MINUTES
OF THE REGULAR MEETING
OF THE
PITTSBURG PLANNING COMMISSION
August 23, 2005

A regular meeting of the Pittsburg Planning Commission was called to order by Chairperson Ralph Ramirez at 7:00 P.M. on Tuesday, August 23, 2005, in the City Council Chambers of City Hall at 65 Civic Avenue, Pittsburg, California.

ROLL CALL:

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

Absent: None

Staff: Planning Director Melissa Ayres, Associate Planner Dana Hoggatt, Assistant Planner Christopher Barton, and Assistant City Engineer Keith Halvorson.

POSTING OF AGENDA:
The agenda was posted at City Hall on Friday, August 19, 2005.

PLEDGE OF ALLEGIANCE:
Commissioner Garcia 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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Commissioner Ohlson requested an amendment to the second paragraph on Page 12, as follows:

Commissioner Ohlson reported on his understanding that a portion of Ventura Drive between Loveridge Road and Buchanan Road had been scheduled for speed bumps.

MOTION:

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

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

CONTINUED PUBLIC HEARINGS:

Item 1: Rege Trucking Yard. AP-03-27 (UP)

Continued public hearing on an application by David and Kathryn Rege requesting a use permit to establish a construction material hauling/demolition contractor yard on a five area site located on the north side of Avila Road (northeast of Majestic Pool and Landscape), OS-O (Open Space with a Limited Overlay) District; APN 097-140-014.

Assistant Planner Christopher Barton presented the staff report dated August 23, 2005. He recommended that the Planning Commission adopt Resolution No. 9577, approving Use Permit Application No. AP-03-27 (UP), with the conditions as shown.

Mr. Barton advised that in discussions with the applicant, the applicant had requested modification to the language in Condition Nos. 3 and 4 of Resolution No. 9577, which dealt with the dedication of the right-of-way. The applicant had indicated that he would like to have the agreement, which would guarantee the applicant use of the property for the 20-foot portion of the frontage, until the City was ready to widen Avila Road in front of his property and connect to West Leland Road.

In response to the applicant’s request, the first and second sentences of Condition No. 4 was amended to read:
Within 90 days of this approval, the applicant/property owner shall enter into an agreement with the City which allows the applicant/property owner use of the dedicated property frontage for the approved use until such time that the Engineering Department determines that the property frontage is needed for the widening of West Leland Road from San Marco Boulevard to Avila Road. The agreement shall include provisions requiring the City to give the property owner six-months notice prior to commencing widening of West Leland Road from San Marco Boulevard to Avila Road.

The first sentence of Condition No. 6 was amended to read:

Within 60 days of this approval, the applicant/property owner shall install anew eight foot tall slatted chain-link fence and temporary landscaping primarily consisting of Oleander shrubs planted along Avila Road property frontage.

Commissioner Williams spoke to paragraph five on the first page of the staff report and the discussion that the City did not have records of any existing land use approvals or building permits from Contra Costa County applicable to the property at the time of annexation. She questioned whether or not that situation remained. Staff affirmed that was still the case.

Mr. Barton explained that he had been working with the previous owner and the applicant to ensure that the buildings on the site had the proper occupancy approvals, although at the time the property was annexed to the City, there were no records of any land use approvals for the commercial coaches on the property or for the activities occurring on the property. The applicant was technically operating without a use permit under the City’s Municipal Code but had approached the City to legitimize the use. The applicant had indicated to staff his desire to file for a future design review application for the two existing commercial coaches on the property, although conditions had been attached to Resolution No. 9577 that would require that the commercial coaches be removed if the applicant could not obtain the proper approvals to use them.

Commissioner Ohlson spoke to Condition No. 4, as revised by staff, and commented that with the widening of the roadway he understood that the City would install the concrete center divide and center lane. Commissioner Ohlson expressed concern that the language the applicant had requested for that condition would mean that until there were curbs and gutters for the entire length of the road, the applicant would not have to install any improvements. As a result, Commissioner Ohlson wanted assurance that when the City installed its two lanes and concrete center divider it would then trigger the applicant’s installation of the curb and gutter.

Mr. Barton explained that the application was for a use permit that would not involve any development permits to build anything on the site. Typically, if the applicant desired to build on the property, he would be responsible for all frontage improvements. In this
instance, the applicant would be responsible for the dedication of the land needed to widen
the street, not the improvements themselves. Condition No. 3 would address the
applicant’s offer to dedicate the land within the 90-day timeframe and the City would accept
within that timeframe which would result in the land needed to widen the road. Condition
No. 4 would ensure that the applicant could use the property in the interim between now
and when the City widened the road.

Commissioner Ohlson questioned the modified language in that the property owner would
not build the curb and gutter until all the curb and gutter had been installed for the entire
length of the road. He sought clarification that the applicant would be able to use the land
until the road had been extended. Once extended, he suggested it was reasonable that
the applicant should then install the curb and gutter.

In further response to Commissioner Ohlson as to when the curb and gutter would be
installed in front of the property, Ms. Ayres stated that the City could either choose to use
its own funds to build those improvements if the property was not ready to develop or when
the road was extended the developer could file a development application on the property
and could apply for a General Plan Amendment and zoning change to develop a
subdivision on the property. At that time the applicant would be responsible to install his
own frontage improvements.

