

## PIEDMONT PLANNING COMMISSION

### Regular Meeting Minutes for Monday, February 8, 2010

A Regular Session of the Piedmont Planning Commission was held February 8, 2010, 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 January 29, 2010.

#### CALL TO ORDER

Chairman Kellogg called the meeting to order at 5:00 p.m.

#### 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 Technician Manira Sandhir and Recording Secretary Chris Harbert

City Council Liaison: Councilmember John Chiang

#### CONSENT CALENDAR

There was no consent calendar.

#### PUBLIC FORUM

There were no speakers for the public forum.

#### APPROVAL OF MINUTES

##### **Resolution 2-PL-10**

RESOLVED, that the Planning Commission approves as submitted its meeting minutes of January 11, 2010.

Moved by Stehr, Seconded by Henn

Ayes: Kellogg, Robertson, Stehr, Henn

Noes: None

Abstain: Levine, Thiel

Absent: None

#### REGULAR CALENDAR

The Commission considered the following items of regular business:

##### **Wireless Communication Facility and Design Review 275 Sandringham**

AT&T Mobility for PG&E is requesting wireless communication facility and design review to add two wireless transmission antennae on a single bracket mount at the same height as the two existing antennae arrays and install additional coaxial cables to the new and existing antennae at the site of the PG&E tower at the corner of Sandringham Road and Estates Drive.

Written notice was provided to neighbors. **Two negative response forms** were received.

**Public testimony** was received from:

Matt Yergovich, AT&T representative, described the proposed antenna modifications to the existing tower, stating that the two new antennas will improve cell coverage and data capacity for the western portion of Piedmont -- with the addition of these two new antennas, coverage will now be available in all directions as indicated in submitted coverage maps. He stated that no changes will be made to the existing ground-level equipment cabinets, the new antennas are in full compliance with

FCC requirements regarding microwave frequency and staff proposed conditions of approval are acceptable. He stated that the proposed site is consistent with City Code guidelines recommending the co-location of wireless facilities, the best location for providing the expanded coverage needed for this area of Piedmont and the least visually intrusive option. He also agreed to conduct a noise study after installation to insure that the new equipment complies with the City's noise ordinance.

Stuart Schneck submitted petitions from the neighborhood and Corpus Christi School in opposition to the installation of more antennas on the existing tower. He voiced frustration that more and more antennas are being added to the tower, compounding the visual blight caused by the existing PG&E tower and urged that AT&T be required to upgrade their existing equipment to provide the desired increase in coverage/capacity rather than install additional antennas. He noted that last year T-Mobile was able to increase coverage through upgrades of existing equipment rather than the addition of more antennas and he urged that AT&T be required to do the same.

The Commission, with the exception of Commissioners Levine and Stehr, supported application approval, agreeing that (1) the proposed installation is not an upgrade but a matter of having a sufficient number of antennas to provide a full spectrum of directional coverage as well as increased data capacity for Piedmont residents; (2) the addition of the new antennas on the existing tower will not change the existing visual aesthetics in any material way; (3) there will be no change to the existing ground-level equipment cabinets; (4) it is better for community aesthetics to concentrate wireless equipment in as few locations as possible rather than scattering such equipment throughout town; and (5) improved service coverage benefits Piedmont residents.

Commissioners Levine and Stehr agreed with neighborhood residents that the addition of more and more antennas on the existing tower has a cumulative adverse impact on the neighborhood and consideration should be given to installing new wireless equipment on existing towers located in the canyon across from the proposed site. They noted that AT&T currently has four antennas on the Sandringham tower, with T-Mobile having another three for a total of seven antennas -- the point has been reached where enough is enough.

**Resolution 279-09**

WHEREAS, AT&T Mobility on behalf of PG&E is requesting permission to add two wireless transmission antennae on a single bracket mount at the same height as the two existing antennae arrays and install additional coaxial cables to the new and existing antennae at the site of the PG&E tower at the corner of Sandringham Road and Estates Drive located at 275 Sandringham Road, Piedmont, California, which construction requires compliance with Chapter 17G of the 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 project is categorically exempt under the California Environmental Quality Act, pursuant to Section

15301, Class 1(e) and the proposal conforms with the criteria and standards of Section 17G.3 of the Piedmont City Code:

- a. the new antennas are co-located with existing and previously approved wireless facilities and the manner, position and color of the installation will have the least visual impact;
- b. the existing PG&E tower is 80 ft. tall and the placement of the proposed antennas will be at the same height as existing AT&T antennas.
- c. the new antennas will be painted to match existing antennas.
- d. there are no changes to the existing ground-mounted equipment or to vegetation and fence screening.
- e. there are no roof-mounted equipment and antennas. The proposed new antennas will be located on an existing utility tower.
- f. the new antennas will be located on an existing PG&E utility tower.
- g. all equipment associated with the wireless communication facility shall be removed within 30 days of the discontinuation of the use and the site shall be restored to its original preconstruction condition. There are no plans to remove any equipment at this time.
- h. the applicant is responsible for complying with FCC guidelines regarding radio frequency exposure. Documentation has been submitted to the City indicating AT&T's compliance with said guidelines.

