

## **PIEDMONT PLANNING COMMISSION**

### **Regular Meeting Minutes for Monday December 8, 2008**

A Regular Session of the Piedmont Planning Commission was held December 8, 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 November 27, 2008.

#### **CALL TO ORDER**

Chairman Stehr called the meeting to order at 5:00 p.m. She announced that Agenda Item #5 (Variance/Design Review 47 Jerome Avenue) has been withdrawn from tonight's consideration at the applicant's request.

#### **ROLL CALL**

Present: Commissioners Jonathan Levine, Jim Kellogg, Melanie Robertston, Bobbe Stehr, Clark Thiel and Alternate Commissioner Michael Henn

Staff: City Planner Kate Black, Assistant Planner Kevin Jackson, Planning Technicians Sylvia Toruno and Gabe Baracker and Recording Secretary Chris Harbert

#### **ANNOUNCEMENT**

Chairman Stehr invited residents to attend the Commission's public hearing this Thursday to discuss the General Plan Update. The meeting will be at 5:00 p.m. in the Council Chambers.

#### **CONSENT CALENDAR**

The following Resolutions were approved under one vote by the Commission:

##### **Conditional Use Permit 29 Wildwood Avenue**

##### **Resolution 241-CUP-08**

WHEREAS, Mr. Zaiga Gianino on behalf of Shell Oil Products U.S. is requesting a Conditional Use Permit to continue to operate an existing gasoline and automobile service facility at 29 Wildwood Avenue, Piedmont, California, and;

WHEREAS, the Piedmont Planning Commission 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 Planning Commission makes the following findings:

1. The use is of benefit to Piedmont residents. The site allows Piedmont residents to conveniently fill their autos with gas and have repairs done, etc. The proposed carbon canister (filter) will aid in the reduction of gasoline vapors that are currently expelled into the air through the existing vent risers.
2. The use will be properly related to other land uses and transportation and service facilities in the vicinity. The site is on a main thoroughfare that is conducive to gas stations. All gas stations must have this recovery system – no impact. The proposed carbon canister (filter) will have no impact on the land uses and transportation and service facilities in the vicinity.

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 site has many safety programs in place that tend to promote safety first. The EVR will improve benefits: better air quality. The proposed carbon canister (filter) will have no impact on the health and safety of persons in the vicinity.
4. The use will not be contrary to the standards established for the zone in which it is to be located. The site is in compliance with all current zone standards, commercial-zone – same as it was. The proposed carbon canister (filter) will have no impact to the relationship to the standards of the zone.
5. The use will not contribute to a substantial increase in the amount of noise or traffic in the surrounding area. The site has normal noise that is produced by automobiles. No change – no noise – same traffic. The proposed carbon canister (filter) produces no noise so there will be no increase in the amount of noise or traffic to the surrounding areas.
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 site has been a good neighbor for 50+ years. No impact. The proposed carbon canister (filter) will have no impact to the General Plan, character or property values of the surrounding neighborhood.
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 site works with the neighbors to help with parking problems. No change. The proposed carbon canister (filter) will not impact the ingress, egress, parking or change the use of the facility.
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 site agrees to any setback requirements that the City will require. Following setback guidelines. These guidelines were set by the state. The proposed carbon canister (filter) is required to be installed by C.A.R.B. and will reduce gasoline vapors at the State level. No known impacts to any City laws or regulations.

RESOLVED, that in consideration of the findings and facts set forth above, the Piedmont Planning Commission recommends approval by the City Council of the application for a conditional use permit by Mr. Gianino on behalf of Shell Oil Products U.S. for property located at 29 Wildwood Avenue, Piedmont, subject to the following conditions:

1. The application approved includes information submitted on November 26, 2008;
2. The term of the approval shall be 10 years

**Resolution 241-DR-08**

WHEREAS, Mr. Zaiga Gianino on behalf of Shell Oil Products U.S. is requesting permission to install a vapor recovery system at the rear of the main structure and related equipment at the pumps located at 29 Wildwood Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission finds that the proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. The exterior design elements (including but not limited to height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that: The size of the proposed carbon canister (filter) has been designed to be as minimal as possible. The canister will be painted to match the adjacent wall and will be located at the rear of the existing service station building in the most inconspicuous area as for a view from the adjacent neighbors and immediate surrounding views
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light. Given the site is extremely small and compact, we feel that placement of the carbon canister is suited best to the location at the rear of the building. It will be away from immediate street frontage view and will be screened by large trees from the adjacent neighbors' view.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because the location of the carbon canister (filter) does not interfere with the ingress and egress movements from either of the dispenser islands or service bays of the building. Access and vehicular maneuverability is still available to all site area. This added equipment will not impact any traffic flow.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Gianino on behalf of Shell Oil Products U.S. for construction at 29 Wildwood Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following condition:

