A regular meeting of the Pittsburg Planning Commission was called to order by Chairperson Jack Garcia at 7:00 P.M. on Tuesday, July 27, 2004 in the City Council Chambers of City Hall at 65 Civic Avenue, Pittsburg, CA.

ROLL CALL:

Present: Commissioners Dolojan, Gordon, Ohlson, Tumbaga, Williams, Chairperson Garcia
(Commissioner Tumbaga arrived after roll call)

Absent: Commissioner Ramirez

Staff: Director of Planning and Building Randy Jerome; Planning Manager Melissa Ayres; Associate Planner Ken Strelo; Associate Planner Noel Ibalio; Assistant Planner Christopher Barton; Senior Civil Engineer Alfredo Hurtado; Director of the Redevelopment Agency Garrett Evans; and City Engineer Joe Sbranti.

POSTING OF AGENDA:

The agenda was posted at City Hall on Friday, July 23, 2004.

PLEDGE OF ALLEGIANCE:

Commissioner Williams 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:

There was no Consent Calendar.

PUBLIC HEARINGS:

Item 1: Pittsburg Auto Tech Service. AP-04-122 (UP)

This is a public hearing on an application by Luis Alvarez for a use permit allowing operation of an automotive repair shop within 1,900 square feet of an existing 9,300 square foot building located at 999 Harbor Street. The site is zoned IL (Limited Industrial) District. APN 073-060-001.

Associate Planner Ken Strelo presented the staff report dated July 27, 2004. He recommended that the Planning Commission approve Resolution No. 9507, approving AP-04-122 (UP), with the conditions as shown.

PUBLIC HEARING OPENED

PROPONENTS:

LUIS ALVAREZ, 300 Diehl Way, Pittsburg, identified himself as the applicant and expressed his agreement with the conditions of approval.

OPPONENTS: None

PUBLIC HEARING CLOSED

MOTION: AP-04-122 (UP)

Motion by Commissioner Gordon to adopt Resolution No. 9507, approving Use Permit AP-04-122 (UP) to operate an Automotive Repair Shop within 1,900 square feet of an existing 9,300 square foot building located at 999 Harbor Street for “Pittsburg Auto Tech Service,” with the conditions as shown. The motion was seconded by Commissioner Williams and carried by the following vote:

Ayes: Commissioners Dolojan, Gordon, Ohlson, Tumbaga, Williams, Garcia
Item 2: Pittsburg Elks Lodge. AP-04-108 (DR) and AP-04-139 (UP)

This is a public hearing on a request for a use permit to establish a fraternal club with full alcohol service and design review approval of architectural plans to construct a 12,464 square foot club/lodge on a 1.41 acre site located on the west side of Marina Boulevard between Pelican Loop and East Third Street, Marine Commercial General Plan land use designation; APNs 085-101-017, 010, 050, and 014.

Planning Manager Melissa Ayres reported that staff had received a number of letters regarding the application. Letters had been received from the applicant’s attorney Richard Littorno dated July 27, 2004; a letter from James Castner, 112 Heron Drive, Pittsburg and dated July 23, 2004; a letter from Mr. and Mrs. Ralph Murphy, 116 Pelican Loop, Pittsburg dated July 27, 2004; a letter from the New York Landing Homeowner’s Association (HOA) dated July 23, 2004; a letter from Thomas Haney, a property owner in Marina Park; a letter from Monica Drollet, 141 Pelican Loop, Pittsburg; and a letter from Dr. Richard Conn, 120 Heron Drive dated July 27, 2004. Copies of all correspondence were provided to the Planning Commission.

Assistant Planner Christopher Barton presented the staff report dated July 27, 2004. He recommended that the Planning Commission continue the public hearing and direct the applicant to:

1) Redesign the architecture of the building to have a stronger architectural statement to improve the visual impact it had on the Marina area and downtown commercial core.

2) Modify the building design to eliminate the outdoor assembly area on the west side of the building or conduct an acoustical study and incorporate recommendations into the project design.

Commissioner Williams stated that although she was not affiliated with the subject Elk’s Lodge, she was a member of the Elks. As such and in order to ensure that there was no potential conflict of interest she stated that she would abstain from the discussion. While Commissioner Williams did not leave the dais, she did not participate in the discussion.

Commissioner Gordon inquired how many on-site parking spaces would be required if the facility were a 250 seat restaurant/bar use.

Mr. Barton advised that one parking space per 250 square feet of seating area would be required. The parking standards for the project were unique in that the property was located in the downtown. The City code did not speak specifically to parking standards in...
the downtown and instead referred to the General Plan policy to encourage shared parking. If the use were located outside the downtown, 177 parking spaces would be required. Pursuant to the Traffic Engineering Division analysis, 108 parking spaces had been determined to be adequate for this use.

Commissioner Gordon referenced the request by the New York Landing HOA to have all property owners notified. He inquired whether or not that had been accomplished and Mr. Barton affirmed that the public notification process had been followed.

Commissioner Ohlson commented that the plans had shown no bicycle parking. As such, he questioned whether or not bicycle parking would be provided on the site or if it had been addressed in the Downtown Specific Plan. He requested a condition that a reasonable amount of bicycle parking be provided for the use.

Mr. Barton stated that bicycle racks had not been shown on the plans although bicycle racks could be conditioned as part of the design review. Future staff reports could include a section to include bicycle facilities.

Commissioner Dolojan spoke to the staff report and the staff analysis that the proposed building was not compatible with its surroundings. He questioned whether or not staff had considered the use of the building as a club/lodge which would have a unique design and which would be easily identifiable as a fraternal club.

Mr. Barton explained that the architect had revised the site plan to meet setback requirements. The landscaping plan had not been updated and was a conceptual plan at this point. The property lines had been adjusted with different setbacks. The landscaping plans had not been changed and were as originally proposed. While staff had reviewed the general identity of clubs/lodges, in this instance the location of the property and the use and the identity tying the use of the property was not so strong that it would take control over any architecture that staff would support at the subject location.

Commissioner Dolojan acknowledged some of the concerns that had been raised in the correspondence received from the nearby residents who had concerns with the terrace design element and the potential for noise and privacy impacts, although he understood that there was only one home on the west side of the site at West Second Street that could be impacted. He inquired how far away that property would be from the proposed terrace.

Mr. Barton explained that he would have to measure the distance although he recalled that it was very close. He commented that the plans were close to scale.

An unidentified member of the audience, speaking from the audience, advised that the building would be 13 feet from the closest home in the New York Landing HOA, although Mr. Barton suggested that the distance was closer to 30 feet.
Commissioner Ohlson spoke to the use of the facility, when rented out, and understood that there could be as many as 250 people at some events. He inquired of the capacity of the banquet room and asked whether or not the East Contra Costa Fire Protection District had reviewed the plans to verify the capacity loads.

Mr. Barton explained that there was a bar in the building and an assembly area. The project architect could verify that information although the 250-person capacity had come from the Elks Lodge proposal and was not based on the actual capacities of the rooms within the building.

Chairperson Garcia inquired of the ownership of the adjacent channel, to which Mr. Barton understood that the channel had been constructed at the time of the building of the New York Landing HOA. As to its ownership, he would have to verify that information.

Senior Civil Engineer Alfredo Hurtado stated that he too was uncertain of the ownership of the channel although the City had done some dredging in that channel. He would verify the information and provide clarification to the Commission.

PUBLIC HEARING OPENED

PROPOONENT:

WAYNE TILLEY, Coordinator for the Committee for the Pittsburg Elk’s Lodge #1474, explained that it had taken three years of planning, time, energy and finances to bring the project to this point. He presented the Commission with a colored rendering of the east elevation of the project for review. He also introduced the Elks Club Legal Council and the project architect who were present to answer questions from the Commission.

Mr. Tilley commented that the Elks Lodge had held a Town Hall meeting in August 2003 where minutes had been taken and where to his understanding the concerns at that time had been resolved. He noted that there was a 17 foot setback from the property line to the terrace with 60 feet of landscaped lawn and 24 feet of City owned rip rap offered 120 feet of voice distance, which would be the only sound generated by the terrace location. He commented that he had inquired of staff the definition of noise, other than voice noise, stating that the Elks would not hold any concerts or events of that nature.

