A regular meeting of the Pittsburg Planning Commission was called to order by Chairperson Glynn at 7:30 P.M. on Tuesday, August 27, 2002, in the City Council Chambers of City Hall at 65 Civic Avenue, Pittsburg, CA.

**ROLL CALL:**

Present: Commissioners Garcia, Harris, Leonard, Ramirez, Chairperson Glynn

Absent: Commissioners Dolojan, Kelley

Staff: Planning Manager Melissa Ayres; Associate Planner Ken Strelo; Civil Engineer II Alfredo Hurtado; Planning Technician Christopher Barton; and City Attorney Linda Daube.

**PLEDGE OF ALLEGIANCE:**

Chairperson Glynn led the Pledge of Allegiance

**POSTING OF AGENDA:**

Chairperson Glynn advised that the agenda had been posted at City Hall on Friday, August 23, 2002.

**MINUTES:** August 13, 2002

**MOTION:**

Motion by Commissioner Garcia to approve the minutes of the July 23, 2002 meeting, as submitted.
The motion was seconded by Commissioner Leonard and carried by the following vote:

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

DELETIONS/WITHDRAWALS:

Chairperson Glynn requested that the agenda be revised and that agenda Item No 3, Buchanan/Griego Building Facade Renovation, be moved to the first item on the agenda with Item Nos. 2 and 3 to be heard thereafter.

COMMENTS FROM THE AUDIENCE:

DR. RON QUESADA, a resident of the City of Brentwood, Vice President, Pittsburg Chamber of Commerce and a local business merchant, read the following statement from the Chamber of Commerce into the record:

"The Pittsburg Chamber of Commerce asks you to consider the needs of Pittsburg's business community. The Chamber's position has always been to support growth in Pittsburg and the desire to achieve a jobs housing balance. Pittsburg unlike other communities, have the jobs and executives, but Pittsburg has an undersupply of executive housing. It is the consensus of the Chamber Board that the business will prosper and residents will benefit. Please consider the business community when making your decisions."

PETE CARPINO, 151 El Camino Drive, Pittsburg, commented that he had previously requested a status report on Wal-Mart's non-compliance with their original project conditions of approval, particularly relating to the maintenance of the property and the storage containers that had been placed in the parking lot area. He emphasized that this was the third request he had made for an update. He questioned whether or not Wal-Mart had been approached or would be required to adhere to the conditions imposed by the City.

Planning Manager Melissa Ayres reported that staff was aware of the issues regarding Wal-Mart, which issues had been referred to Commander William Hendricks of the Code Enforcement Division. She was unaware of the current status of the matter, although she expressed the willingness to contact Mr. Carpino with any information that was available.

WILLIE MIMS, 954 Newcastle, Pittsburg, representing the Black Political Association (BPA), commented that during the August 13 Planning Commission meeting the Commission had approved a project for Park Place Residential Subdivision.
While he had not been a participant during the initial discussions since he had not reviewed the project and had not been qualified to speak to the issues, Mr. Mims stated that he had since viewed the property proposed for development. He suggested that the Commission had made a serious mistake by approving the project. He suggested that the site was not large enough to accommodate the 40 homes proposed to be built on the property. He also pointed out that there was a natural park area that could have been turned into a park site, which would have been the best use of the property.

Mr. Mims suggested that the State's Open Land Law must be considered in this case.

PRESENTATIONS:

There were no presentations.

COMMISSION CONSIDERATION:

**Item 3: Buchanan/Griego Building Façade Renovation. DR-02-25.**

Application by Jason Griego requesting design review approval of architectural plans for the renovation of the façade of an existing 18,122 square foot building located at 446 Railroad Avenue, Downtown Commercial Land Use designation, APN 085-104-001.

Planning Technician Christopher Barton presented the request from Jason Griego for design review approval of architectural plans for the renovation of the facade of an existing 18,122 square foot building located at 446 Railroad Avenue in the Downtown Commercial Land Use designation. The applicant was a local artist and was in the process of conducting external modifications to the building.

The project would include the removal and replacement of windows on the Railroad Avenue and Fifth Street elevations. In addition, new roll up doors and wall mounted lighting fixtures would be installed at Fifth Street. The new roll up doors would be phased in and were expected to be completed by February 2003. The project would also involve the removal and replacement of doors on Fifth Street and Railroad Avenue. All street elevations would be repainted with the colors identified in the Commission packets. A cast in place exterior finish would be provided below the roofline of the building.

Mr. Barton explained that the project was consistent with the General Plan and would involve a live/work facility to be used as an artist's studio, uses that were consistent with the Downtown Element of the General Plan. He stated that the project would be appropriate for pedestrian traffic and would be consistent with efforts to upgrade the downtown. The project was exempt from California Environmental Quality Act (CEQA) requirements under Existing Facilities.
Mr. Barton recommended that the Planning Commission adopt Resolution No. 9362, approving DR-02-25, with the conditions as shown.

PROPONENT:

JASON GRIEGO, 446 Railroad Avenue, Pittsburg, presented the Commission with a colored rendering of his proposal. He commented that the intent of the project was to bring the building back to its original design with upgrades compliant with current code. The color scheme would complement the general color scheme of buildings in the immediate area of the subject site. Additionally, cornice work would be poured in place and would consist of gold leafs and capitals on the tops of the columns.

In response to Commissioner Garcia, Mr. Griego affirmed that he had received, read and was in agreement with the staff recommended conditions of project approval.

ROGER RILEY, a resident of Pittsburg, expressed his support of the application and his hope that the Commission would also support the project. He characterized the quality being proposed to bring back the old artistic values in the building as unusual. He commented that he owned property across the street and to the south of the subject site. He suggested the project would represent an outstanding advancement in the downtown.

MOTION:

Motion by Commissioner Garcia to adopt Resolution No. 9362, approving DR-02-25, Design Review approval of architectural plans for the renovation of the façade of an existing 18,122 square foot building located at 446 Railroad Avenue for "Buchanan/Griego Building", with the conditions as shown. The motion was seconded by Commissioner Leonard and carried by the following vote:

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

Commissioner Harris stated that he had previously requested an opinion from the City Attorney as to whether or not he would be able to participate in the discussion of Item Nos. 2 and 3 due to a potential conflict of interest. He requested that the City Attorney provide clarification on his participation at this time.

City Attorney Linda Daube explained that the Development Agreements that had been included as part of the Commission packets had been with Discovery Builders.
Ms. Daube reported that Commissioner Harris had spoken to her previously and had advised that he had done work with Seecon Financial and Construction Company, but that he had conducted no work for Discovery Builders. On that basis, she opined that it would appear that there would be no conflict of interest and that Commissioner Harris would be allowed to vote on the matters before the Commission.

**CONTINUED PUBLIC HEARINGS:**

**Item 1: San Marco Meadows Prezoning and Subdivision. RZ-02-04 and Subdivision 8519.**

This is a continued public hearing on a request for a prezoning of 231 acres to RS-O (Single Family Residential with a Limited Overlay), enter into a development agreement with the City and approval of a vesting tentative map to subdivide 231 acres into 779 single family residential lots ranging in size from 6,000 square feet to 1.29 acres (average lot size is 9,209 square feet) and to construct a water tank and related improvements in an undeveloped area located in the southwest hills, south of the existing San Marco Subdivision Tract 7362. The project site is designated Low Density Residential (1-7 dwellings units/acre). It will be located inside the County Urban Limit Line. The majority of the project is located outside of the City limits and outside of the City of Pittsburg Sphere of Influence; APNs 097-180-001, 002, and 006; 097-190-001 and 002; 097-200-002 and 003 (and portions of San Marco).

Planning Manager Ayres reported that the Commission had been provided with two letters for the project, one from Supervisor Federal Glover dated August 27, 2002, and a fax transmittal from Adams Broadwell Joseph & Cardozo, also dated August 27, 2002. In addition, the consultant had provided written comments in response to comments received too late to be included in the staff report.