Commissioner Garcia agreed that no developer had been required to install street
improvements without development on a property which would not likely occur on the
subject property for another several years. He spoke to the history of the property and
commented that the County at that time did not have a Planning Commission, which was
likely why there were no records of the land use in the County.

Commissioner Tumbaga inquired of the number of truck trips associated with the use.
In addition, since there was no sanitary sewer service to the site, Commissioner Tumbaga
questioned whether a septic tank system or a porta-potty would be provided.

Commissioner Ohlson spoke to the fence as shown in the applicant’s plans for redwood
slats painted white, which he noted was contrary to the staff recommended Condition No. 6
calling for a chain-link fence with plastic inserts. He questioned whether or not the
resolution of approval would take precedent over the applicant’s plans.

Mr. Barton explained that the conditions of approval would supersede the plans as to the
type of fence slats to be used. Staff had recommended a durable plastic brown color slat
for the chain link fence to complement the one approved across the street.

Commissioner Dolojan inquired whether or not the applicant/property owner would be
required to file a design review application for the coaches since one had been used for an
office and had not been moved since it had been placed on the site.
Mr. Barton suggested that Condition No. 9 could be modified to address the Commission’s concerns with the commercial coaches. He understood that the applicant operated his business from an office in the City of Concord where their dispatch was also located. He also understood that the applicant desired an office on the property in the future. If the Commission wanted to tie the use permit approval to any subsequent development or to legalize one of the commercial coaches, he stated that could be done.

Ms. Ayres explained the resolution had been written to allow future installation of a commercial structure on the property. Condition No. 9 had been worded in such a way that the use permit would not have to be amended to add a structure in the future, although design review approval would be required for that structure. Depending on its size, it could be approved by the Planning Commission or it could be approved administratively by staff.

Commissioner Dolojan sought a timeline when the commercial coaches were to be removed, to which Ms. Ayres noted that the commercial coach located on the property line would be required to be removed and had been addressed in the conditions of approval. There were other structures on the property that could not be used for habitable space, without building permits or design review approval.

Since the coaches were not visible from the road, Commissioner Garcia commented that he did not see a problem if they remained. He suggested that the coaches could be addressed with an amendment to Condition No. 9, that when the road was extended the commercial coaches would have to be removed and replaced with a permanent structure.

Commissioner Dolojan agreed with such a condition.

PUBLIC HEARING RE-OPENED

PROPOSPONENT:

DAVID REGE, 1050 Green Point Court, Concord, explained that the property had been used for the past 25 to 30 years for storage related uses without formal entitlements. He was attempting to obtain approval of a use permit to be able to borrow funds from a financial institution so that he could then improve the property and be prepared when the City extended the road.

Commissioner Garcia asked whether or not Mr. Rege was in agreement with the conditions of approval, as amended by staff.

Mr. Rege expressed his agreement with the conditions. He explained that he had asked that Condition No. 6 be amended to allow a six month period to install the fence since it would take him more than 30 days to obtain a bid for the fence. If permitted, a 90-day
Mr. Rege also clarified that he had five porta potties on-site and would have well water for washing. All porta potties would have hand sanitizers and the approval of the use permit would allow a new well and a septic system, which were very costly. He further clarified that he owned various trailers for different uses. He would have a tractor that pulled a trailer assigned to two to three different types of trailers. He could have 40 stalls full of trailers, 24 or so with tractors that would leave every day. He estimated that he would have 30 trucks coming and going every day.

Mr. Rege added that the commercial coaches had been on the property when purchased and when he started leasing the property in 1992. One had been used as an office by a prior operator who had purchased property and moved across the street. That coach was not being used. The other coach had been used for an asphalt company for 15 years as an office. When he acquired the property, he had evicted that operator and the office remained. He now used that coach for personal use. Both coaches were on wheels and could be moved at any time, although he expressed a desire to retain at least one coach for maintenance records. If needed, he would apply for a design review approval or any other approvals that might be required.

Mr. Rege thanked the Commission and staff for its consideration, patience and assistance during the application process.

OPPONENTS: None

PUBLIC HEARING CLOSED

MOTION: AP-03-27 (UP)

Motion by Commissioner Harris to adopt Resolution No. 9577, approving Use Permit AP-03-27 (UP), approval of a use permit to establish a construction material hauling/demolition contractor yard on the north side of Avila Road (northeast of Majestic Pool and Landscape) for “Rege Trucking Yard,” with the conditions as shown and with the amendments to Condition Nos. 4, 6 and 9, as follows:

The first and second sentences of Condition No. 4 to be amended to read:

Within 90 days of this approval, the applicant/property owner shall enter into an agreement with the City which allows the applicant/property owner use of the dedicated property frontage for the approved use until such time that the Engineering Department determines that the property frontage is needed for the widening of West Leland Road from San Marco Boulevard up to the applicant-owner's property frontage on Avila Road. The agreement shall include provisions requiring the City to give the property owner six-months notice prior to
commencing this road widening project. The provisions of the agreement shall also require that the property owner/applicant indemnify the City from any liability resulting from the applicant's/property owner's use of the property.