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

- a. the applicant has proven beyond a reasonable doubt that there is no site within Zone B and no site outside of the City that can provide adequate wireless communication coverage to the area within the City which is in question.
- b. it has been proven that the site outside of Zone B that is being applied for is either the best site to provide wireless communications coverage for the Piedmont homes in question or that it is one of several equally good sites outside of Zone B. There were no other sites identified that were equally as good and submitted evidence indicated that the proposed site will improve the coverage for Piedmont.
- c. cost factors for the applicant were not a consideration. Improved service for Piedmont residents is the primary consideration.
- d. the development standards in Section 17G.3 were fully considered.

- e. while the site is located in Zone A, it is not a single family residence but an existing PG&E utility tower and co-location facility for the existing AT&T wireless communication network. The proposed equipment will be located on a higher structure already in existence which will provide appropriate wireless coverage for the area in the City which cannot otherwise be served as set forth in Section 17G.4.1(a) hereof. There is no public facility zone in this part of the City.
- f. the proposed site and facilities are in as close conformance with the design review provisions of Chapter 17 of the City Code as is reasonably possible.

RESOLVED, that based on the findings and facts set forth heretofore, the Planning Commission recommends City Council approval of the application of AT&T Mobility on behalf of PG&E to add two wireless transmission antennae on a single bracket mount at the same height as the two existing antennae arrays and install additional coaxial cables to the new and existing antennae at the site of the PG&E tower at the corner of Sandringham Road and Estates Drive located at 275 Sandringham Road, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Robertson, Seconded by Thiel

Ayes: Kellogg, Robertson, Thiel

Noes: Levine, Stehr

Absent: None

**Resolution 280-DR-09**

WHEREAS, AT&T Mobility on behalf of PG&E requesting permission to add two wireless transmission antennae on a single bracket mount at the same height as the two existing antennae arrays and install additional coaxial cables to the new and existing antennae at the site of the PG&E tower 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 is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e) and conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. The exterior design elements are harmonious with existing and proposed neighborhood development in that the proposed new antennas are indistinguishable from existing antennas on the PG&E tower. The project complies with Design Review Guidelines II-1, II-2, II-3(b) & (c).
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because the new antennas will be located as inconspicuously as possible on the existing utility tower, are as small as possible and are out of the sight lines.

3. The size and height of the new antennas are commensurate with the size and height of the existing utility tower. The new antennas are the same size and placed at the same height as existing AT&T antennas.
4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of AT&T Mobility on behalf of PG&E 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. The maximum height of all new equipment shall be 35 ft. above grade;
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.
4. The applicant shall conduct a sound test of the new equipment after it is installed to determine compliance with the City Code.

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 Thiel

Ayes: Kellogg, Robertson, Thiel

Noes: Levine, Stehr

Absent: None

**Variance and Design  
Review & Second Unit  
Permit with Parking  
Exception  
76 Sea View**

Mr. and Mrs. Jerry Kennelly are requesting variance and design review to construct an extensive formal rear garden plan for the property involving new terraces, stairways, walkways, landscaping, lawns, a pool and spa, retaining walls, fencing and exterior lights. Within the plan several new buildings totalling 1,836 sq. ft. are proposed, including a 2-story pavilion with an upper level pool house, a 2-story "folly" building similar in design to the existing 1-story "folly" building and a 2-story garden structure. The requested variance is from Section 17.22 to allow a residence with 10 rooms eligible for bedrooms with 3 conforming parking spaces and 5 non-conforming parking spaces in

lieu of the Code required minimum of 5 conforming parking spaces. Under a separate application, Mr. and Mrs. Kennelly are requesting a Second Unit Permit with a parking exception to construct a very low income second unit in the lower level of the pavilion, using the existing uncovered parking on site in lieu of constructing a required garage or carport for this second unit.

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

**Public testimony** was received from:

Jerry Kennelly summarized his 5-year total renovation of the Albert Farr designed 1922 French Chateau style residence, noting that the proposed relandscaping plan is the second phase of this project. He stated that the property accommodates the parking of 8 to 9 vehicles on site and there is ample street frontage parking also available. The proposed very low-income second unit is desired to accommodate a potential property caretaker who can live on the property when he and his family are away on extended vacations.

John Malick, Project Architect, cited City Code Section 17.22.4 in support of the requested parking variance, stressing that the construction of a 1-car carport or garage to meet parking code requirements would significantly detract from property aesthetics and is not needed since there is already an abundance of off-street parking spaces on the property which are not visible to the public.

The Commission supported application approval, agreeing that (1) the proposed second unit benefits the City by helping meet Piedmont's housing requirements as set forth by ABAG; and (2) the parking variance is justified given the extensive on-site parking available on the property, the ample amount of street parking in the area and the fact that the variance is consistent with the legislative intent of City Code Section 17.22.4. In addition, Commissioner Levine noted his opinion that a parking variance is not really required since the pool house addition which triggered the parking variance, should not really be considered as a room eligible for use as a bedroom since the pool house has extensive glass windows and doors which precludes any sense of privacy. He felt that the pool house should be considered an accessory structure. As to the project's design, the Commission was unanimous that the proposed improvements are elegantly designed to beautifully restore this estate property.

