A regular meeting of the Pittsburg Planning Commission was called to order by Chairperson Jack Garcia at 7:00 P.M. on Tuesday, September 14, 2004 in the City Council Chambers of City Hall at 65 Civic Avenue, Pittsburg, California.

**ROLL CALL:**  
Present: Commissioners Dolojan, Gordon, Ohlson, Ramirez, Tumbaga, Williams, Chairperson Garcia  
Absent: None  
Staff: Director of Development Projects Randy Jerome; Planning Director Melissa Ayres; Associate Planner Noel Ibalio; Assistant Planner Dana Hoggatt; Assistant Planner Christopher Barton and Senior Civil Engineer Alfredo Hurtado.

**POSTING OF AGENDA:**  
The agenda was posted at City Hall on Friday, September 10, 2004.

**PLEDGE OF ALLEGIANCE:**  
Associate Planner Noel Ibalio 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:

Planning Director Melissa Ayres presented the new Planning Intern, Jill Pirog, a recent college graduate who would be working with staff on the Comprehensive Zoning Update.

CONSENT:

a. PC Minutes of July 27, August 10, and August 24, 2004

Commissioner Ramirez requested that action for the minutes be taken separately since he had been absent from the meeting of July 27, 2004.

MOTION:

Motion by Commissioner Gordon to approve the minutes of the July 27, 2004 meeting, as shown. The motion was seconded by Commissioner Dolojan and carried by the following vote:

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

Speaking to the August 10, 2004 minutes, Commissioner Ohlson spoke to the motion on Page 14 for AP-04-139 (UP), as shown, which had not reflected a statement made by a representative of the Elks Lodge as to how the rentals would be handled and where a six hour rental period had been stipulated. He had requested that statement be included in the conditions of approval for the Use Permit.

Chairperson Garcia noted that the minutes represented only a summary of the discussion of the item. It was possible those issues would be addressed in the resolution of approval.

Commissioner Ohlson noted that based on Resolution No. 9505, Page 5 of 6, it had stated that rental events shall only occur between 11:00 A.M. and 11:00 P.M., with no mention of the six hour rental period referenced by the applicant.

As the Project Planner, Assistant Planner Chris Barton stated that the resolution of approval for the Elks Lodge included the project description from the applicant which reflected a six hour time limit for the rental of the facility and which the Commission had voted to approve.
Commissioner Ohlson referenced the applicant’s description of the internal rules governing the Elks Lodge, which he requested be made a part of the conditions of approval for the Use Permit.

Planning Director Melissa Ayres explained that the Commission’s decision could not be amended, although staff could verify whether or not the staff report had presented that information in describing the operation of the business, except as modified by the conditions of approval. She noted that there was a condition in the resolution which would limit live entertainment. Staff could also review the meeting tapes to determine whether or not Commissioner Ohlson’s comments had been included in the motion. She noted that oftentimes there was discussion amongst Commissioners that was not actually formalized by the maker of the motion.

Chairperson Garcia agreed that the meeting tapes from the August 10 Commission meeting should be reviewed by staff for clarification purposes.

Commissioner Gordon commented that he recalled the discussion and the reason the Commission had supported the hours of operation from 11:00 A.M. to 11:00 P.M. was that the Elks Lodge did not rent out the facility for any more than six hours per rental although the Elks could accommodate two rentals per day.

Ms. Ayres reiterated that staff would review the meeting tapes for clarification and return that information at the next meeting.

MOTION:

Motion by Commissioner Williams to continue the minutes of the August 10, 2004 meeting, to the Commission meeting of September 28, 2004 to allow staff the opportunity to review the meeting tapes, as discussed. The motion was seconded by Commissioner Tumbaga and carried by the following vote:

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

MOTION:

Motion by Commissioner Gordon to approve the minutes of the August 24, 2004 meeting, as shown. The motion was seconded by Commissioner Tumbaga and carried by the following vote:
PUBLIC HEARINGS:

Item 1: Amendment to General Plan/General Plan Clean Up.
Continued public hearing on a City initiated proposal to amend the General Plan to incorporate needed mapping, formatting and technical changes to the document.

Ms. Ayres reported that staff had twice notified all property owners who would have been affected by significant General Plan land use changes.

Assistant Planner Dana Hoggatt presented the staff report dated September 14, 2004. She recommended that the Planning Commission recommend City Council adoption of the revisions contained in the Hearing Draft General Plan.

Commissioner Gordon spoke to Figure 2-4-A and Figure 5-1 for the downtown sub areas and land uses and referred to the northeast corner of Railroad Avenue and Tenth Street which had been shown as Downtown Commercial. He inquired whether or not Downtown Commercial included Residential, such as apartments.

Ms. Hoggatt affirmed that was the case. She also noted that Table 5-1 had shown Residential as being a permitted use in the Downtown Commercial areas. Table 5-2 also identified the development standards with respect to Mixed Use in the Downtown Commercial designation.

Commissioner Gordon noted that the end of Third Street had been shown as Downtown Medium Density Residential for Bay Harbor Park and an area located along Third Street and Marina Boulevard as Park, although the property was actually part of the Planned Development (PD) and owned by the Bay Harbor Homeowner’s Association (HOA). As such, he suggested that area should be shown as Medium Density Residential rather than Park.

Ms. Hoggatt commented that the area was a recreational facility and had been designated as a public park. She suggested that the Commission should discuss whether or not that designation was appropriate for change.

Commissioner Ohlson spoke to Page 8-12 and the discussion of the Harbor Street Trail Head as a small park. He clarified that the small park had been destroyed or removed and was now part of the parking lot for the new Senior Center. He asked that the section be corrected as a result.
On the same page with the discussion regarding the Eighth Street Linear Park which had shown the park as currently being developed, Commissioner Ohlson noted that the park had, in fact, been completed and that section should also be amended. He further cited Page 7-25 and the chart of bicycle facilities in the City, specifically Table 7-5, where it had shown Avila Road from the West City Limits to North Leland Road. He asked that the section be corrected to correctly refer to West Leland Road and not North Leland Road.

Speaking again to Table 7-5, Commissioner Ohlson referred to the list of bicycle facilities from Black Diamond Street from West Tenth Street to East Fifth Street, which he asked be corrected to read West Fifth Street not East Fifth Street, since Black Diamond Street was on the same side as Railroad Avenue.

