MINUTES
OF A REGULAR MEETING
OF THE
PITTSBURG PLANNING COMMISSION
March 25, 2008

A regular meeting of the Pittsburg Planning Commission was called to order by Chairperson Ohlson at 7:02 p.m. on Tuesday, March 25, 2008, in the Council Chambers, City Hall, 65 Civic Avenue, Pittsburg, California.

ROLL CALL:

Present: Commissioner Doko, Carcio, Harrio, Kellio, Raimoz, Wegerbauer, Chairperson Ohlson

Absent: None

Staff: Assistant City Manager Matt Rodriguez, Senior Planner Dana Hoggatt, Assistant Planner Ali Endress, Associate Planner Kristi Vahl, Assistant Planner Leigha Schmidt, and Senior Civil Engineer Alfredo Hurtado

POSTING OF AGENDA:

The agenda was posted at City Hall on Thursday, March 20, 2008.

PLEDGE OF ALLEGIANCE:

Brad Nail 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 - March 11, 2008

MOTION:

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

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

PUBLIC HEARING:

Item 1: Las Panchitas Restaurant. AP-08-502 (UP).

Application by Santiago Rodrigues requesting the approval of a use permit to operate a full service restaurant with ancillary beer and wine sales in a 1,836 square foot tenant space in the Pittsburg Medical Center building at 1270 East Leland Road. The site is zoned CO (Office Commercial) District. APN 088-161-013.

Assistant Planner Ali Endress presented the staff report dated March 25, 2008. She recommended that the Planning Commission adopt Resolution No. 9748, approving AP-08-502 (UP), as conditioned.

Speaking to the first sentence of the second paragraph under Analysis, as shown on Page 5 of 7 of the staff report, Ms. Endress requested the following modification:

Staff does not believe that the restaurant would be detrimental to the health, safety, or general welfare of the City because Las Panchitas owner has agreed to place restrictions on alcoholic beverage sales at the restaurant.

Commissioner Wegerbauer clarified with staff that while two parking spaces had been reserved for the Las Panchitas catering vehicles, one of the two spaces was a designated loading zone for the catering vehicles.
PUBLIC HEARING OPENED

PROPOSED:

BENITO FERNANDEZ, Pittsburg, thanked the Commission for considering the use permit. He reported that his family had been residents of Pittsburg for over 30 years and successfully operated restaurants in Pacheco and San Ramon. The intent was to have a site in Pittsburg. There was no other Mexican restaurant in the immediate area and their other locations had been successful. He clarified, when asked, that the San Ramon location would be retained. The business was family owned and operated with at least one family member at each location at all times.

Commissioner Garcia affirmed with Mr. Fernandez that he had read and was in agreement with the conditions of approval.

Commissioner Ramirez commended the applicant. He expressed his hope that the restaurant would be successful in the years to come. He inquired of the number of Los Panchitas Restaurants in the Bay Area.

Mr. Fernandez explained that there were two Las Panchos sites and one Las Panchitas Restaurant.

Commissioner Wegerbauer was pleased that the business owner who lived in Pittsburg would be opening a restaurant in Pittsburg.

Chairperson Ohlson asked about the status of the Alcoholic and Beverage Control Board (ABC) approvals.

Mr. Fernandez advised that they were working on the approval from the ABC. He clarified that the Pittsburg location was the first of their sites that would sell alcohol. He added that his wife would operate the subject facility.

Commissioner Kelley spoke to the background report on the project as contained in the staff report. She understood that the project had not been issued a Certificate of Occupancy due to lack of compliance. She inquired of the status of the compliance issues.

Ms. Endress explained that a Certificate of Occupancy had not been issued for the shell building for the Pittsburg Medical Center. The tenant space for the subject restaurant would not receive its Certificate of Occupancy until the property owner for the shell building had completed all of the conditions of design review approval for the shell building and had reached full compliance with the original plans.

OPPONENTS: None
PUBLIC HEARING CLOSED

MOTION: AP-08-502

Motion by Commissioner Ramirez to adopt Resolution No. 9748, approving AP-08-502 (UP), a use permit to allow a full service restaurant with beer and wine sales and ancillary catering in a 1,836 square foot tenant space at 1270 East Leland Road, Suite 100 for "Las Panchitas Restaurant. AP-08-502 (UP)", as conditioned. The motion was seconded by Commissioner Kelley and carried by the following vote:

Ayes: Commissioners Diokno, Garcia, Harris, Kelley, Ramirez, Wegerbauer, Ohlson

Noes: None

Abstain: None

Absent: None

Chairperson Ohlson identified the process to appeal the decision of the Planning Commission within 10 days by submitting a written appeal in writing to the Planning Department for a hearing before the City Council.