- The new EVR canister and system at the rear of the main structure shall be painted to match the surrounding wall

RESOLVED FURTHER, that the approval of the Planning Commission/City Council and any conditions of that approval shall not extend to any particulars set forth in the documents submitted for the project which are inconsistent with or in violation of any applicable law, including but not limited to Chapters 5 and 17 of the City Code, nor does the approval extend to matters not set forth, or inadequately represented, in submitted documents (whether or not consistent with applicable law). The City reserves the right to require compliance with applicable laws and to attach conditions after initial approval is given, if noncompliance is discovered or additional conditions are considered necessary and appropriate in light of Commission/Council findings.

Moved by Thiel, Seconded by Kellogg  
Ayes: Kellogg, Levine, Robertson, Stehr, Thiel  
Noes: None  
Absent: None

#### **PUBLIC FORUM**

Stuart Schneck requested that Agenda Item #7 be heard during the early part of the meeting because he needs to leave tonight's meeting by 7:00 p.m. The Chair replied that in all likelihood consideration of Agenda Item #7 will be heard before 7:00 p.m.

#### **APPROVAL OF MINUTES**

##### **Resolution 26-PL-08**

RESOLVED, that the Planning Commission approves as submitted its meeting minutes of November 10, 2008.

Moved by Kellogg, Seconded by Robertson

Ayes: Kellogg, Levine, Robertson, Stehr, Thiel  
Noes: None  
Absent: None

#### **REGULAR CALENDAR**

The Commission considered the following items of regular business:

##### **Design Review & Fence Design Review 74 Sandringham Road**

Mr. Horacio Woolcott is requesting design review to stylistically alter and enlarge the existing 2,257 sq. ft. 2-story residence by adding 2,516 sq. ft. of habitable space through excavation and additions. The resulting 3-story residence is proposed to have a new entry and foyer on the lower level, 4 bedrooms, 3 full baths, a family room, library, living room, dining room, kitchen, recreation room, laundry room, elevator, conforming 2-car garage and upper level terraces at the front of the house. Proposed site improvements include: new landscaping, a new excavated and enlarged driveway, new entry steps and posts, new mailbox, new retaining walls, new driveway gate, new pathway and fencing in the front yard, new fencing along the side and rear property lines, new retaining walls, new spa and fountain in the rear yard and exterior lighting. A previous application to enlarge this residence was denied, with prejudice, by the Commission on February 13, 2006. Upon appeal by the applicant, the City Council upheld the Commission's decision on April 3, 2006.

The current application includes proposed retaining walls at the rear of the property that if approved and constructed would correct unauthorized excavation. Due to safety concerns for the applicant's and adjacent properties, planning staff recommends that the Commission address the rear retaining walls as a separate matter from the remainder of the proposed construction. Staff further recommends that if the rear retaining walls are approved, they have a separate

building permit from that of the house and an expedited completion schedule be attached to this building permit.

Written notice was provided to neighbors. **Two affirmative, one negative response forms** were received. **Correspondence** was received from: David Birnbaum, Nov. 29

**Public testimony** was received from:

Horacio Woolcott submitted a revised color scheme depiction of his proposed home to correct a drawing error, reviewed the lengthy history of his renovation project, noted that the redesign is responsive to Commission requests of 2006, submitted a photograph of 4-story home in the neighborhood (50 Sandringham) in support of his contention that his proposed home is compatible in size and height with neighborhood standards and described the design of the rear terraced retaining walls.

Homberto Olivos, Project Co-Designer, described the design efforts made to integrate the remodeled house into the site and neighborhood. He responded to Commission questions concerning how much of the existing home will be retained and how much will be demolished during the course of renovation.

Alexis Hacker, St. James Homes Association Board Member, relayed the Association's concerns over the proposed height and mass of Mr. Woolcott's project as well as the Board's desire that all existing non-conforming conditions on the property be corrected.

