

## **PIEDMONT PLANNING COMMISSION**

### **Regular Meeting Minutes for Monday, September 14, 2009**

A Regular Session of the Piedmont Planning Commission was held September 14, 2009, 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 September 4, 2009.

#### **CALL TO ORDER**

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

#### **ROLL CALL**

Present: Commissioners Jonathan Levine, Jim Kellogg, Melanie Robertson, Bobbe Stehr and Clark Thiel

Absent: Alternate Commissioner Michael Henn

Staff: City Planner Kate Black, Assistant Planner Kevin Jackson, Planning Technician Manira Sandhir and Recording Secretary Chris Harbert

City Council Liaison: Councilmember John Chiang

#### **CONSENT CALENDAR**

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

##### **Fence Design Review 60 Hazel Lane**

##### **Resolution 199-DR-09**

WHEREAS, Ms. Nonie Ramsay is requesting permission to construct two posts on either side of the previously approved (May 2008) entryway and add a handrail to the entryway steps located at 60 Hazel Lane, 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 they are integrated beautifully with existing residences in the neighborhood. The project complies with Design Review Guidelines V-1, V-2, V-3, V-4, V-5 and V-5(b).

2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because there is no impact. The project complies with Design Review Guidelines V-5© and V-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

because there are no vehicle/pedestrian sight obstructions created for the residence or neighbors exiting their driveways.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Ms. Ramsay for construction at 60 Hazel Lane, 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.

**Fence Design Review  
4 Pala Avenue**

**Resolution 201-DR-09**

WHEREAS, Mr. and Mrs. Bruce Mowat are requesting permission to construct a new stucco-sided retaining wall that encloses the front yard; a wood front entry gate; and a wood fence and gate on the west (right) side of the property located at 4 Pala 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:

ENTRY GATE & MASONRY WALL: The exterior design elements the applicants are proposing include a wooden garden gate set into a masonry wall. They are aesthetically pleasing as a whole because they are harmonious with the character of the classic stucco home that the wall and gate relate to. The wall has an ornamental cap with multiple shadow lines finished like the house trim. The body of the wall is stuccoed in a thick and rich finish pattern to match the house. The wall is painted the same color as the body of the house, a soft natural color, and blends into the lush landscaping.

- Plantings will be encouraged to grow up and over and on the wall itself.

- The wood-gated entry is designed to relate to the prominent craftsman-style columns on the porch of the house. The stately posts at the gate rise slightly above the proposed 4 foot wall to call attention to the entry. The entry gate and posts are painted the colors of the house door and trim.

**BACK/SIDE GATE & WOOD FENCE:** The existing back gate and fence are in poor condition and need replacing. The exterior design elements the applicants are proposing include a wooden garden gate set into a wood fence to be located at the side and rear of the house near the garage, where the current structures are. As replacements, the wood proposed wood gate and the fence have a deep rail that relates to the deep rail on the garage door and the solid gate and fence are overlaid with a lattice. The gate and fence are painted to match the garage door. Ornamental post caps add a decorative garden touch. They are aesthetically pleasing as a whole because they are harmonious with the character of the garage that the gate and fence relate to.

2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because:

**ENTRY GATE & MASONRY WALL:** The design is appropriate because the house is located on the corner of a heavily-trafficked street. A bus stop and bench are located near the property line. The solid mass of the 4 foot high wall provides a sense of security for the homeowners, and some sound protection from vehicle noise from Highland Avenue. The height, color, and details keep it "friendly". It does not obstruct any views or cast any offensive shadows.

**BACK/SIDE GATE & WOOD FENCE:** The design is appropriate because the house is located on the corner of a heavily – trafficked street. A bus stop and bench are located near the property line. The 6 foot high fence replaces the existing one, but is moved back from the hardscape to allow plantings to grow in front and on it and soften its appearance. It does not obstruct any views or cast any offensive shadows.

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:

**ENTRY GATE & MASONRY WALL:** Safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected. Applicants wish to locate the replacement gate and wall within inches of the same location and height as the current structures, which have been in place for more than 36 years. The gate will be accessible for emergency personnel.

