A regular meeting of the Pittsburg Planning Commission was called to order by Vice Chairperson George Harris at 7:00 P.M. on Tuesday, February 10, 2004, in the City Council Chambers of City Hall at 65 Civic Avenue, Pittsburg, CA.

[Note: Due to equipment failure, a portion of this meeting was not recorded on tape.]

ROLL CALL:

Present: Commissioners Dolojan, Garcia, Kelley, Ramirez, Tumbaga, Vice Chairperson Harris

Absent: Chairperson Leonard

Staff: Director of Planning and Building Randy Jerome; Planning Manager Melissa Ayres; Assistant Planner Dana Hoggatt; Associate Planner Noel Ibalio; Planning Technician Christopher Barton; Chief Building Official John Little; and Civil Engineer II Alfredo Hurtado.

PLEDGE OF ALLEGIANCE:

Commissioner Ramirez 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.  PC Minutes January 27, 2004

MOTION:

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

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

PUBLIC HEARINGS:

Item 1:  Moore Auto Repair. UP-02-26 and DR-02-34.

Public hearing on an application by Patrick Moore requesting: 1) a use permit to establish an auto body repair business, and 2) design review approval of architectural and site development plans to construct two 2,090 square foot buildings on two adjacent undeveloped parcels, each with an area of 0.14 acres and 0.13 acres, located at 1230 Solari Street and 395 Central Avenue (respectively), Service Commercial General Plan Land Use designation; APNs 086-131-009 and 086-131-010. (Continued from January 27, 2004)

Assistant Planner Dana Hoggatt presented the staff report dated February 10, 2004. She recommended that the Planning Commission adopt Resolution No. 9471 approving UP-02-26 and DR-02-34, with the conditions as shown.

Ms. Hoggatt clarified that although the agenda description was as shown, the application was actually a request for the approval of an automotive engine repair business and design review approval of the architectural and site development plans to construct the 2,750 square foot building on the 0.27 acre property.

PUBLIC HEARING OPENED

PROPOINENT:

STEVE ADAMS, Clayton, was present on behalf of the applicant, Patrick Moore. He had nothing further to add to the staff report.

Commissioner Dolojan expressed concern with the proposal and the fact that the proposed business could impact the surrounding uses, specifically the existing residential and church development. He expressed concern with the potential noise and hazardous
waste impacts that could occur and suggested that the automotive engine repair business was not appropriate for the subject site.

OPPONENTS:

OVETTE BALUYUT, Antioch, expressed concern with the proposal given that he had built and developed residential units in the area. He suggested that the proposal was not appropriate or compatible with the existing surrounding uses. He also spoke to the former zoning designation for the area which had then only allowed for residential development, although he understood that designation had since been changed by the City Council to Service Commercial. He questioned the change and also questioned allowing another automotive engine repair business in the area which was already saturated with existing similar businesses. He urged the development of single family residential homes.

Mr. Baluyut also questioned the potential impacts the use could have on the existing residential properties in terms of noise, hazards and parking of vehicles to be serviced. He suggested it was likely that the vehicles would not be properly stored on the site but instead be parked throughout the neighborhood.

STEVE BARRUEL, Pittsburg, Pastor of the Christian Renewal Ministries, expressed similar concerns with the proposal. Speaking for his congregation he expressed concern with the potential impacts as result of the use, also related to noise, health and safety hazards and the potential for vehicles to be parked in the area. He questioned the fact that although the proposal called for a six-foot wall along the southern property line and an eight-foot tall masonry wall on the western property line, there were no plans for any walls for the northern property line, which was situated, adjacent to the church.

Pastor Barruel also questioned the City's wisdom in permitting another automotive repair business in the area while there were several existing in the same area. He suggested that the City should not permit such development and should encourage single family development. He also questioned the zoning designation for the property.

Vice Chairperson Harris pointed out that if the proposal met the City’s zoning, use permit and design review requirements, the City could not prevent such a business in the community. He inquired of the applicant whether or not any work would be conducted outdoors.

Mr. Adams emphasized that all work would be conducted inside the buildings, as conditioned.

Mr. Adams expressed his confidence that there would be few noise impacts in that the work would be done inside with tools that would generate little noise. He was also confident that the parking would be adequate for the use and employees and that the vehicles to be serviced would be properly stored on site, and not be parked in the
neighborhood.

Mr. Adams also emphasized that he would be operating the business and would take pride in the site and its operations.

In response to Commissioner Tumbaga, Ms. Hoggatt clarified that although staff had recommended the elimination of one of the two handicap parking stalls, the site would still comply with the required handicap parking ratio and would still have the necessary parking to meet the demands of the site and the proposed use.

PUBLIC HEARING CLOSED

**MOTION: UP-02-26 and DR-02-34**

Motion by Commissioner Garcia to adopt Resolution No. 9471, approving Use Permit UP-02-26 to allow Vehicle/Equipment Repair, Major and Design Review DR-02-34 of architectural and site development plans to construct a 2,750 square foot building at 395 Central Avenue and 1230 Solari Street, for “Moore Auto Repair,” with the conditions as shown. The motion was seconded by Commissioner Ramirez and carried by the following vote:

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

**Item 2: Ho Residence. AP-03-68 (UP).**

Public hearing on an application by Chaung Dai Ho requesting a use permit for construction of a 345 square foot ground floor and 718 square foot second story addition to an existing 1,481 square foot home located on a substandard lot at 3374 Cecilia Way, RS (Single Family Residential) District; APN 087-054-011.

