

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, April 11, 2011

A Regular Session of the Piedmont Planning Commission was held April 11, 2011, in the City Hall Council Chambers at 120 Vista Avenue. In accordance with Government Code Section 54954.2(a) the agenda for this meeting was posted for public inspection on April 1, 2011.

CALL TO ORDER

Following the 2010 Design Awards Reception held in the City Hall Courtyard, Chairman Robertson called the meeting to order at 5:35 p.m. She welcomed newly appointed Commissioners Michael Henn and Phillip Chase and Alternate Commissioner Tom Zhang in absentia.

ROLL CALL

Present: Commissioners Phillip Chase, Michael Henn, Jim Kellogg, Melanie Robertson and Clark Thiel

Absent: Alternate Commissioner Tom Zhang

Staff: City Planner Kate Black, Assistant Planner Kevin Jackson, Planning Technicians Sylvia Toruno, Manira Sandhir and Zach Rehm and Recording Secretary Chris Harbert

City Council Liaison: Councilmember Margaret Fujioka

DESIGN AWARD PRESENTATION

Chairman Robertson summarized the Commission's review and selection process for annually recognizing superior design projects whose construction quality and design elements exemplify the City's Design Review Guidelines and enhance the aesthetics of the community. Tonight's presentation honors exceptional projects in the following categories:

- *Best Second Unit*
- *Best Second Story Addition*
- *Best Garage*
- *Best Two-Story Rear Addition*
- *Best Outdoor Living Area*
- *Best Historic Remodel*
- *Best Sustainable Remodel*

Commissioner Thiel presented the Award for *Best Second Unit* to **Mr. and Mrs. Will Free of 110 Sunnyside Avenue** in recognition of a comprehensive design vision and skillful craftsmanship.

Commissioner Kellogg presented the Award for *Best Second Story Addition* to **Ms. Arleta Chang of 407 Linda Avenue** in recognition of a second story addition which blends into the existing home so as to create an attractive, unified appearance.

Chairman Robertson presented the Award for *Best Garage* to **Mr. Tom Andreoni and Ms. Karen Stanton of 140 Monticello Avenue** for creating a garage that is outstanding in design and proportion.

Commissioner Chase presented the Award for *Best Two-Story Rear Addition* to **Mr. and Mrs. Ryan Gilbert of 58 Lakeview Avenue** in recognition of the construction of a conforming garage and second story addition that are seamlessly integrated into the original house and landscape.

Commissioner Henn presented the Award for *Best Outdoor Living Area* to **Mr. and Mrs. David Sweet of 213 Bonita Avenue** in recognition the construction of a welcoming and serene outdoor living space in the rear yard.

Commissioner Kellogg presented the Award for *Best Historic Remodel* to **Mr. and Mrs. Gary Zalweski of 31 Jerome Avenue** in recognition of the stylistic alteration of an 1890's era home into a gorgeous residence that is well integrated into its sunny location and tree-lined street.

Commissioner Thiel presented the Award for *Best Sustainable Remodel* to **Mr. David Harvitt and Ms. Lizabeth Willner of 29 Sylvan Way** in recognition of the transition of an old house on a small lot into a remarkable livable home with quality interior and exterior improvements.

ELECTION OF OFFICERS

Resolution 6-PL-11

RESOLVED, that the Planning Commission selects Michael Henn to serve as Commission Chair for FY 11-12.

Moved by Kellogg, Seconded by Chase

Ayes: Chase, Henn, Kellogg, Robertson, Thiel

Noes: None

Absent: None

Resolution 7-PL-11

RESOLVED, that the Planning Commission selects Clark Thiel to serve as Commission Vice Chair for FY 11-12.

Moved by Robertson, Seconded by Kellogg

Ayes: Chase, Henn, Kellogg, Robertson, Thiel

Noes: None

Absent: None

On behalf of the Commission and planning staff, Vice Chair Thiel presented outgoing Chairman Melanie Robertson with a gift in appreciation for her services as Commission Chair.

CONSENT CALENDAR

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

Design Review 570 Mountain Avenue

Resolution 60-DR-11

WHEREAS, Mr. Bob Morris and Ms. Carole Lowenberg are requesting permission to make modifications to the front yard including: demolition of the existing entry steps and railings; and construction of a new entry stairway with planters, retaining walls, built-in benches; and a mail-box and lamp post located at 570 Mountain 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 (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 proposed replacement of the existing stairs will bring the front stairs into stylistic harmony with the existing main structure by mimicking the interplay of massing, material and colors used in the main structure.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because the proposed design will have no direct or indirect impact on neighbors views, privacy and casts no shadow off of the owners property.
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 proposed design will increase the safety of residents and pedestrians by replacing two existing runs of steep and dangerous steps. Vehicular sight lines will not be affected by the proposed construction.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Morris and Ms. Lowenberg for construction at 570 Mountain Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following condition:

- 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;

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.

**Design Review
10 Littlewood Drive**

Resolution 61-DR-11

WHEREAS, Mr. Brian Yuen and Ms. Emily Chen are requesting permission to make various improvements throughout the residence including to: construct an approximately 26 sq. ft. kitchen expansion; enclose an existing carport with new garage doors; demolish existing exterior entry stairs; convert an existing entry porch into a new upper level balcony; add new railing; install new skylights; make siding changes to the exterior walls of the residence; make window and door modifications; add new exterior lighting; and make various interior improvements located at 10 Littlewood Drive, 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 (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: This project is primarily a renovation of an existing home, although there is a minor addition to the back of the house that is not visible from the street or by neighbors. The proposed changes will essentially update the house (built in the 1960's) in such a way as to make it more compatible with the surrounding neighborhood than it is currently. There is no impact, aesthetic or otherwise, on any surrounding properties.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because as mentioned above, there are no impacts on existing views, privacy or access to direct or indirect light by surrounding properties.
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 there will be no changes to circulation pattern, parking layout or points of ingress and egress.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Yuen and Ms. Chen for construction at 10 Littlewood Drive, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Construction Management Plan.** The Property Owner shall develop a comprehensive Construction Management Plan. 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 has 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 Inspection.

