

PIEDMONT CITY COUNCIL

Regular Meeting Minutes for Monday, April 7, 2008

A Regular Session of the Piedmont City Council was held April 7, 2008, in the City Hall Council Chambers at 120 Vista Avenue. In accordance with Government Code Section 54954.2(a) the agenda for this meeting was posted for public inspection on April 3, 2008.

CALL TO ORDER

Following a 7:00 p.m. Closed Session regarding employee contract negotiations with the Piedmont Police Officers Association, International Association of Firefighters, Local 1021 and the Confidential Unit employees held pursuant to Government Code Section 54957.6, Mayor Friedman called the meeting to order at 7:40 p.m. with the Pledge of Allegiance.

ROLL CALL

Present: Mayor Abe Friedman, Vice Mayor Dean Barbieri and Councilmembers John Chiang, Margaret Fujioka and Garrett Keating

Staff: City Administrator Geoff Grote, City Attorney George Peyton, Police Chief Lisa Ravazza, Fire Chief John Speakman, Public Works Director Larry Rosenberg, Recreation Director Mark Delventhal, City Clerk Ann Swift, City Planner Kate Black, Planning Technician Sylvia Toruno, Public Works Superintendent Dave Frankel and Recording Secretary Chris Harbert

CONSENT CALENDAR

Prior to taking action on the Consent Calendar, the City Attorney requested that pursuant to Government Code Section 1090, any Councilmember who is a member of the Piedmont Community Church publicly declare their membership prior to voting on the consent items related to the church. Vice Mayor Barbieri and Councilmember Chiang both stated that they are members of the church but do not currently serve in any management or board of trustee capacity. The City Attorney advised that because both Councilmembers have a "non-interest" in the church, it is not necessary that they recuse themselves from acting on the church-related items.

The following items were then approved under one vote by the Council:

Minutes

Approves as submitted Council meeting minutes of March 3 and 17, 2008

Agreement

Approves a 4-year agreement through August 31, 2011, between the City and the Piedmont Community Church for use of the church gym for youth basketball and fencing programs sponsored by the Recreation Department

Agreement

Approves a 3-year agreement through 2010 between the City and the Piedmont Community Church for use of the church bus for the Piedmont Senior Programs sponsored by the Recreation Department

Agreement

Approves an agreement with Municipal Maintenance Equipment, Inc. in the amount of \$175,300 for the purchase of a Schwarze Model A9000 Street Sweeper using the City of Fremont's bid

- Agreement** Approves a 3-year agreement with Alameda County to participate in the Alameda Urban County for the purpose of collecting CDBG and HOME funds from the U.S. Department of Housing and Urban Development
- Memorandum of Understanding** Approves a 4-year Memorandum of Understanding with Alameda County continuing the handling of evidence collection at major crime scenes by the Alameda County Sheriff's Office, based on actual costs incurred
- Memorandum of Understanding** Approves a 4-year Memorandum of Understanding with Alameda County continuing the handling of critical incidents by the Alameda County Sheriff's Office, based on actual costs incurred
- Agreement** Approves an agreement with Utility Software, LLC for the purchase of OASIS software (a sanitary sewer management program), training and data conversion at a not to exceed cost of \$5,000
- Agreement** Approves an agreement with Citygate Associates, LLC for Emergency Operation Center training at a not to exceed cost of \$5,000
- Resolution** Adopts the Resolution on file in the City Clerk's Office commending the following residents who will be honored at the Annual Volunteer Reception on April 10, 2008:
- | | |
|------------------|----------------|
| Billy Allen | Michael Koved |
| Mary Ann Benson | Nancy Lehrkind |
| Kate Breen | Gail Lombardi |
| Michael Bruck | Bruce Loper |
| Brian Cain | Terry London |
| Andrew Cheng | Conna McCarthy |
| Margaret Fujioka | Shirley Price |
| Susan Hill | Karen Sullivan |
| Martha Jones | Jukka Valkonen |
| | Jan Zovickian |
- Appointment** Approves City Council Liaison assignments as proposed by Mayor Friedman for the period April 1, 2008 through March 31, 2009
- Resolution** Approves a resolution listing the City's Prop 1B Projects for FY 07-08 and authorizing the Director of Public Works to submit an application for \$400,000 in state Local Street and Road Improvements, Congestion Relief and Traffic Safety Account funds
- Gift** Accepts a gift in the amount of \$3,000 from the Piedmont Garden Club for Phase III of the Exedra Plaza Project
- Appropriation** Approves an appropriation in the amount of \$15,250 for the purchase of a new mobile video studio for KCOM-TV
- Resolution 26-08**
RESOLVED, that the City Council approves the consent calendar as noted.
Moved by Barbieri, Seconded by Chiang
Ayes: Friedman, Barbieri, Chiang, Fujioka, Keating
Noes: None