Assistant Planner Christopher Barton presented the staff report dated February 10, 2004. He recommended that the Planning Commission adopt Resolution No. 9467, approving design review application AP-03-68 (UP), with the conditions as shown.

PUBLIC HEARING OPENED

**PROONENTS:**

CHAUNG DAI HO, 3374 Cecilia Way, Pittsburg, stated in response to the Vice Chair, that he had read and was in agreement with the staff recommended conditions of approval. He also clarified, when asked, that he would be conducting the work on the property.

Commissioner Ramirez complimented Mr. Ho on the proposal noting that he had driven
past the property and that the proposed addition would fit in well with the site.

OPPONENTS: None

PUBLIC HEARING CLOSED

MOTION: AP-03-68 (UP)

Motion by Commissioner Garcia to adopt Resolution No. 9467, approving Use Permit AP-03-68 (UP) to construct a 346 square foot ground floor and 718 square foot second story addition to an existing 1,812 square foot home located on a substandard lot at 3374 Cecilia Way, for “Ho Residential Addition,” with the conditions as shown. The motion was seconded by Commissioner Kelley and carried by the following vote:

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

Item 3: Evola Brothers Auto Services. AP-04-84 (UP).

Public hearing on an application by Michael Evola requesting a use permit to allow major vehicle/equipment repair within two existing buildings on a 2.7 acre site at 580, 582, 584, 586 and 588 West Tenth Street, CS (Service Commercial) zone; APN 085-270-018.

Assistant Planner Christopher Barton presented the staff report dated February 10, 2004. He recommended that the Planning Commission adopt Resolution No. 9472, approving Use Permit application AP-04-84 UP), with the conditions as shown.

Commissioner Garcia identified a number of conditions in the resolution of approval which had been duplicated and which should be eliminated. He also noted that although the photographs in the staff report had shown the property in a poor condition, his recent visit to the site had found that the property had been cleaned up quite a bit.

PUBLIC HEARING OPENED

PROONENT:

SALVATORE EVOLA, 4061 Port Chicago Highway, Concord, speaking on behalf of the applicant, his father Michael Evola, spoke to the proposal and requested revisions to some of the conditions of approval.

Mr. Evola identified requested revisions to Condition Nos. 3, 4, 6, 7, and 8 and requested the elimination of Condition Nos. 9, 29, 30, 31, 32 and 33. For Condition No. 3, he recommended the following:
3. The applicant shall submit an LS1 (phase 1) environmental soils analysis report with recommendations to the Engineering Department within 90 days of approval of this resolution.

To Condition No. 4:

4. A copy of an industrial storm water discharge permit application issued by the State Water Resources Control Board for the site shall be submitted to the Planning and Building Department within 30 days of approval of this resolution.

To Condition No. 6:

6. The existing asphalt surface on the southern half of the property shall be resurfaced. Resurfacing plans shall be submitted to the engineering department within 90 days after last existing tenant (in western building) has vacated the property. The asphalt shall be resurfaced within 90 days of the engineering department’s approval of the resurfacing plan.

To Condition No. 7:

7. The area designated for “vehicles awaiting service” shall be graveled as shown on the submitted plans. Plans for graveling the surface shall be submitted to the engineering department within 90 days after last existing tenant (in western building) has vacated the property. The asphalt shall be resurfaced within 90 days of the engineering department’s approval of the resurfacing plan.

To Condition No. 8:

8. The site shall be landscaped to meet the PMC landscaping requirements for the West Tenth Street Overlay (CS-O, Z-93-04) District. This requires that at least seven percent of the site shall be landscaped and that one tree be planted for every six required parking spaces onsite. Required landscaping shall be concentrated along the property’s frontage at West Tenth Street.

Landscaping plans shall be submitted to the City Park Planner for review within 90 days after last existing tenant (in western building) has vacated the property. Landscaping shall be installed within 90 days of the engineering department’s approval of the landscaping and irrigation plan.

Mr. Evola noted that the property had recently been cleaned up and there remained an existing tenant on the eastern side of the property who conducted a custom wood and metal stripping business. The western side of the property was occupied by an
unapproved automobile related business. Efforts were being made to remove certain tenants through the legal eviction process.

Speaking specifically to Condition No. 9, Mr. Evola commented on the improvements that had been made to the property, at great expense. Rather than require a roofed trash enclosure for all of the units conducting vehicle repair, he requested that the tenants be allowed to use existing receptacle bins which the tenants had indicated were more than adequate. He understood that the users would generate little trash.

Planning Manager Melissa Ayres commented that the requirement for a roofed trash enclosure might not be able to be waived in that it was related to National Pollutants Discharge Elimination System (NPDES) requirements.

Civil Engineer II Alfredo Hurtado advised that the use of the individual receptacle bins for trash pick up would be acceptable because no new construction was being proposed in conjunction with the change of use.

Commissioner Garcia made a motion to approve Resolution No. 9472, with modifications to Condition Nos. 3, 4, 6, 7, and 8, as discussed, and with the elimination of Condition Nos. 9, 29, 30, 31, 32, and 33, some of which were duplicate conditions.

OPPONENTS: None

PUBLIC HEARING CLOSED

MOTION: AP-04-84

Motion by Commissioner Garcia to adopt Resolution No. 9472, approving Use Permit AP-04-84 (UP) to allow Vehicle/Equipment Repair, Major within two existing buildings on a 2.7 acre site at 580, 582, 584, 586 and 588 West Tenth Street for “Evola Brothers Auto Services,” with the conditions as shown and with modifications to Condition Nos. 3, 4, 6, 7 and 8, as shown, and with the elimination of Condition Nos. 9, 29, 30, 31, 32 and 33. The motion was seconded by Commissioner Ramirez and carried by the following vote:

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

Item 4: LA Superior Market. AP-03-71 (UP).
Public hearing on an application by Robert Berger requesting approval of a use permit to
establish a grocery store in an existing 26,000 square foot building in the Pittsburg Towne Center Shopping Center, located at 2941 Railroad Avenue. The site is zoned CC (Community Commercial); APN 088-121-031.

