had been raised. The intent of the study session was to receive comments and provide feedback to staff. She noted that Mr. Gutfreund’s e-mail would be part of the public record.

Commissioner Garcia also spoke to Mr. Gutfreund’s e-mail and the concern that there would be a three month restriction for new commercial/retail rentals in the CP-1 Area, although staff had recommended a six month restriction, which he supported. Speaking to the CP-2 Area, he inquired why private schools would be prohibited. He noted that the old Wards building on Cumberland and Fourth Street could be occupied by a private school, as an example, and could be similar to a real estate office, which would also have students.

Mr. Semmelmeyer suggested that a private school could be part of the CP-2 Area, although it was preferable to see such a use on a second floor since there would be no interactivity.

Ms. Ayres added that private schools that met compulsory education requirements and the commercial schools such as business schools and the like would be permitted versus the elementary school uses.
Page 7 of Attachment 1, which had listed the CO, CN, CS, and CP Districts, Additional Use Regulations, L-C.h, had indicated what would be allowed in the CP-2 Area. A Conditional Use Permit would be required in the CP-1 Area.

In response to Commissioner Diokno as to the types of retail located in the City of Pleasanton, Mr. Semmelmeyer explained that there was a combination of regional and local tenants such as Starbucks, House of Bagels, an independent florist, a toy store, apparel and home furnishings stores, as well as a specialty pet store and a regional book chain.

Mr. Semmelmeyer commented that in the City of Pleasanton they had targeted and attracted those tenants that were missing in the area and those uses that would benefit from a street environment. Pleasanton had ended up with a mix such as regional independent entrepreneurial tenants and the like. He added that some of the best tenants were independents and start up businesses. He reiterated that his firm was also involved in the marketing and coordination of retail leasing for the Vidrio project.

Commissioner Ohlson spoke to Attachment 1, Page 1 of Chapter 18.52, Commercial Districts (C) Article 1, General, 18.52.005, Specific Purposes, A 1 and asked that it be revised to read:

1. Provide appropriately located areas consistent with the general plan for a full range of office, retail commercial, pedestrian commercial, and service commercial uses needed and wanted by residents of, and visitors to, the City and region;

Commissioner Thomas commented that some of the retail mentioned as being in the City of Pleasanton was upscale. She inquired whether or not the consultant had considered a balance of the City’s bedroom community and working class environment. While she was not suggesting it would not be justified to include upscale uses, she questioned whether or not there was consideration for a middle ground encompassing new and existing residents who would all be able to participate in such a retail environment.

Mr. Semmelmeyer emphasized the need to be cautious when developing and attracting tenants to be able to attract local and East County residents. He stated that the goal was to watch the demographics and the downtown needs, to be different and special for all residents.

Chairperson Tumbaga understood that the consultant had worked in several community downtown areas. She inquired if any of those projects had been completed.

Mr. Semmelmeyer commented that retail was a living and breathing thing and they were never done. The City of Alameda had worked with independent tenants and none had failed.
Mr. Semmelmeyer stated that he had also been involved with a project in the City of Concord’s downtown area, which was in the second phase of attracting new and additional tenants. He stated that the City of Alameda’s downtown had not had space for two years.

Mr. Semmelmeyer added that he had worked in Pleasanton’s downtown project eight years ago. The first phase of that project had been fully leased approximately seven years ago. He stated it had taken two years to complete the first phase of that project from the start of the acquisition of property and 100 percent lease of the development upon completion of the project. The Pleasanton project involved 26,000 square feet of total space with approximately 5,000 square feet of upper floor office spaces and the remainder retail space. He noted that eleven businesses were utilizing the total space.

Mr. Semmelmeyer clarified that he had been involved with the Salvio Pacheco Square office building with ground floor space in the Todos Santos Plaza located in the City of Concord. For that development, the building was being remodeled to appear like a downtown building. Also in that case, the developer had received cooperation from the City of Concord where the ground floor retail only ordinance for the entire building had been reduced to allow retail in the front with office uses in the back. That building had allowed for the creation of a vibrant retail street that was 100 percent occupied.

Mr. Semmelmeyer suggested that many of the businesses that had been attracted to the City of Concord were those he would like to see in Old Town Pittsburg. He used the success of Pittsburg’s Farmers Market as a good marketing tool to prospective retailers. As to outdoor seating, he stated that there were retailers and restaurants that would like to be part of a downtown scene. It was those types of tenants who would be encouraged to locate in the area.

INTERESTED SPEAKERS:

THOMAS LaFLEUR, Pacific Community Services, Inc., 329 Railroad Avenue, Pittsburg, stated that his employer owned the property at 329 Railroad Avenue and had a general interest in the downtown. Although the CP District had value and merit, he suggested it had not included a program of incentives or encouragements, but was a program of force through the police powers of the City by turning existing buildings and uses into non-conforming uses. He explained that the building at 329 Railroad Avenue consisted of 7,500 square feet and was a historic resource that had been built in 1925. That building had been extensively remodeled in the 1980’s.