Absent: None
(0045; 1100; 0085; 1000; 0520/X0088; 0088)
(Note: Councilmember Fujioka abstained from the vote approving the March 3, 2008, Council minutes)

PUBLIC FORUM

Margaret Owendin requested the Council to go on record in opposition to the proposed aerial spraying component of the California Department of Food & Agriculture's proposed plan for eradicating the Light Brown Apple Moth in Bay Area counties. She urged the Council to join with other Bay Area municipalities in opposing the aerial spraying of a pheromone male moth attractant scheduled to occur in August, stressing that such spraying of densely populated urban areas would set a very dangerous precedent.

George Childs criticized the Council for failing to schedule public hearings regarding the School District's proposed rebuilding of Havens School (discussed at the Council's March 3 meeting) which includes a request of \$1.2 Million from the City to pay the costs associated with replacing the City's Schoolmates building and installing an artificial turf playfield on school grounds. He referenced his belief that the School District's Measure E bond measure does not authorize non-seismic related replacement of City buildings or City expenditures on behalf of the school and that such approval and appropriation should not be taken without the approval of the electorate. Mr. Childs encouraged local attorneys to review and opine on this issue on a pro bono basis and also urged that at the very least the Council hold a special meeting or emergency public hearing on this funding request prior to the School District's April 30th consideration of the Havens School proposal. The City Administrator advised that the School District's funding request related to Havens School will be publicly discussed and considered during the City Council's FY 08-09 budget deliberations, which includes one public work session as well as two public hearings.

REGULAR CALENDAR

The Council considered the following items of regular business:

Public Hearing: Conditional Use Permit 1337 Grand Avenue

The City Planner stated that Ascend Analytics is requesting a conditional use permit to operate a new software company in Suite 202, an 875 sq. ft. office space on the second level of the multi-tenant building a 1337 Grand Avenue. The requested use proposes:

- *Days & Hours of Operation:* 8:30 a.m.-5:00 p.m., Monday through Friday;
- *Number of On-Site Parking Spaces:* 2 but these are not needed. Both employees will walk to work – no customers come to this office;
- *Maximum number of People on site at any one time:* 2
- *Type & Number of Personnel:* A principal analyst and a senior software engineer
- *Lease Term:* 5 years

The Planning Commission recommended Council approval of this use permit on March 10, 2008, subject to three conditions incorporated in Commission Resolution 36-CUP-08, adopted March 10, 2008.

No one wished to speak to this issue and the Mayor closed the public hearing.

Resolution 27-08

WHEREAS, Ascend Analytics is requesting a Conditional Use Permit to operate a software development and consultant business in Suite 202 of the existing commercial office building at 1337 Grand Avenue, Piedmont, California, and;

WHEREAS, the Piedmont City Council has reviewed the application, the staff report, and any and all other documentation and testimony submitted in connection with the application and has visited the subject property;

The Piedmont City Council makes the following findings:

1. The use is of benefit to Piedmont residents. Energy analysis is becoming more important to the City as a whole.
2. The use will be properly related to other land uses and transportation and service facilities in the vicinity. The proposed use is located within a commercially zoned office building.
3. Under all the circumstances and conditions of the particular case, the use will not have a material adverse effect on the health or safety of persons residing or working in the vicinity. There will be no toxic materials on the premises. The proposed use is an analytical software company with little or no noise impacts.
4. The use will not be contrary to the standards established for the zone in which it is to be located. It is located in Zone D within an existing commercial office building.
5. The use will not contribute to a substantial increase in the amount of noise or traffic in the surrounding area. The proposed use involves only two employees who will walk to the office. There will be no customer visits to the office.
6. The use is compatible with the General Plan and will not adversely affect the character of the surrounding neighborhoods or tend to adversely affect the property values of homes in the surrounding neighborhoods. The proposed use is within an established commercial zone of the City. Residential properties surround the existing office building located in this commercial zone of the City and these residences appear to be retaining their value
7. Adequate provision for driveways to and from the property has been made; facilities for ingress and egress from secondary streets instead of arterials, where possible, have been made; provision for parking in compliance with this Chapter 17 has been made, together with sufficient agreements to enforce the carrying out of such plans as may be required by the Council. Two off-street parking spaces are available for this use.
8. The plans conform to all other laws and regulations of the City, provided, however, that the Council shall have the right to require

front, rear and side yard setbacks greater than those otherwise provided in the laws and regulations of the City if the Council finds that such larger front, rear and side yard areas are necessary to provide for the health, safety and general welfare of the residents of Piedmont in accordance with its zoning laws.

RESOLVED, that in consideration of the findings and facts set forth above, the Piedmont City Council approves the application for a conditional use permit by Ascend Analytics for property located at 1337 Grand Avenue, Piedmont, subject to the following conditions:

1. The approved plans include information submitted on February 27, 2008, after the notice to neighbors was mailed and the plans were available for public review;
2. The term of the conditional use permit shall be for a period of 5 years;
3. The addition of a third employee is permitted during the term of this conditional use permit.

Moved by Chiang, Seconded by Barbieri

Ayes: Friedman, Barbieri, Chiang, Fujioka, Keating

Noes: None

Absent: None

(0340)

**Public Hearing:
Conditional Use Permit
1345 Grand Avenue**

The City Planner stated that the Alameda County Dental Society is requesting a conditional use permit to continue to operate in Suite 102 of 1345 Grand Avenue an existing professional, non-profit organization representing dentists in Alameda County. The conditioned use proposes:

- *Days & Hours of Operation:* 9:00 a.m.-5:00 p.m., Monday through Friday;
- *Number of On-Site Parking Spaces:* 1;
- *Maximum number of People on site at any one time:* 1
- *Type & Number of Personnel:* 1
- *Lease Term:* 5 years

The Planning Commission recommended Council approval of this permit request on March 10, 2008, for a term of 10 years in recognition of the fact that it is likely that this long-term tenant will renew its current lease.

No one wished to speak to this issue and the Mayor closed the public hearing.

Resolution 28-08

WHEREAS, Alameda County Dental Society is requesting a Conditional Use Permit to continue to operate a professional, non-profit organization representing dentists in Alameda County in Suite 102 of the existing commercial office building at 1345 Grand Avenue, Piedmont, California, and;

WHEREAS, the Piedmont City Council has reviewed the application, the staff report, and any and all other documentation and testimony

submitted in connection with the application and has visited the subject property;

The Piedmont City Council makes the following findings:

1. The use is of benefit to Piedmont residents. The proposed use has occupied the current office space for many years and serves area dentists, many of whom are Piedmont residents.
2. The use will be properly related to other land uses and transportation and service facilities in the vicinity. It is a single-user office and compliments the other uses in the office building and in the area.
3. Under all the circumstances and conditions of the particular case, the use will not have a material adverse effect on the health or safety of persons residing or working in the vicinity. There is no change in the existing tenancy that has been located in this site for more than 10 years.
4. The use will not be contrary to the standards established for the zone in which it is to be located. It is an office use in an existing office building located within Zone D.
5. The use will not contribute to a substantial increase in the amount of noise or traffic in the surrounding area. The proposed use has occupied the current office space for ten years. There is adequate off-street parking allocated for this use and the use involves very limited client visits to the site. There is adequate guest parking available within the building's parking lot.
6. The use is compatible with the General Plan and will not adversely affect the character of the surrounding neighborhoods or tend to adversely affect the property values of homes in the surrounding neighborhoods. The proposed use is consistent with its location within commercially zoned property.
7. Adequate provision for driveways to and from the property has been made; facilities for ingress and egress from secondary streets instead of arterials, where possible, have been made; provision for parking in compliance with this Chapter 17 has been made, together with sufficient agreements to enforce the carrying out of such plans as may be required by the Council. The proposed use is located within an existing commercial building.
8. The plans conform to all other laws and regulations of the City, provided, however, that the Council shall have the right to require front, rear and side yard setbacks greater than those otherwise provided in the laws and regulations of the City if the Council finds that such larger front, rear and side yard areas are necessary to provide for the health, safety and general welfare of the residents of Piedmont in accordance with its zoning laws.

RESOLVED, that in consideration of the findings and facts set forth above, the Piedmont City Council approves the application for a conditional use permit by Alameda County Dental Society for property

located at 1345 Grand Avenue, Piedmont, subject to the following conditions:

- *Days & Hours of Operation:* 9:00 a.m.-5:00 p.m., Monday through Friday;
- *Number of On-Site Parking Spaces:* 1;
- *Maximum number of People on site at any one time:* 1
- *Type & Number of Personnel:* 1
- *CUP Term:* 10 years

Moved by Chiang, Seconded by Barbieri

Ayes: Friedman, Barbieri, Chiang, Fujioka, Keating

Noes: None

Absent: None

(0340)

**Public Hearing:
Conditional Use Permit
335 Highland Avenue**

The City Planner stated that Chad Olcott and Laura Pochop, owners of Mulberry's Market, are requesting modification of their existing CUP to add an exterior barbeque grill service in the parking lot on Thursday, Friday, Saturday & Sunday evenings in the spring and summer and to add 2 to 4 additional benches for customer seating outside (no parking spaces are proposed to be used for this purpose).

The Planning Commission on March 10, 2008, recommended Council approval of the request, subject to six conditions incorporated in Commission Resolution 41-CUP-08, adopted March 10, 2008.

Public testimony was received from:

Clark Thiel, Planning Commission Chairman, explained the Commission's review process of this particular use request, noting that issues related to noise, odor and traffic were discussed and evaluated. As a result of this evaluation, the Commission recommended that the proposed grill service operation be permitted on a trial basis so as to better assess its actual impacts, if any.

Chad Olcott stated that the BBQ grill service has been requested by his customers and has his support as a possible means of increasing the sales volume at the new market and thus helping to insure its financial viability. He assured the Council that if the grill operation causes any negative impact or feedback, he will voluntarily cease its operation.

Resolution 29-08

WHEREAS, Mr. Chad Olcott and Ms. Laura Pochop are requesting modifications to their existing Conditional Use Permit to operate Mulberry's Market at 335 Highland Avenue, Piedmont, California, to add an exterior barbeque grill service in the parking lot on Thursday, Friday, Saturday & Sunday evenings in the spring and summer and to add 2 to 4 additional benches for customer seating outside (no parking spaces are proposed to be used for this purpose); and

WHEREAS, the Piedmont City Council has reviewed the application, the staff report, and any and all other documentation and testimony submitted in connection with the application and has visited the subject property;

The Piedmont City Council makes the following findings:

1. The use is of benefit to Piedmont residents. It is the goal of Mulberry's Market to provide a high quality retail market to serve the needs of Piedmont residents and families. The addition of grilled food will benefit Piedmont residents.
2. The use will be properly related to other land uses and transportation and service facilities in the vicinity. The Mulberry's Market will continue to operate in the same enclosed space that it currently occupies. No additional parking will be generated.
3. Under all the circumstances and conditions of the particular case, the use will not have a material adverse effect on the health or safety of persons residing or working in the vicinity. The health and safety of food preparation have been addressed via the temporary awning over the grill. There will be no additional impact on the surrounding neighborhood as the grilling will occur on the service site that is part of the Mulberry Market's existing use of the property.
4. The use will not be contrary to the standards established for the zone in which it is to be located. Mulberry's Market has a conditional use permit to operate on the property – it is a retail operation in Zone D.
5. The use will not contribute to a substantial increase in the amount of noise or traffic in the surrounding area. The addition of a grill is a secondary use of Mulberry's Market. The customers that go to the market now are accommodated by the property's parking lot. As conditioned, the grill component of the market's operation will not have a significant or material impact on the noise or traffic flow in and out of Mulberry's Market.
6. The use is compatible with the General Plan and will not adversely affect the character of the surrounding neighborhoods or tend to adversely affect the property values of homes in the surrounding neighborhoods. The primary use of the property is already a retail market operation and the addition of a temporary grill will not adversely impact the character or value of neighboring properties.
7. Adequate provision for driveways to and from the property has been made; facilities for ingress and egress from secondary streets instead of arterials, where possible, have been made; provision for parking in compliance with this Chapter 17 has been made, together with sufficient agreements to enforce the carrying out of such plans as may be required by the Council. The retail market operation already has dedicated use of property driveways and pedestrian access and there will be no change in existing ingress/egress to the property.
8. The plans conform to all other laws and regulations of the City, provided, however, that the Council shall have the right to require front, rear and side yard setbacks greater than those otherwise provided in the laws and regulations of the City if the Council finds that such larger front, rear and side yard areas are necessary to provide for the health, safety and general welfare of the residents of Piedmont in accordance with its zoning laws. The proposed grill is not permanent construction and the regulation for health, safety and food preparation is the responsibility of the market owners.

RESOLVED, that in consideration of the findings and facts set forth above, the Piedmont City Council approves the application for a conditional use permit by Mr. Olcott and Ms. Pochop, on behalf of Mulberry's Market, for property located at 335 Highland Avenue, Piedmont, subject to the following conditions:

1. Except as modified under this request, the terms and conditions of the original conditional use permit (Application #05-0404) shall remain;
2. The term of this conditional use permit modification shall be two years – expiring November 1, 2009;
3. The gas-fired BBQ grill operation is permitted from April 1 through November 1 on Thursdays through Sundays from 2:00 p.m. to 8:00 p.m.;
4. The BBQ grill and canopy shall be removed from the service area and stored when not in use;
5. The location and operation of the BBQ grill shall be sited so as to direct pedestrian approach via the store's sidewalk and shall not impede the traffic flow of the store's parking lot;
6. Two additional benches may be added to the store front adjacent to the solid panels at the main entry. Said benches shall be bolted to the ground and be located so as not to impede pedestrian circulation along the sidewalk.

Moved by Barbieri, Seconded by Chiang

Ayes: Friedman, Barbieri, Chiang, Fujioka, Keating

Noes: None

Absent: None

(0340)

**Public Hearing:
Appeal of Planning
Commission Decision,
22 Valant Place**

The City Planner stated that the following residents have appealed the Planning Commission's February 11, 2008, conditional approval of Nahid Nassiri and Mark Attara's design review application to construct a new single-family residence at 22 Valant Place:

Diane Allen, Kathleen Quenneville, Dean & Nancy Johnson, Phil & Mary Pierpont, Garrick Lew, Diane Hiura, Ann O'Regan, Thomas Kronemeyer and Thomas & Margaret McAlone

Per the appellant's letter of February 21, these neighbors are not appealing the approval of the new house but have limited their appeal to two aspects of the Commission's approval:

1. The amount, named insureds, and term of the bond provisions of Condition #6; and
2. The failure of the Commission to add a condition requiring the applicants to indemnify the appealing neighbors and hold them harmless from soil movement in perpetuity.

