A regular meeting of the Pittsburg Planning Commission was called to order by Chairperson Ohlson at 7:07 p.m. on Wednesday, February 26, 2008, in the Council Chambers, City Hall, 65 Civic Avenue, Pittsburg, California.

ROLL CALL:

Present: Commissioners Diokno, Garcia, Harris, Kelley, Wegerbauer, Chairperson Ohlson

Excused: Commissioner Ramirez

Absent: None

Staff: Assistant City Manager Matt Rodriguez, City Clerk Alice Evenson, Senior Planner Dana Hoggatt, Assistant Planner Leigha Schmidt, Civil Engineer Alfredo Hurtado

POSTING OF AGENDA:

The agenda was posted at City Hall on Thursday, February 21, 2008.

PLEDGE OF ALLEGIANCE:

Pete Carpino led the Pledge of Allegiance.

DELETIONS/WITHDRAWALS/CONTINUANCES:

There were no deletions, withdrawals or continuances.

COMMENTS FROM THE AUDIENCE:

There were no comments from the audience.
PRESENTATIONS:
There were no presentations.

CONSENT:

a. Minutes - February 13, 2008

MOTION:

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

Ayes: Commissioners Diokno, Garcia, Harris, Kelley, Wegerbauer, Ohlson
Noes: None
Abstain: None
Absent: Commissioner Ramirez

PUBLIC HEARING:

Item 1: Mehran Restaurant Revocation of Use Permit
A request for the Planning Commission to initiate revocation of Use Permit Application No. 04-178 (City Council Resolution No. 05-10416) allowing live entertainment at Mehran Restaurant located at 3841 Railroad Avenue in the CC (Community Commercial) District; APN 088-072-066.

Assistant Planner Leigha Schmidt presented the staff report dated February 26, 2008. She recommended that the Planning Commission initiate revocation of Use Permit Application No. 04-178 (City Council Resolution No. 05-10416) allowing live entertainment at Mehran Restaurant.

Commissioner Diokno questioned whether or not there were other restaurants in the City where charcoal filters had been required.

In response, Ms. Schmidt explained that the Elks Lodge had installed charcoal filters, as well. Like the subject application, that use would be conducting mass cooking of food for events over and above what would normally be cooked at a restaurant.

For the record, the Chair advised that the applicant was not present in the audience.

PUBLIC HEARING OPENED

INTERESTED SPEAKERS:
PETE CARPINO, 151 El Camino Drive, Pittsburg, stated that he was representing the immediate area around the restaurant.

Mr. Carpino concurred with the staff recommendation to commence with the process to revoke the live entertainment use permit. He questioned the timeline when the matter would be resolved. He expressed his hope that the City would find a better way to resolve situations where applicants did not comply with the required conditions of approval. He pointed out that the restaurant had been in existence for the past three years and the applicant had not complied with the original conditions of approval.

Assistant City Manager Matt Rodriguez explained that if the Commission decided to proceed with adopting the resolution attached to the staff report, the matter would be brought back to the Commission on March 25, within the next 30 days, to consider the revocation of the use permit for live entertainment.

Mr. Rodriguez asked the Chair to read into the record written correspondence that had been received this date.

CAROLE GONZALEZ, Pittsburg, provided written comments by e-mail, copies of which were provided to the Commission as follows: “Please forward this to Marc Grisham, the address that he sent for a Notice of Public Hearing is being returned to me and there is no email on the planning page. Thank You. I am writing about a public notice hearing letter that I received concerning MEHRAN RESTAURANT – REVOCATION OF USE PERMIT. I would like to state that my husband and I are in full support of terminating and/or revoking the permit #04-178 that allows live entertainment at the Mehran Restaurant. We were disturbed several times last summer with the noise that the restaurant causes within our neighborhood. For the record we would also like to know the progress of the restaurant installing the filters that are supposed to cut the smell of the food within the neighborhood as well. We are praying that it has been resolved since last summer so that this year we might enjoy keeping our windows open. If you have any information I would appreciate it. Sincerely, Carole Gonzalez, El Camino Drive.”