**Resolution 321-V-09**

WHEREAS, Mr. and Mrs. Jerry Kennelly are requesting permission to construct an extensive formal rear garden plan for the property involving new terraces, stairways, walkways, landscaping, lawns, a pool and spa, retaining walls, fencing and exterior lights. Within the plan several new buildings totalling 1,836 sq. ft. are proposed, including a 2-story pavilion with an upper level pool house, a 2-story "folly" building similar in design to the existing 1-story "folly" building and a 2-story garden structure located at 76 Sea View Avenue, 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 a room eligible for use as a bedroom in the upper level pavilion pool house without conforming parking; 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 project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e).
2. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to the fact that there are three complying parking spaces on the property and six additional off-street parking spaces that can easily accommodate the off-street parking needs of the property. 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.
3. The variance is compatible with the immediately surrounding neighborhood and the public welfare because the existing off-street parking spaces on the property are easily accessible, ample in number and not visible from the street.
4. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because more than adequate off-street parking already exists on the property and requiring the construction of an additional garage or carport would add another structure on the property that is not needed nor desirable. The project complies with the legislative intent of City Code Section 17.22.4.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application of Mr. and Mrs. Kennelly for the above variance at 76 Sea View Avenue, 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 Stehr, Seconded by Robertson

Ayes: Levine, Kellogg, Robertson, Stehr, Thiel

Noes: None

Absent: None

**Resolution 321-DR-09**

WHEREAS, Mr. and Mrs. Jerry Kennelly are requesting permission to construct an extensive formal rear garden plan for the property involving new terraces, stairways, walkways, landscaping, lawns, a pool and spa, retaining walls, fencing and exterior lights. Within the plan several new buildings totalling 1,836 sq. ft. are proposed, including a 2-story pavilion with an upper level pool house, a 2-story "folly" building similar in design to the existing 1-story "folly" building and a 2-story garden structure located at 76 Sea View 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 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, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment. The distance between the proposed new multi-level structures and adjacent residences is very reasonable and appropriate due to the existing topography and neighborhood development pattern. Upper level setbacks greater than the setbacks required for the lower level have been considered and are not necessary to reduce losses of ambient and reflected light. The entire project sits well within the 20 ft. side and rear setbacks on the Estate Zone property. The project complies with Design Review Guidelines II-1, II-2, II-3, II-3(a) through (d), II-5, II-6, II-6(a) & (b), II-7, II-7(a), IV-1, IV-2, IV-2(a), IV-3, V-1, V-2, V-5, V-5(a) & (b), V-7 and V-11.
2. The proposed new multi-level structure/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 views, with the exception of the west side neighbor whose view will be improved. The proposed landscaping will provide more privacy between neighboring properties. The project complies with the above-cited Design Review Guidelines in addition to Guidelines IV-1(a) & (b) and IV-3(a).
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 rear yard improvements are in keeping with the scale of the residence and neighborhood.
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. There will be no changes in existing circulation patterns. The proposed new construction is at the rear and does not affect vehicle access or pedestrian rights-of-way.



RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Kennelly for construction at 76 Sea View Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. Construction Management Plan. A comprehensive Construction Management Plan shall be developed by the applicant. The Construction Management Plan shall address noise, vibrations, traffic control, parking, debris removal, dust control, sanitary facilities, and other potential construction impacts, as well as other details involving the means and methods of completing the Project including the construction route. The City Building Official shall have the authority to require modifications and amendments to the Construction Management Plan as deemed necessary throughout the course of the Project and until the final issuance of a Certificate of Occupancy.

2. Construction Completion Schedule. Work on the Project, once commenced, shall be promptly executed with continuous good faith and reasonable progress. Since timely completion of this Project is of the essence, the Applicant shall submit for approval a Construction Completion Schedule, which will specify, in detail, the duration and percentage complete of each phase.

a. The Construction Completion Schedule with associated construction values for each benchmark shall set forth completion dates for the following benchmarks:

- i. Completion of Excavation;
- ii. Completion of Retaining Walls;
- iii. Completion of Foundation;
- iv. Completion of Rough Framing;
- v. Completion of Electrical;
- vi. Completion of Plumbing;
- vii. Completion of Mechanical;
- viii. Completion of Fire Sprinklers;
- ix. Completion of Home;
- x. Completion of Hardscaping and Landscaping;

and of any further construction benchmarks and conditions of occupancy as may be determined by the Director of Public Works.

b. The Director of Public Works shall, before the Project commences, make a determination as to the completion dates applicable to the Project and such determination shall constitute the "Approved Schedule" and be binding on the Applicant. The City may, at the Applicant's sole cost, engage the services of a consultant to review the Applicant's proposed Construction Completion Schedule and, to the extent the period allocated for any work appears unjustifiable, recommend to the Director of Public Works a reasonable completion date for any benchmark.

c. If the work for any specific benchmark has not been completed within 90 days after the completion date set forth in the Approved Schedule, and the delay in completion has not been caused by

force majeure, the Director of Public Works shall have the option at any time thereafter to make claim against the Applicant's Performance Security in order to complete such benchmark.