2. **Construction Completion Schedule.** Work on the Project, once begun, shall be promptly executed with continuous good faith and reasonable progress. Since timely completion of this Project is of the essence, the Property Owner 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
- xi. any further construction benchmarks and conditions of occupancy as may be determined by the Director of Public Works.

b. Before the Project begins, the Director of Public Works shall make a determination as to the reasonableness of the proposed completion dates applicable to the Project, and that determination shall constitute the "Approved Schedule" and be binding on the Property Owner. The City may, at the Property Owner's sole cost, engage the services of a consultant to review the Property Owner'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 has the option at any time thereafter to make a claim against the Property Owner's Performance Security, if one is required, in order to complete the benchmark.

3. **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.

4. **Approved Plan Set.** The approved plans are those submitted on February 28, 2011, with additional information submitted on March 30, 2011, after neighbors were notified of the project and the plans were available for public review.

5. **Windows & Doors.** The proposed windows and doors shall be painted to match the remaining windows and doors throughout the residence.

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.

**Fence Design Review
305 St. James Drive**

Resolution 75-DR-11

WHEREAS, Ms. Andrea Wood is requesting retroactive approval of an existing 48" high wood fence, atop a 28" high stone retaining wall, along the rear (south) property line bordering Trestle Glen Road located at 305 St. James Drive, 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 (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: Neighbors have the exact same fence in the same setback location.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because: I have a through lot, so this is the only way to enclose any space for children. My neighbors with similar through lots have the same.
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: Photos provided, approximate setback from the street is ten feet. No traffic concerns.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Ms. Wood for construction at 305 St. James Drive, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. Prior to the issuance of a building permit, the Property Owner shall apply for an encroachment permit to allow for construction within the public right-of-way. In lieu of this, the applicant may submit a survey from a licensed surveyor showing that the retaining wall is completely on the applicant's property.

2. Prior to the issuance of a building permit, the applicant shall submit a cashier's check or cash in the amount of \$1,275.85, which represents the value of all outstanding fees on this application and on previous Fence Design Review Application #09-0269.

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 Chase

Ayes: Chase, Henn, Kellogg, Robertson, Thiel

Noes: None

Absent: None

(Note: Commissioner Chase recused himself from the vote approving Resolution 60-DR-11 -- design review for 570 Mountain Avenue).

APPROVAL OF MINUTES

Resolution 8-PL-11

RESOLVED, that the Planning Commission approves as submitted its special meeting minutes of February 24, 2011.

Moved by Thiel, Seconded by Kellogg

Ayes: Henn, Kellogg, Robertson, Thiel

Noes: None

Abstain: Chase

Absent: None

Resolution 9-PL-11

RESOLVED, that the Planning Commission approves as submitted its meeting minutes of March 14, 2011.

Moved by Robertson, Seconded by Kellogg

Ayes: Henn, Kellogg, Robertson, Thiel

Noes: None

Abstain: Chase

Absent: None

PUBLIC FORUM

Rick Schiller referenced the City Council's March 21 meeting in voicing his opinion that the Council blatantly disregarded the

Commission's findings and recommendations concerning the Piedmont Recreation Facilities Organization's proposed sports field development project in Blair Park. He thanked the Commission for its independent, unbiased review of this project and criticized the PRFO and City Council for dismissing the Commission's authority and professional qualification to review the project.

Ralph Catalano concurred with Mr. Schiller, agreeing that the Councilmember Wieler's criticism of the Commission's qualifications was unwarranted and unjustified. He also requested the Commission to urge the City Council to issue a definitive statement reconciling the apparent inconsistency of PRFO's certified EIR with the City's General Plan.

Stuart Schneck advised the Commission that last week AT&T relocated its antennas on the PG&E tower at 275 Sandringham Road in direct violation of specific City approvals and that this matter has been brought to the attention of the City's Public Works Director.

REGULAR CALENDAR

The Commission considered the following items of regular business:

Variance and Design Review 218 San Carlos Avenue

Mr. and Mrs. William Joost are requesting variance and design review for retroactive approval for the construction of two decks with built-in benches and wood pergola atop at the northeast and southeast corners of the property. The requested variances are from: (1) Section 17.10.7 to allow the pergola atop the new sun deck to extend to approximately 3 inches of the right (south) side yard property line in lieu of the code required minimum of a 4 ft. side yard setback; (2) Section 17.10.7 to allow the proposed seating bench to extend to within 2-1/2 inches of the left (north) side yard property line in lieu of the code required minimum of 4 ft. side yard setback; and (3) Section 17.10.8 to allow the proposed seating bench to extend to within 2 inches of the rear property line in lieu of the code required minimum of a 4 ft. rear yard setback. The City Planner requested Commission determination as to whether the in-place improvements should be considered *primary* or *secondary structures*, noting that if it is determined that the improvements are primary structures then the above-listed variances are required. However, if a determination is made that the improvements are secondary structures, no variances are necessary and staff recommends that the variance fees paid by the applicant be refunded.

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

Public testimony was received from:

William Joost requested a refund of the variance application fees he paid.

The Commission agreed that the in-place improvements fit within the intent and definition of secondary structures under the City Code and thus no variances are required. The Commission further agreed that the improvements are beautifully designed and quality constructed, are consistent with the zero lot line setbacks observed by adjacent neighbors and impose no neighbor light, view or privacy impacts.