At this time, the Planning Commission rearranged the meeting agenda to consider agenda Item No. 3

Item 3: Delta Discovery Cruises, LLC. AP-08-519 (UP).

Application by Heather and Steve Ingram requesting approval of a use permit to operate a full service restaurant with full alcohol service on a 100 passenger yacht that would be berthed at the Pittsburg Municipal Marina. The Marina is located at 31 Marina Boulevard, in the CW (Waterfront Commercial) District. APN 085-071-040.

Assistant Planner Ali Endress presented the staff report dated March 25, 2008, and a staff memorandum dated March 25, 2008, in response to comments received from residents of Sea Point Way. She recommended that the Planning Commission adopt Resolution No. 9750, approving AP-08-519 (UP), as conditioned. She also recommended the following additional conditions to Resolution No. 9750, as follows:

- Amplified music and/or amplified public announcements shall not be audible beyond the cabin walls of the vessel between the hours of 10:00 p.m. and 7:00 a.m. when the vessel is within 250 lineal feet of a Pittsburg residence.

- The slip for the Delta Discovery Cruises vessel shall be located a minimum of 50 lineal feet from the east end of the head walk to Docks G, H and I.
Ms. Endress further recommended that Conditions 2 and 10 of Resolution No. 9750 be stricken since they were not necessary to make the required findings to approve the use permit. Staff had discussed that issue with the applicant who supported the removal of those conditions.

Ms. Endress added that the Harbor Master had also pointed out that any noise concerns associated with the use of the vessel would be addressed under Section 27 of the Rules and Regulations for the Pittsburg Municipal Marina, which stipulated the following:

*The owner of the vessel is responsible for his/her conduct and action of his/her crew and guests at all times. No excessive noise, constant boarding and de-boarding of vessel, propping open of gates, etc. especially from 10:00 p.m. to 7:00 a.m. shall be allowed. Violation of this rule shall be cause for cancellation of the berth assignment by the Harbor Master.*

Commissioner Garcia suggested that if Conditions 2 and 10 were stricken, as recommended by staff, the new conditions that staff recommended be inserted as Conditions 2 and 10.

Commissioner Diokno understood that the new docking location would place the ship 270 feet away from the nearest residence. He questioned whether or not a route had been established from that spot to the mouth of the Marina and whether or not it would pass within 250 feet of a residence.

Ms. Endress suggested that the vessel would pass within 250 lineal feet of the nearest residence as it traveled into and out of the Marina through the channel. When passing through from the Marina breakwater to the slip, if it would be within 250 lineal feet of a residence, and if passing through between the hours of 10:00 p.m. and 7:00 a.m., amplified music and the public address system must be turned off at that point.

Commissioner Wegerbauer spoke to Page 2 of the staff report, which had listed the services the business would provide. With the changes to the conditions, she asked staff to clarify Section 3. Decision, Conditions 3 and 4, to verify whether or not alcoholic beverages could still be served.

Ms. Endress clarified that Condition 2 had stipulated that the use would limit the sale of alcoholic beverages during the dockside events. Striking Condition 2 would not ban dockside events but would remove the limitation on the sale of alcoholic beverages at dockside events. She suggested that Condition 4 might have to be modified to provide further clarification.
Commissioner Ramirez affirmed with staff in the event that Condition 2 was stricken that a customer could be served more than 3 drinks.

Ms. Endress explained that the Marina was within walking distance from the downtown and part of the Waterfront Commercial District where efforts were being made to encourage restaurants and attractions.

Chairperson Ohlson requested an amendment to Section 3, Decision, Condition 4 as follows:

4. Alcoholic beverages shall be sold only to customers partaking in a cruise or dockside event.

Chairperson Ohlson also referenced the last sentence of the third paragraph of Page 4 of 6 of the staff report and requested clarification from staff as to the status of the bicycle lanes along Marina Boulevard.

Senior Civil Engineer Alfredo Hurtado explained that presently, the Marina itself accommodated bicycles, and while the City was considering bicycle lanes in the area, he was uncertain of the final plans.