3. Stormwater BMPs for Construction. Applicant shall implement stormwater treatment Best Management Practices (BMPs) as well as Bay Area Stormwater Management Agencies Association's "Start at the Source" criteria for stormwater quality protection. City Staff may impose additional requirements involving the prevention of storm water pollution during construction and permanent drainage, erosion and sediment control. These items will be reviewed as part of the Applicant's Construction Management Plan.
4. Consultant Cost Recovery. In order to accommodate the scope and nature of the Project proposed by the Applicant, should the City deem it necessary to retain independent consultants with specialized expertise, the Applicant shall, at the time the Director of Public Works deems it to be necessary, make a cash deposit with the City in the amount of \$5,000 to be used to pay for the fees and expenses of such City consultants, or in any way otherwise required to be expended by the City for professional assistance (other than City Staff), in conjunction with the Project, at the discretion of the Director of Public Works. If such cash deposit has been reduced to \$2,500.00 or less at any time, the Director of Public Works may require the Applicant to deposit additional funds to cover any further estimated fees and expenses associated with consultants retained by the City for the Applicant's Project. Any unexpended amounts shall be refunded to the Applicant within 90 days after the Project has an approved Final Inspection by the Chief Building Official.
5. City Attorney Cost Recovery. Should there be substantial additional commitment of City Attorney's time required to accommodate the scope and nature of the Project proposed by the Applicant, the Applicant shall, prior to commencement of construction, make a cash deposit with the City in the amount of \$5,000 to be used to offset time and expenses of the City Attorney relating to the Project. If such cash deposit has been reduced to \$2,500.00 or less at any time, the Director of Public Works may require the Applicant to deposit additional funds to cover any further estimated additional City Attorney time and expenses. Any unused amounts shall be refunded to the Applicant within 90 days after the Project has an approved Final Inspection by the Chief Building Official.
6. Property Insurance. The Applicant shall purchase and maintain property insurance on an "all-risk" policy form, including builder's risk, in the amount of the initial total expected costs to complete the Project, plus the value of subsequent modifications and revisions, comprising total value for the entire Project on a replacement cost basis without optional deductibles. Such property insurance shall include interests of the Applicant, its contractor, subcontractors and sub-subcontractors in the Project, and shall be maintained until the entire Project has been completed and has an approved Final Inspection by the Chief Building Official.
7. Contractor's General Liability Insurance. The Applicant shall require all contractors and subcontractors performing work on the

Project to maintain General Liability Insurance for protection from claims for damages because of bodily injury, including death, and claims for damages, other than to the contractor's work itself, to property which may arise out of or result from the contractor's operations. Such insurance shall be written for not less than \$1,000,000.00 per occurrence.

8. Insurance Cancellation Notice. The Applicant shall require that all insurance policies obtained to satisfy any specific Condition of Approval provide the City with at least 10 days prior written notice from the insurance company of the cancellation of or change to any insurance coverage provided therein. Applicant shall immediately arrange for substitute insurance coverage to replace any such cancellation or change, subject to the approval of the City Attorney.

9. CEQA Agreement. The Applicant shall, pursuant to a form of agreement prepared by the City Attorney and executed by the Applicant, defend, at Applicant's sole expense, indemnify and hold harmless the City of Piedmont, its elected and appointed officials, agents, officers and employees from and against any claim, demand, loss, liability, action or proceeding relating to, resulting from, or in connection with any determination, whether through its Planning Commission, City Council, City Staff, or otherwise, regarding applicability of the California Environmental Quality Act to the Applicant's Project, including but not limited to any determination that a Categorical Exemption applies or that an Initial Study, a Negative Declaration or an Environmental Impact Report is or is not required for the Project.

10. C&D Compliance. Compliance with Chapter 9 Article III of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project. This Project is eligible to participate in an 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, subject to continued availability of funds.

11. Modifications to Conditions. Any bonds, financial vehicles, insurance requirements or related Conditions of Approval may be modified in a reasonable manner with the joint agreement of the Director of Public Works and the City Attorney, provided that such modified Conditions of Approval continue to satisfy the general intent of the Condition as originally set forth herein.

12. Stormwater Design. Because this Project anticipates the addition or replacement of more than 10,000 square feet of impervious surface, the Applicant shall prepare a stormwater management plan prior to obtaining a building permit. Wherever possible and to the maximum extent practicable, the plan shall incorporate site design practices and measures to promote infiltration of stormwater and reduce the amount of impervious surface on the site as outlined in the following documents: The Bay Area Stormwater Management Agencies Association's (BASMAA) "Start at the Source" design guidance manual, which is available in PDF format at [www.cleanwaterprogram.org/businesses\\_developers.htm](http://www.cleanwaterprogram.org/businesses_developers.htm); BASMAA's

“Permanent Post-Construction Stormwater BMP Fact Sheets;” or the State of California Best Management Practices Handbooks.

13. Double Trailer Truck Prohibition. To reduce potential damage to the streets and to avoid traffic hazards on narrow curving city streets, no double trailers shall be used as part of the Project.

14. California’s Water Efficient Landscape Ordinance: Applicants shall comply with the requirements of California’s Model Water Efficient Landscape Ordinance that went into effect January 1, 2010, by submitting the following required information to the Building Department:

(i) Landscape Documentation Package that includes the following 6 items:

- a. Project Information;
- b. Water Efficient Landscape Worksheet;
- c. Soil Management Report;
- d. Landscape Design Plan;
- e. Irrigation Design Plan; and
- f. Grading Design Plan.