Resolution 283-DR-10

WHEREAS, Mr. and Mrs. William Joost are requesting retroactive approval for the construction of two decks with built-in benches and wood pergola atop at the northeast and southeast corners of the property located at 218 San Carlos 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 (including but not limited to height, bulk, materials, arrangements of structures on the parcel, and the integration into the site) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that: the improvements are well integrated into the property's existing landscaping and are harmonious in scale and materials with existing construction. The project complies with Design Review Guidelines II-1, II-2, II-3, II-3(c) & (d), II-5 and II-5(a).
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light. There is no impact on neighboring properties because the improvements are tucked into the rear corners of the property against existing structures. The project complies with the above-referenced Guidelines.
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 there is no impact on circulation patterns. The project complies with the above-referenced Guidelines.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Joost for construction at 281 San Carlos Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following condition:

- The setback variance fees paid in connection with this application shall be refunded to the applicant

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: Chase, Henn, Kellogg, Robertson, Thiel

Noes: None

Absent: None

**Variance, Design
Review and Wireless
Communications
Facilities
275 Sandringham**

T-Mobile West Corporation is requesting variance, design review and wireless communication facilities 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 adding new ground-mounted equipment cabinets and conduit within the existing equipment enclosure, and installing six new amplifier boxes and new connecting cables adjacent to the six existing T-Mobile antennae on the tower. The requested variance is from Chapter 17 to allow the new amplifier boxes to be located at a maximum height of 50 ft. in lieu of the code permitted maximum height of 35 ft. in Zone A.

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

Public testimony was received from:

Rick Hirsch, T-Mobile representative, explained the two-fold purpose of the proposed installation: (1) the amplifier boxes will boost cell phone signal strength to reduce dropped calls and enhance cell reception clarity; and (2) the ground-mounted junction box will increase the speed of data transmission. He stated that neither installation will be visible to the public -- the amplifier boxes are located directly behind the existing antennae sectors on the PG&E tower and the junction box cabinets will be located within the existing enclosed and fenced equipment enclosure on the site. He also emphasized that neither installation will increase/change the site's existing radio frequency emissions nor produce any noise. He stressed that since the new equipment is intended to upgrade the service capability of the existing antennae on the tower, it must be located in close proximity to these existing antennae. It would serve no purpose to locate this equipment elsewhere.

Rajat Mathur, T-Mobile consulting electrical engineer, responded to Commission questions in confirming that the proposed installation will have no effect on existing radio frequency levels at the site and that current site frequency emissions are well below permitted levels. He also agreed that there will be no noise generated by the installation and was confident that the project will be in compliance with the City's noise ordinance.

Stuart Schneck reiterated his strong opposition to any more installations at the Sandringham site, believing that the PG&E tower already has too much equipment and that cell companies will continue to request more and more installations. He also felt that since the installations are designed to enhance existing services rather than provide new services, the installations are not necessary. He also urged that if the application is approved, sound testing be conducted involving all the equipment on the site and not just the currently proposed additions.

The Commission supported application approval, citing the following reasons: (1) the amplifier installations will be hidden from view behind existing antenna sectors on the PG&E tower and are proportional in size to these antennae, hence there will be no visible change in existing site conditions; (2) the ground-mounted equipment will be installed inside the site's existing fenced and landscaped enclosure; (3) the installations will improve cell and data service for Piedmont residents to help meet the increased demand for and reliance on such services; (4) there will be no material change in existing radio frequency emissions or noise generation at the site; and (5) the variance situation is pre-existing -- the proposed installations will not affect the aesthetics or increase the height of the existing PG&E high-tension power pole.

Resolution 337-V/DR-10

WHEREAS, T-Mobile West Corporation is requesting permission 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 installing six new amplifier boxes and new connecting cables adjacent to the six existing T-Mobile antennae at a maximum height of 50 ft. on the tower located at 275 Sandringham Road, Piedmont, California, which construction requires variance and design review; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary in order to add structure in excess of the City's 35 ft. building height limit; 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) and the proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code.
2. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to the existence of the PG&E tower on which existing antennae are located. The proposed improvements are intended to work with these antennae and existing AT&T equipment at the site. In order to upgrade existing equipment at the site, the applicant has no choice but to add to this existing location. Per evidence submitted, in order to be most effective, the two amplifiers per antenna sector must be located directly adjoining the antennae they serve. 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 per submitted evidence tonight, the amplifiers fit directly behind the existing antennae on the site and are no higher or wider than the existing antennae sectors. The amplifiers will be finished to match the antennae and no additional radio frequency emissions will be created. The sound generation

associated with these amplifiers and ground-mounted equipment will be minimal and, as conditioned, the applicant will verify that the installation complies with the City's noise regulations. There are no additional cables proposed to connect the amplifiers with the ground-mounted panels. These panels will fit behind the existing fence at 275 Sandringham. There will be no material change in existing site conditions.

4. Accomplishing the improvement without a variance would cause unreasonable hardship because there can be no measurable increase in improved service levels to Piedmont residents without the proposed installation.

5. The proposed equipment installation will have no material change on the property's existing aesthetics. The new equipment on the PG&E tower will be finished in the same manner as the existing antennae on this tower and the ground-mounted panels will be within the site's existing equipment enclosure. The installation complies with Design Review Guideline II-3.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review application of T-Mobile West Corporation for proposed equipment installations 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 Kellogg, Seconded by Thiel

Ayes: Chase, Henn, Kellogg, Robertson, Thiel

Noes: None

Absent: None

Resolution 338-WCF-10

WHEREAS, T-Mobile West Corporation is requesting permission 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 adding new ground-mounted equipment cabinets and conduit within the existing equipment enclosure, and installing six new amplifier boxes and new connecting cables adjacent to the six existing T-Mobile antennae on the tower 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 facilities for T-Mobile as well as for AT&T are already collated on the existing PG&E tower at 275 Sandringham Road and the proposed upgrade will not increase the existing antennae count on this tower. The proposed improvement is intended to magnify the strength and capability of the system;
- (b) the amplifier blocks will be mounted behind the antenna sectors and will not materially change the physical impact of the antennae and its equipment around the community. The ground mounted equipment will be installed behind the pre-existing fence;
- (c) the finish of the amplifiers and equipment shall be non-reflective and of a color to minimize visual impact;
- (d) the proposed ground mounted boxes will be screened behind the existing wall and the amplifier boxes, as noted above, will be contained within the perimeter of the existing antennae;
- (e) the new equipment is not mounted on roofs but on an existing PG&E tower in a location that has been pre-approved and in place for some time;
- (f) the proposed improvements are located on a PG&E tower;
- (g) the applicant understands and agrees to this provision. The units will be continually utilized to benefit the citizens of Piedmont for wireless communications;
- (h) evidence shown tonight indicates that there will be no change in existing radio frequency signal strength as a result of the addition of the proposed amplifiers and that the issue of noise generation will be tested to verify that it is within City requirements;