City Attorney Daube reported that Commissioner Garcia had brought to her attention the fact that the staff report and resolutions had identified Seecon Financial and Construction Company as the originator of the project, but that Discovery Builders was apparently owner of the project. She advised that if the Commission were to approve the applications, corrected resolutions would have to be returned for signature to ensure they reflect the appropriate applicant.

Associate Planner Ken Strelo presented the request for the San Marco Meadows prezoning applications. He reported that the Planning Commission held a public hearing on the proposed project on August 13, 2002. He noted that several comment letters had been received relating to the Mitigated Negative Declaration and Tentative Map, after the Commission packets had been prepared and staff and consultant had not had time to analyze them.
As a result, Mr. Strelo reported that the Planning Commission had continued the public hearing to the regularly scheduled August 27 meeting to allow staff and the environmental consultant an opportunity to respond to all comments to enable the responses to be part of the public record, and to allow the Commission to consider the comments and responses in its decision making process.

Mr. Strelo reported that the City had received a comment letter from the California Department of Fish and Game on August 19, 2002, which letter had been attached to the staff report. The City's Environmental Consultant had addressed the letter in separate written comments presented to the Commission at this time.

Mr. Strelo explained that since the consultant's responses to comments had just arrived, staff had been unable to analyze those comments. As a result, he recommended that the Commission consider the evidence and the testimony.

Mr. Strelo presented the three options available to the Commission at this time: to deny, to approve or to continue the project. If the Commission chose to approve the project, resolutions of approval were attached in the staff report.

RICHARD LOEWKE, Professional Urban Planner, 55 Oak Trail Court, Alamo, introduced Steve Abrams, Abrams Associations, the subconsultant and traffic expert.

Chairperson Glynn commented that in all of the documentation received over the past couple of weeks, there had been numerous questions related to impacts on surrounding projects, or properties that would be created by the magnitude of the project. In addition, various intersections had been identified. He requested that the consultant address those issues.

Mr. Loewke explained that during the August 13 meeting, he had been provided with a set of detailed comments prepared by a variety of individuals and public agencies. A preliminary report in response to those comments was provided to the Commission at this time. He explained that the approach taken in preparing the Initial Study and the Mitigated Negative Declaration and Draft Mitigation Monitoring and Reporting Program (MMRP), had been on the basis of a tiered analysis of the City's General Plan and the project in relationship to the General Plan.

Mr. Loewke stated that last year, the Commission had completed a thorough and comprehensive update of the General Plan, including an analysis of development on the subject site on a scale larger than the project and other projects related to adjoining properties and other properties farther to the south and east. When that process had begun, the effects of the project had been analyzed based on the environment as required by CEQA.
As part of that process, an analysis of the General Plan had determined the overall cumulative effects expected by all of the development and how the projects together would relate between one another and as they would load traffic onto arterials and local roadways.

In the General Plan program level analysis, Mr. Loewke stated that there was an expectation of certain total average daily trips on each of the roadways as well as peak hour AM and PM trips. The effect of the project as part of the overall cumulative analysis had been broken out in a report prepared by Abrams and Associates.

Comments had been made with respect to the intersection of San Marco Boulevard and its ramps at State Route 4, and the effects on West Leland at such time as it connected to Bailey Road. In addition, comments had been made with respect to the extension of San Marco Boulevard south through the project in the future to eventually connect to Bailey Road.

Mr. Loewke explained that in their responses to comments received, they had reviewed the capacity of the roadways and had carefully examined the relationship of the project to the forecast total volume on all roadways, as well as the timing of improvements. It had been their conclusion that the project would be consistent with the City's General Plan in terms of its scale, timing, and improvements both within the project and what was proposed off site. Beyond that, he stated that the General Plan had mitigation measures that the project would be obligated to meet.

Mr. Loewke clarified that the environmental document was not a standalone analysis since it tiered off of the General Plan analysis and worked in conjunction with the conditions of approval that staff had identified in the staff report. He noted that there were obligations on the project which did not flow directly from the CEQA analysis and the Mitigated Negative Declaration, but from the General Plan Environmental Impact Report (EIR). He emphasized that the two sets of requirements had been reviewed to ensure that they were internally consistent.

Speaking to concerns expressed by the Chair as to the right-of-way width of San Marco Boulevard as it extended through the project, Mr. Loewke explained that the Tentative Map had incorrectly shown that roadway as a 68-foot right-of-way. The General Plan called the roadway a major arterial with a 100-foot right-of-way. He noted that issue had been clarified in the response document that he had provided to the Commission.

Based on compliance with the General Plan standard, Mr. Loewke advised that there would be no significant adverse effects on that roadway or its connecting intersections.

Chairperson Glynn commented that he had spent a great deal of time reviewing the information related to the project. He expressed concern that the local newspaper
appeared to be more on top of the response document than the Commission given that the Commission had just been presented the consultant's response document. He questioned whether or not the consultant had sufficient time for an in depth study of all comments received to date, to review the possible adverse impacts that could negate the validity of going with an EIR that supported the General Plan but did not have the content specificity of an EIR relevant to the project itself.

Mr. Loewke explained that the consultants had ample time to review the comments that had been received and had pulled together copies of EIRs that had previously been reviewed, including the BART Station EIR referenced by the County and others in comment letters. The numbers generated in those documents had been reviewed as had other more recent EIRs. Further, the raw data for comparison purposes and the conclusions and findings reached in the City's General Plan Traffic Analysis had also been reviewed.

Mr. Loewke emphasized that the General Plan anticipated a Level of Service (LOS) decline at a couple of the intersections, particularly the West Leland/Bailey Road Intersection. While findings regarding the adequacy of that intersection had been made, mitigation measures could not be brought to bear to fully correct for the loss of LOS. The decline in LOS that was expected in the cumulative context at build out, at West Leland/Bailey Road, was something that the City had already made a finding to accept given the overriding public benefits to the General Plan.

Mr. Loewke suggested that the project would contribute a small amount of traffic to that intersection. He noted that the response document had broken down the numbers in a finer level of detail and had represented what share of the total traffic volume the project would represent, and had put that back in the context of what happened to the total volume at the intersection.

Mr. Loewke explained that the project was consistent with the General Plan and did not change the conclusions reached in the General Plan. Therefore, an EIR was not required to further address that impact, which was true of generally all of the questions raised of traffic impacts.

STEVE ABRAMS, Abrams and Associates, added that the intersection of West Leland/Bailey Road General Plan findings had shown a poor LOS in the future that would exceed the standards at that location. He pointed out no matter how many additional lanes were added to the intersection, bypass traffic from the freeway would take up the capacity.

Mr. Abrams suggested that it was a good decision and in the City's interest to not stop development because of the regional problems of freeway diversion traffic in the area, which was something that had been addressed in the General Plan, although it would add
a small amount of traffic to the area. That traffic was expected to be minor in relation to other projects. He pointed out that the previous General Plan had made findings of overriding considerations at that location.

Chairperson Glynn inquired if the Traffic Consultant had evaluated the potential impact of the Stremel (Bailey Estates) project from the same intersection.

Mr. Abrams advised that they were aware of that project. He understood that the impacts had been included in the cumulative numbers.

Commissioner Garcia noted his understanding that the Subdivision Map was preliminary and had been put together so that the project could be forwarded to the City Council and thereafter to the Local Agency Formation Commission (LAFCO) for approval. At a later date, he understood that there would have to be a Final Subdivision Map, at which point in time another traffic study might be required. He acknowledged that there might be other conditions to mitigate whatever traffic would be generated by the project.

Mr. Loewke explained that as outlined in the description of the project in the Initial Study, there were a variety of actions before the Commission for consideration, including the possible approval of a Vesting Tentative Map, a discretionary action on the part of the City. The initiation of annexation and other entitlements that had been listed in the project description had also been included. Under CEQA, the Final Map was considered as a ministerial act. The approval of a Final Map would take place after it was found that all conditions imposed on the Tentative Map and all required mitigated measures outlined in the environmental documents had been fulfilled or were guaranteed to be fulfilled in a timely manner based on the schedule and responsibilities outlined in the MMRP.

