MINUTES
OF THE REGULAR MEETING
OF THE
PITTSBURG PLANNING COMMISSION
November 22, 2005

A regular meeting of the Pittsburg Planning Commission was called to order by Chairperson Ramirez at 7:00 P.M. on Tuesday, November 22, 2005 in the City Council Chambers, 65 Civic Avenue, Pittsburg, California.

ROLL CALL:
Present: Commissioners Dolojan, Garcia, Harris, Tumbaga, Williams, Chairperson Ramirez
Excused: Commissioner Ohlson

Staff: Planning Director Melissa Ayres, Assistant Planner Kristin Vahl, Administrative Analyst II Alexis Morris, Project Manager Ursula Luna, Assistant City Engineer Keith Halverson, and Senior Civil Engineer Alfredo Hurtado.

POSTING OF AGENDA:
The agenda was posted at City Hall on Friday, November 18, 2005.

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

DELETIONS/WITHDRAWALS/CONTINUANCES:
Planning Director Melissa Ayres reported that the design review application portion of the Black Diamond agenda item would be continued to the meeting of December 13, as would agenda item No. 3, Ferguson Enterprises Expansion. She also corrected the meeting agenda to advise that the agenda had been posted on Friday, November 18, 2005.
COMMENTS FROM THE AUDIENCE:

There were no comments from the audience.

PRESENTATIONS:

There were no presentations.

CONSENT:

a. Minutes – November 8, 2005

MOTION:

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

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

PUBLIC HEARINGS:

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

An application filed by A. F. Evans Development (applicant) requesting tentative map and design review approval in order to construct a 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).

Administrative Analyst II Alexis Morris presented the staff report dated November 22, 2005. She recommended that the Planning Commission approve the Tentative Map (Tract No. 9070) and recommended the continuance of Design Review Application No. AP-05-225 until December 13, 2005.

Ms. Morris advised that revisions had been made to engineering Condition Nos. 30 and 39 of Resolution No. 9602, as follows:
30. The width of Black Diamond Street, from East Fifth Street through East Eighth Street shall be 39 feet, curb to curb, with the exception of the bulb-outs required under Conditions 41, 43 and 45.

39. The developer shall provide all transformer boxes below ground, subject to PG&E approval. If below ground transformer boxes are not permitted by PG&E, then the locations of above-ground transformer boxes shall be subject to review and approval by the City Engineer.

Commissioner Garcia referenced Condition No. 52 of Resolution No. 9602 and affirmed with staff that the way the condition was written there would be a traffic signal at the Railroad Avenue/Eighth Street intersection. He reiterated a prior recommendation that a signal also be installed at Tenth and Black Diamond Streets rather than have pedestrian traffic cut across Eighth Street. His concern was with problems that could result once the elementary school was open.

Commissioner Garcia also commented that a gas station had at one time been located at the southeast corner of Sixth and Black Diamond Streets. He expressed his hope that the tanks had been removed and that the property was safe for development.

Senior Civil Engineer Alfredo Hurtado advised that the tanks had been removed.

Project Manager Ursula Luna added that the tanks at that property had been removed two weeks ago.

Commissioner Tumbaga spoke to the public plaza area and commented on her understanding that would be a 10,000 square foot area, although it had been reduced to 8,500 square feet in size. She inquired whether or not the plaza would be public and be maintained by the City as part of the project.

Ms. Morris explained that the plaza was public, would belong to the City of Pittsburg. The City would enter into a maintenance agreement for all of the sidewalks and space around the property which would be maintained by a Homeowners Association (HOA) and the developer. As to whether or not the plaza could be increased in size back to 10,000 square feet, she understood that the application had already been submitted with the plaza in the size shown. She noted that the plaza, if increased, would impact the adjacent units which would either have to be decreased in size or be eliminated.

PUBLIC HEARING OPENED

PROONENT:
MOHAMMED NDHIRI, Project Manager, A.F. Evans Development, 100 Broadway, Suite 300, Oakland, in response to the Chair expressed his agreement to the conditions of approval, including the modifications to Condition Nos. 30 and 39, as identified by staff. He was available to respond to questions from the Commission.

