MINUTES
OF THE REGULAR MEETING
OF THE
PITTSBURG PLANNING COMMISSION
May 27, 2003

A regular meeting of the Pittsburg Planning Commission was called to order by Chairperson Mark Leonard at 7:30 P.M. on Tuesday, May 27, 2003, in the City Council Chambers of City Hall at 65 Civic Avenue, Pittsburg, CA.

ROLL CALL:

Present: Commissioners Dolojan, Garcia, Harris, Kelley, Ramirez, Tumbaga, Chairperson Leonard
(Commissioner Kelley arrived at 7:57 P.M.)

Absent: None

Staff: Director of Planning and Building Randy Jerome, Planning Manager Melissa Ayres, Assistant Planner Dana Hoggatt, Planning Technician Christopher Barton, Civil Engineer II Alfredo Hurtado, and City Engineer Joe Sbranti

POSTING OF AGENDA:

Chairperson Leonard advised that the agenda had been posted at City Hall on Friday, May 23, 2003.

PLEDGE OF ALLEGIANCE:

Commissioner Dolojan led the Pledge of Allegiance.

DELETIONS/WITHDRAWALS/CONTINUANCES:

There were no deletions, withdrawals, or continuances although the Chair advised that the meeting agenda would be reorganized.

COMMENTS FROM THE AUDIENCE:

CHARLES SMITH, Pittsburg, spoke to a Planning Department staff report dated October 29, 2002 and referenced a number of statements in that report relating to the USS POSCO/US Steel Soil Remediation Landfill Expansion. Familiar with the Kirker Creek

Planning Commission Minutes
May 27, 2003
studies and with issues relating to water flow and contamination, he suggested that staff had a propensity to deal with large corporations benignly and with "Mom and Pop" businesses more stringently.

**PRESENTATIONS:**

There were no presentations.

**CONSENT**

A. PC Minutes May 13, 2003

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

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

**COMMISSION CONSIDERATIONS:**

**Item 4: Chevron Freestanding Sign. AP-03-18 (DR).**

Application by Brian Campbell of Sign Designs requesting approval of sign plans for the installation of a freestanding sign to identify a gasoline service station located at 1235 California Avenue, CS-O (Service Commercial with a Limited Overlay) District; APN 073-190-029.

Assistant Planner Dana Hoggatt presented the staff report and indicated that the proposed sign would identify the Chevron Gas Station that had been approved by the Planning Commission in February 2002, and which had recently opened for business.

The sign would be 12 feet in height and approximately 5 feet in width, featuring the Chevron logo, car wash identification and gas pricing. It was proposed to be located in the landscape area in front of the service station adjacent to California Avenue.

Ms. Hoggatt noted the sign complied with the City Sign Ordinance and suggested that the findings could be made to approve the sign and design review. She recommended the adoption of Resolution No. 9428 approving AP-02-18 (DR) with the conditions as shown.

PUBLIC HEARING OPENED

PROONENTS:
BRIAN CAMPBELL, Sign Designs, 204 Campus Way, Modesto, advised that he had nothing further to add to the application. When asked, he stated that he was in agreement with the staff recommended conditions of approval.

WILLIE MIMS, Pittsburg, representing the Black Political Association (BPA), inquired of the distance of the sign from California Avenue. He also questioned whether or not the sign would be illuminated in the evening, and if so, he expressed concern with the potential visual impacts or distractions that could result.

Ms. Hoggatt explained that the sign would be situated 10 feet away from the front property line, which was setback from the street just inside the curb next to the service station. She also affirmed that the sign would be internally illuminated.

Civil Engineer II Alfredo Hurtado also clarified that the curb and gutter on California Avenue was temporary. The sign would be located approximately 20 feet back from the property line, behind the easement and sidewalk.

OPPONENTS: None

MOTION: **AP-02-18 (DR)**

Motion by Commissioner Garcia to adopt Resolution No. 9428 approving AP-02-18 (DR), Design Review approval of sign plans for the construction of a freestanding sign identifying an existing gasoline service station and car wash for "Chevron Freestanding Sign," with the conditions as shown. The motion was seconded by Commissioner Harris and carried by the following vote:

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

Commissioner Ramirez stepped down from the dais as a result of a potential conflict of interest with respect to the next item since he owned property adjacent to Herb White Way.

Commissioner Tumbaga advised that she had stepped down when the item had initially been considered, although since that time she had been advised that she had no conflict of interest with respect to the item. She remained on the dais.

**Item 3: Herb White Way Houses. Amendment of Approval of DR-01-12.**

Application by Jim Kern of Habitat of Humanity to amend the development plan and reduce the required front yard setback adopted by Planning Commission Resolution No. 9210, which approved architectural and site plans for the construction of 13 single-family houses on Herb White Way between West Eighth Street and West Tenth Street, (Downtown...
Assistant Planner Hoggatt presented the staff report. She noted that the project was originally approved by the Commission in May 2001. Ms. Hoggatt stated that most of the homes were already under construction. It had since been discovered that some of the homes did not comply with the originally approved setback standards, which had required a 15-foot front yard setback. The applicant now proposed a 10-foot setback with a 4-foot encroachment into the front yard, which was allowed for porches.

In addition, a four-bedroom home was now proposed on Lot 13 where a three-bedroom home was originally approved. Since the home would be larger in size and take up much of the planned backyard, landscaping would now be added to the front of the home within an access and utility easement originally approved as paving.

Ms. Hoggatt supported the proposed amendments. She noted that while the 10-foot front yard setback was more lenient than what had been adopted by the Commission in May 2001, it was consistent with the Downtown Development Standards adopted as part of the General Plan. Chapter Five of the General Plan allowed front yard setbacks of 10 feet in the subject area of the downtown. In addition, the larger home would be more suited to the homebuyer’s needs and the additional landscaping in the front of the home would compensate for the loss of rear yard landscaping as a result of the larger home.

Ms. Hoggatt recommended the adoption of Resolution No. 9427, approving an amendment to DR-01-12, with the conditions as shown.

PUBLIC HEARING OPENED

PROONENTS:

DARCY MYER, Johnson Lyman Architects, 1375 Locust Street, Walnut Creek, explained that she had nothing further to add to the staff report. She also clarified the proposed changes as noted by staff, characterized those changes as minor, and agreed with the staff recommended conditions of approval.