Public testimony was received from:

Ann O'Regan, Thomas Kronemeyer, Tom McAlone, Dean & Nancy Johnson, Dillon Lew, Diane Allen and Kathleen Quenneville all emphasized that the primary impetus behind their appeal is their concern over the future safety of their properties. They emphasized that because actual soil borings and other geotechnical analyses are not required by the City prior to project approval, there are too many "unknowns" with regard to excavating the steep hillside lot. Therefore, they want to insure that the financial investments in their homes and properties are adequately protected in case the proposed excavation and construction of the applicant's home on such a steep lot destabilizes the hillside. They emphasized that it could take years before such destabilization results in landslides or other types of damage. To this end, they requested that the bond amount set forth in Condition #6 be increased from its proposed \$2.5 Million to \$5 Million which is a more appropriate amount given the number of neighborhood homes at risk. In addition, the perpetual indemnification and hold harmless request is intended to protect uphill neighbors against possible lawsuits blaming them for any slides onto downhill properties caused by the applicant's earlier excavation/construction. In support of their argument for a larger bond amount in Condition #6, they noted that the City's approval of development at 74 Huntleigh required a higher bond amount, yet that project involved less excavation than that proposed for 22 Valant. The appellants also referenced maps and documentation in support of their contention that the percentages used by the applicant in describing the steepness of the slope and grade of the lot have been erroneous and inconsistent. They believed that since the actual steepness of the slope is far greater than what has been indicated by the applicant, an increase in bond amount is justified given that the level of risk to neighboring properties is directly related to the steepness of the slope.

David Bowie, Attorney representing the applicants, emphasized that the appellants' request for indemnification is unreasonable and inappropriate under law and debated the legal points of his argument with the Council. He also felt that there were better recourses available for protecting neighboring properties than increasing the amount of the bond.

Curtis Jensen, the applicants' soil engineer, responded to Council questions regarding hillside shoring techniques and his opinion that a landslide on the lot is not likely because of the hard/strong rock base of the slope. He concurred with the February 13, 2007, statement by structural engineer Kamal Obeid of Landtech Consultants referenced by the City Attorney indicating Mr. Obeid's professional opinion that the construction of the foundation and permanent retaining structure can easily be accomplished with no risk of landslide.

Russ Moore, City Engineer, responded to Council questions concerning hillside shoring techniques, noted his concurrence with submitted soils reports and the summarized the options available if soil borings indicate a reasonable threat to neighboring homes, including the refusal to issue a building permit for the project.

Clark Thiel, Planning Commission Chairman, highlighted the extensive Commission review of this application and emphasized that in addition

to the bond amount specified in Condition #6, additional insurance coverages are required in the project's other conditions of approval to cover catastrophic failures at the site.

The City Planner and City Attorney also explained how staff determined the amount of the bond specified in Condition #6 as well as the type and extent of additional protections for neighboring property that are included as conditions of project approval.

During the Council's lengthy discussion of the issues raised during the public testimony, Council consensus was reached that the appellants' request for indemnification in perpetuity was unreasonable, probably unobtainable and not customary or usual. There was also Council consensus that the Planning Commission did not commit any errors in reaching its decision nor was there any finding under the City's Chapter 17 *Appeal Criteria* to justify overturning the Commission's decision.

Resolution 30-08

RESOLVED, that the City Council denies the neighborhood's appeal and upholds the Planning Commission's February 11, 2008, decision conditionally approving the design review application of Mr. Mark Attarha and Ms. Nahid Nassiri for new home construction at 22 Valant Place based upon the finding that none of the provisions of City Code Section 17.25.6(b) apply.

Moved by Chiang, Seconded by Barbieri

THIS MOTION WAS LATER WITHDRAWN

While the Council agreed that the Planning Commission did not commit any errors in its deliberation/action, the Council cited its belief that the language of some of the conditions of project approval related to financial protections was unclear and contradictory and if revised, the appellants' concerns would be mitigated. However, under the appeal process, the Council was prohibited from revising any condition other than Condition #6. Therefore, the Council supported remanding the matter back to the Planning Commission so that the applicants, appellants and staff could discuss all the conditions of approval and revise them as needed to mitigate the appellants' concerns without imposing unfair burdens on the applicants. The Council directed that the revisions not reduce the level of protection provided to neighboring properties under the existing conditions. The Council voiced its confidence that a mutually agreeable solution was possible in this matter and as a result, this appeal would be eventually withdrawn.