Ms. Hoggatt clarified that Black Diamond Street was the dividing street between east and west and not Railroad Avenue.

Commissioner Ohlson again spoke to Table 7-5 and the bicycle facility identified for West Tenth Street from Herb White Way to Black Diamond Street which had not identified an existing or proposed class bicycle facility. He recommended that as shown on Table 7-4, a Class II bicycle facility had been proposed and should be included on Table 7-5.

Commissioner Ohlson further spoke to the Willow Pass Road segment between Enterprise Circle and the railroad underpass/Range Road Interchange where North Parkside Drive, Willow Pass Road and Range Road came together. Speaking to Page 2 of Attachment 2, he expressed concern with the discussions in that section regarding whether there should be a bicycle route from the Bay Point BART Station to the downtown which followed North Parkside Drive and Railroad Avenue to the downtown or which followed Tenth Street, Willow Pass Road and the underpass, to then connect to Willow Pass Road and out to the Bay Point BART Station.

Commissioner Ohlson commented that he had asked the City’s Traffic Engineer some time ago to incorporate railroad crossings into the bicycle route system, although the Traffic Engineer had suggested that would be inappropriate. With North Parkside Drive and Railroad Avenue as bicycle routes the underpass at Railroad Avenue at Burlington Northern as a bicycle route into the downtown would not be available. The General Plan had shown the railroad underpass at Range Road as planned to be bicycle friendly. Since it was unlikely the Burlington/Northern Santa-Fe under crossing at Railroad Avenue would be rebuilt, he recommended a bicycle route from the downtown to Bay Point which would incorporate a wide railroad underpass and which would require the designation of Willow Pass Road with eight foot shoulders consistent with the General Plan for a Class III bicycle route.

Commissioner Ohlson pointed out that the City had designated the Pittsburg/Antioch Highway with similar width shoulders as a bicycle route and the City had planned to designate North Parkside Drive with similar shoulders as a bicycle route.
Ms. Hoggatt explained that the Traffic Engineer had been concerned designating Willow Pass Road as a bicycle route in that Willow Pass Road had a higher vehicle speed limit at 45 MPH than North Parkside Drive with a maximum speed limit of 40 MPH. The preferred route for bicyclists was therefore North Parkside Drive. Willow Pass Road had not been designated as a bicycle facility on the City or TRANSPLAN Committee adopted maps.

Ms. Hoggatt added that the shoulders would be wide enough to accommodate bicyclists but would not be signed as a route. Staff’s recommendation had been to allow the width for bicyclists but to identify North Parkside Drive as the preferred route which would be done through the designation of North Parkside Drive as a bicycle facility and not designating Willow Pass Road as the preferred facility.

In response to Commissioner Williams, Ms. Hoggatt identified the differences between Class I, II and III bicycle facilities. Class I was an off street facility, a bicycle path which was paved. Class II was an on the street bike facility with a striped lane on the roadway. Class III was a bicycle route, consisting of a shared roadway between vehicles and bicyclists.

Chairperson Garcia had no problem with Commissioner Ohlson’s recommendation for Willow Pass Road although it was not likely that the underpass would be enlarged. Therefore anyone riding a bicycle under the underpass would be placed in an unsafe situation due to the narrow width of the lanes.

Commissioner Ohlson pointed out that the planning document called for a bicycle facility if the underpass were rebuilt. He would be willing to make a motion to include Willow Pass Road as a Class III bicycle facility.

Ms. Hoggatt explained with respect to the typographical error identified on Page 7-26, that as shown on Page 4 of 7 of the staff report, the staff recommendation had been to add a Class II facility in that table.

Commissioner Tumbaga understood that the Eighth Street Linear Park had not been completed and would be expanded beyond its current development and was therefore technically not complete.

Chairperson Garcia understood that there was to be another park at the end of the completed 10 acres of the linear park. The other park would be off of Beacon Street.

Senior Civil Engineer Alfredo Hurtado explained that the linear park was technically complete from Harbor Street to Herb White Way. The remaining area to the west would be part of the future Marina Walk II development in the future.

Commissioner Ohlson pointed out that Policy 7-P-47 had identified a multi-use bicycle path approximately two and a half miles along the abandoned railroad tracks north of Willow
Pass Road providing linkage between the downtown and the Stake Point/Marina area which was a continuation of the linear park.

Chairperson Garcia noted that was a continuation of the old Sacramento/Northern Railroad lines where part of the property was PG&E property and possible wetlands.

PUBLIC HEARING OPENED

PROPONENT: City of Pittsburg

RICHARD CONN, Pittsburg, a Marina Walk resident, spoke to the statement that no one would ride a bike under the Willow Pass Road underpass. As a frequent user of BART, he had often ridden his bike to the Pittsburg/Bay Point BART Station by using that route. That route was the only reasonable and shortest route from the Marina District to the BART Station. With the suggested changes proposed by Commissioner Ohlson, he suggested that route would be one of the safest routes.

JOYCE GUNN, 120 Heron Drive, Pittsburg, spoke to the same route which she drove daily in the morning and evenings. She commented on the new Harbor Lights development which offered family sized homes and multiple residents. She had recently viewed a young mother with a stroller and other young children who were walking from the Harbor Lights development along the curve under the underpass to school. She pointed out that there was no way for Harbor Lights residents to access North Parkside Drive without going under the underpass.

Stating that the area was currently unsafe with little or no shoulders, Ms. Gunn cited a recent incident where she had viewed a bicyclist heading down into the underpass and where trucks behind the bicyclist had to almost come to a stop to allow the bicyclist to go around the curve and go under the underpass. As a bicycle rider who also used that route, she was familiar with the unsafe conditions of that roadway.

Ms. Gunn urged the City to install the improvements identified in the General Plan to make that area safer for bicyclists.

BASHIR RAHIMI, #3 Cheryl Court, Pleasant Hill, stated that he was a business owner in the City. He commented on the need for the City to address safety issues, particularly since there were more people in the downtown.

PUBLIC HEARING CLOSED

Commissioner Gordon spoke to Table 8-1, which had identified the downtown park facilities. He questioned whether or not the reference to Downtown Railroad Avenue was referring to the end of Third Street.
Ms. Hoggatt noted that might be something that should be clarified with the General Plan Consultant. She understood that Downtown Railroad Avenue was the linear park with La Posita, a smaller park on the corner of Marina Boulevard.

