

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, February 13, 2012

A Regular Session of the Piedmont Planning Commission was held February 13, 2012, 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 February 3, 2012.

CALL TO ORDER

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

ROLL CALL

Present: Commissioners Phillip Chase, Michael Henn, Jim Kellogg, Melanie Robertson, Clark Thiel and Alternate Commissioner Tom Zhang

Staff: City Planner Kate Black, Deputy City Attorney Judith Robbins, Assistant Planner Kevin Jackson, Planning Technicians Sylvia Toruno and Andrea Argeulles and Recording Secretary Chris Harbert

City Council Liaison: Councilmember Margaret Fujioka

CONSENT CALENDAR

There was no consent calendar.

PUBLIC FORUM

There were no speakers for the public forum.

APPROVAL OF MINUTES

Resolution 2-PL-12

RESOLVED, that the Planning Commission approves as submitted its meeting minutes of January 9, 2012.

Moved by Thiel, Seconded by Kellogg

Ayes: Chase, Henn, Kellogg, Robertson, Thiel

Noes: None

Absent: None

REGULAR CALENDAR

The Commission considered the following items of regular business:

Wireless Communication Facility and Design Review 275 Sandringham

AT&T Mobility for PG&E is requesting wireless communication facility and design review to supplement and upgrade the AT&T 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, cables, cable bridge and GPS antenna within the existing equipment enclosure; and adding additional cable, a surge suppressor, six new remote radio head units and three new antennae on the tower at the same height as the existing AT&T antennae (for a total of nine AT&T antennae, three on each of the north, south and west faces of the tower).

Written notice was provided to neighbors. **One negative response form** was received. **Correspondence** was received from: Stuart Schneck; Terrence McGrath; Lisa Kalmbach

Public testimony was received from:

Barbara Leslie, AT&T External Affairs Director, narrated a power-point presentation indicating the dramatic growth in wireless voice and data usage and the increasing demand from customers for greater

service access and reliability in their homes. She stated that the proposed application is intended to upgrade AT&T's network by providing the new Long Term Evolution (LTE) fourth generation (4G) 700 MHz band service from the existing Sandringham site.

Matt Yergovich of AT&T explained the function and purpose of the proposed installation. He referenced the City's third-party analysis of the application by Jonathan Kramer which examined potential alternative location sites and determined that the desired service upgrade could only be provided if the proposed equipment was installed on the existing utility tower at 275 Sandringham or in the steeple of Corpus Christi Church. He stated that Corpus Christi Church is not interested in such an installation on their premises and in any event, the church steeple is not as high as the existing PG&E tower so the resulting service coverage would not be as good as what could be provided from the existing tower. He reiterated AT&T's belief that the installation of the new equipment at an existing wireless facility site is the most appropriate in terms of City policy compliance and service effectiveness. In response to Commission questions, Mr. Yergovich stated that: (1) the proposed GPS antenna could be located so that it is below the existing fence height at the site, thus not visible to the public; (2) while the proposed cable bridge would protrude above the 7 ft. height of the enclosure fence, it would be located as low as physically possible on the site and in any event would not exceed 9'4" in height; (3) this cable bridge would also be painted a dark color to blend into its surroundings, thus minimizing its visual impact; (4) the new 4G service coverage upgrade would overlay the existing 3G coverage area to provide better voice and data service to customers; and (5) RF frequency levels at the site will remain well below FCC thresholds.

Stuart Schneck requested that the application be tabled pending a legal opinion regarding whether the application complies with City Code Section 17.G.4 relative to the 300 homes service requirement, reiterated his opposition to more and more service antennas being located on the existing tower (citing aesthetic and neighborhood fairness reasons) and stated that the proposed installation will result in the elimination of 9 parking spaces on the site currently being used by Corpus Christi employees. He urged that no action on this application be taken until the City Council reviews his legal challenge and revises the City's outdated wireless code. Mr. Yergovich assured the Commission that no existing on-site parking spaces will be affected -- the proposed installation is not located near the parking area.