The Commission felt that the new design was essentially the same as that denied, with prejudice, by the Commission in 2006. The Commission felt that the 3+-story house with its 37'6" height located so close to the sidewalk imposed too much bulk and mass for the streetscape, was inconsistent with regard to the prevailing front setback patterns in the neighborhood, its numerous side windows posed significant privacy impacts on the adjacent neighbor and the roof line created too much massing and vertical impact. The Commission was also unconvinced that the project was a remodel, believing instead that it was essentially a tear-down and rebuilding of a home with a completely different architectural style and character. Therefore, the project should be subject to the City's *New House* design review guidelines and that existing non-conformity in terms of front and side yard setback encroachments should be eliminated with the construction of the new home. The Commission also discussed the need for the rear retaining wall components of the project to be constructed as soon as possible because of the public safety hazards created years ago by the applicant's illegal excavation activity. The Commission supported the design of the proposed rear retaining walls, but acknowledged that if the new home is redesigned to significantly reduce its bulk, mass, height and looming appearance on the streetscape and eliminate current setback encroachments, in all likelihood modifications to the rear walls will be required. However, the Commission felt it imperative for public safety reasons to proceed with the long-overdue retaining wall construction rather than wait until a satisfactory house design is resubmitted.

Mr. Woolcott responded by stressing the difficulty of obtaining bank financing without a total package of house and retaining wall approval and noted his willingness to redesign the house to comply with the City's *New House* design review guidelines. The Commission cited the extensive City correspondence over the years to persuade Mr. Woolcott to remedy the retaining wall situation and noted its reluctance to further delay remedial action. The Commission suggested, however, that the spa and water feature elements incorporated into the overall retaining wall design could be deleted, at the applicant's discretion, if such deletions are financially required.

**Resolution 344-DR-07**

WHEREAS, Mr. Horacio Woolcott is requesting permission to construct a series of three terraced retaining walls at the rear of the property located at 74 Sandringham Road, Piedmont, California, which construction requires design review. The new rear yard retaining walls are to be terraced with each wall having a maximum height of 6 ft. (17 ft. combined height) and a stucco finish. Decorative stone planter shelves and a fountain/spa are also proposed at the rear retaining walls; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission finds that the rear retaining wall proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. The exterior design elements (including but not limited to height, materials, arrangements of structures on the parcel and concealment of mechanical and electrical equipment) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that proposed improvements comply with Design Review Guidelines IV-1, IV-2 and IV-4.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because the walls are appropriate for the neighborhood.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. The retaining wall construction will increase the safety of the property owner and surrounding neighbors.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the rear retaining wall component of the design review application of Mr. Woolcott for construction at 74 Sandringham Road, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. The applicant shall apply for a building permit for the rear retaining walls and associated spa and water feature that is separate from any building permit for approved construction on the remainder of the property.

2. Due to safety concerns for the subject and adjacent properties, the approved retaining walls at the rear of the property shall be constructed and receive final inspection no later than August 31, 2009, or a Compliance Order shall be promptly issued by the Director of Public Works for the construction of the retaining walls to be completed and final inspection to take place no later than October 10, 2009, based on violation of this legally imposed Condition pursuant to Chapter 17 of the Piedmont City Code and if such October 10, 2009, due date is not met, the following shall occur:
  - a) The Director of Public Works shall promptly proceed to request the City Clerk to set a hearing before the City Council on November 16, 2009, pursuant to Section 1.9 of the Piedmont City Code, including but not limited to the provisions of Sections 1.9.4 and 1.9.5 thereof; and
  - b) The Director of Public Works shall recommend to the City Council imposition of administrative penalties for violation of this legally imposed Condition, with each day beyond October 10, 2009, that such retaining walls have not been completed and passed final inspection by the Chief Building Official to be considered a separate violation with a separate penalty of up to \$1,000.00 per day to be assessed pursuant to Section 1.9.8 of the City Code.
3. Due to the scope and nature of the application, a construction management plan shall be developed and approved by staff prior to obtaining a building permit. Said plan shall be comprehensive while specifically addressing the duration of the project, construction hours, the staging of materials, and parking of worker vehicles to ensure the free flow of traffic along Sandringham Road and Selborne Drive;
4. The applicant shall submit a report prepared by a geotechnical engineer of the Applicant's choice that fully assesses the existing site conditions, and addresses all issues regarding excavation and grading, foundations and their construction, drainage, retaining wall systems, periodic on-site observations, and other related items involving the Project;
  - a) The City, at the Applicant's sole expense, shall retain an independent geotechnical consultant to perform a peer-review of the Applicant's geotechnical report and advise the City in connection with the Applicant's proposals. The City Engineer shall select this independent geotechnical consultant, whose services shall be provided for the sole benefit of the City and whose reports and recommendations can be relied upon only by the City. Said independent geotechnical consultant shall also review the building plans during the permit approval process, and may provide periodic on-site observations during excavation and construction of the foundations as deemed necessary by the City Engineer;