The first sentence of Condition No. 6 to read:

Within 90 days of this approval, the applicant/property owner shall install a new eight-foot tall slatted chain-link fence and temporary landscaping primarily consisting of Oleander shrubs planted along the Avila Road property frontage.

A sentence to be added to Condition No. 9, as follows:

Within 90 days of receiving notice of the City's intent to widen West Leland Road up to the applicant/owners property frontage along Avila Road, the applicant shall remove any commercial coach buildings or immobilized camper trailers from the property which do not have Certificates of Occupancy from the Building Division.

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

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

Chairperson Ramirez stepped down from the dais due to a potential conflict of interest with public hearing Item 2, Mariner Walk Residential Subdivision, since he owned property within 300 feet of the project site.

Vice Chairperson Dolojan chaired the meeting at this time.

Item 2: Mariner Walk Residential Subdivision. AP-04-126 (GP, RZ, PD Permit, Subdivision 8869 (DR)

Application by Donald Reber of The Olson Company requesting: 1) an amendment to the General Plan Land Use Diagram in order to change the designation of five acres currently designated as Park to Downtown Medium Density Residential; to change 3.8 acres currently designated as Downtown Medium Density Residential to Park, to change 1.1 acres currently designated Downtown Low Density Residential to Medium Density Residential, and to change .0.6 acres currently designated Downtown Low Density Residential to Park, and to amend the Downtown Element and Open Space, Youth and Recreation Element to reflect this change accordingly; 2) a rezoning of 15.6 acres site to PD (Planned Development) District and approval of a PD Permit, 3) approval of a vesting tentative map in order to subdivide 15.6 acres of the 18.7-acre site for purposes of
development of a 3.45-acre public park, a clustered single-family development of 123 units with public roads, and a 0.95-acre privately-maintained linear parkway; and 4) design review approval of architectural floor plans and elevations of the proposed single family houses to be built within the project. The property is partially developed with a five-acre park and is located west of Herb White Way and north of the West Eighth Street; APNs 085-130-006, 085-143-001 through -006, 085-142-001 through -006, 085-141-002 through -005, 085-141-009 and 085-141-007.

Associate Planner Dana Hoggatt presented the staff report dated August 23, 2005. She recommended that the Planning Commission recommend that the City Council approve the proposed General Plan Amendment Application No. AP-04-126 to amend the Land Use Diagram in the Land Use Element of the General Plan, with additional amendments to the Downtown Element and the Open Space, Youth and Recreation Element for consistency with the requested revisions to the Land Use Element. She also recommended that the Commission recommend Council approval of Planned Development Rezoning Application No. AP-04-126, and that the Commission continue the public hearing on Vesting Tentative Map and Design Review Application No. AP-04-126 to October 11, 2005.

Ms. Hoggatt explained that there would be only four acres changed in the Park site and the linear park currently designated Park would retain that designation. As a result, she corrected the agenda description in that there would be only four acres requested to be changed from Park to Downtown Medium Density Residential. She also noted that the subsequent change from three acres from Downtown Medium Density Residential to Park had been counted twice.

Speaking to the developer’s request to amend one of the mitigation measures to build the wall around the school in phases, Commissioner Garcia disagreed since St. Peter Martyr School would be starting school in a week and the grading would continue while classes were in session. He preferred that the wall be completely installed prior to the construction of any homes to avoid disturbing the school with noise and dust. He supported the installation of the wall at the completion of the grading operations.

Ms. Hoggatt explained that mitigation measure had initially called for the entire wall to be built, for three legs, prior to the start of construction of the second phase of the development for the residential homes. The developer had requested approval to build the wall in accordance with the actual phases of development. The Planning Commission was not being asked to approve the Mitigated Negative Declaration although the Commission could identify any changes it would like to see, which changes would be forwarded to the City Council which would ultimately adopt the Mitigated Negative Declaration. She also clarified, when asked, that the traffic study had been prepared by an outside consultant and had been referenced in the Initial Study.

Commissioner Garcia pointed out that the Initial Study had only mentioned Tenth Street
and Herb White Way and had not addressed a traffic count.

Ms. Hoggatt commented that the Initial Study included a summary of the traffic study, which had only been intended to be a reference document.

Commissioner Garcia stated that the Planning Commission had received copies of the traffic studies in the past. He requested a copy of the traffic study, which staff reported was available to the public at the planning counter.

Commissioner Ohlson spoke to the area of Herb White Way between Fourth and Eighth Streets which fronted the project and the area between Eighth and Tenth Streets where Habitat for Humanity’s project had been located. He understood that the project would not be widening the road between Eighth and Tenth Streets. He inquired whether or not the two projects would have the same street widths.

Assistant City Engineer Keith Halvorson understood that would be the case although he would have to verify that information.

Redevelopment Analyst Maria Allioti explained that the area from Eighth to Tenth Streets where Habitat for Humanity was currently located was narrower than the street where the proposed park and the project would be located. That portion of Herb White Way fronting the current Marina Walk project and Mariner Park project was a lot wider. She understood that the widening of that section of the street would be part of a Capital Improvement Project (CIP), although the actual width was not known and she would have to confirm that information with the Engineering Department.