OPPONENTS: None

PUBLIC HEARING CLOSED

Commissioner Garcia commented on the background of the restaurant which had been an allowable use in the subject location. He stated that the applicant had already built, remodeled, and was in the process of operating the full-service restaurant when the applicant had come before the Commission with a request for live entertainment. The Commission at that time had been concerned with noise not from the interior of the building but from the parking lot as patrons left the banquet room after hours late in the evening. The Commission at that time had denied the live entertainment request. The denial had
later been appealed to the City Council.

The City Council at that time had approved the request for live entertainment and had imposed the conditions for the installation of the charcoal filters and the masonry wall. Commissioner Garcia explained that he had previously requested that staff consider all small shopping centers adjacent to or near residential areas to be permitted, rather than allowable uses, to prevent such occurrences in the future. While he recognized that the installation of charcoal filters could be very expensive, he suggested there were alternatives that could be considered. He understood that those alternatives had been discussed with the applicant who had refused to comply with that condition.

Commissioner Garcia otherwise understood that the applicant had the business and the building up for sale. He emphasized that the situation had gone on too long and that even the City had tried to provide assistance to the applicant. There was still no compliance with the conditions. He supported the revocation of the live entertainment use permit when the matter was returned to the Commission within 30 days.

Commissioner Wegerbauer understood that the situation related to the live entertainment use permit did not mean that the restaurant could not continue to operate. She questioned the process at this time.

Ms. Schmidt explained that the process at this time related only to the initiation of the revocation of the live entertainment use permit. If the Commission decided to commence with the initiation of the proceedings, within 30 days, staff would return with an analysis supporting a recommendation to revoke the use permit for live entertainment based on the non-compliance with some of the conditions of approval. The restaurant use would be allowed to continue since it was an allowed use.

Commissioner Wegerbauer was disappointed that the applicant was not present for the public hearing. As a resident who lived near the shopping center, but not within 300 feet, she supported different restaurant uses in the City, although she recognized that operators must follow the rules. Having spent years in commercial property management where in some cases the commercial properties had backed up to residential properties, she acknowledged that there could be issues. She added, however, that there were ways to make the uses work while also supporting the residents and the community.

**MOTION: ** **AP-04-178**

Motion by Commissioner Garcia to adopt Resolution No. 9746, initiating Revocation of a Use Permit Allowing Live Entertainment at Mehran Restaurant, "Mehran Restaurant – Revocation of Use Permit. AP-04-178. (UP)". The motion was seconded by Commissioner Wegerbauer and carried by the following vote:

Ayes: Commissioners Diokno, Garcia, Harris, Kelley, Wegerbauer, Ohlson
Commissioner Garcia reiterated his request that staff consider all small shopping centers adjacent to or near residential areas as permitted uses as opposed to allowable uses to prevent such occurrences in the future.

Commissioner Wegerbauer recognized the concerns although she emphasized the need for balance and to promote business in the community. She did not support a process so onerous that an applicant might choose to do business in another community.

Chairperson Ohlson identified the 10-day appeal process of a decision of the Planning Commission.

**STAFF COMMUNICATIONS:**

There were no staff communications.

**COMMITTEE REPORTS:**

Chairperson Ohlson reported that the TRANSPLAN Committee had recently met to discuss the Draft East County Action Plan Goals, Objectives, and Action, and the Contra Costa Transportation Authority (CCTA) Vision, Goals and Strategies for the 2008 Countywide Transportation Plan. A special meeting had also been held by the TRANSPLAN Committee on February 25 to continue the discussion on the 2008 Countywide Transportation Plan.

**COMMENTS FROM COMMISSIONERS:**

Commissioner Wegerbauer reported that she had attended the presentation from the U.C. Berkeley graduate students on the charrette process for the Railroad Avenue Corridor. She had enjoyed the presentation of the ideas and concepts for the area and she encouraged Commissioners to review those ideas and concepts.

Commissioner Diokno agreed with Commissioner Wegerbauer’s comments and added that the hills and the river surrounding Pittsburg had left lasting impressions on out-of-towners.

**ADJOURNMENT:**

There being no further business, the meeting adjourned at 7:37 p.m. to a Regular Meeting scheduled for March 11, 2008, in the City Council Chambers at 65 Civic Avenue, Pittsburg, CA.