The Commission supported application approval, agreeing that the proposed installation is compatible with the existing use of the site, there is no significant change or adverse impact on neighbor light, view or privacy, the co-location of the equipment at this existing site is preferable to installing a monopole elsewhere in the City and mitigation measures have been employed to improve existing site aesthetics. The Commission briefly debated the pros and cons of either painting the cable bridge which will protrude above the existing fence or increasing the fence height to 10 ft. to screen this bridge. In the end, the Commission felt that the painting option was the preferred choice. Chairman Henn also voiced his desire that more landscaping/trees be planted on the site to provide more visual screening.

Resolution 13-DR-12

WHEREAS, AT&T Mobility on behalf of PG&E requesting permission to supplement and upgrade the AT&T 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, cables, cable bridge and GPS antenna within the existing equipment enclosure; and adding additional cable, a surge suppressor, six new remote radio head units and three new antennae on the tower at the same height as the existing AT&T antennae (for a total of nine AT&T antennae, three on each of the north, south and west faces of the tower) at the site of the PG&E tower located at 275 Sandringham Road, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission finds that the proposal is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(b) and (e) and conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. The exterior design elements are harmonious with the existing development at the site in that the proposed equipment is indistinguishable from the mechanical pieces of equipment that currently exist on the PG&E tower. The project complies with Design Review Guidelines II-1, II-2, II-3(b) & (c), II-6 and II-6(b).
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because the proposed project minimizes an already existing impact on the neighborhood. The project complies with Design Review Guidelines II-1, II-2, II-3, II-4, II-6 and II-6(b).
3. The size and height of the new antennas are commensurate with the size and height of the existing utility tower. There is no change in the existing development pattern on the site. The project complies with the above-referenced Guidelines.
4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected. There will be no impact on existing site parking.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of AT&T Mobility on behalf of PG&E for construction at 275 Sandringham Road, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. The maximum height of all new equipment shall be 35 ft. above grade;
2. The new antennae and equipment shall have a non-reflective finish of a color that matches that of the existing tower and equipment;

3. The new and existing cables shall be bundled and routed so as to reasonably minimize their visual impact and appearance on the tower.
4. 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.
5. 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.
6. No portion of the project mounted on or near the ground inside the BTS enclosure, including the equipment cabinets; the mounting platforms, rails and racks; the GPS antenna; cables; work lights; and all other elements of the project, excluding any equipment mounted on the utility tower, shall protrude above the height of the BTS enclosure, with the exception that a portion of the cable bridge can have a maximum height of 9'4" above grade. This cable bridge shall be installed as low as possible and be painted a color consistent with that of its surrounding vegetation and environment. Said installation and painting shall be subject to staff review and approval; and
7. AT&T shall place and maintain a permanent RF Notice sign in English and Spanish on the BTS enclosure access point. The sign must be a minimum of 8" wide by 12" high, compliant with FCC OET Bulletin 65 or ANSI C95.2 for color, symbol, and content conventions. The sign shall at all times provide a working local or toll-free telephone number to its network operations center and such telephone number shall be able to reach a live person who can exert transmitter power-down control over this site as required by the FCC. The location of the sign must ensure that anyone approaching may clearly see the sign before accessing the BTS enclosure area.

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 Chase, Seconded by Thiel

Ayes: Chase, Henn, Kellogg, Robertson, Thiel

Noes: None

Absent: None

Resolution 340-11

WHEREAS, AT&T Mobility on behalf of PG&E is requesting permission to supplement and upgrade the AT&T 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, cables, cable bridge and GPS antenna within the existing equipment enclosure; and adding additional cable, a surge suppressor, six new remote radio head units and three new antennae on the tower at the same height as the existing AT&T antennae (for a total of nine AT&T antennae, three on each of the north, south and west faces of the tower) at the corner of Sandringham Road and Estates Drive located at 275 Sandringham Road, Piedmont, California, which construction requires compliance with Chapter 17G of the City Code; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e) and the proposal conforms with the criteria and standards of Section 17G.3 of the Piedmont City Code:

- a. the new antennas are co-located with existing and previously approved wireless facilities and the manner, position and color of the installation will have the least visual impact. The applicant will cooperate with other service providers to facilitate collocation;
- b. all ground mounted wireless communication equipment, antennas and towers are of a minimum functional height.
- c. the new antennas and equipment will have a non-reflective finish and will be painted to minimize visual impact, as was addressed in Design Review Resolution 13-DR-12.
- d. all ground mounted equipment, antennas, or poles are screened by existing development, topography or vegetation to the extent feasible. The City recognizes that the owner of the property is separate from that of the applicant.
- e. there are no roof-mounted equipment and antennas.
- f. the location of new wireless communication facilities is located on a public utility owned right-of-way.

- g. as conditioned, all equipment associated with the wireless communication facility will be removed within 30 days of the discontinuation of its use and the site shall be restored to its original preconstruction condition. In addition, the service provider will provide the City with a notice of intent to vacate a site a minimum of 30 days prior to the vacation.
- h. the applicant is responsible for complying with FCC guidelines regarding radio frequency exposure. Documentation has been submitted to the City indicating AT&T's compliance with said guidelines.

and with the criteria and standards of Section 17G.4.6 of the Piedmont City Code:

- a. the applicant has proven beyond a reasonable doubt that there is no site within Zone B and no site outside of the City that can provide the same or better wireless communication 4G coverage to the area within the City which is in question.
- b. it has been proven that the site outside of Zone B that is being applied for is either the best site to provide wireless communications coverage for the Piedmont homes in question or that it is one of several equally good sites outside of Zone B. There were no other sites identified that were equally as good and submitted evidence indicated that the proposed site will improve the coverage for Piedmont.
- c. cost factors for the applicant were not a consideration.
- d. the development standards in Section 17G.3 were fully considered. The Commission finds that the coverage the applicant is seeking is identical to that which already been approved.
- e. while the site is located in Zone A, it is not a single family residence but an existing PG&E utility tower and co-location facility for the existing AT&T wireless communication network.
- f. the proposed site and facilities are in as close conformance with the design review provisions of Chapter 17 of the City Code as is reasonably possible.

RESOLVED, that based on the findings and facts set forth heretofore, the Planning Commission recommends City Council approval of the application of AT&T Mobility on behalf of PG&E to supplement and upgrade the AT&T 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, cables, cable bridge and GPS antenna within the existing equipment enclosure; and adding additional cable, a surge suppressor, six new remote radio head units and three new antennae on the tower at the same height as the existing AT&T antennae (for a total of nine AT&T antennae, three on each of the north, south and west faces of the tower) at the site of the PG&E tower at the corner of Sandringham Road and Estates Drive located at 275

Sandringham Road, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. The maximum height of all new equipment shall be 35 ft. above grade;
2. The new antennae and equipment shall have a non-reflective finish of a color that matches that of the existing tower and equipment;
3. The new and existing cables shall be bundled and routed so as to reasonably minimize their visual impact and appearance on the tower.
4. 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.
5. 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.
6. No portion of the project mounted on or near the ground inside the BTS enclosure, including the equipment cabinets; the mounting platforms, rails and racks; the GPS antenna; cables; work lights; and all other elements of the project, excluding any equipment mounted on the utility tower, shall protrude above the height of the BTS enclosure, with the exception that a portion of the cable bridge can have a maximum height of 9'4" above grade. This cable bridge shall be installed as low as possible and be painted a color consistent with that of its surrounding vegetation and environment. Said installation and painting shall be subject to staff review and approval;
7. AT&T shall place and maintain a permanent RF Notice sign in English and Spanish on the BTS enclosure access point. The sign must be a minimum of 8" wide by 12" high, compliant with FCC OET Bulletin 65 or ANSI C95.2 for color, symbol, and content conventions. The sign shall at all times provide a working local or toll-free telephone number to its network operations center and such telephone number shall be able to

reach a live person who can exert transmitter power-down control over this site as required by the FCC. The location of the sign must ensure that anyone approaching may clearly see the sign before accessing the BTS enclosure area; and

8. All equipment associated with the wireless communication facility shall be removed within 30 days of the discontinuation of its use in compliance with Section 17G.3.1(g).

