A joint meeting of the Pittsburg Historic Resource Commission and the Planning Commission was called to order by Chairperson Ramirez at 7:00 P.M. on Tuesday, December 13, 2005 in the City Council Chambers, Civic Avenue, Pittsburg, California.

**ROLL CALL:**

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

Excused: Commissioner Williams

Absent: None

Staff: Planning Director Melissa Ayres, Associate Planner Christopher Barton, Assistant Planner Kristin Vahl, Assistant Planner Leigha Schmidt, and Senior Civil Engineer Alfredo Hurtado.

**POSTING OF AGENDA:**

The agenda was posted at City Hall on Friday, December 9, 2005.

**PLEDGE OF ALLEGIANCE:**

Vice Chairperson Dolojan led the Pledge of Allegiance.

**DELETIONS/WITHDRAWALS/CONTINUANCES:**

Planning Director Melissa Ayres reported that agenda Item 1, the Black Diamond Mixed Use Project, would be continued to the meeting of January 10, 2006.
COMMENTS FROM THE AUDIENCE:

There were no comments from the audience.

PRESENTATIONS:

There were no presentations.

The Planning Commission convened as the Historic Resource Commission at 7:01 P.M.

HISTORIC RESOURCE COMMISSION BUSINESS

ELECTION OF VICE CHAIR:

Motion by Commissioner Garcia to nominate Orlando Dolojan as the Vice Chair of the Historic Resource Commission. The motion was seconded by Commissioner Harris. There were no other nominations. The Historic Resource Commission unanimously selected Orlando Dolojan as the Vice Chair of the Historic Resource Commission.

STAFF COMMUNICATIONS:

Planning Director Melissa Ayres reported that this was the first meeting of the Historic Resource Commission (HRC) since the City Council had revised the Bylaws and the structure of the HRC. The Municipal Code required that the HRC meet a minimum of two times a year with additional items to be brought to the HRC, as needed. She advised of changes expected to be made to the Cultural Resources Element of the General Plan, with anticipated deletions for development of properties in the downtown area, and to make some inclusions that were not currently present.

COMMENTS FROM COMMISSIONERS – Related to Historic Resource Commission

Commissioner Tumbaga inquired whether or not the HRC would review historical structures in the downtown that would be considered for demolition or renovation, to which Ms. Ayres explained that the Planning Commission had been given that responsibility in that all land use decisions would go through the Planning Commission.

The HRC would consider whether or not to add or delete Cultural Resources from the Cultural Resources Element of the General Plan of the Downtown Element and make recommendations to the City Council.

Ms. Ayres added that a project with a historic building would involve a recommendation from the HRC to the City Council as to whether or not that building should be removed.
The HRC would then sit as the Planning Commission to make a determinations on the design review approval for a specific project.

The HRC adjourned at 7:05 P.M. and immediately reconvened as the Planning Commission.

**PLANNING COMMISSION BUSINESS**

**PRESENTATION:**

There were no presentations.

**CONSENT:**

a. Minutes – November 22, 2005

Commissioner Ohlson explained that he had been absent during the November 22, 2005 meeting and would abstain from the vote but would move approval.

**MOTION:**

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

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

**CONTINUED PUBLIC HEARINGS:**

**Item 1: Black Diamond Mixed Use Project. AP-05-225 (DR)**

Application filed by A. F. Evans Development (applicant) requesting design review approval, in order to construct a new mixed use development consisting of 195 residential units and approximately 37,855 square feet of commercial space to be located on three downtown blocks of approximately seven (7) acres that are bounded by Fifth Street on the north, Railroad Avenue on the east, Eighth Street on the south and Black Diamond Street on the west. The project site consists of 39 parcels on three city blocks (APN 085-164-001 through 085-164-016, 085-165-002 through 085-165-017, 085-166-003 through 085-166-017. (Continued from November 22, 2005)
As earlier reported, AP-05-225 (DR) was continued to the January 10, 2006 meeting.

**Item 2: Ferguson Enterprises Expansion. AP-05-231 (UP,DR)**

Application by Rebekah Hoffman of John Donaldson Construction on behalf of Ferguson Enterprises requesting a use permit to expand an existing wholesaling and storage business with exterior storage onto an adjoining 2.03 acre site and design review approval of architectural plans to construct a 6,848 square foot metal building located at 2112 Loveridge Road, Business Commercial General Plan land use designation, IP (Industrial Park) "best fit" District; APN 099-240-068. *Continued from November 22, 2005*

Associate Planner Christopher Barton presented the staff report dated December 13, 2005. He recommended that the Commission adopt Resolution No. 9601, approving Use Permit Application No. AP-05-231 (UP), with the conditions as shown. Adoption of Resolution No. 9608, approving Design Review Application No. AP-05-231 (DR), was also recommended with the conditions as shown.

Mr. Barton presented a slide presentation depicting the condition of the site and its surrounding uses.

Commissioner Garcia inquired of the length of the sidewalk in front of International House of Pancakes (IHOP) and the Harley Davidson sites. He was advised by Mr. Barton that the sidewalk in front of IHOP and Harley Davidson was 10 feet while it was 4 feet in front of the subject property with a portion close to the building falling off in the area.

Mr. Barton added that staff had recommended a 10 foot wide sidewalk pursuant to Engineering and Planning Department recommendations for consistency in the neighborhood. If that were done, per the applicant's plans, that would result in six more feet of sidewalk and might require the applicant to shift the building to the west since the setback had been measured from the back of the sidewalk. Staff’s requirements for modification to the façade also required that the building be shifted.

Commissioner Garcia did not see that there would be an issue to shift the building back six feet. He commented that the building appeared to be nice and compatible with what was previously offered by Pep Boys with parapet walls over the entrance and shades of colors. He commented that the black and white rendering did not do the design justice. The colored drawing identified the setback at the entrance. He disagreed with the staff recommendation for the cyclone fence to the north because once the building was up and the fence on the south end of the property was up, the north fence would no longer be visible, particularly since the south side of the property obscured that fence.