Mr. Tilley explained that the Elks Lodge had been at its current location for the past three years. Since the air currents from the current location were from west to east, he suggested that flow would carry the sound from the use to the Bay Harbor Park HOA. Mr. Tilley reported that the Elks Lodge had received no complaints from the Bay Harbor Park HOA as to the club’s activities or any request to curtail any noise. He added that the project architect had provided sound attenuation into the building to address any noise impacts.

Mr. Tilley noted a presentation had been made by the City’s Redevelopment Agency when it had solicited a Request for Proposals (RFP) for a Master Development for the Marina.
He explained that photographs included in that presentation of the City of Huntington Beach waterfront area were similar to the proposed design of the building, including its roof conception and windows. The design was also consistent with the Elks' temporary location at 51C Marina. The only differences were the colors, windows, roof designs, and location of the HVAC and rooftop equipment.

The Elks Lodge had been directed to provide a transition from a commercial to a residential area. A porte cochere design element had been added to the design to provide pedestrian friendly access and drop off area, particularly during inclement weather. The City’s Traffic Engineer had advised the architect as to how to layout the parking lot, provide vehicle circulation and enhance the porte cochere.

JOSEPH BARRACO, Project Architect, 238 Aloha Way, Pittsburg, advised in response to Commissioner Ohlson that the occupant load for seating in the banquet room was 250 persons.

For the benefit of the audience, Chairperson Garcia suggested that the applicants explain why the Elks Lodge had pursued the proposed site.

Mr. Tilley explained that the Elks Lodge had been removed from its location along Crestview Drive due to the State Route 4 Widening Project. The Elks had moved, with its on sale liquor license, to a temporary location at 51C Marina. He explained that alcohol could only be served to a member, a guest of a member, or a member representative renting the facility.

In 2002, the Redevelopment Agency had put out the RFP for the Master Plan for the Marina with the Elks Lodge to be included in that project. The Elks had pursued the RFP process and had submitted a proposal to the City Council in August 2003 when the Master Plan process had been halted. As a result, the Elks Lodge had to serve as its own developer. The Agency had continued to work with the Elks although it had been determined that the Elks Lodge could not build at its temporary location. As such, the Agency had identified the subject parcel and members of the Elks had decided to move forward at the subject location. Meetings had been held between the Elks and City staff who had provided some guidance in that process.

Mr. Tilley added that in March 2004, the City Council had agreed to have staff move forward with the Elks Lodge to bring the proposal to this point.

Commissioner Tumbaga commented that the Crestview Drive location where the Elks Lodge had previously been located had been fenced. She inquired whether or not the new facility would also be fenced. When the property was not in use, she expressed concern that the parking lot would be open for anyone’s use.

Mr. Tilley stated that the Elks Lodge had asked to fence the property although it had been informed that would not be allowed. The Elks had been directed to preserve an existing six-foot cyclone fence on the property with attached landscaping. The Elks Lodge
preferred to fence the property. He advised that the parking lot would be posted For Members Only parking.

Commissioner Gordon inquired of the frequency of plans to rent out of the Elks Lodge facility.

Mr. Tilley explained that the Elks Lodge would like to go back to its original revenue stream. He understood that the facility would be rented out for an average of two to four events each month.

Commissioner Gordon commented that the proposal from the Elks Lodge had shown anywhere from one to two events per month. He inquired whether or not the Elks would be willing to accept a condition for a maximum of two events per month. While he understood the liability of preventing others from using the parking lot, he inquired who would be liable for a member of the Elks parking in a City lot. If the facility had 250 people with 49 parking spaces on site, he suggested that the majority of people would likely park on the street or in a City parking lot. He expressed concern allowing a use that would require more parking than what would be provided on-site.

Mr. Tilley noted that the rental load was seasonal and that such a condition would not be suitable. The proposal had included a two-month schedule of Elks activities. He noted that the revenue stream would be limited. The Elks Lodge desired to improve its source of income. As to the parking, he assumed that people would park on the street wherever possible. In terms of liability of parking in the City parking lot between Marina Boulevard and Railroad Avenue, he noted that the parking had been posted at one's own risk.

RICHARD LITTORNO, Huffaker, Littorno, & Morrison, 2211 Railroad Avenue, Pittsburg, described the proposal as a great project that would make the City proud and which would offer a premier meeting and banquet facility in the City and in East County. He stated that the City Council and Redevelopment Agency had designated the project as a priority on March 3, 2003.

Mr. Littorno also spoke to the fact that there was no resolution in the Commission packets to guide the Commission in approving the project. He suggested that the item was discretionary and the decision to approve or deny the project should rest with the Planning Commission and not City staff. He suggested that City staff had usurped that authority by not providing a resolution of approval. He had even contacted staff and had asked that a resolution of approval be included, although staff had declined that request.

Mr. Littorno commented that the staff report had indicated that the Elks Lodge was asking to establish a club/lodge, although that was inaccurate since the Elks fraternal club, formed in 1923, had been forcibly relocated from the Crestview site as a result of the SR4 Widening Project to a temporary location at 51C Marina for the past three years. The Elks had suffered economically as a result of that displacement since it relied heavily on the rental income and was accustomed to a larger facility. The Elks had also been paying rental expenses to the City for the last three years, which was a financial drain on the lodge.
He expressed his hope that the Commission would take that into consideration to expedite the process.

Mr. Littorno added that there would be no full alcohol service on the premises. The Elks Lodge had a special general license for members and guests. The City could be provided with a copy of that license. In addition, he stated he believed a new use permit should not be required and that the previous use permit should transferred from the prior site to the new site due to a forced relocation by the State government. He believed that many permits had been transferred to new locations. In this instance, the Elks Lodge had paid the new relocation fee for the use permit. He suggested that this should not be a new item for the City to consider.

Mr. Littorno spoke to the design review aspect of the proposal and reiterated that there had been no guidance for the architecture and no Master Plan had been chosen for the Marina. A plan had been rejected by the City Council on two occasions. Further, the conditions of approval for design review were at the discretion of the Planning Commission with no City guidelines or specific plan. The Architect had attempted to blend in the architecture with the residential area, with a residential theme to the building and with the use of some of the same materials as the adjacent residential units.

Mr. Littorno asked the Commission to approve the project at this time considering the background of the Elks forced relocation and taking into account the fact that the Elks Lodge was financially unable to completely redesign the building or to prepare an acoustical sound study as recommended by staff.

Commissioner Tumbaga inquired of the public benefit of the organization to the community.

In response Mr. Littorno reiterated that in his opinion the facility would be the premier meeting establishment in the City and in East County for a number of events that would serve the Elks members and the community at large. Revenues from the use of the facility were used for scholarships, support of Veterans families and servicemen overseas. Net revenues from the club were donated to charity. The Elks Lodge was a non profit organization.

Commissioner Gordon spoke to the existing liquor license, which he understood was for Elks members and their guests only. If the facility were rented for an event, he inquired whether the bar would be open or closed.

An unidentified individual speaking from the audience stated that the Elks Lodge had a catering license.

Mr. Littorno stated that an individual must be sponsored by an Elks member to rent the facility. At that time, the bar would be open, subject to a rental agreement and as supervised by a member of the Elks Lodge.
Commissioner Dolojan inquired how often the Elks Lodge had met with the adjacent neighbors, to which Mr. Tilley stated that there had been one meeting in August 2003. Four hundred plus mailers had been mailed to residents within the area and 25 residents had responded. The concerns raised and recorded in the meeting minutes had been consistent with the development as it had progressed.

Mr. Littorno reported that staff had identified 17 bullet items of concern, which the Elks Lodge had resolved. The concerns raised by staff in the current staff report had not been raised during that meeting. The meetings before the City Council and the Redevelopment Agency had also been noticed to the public and published in the local newspaper. He acknowledged that no communication had been made between the Elks and the adjacent residents since the meeting of August 2003.

Mr. Barraco explained that the existing fence was on the property line on the west side and a wrought iron fence would be placed on the north and south sides to enclose the buildings. The parking lot could be gated since there were severe slopes on the property. There would be two entrances and two exits that could be gated to prevent the public from accessing the parking area. The building itself had been designed to be rectangular and oriented east to west. The design incorporated some residential architectural treatments such as the roof design used on the apartments to the north. A sloping mansard roof would have an area inside to hide all of the rooftop and kitchen equipment from public view. He added that the colors would be an earth tones with a stucco plaster finish used on other commercial buildings in the area.

Commissioner Dolojan questioned what could be done to the architecture to address the noise concerns raised by adjacent residents.