**BACK/SIDE GATE & WOOD FENCE:** Safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected. For over 36 years a gate and fence at the same height and location have existed where the applicants now wish to rebuild the replacement gate and fence. It is not an obstruction or a hazard for drivers or pedestrians. The gate will be accessible for emergency personnel.

**RESOLVED,** that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Mowat for construction at 4 Pala Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

Moved by Stehr, Seconded by Robertson

Ayes: Levine, Kellogg, Robertson, Stehr, Thiel

Noes: None

Absent: Henn

*(Note: Chairman Kellogg recused himself from the vote approving the Design Review Application for 4 Pala Avenue)*

## **PUBLIC FORUM**

Ralph Catalano reiterated the Moraga Canyon neighborhood's previous request that the Planning Commission undertake a review of the proposed plans for the Blair Park Sports Field Project prior to their forwarding for CEQA analysis. He noted that the project appears to have several serious flaws, including the failure to provide a description of the proposed usage of the new facility, serious bicycle and pedestrian safety issues related to the proposed pedestrian bridge over Moraga Avenue and a failure to address other potential uses for the last open space area in Piedmont. The Commission advised that the decision as to if or when the Planning Commission and/or other City Commissions review the Blair Park development proposal rests entirely with the City Council.

## **APPROVAL OF MINUTES**

### **Resolution 18-PL-09**

RESOLVED, that the Planning Commission approves as submitted its meeting minutes of August 10, 2009.

Moved by Stehr, Seconded by Thiel

Ayes: Kellogg, Robertson, Stehr, Thiel

Noes: None

Abstain: Levine

Absent: Henn

## **REGULAR CALENDAR**

The Commission considered the following items of regular business:

### **Conditional Use Permit Ann Martin Center 1246 & 1250 Grand Ave**

Dr. David Theis, on behalf of the Ann Martin Center, is requesting conditional use permits for properties at 1246 and 1250 Grand Avenue. The applications propose to renew the conditional use permits to operate a non-profit organization that provides psychotherapy, educational therapy and psychological/educational diagnostic testing for youth and families at their existing adjacent buildings. The specifics of the applications are:

- *Days & Hours of Operation* – 8 a.m. to 8 p.m. Monday to Friday, 9 a.m. to 1 p.m. Saturday. Additionally, a monthly Board of Directors meeting from 7:00 p.m. to 9:00 p.m. and a monthly staff meeting from 7:30 p.m. to 9:00 p.m.

- *On-Site Parking* – 3 parking spaces in the driveway and 1 in the garage reserved for staff (1246 Grand); and 3 parking spaces in the driveway reserved for staff (1250 Grand)
- *Maximum No. of People on Site* – 7 people, based on 3 treatment rooms (with 1 therapist + 1 child per room), and 1 administrative staff person (1246 Grand); and 22 people, based on 10 treatment rooms (with 1 therapist + 1 child per room), and 2 administrative staff person (1250 Grand)
- *Types of Staff/Personnel* – 2 FTE therapists/tutors (combined FTE of mostly part-time staff) and 1 FTE administrative staff (1246 Grand); and 4 FTE therapists/tutors (combined FTE of mostly part-time staff) and 2 FTE administrative staff (1250 Grand)
- *Projected Busiest Hours/Days* – 3 p.m. to 6 p.m., Monday to Thursday at both properties

In 2007, conditional use permits were granted for both properties with a short, 2-year term to provide the City an opportunity to assess how AMC staff parking and client drop-off/pick-up plans have worked in connection with the Fairview neighborhood's residential parking district. The current 2-year CUPs expire October 15, 2009.

Written notice was provided to neighbors. **Three affirmative and one negative response forms** were received. **Correspondence** was received from: Bevan Vinton & Manny Myers, Sept. 6.