Commissioner Gordon reiterated his concern with the possible separation of a parcel from the Bay Harbor HOA. He noted that there were also areas that could be designated as park areas in Marina Park. He asked that the parcel adjacent to Bay Harbor HOA be part of the Planned Development and not be shown as a public park facility.

Ms. Ayres clarified that the item being considered by the Commission was the General Plan clean up, essentially correcting typographical errors, formatting and areas where the color on the maps were not matching a key. She commented that there were no wholesale changes involved. The property being discussed was not something that needed to be cleaned up since it represented the General Plan designation from 2001.

Ms. Ayres commented that if the Bay Harbor HOA would like to initiate a General Plan change on that property or write a letter to the City Council as part of the public hearing, that could be considered, although she noted that as a property owner in Bay Harbor Park, it may not be appropriate for Commissioner Gordon to speak on that issue from the dais since he could materially benefit from such an action. She added that the property had been designated in the 2001 General Plan as a Park. No changes to that designation had been proposed.

Commissioner Tumbaga spoke to the bicycle changes proposed by Commissioner Ohlson for Willow Pass Road. She suggested that the route was too dangerous for designation as a bicycle route since that change could encourage further use and result in possible future accidents. Until the route was made safe and wide enough to accommodate a bicycle route, she would prefer that it remain as is.

Ms. Hoggatt clarified that there had been no Class III bicycle facility shown on Willow Pass Road in the TRANSPLAN Committee or City adopted Bikeway Map.

Commissioner Ohlson explained that he was only asking that the route be proposed for Willow Pass Road so that at some point in the future when the road had been widened it would be an actual bicycle route. It was currently not a bicycle route but had been proposed as a bicycle route, as had been many others in the City. He added that North Parkside Drive was also very narrow and dangerous for bicycles as it currently existed although it too had been proposed to be a Class III bicycle facility.

In response to Commissioner Dolojan as to whether or not a Class III bicycle facility would be installed by the City in the near future, Ms. Ayres recognized that the issue was the need for improvement to the underpass at Range Road although such improvements carried significant costs. While there had been discussions related to an interchange, such
project was not on the City Council’s short list of priorities during the discussions of the Capital Improvement Program (CIP).

Chairperson Garcia expressed concern that he could not compare page to page the old and new changes to the document. In relation to the southwest area of the City, specifically Figure 2-4-K, he spoke to the designation of Hillside Low Density Residential and inquired whether or not that matched what had been approved for the San Marco development.

Ms. Ayres explained that the figure matched the General Plan adopted by the City Council and as amended by the Council’s resolutions in 2001. She explained that the developer’s Development Agreement would supercede the General Plan. In the same way that the subarea had shown Commercial near the corner of Leland and San Marco Roads, the Development Agreement had shown Single Family homes. The only other difference was that the roadway into that development had been built as a collector street with the thought that it would end, although the General Plan now called for it to extend to Bailey Road.

Ms. Ayres advised that staff had been working with the developer on the final maps for newer phases of the San Marco development to accommodate a wider road and to accommodate a bicycle lane. The General Plan was also amended to reflect a two acre as opposed to a five acre park in the Open Space Element.

Chairperson Garcia understood that the affected property owners had been notified of the potential changes in zoning to his/her properties as the Commission had requested at a prior meeting.

Ms. Ayres acknowledged that staff had received several phone calls and had explained what had been proposed. Noting the absence of property owners in the audience, she suggested it was possible that the affected property owners were comfortable with what had been proposed and chose not to attend the meeting.

Chairperson Garcia questioned whether or not the density change for the downtown in the staff report shown on Page 2 of 16 represented a change to the document.

Ms. Hoggatt advised that Table 2-4 had shown that 5-12 units per acre would be allowed in the downtown. Per Attachment 4, that information had been corrected to reflect that the Downtown Low Density was actually 4-12 units to the acre. Further, the density in the downtown was higher than the Low Density range for the remainder of the City, as adopted by the City Council.

Chairperson Garcia spoke to Page 2 of 61 of the excerpt from the General Plan and the policies for Buchanan Road which had shown an elementary school on Buchanan Road.
He requested that be modified to show that the school was no longer being proposed.

Ms. Ayres reported that the City Council had adopted a resolution at its last meeting to amend the General Plan. By virtue of that resolution an amendment to clean up the map would reflect the recently approved resolution.

Chairperson Garcia further spoke to Page 8 of 8 and the fact that the City would maintain a neighborhood and community park standard of five acres of public park per 1,000 residents, although he recalled that policy had been changed to two acres or to be worked out with the developer.

Ms. Ayres advised that the term five acres per 1,000 residents was Citywide and had been based on the Subdivision Ordinance and State law which allowed the City to collect fees and build parks anywhere in the community to meet that ratio.

Commissioner Ohlson referenced Table 8-2, which had identified the Power Corridor Community Park at 51 acres and which would involve a park down the PG&E right-of-way from the Delta DeAnza Trail down to Tenth Street. If the park was built, there would have to be a bridge over the Burlington/Northern/Santa Fe main line.

**MOTION:**

Motion by Commissioner Ohlson to adopt Resolution No. 9516, recommending that the City Council amend the General Plan for the General Plan Clean Up, with identified typographical amendments, and with Willow Pass Road between Enterprise Circle and the Range Road/North Parkside Drive/Willow Pass Road Interchange to be included as a proposed Class III Bicycle Facility. The motion was seconded by Commissioner Ramirez and carried by the following vote:

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

**Item 2: Willow Brook Residential Subdivision. AP-03-79 (PD/RZ, Subdivision 8810 and DR).**

Public hearing on an application by Dan Boatwright of Castle Companies requesting rezoning of 7.39 acres from IL (Limited Industrial) District to PD (Planned Development) District, and approval of a vesting tentative map, and architectural plans in order to construct 60 single-family detached houses on lots ranging in size from 3,590 to 5,360 square feet. The property is currently used for vehicle storage and is located at 1055 North Parkside Drive, APNs 086-020-017, 086-020-018, 086-020-019 and 086-020-020.
Assistant Planner Dana Hoggatt presented the staff report dated September 14, 2004. She clarified that the property’s General Plan land use designation was Industrial, not Business Commercial as shown in the staff report. Ms. Hoggatt recommended that the Planning Commission adopt Resolution No. 9517, recommending Council approval of a PD District on the property, as conditioned. Draft resolutions approving Vesting Tentative Subdivision Map No. 8810 and architectural plans for the proposed houses were to be presented to the Commission for action on September 28, 2004 after the end of the comment period of the proposed Mitigated Negative Declaration.