Moved by Chase, Seconded by Thiel

Ayes: Chase, Henn, Kellogg, Robertson, Thiel

Noes: None

Absent: None

**Design Review
123 Dudley Avenue**

Mr. and Mrs. Paul Raskin are requesting design review to demolish an existing stucco-sided cantilevered deck at the rear of the residence along Mountain Avenue and construct a new wood deck with wood and metal railing. Similar decking applications were denied without prejudice by the Commission on January 13, 2003 and September 12, 2011.

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

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

Public testimony was received from:

Grier Graff, Project Architect, described the design changes made to the proposal in response to the Commission's September suggestions and concerns, noting that the new deck will only extend 3 ft. beyond the existing deck, privacy will be preserved through new and existing landscaping and no variances are involved.

Paul Raskin stated that the existing deck has deteriorated and the design of its proposed replacement is a fair compromise of what is desired by both himself and his neighbors. He felt that the design and size of the new deck was consistent with other decks in the neighborhood.

Margaret Hutchins opposed the size and railing design of the proposed deck, preferring that the replacement deck be no larger than the original and that a solid railing be provided for privacy.

Jack and Bobbi Stehr also opposed the proposed deck, requesting that its depth be no greater than 8 ft. to lessen its impact on Mountain Avenue and that it have a more cantilevered appearance by pulling back the support columns. They felt that the railing with openings at the top and bottom was unattractive and inappropriate for a front yard deck, preferring a closed railing to preserve privacy.

Charlotte Johnston supported deck approval, believing that the replacement is a lovely improvement consistent with other decks in the neighborhood.

The Commission, with the exception of Commissioner Thiel, supported application approval, agreeing that the redesign was responsive to Commission requests, the deck is appropriately sized and proportioned for the house, there is no longer any variance required, the narrow spacing of the picket railing preserves privacy, the railing's top and bottom openings allows ventilation and view opportunities for the applicant without compromising privacy, the design adds architectural interest and quality to the home's facade, the railings' detailing, color and material is compatible with the home's exterior finish and is less bulky and massive than a solid stucco rail. However, these Commissioners requested that the deck columns be pulled back to the 4'6" point and architectural brackets be utilized to support the remaining 4 ft. projection as a means of improving aesthetics and further lessening any impact on the Mountain Avenue streetscape. Commissioner Thiel acknowledged that the applicants' property has essentially two front yards and felt that the deck's design more closely resembled a "back yard deck" being constructed in the front yard facing Mountain Avenue. He felt that the deck's support columns and railing were inconsistent with the City's Design Review Guidelines and that overall, the deck's appearance was not well integrated into the home. He preferred a more cantilevered design, like that of the original.

Resolution 373-DR-11

WHEREAS, Mr. and Mrs. Paul Raskin are requesting permission to demolish an existing stucco-sided cantilevered deck at the rear of the residence along Mountain Avenue and construct a new wood deck with wood and metal railing located at 123 Dudley 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, as conditioned with regard to the deck's support columns, are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that the project complies with Design Review Guidelines II-1, II-2, II-3(a) & (c) and II-4.
2. The deck, as conditioned, has been designed in a way that reasonably minimizes view and light impacts on neighboring properties, including consideration of the location of the new construction. The project complies with Design Review Guidelines II-1, II-2 and II-3(a).
3. The size and height of the deck is commensurate with the size of the lot and house and is in keeping with neighborhood patterns. The project complies with Design Review Guidelines II-1, II-2 and II-3(a).
4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the

circulation pattern, parking layout and points of ingress and egress. In fact, the safety of residents will be improved as a result of the construction of a much safer deck structure.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Raskin for construction at 123 Dudley Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. Due to the scope and nature of the application, a construction management plan shall be developed and approved by staff prior to obtaining a building permit. Said plan shall be comprehensive while specifically addressing the duration of the project, construction hours, the staging of materials, and parking of worker vehicles to ensure the free flow of traffic along Mountain Avenue;
2. 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. 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.

