A regular meeting of the Pittsburg Planning Commission was called to order by Chairperson Holmes 7:30 P.M. on Tuesday, September 11, 2001, in the City Council Chambers of City Hall at 65 Civic Avenue, Pittsburg, CA.

ROLL CALL:

Present: Commissioners Garcia, Glynn, Harris, Kelley, Leonard, Chairperson Holmes
(Commissioner Leonard arrived after roll call)

Excused: Commissioner Valentine

Staff: Planning Manager Randy Jerome; Associate Planner Chris Bekiaris; Assistant Planner Ken Strelo; Planning Intern Christopher Barton; Assistant Civil Engineer Alfredo Hurtado; and City Attorney Linda Daube.

POSTING OF AGENDA:

Chairperson Holmes advised that the agenda had been posted at City Hall on Friday, September 7, 2001.

PLEDGE OF ALLEGIANCE:

Pittsburg resident and former Chair of the Planning Commission Michael Kee led the Pledge of Allegiance.

Chairperson Holmes requested a moment of silence in silent prayer for those who had lost their lives this date as a result of the terrorist attacks in New York City, Washington, D.C. and Virginia.

MINUTES: August 28, 2001
MOTION:

Motion by Commissioner Kelley to approve the minutes of the August 28, 2001 meeting, as submitted. The motion was seconded by Commissioner Harris and carried by the following vote:

Ayes: Commissioners Garcia, Harris, Kelley, Leonard, Holmes
Noes: None
Abstain: Commissioner Glynn
Absent: Commissioner Valentine

DELETIONS/WITHDRAWALS:

Mr. Jerome requested a modification to the agenda to move Item No. 4 to No. 1 on the agenda for consideration.

COMMENTS FROM AUDIENCE:

CHARLES SMITH, a resident of Pittsburg, identified himself as a retired environmental scientist from the Department of Energy. He referenced a proposal recently approved for Dow Chemical with respect to the installation of a 40,000-gallon tank that would contain a substance called acrylonitrile. He expressed concern that at the time the project had been brought before the Planning Commission, the Commission had been informed that the project was exempt from the regulations of the California Environmental Quality Act (CEQA). He also expressed concern that Commissioners at that time had few or no questions regarding the facility. He emphasized that he had a number of questions regarding the proposal and had submitted correspondence to the City after the action that had been taken by the Planning Commission.

Mr. Smith questioned the assertion that the facility would be exempt from CEQA per Category One, Existing Facilities. In his opinion, the facility could have the potential to negatively impact the surrounding community. He commented on the size of the facility that would be built and noted that the chemical that would be used in the tank was a dangerous chemical that could have serious impacts on the health of the community. He suggested it had been an oversight on the Commission's part to approve the project in terms of the potential environmental impacts and he expressed his hope that the Commission would better evaluate such projects in the future.

PRESENTATIONS:

1. Appreciation Plaques to Rose Mary Tumbaga and Michael Kee

Appreciation plaques were presented to Rose Mary Tumbaga and Michael Kee in recognition of their years of service on the Planning Commission.

COMMISSION CONSIDERATION:

September 11, 2001
Item 4: San Marco Development Agreement First Amendment Findings.
Adoption of Findings for the San Marco Development Agreement between the City of Pittsburg and Seecon for the San Marco Residential Subdivision on a 639 acres site south of State Route 4 at the Bay Point/San Marco Boulevard interchange, PD (Planned Development) zone; APN 097-130-002, 097-140-001, 097-150-005, 097-150-002, 097-150-006, 097-150-007, 197-190-001 and 097-180-001.

Associate Planner Chris Bekiaris reported that during the Planning Commission meeting of August 28, the Planning Commission had approved an extension of the San Marco Development Agreement and had directed staff to prepare findings consistent with the recommendation. A resolution had been prepared and had been presented to the Commission with the necessary findings. The findings had been made on staff issues, including fees, park conveyance and a recommendation that the developer, with the assistance of the City, negotiate in good faith with the Mt. Diablo Unified School District (MDUSD) and the California Department of Fish and Game.

Mr. Bekiaris noted that Condition Nos. 11, 12, 13 and 14 spoke to those findings along with the standard conditions of approval. He also clarified that Exhibit A1, which had been included in the previous Planning Commission packets and which dealt with the development fees had included a fee entitled, Improvement Plan Check Fee. He advised that fee should have been entitled, Improvement Inspection Fee.