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

- (a) it has been shown that the proposed work will simply improve and supplement the existing service. It will not add additional antennae nor will it change the location or direction of these existing antennae. There is no change to the fundamental service being provided;
- (b) evidence has been submitted that the service level to the north, east, south and west are materially benefitted by the antennae located at the site and this service level will be enhanced by the proposed addition of the amplifiers;
- (c) the cost is being paid for by T-Mobile. There is no cost to the City;
- (d) T-Mobile has agreed to this requirement;
- (e) there is no change to the existing location. The proposed improvements will be located on a pre-existing structure at the right height and positioned to provide optimal service for Piedmont and adjoining communities;
- (f) the proposed installation, as conditioned, will comply with Chapter 17 of the City Code.

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 T-Mobile West Corporation 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 applicant shall submit written verification from a licensed acoustical engineer that a post-construction field test confirms noise emanating from the ground-mounted equipment cabinets as well as the equipment at the level of the antenna 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 the equipment be in violation of Section 5.2.20 requirements, the applicant shall undertake mitigation measures to achieve compliance.
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. If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.

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 Robertson

Ayes: Chase, Henn, Kellogg, Robertson, Thiel

Noes: None

Absent: None

Design Review
45 Wildwood Avenue

Mr. Eric Downing is requesting design review to enclose the rear portion of the entry porch for a 244 sq. ft. foyer addition, construct a roof over the remaining front portion of the entry porch, relocate the front entry door, make window modifications, add exterior lighting, install a tankless water heater, and make various changes to the interior.

This staff design review application has been deferred to the Commission for review and action.

Written notice was provided to neighbors. **One affirmative and one negative response form** was received. **Correspondence** was received from: Douglas Korpi

Public testimony was received from:

Eric Downing summarized his consultations with neighbors and his efforts in designing a project to incorporate neighbor requests and mitigate concerns. He also explained the three design options submitted related to the porch enclosure and window treatment.

The Commission acknowledged the eclectic architectural appearance of the charming house and was not opposed in concept to the enclosure of the porch. However, the Commission, with the exception of Chairman Henn, voiced concern that the proposed enclosure, as currently designed, appears tacked-on and detracts from the architectural quality of the home's entry. The Commission majority felt that the design could be improved to eliminate the tacked-on appearance through the use of more architectural detailing, a different roof slope, a better overall scale and mitigation of neighbor privacy impacts from proposed window placement and number. Chairman Henn felt that Design Alternative #2 was acceptable, with the caveat that no bedroom was being created.

Resolution 68-DR-11

WHEREAS, Mr. Eric Downing is requesting permission to enclose the rear portion of the entry porch for a 244 sq. ft. foyer addition, construct a roof over the remaining front portion of the entry porch, relocate the front entry door, make window modifications, add exterior lighting, install a tankless water heater, and make various changes to the interior located at 45 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 does not conform with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

- The exterior design elements, including the 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 fail to achieve the design objectives set forth in Design Review Guidelines II-3 and II-3(a) through (c) in terms of architectural style, scale and massing consistency with the existing residence.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies, without prejudice, the design review application (including all three design alternatives) of Mr. Downing for construction at 45 Wildwood Avenue, Piedmont,

California, in accordance with the plans and specifications on file with the City.

Moved by Thiel, Seconded by Kellogg

Ayes: Chase, Kellogg, Robertson, Thiel

Noes: Henn

Absent: None

The Commission recessed for a brief break at 8:10 p.m. and reconvened at 8:30 p.m.

**Variance and
Design Review
67 Wildwood Avenue**

Mr. Gary Theut is requesting variance and design review to demolish an existing non-conforming garage and replace it with a new conforming 2-car garage in the northwest corner of the property. The requested variances are from: (1) Section 17.10.7 to allow the new garage eave to extend to within 6 inches of the left (west) side property line in lieu of the code required minimum of a 4 ft. side yard setback; and (2) Section 17.0.8 to allow the new garage eave to extend to within 6 inches of the rear (north) property line in lieu of the code required minimum of a 4 ft. rear yard setback.

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

Public testimony was received from:

Joseph Ney, Project Architect, stated that the applicant's current garage is failing and the proposed project will construct a new 2-car garage with windows and exterior materials and colors that match the house. The new garage will be in essentially the same location as the existing garage. He stated that the motion-sensor light at the rear wall is intended for property safety/security. However, he agreed to remove this light fixture to mitigate potential light intrusion impacts on his adjacent neighbor.

The Commission supported application approval, agreeing that the variance situation is pre-existing, it is not physically possible to construct a 2-car garage outside of the setbacks and garage locations within side and rear yard setbacks is commonplace in the immediate neighborhood. The Commission further agreed that the design of the new garage was architecturally compatible with the house and neighborhood. However, the Commission requested that the proposed rear wall light fixture be deleted to minimize impacts on the neighbor. In addition, it was requested that the application's site plan be corrected to indicate the actual location of the existing fence gate -- the plans were in error.