The Landscape Documentation Package shall be subject to staff review and approval prior to the issuance of a building permit.

(ii) Once a building permit has been issued, the applicant shall submit a copy of the Water Efficient Landscape Worksheet, to the local water purveyor, East Bay Municipal Utility District.

(iii) After completion of work, a Certificate of Completion, including an irrigation schedule, an irrigation maintenance schedule, and an irrigation audit report shall be submitted to the City and the local water purveyor for review. This Certificate of Completion may be approved or denied by 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 Stehr, Seconded by Levine

Ayes: Levine, Kellogg, Robertson, Stehr, Thiel

Noes: None

Absent: None

#### **Resolution 320-SU-09**

WHEREAS, Mr. and Mrs. Jerry Kennelly are requesting permission to construct a very low income second unit in the lower level of the pavilion, using the existing uncovered parking on site in lieu of constructing a required garage or carport for this second unit located at 76 Sea View Avenue, Piedmont, California, which construction requires a second unit permit with parking exception; 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.D.6(b)2 of the Piedmont City Code:

1. The main house will be owner-occupied and the parking exception will not be detrimental to the health, safety or general welfare of persons residing in the neighborhood and will not negatively impact traffic safety or emergency vehicle access to residences or create hazards by obstructing view to or from adjoining sidewalks and streets.
2. The parking exception will not adversely affect the character of the surrounding neighborhood because the proposed improvement is at the rear of the property and away from public access. There are nine parking spaces on the property as well as ample street parking available.
3. There is sufficient street parking available to accommodate the parking exception and the second unit is located within 1/3 mile of a public transit stop.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Kennelly for construction at 76 Sea View Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. In compliance with Section 17D.5(g), prior to the issuance of a building permit, the completed, signed and notarized *Declaration of Restrictions - Property with Approved Second Dwelling Unit* form shall be recorded;
2. In compliance with Section 17D.6(d), prior to the issuance of a building permit, the completed, signed and notarized *Declaration of Rent Restrictions for Second Unit Affordable to Very Low Income Households* form shall be recorded;
3. In compliance with Section 17D.6(e), prior to the occupation of the second unit, the completed, signed and notarized *Rent-Restricted Second Unit Affordable Rent Certification* form shall be submitted;
4. The second unit shall remain a very low income rent-restricted unit per the California Department of Housing and Community Development State Income Limits, adjusted annually for a period of 10 years from the date of this approval. Thereafter, the unit shall no longer be required to be a rent-restricted unit, but may continue to be used as a second unit;
5. The annual City of Piedmont rental tax is waived for the first year. Thereafter, the property owners shall annually comply with all required rental taxes and fees;
6. Because this unit is approved within a structure that was approved under a different, concurrent Design Review application (in

accordance with State law), this approval is subject to the conditions of approval required for that application (Application #09-0321).

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 Stehr, Seconded by Levine

Ayes: Levine, Kellogg, Robertson, Stehr, Thiel

Noes: None

Absent: None

**Design Review  
1900 Oakland Avenue**

Mr. and Mrs. Richard Coffin are requesting design review to expand the second story be approximately 620 sq. ft. towards the east of the residence, above the existing single story part of the building; make modifications to the roof including the addition of new dormers; make window modifications; and make various changes to the interior.

Written notice was provided to neighbors. **Three affirmative, one negative response forms** were received. **Correspondence** was received from: Don Grey & Lee Peisker, Feb. 2

**Public testimony** was received from:

Grier Graff, Project Architect, summarized the mix of architectural styles in the neighborhood and emphasized that the proposed project maintains the heritage architectural style of the applicants' 1899 Queen Anne Victorian. He reviewed the various roof designs examined for the addition as well as highlighted the results of a shadow study of the impacts of the proposed addition on neighboring property.

Richard Coffin stated that the objective of the project is to improve the livability of the old home by relocating the master bedroom away from Oakland Avenue, enlarging closet space and improving the overall architectural cohesiveness of the residence.

Lee Peisker and Don Grey, co-owners of 1920 Oakland Avenue, voiced strong opposition to the proposed project, stressing that the proposed addition will overpower their home in terms of mass and scale and result in a significant loss of light and privacy. They stressed that their mid-century home is also a heritage architectural residence that will be diminished and dwarfed by the applicant's proposed construction.

Rena Rickles, Attorney representing Messrs. Peisker and Grey, submitted photographs in support of her client's concern that their home will be overwhelmed by the proposed project. She submitted a

proposed schematic redesign of the second story as a possible mitigation measure to lessen impacts on her clients' property.

The Commission agreed that the proposed design was beautiful and well integrated into the existing house. However, the Commission also acknowledged the significant adverse impacts said design will impose on the Peisker/Grey property in terms of light loss and intrusiveness. The Commission felt that alternative design options for the roof treatment exist that would lessen this adverse impact. During discussion of possible mitigation measures, it was suggested that the number of existing bedrooms be reduced by one to make the second story addition smaller, the entire roof line be redesigned and significantly pulled back, and consideration be given to the use of dormers rather than the proposed cantilevered treatment for the master bedroom.