Mr. Bekiaris stated that if the resolution presented to the Planning Commission was adopted this date, it would be submitted to the City Council during a meeting scheduled for Monday, September 17, 2001, as an ordinance. As such, he recommended that the Commission adopt Resolution No. 9247 approving the San Marco Development Extension, with Findings.

Commissioner Garcia referenced Condition No. 13 and noted that it was never his understanding that the Commission would demand that the developer fill in the site for the conveyance of property to the MDUSD. He understood that the developer and the MDUSD had gone to court and one of the settlements was that the MDUSD choose a site on the property for a school site. The MDUSD had apparently chosen a site that he described as a "hole." The settlement agreement had not required that the developer furnish a "buildable site." He questioned the language in that condition and stated that language was not what the Planning Commission had recommended at its previous meetings.

City Attorney Linda Daube recalled that the Commission had commented and the condition had been crafted to address that comment that the City would help facilitate resolution of the conveyance of the property to the MDUSD. That condition could be amended if the Commission so directed. As to the issues related to the school site, she understood that the issue was currently in litigation regarding the conveyance of the property and what was to be conveyed.

Commissioner Garcia explained that his statement, which had been made during the previous meeting, was that the City should assist in any way possible to come to an agreement between the developer and the MDUSD, not to ask the City to insert a provision that would require the developer
to fill the site.

City Attorney Daube recommended that the last sentence of Condition No. 13 be amended, as follows:

*The Planning Commission recommends that the agreement extending the Development Agreement include direction that the City will assist the developer and the Mt. Diablo Unified School District (MDUSD) in resolving the issues.*

ALBERT SEENO, Jr., Seecon Financial and Construction Co., Inc., 4021 Port Chicago Highway, Concord, advised that the developer was in agreement with the City Attorney's revised verbiage, as stated.

MOTION:

Motion by Commissioner Garcia to adopt Resolution No. 9247, recommending that the City Council adopt extension of the San Marco Development Agreement for the San Marco Residential Subdivision with Amendments, (Subdivision 7632), as amended. The motion was seconded by Commissioner Harris and carried by the following vote:

Ayes: Commissioners Garcia, Harris, Kelley, Leonard, Holmes
Noes: None
Abstain: Commissioner Glynn
Absent: Commissioner Valentine

PUBLIC HEARINGS:

**Item 1: Paradigm Concrete & Masonry. UP-01-15.**
Application by Alan Bellamy requesting approval of a use permit for a Contractors Office located at 2645 Pittsburg/Antioch Highway, CS (Service Commercial) zone; APN 074-100-015 and 016.

Assistant Planner Ken Strelo presented the request for approval of a use permit for a Contractors Office located at 2645 Pittsburg/Antioch Highway in a Service Commercial zoning district. The business would occupy a site previously occupied by Superior Ryder Truck Rental, which had been a vehicle equipment, sales and rental business that had completely vacated the site. Paradigm Concrete and Masonry would make no significant changes to the appearance of the property, with the exception of the addition of some landscaping to the front of the site along the Pittsburg/Antioch Highway.

The applicant had proposed some exterior storage that would be limited by the conditional use permit as identified by Condition Nos. 9 and 12 of Resolution 9246, where extensive exterior storage would cause the business to be classified as a Contractor's Yard, which was not permitted in a CS district.
Due to the limited amount of materials being stored outside the area, which was also screened, Mr. Strelo stated that the use could be classified as an accessory to the main use. Materials stored outside would be limited to a 10 x 44-foot container, 10 feet in height, with one trailer with a Bobcat tractor stored inside and with two 5-yard dump trucks. The business was a contractor's use, which was permitted in the CS district subject to a use permit.

Mr. Strelo recommended that the Planning Commission adopt Resolution No. 9246, approving UP-01-15, with the conditions as shown.

PUBLIC HEARING OPENED

PROPOSANTS:

ALAN BELLAMY, 2509 Myrtle Street, Oakland, expressed his agreement with the staff-recommended conditions of approval, although he expressed concern with Condition No. 5, as written. He requested clarification of the intent of that condition.