Resolution 69-V-11

WHEREAS, Mr. Gary Theut is requesting permission to demolish an existing non-conforming garage and replace it with a new conforming 2-car garage in the northwest corner of the property located at 67 Wildwood Avenue, Piedmont, California, which construction requires variance; and

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary in order to construct within the north (rear) and west (left) side yard setbacks; 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 the garage to be replaced already exists in this location and there is no feasible way to locate the new garage outside of the setbacks. 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 variances are compatible with the immediately surrounding neighborhood and the public welfare because there are many similar garages in the neighborhood located within setbacks.
4. Accomplishing the improvement without variance would cause unreasonable hardship in planning, design, or construction because there is no other place to locate a garage on the property without necessitating major modifications to the house.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application of Mr. Theut for the above variances at 67 Wildwood 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 Robertson, Seconded by Kellogg

Ayes: Chase, Henn, Kellogg, Robertson, Thiel

Noes: None

Absent: None

Resolution 69-DR-11

WHEREAS, Mr. Gary Theut is requesting permission to demolish an existing non-conforming garage and replace it with a new conforming 2-car garage in the northwest corner of the property located at 67 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, pitch of the roof, and exterior and window materials) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that the proposed improvements are well integrated with the existing house. The project complies with Design Review Guidelines III-1, III-2, III-2(a), III-4 and III-5.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because the new garage will be constructed in the same location as the existing garage it replaces. The project complies with the above-cited Guidelines.
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 proposed improvements replace an existing garage. The new garage will improve off-street parking for the property and will utilize the existing driveway. The project complies with the above-cited Guidelines in addition to Guidelines III-7 and III-7(a).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Theut for construction at 67 Wildwood Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Construction Management Plan.** The Property Owner shall develop a comprehensive Construction Management Plan. 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 has 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 Inspection.
2. **Construction Completion Schedule.** Work on the Project, once begun, shall be promptly executed with continuous good faith and reasonable progress. Since timely completion of this Project is of the essence, the Property Owner 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
- xi. any further construction benchmarks and conditions of occupancy as may be determined by the Director of Public Works.

b. Before the Project begins, the Director of Public Works shall make a determination as to the reasonableness of the proposed completion dates applicable to the Project, and that determination shall constitute the "Approved Schedule" and be binding on the Property Owner. The City may, at the Property Owner's sole cost, engage the services of a consultant to review the Property Owner'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 has the option at any time thereafter to make a claim against the Property Owner's Performance Security, if one is required, in order to complete the benchmark.

3. **Contractor's General Liability Insurance.** To ensure that the contractor doing work in the City will be responsible for damages caused by the work to City property or to neighboring property, the Property Owner 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 per occurrence. The insurance shall include builder's risk. The insurance shall include an endorsement requiring 30 days' notice to the City if the insurance is cancelled or changed, and Property Owner shall immediately arrange for substitute insurance coverage.

As an alternative to requiring each subcontractor to obtain General Liability Insurance, the Property Owner may require the General Contractor to obtain an endorsement to cover his or her subcontractors.

If the Property Owner does not have a general contractor, the Property Owner shall maintain property insurance, including builder's risk and coverage for subcontractors, which is substantially equivalent to the contractor's requirement of this section.

4. **Encroachment Permit - Sewer Main.** Before the issuance of a building permit, the Property Owner shall work with City staff to verify the location and depth of the sanitary sewer mains and the location of easements and any manholes and cleanouts. In addition, the Property Owner, at his or her expense, shall videotape the existing sewer main and any laterals and submit a copy of the tape to the City for staff review. The City's review shall determine the pre-construction condition of the sewer main and the Director of Public Works shall determine whether any repairs to or replacement of the sewer main is required before the beginning of excavation and/or construction. (The City is responsible for the cost of the main line, and the property owner for costs of the lateral.) as part of the final inspection the same sewer line(s) shall be inspected as required by the Director of Public Works, who shall also determine if the sewer line(s) were damaged as a result of the construction and therefore must be repaired at the Property Owner's expense.

5. **Fence Gate.** The submitted drawings shall be corrected to indicate the actual location of the fence gate on the property.

6. **Rear Light.** The proposed light fixture along the rear wall of the garage shall be removed.

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: Chase, Henn, Kellogg, Robertson, Thiel

Noes: None

Absent: None

**Second Unit with
Parking Exception,
Variance and
Design Review
206 Sunnyside Avenue**

Ms. Catherine Zhang is requesting approval of a Second Unit with a Parking Exception to construct a new 1-bedroom second unit in the middle level of the residence; and to restore an original bedroom and bath in the middle level of the house to be used as part of the existing main residence. Design Review is requested for window modifications and retroactive approval of a rear deck. The applications propose the removal of construction related to an unapproved second dwelling unit in the middle level of the house and an unapproved third dwelling unit in the lower level of the house (installed by prior owners). A parking exception is required in order to construct a new legal second unit without providing conforming parking. The requested variances are to exceed the maximum lot coverage with structures and hardscaping.

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

Public testimony was received from:

Larry Drumm, the applicant's husband, stated that the new second unit will be within walking distance to public transit lines as well as grocery stores and schools.

The Commission supported application approval, agreeing that the ingenious remodel corrects the illegal construction by a prior owner while upgrading the home to modern family standards. In addition, the parking exception for the proposed second unit is justified since this property was previously used for multi-family habitation and the second unit is ideally located near public transit bus lines and a casual carpool zone. The Commission agreed that there is no negative impact associated with the second unit.

Resolution 71-V/DR-11

WHEREAS, Ms. Catherine Zhang is requesting permission to restore an original bedroom and bath in the middle level of the house to be used as part of the existing main residence; make window modifications and seek retroactive approval of a rear deck. The application also propose the removal of construction related to an unapproved second dwelling unit in the middle level of the house and an unapproved third dwelling unit in the lower level of the house (installed by prior owners) located at 206 Sunnyside Avenue, Piedmont, California, which construction requires variance and design review; and

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary in order to exceed the maximum lot coverage with structures and hardscaping; 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: this is an exceptionally small lot compared to other Piedmont properties, existing structures are already built on a substantial portion of the lot and the lot is surrounding on two sides by City property that otherwise would not be put to its highest and best use. 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 variances are compatible with the immediately surrounding neighborhood and the public welfare because the hardscape coverage is being reduced over that currently existing and there is no visual perception that there is too much lot coverage for the site.
4. Accomplishing the improvement without variance would cause unreasonable hardship in planning, design, or construction in that it would not be feasible.