Mr. LaFleur suggested if that building were to become vacant, the new CP District would limit the tenants that could occupy the building, impacting the property owner’s ability to rent, lease or sell the building and impacting the value of the property if there was no market for retail.
Mr. LaFleur characterized the new CP District as inverse condemnation. He noted that the City had worked with Mechanic’s Bank and had offered incentives to locate that facility in the downtown. The City took the risk in that case, not the private property owner. Had the new CP District been in place, he suggested that building could not have been used in that fashion. While he was not opposed to a new CP District if there were valid studies by real estate economists that there was a market for retail in the downtown, he pointed out that downtown Pleasanton was not downtown Pittsburg. He suggested that the City needed to find a way to reach those goals with the Redevelopment Agency and not burden private property owners which could result in empty buildings.

Mr. LaFleur reiterated that the building at 329 Railroad Avenue was a historic resource, was non-conforming and would have to become a two story building which might or might not be economical. He suggested that would result in the demolition of a historic resource, and as such, he understood that would require a full review under the California Environmental Quality Act (CEQA).

Mr. LaFleur added that the building also had a concrete unfinished blank wall visible from Third Street since an adjacent building had been demolished in cooperation between the adjacent property owner and the City. Since the wall was now exposed, he suggested it was not fair to the current property owner if that wall was now found to be offensive.

Mr. LaFleur suggested that the market should dictate what would be done. He suggested that the CP District would be spot zoning. He added that the City offered outdoor entertainment, which was not permitted in the CP-1 Area. Many of the events the City now offered as outdoor entertainment would be prohibited, which he opposed. He also suggested that the California Theater should be a permitted use and not require a use permit if someone wanted to use it as a theater. He went on to note that the Scampini building had not been identified in either the CP-1 or CP-2 Areas but had been identified in the General Plan as a commercial use. He asked that no action be taken to preclude or prejudice that building as a commercial use without environmental review.

Further, Mr. LaFleur questioned the prohibition of the use of neon or A-frame signs in the CP District, which he suggested should be allowed in the downtown. He found those types of signs to be part of the eclectic beauty of the area.

JIM MILLER, Architect, Jim Miller Architects, 600 Cumberland Street, Pittsburg, suggested that as Old Town grew it needed the framework to define future and existing properties so that property owners and tenants knew what was expected of them when buying or leasing space in Old Town. As a long time resident of the City and the downtown, he stated there were more residential and mixed uses in the downtown. While the residential uses would enjoy an increase in the urban lifestyle, he suggested that those uses would be subject to noise and other commercial activities that did not normally occur in residential areas.

Mr. Miller suggested it was important to provide the interfaces between commercial and
residential uses that would promote harmony within the shared uses of the space, provide safeguards for promoting compatibility between those uses, and provide property owners the knowledge of the zoning and design requirements so that appropriate decisions could be made on the use of their properties.

Mr. Miller commented that he had attended two meetings with planning staff and the Chamber of Commerce on the proposed CP District where comments had been raised on the land uses. He requested consideration that the Fire District property be zoned as part of the CP District either in the CP-1 or CP-2 Areas since the property was currently by itself. He understood that the CP-2 Area would allow a fire department.

Ms. Ayres explained that the General Plan designation for the Fire District property was Public/Institutional which had a different best fit zoning district of Government and Quasi-Public District. She commented that the space might or might not be vacant in the future. She added that the General Plan did not support commercial zoning of that property at this time.

Mr. Miller pointed out that the current proposed land use regulations allowed governmental and quasi-public uses in the CP District including government office, park, recreation facility, public parking facility and public safety facilities. He again asked that the piece of property be included in either the CP-1 or CP-2 Areas. He did not want to see a use not allowed in those areas where it could end up as an island. If there was a special need, he suggested that an overlay district could be considered.

Mr. Miller also noted that the General Plan for the downtown area required a use permit for churches. The CP District would prohibit a church in the CP-1 Area but would allow a permitted church in the CP-2 Area. With the variety of uses in a church, he suggested it was important to have a use permit reviewed by the Planning Commission to ensure adequate safeguards for residential and commercial neighbors. He also understood that live entertainment was allowed without a use permit as long as it was within a building, although he suggested that use should also be reviewed by the Planning Commission given the potential noise impacts to surrounding uses.

Speaking to the design guidelines, Mr. Miller suggested that the current process where property owners or tenants would be notified at the time of the submittal for a building permit was too late in the process. He requested that all design guidelines and zoning information be provided early on, at the time of business license application or when an individual requested information on a property.

