MINUTES
OF THE REGULAR MEETING
OF THE
PITTSBURG PLANNING COMMISSION

June 22, 2004

A regular meeting of the Pittsburg Planning Commission was called to order by Chairperson Mark Leonard at 7:00 P.M. on Tuesday, June 22, 2004, in the City Council Chambers of City Hall at 65 Civic Avenue, Pittsburg, CA.

ROLL CALL:

Present: Commissioners Dolojan, Garcia, Ramirez, Tumbaga, Chairperson Leonard

Absent: Commissioner Kelley

Staff: Director of Planning and Building Randy Jerome; Associate Planner Ken Strelo; Associate Planner Noel Ibalio; Assistant Planner Dana Hoggatt; Assistant Planner Christopher Barton; Senior Civil Engineer Alfredo Hurtado; and Park Planner Joel Summerhill.

POSTING OF AGENDA:

The agenda was posted at City Hall on Friday, June 18, 2004.

PLEDGE OF ALLEGIANCE:

Frank Gordon 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:**

A. Planning Commission Minutes of June 8, 2004
B. Koch Carbon, DR-01-02, Extension of Time

**MOTION:**

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

- Ayes: Commissioners Dolojan, Garcia, Ramirez, Tumbaga, Leonard
- Noes: None
- Abstain: None
- Absent: Commissioner Kelley

**PUBLIC HEARINGS:**

**Item 1: Highlands Ranch General Plan Amendment and Rezoning. RZ-04-103 (GP and RZ)**

Application by Richard Sestero of West Coast Home Builders, Inc., requesting 1) a General Plan Amendment to change the land use designation of 10.47 acres (two parcels) of the Highlands Ranch Residential Subdivision from Public/Institutional and Park to Low Density/Residential and 2) to rezone a portion of that 10.47 acres from a GQ (Governmental/Quasipublic) District to RS (Single-Family Residential) District; APNs 089-050-069 and 070.

Associate Planner Ken Strelo presented the staff report dated June 22, 2004. He recommended that the Planning Commission approve the proposed General Plan Land Use Amendment and rezone the property by adopting Resolution No. 9494, approving AP-04-103 (GP) and Resolution No. 9495 approving AP-04-103 (RZ).

Mr. Strelo advised that he had received six letters in response to the public hearing item, which letters had expressed concerns with the applicant’s General Plan Amendment and Rezoning, dated “Received” June 15 and June 18, 2004. He had also received telephone calls from residents both for and against the applicant’s request.

Park Planner Joel Summerhill explained that the General Plan called for a five-acre school site. The only way a 10-acre park had been envisioned had been through the detention basin, which was not part of the original plan. Mr. Summerhill stated that it had now been proposed that a 7-acre park could be built by incorporating the detention basin. He stated that the developer could build all of the...
hardscape, a small parking lot entry, school age playground, tot lot, a full basketball court, picnic shelter, possible tennis courts, horseshoes, bocce ball courts and the like, although such amenities were being cited as examples. The actual amenities would come from input from the community. In a later phase the detention basin would be developed with a multi-purpose field for use for football, soccer, and softball/baseball activities.

The proposal was being recommended since it could be built more quickly than the City would be able to build the park and would offer a better park than a five-acre park facility. Commissioner Tumbaga understood that a detention basin was generally bowl shaped to contain water and runoff. She questioned how it could be used for playing fields.

Mr. Summerhill identified the contour lines of the detention basin and explained that the basin would be eight to ten feet in depth, able to hold a great deal of runoff and detain that runoff for a few hours until it drained out. There were also underground pipes in the detention basin which would always drain in most rainfall situations. A one hundred-year flood would likely be the only occurrence when the detention basin would be full. The Oak Hills Subdivision had a similar detention basin.

Commissioner Tumbaga expressed concern with the detention field being used for playing fields since it was bowl shaped with an indentation in the middle. She also questioned how the detention field could be used during inclement weather as playing fields given that the ground would not be firm and since playing fields were typically preferred on a flat surface.

Mr. Summerhill explained that the bowl shape would occur around the edges. The remainder of the property would be a flat surface large enough to handle a football field, soccer field or a baseball diamond. He reiterated that the drainage into the basin would be handled through underground plumbing with runoff draining underground to Buchanan Road.

Commissioner Tumbaga understood that detention basins were not to be used for parks. Mr. Summerhill clarified that the use of the detention basin for playing fields would provide the developer with 50 percent credit for park dedication.

Commissioner Ramirez understood that the detention basin was to be separated from the playing fields and any recreational use that could be situated around the basin. He commented that it now appeared to be all part of one thing, not separated or fenced off to providing security for children.

Mr. Summerhill noted that the detention basin was separate and had always been fenced as part of the proposed scheme.

Commissioner Dolojan also expressed concern with the use of the detention basin as playing fields during rainy periods.

Mr. Summerhill again walked the Commission through the drainage from the detention
basin and again noted that it would not flood except during a one hundred-year flood event. The basin was drained as the park would be drained through the use of surface drains and would drain as quickly as the park.

Commissioner Garcia spoke to the history of the site noting that the Pittsburg Unified School District (PUSD) had been notified a number of times to submit whether or not it desired a five acre school site. The PUSD had later expressed a desire that five acres be set aside. At that time, the site had been approved for a school site, although there was no confidence that a school would be built since the site was on the fringe of the PUSD boundary and since Foothill Elementary School was located nearby.

Commissioner Garcia noted that the property was located in a redevelopment area and did not bring any monies into the City’s General Fund since the monies from the development were used to pay for existing bond indebtedness for work in the downtown. The property taxes paid by the homeowners would not be used to maintain the park. If the property continued to be left as is, the City would be obligated to build the park, although the City did not have the funds to build or maintain a park at this time and it was unknown when the City would ever be able to build the park.

Commissioner Garcia recognized that adjacent homeowners had been told that there would be a park. He reiterated that it was unknown when or whether the City would ever be able to build a park. He suggested that the developer’s proposal was a compromise to see that the park happened.

Commissioner Ramirez inquired what type of fencing would be built around the detention basin, to which Mr. Summerhill advised that the fence was already in place in some sections consisting of a 6-foot green vinyl clad chain link fence. The remainder of the fence would consist of the same materials.

Commissioner Tumbaga liked the design of the park, as displayed by staff. She inquired whether the design was a concept or whether the plans were reflective of the park that would be built by the developer as opposed to a City built park.

Mr. Summerhill explained that the plans he had displayed to the Commission were strictly conceptual. Community input would be required to determine the desired amenities. The concept was intended to show the array of amenities possible to consider. Mr. Summerhill reiterated that the City was unable to maintain its parks. He also understood that the Lighting and Landscaping District was in debt to the General Fund in an amount of $1.1 million a year.

Commissioner Tumbaga understood that there were no definitive plans as to when the original park had been envisioned or when the project plans would be built, to which Mr. Summerhill acknowledged that the park plans had been evolving.

Mr. Summerhill added that it had always been the hope that a park would be built but the
City did not know when that would occur. The park could be underway this year, at least for the hardscape portion. He noted that there was $476,000 in in-lieu fees that the developer was holding that could be used to build the park.

PUBLIC HEARING OPENED

PROPOSED:

RICHARD SESTERO, West Coast Home Builders, 4021 Port Chicago Highway, Concord, explained that when the tentative map had been approved a school site had been intended on the property. For that reason the park had originally been intended to be larger than normal in size since the idea had been that there would be a joint use between the school and the community. Once the decision had been made by the PUSD not to build the school site, it made sense for the park to be a bit smaller.

Pursuant to the City’s Park Ordinance, Mr. Sestero stated that there was an option where the developer could either dedicate a large park site and pay no fees, dedicate a smaller site and pay some fees, or dedicate no site and pay a lot of fees. In this instance, with the dedication of the 10-acre park site the developer had not been required to pay any fees. What had resulted was a dedicated park site with no money for the City to build the park.

Mr. Sestero suggested that the proposal being considered by the Commission made sense and was good for the homeowners since it would allow the park to be built sooner as opposed to having the 10-acre site sit vacant. He also noted that the proposal had come from City staff as a compromise to allow the park to be built. While the developer was the proponent, he emphasized the joint support of staff and the developer, West Coast Home Builders.