In response to Commissioner Williams as to the price range for the homes, Ms. Hoggatt explained that such details would be worked out in the Affordability Agreement. The affordable units would be deed restricted for 45 years and would involve all 8 of the duet units, and one single family detached unit, to be designated for Low to Moderate Incomes.

Commissioner Gordon spoke to the prior use of the property and inquired whether or not the City required any Phase One environmental work.

Ms. Hoggatt explained that the applicant had conducted Phase One and Preliminary Phase Two environmental work. Some contamination had been found which would have to be cleaned up in accordance with Engineering Department standards and which was also a mitigation measure of the project and a condition of the subdivision.

Commissioner Ohlson pointed out that unlike the Americana and Willow Heights developments to the east and west, the development had not included acceleration or deceleration lanes. He suggested that the development should match what had been constructed on the east and west sides. Speaking to the Vesting Tentative Map, he requested the definitions for the abbreviations of EX and EP pavement.

Ms. Hoggatt explained that the applicant’s plans had not shown the land configuration consistent with the Americana development, although the Mitigated Negative Declaration and a condition of the Tentative Map would require that frontage improvements be the same as the Willow Heights and Americana developments. Ms. Hoggatt clarified that EX defined the existing pavement while EP identified the edge of pavement.

Commissioner Ohlson requested a lane striping diagram for the street when the project was next presented to the Commission to ensure adequate space on the road for bicyclists.

Ms Hoggatt noted that the lane configuration had been shown on Sheet 2 of the Tentative Map with a 13-foot wide westbound through lane, a 10-foot left turn pocket, a 3-foot median and an 18-foot westbound through and merge lane. The striping had been shown directly on North Parkside Drive. Staff had recommended a condition, as shown on
Attachment Two of the staff report and identified as Mitigation Measure 5.c to address that configuration.

PUBLIC HEARING OPENED

PROPONENT:

DAN BOATWRIGHT, Castle Companies, 12885 Alcosta Boulevard, Suite A, San Ramon, explained that Castle Companies had been working with staff on the development since last December. The home plans would be similar to those proposed for the St. Vincent de Paul development although there would be duets and inclusionary requirements as he had committed during a prior public hearing for the St. Vincent de Paul project. That commitment would provide a total of nine affordable units. He noted that the drainage had been directed towards the front of the property into the storm drain system on North Parkside Drive down into the creek. He was in agreement with the staff recommendations.

INTERESTED SPEAKER:

BASHIR RAHIMI, Pleasant Hill, advised that he had a business located in the City and which was located adjacent to the subject development. While he supported the development, he commented that when the General Plan had been updated, his property and adjacent properties had been changed from Light to Heavy Industrial. He noted that there was a church located on the other side of the subject property along with his own business. He expressed concern with the fact that his property could be left with the Heavy Industrial zoning designation. He asked the Commission to rezone all of the properties to Residential or to leave them as is.

Chairperson Garcia advised that Mr. Rahimi could make application to the City at any time to request that his property be rezoned as the applicant had done.

OPPONENTS: None

PUBLIC HEARING CLOSED

MOTION: AP-03-79

Motion by Commissioner Williams to adopt Resolution No. 9517, recommending that the City Council adopt an ordinance for AP-03-79 to rezone 7.6-acres at 1055 North Parkside Drive from IL to PD, for “Willow Brook Residential Development,” as shown. The motion was seconded by Commissioner Ramirez and carried by the following vote:

Ayes: Commissioners Dolojan, Gordon, Ohlson, Ramirez, Tumbaga, Williams, Garcia

Noes: None
Chairperson Garcia reported that Vesting Tentative Subdivision Map No. 8810 and architectural plans for “Willow Brook Residential Development” would be continued to the Planning Commission meeting of September 28, 2004.

Item 3: Union 76 at Railroad Avenue (Amendment to UP-94-14). AP-04-127 (UP).
Public hearing on an application by Gary Gustafson requesting an amendment to Use Permit No. UP-94-14 to: 1) change the hours of operation from 6:00 A.M. to 10:00 P.M. to 6:00 A.M. to 12:00 A.M.; 2) change the allowable container size for beer and wine from 40 ounces to 22 ounces; and 3) not require a security guard onsite during business hours. The service station is located at 2150 Railroad Avenue, CC (Community Commercial) District; APN 087-030-032.

Assistant Planner Chris Barton presented the staff report dated September 14, 2004. He recommended that the Planning Commission adopt Resolution No. 9513, approving AP-04-127 (DR), with the conditions as shown.

Chairperson Garcia commented that he was familiar with the originally adopted conditions of the use permit and recognized why the applicant was now requesting an amendment to those conditions. He noted that prior problems with the site had nothing to do with the freeway but the development behind the gas station when problems had occurred on both sides of Railroad Avenue. With the development of the shopping center and with the Albertsons grocery store, conditions had changed and the problems of the past had been resolved.

PUBLIC HEARING OPENED

PROPONEENT:

GARY GUSTAFSON, H & L Commercial Real Estate, 1000 Fourth Street, Suite 700, San Rafael, representing the owner of the station, stated that he had nothing to add to the staff report.

Mr. Gustafson did note that since 1995 changes had occurred in the area rectifying many of the problems that had occurred at that time. The security guard issue was no longer a concern of the Police Department and for the last few years no security guard had been required at the station since the problems had been mitigated. The hours of operation and container size related to the marketplace and competition. The stores in the immediate area, primarily Albertsons, had operated under the same terms being requested of the Commission at this time.
Mr. Gustafson also spoke to Condition No. 9, and requested that it be modified to read:

9. Single containers of beer and wine less than 22-ounces shall not be sold at the food-mart/convenience store; sale of 22-ounce to 40-ounce containers of beer and wine shall be permitted.