Mr. Barraco commented that the layout of the plan had been intended to take advantage of the canal and water area. There was no desire to build something too high that would preclude those views. The interior would include acoustical ceilings, padded walls with a fabric material, and dual glazed windows as required by Title 24. A triple window glaze could be considered if that would help to address the noise concerns. The terrace was not intended for heavy use, such as dancing.

Commissioner Dolojan understood that noise would come out of the building only when the doors were open which could occur often. He recognized that those using the facility would likely go outside to smoke.

Mr. Barraco advised that smoking would not be allowed anywhere on the property.

Commissioner Tumbaga stated that she had visited the Yacht Club, which had a terrace on the same west side as the subject proposal, and it was breezy on the terrace area. She inquired whether or not the applicant had taken into consideration the wind factor or had taken any wind measurements in that one could not stay out in that area very long due to the chill near the water.
Mr. Barraco stated that based on his experiences from living in the area, the area was quite breezy and on some cooler nights people would likely not be out on the terrace, although he suggested that the terrace would be used during good weather.

Chairperson Garcia inquired whether or not the Elks Lodge would be willing to accept a condition that the two doors exiting the ballroom be designated or restricted as emergency doors only, with the only exit into the patio area to be from the lounge area between 10:00 A.M. and dark. At that time, the lounge doors could be locked. He recognized that the adjacent residents could be affected by noise impacts from the facility and that boaters used the channel.

Mr. Barraco commented that the Fire District had requirements for exiting. He had designed two sets of double doors in the banquet room although it only needed one. The lounge area required only one exit out to the rear and front of the building. French doors had been proposed as a convenience for exiting out to the terrace area. To address the concerns, the design could be altered to limit the doors to Fire District requirements for exiting.

Commissioner Tumbaga inquired of the distance from the terrace to the closest home, to which Mr. Barraco stated that it would be at the corner of the terrace to the back of the existing residences, a distance of 65 to 70 feet. The terrace would be approximately 60 feet away and the building would be 20 feet beyond that.

Commissioner Tumbaga inquired how much higher the grade of the subject site was to the adjacent closest residences at the corner. She expressed concern with views into the rear yard of the residences along the corner.

Mr. Barraco advised that the grade currently was shown at two to two and a half feet. The grade would be lowered a foot to a foot and a half since the height was not needed. The lowering of the grade would also help the appearance of the building. Since the decks of the adjacent buildings could be a foot and a half lower than the finished pad of the Elks Lodge building, he acknowledged that it might be possible to view into the rear yards of the closest residences at the corner.

In response to the Chair, Mr. Littorno reiterated that when the building was rented, the sale of alcohol would be supervised by the Elk member(s) who sponsored the guest(s), compliant with the rental agreement.

Commissioner Ohlson inquired whether or not there were other mansard roofs in the area, and if so whether the proposed roof materials would match those in the area.

Mr. Barraco stated that the apartments located to the north had a mansard type of roof using composition shingles. The proposal had included an upgraded 50-year composition shingle roof material similar to the apartment building and a Sheriff’s academy to the south. There was an alternate material identified for cement tile since the Elks Lodge was not certain it could afford the roofing materials that had been proposed. He otherwise stated
that bicycle parking, as requested, could be provided.

OPPONENTS:

FRANK DÉTEEN, 122 Pelican Loop, Pittsburg, stated that the City of Pittsburg was the owner of the Marina Park channel. He explained that the New York Landing HOA had exclusive use rights to the channel and through the Development Agreement with the Redevelopment Agency and the developer of the property had caused to be installed slurry lines under the HOA property to a tailing pond that the City owned by the sewer plant. At that time, the developer had granted the City a mud sucker dredge. Since the channel was man-made, there was a fabric bottom over a large portion and it could not be clam shell dredged, but was required to be vacuum sucked. The tailing pile mechanism had been intended to decrease and spread the cost of maintenance over two different agencies; the New York Landing HOA and the City.

Mr. Deteen stated that the City was to vacuum suck the channel once every four years. The City would use the channel for the balance of the time to maintain the sewage slurry, although that had not occurred and for whatever reason he stated that the City had caused the dredge to fail. The New York Landing HOA had been put on notice that the City currently planned to bill the homeowners for the dredging of the channel at a cost exceeding $3 million. Mr. Deteen commented that he was a member of the Pittsburg Yacht Club, which had similar problems with its sale of alcohol. Alcohol Beverage Control (ABC) required that a not for profit corporation be allowed to have a maximum of 15 percent non member income with rentals, considered as a non member income. If the Elks Lodge were to invite 250 people to partake in an event and it was rented out, that would be non member income and a one day permit from the ABC would be required. Without that permit, the event would be in violation of the not for profit liquor license.

Mr. Deteen added that when the facility was rented and the executor of the lease agreement, the Chair of the Rental Committee, or whoever, would have to obtain a one-day general sale liquor license from the Police Department, before anyone attending the event could purchase alcohol. He stated that was what was done with the Yacht Club and the Elks Lodge would be no different.

Mr. Deteen pointed out that the architect was the same architect who had designed the Pittsburg Yacht Club. Some of the same issues raised at this time had been raised during the construction of the Yacht Club. He commented that the Yacht Club had been designed to fit in with the homes built on the channel. He thought the City may be receiving five percent of the gross increase in valuation upon each home sale in perpetuity. If so, the City would have a vested interest in maintaining the property values, which was a point that had not been considered.

Mr. Deteen further spoke to the meeting that had been referenced by the applicants in August 2003, at which time 12 homeowners had been in attendance and where City staff had outnumbered those homeowners in attendance. Most of the homeowners had only
been notified the day of the meeting. He explained that the Manager of the New York Landing HOA had tried to contact the Elks Lodge on multiple occasions to start a dialogue. The New York Landing HOA Board of Directors had also tried to start a dialogue to voice the HOA’s issues and concerns.

Mr. Deteen emphasized that no one in the HOA was against the Elks Lodge, although there was a concern with the lack of communication and the fact that the homeowners had a right to enjoy a certain modicum of privacy and quiet.

Mr. Deteen noted that the community had a 10-hour quiet time. If the Elks Lodge ceased operations at 10:00 P.M. as the Yacht Club did, with the exception of Friday and Saturday evenings when closing would be at 1:00 A.M., that would be acceptable. He explained that when the Yacht Club was rented, operations were also to cease at 10:00 P.M. If the same hours of operation where imposed as a condition, he suggested that could solve some areas of concern.

Mr. Deteen added that the concern with respect to noise was not only from people but also from the associated equipment from the facility, such as the rooftop equipment and odors from the kitchen.

Mr. Deteen suggested that the project in its current iteration was being forced upon Marina Park residents. Since the Elks Lodge did not contribute any monies to the City, he would rather see a use that would be more compatible with the adjacent uses. If the project were allowed, he asked that the residents not be disturbed.

JAMES MARRIOTT, 207 Pelican Loop, Pittsburg, stated that he was not opposed to the Elks Lodge in general although he was concerned with the use of the facility as a rental late in the evening, as well as with the use of the terrace area. If the facility was to be rented out and there was dancing, the terrace would likely be used by patrons. He added that those who tended to drink also tended to speak loudly. He questioned the comparison of the design to the Marina Park Apartment complex, which he found to be an unattractive complex. He also questioned why the City should have to accept the Elks Lodge design. Rather, he suggested that the Elks should conform to the City’s regulations.

Mr. Marriott understood that there were two Elks Lodges in the community with the subject club generally a white club and the other an African American club. He questioned why the land was being given to the Elks Lodge with no payment to the City.

Mr. Marriott also understood in speaking with former New York Landing HOA Boardmembers, that the HOA had approached the City years ago to purchase the subject property to develop a small park. That request had been denied since the City had stated that a non-profit could not purchase the property, which was intended for a commercial use. He suggested that there were other areas of the City that would be better suited for the placement of the Elks Lodge.

Mr. Marriott also suggested that the only reason the Elks Lodge wanted to be by the water
was to be able to rent the facility. He was concerned that those who would rent the facility would likely not be residents of the City and would not care about the area, creating impacts to adjacent residents. There had already been complaints to the HOA from people on the other side of the channel playing music late in the evening, typically as a result of renters.

Mr. Marriott further spoke to the statement made by the applicants that no smoking would be allowed on-site. If that were the case, it was likely that people would go the street to smoke, especially when one was drinking.