Associate Planner Noel Ibalio presented the staff report dated February 10, 2004. He recommended that the Planning Commission adopt Resolution No. 9470, approving AP-03-71 (UP), with the conditions as shown.

PUBLIC HEARING OPENED

PROPONENTS:

JAMES HEILBRENNER, Architect, speaking on behalf of the applicant, Robert Berger, explained that as indicated by staff, signage for the building would involve a separate application and would return to the Commission at a later date. He understood that the store would be open for business from 8:00 A.M. to 9:00 P.M. seven days a week with loading to be done at the rear of the site. A security wall would be installed at the rear of the property to screen the rear from the neighboring properties.

INTERESTED SPEAKER:

TIM SEILER, Danville, representing Sierra Pacific Properties, the owner of the neighboring residential development to the rear, expressed concern with the proposed retail use which could generate noise from the loading dock at the rear. He recommended that the hours for the loading dock be limited from 11:00 A.M. to 2:00 P.M. He also expressed concern with the amount of debris generated from the property, which had impacted the neighboring sites. Further, he recommended that a landscaping strip between the site and the adjacent residential use be installed to soften the appearance of that area between the two uses.

Vice Chairperson Harris encouraged the applicant to work with Sierra Pacific Properties to resolve their concerns.

Mr. Heilbrenner explained that with the new security wall between the property and adjacent uses to the rear he was confident that litter and noise impacts would not be a concern. As to the loading dock area, Mr. Heilbrenner again suggested that deliveries be allowed during business hours. In response to the request for additional landscaping, he spoke to the constraints between the site and the rear use and noted that it would be difficult to provide a landscaping strip between the subject building and the rear residential development owned by Sierra Pacific Properties.

Vice Chairperson Harris again encouraged the applicant to work to resolve the concerns that had been expressed.

PETE CARPINO, Pittsburg, also expressed concern with the debris on the site, which had
impacted the residential development to the rear. He encouraged the applicant to properly maintain the property. He questioned whether or not the City could restrict the amount of advertising related to the center. He commented on the excess amount of banners, signage and the like that the existing tenants had been using which had, in his opinion, turned the center into an eyesore.

OPPONENTS: None

PUBLIC HEARING CLOSED

MOTION: AP-03-71

Motion by Commissioner Garcia to adopt Resolution No. 9470, approving Use Permit AP-03-71 (UP to establish a grocery store at 2941 Railroad Avenue (Pittsburg Towne Center) in an existing 26,000 square foot space located at the northeastern corner of Railroad Avenue and Atlantic Avenue with the conditions as shown, and with an additional condition limiting the hours of delivery from 8:00 A.M. to 5:00 P.M. The motion was seconded by Commissioner Kelley and carried by the following vote:

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

Commissioner Tumbaga recused herself from the next item as a result of a potential conflict of interest. She left the dais at this time.

Item 5: Fort Knox. UP-98-10 (Revocation Hearing).

Public hearing to determine whether Use Permit No. 98-10 allowing the establishment of a self-storage facility at 3865 Railroad Avenue (formerly 3807 and 3833 Shopping Heights Lane) shall be revoked.

Associate Planner Noel Ibalio presented the staff report dated February 10, 2004. He recommended that the Planning Commission revoke UP-97-02.

Commissioner Garcia emphasized the problems the City had with the applicant who had not responded to the conditions of approval that had been imposed on the project. He also expressed concern that the applicants had continued to purchase property while suggesting that they did not have the monies to conduct the required improvements and meet the required conditions as part of the original approval. He questioned whether or not the applicants would ever comply with the required conditions.

Vice Chairperson Harris echoed Commissioner Garcia’s concerns.

PUBLIC HEARING OPENED
PROPONENT: City of Pittsburg

OPPONENTS:

DAVID FALK, 5670 Starbird Drive, Discovery Bay, representing Fort Knox Self Storage facility, thanked the Commission for allowing him to respond to the staff report. He spoke to correspondence he had received on May 13, 2003, which had identified a number of conditions, which he suggested, had been met. He emphasized the amount of money expended on the business, which had operated on a $10,000 to $15,000 negative until two months ago. He explained that the document storage facility had been purchased to offset the losses of the self-storage facility to allow the business to remain in the community and remain open for business.

As to the U-Haul truck rental business on the property, Mr. Falk commented that U-Haul had approached him indicating that they were being shut down. He had been unaware that the approval of a use permit was required for that business and he apologized for the oversight. He expressed his hope that U-Haul would be allowed to remain suggesting that they would go out of business if that business were not permitted.

Commissioner Garcia again questioned whether or not the applicants would meet the required conditions. He noted that the applicants had repeatedly stated to the Planning Commission that they did not have any money although they continued to purchase property and had made numerous revisions to the original approvals. He questioned the U-Haul rental business on the property, which had not been approved by the City. As such, he stated that was an illegal use that should cease until approval had been obtained.

Mr. Falk reiterated that the self-storage facility had been operating at a loss and that the U-Haul business had been added in an effort to add revenues.

