MINUTES
OF THE REGULAR MEETING
OF THE
PITTSBURG PLANNING COMMISSION
May 23, 2006

A regular meeting of the Pittsburg Planning Commission was called to order by Chairperson Ramirez at 7:00 P.M. on Tuesday, May 23, 2006 in the Council Chambers, City Hall, 65 Civic Avenue, Pittsburg, California.

ROLL CALL:

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

Absent: None

Staff: Planning Director Melissa Ayres, Associate Planner Ken Strelo, Assistant Planner Kristin Vahl, and Administrative Secretary Fara Bowman

POSTING OF AGENDA:
The agenda was posted at City Hall on Friday, May 19, 2006.

PLEDGE OF ALLEGIANCE:
Commissioner Tumbaga 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:
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b. Pittsburg Medical Center – Extension of Approval. AP-05-213 (DR)

(Note: the recording of the meeting started at this time with a discussion in progress.)

Commissioner Ohlson requested an amendment to the second to last sentence of the third paragraph on Page 5 of the May 9, 2006 minutes to reflect that the applicant, not the neighboring property owner, had agreed to pay for the repaving of the railroad tracks.

MOTION:

Motion by Commissioner Ohlson to approve the minutes of the May 9, 2006 meeting, as amended. The motion was seconded by Commissioner Tumbaga and carried by the following vote:

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

Speaking to Consent Item b, Commissioner Ohlson had no problem with the extension of approval although he stated that a member of the Community Advisory Commission (CAC) had taken him to task because of the weeds on the property. After contacting the Code Enforcement Division to complain about the condition of the property, he had been informed that he was not the first to do so. He was advised that Code Enforcement was unaware of the owner of the property and therefore could not address the concerns. Since the property owner had now been identified with the extension request, he requested that the property owner be contacted to abate the weeds on the property.

MOTION:

Motion by Commissioner Ohlson to approve the Pittsburg Medical Center – Extension of Approval, AP-05-213 (DR), with the conditions as shown. The motion was seconded by Commissioner Thomas and carried by the following vote:

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

PUBLIC HEARINGS:
Item 1: Coke Storage Zoning Amendment
A City-initiated proposal to amend Title 18 of the Pittsburg Municipal Code to include a section regulating the storage of coke, coal and sulfur. This is a citywide zoning amendment.

Assistant Planner Kristin Vahl presented the staff report dated May 23, 2006. She recommended that the Planning Commission adopt Resolution No. 9644, with the conditions as shown.

Commissioner Ohlson spoke to the third paragraph of Section 3. Decision, 18.84.715, Prohibitions, and commented that in the event a truck spilled any product anywhere in the City, it must be cleaned up rather than require clean up only within a quarter mile of the facility. He requested that the zoning amendment specify that trucks hauling into a facility follow the specified truck route, and that the facility work out an agreement with the City Traffic Engineer to prevent truck traffic along Railroad Avenue. He would like to see language in the resolution that anyone hauling coke, coal or sulfur make an agreement with the City’s Traffic Division as to the route to be taken.

Commissioner Garcia noted that such language was already required of many facilities.

Ms. Vahl explained that the zoning amendment was not facility specific. The issue relating to clean up within one quarter mile referred to enforcement. She suggested it might be more difficult to enforce something that could be miles away from a facility.

Commissioner Ohlson reiterated his request for an amendment to the language given the potential involvement of a large amount of material.

Commissioner Thomas agreed with Commissioner Ohlson. She also expressed concern that the zoning amendment would not address the current problems with the Tesoro facility. She sought assurance that the communities that could be affected would not be subject to further problems by the materials not required to be covered in terms of a facility’s future participation with the zoning amendment.

Ms. Vahl explained that the issues related to the Tesoro facility would be handled with a Memorandum of Understanding (MOU) between the facility and the City.

Ms. Vahl did not see that they would be able to create new rules and require existing facilities to adhere to those new rules, which was the reason the Tesoro facility had not been included.