Mr. Barton had no problem changing that condition as requested.

Commissioner Williams expressed grave concerns with the request since she had on several occasions failed to stop at the location due to young people loitering in the parking lot. From her experience on another City Commission, there had been allegations of young people buying cigarettes at the facility, which was currently being investigated. She expressed her hope that City staff would have visited the site during various evening hours to witness young people loitering in the parking lot area. She requested that City staff verify whether or not that activity still occurred.

Mr. Gustafson commented that the Police Department had frequented the store. There had been no complaints or problems over the last few years.

Commissioner Ramirez identified a memorandum in the staff report which had shown that in November 1996 the Zoning Officer at that time had contacted Unocal to verify that things were in order in terms of the operation of the business. The only concern found at that time was the need to continue to discourage loitering on the premises, the parking lot and the landscaping areas. He added that Attachment 4 of the staff report had shown that the Police Department had sent a decoy to the establishment in 1999 in an attempt to make a purchase. The establishment had been successful in preventing that activity.

Commissioner Ramirez recognized that there had been considerations made by the Police Department which had been monitoring the site. Everything appeared to be in order with the exception of the loitering situation.

Commissioner Ohlson commented that he had also witnessed loitering in the area and had also viewed drinking outside of the sandwich shop. He acknowledged that loitering was a concern.

Commissioner Gordon stated that he had frequented the gas station. He had a problem requiring a tenant or property owner to monitor other people’s property. If the median was part of the City property it was the Police Department’s responsibility and outside of the sandwich shop was the property owner’s responsibility. He noted that loitering was occurring elsewhere in the City. The same restrictions had not been imposed on Albertsons and an Albertsons’ customer could purchase whatever he/she wanted. In terms of competitiveness, he found the applicant’s request to be reasonable.

Chairperson Garcia agreed that the wide green area was the responsibility of the City and
not the shopping center. He expressed his hope that the gas station had an ongoing program of identification checks. He was advised by the applicant that remained the case. It was his understanding that loitering in the gas station or in the area of the mini mart would not be allowed.

Mr. Gustafson suggested that more education with the manager might be helpful although they had no control over the public areas or the adjacent properties. He assured the Commission that the problems with loitering would be addressed immediately.

OPPONENTS: None

PUBLIC HEARING CLOSED

MOTION: AP-04-127 (UP)

Motion by Commissioner Tumbaga to adopt Resolution No. 9513, approving AP-04-127 (UP) to amend the Conditions of Approval of a Use Permit allowing a Service Station with Convenience Store at 2150 Railroad Avenue, “Unocal 76 at Railroad Avenue Amendment to UP-94-14, (UP),” with the conditions as shown. The motion was seconded by Commissioner Gordon and carried by the following vote:

Ayes: Commissioners Dolojan, Gordon, Ohlson, Ramirez, Tumbaga, Williams, Garcia

Noes: None

Abstain: None

Absent: None

Item 4: General Plan Compliance Report.

Public hearing on the City’s annual report identifying its progress in implementing the General Plan.

Associate Planner Noel Ibalio presented the staff report dated September 14, 2004. He recommended that the Planning Commission recommend that the City Council accept the report on the proposed General Plan Compliance Report.

Commissioner Ohlson spoke to Page 2 of the General Plan Policy Matrix and the status of Policy 2-P-67, as shown. He requested that the reference to the policy not being implemented with continued participation in the TRANSPAC meetings be amended to correctly show participation with the TRANSPLAN Committee which represented East County. He explained that TRANSPAC represented Central County.

Mr. Ibalio advised that correction to Policy 2-P-67 would be made.

Commissioner Tumbaga identified a typographical error for Policy 2-P-39, where the status should read:
Chairperson Garcia identified Policy 2-P-60, as shown. He noted that Garcia Avenue already turned. As such, he questioned whether or not the statement should be amended to reflect that Garcia Avenue would be extended to Railroad or Bliss Avenue, since there were currently buildings in the way.

Mr. Ibalio explained that the policy, as shown, had been taken directly from the General Plan. It had been envisioned that Garcia Avenue would go through to Railroad Avenue although he realized that there were buildings currently in that area.

Ms. Ayres clarified that no change to the General Plan had been proposed. The policy had already been adopted by the City Council and staff was only reporting on the status of that policy.

Chairperson Garcia suggested that the Council should be reminded that Policy 2-P-60 was not a good policy.

Director of Development Projects Randy Jerome explained that the policy had been inserted in consideration of a BART station occupying that site and the development opportunities it afforded with BART redevelopment which would have allowed Garcia Avenue to go through offering a better east-west connector between Harbor Street and Railroad Avenue, and then to Bliss Avenue.

Chairperson Garcia referenced Policy 2-P-64 and noted that the City would not be getting a BART station. He suggested that policy should also be reconsidered since there were no plans for a BART station at Bliss Avenue.

The Chair also recommended that Policy 2-P-70 be amended since there would no longer be an elementary school at Highlands Ranch. The property was now rezoned for Single Family Residential development.

Speaking to Policy 5-P-25, as shown, Chairperson Garcia expressed his hope that the City Council would change that policy since he did not want to see cars not being able to park with restrictions for off-street parking in High Density development neighborhoods. Further, he requested that Policy 7-P-12, as shown, be clarified. He was unaware that the City would be collecting fees to plan and design future construction of the Buchanan Road Bypass. He understood that the Joint Powers Authority 1 (JPA) under TRANSPLAN was to collect those fees. While it might be a City policy, he commented that it did not appear that the City was going anywhere with it.

PUBLIC HEARING OPENED
PROPONENT: City of Pittsburg

OPPONENTS: None

PUBLIC HEARING CLOSED

MOTION:

Motion by Commissioner Williams to recommend that the City Council accept the Annual Report on the status of the implementation of the General Plan, as discussed. The motion was seconded by Commissioner Tumbaga and carried by the following vote:

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

COMMISSION CONSIDERATIONS:

Item 5: Baluyut Warehouse – East Tenth Street. AP-03-32 (DR).

Application by Ovette Baluyut requesting Design Review approval to construct a 6,732 square foot mixed use building with office/warehouse on the ground floor and three residential units on the second floor. The site is 0.26 acres in size and is located on the southeastern corner of Tenth and Solari Street. The site is in the Service Commercial General Plan Land Use Classification and Zoning Designation. APN 085-184-001 and 085-184-002.