Mr. Falk emphasized that plans had been submitted for everything done on the site. He noted that he had a demolition permit for the warehouse where the document storage was located and had permits for fire sprinklers. A racking drawing had been submitted for permits which had been received by City staff.

Mr. Falk advised that he had received a letter from the City on May 13, which letter had identified a number of conditions that staff had described as not being resolved. Immediately after receiving that letter he had scheduled a meeting with the Chief Building Official, for May 23. The conclusion of that meeting was that there remained five issues to be resolved. Those remaining issues included landscaping along the areas of erosion where a wall had been installed and where staff had requested some drainage and planting material. He stated that had been done and had been inspected by the City. They had also been directed to provide plans and the design for the wrought iron fence and to submit landscaping drawings for approval.
Mr. Falk explained that after that time he had submitted a set of plans to the City. The plans for the wrought iron fence and landscaping had been stamped by an architect. The erosion control and landscaping requirement had been met. He stated that staff had requested that the Chief Building Official review the plans for completeness. In September, he had conversations with the City to inquire of the status of those plans. He expressed concern that there was an implication that he had been lacking in communicating with staff, which he stated was not accurate.

Mr. Falk reported that on November 4 he had another meeting with City staff to again learn of the status of the submitted plans which he later found had been lost by City staff. As to the originally approved wrought iron fence, he noted that there had been concerns that if such a fence were installed those residents along El Dorado Drive would not approve of that design since there would be views into the site. At that time, they had decided to install a decorative stucco wall which had been a revision that had been supported by City staff.

Ms. Ayres clarified that the discussion referenced by Mr. Falk had been with she and Mr. Little. She could not recall whether or not Mr. Ibalio had been present during those discussions.

Mr. Falk went on to explain that City staff had some concerns with the landscaping plans and had requested some changes, with the wall calculations to be identified on the drawings. In December he had again submitted to the City a stamped set of drawings with calculations for the wall and the design of the landscaping in response to the discussions with staff during the prior meeting in November.

Mr. Falk noted that comments had been received by City staff in January 2004 on the drawings and that responses back to staff had been provided. The landscaping drawings would be resubmitted as a result.

Vice Chairperson Harris expressed concern that the Planning Commission had made numerous requests for representatives from Fort Knox to appear before the Commission to address the non-compliant conditions of approval and to identify the time frame when the work would be done. There had been no response to those repeated requests and the applicants had refused to appear before the Commission.

Ms. Ayres verified that a letter had been sent by a staff Planner approximately a year ago, through certified mail, to the owners of the property to invite the owners of the property to appear before the Planning Commission to advise of the status of the project.

Mr. Falk explained that had been around the time that he had met with the Chief Building Official to address the staff concerns.

Vice Chairperson Harris disagreed in that a number of requests had been made after that
time by the Planning Commission for representatives from Fort Knox to appear before the Commission. The Commission had no knowledge of the plans for the revision to the fence and the new proposal for a concrete masonry wall.

Commissioner Garcia questioned whether or not the applicant had, in fact, obtained permits for the building racks, and whether or not the applicant had installed a backflow device as part of the increase to the size of the water main. He further questioned whether or not the Contra Costa County Fire Protection District (CCCFPD) had signed off on those improvements.

Mr. Little affirmed that the applicant had installed the building racks without building permits. As to the work done to increase the size of the fire main, he had not provided any permits for that work.

Mr. Falk stated that he was unaware of any violations with the CCCFPD in that the District had signed off on the referenced water main.

Mr. Hurtado stated that he was also unaware of any permits being issued by the City for that work in that a permit was required more than 22 hours in advance so that an inspection could be done prior to the installation of a pipeline.

Mr. Falk advised that the water main issue was not on the list of issues identified by staff in his letter dated May 13. He questioned the implication that he would actually tie into the City’s water main without proper permits. He reiterated that the work had been signed off by the CCCFPD.

Commissioner Garcia noted that the CCCFPD did not make the City’s inspections in that the Building and Engineering Departments conducted inspections and issued permits for such work. He again questioned whether or not the water main work had been properly completed and with the required permits.

Chief Building Official John Little explained that he had been dealing with the project for about a year in an effort to communicate with the applicant. While the owners had been communicating with staff and had been cooperative, he stated that they had not done what staff had asked them to do. He had prepared a number of lists of items yet to be resolved. While there had been communication problems and misunderstandings, rather than do the work as identified by staff the applicant had made changes and had then requested that staff review and approve those new changes.

As an example, Mr. Little cited the plans for a block wall as a change from the originally approved wrought iron fence with pilasters. He stated that he had not plan checked those recent revisions since the new proposal for the block wall had not been reviewed and approved by the Planning Commission.
Mr. Little commented that the greatest violation found on the property was that the applicant had a building identified for document storage that was being used without a Certificate of Occupancy. The building was in excess of 40 years of age, had no upgrades with permits, and had been illegally occupied in the past by a church for a number of years. Prior to that time, the building had been used as a retail business. Staff had requested that the building be upgraded. That work had not been done, although the building was being used with no approvals.

Mr. Little was also unaware whether or not the applicant had the backflow device on the water main as required in that he had not inspected those improvements.

Mr. Falk explained that he had contracted with Aquamatic Plumbing for that work and he questioned the implication that he was sneaking around to have work done. He emphasized that the Fire Marshall had walked the site and had inspected the entire facility. He reiterated that the issue now being discussed was not on the list of items identified by staff that had yet to be resolved.

As to whether or not the plumbing contractor used by the applicant was licensed to work in the City, Mr. Little stated that he was uncertain whether or not that was the case.