Mr. Sestero clarified that the detention basin was fully fenced with a 6-foot high green vinyl clad fence with gates. The idea was that the gates would remain open until a heavy rain event when the gates would be closed.

Mr. Sestero spoke to the concerns with water in the basin. He advised that there was a 60-inch pipe under the basin and that the normal flow from the project and runoff from the developed area would travel through the pipe under Buchanan Road and then out to the river. Only a very heavy flow would result in water in the basin. In that event, the basin was designed that in less than a day the water would be drained. There were also surface drainage inlets within the base of the basin where water could drain out.

Mr. Sestero noted that there was a detention basin on Laurel Road in the City of Oakley where there were large playing fields, which had been used year round. Only during extreme rainfall conditions would the property not be able to be used.

Mr. Sestero further commented that the developer had submitted a Memorandum of
Understanding (MOU) to the City indicating that if the park were to proceed, the developer was prepared to proceed as soon as approvals were in place. He noted that the park fees that the developer would be paying were close to $500,000. The developer was in support of the General Plan Amendment and Rezoning and urged the Commission to recommend that the City Council approve those two actions.

In response to Commission Dolojan with respect to the 39 additional single family homes that would be associated with the approval of the request, Mr. Sestero explained that the 39 additional homes would consist of the same size lots, 6,000 square foot minimum with the same dimensions and with the same product as the rest of the development.

OPPONENTS:

ART SOLIS, 3744 Arlington Circle, Pittsburg, expressed concern with the water flow in the detention basin and questioned what would occur when the flood waters were released downstream potentially creating problems on State Route 4/Loveridge Road. Although he did not live in the Highlands Ranch neighborhood, he was a resident of the Peppertree subdivision.

Mr. Solis explained that he had been very involved with the Leisure Services Commission and the PUSD. He expressed concern with the fact that when he had moved into his development in 1987, homeowners had been promised a park in that development which had never come to fruition. He was concerned that promises were being made but were not being carried through.

Mr. Summerhill advised that the 4-acre park identified for the Peppertree subdivision had been included in the current Capital Improvement Program (CIP). The City was still hoping to build that park.

Mr. Strelo clarified that the purpose of the detention basin had been to prevent downstream flooding, detain the water and capture and release it slowly. The detention basin had no release points. The detention basin had been specifically built with the plans approved by the Contra Costa Flood Control and Water Conservation District to control the quality and quantity of stormwater runoff from the project site after construction.

JAY COMO, a resident of Pittsburg and the Highlands Ranch development, questioned the potential impacts of additional traffic with more homes being considered for development. He spoke to the local issues with congestion in the community. While he suggested that the developer’s park plan was generous, he questioned the message being sent to residents that it was okay to make empty promises. He advised that he had approximately 100 signatures from his neighbors opposed to the proposal.

LYN ESTRELLA, 208 Dawson Court, Pittsburg, identified herself as a resident of Americana Homes. She noted that she had been informed by the sales representative at
the time she had purchased her home five years ago that a park would be built in her neighborhood. She understood that the problem was not a developer problem but a City problem. She suggested that the onus was on the City since the City was allowing developers to continue to advise that a park would be a part of their developments. She questioned where residents' property taxes were being spent and she emphasized that the park in her development had been part of the General Plan since the mid 1990’s.

VICTORIA ADAMS, Pittsburg, and a resident of the Highlands Ranch development, advised that she had originally purchased a home in the Oak Hills development where she had also been promised a school and a park site. At the time the park had finally been built in that neighborhood her children had not been able to benefit from that facility. As a resident of Highlands Ranch, she had again been promised that a park would be built in her neighborhood.

Ms. Adams stated that if the City was aware that developers were informing potential homebuyers that certain amenities would be provided and were knowledgeable of the fact that the developers could or would not provide those amenities, the City should not allow that to occur. She questioned why homeowners were paying property taxes for facilities that were not being provided.

SERGIO CRUZ, 511 Silver Saddle Drive, Pittsburg, also spoke to the same comments and the fact that there was no money to build the parks. He questioned where residents could address his/her concerns. He emphasized that the main selling point for the Highlands Ranch development had been the park proposed for the area, which was the primary reason he had chosen to move his family to the area as opposed to an outlying community. He pointed out that the 10-acre park continued to be advertised by the developer with a large sign on the site. As a result, future homeowners were continuing to move into the development with the understanding that a 10-acre park would be provided.

Mr. Cruz objected to a reduction in size of the park to 7 acres given that the park would likely only provide 3.5 acres of usable parkland since the gate to the detention basin would be locked during the winter periods. He asked why the City did not have enough money to build the park.

Mr. Cruz further advised that he had over 100 signatures from many of his neighbors in protest of the request for the General Plan Amendment and Rezoning for the Highlands Ranch development. [Although a copy of the signatures had been submitted for the record, a resident retrieved the copy and the list of signatures was not again submitted during this public hearing]

HENGHIE TZAHZADI, Pittsburg, and a resident of the Highlands Ranch development, spoke to a disclosure statement that he had been required to sign when he had purchased his property in the subdivision. He spoke to a statement in the disclosure statement where California law had required that the City permit the construction of additional homes on the school site if the PUSD chose not to build a school on the site. There was no statement in
the disclosure regarding the reduction of the size of the park. He opposed the request to change the size of the original 10-acre park so that the developer could build more homes. He suggested that the money the developer received from the five acres that had originally been part of the 10-acre park should be used to build the original park.

BRUCE OHLSON, Pittsburg, inquired when the grass portion of the detention basin would be developed and who would be responsible for its construction. He also inquired where cars would park when the playing fields were in use.

Commissioner Garcia noted that the park was intended to be a neighborhood park and was not intended or designed to be used as a City wide park. He otherwise commented that a park site had been designated in the Americana development, although a portion of that park was in a wetlands area and a portion was within 100 feet of a railroad spur track which the railroad company was not interested in selling. The park was intended to be designed around that railroad spur.

Commissioner Garcia added that the Americana development was in a redevelopment area and homeowners were not paying enough in taxes to fund police or park services, since the taxes from that development were being use to pay off existing bonds.

DAN RAMelli, 59 Glen Canyon Court, Pittsburg, understood that the developer had offered to pay fees in the amount of $500,000 towards the development of the park. He inquired what it would cost to develop a 7.5-acre park. He too commented on the fact that the developer had promised that a park would be built at the time his home had been purchased, which had been used as a major selling point at that time.

BRIAN THARP, 2245 Glen Canyon Court, Pittsburg, requested clarification on the costs related to the hardscape and softscape for the park. He also questioned how the park would be maintained. He understood that if the situation remained as is, the City might never be able to develop the park. If the residents supported the developer’s proposal, he understood that the park could be developed by the end of the year.

Mr. Summerhill spoke to the Americana subdivision, formerly the Brickyard subdivision where the original developer had gone bankrupt and had not built the promised park. The City now had the park for that subdivision out to bid, with bids due on June 30, 2004. It was hoped that a contract for the development of that park would be awarded by the City Council on July 19, 2004.

As to the subject park, Mr. Summerhill explained that the hardscape features consisted of the playing courts, playgrounds, buildings, pathways, driveways and parking. Normally parking was not provided as part of a neighborhood park, although in this instance parking had been proposed for 20 vehicles in addition to curbside parking adjacent to the park. The softscape costs would be the greatest maintenance burden. It would involve the maintenance, irrigation and fertilization of the grass areas. The preference was that the hardscape be installed first.
Commissioner Tumbaga inquired if the City had the means to maintain whatever would be installed in the park.

Mr. Summerhill advised that the hardscape was lower maintenance than the softscape which required regular maintenance. The City would be responsible for all maintenance once the park was developed.

Commissioner Garcia recognized the financial constraints involved. He recommended that the parking area be eliminated to allow grass to be installed.

Mr. Summerhill commented that such amenities could be discussed when the details of the design of the park were discussed in detail. At this time, the $476,000 the City would receive from the developer would not go far, although it could fund most of the hardscape features.

Chairperson Leonard noted that the Leisure Services Commission would be responsible for the design of the park where the community could provide input.