Having viewed the site, Commissioner Garcia complemented the work being done which represented an improvement to the neighborhood.

OPPONENTS: None

MOTION: **DR-01-12**

Motion by Commissioner Garcia to adopt Resolution No. 9427, amending Resolution No. 9210 and amending the Design Review approval of architectural and site plans for 13 single-family residential houses on Herb White Way between West Eighth and West Tenth
Street, for "Herb white Way Houses, (DR-01-12) with the conditions as shown. The motion was seconded by Commissioner Tumbaga and carried by the following vote:

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

Commissioner Ramirez returned to the dais at this time.

**PUBLIC HEARINGS:**

**Item 1: Delta Marine Repair & Storage. UP-02-32.**

Continued public hearing on an application by Clayton Manning requesting a use permit to allow outdoor storage of boats at a site being proposed for a marine repair facility at #6 Industry Road; (Service Commercial) zone; APNs 073-042-003 and 075-042-003. (Continued from May 13, 2003).

Planning Technician Christopher Barton presented the staff report. He noted the application had been continued from the Planning Commission meeting of May 13, 2003 due to the absence of the applicant.

Mr. Barton reported that the site had been undergoing code enforcement action to clean up the site. Some nuisance violations had been cited on the property. It was noted that the buildings on the site were currently condemned and that the applicant had received a Notice to Owner outlining the violations that would have to be remedied.

Due to the existing violations, Mr. Barton advised that staff was of the opinion that now was not the appropriate time to approve a new use for the site. He reiterated that the Chief Building Inspector had determined that the buildings on the site were unsafe and that there was some soils remediation involved since the Department of Toxic Substances Control had identified some contaminants that would have to be cleaned up. He added that representatives of that Department had indicated that it could take at least a year to remediate the soils on the site.

Mr. Barton recommended that the Planning Commission adopt Resolution No. 9426, denying UP-02-32.

Commissioner Dolojan understood that staff had issued a use permit in the early 1980's for the property, although the applicant had not complied with the original conditions imposed as part of that application. He questioned why it had taken the City so long to enforce the violations on the property.

Mr. Barton clarified that the original use permit for an auto dismantling and major vehicle repair business was no longer valid. The auto-dismantling license had been discontinued.
in 1998 or 1999 when the State license had been revoked. He recognized the time involved between the issuance of the last use permit and the new application. He was uncertain of the reasons for the delay in the City's enforcement of the identified violations.

Commissioner Tumbaga inquired whether or not auto dismantling had continued on the site up to the time of the current request.

Mr. Barton advised that the current applicant was the original applicant from 1978/1979. He understood that there had been numerous tenants using the property, which consisted of two separate parcels. Different tenants had been conducting auto dismantling and major auto repair over that time. He suggested that the applicant could verify the current status of the property.

PUBLIC HEARING OPENED

PROPONENTS:

CLAYTON MANNING, #6 Industry Road, Pittsburg, explained that the request was only to store boats on his property using an existing concrete slab. No boat repair would be conducted.

Mr. Manning commented that he was working to remediate the toxic waste on the property.

Mr. Manning explained that after his auto-dismantling license had been revoked by the State, he had tried to work with the City to obtain a permit to allow him to conduct some type of work on the property. The City had offered auto repair work, although after eight months the City had informed him that the business was invalid. He emphasized the need to be allowed to conduct some work on his property.

Commissioner Ramirez expressed concern with the number of violations identified on the property. He inquired whether or not the applicant would be able to resolve all of those violations, including the electrical and contamination violations.

Mr. Manning explained that four illegally constructed buildings had been demolished. He reiterated that he had been trying to obtain a permit to work on the other buildings but he had been turned down by the City and had been prevented from accessing his property by the Pittsburg Police Department.

Commissioner Tumbaga inquired whether or not the applicant was aware of the time it could take to clean up the site sufficiently to be able to then operate a business.

Mr. Manning suggested that it was dependent upon the State regarding the toxic waste on the property. While he was trying to work with the State to resolve that issue, he was currently unemployed. He reiterated that he had space for 45 boats on an existing concrete slab and that the boats could be stored during the cleanup of the site.
Commissioner Dolojan questioned whether or not the applicant could guarantee that the site would be cleaned up given the past history of the site and the number of violations that had yet to be remediated. He expressed concern with anything that could exacerbate that situation.

Mr. Manning affirmed that he could guarantee that the site would be cleaned up.

Commissioner Garcia noted that unless the City's Chief Building Inspector signed off on the property, boat storage would not be allowed. He emphasized that even if the application was continued, the property could still not be occupied until the violations had been cleared by the Chief Building Inspector. He recognized that the applicant did not plan to store boats in the buildings, although he stated that the remaining buildings were still a hazard and could pose a liability to the property owner if the stored boats were damaged. He suggested that the electrical problems that had been identified could pose a fire hazard that could also impact any boats stored on the site.

Mr. Manning emphasized that he needed a permit to be able to conduct any work on his property.

Mr. Barton explained that he had spoken with the Chief Building Inspector who had indicated that the applicant needed to provide building plans to show what use would be established on the property whether a permitted or a conditionally permitted use. The applicant must submit a set of building plans to repair the buildings to show an honest effort to establish the use that could be permitted. If that were done, the Chief Building Inspector had indicated he would allow the use to move forward.

Commissioner Tumbaga requested clarification of the buildings that had already been demolished on the site, to which Mr. Manning advised that of the seven buildings on the site, four had been demolished. Of the remaining buildings on the site and their associated violations, he reiterated that he had not been able to clear any of those violations since he could not get a permit to conduct any work on the property.

Director of Planning and Building Randy Jerome advised that the property could not be occupied, which was the reason the applicant could not operate on the site either with a use permit or a permitted use, until such time as the applicant pulled permits and until all violations had been cleared. He emphasized that the site must be cleared to ensure compliance with all Health and Safety codes to allow the applicant to legally occupy the property. As indicated by planning staff, the applicant must file the proper plans and meet the building code requirements so that the Building Department was aware of what the applicant proposed to do that would bring the site up to code.