Associate Planner Kristi Vahl commented that the original intent was that bicycles would be allowed on the promenade which was the reason for the angled parking on the street.

PUBLIC HEARING OPENED

PROponent:

STEVE INGRAM, Delta Discovery Cruises, LLC, 147 Lakeview Drive, Stansbury Park, Utah, thanked the City and staff for the opportunity to bring the business to the City and to the Marina District. He reported that he had operated Salt Island Adventures, which was similar to what he had proposed for the Pittsburg Marina, on the Great Salt Lake for the past 12 years. He had experienced challenges at that location and had successfully dealt with those issues. In that case, they had operated within the Utah State Park system, which had involved certain restrictions similar to those being proposed, and where the business had operated with a flawless record.

Mr. Ingram explained that the current operation in Utah was surrounded by about 300 boats, many of which were liveaboards and where he had to limit noise from his vessels. As a result, they had a policy to turn off all amplified music prior to entering the harbor. The same restriction was planned for the Pittsburg Marina, which would hopefully address the local concerns.
Mr. Ingram suggested that the business would be something about which his family and the City would be proud, with services including dockside events, sunset dinner cruises, and programs to work with local community colleges and school districts to teach young people about the waterways of the delta. He advised that they had done similar work with the University of Utah Outdoor Programs and through the school districts in Salt Lake City. He expressed his hope to implement those same ideas in Pittsburg. He stated that he and his family planned to move to Pittsburg and they were excited to locate in the community.

Commissioner Garcia affirmed with Mr. Ingram he had read and was in agreement with the conditions of approval, as clarified and as modified.

Mr. Ingram explained that in the State of Utah, he held a Utah State Division of ABC license for full liquor service since early 1996, with no recorded issues in Utah. He was careful about the business and conscious about the sale of alcohol on board the vessel.

Commissioner Ramirez questioned whether or not the number of alcoholic drinks had been limited for the Utah business.

Mr. Ingram advised that they had never limited nor been asked to limit the number of alcoholic drinks sold and consumed on board the vessel, although he emphasized that they were careful about that service. His staff was given strict regulations as to when they should limit the number of drinks sold and consumed by the passengers on board. In Utah, no alcoholic beverage of any kind could be carried on board the vessel from the boarding location or carried from the vessel onto the dock, and there were very strict rules covering the crew, staff and the bartenders. After the cruise, the bar was closed and no passenger would leave the vessel carrying an alcoholic beverage.

As to striking Condition 2, Mr. Ingram explained that the vessel, while docked, should be considered to be a floating restaurant facility and they should follow the same conditions as a typical restaurant use in the downtown district. If he were to live by the same policies as they had in Utah, as an example, they would not allow any beverages to be moved onto or off of the vessel, nothing would be carried on, and everything would be purchased and consumed on board the vessel. He expressed his hope that consumers would not be limited on the purchase of alcoholic beverages since his staff and crew would be responsible enough to place any limitations if deemed to be necessary.

Mr. Ingram reiterated that he had experienced no problems with noise in Utah having operated in a state park approximately 20 miles west of Salt Lake City. He reiterated that there were several liveaboards at that location, some less than 100 feet from the current docking location, and the policy was the same as what was being proposed for the
Pittsburg Marina. He emphasized that the intent was to be a good neighbor and to fit in and not create any issues. He added, when asked, that the cruises would be provided on Thursday through Sunday evenings. On Sundays, a midday lunch/brunch schedule would be provided.

All of the planned public cruises would be scheduled on that time frame from approximately a 6:30 p.m. sailing time for 2.5 hours, with a return to the dock at approximately 9:00 p.m. At that point, passengers would disembark and the crew would stay behind to clean up for the next hour. Typically, all work would be done by the crew by 10:00 p.m. Private charter use of the vessel would be allowed any day of the week. That private charter use would be required to abide by the same regulations as anyone else.

In response to Commissioner Wegerbauer, Mr. Ingram explained that the vessel was the same as the one used in Utah and would be shipped from Utah in about a month.

Chairperson Uhlon spoke to Page 1 of the staff report and inquired about how the vessel would be hauled from Salt Lake City to Pittsburg. He questioned the width of the vessel.