Commissioner Garcia commented that he would rather see some of the grass around the area installed as opposed to just seeing dirt. He again recommended that the parking lot area be eliminated to allow the installation of grass.

Mr. Sestero again spoke to the drainage from the detention basin and noted that the intent was to slow the water draining to the river, which should improve the drainage condition at State Route 4/Loveridge Road. There would also be less drainage leaving the site during the peak periods than prior to the development of the property.

Mr. Sestero referenced the design of the park and noted that the community would be involved with that design. As to the associated costs, allowing four dollars a square foot to the three acres that could be developed right away, he suggested that could fund quite a few improvements. He noted that generally the paving was similar in cost to the landscaping per square footage. There would be flexibility as to what improvements would be pursued. No budgeting had been prepared on the costs for the park since that would depend on the degree of the improvements.

As to the maintenance of the park, Mr. Sestero advised that each home in the Highlands Ranch development paid an annual landscaping and lighting fee, which he understood was approximately $70. He expressed his hope that those funds could be used to maintain the park in addition to paying subdivision lighting costs. He noted the minor existing landscaping to be maintained in the development other than the entry elements.

Mr. Sestero also spoke to the concerns with respect to additional traffic as a result of the development of additional homes. He noted that the additional lots had been considered
in the Environmental Impact Report (EIR) for the project with several different scenarios identified with or without the school site. The school site had shown an increase in more peak hour traffic than had the additional homes.

Mr. Sestero commented that it was too late to build the park this year, although the developer was ready to try, if possible, once the design was complete and all of the City processes were complete.

MR. STOKES, Pittsburg, and a recent homeowner in Highlands Ranch, explained that he had moved to the area primarily due to the large sign advertising the park site. His home had been purchased for just under $500,000 and he had to figure out a way that he could purchase his home. He suggested that the City do the same - figure out a way to build the park.

SAM PARSA, 290 Rangewood Drive, Pittsburg, explained that he had experience in building parks and schools in the Bay Area. He too questioned the promises that had been made that a park would be built in the Highlands Ranch development. He suggested that he could build the park in two months. He offered his assistance to build the park. He suggested that through the use of volunteers the park could become a reality. He added that he had also designed a concept for the park, drawn to scale, which could be considered. He expressed the willingness to assist in building all of the amenities. Mr. Parsa further questioned how the detention basin could be used for playing fields since it was to be used only for water runoff.

PHILLIP FISHER, Pittsburg, inquired if there was an impact study available to address the additional homes that could be built. He also inquired if the additional homes to be built would be the same as the existing homes in the neighborhood or some other type of development. He too questioned the use of the detention basin for playing fields and questioned how both would be able to function year round.

Mr. Fisher further stated that he had purchased his home with the promise that a 10-acre park would be built. While the current proposal had pluses and minuses on both sides, he questioned the fact that the City had no money to build the park since he understood that the City had received revenue from the development of the homes.

Mr. Strelo explained that the additional homes would be a continuation of the existing subdivision using the same architecture, minimum lot standards and model homes. He also expressed the willingness to show or make copies of the project EIR available in the Planning Department at City Hall.

Mr. Strelo also clarified the history of the project site which had originally been located in the County twice the size of the current proposal with half of the project in the Sphere of Influence (SOI) of the City of Pittsburg and half in the SOI of the City of Antioch. The entire project was in the County. The developer had moved forward with that portion located in the City of Pittsburg while the other portion was never moving forward. At that time the
project had been called the Meadowlands project.

Mr. Jerome clarified that the EIR for the Meadowlands project had been distributed in 1988.

Mr. Strelo explained that the Highlands Ranch subdivision had been approved in 1997. Given that the EIR for the site had been completed years earlier, the City had prepared an Addendum to the EIR, which had been called at that time Meadowlands West/Highlands Ranch.

Mr. Strelo added that when the Final Map was submitted to the City Council for approval, the Commission could make suggestions for conditions to be imposed on the Final Map in terms of ensuring that the park would be developed within a certain period of time. In the future when tentative maps were submitted to the Commission, he recommended the consideration of a condition requiring developers to actually disclose all of the alternatives for what could be available in the future to residents at the time of the purchase of his/her homes.

MOMODOU SALLAH, Pittsburg, and a resident of Highlands Ranch commented that if the amendment was approved, he would like a condition that the park be built prior to the construction of the new homes. He also recommended the consideration of a land swap that would allow the use of all of Parcel B for a park.

Mr. Strelo explained that when the Tentative Map had originally been approved, it had shown the alternatives. One of the alternatives had been that with no school site, the homes could be built. Alternative A consisted of 590 homes, which was being considered by the Commission at this time, with the 10-acre park, detention basin and the school site. Alternative B had consisted of the development of the school site with 21 additional homes and a total of 611 total homes in the development. Alternative C consisted of the development of 48 additional homes on both the school and the Parcel B site, leaving only the detention basin as the recreation area.

The General Plan Amendment and Rezoning requests would result in a combination of Alternatives B and C, for 39 additional homes.

Mr. Strelo went on to explain that if the Planning Commission recommended that the City Council approve the General Plan Amendment and Rezoning, it would be submitted to the City Council for consideration and final action offering another opportunity for the public to address any concerns.

DARREL SMITH, 1817 Vendor Court, Antioch, identified himself as the Selling Agent for West Coast Home Builders/Highlands Ranch. He suggested that the Highlands Ranch homeowners should accept the park plan at whatever size it could be achieved. He also commented that as a new home selling agent, disclosures were required to be made to new homebuyers. In response to the testimony from the residents that he/she had been
promised a park, he explained that Highlands Ranch had issued a disclosure statement, titled “Highlands Ranch Information Report,” which was provided to every homebuyer or interested homebuyer. He advised that nowhere in the document had the word “promise” been used. Every statement in the document had been stated as a tentative or preliminary idea.

Mr. Smith also commented that he had never promised in his sales pitch that if a home was purchased in Highlands Ranch, it would come with a park site. If the residents wanted a park, he suggested that the residents should embrace West Coast Home Builder’s plans for the park.

Commissioner Garcia noted that if the developer were to set aside land for a park, the potential homeowners would have assumed that there would be a park. There was also a sign on the property advertising the park and one could assume with an empty lot advertising a potential park that a park would be built on the property.

Whether the City or the developer developed the park, Mr. Smith agreed that a park should be developed. He again suggested the residents should embrace the developer’s plans for the park.

Ms. Estrella questioned the earlier comments with respect to the funds available to the Americana subdivision given its location in a redevelopment area. She commented that the park was to be either 2.2 or 2.3 acres depending on which map was identified. Residents of the Americana development had been told that their park would be a community, not a neighborhood park, with all property taxes to pay for that park.

Ms. Estrella noted her understanding that Union Pacific Railroad wanted $35,000 for the railroad spur and that through the efforts of Americana residents, the City had saved $15,000. She again suggested that the development of the parks was the responsibility of the City. She understood that the developer was only required to dedicate a certain amount of land and it did not have to be in one’s neighborhood.

Ms. Estrella otherwise commended the efforts of Joel Summerhill who had worked with the Americana residents to address residents’ concerns with the park. She added that residents had not been able to address his/her concerns with the Recreation Commission and she therefore questioned the Planning Commission’s encouragement to work through that Commission.

Chairperson Leonard explained that the Recreation Commission dealt with park design and providing services to the City residents and was the appropriate body to address those issues.

Mr. Ramelli inquired whether or not the five-acre school site parcel had been dedicated to
the City by the developer. He also requested clarification of the financial aspects of the
money used for the park and asked if the park was purchased back by the developer,
where that money would go.

Mr. Strelo explained that the issue being considered by the Planning Commission at this
time was only the General Plan Amendment and rezoning, not a change in ownership.
Parcels A and B were under the developer’s ownership. The only reason Parcel A would
have been slated for a school site had been because of the General Plan Land Use
designation and rezoning, for Governmental Quasi/Public and Public. Homes could not be
built on that property due to that designation. Parks could be built on Single Family
Residential zoning, which was the reason that both parcels had been requested by the
developer to be placed into Low Density Residential and Single Family Land Use. Since
there was no change of ownership for either parcel and since the property had never been
owned by the City, there would be no exchange of money.