Mr. Barton commented that the proposal was to have a 6 foot high slatted chain link fence with barbed wire.
Ms. Ayres clarified that staff had only requested a wall along Leland Road. Mr. Barton explained that a fence shown in the photographs of the slide presentation were intended to show the condition of the fence and its relation to how the equipment was stacked outside. Staff had recommended that the southern boundary of the southern storage yard area abutting the Harley Davidson property be walled.

Commissioner Garcia disagreed with that requirement in that once the building was up the fence would not be visible. If a 10 foot wide sidewalk was required he understood that the building would have to be shifted back six feet on the site.

Commissioner Ohlson referenced the 8 foot CMU wall as recommended by staff on the new portion of the property and questioned whether or not the existing portion of the property would also be required to have an 8 foot CMU wall.

Mr. Barton affirmed that understanding and noted that the entire property was one parcel and covered the existing operation and the expansion. The intent was to take care of the entire parcel and the entire interface.

Commissioner Ohlson favored the 8 foot CMU wall and a 10 foot sidewalk, although the General Plan and Municipal Code called for the stored materials to be hidden by the wall. Since it appeared as if the stored materials were 10 to 12 feet high, he recommended that the fence be the same height as the rack of stored materials.

Ms. Ayres advised that the Municipal Code allowed an 8 foot wall in commercial areas. The storage would have to be brought down to the height of the wall or be placed inside the building. If the applicant did not comply with the use permit requirements, the use permit could be revoked. While the City had not always been aggressive on use permits, that could be an option for consideration.

Commissioner Ohlson suggested it would be easier on the applicant and the Planning Commission to require a higher fence given the size of the building. A higher fence would not be out of scale where a trellis could be placed on the top of the fence so that the ivy to be planted could grow up and hide the stored materials and offer a campus appearance with ivy walls.

Commissioner Dolojan commented that if the wall was too high it could appear to be a fortress. He found the 8 foot high wall acceptable as long as the stored materials were brought down to the same height to not be visible.

Chairperson Ramirez noted that with the trellis and ivy there could be an issue with maintenance over the years.

Commissioner Garcia opposed a 10 foot high wall since it could appear like a prison and not a business. The stored materials were items that were intended for sale and which...
involved tax revenue to the City. Commissioner Garcia emphasized that the proposal related to an existing business and while the City could ask the applicant to bring the stored materials down to the fence height, that requirement would not likely be enforced.

Chairperson Ramirez affirmed with staff that the entrance to the new building would be adjacent to Harley Davidson. Staff also clarified that the businesses would share the northernmost driveway of Harley Davidson and would be a wholesale and not a retail business.

PUBLIC HEARING OPENED

PROPOSENT:

REBEKAH HOFFMAN, John Donaldson Construction, 817 East Thompson Boulevard, Ventura, introduced the Project Architect.

DONALD PHILLIPI, Project Architect, spoke to Resolution No. 9601, Condition 2, and commented that when he had first spoken with staff on the development the firm had been informed that since the south side was undeveloped the proposal would only be dealing with the subject property and not the south end. They were now being told that the building had to be tied to the height of the storage materials in the other yard. He emphasized that the project involved two independent parts of the business. The north end was the existing property dealing with plumbing wholesale while the south side was a municipal/large developer/street situation. He opposed the effort to tie the two businesses together. He added that the items being stored had been stored in the same way for some time and there was limited space in the storage yard. He suggested that revenue would be lost if they were required to comply with Condition 2.

As to Resolution No. 9608, Mr. Phillipi opposed Conditions 3, 4, 5, 6 and 7. Condition 3 would require an 8 foot high block wall adjacent to the residences on the west. Staff had recommended the construction of 240 lineal feet of wall to be continued 485 feet to include the existing storage yard. In addition, staff wanted the applicant to separate the proposed industrial use from the industrial use to the north which constituted approximately 80 feet of space.

Mr. Barton explained that the recommendation was that the wall be extended just on that portion abutting the residential district, which had not been shown on the site plan and that staff was not recommending a wall between the two industrial businesses.

Mr. Phillipi again questioned mixing the old with the new project. He stated that there was an existing 6 foot high block wall and the Harley Davidson building had added wood on top of the existing block wall. If that was what the City wanted that would not be a problem, although he suggested that a 200 foot block wall would be too expensive.
Speaking to Condition 4, Mr. Phillipi commented that they had met the design review guidelines and had added a trellis on the building as an option although staff wanted a 15 foot projection in some way and an offset. He stated that the building was only 70 feet wide and 6,800 square feet in size. He suggested that a 15 foot entry projection was not reasonable. The floor plan followed function and the staff recommendation [to enhance the entry] would have form but no function.

Referring to Condition 5, Mr. Phillipi commented that the City had approved an expansion of the existing storage yard including the new site and had approved 15 gallon trees. With the new storage yard moved approximately 90 feet from the street, they were being requested to plant 24 inch box trees. In addition, Condition 6 would require a 10 foot sidewalk adjacent to an industrial use. While he understood the interface issue and respected that issue, he suggested that requiring a 10 foot sidewalk in front of an industrial use was not reasonable. The current sidewalk was ample for what was there. He recommended that a 5 foot wide sidewalk would be better than 10 feet.

As to Condition 7, Mr. Phillipi questioned a condition for an 8 foot block wall around any of the areas including separating the use from Harley Davidson. The applicant had proposed chain link fences using Photinia, a large shrub that would grow fast. He suggested that a block wall would become an almost instant graffiti problem which would not occur with a chain link fence. He proposed the use of the Photinia shrub material as opposed to the block wall.

Commissioner Ohlson spoke to the 10 foot wide sidewalk requirement and noted the close proximity of schools and the freeway, with Loveridge Road the only crossing for the youth who walked to and from school. There was a 10 foot wide sidewalk in front of the school and then in front of Harley Davidson, which narrowed in front of the subject property. He pointed out that Caltrans planned a 10 foot wide sidewalk on the bridge over the freeway. If the sidewalk were not widened to 10 feet, he suggested it would be the only portion that was not 10 feet for the entire walk to school in that area.

