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

ROLL CALL:

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

Absent: None

Staff: Planning Director Melissa Ayres, Associate Planner Christopher Barton, 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, September 8, 2006.

PLEDGE OF ALLEGIANCE:

Commissioner Ohlson 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 – August 22, 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

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, Ord. 1185) District. APN 089-060-008. (Continued from August 8, 2006)

Planning Director Melissa Ayres presented the staff report dated September 12, 2006. She recommended that the Planning Commission adopt Resolution No. 9635 approving AP-06-310 (SUB), with the conditions as shown.

Commissioner Ramirez noted that Commissioner Harris had previously requested before and after photographs of the apartment units which had not been provided to the Planning Commission. He understood that the staff report said they were on file and available for viewing in the Planning Department. He asked that the photographs be presented to the Commission for review at this time.

Ms. Ayres explained that she was filling in for the Project Planner for the project who was on vacation. Staff would have to check the project files for the photographs.
PUBLIC HEARING CONTINUED

PROPOLENENT:

CHRIS VALERIOTE, Terra Nova Development, P.O. Box 6660, Vacaville, had nothing further to add to the staff report. He expressed his confidence that the deficiency list had been completed, as required.

Commissioner Thomas again affirmed with the applicant that he had corrected the items on the deficiency list as required and that he was in agreement with the staff recommended conditions of approval.

HENRY SNYDER, Pittsburg, an original resident of Creekside Village, found the complex to be a good place to live. He noted that some people no longer lived in the complex but remained in opposition to the proposal. He also understood that the water heaters had been braced for earthquake safety.

OPPONENTS:

CELIA VAN SLYCK, Pleasant Hill, identified herself as a former tenant of Creekside Village. She noted that at the time she had vacated her unit, the unit had been inspected and found to be in good order for the return of her security deposit, although $169 had been withheld from the deposit for cleaning expenses. She explained that during her residency in the unit she had experienced a number of problems. She stated that she had a letter from a representative of the project stating that everything was in order when she had vacated her unit. She understood in conversations with the Property Manager that if a unit was leased by a tenant with a dog, the tenant must pay to have the carpets cleaned. She could not locate any provision to that effect. She asked that the Planning Commission help her obtain the return of her total security deposit.

Chairperson Tumbaga explained that the Planning Commission did not have the authority to address the matter of the security deposit, although she offered Ms. Van Slyck the telephone number of Pacific Community Services which could provide assistance in that regard.

MARY MARTINEZ, Walnut Creek, also identified herself as a former tenant of Creekside Village. She stated that she previously submitted information to the Commission including photographs which she would like returned and which had identified mold and other issues in some of the units. She otherwise inquired of the status of the relocation assistance that was to have been provided to the tenants since she understood that tenants would be eligible for two times the rent to defray relocation expenses.

Ms. Ayres recommended that Ms. Martinez speak with Leigha Schmidt, the Project
Planner for the project who was out on vacation. She provided Ms. Schmidt's telephone number. She also clarified that the photographs that had previously been submitted to the Planning Commission during a prior public hearing were part of the public record. She advised that she would have staff make copies of those photographs to return to Ms. Martinez.

Ms. Martinez explained that she would like the photographs back because she planned to go to court. She also understood that there was an ongoing court case between a tenant and neighbors. She added that the Building Inspector had informed her that she could have her photographs returned.

Commissioner Harris reiterated his request for before and after photographs of the units to ensure that the deficiency work had been completed. While the Building Inspector had signed off in writing that the work had been done, he still wanted to see before and after photographs of the units.

Ms. Ayres noted that the Planning Commission had indicated that the Building Inspector could either appear before the Commission or submit a letter that he had, in fact, inspected the units to verify that the deficiency list had been completed. A letter had been provided by the Building Inspector to that effect and was attached to the staff report.

Ms. Martinez suggested that the Commission wait until the next rainy period before taking action on the project to ensure that the work had been done.

Commissioner Thomas clarified with Ms. Martinez that the photographs being discussed were of many angles of one apartment unit and of individual apartment units she had entered.

Ms. Martinez suggested that the building was failing, cracking and sliding under the creek. She also suggested that the applicant had not finished the work in all of the apartments. She presented additional photographs of one of the apartment units at this time.

Commissioner Harris requested that the Building Inspector be present to report on the work that had been completed. He also understood from some of the tenants present in the audience that they had not personally met with the Building Inspector. He inquired whether or not any of the tenants were willing to meet with the Building Inspector to check each and every unit.

Speaking from the audience, one unidentified tenant expressed the willingness to meet with the Building Inspector to walk through the deficiency list.

Chairperson Tumbaga clarified with Ms. Ayres that only one Building Inspector had worked on the project to ensure that there was continuity in the process.
Commissioner Ramirez understood that per the staff report and a letter identified in Attachment 9 that the Building Inspector had submitted in writing, that the inspection of the units had been found to be complete and up to code in response to the May 2-May 5, 2006 deficiency list, and that those items not completed must be completed prior to final approval.

Commissioner Garcia noted that the Building Inspector’s checklist had included items that had not been completed, most of which were grading issues. Given the problems with the units, he could not approve the project at this time until everything had absolutely been done.

Commissioner Thomas reported that she had visited Units 110, 120 and 124 after the initial Planning Commission meeting when the project had first been discussed. She had reported to the Chair of the Commission that she had visited those units and at that time those units did not appear to be in good condition. She acknowledged that she had not been to the property to view any of the units since that time.

Ms. Ayres explained that Condition 10 of Resolution No. 9635, as shown, required completion of all items on the deficiency list prior to the approval of a Final Map. The grading issues would be addressed per Condition 8. All units had been inspected some time ago to create the deficiency list and over the last several months those deficiencies were being corrected.

Commissioner Harris wanted a copy of the deficiency list to allow a resident in the audience to ensure that the work was complete, and to report back to the Planning Commission indicating whether or not the work had, in fact, been completed.