Mr. Strelo reiterated the action before the Planning Commission which would involve a
recommendation to the City Council, and which would involve another public hearing that
would allow residents another opportunity to address his/her concerns with the proposal.

Commissioner Garcia understood that the developer still owned the five acre school site
and had a contract with the PUSD. The PUSD had ended up with over $1 million to get the
five acres back from the developer. He assumed that the PUSD had used those funds in
its budget.

Mr. Sestero spoke to the land value and advised that the developer had an agreement with
the PUSD for the five-acre school site in return for a fee program. The developer had
actually purchased the school site back from the PUSD. As to the other two acres, the
developer was basically buying the property back for $475,000. The City would be getting
$475,000 to be used to build the park in return for the developer’s retention of the other two
acres.

Mr. Stokes referenced the Highlands Ranch Information Report document which had been
given to him at the time of the purchase of his property and which had shown Highlands
Ranch Units 1 through 5 as subdivisions being located within the City limits of Pittsburg
and Antioch. He requested clarification from staff. He also commented on the fact that
many children in the neighborhood played in the street which raised safety concerns and
illustrated the need for the park facility. Further, he expressed concern with the potential
fire hazard due to the condition of the existing designated park property which was full of
weeds.

Mr. Strelo reiterated the history of the project, which had originally been, located in the
County twice the size of the current proposal with half of the project in the SOI of the City of
Pittsburg and half in the SOI of the City of Antioch. The developer had moved forward with
that portion located in the City of Pittsburg. The other portion was never moving forward.
At that time the project had been called the Meadowlands project. The Highlands Ranch
development was not located in the City of Antioch but had been in the SOI of the City of Antioch as mentioned. He suggested that the document, which was not a City document, was irrelevant to the matter before the Planning Commission and was something that should be handled outside of the realm of the Planning Commission public hearing.

PUBLIC HEARING CLOSED

Commissioner Garcia reiterated that the Americana development, which was located in a redevelopment area meant that the development’s associated property taxes did not go into the City’s General Fund and were used to pay existing bonds.

Commissioner Garcia made a motion to approve the General Plan Amendment and Rezoning. He also commented that he would have liked to add a condition that when the park was designed and approved, its development should be commenced immediately. He understood in speaking with staff that such a condition could not be imposed on the requested entitlements, although the City Council could take that direction. He urged the Park Planner to meet with the City residents to discuss the design and desired amenities of the park as soon as was appropriate.

Commissioner Ramirez seconded the motion.

On the question, Commissioner Tumbaga recognized the concerns of the residents and the need for the park. She also recognized that the onus for the parks was on the City, although that would not happen when the funds were not available for the City to develop parks. The proposed option would offer something to the community that would not otherwise be available. She suggested that the park would provide the potential for amenities that everyone in the neighborhood and the community would be able to enjoy. Since the PUSD no longer wanted the school site and since the developer owned that land and had the right to develop that land, the developer could have asked to build homes on the entire acreage which would likely not have been supported. She suggested that the proposal offered the opportunity for a larger park with the use of the detention basin.

Commissioner Tumbaga acknowledged that the concerns with the maintenance of the existing vacant land needed to be addressed. She suggested that the proposal offered a good compromise and was possibly the best win-win situation that staff and the developer could have devised to satisfy the residents' needs and desires for the park.

Chairperson Leonard saw the cooperative arrangement as a potential way to fund neighborhood and community parks in the future, particularly given the City’s financial constraints to maintain its existing park facilities.

MOTION: AP-04-103 (GP)

Motion by Commissioner Garcia to adopt Resolution No. 9494, recommending that the City Council adopt a resolution amending the General Plan Land Use Map for a 10.52 acre
site from Public/Institutional and Park to Low Density Residential for Highlands Ranch Park and School Site, AP-04-103 (GP), with the findings as shown. The motion was seconded by Commissioner Ramirez and carried by the following vote:

Ayes: Commissioners Dolojan, Garcia, Ramirez, Tumbaga, Leonard
Noes: None
Abstain: None
Absent: Commissioner Kelley

MOTION: AP-04-103 (RZ)

Motion by Commissioner Garcia to adopt Resolution No. 9495, recommending that the City Council adopt an Ordinance to rezone a 10.52 acre site from GQ (Governmental Quasi/Public) District to RS (Single Family Residential) District, “Highlands Ranch Park and School Site,” AP-04-103 (RZ), with the findings as shown. The motion was seconded by Commissioner Ramirez and carried by the following vote:

Ayes: Commissioners Dolojan, Garcia, Ramirez, Tumbaga, Leonard
Noes: None
Abstain: None
Absent: Commissioner Kelley

Commissioner Garcia announced for the benefit of the audience that the item had been tentatively scheduled for City Council consideration on July 19, 2004.

Mr. Jerome clarified that he had reviewed the document referenced by Mr. Stokes which was a disclosure document that property owners had to sign and initial and which had referred to various components of Highlands Ranch Units 2, 3, 4, and 5. The document had also referred to all of the development in the area in terms of the subdivisions in the southeast area of the cities of Pittsburg and Antioch, including the Black Diamond project, which was located within the City of Antioch. The document had spoken to all of the developments constructed by Seecon Construction in the southeast area, which was the reason the document had referenced the City limits of the cities of Pittsburg and Antioch.

Chairperson Leonard declared a recess at 8:55 P.M. The meeting reconvened at 9:04 P.M. with all Commissioners initially shown as present and absent.


Application by John Stremel of Bailey Estates, LLC, requesting approval of vesting tentative map to subdivide 122 acres into 249 single-family lots, four open space parcels, and two acre park parcel, in order to develop the property with 249 single-family houses, public roads, and infrastructure (detention basin, water and sewer lines, and water tank) and a public park. The property is located west of Bailey Road and south of the southerly City limits and is prezoned RS (Single-Family Residential), OS (Open Space) and GQ
Assistant Planner Dana Hoggatt presented the staff report dated June 22, 2004. She recommended that the Planning Commission adopt Resolution No. 9497, approving AP-04-107 (TS). It was noted that the subject description in the staff report should be amended to reflect the proposal for 249 single family lots, not 240 lots, as shown in the staff report.

Ms. Hoggatt explained that staff had revisions to the resolution of approval submitted to the Planning Commission. Based on comments from the City Council during recent meetings, staff recommended that a condition be added to the Tentative Map which would require a Mello Roos District for police services. Also based on Contra Costa Flood Control District comments, staff recommended another condition requiring that the detention basin on the property improvement plans be revised to include a 15-foot access easement into and around the detention basin.

Further, based on a comment from the developer, staff requested that Condition No. 22 be modified to eliminate the use of the word “public.”

Ms. Hoggatt understood that the developer had a list of other conditions he would like the Commission to consider. Staff was in agreement with some of those conditions but not all. The list was quite lengthy and staff had not had the opportunity to address those conditions prior to the meeting. She asked that the Commission allow staff to respond to each of the developer’s requested revisions.

Commissioner Garcia spoke to Condition No. 63 and inquired if the detention basin would be placed into a Geologic Hazard Abatement District (GHAD), to which staff affirmed that the detention basin would be dedicated to the GHAD as reflected in one of the mitigation measures in the project EIR. Condition No. 66 had also mentioned the dedication of the detention basin to the GHAD.

Commissioner Garcia referenced Condition No. 87 and suggested that it be revised to show that the requirement for written evidence to the Planning Division and Engineering Department of the Contra Costa Water District’s (CCWD’s) ability to supply the project based on Reclamation approval of expansion of the CVP contractual service area to include the project site, not prior to the City approval of the Final Subdivision Map, be revised to read “when the first building permit had been taken out.”

Ms. Hoggatt acknowledged that the developer had made the same suggestion although staff did not agree. Staff was concerned with a revision to that condition since it was a mitigation measure as adopted and part of the EIR. The language had been taken directly from the EIR and the Mitigation and Monitoring Plan.

Commissioner Garcia noted that if the applicant did not have the CVP agreement it would
Commissioner Garcia spoke to Condition No. 85 and understood that it was a new condition. Since there would be liability for the park once built, he suggested that the City should be responsible for the park once built to maintain the facility. He recommended that the condition be eliminated.