Mr. Phillipi reiterated his argument that a requirement for a 10 foot wide sidewalk would be costly since it would involve the entire length of the building. He also suggested that the additional setback requirements were not reasonable. He reiterated his request that his project not be required to improve the existing business area.

Commissioner Harris affirmed with the applicant that the adjacent businesses to the south had a 10 foot wide sidewalk and the project site itself had a 4 foot sidewalk. He noted that most industrial and commercial uses had 10 foot wide sidewalks, with residential sidewalks at 4-6 feet. He recognized that the business had been in operation for some time. While he recognized the economics of the project, that was not an issue under the purview of the Commission. He also noted that the building design did not compliment the area since it consisted of a metal building, a square box with a parapet wall.
While he was not opposed to the project, Commissioner Harris suggested that the design could be improved. He recommended that the parapet wall have a mansard or some other design element.

Mr. Phillipi commented that some of the design elements of the building were not cheap and the building would reflect the design of just about any industrial building. He suggested that there was a double standard in that they were an industrial or commercial business when convenient. While a 10 foot wide sidewalk could be provided, he did not want to have the building moved 25 feet back from that point.

Mr. Phillipi added that the plans shown for the trees had not specified height. In speaking with arborists on different projects, he had been advised that 15 gallon trees were better than the 24 inch box size and would eventually catch up to the 24 inch box size tree. He emphasized that the applicants had been trying to appear before the Planning Commission since April.

Mr. Phillipi expressed a willingness to install the 10 foot wide sidewalk in front of the building, to which Ms. Ayres commented that if that were done it would not trigger moving the building back.

Commissioner Tumbaga appreciated the concerns with the staff recommended conditions and the fact that the building was an industrial building, although she pointed out that the property was located in a highly retail/commercial area. She was not willing to compromise and change the appearance of the area to accommodate one industrial facility. In her opinion, it was not unreasonable to require the 10 foot wide sidewalk to be extended. She understood that the 10 foot sidewalk would not require the movement of the building.

Ms. Ayres noted that the recommended added articulation at the front of the building would require the movement of the building. Staff had sought more focal play on the front of the building, and while the Commission may determine that the recommended 15 feet was too much, whatever distance was determined, would require the building to be shifted back an equal distance to meet the required 20 foot front yard setback.

Mr. Phillipi noted that they had a 12 inch shadow line which met the design guidelines. The design, as proposed, would create shadows as reflected on the colored rendering with the use of columns, an overhang, and trellises. He suggested that the design was better than some of the other industrial buildings he had designed.

Commissioner Tumbaga inquired whether or not the frontage along Loveridge Road was the front of the building, which Mr. Phillipi affirmed and noted that the plans were an accurate representation of the building.
Commissioner Tumbaga clarified that she was not opposed to the building design.

Commissioner Tumbaga referenced the parking lot on the south side where customers would park and walk on Loveridge Road to the entrance. She recognized that trees would be planted in front of the building and that the architect recommended that those trees be 15 gallon in size. She also acknowledged that the City had been a little lax in enforcing its own rules. She recognized that the applicant owned a large industrial facility now and with the second development it was still all one company.

Mr. Phillipi noted that the two facilities were two separate divisions of the same company. The new division was strictly wholesale.

Commissioner Tumbaga pointed out that the business was still in a retail/commercial area and it was unfortunate that the applicant planned to build a new facility at a time when the City was trying to tighten its regulations. She did not believe that the Commission should be too lax at this time. She wanted to see the best possible projects be produced given that the buildings would be in place in the City for some time.

Mr. Phillipi reiterated that they proposed a chain link fence with planting in the front with Photinias all along the parking lot which would be fast growing. He also reiterated that the chain link fence would not have graffiti problems.

Commissioner Dolojan recognized that the City had approved the other building although it was now time to update the new building, to include a 10 foot wide sidewalk to provide uniformity for the entire area which would improve the entire area and the site itself. He acknowledged the concern with costs although he emphasized that the City was striving to improve itself.

Mr. Phillipi reiterated his concerns with the conditions as identified and the associated cost with each improvement. He suggested that another plant material, such as Texas Trivet, could be another landscaping option since it was fast growing, was used for hedging and could be used at the front.

In response to Commissioner Harris, Mr. Phillipi clarified that the property was one property. He again reiterated his understanding in discussions with staff earlier in the process that conditions would only be imposed on the south end of the property. He had only recently learned of the staff recommended conditions. He expressed his willingness to work with the City.

Ms. Ayres commented that the Municipal Code required an 8 foot high wall between the industrial and residential uses and not anywhere else. The eight feet had been recommended else where given that the applicant was having trouble keeping the outdoor
storage material under six feet high. If the business could keep the outdoor storage at 6 feet maximum height, she stated that a 6 foot block wall would be allowed.

Ms. Ayres commented that if the applicant desired options for screening materials that could be considered.

Commissioner Harris expressed a desire that the application be continued to allow the applicants to work with staff to resolve the issues.

If the building design was acceptable, Mr. Philippi expressed a willingness to work with staff on the screening materials. He did not want to have to come back and would request a vote on the project now given the time involved to have the Commission consider the application.

Commissioner Harris encouraged the applicant to work with staff and pointed out that it was not likely any building would be built during the winter months.

Ms. Ayres noted that the applicant was moving forward at risk with building permit plan check. She clarified that design review approval was not possible without the approval of the use permit.

Mr. Phillipi sought a preliminary vote from the Planning Commission on the building design with more work needed with staff on the screening issues.

Mr. Barton explained that staff had worked with the applicant extensively and had conveyed all of their issues as reflected in the staff report. The applicant wanted to come to the Planning Commission to have the Commission decide some of the issues which were not able to be resolved at a staff level. He stated that staff was more than willing to meet with the applicant again at a staff level if the applicant chose to do so.

Commissioner Garcia questioned whether or not the applicant would withdraw the project if it was not approved.