Associate Planner Ibalio presented the staff report dated September 14, 2004. He recommended that the Planning Commission adopt Resolution No. 9515 approving AP-03-32, with the conditions as shown.

Commissioner Tumbaga identified a typographical error on the second paragraph of the first page of the staff report for the background of the project and where the last sentence should be revised to read:

Seizing the opportunity, the applicant revised his plan and is now requesting office/warehousing on the ground floor and three residential units on the second floor.

Commissioner Gordon spoke to the environmental compatibility between the commercial and residential components. He expressed concern with the potential for paint storage where possible fumes from the ground floor could impact the residents of the apartment.
units. At the rear of the building there were four windows across that elevation, although with the railroad tracks along that elevation there was the potential for noise impacts. He expressed concern as to how best to address that issue for those who could reside in the apartment units.

Mr. Ibalio commented that the applicant had indicated that the use would be primarily office with some warehousing and storage of materials. The applicant had stated that there would be individual offices that would also act as a display case, or display room for the type of businesses to be operated. The applicant was a contractor who did cabinetry with some interior improvements. The offices were to be a showcase for his product and skills. The materials that could be stored could be paint chips, although it could be conditioned that no hazardous materials be stored on site.

Commissioner Gordon requested that no cabinetwork be conducted on site.

Mr. Ibalio affirmed that no manufacturing would be conducted on site. He also understood that the rear elevation would be buffered by existing trees that would be retained. There would also be a standard condition for dual pane windows which should address some of the concerns with respect to noise impacts.

Commissioner Gordon understood that double pane windows were a standard requirement, although he recommended the installation of triple pane windows along the rear elevation to provide better noise mitigation.

Commissioner Ohlson referenced Condition No. 17, as shown and requested clarification on the term County LSI update.

Mr. Hurtado recalled that an LSI Update was for a requirement to update land surveying instruments and maps. Commissioner Williams requested clarification on the fees that would be imposed on the project. She questioned whether the fees were based on a commercial site or whether the fees were imposed on every application.

Mr. Hurtado advised that the traffic mitigation fees in the staff report were only based on a commercial site.

PUBLIC HEARING OPENED

PROPOSER:

OVETTE BALUYUT, 2706 East Tregallas Road, Antioch, spoke to the design of the project and explained that he had been working with staff over the past year to create a project that would be compatible with the City’s requirements. He commented that his family owned a construction company and were the engineers who had prepared the project.
Mr. Baluyut explained that he had purchased the property out of college in 1998, although he did not have a way to fund the project. Desirous to develop the property since it had sat for some time, and since his adjacent neighbor had no intention of upgrading his property, the subject property was intended as a storage area and as a showroom for clients to see his product. He otherwise commented that the bank would loan him no monies without someone to pre-rent the building. The property had been on the market for the last four to five years with no interest on the rental market. As a result, he was now proposing to use the building for his own use with residential on the upper floors.

Mr. Baluyut advised that he had a cabinet shop at another site. The building was to be used primarily as a storage area, where a group of engineers, his associates, would be housed inside the building. He added that his budget was limited and he did not want to use the entire first floor as an office area since he did not need that much space. The residential portion had come about as a result of discussions with the City’s Redevelopment Director and in working with Mr. Ibalio, where the residential component would help to finance the project. Without the residential portion, he stated that there was no funding for the project.

Mr. Baluyut recognized the railroad tracks were located at the rear and noted that even if he was required to build a sound wall, a train, approximately 15 feet in height, would sit above the building. He pointed out that there must be no problems with the corridor along that side of the property since there were no homes listed for sale. As a result, he suggested that they had addressed the potential noise impacts. He requested that the Commission approve the project, as proposed.

In response to the Chair, Mr. Baluyut stated that he was in agreement with the staff recommended conditions of approval with the exception of those conditions that would require him to meet with Engineering Department staff to discuss the traffic mitigation fees being imposed. As to the concerns with double or triple pane windows, he commented that a standard exterior wall had a decibel level of 40 dBA. If required to increase the window pane they would also have to increase the entire wall. He suggested that the sound vibration would still go through the wall and it would not serve any purpose to mitigate noise, unless the City could prove that it would work. He also affirmed, when asked, that the apartment units would have air conditioning.

In response to Commissioner Williams, Mr. Baluyut explained that the work would be done all at one time. The residential portion was needed for him to obtain a loan for the project. He advised that he was a Structural Engineer and had three other Structural Engineers with him who had created an association of licensed engineers. He also held a General Contractor’s License and worked on additions, custom kitchen remodels, and had built custom homes. He had also opened a cabinet shop for custom cabinets.

Commissioner Ramirez requested clarification as to the storage area and offices, and
questioned whether or not the area would be used for an office or the display of work for client purposes.

Mr. Baluyut commented that the intent was for the offices to display custom cabinetry from his cabinet shop. The engineers would be located in the front. He described the display as walking into four separate homes in one office. The storage area could be used to store some of their product for customer pick up or moldings for cabinets. All processing for the work would be done at a separate location since there was no space in the area for a cabinet shop. There would be no paint storage or storage of combustible materials. He acknowledged that the fumes from such storage would impact the upper residential units.

Chairperson Garcia inquired whether or not a use permit was required for the office use or for any other use of the building.

Mr. Ayres advised that the applicant’s proposed uses were permitted under the zoning code. Only design review approval was required at this time. If the applicant desired to place a use that would be subject to a conditional use permit, that use would have to be reviewed by the Planning Commission which would then have to determine its compatibility with the residential units above.

Chairperson Garcia requested a condition that no hazardous materials be stored in the storage area, particularly since there was only one way in/out of the apartment units.

Ms. Ayres explained that the Commission could not regulate use although if the applicant was in agreement as part of his project description for the Mixed Use development, it would be appropriate for the Commission to make such a confirmation through a condition of approval.

Mr. Baluyut agreed to accept a condition to allow the Commission to come onto his property and view it although he did not want to limit potential uses. He suggested that he be allowed to comply with the General Plan.