Mr. Loewke stated that was not to say that there was a great deal of discretionary action in the future in that the entitlement must be considered as a standalone action and must be supported by the environmental document before the Commission.

Mr. Loewke also stated that as his response to comments had summarized, the Commission had the responsibility to determine whether or not the environmental documents that had been prepared had considered all of the significant impacts on the project, and if not, the Commission should direct staff and the consultant to revise the document to develop additional mitigation measures needed to offset those significant impacts. A Revised Draft Mitigated Negative Declaration would then be required with that document to be recirculated.

The second option would be for the Commission to move forward using the document that had been provided, including the comments and responses to comments and any other information that the Commission might direct the consultants to study. Should the sum of
that information retain the conclusions that the General Plan, in combination with the environmental document, was sufficient to identify and mitigate all of the impacts other than the overriding findings as contained in the General Plan, the Commission could rely on the environmental documents and use them.

Mr. Loewke added that the third option would be if the Commission were to find that there were unavoidable significant impacts that were new and not considered in the General Plan as a result of the subject project, at that point the Commission should direct the preparation of a Draft EIR and cause that to be completed referencing the earlier preparation of the environmental documents, with a circulation of the Draft EIR.

Mr. Loewke further commented that the MMRP had identified a series of mitigation measures that would be implemented over time. As an example, a focus survey might be required for a special status plant that had not been possible to positively determine pending the outcome of a survey yet to be conducted. As a result, an evaluation had taken place as to the likelihood of an occurrence of an animal or plant. He reported that all determinations rendered by the consultant who had prepared the biological assessments had been low to moderate.

Mr. Loewke commented that in the case of those that were other than low, or no possibility of occurrence, follow up surveys had been called for in the supplemental mitigation, which was appropriate provided that took place prior to the time the Final Map was brought forward and prior to the issuance of any construction permits. The burden of proof and the responsibility to act on that proof would be a shared responsibility.

Mr. Loewke pointed out that the applicant would have to have qualified experts conduct those surveys which would be submitted to City staff and reviewed. If the follow-up surveys showed that the conclusions the consultants had reached in the environmental documents were incorrect that would invalidate the document requiring that the CEQA issues be revisited. He recognized that time could pass between now and when that would occur. If the project did not proceed for a number of years, there could be a difference in habitat conditions. At that time, the consultants would review those issues to offer a fresh and clean determination. If the conclusions were the same, the documents were valid and should be relied upon.

Mr. Abrams also commented that from a traffic standpoint, they had carefully reviewed the comments and were of the opinion that the Commission could proceed from a traffic standpoint. In his opinion, there were no issues that were not responded to at this point.

As to questions related to a clarification of the project's contribution towards various improvements that would take place at other intersections, Mr. Abrams noted that they had identified the correct number of trips that could be used to make the calculations for the developer's fair share of contributions. In addition, any changes in the Final Map that might
have a more than substantial change in units or change to any of the circulation system as it had been currently proposed, would also invalidate the study. If that were the case, the traffic issues would have to be revisited.

Chairperson Glynn referenced correspondence previously received from the City of Concord which had commented on the San Marco Meadows project and the Initial Study and which had stated in part "The study is not consistent with other traffic studies prepared for adjacent projects, such as the Pittsburg/Bay Point BART Station Area Specific Plan, Alves Ranch, and Bailey Road Estates. This document does not reference the Pittsburg/Bay Point BART Station Area Specific Plan as a project, yet the Environmental Impact Report (EIR) for the plan had been approved by the Contra Costa County and is pending approval by the City of Pittsburg. This document should have been listed as a reference in preparing the checklist. The near term traffic impacts identified in the EIR prepared for each of the three aforementioned projects are significant and the San Marco Meadows Traffic Study needs to incorporate these findings."

Chairperson Glynn questioned whether or not the consultants had responded to that comment.

Mr. Abrams explained that they had utilized the Pittsburg/Bay Point BART Station Area Specific Plan and the reason it had not been directly referenced in the environmental documents had been that they had referenced more recent documents that had incorporated that specific plan.

Chairperson Glynn also referenced the same correspondence received from the City of Concord, which had indicated that the City of Concord supported the assumption in the traffic study that Avila Road was not extended to Willow Pass Road in Concord, although it was contradictory to the Pittsburg General Plan. In order for the traffic study to be valid, a mitigation measure should be added to the Initial Study and the traffic section that reads "That the traffic study concludes that the extension of Avila Road to Willow Pass Road in Concord is not needed to mitigate traffic impacts for this project or the cumulative impacts from other projects in Pittsburg, therefore the Pittsburg General Plan shall be amended to remove the Avila Road extension to Willow Pass Road in Concord." He questioned whether or not that comment had been addressed.

Mr. Abrams advised that they had analyzed the project itself and had found that the project and the approved projects could be accommodated without the Avila Road extension at this time.

Chairperson Glynn commented that the environmental documents had not addressed how much building would occur to the east of the City, which could actually contribute to traffic through the City limits on a given period, and how that could be distinguished as being either locally generated traffic as a result of the projects or a combination of local and
Mr. Abrams explained that those issues had been addressed through the use of model runs that had been conducted for the area, which was the best available forecast that could be used for the area. While not perfect, it was the best tool available at this time. The models had not specifically separated out the trips from those that were not within the City limits, but had reviewed the traffic as a whole.

Mr. Loewke advised that in terms of total residential and commercial buildout, staff would have to provide comments in that their analysis had been based on cumulative conditions outlined in the City's General Plan. He recognized that the ABAG forecast would change in the future and at that point it might warrant revaluation.

Chairperson Glynn commented that the Development Agreement had stipulated that the project could tentatively take 19 years to complete over various phases. He noted that the short-term projections based on that future build out were probably more important than several years in the future. He suggested that there was a relationship between the concerns raised by the City of Concord and between the contiguous projects Concord had referenced in their correspondence in terms of the cumulative impacts within the proposed project area.

Mr. Loewke explained that the methodology they had used in their analysis had reviewed both short-term development and cumulative build out assumed by the year 2015. He commented that he had provided documentation in the memorandum he had presented to the Commission that had responded to everything that had been received up to the end of the August 13 public hearing, in addition to correspondence dated August 19, 2002 from the State Department of Fish and Game.

That correspondence had made reference to the possibility of a population of special status animals adjoining the site on the Concord Naval Weapons property. Although the consultants had made repeated and unsuccessful attempts to contact the Department of Fish and Game, they had communicated at length with the author of the biological assessment reports prepared by Wetland Research Associates. It had been verified that the review of the natural diversity database had included no such studies. Mr. Loewke explained that his response in response to the correspondence from the Department of Fish and Game was conservative and had recommended reliance on existing studies while recommending follow-up surveys as the current mitigation measures required, as well as the consideration of any additional information that could be received from the Department of Fish and Game between now and then.
Chairperson Glynn commented that the correspondence from the Department of Fish and Game dated August 19 had brought up the out of sequence situation as to when plants might grow or when populations could be established. He expressed concern with those facts given the magnitude of the buildout period since there could be a population of plants or animals established while the project was being phased and which could have some impacts.

Mr. Loewke stated that he was comfortable with his comments in response to the Department of Fish and Game correspondence although he emphasized that there was follow up mitigation in place with the burden of proof to fall upon the review of the follow up documentation.

Mr. Loewke also clarified, when asked, that the local parks department information relevant to either plant or animal species had not been used.

Chairperson Glynn suggested that the consultant contact the local parks department to obtain such information.

PUBLIC HEARING OPENED

WILLIE MIMS, 954 Newcastle Way, Pittsburg, representing the BPA, urged the Commission to reject the Mitigated Negative Declaration. He questioned whether or not the issues could be mitigated.

Mr. Mims referred to the letters that the Commission had received from various agencies and individuals. He referenced the Draft MMRP and the impacts that could occur as a result of the project, including the fact that the grading would change the character of the site from rolling hills and grasslands to an urbanized setting for homes where millions of tons of ground would be moved. In his opinion, that much land could not be mitigated without causing some serious problems to the environment.