Mr. Phillipi advised that was a decision for Ferguson Enterprises, which he noted had been disappointed with the process.

Commissioner Garcia suggested that meeting with staff would not resolve the issues and that the project should go to the Land Use Committee to work out the concerns. He suggested that would be a more appropriate place to make a presentation since the Committee included two Councilmembers and two Planning Commissioners.

Commissioner Ohlson concurred and suggested that since the applicant had moved ahead at its own risk with the building plans at plan check, the applicant could be given the
building with potential compromise with wall, sidewalk, and screening materials. Mr. Phillipi could not make that concession and could not speak to what could be a potential financial burden to his client.

Commissioner Garcia recommended that the item be continued after public testimony, with a recommendation that the project be submitted to the Land Use Committee. He was not confident that the issues could be resolved between the applicant and staff.

OPPONENTS: None

Commissioner Garcia suggested that the item be continued to January 10, 2006 with the understanding that the Land Use Committee meet prior to that time, although he recognized that might not be possible given the upcoming holidays. He affirmed with staff that if the project was not ready for the January 10 meeting, it could be continued again from that date.

**MOTION: AP-05-231 (UP, DR/Continued)**

Motion by Commissioner Garcia to continue AP-05-231 (UP, DR), Ferguson Enterprises Expansion to the Planning Commission meeting of January 10, 2006, with the project to be submitted to the Land Use Committee for further negotiation. The motion was seconded by Commissioner Tumbaga and carried by the following vote:

- Ayes: Commissioners Dolojan, Garcia, Harris, Ohlson, Tumbaga, Ramirez
- Noes: None
- Abstain: None
- Absent: Commissioner Williams

**PUBLIC HEARINGS:**

**Item 3: Carnitas Tijuana Restaurant. AP-05-270 (UP)**

Application by Pascual Zavala of Carnitas Tijuana, requesting a use permit to establish a self service restaurant within a 2,190 square foot building, located in an existing shopping center at 2193 Railroad Avenue. The site is zoned CC (Community Commercial) District; APN 088-183-008.

Assistant Planner Kristen Vahl presented the staff report dated December 13, 2005. She recommended that the Planning Commission adopt Resolution No. 9607, approving AP-05-270 (UP), with the conditions as shown.

Ms. Vahl noted that after the preparation of the staff report, an adjacent business owner had expressed a number of concerns as identified in a staff memorandum dated December 13, 2005. As a result, staff had recommended modifications to Resolution No.
9607 to add the following conditions:

(No. 22) All employees shall be required to park in the rear parking lot only.

(No. 23) The access gate for the rear parking lot shall remain open and unlocked during business hours.

(No. 24) On-site lighting for the rear parking lot shall be installed prior to the issuance of the Certificate of Occupancy. All lighting shall be subject to approval from the City of Pittsburg’s Engineering Department.

(No. 25) All deliveries of restaurant materials and supplies shall occur on-site only.

(No. 26) Exposed wire on the north side of the building shall be removed prior to the issuance of the Certificate of Occupancy.

Commissioner Garcia expressed concern that the restaurant had been built and the business was ready to operate and was just now seeking approval of a use permit. He expressed concern with a number of issues, including the adequacy of the number of parking stalls in that the stalls would only accommodate compact vehicles. He was also concerned with the adequacy of the back out turning radius for the parking stalls, and suggested that the drawing in the staff report was not professional and should not have been presented to the Commission in such fashion. He added that the drawing had not identified any dimensions for the parking or length and size of the parking stalls.

Commissioner Garcia sought an engineered drawing with the parking stall sizes and the clearances between the wall of the adjacent property and the warehouse at the rear. He recommended that the project be continued. He understood that another part of the building appeared to be in the process of being remodeled for another business and he was uncertain of the CC&R’s requirements for the property. He questioned the work being done prior to a request for a use permit given that the parking might not be adequate. He sought a change in the ordinance when a retail tenant changed to a more intensive use.

Ms. Ayres understood that years ago a dining establishment had a building permit and had been a permitted use, with the permit kept alive to the point where it had never expired and had moved forward from that. The applicant was seeking a self service restaurant that would trigger a use permit.

Commissioner Garcia noted that the original building was the front portion and had been built with nothing in the back. The warehouse had been built later with no parking. The warehouse had been used for storage, trucks and lighting for the televisions. Later the warehouse had been used strictly for storage, not for parking.
Commissioner Garcia was uncertain when the area in the rear had been striped for parking since he understood that the only parking was at the front. He recalled that there had been another business prior to the subject restaurant, and at one time the County had occupied the building so that the restaurant could not have been a continued use. He sought a better process where a use was not ready to open before approvals from the City were offered.

Ms. Ayres understood that staff had been made aware of the business through a business license request. The Building Department had indicated that the business had a valid building permit.

Commissioner Garcia pointed out that the concerns with the operation of the business without an approval had been reported to staff in July. Staff was to report back on the status of that situation.

Ms. Ayres understood that the warehouse was being used for personal storage by the property owner and would not be used for commercial use in order to allow the retail use. Chairperson Ramirez expressed concern with the self service restaurant with patrons to park in the back and walk to the front. He could see that patrons would park next door, on the street or in the parking lots of other businesses since it was likely patrons would not walk to the back. He pointed out that there were only eight parking spaces at the front of the business.

Commissioner Ohlson was not concerned with the parking issues but recommended that bicycle parking be provided. He otherwise requested clarification from staff on the intent of modified Condition 25.

Ms. Vahl explained that condition was in response to concerns with delivery trucks stopping in front of the adjacent business where Super Taco was located. The condition had been modified to ensure that deliveries were made on-site and not on an adjacent parcel.

PUBLIC HEARING OPENED

PROPOSER:

PASCUAL ZAVALA, 152 Heron Drive, Pittsburg, explained that the dump truck and cars in the back belonged to him and that the warehouse stored items that would be removed once the restaurant was open. He understood that one of the vehicles parked at the rear was owned by a real estate agent in the center.