Commissioner Garcia expressed concern for the applicant's insistence on doing whatever he liked without City review and approval. He noted his understanding that the City could turn the water off since the applicant did not have the required permits.

Mr. Falk reiterated that the Fire Marshal had walked and inspected the site. He commented that if the Commission was of the opinion that it was best for the City, then the business should be shut down. He emphasized his investment into the community and stated that he was not trying to avoid any City requirements. He suggested that the list that he had received from staff of items yet to be resolved had been completed. He noted that if the water issue was a concern it would be researched.

Commissioner Garcia suggested that the applicant's list of unresolved items was not complete in that he understood there remained many unresolved issues.

Commissioner Kelley inquired how many letters the applicant had received requesting his appearance before the Planning Commission. She understood that requests had been made as far back as 1997.

Mr. Falk recalled one letter he had received approximately a year and a half ago. The only other time he was aware of a request for a meeting had been around May 13 when he had spoken with Mr. Little, who he suggested had been unclear about the status of permits for the property. After discussing the issues with Mr. Little and with Associate Planner Ibali, staff had come up with basically three issues. He clarified that he had not been a part of the project in 1997.
Vice Chairperson Harris reiterated the number of requests made for the applicant to appear before the Commission, many of which he had made personally. He suggested that the only reason the applicant had appeared was because of the possibility of the revocation of the use permit.

Ms. Ayres clarified, when asked, that the request for the applicant to appear before the Planning Commission had been made through certified mail.

Planning Technician Christopher Barton advised that he had sent at least two certified letters to the applicant but would have to review the files to research the exact number of requests that had been made inviting the applicant to appear before the Planning Commission.

Commissioner Ramirez recalled that there had been two meetings when the project had been agendized and when no one representing Fort Knox had been in attendance.

Mr. Falk requested copies of the letters being referenced.

Speaking to Page 4 of 6 of the staff report, specifically the Standard Conditions of Approval for Use Permit (Planning Commission Resolution No. 8977), Vice Chairperson Harris requested that the applicant and the Commission walk through each of the conditions identified as being non-compliant to clarify the status of each.

Referring to Condition No. 8, DENISE NEWMAN, 150 Druin Drive, Apt #15, Rio Vista, identified herself as the General Manager of the Fort Knox Self-Storage facility. She noted that condition had been met and that the landscaped area was being maintained in a healthy, thriving and weed free condition.

JOHN CAMPAGNA, also representing Fort Knox Self-Storage, added that a Code Enforcement Officer had inspected the site to assess its condition and that he had advised the Officer that the property would be maintained and that the required work would be completed.

Commissioner Garcia commented that they were speaking of the weeds along the fence which he understood had been cut down.

Ms. Ayres clarified that there was actually no landscaping in the area being discussed.

As to Condition No. 9, Ms. Newman advised that the property had been maintained in a neat and clean manner free of trash and debris on a daily basis.

Mr. Campagna acknowledged that there were times when debris had been left on the property although it had not been related to the business.

Mr. Ibalio reported that he had visited and visually inspected the site and had found weeds
Speaking to the Conditions of Approval for Use Permit Application No. 97-02, specifically Condition No. 6, Mr. Ibalio advised that the applicant had not met all requirements of the Building, Engineering Division, Contra Costa County Fire Protection District and all local, State and Federal agencies, as identified in Attachment 3 to the staff report.

Mr. Falk understood that there were no issues unless there was an issue with the CCCFPD of which he was unaware. He reiterated that he had signed off permits from the City’s Building Department for the racking and all phases of construction for the inside units, as well as finals on everything that had been submitted. The racking company had submitted a permit for the document storage building with information on structural calculations. The CCCFPD had submitted an application to add fire sprinklers in that area which had been permitted.

Mr. Little disagreed with the applicant’s statement. Again, he noted that there was a misunderstanding in that the document storage building had not had a code upgrade in over 40 years and involved a series of illegal businesses and uses. While he had explained the necessary requirements to the applicants, the applicants did not agree with the need to do anything.

While it was possible that no additional work might be required, Mr. Little had requested that an architect or licensed professional evaluate the building to verify the situation.

Mr. Falk explained that he had gone down to pick up the racking permit but did not have the permit since the Chief Building Official had informed him that he would not issue the racking permit since the wall was not in place, although he noted that wall drawings had been submitted and received by the City in July 2002.

Mr. Little reiterated that the document storage building did not have a Certificate of Occupancy since it had not been analyzed in the fashion he had directed the applicant to have done. Staff did have a permit for the racking, which was in plan check, and the plan checker had responded with comments to the applicant. There had been no response from the applicant’s architect.

Mr. Falk reiterated that he had a permit that was ready to be picked up and that the City stated that it could not issue the permit until the building had been analyzed. He reiterated again that issues raised by Mr. Little were on the set of drawings previously submitted to the City.

Speaking to Condition No. 8, Mr. Falk suggested that they had complied with that condition other than providing the landscaping on El Dorado Drive.

Mr. Ibalio explained that upon inspection of the site there was landscaping on the southern
property line, although the landscaping required for El Dorado Drive had yet to be installed.

Mr. Falk stated that had always been on the set of drawings submitted to staff. He understood that a permit was needed to conduct that work.

Speaking to Condition No. 11, Mr. Falk reiterated that he was unaware that a permit was needed for the U-Hail business. He acknowledged that he had later learned from staff of the requirement for a use permit and that staff had provided assistance in filing a use permit.