In further response to comments, Ms. Allioti understood that the Habitat for Humanity project was part of a recorded deed with an easement so that when the street was widened, a portion of the Habitat for Humanity properties would be reduced to allow the street widening. She could not confirm the actual dimensions that would be lost.

Ms. Ayres suggested that staff address that issue with the City Council when considering the resolution on the PD rezoning, which would allow staff the opportunity to research that issue to determine whether or not there were any inconsistencies. The subdivision would return to the Planning Commission where staff could further clarify that point.

Commissioner Ohlson referenced the linear park and commented that neither the site map nor the vicinity map had shown a linear park. With respect to the Homeowners Association (HOA) park on the map, he questioned whether or not that park was what had been referenced by staff.

Ms. Hoggatt confirmed that the linear park and the HOA park were one and the same.

Commissioner Harris questioned the amount of work being done on the property. He
requested clarification from staff as to whether or not the developer had stopped the work on the site.

Mr. Halvorson reported that the developer had not finished with the grading for the park and had not been working on the park this week. The applicant had permission to grade the park site and begin the frontage improvements on Herb White Way, fronting the park.

Commissioner Harris understood that the developer had borrowed dirt from another part of the land for the park and was close to finishing the pads at the same time.

Mr. Halvorson advised that in speaking with the Senior Civil Engineer, the developer had not been authorized to grade the pads or work on the streets, although the developer could need some dirt to put into the park. He stated that he had recently viewed the site and had verified that the developer would not be allowed to grade the pads or streets but could use some dirt to grade the park. He acknowledged that the developer was grading the park at its own risk.

In response to Commissioner Williams, Ms. Hoggatt reiterated that the only change to the project since it had last been seen by the Commission was the staff recommendation that the zoning designation for the Park be Governmental Quasi-Public District rather than a PD District. The architecture and design elements would return to the Commission under the design review and tentative map resolutions on October 11.

Commissioner Ohlson spoke to Page 2 of 13 of the staff report, which had referenced the history of the property and the 100-year floodplain. While the majority of the housing units would be outside of the floodplain, the Commission had previously been informed that the floodplain map would be revised although it had not been addressed in the staff report. He expressed concern with the approval of a development in the floodplain, particularly the park. He questioned why the grade was not being raised above the flood plan.

Ms. Hoggatt explained that the residential pads would be above the floodplain and once the project had been graded out everything would be outside of the floodplain area. There would be no structural damage to the residences as a result. The park would be mostly out of the floodplain, although a portion would remain within the floodplain.

Commissioner Ohlson expressed concern that the City would accept an improvement in the floodplain. He recommended that the developer grade the areas out of the floodplain. He sought a condition that none of the project would be within the floodplain or that the project would be within the new floodplain map.

Commissioner Harris pointed out that the school and the homes were in the floodplain and the floodplain map was old. The existence of the floodplain would be disclosed to a homebuyer and flood insurance could be purchased. He did not see that there would be an issue.
Commissioner Tumbaga understood the concerns with the floodplain and understood the unlikelihood that there would be a flood, although she pointed out that the detention pond was in the park, was unusable and would gather water during rainy periods. She opposed the detention pond being considered as part of the park.

Ms. Hoggatt explained that the detention pond would be fenced and maintained by the HOA, inaccessible to the public and was not intended to be part of the park maintained by the City.

Commissioner Tumbaga noted that the detention pond would reduce the amount of usable park area. She questioned what would be done to mitigate the loss of park acreage. She was advised by Ms. Hoggatt that there would be a little more than four acres of park area.

Ms. Ayres advised that the developer would be required to reimburse the City for the value of the land for the park that could no longer be a park. Calculations had been done to illustrate that there was adequate parkland in the downtown to comply with the Quimby Act and to accommodate the anticipated population in the downtown. She explained that additional acreage was not necessary to meet the downtown needs, beyond that otherwise planned for.

Commissioner Tumbaga commented that the actual use of the parks should be considered in that youth used the park and the extent or impact that would have on the local community would have to be addressed when limited space was available. She suggested that the residents should have a park similar or as close as possible to what they had enjoyed. She questioned the removal of any park that was not being adequately replaced.

Ms. Hoggatt explained that the amenities in the new park would be identical to the existing park and the types of activities would also be the same, which was a requirement of Recreation Commission approval. The developer would also be required to pay fees for the lost acreage, which fees would be used for the City’s Parkland In-Lieu Fee Fund, to be used to buy parkland elsewhere in the community.

Commissioner Tumbaga suggested that the residents in the downtown were being shortchanged by a smaller park with a greater population to serve.

Commissioner Garcia commented that he was not concerned with the loss of the parkland since the park had initially been built for the school and the nearby residents. Since that time, a tot lot had been built along the waterfront and another park was located one block from the subject site, along with the Eighth Street Linear Park. He noted that having recently seen the park behind the school, he had found that it was not being used. He did not see that the small loss of acreage would be a concern.

Commissioner Tumbaga commented that she used all of the City’s parks and could verify that they were being used.
Commissioner Tumbaga remained concerned that the park would be heavily used by children in the area, particularly since the park would be more visible than the existing park.