Ms. Ayres also spoke to Attachment 7 dated April 7, 2006, a letter from the Engineering Department to the Creekside Village Apartments property owner, indicating that site drainage in several areas appeared to be deficient with a recommendation for the property owner to contact the Engineering Department for remedies and recommendations to assess the site drainage and grading issues. She added that the Subdivision Ordinance specified what findings the Commission must make to approve a Tentative Map and that the ordinance was written to allow a subdivider to complete all deficiencies between approval of the tentative and final maps. Such conditions must be compliant before the City Engineer and the Planning Director would authorize the Council to accept the Final Map.

Ms. Ayres expressed her discomfort with the recommendation made by Commissioner Harris that a lay person conduct inspections that were the responsibility of the City’s Building Inspector.
In response to Commissioner Diokno, Ms. Ayres explained that the item before the Commission was the last and only discretionary action before the Commission to determine whether or not the applicant could convert the units to condos based on City laws and making the required findings to be met as set forth in the Municipal Code.

If the conditions were met, as set forth, and the City Engineer determined compliance, the Final Map would be forwarded to the City Council for administrative acceptance of the map. If the applicant met all required conditions in the resolution of approval to the satisfaction of the City Engineer, the Final Map must be approved.

In response to Commissioner Harris, Ms. Ayres clarified that a Final Map was not required for an apartment complex. A Final Map was required to sell the units, which was the reason for Commission consideration at this time. Only design review approval was required for an apartment development. She added that the development community did not have to place Final Maps on apartments, although that was typically done to avoid the condominium conversion ordinances in the future if there was a desire to sell the units.

Commissioner Harris asked that the Building Inspector’s report, a public document, be provided to the resident in the audience who was willing to inspect the units to ensure that the work had been completed prior to any approval.

Chairperson Tumbaga disagreed that was the correct approach for the Planning Commission to take given that the Commission was to make decisions on the information provided. She pointed out that the public had the right to appeal any decision made by the Planning Commission, which appeal would be considered by the City Council.

WILLIE ABBOTT, Pittsburg, Creekside Village Apartments, Unit 130, stated that he had been a resident for the past two years. He recommended that another City inspector check the original Building Inspector’s work. He advised that he had been flooded out of his unit on three occasions. He too asked that the City defer any approval until the rainy season to see whether or not the same problems occurred, as had occurred in the past. He pointed out that many tenants had moved out of the complex because of those issues. If his unit were to flood again, he would be forced to move due to the unbearable impacts that had occurred in the past. He urged the Commission to speak to the residents.

Mr. Abbott clarified, when asked by the Chair, that an inspector had come into his unit on four occasions, but only to inspect the water heater.

Ms. Ayres again referenced Attachment 9, a letter from the Building Inspector dated September 1, 2006, which stated “Inspections at Creekside Senior Apartments were found to be complete and to code satisfying the (Code Compliance Deficiency List) from May 2 – May 5, 2006 approved as of 8/31/06.” She noted that while the subject title of the letter
was misleading, the text had indicated that everything on the list had been completed.
She commented that if the letter was not adequate and the Commission wanted the item to
be continued to have the Building Inspector speak to the Commission and submit another
letter, that could also be done.

Commissioner Garcia requested a list from the Building Official identifying that all work had
been completed.

VICTOR SABREDA, Pittsburg, a resident of Creekside Village Apartments, also
commented that since the rainy season many tenants had moved out of the complex. He
also noted that many of the existing tenants were not 55 years of age or older. While he
was aware that there had been problems reported with flooding in some of the units, he
had experienced no flooding nor had a Building Inspector come to his unit, nor had
anything been done in his unit other than the work on the water heater. He clarified, when
asked by the Chair, that he had experienced no ceiling leaks. He was also unaware that
he had a water heater problem. He urged the Building Inspector to also check the grounds
of the property since the sidewalk was splitting.

BILL JANSEN, Pittsburg, Creekside Village, Unit 104, stated that he no issues with his unit,
(no flooding or leaking problems,) other than having the water heater be braced.

Commissioner Ohlson inquired of staff when the requirements for compensation for
relocation of the tenants would become effective, to which Ms. Ayres clarified that nothing
would occur until there was an approved tentative map or entitlement.

Commissioner Harris inquired of staff whether or not he could inspect the units on his own
time.

Ms. Ayres advised that the members of the Planning Commissioner would be acting on a
tentative map in a quasi-judicial manner. Commissioners could investigate any project on
his/her own, speak to residents and review project sites, although investigations and how
those investigations had formed a Commissioner’s opinion must be disclosed during the
public meeting before a decision was made.

Commissioner Garcia suggested that the letter from the Building Inspector might be
correct, although he found the subject heading to be very misleading. He recommended
that the item be continued for two weeks to allow the deficiency checklist to be brought
current. He also asked that the Building Inspector appear before the Planning Commission
or provide a current list of what work had been done with a letter clarifying that information,
with the subject Creekside Village Apartments. He made a motion to that effect.

Commissioner Thomas seconded the motion.
On the motion, Commissioner Ohlson suggested an appearance from the Building Inspector as opposed to a letter to affirm that the work had been done. Ms. Ayres explained that if for some reason the Building Inspector could not be present for the next meeting, the item could be re-noticed to a future date.

**MOTION: AP-06-310 (SUB) Continued**

Motion by Commissioner Garcia to continue AP-06-310 (SUB) to the Planning Commission meeting of September 26, 2006, to allow the deficiency checklist to be brought current with the City’s Building Inspector to appear before the Planning Commission to verify the work that had been done. 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

**Item 2: Gateway Christian Center. AP-06-357 (UP)**

A public hearing on an application by Joe Hernandez of the Gateway Christian Center, requesting a use permit to establish a group assembly use within an existing 6,120 square foot commercial condo located at 1251 California Avenue, #700. The site is zoned CS-O (Service Commercial with an Overlay) District. APN 073-290-008.