Regarding the conditions of approval for Planning Commission Resolution No. 8978, specifically Condition No.1, Mr. Ibalio reiterated that the applicant had complied with that condition other than the required landscaping along El Dorado Drive. Condition Nos. 2 and 5 were similar conditions to the use permit conditions and were noted as compliant or non-compliant as indicated in the staff report.

Mr. Ibalio stated with respect to Condition No. 5 that the applicant had not met all of the requirements in that condition.

Mr. Falk again reiterated that a permit was not being issued until a wall was in place, as earlier discussed.

In response to Condition Nos. 14 and 15, Mr. Falk further reiterated that the landscaping plan had been submitted to the City for approval and were the same plans as those which had been submitted in July, with the exception of revisions of the wrought iron fence to a masonry wall.

Mr. Ibalio affirmed that those plans had been submitted by the applicant on December 12, 2003.

Vice Chairperson Harris inquired whether or not the revised plans for the wall had been reviewed by the Building Department.

Ms. Ayres acknowledged that the applicant had submitted the landscaping plans which staff had for several months. The Project Planner was holding the plans until such time as revisions requested by staff had been incorporated into the landscaping plans. At that time, the final landscaping and fence plans would be presented to the Planning Commission. The fence plans were considered to represent a minor change to the originally approved design review. Staff would return with a request to revise the fence plans if the Commission was comfortable with replacing the original wrought iron fence with the masonry wall. She commented that staff was comfortable with that revision and the applicant had been informed of staff's opinion, although it did require Planning Commission review and approval.
Commissioner Garcia inquired whether or not permits had been issued for the removal of the overhang in front of the document storage building.

Mr. Little acknowledged that work had been done with a demolition permit, although the applicant had not submitted engineering drawings to show what effect that would have on the interior of the building. He assumed that the demolition permit was for interior demolition only. He reiterated that the inside of the building was being used although a Certificate of Occupancy had not been issued for the use of that building.

Vice Chairperson Harris also identified a sign over the document storage building which had not been approved and which must be removed.

INTERESTED SPEAKER:

PETE CARPINO, Pittsburg, commented that he resided near the Fort Knox Self-Storage facility. He expressed his frustration with the project in that the nearby residents had been supportive of the project from the beginning. The greatest frustration for the residents was that the original conditions of approval had not been met.

Mr. Carpino expressed his surprise with the number of existing violations at the site. He commented that the residents would be supportive of the business if it complied with the required conditions of project approval in a timely fashion. He expressed concern with the lack of a wall buffering the site from the adjacent residential uses and with a lack of landscaping along El Dorado Drive.

Mr. Carpino also expressed concern with the U-Haul Truck Rental business, which was not part of the original project approval. While he had no problem with that use, he would support it if granted a use permit and if a sound wall was installed in place of a wrought iron fence to screen the U-Haul trucks and trailers from the public view. He pointed out that there was no compliance with the approved hours of operation for the self-storage facility, particularly since the U-Haul business had been added to the site.

Mr. Carpino expressed his hope that the applicants would do everything possible to comply with the Commission’s requirements, which should make the business a positive for the community.

Vice Chairperson Harris expressed concern that if a solid wall were installed the site would appear unattractive and like a fort.

Mr. Carpino commented that he had always liked the wrought iron fence design with lighting every 10 feet, although if the site were to include the U-Haul trucks, he would prefer that a solid wall be built to screen those vehicles from view. He suggested that other neighbors in the nearby area would also support the solid wall if the rental business were to remain.
In response to Commissioner Garcia, Mr. Ibalio acknowledged that there were other buildings that had been previously approved that had never been constructed on the site, which buildings had been intended to hide the rest of the project.

Mr. Carpino recalled that the other buildings were to have been built at the front portion of the property as part of Phase Two of the project, which had not been done.

Ms. Ayres advised that the Commission had been provided with letters in response to the revocation hearing from Doris Becker, dated Received February 5, 2004; Ben Camera dated Received February 4, 2004; and Cindy Olmstead dated February 1, 2004.

Commissioner Garcia expressed concern that the applicant had not met his responsibility since 1997 and the only reason he was now before the Commission was because the City had threatened the revocation of the use permit. If the use permit were not revoked, he suggested that the applicant would not comply with the original conditions of approval.

Commissioner Garcia noted that if the U-Haul business were to remain, it would require an approved use permit subject to conditions. He also pointed out that a wall would only hide what was behind it. He also commented that he had received complaints from residents of the area about the rental trucks driving out of the site too fast, nearly colliding with passing traffic. While he would like to give the applicant another chance, he was unaware how that could be done without adopting the resolution to revoke the use permit.

Mr. Ibalio suggested that the Planning Commission could continue the item for 60 days to clarify the conditions remaining to be resolved and allow staff an opportunity to conduct a site inspection based on the solutions the Commission might direct to meet the original use permit conditions, with a report back to the Commission. The Commission could then decide whether or not to adopt the resolution to revoke the use permit.

Commissioner Garcia suggested that 60 days was too long. He inquired how long it would take staff to prepare conditions for the wall and to prepare a list of the remaining conditions for compliance with the use permit.

Mr. Ibalio reiterated that the landscaping and the wall design had been plan checked by staff with comments provided to the applicant.

Ms. Ayres clarified that the applicant had been provided with staff comments on the landscaping plans in terms of a deficiency list. The applicant must return with corrections to the landscaping plan and obtain approval of the revision to the fence from the Planning Commission. If the Commission was comfortable with the revisions to the fence it could amend the use permit conditions at this time to approve the fence revisions. If not, staff and the applicant could be directed that a solid fence was not preferred and that the initial wrought iron concept would have to be pursued.
Commissioner Garcia inquired when the applicant would be able to return with plans for the fence and landscaping for Commission review and approval.