Commissioner Ohlson referenced Page 8 of 13 of the staff report, which had shown an estimated 380 residents added to the local population as a result of the development. He referenced General Plan Goal 8-G-1 which stated that the City would have five acres of park per 1,000 residents. As a result, the development must provide 3.8 acres of new park. With the relocation of the existing five acre park, the developer must provide a total of 3.8 acres plus five acres, totaling, 8.8 acres of park. He understood that the developer would only provide 3.45 acres of park, with eight tenths of an acre used for the detention basin. He referenced the land along the western boundary that could not be used .95 acres of park reducing the amount of park being provided.

Commissioner Ohlson expressed concern with the numbers being used to finesse the amount of park the developer was required to provide as a condition of the development. He suggested that the developer should provide 8.8 acres, with no .95 acre of linear park which was unusable. He also referenced General Plan Goal 8-P-6 which stated that detention basins were not part of parks. Currently, the development would not have the acreage of park required by the General Plan.

Ms. Hoggatt advised that it would be 1.9 acres based on the number of residents and the Subdivision Ordinance would allow developers to pay fees in lieu of dedication of land. In this case, the developer would be adding enough residents to require 1.9 more acres of park. The developer would pay fees equivalent to the value of that 1.9 acres that again would go into the City’s Parkland Dedication Fee Fund. Staff had recommended that the developer pay an additional fee for the roughly .8 acres that would be lost as a result of the relocation of the existing park to the new park.

Ms. Hoggatt reiterated that the developer would be asked to pay fees to compensate for the additional demand being created as allowed by the Subdivision Ordinance and pay for the lost acreage as a result of the smaller park.

Ms. Ayres added that the Subdivision Ordinance had been set up to create a theoretical number of acres that could be converted to dollars for use by the City to build those parks in the places where they were most needed, based on research in the adoption of the Open Space Element which placed parks centrally located within walking distance of everyone in the community. The City did not necessarily want a park from every development, but wanted to place parks in key locations to ensure that members of the community could walk to them. There were plenty of parks to walk to in the downtown area. The in-lieu park fees could be used to build other parks where the City had land banked land and where the City did not have the funds to build out those parks, such as at Highlands Ranch and San Marco, where there were currently no parks.
Commissioner Garcia noted that since the City was unable to maintain its parks, when the Bailey Estates development had been considered, the developer had been required to build only a two acre park. Highlands Ranch was an example where there was a five acre park with no money to build the park. He also referenced the Americana development where the developer had donated the land but the park had not been built by the City for another five years after the development had been built. He understood the concerns and suggested that the area was well covered with existing parks in the downtown. He had visited the area to view the conditions and had found that the park would be built above the floodplain.

Commissioner Garcia also pointed out that a new elementary school proposed at Eighth Street and Railroad Avenue would have an all weather field that could be used all year round by the Pittsburg Unified School District (PUSD).

Commissioner Harris understood that the City Council had recently imposed a $15,000 transportation fee on the construction of all new homes. He inquired whether or not the fee would apply to the subject development.

Ms. Ayres acknowledged that the transportation fee would apply to the subject development.

Commissioner Ohlson referenced Page 11 of 13 of the staff report which spoke to the potential fault line on the property, although after research there was apparently no evidence of a fault line. He questioned whether or not there would be a geographic mitigation measure imposed on the development to ensure that the homes were not impacted in the event of an earthquake.

Ms. Hoggatt explained that the General Plan had shown the Pittsburg Fault running through the property. The developer in conjunction with U.S. Geological Survey consultants under City staff and other associated agencies, had conducted an extensive geotechnical excavation and had found no evidence to verify the existence of the fault. Based on that and the report on file that had been prepared under supervision of various private and public agencies, there was no geotechnical concern as a result of faulting on the property. There would also be no Geological Hazardous Abatement District (GHAD) planned for the property.

In response to Commissioner Ohlson, Ms. Ayres clarified that in the event a fault did occur on the site, it would be a matter of the courts to decide as to whether or not the City would be liable in such an event.

PUBLIC HEARING RE-OPENED
PROPONENT:

DONALD REBER, The Olson Company, 3130 Crow Canyon Place, Suite 210, San Ramon, presented a photo simulation along Herb White Way to illustrate the current conditions of the site as compared to the concept of the proposed development.

In response to prior concerns expressed by the Planning Commission related to the park issue, Mr. Reber explained that he had reviewed the potential for a pocket park in response to the loss of park area but had found that would not make a difference due to the preponderance of park area in the downtown. A pocket park would overload the park area since a pocket park would have a tot lot. There were already four tot lots within close proximity of each other. He reiterated as described by staff, that the developer would pay in-lieu fees for the loss of acreage of parkland and relocation of the existing park, in addition to regularly applied in-lieu park fees for the new development.

Mr. Reber added that the development would have a total of 4.2 acres of total park area. The .95 linear park would not be maintained by the City but would have public access to minimize the amount of park area that the City would be responsible to maintain. That area would be maintained by the HOA. He pointed out that the existing park had older equipment and the new park would be more efficient and provide modern amenities.