Commissioner Thomas suggested her concern could be handled with an expansion of the area being restricted so that the City would be making an attempt to protect the citizens residing in an affected corridor.
Commissioner Garcia spoke to the background of the Tesoro facility, which use had been grandfathered into the City. Unless there was a request to revise or expand the facility, he suggested that little could be done. He noted that while the Regional Water Quality Control Board (RWQCB) had found coke in the water, the Bay Area Air Quality Management District (BAAQMD) had not agreed to place monitors at the site that would address dust in the air. He suggested that the County had allowed the facility to do what it was now doing. He added that the facilities were required to use the truck bypass, which was a condition of approval. The only time such a facility would be allowed to have trucks travel down Railroad Avenue would be in the event of an emergency or during the future demolition of the Loveridge Road overpass.

Commissioner Garcia was uncertain that the zoning amendment would also cover cement, powdered cement, wheat or other materials that could create dust. He requested clarification from staff.

Ms. Vahl advised that the zoning amendment was specific to coke, coal and sulfur.

Commissioner Garcia requested that the zoning amendment include the language “any other dust materials” which could be added to Section 3. Decision of Resolution No. 9644. He was not opposed to expanding the amendment to include the language “within the City limits” rather than just within a quarter mile of a facility.

Ms. Vahl stated that another definition could be added to the findings to address any other dust materials.

Commissioner Tumbaga agreed that Commissioner Ohlson’s requests should be considered. She also was concerned with the Tesoro facility and questioned why the zoning amendment would not apply to Tesoro, and why the City could not enforce Tesoro’s compliance with the zoning amendment once approved.

Planning Director Melissa Ayres commented that the issue was based in State law. The City’s Municipal Code addressed legal non-conforming uses. Under the zoning laws, when a business was created and money invested under a certain set of rules, those rules could not be changed retroactively under the Municipal Code without giving the business the status of legal non-conforming.

Ms. Ayres added that Tesoro would not be required to comply with the zoning amendment unless it requested a change on the property.

While Tesoro was not covered under the proposed zoning amendment, the City would be addressing the problems with that facility through the RWQCB and the State Legislature by creating a law requiring the facility to use Best Management Practices (BMPs). Tesoro was working with the City on an MOU which would address Tesoro’s air quality problems in an equivalent method.
Commissioner Dolojan recognized the concerns with the Tesoro facility. While the facility had been grandfathered in, he stressed that the public safety and health of the citizenry would have to be protected.

Ms. Ayres explained that was why the RWQCB had become involved in that the facility had been found to be polluting the water. The BAAQMD would also have become involved if measurable violations had been found.

Commissioner Harris emphasized that he had raised a number of concerns with the Tesoro facility years ago. He noted the need to monitor the truck traffic which also led to impacts to the community with the dust generated by the facility.

PUBLIC HEARING OPENED

PROPOSER: City of Pittsburg

OPPONENTS:

JUDY DAWSON, 75 Beverly Circle, Bay Point, a member of the Bay Point Municipal Advisory Council (MAC) explained that a few months ago she and another member of the MAC had approached the City to address concerns with the established truck route that appeared to travel through Bay Point. Bay Point also wanted to be protected from the particulate matter produced by the Tesoro facility and its trucks. She added that the City of Antioch could also be impacted by the Tesoro facility if the winds were in that direction.

PUBLIC HEARING CLOSED

MOTION:

Motion by Commissioner Garcia to adopt Resolution No. 9644, recommending that the City Council adopt an Amendment to Section 18.84 of the Pittsburg Municipal Code to regulate the storage of coke, coal and sulfur, with the following modifications:

Section 3. Decision, 18.84.715, Prohibitions, third paragraph revised to read:

The owner or operator shall inspect and clean up any spilled material on any paved road inside or outside the facility within the City limits.

Language to be added to address “All dusty material.”

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

Ayes: Commissioners Dolojan, Garcia, Harris, Ohlson, Tumbaga, Thomas, Ramirez

Noes: None

Abstain: None

Absent: None
Commissioner Garcia suggested that the problem with the trucks leaving the Tesoro facility was that although washed, the water was not blown off. He noted that the landscaping at Johns Manville had died as a result of the coke material that had settled on the landscaping. He recommended that the City require Tesoro to install blowers to wash the coke and ensure that the water was blown off to prevent material from collecting along City roads.