Commissioner Garcia also referenced Condition No. 97, as shown, which had recommended the main road into the property not be completed to the property line from Bailey Road to the end of the property line with the funds to construct that portion of the street extension to be credited to the City. He expressed a preference that the road be completed and paved. He was concerned that the funds, if credited to the City, could be used for something else and not be available in the future when needed for the roadway.

Commissioner Garcia further referenced Condition Nos. 102 and 103 relating to the improvements for Bailey Road/Myrtle Road and Bailey Road/Concord Boulevard. He requested a clarification of the fees associated with those conditions.

Ms. Hoggatt explained that the condition had been recommended as part of the Final EIR in January 2004. Staff had met with the City of Concord prior to submitting the EIR to the Planning Commission for recommendation and before the EIR had been submitted to the City Council. The City of Concord’s preference was that the developer construct the improvements. As a compromise, during the Planning Commission and City Council public hearings, staff had recommended that the mitigation measure which had originally only required the developer to pay fees, be revised to require the developer to either pay fees or pay his fair share of costs toward the construction of the improvements.

Ms. Hoggatt added that could be the preparation of the improvement plan or the actual construction of a portion of the improvements, as examples, if that was the developer’s fair share of costs based on his project’s impacts to those intersections.

Ms. Hoggatt further explained that Condition Nos. 102 and 103 had initiated from City staff’s discussions with City of Concord staff and from presentations to the Planning Commission and the City Council prior to the certification of the EIR. The Pittsburg City Engineer would have to determine the alternative selected for the developer to either pay fees or offer his fair share responsibility towards the construction of the improvements and/or the preparation of plans. The City’s Traffic Mitigation Fees could only be used in the City of Pittsburg. If the developer were to pay fees, a separate fund would have to be set up which would be paid to the City of Concord to improve that City’s intersections.

Ms. Hoggatt clarified that the fair share costs would depend on the build out of the project including the BART Specific Plan area, the Alves property and the San Marco development. How the fair share costs would be calculated would consider the size of the project relative to the full build out of the other projects. The number of units in the subject development and the percentage would be translated to the developer’s percentage of...
costs to build the full improvements required to fully mitigate the intersections based on the EIR mitigations.

Commissioner Garcia suggested that the percentage be identified now to apprise the developer of his fair share costs and recommended five percent as that fair share. Mr. Jerome explained that the City did not have the exact percentage and since Bailey Estates would be close to the intersection it would have more of an impact associated with the development than the other developments.

Commissioner Garcia noted that this was the first time the City would be going out to mitigate an adjoining City’s traffic problems. He suggested that it was only fair that a number be identified and that it be no more than five percent. He suggested that be added to Condition Nos. 102 and 103. If the City Council disagreed, it could be revised at the time the Council considered the project.

Ms. Hoggatt advised that the City Council would not be reviewing the Bailey Estates subdivision unless the Planning Commission's decision was appealed to the City Council. The Commission was the final authority on the Tentative Map. She added that the regional fees that the developer would pay would go towards East County. Central County [Concord, Pleasant Hill, and Walnut Creek] had a separate fee structure, which was the reason why the regional fees that developers paid for improvements throughout the East County region could not be transferred to Central County.

Chairperson Leonard recommended that Condition Nos. 102 and 103 be eliminated completely. He also spoke to the staff recommendation for a Mello Roos District for police services. He understood that if another Mello Roos District was created, which he opposed, the police services would be restricted to that site and could not provide emergency services to other areas of the City, basically creating another Police Department. He suggested that would not be in the best interest of the City.

Mr. Jerome clarified that Mello Roos Districts were to be dedicated for services within the area where those who paid into the District were being served. That issue had been worked out with the Consultant, where a certain amount of money could be used for police services in those areas based on the assumed needs, the amount of people in the development, and the costs to add those additional officers. Those services should be dedicated for the specific area.

In response to Commissioner Dolojan, Ms. Hoggatt also clarified the affordable housing requirement, as reflected in Condition No. 16.

Chairperson Leonard opposed the use of the term “shall” in Condition No. 16. He preferred the use of the word “may.”

PUBLIC HEARING OPENED
PROPONENT:

JOHN STREMEL, Bailey Estates, 2762 Hutchinson Court, Walnut Creek, spoke to the time involved on the project to reach this point. He also suggested that the development would represent one of the nicest subdivisions in the City. He noted that the lots would have nice frontages and architecture. The homes would be upscale and in this instance something could be done to create an in-law situation. The in-law units would also work with a single story design element and with what he described as a Hollywood approach garage, since there would be a separate entry on the back side of the house that would allow for a unit where a kitchenette could be included.

Speaking to the Conditions of Approval, Mr. Stremel presented the Commission with a four-page list of Revisions to Conditions of Approval dated June 22, 2004 that he asked the Commission to consider.

Referencing Condition No. 21 as he had revised that condition, Mr. Stremel understood that City staff was in concurrence with the amended condition. He also spoke to Condition No. 22 and asked that the word “public” be deleted from that condition.

Ms. Hoggatt affirmed that staff was in agreement with the applicant’s proposed amendments to Condition Nos. 21, 22, 26, 62, 66, and 82, although she recommended a further amendment to the last sentence and an additional sentence to that condition to read:

82. The dedication and construction of the 2 acre park represents the project fill mitigation, and no in-lieu fees, provided that the cost of improvements equals the value of the balance of the land above 2 acres that the developer would be required to dedicate under the Subdivision Ordinance at the time that the park improvement plans are approved. If the cost of park improvements is less than the value of the balance of the land then the developer would pay the rest of the in-lieu fees in accordance with the Subdivision Ordinance.

Ms. Hoggatt explained the staff was in further agreement with the applicant’s proposed amendments to Condition Nos. 96 and 108.

Speaking to his recommended revision to Condition No. 27, Mr. Stremel recognized that staff was not in agreement with his revision. He advised that he had received approval to annex into the City a few months ago. He identified the area that would not be included in the City limits as part of the annexation since that portion was outside of the Urban Limit Line (ULL). He also identified the location of Parcel D and the portion of Parcel D that would not be annexed into the City limits. Since a substantial portion of Parcel D would not be within the City limits, he suggested that it should not be conditioned for open space.
Ms. Hoggatt requested that Parcel D be retained in the language of Condition No. 27 since staff understood that the property had been excluded from the annexation application, although it was part of the applicant’s Tentative Map. Parcel D had also been reflected in other mitigation measures that would require the parcel to be maintained as permanent open space for biological preservation.

Mr. Jerome added that the tentative subdivision was only subject upon the annexation to the City of Pittsburg. If that portion of Parcel D was not annexed, only that portion of Parcel D within the City limits would be subject to the City’s conditions.

Speaking to Condition No. 28, as amended, Mr. Stremel explained that staff had informed him that the GHAD would maintain hillside issues. In terms of the whole property, in his opinion, the GHAD should be included in the condition to be all-inclusive.

Ms. Hoggatt clarified that the intent of the GHAD was to prevent geological hazards, slope erosion control, slump control and stormwater management. The GHAD was not intended to cut grass nor maintain fire breaks or fencing or other issues related to the maintenance of open space areas. Staff was of the opinion that the reference to the GHAD should be removed from that condition.

As to Condition No. 85, as amended, Mr. Stremel explained that he had asked for 90 days after the City had accepted the improvements which would allow time for a nice transition from those that created the park and those that would maintain the park to ensure it was maintained in a quality method. He suggested that the staff recommended condition that included the language "12 months" was inordinate.

Mr. Stremel emphasized that the developer’s position for the ongoing maintenance of the park and the liability associated with the maintenance made no sense if over a year’s period of time. The park once created would be part of the project and part of the City with the improvements accepted by the City. The developer would still have a longer running responsibility for the maintenance of those issues if something were to go wrong with the park. He suggested that a 90-day period was a reasonable term and would take the developer out of the position with its insurer of having to place a fence around the park for that 12-month period for liability purposes.

Commissioner Garcia suggested that the condition should be amended to reflect that the City would be liable for the park once the improvements were complete since the City would own the park at that time.