5. Prior to the issuance of a building permit, the Applicant shall submit an Arborist's Report that includes a plan for preserving the oak trees that are at the top of the slope. The tree preservation measures shall be on the appropriate sheets of the construction plans. The arborist shall be on-site during critical construction activities; initial and final grading to ensure the protection of the existing oak trees. The arborist shall document in writing and with photographs the tree protection measures during these critical construction phases. If some trees have been compromised, mitigation measures must be specified in writing, and implementation certified by the Project Arborist. Trees proposed for removal shall have an in-lieu replacement trees planted elsewhere on the property which shall be shown on the final landscape plan. At the conclusion of the project, prior to Final Inspection, the Arborist shall file a report with the City of Piedmont certifying that all tree preservation measures as recommended have been implemented to his/her satisfaction and that all retaining trees have not been compromised by the construction.
6. The Applicant has the option of deleting the spa and water feature elements of the proposed retaining walls or make any other modifications to the walls in connection with any new application or a new residence on the site, subject to staff approval, unless staff deems that the modifications are so substantial that they require Planning Commission review and approval.

RESOLVED FURTHER, that the approval of the Planning Commission/City Council and any conditions of that approval shall not extend to any particulars set forth in the documents submitted for the project which are inconsistent with or in violation of any applicable law, including but not limited to Chapters 5 and 17 of the City Code, nor does the approval extend to matters not set forth, or inadequately represented, in submitted documents (whether or not consistent with applicable law). The City reserves the right to require compliance with applicable laws and to attach conditions after initial approval is given, if noncompliance is discovered or additional conditions are considered necessary and appropriate in light of Commission/Council findings.

Moved by Levine, Seconded by Kellogg

Ayes: Kellogg, Levine, Robertson, Stehr, Thiel

Noes: None

Absent: None

**Resolution 344-DR-07**

WHEREAS, Mr. Horacio Woolcott is requesting permission to stylistically alter and enlarge the existing residence by adding 2,516 sq. ft. of habitable space through excavation and additions. The resulting 3-story residence is proposed to have a new entry and foyer on the lower level, 4 bedrooms, 3 full baths, a family room, library, living room, dining room, kitchen, recreation room, laundry room, elevator, conforming 2-car garage and upper level terraces at the front of the house. Proposed site improvements include: new landscaping, a new excavated and enlarged driveway, new entry steps and posts, new mailbox, new retaining walls, new driveway gate, new pathway and fencing in the front yard, new fencing along the side and rear property



lines located at 74 Sandringham Road, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission finds that the proposal does not conform with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. The Commission has determined that the proposed construction and remodel of the existing residence are so substantial as to qualify as *New House* construction and therefore are subject to the City's New House Design Review Guidelines.
2. The exterior design elements are not aesthetically pleasing as a whole or harmonious with existing and proposed neighborhood development. These elements include but are not limited to: height, bulk, line and pitch of the roof, arrangements of structure on the parcel, and the location and use of the existing topography and neighborhood pattern. The proposed improvements fail to comply with Design Review Guidelines II-1, II-2, II-6 or with *New House* Design Review Guidelines I-1, I-5 and I-6.
2. The proposed upper level addition/expansion has not been designed in a way that reasonably minimizes view and privacy impacts on neighboring properties (as defined in Section 17.2.70), with particular respect to the roof ridge and the siting of the residence on the property.
3. While the size and height of the addition is commensurate with the size of the lot, it is not commensurate with its siting on the lot.
4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies, with prejudice, the design review application of Mr. Woolcott for construction at 74 Sandringham Road, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Levine, Seconded by Kellogg

Ayes: Kellogg, Levine, Robertson, Stehr, Thiel

Noes: None

Absent: None

**Non-Residential  
Sign Design Review  
1333 Grand Avenue**

Piedmont Pediatric Dentistry is requesting non-residential sign design review to install two non-illuminated painted building-mounted signs above an existing awning that faces Grand Avenue on the commercial office building at 1333 Grand Avenue. The proposed aluminum signs are approximately 2'6" high and 4 ft. wide and will have a color border and colored lettering. One sign is for "Piedmont Pediatric Dentistry" and the other "Daniel J. Cobb, D.D.S. and Associates."

Written notice was provided to neighbors. **One affirmative response form** was received.

Commissioner Levine announced that since he is a patient of Dr. Cobb he would recuse himself from discussion and action on this application. Commissioner Levine then left the chambers.

**No Public testimony** was received. Neither the applicant nor a representative was present to discuss the application.

The Commission acknowledged that although the submitted drawings were not to scale, the sample signs submitted were sufficient to enable the Commission to determine the appropriateness of the lettering and border color. The Commission further acknowledged that the proposed 2'6" height and 4 ft. width of the signs is comparable to the size of other business signs on the building. The Commission noted that the existing street level sign for this dental practice will be removed once the new signage is installed. The Commission also briefly discussed the benefits of having a Master Sign Plan for all commercial buildings so that signs could be approved at the Administrative Staff level. It was agreed that this suggestion would be considered at a later date.