DAVID GOLD, 4020 Natasha Drive, Lafayette, identified himself as the representative for the Alves Ranch, LLC. He presented a supplemental letter dated August 27, 2002 to correspondence previously submitted on August 13, 2002 from Morrison & Foerster, LLP in response to the San Marco Meadows project.

Mr. Gold thanked staff for providing him with some information, although belatedly, such as the submittal of the San Marco Police Services Report. He noted that other documents that had been referenced throughout the staff report were also needed to truly have an idea of the magnitude of the issues that should be raised.
Mr. Gold pointed out the lack of benefit of not having received the traffic information including the response memorandum from the consultant. He urged the Commission to defer action on the proposal at this time, particularly on the Vesting Tentative Map. He emphasized that Final Maps by the consultant involved ministerial actions where new mitigation measures could not be imposed related to traffic, particularly when the Development Agreement would lock the Vesting Tentative Map for a 15 year period.

Mr. Gold also questioned the approval of a Vesting Tentative Map prior to the necessary LAFCO proceedings to bring the property within the City’ of Pittsburg's Sphere of Influence. He urged the Commission to consider the written comments that he had provided.

BRUCE OHLSON, Pittsburg, representing the East Bay Bicycle Coalition, advised that the bicycle community was concerned about the traffic the project would generate in that more motor vehicle traffic would mean less safety on City streets for bicyclists and other non-motorized citizens. He stated that the bicycle community sought assurance that all arterial and collector streets in the project would be built to Caltrans standards to accommodate bicycles if the project were approved. In addition, the bicycle community would like to see the development contribute its fair share financially to the planning and construction of bicycle facilities in the community, which would assist in mitigating all of the motor vehicle traffic the project would generate.

Mr. Ohlson stated that the bicycle community wanted to see the developer assessed the then current multi-jurisdictional funding program to mitigate traffic impacts when, and if, the final subdivision map was approved. The bicycle community was also concerned with the Bailey/West Leland Road intersection. While listed in the current General Plan as future bicycle facilities, neither street had bicycle lanes at the intersection.

GARY MARTIN, 109 San Tomas Drive, Pittsburg, commented that he was one of the first homebuyers in the San Marco development. He recognized that the City had been largely perceived in a poor light. He suggested that the City now had a vision to improve the quality of life and reputation of the City and noted that the prices of the homes in San Marco and surrounding areas of the City were now rivaling those of the more upscale surrounding areas, bringing added revenue to the City. He expressed his hope that through the City's vision the revitalization of the downtown area would occur. Since his property had already appreciated in value, he commented that he might move up to a larger home in the future development of San Marco.

MARK WOLFE, Adams Broadwell Joseph & Cardozo, 651 Gateway Boulevard, South San Francisco, representing the International Brotherhood of Electrical Workers Local #302, and members who lived and/or worked in the City, advised that they had presented numerous comments previously identified in response to both the San Marco and Sky
Ranch projects. He suggested that the City could not lawfully approve the project based only on a Negative Declaration in that CEQA statutes and guidelines mandated the preparation and circulation of a full EIR.

Mr. Wolfe explained that his basis for making that conclusion stemmed directly from language in the CEQA Guidelines which required that if there were any substantial evidence in the record that the project might have a significant impact on the environment that was not fully evaluated and mitigated in the General Plan EIR, the lead agency must then prepare an EIR pursuant to Section 15064 of the CEQA Guidelines. He noted that the Guidelines themselves clarified the requirement stating in part "Said another way, if a lead agency is presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR even though it may be presented with other substantial evidence that the project will not have a significant effect."

Mr. Wolfe added that the Commission was to review the evidence presented that the project might have impacts and determine whether or not that evidence was substantial, with substantial evidence defined as "facts, reasonable assumptions predicated upon facts and expert opinion supported by facts."

Commissioner Garcia understood that the Commission was on legal grounds to either reject or accept the project. He requested a clarification from the City Attorney.

City Attorney Daube clarified with respect to what was before the Commission, that the Commission had the Vesting Tentative Map for both the Sky Ranch II and San Marco Meadows projects and a Mitigated Negative Declaration. The Commission also had a Development Agreement for consideration. According to the Commission's rules and policies, the Commission could only make a recommendation to the City Council. She suggested that the Commission could, in fact, review the proposal. She stated that the consultant had provided a good analysis in terms of reviewing all of the evidence.

Ms. Daube added that if the Commission were to find that there was evidence that was before the Commission that the City had not done enough study, if the Commission still had questions, or if the mitigation measures presented to the Commission would not mitigate the environmental impacts, the Commission should not adopt the Mitigated Negative Declaration.

She stated that if however, the Commission were to find that the evidence presented was satisfactory and that the mitigation measures had been addressed in all aspects, the Commission could consider the project and go forth. In summary she presented the Commission’s alternatives as to either revise and recirculate the Mitigated Negative Declaration, consider comments made and adopt the project, or find that it wanted to start
from scratch and direct staff to prepare an EIR.

City Attorney Daube suggested that the Vesting Tentative Map and the Mitigated Negative Declaration were properly before the Commission and that the Commission could take action on those documents.

RANDY ASHFORD, 2168 Raindrop Circle, Pittsburg, commented on recent articles in the newspaper regarding the project. He understood that there were three Councilmembers who did not have the interest of the community. In his opinion, those persons should not be allowed to vote on the matter if and when it was forwarded to the City Council. As such, he recommended that the applications be delayed until after the November election.

MICHAEL KEE, a resident of Pittsburg, pointed out that both the staff and the developer had indicated that there were no plans to really carry out the project at the current time and that it might be some time in the distant future when the project was actually constructed, although the Development Agreement stipulated that the fees would be locked in once the process begins.

Mr. Kee emphasized that the City's developer fees were already inadequate. As such, he expressed concern if the City were to impose current developer fees in the future, which might not be adequate for the project at the time it was ultimately built.

ALONZO TERRY, 478 Kim Street, Bay Point, stated that he had recently purchased his home in the San Marco development. He commented that for many years he had invested time and money in the City and had finally had the opportunity to purchase his home. He suggested that residents were aware of the traffic, law enforcement and fire district problems in the City but had made a choice to live in the City. While he recognized that there were many people who opposed the projects, he emphasized that he had made a decision to purchase property and live in a community, which he suggested had an opportunity to shine. While the project could be delayed, he suggested that would eliminate the dreams of many residents who wanted to be able to move up in their own community.

SETH ADAMS, Director of Land Programs, Save Mt. Diablo, a 31-year land trust with 7,000 members in the County, commented on the size of the project and the number of letters, written and verbal comments received on the proposal. He pointed out that many comments offered by expert individuals and agencies, which had raised a variety of issues, had not been considered in the Mitigated Negative Declaration. Speaking to the Fair Argument Rule, Mr. Adams suggested that if there was a fair argument that there was one significant impact, a Mitigated Negative Declaration would not be appropriate. Further, if specific impacts were not mitigated in a specific way, the Mitigated Negative Declaration would not be appropriate and a full EIR would be required.
Mr. Adams added that the City had created a General Plan EIR that was programmatic in that it had put off specificity to the future. Unless the Mitigated Negative Declaration had a great amount of specificity, he suggested that it would not meet the rule for actually mitigating the impacts, which all expert commentators had suggested through their correspondence.

Mr. Adams pointed out that staff had not had the opportunity to review the consultant's responses to correspondence and comments received and a consultant who had referred to the environmental documents as a preliminary report, leaving the Commission with the question of whether or not there was a fair argument that there might be a significant impact that had not been considered or mitigated. In his opinion, the answer was that there were significant impacts that had not been considered or mitigated.

Mr. Adams also pointed out that the City had a consultant and his expert opinion versus thirty others with opinions, many of them expert opinions advising the Commission that there were significant impacts. He suggested that in reality this was a rushed effort for which there was no adequate notice.