Mr. Strelo explained that Condition No. 5 was a boiler plate condition where the applicant would be required to retain a licensed professional designer (architect or civil or structural engineer) to design all changes of the use and any new construction that might be sought in the future.

Commissioner Glynn referenced Condition No. 13 and pointed out that the applicant would have to comply with that condition as well as with all of the other conditions of approval.

Mr. Bellamy acknowledged the standard conditions of approval, as clarified, recognized that the property was on well water, and acknowledged that no incidental maintenance or repair to equipment would be conducted outside of the building.

OPPONENTS: None

PUBLIC HEARING CLOSED

MOTION:

Motion by Commissioner Harris to adopt Resolution No. 9246, approving UP-01-15, a use permit for a Contractor's Office located at 2645 Pittsburg/Antioch Highway for "Paradigm Concrete Masonry," with the conditions as shown.

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

Ayes: Commissioners Garcia, Glynn, Harris, Kelley, Leonard, Holmes
Noes: None
Chairperson Holmes advised that a decision by the Planning Commission was not final until the appeal period expired 10 days from the meeting. The applicant, City Council, City Manager, or any affected person may appeal either the denial, approval or any conditions of approval of an item within 10 calendar days of the decision.

**Item 2: Chavez Single Family Residence 338 Jimno Avenue, UP-01-16 and DR-01-31.**

Application by Jaime Chavez for a use permit to construct a single-family residence on a substandard lot and design review approval of architectural plans to construct a two-story 1,680 square foot single-family home, including an attached two-car garage on an existing 5,000 square foot vacant lot located at 338 Jimno Avenue, RS (Single-Family Residential); APN 086-093-018.

Planning Intern Christopher Barton presented the request for a use permit to construct a single-family residence on a substandard lot and design review approval of architectural plans to construct a two-story 1,680 square foot single-family home, including an attached two-car garage, on an existing 5,000 square foot vacant lot located at 338 Jimno Avenue. He corrected the staff report to reflect that the total square footage of the home was actually 2,541 square feet in size.

Mr. Barton advised that on behalf of the applicant, Paul Hafen had submitted plans for design review and a use permit to construct the two-story, three bedroom, two and a half bath, 2,541 square foot single family residence on a substandard 5,000 square foot vacant infill lot. He explained that Jimno Avenue primarily consisted of other single story homes also located on substandard 5,000 square foot lots.

An attached two-car garage would be located on the side and set back from the front of the home. A storage room would also be located in the rear of the garage. The proposed project was located within a residential RS zoning district that permitted single family residential homes. The minimum lot size in the RS zoning district was 6,000 square feet.

Mr. Barton explained that the Pittsburg Municipal Code required the issuance of a use permit to develop on substandard lots. Since the project did not meet the lot coverage requirements in that it was 3 percent over the maximum lot coverage development standards for residential districts, a reduction of 148.5 square feet of the storage room would allow the project to comply with the 40 percent lot coverage development standard. He added that the change in the lot coverage would be reflected in the conditions of project approval and the design review resolution.

The applicant was also required to meet certain standards for use permits for substandard lots, including compliance with Pittsburg Municipal Code Section 18.84.660C, which required the second story element not to exceed 50 percent of the total area of building developed on the ground floor.
Mr. Barton advised that the project met all other development standard requirements, including a 20-foot front yard setback, 5-foot setbacks on the sides and 17.4 feet on the rear. The colors and materials of the home would be consistent with the external appearance of surrounding homes, and although the two-story design was not consistent with predominantly single story homes in the area, the street frontage and the location of the garage set back from the front of the home would complement the surrounding neighborhood.

Mr. Barton identified a correction to Condition No. 2 of Resolution No. 9245, which should read:

2. *Square footage of the storage area shall be reduced by at least 148.5 square feet.*

Mr. Barton noted that the project was categorically exempt from the requirements of CEQA, Class 3, New Construction or Conversion of Small Structures.

Mr. Barton recommended that the Planning Commission adopt Resolution No. 9244 approving UP-01-16, and Resolution No. 9245 approving DR-01-31, with the conditions as shown.

PROPOSER:

PAUL HAFEN identified himself as a representative for the applicant, Jaime Chavez, who was also present. He clarified that the base colors of the home would be taupe, with the trim to be white, although the staff report had reflected the opposite. He otherwise affirmed that the applicant was in agreement with all of the staff-recommended conditions of approval.