4. The deck support posts shall be redesigned and reconfigured to minimize visual impact on the neighborhood and to comply with Design Review Guideline II-5(a). Said redesign shall be subject to Staff Design Review.

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 Zhang

Ayes: Kellogg, Henn, Robertson, Zhang

Noes: Thiel

Recused: Chase

At 7:10 p.m., the Commission recessed for dinner and to a special session for the selection of 2011 Design Award recipients.

2011 Design Awards

The Chairman announced that the purpose of the special session is to review those projects nominated for the Commission's 2011 Design Awards and select award recipients. Presentation of the awards will be made at the April 9 Planning Commission meeting immediately following a reception held at City Hall to honor all award recipients. The Commission selected the following award recipients:

Best New House on a Challenging Site	155 Maxwellton Road
Best New House Craftsman Revival	198 Maxwellton Road
Best Second Story Addition	128 Arbor Drive
Best Seamless Addition	1900 Oakland Avenue
Best Large-Scale Renovation	10 Lorita Avenue

Chairman reconvened the regular session at 7:50 p.m.

Design Review
62 Farragut Avenue

Mr. and Mrs. Ken Mattson are requesting design review to make modifications to previously approved site features throughout the property, including: changes to the layout of walls, steps, hardscape and landscape around the fountain at the west end of the house; the addition of a fountain under the arbor on the south side of the garage; the addition of a new patio to the lawn terrace north of the pool; changes to the height and number of brick columns of the metal fence along the rear (south) property line; alterations to the retaining walls, on-grade paths, railings, and landscape features in the east side yard; the addition of an outdoor kitchen and arbor on a new patio near the southeast corner of the house; and the addition of and modifications to the exterior landscape lighting.

Applications related to this property have been acted upon by the Commission on the following dates: April 10, 2000; April 12, 2004; August 9, 2004; September 13, 2004; January 12, 2009; and December 12, 2011.

Written notice was provided to neighbors. **One affirmative response form** was received. **Correspondence** was received from: Joe & Beth Hurwich; Bert Kurtin; Cedric Chao

Public testimony was received from:

Michael Dethlefsen, Project Contractor, was present for questions. None were asked.

The Commission voiced its disappointment that many of the proposed improvements have already been constructed without prior design review approval. Notwithstanding this fact, the Commission, with the exception of Commissioner Thiel, supported modified application approval. Those Commissioners in support did so with the request that the trellis over the east side patio and outdoor kitchen be eliminated. The Commission unanimously agreed that the contemporary style and size of this trellis was architecturally inconsistent with the historic property, would tower over Sea View Avenue and create an undesirable "tacked on" appearance which is contrary to the City's Design Review Guidelines. As to the remaining project elements, those Commissioners in support agreed that the fountain near the carport did not impede carport ingress/egress, the height and open design of the pool fence was compatible in scale with the property and its location separating the main property from the adjacent lot owned by the applicant did not impose upon neighboring properties. Commissioner Thiel opposed application approval, stating his belief that the carport fountain would impede the usability of the carport for off-street parking, the pool fence height was inappropriate and the location of the outdoor kitchen was too intrusive. He suggested that the outdoor kitchen be relocated adjacent to the high pool fence.

Resolution 382-DR-11

WHEREAS, Mr. and Mrs. Ken Mattson are requesting permission to make modifications to previously approved site features throughout the property, including: changes to the layout of walls, steps, hardscape and landscape around the fountain at the west end of the house; the addition of a fountain under the arbor on the south side of the garage; the addition of a new patio to the lawn terrace north of the pool;