Chairperson Ramirez stepped down from the dais as a result of a potential conflict of interest with the next public hearing since he owned property within 300 square feet of the project site.

Vice Chairperson Dolojan chaired the meeting at this time.

**Item 2: Mirant Power Generation Plant Annexation General Plan Amendment and Prezoning. (RZ-02-13)**

A City-initiated proposal to amend the General Plan land use designations and/or prezone approximately 1,091 acres comprised of 17 parcels (three partial) located north of Willow Pass Road and south of Suisun Bay, within the Northwest subarea of the Pittsburg General Plan. The purpose of the project is to eventually annex the properties into the City of Pittsburg. The properties are located inside the City of Pittsburg Sphere of Influence and Planning Area. The proposed General Plan land use designations, which include Industrial, Open Space and Utility/ROW, are consistent with the existing Contra Costa County General Plan land use designations. The proposed prezoning to IG (General Industrial), IL (Light Industrial) OS (Open Space), and GQ (Governmental Quasipublic) Districts would ensure that all properties are consistent with their respective General Plan land use designations. Prezoning will not be necessary for those lands already prezoned by the November 2005 Pittsburg voter approved Measure P or by the City Council by Ordinance No. 04-1235. There is no physical development proposed with this project. APNs 085-100-012 (portion), 085-100-014, 085-100-015, 096-092-006, 096-092-007, 096-092-009, 096-092-012, 096-092-013, 096-092-014, 096-100-015, 096-100-017, 096-100-018, 096-100-024, 096-100-025, 096-100-026, 096-100-027 (portion), and 096-100-029 (portion).

Associate Planner Ken Strelo presented the staff report dated May 23, 2006. He recommended that the Planning Commission adopt Resolution No. 9643, recommending that the City Council approve the proposed General Plan Amendment and Prezoning.

Commissioner Ohlson spoke to Attachment 6, the Initial Study, Draft Negative Declaration, Figure 1-7, on Page 1-11, a diagram of the Mirant Plant layout, and inquired of the reference on that diagram to “Chemical AST.” He was advised by Mr. Strelo that the language referenced had been derived from the consultants for the Mirant Power Plant, with no detail on the meaning of those abbreviations.

Again speaking to Attachment 6, Commissioner Ohlson spoke to Page 1-15 regarding the
Local Agency Formation Commission (LAFCO) annexation requirements. He requested clarification of the use of the abbreviation “SBE” in that section. Mr. Strelo advised that SBE referred to the State Board of Equalization.

Commissioner Ohlson spoke to Page 2-108 of Attachment 6, the third paragraph relating to the Contra Costa Sheriff’s Department and the discussion of the patrol division of the County serving unincorporated areas of the County, with five contract cities involved. He requested clarification on the reference to “Special District Roundhill.”

Vice Chairperson Dolojan noted that Roundhill was a Special District located in the Town of Alamo.

Commissioner Ohlson referenced Page 2-123 of Attachment 6, the General Plan Policy Consistency Matrix for Transportation and Traffic, as presented. He spoke specifically to County Policy 5-3 and the applicable policy for consistency. As related to that section, he suggested there was an inconsistency since Pittsburg General Plan Goals 7-G-1, 7-G-5, 7-G-6, 7-G-8, and Policy 7-P-19 through 7-P-24 did not include such a strong statement as had been written for County Policy 5-3. Given the lack of consistency, he questioned whether or not the City would have to amend its General Plan to be more bicycle friendly.

Mr. Strelo explained that if the Planning Commission had made a recommendation to the City Council that the policy was not consistent, and the Council decided to make the same inconsistent findings, the Council could add a mitigation measure to the California Environmental Quality Act (CEQA) document. The General Plan could be amended as well. He suggested that the best way to handle the inconsistency would be to add a goal or policy to the General Plan at the time of updates, applicable to General Plan designation changes.