5. The proposed improvements comply with Design Review Guidelines II-3(a) through (d) in that there is no change in the scale, mass and architecture of the existing structure, the proposed deck is consistent in size and mass with the house and neighborhood and no tacked-on appearance is being created as a result of the remodel.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review application of Ms. Zhang for proposed construction at 206 Sunnyside Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. Egress Windows. The window for Bedroom #2 on the middle level at the rear must meet egress. If alterations are necessary, they shall be subject to staff review and approval prior to the issuance of a building permit.
2. Fire Protection of Decks. The decks shall meet Section 5.2.24 of the Piedmont Building Code.
3. Encroachment Permit. Before the issuance of a building permit, the Property Owner shall apply for an encroachment permit for the construction of the two patios and the storage structure within the public right-of-way or public easement.

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: Chase, Henn, Kellogg, Robertson, Thiel

Noes: None

Absent: None

Resolution 70-SU-11

WHEREAS, Ms. Catherine Zhang is requesting a Second Unit with Parking Exception to construct a new 1-bedroom, very low income second unit in the middle level of the residence located at 206 Sunnyside Avenue, Piedmont, California; 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 17D.6(b)2 of the Piedmont City Code:

1. 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. Historically, there have been multiple units on this property with no garage and there is no evidence of negative impact on traffic in the neighborhood. The project actually reduces the use and demand on parking/traffic in the area.
2. The parking exception will not adversely affect the character of the surrounding neighborhood in that most residences on this side of Sunnyside do not have garages and on-street parking is commonly used in this area.
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. The house is situated in close proximity to multiple modes of public transportation which mitigates the need for additional off-site parking for this unit.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the second unit with a parking exception application of Ms. Zhang for construction at 206 Sunnyside Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. Second Unit Declaration. As part of the submittal for a building permit, the completed, signed and notarized *Declaration of Restrictions - Property with Approved Second Dwelling Unit* form shall be recorded. In compliance with Section 17D.5(g), the issuance of the building permit may not occur until the *Declaration* is recorded.
2. Very Low Income Second Unit Declaration. As part of the submittal for 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. In compliance with Section 17D.6(d), the issuance of the building permit may not occur until the *Declaration* is recorded.
3. Rent Certification. 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. The form shall be submitted annually to provide evidence of continued compliance with the California Department of Housing and Community Development State Income Limits for Alameda County.
4. 10 Year Requirement. 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. Annual Rental Tax. 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. 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.
7. 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.
8. 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.
9. Approved Plan Set. The approved plans are those submitted on March 25, 2011 with modifications submitted on March 28 and 29, 2011.
10. Interior Stairs. The winder of the stairs proposed to connect the middle and lower levels must be revised to meet the Building 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 Thiel, Seconded by Robertson

Ayes: Chase, Henn, Kellogg, Robertson, Thiel

Noes: None

Absent: None

**Variance and
Design Review
100 St. James Drive**

Mr. and Mrs. Rajeev Bhatia are requesting variance and design review to add two bedroom suites to the existing one-story, three bedroom house by constructing a 724 sq. ft. second story addition with window and skylight modifications, and various changes to the interior.

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 each measuring 9 ft. by 19 ft. 5 in. in lieu of the code required minimum of three covered parking spaces with minimum dimensions of 9 ft. by 20 ft. each. A similar parking variance was granted in December 2005 to a previous owner proposing 4 rooms eligible for use as bedrooms but no building permit was ever submitted.

Written notice was provided to neighbors. **Six affirmative, one negative response forms** were received.

Public testimony was received from:

Sheila and Rajeev Bhatia stated they are new owners of the property and the proposed compact-sized addition is designed to make the home more livable for their family. Mr. Bhatia stated that the existing 2-car garage accommodates the parking for two vehicles, even though is it slightly less deep than the code required dimension. He added that there is currently a third, uncovered parking space on the property but he is reluctant to cover this parking in order to comply with the code because to do so would necessitate the removal of oak tree limbs which currently screen this parking area from neighbor view. He requested that an exception from covering this parking space be granted pursuant to City Code Section 17.22.4(a).

Steven Stept, Project Architect, described the very secluded, wooded nature of the property, the modest size of the proposed addition, the various design options examined and his conclusion that the proposed plan creates a seamless addition with minimal visual impact on neighbors or the home's entry courtyard.

Nancy Mar opposed the project, citing loss of privacy and view from her upper level master bedroom windows. She noted that she recently removed a large oak tree which was damaged during rain/wind storms - this tree previously screened the area where the new addition is proposed from view.

The Commission acknowledged that they were unaware of Ms. Mar's concerns/objections until tonight and voiced disappointment that a site visit was not requested by Ms. Mar so that the impact to her property could be evaluated. In any event, the Commission did not support application approval at this time. The Commission was divided with regard to support for variance approval, with those opposed citing a lack of justification to approve a parking variance for a 5-bedroom home with no conforming parking. Those in favor felt that since the existing garage accommodates two vehicles and the 3rd parking space is not seen from the street, the situation qualifies for an exception under Section 17.22.4(a). As to design review, some Commissioners felt that the upper story addition was disproportionally tall for the house creating a top hat, tacked-on appearance which was contrary to the low-profile, horizontal character of the home's mid-century architectural style. As to neighbor impacts, some Commissioners felt that its impact on the Mar's property in terms of view and privacy could be mitigated through a lowering of ceiling and plate lines or a relocation of the addition from the west side to the east side of the home or the planting of landscaping screening to replace the removed oak tree. Chairman

Henn preferred to view the proposal from the Mar's property prior to reaching a decision as to design acceptability.

Resolution 72-DR-11

WHEREAS, Mr. and Mrs. Rajeev Bhatia are requesting permission to add two bedroom suites to the existing one-story, three bedroom house by constructing a 724 sq. ft. second story addition with window and skylight modifications, and various changes to the interior located at 100 St. James Drive, 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 proportion of the proposed upper story to the existing house creates a tacked-on appearance. Therefore, it does not comply with Design Review Guidelines II-2 and II-3.
2. The proposed upper level addition/expansion has not been designed in a way that reasonably minimizes view and light impacts on neighboring properties, including consideration of the location of the new construction and lowering the height of the addition level. The proposed improvements do not comply with Design Review Guidelines II-1, II-6, II-7 and II-7(a).
3. The size and height of the addition is commensurate with the size of the lot 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.