MARK WRIGHT, Precision Edge, 130 East Fourth Street, Pittsburg, submitted written comments to staff. He stated that he and his brother had been in business in the downtown for the past 20 years. He too saw the CP District as potential inverse condemnation of his property. In the 28-plus years he had done business in the downtown, he saw no proof that the downtown could support a retail environment.
Mr. Wright suggested it was absurd to make the CP District mandatory before the district proved to be viable. He suggested that the incentive approach made more sense than a punitive zoning approach, which would limit the use of a building with no incentive for anyone to move in and provide retail in the downtown. He suggested that the incentive the City had provided to bring Mechanic's Bank to the downtown was a good option.

Mr. Wright commented that he had seen businesses open and close in the downtown including retail that had not been successful. He noted that the City of Concord four years ago had a much better reputation in the overall East Bay community than the City of Pittsburg. While he believed in the future of the City, forcing a vision of the future that had not been proven to be viable was unfair and potentially negative to his property.

Mr. Wright pointed out that his building had no frontage on Railroad Avenue and was located on Fourth Street adjacent to a park. To expect retail to occur at that location in the near future was not likely. He pointed out that downtown Walnut Creek did not have retail on many of its side streets, including Main Street which had office uses.

Mr. Wright further commented that at the time he had purchased his building, it had been condemned and was a shell. He had conducted extensive exterior and interior improvements to the building. At the time, the City had informed him that the building was a historic building and the City had wanted to maintain a historic appearance, which had been done. He suggested that the front of the building benefited the City and was one of the better looking buildings in the downtown. The building did not have a second floor but did have a mezzanine. The new CP District would turn his building into a non-conforming use with no viable chance he would be able to locate a new space.

JASON GRIEGO, 446 Railroad Avenue, Pittsburg, suggested that the premise of the CP District was a good thing aesthetically. While it made sense to have a retail corridor along Railroad Avenue, he encouraged an incremental approach which would be more conducive and allow a more conservative look at the space. While Railroad Avenue was envisioned for retail, he questioned using the side streets in the same way. He noted that in the cities of Alameda and Concord, the downtown side streets had office uses.

Mr. Griego stated that his building at Fifth Street and 446 Railroad Avenue was rather large and had been designed with new urbanism ideas, with a full mixed use within the building, with retail envisioned along Railroad Avenue, and with residential above. The middle section was an art studio with another 1,000 square feet of office on Fifth Street. He suggested that the new CP District could be cumbersome and might not allow that vision. He suggested that the CP District would essentially pound buildings into shape.

Mr. Griego noted that he had received City approval for plans for his building 60 days ago. The new CP District would turn his building into a non-conforming use, which he found to offer a mixed message. He emphasized that the new district could negatively impact the
plans for his building.

Ms. Ayers clarified for the benefit of the audience that if the Commission supported the position of the consultant that new businesses should focus on retail that every existing business that did not fall under a permitted or conditional use permit would become non-conforming. She emphasized that any use legally established would continue to operate as long as it wanted. Under the City’s non-conforming rules, if a tenant moved out and the property owner had a building with an office, the property owner could market the building to other office uses even though the new CP District desired retail. Under the non-conforming rules, if the property owner located a new similar use within a six month period, the new office use could continue to operate as long as it wanted to be there. The use of the building would not have to convert to retail unless the building was vacant for six or more months.

Ms. Ayres added that the City had two meetings with the Chamber of Commerce when the same information had been presented. She stated that the issue that had been raised would not affect Mr. Miller’s property which was located in the CP-2 Area on Cumberland Street. The new CP District would affect the other speaker’s properties in that the businesses would go from a permitted to a non-conforming use, but it would again not prevent those businesses from operating in their current spaces as long as they wanted and would not prevent a property owner from leasing the space to another office business within six months of an existing use vacating the site. Again, if they were unable to secure a tenant in six months, the property owner would be asked to market the site to the permitted uses under the CP District.

Commissioner Thomas emphasized that she was community oriented and wanted assurance that the community was involved and that any business that would be affected was notified properly and in full understanding of what was being proposed. She suggested that there had been some miscommunication along the way and she urged that it be clarified.

Ms. Ayres also commented that the proposed minimum two story building height could be tied exclusively to existing structures which are only one story so that they would not be made non-conforming. As to the concerns with respect to outdoor City events, such as Friday Night Films, such activities were currently allowed under a temporary activity permit which would continue to be the method of regulating those uses.

As to the California Theater and whether or not it was a permitted or conditionally permitted use, Ms. Ayres urged caution in that if theaters were allowed to be a permitted use that would mean for any building in the downtown area. A conditional use permit was encouraged to determine whether or not the use was appropriate in a specific building. In that case, the City would likely indicate it was appropriate for the California Theater to operate as a theater, if available but not necessarily every other building in Old Town. She added that A-frame signs were not part of the current process but part of the Sign
Ordinance that would come back to the Commission at a later date.