As to the soil remediation issues, Mr. Jerome commented that would be an issue with the State. If the site was found to be unacceptable for occupancy from a health standpoint, the site would have to be cleaned before anything else was done on the property.

Planning Commission Minutes
May 27, 2003

7
Commissioner Harris inquired whether or not the applicant could be issued a permit on the condition that the property be cleaned up and that all violations be corrected within a date specific.

Mr. Barton acknowledged that such a permit could be conditioned, although in speaking with the California Department of Toxic Substances Control (DTSC), the time frame involved to clean the site was not practical. He had been informed that it could take a year or longer to clean up the soils on the site. A plan would have to be developed to remediate the site, which would take time to implement. He was uncertain whether or not the DTSC had an enforcement order in place.

Commissioner Harris noted that the applicant had problems with compliance on the site since the late 1970's and it did not appear as if efforts had been made to comply. He suggested that the applicant should work with the City and the State to clean up the property, even if it could take a year to do so.

Mr. Manning commented that the City had not enforced (its regulations on) the site for the past 20 years although the Police Department was now preventing him from accessing his property. He reiterated that he needed a (building) permit to be on his property to allow repairs to be conducted.

Mr. Jerome reiterated that the staff position was that the use permit application now before the Commission should not be approved. It had been recommended for denial until such time as the site was cleared of the identified violations so that the applicant could obtain an occupancy permit. At that time, he recommended that the applicant re-file the application for the proposed use permit.

Planning Manager Melissa Ayres also commented that it was the staff’s position that the applicant obtain a permit from the DTSC and clean up the site before seeking a use permit from the City since the use permit could not be activated until the property had been cleaned up and was safe to occupy.

Mr. Manning advised that he had been working with the DTSC, although he would like the City to work with him on the repair of the buildings.

Commissioner Harris suggested that the toxic substances be cleared first before addressing the issues related to the buildings on the site.

Commissioner Garcia inquired whether or not the DTSC had offered any idea of the time involved to clean the site of any toxics, to which Mr. Manning commented that the DTSC had not offered any estimation of the time involved to clean the site.

Ms. Ayres reiterated that the Project Planner had indicated that it could take over a year to clean the site.
Commissioner Ramirez commented on the potential costs to clean the site including the remediation of any contamination. He questioned whether or not the applicant had any idea of the potential costs involved. Mr. Manning advised that he did not.

Commissioner Tumbaga referenced the Notice to Abate, the identified violations and the steps outlined in that notice to clear the violations. The notice had identified a course of action to remediate any toxics on the property. She emphasized the importance of remediating the soil contamination prior to allowing any work on the buildings. As such, the Commission would have no option but to deny the use permit request to allow the other issues to be resolved prior to allowing the operation of a business on the site.

Chairperson Leonard stated that he was familiar with the potential costs for soil remediation, which could be quite expensive. He suggested that the applicant review those costs before proceeding with anything else. He suggested that the applicant work with an architect to determine whether or not anything could be done to save the buildings remaining on the property. Chairperson Leonard also noted that plans would have to be filed with the City to secure building permits. At that time and after the remediation of the soils, a use permit request could be resubmitted for Commission consideration.

CHARLES SMITH, Pittsburg, a Retired Environmental Scientist for the Department of Energy and Lawrence Berkeley Laboratory, questioned the findings in the staff report. He noted that the applicant had planned to store boats on an existing concrete pad. As to the contaminated soils, he understood that the contamination was in localized areas not in the area of the concrete pad. He suggested that boats could be stored on the concrete pad while the buildings were being refurbished and the soils remediated. In his opinion, the applicant did not have a serious soil contamination problem.

Mr. Smith commented that although it could take a year to remediate the soil, if done well, the soil could be remediated in less time. He suggested that staff had unfairly tied the environmental concerns to the existing structures on the site. He also referenced the public and historical record of the site since 1977. He noted that every violation had ended with the applicant having corrected or complied with whatever had been identified as a violation. He added that if the Commission were to read the Building Engineer's report it would find that the violations were described as walkaway items that could be corrected by anyone. He suggested that staff had not presented a realistic picture of the site and what really needed to be done with the property.

WILLIE MIMS, Pittsburg, representing the BPA, noted that on September 18, 1982, the applicant's wrecking yard had been declared by the Community Development Director as Categorically Exempt under Class One of the California Environmental Quality Act (CEQA) requirement for Existing Facilities. He suggested that staff had been hostile toward the applicant and had not shown a willingness to work with the applicant to resolve some of the issues.
Mr. Mims spoke to the code violations identified in the staff report and noted that it had been difficult for the applicant to correct the violations since the Police Department had prevented the owner from accessing his property and clearing up some of the discrepancies. He also suggested that whenever a violation was cleared staff would identify something new to correct. He expressed concern with the fact that the applicant had conducted a small business in the City for the past several years and was now not being allowed to conduct business in the City.

Mr. Mims requested that the Commission approve the use permit to allow the applicant to correct some of the minor problems on the site. With respect to the soils remediation, he suggested that City staff could provide some assistance in that regard since he understood the City had funds to aid small businesses to clean up toxics.

WILLIAM LEE, Pittsburg, stated that he was familiar with the area where the property was located. He suggested that there were two standards regarding the area. Prior to 1993, there were no sewer hookups until the City had installed sewer services. Most of the residents of the area, other than US Glass were on septic tanks.

Mr. Lee noted that the applicant owned the property before it was annexed to the City. He referenced a number of businesses in the City that had been condemned when buildings had not been brought up to City codes. He suggested there was a double standard for some businesses in the community. He also referenced a number of businesses that had been allowed to upgrade in the area. He suggested that the applicant should be allowed the same opportunity.

Mr. Lee also suggested that the soil remediation could occur without offhauling. If offhauling was required, the soils could be brought to the Keller Canyon Landfill.

OPPONENTS: None

Commissioner Garcia inquired if the public hearing were extended to June 24, 2003 whether or not the applicant would work with staff to possibly assist in locating an environmental service company to resolve the soil contamination issues, with a status report presented to the Planning Commission within 30 days. He explained that unless the soil contamination was addressed, the applicant could not move forward given the number of violations on the property. A denial of the application, without prejudice, could also allow the applicant to reapply within the year once the site had been cleaned. He inquired of the direction that would be acceptable to the applicant.