Ms. Ayres explained that the Commission was determining whether or not the design of the proposal with residential and a commercial component was an appropriate combination of use for the property. She stated that it would be appropriate to add a condition or a finding that the Commission was in support of the Mixed Use development as envisioned by the applicant, provided it did not involve combining residential uses with hazardous materials in the storage area.

Mr. Ibalio added that the General Plan listed the permitted and non-permitted uses and any subsequent uses would have to go through the same General Plan scrutiny.

Commissioner Tumbaga questioned whether or not the Commission could restrict the
types of materials that could be stored.

Mr. Ibalio recommended an additional condition that no hazardous materials as categorized by the County Health Services Department be stored on the site. The applicant agreed to that condition.

Commissioner Tumbaga spoke to the garage for the residential units and inquired whether or not access could be provided through the garage or if the entrance to the units would be from the street.

Mr. Baluyut advised that there would be a private access road to the back of the parking area. The garage would be a detached covered garage. The entrance to the apartment units would be on the Solar Street elevation where there were two staircases, one to one unit and the other in the middle of the property to the other two units. One of the units would be situated above the garage with the other units to be above the commercial side. Commissioner Tumbaga inquired whether or not access from the ground floor uses would be provided to the upper stair apartments.

Mr. Baluyut stated that no access would be provided from the ground floor to the upper units in that the two uses would be totally separated.

Commissioner Tumbaga inquired how the upper units would be safeguarded from any potential damage to the lower units, such as paint fumes or obnoxious odors. She also inquired of the square footage of each of the apartment units.

Mr. Ibalio explained that would be addressed through the limitation of storage in the downstairs. The development would be required to comply with Uniform Building Code (UBC) requirements.

Mr. Baluyut added that the apartment units would be approximately 1,000 square feet per unit. There would be 1,900 square feet in the ground floor area not including the garage area. He corrected his earlier comments and explained that the garage would be attached to the building.

Ms. Ayres requested that Condition No. 20 be amended to eliminate the last provision in that condition in response to the fact that during a past Council meeting, a Councilmember had questioned the way the Engineering Department’s conditions were written. There had been several fee conditions that had limited the City’s ability to apply increases in fees. The Council had directed that all of the engineering conditions state that the fee owed would be the fee in place at the time of building permit issuance.

Commissioner Gordon stated that the condition proposed by staff as to the prohibition of
the storage of hazardous materials would be satisfactory to him since the County listed materials that were hazardous. He inquired of engineering staff’s opinion as to the differences between triple and double pane windows in terms of noise attenuation.

Mr. Hurtado stated that he had limited experience with the use of double pane windows, although he understood that a double pane window would prevent the residents from hearing the air conditioning units. A triple pane window would be similar and would likely not provide much difference since most of the site was situated below the level of the railroad tracks.

With no advantage with triple pane windows, Commissioner Gordon stated that he would not pursue that recommendation.

Commissioner Dolojan found the project to be unique and one which could be a showcase for the City. As to the requirement for the hazardous materials storage he agreed and wanted to work with the applicant to see the project succeed.

Commissioner Tumbaga agreed that the project was commendable. As a Mixed Use development, she emphasized the need for the Commission to require the best project possible since the applicant would be setting a standard.

OPPONENTS: None

PUBLIC HEARING CLOSED

MOTION: AP-03-32

Motion by Commissioner Ramirez to adopt Resolution No. 9515, approving AP-03-32, Design Review application to establish a Mixed Use project, 6,732 square foot building, with ground floor Office/Warehousing and second floor Residential on a vacant site located at the southeast corner of Solari Street and Tenth Street (APN 085-184-001 and 002), with the conditions as shown, with a modification to Condition No. 20, and with an additional condition as follows:

- No hazardous materials identified by the County Health Services Department shall be stored in the lower commercial space.

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

Ayes: Commissioners Dolojan, Gordon, Ohlson, Ramirez, Tumbaga, Williams, Garcia
Noes: None
Abstain: None
Absent: None
Item 6: Planning Commission Bylaws.

Review and consideration of new Bylaws for the Planning Commission to be submitted for review and approval by the City Council by October 1, 2004.

Ms. Ayres presented the staff memorandum dated September 14, 2004. It was recommended that the Commission provide initial comments on the draft text and that two Commissioners be assigned to provide additional guidance to staff to fine-tune the document which would then be brought back to the full Commission on September 28, 2004 for formal recommendation to the City Council for approval.

Speaking to how officers were selected, Chairperson Garcia recommended that the Planning Commission follow the same policy as the City Council, with the rotation of officers.

The Commission discussed at length whether or not to continue with the rotation of officers. It was the consensus of the Commission that the standard rotation system was preferred for the selection of officers.

Commissioner Ohlson spoke to Article 5, Meetings, Section 6, Attendance Requirements. He recommended that the example of excessive absences, as shown in that section, be reversed to prevent confusion. He also recommended further amendment so that the last sentence of that section would read:

Examples of excessive absences include: four (4) consecutive unexcused absences occurring within one year period; three (3) unexcused absences occurring within a one year period; or six (6) excused absences occurring within a one year period.

Commissioner Williams expressed concern with that modification since there could be illnesses involved.

Ms. Ayres explained that the statement had been taken directly out of the City ordinance.

In response to Commissioner Dolojan as to Article 5, Meetings, Section 4(a), Quorum, and what would occur with a tie vote. Ms. Ayres explained that she would contact the City Attorney to clarify what action would be taken, although she understood that such a scenario would result in a denial of the item.

Commissioner Gordon commented that based on his experience such action had occurred in the past. In that case, the item could be postponed or continued. He agreed that the City Attorney should provide further clarification.

Commissioner Ohlson also spoke to the election of the Planning Commission Chair and Vice Chair which the bylaws now stated was to be done at the first meeting in July of each
year. He recommended that regulation be changed to the first regular meeting in July of each year, since there was the possibility of non-regular scheduled meetings.

Commissioner Gordon pointed out that new Commissioners were seated as of July 1 of each year. As a result, the election of the Chair and Vice Chair should occur at the first meeting each July whether a special meeting or not. As had occurred this year, the Chair and/or the Vice Chair could have been termed out or not reappointed and the Commission could be without a Chair for a period of time.

Commissioner Ohlson withdrew his request.