Mr. Adams reported that Save Mt. Diablo had received no notice of the public hearing although it had been requested in previously submitted comment letters identified during the meeting of August 13. He suggested that there was a fair argument that an EIR must be prepared for the project and that the process was flawed with inadequate information for the public or the Commission to make an informed decision about what the project was all about, while the developer wanted the City to sign a contract guaranteeing their rights 15 years into the future which was not in the best interests of the residents of Pittsburg or of the region.

ROGER RILEY, a resident of Pittsburg, favored the project and expressed his hope that it would be forwarded to LAFCO for consideration. He otherwise opposed a 15-year Development Agreement and suggested a maximum term of 5 years. He also expressed concern with the developer fees and suggested that the fees imposed should be those in effect at the time the building permits were issued.

Mr. Riley also noted that he was tired of comments from agencies such as Save Mt. Diablo and the East Bay Regional Park District (EBRPD), which had nothing to do with the City. Speaking to the comments made by the EBRPD as to their assertion that there was evidence of wildlife in the area, he suggested there should be provisions for people in that the City needed growth and if it did not grow, the community would die.

STEVE WALL, 158 San Joaquin, Bay Point, identified himself as a member of the Bay Point Municipal Advisory Committee (MAC) and an Environmental Engineer with experience in environmental planning. He advised that the MAC had met with the City Council although none of the documents presented to the Commission on the projects in
question had been made available for review until recently. Having briefly reviewed the
documents and the associated letters, he acknowledged that it was obvious there was
significant public opposition to the project moving forward without a full EIR.

Mr. Wall expressed his understanding that CEQA and NEVA stipulated that if there were
significant public opposition, that would be one of the criteria for elevating a project towards
the preparation of a complete EIR so that the public review process could allow the public
time to comment and provide input into the project.

Mr. Wall expressed concern with the biological assessments and the pedigree of Wetlands
Research and Associates. He questioned whether or not that firm had been hired by the
developer or had been representing the developer at the time the developer had been
involved in actions which had led to his current conviction regarding impacts to the red-
legged frogs in the San Marco development.

Mr. Wall further commented that the community of Bay Point had also experienced
problems from dust from the current project.

Noting that the Bay Area Air Quality Management District (BAAQMD) had determined that
the developer was not complying with adequate water and dust control requirements, Mr.
Wall urged the Commission to watch closely what was being done at the property site.

NANCY CHINN, 1037 Putnam Street, Antioch, commented that she had worked on
economic development for the past 10 years and had been one of the City's biggest
cheerleaders. She emphasized the City's goal to locate large companies offering high
wages in the City and she suggested that the proposed development would do nothing but
improve the image of the City and encourage the placement of such businesses. She
stressed the need for executive housing for potential employers and employees and she
urged the Commission to accept both the San Marco and Sky Ranch II proposals.

GAIL PEARSON, 4068 Granada Drive, Pittsburg, stated that she also supported the San
Marco Meadows and Sky Ranch II projects. She too suggested that the City was in need
of executive homes, which in her opinion, would increase her property value and would be
good for the City's economy. She pointed out that surrounding communities continued to
build large homes and had enjoyed increasing property values and it was the City's turn to
enjoy the same benefits. While recognizing the work of Save Mt. Diablo and others, she
suggested that the issue was about people who needed large homes. Since the City had
its fair share of apartments, condominiums and low-income housing, she suggested that
the proposal would offer some much needed balance in the community.

JANICE GAN, representing the Department of Fish and Game, Wildlife Biologist for
Alameda and Contra Costa Counties, reported that the Department was of the opinion that an EIR must be prepared for the project. She suggested that inadequate surveys had been prepared to determine the specific project impacts and she noted that the property had characteristics that indicated suitability for a number of special status species, listed both federally and by the State that were only protected under CEQA.

Ms. Gan emphasized that the previous EIR that had been prepared had been a project level EIR and that a specific program level EIR was needed for the site. With the inadequate surveys, there had been no significant impacts that could be measured and no mitigation measures identified. As such, in the opinion of the Department, the Mitigated Negative Declaration was not adequate. She also commented that the identity of the developer was not clear.

Based on information presented by the City and the fact that there were special status species in the area, and since there was adequate provisions on each side to support the species with no evidence that they were not present, Ms. Gan advised that the Department recommended that an EIR be prepared to provide sufficient review prior to the approval of both projects.

Chairperson Glynn inquired whether or not the Department of Fish and Game had conducted specific surveys on the property or properties contiguous to the project site.

Ms. Gan explained that the Department had conducted no surveys for the project site although there had been surveys conducted for Bailey Road Estates, the Concord Naval Weapons Station, Alves Ranch and the Black Diamond Mines. There were species that moved long distances and would be able to utilize the subject property for an important part of their life cycle. Additionally, Wetlands Research, a professional and biological consultant, had access to information and could contact the Department, the Fish and Wildlife Service and the Concord Naval Weapons Station since they needed that information before findings could be made. She characterized the current findings as inadequate.

Chairperson Glynn inquired whether or not the studies referenced had been done in conjunction with a full EIR for the properties contiguous to the subject property.

Ms. Gan advised that Bailey Road Estates and the Alves Ranch had involved a full EIR. The Concord Naval Weapons Station had prepared an EIR as part of their Natural Resource Management Plan.

Commissioner Garcia understood that the developer would be required to obtain permits from the Department of Fish and Game prior to proceeding with the project.

Ms. Gan affirmed that permits would be required if the project would impact listed species.
She added that some of the species involved were not State or federally listed and were only protected under CEQA. She pointed out that this was the time to formulate the mitigation measures and for the lead agency to make that requirement.

Commissioner Garcia inquired whether or not Ms. Gan had read all of the information contained in the staff report for both projects.

Ms. Gan affirmed that she had read the information related to the project. She reiterated that the evaluation of the sites had been identified as low to moderate, although based on information and the landscape of both sites, they were high value sites. She suggested that the consultants had relied on breeding habitat being available. She emphasized that the tiger salamander was a species that was only protected under CEQA.

Ms. Gan also commented that the consultants had indicated that there were no ground squirrel burrows and it was unlikely there was excavation habitat, although the Department had local knowledge, particularly on the Bailey Road Estates property, that it was a site that had very few ground squirrel burrows with poor breeding habitat. Yet, three to four hundred individual animals had been found on that site, with over 80 in one night. She emphasized that habitat and landscape position was similar to the subject property.

ALBERT SEENO, III, 4061 Port Chicago Highway, Concord, commented that he too was a resident of the City and he wanted to see good things for the City and its future homeowners. He suggested that both San Marco Meadows and the Sky Ranch II projects were good projects. He noted that this was not the end of the review of the project in that the Commission would be making a recommendation to the City Council.

Mr. Seeno emphasized that studies would still need to be completed and the process would go on over a long period of time. In response to comments as why they were rushing forward, he stated that there was no rush but a commitment with the City and the developer. He explained that both projects would involve huge infrastructures, including water, sewer and storm drains and those improvements would not occur over night. He advised that they needed the commitment from the City to know that they had a project. Once that was known, the work would begin.

In response to Commissioner Garcia, Mr. Seeno identified Discovery Builders as the applicant and the owner of both the San Marco Meadows and Sky Ranch II properties.

DAVID DOLTER, Director of Community Development, representing the Seeno Companies and Discovery Builders, commented that as pointed out by the consultant there was no shred of evidence in Department of Fish and Game correspondence that specifically referenced specific studies, nor could any be found.
Mr. Dolter pointed out that the project would be long term and would be phased. He emphasized that the developer would be required to conduct protocol level surveys for animals and plants as the project moved forward as required by the Mitigated Negative Declaration.

Mr. Dolter suggested that a Mitigated Negative Declaration was appropriate in this case and although he recognized that there was a legitimate difference of opinions, he suggested that the protections were there in the documents before the Commission. He stated that as they moved with the phasing for the project if they were able to locate the studies referenced by the Department of Fish and Game, they would obviously consult that Department since it would be required and in the developer's best interest to do so.