ANITA CALDERONI, 150 Pelican Loop, Pittsburg, commented that the City had worked hard to build up the downtown area, although the City had lost Alliant University and other businesses. She suggested that the facility would impact her views, peace and quiet. She spoke to boats in the canal and stated that the homeowners traveled 5 MPH or lower, did not speed up and down the canal or allowed jet skis to exceed the speed limit. The canal was not intended as a waterway.

Ms. Calderoni questioned the potential noise impacts to the neighborhood that the facility would create. She did not want people hanging over a fence looking into her backyard and private property. She expressed concern as to how the no smoking rule would be enforced and she expressed dismay that people could be walking through the neighborhood smoking.

Ms. Calderoni also questioned the adequacy of parking for the facility. She commented that the downtown had a number of businesses and if people could not find a parking space to patronize those businesses, customers would go elsewhere. If the Elks Lodge were allowed, members and those who could rent the facility should not be allowed to park in front of the Mecca Restaurant as an example, and should only be allowed to park at the Elks Lodge facility.

JOYCE GUNN, 120 Heron Drive, Pittsburg, presented a three page letter dated July 26, 2004, which she read into the record at this time. She highlighted her concerns including her views that the proposal was incompatible with the zoning of the area, an inappropriate facility for the neighborhood with inadequate parking and with an incompatible building design. She asked that the proposal not be accepted by the Planning Commission, that more serious discussions be undertaken by City staff with respect to design, that the residents' concerns be addressed, and that a more appropriate location for the Elks Lodge be sought.

GEORGE KAVORKIAN, a resident of Marina Park, Pittsburg, stated that while he respected the efforts of the Elks Lodge and while he was well aware that the Elks believed that the concept would blend in with the neighborhood, as an adjacent homeowner he did not like the idea of the Elks Lodge which could impact his privacy, his views and the quiet enjoyment of his property. He urged the Commission and the City Council to review the proposal, which could affect many residents and cost the City money. He suggested that the Elks should have a facility where it could provide adequate parking.
Having been to the current facility, Mr. Kavorkian characterized that facility as run down to the point of needing to be condemned by the City. He emphasized that the New York Landing HOA and CC&R's guaranteed that the community would remain clean and safe with the fire lanes always open, with proper parking and with appropriate noise levels. He stated that there was no guarantee that the Elks Lodge would not impact the residences.

Mr. Kavorkian acknowledged he was a member of the Pittsburg Yacht Club, that the facility was rented frequently, and that efforts to control the parking, noise and drinking had not always been successful. He suggested that the subject site was not appropriate for the Elks Lodge and that the City should assist the organization to find a more suitable location.

BONNIE McNABB, 148 Pelican Loop, Pittsburg requested that the Commission not approve the proposal for all of the reasons stated by those who had spoken. She recognized that the Elks Lodge needed a site, although a more appropriate location would be where the smell of cooking and noise would not be offensive to a neighborhood. She urged the Commission not to act hastily.

CRAIG SCHOENTHALER, 112 Pelican Loop, Pittsburg, raised the same concerns raised by Ms. Gunn. While he liked the Elks Lodge and while many members were his customers and neighbors, he suggested that the Elks Lodge had not been a good neighbor in that respect.

Mr. Schoenthaler added that while a Town Hall meeting had been held in August 2003, only 12 residents had been in attendance since the notification had been poor. A number of concerns had been raised at that time and the residents had been assured by the Elks Lodge that it would be a good neighbor and consider the expressed concerns and keep the New York Landing HOA and neighbors well informed, although that had not occurred. He stated that the design concept currently being considered by the Commission was very similar to what had been presented to the residents in August 2003.

Mr. Schoenthaler commented that he had been in attendance during the City Council/Redevelopment Agency meeting when the Agency had decided to sell the subject property to the Elks Lodge. As a City resident for a number of years and as a boater familiar with the Marina area, he noted that Marina Park was located in a nautical marine environment. The Elks Lodge, which would primarily derive income from alcohol and the rental of the facility, would not fit in with that environment.

Mr. Schoenthaler also noted that in the past the Marina Center had been rented out, which had resulted in a number of problems. He stated that the Police Department had the records to verify those occurrences. He expressed concern that the Elks Lodge could experience the same problems, particularly if it were designated as the premier facility in East Contra Costa County.

Mr. Schoenthaler questioned the appropriateness of the site and the quick transaction by the City selling the property to the Elks Lodge with such a poor public notification process.
that few neighbors were aware of the proposal. He asked that the Planning Commission not allow the proposal to move forward.

REBUTTAL:

Mr. Tilley reiterated that a Town Hall meeting had been held in August 2003. He had a copy of the mailer that had been mailed to the 400 plus homeowners in the area at that time, the meeting minutes of that discussion and a list of those homeowners who been in attendance. Copies of the documents were submitted to staff.

As to the comments related to the use of the facility for rentals, Mr. Tilley clarified that the facility would not be operational on Sundays. He again asked the Commission to clarify the definition of the word noise. He suggested if one were to visit the area one would find that the vegetation and mature trees in that area had anchorage due to the persistent wind in the area. There were also turbines operating to the west of the site. He suggested that the constant noise of the turbines generating electricity would have a far greater noise impact than would the subject facility.

PUBLIC HEARING CLOSED

For clarification purposes after the close of the public hearing and for the benefit of the audience, Planning Manager Melissa Ayres explained that the process followed by the Chair to close the public hearing after everyone had been allowed to speak was appropriate. The Planning Commission’s deliberation of the proposal at this time was also appropriate.

Commissioner Ohlson expressed his support for the project concept and his appreciation for the difficulty that the Elks Lodge had experienced with its eviction from its original facility as a result of the SR4 Widening Project, although he noted that if staff could not support the project, he would have difficulty doing so too.

Commissioner Ohlson also spoke to the concerns with respect to noise impacts from the use of the terrace. He suggested that the architect could be directed to resolve that issue and work the terrace into the design of the building. He could also envision a number of rentals of the new facility if it were designed to be the finest in East County. He further expressed concern with the 15 percent figure earlier raised by a resident, and asked City staff to clarify that information and the percent of income that could be derived from non profit rentals. While he did not want to set up the Elks Lodge to fail by limiting the number of times it could rent the facility, he recognized the likelihood that the facility would be rented more than twice a month.

Commissioner Ohlson further commented that whatever site was chosen for the Elks Lodge, adequate parking would have to be available to accommodate the membership. If rentals involved an occupancy greater than the regular membership of the Elks Lodge, overflow parking could be provided off site in the various public parking areas in the immediate vicinity. If that was not enough, the City would have to deal with that situation.
He otherwise suggested that the Elks Lodge and the residents meet to attempt to work out an acceptable design.

Commissioner Gordon suggested that a nautical or historical architecture would be better suited for the location. He too was concerned with the terrace and the possible noise impacts associated with that area. Having visited residents who lived on the channel, he agreed that any noise would travel quickly.

As to the use of the facility for rentals, Commissioner Gordon concurred that was another concern. Whether or not the number of rentals was limited he was uncertain how that could be resolved, although he agreed that the Elks Lodge should meet with the homeowners to address the issues. He stated that one meeting was not sufficient.

Chairperson Garcia spoke to the fact that the original homes and property owners in the Marina Park area had been evicted from his/her homes to make way for the channel and the Marina Park development. His parents had lost their home and many were offended by the fact that their families had been moved out of the area. He also suggested that the speakers had a "not in my backyard" attitude in that regardless of the design of the building, the New York Landing HOA did not want the facility.

Chairperson Garcia reported that he had also received letters at home from the New York Landing HOA opposed to the project. He suggested that the property was in a good location and that the neighbors would be lucky to get the Elks Lodge since there could have been a park use designated for the site with associated major noise impacts.

Chairperson Garcia also spoke to the age of the average Elks members who were not teenagers. Elks members were likely in the range of 60 years of age and in that regard he questioned the concerns with public drunkenness and wandering in the neighborhood. Commissioner Gordon supported a motion to continue the public hearing to a date uncertain to allow the Elks Lodge the opportunity to refine the architecture, meet with the homeowners and come to a possible agreement on the terrace design element.

Commissioner Tumbaga concurred.

On the motion, Commissioner Dolojan requested that the public hearing be continued to a specific date for the benefit of the applicant and the residents.

Commissioner Gordon recommended a continuance of 60 days.

Commissioner Dolojan recommended a two week continuance.