Mr. Ingram advised that two trucks would be required to relocate the vessel to Pittsburg. The vessel was 16 feet wide, with a 16 foot beam, and 63 feet long overall. The vessel was a specially designed vessel specifically built to carry passengers. He was working to obtain Coast Guard approval once the vessel reached Pittsburg. He intended to have a 100 passenger maximum, although in terms of comfort level, it was likely the passenger level would be 75 to 80 passengers. Dinner cruises were limited to approximately 50 passengers. He also affirmed, when asked, that he was aware of the publication Latitude 38 and hoped to advertise in that publication.

JUNE FORSYTH, 20 Sea Point Way, Pittsburg, stated that she liked the concept of a Marina restaurant, although the vessel would be adjacent to Bay Harbor Park. She questioned whether or not the food for the restaurant would be cooked on board or carried on board. If cooked on board, she suggested that the smell of the food could affect nearby residences. She otherwise was pleased that there would be a curfew imposed on the use of amplified music and other noise. She questioned whether or not security cameras would be utilized to monitor the vessel and to deal with vandalism or any other poor behavior. She requested a prohibition of the use of loud speakers or microphones within 250 feet of the Marina and the residences along the river. She noted that the water in the Marina acted as a sound bowl and she recommended no loud noise or music after 10:00 p.m.

Ms. Forsyth understood that the entire cruise would end by 10:00 p.m. She requested that the full service bar close down by 9:30 p.m. She pointed out that the owners of the boats in the Marina last year had disrupted residents late in the evening with noise from music, patrons and microphones. She suggested that the vessel be equipped with
Ms. Endress explained that the 250 lineal feet would correlate with the vessel’s operations on the water. The Marina rules and regulations would specifically regulate the noise between the hours of 10:00 p.m. and 7:00 a.m. and address when the vessel was within the Marina walls. When the vessel was outside of the Marina, the 250 lineal feet from any Pittsburg residence between the hours of 10:00 p.m. and 7:00 a.m. would come into play.

Ms. Endress clarified that special events may extend beyond 10:00 p.m. although the 250 lineal foot condition stated that if the vessel was within 250 lineal feet of a Pittsburg residence between the hours of 10:00 p.m. and 7:00 a.m. the vessel could not have amplified music. If the vessel was farther than 250 lineal feet from any Pittsburg residence between the hours of 10:00 p.m. and 7:00 a.m., amplified music would be allowed. When the vessel entered the Marina and neared residences, all amplified music would be turned off. The vessel would be docked and patrons would debark and the clean up of the vessel would ensue.

Ms. Endress added that the food for the cruises would be catered. The food would be brought on board.

Mr. Rodriguez advised that the City Council had taken action on the Redevelopment Agency Loan with the applicant on March 17, 2008, which was not an issue before the Commission.

Commissioner Garcia added that alcohol would only be served with meals.

STAN DAVIS, 284 Heron Drive, Pittsburg, was pleased to see the restaurant come to the City and believed that the restaurant would bring tourism and commerce to the downtown. He was also pleased that the restaurant would not be too restricted so that the business would be able to operate successfully.

JOE MIYAMOTO, 70 Sea Point Way, Pittsburg, advised that he had sent an e-mail to the Planning Department expressing concern with the potential noise impacts during the evening hours and with the location of the vessel. He noted that he had been pleased with the quick response from staff on his concerns. He otherwise questioned where the patrons for the restaurant would park in that he berthed his boat on D dock and used the parking stalls in front of the covered sheds. He questioned whether or not the vessel operator would have designated parking spaces.
Ms. Endress explained that the Marina was designed to accommodate cruise and passenger vessels. The parking lots were generally 30 percent full even on the weekends. Staff determined that the existing parking facilities were sufficient.

In response to Commissioner Wegerbauer, Mr. Miyamoto stated that he cruised with the Yacht Club and there were items to pack that were not practical to carry from his home, which was the reason he needed a parking space in the lot.

VAN De PIERO, Pittsburg Municipal Marina Harbor Master, advised that there was a 24-hour security camera dedicated to the subject area, and that the security camera would monitor anyone going into and out of the vessel and the area. The area monitored by the security camera was also monitored by the Police Department.

A.J. FARDELLA, 209 Havenwood Circle, Director of the Oak Hills Community Group, Pittsburg, strongly supported the Delta Discovery Cruise restaurant proposal. He saw it as a positive step for the downtown marina and a great thing for the City.