Ms. Hoggatt explained that the language in the condition had come from the Public Works Department which wanted to ensure that the trees and plants in the park had adequate time to be established before the park was dedicated to the City.
Ms. Hoggatt acknowledged that this was a slightly different situation in that there had not been a situation where a developer had built the park and dedicated it to the City. The language in the condition was basically an extension of the warranty period.

Commissioner Garcia suggested that the condition be amended to reflect that for one year the developer would be responsible for the replacement of any landscaping. If the developer was required to maintain the park during that time, it would involve a lot more work.

Mr. Jerome added that the intent was that the developer would maintain the park for one year. The condition was primarily a budget control from the City’s perspective whereby where the developer was still developing the subdivision he would maintain the park for that period of time.

Senior Civil Engineer Alfredo Hurtado further clarified that the reason the Public Works Department had added the condition, as worded, was that the City had a shortage of funds for maintenance purposes. If the park was built, the intent was that the City did not have the manpower to maintain it.

Commissioner Garcia recognized that the City had a budget problem, although he would be willing to support the developer’s language for Condition No. 85.

Mr. Stremel spoke to Condition No. 87 and explained that the condition as he had worded would allow him the responsibility of proceeding with the project given that there could be delays with the CVP. He would like the ability to take the responsibility of proceeding on to allow the infrastructure on and off-site to be completed to allow the improvements to be done. He noted that effectively no actual potable water would be needed for the project since there was well water on site, with an opportunity for additional wells on-site to provide water during the grading and initial site improvement processes. Condition No. 91 would involve the same situation under the same rules.

Mr. Hurtado commented that the conditions had been worded by staff, as shown, since the City had problems in the past with other developers who had problem with inclusion into the CVP system. The intent was that the City not set a precedent for future developers or developments in the City. The City’s wells would be running out of water soon and the City had experienced problems in the last couple of months with its well water. Staff would prefer that the developer have all of the inclusions prior to the final map.

Ms. Hoggatt also commented that staff had a concern that the language as shown in the staff recommended condition of approval had been taken directly from the mitigation measure that had been adopted by the City Council when the Mitigation and Monitoring Program had been adopted and in the EIR circulated in the fall of 2003.

Mr. Jerome suggested that the Engineering Department could help the developer to work with some of the improvements. The intent from the CCWD was to compel the applicant to
move forward such that the developer could comply with his obligations with the Bureau of Reclamation. The problem the City had with the San Marco development, as an example, had been that potable water through pipes had been delivered before the CVP inclusion had been completed.

Commissioner Garcia questioned the staff version of that condition and supported the developer’s revision, as proposed.

Ms. Hoggatt clarified during the discussion that at the request of the CCWD and with concurrence from the developer, there had been a reference to a City well, which had been deleted as part of the Final EIR.

Mr. Stremel again stated his position noting that it had been potable drinking water, which had been addressed in the EIR, specifically to ensure that there would be no building permits issued until that issue had been satisfied. The issue was the timing associated with the project and he was working with the CCWD although he emphasized that the CVP was another step beyond the CCWD. He explained that he was not asking for any potable water until he could justify that the CVP had been satisfied and he could commence construction of the units. He would like the ability to proceed with the infrastructure for the subdivision with non-potable water to get the project completed.

Mr. Hurtado commented that under the Subdivision Map Act, the developer should have available utilities and water ready for the improvements prior to approvals.

Mr. Stremel again spoke to the annexation process, which was under review by the CCWD and the Local Agency Formation Commission (LAFCO). He stated that after LAFCO took its action on the annexation request, the CCWD would complete the CVP process and he could return to the City to complete the annexation process. All processes would take some time. He asked that he be allowed to proceed with construction at his own risk knowing that he could not get potable water until he could prove that the CVP has been completed.

Mr. Jerome inquired of staff if rough grading could begin without the improvement plans, to which Mr. Hurtado advised that it had occurred in the past but would be up to the City Engineer to allow.

Mr. Stremel stated that during a meeting with staff two years ago, he had indicated that as soon as the Tentative Map was approved for the project he could submit the grading plan to the City for review. He understood that the City would not take any action on the item until the annexation process had been completed by the City Council.

Mr. Hurtado noted that in the past a developer had requested that the County take over those responsibilities outside of the City limits. The City would therefore not lose the fees. While not on his list, Mr. Stremel referred to Condition No. 95 and opposed the language as proposed, and as shown, for 95 (b) since it had referenced in part “where such current
upgrade is not and will not be required of other developments.” He asked that the condition be amended to reflect that he be allowed to pay his fair share. He suggested that his 249-unit project would not substantially affect what was existing in the area. He suggested that to require him to conduct significant pipe bursting on the sewer infrastructure heading east for the future benefit of the BART Specific Plan, and follow that through the County was not before the Commission and had years to go.

Ms. Hoggatt commented that there were developments along the trunk line that had been approved along State Route 4, which was where the language in 95(b) had come from. The intent of the condition had not been to require the developer to improve the entire trunk line but to acknowledge that there were some developments along the trunk line that would be conducting their portion of upgrades on their property. She noted that the Bancroft Gardens II development, although not entitled, was an application currently being reviewed by staff. If the Commission would like some language added to reflect that the developer pay his fair share, staff was not opposed to that revision.

Mr. Stremel referenced Condition Nos., 102 and 103, which had involved the same issues as the prior condition. He asked that he be allowed to pay his fair share of costs for the intersection improvements in the City of Concord, as shown.

Commissioner Garcia suggested that according to the EIR, 5 percent was a reasonable fee for the developer to pay his fair share of fees. He suggested that a three way stop sign would be fine for Myrtle Drive in Concord. Also Concord Boulevard had an existing traffic signal light. He understood that the City of Concord did not want the developer’s improvements and he questioned the City’s determination to make the improvements. He recommended that Condition Nos. 102 and 103 be amended to show that the developer would pay 5 percent of the fees.

Ms. Hoggatt explained that the language with respect to the payment of fees had come out of discussions with City of Concord staff as part of the EIR process, and had been part of the recommendation to the Planning Commission and the City Council that there be the option to either pay fees, construct improvements, or prepare plans, whichever was selected by the City Engineer. While staff recognized the developer’s concerns and were more than willing to work with the developer on the language as to how the improvements would be prepared and the timing of those improvements, staff was not in agreement with the developer’s revised conditions since it did not express the intent or concerns of the City of Concord.

Ms. Hoggatt requested the retention of the language that would require the developer to do some portion of the improvements if that was what it turned out to be.

As to the recommendation to identify a percentage of the fees for the improvements, Ms. Hoggatt again noted that staff could not quantify a number at this time as part of the conditions. She suggested that it would be reasonable to leave it as a pro rata share, which could be determined when working with the City of Concord and the County as part
Mr. Jerome pointed out that the City had an obligation to mitigate to those intersections in the City of Concord as identified in the EIR. The developer had accepted that responsibility and Condition Nos. 102 and 103, as worded by staff, included a provision that City staff work with the City of Concord to modify the condition to the mutual satisfaction of the cities of Pittsburg, Concord and the developer. The language could be revised to allow staff to work with the developer to the mutual satisfaction of all parties involved.

Mr. Stremel reiterated his argument to be allowed to pay his fair share to allow the plans to be done.

Commissioner Garcia suggested that a condition be added that should the developer and staff not reach an agreement, the developer could return to the Planning Commission to work out the matter.

Ms. Hoggatt affirmed that if the applicant was not in agreement with conditions of approval as approved by the Planning Commission, per the Subdivision Ordinance, the applicant could make a request at a later date that the Planning Commission reconsider a condition of approval.

INTERESTED SPEAKER:

BRUCE OHLSON, Pittsburg, a member of the East Bay Bicycle Coalition Board of Directors, pointed out that the development had no connection to the City’s bike and sidewalk connections and was the second development [Harbor Lights was the first development] that the City was allowing to build without such access. He asked that the development not be approved until there was a condition imposed requiring the developer’s plans to provide connections to the existing sidewalk and bike lanes in the City. Without that connection, he stated that everyone would be dependent upon automobiles with more dependence on foreign oil.