**Resolution 6-DR-10**

WHEREAS, Mr. and Mrs. Richard Coffin are requesting permission to expand the second story be approximately 620 sq. ft. towards the east of the residence, above the existing single story part of the building; make modifications to the roof including the addition of new dormers; make window modifications; and make various changes to the interior located at 1900 Oakland 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 does not conform with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. The exterior design elements are not harmonious with existing and proposed neighborhood development in that the scale and mass is not compatible with neighboring properties, especially the north-side neighbor. The proposed improvements overpower and dominate neighboring property on contiguous parcels and the exterior location of windows fail to respect the visual privacy of neighboring property. The project has not made an effort to limit the height, bulk, line and pitch of the roof in terms of the east side neighbor. The project does not comply with Design Review Guidelines II-1, II-2 and II-7.

2. The proposed upper level addition/expansion has not been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.70) in terms of consideration of lowering the height and location of the addition or changing the roof slope or ridge direction.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies, without prejudice, the design review application of Mr. and Mrs. Coffin for construction at 1900 Oakland Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Levine, Seconded by Thiel

Ayes: Levine, Kellogg, Robertson, Stehr, Thiel

Noes: None

Absent: None

The Commission recessed for dinner at 7:25 p.m. and reconvened at 7:55 p.m.

**Variance and  
Design Review  
66 La Salle Avenue**

Mr. and Mrs. Ron Cohen are requesting variance and design review for retroactive approval to develop additional habitable space on the lower level including a bedroom and full bathroom, and install a lower level window on the left (north) facade. The requested variance is from Section 17.16 to allow a residence with 5 rooms eligible for use as bedrooms and two covered parking spaces measuring 9 by 18 ft. in lieu of the code required minimum dimension of 9 by 20 ft.

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

**Public testimony** was received from:

Ronald Cohen stated that the illegal improvements were constructed by a previous owner in 1987 and were in place when he purchased the home in 1988. He emphasized that the project will not change existing conditions or use -- it will make the existing habitable space code compliant. He added that a third parking space cannot be added to the property because of the topography of the lot. He also submitted two letters of support from his adjacent neighbors (Gibson & Chase).

Scott Fitzgerald, Project Contractor, stated that the lower level space can be made code compliant by raising the ceiling height and adding a window.

The Commission agreed that additional off-street parking cannot be added to the property because of the lot's topography. However, a majority of the Commission felt that a parking variance could be easily avoided if an existing full bath in the lower level was made a half-bath or walls were removed to create one larger bedroom instead of two. The majority felt that approving variance in order to legally allow the existing house to be advertised/sold as a 5 bedroom house instead of its current listing as a 4 bedroom residence would confer a benefit to the homeowner not enjoyed by other residents. Commissioners Stehr and Robertson supported variance approval, citing the hardship of the lot's topography, the absence of any parking congestion in the neighborhood, the desirability of rectifying illegal construction to make it code compliant and the fact that project approval would not change the existing use of the residence or neighborhood conditions because the improvements are all contained within the existing building envelope. The Commission discussed at length the issue of whether a bad precedent would be set if parking variances for new bedrooms were deemed acceptable as long as there is no change in the existing building envelope of a residence. The Commission agreed that it may be appropriate to review the City's parking code at a future meeting.

**Resolution 7-V-10**

WHEREAS, Mr. and Mrs. Ron Cohen are requesting retroactive permission to develop additional habitable space on the lower level including a bedroom and full bathroom, and install a lower level window on the left (north) facade construct located at 66 La Salle



Avenue, 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 a fifth room eligible for use as a bedroom without supplying conforming parking ; 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 do not present unusual physical circumstances from other similarly situated residences that 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.

3. The variance is not compatible with the immediately surrounding neighborhood and the public welfare because the additional use of the space as bedrooms would add to traffic and parking that could not be accommodated on the site.

4. Accomplishing the improvement without a variance would not cause unreasonable hardship in planning, design, or construction because the objectives of the applicant can be met without variance as set forth in the Building Official's letter of October 27, 2009, and as discussed above. The existing home is a 4-bedroom residence and does not qualify as a 5-bedroom house.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies the variance application of Mr. and Mrs. Cohen for the above variance at 66 La Salle Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Thiel, Seconded by Levine

Ayes: Levine, Kellogg, Thiel

Noes: Robertson, Stehr

Absent: None

**Resolution 7-DR-10**

WHEREAS, Mr. and Mrs. Ron Cohen are requesting permission to install a lower level window on the left (north) facade located at 66 La Salle 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 project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e) and 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.

2. The design is appropriate and has no negative impact on neighboring properties' existing views, privacy and access to direct and indirect light.

3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected. The safety of the applicants is enhanced.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Cohen for window installation at 66 La Salle Avenue, 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: Levine, Kellogg, Robertson, Stehr, Thiel

Noes: None

Absent: None

**New House  
Design Review  
4 Lexford Road**

Mr. and Mrs. Erich Tupper are requesting new house design review to demolish the existing pool, pool house and storage structure; construct a new 699 sq. ft. 2-story, 1-bedroom house with covered loggia, a new swimming pool and hot tub, a new pool equipment enclosure, a new 1-car garage at two location options, and new site improvements including paths, walls, retaining walls, driveway, curb cut, pool terrace and various other hardscape and landscape changes, and add new exterior light fixtures. Similar applications were denied, without prejudice, by the Commission on September 14 and December 14, 2009.