Assistant Planner Kristi Vahl presented the staff report dated September 12, 2006. She recommended that the Planning Commission adopt Resolution No. 9659 approving AP-06-357 (UP), with the conditions as shown.

Commissioner Diokno commented that the plans had identified a daycare facility. He inquired of staff whether or not the daycare services would be provided during church only or also during the week.

Ms. Vahl explained that the daycare facility would only operate during church services.

**PUBLIC HEARING OPENED**

**PROPOSER:**

DR. JOE HERNANDEZ, Gateway Christian Center, 1251 California Avenue, #700, Pittsburg, stated that he had nothing further to add to the staff report. He affirmed, when asked, that he had read the staff report and was in agreement with the staff recommended conditions.
KEVIN SNIDER, Attorney representing Pacific Justice Institute, P.O. Box 276600, Sacramento, identified the firm as a non-profit public interest legal organization and in its capacity had spoken and testified before the State Capitol on a number of occasions relative to land use, and had appeared before local governing bodies on land use issues relative to faith based organizations. He urged the support of the application. He noted that he had submitted an opinion letter in support of the application, specifically addressing the Religious Land Use and Institutionalized Persons Act. He suggested that the application fell under the protection of federal law.

Ms. Ayres clarified for the record that Condition 7 of Resolution No. 9659 would require the applicant to comply with all requirements of the Engineering Department, including the Building Division, obtain building permits and install the requirements legalizing the new type of occupancy being sought, prior to occupancy in that manner.

OPPONENTS: None

PUBLIC HEARING CLOSED

MOTION: AP-06-357 (UP)

Motion by Commissioner Thomas to adopt Resolution No. 9659, approving AP-06-357 (UP), a Use Permit to establish a group assembly use at 1251 California Avenue, #700, for “Gateway Christian Center, AP-06-357 (UP),” APN 073-290-008, 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, Thomas, Tumbaga
Noes: None
Abstain: None
Absent: None

Chairperson Tumbaga identified the ten day appeal process on a decision of the Planning Commission in writing to the City Clerk.

Item 3: International Pentecostal Church. AP-06-359 (UP)

A public hearing on an application by International Pentecostal Church requesting approval of a use permit to engage in religious assembly in an existing 1,751 square foot multi-tenant building at 520 Garcia Avenue, Suite E in the IP-O (Industrial Park with a Limited Overlay) District. APN 088-183-052.

Ms. Ayres presented the staff report dated September 12, 2006.
Ms. Ayres recommended that the Planning Commission adopt Resolution No. 9658 approving AP-06-359 (UP), with the conditions as shown.

PUBLIC HEARING OPENED

PROPONENT:

KOFI DODI, International Pentecostal Church, P.O. Box 2241, Antioch, explained that they were a start up church. There were a number of churches existing in the area and their church would be set up as the other churches in the area. The new church would not impact the surrounding uses and would provide sufficient parking.

Commissioner Diokno noted the possibility that Garcia Avenue could be extended to meet Railroad Avenue. He inquired whether or not that had been taken into consideration as to the impacts on the parking spaces.

Ms. Ayres explained that a Specific Plan had not been approved for the area and that issue had not been taken into consideration. The City Council had considered a moratorium on new construction in the area at one time but had chosen not to take such action. It had been staff’s direction to evaluate a project under current zoning and General Plan provisions.

In response to Commissioner Ramirez, Mr. Dodi stated that he had read and was in agreement with the staff recommended conditions of approval.

Commissioner Thomas inquired of the size of the church congregation, to which Mr. Dodi advised that the church averaged 20 persons.

Commissioner Ohlson saw no problem with the parking for the use.

OPPONENTS: None

PUBLIC HEARING CLOSED

MOTION: AP-06-359 (UP)

Motion by Commissioner Ramirez to adopt Resolution No. 9658, approving AP-06-359 (UP), a Use Permit to establish a religious assembly facility at 520 Garcia Avenue, Suite E, for the International Pentecostal Church, with the conditions as shown. The motion was seconded by Commissioner Ohlson and carried by the following vote:

Ayes: Commissioners Diokno, Garcia, Harris, Ohlson, Ramirez, Thomas, Tumbaga
Chairperson Tumbaga identified the ten day appeal process on a decision of the Planning Commission in writing to the City Clerk. She declared a recess at 8:09 P.M. The meeting reconvened at 8:15 P.M. with all Commissioners present.

**Item 4: Establishment of a CP (Pedestrian Commercial) District**

A public hearing on a City-initiated project to amend Title 18 (Zoning Ordinance) of the Pittsburg Municipal Code in order to establish a new pedestrian commercial zoning district and outdoor dining permit regulations and to amend the PD District use regulations governing the Vidrio (Black Diamond) development.

Contract Planner Ali Endress presented the staff report dated September 12, 2006. She recommended that the Planning Commission recommend City Council adoption of the proposed amendments to Title 18 of Pittsburg Municipal Code (PMC) and the proposed amendment to the Ordinance 1256 governing the Vidrio PD, as listed under Resolution No. 9660.

Commissioner Garcia spoke to the regulations for blank walls. If as an example there was an existing building with a blank wall on a public right-of-way, he questioned whether or not the requirements for windows and doors would still apply.

Ms. Endress explained that as long as the business did not expand the nonconformance it would be acceptable.

Commissioner Garcia spoke to Page 8 of 20 of Resolution No. 9660, CO, CN, CC and CP Districts: Land Use Regulations, Outdoor Dining Service. He suggested that outdoor dining should also be included in the CS District.

Ms. Ayres explained that the only issue before the Commission was the establishment of the CP District. Staff would return to the Commission with the commercial zoning code updates at a future date when those provisions would be incorporated.