Mr. Reber commented with respect to the new traffic signal, that he understood it would be at the entrance of Herb White Way and Sixth Street, although he had later learned there would be a four way stop. A traffic signal would be installed at Tenth Street and Herb White Way. In speaking with City staff, staff had requested that the developer take on the improvements all the way to Tenth Street by designing and installing all improvements, with the developer to be reimbursed for everything off-site through fee credits. While that portion of Herb White Way had been designed, staff had later informed the developer that those improvements were not required of the developer since there was a CIP program and the City would undertake that work.

Mr. Reber explained that the street section for Herb White Way had been changed to the new standards as shown on the Tentative Map. He was uncertain whether or not the City planned to narrow that portion of the road in front of the Habitat for Humanity homes, although he confirmed that the subject property frontage would conform to the standard size street.

Mr. Reber commented that the Commission had previously recommended that the developer pay a fair share towards the traffic signal and that it be installed as part of the project. With the City undertaking the street widening and signal, the developer would pay its fair share and allow the City to proceed with the CIP program.

Commissioner Garcia inquired if plans to widen the road from Eighth to Tenth Streets
would coincide with current plans or be done in the future. He suggested that since the developer could do the work faster and less expensive than the City, the developer should design and install the light and receive credit through traffic mitigation fees. Commissioner Garcia also suggested that the developer conduct the widening from Eighth to Tenth Streets since the equipment would be on site for the development.

Ms. Ayres noted that the City had a very large CIP project which would include Eighth to Tenth Streets and Beacon up to Black Diamond which would include undergrounding utilities and repaving all those streets. To have the developer pave the road before the City was ready to underground the utilities did not make sense in terms of the timeline. She understood that the traffic signal had been under design for the past six months.

Commissioner Ohlson spoke to the history of the widening of Herb White Way between Eighth and Tenth Streets, the policies in the 1988 and 2001 General Plans as related to bicycle lanes along that roadway, and his verbal and written testimony at the time the Habitat for Humanity project had been proposed when he had been assured that whatever was built, there would be bicycle lanes. In the 2001 General Plan, Herb White Way had been called out between Marina Boulevard to Tenth Street with the curb having been installed between Eighth Street and Marina Boulevard although it was not wide enough, which staff had acknowledged. The curb was now being demolished and bike lanes installed.

Commissioner Williams left the meeting at 8:51 P.M.

Mr. Reber spoke to the wall along the western boundary and the staff recommendation that it be a masonry wall. He commented that from a cost standpoint, the developer had proposed a wood fence, with a great deal of masonry along the church/school. He noted the increase in City fees, additional requirements, payments for fault investigation and the stall of market prices. At some point as the costs increased, he stated that would take money away from the Redevelopment Agency which had partnered with the developer on the profits from the development.

Ms. Hoggatt explained that while the wall could be discussed, the design of the wall would be considered as part of the design review and tentative map process which would be continued to the meeting of October 11.

Mr. Reber spoke to the ballfield, location of the tot lot and center field and in response to concerns with respect to errant balls stated that the developer would be willing to install a taller fence to mitigate that concern. The developer had also found that a regulation Little League field was 200 feet down the line. The proposed field would be 250 feet down the line. A softball field would have the same infield dimensions as a Little League field with no standards for an outfield. He noted that would depend on who used the field and that a higher fence would be up to the Commission.
Commissioner Tumbaga suggested that the ballfield be a soccer field although the applicant noted that a soccer field could be placed in the out field.

In response to prior concerns with a lack of detailing on some of the side walls of the units, Mr. Reber advised that the developer would work with staff on possible solutions to that issue. Some of the units would have blank walls since they were cluster units and for privacy reasons. As to the wall around the school and the timing, the developer objected to the wall being installed on the west side of the school before the homes were to be built, due to the wetlands on the site. He explained that the developer was pursuing a permit to fill those wetlands. Even if a permit could be obtained this date, the area could not be filled until next spring when it would have dried out. The area could not be graded until that time. The developer planned to grade the area near the school to protect the school, grade the remainder next year, and install the wall before starting the homes in that area.

Mr. Reber agreed with staff that the wall should be installed prior to the framing of the homes to protect the school.

Commissioner Garcia stated that he would agree to that stipulation as long as there was a condition imposed that the developer would not grade the wetland area until next year, to which the developer agreed but asked to be able to stockpile soils to compress the Bay muds that could help to compact that area.

Mr. Reber spoke to the concerns as to how the improvements would be finished along Herb White Way. He reported that the developer had been in discussions with the school and the Redevelopment Agency and would be meeting to finalize those discussions this week. The developer planned to conduct improvements for the school that would feather the grade to be consistent with the grade of the school with a one to two percent slope. That would ensure appropriate drainage and potentially allow an additional play area.

Mr. Reber referred to the other side of the school where the road was a bit higher than the school with a depression between the road. The developer would level out that area. He identified a prior driveway location in the parking lot which the school would like to see modified and which the developer had planned to reinstall. Those improvements would be subject to the approval of the school and the Redevelopment Agency. The developer would be compensated by the City for those improvements. He added that there would be a wall along all three sides of the school, although there would be a break where the project street dead-ended and where school children could walk from the school to use the park.

Mr. Reber acknowledged that the detention basin would be unusable, fenced off open space maintained by the HOA and would not be counted as park area. He understood that the floodplain had been based on an old floodplain map and there were some downstream improvements that the developer had studied and would participate in to improve the area and allow the floodplain map to be changed. The project civil engineer could be present at
the next hearing to clarify that issue for the Commission.