Ms. Ayres advised that if the item were continued to the next Commission meeting scheduled for August 10, it would require the preparation of a staff report about a week and a half prior to that meeting date. She questioned whether or not the applicant could return revised plans within that time period.
Commissioner Gordon recommended that the applicant and staff work out those issues. If the applicant could not meet the schedule for the next meeting that could be addressed at that time.

Ms. Ayres stated that if the applicant could not make the next meeting, staff could then ask for the item to be continued to a date uncertain, which would allow staff to formally renote the public hearing.

Chairperson Garcia declared a recess at 9:09 P.M. The meeting reconvened at 9:18 P.M. with all Commissioners initially shown as present and absent.

**MOTION: AP-04-108 (DR) and AP-04-139 (UP)**

Motion by Commissioner Gordon to continue Pittsburg Elks Lodge, AP-04-108 (DR) and AP-04-139 (UP), to the Planning Commission meeting of August 10, 2004. The motion was seconded by Commissioner Tumbaga and carried the following vote:

- **Ayes:** Commissioners Dolojan, Gordon, Ohlson, Tumbaga
- **Noes:** Chairperson Garcia
- **Abstain:** None
- **Absent:** Commissioners Ramirez, Williams [Recused]

Commissioner Tumbaga stepped down from the dais due to a potential conflict of interest with the next agenda item.

**Item 3: Fort Knox Revocation Hearing. UP-07-02 and UP-98-10**

This is a public hearing on a City initiated action to determine whether to revoke Use Permit Nos. UP 07-02 and UP 98-10 allowing the operation of a warehouse and storage (mini-storage) facility at a site currently addressed as 3865 Railroad Avenue in the CO-O (Commercial Office w/Overlay) District; APNs 088-072-062 and 088-072-065.

Associate Planner Noel Ibalio presented the staff report dated July 27, 2004. Based on the Commission's comments at the June 22, 2004 Planning Commission meeting on the item, he recommended that the Commission adopt Resolution No. 9504 revoking UP-97-02 and UP-98-10.

Mr. Ibalio advised that photographs had been taken of the site this date which depicted the lack of progress being made with respect to the required improvements, removal of weeds and installation of landscaping.

In response to Commissioner Williams, Mr. Ibalio described the various problems over the years with the applicant’s non-compliance with the required conditions of approval for landscaping and for a wall, along with the problems the applicant had experienced with respect to a currently partially constructed wall. He emphasized that the City and the Planning Commission had worked for the past seven years with the applicant to reach
compliance with required conditions of approval.

PUBLIC HEARING OPENED

PROPOSENT: City of Pittsburg

OPPONENT:

DAVID FALK identified himself as the Property Owner/Applicant. He presented to the Commission a packet of information described as a series of documents regarding the background of the proposal and a narrative outlining the process he had pursued to construct the wall and install landscaping.

Mr. Falk advised that he had submitted drawings to the City on June 30, 2003 for a wall and landscaping. From that date, he had met with City staff to reach a better solution for the fence. The original approval in 1998/99 had provided for a wrought iron fence with block pillars, as reflected in Exhibit 9 of his informational packet.

Drawings had been submitted dated June 30, 2003 to conduct that work. In August 2003, Mr. Falk had met with City staff and had reviewed the plans. There had been no feedback from the City for two months. Ultimately a better alternative had been found with an aesthetically improved product from what had originally been proposed. The original fence had included lights that were a vandalism concern. A pre-cast decorative wall had then been proposed with more landscaping and recessed lighting to prevent potential vandalism. Work had commenced on the drawings for those plans through December 2003 and into January 2004.

On February 2004, Mr. Falk stated that he had met with the Planning Commission and had discussed the concept of the pre-cast wall. At that meeting, the Commission had determined that he had until April 2004 to prepare a final set of design plans for the wall. Plans had been prepared in time for a hearing before the Commission in March 2004. During that meeting, the Commission had approved the design of the wall and the use of a U-Haul truck rental business at the facility. At that time, work was also being done on a set of drawings for an expansion of the facility, to consist of roughly 10,000 square feet along with aesthetic improvements to the existing structure. Those drawings had been submitted around that same time.

Mr. Falk explained that when the U-Haul business had been approved, he had been informed that the landscaping had been approved as long as he moved ahead with the wall. As a result, he had secured financing in the amount of $2 million to put into the project. During the March 2004 meeting, at no time had it been mentioned that if the landscaping had not been installed by June 2004, the permits could be revoked. Had that been known, he would have installed the same wall that had originally been proposed to protect his investment.
Mr. Falk recognized the frustration and the time involved for the project to progress, although a lot depended on financing and the economy. He noted that once approval of the fence had been received in March 2004, and in April he had received the permit to proceed. At that time he had contracted with a landscape architect and had secured pricing on a block wall.

Mr. Falk spoke to the details of the design of the block wall. He commented that he had spoken to seven block wall companies that were six to ten months out as a result of the demand for pre-cast walls. The wall design that had been chosen was similar to a wall he had installed for a project in the City of San Jose, photographs of which had been presented to the Planning Commission during its hearing in March.

The selected contractor to manufacture the wall had indicated that he could fit the project into his schedule and the wall was designed based on the contractor’s drawing, structural counts and design of the wall. A contract had been signed with the contractor in April 2004 for the work. The manufacturing process for the pre-cast wall, which involved individual panel molds installed individually, was identified in detail.

Mr. Falk acknowledged that they had run into some delays since the City had requested the presence of a soils engineer when the piers were run for the panels which had involved an inspection of the holes. At this time, 150 feet of the wall has been installed, with another 100 feet of panels poured and standing at the manufacturer’s facility. Panels were brought to the site every week and dropped into place. Once completed, the landscaping and lighting improvements would be installed to complete the project.

Mr. Falk commented that the current process had been very expensive. A crane was required at the site to install the panels and since the Commission and City needed to see progress. He emphasized that he could not have anyone else do the work any faster. He otherwise commented that he had final comments on the plans for the expansion and renovation to another portion of the facility and he expected permits to be released within two weeks for that work. If the Commission chose to revoke the permit, he would stop all work, including work on the wall, since he could not proceed further. As a result, the property could appear in disrepair as it had originally appeared.

Commissioner Gordon expressed his appreciation for the information provided by the applicant, although he understood that the applicant had agreed to the original conditions of project approval in 1998/99.

Mr. Falk stated that he had not been part of the original project in 1998 and had been brought in four years ago. When he became part of the project he had immediately built out the inside units, the middle drive up units on the outside, and had commenced other improvements.
Commissioner Williams inquired of the applicant’s current timeframe for compliance with the conditions of approval.

Mr. Falk reiterated the history of the project and the submittal of drawings for the revised landscaping and wall in 2003, which have led him to this point. He reiterated that he was tied to the manufacturer of the pre-cast wall and could not indicate a specific time when the wall would be completed. He again did not want to install the landscaping until the wall was completed. He noted that he had already spent money for the landscaping.

Mr. Ibalio also reiterated the background of the proposal, as reflected in the staff report, in terms of the original set of plans and original wrought iron fence, as well as the revision leading to the pre-cast block wall requiring Planning Commission review and approval as earlier identified.

Commissioner Ohlson commented that the work appeared only to be done when the City was threatening a revocation.

Chairperson Garcia also spoke to the history of the project for the benefit of the new Planning Commissioners. He commented that the reason the wrought iron fence had been proposed was that there had been buildings proposed along El Dorado Drive and the appropriate thing was to install the wrought iron fence with landscaping since the buildings were blocking everything else. The wall came about since the applicant had a U-Haul truck rental business, which had not been permitted by the City, and the trucks had to be hidden from public view. He understood that the U-Haul truck business was still operating illegally.

Chairperson Garcia also spoke to the fact that the applicant had installed racks to store items which had neither been approved or inspected by the Building Department, that the applicant had illegally installed a water line and that the applicant continued to make improvements without approval from the City. The only time the applicant had come in was when he had been informed that the use permit could be revoked. He questioned the applicant’s purchase of other businesses and property before completing the subject project since the applicant had come before the Commission in the past to claim that he did not have the funds to complete the subject project.

Mr. Falk questioned the relevance of those issues to the matter at hand. He clarified that there were only three issues he was aware that were related to the discussion; the landscaping, the wall and the weeds. All of the other issues had been discussed in the past. He explained that the wall had not been proposed as a result of the U-Haul operation. The original wrought iron fence could be constructed although he was trying to build a better project.