Commissioner Garcia also commented that his review of the document had found that furniture stores would not be allowed in the CP District. In that case, Lanzafame Furniture located in the downtown, which was retail, would become nonconforming. He emphasized that the building had been in existence for many years and he suggested that there should be a category for that use. The building was also the largest in terms of square footage where a large grocery store could be located, as an example.

Ms. Endress noted that furniture stores had been classified as Retail Sales under the
current use classifications. Per the CO, CN, CC, CS and CP Districts: Additional Use Regulations, per Page 13 of 20, L-C.q, which had identified furniture sales as being permitted in the CP-1 District with a use permit.

Commissioner Garcia sought furniture sales as a separate use classification and asked that that category be added to the CO, CN, CC, CS and CP Districts: Additional Use Regulations.

Commissioner Ohlson inquired whether or not the Vidrio development, as planned, complied with all standards in the CP District.

Ms. Ayres explained that one of the recommendations of the matter before the Commission included a recommendation that the City Council amend the Vidrio PD District to establish the same use regulation as in the CP District, to apply to that project which had a different zoning classification of Planned Development District. There was no request to change the development standards, only to apply the use standards in the proposed CP District to the Vidrio development.

Commissioner Ohlson spoke to Page 11 of 20 of Resolution, CO, CN, CC, CS and CP Districts: Additional Use Regulations, L-7 and L-8, and suggested that for parallelism throughout the document, everything should be subject to a use permit, or a use permit required, or a reason why there was a difference between the two.

Commissioner Ohlson also sought the following modifications:

- Page 18 of 20, of Resolution No. 9660, 18.76.050, Restoration of damaged structure, A, clarified with staff that the reference to public enemy in that section related to terrorists, acts of war;

- Attachment 5, Summary of Changes to Proposed Pedestrian Commercial District (Changes are in Response to the 8/22/06 Planning Commission meeting), Page 8 of 9, noted the repeat of a sentence in section 14) Loading Limitations onto Page 9 of 9;

- Attachment 7, Outdoor Dining Permit, Guidelines/Submittal Requirements, Page 1 of 2, first paragraph, questioned the grammar and the use of the term “seasonally dine” and questioned the use of a split infinitive;

- Attachment 7, Outdoor Dining Permit, Guidelines/Submittal Requirements, Page 1 of 2, Policies: first bullet, to be revised to read:

  Outdoor dining is an amenity that restaurant owners can offer their patrons, weather permitting.
• Attachment 7, Outdoor Dining Permit, Guidelines/Submittal Requirements, Page 2 of 2, Performance Standards, 8, should be better clarified in that the first and second sentences conflicted;

• Attachment 7, Outdoor Dining Permit, Guidelines/Submittal Requirements, Page 2 of 2, Submittal Requirements, 2, second bullet, to be revised to read:

  Location of the curb, adjacent buildings and parking stalls, bicycle racks, light poles, street trees, and any other relevant features of the site.

• Attachment 7, Outdoor Dining Permit, Guidelines/Submittal Requirements, Page 2 of 2, Submittal Requirements, 3, clarify that a photograph or rendering of the proposed outdoor dining area could be provided either electronically, CD or paper;

• Attachment 8, CEQA [California Environmental Quality Act] Initial Study Checklist, Page 36 of 44, e) Hazards or barriers for pedestrians or bicyclists, sought clarification with ADA [Americans with Disabilities Act] requirements;

• Attachment 8, CEQA Initial Study Checklist, Page 4 of 44, requesting clarification of the signatures of the document and sought consistency.

In response to Commissioner Thomas, Ms. Ayres reiterated that the Vidrio development had a PD District with the focus on the design of the project and the general uses that would be allowed. There was not a detailed matrix for a PD District as a standard district, such as the CP District. Again, the intent of the discussion was to recommend that the City Council establish the CP District and amend the Vidrio PD District to require that the use table in the CP District apply to the commercial spaces in the Vidrio development. The proposal would have no financial impact on the Vidrio development whose consultant would lease their properties. The rules being recommended would have been used, but had not been codified, which staff was recommending be done as part of the action before the Planning Commission.

Commissioner Ramirez reported that on September 21 at 10:00 A.M. there would be a dedication ceremony for the Vidrio project.

PUBLIC HEARING OPENED

PROPOSEND: City of Pittsburg

INTERESTED SPEAKER:
THOMAS LaFLEUR, Executive Director, Pacific Community Services, 329 Railroad Avenue, Pittsburg, asked that his comments from the public workshop be incorporated into the public hearing. He suggested that there had been no evidence to support a retail market in the downtown while there was ample evidence that had been provided that there was no retail market. He noted that a number of land use economists had provided studies to the City over the years, indicating that the downtown was not a retail center and would not become one. Not opposed to what the City was trying to do, he expressed doubt that it would work.

Mr. LaFleur noted that the building his employer owned was in the C-1 zone where a plumbing shop, hair salon, barbershop, office use, department store, as examples, could now be located. If the zoning were to change and all uses that the market would support were eliminated and they were left with uses that the market would not support, he suggested it would destroy the value of their property.

Mr. LaFleur noted that the General Plan stated that the City would adopt policies to “encourage” the provision of retail along Railroad Avenue on the ground floor. He suggested that could be accomplished with the C-1 zoning preserved and incentives provided by the City. He noted that the building at 329 Railroad Avenue would have been lost had not Impulse Technology purchased the building with a manufacturing, engineering and marketing use. Impulse Technology had restored and refurbished the building as a historic resource, which he described as an asset to the downtown.

Mr. LaFleur also expressed concern with spot zoning. He pointed out that there were two real estate offices approximately 1,000 feet apart in the downtown which could remain as permitted. He added that if office uses were allowed they should be allowed for all office uses. The Chamber of Commerce, an office use, could be located on Railroad Avenue. He suggested it would be spot zoning if the Chamber of Commerce and the two existing real estate offices and a future driving school were the only offices allowed.

In response to Commissioner Thomas, Mr. LaFleur provided his definition of spot zoning.