OPPONENTS: None

PUBLIC HEARING CLOSED

MOTION: AP-08-519

Motion by Commissioner Garcia to adopt Resolution No. 9750, approving AP-08-519 (UP), a use permit to allow a full-service restaurant with full alcoholic beverage service on a 100 passenger yacht at 31 Marina Boulevard in the Pittsburg Municipal Marina for “Delta Discovery Cruises, AP-08-519 (UP),” as conditioned, and subject to:

- The elimination of original Conditions 2 and 10 to be replaced with staff recommended conditions as follows:
  - Amplified music and/or amplified public announcements shall not be audible beyond the cabin walls of the vessel between the hours of 10:00 p.m. and 7:00 a.m. when the vessel is within 250 lineal feet of a Pittsburg residence.
  - The slip for the Delta Discovery Cruises vessel shall be located a minimum of 50 lineal feet from the east end of the head walk to Docks G, H and I.

- Condition 4 to be clarified with staff to modify the language to ensure that the sale of alcohol would be permitted and the condition to be further modified as follows:
- Alcoholic beverages shall be sold only to customers partaking in a cruise or dockside event.

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

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

Chairperson Ohlson identified the process to appeal the decision of the Planning Commission within 10 days by submitting a written appeal in writing to the Planning Department for a hearing before the City Council.

Item 2: La Veranda Restaurant. AP-08-518 (UP).

Application by Nicolas Maamari requesting approval of an outdoor dining permit and a use permit to allow full alcohol service for La Veranda Restaurant at 444 Railroad Avenue (at the corner of 5th Street and Railroad Avenue). The project site is zoned CP (Pedestrian Commercial) District. APN 085-104-001.

Associate Planner Kristi Vahl presented the staff report dated March 25, 2008. She recommended that the Planning Commission adopt Resolution No. 9749, approving Outdoor Dining Permit and Use Permit Application No. 08-518 (UP), as conditioned.

Commissioner Wegerbauer inquired of the type of ground surface in the area of the outdoor seating, to which Ms. Vahl responded that she understood it was a concrete patio that would be at a slightly raised elevation above the sidewalk for a more permanent patio structure.

Commissioner Wegerbauer spoke to Section 3. Decision, Outdoor Dining Conditions, Condition 11 and urged that the outdoor area be cleaned more than twice a year.

Ms. Vahl explained that Condition 11 had come from other cities' outdoor dining permits and was a generic condition.

Commissioner Kelley questioned whether or not there was enough room for outdoor dining and pedestrians. She expressed concern there could be a situation as had occurred on Tenth and Railroad Avenue where the turn lane from Tenth Street onto Railroad Avenue was too narrow, and there could be an accident.
Ms. Vahl advised that the width of the sidewalk from the wall of the building to the outer edge of the sidewalk was 12 feet, with the outdoor dining platform less than five feet wide, providing adequate space. There were plans to eventually change the design of the street pattern in the area, which would increase the sidewalk space.

Mr. Hurtado clarified as well that there was a 12-foot wide sidewalk and the applicant would be using 4 feet 11 inches for the raised platform for the outdoor dining area. There would remain close to seven feet of width. The sidewalk would not change, although streetscape landscaping would be modified in the future. A new one-way roadway configuration was planned for Railroad Avenue, and the on-street parking presently located to the south would be changed. As to the area of Tenth Street and Railroad Avenue, staff was aware of the concerns with the width of the turning lane and was working to alleviate that issue.

Chairperson Ohlson also spoke to Condition 11 and questioned who on staff would make the determination as to the number of times the ground surface of the patio area would be steam cleaned or pressure washed if more than twice a year.

Ms. Vahl understood that a member of the Public Works Department would make that determination.

Commissioner Garcia suggested that code enforcement also be involved to make that determination.

PUBLIC HEARING OPENED

PROPOSER:

NICOLAS MAAMARI, 103 Goldwest Court, Clayton, advised that the outdoor patio area would be cleaned in the morning and in the evening. He emphasized that the concrete raised area would be enclosed by a three-foot tall wrought iron fence and would be kept clean at all times. He affirmed, when asked, that he had read and was in agreement with the conditions of approval, as stated.

Commissioner Wegerbauer recommended a condition on the maintenance of the outdoor patio area. She sought a generic condition requiring steam cleaning or pressure washing of the area more than twice a year.

Mr. Maamari suggested that the patio area could be steam cleaned or pressure washed twice a month.