changes to the height and number of brick columns of the metal fence along the rear (south) property line; alterations to the retaining walls, on-grade paths, railings, and landscape features in the east side yard; the addition of an outdoor kitchen and arbor on a new patio near the southeast corner of the house; and the addition of and modifications to the exterior landscape lighting located at 62 Farragut 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, with the exception of the trellis over the BBQ area in the southeast corner of the property, are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements of the project comply with Design Review Guidelines II-1, II-2, II-3 and II-3(a). The Commission further finds that the trellis element is too high and bulky in terms of its visual mass and impact on the applicant's property as well as neighboring Sea View Avenue properties. This element of the project does not comply with Design Review Guidelines II-2, II-6 and II-6(b)
2. The design, as conditioned, is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because there is no impact. The fence on the south property line is separated from adjoining residences by a substantial distance. The project complies with Design Review Guidelines IV-1, IV-2, V-1, V-2 and V-5.
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 fountain in the carport area does not diminish the size of the carport's code conforming parking spaces nor impede ingress/egress to this parking area. The project complies with Design Review Guideline II-8.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Mattson for construction at 62 Farragut Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. The approved plans are those submitted on January 27, 2012, with additional information submitted on February 3, 2012, after neighbors were notified of the project and the plans were available for public review;
2. Compliance with the conditions of approval specified as part of the prior approval on the residence at 44 Farragut Avenue under Design Review Application #08-0196 shall extend to this application;

3. The proposed trellis over the BBQ area in the southeast corner of the property be eliminated.

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, Kellogg, Henn, Robertson

Noes: Thiel

Absent: None

Commissioner Thiel was excused from the meeting at 8:25 p.m.

**Variance
99 Fairview Avenue**

Mr. and Mrs. John Mittan are requesting variance approval to renovate the basement half bathroom to a full bath; convert the existing basement office and playroom into a bedroom with sitting room; and make additional interior modifications. The proposed improvements will result in a 3-bedroom, 2-bath residence. The requested variance is from Section 17.16 of the City Code to allow a residence with three rooms eligible for use as bedrooms and one covered parking space measuring 7'4" wide by 20' deep in lieu of the code required minimum of two covered parking spaces, each measuring a minimum of 9 ft. wide and 20 ft. deep. It was noted that a design review application is not required in connection with the proposed construction because there will be no exterior modifications to the existing home -- only interior modifications are involved.

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

Public testimony was received from:

John and Maggie Mittan, described their on-going renovation of their property, all of which is occurring with the existing footprint of the home. They emphasized that 3 bedroom/2 bath homes with 1 off-street parking space is typical for the neighborhood and that parking congestion is not a problem in this section of Fairview.

The Commission supported application approval, agreeing that it is physically impossible to add a second covered parking space on the property and the project will make the property's existing 1-car garage functional. The Commission agreed that the project was consistent with neighborhood development patterns and standards.

Resolution 17-V-12

WHEREAS, Mr. and Mrs. John Mittan are requesting permission to renovate the basement half bathroom to a full bath; convert the existing basement office and playroom into a bedroom with sitting room; and

make additional interior modifications located at 99 Fairview 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 bedrooms from two to three without supplying conforming parking; and

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

1. The 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 rear yard is not accessible to vehicles and the existing condition wherein there is no accessible off-street parking on the property is being rectified by the fact that the existing 1-car garage is being made usable for parking. 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 change to the design or aesthetics of the property as viewed by neighbors.
4. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because it is physically impossible to add a second non-tandem parking space on the property.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application of Mr. and Mrs. Mittan for the above variance at 99 Fairview Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. 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; and
2. An automatic garage door opener shall be installed.

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 Chase, Seconded by Robertson

Ayes: Chase, Kellogg, Henn, Robertson, Zhang

Noes: None

Absent: Thiel

**Variance and
Design Review
233 Estates Drive**

Mr. Robert Breuning is requesting variance and design review to stylistically alter and remodel the residence by constructing a 30 sq. ft. addition at the southwest corner of the 3rd level living room; replacing the existing hip roof on the house with a flat roof and extending it over the rear terrace; increasing the ceiling/roof height above the living room, kitchen and entry; changing the exterior wall material at the 3rd level; making window, door, garage door and skylight modifications; making various changes to the interior; and adding exterior lighting. The requested variance is from Section 17.10.6 to allow the new additional structure of the flat roof eave at the northeast corner to extend to within 13'10" of the front property line in lieu of the code required minimum of a 20 ft. front yard setback.