The two garage location options were:

Option A -- a garage with an entry tower, a wall and gate projecting northward, and a driveway and curb cut located in the front right quadrant of the property.

Option B -- a garage with an entry tower, a loft attic, a wall projecting southward, and a driveway and curb cut located in the front left quadrant of the property. The finished floor level for Option B is proposed to be 2'6" higher in elevation than that of Option A. The loft attic is proposed to have a ceiling height of: 8'3" maximum; 4'3" minimum; 6'3" average.

Written notice was provided to neighbors. **One affirmative, two negative response forms** were received.

**Public testimony** was received from:

Patricia Henshaw stated her strong preference for Garage Option B, noting that the garage should be closer to the main house than the pool house for convenience of use and Option B creates a better streetscape appearance. She did agree that both garage options were considerably better than the original proposal.

John Malick, Project Architect, stated the applicant's preference for Garage Option A, stressing that there is no adverse impact in terms of light, view or privacy on the Henshaw property. He also emphasized that the garage is being constructed for the pool house as required by City Code. He also reviewed the design and landscape changes made in response to the December meeting and submitted renderings and models of the proposed construction, including both garage options. He also submitted photographs taken today from the Henshaw property indicating that only a small portion of the slate roof of Garage Option A would be visible to the Henshaws. Mrs. Henshaw objected to the submittal of the photographs, stating that she did not give Mr. Malick permission to enter her property today in order to take the pictures. The photographs were not accepted into the record.

Gary Potter voiced support for application approval, agreeing that Garage Option A was attractive and well integrated into the property.

The Commission agreed that the design of all components of the project were well-crafted and well-suited to the site to create a beautiful and elegant estate property. As to the garage options, the Commission voiced its preference for Option A, stating that: (1) since neither option adversely impacted neighboring properties in terms of view, light, privacy or feeling of openness because of the substantial separation distance (16' to 25'), the design choice favored by the applicant should prevail; and (2) Option A was the most successful in creating and unifying the "Storybook" estate property concept envisioned by the applicant. With regard to Option B, the Commission majority felt that the height, massing and scale of this option was less desirable than A, resulted in the garage being more of a "focal point" which is contrary to the City's Design Review Guidelines and created an orphan piece of property within the estate boundaries. Commissioner Robertson felt that both garage design options were acceptable.

#### **Resolution 10-DR-10**

WHEREAS, Mr. and Mrs. Erich Tupper are requesting permission to demolish the existing pool, pool house and storage structure; construct a new 699 sq. ft. 2-story, 1-bedroom house with covered loggia, a new swimming pool and hot tub, a new pool equipment enclosure, a new 1-car garage at the Option A location, and new site improvements including paths, walls, retaining walls, driveway, curb cut, pool terrace and various other hardscape and landscape changes, and add new exterior light fixtures located at 4 Lexford 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 is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e) and 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, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment. The distance between the proposed new multi-level structures and adjacent residences is reasonable and appropriate due to the existing topography and neighborhood development pattern. The new structures have been designed in a way that reasonably minimizes view and light impacts on neighboring properties. The project complies with Design Review Guidelines I-1, I-2, I-5, I-6, I-7, I-8, I-9, I-10, I-11, III-1, III-2, III-3, III-4, III-5, III-6, III-7, IV-1, IV-2, IV-3, IV-4, V-1, V-2, V-3, V-4 and V-5.
2. The proposed new multi-level structure/expansion has been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.70), including moving structures and lowering the height of structures.
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:
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 or new multi-level structures, and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Tupper for construction at 4 Lexford Road, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. No new features located on 6 Lexford Road are approved as part of this application;
2. The garage doors shall be electronically operated;
3. **Construction Management Plan.** A comprehensive Construction Management Plan shall be developed by the applicant. The Construction Management Plan shall address noise, vibrations,

traffic control, parking, debris removal, dust control, sanitary facilities, and other potential construction impacts, as well as other details involving the means and methods of completing the Project including the construction route. The Chief Building Official shall have the authority to require modifications and amendments to the Construction Management Plan as deemed necessary throughout the course of the Project and until the final issuance of a Certificate of Occupancy.

4. **Construction Completion Schedule.** Work on the Project, once commenced, shall be promptly executed with continuous good faith and reasonable progress. Since timely completion of this Project is of the essence, the Applicant shall submit for approval a Construction Completion Schedule, which will specify, in detail, the duration and percentage complete of each phase.

a. The Construction Completion Schedule with associated construction values for each benchmark shall set forth completion dates for the following benchmarks:

- i. Completion of Excavation;
- ii. Completion of Retaining Walls;
- iii. Completion of Foundation;
- iv. Completion of Rough Framing;
- v. Completion of Electrical;
- vi. Completion of Plumbing;
- vii. Completion of Mechanical;
- viii. Completion of Fire Sprinklers;
- ix. Completion of Home;
- x. Completion of Hardscaping and Landscaping;

and of any further construction benchmarks and conditions of occupancy as may be determined by the Director of Public Works.

b. The Director of Public Works shall, before the Project commences, make a determination as to the completion dates applicable to the Project and such determination shall constitute the "Approved Schedule" and be binding on the Applicant. The City may, at the Applicant's sole cost, engage the services of a consultant to review the Applicant's proposed Construction Completion Schedule and, to the extent the period allocated for any work appears unjustifiable, recommend to the Director of Public Works a reasonable completion date for any benchmark.

c. If the work for any specific benchmark has not been completed within 90 days after the completion date set forth in the Approved Schedule, and the delay in completion has not been caused by force majeure, the Director of Public Works shall have the option at any time thereafter to make claim against the Applicant's Performance Security in order to complete such benchmark.