PUBLIC HEARING CLOSED

Commissioner Garcia disagreed with the explanation of spot zoning noting that from Eighth to Tenth Street the City had been rezoning those properties and the uses would be grandfathered in. If one of the real estate offices left and the office was vacant for six months, no other real estate office could locate in the zone.

Ms. Ayres clarified that real estate offices had been set up on a dispersal program. The public had indicated during public workshops that they understood the pedestrian retail intent but sought some component of real estate as an attractive addition to a downtown,
such as those in the City of Carmel, as an example. Real estate offices would be a permitted use provided they were dispersed to not more than one every 500 feet, so that there would not be a glut of real estate offices in the downtown that would diminish the retail appeal.

Commissioner Garcia reiterated that he would like to see furniture sales added as a separate use.

Commissioner Ohlson expressed his appreciation to the concerns related to the Pacific Community Services building, although he was confident that building would not become vacant. He wanted to see the Vidrio development built along with the projects that were proceeding in the downtown. In order to make the downtown a success, he suggested the need to aggressively pursue what the City wanted to see in the area. If those uses were ultimately not viable, the matter would be revisited. Until then, he would like to see the establishment of the use regulations.

Commissioner Thomas inquired whether or not there was any way to prevent spot zoning from occurring.

Ms. Ayres explained that spot zoning was when an area was all zoned one category, and in the middle there was a property without rhyme or reason with a different zoning category. She emphasized that was not occurring in this instance.

Ms. Ayres explained that every block in the downtown that had a General Plan Land Use designation of Downtown Commercial was being proposed to be Zoned CP District. It had not been proposed that any of the properties have a different zoning district.

Commissioner Thomas recognized that the Chamber of Commerce was a viable entity. However, she was concerned with allowing one furniture store use downtown while not allowing others.

Ms. Ayres reiterated that was not being done. Furniture stores would be allowed in any building along the entire block in the CP District with approval of a use permit under the proposed ordinance. Everyone in the district would have the same rules.

Commissioner Diokno commented that the City was trying to do its best to allow an orderly growth of the downtown and still allow existing businesses to continue to operate. He agreed with the need to allow furniture stores.

Commissioner Garcia expressed his hope that would work but agreed that if it did not the Commission could always reevaluate the issue. He pointed out the lengthy process to revitalize the downtown. He offered a motion to approve the item with the inclusion of furniture sales.
Chairperson Tumbaga cited a building in the downtown that had a blank wall when an adjacent building had been demolished. She inquired whether or not the blank wall regulations would be required in that instance.

Ms. Endress advised that the blank wall regulations would only apply if the building was located adjacent to a parking lot or public right-of-way. If it abutted an interior lot line, no windows or doors to allow access from that side could be allowed.

PUBLIC HEARING RE-OPENED

Dr. JOAQUIN AIELLO, 171 Sunset Way, Pittsburg, expressed concern with the loss of free enterprise and recognition of the fact that property owners knew what was best for his/her own property. He expressed a desire to see the projects be completed prior to requiring a blanket regulation over everyone else. As an owner of a building in the downtown, he had no money to refurbish his building or address a blank wall without the assistance of urban renewal. He noted that he rented his building for storage only with the funds used to care for his mother. He reiterated his comments to avoid blanket regulations which could negatively impact some property owners.

PUBLIC HEARING CLOSED

Ms. Ayres explained that Dr. Aiello would not be forced to do anything to his building at this time and not until such time as he applied per changes to his building would those standards be triggered. She reiterated that there would be no financial impact to the Vidrio development and that the developers were well aware of the proposal for the CP District and the proposed amendments to Vidrio Planned Development use regulations.

MOTION:

Motion by Commissioner Garcia to adopt Resolution No. 9660, recommending that the City Council adopt amendments to Title 18 of the Pittsburg Municipal Code to establish a Pedestrian Commercial District in Old Town Pittsburg; Amend Ordinance 1256 to adopt use regulations for the Vidrio PD; and to establish regulations pertaining to outdoor dining, with furniture sales to be included with a use permit required in the CP-1 and CP-2 Areas. The motion was seconded by Commissioner Thomas and carried by the following vote:

Ayes: Commissioners Diokno, Garcia, Ohlson, Ramirez, Thomas, Tumbaga
Noes: Commissioner Harris
Abstain: None
Absent: None
Item 5: General Plan Annual Report

A public hearing on the City’s annual report identifying its progress in implementing the General Plan.

Ms. Ayres presented the staff report dated September 12, 2006. She recommended that the Planning Commission recommend that the City Council accept the report.

Commissioner Ohlson made the following comments and suggestions related to the Report:

- Attachment 1, General Plan Policy Matrix, Land Use Element, Page 1, Action Policies, 2-P-1, noted that the community of Bay Point was attempting to remove itself from the City’s Sphere of Influence (SOI);

- Attachment 1, General Plan Policy Matrix, Land Use Element, Page 1, Land Use Element, Loveridge, 2-P-50, noted that the City had attempted to get a pedestrian connection between the housing development to the west adjacent to Los Medanos College (LMC), although LMC had refused;

- Attachment 1, General Plan Policy Matrix, Land Use Element, Page 2, East Leland, 2-P-65, noted that the bicycle community had attempted to speak with the City of Antioch for bike lanes on East Leland Road, although Antioch had refused, and the bicycle community would be asking the City of Pittsburg to raise the specter of bike lanes on that street;

- Attachment 1, General Plan Policy Matrix, Land Use Element, Page 3, West Leland, 2-P-83, noted that the City could build a bridge over the canal.