The U-Haul operation and the wall had been on the same Commission agenda at one time, although the Commission had decided to consider the wall and U-Haul business separately. The wall had been approved prior to the U-Hall operation.
Mr. Falk spoke to the reference to the racks noting that he had submitted plans for that work and for all other work. The City had contacted him to pick up the permit for that work, although when he had tried to pick up the permit he had been informed that since the landscaping had not been installed the permits would not be issued. He had also contacted the Fire District to inspect the water line to the project site. The Pittsburg Fire District had inspected the work, although he acknowledged that the City had not inspected it.

Chairperson Garcia commented that the Chief Building Official should have been present for the current discussion since the City Inspector had previously publicly stated that City permits had not been issued for a six inch water line or for the installation of the racks and there had been no inspection of the building for structural strength.

Commissioner Williams commented that as a new Commissioner she respected the staff reports and the intent to provide credible information. She understood that there had been a problem and she was concerned with the statement by the applicant that if the use permits were revoked the applicant would proceed no further and would leave the property as is.

Mr. Falk stated that he would have to review the cost of the improvements with his partner, particularly when the project could be in jeopardy.

Commissioner Gordon inquired of staff whether or not the Commission had ever revoked a use permit in the City.

Mr. Jerome stated that he could not recall that the Commission had revoked a use permit in the past.

Commissioner Gordon noted that the Commission had always worked with applicants. He was amazed that the matter had gone on this long. He commented that if the Commission decided to take action to revoke the use permits, the applicant had the right to appeal any decision of the Planning Commission to the City Council. If the applicant disagreed with action taken by the City Council he had the right to file a claim in court.

INTERESTED SPEAKER:

PETE CARPINO, Pittsburg, commented that the residents had been patient for years and while he understood the applicant’s frustration, he emphasized that the residents had been frustrated with the continual delays with no definitive answer provided by the applicant as to when the work would be completed. When faced with that lack of response, Mr. Carpino questioned whether or not the applicant needed two months and if the work was still not completed suggested that the business should be shut down. He added that the neighbors had worked hard in the beginning and had supported the business, and while the applicant was not the original partner he stressed that the original conditions of approval should be met.
Mr. Carpino emphasized the problems over the years with weeds, the lack of completion of the wall and landscaping and with promises made and broken over the past seven years. As part of the approval of the U-Haul truck business, he understood that the applicant had agreed to the replacement of the parking lot. Further, he recalled that the pre-cast wall was intended to screen the U-Haul business from the public view, which was one of the reasons it had been supported by the surrounding residents.

Commissioner Ohlson suggested that the applicant be given two months to complete the required improvements or that the item be continued to a date uncertain.

Chairperson Garcia reiterated that if the Commission took action to revoke the use permit, the applicant had ten days to appeal the Commission’s decision to the City Council. If an appeal was filed, it was possible that the applicant could complete the improvements by the time an appeal was heard by the City Council, although he was not confident that would be done.

PUBLIC HEARING CLOSED

Commissioner Gordon stated he would support a motion to revoke the permit since the applicant had the right to appeal the decision to the City Council based on the background and time involved for the applicant to reach compliance.

Commissioner Ohlson questioned the reasonableness such a motion.

Commissioner Gordon pointed out that the applicant had the opportunity for seven years to complete the original conditions of approval. Again, the applicant had the right to appeal the Commission’s decision to the City Council and it was possible that if the applicant continued with the work, it could be completed by the time the appeal was heard by the Council.

MOTION:

Motion by Commissioner Gordon to adopt Resolution No. 9504, revoking Planning Commission Resolution Nos. 8977 and 9067 establishing a Mini-Storage Facility at 3865 Railroad Avenue in the CO-O (Commercial Office with Overlay) District; APN 088-072-062 and 088-072-065.

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

Ayes: Commissioners Dolojan, Gordon, Williams, Garcia
Noes: Commissioner Ohlson
Abstain: None
Absent: Commissioners Ramirez, Tumbaga [Recused]

Commissioner Tumbaga returned to the dais at this time.
**COMMISSION CONSIDERATIONS:**

**Item 4: Vista Del Mar. AP-03-33 (GP, PDRZ, SUBDIVISION and DR)**

This is a study session and request for comments on the Draft EIR and plans associated with applications filed by William Homes and Alves Ranch LLC requesting 1) to amend the General Plan to relocate the Public/Institutional classification farther south on the site 2) to rezone the site to PD (Planned Development), 3) approval of a vesting tentative map of a 293 acre site into 543 residential lots, (in the form of estate lots, single-family, and clustered homes), four high density residential lots, one business commercial lot (approximately 257,500 square feet), one school site, open space lots (GHAD) one lot for a detention basin, one water pump station site, and one water tank site, 4) and related design review. Development of this site will eventually yield 1,100 residential units. The site is currently zoned RS-P, RE-P, OS-P. The site has multiple General Plan classifications. Low Density Residential, Medium Density Residential, High Density Residential, Business Commercial, Public/Institutional, and Open Space. APNs 097-122-004, 097-160-013, 097-160-014, 097-160-015, 097-160-047, and 097-180-004.


Chairperson Garcia commented that a former council had designated the site Low Density Residential Single Family, that the property owner had filed a lawsuit and that a judge had overruled the Council and changed the land use designation for the property. He requested clarification from staff as to how the current request to rezone the property would impact that decision. He questioned whether or not the judge must become involved with the matter again since he understood that there was no resolution of the City Council accepting the general plan land use decision by the courts.

Director of Planning and Building Randy Jerome explained the action taken by the City Council in November 2001 had to do with the area south of Leland Road and whether it should be Low or Medium Density Residential. The judge had designated the property as Medium Density Residential as shown in the existing General Plan land use map. The General Plan amendments associated with this project would be minor and not impinge on the judgment made by the courts. The issue before the Commission at this time was the Draft Environmental Impact Report (DEIR).

SCOTT HANKS identified himself as a Consultant representing both Alves Ranch and William Lyon Homes, the applicants. Mr. Hanks provided a description and outline of the Vista Del Mar project and presented the Commission with a handout describing the proposal. The property is located in the southwest area of the City, a quarter of a mile west of the Pittsburg/Bay Point BART station. He described it as an infill project between the Oak Hills on the east and San Marco development on the west. The General Plan permits 1,100 residential units on the property in addition to a commercial component approximately 15 to 20 acres. The project provides below 15 acres, and will accommodate approximately 257,000 square feet of commercial development.
Mr. Hanks identified the location of the 568 High-Density Residential units on the north side of Leland Road. He noted they may be a combination of for rent and for sale products. Mr. Hanks also spoke about the proposed cluster development immediately south of Leland Road extension and along the east property line and a single family small lot product west of the main entry, both which would also be for sale products. Hanks also pointed out a future K through 8th grade school site which met the acreage requirements desired by the Mt. Diablo Unified School District (MDUSD). He noted that the developer, the school district and City staff had begun discussions to make the playground and adjoining park joint use facilities which would save money for the City and the MDUSD.

Mr. Hanks described the location of standard 6,000 square foot lots and an area proposed for 17 estate sized lots/homes. He explained that the overall site plan resulted in a smart growth community intended to provide a full spectrum for potential buyers, located close to mass transit.

The area identified as permanent Open Space was also pointed out. He noted that as of July 23, 2004, the California Tiger Salamander had been deemed an endangered species in the area. He also noted that the developer had submitted its permit application to the U.S. Fish and Wildlife Service and the Department of Fish and Game and that the project design would ensure that portions of the site became permanent and protected habitat for the Tiger Salamander.

Mr. Hanks advised that the project would provide water infrastructure from a water treatment plant to the site with water provided in excess of the project need, to also serve the southwest area.

The sewer would be solely and exclusively for the proposed community and extend north all the way to Willow Pass Road. The storm system for the proposed community would handle the entire water outfall to a detention basin and a water quality basin to hold the flooding for the community sufficient to meet a 100-year storm event. The outfall would go to Willow Pass Road and eventually into Suisun Bay. A second outfall on the site would address the drainage water, a portion of which was currently coming off of the San Marco development. Two storm drain lines would be improved into the Town of Bay Point and out into Willow Pass Road, over land and then to Suisun Bay.

Mr. Hanks added that the developer had been informed by the Contra Costa Flood Control District that the installation of the new lines would alleviate a 30 year problem of flooding in Bay Point due to runoff from the hills.