**Resolution 310-DR-08**

WHEREAS, Piedmont Pediatric Dentistry is requesting permission to install two non-illuminated painted building-mounted signs above an existing awning that faces Grand Avenue located at 1333 Grand Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission finds that the proposal conforms with the criteria and standards of Section 17.19.2 of the Piedmont City Code:

1. The Commission has determined that one sign for each dental office is adequate.
2. Each sign, including a sign required by law, is simple in design and the graphic depiction is appropriate.
3. Each sign, including a sign required by law, is compatible in design, color and scale to the front of the building, adjoining structures and general surroundings.
4. The signs are oriented toward the pedestrian and vehicular traffic on Grand Avenue.
5. The signs are constructed of sturdy materials.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Piedmont Pediatric Dentistry for sign installation at 1333 Grand Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. The applicant shall remove the existing ground-level sign
2. The exact placement of the new sign on the building shall be subject to staff review and approval.

RESOLVED FURTHER, that the approval of the Planning Commission/City Council and any conditions of that approval shall not extend to any particulars set forth in the documents submitted for the project which are inconsistent with or in violation of any applicable law, including but not limited to Chapters 5 and 17 of the City Code, nor does the approval extend to matters not set forth, or inadequately represented, in submitted documents (whether or not consistent with applicable law). The City reserves the right to require compliance with applicable laws and to attach conditions after initial approval is given, if noncompliance is discovered or additional conditions are considered necessary and appropriate in light of Commission/Council findings.

Moved by Robertson, Seconded by Kellogg

Ayes: Kellogg, Robertson, Stehr, Thiel, Henn

Noes: None

Recused: Levine

**Wireless  
Communication  
Facility, Variance  
And Design Review  
275 Sandringham Road**

KDI Land Use Planning on behalf of T-Mobile and PG&E is requesting Wireless Communication Facility, variance and design review to upgrade the T-Mobile equipment at the site of the existing PG&E tower at the corner of Sandringham Road and Estates Drive by replacing three existing wireless transmission antennas (54"L by 12"W by 3.5"D) with three new antennae (55.9"L by 13W" by 3.5"D) at the same 42-ft. maximum height above grade, increasing the number of cables from six (two per antenna) to 12 (four per antenna) and replacing the existing grade-mounted equipment cabinet with a new cabinet of the same size and location. The requested variance is from Chapter 17 to add structure higher than 35 ft. above grade.

Written notice was provided to neighbors. **One affirmative and one negative response form** was received.

**Public testimony** was received from:

Amy Million, Applicant representative, stated that the proposed equipment upgrades involve very minor visual changes from that which currently exist at the communications site.

Stuart Schneck voiced his concern that the number of antennas and cables keep increasing at this site creating a visual eyesore for the neighborhood. He requested that the City put a stop to the addition of more cell antennas and require that the sound testing of the new equipment cabinet be conducted at night so that an accurate reading of the noise impact on surrounding properties can be ascertained.

The Commission agreed that the proposed equipment upgrade involves only a minor addition of mass on the existing communication tower and will not change existing neighbor view, light or privacy conditions. The Commission recommended, however, that the new cables be bundled and installed in a manner so as to minimize their visual impact. The Commission also noted that under current City law, there is no

basis to deny the current application and that congregating new communication equipment at this one existing site is preferable to creating a second wireless communication site.

**Resolution 312-V-08**

WHEREAS, KDI Land Use Planning, on behalf of T-Mobile and PG&E, is requesting permission to upgrade communication equipment by replacing three existing wireless transmission antennas (54"L by 12"W by 3.5"D) with three new antennae (55.9"L by 13"W by 3.5"D) at the same 42-ft. maximum height above grade, increasing the number of cables from six (two per antenna) to 12 (four per antenna) and replacing the existing grade-mounted equipment cabinet with a new cabinet of the same size and location located at 275 Sandringham Road, Piedmont, California, which construction requires variance; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary in order to add structure higher than 35 ft. above grade; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission makes the following findings:

1. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to the fact that the proposed improvements are being added to an existing communication tower – the variance is a pre-existing situation. Because of these circumstances, strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone which conform to the zoning requirements.
2. The variance is compatible with the immediately surrounding neighborhood and the public welfare because communication upgrades are being added to an existing communication tower that exceeds the City's structure height limit. The height of the existing communication tower remains unchanged.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because improvements to wireless communication equipment would be impeded without variance.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application of KDI Land Use Planning for the above variance at 275 Sandringham Road, Piedmont, California, in accordance with the plans and specifications on file with the City.