OPPONENTS: None

PUBLIC HEARING CLOSED

MOTION: AP-05-225 (SUB)

Motion by Commissioner Williams to adopt Resolution No. 9602, approving AP-05-225 (SUB), Tentative Map (Tract 9070) for 195 residential units and approximately 37,855 square feet of commercial space for the Black Diamond Mixed Use Development, with the conditions as shown and with the modifications to Condition Nos. 30 and 39. The motion was seconded by Commissioner Garcia and carried by the following vote:

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

MOTION: AP-05-225 (DR)

Motion by Commissioner Williams to continue Design Review Application No. AP-05-225 (DR) to the Planning Commission meeting of December 13, 2005. The motion was seconded by Commissioner Garcia and carried by the following vote:

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

Item 2: K.I.D.S. First Family Daycare. AP-05-265 (UP)

Application by Aimee Carrillo of KIDS First Family Daycare requesting a use permit to allow a large family daycare with a maximum of fourteen children to be operated out of her home, located at 497 Windwood Drive in the RS (Single Family Residential) District. APN 097-610-069.

Assistant Planner Kristen Vahl presented the staff report dated November 22, 2005.

Ms. Vahl recommended that the Planning Commission approve Use Permit AP-05-265.
(UP), subject to the staff recommended conditions of approval.

Commissioner Williams questioned whether or not staff had seen an approved license for the facility. She was advised by Ms. Vahl that the applicant was in the process of obtaining that license.

Commissioner Dolojan questioned how the use would be policed to ensure compliance with City requirements.

Ms. Vahl explained that the applicant would have to go through a State licensing process for a large family daycare facility. The facility would be monitored by the State.

PUBLIC HEARING OPENED

PROPOONENT:

AIMEE CHRISTINE CARRILLO, 497 Windwood Drive, Pittsburg, stated that she was in the process of obtaining a license from the State, with a State Analyst having been to the property to ensure that the site met all State guidelines for a daycare facility. Minor issues had been found that would need to be addressed including the need to provide a latch on the washer and dryer and a fence around a fountain in the rear yard. She understood that once those issues had been addressed the State would issue her license.

Commissioner Williams supported a daycare facility although she suggested that the State license should have been in place prior to any City approvals.

Ms. Carrillo reiterated that the State Analyst was working with her to address minor corrections required for the site. Once she had approval from the City for a daycare facility of up to 14 children, the State would issue her license. She understood that she currently could have up to eight children in the daycare facility without triggering the City permit process. Since she wanted to serve up to 14 children, approval was required from the City. She expected that the State license would be issued within the next week once the State Analyst returned to the property to ensure that the minor items had been resolved.

Ms. Ayres identified Condition No. 8 of Resolution No. 9599 and noted that the applicant would be required to have a State license before operating a large family daycare. She would prefer that the applicant not have the State license until the City had permitted the use since the State could otherwise presume that the applicant could move forward without City entitlements.

As to the conditions of approval in response to the Chair, Ms. Carrillo expressed her agreement with those conditions.
Commissioner Tumbaga inquired of the applicant’s experience in the daycare business.

Ms. Carrillo explained that her mother had been a teacher for 25 years and a preschool teacher in the State for more than two years. She would currently have four day care providers who all resided at her home and who were all relatives. She clarified that she had a one year old son, and a nephew that was six years old living with her.

Ms. Carrillo stated that she had prior experience with daycare although her mother had the most experience as a preschool and music teacher. She commented that she was also attending Los Medanos College to obtain a degree in early child development and already held a degree through St. Mary’s College.

Ms. Carrillo added that all other employees were required to take CPR and health classes. She and her mother were required to take a health and safety class as the licensees. All providers, including family residing in the residence, had also gone through Life scan which checked Federal Bureau of Investigation (FBI) and Department of Justice files. The facility would be monitored by the State.

Ms. Carrillo clarified that initially she would provide daycare for eight children and in the future would provide that care for fourteen children.

Chairperson Ramirez spoke to Condition No. 7 which stated that children shall not be permitted on the second floor unless the home was provided with automatic fire sprinklers. He questioned whether or not the second floor of the home had been provided with fire sprinklers.