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. Bhatia for construction at 100 St. James Drive, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Robertson, Seconded by Thiel

Ayes: Chase, Henn, Kellogg, Robertson, Thiel

Noes: None

Absent: None

Resolution 72-V-11

WHEREAS, Mr. and Mrs. Rajeev Bhatia are requesting permission to add two bedroom suites to the existing one-story, three bedroom house by constructing a 724 sq. ft. second story addition with window and skylight modifications, and various changes to the interior located at 100 St. James Drive, 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 two rooms eligible for use as a bedroom without supplying the required 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:

- there is no approved design for this property to justify the need for variance at this time.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies the variance application of Mr. and Mrs. Bhatia for the above variance at 100 St. James Drive, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Thiel, Seconded by Robertson

Ayes: Chase, Henn, Kellogg, Robertson, Thiel

Noes: None

Absent: None

**Special Planning
Commission
Consideration
71 Dudley Avenue**

Mr. Roger Ha and Ms. Jennifer Lee are requesting Special Planning Commission Consideration to remove a condition of approval required as part of the original 2010 and subsequent related design review applications for a remodeled and expanded house and site improvements. The condition requested to be removed requires a Performance Security deposit in the form of cash or other financial vehicle for an amount equal to 125% of the estimated cost of construction to ensure completion of the project. Previous applications related to this property were considered by the Commission and/or Staff on January 11, July 12, September 13 and December 22, 2010.

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

Commissioner Chase recused himself from discussion and action on this application and left the Council chambers.

Public testimony was received from:

Grier Graff, Project Architect, referenced his discussions with the current and former City Attorney as well as Deputy City Attorney regarding the onerous nature of the Performance Security Deposit condition in support of his clients' request to substitute this condition with the staff-proposed Site Safety Security Deposit. He noted that current City policy and practice is to require Site Safety Security Deposits rather than Performance Security Deposits.

The City Planner referenced her staff report in concurring with Mr. Graff's statements that the City's legal counsels (both past and present) agree that the proposed Site Safety Security provisions meet the City's goals of preserving property values, public safety and neighborhood aesthetics better than the previously required Performance Security provisions for a variety of reasons; hence the City no longer imposes

the Performance Security provisions on major construction projects. She recommended approval of Mr. Ha's and Ms. Lee's request.

The Commission, with the exception of Commissioner Thiel, supported staff's recommendation, concurring with the conclusions of the City's legal counsel, agreeing that the request is consistent with current City policy and practice and acknowledging that there is little legitimate fear that the Ha/Lee project will not be completed since no major excavation is required and the proposed construction is not difficult. Commissioner Thiel felt that the proposed Site Security provision would not guarantee to the same extent as the Performance Security provision that the quality of the originally approved design will ultimately be constructed and completed. He cited examples where the design quality of previously-approved large-scale projects has been degraded during construction because the applicant could no longer afford to complete the project as originally approved. He wasn't convinced that the Site Security provision would protect the design integrity of approved projects. Commissioner Kellogg felt that there were two issues involved: neighborhood security/protections in case a project is abandoned and maintaining the quality of approved designs. He felt that the proposed Site Security provisions address the first issue. He suggested that design quality could be better protected by requiring property owners to incorporate into their construction loan amounts a 10 to 15% contingency -- thus design quality would not be put at risk if the loan amount is greater than the cost of construction.

Resolution 74-PL-11

WHEREAS, Mr. Roger Ha and Ms. Jennifer Lee are requesting Special Planning Commission Consideration to remove a January 11, 2010, condition of project approval requiring a Performance Security deposit in the form of cash or other financial vehicle for an amount equal to 125% of the estimated cost of construction to ensure completion of the project related to proposed construction at 71 Dudley Avenue; 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:

1. The project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e); and
2. The applicants' request is consistent with current City policy and practices to substitute the afore-mentioned Performance Security Deposit condition with a proposed Site Safety Security Deposit in the amount of \$25,000.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the Special Planning Commission Consideration request of Mr. Ha and Ms. Lee and amends Planning Commission Resolution 318-DR-09 (adopted January 11, 2010) approving Mr. Ha and Ms. Lee's proposed construction project at 71 Dudley Avenue, to substitute the following language for Condition #5:

"5. Site Safety Security. The City and the public have an interest in not having an unfinished project blighting the neighborhood and undermining property values. These public interests are primarily safety and aesthetics, and diminishment of property values. Prior to the issuance of a Building Permit, the Property Owner shall provide a specific cash deposit, letter of credit, bank guarantee, or other similar financial vehicle ("Site Safety Security") in the amount of \$25,000 to ensure that the Project site is not left in a dangerous or unfinished state.

- a. The Site Safety Security shall be in an amount to include three components:
 - 1) safety, which means the cost to make the site and structure safe if construction should cease mid-way through the Project;
 - 2) aesthetics, which means an amount to install and maintain landscaping all around the Project to protect the immediate local views from neighbors and public property; and
 - 3) staff and consultant time to evaluate and implement this condition.

If, as the Project proceeds, the expected costs of these components increases beyond the original estimate in the opinion of the Director of Public Works, the City may require the Property Owner to increase the amount of the Site Safety Security by the additional amount. The Property Owner shall provide City with written evidence of compliance within 15 working days after receiving written notice of the additional required amount. The City shall retain, at the Property Owner's expense, an independent estimator to verify the total expected costs to complete the Project and any subsequent revisions.

b. The form and amount of the Site Safety Security is subject to the approval of the Director of Public Works. Payment to City under the Site Safety Security shall be made payable upon demand by the City and prior to the issuance of the Building Permit, conditioned solely on the Director of Public Works' certification on information and belief that all or any specified part of such Performance Security is due to the City.

c. The Site Safety Security shall not be released until the Project has an approved Final Inspection by the Chief Building Official. However, if sufficient work has been completed according to the benchmarks and construction values as established under the Construction Completion Schedule, the Site Safety Security may be reduced to the extent the Director of Public Works in his sole discretion determines is appropriate."