Ms. Ayres noted that the Old Town Guidelines did not allow A-frame signs at this time but that could be something to review at a later date. She also clarified that the CP District included a provision that churches would be a permitted use in the CP-1 and CP-2 Areas, although that would have to be reevaluated to ensure consistency with the other proposed commercial zones of the City. Presently, the City had determined that the occupancy of a large church was different from a smaller church. Churches with 49 or fewer people in their assembly would have the same building code rating as an office building. A small church would be able to occupy a place where offices were allowed. A congregation with 50 or more people involved another set of building codes and fire emergency requirements which would have to be reviewed in the future.

In response to the concerns with the Precision Edge building, Ms. Ayres acknowledged that was the only property in the proposed C-1 District that did not front Railroad Avenue. The Planning Commission might wish to consider moving the line between the CP-1 and CP-2 Areas and placing that property in the CP-2 Area. With respect to the Greigo property, she stated that if the Commission desired to reduce the retail on that property to less than 20 feet, that could be done. She clarified that artist’s studios were a permitted use in the CP-1 Area.

Commissioner Garcia recommended Precision Edge property be placed completely in the CP-2 Area. As to the Greigo property, with the understanding that the applicant had received building permits and did not want to see the building become a non-conforming use as soon as it was finished, he supported a reduction in the retail to include the artist’s studio in either the CP-1 or CP-2 Area. He otherwise pointed out that whenever a General Plan was updated, many properties are made non-conforming as a result. As an example, Commissioner Garcia cited the former Pepsi Warehouse building on Central Avenue which had become non-conforming and which had remained vacant for years since it could not be leased due to the zoning. The building had eventually burned down. He agreed with the need to consider the impacts to the Greigo and Wright properties.

Mr. Wright suggested that if the line was moved over and if his building was not included in the CP-1 Area, he still had the problem of not being an official two story building. He reiterated his concerns taking a historic building and altering the design to meet the new CP District which he found to be economically unrealistic.

Mr. LaFleur reiterated that as a building owner, the new CP District would be devastating. He suggested that the market was stronger for office uses than retail, and if they could not find a commercial user within a six month timeframe, the economic costs could be huge. He understood that the existing zoning would allow the building to be turned into a plumbing shop, as an example, and that during difficult times in a downtown area, uses such as those in a light industrial park were often located in a downtown.
Mr. Semmelmeyer commented with respect to the Griego building that like many buildings, the demising walls moved within them and the building should be in the CP-1 Area. In his opinion, the Precision Edge building should not. The logic was that there were different sizes and types of businesses that would like to locate in the downtown and those businesses should have that opportunity. He added that the City of Walnut Creek had retail only zoning. In that case, a non-conforming business, as an example, would not devalue the building which would, in fact, increase in value with the non-conforming use permit. In such a situation, the property owner had an economic advantage and could lease the space to either retail or the existing use or sell the building to the existing use.

In response to Commissioner Diokno, Mr. Semmelmeyer explained that the consultant had been working with the City of Pittsburg for the past 20 months and had become involved when the Vidrio project had been conceived.

Commissioner Diokno commented that the City had made similar attempts in the past where good ideas had not come to fruition. He suggested that it would ease minds if the consultant had come across any businesses interested in locating in the downtown area.

Mr. Semmelmeyer reported that they were working with several businesses that were interested in locating outside of the Vidrio project including a coffee shop, micro brewery, and a book store. As an example, the Bay Street project in Emeryville had involved industrial and areas of redevelopment where a critical mass of retail had been developed. The potential missing link in Pittsburg was the lack of critical mass retail space.

Commissioner Harris inquired of the timeframe when it was envisioned that the CP District would succeed in the downtown.

Mr. Semmelmeyer suggested that Pittsburg’s Old Town would evolve for a number of years where he envisioned a combination of leases and sales, both in the short term and in the long term in an evolving process. He suggested that a successful Vidrio project would attract other businesses to the City.

Commissioner Harris pointed out that the communities the consultant had referenced had a great deal of traffic that could be garnered for those developments from nearby freeway traffic. Old Town Pittsburg did not have the same traffic circulation.

Mr. Semmelmeyer suggested that there would be noticeable differences in the next two years with a number of restaurants in Old Town. He advised that they had been negotiating for the Vidrio building and had Letters of Intent with potential tenants that were not already located in East County. He added that a lease was being negotiated for the area of Cumberland Street for a brewery/tasting room, with a restaurant to follow and with a focus on the immediate vicinity of the Vidrio building which needed that synergy to be successful.
Mr. LaFleur questioned why the new Gateway building at Tenth Street and Railroad Avenue had not been identified in the CP-1 Area, to which Ms. Ayres explained that there has been a discussion of the front half of that property being in the CP-1 Area. The absence of that building was an oversight.