Written notice was provided to neighbors. **Two affirmative response forms** were received. **Correspondence** was received from: Frank Berfield

Public testimony was received from:

Kurt Lavenson, Project Architect, described the proposed improvements to this mid-century home in need of significant structural repairs and modernization. He noted that all the new windows on the third floor will be compatible with the existing, older windows on the other levels. He requested that the applicant not be required to replace these older windows which are not affected by the proposed improvements. He also stated that the variance situation is pre-existing and the proposed project lessens this non-conformance.

Robert Breuning stated that the intent of the project is to modernize his older home as well as make it more energy efficient, noting that significant structural and maintenance defects which need to be corrected have triggered the redesign.

The Commission supported application approval, agreeing that the project has been sensitively designed to minimize neighbor impacts and improve the home's livability. The Commission concurred that the redesign reflects an elegant, contemporary architectural improvement to the property.

Resolution 19-V-12

WHEREAS, Mr. Robert Breuning is requesting permission to stylistically alter and remodel the residence by constructing a 30 sq. ft. addition at the southwest corner of the 3rd level living room; replacing the existing hip roof on the house with a flat roof and extending it over the rear terrace; increasing the ceiling/roof height above the living room, kitchen and entry; changing the exterior wall material at the 3rd level; making window, door, garage door and skylight modifications; making various changes to the interior; and adding exterior lighting located at 233 Estates 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 construct within the 20 ft. front yard setback; 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 already exists within the front yard setback and the proposed project does not increase this existing encroachment -- there is only stylistic changes being proposed to this garage. 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 change in the existing encroachment situation -- the only changes involve exterior finishes to the garage.
4. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because the existing garage is already located within the setback.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application of Mr. Breuning for the above variance at 233 Estates Drive, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Robertson, Seconded by Kellogg

Ayes: Chase, Kellogg, Henn, Robertson, Zhang

Noes: None

Absent: Thiel

Resolution 19-DR-12

WHEREAS, Mr. Robert Breuning is requesting permission to stylistically alter and remodel the residence by constructing a 30 sq. ft.

addition at the southwest corner of the 3rd level living room; replacing the existing hip roof on the house with a flat roof and extending it over the rear terrace; increasing the ceiling/roof height above the living room, kitchen and entry; changing the exterior wall material at the 3rd level; making window, door, garage door and skylight modifications; making various changes to the interior; and adding exterior lighting located at 233 Estates 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 conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements include but are not limited to: height, bulk, area openings, line and pitch of the roof, materials and arrangements of structures on the parcel. The distance between the proposed upper level addition/expansion and adjacent residences is reasonable and appropriate due to the existing topography and neighborhood development pattern. The project complies with Design Review Guidelines II-1, II-2, II-3, II-3(a), (c) & (d), II-4, II-7 and II-7(a)
2. The proposed upper level addition has been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.70), including the location of the new construction, lowering the height of the building and the small expansion of the building envelope. The project complies with the above-cited Guidelines.
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. The addition is small and indistinguishable from the rest of the house.
4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected by this remodel.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Breuning for construction at 233 Estates Drive , Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Garage Door.** The new garage door shall be electronically operated.
2. **Windows.** In order to meet the goals of the City's Window Replacement Policy and Design Review Guidelines, all the windows on the residence, both new and remaining existing, shall be consistent in color.

3. **Roof Color.** The new flat roof shall not be light or reflective in color.

4. **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.

a. Renovation / New Construction. Pursuant to Section 17.32.6 of the Municipal Code, if for any reason more than 70% of the physical structure (as determined by the Building Official) is demolished or destroyed, the building shall conform to new building and planning Code requirements. If this occurs during demolition, all work must stop and a new hearing and public review by the Planning Commission is required.

5. **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.

d. 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.

6. **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.