In response to Commissioner Harris, Mr. Hafen explained that Mr. Chavez would build the home but would not reside in the residence. When complete, the home would be placed on the market for sale.

OPPONENTS:

SAL ENEA, a resident of Pittsburg, requested clarification on the definition of a single-family residence. He expressed concern with the proliferation of multiple families in single family residences.

Mr. Jerome explained that a single-family residence was for one household.

Mr. Enea opposed the construction of the home since it would be a two-story residence that would be quite large and which could overpower the entire neighborhood.

Mr. Enea also expressed concern that a two-car garage could be converted into bunk homes that could be occupied by multiple persons. He also objected to the development of a two-story home on a substandard lot. He understood that the City of San Francisco had banned the development of large homes adjacent to smaller homes, which community had adopted an ordinance preventing such development.

7 September 11, 2001
Commissioner Garcia acknowledged the concerns with multiple persons living in a single-family residence, which concern had been raised by the Planning Commission and where a staff review had been requested. He noted that the City Attorney had indicated that it would be unconstitutional for the City to prevent more than one family from living in one home.

Commissioner Garcia commented that the City's Code Enforcement Bureau was working to see whether or not some of those issues could be resolved. He also noted that the City could not prevent the developer from building on the land since all of the lots in the area were substandard in size and that use permits for development had previously been approved. He urged residents to contact Commander Bill Hendricks of the City's Code Enforcement Bureau to address any concerns in the neighborhood.

WILLIE MIMS a resident of Pittsburg, requested clarification from staff why the project had been determined to be exempt from CEQA requirements.

Mr. Jerome clarified that the project was exempt from CEQA requirements since it was a single family home and due to the nature of the project.

Mr. Mims questioned the proposal for a two-story home in a community with single family residences, which he suggested could create a negative environmental impact to the surrounding community. He objected to the approval of the project and suggested that if approved, the home would be a disservice and a blight on the community.

Commissioner Harris pointed out that if the property owner was prevented from building a two-story home that would prevent others in the neighborhood from expanding their residences, either through a second story or through some other type of expansion of the properties.

Commissioner Leonard requested clarification from staff whether or not the Commission could modify the design of the home, i.e. the two-story element.

Mr. Jerome explained that the application was for a use permit and design review. The use permit was required for the development of a substandard lot. The Zoning Ordinance contained development regulations to address issues, such as the second floor of the home, which could be no more than 50 percent of the ground floor to prevent a massive home on the lot. The intent was to mitigate the impact of the second story but not preclude what was allowed in the Zoning Ordinance for two-story homes.

MOTION: UP-01-16

Motion by Commissioner Garcia to adopt Resolution No. 9244, approving UP-01-16, a use permit to develop a substandard lot at 338 Jimno Avenue, with the conditions as shown. The motion was seconded by Commissioner Glynn and carried by the following vote:

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September 11, 2001
MOTION: **DR-01-31**

Motion by Commissioner Garcia to adopt Resolution No. 9245, approving DR-01-31, design review approval for architectural plans to construct a two-story single-family residence at 338 Jimno Avenue, with the conditions as shown and with Condition No. 2 as amended. The motion was seconded by Commissioner Kelley and carried by the following vote:

Ayes: Commissioners Garcia, Glynn, Harris, Kelley, Holmes
Noes: Commissioner Leonard
Abstain: None
Absent: Commissioner Valentine

Chairperson Holmes advised that a decision by the Planning Commission was not final until the appeal period expired 10 days from the meeting. The applicant, City Council, City Manager, or any affected person may appeal either the denial, approval or any conditions of approval of an item within 10 calendar days of the decision.

**COMMISSIONER CONSIDERATION:**

**Item 3: Chavez Single Family Residence 370 West Ninth Street, DR-01-30.**
Application by Jaime Chavez requesting design review approval of architectural plans to construct a two-story 1,680 square foot single family home, including an attached two-car garage on an existing 5,000 square foot lot located at 370 West Ninth Street, Downtown Specific Plan, (DSP), Area II; APN 085-221-012.