Commissioner Wegerbauer recommended power washing or steam cleaning during the outdoor seating season, and that such maintenance be done at least once a month during that season, which was typically nine months depending on the weather. She
requested that the same condition be imposed on any future restaurant uses with outdoor seating in the downtown district.

Ms. Vahl advised that such a condition could be added. She noted that the applicant would also be required to obtain an encroachment permit for the outdoor seating area, and that that permit required maintenance of the area at least once a month.

Mr. Hurtado clarified that the outdoor dining area would require approval of a revocable encroachment permit for that area that encroached into the City's right-of-way, and which the applicant would have to renew each year. Staff would review the condition of the area as part of the approval of that encroachment permit, although language could be added to the conditions, subject to review by the City Attorney.

Commissioner Ramirez stated that he had dined at the La Veranda restaurant in Clayton on numerous occasions. He was anxious to see the new facility in Pittsburg and expressed his hope that it would have the same quality of service and food. He was positive the restaurant would be a first class operation.

OPPONENTS: None

PUBLIC HEARING CLOSED

MOTION: AP-08-518

Motion by Commissioner Kelley to adopt Resolution No. 9749, approving AP-08-518 (UP), an outdoor dining permit and a use permit to allow full alcohol service in conjunction with a full-service restaurant located at 444 Railroad Avenue for “La Veranda Restaurant, AP-08-518 (UP),” as conditioned, with an amendment to Section 3. Decision, Outdoor Dining Conditions, as follows:

11. The ground surface of the outdoor dining area shall be steam cleaned or pressure washed at least once a month during the outdoor seating season.

The motion was seconded and carried by the following vote:

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

Chairperson Ohlson identified the process to appeal the decision of the Planning Commission within 10 days by submitting a written appeal to the Planning Department for a hearing before the City Council.
Item 4: Mehran Restaurant Revocation of Use Permit. AP-04-178 (UP).

Request for the Planning Commission to consider 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 March 25, 2008. She recommended that the Planning Commission make the findings to revoke Use Permit Application No. 04-178 (City Council Resolution No. 05-10416) allowing live entertainment at Mehran Restaurant, and provide that the use permit shall be revoked on June 23, 2008, unless the City Planner determines that prior to that date the conditions of approval in Use Permit Application No. 04-178 and Resolution No. 9751 have been completed.

Commissioner Diokno clarified with staff that the use of live music included a disc jockey.

PUBLIC HEARING OPENED

RONALD VINCENT, 135 Maple Court, Pittsburg, expressed his hope to bring to an end the issues with the rehabilitation loan for which he had applied through the Redevelopment Agency to allow the remaining conditions to be resolved and bring the use into compliance. He noted that the restaurant had been open a little over two and a half years and just started to experience improvements in the business. A lot of money had been expended into the business over the years. He apologized for not attending the prior meeting of the Commission when the issue had last been discussed since he had arrived late and the public hearing had ended prior to his arrival. He had attended all prior meetings with the Commission when the project had been discussed.

Mr. Vincent acknowledged that the business had not been the best neighbor since they had not dealt with the masonry wall and the charcoal filter. He expressed his hope that those two items, which were the most costly to the business, could be addressed through the Redevelopment loan so that the restaurant could be a good neighbor in the future. He commented that he had seen businesses in the center where the restaurant was located come and go, and he hoped the business would have the time to complete the remaining items of compliance to allow the business to succeed.

Commissioner Wegerbauer stated that she had been disappointed that the applicant had not been present at the last meeting, although she was pleased he was now present. She commented that as a resident she wanted a business environment in the City but also believed that certain agreements, when made, must be adhered to. As to the time
limit to realize the rehabilitation loan, she questioned whether or not the remaining items required to be completed could be done within the timeframe identified by staff.

Mr. Vincent was confident the work could be done well within the 75-day deadline. A permit had been obtained to construct the wall with cleanup by the fence being done to commence with the process. The charcoal filters had been ordered and it would take three weeks to put together the filter and install it. As to the improvements experienced by the business, he suggested it was from additional marketing and word of mouth since the restaurant had been in business. He added that a competing restaurant, which had been located in Antioch, had closed down and the Mehran Restaurant had experienced additional business from that closure as a result.

Commissioner Wegerbauer commented that the storefront was closed and it was difficult to see from the outside what was on the inside and it was not clear that the business was open. She suggested that improvements to the storefront would help attract customers.