OPPONENTS: None

PUBLIC HEARING CLOSED

Mr. Jerome spoke to Condition No. 97 as shown in Resolution No. 9497 and explained that the intent was to have street “N” designed with a through street into San Marco, although it had not yet been planned or approved. The developer had redesigned the subdivision at staff’s request so that the street could be designed with the through street into San Marco Boulevard or not. If the stub street did not go through it would appear natural if not built. He added that the intent was not to have a stub street to nowhere which would not be used and which would deteriorate because of the non-use, but would be graded. When the bypass was approved in the future, the connection would be completed.
Commissioner Garcia noted that San Marco Meadows was above that site and since the Hillside Ordinance would not allow San Marco Boulevard to be brought over the hill, San Marco Meadows would have to come down to Bailey Road. He understood that the subject development had an agreement with the other developer of the land. In his opinion, if the work was not done now, at a later date the City would have to pay for that work. He expressed a preference that the road be paved right to the end of the property line, as shown in the EIR.

Mr. Jerome advised that when the road was placed it would have to be barricaded off and would end up like Range Road where it would go nowhere, although Commissioner Garcia commented that the road would be in the EIR for San Marco Meadows.

Mr. Jerome pointed out that could be several years out.

MOTION: AP-04-107 (TS)

Motion by Commissioner Garcia to adopt Resolution No. 9497, approving AP-04-107 (TS) a Vesting Tentative map for “Bailey Estates,” with the conditions as shown, as amended, and with the additional conditions as follows:

- Condition No. 21, as revised by the applicant, and as accepted by City staff. [See June 22, 2004 Revisions to Conditions of Approval as provided by the developer and attached hereto.]

- Condition No. 22, as revised by the applicant with the elimination of the language “public” and as accepted by City staff. [See June 22, 2004 Revisions to Conditions of Approval as provided by the developer.]

- Condition No. 26 as revised by the applicant and as accepted by City staff. [See June 22, 2004 Revisions to Conditions of Approval as provided by the developer.]

- Condition Nos. 27 and 28 to remain as written, as shown in Resolution No. 9497, dated June 22, 2004.

- Condition No. 62, as revised by the applicant and as accepted by City staff. [See June 22, 2004 Revisions to Conditions of Approval as provided by the developer.]

- Condition No. 66, as revised by the applicant and as accepted by City staff. [See June 22, 2004 Revisions to Conditions of Approval as provided by the developer.]

- Condition No. 82, as revised by the applicant and as accepted by City staff, as amended further by City staff. [See June 22, 2004 Revisions to Conditions of Approval as provided by the developer.]

- Condition No. 85, as revised by the applicant, including a stipulation where the City
would accept some liability for the 90 days following the informal acceptance of the park improvements by the Public Works Department in the event someone was hurt. [See June 22, 2004 Revisions to Conditions of Approval as provided by the developer.]

? Condition No. 87, to be revised as follows:

The developer shall submit written evidence to the Planning Division and Engineering Department of CCWD’s ability to supply the project based on Reclamation approval of expansion of the CVP contractual service area to include the project site, prior to the first building permits. (EIR Mitigation Measure 4.7-7B)

? The first sentence of Condition No. 91 to be revised as follows:

91. Prior to the first building permits, the developer shall provide:

? Condition No. 95 (b): to be revised to reflect that the applicant shall pay his fair share of the fees for the balance of the trunkline improvements.

? Condition No. 96, as revised by the applicant and as accepted by City staff. [See June 22, 2004 Revisions to Conditions of Approval as provided by the developer.]

? Condition No. 97, to be amended to reflect that the road shall be paved right to the end of the property line, as shown in the EIR.

? Condition Nos. 102 and 103, as written and as shown in Resolution No. 9497, dated June 22, 2004 with the provision that City staff work with the City of Concord to modify the condition to the mutual satisfaction of the cities of Pittsburg, Concord and the developer. The language could be revised to allow staff to work with the developer to the mutual satisfaction of all parties involved.

? Condition No. 108, as revised by the applicant and as accepted by City staff. [See June 22, 2004 Revisions to Conditions of Approval as provided by the developer.]

? The developer shall provide a 15-foot access road down into the detention basin for maintenance and cleaning.

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

Ayes: Commissioners Dolojan, Garcia, Ramirez, Tumbaga, Leonard
Noes: None
Abstain: None
Absent: Commissioner Kelley
Commissioner Tumbaga stepped down from the dais due to a potential conflict of interest with the next agenda item.

**Item 3: Fort Knox UP-98-10 (Revocation Hearing)**

Continued public hearing to determine whether to revoke Use Permit No. 98-10 allowing a self-storage facility at 3865 Railroad Avenue (formerly 3807 and 3833 Shopping Heights Lane) in the C-O-O- (Commercial Office w/Overlay) District; APN 088-072-062 and 088-072-065. (Continued from April 13, 2004).

Associate Planner Noel Ibalio presented the staff report dated June 22, 2004. He recommended that the Planning Commission continue the public hearing to its July 13, 2004 meeting in order to verify the substantial completion of the required wall and landscaping.

Mr. Ibalio advised that the applicant had provided staff with a letter explaining the reasons for the delay on the construction of the wall and reiterating the request for a continuance until July 13 to allow the improvements to be completed.

PUBLIC HEARING OPENED

PROONENT: City of Pittsburg

OPPONENTS:

JOHN CAMPAGNA, 260 Lakewood Road, Walnut Creek, explained that they had hired a contractor in early May when the plans for the wall had been approved, although the contractor had experienced a series of problems which had resulted in delays in the completion of the work.

MIKE BOLEN, Ripon, and the Superintendent for the applicant, David Falk, also spoke to the number of problems that had resulted in numerous delays experienced by the contractor. He understood that the contractor had been unable to cover more than one job at one time. He explained that the bulk of the panels for the walls had been constructed off-site. The wall would also require a concrete mold with sections that would be welded in place to create the design with lights fitted into the wall. Once the concrete panels had been set they could be transported to the site.

Mr. Bolen understood that the contractor had plans to transport the material to the site and would be moving equipment onto the site to complete the drilling the holes for the wall. By the end of the week, the concrete should be poured, I-beam supports installed and the panels beginning to be installed.

INTERESTED SPEAKER:
PETE CARPINO, Pittsburg, advised that he had a copy of the letter provided by the applicant, although none of the surrounding residents had been informed of the reasons for the continued delays in constructing the wall. He questioned the continual delays and promises made by the applicants that the wall would commence at a specific time although the wall had never been started. Residents had lost faith with the applicant’s performance.

Mr. Carpino stated that the general consensus of his neighbors was that the City do whatever it needed to do to resolve the matter. He otherwise spoke to the original hours of operation for the business, as stipulated in the original conditions of approval approved by the Planning Commission. The hours of operation for the facility were only permitted from 7:00 A.M. to 7:00 P.M. Monday through Friday, 8:00 A.M. to 6:00 P.M. on Saturdays and 9:00 A.M. to 6:00 P.M. on Sundays. While he understood that the applicant had interpreted the permitted hours during the week were allowed seven days a week, the applicant had not complied with the original hours of operation. Activity at the facility occurred at all hours, even during holidays. He urged the Commission to ensure that the applicant comply with the original hours of operation for the facility.

PUBLIC HEARING CLOSED

Commissioner Garcia emphasized that the City had spent seven years working with the applicant to achieve compliance with the original conditions of approval. He did not support further continuances. He supported a revocation of the use permit. He advised that the applicant did have the right to appeal any decision of the Planning Commission to the City Council within 10 days of the Commission’s decision. In the meantime, the applicant was urged to complete the wall in the event the Commission’s decision was appealed to the City Council.

MOTION:

Motion by Commissioner Garcia to direct staff to prepare a resolution to revoke UP-98-10, Fort Knox Self-Storage facility. The motion was seconded by Commissioner Ramirez and carried by the following vote:

Ayes: Commissioners Dolojan, Garcia, Ramirez
Noes: None
Abstain: Chairperson Leonard
Absent: Commissioner Kelley, Tumbaga [Recused]

Mr. Jerome explained that a resolution of denial would be brought to the Planning Commission during the meeting of July 13. Once action was taken on the resolution, the 10-day appeal period would commence from that date.

Commissioner Tumbaga returned to the dais at this time.