Chairperson Leonard questioned whether or not a 30-day period would allow sufficient time to resolve the issues. He suggested during that time it would be important for the applicant to really review the buildings to determine whether those buildings should be demolished or brought up to code.
Commissioner Dolojan agreed with the solution recommended by Commissioner Garcia, although he suggested that the applicant prioritize what needed to be done to resolve all of the issues.

Commissioner Garcia inquired why the applicant had not been allowed on the property, to which Mr. Barton advised of his understanding that the applicant could be on the property, but not in the buildings to conduct repairs until he submitted a set of plans approved by the Chief Building Official, as previously discussed. The applicant could also not conduct a business on the property without an occupancy permit.

Ms. Ayres explained that the buildings had been determined by the City to be unsafe and uninhabitable and no one should be in the buildings until the applicant had approved building plans and the skilled persons in place to enter those buildings to make them safe and habitable.

Commissioner Garcia commented that if the buildings were posted as being unsafe and uninhabitable, the applicant would be aware that he was breaking the law if he entered the condemned buildings.

Chairperson Leonard understood that the applicant had been arrested for occupying one of the buildings that had been condemned. He suggested that the applicant clarify those issues with the Code Enforcement Bureau prior to reentering the property. He again questioned whether or not 30 days would be sufficient time to resolve some of the issues that needed to be addressed. He explained that the Commission was not preventing the applicant from making a living, but was trying to assist in correcting the violations to allow the use of the property.

Commissioner Garcia suggested that 30 days should offer sufficient time for the applicant to work with staff and that staff could recommend an environmental service firm to assist the applicant. Within that time, the applicant should be able to contact such a company and prepare a plan to address the remediation needs to clean up the site. With progress at the end of that 30-day period, the Commission could move the process along. He suggested that the public hearing remain open for another 30 days.

MOTION: **UP-02-32**

Motion by Commissioner Garcia to continue UP-02-32 for Delta Marine Repair & Storage to the meeting of June 24, 2003, for the reasons as discussed. The motion was seconded by Commissioner Harris and carried by the following vote:

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

Planning Commission Minutes
May 27, 2003
Commissioner Harris stepped down from the dais due to a potential conflict of interest with the next item on the agenda. He left the meeting at this time.

**Item 2: Lawlor Estates. GP-02-03, RZ-02-14 and Subdivision 8112**

Public hearing on an application by Albert Seeno III of Discovery Builders requesting approval of: 1) an amendment to the General Plan Map to change the land use designation of the project site from Medium Density Residential to Low Density Residential, 2) a rezoning of 10.8 acres from RM (Medium-Density Residential) to RS-O (Single-Family Residential with a Limited Overlay) to modify lot width, lot size, maximum building height and front yard setback development standards, and 3) a tentative map to subdivide one parcel into 50 lots. The property is an undeveloped parcel located on the south side of West Leland Road, east of Evergreen Estates Subdivision and west of Chestnut Drive; APN 094-160-001.

Planning Technician Barton presented an overview of the project site, surroundings and proposed project in a PowerPoint Presentation.

Mr. Barton advised that the applicant had proposed to subdivide the 10.8-acre site into 50 single-family lots with the lot sizes to range from 4,122 to an acre in size for Lot 36. Eight of the 50 lots would be flag lots, which would have private driveways. Twenty-six of the lots would be less than 6,000 square feet in size. Ten of the lots would be less than 5,000 square feet. The existing California Cities water access was again noted, which access would be used as a private road leading to Lots 37 to 50.

The proposed density for the project would be 4.6 units per acre with Lawlor Court to serve Lots 1 through 36. On street parking would be available on one side of the street, on the single loaded portion of the street, with parking on both sides along the double loaded portion of Lawlor Court. A 4.5-foot sidewalk would be located along the home frontages with a 6-foot wide street tree maintenance easement behind the sidewalk. A vehicle turnaround would be incorporated into the road design, approximately 7,500 feet south of West Leland Road, between Lots 17 and 19.

The private street would be located off the existing California Cities water concrete driveway and would be quite steep at a 20 percent grade. On street parking would be available on the eastern side of the street opposite home frontages. The steep portion of the grade would permit no parking in the frontage since the width would vary. No sidewalk would be installed on the private street. A turnaround would be incorporated into the design for Lots 49 and 50. Lots served by the street would be down slope lots. Due to the grading on the site, extensive use of retaining walls would be required.

A masonry wall ranging in height plus or minus 10 feet would be located along the eastern property line adjacent to the private driveway in the Hillsdale Subdivision. A 3 to 10 foot tall masonry wall ranging in height plus or minus 10 feet would be located along the eastern property line adjacent to the private driveway in the Hillsdale Subdivision.
keystone block retaining wall also varying in height would separate Lawlor Creek and the lots located on the western portion of the subdivision. Thirty-two building pads throughout the subdivision would have retaining walls incorporated into the design, 18 of which would be 5 feet tall or greater. The type of material for the retaining walls had yet to be determined.

While conceptual plans had been submitted for Commission review, the plans would return at a later date for design review approval. Prototypical models had been submitted to illustrate changes the applicant would be considering in the design standards.

The flat pad design homes would range in size from 2,431 to 2,920 square feet. The downhill slope homes would be larger and range in size from 3,156 to 3,518 square feet with building heights ranging from 22 to 24 feet in height for the flat pad designs. The downhill slope designs along the private driveway would be approximately 29 to 38 feet in height. The building footprint of the prototype designs had been incorporated into a site plan attached to the staff report dated May 27, 2003.

Speaking to the actual street design, Mr. Barton noted that Lawlor Court had no parking incorporated on the side of the street with no home frontages. If accounted for, that street would meet City standards. The private street would vary in width from 24 to 26 feet with no sidewalks and a maximum grade of 20 percent. The City Engineering Department had reviewed that portion of the design and had recommended that the street follow the City's guidelines.