Speaking to West Leland Road, Mr. Hanks noted that through negotiations with staff, the developer had agreed to construct the entire width of West Leland Road and would deed the land for a 100 foot right-of-way, with grading and improvement for four lanes plus a median curb and gutter for that roadway as it traveled through the property. Bicycle lanes would also be provided with the main arterial accessing the project all the way to the end of the project. Four pedestrian connections would also be provided through the project from Oak Hills to the east and San Marco to the west.
Mr. Hanks explained that he fully intended to return to the Commission with more specifics. The purpose of the workshop was to introduce the project and to solicit comments on the DEIR. Once the comment period for the DEIR had been completed, he would return with a request to approve a Tentative Map, Zoning and General Plan Amendments, primarily for the relocation of the school site away from West Leland Road to ensure that it would not interfere with traffic speeds and that it would offer a safer location for students.

In response to Commissioner Tumbaga, Mr. Hanks explained that the MDUSD had indicated that San Marco, Oak Hills and the subject development generated the need for a new school site. The developer planned to improve the playground/park area prior to the start of construction of that school.

Commissioner Gordon referenced Section 8.3 of the DEIR, specifically as it related to Police Services. He asked for a clarification of that issue.

RAY PENDRO, Senior Planner, Wagstaff and Associates, Urban and Environmental Planning, 2512 Ninth Street, Suite 5, Berkeley, advised that Wagstaff and Associates was under contract with the City to prepare the DEIR. He advised that copies of the DEIR were available at City Hall and in the local library. He identified the State EIR requirements, content, process, scope, impacts, alternatives and next steps, along with CEQA law which described how to determine the scope, content, preparation, public participation, Final EIR and how to implement the mitigation measures in an EIR.

The DEIR was dated June 2004 with the last day for public review to be August 6, 2004. Written comments would be accepted until the identified deadline, with the Final EIR to include all responses to any written or verbal comments on the DEIR along with any changes to the DEIR as a result of those comments. Responses would be made in writing to anyone submitting the written comments.

Mr. Pendro identified the environmental issues in the DEIR as listed in the CEQA checklist and guidelines. Once each chapter had been evaluated, the DEIR had identified a number of impacts, including potential land use impacts regarding the electrical lines currently on-site, adjoining agricultural uses on the Seecon property, and the density the applicant proposed for higher density housing adjacent to lower density housing in the Oak Hills development. Mitigation measures had been identified to reduce the level of impacts to a less than significant level.

Mr. Pendro stated that significant and unavoidable impacts would be required to be described in the Statement of Overriding Considerations if the project was approved. The significant and unavoidable impacts included visual impacts, traffic including increased delays at some intersections in the vicinity and along State Route 4 adjacent to the project, and insufficient BART parking. When the project was added to the vicinity, the traffic engineers had concluded that the BART parking lot would not have sufficient parking spaces for those who desired to use the station. Water supply impacts had also been identified as significant and unavoidable impacts. For all other items, mitigation measures...
had been identified to result in less than significant impacts.

Mr. Pendro reported that noise impacts which had been identified as significant and unavoidable were due to construction noise and since the project was large enough where it would take six to ten years or more to construct. Air emissions had also been identified as significant and unavoidable as a result of the traffic from the project which would exceed the thresholds defined by the Bay Area Air Quality Management District (BAAQMD).

The DEIR had evaluated project alternatives, including a no project alternative. Alternative Two related to a development according to the existing entitlements or with the current General Plan totaling 1,100 units. Alternative Three referred to a reduced density of 911 units. Alternative Four considered a reduction in the density to 595 units. The reductions resulted in a lowering of the densities by removing the High-Density components and spreading the larger home lots out along larger portions of the site. Alternative Five represented a reconfiguration of the project layout retaining the 1,100 units but placing those units in a different series of locations. Alternative Six, as required by CEQA law, considered alternative sites. In this instance, no alternative sites had been identified.

Mr. Pendro reiterated that the review period would end on August 6, 2004. The FEIR would have written responses to all written comments on the DEIR.

Commissioner Gordon again spoke to police services and commented that Chapter 8.3 had shown that the existing police coverage with police response times and evacuation abilities would deteriorate based on the project.

Commissioner Gordon noted that a mitigation measure was required by CEQA if the project would impair the implementation of or physically interfere with the adopted Emergency Response Plan or the Emergency Evacuation Plan. There was no mitigation measure in the DEIR even though a potentially significant impact had been identified.

Mr. Pendro explained that CEQA law was based on physical changes in the environment. If the Police Department identified to the City Council a need for a new police substation or station in the project vicinity, that would be a physical change triggering environmental review by City staff. Unless a physical change resulted, it would not be considered an environmental impact. If a new police facility were identified as necessary for the project, San Marco or adjacent projects, the building of that facility would trigger an environmental review.

Commissioner Gordon respectfully disagreed in that in the DEIR, specifically Chapter 8.3 had shown that CEQA described significant criteria as either “resulting in the need for a new or physically altered facility” or “impair implementation of or physically interfere with an adopted Emergency Response Plan or Emergency Evacuation Plan.”

Mr. Hanks explained that the San Marco project had agreed to a Police Mello Roos District. The developer had negotiated in its Development Agreement with staff to do the
same thing to meet all of the police needs for the community.

Commissioner Gordon asked that that be identified as a mitigation measure in the DEIR as well so the developer could be held to it.

Mr. Hanks added that as part of the Development Agreement, the Planning Commission would have an opportunity for review which would be binding to the City and the developer. He was not opposed to that inclusion in the FEIR.

Mr. Pendro also added that the information would be included as part of the proposed project, already in place, if agreed to between the Police Department and the applicant. He expressed the willingness to place that mitigation measure in the EIR.

Chairperson Garcia spoke to ground water and the fact that the DEIR gave the impression that the water was almost on top of the ground. He understood that there was a well on the property at 28 feet which would be covered.

Mr. Pendro stated that shallow ground water would seep through the upper layers of bedrock between 40 and 80 feet below the surface of the site. Some of the discussions also referenced rain water seeping through the ground and percolating down to the level where the ground water would accumulate.

Mr. Hanks explained that the Alves Ranch property had an old quarry that had been used several years ago and during rain fall the water would go down to a certain point and then creep out into the rock.

Chairperson Garcia also spoke to the open space and the Geological Hazard Abatement District (GHAD), which was shown would take control of that property and maintain it. He inquired if the City was in agreement with that concept.

Mr. Hanks clarified that the terms of the GHAD and who would own the land were continuing to be negotiated in the Development Agreement with the City.

Chairperson Garcia spoke to Page 7-1 related to the extension of Leland Road to Avila Road. He questioned the developer’s responsibility for the completion of the road from San Marco up the hill to Avila Road.

Mr. Pendro commented that if the road had been identified by the City as a probable further project, it would be included in the EIR.

Mr. Ibalio noted that as shown on Page 7-43, Impact 7-5 Cumulative Plus Project Impacts, a mitigation measure had been attached to address the extension of Leland Road to Avila Road.
facilities. The document had shown the closest existing off-street bicycle path as being located along the nearby Contra Costa Canal, when it was actually located on the East Bay Municipal Utility District (EBMUD) right-of-way. It was also located on the other side of the freeway from the project and was useless to the subject project. On Page 7-12 (c), a discussion of existing local bicycle and pedestrian activity was noted. He pointed out that the Fehr and Peers study which had analyzed the West Leland Road entrance to the BART Station was also in error noting that was not where the bicyclists originated.

Commissioner Ohlson stated that bicyclists came from the Delta DeAnza Trail from south Pittsburg and into the Bailey Road entrance. From north Pittsburg or from Bay Point, bicyclists would travel up Bailey Road and enter the Bailey Road entrance to the BART Station.

Mr. Pendro advised that he would forward the information to Fehr and Peers to ensure that the information was corrected.

Commissioner Ohlson also commented that he had spoken to the Seeno organization as to the lack of bicycle lanes on San Marco Boulevard. He stated that developer had worked with the City and had created a bicycle/pedestrian path on the west side of San Marco Boulevard from Leland Road to the school site. That developer had also indicated that there would be a similar 8 to 10 foot wide asphalt path with trees on each side that would run along the north side of Leland Road from San Marco Boulevard to the edge of the BART parking lot.

Mr. Hanks countered that the City had employed Harris and Associates to design all of West Leland Road which would have a normal sidewalk width intended to run the full length but which would not be a widened path and would not meander. There would be bicycle lanes on the street.