RESOLVED FURTHER, that the approval of the Planning Commission/City Council and any conditions of that approval shall not extend to any particulars set forth in the documents submitted for the project which are inconsistent with or in violation of any applicable law, including but not limited to Chapters 5 and 17 of the City Code, nor does the approval extend to matters not set forth, or inadequately represented, in submitted documents (whether or not consistent with

applicable law). The City reserves the right to require compliance with applicable laws and to attach conditions after initial approval is given, if noncompliance is discovered or additional conditions are considered necessary and appropriate in light of Commission/Council findings.

Moved by Thiel, Seconded by Levine

Ayes: Kellogg, Levine, Robertson, Stehr, Thiel

Noes: None

Absent: None

**Resolution 312-DR-08**

WHEREAS, KDI Land Use Planning, on behalf of T-Mobile and PG&E, is requesting permission to upgrade communication equipment by replacing three existing wireless transmission antennas (54"L by 12"W by 3.5"D) with three new antennae (55.9"L by 13"W by 3.5"D) at the same 42-ft. maximum height above grade, increasing the number of cables from six (two per antenna) to 12 (four per antenna) and replacing the existing grade-mounted equipment cabinet with a new cabinet of the same size and location located at 275 Sandringham Road, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission finds that the proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. The exterior design elements are harmonious and consistent in appearance with other similar utility equipment in the neighborhood such as overhead power and telephone lines.
2. The proposed modifications have been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.70), in that the proposed modifications only slightly add to the size of the antenna and the additional new cables are relatively small and unobtrusive. The project removes portions of existing equipment before adding new ones.
3. The size and height of the proposed improvements are commensurate with the size of the lot and is in keeping with the existing neighborhood development pattern. The existing neighborhood development pattern in the immediately surrounding area is a utilities use.
4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. The proposed modifications will affect residents in a positive way by increasing wireless communication capabilities.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of KDI Land Use Planning for construction at 275 Sandringham Road, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. Prior to the scheduling of final inspection, the applicants shall submit written verification from a licensed acoustical engineer that a post-construction field test confirms noise emanating from the equipment cabinets is in compliance with the 50 decibel limit at all bordering property lines as required by Section 5.2.20 of the Piedmont Building Code. Should equipment be in violation of Section 5.2.20 requirements, the applicant shall undertake mitigation measures to achieve compliance. The acoustical engineer shall determine the appropriate time and manner to achieve a reliable noise reading in conformity with this condition.
2. The new antennae and equipment shall have a non-reflective finish of a color that matches that of the existing tower and equipment.
3. The new and existing cables shall be bundled and routed so as to reasonably minimize their visual impact and appearance on the tower.

RESOLVED FURTHER, that the approval of the Planning Commission/City Council and any conditions of that approval shall not extend to any particulars set forth in the documents submitted for the project which are inconsistent with or in violation of any applicable law, including but not limited to Chapters 5 and 17 of the City Code, nor does the approval extend to matters not set forth, or inadequately represented, in submitted documents (whether or not consistent with applicable law). The City reserves the right to require compliance with applicable laws and to attach conditions after initial approval is given, if noncompliance is discovered or additional conditions are considered necessary and appropriate in light of Commission/Council findings.

Moved by Thiel, Seconded by Levine

Ayes: Kellogg, Levine, Robertson, Stehr, Thiel

Noes: None

Absent: None

#### **Resolution 312-08**

WHEREAS, KDI Land Use Planning, on behalf of T-Mobile and PG&E, is requesting permission to upgrade communication equipment by replacing three existing wireless transmission antennas (54"L by 12"W by 3.5"D) with three new antennae (55.9"L by 13"W by 3.5"D) at the same 42-ft. maximum height above grade, increasing the number of cables from six (two per antenna) to 12 (four per antenna) and replacing the existing grade-mounted equipment cabinet with a new cabinet of the same size and location located at 275 Sandringham Road, Piedmont, California, which construction requires compliance with Chapter 17G of the Piedmont City Code; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission finds that the proposal conforms with the criteria and standards of Section 17G.3.1

- (a) the proposal is an upgrade of the existing facility by replacing existing panel antennas with new ones and are

collocated with existing facilities to minimize overall visual impact. The service provider has demonstrated cooperation in siting the equipment and antennas to accommodate the reasonable number of operations at this particular site;