Access to the site had also been reviewed as part of a traffic study with mitigation measures identified in the CEQA analysis of the project. Mitigation would include the conversion of the currently striped median between Willow Avenue and the cul-de-sac across from the project site to a center dual left turn lane, providing a right turn deceleration and acceleration lane or to provide a larger turning radii at the entry to Lawlor Court dependent upon the recommendations from the City Traffic Engineering Division. Additional mitigation measures included a bus turnout to be installed at West Leland Road, which could result in some lots being rearranged. That detail had yet to be worked out and any revisions to the proposed tentative map had yet to be addressed. Further mitigation measures would restrict left turn traffic exiting Lawlor Court during PM peak hours. Left turns from the private street would be prohibited.

Mr. Barton explained that in order to meet the General Plan requirements, the applicant had filed a General Plan Amendment to change the land use designation from Medium Density Residential to Low Density Residential that would allow a project density such as had been proposed. Since the General Plan had been adopted in November 2001, the Land Use Map was current and the site had been analyzed in terms of the proposed project. He suggested that the existing land use designation was appropriate.

The General Plan also contained a policy to encourage a range of development intensities with the highest intensity in the downtown and areas accessible to transit and services.
The Noise Element of the General Plan supported a Medium Density or a Higher Density development since such projects could tolerate higher noise levels. The General Plan had identified noise contours on the north side of the project where 56 dBA would be considered normally unacceptable for the location while multifamily housing for the current land use designation would be acceptable from a noise standpoint.

Mr. Barton added that the project, as proposed and with the density as proposed, would result in 26 to 101 fewer housing units than had been envisioned on the site under the existing General Plan designation. The existing land use designation was appropriate and would provide a transition between the single family residential uses to the east and commercial and higher density uses near the Oak Hills Shopping Center and apartments. The close proximity of the Oak Hills Shopping Center and the Pittsburg/Bay Point BART Station would also support a higher density.

The applicant had also requested a rezoning to change the existing zone from Medium Density Residential to Single Family Residential with an Overlay which would modify the City's existing development standards for single family homes and reduce the minimum lot width from 60 feet to 45 feet, reduce the required front yard setbacks from 20 to 15 feet, reduce the minimum required lot area from 6,000 to 4,122 square feet and increase the maximum building height from 28 feet to 38 feet. If the zoning were changed to Single Family Residential the RS Development standards should be adhered to in order to maintain continuity between the project site and the adjoining single family residential West Leland Planning Subarea.

The requested changes to the RS standards would result in some of the lots having less than 5 feet of unobstructed width along the garage sideyards, which could make it difficult for homeowners to access the rear yards and store trash containers there.

Mr. Barton stated that the property owners within the West Leland Planning Subarea did not enjoy such deviations from the RS standards and if the project were approved with the overlay zone staff believed it would represent a grant of special privilege for the proposed development. The proposed height of the downslope homes will result in homes towering over the street; the existing maximum height is 28 feet in the RS development standards. By adhering to the RS development standards, he suggested it might also be possible to reduce the number and height of the retaining walls used throughout the project.

Mr. Barton identified the required findings to approve the request and explained that the Planning Commission would have to find that the requested General Plan Amendment was in the public interest and was consistent with all other provisions in the General Plan and that the remaining sites for residential development in the City could accommodate the City's fair share housing as required by the State Department of Housing and Community Development.

He stated that In order to approve the rezoning request, the Commission must find that the proposed zoning designation was consistent with the General Plan. The Commission must
also find a community need for the zoning change and that the change would be in conformance with public convenience, general welfare and good zoning practices. Further, the Commission must find that the proposed subdivision development would be consistent with the General Plan, the zoning designation, that the site was physically suitable for the project and that the subdivision and its improvements would not cause environmental damage or public health problems.

Mr. Barton advised that a Mitigated Negative Declaration had been prepared for the project with mitigation measures that the applicant had reviewed and agreed to provide.

Mr. Barton recommended that the Planning Commission adopt Resolution No. 9429, denying GP-02-03, RZ-02-14 and Subdivision 8112, based on the information provided in the staff report and the noted inconsistencies with the General Plan. He added that draft resolutions of approval had also been included with the staff report, in case the Commission believed it could make the required findings to support the requested applications.

In response to Commissioner Dolojan, Mr. Barton explained that the current zoning would allow for 7 to 14 units per acre. If the developer were to maximize the highest density of the property per the current zoning it was possible that 144 units could be built on the property. The applicant had proposed a rezoning to Single Family Residential with a Limited Overlay, which would involve fewer units and generate less traffic.

Mr. Barton also clarified that the hillside development to the east was a standard RS District, which met all of the City's development standards for single-family development. He noted the housing density being proposed would be greater in comparison to the development to the east.

Commissioner Ramirez expressed a preference for the development of single-family homes on the project site, which would be more attractive and better than apartment units, which could generate more traffic. He also understood that the property owner had tried to market the property to some of the largest developers in the State but had difficulty attracting any developer interest in multifamily units on the property due to economics.

Chairperson Leonard recognized that the current zoning would allow a maximum of 144 units to be built on the property through an apartment development and that such a development could also maximize the height limitations that could impact privacy and views of the neighboring homes. As to the sideyard setbacks, he suggested that as long as one of the two sideyards met the required setback that would be better than nothing. He commented that he lived in a townhome that had no sideyard. A higher density development, such as a townhome development, would involve no side access unless it was an end unit and townhomes were lucky to have 5 feet on one side. He suggested it was unlikely that a 5-foot sideyard setback could be accommodated on both sides.

Commissioner Garcia commented that he had reviewed the Subdivision Map and could
find no lots that would have less than 5-foot setbacks.

Mr. Barton advised that the issue was they didn’t have 5 foot unobstructed setbacks due to proposed retaining walls.

Commissioner Dolojan understood that the air conditioning units would be built in the rear of the homes. He commented that a standard air conditioning unit would block a sideyard.

Mr. Barton explained that the design review guidelines adopted by the Planning Commission had actually identified a goal of at least 10 feet where possible.

PUBLIC HEARING OPENED

PROPOSITIONS:

SALVATORE EVOLA, Discovery Builders, Inc., 4061 Port Chicago Highway, Suite "H", Concord, explained that he had been working with staff for the past year and a half on the proposal. Mr. Evola disagreed with some of the findings made by staff when recommending the denial of the project. He noted that there had been four occasions in the past when larger builders had entered into contract with the original property owner but had backed out of those contracts due to the economy at the time.