- Attachment 1, General Plan Policy Matrix, Growth Management Element, Page 1, Action Policies, 3-S-6, noted that the City was trading park land to developers for the development of a smaller park to get the park built sooner;

- Attachment 1, General Plan Policy Matrix, Urban Design Element, Page 2, Willow Pass Road, 4-P-45, noted that bicyclists needs were not being accommodated in that segment of construction;

- Attachment 1, General Plan Policy Matrix, Urban Design Element, Page 3, Leland Road, 4-P-56, recommended that where any right of way widening was used for landscaping, trees and left turn lanes it should also accommodate bicyclists needs;

- Attachment 1, General Plan Policy Matrix, Urban Design Element, Page 3, Mixed Use Areas, 4-P-69, revise the status to reflect the planning related to the
Bay Point/Pittsburg BART Station was underway;

- Attachment 1, General Plan Policy Matrix, Urban Design Element, Page 3, Mixed Use Areas, 4-P-71, revise the status to indicate that planning was underway;

- Attachment 1, General Plan Policy Matrix, Urban Design Element, Page 4, Neighborhood Design, 4-P-83, noted that the bicycle/pedestrian community wanted the City to work on that issue to encourage more bicyclists and pedestrians;

- Attachment 1, General Plan Policy Matrix, Transportation Element, Page 2, Bikeways and Pedestrian Movement, 7-P-42, noted that the crossing from eastbound State Route 4 to southbound Bailey Road freeway off-ramp and the outflow from BART had a damaged push button which should be repaired or the time span lengthened;

- Attachment 1, General Plan Policy Matrix, Transportation Element, Page 2, Bikeways and Pedestrian Movement, 7-P-54, suggest that the policy could be implemented so that the developers could follow through;

- Attachment 1, General Plan Policy Matrix, Youth and Recreation Element, Page 1, Action Policies, 8-P-1, noted that the City was trading off park land to developers for the development of a smaller park and that the City was not providing 5 acres when doing exactions from developers and trading off land to get the park built sooner;

- Attachment 1, General Plan Policy Matrix, Youth and Recreation Element, Page 1, Action Policies, 8-P-6, third bullet point, suggested that the policy could be implemented with direction to the City Council;

- Attachment 1, General Plan Policy Matrix, Resource Conservation Element, Page 1, Biological Resources and Habitat, 9-P-2, noted that Partners for the Watershed, involved in the eradication of evasive species, should be contacted to address how the City could include their involvement;

- Attachment 1, General Plan Policy Matrix, Resource Conservation Element, Page 1, Biological Resources and Habitat, 9-P-9, questioned whether or not that same policy had been applied to the residential development approved at the corner of Piedmont Way and East Leland Road.

Commissioner Ohlson also pointed out that the Resource Conservation Element had been misspelled in the document and should be corrected.

Planning Commission Minutes
September 12, 2006
Commissioner Diokno spoke to Attachment 1, General Plan Policy Matrix, Land Use Element, Buchanan, 2-P-72, and requested clarification from staff that the Pittsburg Unified School District (PUSD) no longer needed the Buchanan Road site for a school. He also did not see that the policy was being followed with respect to natural contours and natural creek flows with respect to new development.

Ms. Ayres explained that the school district determined it didn’t need that site and it was subsequently permitted for residential lots. A city park had been approved east of that location.

Commissioner Diokno spoke to Attachment 1, General Plan Policy Matrix, Land Use Element, Urban Design Element, Page 1, Hillside Development, 4-P-11, and questioned whether or not the 500 foot limit on hillside development had been discussed during the Hillside Ordnance Workshop

Ms. Ayres clarified that land over 500 feet would be subject to the regulations in the Hillside Ordinance. The land could be graded and built on, but must follow the rules that had not yet been established in the Hillside Performance Standards and Guidelines.

Commissioner Diokno further referenced Attachment 1, General Plan Policy Matrix, Land Use Element, Urban Design Element, Page 2, Key Corridors, 4-P-33, and requested that the linear park be extended to the future transit village.

Ms. Ayres advised that the park currently started along the west side of Railroad Avenue at the Delta De Anza Trail and continued north all the way to the shopping center north of Leland Road across the street from the transit village. The policy in the General Plan suggests that parkway should be continued all the way to City Park on the west side of Railroad Avenue.

Ms. Ayres also clarified that the intent of the annual report required by the State was to report on the status of existing policies not to amend them.

PUBLIC HEARING OPENED

PROPOSENENT: City of Pittsburg

INTERESTED SPEAKER:

MIKE LENGYEL, Pittsburg, spoke to the inadequate protection of the hillsides in the General Plan. He expressed his hope that the next report from staff would address the half acre slide that had occurred in the southwest area of the City, and that the City identify who was responsible for the slide, its costs, and what the City would do to change its rules to
prevent such an event from occurring in the future. As to the Circulation Element of the General Plan, he suggested that the Buchanan Road Bypass would facilitate the destruction of the hills. He recommended that project be downsized from a major arterial to limit development that would destroy the hills. He further sought a reduction in the Range Road Interchange project as well.

OPPONENTS: None

PUBLIC HEARING CLOSED

MOTION:

Motion by Commissioner Garcia to recommend by Minute Order that the City Council accept the General Plan Annual Report, with the corrections requested by Commissioner Ohlson. 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

COMMISSION CONSIDERATION:

Item 6: Koch Carbon Bulk Storage Warehouse. AP-06-324 (DR)

An application by Joe Ray of Koch Carbon 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.

Associate Planner Christopher Barton presented the staff report dated September 12, 2006. He recommended that the Planning Commission adopt Resolution No. 9655 approving AP-06-324 (DR), with the conditions as shown.

Commissioner Garcia understood that with the proposed warehouse the business would be at 89 percent capacity, which had been approved in 1995, and that the new proposal would eliminate the domes that had initially been approved.

Mr. Barton noted that the original plan had proposed the placement of three domes where the warehouse was being proposed. It was possible that another dome could be fit on the site. He also acknowledged the possibility that there was room for additional expansion. There would be an additional ten percent of throughput that would be allowed which had been analyzed in the Environmental Impact Report (EIR).
In terms of design, Mr. Barton stated that the proposal slightly changed how the site would be arranged. The footprint for the three domes originally contemplated could not be built with the proposed warehouse in place. If the applicant were to exceed the 2,235 tons of through put, the applicant would be required to analyze the project from an environmental standpoint under CEQA.