In response to the Chair, as to the concerns raised in Mr. Gutfreund’s e-mail, Ms. Ayres reiterated that staff had just received the e-mail, would review the concerns, and would provide a response to the Commission at the time the matter was brought back as a public hearing.

Commissioner Ohlson again referenced Attachment 1, Chapter 18.52, Commercial Districts (C) Article 1, General, Page 1 of 11, 18.52.005, Specific Purposes, A, 5, and requested a definition of “institutional residential development.” He stated that he had found a number of typographical errors in the document that he would provide to staff in writing. Again speaking to the same attachment and section, Specific Purposes, B, he noted that none of the districts other than the CP District had listed a specific street name. He asked that the primary corridor of the CP District place the specific street name so that it would apply to other areas in the City similar to what had been done in the document with the four preceding districts.

Commissioner Ohlson also offered the following comments and recommendations:

- Attachment 1, Chapter 18.52, Commercial Districts (C) Article 1, General, Page 2 of 11, 18.52.005, Specific Purposes, B, 5, should be revised where the CP-1 Area should not have parking lots, but parking buildings;

- Attachment 1, Chapter 18.52, Commercial Districts (C) Article 1, General, Page 3 of 11, 18.52.010, Land Use Classification, Public Transit Terminal, should be permitted in the CP District;

- Clarified with staff that bicycle parking requirements would be identified in the parking section of the Municipal Code;

- Attachment 1, Chapter 18.52, Commercial Districts (C) Article 1, General, Page 4 of 11, Land Use Classification, Outdoor Facility should be reviewed as to whether or not it should be permitted in the CP District.

- Attachment 1, Chapter 18.52, Commercial Districts (C) Article 1, General, Page 4 of 11, Land Use Classification, Catering Services would bring in the potential for delivery truck traffic. Whether catering services should be encouraged should be reviewed;
• Attachment 1, Chapter 18.52, Commercial Districts (C) Article 1, General, Page 4 of 11, Land Use Classification, asked for the addition of a Land Use Classification for Hospital Thrift Stores operated by volunteers;

• Attachment 1, Chapter 18.52, Commercial Districts (C) Article 1, General, Page 4 of 11, Land Use Classification, Printing Services, clarified with staff that Kinko’s would fall under the Limited category;

• Attachment 1, Chapter 18.52, Commercial Districts (C) Article 1, General, Page 5 of 11, Land Use Classification, clarified with staff the differences between an Animal Show and a Circus but recommended that the land use classifications be better defined;

• Attachment 1, Chapter 18.52, Commercial Districts (C) Article 1, General, Page 6 of 11, Land Use Classification, Storage Outdoor, requested the prohibition of outdoor storage even temporarily;

• Attachment 1, Chapter 18.52, Commercial Districts (C) Article 1, General, Page 6 of 11, CO, CN, CC, CS, and CP Districts; Additional Use Regulations, L-12, disagreed with the prohibition of self-service laundries in those districts and pointed out that they were a high traffic user;

• Attachment 1, Chapter 18.52, Commercial Districts (C) Article 1, General, Page 7 of 11, CO, CN, CC, CS, and CP Districts; Additional Use Regulations, L-C.h, asked that the asterisk indicating a footnote be better clarified in the document;

• Attachment 1, Chapter 18.52, Commercial Districts (C) Article 1, General, Page 8 of 11, CO, CN, CC, CS, and CP Districts; Additional Use Regulations, L-C.q, requested clarification on the differences of requiring a use permit and requiring the approval of a use permit;

• Attachment 1, Chapter 18.52, Commercial Districts (C) Article 1, General, Page 11 of 11, Article 2: Development Standards, 18.52.115, Performance standards for CP District, C, identified a grammatical error and suggested the restriction would prohibit UPS from making any deliveries in the afternoon, and asked that the standard be more flexible;

Ms. Ayres explained that the loading restriction as shown had been taken from the approved regulations for the Vidrio project, but could be reviewed as it applied to all the other properties.

• Attachment 1, Chapter 18.52, Commercial Districts (C) Article 1, General, Page 11 of 11, Article 2: Development Standards, 18.80.035, Maintenance, requested
staff review that section in that it did not currently make sense;

- Attachment 2, Chapter 18.76, Nonconforming Uses and Structures, Page 2 of 4, 18.76.030, F, appeared to have a sentence missing and should be reviewed by staff;

- Attachment 5, City of Pittsburg, Outdoor Dining Permit, Guidelines/Submittal Requirements, Policies, first page, the second bullet, should be revised to read:

  Outdoor dining areas shall be open to adjacent streets, courtyards, or public plazas. Diners shall be visible to people passing by, while views of the public shall be available to the diners.