Mr. Dolter emphasized that the developer was aware that future permits from resource agencies might be required and the developer would have to comply with such processes as they moved forward.

Mr. Dolter added that if significant impacts were found through the phasing process, CEQA would be reopened pursuant to required statutes. He agreed with the consultant's opinion that a Mitigated Negative Declaration was the best approach and he suggested proceeding on that basis.

Chairperson Glynn inquired in terms of phasing whether or not the infrastructure would be built out to only accommodate the particular scope of the phase or if the developer would move forward with all of the infrastructure.

Mr. Dolter commented that could not be done on a project of this size and that some of the infrastructure would have to be done, such as water systems, that could serve a portion of a subsequent phase, which would be part of the sequencing for the project. He noted that it might take another 15 years to reach full build out. He was also uncertain how many phases would be anticipated in that it would depend on the supply and demand.

Chairperson Glynn declared a recess at 9:05 P.M. The meeting reconvened at 9:13 P.M. with all Commissioners present or absent as shown.

Mr. Loewke stated that he had heard no new information based on the current testimony that represented new information that had not been heard either during the August 13 meeting or in previously received correspondence, including comments from the Department of Fish and Game. He added that he had a hand delivered copy of a letter from the law firm representing the unions, which letter had focused on geotechnical questions and issues.

Mr. Loewke explained that he had received a number of questions in regards to the soils and geotechnical analysis prepared by Engeo Engineering and had attempted to the best
of his ability to respond to those comments. In his opinion, the mitigation measures that were included in the draft document before the Commission provided a very strong backup position with respect to safeguards on all of the safety and geotechnical issues.

Mr. Loewke added that Engeo Engineering had made clear findings that both projects and safety related issues could very readily be mitigated and had offered alternative approaches. Because of the alternative analysis, which had been incorporated into their study, they had not had a final report from Engeo Engineering.

Mr. Loewke suggested that the conclusions in the engineering report were clear and from that they had drawn their mitigation measures. He commented that he had not had the opportunity to respond to the letter just received from the legal firm representing the unions.

Commissioner Garcia referenced the comments made that the fees that would be imposed on the project would be paid based on the current rate, although he understood that pursuant to the Development Agreement the fees would he paid according to when the project started and any increases that would occur as a result of cost of living increases.

City Attorney Daube identified Condition No. 2.8, of the Development Agreement, which stated:

2.8 Adjustment of Fees: At the end of the year from the Effective Date and annually thereafter during the term of this Agreement, the City may adjust the fees and charges imposed upon Developer to reflect increase, if any, in the Consumer Price Index (San Francisco/Oakland) as published by the Bureau of Labor Statistics, U. S. Department of Labor, by comparing the Index figure nearest to the time of execution of this Agreement to the Index figure nearest to the expiration of each one-year period.

City Attorney Daube explained that the fees would be locked in and thereafter cost of living increases would be imposed. She also noted that the purpose of bringing the Development Agreement before the Commission was to allow it to make a recommendation to the Council on the Agreement. She said staff was still making revisions to the document before it reached the City Council.

Commissioner Leonard inquired whether or not the Development Agreement was consistent with other development agreements in terms of developer's fees.

City Attorney Daube commented that the City did not have a great number of such agreements, although it was consistent with what the City currently had in place. She also
affirmed that all of the resolutions would be corrected in their final form to reflect the applicant as Discovery Builders, not Seecon Financial Construction Company.

PUBLIC HEARING CLOSED

MOTION: Mitigated Negative Declaration

Motion by Commissioner Leonard to adopt Resolution No. 9364, adopting the Mitigated Negative Declaration for the San Marco Meadows Prezoning and Subdivision. The motion was seconded by Commissioner Garcia and carried by the following vote:

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

MOTION: RZ-02-04

Motion by Commissioner Leonard to adopt Resolution No. 9355, recommending the City Council prezone 231 acres, located south of the approved San Marco Residential Subdivision, to RS-0 (Single Family Residential with a Limited Overlay) "San Marco Meadows Prezoning and Subdivision," RZ-02-04. The motion was seconded by Commissioner Garcia and carried by the following vote:

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

MOTION: Subdivision 8519

Motion by Commissioner Leonard to adopt Resolution No. 9356, approving Subdivision 8519, a Vesting Tentative Map for a 779-Lot Subdivision for "San Marco Meadows," subject to annexation. The motion was seconded by Commissioner Garcia and carried by the following vote:

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

MOTION: Development Agreement
Motion by Commissioner Leonard to adopt Resolution No. 9359, Recommending that the City Council Adopt the San Marco Meadow Development Agreement for the San Marco Meadows Residential Subdivision (Subdivision 8519). The motion was seconded by Commissioner Garcia and carried by the following vote:

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

Item 2: Sky Ranch II Prezoning and Subdivision, RZ-02-03 and Subdivision 8475.
This is a continued public hearing on a request to prezone 166.5 acres to RS (Single Family Residential), enter into a development agreement with the City, and approval of a vesting tentative map to subdivide two parcels into 386 single family residential lots ranging in size from 8,000 square feet to 6.06 acres (average lot size is 19,500 square feet), and to construct a water tank and related improvements in an undeveloped area located south of the existing Highlands Ranch Subdivision Tract 7217, south of Buchanan Road. The project site is designated Low Density Residential (1-7 dwellings units/acre). It is inside the County Urban Limit Line and the City of Pittsburg Sphere of Influence. The majority of the project is located outside City limits; APNs 089-050-041 and 042 (and portions of Highlands Ranch).

Planning Manager Ayres identified correspondence received from Supervisor Federal Glover dated August 27, 2002 and a fax transmittal received from Adams Broadwell Joseph & Cardozo dated August 27, 2002, both of which had been distributed this evening to the Commission. In addition, she identified a memorandum received from the Environmental Consultant, responses to comments and letters received after the August 13 Planning Commission meeting.

Mr. Strelo presented the request for prezoning for the Sky Ranch II project. He advised that on August 13 the Planning Commission had held a hearing on the application, at which time a number of comment letters had been received. Since there was not ample time for staff or the consultant to respond to those comments, the Commission had continued the public hearing to this date.

Mr. Strelo advised that correspondence was received from the Department of Fish and Game dated August 19, 2002 and that it also provided comments in regards to the Sky Ranch II project.

Mr. Strelo recommended that the Commission consider all testimony and evidence presented at this time and either approve, deny or continue the project. If the Commission chose to approve the project, resolutions of approval had been contained in the staff report.
RICHARD LOEWKE, Professional Urban Planner, 55 Oak Trail Court, Alamo, explained that at the conclusion of the August 13 meeting, he had identified 22 written letters and oral comments on the project. Another letter had later been received from the Department of Fish and Game and essentially was the same letter prepared for the prior project with a number of parallel issues raised on both projects.

Mr. Loewke commented that as with the San Marco Meadows project, the Commission could accept or reject the Mitigated Negative Declaration Initial Study and Mitigating Monitoring and Reporting Plan (MMRP) for Sky Ranch II, if they find that the mitigation measures address all significant impacts not otherwise addressed in the General Plan; and bring impacts identified to a less than significant level. If accepted, the Commission would be able to approve the Negative Declaration and move forward to consider the project.

If the Commission were to find that based on the body of evidence before the Commission and comments received, there were potentially significant impacts based on solid information that had not been addressed, or that the consultant had been unable to show had been mitigated to a less than significant level, Mr. Loewke stated that the Commission should then direct that those issues be addressed in the form of an amended Mitigated Negative Declaration for recirculation.

Mr. Loewke commented that if the information showed impacts for which the consultants had not provided adequate mitigation and which the General Plan had not addressed, the preparation of an EIR should be required. He explained that they had reviewed the documentation in the City's General Plan EIR as well as a number of other studies, including other project EIRs recently prepared to address questions that had been raised.