COMMISSION CONSIDERATIONS:
Item 4: Creekside Village Sign Exception. AP-03-63 (DR)

Application by Chris Valeriote requesting design review approval of plans for the construction of a freestanding sign and sign exception for sign area and location of signage offsite for Creekside Village Senior Apartments located at 30 Castlewood Drive, PD (Planned Development) District; APN 089-060-003. (Continued from June 8, 2004)

Assistant Planner Christopher Barton presented the staff report dated June 22, 2004. He recommended that the Planning Commission approve Resolution No. 9492, approving Design Review AP-03-63 (DR), with the conditions as shown.

PROONENT:

CHRIS VALERIOTE, Terra Nova Development, P.O. Box 6660, Vacaville, explained that when the property had been purchased it was well hidden although they had sought an access easement with utility rights and ingress/egress. He acknowledged that the applicant had neglected to obtain approval for a sign and the party affording the easement was not willing to discuss any signage. The property involved a multi-million complex with no address. Since the site was not clearly visible with any address or signage, response to the facility had been poor. The complex was due to open very soon with a temporary sign that would expire in September. He otherwise agreed with the conditions of approval and expressed his hope that the Commission would approve the sign request and the sign exception.

MOTION: AP-03-63 (DR)

Motion by Commissioner Tumbaga to adopt Resolution No. 9492, approving Ap-03-63 (DR), Design Review approval of plans for the construction of a freestanding sign and sign exception for sign area and location of signage offsite for Creekside Village Senior Apartments located at 30 Castlewood Drive for “Creekside Village Sign Exception,” with the conditions as shown. The motion was seconded by Chairperson Leonard and carried by the following vote:

   Ayes: Commissioners Dolojan, Garcia, Ramirez, Tumbaga, Leonard
   Noes: None
   Abstain: None
   Absent: Commissioner Kelley

Item 5: Pittsburg Commerce Center. AP-03-69 (DR)

Application by Stan Davis requesting design review approval of architectural and site development plans to construct a 49,250 square foot building containing eight units on a 4.22 acre lot located just east of 701 Willow Pass Road between Empire Business Park and Heritage Pointe. The site is zoned IP-O (Industrial Park with a Limited Overlay) District. APN: pending.
Associate Planner Ken Strelo presented the staff report dated June 22, 2004. He recommended that the Planning Commission adopt Resolution No. 9496, approving AP-03-69 (DR), with the conditions as shown.

PROPONENT:

JIM MILLER, Project Architect, 600 Cumberland Street, Pittsburg, explained that the project was a for-sale commercial project with eight new businesses in the City that would be paying sales and property taxes to the City. The building design would be broken up by stepping the building where it would not appear to be one large piece and would consist of one level, with the individualization of each unit. Each unit would have an entry projection out from the wall with the windows to be recessed, offering each unit a separate identity. Building signage would be submitted to the Commission for review in the near future. Signage had been envisioned above each one of the covers over the entrance areas.

Mr. Miller identified the landscaping that had been proposed noting that while 10 percent was required, the project would provide 22 or more percent of landscaping. He advised that the owner had agreed to the staff recommended conditions of approval, although there was a concern with the requirement for landscaping in the parking areas necessitating the planting of trees which would result in the loss of seven parking spaces. While the site had more parking spaces than required, the property owner desired to provide as many parking spaces as possible for future uses that could have a higher intensity, such as Light Industrial or a Commercial use. As such, areas to place the landscaping without jeopardizing parking spaces were preferred.

STAN DAVIS, 1023 Bird Avenue, San Jose, also spoke to the desire to retain the existing parking spaces. He pointed out that the recommendation for the additional trees would be against the railroad which bordered the property. He emphasized that the site would be adequately landscaped, although he did not want to commit to planting the trees which would result in the loss of the seven parking spaces.

Commissioner Garcia suggested that the landscaping issue be worked out with staff.

Mr. Strelo explained that when he had worked out the parking and landscaping numbers, he had been replacing parking spaces with landscaping islands. Speaking to the landscaping plan he pointed out where the trees could be located. He suggested that there could be room outside of the existing asphalt area to place a tree without losing more parking. He was uncertain whether or not that would work on the south property line.

Mr. Miller commented that the south property line was three feet and the railroad easement had a setback from the center line that must be maintained at nine and a half feet on curves and eight and a half feet on straight-aways. Due to the configuration of the lot and the parking, they had proposed as much landscaping as could be provided. He recommended that some of the parking spaces be shortened to allow the installation of a
Mr. Strelo suggested that could be done for the 90 degree spaces. He explained that he was only thinking of one tree on the front parking spaces closest to Willow Pass Road and two to three trees along the south property line. If compact spaces were provided, that could be another alternative although those spaces would have to meet City code for parking width.

Mr. Miller reiterated that it was unknown whether or not there could be a more intense use in the future and they could likely not be able use the compact parking spaces for a potential use. The building and parking had been designed based on a Light Industrial use with 1,500 square feet of office, per unit. There could be a buyer who would be interested in a 3,000 to 4,000 square foot office and 1,500 square feet of manufacturing, which was something the developer desired to prepare for in the future.

Commissioner Garcia suggested that since there was more parking than needed, some could be changed to compact parking spaces.

Mr. Jerome explained that the Zoning Ordinance included a provision for a parking space length reduction whereby 20 percent of the required parking spaces could be reduced to 15 feet in length, with the front two feet of the standard space used for either a landscaped area or a light standard.

Commissioner Garcia suggested that staff and the architect work out that issue.

Mr. Miller expressed a desire to work with staff to accomplish those goals.

LYN ESTRELLA, 208 Dawson Court, Pittsburg understood that Hunter Paine would be part of the project.

Mr. Davis understood that the business would be located next door to his property but would not be a part of his development.

OPPONENTS: None

MOTION:

Motion by Commissioner Tumbaga to adopt Resolution No. 9496, approving AP-03-69 (DR), approving architectural and site development plans to construct a 49,250 square foot building on a 4.37 acre lot located on Willow Pass Road (between Empire Business Park and Heritage Pointe Residential subdivision for "Pittsburg Commerce Center," with the conditions as shown and with the applicant to work with staff on the recommended landscaping. The motion was seconded by Commissioner Ramirez and carried by the following vote:
Ayes: Commissioners Dolojan, Garcia, Ramirez, Tumbaga, Leonard
Noes: None
Abstain: None
Absent: Commissioner Kelley

STAFF COMMUNICATIONS:

Mr. Jerome reported that the City Council had considered an appeal of the Addition for the Meat Market on Railroad Avenue. The Council had denied the appeal from one of the tenants of the building and had upheld the Planning Commission’s decision for design review approval of the project with some minor modifications.

The City Council had also directed that staff hire a consultant to prepare hillside regulations consistent with the General Plan, although staff had determined that would not be needed since they would only have one application remotely involved in the hillside development in the near future.
Mr. Jerome understood that developer would be resubmitting an application for development, which would remain consistent with the hillside regulations.

Further, the City Council had made appointments to the Planning Commission. Frank Gordon had been appointed to a one-year term. Bruce Ohlson and Elizabeth Williams-Jones had been appointed to three-year terms. Rose Mary Tumbaga had also been reappointed to a three-year term. New Commissioners would be sworn in during the July 13, 2004 Commission meeting.

COMMITTEE REPORTS:

There were no Committee Reports.

COMMENTS FROM COMMISSIONERS:

Commissioner Garcia thanked Mark Leonard for his work on the Commission and his service to the City. He otherwise spoke to the tentative schedule provided to the Commission included in the Commission packets. He inquired if the date of the applications could be identified with the status of the project.

Mr. Jerome noted that the status had been shown for each application although many were incomplete applications.

Mr. Strelo advised that those applications with no project number listed under each City staff person had indicated that the project had been approved by the Planning Commission with the project either in the plan check phase or a phase where a Certificate of Occupancy had yet to be issued.

Commissioners Dolojan, Ramirez and Tumbaga also thanked Mark Leonard for his work.
Chairperson Leonard expressed his appreciation to staff and the Commission.

**ADJOURNMENT**

There being no further business, the meeting adjourned at 11:28 P.M. to a regular meeting of the Planning Commission on July 13, 2004 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