**Public testimony** was received from:

David Theis, Executive Director of the Ann Martin Center (AMC), noted that the residential parking district and drop-off plan in place in the Fairview neighborhood have been successful in mitigating many of the neighborhood's concerns over parking/traffic congestion raised in 2007. As a result, Dr. Theis requested that the two applications be approved for a 10 year term to continue the Center's existing use with only one minor change: the reinstatement of monthly Board and staff meetings. In 2007 a decision was made to hold these monthly meetings off-site (in private homes). However, this has been inconvenient and Dr. Theis requested that once again the meetings be allowed on site. He stated that typically the Board of Directors meeting is held on the 1<sup>st</sup> Tuesday of each month, with an average attendance of between 10 and 12 members. Monthly staff meetings are held on the 3<sup>rd</sup> Wednesday involving 15 to 25 people. All attendees will be directed not to park on Fairview Avenue. He also noted that in accordance with the 2007 CUP, the Center's hours of operation for working with clients end at 8 p.m. on weekdays and 1 p.m. on Saturday. However, pursuant to an agreement with the City Administrator, AMC staff is allowed to work slightly beyond these hours in order to finish paperwork and/or perform maintenance services (no clients are seen after the 8 p.m. and 1 p.m. deadlines). Dr. Theis also requested that both properties be considered as one CUP to reduce permit fee costs (each application fee is \$1,770).

Chuck Chakravartula agreed that the parking/traffic congestion problem for the Fairview neighborhood has been significantly

improved as a result of the residential parking district and client drop-off plan. However, he urged that the current CUPs be renewed for 2 years. He reiterated the neighborhood's request that the City be vigilant in enforcing the conditions of approval for the CUPs and that in accordance with the Mayor's direction of September 8, planning staff keep a tally of reported CUP violations. While he did not object to the reinstatement of monthly staff and Director meetings, he voiced surprise that the City Administrator has allowed the Center to operate past the current 8 p.m. and 1 p.m. closing times. He noted that the neighborhood was never advised of this accommodation.

The Commission thanked and congratulated AMC and the neighborhood for making compromises that have significantly lessen complaints and animosity within the neighborhood. During application discussion, the majority of Commissioners voiced support for a 5-year renewal term (so as to coincide with CUP renewal for the Kehilla Synagogue), the reinstatement of the monthly staff and Board meetings and for the purposes of this application only, waiving one of the two application fees. Commissioners Robertson and Stehr also supported a 5-year renewal term but opposed the reinstatement of the monthly staff/Board meetings so as not to increase current levels of parking/traffic congestion in the neighborhood. They also opposed combining/waiving the application fees, noting that two separate buildings/properties are involved.

**Resolution 174-CUP-09**

WHEREAS, Dr. David Theis, on behalf of the Ann Martin Center, is requesting a Conditional Use Permit to operate a non-profit organization that provides psychotherapy, educational therapy and psychological/educational diagnostic testing for youth and families at 1246 and 1250 Grand Avenue, Piedmont, California, and;

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

The Piedmont Planning Commission makes the following findings:

1. The use is of benefit to Piedmont residents. The Center has been part of the Piedmont community for over 38 years. It provides services to Piedmont residents as well as residents of surrounding communities.
2. The use will be properly related to other land uses and transportation and service facilities in the vicinity. The Center is located in a mixed-use area of Piedmont where other businesses are located in close proximity. The Center has been located in this area for several years and over the last few years, the Center has decreased its impact on the surrounding residential neighborhood.
3. Under all the circumstances and conditions of the particular case, the use will not have a material adverse effect on the health or safety of persons residing or working in the vicinity. The Center has been conducting activities in this location for the last several years and there has been no indication of any adverse impact on the health or safety of persons working at the Center or in the vicinity. The requested

additional two hours of use a month will also not have any material adverse impact on health or safety of persons in the area.

4. The use will not be contrary to the standards established for the zone in which it is to be located. The Center has been used in that capacity and in that location for the last several years. The proposal is for the continued use as been historically the case, with the slight addition of two extra hours a month for internal meetings.

5. The use will not contribute to a substantial increase in the amount of noise or traffic in the surrounding area. The proposed use is not an increase in existing use except for those two hours a month. There has been no showing that these additional hours of operation will increase the amount of noise or traffic in the area.