As to the conditions of approval and in response to the Chair, Mr. Zavala expressed his agreement with those conditions, as amended.
Commissioner Harris suggested that the circulation of the site could prove difficult for trash pickup. He clarified with the applicant the intended number of tables inside the restaurant and the anticipated total capacity.

Mr. Zavala stated that he had not been aware of any problems since he had been at the site. He clarified that he had reduced the number of tables inside the restaurant. He was willing to work with the property owner to address the parking needs to ensure compliance with all required parking.

Commissioner Harris sought a letter from the property owner in that regard.

Ms. Ayres explained that staff had sought a reduction of seats to ensure that the required parking for the use fit the property.

Commissioner Harris suggested that it was the property owner’s fault allowing the business to proceed without first determining whether or not the parking needs had been met for the use. He did not fault the applicant but faulted staff in that he had previously asked that staff review the matter months ago when it had been noticed that the business was in operation. He asked the applicant to provide a letter to the City from the property owner to ensure that the parking for the use was adequate.

Mr. Zavala explained that the plans in the staff report were not the plans he had presented to the Building Department. He noted that his plans had been presented to the Building Department and had been approved with a request that the tables be reduced for a total capacity of 52 persons in the restaurant.

Ms. Ayres understood that the applicant was referring to plans that were presented several years ago for the building permit, as opposed to the plans presented to the Planning Department.

Commissioner Harris commented that the site had never been engineered for parking at the rear. He requested that plans prepared by an engineer showing the dimension of the parking be provided and that the item be continued.

Commissioner Tumbaga did not agree that the item should be continued. The Commission had been provided with an aerial photo of the parking and the applicant had indicated a willingness to reduce the number of customers to accommodate the existing parking. She had viewed the site and understood that there were a certain number of parking spaces allowed for the use so that the applicant did not use up the entire parking lot. He had reduced the number of tables, thereby reducing the needed parking spaces, eliminating the parking concerns.

Commissioner Harris commented that an attorney in the center did not want people to park in his parking stalls.
Mr. Zavala clarified, when asked, that he would have seven employees who would park in the back of the center.

Commissioner Harris suggested that based on the number of employees for the restaurant, it was likely that they would occupy the customer parking and there would be insufficient spaces for customer parking. He emphasized that no parking was allowed on Railroad Avenue.

Mr. Zavala explained that along with the other tenants in the center there would be his restaurant and another tenant space that connected to the storage. He reiterated that he was in agreement with the staff recommended conditions of approval, as modified.

Commissioner Garcia questioned the accuracy of the claim that there were 30 plus parking stalls for the applicant’s use. He questioned whether or not a truck could adequately turn in the parking stalls which were all designated compact parking spaces. He expressed concern that a variance might be required for the parking since a standard sized vehicle would take up two parking stalls further reducing the number of parking stalls. He added that the drawing in the plans was not acceptable and that the actual parking stalls and dimensions needed to be provided. He would like to see the parking lot drawn to identify the actual parking spaces available for the use with a clarification on the circulation through the shopping center.

GLEN VALENZUELA, representing Martin Guzman the owner of Super Taco, stated that Mr. Guzman had written a letter to the Planning Commission dated December 8, 2005 and which had been provided to the Commission. Mr. Guzman supported small businesses but had raised similar issues to those raised by the Commission regarding the adequacy of the parking. Mr. Guzman sought assurance that the parking provided met the City’s requirements.

Mr. Valenzuela stated that his client was not aware of the five additional conditions that had been modified by staff. As to the lighting at the site, he expressed his hope that the existing floodlights would be found to be unacceptable and that standard parking lot lights, as required for all commercial businesses, would be required.

Mr. Valenzuela suggested that the City had done a good job dealing with graffiti in the City. He added that his client understood that the applicant planned to have live mariachis on-site. He asked that be clarified since he understood that no entertainment would be part of the use. He suggested that the business would be acceptable to the area as long as the parking needs were met. He also understood that a prior business use had left the center due to inadequate parking.

Mr. Valenzuela also spoke to the exorbitant fees being imposed by the sanitation district. Having spoken to four different restaurants in the area, he had learned that different fees were being charged to various small businesses. His client, Mr. Guzman, was being
charged $142,000 in fees. He understood that the subject applicant was being charged
$41,000 in fees. In a community where small businesses were important to foster, to have
such fees imposed meant that there was something wrong with the regional approach to
sewer. He stated that the majority of the fees were going to a state of the art facility placing
a burden on the business owner. He urged a session with the sanitation district to address
those issues which he hoped the City Council would address as well.

Mr. Zavala clarified that he had other restaurants with mariachis, although this restaurant
would be fast foot casual dining, in/out with no music.

OPPONENTS: None

PUBLIC HEARING CLOSED

Commissioner Ohlson made a motion to adopt Resolution No. 9607, as modified by staff,
with an additional condition that the City’s standard for bicycle parking shall be provided in
the parking area at the front.

Commissioner Garcia seconded the motion with an additional amendment that the parking
meet all City requirements and that engineered drawings be presented to staff with all
dimensions [distance and circulation] for the parking to ensure that the parking met all City
requirements. If all parking requirements were not met, he stated that a variance would be
required prior to the issuance of a Certificate of Occupancy.

As the maker of the motion, Commissioner Ohlson stated that he did not agree to that
amendment to his motion.

Ms. Ayres clarified that Commissioner Garcia’s amendment to Commissioner Ohlson’s
original motion was whether to add a condition of approval to the resolution that would
require the business owner to submit an engineered drawing to City staff to show that all
parking on-site met the City’s design standards prior to the issuance of a Certificate of
Occupancy. The Commission must act on the amendment to the motion at this time.

Commissioner Dolojan seconded Commissioner Garcia’s amendment to the motion.

MOTION: Amendment to the Motion

Motion by Commissioner Garcia to add a condition of approval to Resolution No. 9607 that
would require the business owner to submit an engineered drawing to City staff to show that all
parking on-site met the City’s design standards prior to the issuance of a Certificate of
Occupancy.