Ms. Ayres advised that staff was waiting for the applicant to make revisions to the landscaping plans. If the applicant took another two weeks to do that, it would be a month before the item could return to the Planning Commission.

Commissioner Garcia recommended that the public hearing be continued for a 45 day period, which would bring the item back to the Commission at its first meeting in April, scheduled for April 13, 2004. He expected that a use permit application would also be submitted for the U-Haul Rental business which was currently being operated illegally.

Mr. Ibalio explained that pursuant to the zoning code and zoning designation for Commercial Office, Vehicle Rental was not permitted as a use at the subject property.

Mr. Ibalio acknowledged that the U-Haul business was operating illegally, although the applicant had submitted a use permit application for interpretation by the Planning Commission, requesting that the truck rental use be classified as Automobile Rental, which would be allowed under the Commercial Office zoning designation.

Ms. Ayres cautioned that the use permit for the U-Haul operation was not being considered by the Planning Commission at this time and according to Brown Act regulations should not be discussed given that there had been no public hearing notice. That application could be returned to the Commission at the same time as the wall revisions.

Commissioner Garcia questioned how the U-Haul business could continue to operate when it was an illegal operation.

Ms. Ayres clarified that staff had informed the applicant that the U-Haul operation was illegal until a use permit had been approved by the Planning Commission.

Vice Chairperson Harris suggested that the use be cited until such time as it received approval.

RONALD NEWMAN, 150 Druin Drive, Apt #15. Rio Vista, General Manager, Fort Knox Self Storage facility, explained that the U-Haul facility was now operating at a more professional level than at its previous location on Bliss Avenue which did not have certified employees. He suggested that it would be a total injustice to the City and its residents to remove the operation without determining whether or not it would be supported by the nearby residents. He requested that the business be allowed to continue.

Vice Chairperson Harris expressed concern allowing the U-Haul business to continue to operate when it was illegal since that would set a precedent for other businesses in the area to do the same.
Mr. Falk reiterated that if the U-Haul business was denied an ability to operate they could lose their loan on the property and would have to close down. He also spoke to the original condition of the property and reiterated that he had spent a great deal of money to develop the business and to improve the site. He further commented on the financial impacts to the business from competing facilities and from the current weak economy.

Commissioner Garcia reiterated that the truck rental business was illegal and not an approved use. He suggested that staff handle the issue with the U-Haul company. He also requested that staff take whatever action was necessary given that the Planning Commission could not take action at this time.

**MOTION:**

Motion by Commissioner Garcia to continue the revocation hearing for Fort Knox Self-Storage Facility to the regular Planning Commission meeting of April 13, 2004. The motion was seconded by Commissioner Ramirez and carried by the following vote:

- **Ayes:** Commissioners Dolojan, Garcia, Kelley, Ramirez, Harris
- **Noes:** None
- **Abstain:** None
- **Absent:** Chairperson Leonard, Commissioner Tumbaga [recused]

Commissioner Kelley encouraged the applicant to meet with staff to clarify what the applicant needed to do prior to the April 13 Commission meeting. She cautioned the applicant not to return to the Commission with the excuse that he did not know what was being required.

Vice Chairperson Harris declared a recess at 9:58 P.M. The Planning Commission meeting reconvened at 10:06 P.M. with all Commissioners initially shown as present and absent. Commissioner Tumbaga had returned to the dais.

**Item 6: Vista Del Mar Scoping Session. (AP No. 03-33)**

Public scoping session for the Environmental Impact Report for the Vista Del Mar development project. The scoping session is intended to obtain comments from responsible and trustee agencies that are pertinent to environmental issues to be identified in the Environmental Impact Report.

Associate Planner Noel Ibalio explained the intent of the scoping session as identified in the Notice of Scoping Meeting, dated February 4, 2004.

Mr. Ibalio advised that he had received two e-mails. One from PG&E, and one from the Contra Costa Water District (CCWD), both of which had provided comments to be incorporated in the EIR. Correspondence had also been received from the City of Pittsburg.
PUBLIC HEARING OPENED

PROPONEENT:

SCOTT HANKS, Scott Development Consultants, representing William Lyon Homes the purchaser of the majority portion of the Alves Ranch property, presented the Planning Commission with an illustrative site plan and renderings of the proposed architecture for the communities within Vista Del Mar.

Mr. Hanks explained that the north side of the property abutted State Route 4 and a proposed West Leland Road extension would run east to west of the project which would separate the holdings for William Lyon Homes which would purchase everything to the south. The remainder of the parcel to the north would be held by Alves Ranch, LLC.

The proposal consisted of 1,100 dwelling units consistent with the General Plan, with 524 single family units south of West Leland Road and 576 dwelling units north of West Leland Road, along with 257,000 square feet of Business Commerical. Consistent with the General Plan, High-Density development was proposed north of West Leland Road. Four residential neighborhoods varying from Medium Density would surround a proposed school and park and further to the south a majority of the lots would be in excess of 6,000 square feet consistent with the City Council’s direction to provide larger lots and more upscale units.

Mr. Hanks stated that the developer proposed to dedicate the right-of-way for West Leland Road at time of map approval to meet some time deadlines for the opening of the new elementary school in the San Marco development. As part of the improvement and grading plans, the developer had also proposed to construct and grade that portion of West Leland Road where it crossed through the property.

The developer would also provide mitigation for impacts to waterways and endangered species, including the California Tiger Salamander. Of the 100 plus acres of open space, approximately 90 acres would be preserved for those species and the environmental mitigation for those species.