Mr. Reber also clarified, when asked, that the development had previously been called Marina Walk II, although it was now known as Mariner Walk. Mr. Reber also identified the extensive background of the earthquake fault study the developer had expended with the conclusion that a fault line did not exist along the property.

Commissioner Harris spoke to the number of lots, expense of grading, work done thus far on the site, an increase in City fees, and his understanding that the developer had negotiated a financial arrangement with the City to make the project viable.

Mr. Reber explained that the Redevelopment Agency required a fair market value appraisal of the land which the developer must pay. If the developer was unable to pay, there would have to be a demonstration of high costs and the City would subsidize the project, which would trigger prevailing wage requirements increasing costs 30 to 40 percent. Given that the City was a union town the developer wanted to ensure that issue was addressed. He added that the developer had agreed to a mix of prevailing wage jobs from the start. The cost of a prevailing wage job had been backed out of the fair market value price, to arrive at the cost the developer would pay.

Commissioner Tumbaga requested clarification on the affordability component, to which Mr. Reber advised that 20 units would be designated for Moderate Income households, with Low and Moderate Income funds to be used to provide silent seconds to those units, which would allow money back to the developer bridging some of the costs of what could be sold at market rate versus the BMR rate. He explained that $50,000 would be available in silent seconds for each of the units, with the buyers to receive that as part of the down payment, to be paid back to the City once the unit was sold.

Families would be selected per income criteria based on a City program, with the applicants to be screened by the City’s Housing Authority or Redevelopment Agency. The affordable units would be spread throughout the subdivision, would be included in each phase of the development, and would likely be the smaller Plan One units. The price range of the homes would be the low to mid $400,000 range with the goal to provide work force housing, at or below the median.

Commissioner Tumbaga liked the Marina Walk project and the retention of the grid as much as possible, with the development to be integrated into the community.

Commissioner Ohlson spoke to the .95 acre linear park issue, which was land that was unusable and where a home could not be built and which he did not want to see designated as parkland.
Ms. Hoggatt reiterated that the .95 acre linear park was the HOA park which would be included as part of the linear park in conjunction with the Eighth Street Linear Park.

Ms. Ayres added that when staff had worked with the developer, again the goal was to take the same amenities from the existing park and transfer them to the new park. Due to the shape and size of the property, the developer had taken the active use areas, ballfields and tot lots and placed them at the south end of the property. The current park also had a walkway which was unable to be relocated around the new playfield because of the narrowness of the park site. As a result, the developer had created an extension off of that area, as the linear park, which included a pathway to continue the prior walkway amenity in the area. While it would not be around the baseball field; all the previous amenities would be located in that area again.

Commissioner Ohlson emphasized his opposition to the designation of that small extended area as a park and recommended that the City collect in-lieu fees for the .95 acres being discussed.

Mr. Reber reiterated that the HOA park would be publicly used and would be maintained by the HOA reducing the costs to the City.

Commissioner Ohlson reiterated his disagreement to that area being counted as park.

PUBLIC HEARING CLOSED

MOTION: AP-04-126 (General Plan)

Motion by Commissioner Garcia to adopt Resolution No. 9580, recommending that the City Council amend the Land Use Element, Downtown Element, and Open Space, Youth and Recreation Element of the General Plan for the Mariner Walk Residential Development, AP-04-126 (GP). The motion was seconded by Commissioner Harris and carried by the following vote:

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

MOTION: AP-04-126 (Rezoning/PD Permit)

Motion by Commissioner Garcia to adopt Resolution No. 9581, recommending that the City Council adopt an Ordinance assigning Zoning Districts of PD and GQ to a 15.6-acre site for the Mariner Walk Residential Development, AP-04-126 (RZ/PD Permit). The motion was seconded by Commissioner Harris and carried by the following vote:
Ayes: Commissioners Dolojan, Garcia, Harris, Ohlson, Tumbaga
Noes: None
Abstain: None
Absent: Commissioner Williams, Chairperson Ramirez [recused]

MOTION:

Motion by Commissioner Garcia to continue the public hearing for Vesting Tentative Map (Subdivision 8869) and Design Review (DR) application No. AP-04-126, to the Planning Commission meeting of October 11, 2005. The motion was seconded by Commissioner Harris and carried by the following vote:

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

Commissioner Garcia recommended that the Engineering Department review the possibility that the developer design and install the signal light and widen that portion of the road for the project as opposed to waiting for the work to be done through the CIP.

Commissioner Garcia was otherwise pleased to see that a police assessment would be included for the development and that the developer would work with St. Peter Martyr School to improve that portion of the school site the City had agreed to do in the past but which had not been completed.

Chairperson Ramirez returned to the dais at this time.

COMMISSION CONSIDERATION:

There were no Commission Considerations.

STAFF COMMUNICATIONS:

1. Notice of Intent (to review/approve projects at staff level).
   a. Fence Exception at 1247 Pine Street. AP-05-221 (ZA).