The Council briefly recessed at 10:45 p.m. and upon reconvening at 10:50 p.m., Ann O'Regan, on behalf of the appellants, and David Bowie, on behalf of the applicants, stated their willingness to meet with staff as requested by the Council.

On a Motion by Vice Mayor Barbieri, Seconded by Councilmember Fujioka and Unanimously Carried, the Council agreed to extend tonight's meeting to 11:30 p.m. in order to complete agenda consideration.

Resolution 31-08

WHEREAS, Mr. Mark Attarha and Ms. Nahid Nassiri are requesting permission to construct a new 2,333 sq. ft. single-family residence located at 22 Valant Place, Piedmont, California, which construction requires design review; and

WHEREAS, the Piedmont Planning Commission conditionally approved Mr. Attarha and Ms. Nassiri's design review application on February 11, 2008, and this conditional approval was appealed by several neighborhood residents; and

WHEREAS, the Piedmont City Council has reviewed the application, plans and any and all testimony and documentation submitted in connection with such application and appeal, and has visited subject property; and

RESOLVED, that based upon the aforementioned review, the City Council remands the matter back to the Planning Commission with the following direction:

- City staff, the appellants and applicants shall meet to determine if there is any common ground upon which to create a statement to accurately and fully describe the amounts of money available in the event there are claims;
- The City Council does not retain jurisdiction in this matter – the matter is to be decided by the Planning Commission, subject to appeal;
- The focus of this remand to the Planning Commission is limited to the financial conditions and instruments providing neighborhood protections contained in the project's conditions of approval;
- Either party retains the right to appeal the Planning Commission's decision; and
- The one-year time period for building permit issuance related to construction at 22 Valant Place shall run from the time of the Planning Commission's decision.

Moved by Barbieri, Seconded by Chiang

Ayes: Friedman, Barbieri, Chiang, Fujioka, Keating

Noes: None

Absent: None

(0800)

Agreement

The Public Works Director recommended Council approval of an agreement with Piedmont Community Church for the construction of a bus shelter on church property, a lump sum payment of \$2,200 to the church for the entire 50-year term of the use agreement and an additional appropriation of \$8,500 for construction of the shelter bus project. He noted stated that the bus shelter was designed by the church's architect so as to compliment the church's historic architecture that has been recently renovated. Currently, \$35,000 has been appropriated to this CIP project and the additional \$8,500 appropriation

may be needed to cover additional construction costs involving structural engineering and excavation as the shelter will abut the church wall on Highland Way.

The Vice Mayor and Councilmember Chiang reiterated their earlier disclosure statement that although they are members of Piedmont Community Church, they do not serve in any church management or board of trustee capacity.

Public testimony was received from:

George Childs strongly opposed the expenditure of over \$40,000 for a bus shelter.

The Council supported the request, agreeing that this private/public partnership benefits Piedmont residents, enhances the aesthetics and convenience of a very visual area in the town center and was supported and recommended by the City's CIP Committee.

Resolution 32-08

RESOLVED, that the City Council approves the Use Agreement, on file in the City Clerk's Office, with the Piedmont Community Church which includes a lump sum payment of \$2,200 for the entire term of the 50-year agreement through 2058; and

RESOLVED FURTHER, appropriates an additional \$8,500 for construction of the bus shelter project.

Moved by Barbieri, Seconded by Chiang

Ayes: Friedman, Barbieri, Chiang, Fujioka, Keating

Noes: None

Absent: None

(0045/X0088)

**Public Hearing:
Conditional Use Permit,
400 Highland Avenue**

The City Planner stated that the Piedmont Community Church and the City are requesting a conditional use permit to construct a new 72 sq. ft., 11'4" high bus shelter on church property at 400 Highland Avenue.