7. **Defense of Legal Challenges.** 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 Robertson, Seconded by Kellogg

Ayes: Chase, Kellogg, Henn, Robertson, Zhang

Noes: None

Absent: Thiel

**Proposed Changes to
the Municipal Code
Relating to Second
Units**

Based upon the discussion and input received from the Commission's previous three public hearings on proposed changes to the City's Second Unit Code intended to bring it into compliance with General Plan Housing Element Actions, the City Planner submitted for Commission review a proposed ordinance entitled "An Ordinance to Implement Housing element Policies and to Consolidate and Clarify the Requirements for Second Units in the City by Rescinding Chapter 17D in its Entirety and Amending Various Sections of Chapter 17."

Correspondence was received from: Paul Faberman; a Petition submitted by Andrew Champion

Public testimony was received from:

Rosalie Marshall urged the Commission not to discourage residents from renting out rooms, stressing that such activity can provide much needed extra revenue. She also explained difficulties she has recently encountered regarding neighbor complaints and City requirements related to the presence of tenants who share her home as renters. The City Planner briefed the Commission on the particulars of Ms. Marshall's specific circumstance and her confidence that now that Ms. Marshall has agreed to apply for a second unit permit, the issues involved with her rental situation can be successfully resolved.

Sunny Bostrom cautioned the Commission regarding potential unintended consequences related to room rentals, including the possibility that Piedmont schools could become overcrowded. She also suggested that the City provide incentives to homeowners who rent rooms, to encourage them to rent to Piedmont teachers, police personnel or other City employees.

The Commission complimented staff on the thoroughness of the draft and discussed its major provisions at length. During the review, the Commission requested that the draft be amended to incorporate the following changes as well as include any related revisions that may be triggered by tonight's suggested changes:

- consistent use of the phrase "on-site parking" throughout the document;
- Exhibit C - Uses, page 15, Section 17.39.2:
 - (i) 2nd paragraph: "Rented room means the renting of any combination of rooms within a single-family dwelling . . ."
 - (ii) "(a) one or more bedrooms is rented to a single lessee, under a single rental agreement . . ."
 - (iii) delete the following last sentence: "*A property owner having a second unit or accessory kitchen on the property may not rent a room under this section.*"
- Exhibit C - Uses, page 15, Section 17.39.3:
 - (i) reword the 1st sentence of subsection (a): "Request that the City inspect the property to assure that the primary residence and rented room are legally existing bedrooms and habitable spaces."
- Exhibit E - Second Units:
 - page 24: substitute the word "or" for *an* in the bottom box;
 - page 25: merge the 2nd and 3rd bullet points in the box into one.

Resolution 3-PL-12

RESOLVED, that the Planning Commission recommends City Council approval of the proposed ordinance, as amended, entitled "An Ordinance to Implement Housing element Policies and to Consolidate and Clarify the Requirements for Second Units in the City by Rescinding Chapter 17D in its Entirety and Amending Various Sections of Chapter 17."

Moved by Chase, Seconded by Robertson

Ayes: Chase, Kellogg, Henn, Robertson, Zhang

Noes: None

Absent: Thiel

**Sustainable
Communities
Strategy**

As an informational item, the City Planner provided an introduction and overview of the proposed Sustainable Communities Strategy (SCS) being proposed by the Association of Bay Area Governments and the Metropolitan Transportation Commission under their joint partnership called "One Bay Area." The SCS is a land use-based, long range planning strategy that aims to integrate land use, transportation and environmental planning policies to reduce greenhouse emissions and coordinate future growth for the Bay Area. This issue was discussed at the City Council's January 17, 2012, meeting. The Planner summarized the Council's position on the matter and distributed copies of the January 20, 2012, letter authorized by the Council and sent to ABAG and MTC listing the City of Piedmont's deep concerns over the SCS strategies currently under consideration. The Commission concurred with the letter's position, suggesting that staff contact other "built-out" cities which share Piedmont's concern over the unreasonableness of the SCS's computer-modeling projections to develop a joint response to these absurd projections for small, built-out cities.

ADJOURNMENT

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