JUNE FORSYTH, 20 Sea Point Way, Pittsburg, questioned the potential closure of a business which had only been open for three years, particularly when it takes at least three years for a business to get going. She doubted that a 10-foot fence would be effective to stop any noise. She suggested that the business had spent a lot of money installing new facilities. Having patronized the business, she suggested it would be a shame to drive out a reasonably priced and enjoyable restaurant.

Ms. Forsyth suggested that the noise factor would be better addressed with the installation of double pane windows.

Ms. Schmidt advised that triple pane windows had been installed in the building.

PETE CARPINO, 151 El Camino Drive, Pittsburg, clarified that the restaurant had been in operation for the past four, not two years. The applicant had been given the opportunity to do the work required for some time and the Redevelopment loan had been offered to the applicant a year ago. The applicant was now taking advantage of that opportunity. He expressed concern with the residents having to put up with another 75 days when they had put up with the issues as long as they had. Since the applicant had indicated the work could be done within three weeks, he recommended that the 75-day deadline be reduced.

Mr. Carpino added that the noise impacts from the restaurant were typically when the doors were opened and patrons left the restaurant to go out into the parking lot. Additionally, food odors had been a real problem for the neighbors.

Mr. Vincent advised, when asked, that he had read and was in agreement with the conditions of approval. He clarified that the work would not be done prior to the 75-day period in that from the time it takes to order the charcoal filter, the manufacturer would
have three weeks to put it together with the installation to take a bit longer than that, well within the timeline being required. A building permit had been obtained for the masonry wall but not yet for the installation of the charcoal filter.

Ms. Schmidt explained that the 75-day deadline had come from a conversation she had with a representative of the restaurant company that would supply the charcoal filters, who stated that the work could be done within 60 days although it could take longer to get parts in stock. As a result, staff had padded that time period of 60 days a couple of weeks to 75 days, as a contingency. A building permit would be issued in a timely manner once the charcoal filters had been installed.

Commissioner Harris explained that the issue before the Commission was the use permit for the live entertainment use and not the restaurant. He advised that he would be voting no as he had in the past when the item had last been considered.

In response to Commissioner Kelley, Ms. Schmidt explained that if the work was not completed by June 23, 2008, the use permit for the live entertainment permit would be revoked and the matter would not have to return before the Commission. Staff would make a presentation to the Commission on the status of the work after that date. Staff would not be revisiting the issue before the 75th day after the disbursement of the Redevelopment loan, since staff had recommended the applicant comply with the required conditions within 75 days, and the applicant would have that time to achieve compliance.

Commissioner Garcia explained for the benefit of the audience that the restaurant was not being shut down. The issue before the Commission was the live entertainment use permit, and the conditions that had not been in compliance had been imposed by the City Council. The restaurant was an allowable use and the City had no say on the use. He pointed out that the applicant had not obtained a use permit prior to conducting live entertainment, which had caused some problems. He also clarified that the issue had been ongoing closer to four years, not two and a half years. While he preferred to revoke the use permit for live entertainment at this time, he was willing to provide the applicant another 75 days to reach compliance. However, if the remaining items were not completed within 75 days, the live entertainment use permit would be revoked. The restaurant could remain in operation without the live entertainment permit.

OPPONENTS: None

PUBLIC HEARING CLOSED
MOTION: AP-04-178

Motion by Commissioner Garcia to adopt Resolution No. 9751 revoking a use permit allowing live entertainment at Mehran Restaurant unless all conditions of approval had been completed by June 23, 2008 for “Mehran Restaurant - Revocation of Use Permit.

AP-04-178. (UP)”, as conditioned. The motion was seconded by Commissioner Harris and carried by the following vote:

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

Chairperson Ohlson identified the process to appeal the decision of the Planning Commission within 10 days by submitting a written appeal to the Planning Department for a hearing before the City Council.

Item 5: General Plan Annual Report

The City’s annual report identifying its progress in implementing the General Plan.

Senior Planner Dana Hoggatt presented the staff report dated March 25, 2008. She recommended that the Planning Commission accept the Annual Report on the status of the implementation of the General Plan.

Commissioner Garcia referenced the General Plan Policy Matrix, Land Use Element, Policy 2-P-20, and noted that PG&E had started to use a new above ground slim line transformer years ago in response to problems with the underground transformers. He requested that Policy 2-P-20 be changed to reflect the new equipment being used. He also understood that the telephone company had issues with undergrounding its connections and that utility had also gone to above ground equipment.