Mr. Evola commented that Discovery Builders current Engineer, acting on behalf of the property owner as the original applicant, had approached the City at the staff level. City staff had told that individual that a single-family product proposal at a low density would be desirable. Mr. Evola stated that he and Discovery Builders had then started exploring the opportunities to develop the site with a low-density single-family residential project. Mr. Evola added that biotics and traffic studies had been prepared and that he had personally addressed all of the concerns of the Consolidated Fire Protection District and the State Department of Fish and Game regarding special status species along the creek. He had also obtained approval from the State Regional Water Quality Control Board (RWQCB) and the Contra Costa County Flood Control District (CCCFCD) and had obtained approval from Tri-Delta Transit, Pittsburg Disposal, and the US Post Office regarding the private drive.

In response to some of the comments raised by staff, Mr. Evola suggested that Lawlor Estates was an infill site. While the site across the street had not yet been developed, he stated that Discovery Builders had two single-family residential units previously approved for that area that could be built at any time. Taking that into account, the site would be surrounded on three sides by single-family residential development.

Mr. Evola suggested that building apartments or something of a higher density in the midst of single family residential developments would represent an inconsistent land use to the adjacent surroundings. Staff had also made several references in comparing the proposed project to the Hillsdale development to the east. He noted that one of Discovery Builders
affiliated companies had developed that subdivision several years ago when development trends had been different.

Mr. Evola commented that staff’s comparison of the proposed development standards for this subdivision to the adjacent Evergreen Subdivision map was approved over 60 years ago, homes are only about seven (7) years old.

Mr. Evola pointed out that the proposed project is outside of the area to be governed by the BART Specific Plan, although staff had made arguments in the staff report that a higher density would be more desirable since it would be closer to mass transit and a shopping center. Having attended the joint meetings, he understood that the general consensus had been that even those who lived in the Oak Hills Apartments would drive to the BART Station. He expressed his doubt that anyone would walk to the BART Station from this project.

In response to Commissioner Dolojan, Mr. Evola clarified that he would agree to the installation of a bus turnout, as recommended by staff and as part of the Mitigated Declaration, although it had not been shown on the plans.

In response to Commissioner Garcia, Mr. Evola advised that he had read all of the resolutions and the staff report and was in agreement with the conditions in the resolutions of approval.

Commissioner Garcia referenced the larger lots in the project, particularly Lots 24, 27 and 50 and possibly Lots 28 and 36. Given the size of those lots, he expressed concern as to whether or not potential property owners could adequately maintain those rear yards. He recommended that the applicant form a Homeowner’s Association (HOA) that would maintain those areas in the event property owners did not. He also recommended that the private street be included in the HOA to ensure that it too would be maintained. As to the J-ditches, he commented that sometimes they were located in open spaces with little to no maintenance. If not maintained, he expressed a concern that the water would not flow properly and that erosion could become a problem.

Commissioner Ramirez inquired whether or not the proposed landscaping and use of trees had been specified. He expressed concern with the possible height of the trees depicted in the applicant’s conceptual drawings. He suggested that taller trees be considered to separate the public and private streets.

Mr. Evola explained that the perspective provided was intended as a conceptual view of the project only. Details associated with design review, such as landscaping, had not yet been submitted. He noted that if the project were required to install a certain tree species, an evergreen or redwood tree would grow the highest and be the most desirable addition.

As to the recommendation for an HOA, Mr. Evola commented that originally the City had stated it would take responsibility for the hillsides on the larger lots, although the trend had
been that the City was shying away from such maintenance. As a developer, Discovery Builders did not desire to use HOAs.

Mr. Evola expressed a willingness to form a(n) HOA if that was what it would take to have the project, as proposed, be approved.

MARK BLUM, Pittsburg, a resident of Evergreen Estates, commented that as a homeowner he would rather see a change in density from the existing designation to a lower density. He suggested that the development of potential apartment units, as much as 144 units, could pose a problem while the use of the same property with 50 homes would be something that would be desirable.

JOHN HAWTHORNE, 2241 Westwood Lane, Pittsburg, commented that he had not received any plans on the proposal that made it difficult for him to make comments. He requested to be allowed to review the plans before anything was approved.

Chairperson Leonard gave a set of plans to Mr. Hawthorne for review and later comment.

GAIL ELLIOTT, 1321 West Leland Road, Pittsburg, advised that her property bordered Willow Avenue although her residence faced West Leland Road. She acknowledged that the developer had recently met with some of the homeowners. She also acknowledged that it was likely that the residents would support single-family development versus apartment units due to the lower density. Her preference was that the property remain open space. While the property had been zoned to allow high-density development, she understood that four different developers had declined to build on the property. She suggested that if the zoning were to remain as is and no one was able to build, the property would effectively be left as open space.

While recognizing the likelihood that the property would not be left as open space, Ms. Elliott suggested that there were other options that could be considered. She preferred single-family development to apartment development. She also inquired whether or not W. Leland Road would be widened from Willow Avenue to the entrance of Lawlor Estates.

Mr. Barton explained that a bus turnout would be installed eastbound on West Leland Road with the actual design yet to be determined between City staff and the applicant. It was possible that area could also be used for acceleration and deceleration turning lanes out of the property. He reiterated that such details had yet to be defined. The dual left turning lanes would be using the existing right-of-way on West Leland Road with additional right-of-way possibly necessary for the bus turnout.

Ms. Elliott added that she still had a horse on her property, although the owner of the horse, with assistance from the developer, had options in the event the development were ultimately approved.
DONALD J. TRUE SR., 2066 Willow Avenue, Pittsburg, explained that the meeting with Mr. Evola and the neighbors had really been an ad hoc meeting between residents on Willow Avenue that would look out onto the property. He commented that Mr. Evola had been visiting one of the homeowners who had contacted other residents to allow Mr. Evola to make a presentation. During that neighborhood meeting he understood that the neighbors had only an either or option. Either the neighbors supported homes, or apartments would be built. He also referenced the background of the efforts of some of the largest homebuilders to develop the property with apartments, which efforts had proven to be unsuccessful to date.

Mr. True suggested that if the property could not be left as is and if the City were to decide to support the project, he would prefer the approval a single-family proposal as opposed to an apartment development. His ultimate preference was that the property be left as is, as open space.