With respect to comments as to the participation of the project paying for mitigation measures, including the Buchanan Road Bypass and other traffic related improvements required pursuant to the General Plan and with the San Marco Meadows project, Mr. Loewke stated that the project would be obligated to address environmental impacts under CEQA and obligated to fulfill its fair share of responsibilities under the General Plan's programmatic mitigation relating to fees and improvements required of the project.

Mr. Loewke recognized that a number of comments had been raised about the Buchanan Road Bypass and whether or not it would be built, as well as when and how the project would relate to the bypass. The design of the project had been amended after initial review, with the street openings on the bypass having been minimized and collected. The circulation system had also been altered to provide a more efficient arrangement of connections to the bypass, minimizing left turns and avoiding U-turns, while also channeling that traffic to the future signalized intersection at Ventura Drive.

25 August 27, 2002
Mr. Loewke acknowledged that the project would generate a fair amount of traffic. He said the traffic numbers have been quantified and broken down to show this project's portion of cumulative traffic in relationship to all of the trips expected in the community with build out. In addition, they had considered cumulative information through the model used by the traffic engineer assessing traffic in Oakley, Brentwood and Antioch.

Mr. Loewke explained that James Donlon Boulevard would extend through the City of Antioch and eventually connect with the Buchanan bypass through the project carrying traffic farther westbound to Kirker Pass Road. Once operational, it would facilitate the movement of traffic in a westerly direction in the morning and in an easterly direction in the afternoon. Mitigation measures had been unchanged after the comments had been reviewed since the connection was not complete. The developer would be obligated to build a portion of the bypass within the project but not complete the opening east to the City of Antioch until the connection to Kirker Pass Road could be completed concurrently.

If the Bypass was extended to Antioch now, Mr. Loewke noted that there would be a substantial amount of traffic coming down James Donlon Boulevard into the project and then attempt to move north through the Highlands Ranch subdivision. The roadway between Sky Ranch II and Buchanan Road, Ventura Drive and Highlands Drive will be local collector streets intended to carry traffic, but not that volume of traffic.

Mr. Loewke reported that some of the comments related to the turning capabilities at the intersection of Buchanan Road and Ventura Drive. He confirmed that the additional turning capacity at that intersection had already been programmed as an improvement that would be completed with or without the subject project, which would be responsible for its share of such improvements.

Mr. Loewke explained that those mitigation measures were certain, enforceable and would be in place before the project could be built. The one mitigation measure that would stand out would be deferred but be controlled by the City by virtue of bonds and City engineer decision making authority regarding the timing of the connection to the Somersville Road and James Donlon Boulevard roadway connection.

Mr. Loewke also acknowledged that the City of Antioch had made important comments regarding grading operations and the relationship of the project to the adjoining Black Diamond Ranch project, also known as Sky Ranch I. He stated that the projects were separate projects in separate jurisdictions and there would be grading interfaces that would occur along the common boundary of the two projects. City of Antioch staff had noted discrepancies in elevations and through mitigation measures in the MMRP those elevations would be corrected before the final grading plan was prepared. The City of Antioch would have the opportunity to review the revised plans to ensure consistency.
Mr. Loewke further noted that through Adams Broadwell Joseph & Cardozo, a number of comments had been raised as to cumulative impacts and impacts the project would create affecting overall traffic, air quality, and grading. There was no disagreement with those comments, although all issues had been addressed in the General Plan EIR, as would the special status plants and animals on the site.

The Department of Fish and Game had also raised comments regarding those issues, and Mr. Loewke pointed out the lack of credible evidence in the current record that would dispute the site-specific analysis.

Based on those comments, Mr. Loewke explained that the mitigation measures in the MMRP would provide a verification of the potential impacts to special status species if found to be present when follow-up surveys were prepared. In addition, focus surveys would be completed before a final map was prepared and grading plans pursued.

Chairperson Glynn spoke to comments made by the EBRPD as to the Black Diamond Regional Reserve and the fact that there was no transition between the proposed development and the undeveloped natural areas. Specifically, the EBRPD had requested the elimination of Lot Nos. 163 through 170 and a recommendation to replace the lots with a transitional buffer to also create a fire break between the two contiguous projects. He questioned what mitigation measure had been proposed to address that issue.

Mr. Loewke explained that the comments raised by the EBRPD had focused on the potential risk associated with the spread of fire and impact to surrounding habitats.

A response to that concern had come from a review of the adequacy of the infrastructure system planned as part of a fire protection mechanism and the access system that would facilitate emergency personnel accessing the project to fight fires.

Mr. Loewke advised that there was a detailed mitigation measure that had supplemented emergency access to the project. Comments as to the elimination of lots, while appropriate for the Commission to consider, had not been determined to be necessary to support a finding of no significant impact under CEQA.

Mr. Loewke suggested that was a policy judgment. He said the project provided the ability to safeguard against the spread of fire though the use of non-combustible materials on building sidings and roofs, while meeting all City ordinances pursuant to the conditions of approval. In his opinion, there was no credible evidence of significant impact potential in that regard.

In response to the visual impacts of the water tank, an issue also raised by the EBRPD, Mr. Loewke acknowledged that the water tank would create some impacts, although the issue was whether or not the visibility of the tank would be significant. That issue had been
addressed as part of the City's General Plan, which had specifically anticipated the water tank at the subject location.

Mr. Loewke noted that the Vesting Tentative Map had identified the location, size, elevation placement of the tank, relationship to surrounding land forms, and grading that would take place and which would be partially screened from view, although he acknowledged it would be visible off site and from the south and north.

Mr. Loewke suggested that the impacts of the water tank had been considered as part of the General Plan and the project would not elevate that impact in any way. He otherwise acknowledged, when asked, that the City of Antioch had a vested interest as did the City of Pittsburg with the quality of the projects in both Pittsburg and Antioch. The City of Antioch's goal was to have the grades match properly. Concerns raised by the City of Antioch as to the quantity of grading had been noted, although he advised that the volume of grading was not inconsistent with what had been expected in the General Plan. Further, the soils analysis had provided ample mitigation for that volume of grading.

ALBERT SEENO III, Discovery Builders, 4061 Port Chicago Highway, Pittsburg, was available to respond to comments.

PUBLIC HEARING OPENED

DAVID GOLD, 4020 Natasha Drive, Lafayette, representing the Alves Ranch, LLC, presented a supplemental letter dated August 27, 2002 to correspondence previously dated and submitted on August 13, 2002 from Morrison & Foerster, LLP, also in response to the Sky Ranch II project. As indicated in that correspondence, their concern was not with growth or development in the City but with the type of development in the City. He pointed out that the project was not even within the City limits.

BRUCE OHLSON, East Bay Bicycle Coalition, and a resident of Pittsburg, advised that the bicycle community had similar concerns as earlier expressed during testimony for the San Marco Meadows proposal. He explained that the bicycle community wanted bicycle facilities on all arterial and collector streets in the project, if approved, which should be addressed in the Tentative Subdivision Map. In order to accomplish that goal, he suggested that the Commission must amend the Development Agreement. Mr. Ohlson pointed out that the General Plan required the inclusion of bicycle facilities on all new arterial and collector streets. He also expressed concern for a provision that the developer be required to pay all appropriate fees at the time of development and be responsible for the appropriate fees related to regional traffic mitigation.

TANYA GULESSERIAN, Adams Broadwell Joseph & Cardozo, 651 Gateway Boulevard, Suite 900, South San Francisco, representing the International Brotherhood of Electrical Workers, Local #302, who lived and worked in the City, urged the Planning Commission to prepare an EIR for the Sky Ranch II project. She commented that the current standard
was the Fair Argument standard, when there was evidence presented of an impact, that
evidence would trigger the preparation of an EIR, which was undisputed under the law.

Ms. Gulessarian explained that the firm had submitted expert comments to the
Commission on traffic impacts. The expert comments had stated that there would be a
significant impact by degrading roads and intersections. Other experts had discussed air
quality and public health impacts, such as improper reliance on a General Plan that had not
evaluated exhaust emissions from construction. In addition, expert comments had been
provided to identify specific biological impacts associated with the site.