6. The use is compatible with the General Plan and will not adversely affect the character of the surrounding neighborhoods or tend to adversely affect the property values of homes in the surrounding neighborhoods. The use is located in a mixed-use zone of Piedmont as designated in the General Plan and is a continuation of an existing use.

7. Adequate provision for driveways to and from the property has been made; facilities for ingress and egress from secondary streets instead of arterials, where possible, have been made; provision for parking in compliance with this Chapter 17 has been made, together with sufficient agreements to enforce the carrying out of such plans as may be required by the Council. The application proposes to continue using the property as it has been used historically, with the addition of slightly extended hours of operation for internal meetings and not for client contact. There has been no showing that additional driveways or access is required.

8. The plans conform to all other laws and regulations of the City, provided, however, that the Council shall have the right to require front, rear and side yard setbacks greater than those otherwise provided in the laws and regulations of the City if the Council finds that such larger front, rear and side yard areas are necessary to provide for the health, safety and general welfare of the residents of Piedmont in accordance with its zoning laws. There is no proposal to physically alter the existing structures or parking.

RESOLVED, that in consideration of the findings and facts set forth above, the Piedmont Planning Commission recommends approval by the City Council of the applications for conditional use permits by Dr. David Theis, on behalf of the Ann Martin Center for property located at 1246 and 1250 Grand Avenue, Piedmont, subject to the following conditions:

1. *Days & Hours of Operation* – 8 a.m. to 8 p.m. Monday to Friday, 9 a.m. to 1 p.m. Saturday. A monthly Board of Directors meeting from 7:00 p.m. to 9:00 p.m. and a monthly staff meeting from 7:30 p.m. to 9:00 p.m., restricted to Ann Martin Center staff only and no client contact.

2. *On-Site Parking* –3 parking spaces in the driveway and 1 in the garage reserved for staff (1246 Grand); and 3 parking spaces in the driveway reserved for staff (1250 Grand)
3. *Maximum No. of People on Site* – 7 people, based on 3 treatment rooms (with 1 therapist + 1 child per room), and 1 administrative staff person (1246 Grand); and 22 people, based on 10 treatment rooms (with 1 therapist + 1 child per room), and 2 administrative staff person (1250 Grand)
4. *Types of Staff/Personnel* – 2 FTE therapists/tutors (combined FTE of mostly part-time staff) and 1 FTE administrative staff (1246 Grand); and 4 FTE therapists/tutors (combined FTE of mostly part-time staff) and 2 FTE administrative staff (1250 Grand)
5. *Term* --The term of this CUP shall be for 5 years

RESOLVED FURTHER, that the Planning Commission recommends that for the purposes of these two applications only, the two applications be merged and one of the two application fees be waived.

Moved by Thiel, Seconded by Levine

Ayes: Levine, Kellogg, Thiel

Noes: Robertson, Stehr

Absent: Henn

*(For the record, Commissioners Robertson & Stehr stated that while they supported CUP renewal, they objected to the 2-hour extension of business hours and the fee waiver).*

**New House  
Design Review  
4 Lexford Road**

Mr. and Mrs. Erich Tupper are requesting new house design review to demolish the existing pool, pool house and storage structure; construct a new 1,120 sq. ft. 1-bedroom house, a new swimming pool and hot tub, a new arbor/carport, and new site improvements including walls, retaining walls, driveway, curb cut, pool terrace and various other hardscape and landscape changes; and add new exterior light fixtures.

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

**Public testimony** was received from:

John Malick, Project Architect, described the unusual *story-book* architecture of this estate property and the applicants' desire to realize a long-held dream of completing the original architectural concept. He stated that the proposed pool house is actually located on a separate parcel (the applicants were denied permission to merge their two lots) but the pool house is designed and located in such a way to be incorporated into the main property. He stressed that existing and proposed landscaping will screen the pool house from street view. Because the pool house is considered a "new home" due to its location on a separate parcel, the required off-street parking structure is proposed as a metal arbor so that the pool house does not appear as an independent home.