Commissioner Ohlson spoke to Page 6 of 10, Condition 4 of Resolution No. 9655, and recommended that the second sentence be amended to read:

_Only low lying native ground cover shall be required for the landscaping plan along the New York Slough._

Commissioner Diokno inquired of the plans for the site west of the property.

Mr. Barton explained that the Redevelopment Agency had designated the site to the west of the subject property as a Unified Development Area (UDA) and had intended to send out Request for Proposals (RFPs) for some type of development in the area which must be consistent with the existing Marine Commercial land use designation.

Ms. Ayres added that the City Council had initiated a General Plan study to review the possibility of changing the land immediately to the east of Harbor Street from Marine Commercial to Industrial.

Commissioner Diokno suggested if that property were to be another industrial site, landscaping on the west perimeter of the subject property would be blocked from view and would be unnecessary.

Ms. Ayres pointed out that the timing of the development of that land was unknown. There were homes on a hill west of the Johns Manville property with views in that direction from the rear windows, which staff was of the opinion necessitated the proposed landscaping at this time.

Mr. Barton noted that staff had reviewed the usefulness of landscaping along the western property line. The intent was to add some civilized element to the area at a human scale. He recognized that would not screen the building entirely.

Commissioner Ohlson suggested that the land to the west of the subject site should be zoned for Marine or Industrial zoning and not for residential development.

PROPONENT:

PAT BALDWIN, Vice President of Operations, Koch Carbon, Wichita, Kansas, explained that the business had been involved with the Marine Terminal since 1996 with the actual
facility opening in 1998. During that time, the company had invested significant capital in the building and in maintaining and improving the terminal and were eager to expand its bulk storage capabilities to meet customer needs. The enclosed storage expansion would continue to focus on the operation in a safe and environmentally responsible manner, while striving to be a good operator of choice. Koch Carbon was working with the appropriate City and State agencies on the expansion permit with the goal of being the operator of choice. Koch Carbon was eager to expand the terminal and remained interested in the opportunities that could arise as the City developed its waterfront/marina area.

In response to Commissioner Garcia, Mr. Baldwin stated that he was in agreement with the conditions of approval.

Commissioner Ohlson inquired of the number of total truck trips per day. He also inquired what refineries the coke material would be transported from.

Mr. Baldwin reported that there were 60 to 70 trucks a day associated with the Koch Carbon facility. He anticipated that the total would be under the 200 range with the expansion although some days it would be more or less. When asked, he explained that Koch Carbon had a contract with Shell Martinez and did not have another contract on the expansion. With respect to whom the material was shipped to was reported to be proprietary information.

Commissioner Thomas inquired of the safety regulations related to the facility.

Mr. Baldwin explained that Koch Carbon had made efforts to comply with environmental safety codes and regulations and to be consistent with the spirit of the law. Koch Carbon had extensive programs for employees of the facility as well for the citizens of the community. The company did not have the truck contract and did not hire the trucks, although it had the responsibility to have the trucks come in at different times of the day that would be most agreeable in working with its customers. It also had environmental systems in the facility to ensure that the trucks were washed prior to leaving the property. Koch Carbon also continued to work with members of City staff to improve that process.

Commissioner Diokno commented that from the river the corrugated metal building would appear massive. He questioned whether or not the applicant planned any signage on the building.

Mr. Baldwin stated that although it had been suggested, Koch Carbon had no plans for signage on the building unless the City had some preference. He added that Koch Carbon had worked with staff on the aesthetics and the height of the building as to what would best fit in the community. He also clarified that currently there was one dock for one vessel, although there was the potential for a second dock.
In response to Commissioner Harris, Mr. Baldwin affirmed that Koch Carbon did not have its own trucks. The trucks were part of their contract with Shell in Martinez.

Commissioner Harris noted that trucks leaving the facility had traveled at great speeds. He asked the applicant to inform truck drivers of the need to follow the posted speed limits. He cited a number of occasions where he had viewed the trucks speeding in his neighborhood. Mr. Baldwin was unaware of that situation. He advised that he would inform drivers of the need to follow the speed limit.

Commissioner Ohlson suggested that a City logo be considered for placement on the building facing the river.

OPPONENTS:

MIKE LENGYEL, Pittsburg asked that the Commission not approve the project. He suggested that the findings required to be made to approve the design review application could not be made to approve the project. He added that the structure would consist of corrugated metal, would be too high and would be an eyesore.

Mr. Lengyel suggested that given the homes to be built on the Johns Manville site, the structure being proposed and access to the property would impact that housing development. He also opposed an industrial use at the waterfront with no direct access to Railroad Avenue where truck traffic would impact surrounding residential developments in the downtown. Absent an adequate truck circulation system to Loveridge Road, he suggested that the project should not be approved.

Mr. Lengyel cited the EIR which had been concluded in 1995 and the fact that in 1998 the California Air Resources Board had ruled that diesel exhaust was a toxic air contaminant. He stated that the increase in diesel truck traffic would impact those living in the downtown. He also questioned the possibility of a second dock at the site. He asked that staff be directed to revisit the adequacy of the EIR and the continuous truck operation that would occur as part of the increase in facility operations.

JOHN BASS, General Manager, Pittsburg Marine Terminal, clarified in response to the comments, that the other facilities previously approved would be built with the understanding they would not exceed the tonnage previously approved. He noted that the project had already been approved. The current issue involved the substitution of one storage structure for another storage structure. He commented that the EIR had been examined and adopted and all other issues that had previously been raised, such as truck emissions and noise abatement, had been addressed in the EIR and had been approved by the Planning Commission. He added that in 2002, Koch Carbon had appeared before the Commission and any truck restriction had been removed from the permits at that time. Commissioner Harris understood that the applicant was reapplying for permits, to which
Mr. Bass explained that there had been a one year requirement to pull building permits for the previously approved domes. Since that period had expired, Koch Carbon had reverted back to its prior approvals. It was now applying for the warehouse to replace the three originally approved domes.