Ms. Hoggatt explained that all the report was doing was summarizing the General Plan policies and reporting on the status of those policies. If the Commission desired to revise a policy, which would involve a separate process requiring the initiation of a study and public hearings.

Commissioner Diokno commented on the fact that eBART had funding and would be extended to the City of Antioch. He questioned whether or not the specific plan for the Railroad Avenue eBART Station had been changed as a result.
Ms. Hoggatt stated that staff was working with a consultant on a draft of the Specific Plan that would likely be released for review by the public in the next month or two. There had also been discussions with BART in terms of the timelines for the cities of Antioch and Pittsburg to develop those specific plans.

PUBLIC HEARING OPENED

PROPOSER: City of Pittsburg

OPPONENTS: None

PUBLIC HEARING CLOSED

MOTION:

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

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

Chairperson Ohlson identified the process to appeal the decision of the Planning Commission within 10 days by submitting a written appeal to the Planning Department for a hearing before the City Council.

COMMISSION CONSIDERATION:

There were no commission consideration items.

STAFF COMMUNICATIONS:

There were no staff communications.

COMMITTEE REPORTS:

There were no committee reports.
COMMENTS FROM COMMISSIONERS:

Commissioner Wegerbauer announced the upcoming Pittsburg Rotary Club Annual Golf Tournament.

Commissioner Diokno commented on the amount of grading on the hillsides above the 500-foot elevation. He noted that he had received calls from residents expressing concern with the odors from the dump area, which had been experienced along the golf course and in nearby neighborhoods.

Mr. Rodriguez explained that the grading on the hillside was from the landfill. The landfill was currently under regulatory framework of the local enforcement agency, and must provide an update to state agencies, the City of Pittsburg, and other agencies when conducting excavation and additional phases of the landfill. Staff could provide a report to the Commission on the status of work in the area.

Commissioner Garcia understood that the Pittsburg Unified School District (PUSD) planned to close School Street entirely and that the City had been asked to respond to an Environmental Impact Report (EIR). However, he was unaware of any EIR prepared for any school built in the City until now. He asked that staff inform the PUSD it had not appeared before the Commission on the development of the new junior high school to address the traffic circulation as required.

Commissioner Kelley requested a report from staff on future applications that would involve full alcohol service in terms of any reports from the Police Department on crime in the areas in question.

Mr. Rodriguez explained that the Police Department worked closely with the ABC. He understood that no additional ABC license would be issued to liquor establishments, only supporting applications in conjunction with a restaurant operation. The Police Department also had the right to comment on the transfer of any ABC license or when a new application was proposed.

Commissioner Ramirez reported that he would not be present for the April 8 Commission meeting.

Chairperson Ohlson inquired of the status of plans for the West Tenth Street Corridor.

In response, Mr. Rodriguez reported that the entire corridor was a construction zone, with the new elementary school, the Vidrio development and Phase One of the underground of utility improvements, specifically sewer and water improvements along Eighth and Tenth Streets. Phase Two could occur later in the year with completion of the underground improvements and curb, gutter and sidewalks. It was hoped that the work
would be complete by spring 2009. The City would also be working closely with the PUSD with the hopes of dovetailing the completion of the new elementary school at the same time.

Mr. Rodriguez also reported that the Police Department had a focused presence on Tenth Street in response to ongoing criminal activity with a dedication of resources Department wide to handle code and law enforcement issues.

As to any Redevelopment Agency plans for the West Tenth Street Corridor, Mr. Rodriguez advised that there was a desire to continue infill development. In terms of funding availability for redevelopment acquisitions, those efforts had been placed on hold due to the bond insurance market response to the subprime mortgage market failure, and since the City/RDA’s bond insurance carrier, AMBAC, had lost its Triple A rating. The City/RDA was working with its financial management team and underwriters to come up with a shorter term solution to restructure debt. A report was due to the City Council/Redevelopment Agency on April 8 to address the short term plans to deal with those issues. Once those plans had been finalized, the City would likely reprioritize Redevelopment projects and plans for West Tenth Street.

**ADJOURNMENT:**

There being no further business, the meeting adjourned at 9:11 p.m. to a Regular Meeting scheduled on April 8, 2008, in the City Council Chambers at 65 Civic Avenue, Pittsburg, CA.

\[Signature\]

MARC S. GRISHAM, Secretary
Pittsburg Planning Commission