Planning Intern Barton presented the request for design review approval of architectural plans to construct a two-story 1,680 square foot single family home, including an attached two-car garage on an existing 5,000 square foot lot located at 370 West Ninth Street. The project would be similar to the previous application, although located in the Downtown Specific Plan Area II and not located on a substandard lot.

The area consisted of both one and two-story single family and multi-family homes. The design of the home would not involve a storage area behind the garage. The roof would be designed differently than the previous application. All other aspects of the home would be the same as the previous submittal. The front yard setback would be 20 feet, 5 on the side and 31 feet at the rear.

The project was located within Area II of the Downtown Specific Area, a residential zoning district
that permitted single family residential homes. DPS II, Section 7.6, required Planning Commission approval for any new construction in Area II. The proposal would be consistent with Sections 3.2 of the Downtown Specific, which encouraged new construction in existing neighborhoods. The architecture of the home would be more modern in appearance than the neighboring homes, although it would share the same modern appearance of the new homes in the adjacent newer developments. The colors and materials would be consistent with the external appearance of surrounding homes. The street frontage and location of the garage, which would be setback from the front of the home, would also complement the surrounding neighborhood.

The project was exempt from CEQA, per Class 3, New Construction or Conversion of Small Structures.

Mr. Barton recommended that the Planning Commission adopt Resolution No. 9243, approving DR-01-30, with the conditions as shown.

PROPONENTS:

PAUL HAFEN, representing the applicant, Jaime Chavez, advised that the applicant would be the owner/builder of the subject residence. He acknowledged that the home was similar to the other residence, with the exception of the storage room. He also advised that the applicant agreed with the staff-recommended conditions of approval.

MOTION:

Motion by Commissioner Glynn to adopt Resolution No. 9243, approving DR-01-30, design review approval of architectural plans to construct a two-story single family residence at 370 West Ninth Street for Jaime Chavez, with the conditions as shown. The motion was seconded by Commissioner Kelley and carried by the following vote:

Ayes: Commissioners Garcia, Glynn, Harris, Kelley, Leonard, Holmes
Noes: None
Abstain: None
Absent: Commissioner Valentine

Chairperson Holmes advised that a decision by the Planning Commission was not final until the appeal period expired 10 days from the meeting. The applicant, City Council, City Manager, or any affected person may appeal either the denial, approval or any conditions of approval of an item within 10 calendar days of the decision.

STAFF COMMUNICATIONS:

Mr. Jerome advised that two letters had been included in the Commission packets, one from a resident regarding a water line in the street and one from Johns Manville, which had identified a number of concerns with the General Plan public hearing relative to land use for its property. Both letters had been forwarded to the City Council for consideration.
Mr. Jerome also commented on the recent tragic events on the East Coast. He recognized that many community meetings had been canceled, although the City had held its meeting since there had been no direction to continue it. He expressed his appreciation to the audience, staff and the Planning Commission for their attendance at the meeting.

**GENERAL PLAN UPDATE REPORT:**

Mr. Jerome reported that the City Council would consider the General Plan at its September 17 meeting. Due to the length of the agenda at that time, the meeting had been scheduled at 5:00 P.M. to allow the General Plan consultant to make a short presentation to the City Council. The regular Council meeting agenda would commence at 7:00 P.M.

**ZONING ADMINISTRATOR REPORT:**

There was no Zoning Administrator Report.

**COMMITTEE REPORTS:**

There were no committee reports.

**COMMENTS FROM COMMISSIONERS:**

Commissioner Harris reiterated a previous request for information from the City Attorney regarding a court case that had been referenced where it had been found that restricting the number of individuals in single family residences was unconstitutional.

Mr. Jerome affirmed that the City Attorney had been informed of the request and staff was still awaiting a response.

Commissioner Glynn stated that he would be making a formal request to meet with the City Attorney regarding the correspondence received from Johns Manville. He cited the number of points raised in the correspondence, which may have to be researched through the Draft General Plan, to determine the accuracy of the comments.

**ADJOURNMENT:**

There being no further business, the meeting adjourned at 8:35 P.M. In Memory of Those Who Had Lost Their Lives as a Result of the Terrorist Attacks on the East Coast, and then to a Regular Meeting of the Planning Commission on September 25, 2001 at 7:30 P.M. in the City Council Chambers at 65 Civic Avenue, Pittsburg, CA.