- Attachment 5, City of Pittsburg, Outdoor Dining Permit, Guidelines/Submittal Requirements, first page Approval Process: last sentence of the first paragraph to be revised to read:

  The permit must be maintained at the business site and will be valid for two years from the date of issuance. Renewals will not be unreasonably withheld.

- Attachment 5, City of Pittsburg, Outdoor Dining Permit, Guidelines/Submittal Requirements, second page, Performance Standards; 6, add a sentence that the receptacles shall be kept clean;

- Attachment 5, City of Pittsburg, Outdoor Dining Permit, Guidelines/Submittal Requirements, second page, Performance Standards; 9 to be revised to read:

  The Outdoor Dining Permit will be valid for one year from the date of issuance. It is the applicant’s responsibility to keep the permit in compliance with the performance standards stated here or similar.

- Attachment 5, City of Pittsburg, Outdoor Dining Permit, Guidelines/Submittal Requirements, second page, Submittal Requirements, 2, requested the addition of bicycle racks to the second bullet and asked that the last bullet point be better clarified.

Ms. Ayres noted that during the public outreach there had not been consensus regarding some of the proposed zoning amendments to establish the CP District, as outlined 1 through 5 on Pages 14 through 19 of the August 22, 2006 staff report. She sought a consensus from the Planning Commission on each point.

As to the first issue, the consensus of the Planning Commission was to support the recommendation for the zoning amendment where “A nonconforming use that is
discontinued or changed to a conforming use for a continuous six (6) months or more may not be re-established."

As to whether or not Office uses should be allowed as a permitted use in the CP-1 Area or as proposed in the CP-2 Area, Commissioner Ohlson supported offices as a permitted use in the CP-2 Area only. Chairperson Tumbaga supported office use in the CP-1 and CP-2 Areas.

Commissioner Ramirez noted that whether or not an elevator would be required as a result as it would impact the older buildings in the downtown should be considered.

Chairperson Tumbaga understood that Americans with Disabilities Act (ADA) requirements might be triggered with upstairs office uses.

Commissioner Garcia stated he believed that office uses should not be a permitted use in the CP-1 area.

Chairperson Tumbaga noted that not all the property owners have second floors. Absent retail uses, she questioned what the property owners would do if offices were not permitted in the CP-1 Area.

Commissioner Diokno suggested that they work towards the vision for the downtown and limit office to CP-2 areas.

Commissioner Garcia noted that the block between Sixth and Seventh Streets had been vacant for some time. He expressed his hope that there might be an ability to secure a retail tenant for that area.

Commissioner Harris preferred to see a mix and suggested that existing offices should be allowed to remain where located.

Chairperson Tumbaga commented that the properties on Railroad Avenue between Sixth and Seventh Streets were not two story buildings. If those property owners could not attract retail but an office user, the owners could not rent to any office in those existing spaces since it was not allowed. She supported offices or a mix of uses.

Commissioner Ohlson suggested that if allowing an office use on the ground floor that use could be in that location for some time, longer than a retail user, which could effectively remove the possibility of that square footage ever being retail. In his opinion, there should be retail only on the ground floor, as the consultant had recommended. He would otherwise like to see a safety valve and recommended revisiting the zoning after a certain number of years to see if the new district worked. Given that the City had hired the consultant to identify what had been successful elsewhere, he did not support proposals
contrary to the recommendations to avoid something that did not function.

Chairperson Tumbaga emphasized the need to be fair to the property owners who had vacancies and recognizing the need to fill those vacancies.

If the property owners were unable to fill those vacancies with a retail use, the Chair suggested that the owners would not be allowed to fill the buildings with anything else.

Commissioner Thomas commented that the Commission had met with developers in the past. She understood that the downtown area had been envisioned to have bookstores, coffee shops, retail, outdoor seating and the like, with the Commission told to envision Walnut Creek. She questioned where that direction had gone. She cited a previously approved development which had involved lofts on the upper levels with retail on the ground floor.

Chairperson Tumbaga stated that direction remained. The current discussion related to existing buildings in the CP-1 Area that would be affected by the new zoning district. There had been other workshops on the same issue with opposition to the current issue, as outlined in the staff report.

Commissioner Thomas questioned the potential impacts to minority businesses in the downtown.

Chairperson Tumbaga explained that all businesses had been part of the process, had raised concerns and were being dealt with in terms of whether or not those businesses would be relocated. The discussion at hand was in regard to the existing buildings and a potential change in the zoning.

Commissioner Diokno stated that he was in favor of keeping new offices out of the CP-1 Area since foot traffic was essential and critical for retail uses and restaurants.

