

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Tuesday, November 13, 2007

A Regular Session of the Piedmont Planning Commission was held November 13, 2007, 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 October 30, 2007.

CALL TO ORDER

Vice Chairman Stehr called the meeting to order at 5:00 p.m. She announced that Agenda Item #4 (New House Design Review, 139 Lexford Road) has been deemed incomplete and withdrawn from tonight's consideration.

ROLL CALL

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

Absent: Chairman Clark Thiel

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

City Council Liaison: Mayor Nancy McEnroe

CONSENT CALENDAR

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

Design Review 221 Mountain Avenue

Resolution 383-DR-07

WHEREAS, Mr. and Mrs. Robert Flanagan are requesting permission to add a new landing, construct new stairs and a handrail and to convert existing sealed French doors to operable doors at the rear of the residence located at 221 Mountain Avenue, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements (including but not limited to height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that the project complies with Design Review Guidelines II-1, II-2, II-3(a) and (b) and V-2.
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 adverse impact on neighboring properties. The proposed improvements comply with Design Review Guidelines II-1, II-2, II-3(a) and (b) and V-2.

3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because there is no change in existing circulation patterns. The proposed improvements comply with Design Review Guidelines II-3(b) and V-2.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Flanagan for construction at 221 Mountain Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following condition:

- The approved plans are those submitted on November 8, 2007, after neighbors were notified of the project and the plans were available for public 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.

**Variance
153 Arbor Drive**

Resolution 389-V-07

WHEREAS, Mr. and Mrs. Brent Fraser are requesting permission to add a new bedroom, make window modifications, demolish an existing deck, and construct a new wood carport at the rear of the property located at 153 Arbor Drive, Piedmont, California, which construction requires variance; and

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code is necessary in order to construct within the rear setback and to increase the number of rooms eligible for use as a bedroom without supplying conforming parking; and

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

1. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to the fact that there is not enough room on the lot to provide two conforming off-street parking spaces. Because of these circumstances, strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone which conform to the zoning requirements.

2. The variances are compatible with the immediately surrounding neighborhood and the public welfare because there will be no change in the property's existing parking situation.

3. Accomplishing the improvement without variance would cause unreasonable hardship in planning, design, or construction because without allowing a new carport in the rear setback, the proposed improvements to the residence would not be permitted.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application of Mr. and Mrs. Fraser for the above variances at 153 Arbor Drive, 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.

**Design Review
153 Arbor Drive**

Resolution 389-DR-07

WHEREAS, Mr. and Mrs. Brent Fraser are requesting permission to add a new bedroom, make window modifications, demolish an existing deck, and construct a new wood carport at the rear of the property located at 153 Arbor 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 (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. The proposed improvements comply with Design Review Guidelines II-2, II-3(a), (b) and (c), III-2, III-5 and III-6 in that there is no material impact on the scale and mass of the existing home, the existing *craftsman* architectural style of the residence is maintained and the proposed carport is appropriately designed and sited.

2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light. The proposed improvements are at the basement level of the existing home and do not increase the existing height, bulk or size of

the residence. The proposed project complies with Design Review Guidelines II-1 and II-2.

3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. The on-site parking situation on the property is being enhanced in that there is an additional covered parking space being added to the property without any change in existing traffic circulation. The project complies with Design Review Guidelines III-7, III-7(a).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Fraser for construction at 153 Arbor Drive, 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 Hill Lane and Arbor Drive;
2. The proposed aluminum clad windows shall be painted to match the remaining windows throughout the residence;
3. There shall be no changes to the north elevation.

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

Moved by Levine, Seconded by Kellogg

Ayes: Kellogg, Levine, Robertson, Stehr, Henn

Noes: None

Absent: Thiel

PUBLIC FORUM

There were no speakers for the public forum.

APPROVAL OF MINUTES

Resolution 25-PL-07

RESOLVED, that the Planning Commission approves as submitted its meeting minutes of October 8, 2007.

Moved by Kellogg, Seconded by Robertson

Ayes: Kellogg, Robertson, Stehr

Noes: None

Abstain: Levine, Henn

Absent: Thiel

REGULAR CALENDAR

The Commission considered the following items of regular business:

The Vice Chair announced that the Commission would consider Agenda Item #10 as the first order of business tonight so as to minimize costs to the City since the project architect for this application is appearing at the request and expense of the City. An unidentified man in the audience objected to this reorder and left the chambers.