ROBIN HOUSTON, Pittsburg, expressed concern with quality of life impacts to adjacent residents if the development were to occur. She agreed with the previous speakers that single-family homes were preferred over the construction of apartments. She requested that a complete Environmental Impact Report (EIR) be prepared to ensure the stability of the soils to accommodate the proposed homes. She expressed concern with a home sliding into her rear yard.

CRAIG SMITH, 2270 Willow Avenue, Pittsburg, stated that he had also attended the meeting with the developer. He expressed concern with the fact that at the time he had purchased his home he had been assured that there would be no building behind his home. That assurance had been made verbally although nothing had been stated in writing. He otherwise would prefer the proposed 50 single-family homes to an apartment project.

Mr. Smith suggested that there was a third option beyond the low versus high-density development. He suggested that the residents should have time to consider that option. He reiterated that residents had been told that no building would occur behind his/her homes. He expressed concern that the residents had nothing in writing to ensure that 50 units was the maximum that the developer would actually build. If the project were permitted, he suggested that the specifics be provided to the residents, in writing.

Mr. Barton clarified that there was an existing conservation easement that ran along the ravine behind the residential properties that would remain undeveloped.

Mr. Smith explained that he had been told by someone that nothing would be built on the mountain whatsoever, in addition to no building on the referenced easement.

KIRK WALLER, a resident of Willow Avenue, Pittsburg, commented that he had also attended the neighborhood meeting. As a new resident of the community, he liked his
neighborhood and had been surprised to learn of the potential development. While he preferred that no building be done, he would favor a 50-unit development of single-family homes over an apartment development.

Mr. Waller explained that the open space served as a nice buffer from the existing housing in the area and was one of the few open hillsides in the immediate space. He too commented that he had been told that no building would occur on the hillside, which had been a factor in his choice to move to the neighborhood since the open space had been a selling point.

Mr. Waller also suggested that a single-family development as opposed to apartment development would generate less traffic. He spoke to the congestion on City streets and on State Route 4. He also understood that apartment developments could devalue the property values of the surrounding homes on both sides of the project site.

PAULA JONES, 2202 Willow Avenue, Pittsburg, explained that the hillside was at the rear of her home and was a selling point when she had purchased her property in Evergreen Estates. She preferred that the open space be retained. She expressed concern with the traffic congestion that could occur with more development and which would pose an inconvenience for any resident traveling from State Route 4 since many Pittsburg and Antioch residents took the West Leland Road exit to bypass the freeway traffic to reach his/her homes.

Ms. Jones suggested that single-family homes with four to five bedrooms could result in more traffic in that there would probably be a minimum of two up to six adults in each home, which could create multiple vehicles per household. With the approval of the project, she suggested that the traffic congestion on the freeway would start at Bailey Road.

Expressing a preference that the property remain as open space, Ms. Jones suggested that if the density were not changed no one would build on the land given that no one had chosen to build on the land over the past several years. She added that she had also chosen her home as a result of the horse walking the open space.

Mr. Hawthorne stated that he had reviewed the plans. He questioned what type of trees would be planted in the project. He expressed concern for the placement of trees given the views he currently enjoyed from his property, which he would hate to lose. He also commented on the drainage from the project site to properties below and noted that there was no J-ditch shown above the retaining walls. Additionally, he requested a masonry wall between his property and the subject site since he had pygmy goats on his property and he would like to prevent any dispute with a future neighbor below his property.

Chairperson Leonard suggested that such details could be resolved and addressed through the design review phase of the project at such time as those details were submitted for Planning Commission review.
Mr. Evola clarified that he had not intended to mislead the neighbors when he had spoken to the neighborhood. After learning from staff they would recommend that the Planning Commission not approve the project, as proposed, he acknowledged that he had sought out who he could sell the project to and had contacted the four original builders that had considered apartment development on the property. He advised that he had three builders interested in developing the property (as multi-family) and in that regard he had passed on that information to the neighbors.

Mr. Evola acknowledged that he had also offered those homeowners with open wire fences a hardboard fence converted at the builder’s expense. Recognizing that the grading of the property could pose an inconvenience to the existing property owners, he also expressed a willingness to sign an agreement that through the course of grading the developer would wash the windows of the adjacent homes in the Evergreen Estates neighborhood on one or two occasions.

Mr. Evola further clarified in response to a neighbor’s concern as to whether or not the developer would build more than the 50 homes, that the developer could only build the maximum number of units the Commission would approve. He also affirmed that the developer had provided some opportunities to relocate the horse that currently resided in the existing open space. He reiterated his agreement with the staff recommended conditions of project approval in the draft subdivision resolution and added that he would agree to the planting of additional trees as a visual buffer behind the homes to be constructed on lots along on the private drive.

While initially opposed to a(n) HOA, Mr. Evola reiterated that if it would take an HOA for the Commission to approve the project, he would also be willing to establish a(n) HOA.

PUBLIC HEARING CLOSED

Commissioner Tumbaga supported the staff recommendation to deny the project because she believed multiple family housing was desperately needed in the community. She suggested that if the developer had wanted to increase the density on the property, he would have found a compelling argument and persuasive methods to convince everyone that was the best way to go too. She noted the limited number of infill lots left in the community that were not owned by the developer or its affiliates.

Commissioner Tumbaga suggested that it was possible to build housing on the property, such as townhouses, that could involve homeownership opportunities for someone who had to commute out of town and who did not want the ownership or maintenance responsibilities of a single-family residence. She disagreed that a single-family development would result in less traffic. If building four to five bedroom homes, she suggested it was likely that would involve more than two vehicles for each household.
Commissioner Tumbaga suggested that a townhome project would generate less traffic than the proposed development since it would involve fewer bedrooms. For these reasons, she stated she would have to vote no on the project as now proposed.

Commissioner Tumbaga also recognized that there had been past interest in the property for apartment development although due to economics that interest had not moved forward. She pointed out that had occurred over a period of 20 years and that economics had changed. As such, a successful apartment/townhome project might be viable. She also emphasized the importance of the City providing housing opportunities for more people in the community who used mass transit.