Mr. Strelo suggested that the County General Plan policy could be added verbatim to the City’s General Plan.

Commissioner Ohlson requested that revision.

Commissioner Williams-Thomas found the policy to be more of a safety measure. She found the discussion to be more to how one interpreted the language.

Mr. Strelo commented that the City’s policies were very general and were intended to ensure that care was taken and there was no conflict with bicycles, pedestrians and vehicles. The City’s General Plan policies included no specific statements to minimize conflicts. He was uncertain of the intent of the referenced County policy.

Commissioner Garcia noted that it would not change the resolution under consideration. The City Council could be asked to consider that issue when updating the General Plan.

Mr. Strelo recommended that if the Commission chose to pursue that option, it could direct staff to review the General Plan thoroughly to determine whether or not a policy or goal
could be taken from the General Plan that would be more consistent with the County’s General Plan policy. There could also be an edit to the Initial Study as opposed to a General Plan Amendment.

Commissioner Tumbaga suggested that the item be continued until the issues that had been raised could be resolved.

Commissioner Ohlson expressed concern with staff being directed to search the City’s General Plan to find a policy similar to Policy 5-3 of the County’s General Plan since there was none. He agreed with the consultant who had prepared the Negative Declaration that there was no policy. While he was willing to direct staff to thoroughly review the City’s General Plan, he questioned what would result.

Ms. Ayres explained that the City was allowed to amend each element of the General Plan four times a year. As to the matter at hand, she noted that involved a prezoning and change of the General Plan land use designations shown in the Land Use Element on the property to allow the property to be annexed into the City of Pittsburg with similar general plan land use designations as existed on the property in the County. The City had a bicycle plan which would apply to the property. Everything about the item was not required to be consistent with the County plans to allow the property to be developed in the City of Pittsburg since this City’s community standards and plans would be applied. She reiterated that the City had a bicycle plan that had been updated along with regional bicycle plans.

Ms. Ayres commented that the last time the City Council had acted on General Plan amendments was to reflect other regional adopted documents such as adopted regional bike routes. She trusted that the City’s plans looked towards the safety of pedestrians, bicyclists and vehicles as now written even if the City had a policy that didn’t looked exactly like the County’s policy.

Commissioner Ohlson emphasized that an inconsistency had been found which must be resolved.

Ms. Ayres suggested that the Initial Study could be corrected to reflect that there was an inconsistency between the two plans, although it would not prevent changes to the General Plan or a prezoning of the property. If the information the Council would consider while deciding whether or not to amend the General Plan and change the zoning was inaccurate, staff could correct that information before it reached that body.

Mr. Strelo spoke to the thresholds the consultants had used to establish whether or not the policies were inconsistent. He specifically referenced Footnote C on Page 2-123, which reflected “…a goal or policy would be considered inconsistent if the annexing jurisdiction’s goals or policies would conflict with Contra Costa County General Plan policies.”

He stated he did not believe the City’s policy and County policy were inconsistent.
GLORIA MAGLEBY, 115 Marys Avenue, Bay Point, Chair of the Ambrose Recreation and Park District, explained that the District had been formed in 1946 and served 30,000 residents of Bay Point and western Pittsburg. She suggested that recreation and park services would be affected both in Bay Point and western Pittsburg as a result of the annexation. It would also take away property taxes from services for the entire unincorporated area. She requested that any report that might be prepared on the annexation request consider mitigation for the loss of tax revenue to the Ambrose Recreation and Park District. She advised that the District’s General Manager would provide information to assist in the matter.

JUDY DAWSON, 75 Beverly Circle, Bay Point, a member of the Bay Point Municipal Advisory Council (MAC), questioned why she had been publicly noticed of the item since the Mirant plant was located in the Sphere of Influence (SOI) of the City of Pittsburg. She expressed concern with the project description as contained in the public notice, which had indicated that the project area was located northwest of the City’s existing jurisdictional boundary, south of the Contra Costa/Solano County border, north of Willow Pass Road and east of McAvoy Boat Harbor and the former Harris Yacht Club. She noted that the latter areas were located in the unincorporated area of Bay Point.