In meetings with the Mt. Diablo Unified School District (MDUSD), Mr. Hanks reported that efforts would be made to provide a school site. The MDUSD had preliminarily approved the site and location to meet the growth of the MDUSD. The proposal would also provide savings to the City and the MDUSD by providing joint use of the playground area for park use as well as school use, which the developer would fully improve.

Mr. Hanks stated that significant water infrastructure improvements were necessary to serve the future growth of the southwest area. A plan would be prepared that would provide for the growth and buildout of that entire area. He added that the developer had also proposed to construct a proportionate share to meet the future growth needs of the City.
Issues related to flooding as a result of heavy storms in the Bay Point area were noted. Mr. Hanks identified one of the requirements of the Contra Costa Flood Control District (CCFCD) as the improvement to downstream storm drain systems to stop, if not totally eliminate, the flooding that had occurred in the Bay Point area over the past few years.

Mr. Hanks identified a number of other benefits to the City and the community and suggested that the City would be pleased with the project, its design and architecture.

Commissioner Garcia welcomed the developer to the City. He understood that the developer would dedicate the right-of-way for West Leland Road and road grading improvements. He inquired whether or not that meant that the developer would be installing the roadway since the City was not in the business of installing roads for developers.

Mr. Hanks explained that in this instance the City was obligated to put in the infrastructure for highway lanes.

Commissioner Garcia disagreed in that Leland Road had been installed by developers with exception of the area under the PG&E right-of-way under the golf course. He commented that the developer was to install two lanes paid for by the developer with the second two lanes to be installed by the developer who would be credited traffic mitigation fees as payment for those lanes. He noted that the area into the San Marco development had been graded and was ready to be paved in the future, which paving would be the responsibility of the developer.

Mr. Hanks commented that had not been his understanding.

Mr. Hurtado explained that the City was moving forward with the design for the West Leland Road construction. He acknowledged that most of Leland Road had been developed by developers with the construction credited to the developers as part of traffic mitigation fees.

Commissioner Garcia understood that was only being done for the school and that under normal circumstances the City would not be doing the work. He emphasized that the City was not in the business of building roads for developers, which was an issue he had discussed with City staff on numerous occasions. He would recommend that the developer be allowed to build the road and if the students must be moved by buses the MDUSD could be subsidized until the road had been completed.

Commissioner Garcia also expressed concern with water service to the site in that with the exception of the subject property the water resources were already in place. There was an assessment district in place paid for by developers to bring the water to the site, and the Alves property had not jointed that assessment district at the time.

Mr. Hanks noted that they had been working closely with staff. The intent was to do...
whatever could be done to make the project meet all requirements. He understood that the City had employed an engineering firm to revisit the southwest area and he was uncertain of the specifics.

Mr. Hanks stated that there had been a change in fire requirements, which had resulted in an incomplete system that would have to be upgraded.

Ms. Ayres noted that there was no action being asked of the Planning Commission. Once the Draft EIR had been prepared and distributed it would be returned to the Commission for comment.

**COMMISSION CONSIDERATIONS:**

There were no Commission Considerations.

**STAFF COMMUNICATIONS:**

Notice of Intent to Exercise Design Review Authority Delegated to Staff

- a. Mazzei Monument Sign AP-04-89 (DR)
- b. Winter Chevrolet Freestanding Sign AP-04-88 (DR)

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

Ms. Ayres encouraged those Commissioners wishing to attend the upcoming Planners Institute to R.S.V.P. to staff so that the scheduling and arrangements could be made by staff.

Ms. Ayres also reported that the City Council had directed staff to prepare a work program for Hillside Guidelines to implement the Hillside Policies. Staff would be working with a consultant to prepare some guidelines for the Hillside Policies to better define the policies for the decision-makers and the development community. A Request for Proposal (RFP) would be put out to bid for the consultant with the City Council to approve the funding for that consultant. Several workshops would be held and the program would return to the Planning Commission before it was approved by the City Council, scheduled for February 2005.

The City Council had also directed staff to prepare a work program on an Inclusionary Housing Study to determine what should be in an Inclusionary Housing Ordinance for the
community. That study would include pricing and the distribution of income levels that the development community could absorb and still be financially feasible. Several workshops would be held with the development community and affordable housing advocates would be invited to attend those workshops. There would be a possibility of a joint workshop with the Commission and the City Council. A great deal of public input would be sought on the issue. The Council had directed that the matter return to the Council by December 2004.

Ms. Ayres reported that staff was also developing a work program to begin a comprehensive zoning code update which would be done in phases. The first phase would bring all land that was currently inconsistent with the General Plan into zoning compliance and create districts for the downtown areas that did not have matching districts, such as the Marine Commercial areas. Updates would be presented to the Planning Commission on a regular basis.

Director of Building and Planning Randy Jerome added that the City Council had directed staff to include inclusionary housing in upcoming developments on a case by case basis. Staff had spoken with some developers who were aware of that direction and staff would be working with the Alves Ranch project to craft some sort of inclusionary provisions for that project.

COMMITTEE REPORTS:

There were no Committee Reports.

COMMENTS FROM COMMISSIONERS:

Commissioner Tumbaga commented, when asked, that the meat market on Railroad Avenue was still open but was under new ownership.

Commissioner Kelley noted that the area of Railroad Avenue and Frontage Road had been cleaned up although she noticed that more appliances had been dumped on the property.

ADJOURNMENT:

There being no further business, the meeting adjourned at 10:35 P.M. to a regular meeting of the Planning Commission on February 24, 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