Commissioner Ramirez suggested that the CP-1 Area should be commercial and not include office uses. The CP-2 Area should have the offices and should be allowed to be upstairs or downstairs. If no elevator was in the building, modifications must be made.

As to whether or not personal services should be prohibited in the CP-1 Area, the consensus of the Commission was that the recommendations as recommended by Main Street Consultants should be supported.

Commissioner Ohlson clarified that he would like to see a high pedestrian use permitted in the CP-1 Area. If not a high pedestrian draw, that use should be prohibited.

As to the accessibility issue, in terms of the fact that many of the downtown buildings were
not compliant with ADA standards, Ms. Ayres explained that the older buildings in the
downtown would be required to meet ADA requirements if they were to remodel up to 20
percent of the cost of renovations. She explained that the way the CP District had been set
up, outside improvements would have to be done at the time of tenant improvements.

Commissioner Harris referenced the former Anthony’s Jeweler’s building and that property
owner’s efforts to purchase the adjacent Aiello building to be one building along Fourth
Street, both one story buildings, which situation might be impacted by the CP District.

Ms. Ayres commented that she was not familiar enough with the building code to know
whether or not a mezzanine would trigger an elevator.

Chairperson Tumbaga recalled that the mezzanine ceiling height was too low in that
building and the mezzanine might have to be removed.

Ms. Ayres commented that an alternative could be to still trigger outside improvements
although maybe up to 19 percent which would not trigger the elevator rule.

Commissioner Garcia commented that the Anthony’s Jeweler’s building had the original
façade. The Aiello Furniture building façade was also the original façade and he
understood a condition would not be imposed to change those facades. He recognized
that it was difficult to trigger the elevator requirement unless there was a possibility of
leasing out the immediate floors. He suggested waiting until there were tenants to trigger
an elevator for the upper floors where ADA requirements would then be required.

Ms. Ayres noted that example might require the addition of potted plants outside, or the
potential addition of awnings, if appropriate, rather than major façade changes.

Commissioner Diokno and Chairperson Tumbaga found Commissioner Garcia’s
recommendation to be reasonable.

Commissioner Ramirez affirmed with staff that the ADA requirements for the first floor
would be for the restrooms only.

As to the Artist’s Studio and Bakery Additional Use Regulation, L-C. c, as shown on Page
18 of 19 of the staff report, that section was found to be acceptable to the Planning
Commission as submitted.

Item 5: Zoning Update Study Session – Commercial and Mixed Use Districts.
A City-initiated project to amend Title 18 (Zoning) of the Pittsburg Municipal Code in order
to implement General Plan goals and policies pertaining to commercial and mixed use
development throughout the City.
Associate Planner Dana Hoggatt presented the staff report dated August 22, 2006. She recommended that the Planning Commission review the suggested changes to Chapter 18.52 (Commercial Districts) and the text of the proposed new Chapter 18.53 (Mixed Use District) of the Pittsburg Municipal Code, accept input from the public and provide feedback to staff on the revisions.

In response to Commissioner Thomas, Ms. Hoggatt reiterated that there had been workshops on the proposed amendment to Title 18 which had been attended by 30 to 35 people.

Commissioner Ohlson requested the following modifications:

- Attachment 2, Chapter 18.53, Mixed Use District (M), Page 1 of 6, 18.53.010, Specific Purposes, A, 3, and 4, add a reference to bicycles;
- Attachment 2, Chapter 18.53, Mixed Use District (M), Page 1 of 6, 18.52.020 Land Use and development regulations should be corrected, to read 18.53.020;
- Attachment 4, Chapter 18.08, Use Classifications, Page 8 of 24, Article 4, Commercial Uses, 6, revise the statement to consist of one paragraph;
- Attachment 4, Chapter 18.08, Use Classifications, Page 10 of 24, Article 4, Commercial Uses, 13 g, clarify the definition that there would be inside seating in a restaurant with outdoor dining, as well.
- Attachment 4, Chapter 18.08, Use Classifications, Page 10 of 24, Article 4, Commercial Uses, 14, e, clarify the definition that off-site consumption without provision for on-site pickup or consumption meant the customer.
- Attachment 4, Chapter 18.08, Use Classifications, Page 22 of 24, Article 6, Agricultural and Extractive Uses., C, revise the second to last sentence as follows:

  Typical places include borrow pit, quarry, or oil and gas well.

Commissioner Diokno commented that he had seen more seniors or the disabled on scooters and motorized wheelchairs. He inquired if such uses would fall under the category of bicycles.

Ms. Ayres explained that sidewalks had handicap ramps at the corners to serve
wheelchairs or scooters. She would otherwise have to review the rules with the City Engineer.