Ms. Dawson spoke to the area where Safeway was now located and the California Seasons development which had been located in Bay Point and which had involved what she characterized as a land grab by the City of Pittsburg. Ms. Dawson stated that Bay Point wanted to be a good neighbor and would like to be the Town of Bay Point, a Service District or a Community Service District. She noted that Bay Point was concerned with the lack of important land to work with for its tax base. She added that Bay Point was very close to a potential development of the McAvoy Harbor with the County. If Pittsburg were to annex the Mirant property, that would affect the areas which Bay Point would like to see developed.

STEVE HOAGLAND, 257 Hanlon Way, Bay Point, another member of the Bay Point MAC, speaking as a citizen of Bay Point, reported that a number of months ago the MAC had met jointly with the Pittsburg City Council at which time the MAC had raised the issue of a land grab. The MAC had been assured that Pittsburg would not conduct a land grab and would like to support a future City of Bay Point as much as possible. The MAC and the Pittsburg City Council had favorably discussed the boundary lines of Pittsburg and a possible Town of Bay Point, with the details to be worked out at a future date. He asked the Commission to table the item to allow the MAC to formally meet and prepare letters identifying the MAC’s formal decision on the matter.

Commissioner Harris understood that the harbor area that had been identified for annexation was located in Port Chicago. He noted that the City was not going that far with its annexation request.

Mr. Strelo explained that the existing conditions had identified a geographical location and not a description of the boundaries. The yacht harbor was not located in the annexation area. He also clarified that the annexation area under consideration would not extend west...
Commissioner Harris questioned whether or not the taxes Pittsburg or Bay Point would receive if the annexation were approved had been identified.

Ms. Magleby advised that the General Manager of the Ambrose Park and Recreation District would be able to identify the monies lost to the District if the annexation were approved.

Ms. Ayres clarified that the item under consideration by the Planning Commission was only a request to change the General Plan Land Use designation on the map and to prezone the property to match the General Plan. If the Council were to initiate annexation proceedings, the City would be required to enter into a tax sharing agreement with the County which would then establish matters regarding taxes that would continue to move forward to existing districts. Annexation to the City would not necessitate taking money away from the Ambrose Recreation and Park District since that money would likely continue to flow through, although that would be addressed as part of the tax sharing agreement between the City and the County. She added that any concerns of the District with a loss of taxes should be addressed through Supervisor Federal Glover who would be able to ensure that County staff represented the MAC fairly during negotiations.

Commissioner Ohlson recognized the concerns with the lack of adequate time for the MAC to create a formal written response to the request. However, given the staff explanations of the item before the Commission, he was not supportive of a continuance.

Mr. Strelo advised that if the Planning Commission chose to move forward with the annexation and prezoning request, the item would be forwarded to the City Council. It had tentatively been scheduled for a public hearing on June 19.

PUBLIC HEARING CLOSED

Commissioner Thomas made a motion to adopt Resolution No. 9643, recommending that the City Council amend the General Plan Land Use Designation and/or prezone approximately 1,330 acres in the northeast subarea of the General Plan for future annexation into the City and Delta Diablo Sanitation District. Commissioner Garcia seconded the motion.

Commissioner Ohlson requested an amendment to the motion to indicate a concern that the County’s bicycle oriented statement was stronger than the City’s bicycle oriented statement.

Commissioner Garcia suggested that Commissioner Ohlson make that statement to the City Council. If in the form of a motion, he would support that motion, although he would not agree to the proposed amendment to the resolution under consideration.

Vice Chairperson Dolojan called for a second to the proposed amendment to the motion. There was no second and the amendment failed. He agreed that the issue raised by
Commissioner Ohlson did not relate to the matter before the Commission.