The Commission acknowledged receipt of the Notice of Intent item, as shown, to be considered by the Zoning Administrator unless a request was made to bring the item to the Planning Commission for consideration. It was clarified that any decision of the Zoning Administrator could be appealed to the Planning Commission.

Ms. Ayres reported that Assistant Planner Christopher Barton had been promoted to
Associate Planner which would take effect in the next pay cycle. She also reported that the Historic Resources Commission (HRC) regulations recommendations had been presented to the City Council and that the environmental documents, General Plan and zoning recommendations for the Mariner Walk project would be considered by the City Council on September 19, as would the annual Planning Commission Report.

Also during the Council meeting of September 19, Ms. Ayres reported that staff would request authorization to enter into an agreement with MIG Consultants to develop a Specific Plan for the Railroad Avenue BART Station Specific Plan Area. Staff would also recommend that the City Council adopt an Urgency Ordinance for a moratorium on development in the area being studied south of Highway 4 east of Railroad Avenue. Ms. Ayres explained that a staff report would be prepared for the September 19 Council meeting which would be available to the public at that time.

Commissioner Harris requested a copy of that staff report for immediate review. He was not pleased to learn that staff was initiating a moratorium which would affect an applicant who had filed an application for a restaurant with the City.

Ms. Ayres acknowledged that the Planning Department had received one pending application for a restaurant on Bliss Avenue. The property owner had been notified of the moratorium recommendation and had been invited to address the Council with any concerns during the September 19 meeting. She also clarified that a use permit approved for a church on Harbor Street south of Garcia Avenue in the study area had expired.

If a moratorium was approved by the Council and if the church in the next two years sought new approvals on the property, the church would not be able to build its project. The proposed moratorium would only affect new construction and would not involve minor repairs, remodeling and maintenance. The intent of the moratorium was to ensure that the City had free reign to master plan the area to be able to obtain the ridership needed to support the extension of the BART line. Without the ridership numbers, the Metropolitan Transportation Commission (MTC) would not release federal funds for the project.

Commissioner Harris again questioned why a moratorium was being considered given that there was an application before the Planning Department that could be affected. He emphasized that the applicant had already expended a great deal of funds on his project. He suggested that the applicant should have been informed prior to any work or monies being expended and that his project could be affected by a moratorium on development.

Commissioner Tumbaga cautioned Commissioner Harris on speaking to the item since he was the contractor on the project under discussion.

Commissioner Garcia questioned the fact that staff had allowed the applicant to expend funds to hire an architect and prepare drawings, then file his application, and at the last minute to then inform him of a possible moratorium.
Ms. Ayres explained that the application was being processed under the current rules in place until and if the Council adopts a moratorium. Again the City Council, not staff, would decide whether or not to approve the moratorium. She encouraged any one interested in the moratorium to address his/her concerns with the proposal during the public hearing with the Council on September 19.

**COMMITTEE REPORTS:**

There were no committee reports.

**COMMENTS FROM COMMISSIONERS:**

Commissioner Garcia reported that although Fort Knox Self Storage had pulled the weeds at the site, it had not cleared the back alley to ensure emergency vehicle access.

Ms. Ayres advised that she had been to the site this date and could see through the alley and understood that the area had been cleaned up.

Commissioner Garcia again reiterated his previous recommendation that the City’s Traffic Engineer consider reopening Gladstone Drive to Leland Road which was currently closed, and which was a public street. If the street was not reopened he would likely prepare a petition to close Ventura Drive from Harbor Street to Buchanan Road for the same reasons that Gladstone Drive had been closed.

Mr. Halvorson reported that he had raised the concerns with the Traffic Engineer who had not had the opportunity to address those concerns since he had been out of the office due to personal reasons. As soon as the Traffic Engineer returned to work, the concerns would be addressed.

Commissioner Harris reported that KB Homes had been pouring foundations for its development. He questioned whether or not permits had been issued to allow that to occur. He understood that the developer was not to receive any permits until the signal light on Piedmont Way had been installed. He sought a stop work order on the site until the traffic signal had been installed.

Mr. Halvorson advised that he would review that situation.

Commissioner Tumbaga asked that the sidewalks on the east side of Railroad Avenue from Third to Eighth Streets be inspected since they appeared to be sinking in different locations and could pose a safety hazard.

Commissioner Ohlson reported that the Technical Advisory Committee (TAC) of the TRANSPLAN Committee had asked the City’s Traffic Engineer to respond on behalf of the
City to the County’s request to list Bailey Road between the City limits and the City of Concord city limits as a future Class II Bicycle Facility. Since there was an August 28 Committee prior to that deadline.

Commissioner Harris referred to the entrance to City Hall where one to two pieces of the diamond concrete marble flooring appeared to be coming up which could pose a potential safety hazard.

Mr. Halvorson stated that he would report that situation to the Public Works Department.

Chairperson Ramirez advised that Commissioner Williams had requested that he report a concern in her neighborhood regarding a boat having been parked for weeks at property located at 3914 Alta Vista. While the neighbors to that property had contacted the City’s Code Enforcement Division, he stated that nothing had been done.

Ms. Ayres stated that she would forward their concerns to the Code Enforcement Division.

ADJOURNMENT:

There being no further business, the meeting adjourned at 9:37 P.M. to a regular meeting of the Planning Commission on September 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