Pat Henshaw voiced opposition to the mass, siting and height of the proposed pool house, stressing that the pool house will overshadow her garden, patio and house, intrude upon her privacy and view and create a “castle on a hill” visual from her home. She requested that the pool house be located on the other side of the property.

The Commission agreed that the design of the pool house was attractive but that its height, mass and location were out of scale with the main house and inappropriate given its adverse impact on the adjacent neighbor. The Commission also felt that the design and materials of the proposed arbor/carport were incompatible with the architecture of the existing residence. In addition, should the pool house lot ever be sold or occupied as an independent dwelling, its arbor/carport could not be accessed by these occupants except through the main house property. The Commission requested that the proposal be redesigned to reduce its height and bulk, lessen its adverse impact on 2 Lexford in terms of light, view and privacy loss, and create a better contextual relationship with both its parking structure and the adjacent neighbor. In particular, the following design modification suggestions were made: the carport have a wood exterior, pool house ceiling heights be lowered, the pool be lowered 4 to 5 ft., provide a greater separation distance between the pool house and 2 Lexford and reconsider the curb-cut location for the carport so as to avoid potential damage to an existing City street tree.

**Resolution 203-DR-09**

WHEREAS, Mr. and Mrs. Erich Tupper are requesting permission to demolish the existing pool, pool house and storage structure; construct a new 1,120 sq. ft. 1-bedroom house, a new swimming pool and hot tub, a new arbor/carport, and new site improvements including walls, retaining walls, driveway, curb cut, pool terrace and various other hardscape and landscape changes; and add new exterior light fixtures located at 4 Lexford Road, Piedmont, California, which construction requires design review; and

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

1. While the exterior design elements are aesthetically pleasing as a whole, they are not harmonious with existing and proposed neighborhood development in terms of height, bulk and location. The proposed improvements do not comply with Design Review Guidelines I-2, I-2(d), I-5, I-7, I-9, III-1 and III-5.
2. The proposed new multi-level structure/expansion has not been designed in a way that reasonably minimizes view and light impacts on neighboring properties. The proposed design fails to minimize light and view impacts on 2 Lexford Road. Inadequate consideration has been given to the location of the proposed new structure and whether lowering its height and changing its roof line would lessen impact on adjacent properties.
3. The size and height of the addition is not commensurate with the size of the lot given its location on the property.

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. Tupper for construction at 4 Lexford Road, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Levine, Seconded by Thiel

Ayes: Levine, Kellogg, Robertson, Stehr, Thiel

Noes: None

Absent: Henn

The Commission recessed for dinner at 6:45 p.m. and reconvened at 7:25 p.m.

**Possible Second Unit  
Code Modification**

The Assistant City Planner recommended Commission approval of proposed modifications to Chapter 17D, which governs Second Units, to better define “building envelope” and help to maintain the number of existing second units while continuing to encourage the creation of low- and very low-income housing units. He stated that the intent of Chapter 17D is to encourage new lower-income second units and preserve the City’s existing stock of second units. However, under some circumstances it may be infeasible for an owner of an existing, non-conforming second unit to make normal repairs and other improvements to his/her property and still retain their existing second unit without seeking a second unit permit and complying with the requirements of Chapter 17D. If these owners find the requirements of Chapter 17D too onerous, they may simply decide to abandon their home improvement plans or as an alternative, remove their second unit. Either way, the City suffers from housing stock that is not upgraded or second units that are lost. As an example, the Assistant Planner cited a recent application at 616 Park Way.

**Correspondence** was received from: Grier Graff, August 14.

Commissioner Robertson recused herself from discussion of this item and left the chambers.