Commissioner Diokno commented that the same reasoning goes with Segways, to which Commissioner Ohlson explained that as a general rule, Segways were limited to sidewalks. Commissioner Diokno requested that such equipment be incorporated into all areas of transportation in terms of purpose and intent. Commissioner Ohlson added that electric wheelchairs and scooters used by handicap persons could travel up to 5 MPH on East Bay Regional Park District (EBRPD) trails. Otherwise motorized scooters were not permitted on the EBRPD trails.

NIELS LARSEN, Antioch Building Materials, 1375 California Avenue, Pittsburg, explained that the business was a heavy industrial company at the site for the past 50 years and had just become aware of the potential zoning. He expressed concern with any zoning changes that would impact the business.

Ms. Hoggatt explained that the General Plan designation for the area of Antioch Building Materials was Business Commercial and not Industrial. In order to address that designation and to respond to the General Plan policies, she had proposed that the area be mapped as a Service Commercial District, the heaviest commercial district in the City. As drafted and proposed, she stated that Antioch Building Materials would not be a permitted use in that area and would fall into the non-conforming category where the business would be allowed to continue to operate but not expand operations beyond what currently existed. Once that business ceased operation for six months or more it would have to conform to the current zoning.

Ms. Hoggatt clarified that the discussion at this time was a study session. All comments would be incorporated into a draft form of the document for Planning Commission review during a noticed public hearing. The Planning Commission would make a recommendation to the City Council which would make the ultimate decision. All affected property owners would be notified of future public hearings.

In response to Commissioner Garcia, Ms. Hoggatt explained that whoever was on the tax assessors record as the recorded property owner of Antioch Building Materials had been notified of the study session three weeks ago. She recognized that Antioch Building Materials was the tenant on the property.

Ms. Hoggatt stated that she could check the list to determine who had been notified. Everyone who owned property within the affected area had been mailed a copy of the staff recommendation.

Chairperson Tumbaga understood that all of the input for the prior study session would be incorporated into the current document as it related to the CP District, with some exceptions.
Ms. Ayres explained that the Redevelopment Agency was anxious for the creation of the CP District which had been pulled out of the work program of the updates to the zoning code and had been presented separately to the Planning Commission. Recommendations from the Planning Commission would be forwarded to the City Council as RDA staff wanted to have something in place before the completion of the Vidrio project. The CP District had generally been based on the current use classification standards in the general plan.

**STAFF COMMUNICATIONS:**

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

a. Ferguson Storage Building. AP-06-365  

Ms. Ayres reported that Frances Green’s church project would be planting landscaping around the week of August 21, as reflected in a letter to the City which had been included in the Commission packets. She added that a focus group meeting had recently been held on the eBART Specific Plan with property owners located in the southeast quadrant. Information would be incorporated from the first and second workshops with the consultant to create alternatives to review at a staff level with the Land Use Subcommittee for a preferred plan for the next Citywide workshop to be scheduled around the third week of September at the Senior Center.

**COMMITTEE REPORTS:**

Commissioner Ohlson reported that he had been unable to attend the last TRANSPLAN Committee meeting. A special meeting of that group had been scheduled for Thursday August 24.

Commissioner Garcia commented that he had also been unable to attend the last TRANSPLAN Committee meeting due to a family emergency, although he would attend the August 24 meeting.

**COMMENTS FROM COMMISSIONERS:**

Commissioner Thomas reported that she was a member of the Human Relations Committee for the County and she had received several complaints from African-American businesses that did not feel they had been treated fairly in the City. She had informed those businesses that she was very satisfied with Ms. Ayres and her staff and if there had been any oversight it would be rectified. She stated that was the reason she had been concerned with the discussion of the CP District as to how it would affect African-American
businesses.

Commissioner Harris emphasized that a business with any concern should address the Planning Commission so that the problem could be reviewed, otherwise the Commission had no knowledge of any concerns.

As to what was occurring under Harbor Street in response to Commissioner Ohlson, Mr. Hurtado reported that the City was working on a water line Capital Improvement Program (CIP) project which was moving ahead of schedule. It was his hope that the project could be completed prior to the rainy season. He also reported that the Grand Opening for West Leland Road would be on Friday, August 25 at 12:00 P.M.

Commissioner Harris reported that there were cracks in the water line on Hawthorne Street.

Mr. Hurtado reported that the City had issued a contract for water, sewer and storm drains for the entire downtown area from Railroad Avenue to Black Diamond Street and from Tenth to Fifth Streets.

**ADJOURNMENT:**

There being no further business, the meeting adjourned at 11:08 P.M. to a regular meeting of the Planning Commission on September 12, 2006 at 7:00 P.M. in the City Council Chambers at 65 Civic Avenue, Pittsburg, CA.

MELISSA AYRES, Secretary
Pittsburg Planning Commission