RESOLVED FURTHER, that all other approval conditions set forth in Resolution 318-DR-09 shall remain in full effect.

Moved by Kellogg, Seconded by Robertson

Ayes: Henn, Kellogg, Robertson

Noes: Thiel

Recused: Chase

Absent: None

**Variance and
Design Review
124 Magnolia Avenue**

Mr. Eric Ethington is requesting variance and design review to make various improvements to the existing 2-story, 2-bedroom residence with a non-conforming 2-car garage, including: substantial modifications to the interior floor plan including the addition of two bedrooms at the lower level; the demolition of an existing rear lower

level deck; the construction of an approximately 190 sq. ft. deck along the rear; and substantial alterations to the exterior of the residence involving the windows and doors, deck railings, exterior lights, and support columns. The resulting residence will have 4 bedrooms and 3 baths. The requested variance is from Section 17.16 to allow a residence with 4 rooms eligible for use as bedrooms with two covered parking spaces measuring a total of 17'4" by 19'4" in lieu of the Code required minimum dimension of 18 ft. by 20 ft.

Staff clarified that originally this application was noticed with three variances, two of which pertained to structure and hardscape coverage. However, staff recently determined that the applicant's calculations regarding these coverages were in error and in fact no structure or hardscape variance is required. Therefore, the application requires only a parking variance.

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

Public testimony was received from:

Eric Ethington stated that he recently purchased the property and is now in the process of making the home habitable.

Peter Zepponi, Project Architect, explained how the proposed project will correct illegal construction by a prior owner. He also submitted revised drawings for the proposed deck readjusting the left side of the deck to improve driveway/garage maneuvering.

The Commission supported application approval, agreeing that while the existing 2-car garage is slightly undersized, it functions and is used for the parking of two cars. In addition, the Commission agreed that the proposed improvements will improve the architectural quality of the home's rear facade. The Commission supported the revised deck modification/design submitted by the architect and suggested that consideration be given to making the deck symmetrical by adjusting the right side as well. The applicant was encouraged to work with staff in making further modifications to the deck designed to improve vehicle access to the garage.

Resolution 77-V-11

WHEREAS, Mr. Eric Ethington is requesting permission to make various improvements to the existing 2-story, 2-bedroom residence with a non-conforming 2-car garage, including: substantial modifications to the interior floor plan including the addition of two bedrooms at the lower level; the demolition of an existing rear lower level deck; the construction of an approximately 190 sq. ft. deck along the rear; and substantial alterations to the exterior of the residence involving the windows and doors, deck railings, exterior lights, and support columns located at 124 Magnolia 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 increase the number of rooms eligible for use as bedrooms without providing conforming covered 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 the existing garage is close to conforming in parking space dimension. 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 there is no other place to locate a garage and its current location is similar to other garages in the neighborhood.
4. Accomplishing the improvement without variance would cause unreasonable hardship in planning, design, or construction because the existing garage accommodates the parking of two vehicles and there is no other place on the property to locate a garage of conforming size.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application of Mr. Ethington for the above variances at 124 Magnolia 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 Robertson, Seconded by Chase

Ayes: Chase, Henn, Kellogg, Robertson, Thiel

Noes: None

Absent: None

Resolution 77-DR-11

WHEREAS, Mr. Eric Ethington is requesting permission to make various improvements to the existing 2-story, 2-bedroom residence with a non-conforming 2-car garage, including: substantial modifications to the interior floor plan including the addition of two bedrooms at the lower level; the demolition of an existing rear lower level deck; the construction of an approximately 190 sq. ft. deck along

the rear; and substantial alterations to the exterior of the residence involving the windows and doors, deck railings, exterior lights, and support columns located at 124 Magnolia 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 proposed improvements are a well-integrated upgrade of the property. The project complies with Design Review Guidelines II-1, II-2, II-3 and II-3(a) through (d).
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because the mass of the existing building remains unchanged and the windows are tucked in at a low level which pose no impact on neighboring property. The project complies with the above-cited Design Review Guidelines as well as Guideline II-6.
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 project improves the functionality of the existing garage. The project complies with the above-cited Design Review Guidelines as well as Guideline II-7 and II-7(a).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Ethington for construction at 124 Magnolia Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Construction Management Plan.** The Property Owner shall develop a comprehensive Construction Management Plan. 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 has 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 Inspection.
2. **Construction Completion Schedule.** Work on the Project, once begun, shall be promptly executed with continuous good faith and reasonable progress. Since timely completion of this Project is of the essence, the Property Owner 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
 - xi. any further construction benchmarks and conditions of occupancy as may be determined by the Director of Public Works.
 - b. Before the Project begins, the Director of Public Works shall make a determination as to the reasonableness of the proposed completion dates applicable to the Project, and that determination shall constitute the "Approved Schedule" and be binding on the Property Owner. The City may, at the Property Owner's sole cost, engage the services of a consultant to review the Property Owner'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 has the option at any time thereafter to make a claim against the Property Owner's Performance Security, if one is required, in order to complete the benchmark. The Director of Public Works has the option to refer the application to the Planning Commission for public review.
3. **Approved Plan Set.** The approved plans are those submitted on March 25, 2011, with revised graphic calculations and revised deck plan submitted on April 11, 2011, after neighbors were notified of the project and the plans were available for public review.
4. **Windows & Doors.** The proposed windows and doors shall be painted to match the remaining windows and doors throughout the residence.
5. **Exterior Lighting.** The proposed exterior light fixtures shall be downward directed and have a maximum of 60 watts.

6. **Deck Revisions.** This approval includes the proposed deck revisions submitted tonight by the project architect. Further deck revisions intended to improve vehicle access to the garage 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 Chase

Ayes: Chase, Henn, Kellogg, Robertson, Thiel

Noes: None

Absent: None

ADJOURNMENT

There being no further business, Chairman Henn adjourned the meeting at 10:45 p.m.