- (b) the new ground mounted equipment is the same height and dimensions as the existing structure it replaces which is the smallest functional size;
- (c) the finish of the antennas and equipment shall be non-reflective and of a color to minimize visual impact – a light gray, non-reflective finish;
- (d) the proposed ground mounted facilities are located within areas where substantial screening by existing vegetation is achieved and will continue to cover the new ground equipment;
- (e) the new antennas shall have a light gray, non-reflective finish;
- (f) the proposed modifications are located on a PG&E tower which is an appropriate co-existing use of this tower;
- (g) the applicant holds a master lease agreement with PG&E consistent with the City's requirement that following a discontinuation of the use, all equipment associated with the facility shall be removed and the site returned to its original condition;
- (h) there has been no showing that the proposed modifications will adversely affect public health, peace or safety;

and with the criteria and standards of Section 17.G.4 of the Piedmont City Code:

- (a), (b) and (c) The purpose of the T-Mobile Universal Mobile Telecommunications System (UMTS) upgrade is to enhance the level of service within the existing T-Mobile coverage area. The proposed facility does not intend to expand the footprint of the existing coverage area provided by the current facility within Zone A. Instead, the upgrade will add a new service to the existing GSM voice data service. This UMTS service will open broadband service to more customers for web browsing, movie and TV downloads, video conferencing and large file transfers. UMTS offer higher data rates supporting broadband applications and greater efficiency in radio frequency spectrum utilization which increases user capacity. The purpose of the proposed UMTS modification is to upgrade existing facilities within the T-Mobile network; therefore, exploring alternative sites where no T-Mobile facility exists was not explored. Seeking alternative locations inside or outside Zone B does not meet the intent of the upgrade. An alternative to upgrading the existing facility would be to construct a new T-Mobile facility within this coverage area in addition to the existing facility so that UMTS could be accommodated. This option would not allow for an upgrade and defeat the purpose of utilizing the existing T-Mobile facility. The applicant has provided a list of over 300 addresses within the coverage area currently provided

GSM voice data services by the subject facility (BA12364A – 275 Sandringham). The proposed UMTS upgrade will provide the listed address with the new UMTS services. Since alternative locations were not explored, costs for such locations are not applicable to this proposal. However, as technology advances wireless communication facilities will likely continue to advance as well. It appears that in most cases, where feasible, it would be more economical to modify existing facilities in lieu of constructing new ones. In addition, there is the added benefit of consolidating the technologies, facilities and services which minimize visual impact and unnecessary sprawl;

- (d) as demonstrated by this application, all development standards in 17G.3 and applicable findings have been fully considered;
- (e) the existing facility to be modified as part of the UMTS upgrade is located within Zone A. The facility is located on a 74' 1" tall PG&E tower which is substantially taller than any other structure in the coverage area. This existing structure would provide wireless coverage for the existing GSM service as well as the upgraded UMTS service for the T-Mobile facility;
- (f) the upgraded T-Mobile facility is in conformance with the existing design review approval and the design review provision of Chapter 17. The facility utilizes the existing facility to minimize the overall visual impact. The three new antennae would replace the existing three antennae so that a new facility is not created. As part of the antenna replacement, two additional cables per antenna will be incorporated into the facility. The cables will be grouped with the existing cables and run along the PG&E tower to minimize visual impact. There is no net increase in the number of antennas or ground equipment. The equipment and antennas have a non-reflective finish and are painted to minimize visual impact. The ground mounted equipment is screened by an existing wood fence and chain link enclosure surrounding the PG&E tower.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission recommends City Council approval of the wireless communications application of KDI Land Use Planning for construction at 275 Sandringham Road, Piedmont, California, in accordance with the plans and specifications on file with the City.

RESOLVED FURTHER, that the approval of the Planning Commission/City Council and any conditions of that approval shall not extend to any particulars set forth in the documents submitted for the project which are inconsistent with or in violation of any applicable law, including but not limited to Chapters 5 and 17 of the City Code, nor does the approval extend to matters not set forth, or inadequately represented, in submitted documents (whether or not consistent with applicable law). The City reserves the right to require compliance with applicable laws and to attach conditions after initial approval is given, if noncompliance is discovered or additional conditions are considered necessary and appropriate in light of Commission/Council findings.



Moved by Thiel, Seconded by Robertson  
Ayes: Kellogg, Levine, Robertson, Stehr, Thiel  
Noes: None  
Absent: None

**Variance and  
Design Review  
50 Maxwellton Road**

Mr. and Mrs. Simon Parmett are requesting variance and design review to construct a new lower level bedroom and bath by expanding and enclosing a portion of the lower deck at the rear of the house; expanding the existing upper level deck over the proposed addition; making window and door modifications; and making exterior lighting modifications. The requested variance is from Section 17.16 to allow a residence with 5 rooms eligible for use as bedrooms with two existing covered parking spaces each measuring 9'6" by 19'2" (non-conforming parking) in lieu of the Code required minimum of 3 conforming spaces, each measuring 9 ft. by 20 ft.