The motion was seconded by Commissioner Dolojan and carried by the following vote:
Ayes: Commissioners Dolojan, Garcia, Harris, Ramirez
Noes: Commissioners Ohlson, Tumbaga
Abstain: None
Absent: Commissioner Williams

MOTION: AP-05-270 (UP)

Motion by Commissioner Ohlson to adopt Resolution No. 9607, approving AP-05-270 (UP), a Use Permit to establish a self-service restaurant at 2193 Railroad Avenue for “Carnitas Tijuana,” with the conditions as shown and as modified by staff, as identified in the December 13, 2005 staff memorandum, with the following additional conditions:

- The City’s standard for bicycle parking to be provided in the parking area at the front; and
- The business owner to submit an engineered drawing to City staff to show that all parking on-site met City design standards prior to the issuance of a Certificate of Occupancy.

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

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

Item 4: Faith Worship Center – 2170 Harbor Street. AP-05-264 (UP, DR, SR)

Application by Anthony Blackman of Faith Worship Center Ministries requesting 1) a use permit to establish a religious assembly use, 2) design review approval for a 17,500 square foot new Church building, and 3) a sign request to install a freestanding sign on a 1.8 acre undeveloped site at 2170 Harbor Street. The site is zoned IP-O (Industrial Park with Limited Overlay) District, APN 088-183-035.

Assistant Planner Leigha Schmidt presented the staff report dated December 13, 2005. She recommended the Planning Commission adopt Resolution No. 9604, approving AP-05-264 (UP, DR, SR), with the conditions as shown.

Commissioner Tumbaga understood that the application did not vary from the original approved project, to which Ms. Schmidt noted that the 2002 project as approved had included the use of limestone wainscoting around the entire building and windows, the cost of which had been found to be too high. The building design would be articulated at the front with widened columns for a stronger statement in the front. The project otherwise remained the same as originally proposed and approved.
Commissioner Ohlson spoke to a 4 foot sidewalk from the parking lot along the side and across the front to the main entrance, and inquired whether or not it could be widened to possibly 6 feet.

Ms. Schmidt commented that the project had previously been approved and staff was not recommending that the sidewalk be widened. She noted that there was lawn around the meandering pathway.

Commissioner Ohlson requested bicycle parking for the project.

Ms. Schmidt stated that an additional condition could be imposed for bicycle parking.

PUBLIC HEARING OPENED

PROONENT:

MICHAEL KEE, Project Architect, clarified that he was speaking solely as the Architect for his client and in no other role in which he may be involved. The project was before the Commission since the design review approvals had lapsed and an out of state consultant had found it difficult to obtain information. The applicant had since hired a more local consultant and the staff suggestions in terms of some of the design changes were acceptable as were all of the conditions of approval. In terms of bicycle parking, he stated that could be added. He also clarified that there would be entry from the rear of the building so that the church congregation could walk directly from the parking lot into the building. The circulation path was not anticipated to be used but if so was available with access from the rear and from both sides of the building.

OPPONENTS: None

PUBLIC HEARING CLOSED

MOTION: AP-05-264 (UP)

Motion by Commissioner Tumbaga to adopt Resolution No. 9604, approving AP-05-264 (UP), approving a Use Permit to allow Religious Assembly at 2170 Harbor Street for "Faith Worship Center;: with the conditions as shown and with the following additional condition:

- A bicycle rack to be included at the site.

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

Ayes: Commissioners Dolojan, Garcia, Harris, Ohlson, Tumbaga, Ramirez
Noes: None
Abstain: None
MOTION: AP-05-264 (DR)

Motion by Commissioner Tumbaga to adopt Resolution No. 9605, approving AP-05-264 (DR, Design Review of architectural plans to construct a 17,500 square foot building for Religious Assembly Use at 2170 Harbor Street for “Faith Worship Center,” with the conditions as shown. The motion was seconded by Commissioner Garcia and carried by the following vote:

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

MOTION: AP-05-264 (SR)

Motion by Commissioner Tumbaga to adopt Resolution No. 9606, approving AP-05-264 (SR), a Freestanding Sign at 2170 Harbor Street for “Faith Worship Center,” with the conditions as shown. The motion was seconded by Commissioner Garcia and carried by the following vote:

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

Chairperson Ramirez declared a recess at 9:06 P.M. The meeting reconvened at 9:11 P.M. with all Commissioners initially shown as present, excused and absent.

COMMISSION CONSIDERATIONS:

Item 5: Discovery Builder's Sign Exceptions. AP-05-249 (SR)

Application by Salvatore Evola of Discovery Builders Homes/Seebo Homes requesting approval of sign exceptions to 1) install eight 200 square foot. billboards that advertise subdivisions not located within the City of Pittsburg, 2) install one additional off-site 200 square foot billboard to advertise mortgage services offered in Concord, and 3) exceed the maximum (160 square foot) sign area allowed for a permitted off-site billboard for the San Marco development and the other nine requested billboards located adjacent to State Route 4. There were various sites, zones and APNs.

Assistant Planner Leigha Schmidt presented the staff report dated December 13, 2005. She recommended denial of all signs advertising subdivisions and services that were
located outside the City limits. She recommended approval of a sign area exception for
one temporary off-site sign that advertised the San Marco subdivision and was located
adjacent to State Route 4.

Commissioner Ohlson referenced Page 3 of 7 of the staff report, Table 1, Line 10, and
identified a typographical error to the statement under Exception Request 1, which should
be amended to read:

1. Sign advertises services other than a subdivision located in Pittsburg.

Staff acknowledged that the correction would be made to the staff report.

PROPOSED:

SALVATORE EVOLA, Discovery Homes/Seeno Homes, 4061 Port Chicago State Route 4,
Suite H, Concord, apologized for its sign company in which the firm had contracted in all
cities in the State to place signs for the company. The sign company was aware, as had
been stated in its contracts, that it was to obtain the proper permits meeting the design
standards for each city. In this instance, the sign company had not obtained proper
approvals, although most of signs had been in existence prior to most of the planning staff
working with the City. Some were located on billboards he believed had been
grandfathered in and located on properties the developer had purchased.