Ms. Carrillo advised that the children would not be allowed on the second floor. The second floor was gated at the stairway and the children were prohibited from entering a formal receiving area which would be also be gated.

Commissioner Williams inquired whether or not the applicant had completed the ECE units, to which Ms. Carrillo advised that she was in the process of obtaining those units, which her mother had already completed. The other providers in the residence would only be assisting her and her mother. She added that she was in the process of obtaining her teaching credentials and was approximately 25 units away from completion.

OPPONENTS: None

PUBLIC HEARING CLOSED

MOTION: AP-05-265 (UP)

Motion by Commissioner Dolojan to adopt Resolution No. 9599, approving AP-05-265
a Use Permit to establish a Large Family Day Care at 497 Windwood Drive, with the conditions as shown. The motion was seconded by Commissioner Tumbaga and carried by the following vote:

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

Item 3: 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 (west of the Wal-Mart Shopping Center) Business Commercial General Plan Land Use designation, IP (Industrial Park) “best fit” District; APN 099-240-068.

As earlier reported, the item was continued to the Planning Commission meeting of December 13, 2005.

COMMISSION CONSIDERATIONS:

Item 4: Chili’s Bar & Grill Sign Exception. AP-05-238 (SR)
Application by Robert Macias of RHL Design requesting approval of a freestanding sign and exceptions to 1) exceed the maximum allowable sign area of a freestanding sign by 9.5 square feet and 2) allow exposed neon materials to be used for the primary wall sign. The signs proposed are for Chili’s Bar & Grill restaurant located at 4330 Century Boulevard in the CC (Community Commercial) District. (Portion of) APN 074-460-029.

Assistant Planner Vahl presented the staff report dated November 22, 2005. She recommended that the Planning Commission approve Sign Review Application No. 05-238, subject to the recommended modifications.

Ms. Vahl reported that staff had received correspondence from the applicant this date, indicating agreement to reduce the size of the monument sign to meet the City’s Municipal Code. As a result, the sign exception for the excess of the maximum allowable sign area for the freestanding sign was no longer required.

PUBLIC HEARING OPENED

PROPOONENT:
ROBERT MACIAS, RHL Design, 3001 Douglas Boulevard, Roseville, agreed to the conditions and stated that he would be submitting new drawings to staff to address the revision to the monument sign.

OPPONENTS: None

PUBLIC HEARING CLOSED

MOTION: AP-05-238 (SR)

Motion by Commissioner Garcia to adopt Resolution No. 9600, approving AP-05-238 (SR), a Freestanding Sign and Sign Exceptions for Chili’s Bar & Grill Restaurant located at 4330 Century Boulevard, (Portion of), APN 074-460-029, with the conditions as shown. The motion was seconded by Commissioner Williams and carried by the following vote:

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

STAFF COMMUNICATIONS:

Ms. Ayres reported that the appeal for live entertainment for the Mehran Restaurant had been upheld by the City Council on November 21 after the owners of the restaurant and the neighbors had reached an agreement. A copy of the approved City Council resolution was provided to the Commission. Ms. Ayres noted the City Council would revisit the matter in one year to assess the operation of the business but that would not preclude the Planning Commission any time during the year to consider the revocation of the use permit if the applicant did not abide by the conditions of approval.

Ms. Ayres also reported that the developer for Mariner Walk had submitted a request to change the elevations of some of the homes to convert to horizontal wood siding rather than stucco. Staff would approve the revision administratively unless the Commission determined otherwise since the revision was substantially the same as the original.

Commissioner Harris questioned another developer making changes to approved plans, as had been done for the Hampton Inn.

Ms. Ayres noted that minor revisions to projects were not unusual and there was a provision in most commission resolutions that the developer must build projects “substantially” the same as the approved plans with some minor changes allowed. Staff always worked to ensure that any changes would represent an upgrade if it were to be
approved. In the case of the Hampton Inn, staff had raised the issue with the Commission since staff had not been convinced that the change in that case was an upgrade.

In this instance, Ms. Ayres suggested that the revision proposed for Mariner Walk would be an upgrade with the revised material (handi-plank) to appear like wood from the street.