Written notice was provided to neighbors. **Five affirmative response forms** were received.

**Public testimony** was received from:

Bill Kendrick, Project Architect, described the proposed improvements as well as argued that the lower level family room is not a "bedroom" as defined by the code and has never been used as such. He further noted that the upper level nursery should not be considered as a "bedroom" in that its primary access is through the master bathroom. Based on these findings, he felt that no parking variance is required for this application since the remodeled home will remain a 4 bedroom residence with a 2-car garage that accommodates the parking of two vehicles.

Simon Parmett responded to questions concerning the emergency stair exit for the 3<sup>rd</sup> floor bedroom and voiced his acceptance of the proposed condition that a Notice of Restricted Use be recorded for the lower level family room to prevent this room from being used as a bedroom.

The Commission agreed that the improvements are attractively designed, well-crafted and appropriate for the existing house. The Commission also agreed that because of its modified configuration and location, the lower level family room does not qualify as a bedroom per the Code's definition but noted that the upper floor nursery was shown on previous plans submitted by the applicant as a "bedroom." The Commission agreed that no parking variance is required for this application as the 4-bedroom house has an existing garage that is used for the parking of two vehicles. The Commission requested staff to refund the variance fee paid by the applicant.

**Resolution 325-DR-08**

WHEREAS, Mr. and Mrs. Simon Parmett are requesting permission to construct a new lower level bedroom and bath by expanding and enclosing a portion of the lower deck at the rear of the house; expanding the existing upper level deck over the proposed addition; making window and door modifications; and making exterior lighting modifications located at 50 Maxwellton Road, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission finds that the proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements include but are not limited to: height, bulk, area openings, the modestly adjusted line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment. The proposed improvements comply with Design Review Guidelines II-1, II-2 and II-3(a) through (c).

2. The proposed upper level addition/expansion has been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.70). There is no impact on neighbor light, view or privacy because the rear addition faces into a large ravine and is not seen in any material way by neighbors. The addition complies with Design Review Guideline II-6.

3. The size and height of the addition is commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and is in keeping with the existing neighborhood development pattern. The proposed improvement is a very minor bay window extension to the rear of the house. The proposed improvements comply with Design Review Guideline II-1 and II-2.

4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. In accordance with Sections 17.16.1 and 17.22.1, the existing or proposed on-site parking is appropriate to the size of the new upper level addition, and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood. The project complies with Design Review Guideline II-7.

5. The Commission further finds that the residence, with the proposed addition, is a 4-bedroom house with an existing 2-car garage; hence no parking variance is required in connection with this application and construction project.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Parmett for construction at 50 Maxwellton Road, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. Based on the scope and nature of the proposed landscape and development plans, a best management practice plan for construction which complies with the Alameda Countywide Clean Water Program General and Residential Conditions of Approval will need to be developed by the applicant prior to obtaining a building permit;

2. Due to the scope and nature of the application, a construction management plan shall be developed and approved by staff prior to obtaining a building permit. Said plan shall be comprehensive while specifically addressing the duration of the project, construction hours, the staging of materials, and parking of worker vehicles to ensure the free flow of traffic along Maxwellton Road;
3. Compliance with Chapter 9 Article III of the Municipal Code, which governs the recycling of construction and demolition debris, will be required on all phases of this project. As a Covered project, this project is eligible to participate in the Incentive Program in which the City will provide one-half the cost of debris boxes provided by the City's franchised waste hauler and used exclusively for the purpose of removing recyclable construction and demolition debris.
4. Prior to the issuance of a building permit, a Notice of Restricted Use shall be recorded that states that the lower level family room on Sheet A2.1 of the approved plans may not be used for sleeping purposes. The maximum occupancy of this house is 4 bedrooms.

RESOLVED FURTHER, that the approval of the Planning Commission/City Council and any conditions of that approval shall not extend to any particulars set forth in the documents submitted for the project which are inconsistent with or in violation of any applicable law, including but not limited to Chapters 5 and 17 of the City Code, nor does the approval extend to matters not set forth, or inadequately represented, in submitted documents (whether or not consistent with applicable law). The City reserves the right to require compliance with applicable laws and to attach conditions after initial approval is given, if noncompliance is discovered or additional conditions are considered necessary and appropriate in light of Commission/Council findings.

Moved by Kellogg, Seconded by Levine

Ayes: Kellogg, Levine, Robertson, Stehr, Thiel

Noes: None

Absent: None

#### **ADJOURNMENT**

There being no further business, Chairman Stehr adjourned the meeting at 7:20 p.m.