Mr. Evola also spoke on behalf of the Chamber of Commerce and as the second Vice
President of the Chamber noted that two years ago he had been informed that the City
would be revising its Sign Ordinance which had not been revised since the 1980’s. Having
attended several Planning Commission and City Council meetings, he was aware of a
number of sign variances the Commission had been asked to approve and that staff had
been directed to update the existing Sign Ordinance.

Mr. Evola commented that the eight billboards that advertised subdivisions not located
within the City of Pittsburg were all located on properties owned by the developer and
which the developer paid property taxes. While those signs might not conform to the City’s
Sign Ordinance, other cities allowed signage advertising developments not in their
communities. He acknowledged that it was inappropriate to have advertised subdivisions
outside of the City on internal or arterial streets, such as Buchanan Road, the Buchanan
Road Bypass or the Pittsburg/Antioch Highway, although for properties located on State
Route 4, he suggested that findings could be made to justify such signage particularly if
there was a revision to the Sign Ordinance.

As to the mortgage company sign, Mr. Evola noted that the company had been founded in
the City and had a business license.
The mortgage company operated out of all of the sales offices in Pittsburg. Mr. Evola suggested that findings could be made to allow that sign. As to the size of that sign, while it was too small, in every other city where the firm developed the standard freeway sign was 10 x 20 feet due to safety issues. He urged the Commission to consider the sign exception requests and direct staff to revise the existing Sign Ordinance, particularly since he had appeared before the Commission on at least five occasions for separate projects with sign exception requests.

Chairperson Ramirez commented that he had seen the Wells Fargo bank sign off of the freeway with an address in the City of Concord.

Mr. Evola explained that when the company was formed it was out of a sales pavilion of Serrano Village at San Marco and the sales pavilion acted as a remote sales office. That service started within that office. When Valencia opened a year and a half ago a sales pavilion was not included and the corporate offices were moved to the City of Concord near the corporate offices for Discovery Builders/Seeno Homes. The actual loan officers still resided in the sales offices along with the sales agents in all of the tracts in which the company did business. In every city of business, business licenses were obtained for the sales company and the mortgage company.

Commissioner Garcia understood that the resolution recommended the denial of the sign exception requests with the exception of the one temporary sign off-site that advertised the San Marco subdivision adjacent to State Route 4. He commented that he traveled State Route 4 and was not aware of the signs until presented photos of them by staff. He offered a motion that staff return with a resolution of approval of the sign exceptions requests for all the signs submitted by the applicant.

Ms. Ayres inquired of the rationale in support of the required findings to approve the sign exceptions.

Commissioner Garcia pointed out that the signs had been in existence for many years and had not been an issue until staff had taken photographs and measured the signs. He saw no problem with the signs in that they were located along State Route 4, not within the City limits, and located on property owned by the developer irrespective of the text.

Chairperson Ramirez agreed that the signs were acceptable given that they were located along State Route 4 and on property owned by the applicant.

Commissioner Ohlson sought compliance with the Municipal Code and suggested that the applicant comply with the code. He requested that staff be directed to submit an updated Sign Ordinance within the next two years. Until that time, he suggested that the signs should be removed.

Ms. Ayres advised that the City Council had approved a two year budget which included a
work program for each department. An update of the Sign Ordinance had been included in
the second half of the two year budget and was the next step after the ongoing clean up of
the General Plan and the Zoning Ordinance.

Commissioner Dolojan saw no problem allowing the signs as proposed. He suggested that
the situation could be reevaluated with the review of the Sign Ordinance, when that
occurred. He added that the signs would no longer be needed when the subdivisions
reached build out.

Ms. Ayres pointed out that the developer had installed new text on old sign structures for
developments outside of the City that did not meet City code.

Commissioner Ramirez also understood that the mortgage services were located in
Pittsburg, to which Mr. Evola noted that the processing center of the mortgage service was
located in Concord with the sales pavilion offices located in Pittsburg.

Commissioner Ohlson suggested an amendment to the motion that the variance expire six
months after the new Sign Ordinance took effect.

In response to Commissioner Harris, Ms. Ayres explained that while all of the signs were in
violation of the City ordinance from 160 to 200 square feet, the primary concern was
advertising businesses outside of the City which was specifically prohibited by the Sign
Ordinance.

Commissioner Harris noted that typically developers advertised developments along State
Route 4. In this instance the signs were on property owned by the developer.

Ms. Ayres advised the Commission’s rationale that would be reflected in a new resolution
of approval that would be returned to the Commission for consideration. She requested
clarification as to whether or not the text of the signs was to be limited to the existing text or
be open to future subdivisions.

Commissioner Harris suggested that the text could include future subdivisions. He
emphasized that the signs were located along State Route 4 and on property owned by the
developer.

Commissioner Garcia amended his original motion, to approve the sign exception requests
as presented and when the subdivisions were complete that the developer make
application for the next subdivision to change the text on the sign.

Ms. Ayres noted that Commissioner Ohlson’s requested amendment, to grant the
exceptions which would expire after any new Sign Ordinance approval, was already on the
floor.
Commissioner Tumbaga seconded Commissioner Ohlson’s amendment.

**MOTION: Amendment to Original Motion. (Failed)**

Motion by Commissioner Ohlson to direct staff to prepare a resolution granting the sign exceptions for Discovery Builders, Sign Exceptions Request, AP-05-249 (SR), which would expire after any new Sign Ordinance was approved. The motion was seconded by Commissioner Tumbaga and **failed** by the following vote:

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

Commissioner Garcia restated his original motion, to direct staff to prepare a resolution approving Discovery Builders, Sign Exceptions Request, AP-05-249 (SR), all signs and when the subdivision was built out and prior to the developer changing the text, the developer shall make an application to the City for approval of that change.

Commissioner Ohlson questioned whether it would be appropriate to require that the existing signs be brought up to code as to the physical structure.