The Commission discussed the issue arriving at consensus that the proposed modifications would not provide any benefit to the community at large and therefore, should not be enacted. In particular, the Commission noted that: (1) the modifications would reduce the incentives necessary for the City to obtain low-income housing units; (2) would allow property owners to continue to receive benefit from a “grandfathered” non-complying unit without mitigating the impacts such non-compliance may impose on surrounding neighbors, such as a lack of adequate off-street parking, etc.; (3) it circumvents the intent of the code that eventually, existing non-complying units would be upgraded and/or improved so as to be code conforming; (4) the option for property owners to avoid code compliance by designating their second units as low-income housing does not create a hardship for these property owners; and (5) it is unlikely that property owners faced with either seeking a second unit permit or designating their existing, non-complying second unit for low-income housing, would choose to remove their unit.

**Resolution 19-PL-09**

RESOLVED, that the Planning Commission recommends that the proposed code modifications to Chapter 17D relating to second units not be enacted, finding:

- The existing language provides adequate ability for residents with existing non-conforming second units to maintain those existing units without conferring any benefit enjoyed by other residences to significantly alter, relocate or enlarge the existing non-conforming use;
- The proposed modifications would detract from the purposes and intent of the Second Unit Ordinance in that they would provide an extension and further enlarge the grandfather provision to give benefits to existing non-conforming use owners.
- The code as it exists provides a reasonable way for owners to make alterations that will improve the structural stability, etc. of the overall structure without unduly hindering their continued use of the second unit to the same extent as other residents that are bound by the terms of the Second Unit Ordinance. For example, the Second Unit Ordinance as drafted does allow for the changing in location or configuration of a second unit within an existing structure, albeit it requires that it be done in furtherance of the state mandate that the City provide moderate and low-income properties.

Moved by Thiel, Seconded by Stehr

Ayes: Levine, Kellogg, Stehr, Thiel

Noes: None

Recused: Robertson

Absent: Henn

**ADJOURNMENT**

There being no further regular calendar business, Chairman Kellogg adjourned the Commission at 7:55 p.m. to a special session to consider proposed plans for the construction of a new townhouse development at 408 Linda Avenue (the former PG&E substation property) submitted by Piedmont Station, LLC.

**SPECIAL SESSION**

The City Planner stated that an application for Design Review has been submitted by Piedmont Station, LLC, for the construction of a new townhouse development at 408 Linda Avenue (the former PG&E substation property). The development team is proposing to demolish the existing PG&E substation building and construct a 7-unit townhouse project. The townhouses are proposed to be 3-stories over a basement and garage, each with 4 bedrooms, 3+ baths, and ranging in size from approximately 2,130 to 2,445 sq. ft. Each townhouse is proposed to have 2 garage parking spaces, with 1 on-site guest parking space for the development. All of the units are proposed to be market rate units. A variance to construct within the 20 ft. setback from the right-of-way adjacent to the Oakland Avenue bridge is proposed. The City Planner recommended that preliminary comments from the Commission and public be received concerning the conceptual plans prior to their completion and before the completion of the analysis pursuant to the California Environmental Quality Act, with the

understanding that no action on the application will be taken at this time since there may be modifications to the plans resulting from tonight's comments.

Written notice was provided to neighbors. **One affirmative and two negative response forms** were received. **Correspondence** was received from: Orbelia Robinson, Sept. 4; Ann Schafer; Piedmont Station LLC, July 8 & Sept. 11; David Bowie, Sept. 9

Chairman Kellogg read the following statement into the record: "This informational hearing is being made at the request of the Applicants for the project at 408 Linda Avenue. The hearing will be conducted based on the following conditions and understandings:

1. The primary purpose of the informational hearing will be for the Applicants to present information that they feel important for the Commission and the Piedmont Community to see and understand.
2. The individual Commissioners shall have the opportunity to ask questions of the Applicants to clarify matters relating to the Project and the information presented tonight.
3. The Commission as a whole and the individual Commissioners will not be in any way making decisions related to this Project.
4. No decisions by the Commission will be made until the regularly scheduled and noticed hearing that will take place after the Application is deemed "complete" by the City Staff, which has not yet occurred, and until after the CEQA Process has been carried out, which will become a number of months into the future.
5. It is understood that Applicants prior to this informational hearing have not provided essential information for the Planning Commission to properly assess the Project, such as erection of story poles so that the Commission can properly assess the height and bulk of the buildings that are proposed on the Project.
6. Nothing said by the Commissioners during the information session shall in any way bind the Commission or the Commissioners individually and the Applicants shall rely on anything said by individual Commissioners at their own risk."