Commissioner Tumbaga further commented that she lived in a single-family development near an apartment complex that allowed for Section 8 housing and which was located on a main thoroughfare and that the complex had not affected the value of the nearby single family homes.

Commissioner Kelley also expressed a preference for a townhome development rather than a single-family development. She referred to the needs of the community and those who did not want or desire a large home. She also agreed with other points raised by Commissioner Tumbaga.

Commissioner Dolojan recognized that apartments were needed in the community, but did not believe that the site topography was conducive to apartment development. He commented that the project would allow the development of land that had remained vacant for some time. He also commented that it was time to build something on the property. In his opinion, the proposal would be a good project.

Commissioner Ramirez expressed confusion believing the staff report and presentation had been positive toward the project, yet staff had recommended denial of the project. He noted that the applicant had spoken to many of the neighbors and had received support for this project by most of them. In addition, the developer was willing to establish a(n) HOA, although not part of the original plan. He supported the project, as proposed.

Chairperson Leonard pointed out that although staff had recommended denial of the application, staff had provided resolutions of approval if the Commission could make the findings to approve the requested entitlements. He commented that while townhome or condominium developments were preferred by some, such developments were the highest litigated real estate properties in the State. He further stated that while the property could probably support a townhome development, no developer had presented such a proposal to the City. He also stated he recognized that the project, as proposed, might not meet all of the City's goals regarding high density around the BART Station, but was a good project.

Commissioner Garcia understood that the joint workshop between the City Council and the Planning Commission Minutes
May 27, 2003
Planning Commission would be held during the month of June to discuss the Pittsburg/Bay Point BART Station Area Specific Plan and that any interested resident could attend that workshop. He encouraged the residents of Evergreen Estates and nearby areas to participate.

MOTION: **GP-02-03**

Motion by Commissioner Garcia to adopt Resolution No. 9430, recommending that the City Council adopt an ordinance amending the General Plan Land Use Map for a 10.8 acre site from Medium Density Residential to Low Density Residential for "Lawlor Estates," (GP-02-03), as shown. The motion was seconded by Commissioner Ramirez and carried by the following vote:

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

MOTION: **RZ-02-14**

Motion by Commissioner Garcia to adopt Resolution No. 9431, recommending that the City Council rezone a 10.8 acre site located at the south side of West Leland Road, east or Evergreen Estates and west of Chestnut Drive from RM (Medium-Density Residential) to RS (Single-Family Residential) to allow a 50 unit residential subdivision for "Lawlor Estates," RZ-02-14), as shown. The motion was seconded by Commissioner Ramirez and carried by the following vote:

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

MOTION: **Tract 8112**

Motion by Commissioner Garcia to adopt Resolution No. 9432, approving Subdivision 8112, a Tentative Map for a 50-unit residential subdivision for "Lawlor Estates," with the conditions as shown and with an additional condition that the developer establish a Homeowner's Association (HOA) for the subdivision, as discussed. The motion was seconded by Commissioner Ramirez.

On the motion Ms. Ayres understood that Commissioner Garcia had earlier recommended an HOA for the J-ditches, private road and for the large lots that would have the large hilly back yards. She inquired whether or not it was the intent that an HOA be responsible for those areas.
Commissioner Garcia affirmed that had been his intent for the HOA.

Speaking from the audience, Mr. Evola explained that an HOA might also cover lighting on the private drive. He otherwise commented on the difficulties having an HOA cover only specific portions of a project site. If that was the case, he suggested that the HOA would have to cover the entire project.

Chairperson Leonard suggested that the developer could reduce the size of the lots and create areas as common open space or a clear zone, which would ensure the maintenance of those referenced areas.

Mr. Evola acknowledged that with the establishment of an HOA, Lot 36 could be reduced to an appropriate size with the remainder created as an open space that the HOA would maintain.

The motion was restated and carried by the following vote:

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

**STAFF COMMUNICATIONS:**

Ms. Ayres reminded the Commission that a joint meeting with the City Council and the Planning Commission had been scheduled for Monday, June 23 at 7:00 P.M. in the Council Chambers.

Mr. Jerome added that during the June 2nd City Council meeting, a report would be made to the Council from the City Attorney on the status of various City Commissions in response to a City Council goal session. Those discussions could result in direction to potentially reconfigure various commissions. No action would be taken at that time other than direction to staff. Any changes to any commissions would involve ordinance changes by the City Council.

Mr. Jerome also took the opportunity to announce that this was Melissa Ayres' birthday. He and the Planning Commission wished Ms. Ayres a Happy Birthday.

**COMMITTEE REPORTS:**

Commissioner Garcia reported that the Ribbon Cutting Ceremony for the Harbor Street Overpass had been scheduled for Friday, May 30 at 10:00 A.M. on the south side of the bridge.
COMMENTS FROM COMMISSIONERS:

Chairperson Leonard also noted that a Ribbon Cutting Ceremony had been scheduled for the Eighth Street Linear Park on Saturday, May 31.

Commissioner Tumbaga reported that the Art and Jazz on the Green event would be held at the Eighth Street Linear Park on May 31 from 11:00 A.M. to 6:00 P.M.

Chairperson Leonard noted that since the City Council met at 7:00 P.M. and given the summer months, a proposal to change the times of Planning Commission meetings, to potentially start at 6:30 P.M. should be entertained by the Commission.

Mr. Jerome advised that the Planning Commission had by-laws, which set the times for the start of Commission meetings. He noted that the Commission could amend the by-laws. With consensus from the Commission, the Chair recommended that planning staff put together a proposal to move the start time of the Commission meetings from 7:30 P.M. to an earlier time.

Commissioner Garcia noted that a start time of 6:30 P.M. could prove difficult for those applicants required to travel a distance. As such, he recommended a start time of 7:00 P.M.

Ms. Ayres advised that the change in meeting start times could be agendized for discussion at the next Commission meeting.

Commissioner Kelley expressed her apologies for being late to the meeting. She advised that she had another meeting commitment that had required her attention.

ADJOURNMENT:

There being no further business, the meeting adjourned at 10:09 P.M. to a regular meeting of the Planning Commission on June 10, 2003 at 7:30 P.M. in the City Council Chambers at 65 Civic Avenue, Pittsburg, CA.

MELISSA AYRES, Secretary
Pittsburg Planning Commission