Commissioner Garcia did not support a further amendment to his motion. He called for a vote on his motion.

As the second to the original motion, Commissioner Dolojan accepted the amendment.

**MOTION: AP-05-249 (SR)**

Motion by Commissioner Garcia to direct staff to prepare a new resolution approving Discovery Builders, Sign Exceptions Request, AP-05-249 (SR) for all signs, with the signs to expire at the time the subdivision being advertised sold out unless the developer returned with a new permit and request for an exception for any new text for a new subdivision. The motion was seconded by Commissioner Dolojan and carried by the following vote:

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

**Item 6: Appeal of Staff Decision – Forrest Memorial Christian Center. AP-98-15**
An appeal of a staff decision to close Design Review Application File No. DR-98-15 due to incompleteness and extended inactivity status. APN 086-160-013.

Ms. Ayres presented the staff report dated December 13, 2005. She advised that she had spoken with the applicant prior to the meeting who had indicated to her that he was ready to submit an application to the City this week. Rather than deliberate on the item, she recommended that the Commission direct staff to give the applicant 30 days or 10 additional days to deal with the matter, to submit an application and to hopefully withdraw the appeal. In the event no application was submitted within the next 30 days, the item would return to the Planning Commission for consideration.

Commissioner Garcia recommended that the item be continued to January 24, 2006.

Ms. Ayres agreed that could be done, although if the applicant were to file an application, she would prefer not to have to write another staff report and bring the issue back. If the applicant submitted the application and since it was not a public hearing, the application would not have to be officially continued.

Speaking from the audience, the applicant, Pastor Bill Forrest, concurred with the staff recommendation.

MOTION:

Motion by Commissioner Garcia to continue the Appeal of Staff Decision – Forrest Memorial Christian Church, to the Planning Commission meeting of January 24, 2006, if new plans were not submitted by then. The motion was seconded by Commissioner Harris and carried by the following vote:

Ayes: Commissioners Dolojan, Garcia, Harris, Ohlson, Tumbaga, Ramirez
Nees: None
Abstain: None
Absent: Commissioner Williams

STAFF COMMUNICATIONS:

Ms. Ayres reported that the City Council had approved the Harbor Park General Plan Amendment on December 12 by a vote of 3-1-1 with Councilmember Johnson abstaining and Vice Mayor Glynn opposed. The City Council had also approved a new zoning study for the West Tenth Street Corridor as related to the Trans Bay Cable project, which would extend the power line grid from Pittsburg to the City of San Francisco with several sites under consideration in Pittsburg.

Ms. Ayres added that with Measure P and an expansion of the City’s Urban Limit Line (ULL), the City would amend its annexation requests with more environmental analysis.
She reported that the City Council/Redevelopment Agency had approved a new affordable housing preference policy as required by the Housing Element, and in accordance with the Osorio lawsuit which would apply to units partially funded by the Agency or through in-lieu fees.

Ms. Ayres also reported that the dedication of Highlands Ranch Park from Seecon had been completed. The park was currently being designed and should be completed in the next year.

Further, the Planners Institute had been scheduled for March 22-24, 2006 to be held in Monterey. Staff would like Commissioners to indicate his/her interest in attending the Institute as soon as possible.

Commissioner Garcia inquired of the next step for the Johns Manville project, to which Ms. Ayres explained that the applicant must hire an engineer to draw the subdivision plans. Staff had met with the developer regarding needed public rights of way along Harbor and Third Streets, with a traffic study and Initial Study required at the time of project submittal. The developer was working parallel with the DTSC to create the remediation plans which had its own public review process and which would likely be available for a 30-day period in January 2006 for public to comment on the plan.

Commissioner Garcia spoke to the mound of dirt in the area due to the asbestos and recommended a masonry wall on the west side of the mound on the condominium side separating it from the mound to discourage children from climbing on it.

Ms. Ayres noted that the applicant was considering a decorative wrought iron fence with ground cover over the mound.

**COMMITTEE REPORTS:**

Commissioner Garcia reported that he had attended the recent TRANSPLAN Committee meeting with a report on the Railroad Avenue Overpass which would open in January 2006. He also reported that the City of Pittsburg had submitted a letter asking to be allowed to meter traffic on Meadow Lane at Buchanan Road for a traffic signal light, which request had been submitted to the TRANSPLAN Technical Advisory Committee (TAC). He understood that metering would not occur until the freeway was open which might not occur until June. The Committee had also discussed the sale of bonds for the next phase of the freeway widening due to current favorable interest rates.

Chairperson Ramirez reported that the Land Use Committee had met on November 30 with a consultant firm hired by the City to discuss hillside guidelines due to the passage of Measure P.
A schedule of meetings with City staff, the City Council, Planning Commission and community workshops was provided. It was anticipated that the guidelines would be formally adopted by the Planning Commission and thereafter the City Council in June or July 2006.

Ms. Ayres advised that the City Councilmembers on the Land Use Committee had rotated. The new members would be Councilmembers Parent and Johnson.

Chairperson Ramirez reported that he and Commissioner Dolojan had attended the California Planning Law Seminar at Sonoma State University on December 3, which had included a number of highlighted sessions including Planning Commissioners and how they should act and react, and what to do and not to do.

Councilmember Dolojan also commented on the benefits of the seminar which had included a discussion on second units.

**COMMENTS FROM COMMISSIONERS:**

Commissioner Ohlson reported that Changed Life Church had removed the trees where a sign would be installed. He questioned whether or not the removal had been permitted.

Ms. Ayres explained that the City did not have a Tree Preservation Ordinance which would have addressed the removal of any trees.

Happy Holidays were expressed.

**ADJOURNMENT:**

There being no further business, the meeting adjourned at 10:07 P.M. to a regular meeting of the Planning Commission on January 10, 2006 at 7:00 P.M. in the City Council Chambers at 65 Civic Avenue, Pittsburg, California.

__________________________________
MELISSA AYRES, Secretary
Pittsburg Planning Commission