Commissioner Ohlson spoke to Article 5, Meetings, Section 1, and requested that the last sentence of that section be amended to reflect that the Planning Commission meetings start at 7:00 P.M. With respect to Article 5, Section 2, regarding the notice of meetings, he requested that the posting of public notices be clarified in that the notice was actually displayed in the lobby of the Police Department since it had 24-hour access.

Mr. Jerome acknowledged that public notices had been displayed at the Police Department which was open for a 24-hour period. There had been discussions for a kiosk at the front entry although that had not come to fruition. He was not entirely supportive of such a change in the language since better identification for 24-hour noticing could be provided in the future.

Commissioner Ohlson withdrew his request.

Commissioner Ohlson spoke to Article 5, Meetings, Section 3, Order of Business for Regular Meetings, d. public communications. He recommended that the agenda be revised to read public comment as was done for other City agendas. He also recommended that item l. be revised to read Commissioner Comments.

Again speaking to Article 5, Section 4, Procedures for the Conduct of Business, e., Motion to Reconsider, Commissioner Ohlson recommended that the Commission follow Roberts Rules of Order regulations. He also recommended that the motion to reconsider be brought up the same day consistent with Roberts Rules of Order.

Additionally, Commissioner Ohlson recommended that for that same section, f. (2), the last sentence be amended to read:

*If the motion carries, the Commission shall then take action on the amended motion.*

Referencing Article 9, Amendment of Bylaws, Section 1, Commissioner Ohlson noted that nowhere in the document had it been clarified what it would take to be clarified to vote. He requested a better definition, as follows:

*Any such recommendation shall be in the form of a resolution adopted in the*
Ms. Ayres agreed that the additional language was not needed and could be amended as proposed.

Again speaking to Article 9, Amendment of Bylaws, Section 2, Commissioner Ohlson requested a copy of the City Council Policy and Procedures Manual.

Summarizing the Commission comments, it was the consensus of the Commission that the Planning Commission follow a rotation system for the election of officers as was done for the City Council and that the Commission comply with Roberts Rules of Order.

As to the need to form bylaws for the communication with the City Council, the public and City staff, Ms. Ayres recommended that the Commission discuss possible recommendations that could be considered for adoption during the meeting of September 28. She acknowledged, when asked, that she was uncertain what policy the Council followed in that she had not reviewed the Council’s bylaws.

Commissioner Williams left the meeting at 10:07 P.M.

Commissioner Gordon recommended that the City Council policy be reviewed and that the Planning Commission likely follow that same policy regarding communication with the City Council, the public and City staff.

Ms. Ayres expressed the willingness to review that information and provide information in draft form for Commission review and comment at the next meeting on September 28.

Chairperson Garcia recommended a policy whereby if a developer wanted to meet with a Commissioner to discuss a potential project, the developer should meet with the Project Planner and the Commissioner at City Hall to discuss the project. He did not support private discussions of projects.

Ms. Ayres agreed that it was important that the Commission not make decisions or confirm its favor for projects prior to a public hearing and the general public’s opportunity to provide input.

Mr. Jerome recommended the following amendments to Article 5, Meetings, Section 1, to read:

The Planning Commission shall schedule at least one regular meeting in each month subject to the availability of business items.

To Article 4, Officers, Section 1, the second paragraph was amended to read:

In addition, the City Planner or his/her designated representative shall serve as the
Secretary to the Planning Commission with the duty to staff all Planning Commission meetings and sign all resolutions and minutes approved by the Planning Commission.

Speaking to that same section, Ms. Ayres recommended that the Chair not have to sign all resolutions. As the Secretary to the Commission, it was her job to ensure that the resolutions matched the meeting minutes and she could sign them, which she added could help to streamline the process.

Commissioner Gordon stated that if the Chair’s signature was not required by law, he had no concern with that change.

It was the consensus of the Commission that process be followed.

**STAFF COMMUNICATIONS:**

Ms. Ayres reported that she had been promoted to Planning Director while Mr. Jerome had been promoted to Director of Development Projects.

Ms. Ayres also reported that a Conflict of Interest and Brown Act Training Workshop had been tentatively scheduled for October 5 for all City Commissions. She would be meeting with the City Attorney to better clarify the meeting time format. The City Council Chambers had currently been reserved from 3:30 to 7:30 P.M.

Commissioner Gordon encouraged the solicitation of Jim Sepulveda to make a presentation on the Brown Act.

Ms. Ayres further reported that in response to a request for a field trip to the Alves Ranch property, a number of potential dates had been identified for September 18, 21, 22, 24 or 25 to view the property. The property owner had made himself available to meet with the Commission on any of those dates.

By consensus, a field trip was scheduled for Friday, September 24, 2004.

Mr. Jerome congratulated Ms. Ayres on her promotion as the new Planning Director. He explained that as part of his new position he would now be serving as a mentor and liaison and would likely not attend all Planning Commission meetings.

Mr. Jerome otherwise reported that a resident had been present in the audience in response to a letter he had received regarding the General Plan Clean Up and the possible impacts to his property. Tony Wong, who owned the Delta Market on Tenth Street, had not addressed the Commission during the public hearing although he had sat through the entire meeting with the understanding that his property would be specifically discussed.
Mr. Jerome explained that he had spoken to Mr. Wong in the lobby to explain the action taken by the Commission and the intent and purpose of the letter he had received.

**COMMITTEE REPORTS:**

Chairperson Garcia reported that the TRANSPLAN Committee had met with discussions on Environmental Impact Reports (EIR) for different projects including projects located in the cities of Antioch and San Ramon, an update on the widening of State Route 4 from Railroad Avenue to Loveridge Road, and an update on the median strip for BART. He noted that rather than travel down the freeway to Hillcrest Avenue, BART would automatically switch over to the Moccoco Line. A drawing of the structure to allow that to occur was to be presented to the TRANSPLAN Committee.

In addition, an annual report on the expenditure of funds for college and high school students for bus ridership to reduce air pollution had also been presented.

Chairperson Garcia advised that discussions had also occurred with respect to the next phases of the State Route 4 Bypass/SR160 Extension.

**COMMENTS FROM COMMISSIONERS:**

There were no comments from Commissioners.

**ADJOURNMENT:**

There being no further business, the meeting adjourned at 10:31 P.M. to a regular meeting of the Planning Commission on September 28, 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