Commissioner Ohlson requested the inclusion of bicycle lanes along the first hundred feet of the new collector street running south of Leland Road into the project. He noted the plan show the entrance area had one lane entering and three lanes exiting the subdivision and it appeared that there was insufficient room to stripe for bike lanes.

Mr. Hanks advised that it was intended that the bicycle lanes would run through the entire project along the backbone primary road to the top. While the small neighborhood streets would not have a bike path, once it hit the backbone road, bicycle paths would be provided.

Chairperson Garcia inquired whether or not the developer had discussions with Tri Delta Transit to install bus stops in the community, to which Mr. Pendro advised that had been addressed as a mitigation measure in Chapter 7 of the DEIR.

Chairperson Garcia opened the discussion to PUBLIC COMMENT.

DAVE MAXIN, 123 Green Meadow Circle, Pittsburg, identified his property as adjacent to the Alves Ranch property in the Oak Hills neighborhood. As a new homeowner in the City,
he inquired when the construction for the project would commence and when approvals would be given by the City. He also inquired whether or not a map of the project could be provided to the public to better inform the public of the details of the project.

The Chair provided a copy of the map for review.

SONIA MAXIN, 123 Green Meadow Circle, Pittsburg, stated that this was the first notice of a large project literally in her rear yard. She and her husband had moved to the City to start a family and she was concerned with the potential impact on her first child, particularly as it related to the potential school site. She was also interested in the concerns she understood with the inability of the City to maintain its parks. Additionally, she expressed concerns with traffic in the area.

As a BART user, Ms. Maxin emphasized that parking during peak periods was a real concern, although she understood that there were future plans for a BART extension to the City of Antioch. She otherwise inquired how the public could have access to a copy of the EIR.

The Consultant reported that the school in San Marco was due to open for the upcoming school year. He advised that copies of the EIR were also available at City Hall and in the Library.

LEE BURKS, 133 Green Meadow Circle, Pittsburg, stated that she had been aware that something would be built on the property although it would impact her views of the hills and her property values. She was also concerned with the proposed park land. She noted that Oak Hills had little parkland and she wanted to protect that as much as possible. She understood that it was difficult for the City to maintain existing park spaces given vandalism problems. With more people, she suggested there could be more vandalism in the parks. She added that the parking at the BART station was limited. Further, dust during construction could impact the health of residents and the wildlife displaced as a result of the development.

Ms. Burks preferred that the property be preserved as open space. She expressed her hope that barbed wire fencing would not be used to secure the open space area as had been done elsewhere in the Oak Hills development which had generated a great deal of opposition by the residents. She questioned whether or not pathways would be considered between the adjoining projects. Lastly, she would like to see affordable low-income housing considered as part of the project in that she did not find the proposed homes to be affordable.

DOTTIE LOZIER, a resident on Green Meadow Circle, Pittsburg, and a resident of the Oak Hills development, commented that she had paid additional money for a view of the hills and she had been impacted by the equipment, noise and dust associated with the construction of the San Marco development. She also spoke to the concerns related to reduced property values and impacted wildlife and she asked the Commission to consider
all comments.

Commissioner Williams asked staff to ensure that residents and other interested citizens had information and were kept up to date on the proposal.

Commissioner Ohlson commented that there were no bike or pedestrian trail connections into the Oak Hills property whereby someone living in the subject development whose fence abutted the Oak Hills development would have to bicycle all the way down to Leland Road and back up the hill. He added that the concerns with Leland Road traffic had been identified on Pages 7-40 and 7-41. Also the Bailey/West Leland Roads intersection had a Level of Service (LOS) F, which was a significant and unavoidable impact. Commissioner Ohlson commented that the development of the project would only make traffic worse and that nothing could be done to correct that. He added that Measure C would eliminate the LOS starting in 2009 if Measure C was extended by the voters.

Mr. Hanks pointed out the proposed paths connecting this project to existing and proposed developments to the east and west.

Chairperson Garcia added that any development required that water trucks work to keep the dust down. He encouraged the City Engineer to ensure that water trucks would be utilized to reduce the dust impacts during construction. He otherwise acknowledged that the area was very breezy which would make it difficult during periods of construction.

Ms. Ayres explained that no action was being asked of the Commission. The discussion was only intended to present the project and solicit feedback and public comments on the DEIR. The deadline for the comment period for the DEIR was again identified as August 6, 2004.

Chairperson Garcia declared a recess at 11:30 P.M. The meeting reconvened at 11:32 P.M. with all Commissioners initially shown as present and absent.

<table>
<thead>
<tr>
<th>Item 5: Comprehensive Zoning Code Update</th>
</tr>
</thead>
<tbody>
<tr>
<td>This is a staff update on the Zoning Ordinance work program</td>
</tr>
</tbody>
</table>


In response to Commissioner Tumbaga, Ms. Ayres clarified that the zoning code update would not include the Inclusionary Housing Ordinance, since that involved a separate study.

The Commission acknowledged the receipt of the comprehensive zoning code update timeline.

The City Council requests that the Planning Commission develop and submit a plan identifying its goals, objectives, issues and concerns for fiscal year 2004-2005.

Planning Manager Melissa Ayres presented the staff report dated July 27, 2004. She recommended that the Commission review and approve the draft list of goals and objectives identified in Attachment 1 and provide additional direction with respect to other planning issues and concerns it would like addressed this year.

Commissioner Ohlson inquired of the status of the Planning Commission bylaws, to which Ms. Ayres explained that the preparation of the bylaws was an objective for this fiscal year, with staff to prepare the bylaws to be considered as discussed during the prior Commission meeting. A subcommittee of the Planning Commission would be formed to review the proposed bylaws. An existing set of bylaws could be provided to the Commission. The new rules adopted by the City Council and Municipal Code provisions pertaining to the Planning Commission could also be reviewed.

Commissioner Tumbaga spoke to the objective, which she understood would limit the number of Commissioners who could attend the League of California Cities Planner’s Institutes.

Ms. Ayres explained that goals related to the number of Commissioners attending the conference had been reduced due to the budget and past attendance records, although if every Commissioner desired to attend the conference, the money could be found to allow that to occur. Further, the National American Planning Association Conference would be held in the City of San Francisco this fiscal year and could be an option to attending the Planner’s Institute which would be held in San Diego, typically every March.

Ms. Ayres further clarified that the completion of the Inclusionary Housing Study and Ordinance had been included as an objective for the Commission to complete its recommendations, to be forwarded to the City Council this fiscal year. The work program for this item had shown that discussion as coming before the Commission as a Joint Workshop with the City Council on September 7th and 20th. Formal public hearings would be held in October and November. A development community non-profit workshop had also been scheduled for the public on Wednesday, July 28 at 2:00 P.M. to present the results of a Feasibility Study.

Commissioner Ohlson requested as an objective that the Planning Commission be provided with a copy of Robert’s Rules of Order or a booklet of information on how to be a Planning Commissioner.

Commissioner Tumbaga advised that such information was available from the League of California Cities.

Ms. Ayres stated that she would try to provide the information at the next meeting.

MOTION:
Motion by Commissioner Tumbaga, by minute order, to approve a plan of the Commission’s goals, objectives, issues and concerns for fiscal year 2004-2005 and direct staff to submit the plan to the City Council on or before September 1, 2004, as amended. The motion was seconded by Commissioner Dolojan and carried by the following vote:

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

STAFF COMMUNICATIONS:

1. Notice of Intent (to review/approve project at staff level)
   a. Palermo Building Renovation AP-104-108 (DR)
   b. Metro PCS Antenna at 1600 Buchanan Road.

The Commission acknowledged the receipt of the Notice of Intent items, as shown.

Ms. Ayres reported that the City’s new website was up and running with a page on the Planning Commission. If Commissioners desired that additional items be included on the Planning Commission web page she asked that staff be contacted with suggested changes.

COMMITTEE REPORTS:

There were no Committee Reports.

COMMENTS FROM COMMISSIONERS:

Chairperson Garcia recognized that the meeting had been quite lengthy, although due to the controversy with the Elks Lodge, in his opinion, it was appropriate to not limit the time for speakers to allow everyone the opportunity to speak and address any concerns.

ADJOURNMENT:

There being no further business, the meeting adjourned at 11:53 P.M. to a regular meeting of the Planning Commission on August 10, 2004 at 7:00 P.M. in the City Council Chambers at 65 Civic Avenue, Pittsburg, CA.