Commissioner Diokno inquired whether or not there were City plans for the port in terms of what it would look like from the river and from the freeway.

Ms. Ayres reiterated that the Redevelopment Agency had established a UDA west of the property, with discussions at the staff level of bringing port activity to that location.

Ms. Ayres also reiterated that was the reason for the initiation of a General Plan study to review the conversion of land east of Harbor Street north of Third Avenue to an Industrial District. Staff had seen one architect’s version of how that could appear. Nothing had been approved at this time. Any structures that might ultimately be built would be subject to Planning Commission approval of a design review application.

Commissioner Ohlson stated that he would not be opposed to the possibility of a City logo or a Welcome to Pittsburg sign on the warehouse structure.

Commissioner Garcia commented that he would prefer to have the warehouse rather than additional domes. He explained that there was no guarantee that once reaching 100 percent capacity there could be an expansion beyond the existing tonnage since that would require Planning Commission review and approval. His concern was that some time in 2007 the City would close the Loveridge Road overpass for up to a year, at which time the City would have to reevaluate the truck route with the applicant.

Commissioner Ohlson noted that Koch Carbon had a two and a half million ton permit. Assuming that each truck carried 25 tons, with an 80,000 pound gross, totaling 50,000 pounds of product and 30,000 for the truck, he suggested that there could be 100,000 truck trips per year, with 330 trucks per day. He recognized that the building would not be built over night. He did not see that there would be impacts to Loveridge Road during the freeway widening.

MOTION:

Motion by Commissioner Garcia to adopt Resolution No. 9655, approving AP-06-324 (DR), Design Review approval for plans 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, for “Koch Carbon Bulk Storage Warehouse,” with the conditions as shown. The motion was seconded by Commissioner Ohlson and carried by the following vote:
Ayes: Commissioners Garcia, Harris, Ohlson, Ramirez, Tumbaga
Noes: Commissioner Diokno,
Abstain: Commissioner Thomas
Absent: None

STAFF COMMUNICATIONS:

In response to a previous request, Ms. Ayres provided the Commission with copies of the standard conditions referenced in all resolutions that had been previously approved by the Commission along with a cover letter provided to each applicant with each staff report.

Ms. Ayres also reported that the City Clerk’s Office was working on upgrades to the Council Chambers with a request to be brought before the City Council soon for a drop down screen behind the dais, computer monitors to allow views of slide show presentations at the dais, and other improvements to the technology in the Council Chambers. There was also the possibility of filming Planning Commission meetings in the future.

COMMITTEE REPORTS:

Commissioner Garcia reported that the TRANSPLAN Committee had met on August 24 with discussions related to the distribution of Measure J funds. Another meeting had been scheduled for Wednesday, September 13, 2006.

COMMENTS FROM COMMISSIONERS:

Commissioner Harris expressed concern with the condition of many properties in the City including the PG&E property at California Avenue, the Harbor Street Overpass where the property directly across from the overpass was full of weeds, and with weeds at the former Standard Oil Station property. He also identified a number of curbs, gutters and overpasses which were dirty. He was dismayed with how dirty the City was.

Commissioner Diokno stated that he had attended a Green Building meeting in Martinez with representation from many cities in the County. He suggested that the incorporation of green building practices in public buildings and private residences should be considered by the City. As the Liaison to County Supervisor Federal Glover for the community of Bay Point, he reported that Bay Point would be speaking before the Local Agency Formation Commission (LAFCO) on September 13 in an effort to remove the community from the City of Pittsburg’s SOI. He suggested it would behoove the City to be represented during that discussion.
Commissioner Garcia reported that he had attended the Grand Opening for West Leland Road. Prior to that he had learned that the Mt. Diablo Unified School District (MDUSD) had refused to purchase land for the school in that area from the developer William Lyon Homes.

Ms. Ayres explained that the entire ten acres was the school site. Originally the developer had wanted park credit for the fields, however, the developer had amended the Development Agreement to remove the park provision which was not required in the General Plan.

Commissioner Garcia understood that the MDUSD did not know there would be a five-acre City park. He suggested that William Lyon Homes had received $4.5 million since the park was not going to be built. He inquired whether or not the City would receive those funds or have to wait for the park dedication fees until the homes had been built.

Ms. Ayres reiterated that the General Plan had not required a park in that area, although a ten acre school site which was to be a joint use park agreement had been approved. She clarified that the joint use had never been intended to be with the developer, but with the MDUSD. The City would continue to work with the MDUSD for the joint use of the facility as it had with the Delta View Elementary School. The park dedication fees would come with the Final Map and not the building permits. Those funds would come to the City to assist in the development of San Marco Park.

As to the amount of the fees, Senior Civil Engineer Alfredo Hurtado stated he would have to review the matter since he was not aware of that exact figure at this time.

Commissioner Garcia added that he would not be present for the September 26 Planning Commission meeting.

Commissioner Thomas spoke to the Safeway store located on Bailey Road and affirmed with staff that it was located in the City of Pittsburg. She otherwise commented that there was a bad odor under the on-ramp area of State Route 4 at the Bailey Road exit. She also reported that the City Manager would be honored with a Bridging the Gap Award on October 27, 2006 by the Contra Costa County Human Relations Commission, to be held at the Deputy Sheriff’s Association, 1780 Muir Road in Martinez.

Commissioner Ohlson also clarified with Commissioners the remaining locations in the community which contained artifacts from Camp Stoneman.

Chairperson Tumbaga reported that she would be out of town from September 22 to October 15, 2006.
**ADJOURNMENT:**

There being no further business, the meeting adjourned at 10:50 P.M. to a regular meeting of the Planning Commission on September 26, 2006 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