**Public testimony** was received from:

Roy Alper, Managing Member of Piedmont Station LLC, referenced the submitted *Status & Summary* of the Townhouse Project, attached hereto, in summarizing the history of the project. He also voiced his disagreement with City staff that a street-side setback variance may be required because the property borders the Oakland Avenue Bridge. He emphasized that should a 20 ft. side yard setback be required, the proposed design could not be constructed and the resulting design would be more "blocky" in appearance. He also strongly emphasized his opinion that City staff should deem the application as "complete"

for purposes of proceeding with CEQA and public review, citing the opinion of his legal counsel, David Bowie.

Arleta Chang, Project Architect, displayed colored renderings of the proposed design and also referenced the attached *Status & Summary* in highlighting the intent and major features of the proposed development. She noted in particular that only one curb-cut will be required for all 7 townhouses, on-site parking will not be visible from the street and Piedmont Fire Department requests regarding emergency fire equipment and paramedic ambulance access issues have been discussed and incorporated into the design.

Rick Schiller requested that the Commission consider the following issues when reviewing the proposal: (1) the square footage of each townhouse is considerably larger than the average home size in the neighborhood; (2) the desirability of reducing the height and mass of the proposed development; (3) the paint scheme; (4) the length of time proposed landscaping will take to screen/soften the townhouses as depicted in the renderings; (5) whether proposed guest parking is adequate; (6) whether the scope of the project is too ambitious; and (7) the need for story poles to allow neighbors to better assess the visual impact of the development.

Elihu Harris, a Member of Piedmont Station LLC, thanked the Commission and staff for scheduling tonight's informational session and stressed the urgency that the project be allowed to move forward.

During the question and answer session held with project proponents, the Commission noted the following:

#### Application Completeness

- Its consensus that the applicants have not satisfied all the criteria necessary to deem their application "complete;"
- The difficulty in visualizing the actual mass and bulk of the development. The submitted colored renderings give a different impression from that gained from the 3-D computer generated models. There is a need for story poles to better assess and visualize development bulk and height. In addition, there are inconsistencies on the elevations between those shown in the renderings and those on the computer-models. The applicants were encouraged to keep the massing of their development to a residential scale.
- The absence of design details in sufficient specificity;

#### Requests for Additional Information

- A more complete version of proposed CC&R's, with specific information regarding: (1) whether individual air conditioning units will be allowed or prohibited; (2) rules pertaining to exterior design changes, such as paint color, window treatments, exterior surface materials and landscaping; (3) the creation of private outdoor areas along the Linda Avenue frontage; (4) how life safety issues related to courtyard uses will be addressed – what activities/equipment will be allowed

and what will be prohibited in the courtyard; and (5) how trash collections will be handled;

- A materials board be provided indicating the exact finishes of the townhouses;
- The location of mailboxes and utility meters and how these features may impact courtyard traffic congestion;
- How will overhead power lines be addressed and incorporated into the design;
- How will waste cart collection services be conducted so as not to interfere with parking and traffic flow;

Consideration Given to Possible Design Modifications

- Provide a mix of 3 and 4 bedroom townhomes as a way to create a more articulated roof line and to make the total square footage of the development closer to the neighborhood's average;
- Consider reconfiguring Units F & G so as to improve courtyard circulation/turning radius;
- Consider incorporating into the design air conditioning options for each unit to avoid in the future either the installation of unsightly A/C units or prohibiting such units in the CC&Rs;
- Consider reducing the number of units to 5 to create private backyard space for children play areas, barbecues, etc. and/or create more green space;

Individual Commission opinions were mixed with regard to whether a 20 ft. side yard setback variance was required and whether tonight's special session should have been held.

**ADJOURNMENT**

There being no further business, Chairman Kellogg adjourned the meeting at 9:10 p.m.