ORIGINAL MOTION:

Motion by Commissioner Thomas to adopt Resolution No. 9643, recommending that the City Council amend the General Plan Land Use Designation and/or prezone approximately 1,330 acres in the northeast subarea of the General Plan for future annexation into the City and Delta Diablo Sanitation District. The motion was seconded by Commissioner Garcia and carried by the following vote:

Ayes: Commissioners Dolojan, Garcia, Harris, Ohlson, Tumbaga. Thomas
Noes: None
Abstain: None
Absent: Chairperson Ramirez [Recused]

Chairperson Ramirez returned to the dais at this time.

Commissioner Ohlson inquired of the Planning Director whether or not it would be appropriate to ask for a second motion requesting that the City Council consider an amendment to the General Plan to include a stronger statement regarding bicyclists, similar to what was included in the County General Plan.

Ms. Ayres advised that the subject was not on the current meeting agenda. She added that the item could be agendized for the next meeting to allow a formal discussion.

Commissioner Ohlson requested that the subject be agendized for the next Planning Commission meeting.

Ms. Ayres noted that staff was already developing a list of City-initiated General Plan Updates for 2006 and that staff could review changes to the city bike policies and bring them back to the Commission for consideration without a formal resolution requesting same.

STAFF COMMUNICATIONS:

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

a. Cingular Wireless Cabinet Installation and Antenna Replacement. AP-06-326 (DR)

Ms. Ayres discussed with the Planning Commission an Appreciation Dinner at Red Lobster Restaurant, the date of which would be confirmed with staff and the Planning Commission.
COMMITTEE REPORTS:

Commissioner Ohlson reported that the TRANSPLAN Committee had met and had discussed its third quarter budget, Draft Work Program and Budget for FY 2006/07, amendments to the Urban Limit Line (ULL) component of Measure J, and the City of Pittsburg’s Metering Program at Meadow Lane.

COMMENTS FROM COMMISSIONERS:

Commissioner Garcia referenced the Auto Zone property located at the corner of Leland Road and Harbor Street where the lawn had died. He also referenced the recent development of the Harbor Street Overpass and commented that the area of Harbor Court, which had been previously been landscaped, was now full of weeds.

Ms. Ayres advised that Caltrans was responsible for maintaining the Harbor Court property.
Commissioner Garcia also referenced the Mehran Restaurant property and stated that the parking lot was full of potholes and should be slurry sealed and restriped. He added that the business had yet to install the required double pane windows. Further, the entrance from Railroad Avenue into Fort Knox Self Storage was also full of potholes.

Commissioner Tumbaga reported on the problem with mattresses being dumped in the community. She advised that a mattress had been dumped along the Columbia Street Bypass, three along Harbor Street, and one at the alley at Third Street between Railroad Avenue and Cumberland Street. She asked that those mattresses be removed.

Commissioner Harris reported that the Vogue Theater property was in need of clean up. He referenced a metal building across the street from the St. Vincent de Paul property which appeared to have a design problem with respect to drainage. He also agreed that the Auto Zone property was in need of landscape maintenance.

When asked by Commissioner Ohlson, Ms. Ayres advised that there would be an eBART Station Specific Plan meeting at City Hall at 7:00 P.M. on Wednesday, May 24 for business owners located in the quadrant of the Specific Plan, intended as a general public education session on transit villages to encourage participation in the City’s transit village process. A meeting would be scheduled with the property owners as well, separate from the typical larger community workshops.

With respect to the Mehran Restaurant, Commissioner Thomas reported that she had recently driven past the site where it appeared that the windows were being installed.

Ms. Ayres clarified with the Chair the City’s Transition Plan for Planning Commission terms and the receipt of six applications for Commission positions.

Commissioner Thomas noted that her neighborhood had no posted speed limit and that...
teenagers in the neighborhood were speeding through the area. She asked that speed limit signs be posted in her neighborhood.

Ms. Ayres recommended that Commissioner Thomas contact the Police Department to address concerns with speeding through her neighborhood. Requests for speed limit signage were handled through the City’s Traffic Division.

**ADJOURNMENT**

There being no further business, the meeting adjourned at 8:41 P.M. to a regular meeting of the Planning Commission on June 13, 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