The Planning Commission recommended Council approval of the church's CUP request on November 12, 2007, subject to the condition that the term of the CUP be concurrent with the term of the lease agreement between the church and City regarding the use of the bus shelter.

The Vice Mayor and Councilmember Chiang reiterated their earlier disclosure statement that although they are members of Piedmont Community Church, they do not serve in any church management or board of trustee capacity.

There were no requests to speak to this issue and the Mayor closed the public hearing.

Resolution 33-08

WHEREAS, the City of Piedmont and the Piedmont Community Church are requesting a Conditional Use Permit to construct a new 72 sq. ft., 11'4" high bus shelter on property owned by the Piedmont Community Church at 400 Highland Avenue, Piedmont, California, and;

WHEREAS, the Piedmont City Council has reviewed the application, the staff report, and any and all other documentation and testimony submitted in connection with the application and has visited the subject property;

The Piedmont City Council makes the following findings:

1. The use is of benefit to Piedmont residents. The proposed use provides weather protection for an existing bus stop.
2. The use will be properly related to other land uses and transportation and service facilities in the vicinity. The proposed use is located at an existing bus stop.
3. Under all the circumstances and conditions of the particular case, the use will not have a material adverse effect on the health or safety of persons residing or working in the vicinity. The proposed use provides shelter from inclement weather.
4. The use will not be contrary to the standards established for the zone in which it is to be located. There is already a bus stop at the location and within the zone of the proposed use.
5. The use will not contribute to a substantial increase in the amount of noise or traffic in the surrounding area. There will be no change in existing conditions.
6. The use is compatible with the General Plan and will not adversely affect the character of the surrounding neighborhoods or tend to adversely affect the property values of homes in the surrounding neighborhoods.
7. The requirements for adequate provision for driveways to and from the property; facilities for ingress and egress from secondary streets instead of arterials; provision for parking in compliance with this Chapter 17, together with sufficient agreements to enforce the carrying out of such plans as may be required by the Council are not relevant to the proposed use in this case.
8. The plans conform to all other laws and regulations of the City, provided, however, that the Council shall have the right to require front, rear and side yard setbacks greater than those otherwise provided in the laws and regulations of the City if the Council finds that such larger front, rear and side yard areas are necessary to provide for the health, safety and general welfare of the residents of Piedmont in accordance with its zoning laws. The required variances for this use have been granted.

RESOLVED, that in consideration of the findings and facts set forth above, the Piedmont City Council approves the application for a

conditional use permit by the City of Piedmont and the Piedmont Community Church for property located at 400 Highland Avenue, Piedmont, subject to the following condition:

- The term of the CUP shall be concurrent with the 50-year term of the lease agreement between the City and the Piedmont Community Church, through 2058.

Moved by Barbieri, Seconded by Chiang

Ayes: Friedman, Barbieri, Chiang, Fujioka, Keating

Noes: None

Absent: None

(0340)

ANNOUNCEMENTS

General Plan Workshop – The Mayor announced that the Planning Commission will hold a General Plan workshop meeting on April 24 to discuss community design, historic preservation and parks and recreation policies. The public is invited to attend.

Arbor Day – The Mayor announced that the City will celebrate *Arbor Day* on April 25 in Piedmont Park. The public, especially children, are encouraged to attend this kid-friendly event.

Real Estate Forum – The Mayor announced that the Piedmont Asian-American Club is sponsoring a real estate forum on April 25 to discuss the current real estate market with local realtors. The public is invited to attend.

Volunteer Reception – The Mayor announced that the City will honor City volunteers on April 10 at the Community Hall. The public is invited to attend.

FUTURE AGENDA ITEMS

Campaign Spending – Councilmember Chiang requested that the Council consider suggesting voluntary spending limits on local campaigns. The Mayor agreed that this matter will be scheduled on a Council agenda later in the year and encouraged Councilmember Chiang to work with the City Administrator in developing a proposal for Council consideration.

ADJOURNMENT

There being no further business, Mayor Friedman adjourned the meeting at 11:25 p.m.