Ms. Gulessarian pointed out that the Commission had been provided with written
responses to comments from the consultant. She referred specifically to Item 9(f) and
clarified that Adams Broadwell had provided written comments that in the December
wildlife survey, three species of special concern had been observed on site, which species
would be impacted by the proposed development. The response to that comment had
stated in part "The wildlife assessment notes that although neither of these species were
observed on site." She emphasized that contrary to that statement, the wildlife
assessment had specifically observed the species on site.

Ms. Gulessarian expressed concern with the inadequate responses to comments. In
addition, expert comments had been provided on geological impacts. She suggested that
there would be significant impacts to public health and safety associated with landslide
risks and other geological problems on site.

Comments had also been submitted on significant noise impacts, and Ms. Gulessarian
noted that the City's Noise Analysis had identified significant impacts, while the response to
their comments from the consultant, as shown in Item 13, had provided no response to
those noise comments.

Ms. Gulessarian further noted that project modifications necessary to avoid significant
impacts must be made before project approval and approval of the Mitigated Negative
Declaration in that mitigation adopted after project approval would not validate the issuance
of a Negative Declaration, which was illegal under existing California appellate court law.

WILLIE MIMS, 954 Newcastle Way, Pittsburg, Black Political Association (BPA), urged the
Commission to reject the staff recommendation for the adoption of the Mitigated Negative
Declaration.

Mr. Mims referenced the applicant's Mitigation Monitoring and Reporting Program which
had indicated that the proposed grading would change the site character from rolling hills to
grasslands, that the grading operations could create objectionable views including
unsightly cut and fill slopes, grading, landscaping and development activities could conflict
with the General Plan policies, and where grading and street lights could adversely affect

29 August 27, 2002
the visual quality of the site seen from the Highlands Ranch. In addition, he noted the
wildlife species

that had been found at the site included the tiger salamander and red-legged frog. He
therefore questioned the assertion from the consultants that no significant environmental
impacts would occur.

Mr. Mims also referenced CEQA law and referred to information provided by the Attorney
General's Office pertaining to Public Resources Code 21000, which states "An
Environmental Impact Report pursuant to California Environmental Quality Act is required
for adoption or amendment of any General Plan or element which may have a significant
effect upon the environment." He suggested that the project would have a significant
negative impact upon the environment according to the applicant's own reports.

Mr. Mims further referenced an opinion given by the Attorney General, dated 1988, and
which read in part "Despite the ability of the lead agency to mitigate significant effects of a
project in advance of issuing a proposed Negative Declaration, in practice this task is often
difficult, there remains a very low threshold for requiring the lead agency to prepare a more
detailed Environmental Impact Report. Recent court decisions have declared several
Negative Declarations to be invalid due to the remaining potential for the project to have a
significant adverse effect upon the environment. Projects by local governments involving
long term planning fall into this category."

MICHAEL KEE, Pittsburg, requested that the Commission consider the intent of the
Buchanan Road Bypass in its review of the requested prezoning. He suggested that if the
intent of the bypass was to alleviate traffic on Buchanan Road, the space should be zoned
Open Space with nothing to be built. If the intent of the bypass was as a prelude to
development, the Commission would accept the project and zone it for residential use. If
that was done, there would be development along the corridor with cars traveling on the
bypass which had been intended to alleviate existing traffic in the City.

Mr. Kee expressed concern with Condition No. 2.8 of the Development Agreement.
Although that condition would allow an adjustment of the fees, that would only be a cost of
living adjustment.

If the project was built several years into the future, Mr. Kee stated that the development
fees at that time could be substantially higher than what the cost of living had increased
and each home that could be built might be built at a deficit to the City.

JANICE GAN, Biologist, representing the Department of Fish and Game, advised that the
Department had raised some of the same concerns with the San Marco Meadows
development in that there was no project level analysis, specific impacts had been unable
to be analyzed, and no measurable specific mitigation measures had been incorporated.

Ms. Gan commented that everything had been put off into the future. She suggested that the consultants had underestimated the value of the property and the impacts the development would have on the environment, such as recent sightings of red-legged frogs in nearby Markley Creek. She referenced comments made by the consultant that the Department had not given specific citations for the occurrences of species, although the Department did have specific citations and the Integrated Natural Resources Plan for the Concord Naval Weapons was a public document that was available to identify those specific citations. Further, as with other developments in the City, the City was aware of what had been found on the sites by the consultant, which information was also available.

Ms. Gan emphasized that there had been species that had been known to occur on the site. Pursuant to Section 15065 of the CEQA requirements which read in part "If you reduce the number or restrict the range of any of these special status species you should make a finding of significance and an EIR should be required." She advised that the Department of Fish and Game also supported the requirement for an EIR.

Mr. Seeno, III reiterated prior comments, suggested that the project was needed in the City, emphasized that the development would be constructed in a safe manner with proper drainage, soils studies and analysis, and that remedial grading would take place to ensure a safe area for homes to be built. In addition, studies as required would be performed and be continually performed in the years to come. He emphasized that the project would be years away and would take years to develop given the current economy.

Mr. Seeno, III stated that the proposal would offer some of the largest lots in the City between 19,500 square feet up to 6 acres. He suggested that it was about the people, they all had to live together and this was the place where future residents wanted to live.

Mr. Seeno, III also clarified that Markley Creek was not located at the property line of the project but was close to a quarter of a mile away from the project site and located in the City of Antioch. He requested that this project be brought into the City where it belonged to keep the tax increment in the City.

PUBLIC HEARING CLOSED

Commissioner Garcia clarified that the first phase of the Buchanan Road Bypass would be built by the City of Antioch’s Sky Ranch I development. The second phase would be built up to Vista Del Rio by the subject project, although Antioch, Brentwood, Oakley and the County Board of Supervisors would need to be convinced of the need for the bypass to allow the section from Vista Del Rio to Kirker Pass Road to be built.

Commissioner Garcia requested that staff correct all of the resolutions to reflect the
applicant as Discovery Builders.

MOTION: **Mitigated Negative Declaration**

Motion by Commissioner Garcia to adopt Resolution No. 9363, adopting the Mitigated Negative Declaration for the Sky Ranch II Prezoning and Subdivision. The motion was seconded by Commissioner Leonard and carried by the following vote:

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

MOTION: **RZ-02-03**

Motion by Commissioner Garcia to adopt Resolution No. 9353, recommending the City Council prezone 166 acres located south of the approved Highlands Ranch Residential Subdivision, to RS (Single Family Residential) "Sky Ranch II Prezoning and Subdivision," RZ-02-03. The motion was seconded by Commissioner Leonard and carried by the following vote:

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

MOTION: **Subdivision 8475**

Motion by Commissioner Garcia to adopt Resolution No. 9354, approving Subdivision 8475, a Vesting Tentative Map for a 386-lot subdivision for "Sky Ranch II." The motion was seconded by Commissioner Ramirez and carried by the following vote:

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

MOTION: **Development Agreement**

Motion by Commissioner Garcia to adopt Resolution No. 9358, Recommending that the City Council adopt the Sky Ranch II Development Agreement for the Sky Ranch II.
residential subdivision (Subdivision 8475), as shown. The motion was seconded by Commissioner Leonard and carried by the following vote:

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

STAFF COMMUNICATIONS:

There were no staff communications.

GENERAL PLAN IMPLEMENTATION:

There was no General Plan Implementation Report.

ZONING ADMINISTRATOR REPORT:

There was no Zoning Administrator Report.

COMMITTEE REPORTS:

There were no committee reports.

COMMISSION COMMENTS:

Commissioner Garcia reported that a used car lot at the corner of Leland and Loveridge Roads had disappeared since grading had commenced for the new ARCO Gas Station.

ADJOURNMENT:

There being no further business, the meeting adjourned at 10:05 P.M. to a regular meeting of the Planning Commission on September 10, 2002 at 7:30 P.M. in the City Council Chambers at 65 Civic Avenue, Pittsburg, CA.

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33 August 27, 2002