5. **Geotechnical Report and Review.** 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.

6. **Stormwater BMPs for Construction.** Applicant shall implement stormwater treatment Best Management Practices (BMPs) as well as Bay Area Stormwater Management Agencies Association's "Start at the Source" criteria for stormwater quality protection. City Staff may impose additional requirements involving the prevention of

storm water pollution during construction and permanent drainage, erosion and sediment control. These items will be reviewed as part of the Applicant's Construction Management Plan.

7. **Final Landscape Plan.** The Applicant shall provide a Final Landscape Plan that shows trees proposed for retention as well as in-lieu trees required by a Certified Tree Preservation Plan. Such final plan shall also comply with the provisions of Section 17.17.3 of the Municipal Code, and shall not propose plants near the driveway that could obscure visibility of pedestrians on the sidewalk or vehicles on the street from drivers backing out of the driveway. Any tree preservation measures recommended by said Certified Tree Preservation Plan shall be incorporated as conditions of project approval. The Final Landscape Plan shall be subject to staff review and approval prior to the issuance of a building permit.

8. **CEQA Agreement.** The Applicant shall, pursuant to a form of agreement prepared by the City Attorney and executed by the Applicant, defend, at Applicant's sole expense, indemnify and hold harmless the City of Piedmont, its elected and appointed officials, agents, officers and employees from and against any claim, demand, loss, liability, action or proceeding relating to, resulting from, or in connection with any determination, whether through its Planning Commission, City Council, City Staff, or otherwise, regarding applicability of the California Environmental Quality Act to the Applicant's Project, including but not limited to any determination that a Categorical Exemption applies or that an Initial Study, a Negative Declaration or an Environmental Impact Report is or is not required for the Project.

9. **C&D Compliance.** Compliance with Chapter 9 Article III of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project. This Project is eligible to participate in an 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, subject to continued availability of funds.

10. **Modifications to Conditions.** Any bonds, financial vehicles, insurance requirements or related Conditions of Approval may be modified in a reasonable manner with the joint agreement of the Director of Public Works and the City Attorney, provided that such modified Conditions of Approval continue to satisfy the general intent of the Condition as originally set forth herein.

11. **Double Trailer Truck Prohibition.** To reduce potential damage to the streets and to avoid traffic hazards on narrow curving city streets, no double trailers shall be used as part of the Project.

12. **California Water Efficient Landscape Ordinance:** Applicants shall comply with the requirements of the California Model Water Efficient Landscape Ordinance, effective January 1, 2010, by submitting the required information to the Building Department including:

- a. Landscape Documentation Package that includes the

following 6 items:

- i. Project Information;
- ii. Water Efficient Landscape Worksheet;
- iii. Soil Management Report;
- iv. Landscape Design Plan;
- v. Irrigation Design Plan; and
- vi. Grading Design Plan.

The Landscape Documentation Package shall be subject to staff review and approval prior to the issuance of a building permit.

b. Once a building permit has been issued, the applicant shall submit a copy of the Water Efficient Landscape Worksheet, to the local water purveyor, East Bay Municipal Utility District.

c. After completion of work, a Certificate of Completion, including an irrigation schedule, an irrigation maintenance schedule, and an irrigation audit report shall be submitted to the City and the local water purveyor for review. This Certificate of Completion may be approved or denied by 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 Levine, Seconded by Stehr

Ayes: Levine, Kellogg, Robertson, Stehr, Thiel

Noes: None

Absent: None

### **Resolution 3-PL-10**

WHEREAS, Mr. and Mrs. Erich Tupper have submitted a Garage Option B design for a proposed 1-car garage located at 4 Lexford Road, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the plans and any and all testimony and documentation submitted in connection with said design option, the Piedmont Planning Commission finds that Garage Option B does not conform with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. The exterior design elements of Garage Option B are not harmonious with existing and proposed neighborhood development, in terms of its height, bulk, location on the property and arrangement of structures on the parcel. Garage Option B does not comply with Design Review Guideline III-6(a) in that it creates a pocket of dead space in the south portion of the property.
2. The size and height of Garage Option B is not commensurate with the size of the lot nor its location on the lot and it is not in keeping with the existing neighborhood development pattern.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies, without prejudice, Garage Option B for proposed construction at 4 Lexford Road, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Thiel, Seconded by Stehr

Ayes: Levine, Kellogg, Stehr, Thiel

Noes: Robertson

Absent: None

#### **ADJOURNMENT**

There being no further business, Chairman Kellogg adjourned the meeting at 9:25 p.m.