With respect to recent City Council actions, the Council had introduced an ordinance to amend the Zoning Code with the changes requested by the Planning Commission; had adopted the General Plan Amendment and introduced an ordinance to rezone the East Leland Road Subdivision; had continued the request for a General Plan Amendment and rezoning for Harbor Park to the December 12, 2005 City Council meeting; and had adopted the General Plan Amendment and introduced an ordinance to rezone the property for the Black Diamond project.

Ms. Ayres added that a planning seminar had been scheduled at Sonoma State on December 3 from 8:30 A.M. to 2:00 P.M. and invited Commissions to attend.

Chairperson Ramirez and Commissioner Dolojan expressed an interest in attending the Sonoma State seminar.

COMMITTEE REPORTS:

There were no committee reports.

COMMENTS FROM COMMISSIONERS:

Commissioner Garcia reported that Fort Knox Self Storage had installed a wrought iron gate at the east end of the building but had not worked on the landscaping on the north side nor had they cut the new driveway on the east side of the building located behind all of the buildings. He emphasized the need for the alley to be cleaned since it was a potential hazard. Also, large boxes had been stored on the Steel Clean site on Bliss Avenue for months. He understood that the building had been sold and that a towing service could occupy the site, although such a use was not allowed in the zoning district. He noted that the existing use had been grandfathered in since it had been in existence for some time.

Commissioner Garcia suggested that with changes to the Zoning Ordinance, he would recommend reconsideration of the General Plan policy where 50 vehicle trips triggered a traffic study since it could be a financial burden and discourage many businesses in the City.

Ms. Ayres explained that staff would return to the Council in January to initiate a new round of General Plan Amendments to incorporate some of the promises that had come about
with respect to Measure P and that staff would also be looking at that General Plan policy. Commissioner Garcia wished everyone a Happy Thanksgiving.

Commissioner Harris requested that Frances Green be invited to appear before the Planning Commission to provide a report on the status of the church project on Central Avenue. He also referenced the building located across the street from the Frances Green property and requested a copy of the plans and a status report on the development of that property in that the construction did not appear to be done right.

Commissioner Harris commented that there had been a recent accident on Garcia and Freed Way. He questioned why a stop sign could not be placed on Garcia and Harbor Street so that large trucks could access straight onto Garcia to Harbor and make an adequate left turn. He understood that a police report had been prepared as a result of the accident which could be reviewed by staff.

Commissioner Harris recognized that the City Council had upheld the appeal for the Mehran Restaurant although he questioned why the applicant had been allowed to use the facility while the appeal of the decision to deny the use of live entertainment had been pending before the City Council.

Ms. Ayres explained that the Municipal Code allowed her to issue a Temporary Activity Permit. After the Council had continued the appeal, staff’s goal was to allow the public to have some experiences with the use to see whether or not it could be, successfully managed.

Ms. Ayres explained that police reports had been presented to the Council from the Newark facility and staff wanted the applicant to show how the Pittsburg facility could be managed. The Council and the public had been offered the opportunity to comment on whether or not it did. Temporary Activity Permits had been issued over two different weekends to also help those who had entrusted his/her weddings and events, to the applicant, and had not made reservations elsewhere.

Commissioner Garcia stated that the evening the Commission had denied the use of live entertainment the business had opened up on its own and had impacted the neighbors to the point of requiring a call to the police since people were playing football in the parking lot. He added that the Newark facility was being operated by the same people. He questioned why the applicants had purchased the building without first finding out that approvals needed to be obtained. He too questioned why the business had been allowed to operate pending the appeal before the City Council, particularly when the business had broken the rules on two occasions.

Ms. Ayres took accountability for the issuance of the Temporary Activity Permits to the applicant. She understood the earlier events had involved piped music, not a disc jockey.
She noted that playing music through piped speakers or through a radio did not require a use permit.

Commissioner Garcia disagreed that was the case stating that the incident had involved amplified music and a disc jockey in the back room, and it had impacted the nearby residences.

**ADJOURNMENT:**

There being no further business, the meeting adjourned at 7:54 P.M. to a regular meeting of the Planning Commission on December 13, 2005 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