**Conditional Use Permit,
Variance and Design
Review
400 Highland Avenue**

The City of Piedmont is requesting a conditional use permit, variance and design review to construct a new 72 sq. ft., 11'4" high bus shelter on property owned by the Piedmont Community Church at 400 Highland Avenue, fronting Highland Way near the existing "bus stop" sign. The requested variances are from: (1) Section 17.10.4 to allow a structure coverage of 40.2% in lieu of the code permitted maximum of 40%; (2) Section 17.10.4 to allow an impervious surface coverage of 70.3% in lieu of the code permitted maximum of 70%; and (3) Section 17.10.6 to allow the shelter to extend to the street side property line in lieu of the code required minimum of a 20 ft. street side setback from Highland Way.

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

Public testimony was received from:

Bill Kendrick, Project Architect, stated that the proposed bus shelter is designed to compliment the architecture of the newly renovated Piedmont Community Church and will be located on church property. A lease agreement between the church and the City for this shelter is in the process of negotiation and he recommended that the term of the conditional use permit coincide with the term of the lease. He also noted that internal lighting for public safety has been included in the shelter design – the exact details of said lighting will be subject to the lease agreement.

The Commission supported application approval, noting that the City Council has appropriated funds for this new shelter and the shelter will serve the community by providing weather protection at this very popular bus stop. The Commission agreed that the term of the CUP should be concurrent with lease agreement between the church and City.

Resolution 385-V-07

WHEREAS, the City of Piedmont is requesting permission to construct a new 72 sq. ft., 11'4" high bus shelter on property owned by the Piedmont Community Church at 400 Highland 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 construct within the required street setback from Highland Way, exceed allowable structure coverage and exceed allowable impervious surface coverage; and

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

1. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to the fact that although the proposed shelter is not connected with Piedmont Community Church related uses, it has to be located on church property because of the location of the existing bus stop that the shelter serves. Because of these circumstances, strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone which conform to the zoning requirements.
2. The variances are compatible with the immediately surrounding neighborhood and the public welfare because there is no change in existing use. The proposed shelter will provide weather protection for an existing bus stop.
3. Accomplishing the improvement without variance would cause unreasonable hardship in planning, design, or construction because the proposed shelter could not be constructed.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application of the City of Piedmont for the above variances at 400 Highland 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 Levine, Seconded by Robertson

Ayes: Kellogg, Levine, Robertson, Stehr, Henn

Noes: None

Absent: Thiel

Resolution 385-DR-07

WHEREAS, the City of Piedmont is requesting permission to construct a new 72 sq. ft., 11'4" high bus shelter on property owned by the Piedmont Community Church at 400 Highland Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont

Planning Commission finds that the proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. The exterior design elements (including but not limited to height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that the design of the proposed shelter is consistent with the architectural style of the church upon which property it is located. The proposed project complies with Design Review Guidelines II-1, II-2, II-3, II-6 and II-7.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because of the nature of its location and purpose.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because there is no impact other than providing protection against the weather at an existing bus stop.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of the City of Piedmont for construction at 400 Highland Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following condition:

- Suitable interior lighting shall be provided in the shelter

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

Moved by Levine, Seconded by Robertson

Ayes: Kellogg, Levine, Robertson, Stehr, Henn

Noes: None

Absent: Thiel

Resolution 384-CUP-07

WHEREAS, the City of Piedmont is requesting a Conditional Use Permit to construct a new 72 sq. ft., 11'4" high bus shelter on property owned by the Piedmont Community Church at 400 Highland 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 proposed use provides weather protection for an existing bus stop.
2. The use will be properly related to other land uses and transportation and service facilities in the vicinity. The proposed use is located at an existing bus stop.
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 proposed use provides shelter from inclement weather.
4. The use will not be contrary to the standards established for the zone in which it is to be located. There is already a bus stop at the location and within the zone of the proposed use.
5. The use will not contribute to a substantial increase in the amount of noise or traffic in the surrounding area. There will be no change in existing conditions.
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.
7. The requirements for adequate provision for driveways to and from the property; facilities for ingress and egress from secondary streets instead of arterials; provision for parking in compliance with this Chapter 17, together with sufficient agreements to enforce the carrying out of such plans as may be required by the Council are not relevant to the proposed use in this case.
8. The plans conform to all other laws and regulations of the City, provided, however, that the Council shall have the right to require front, rear and side yard setbacks greater than those otherwise provided in the laws and regulations of the City if the Council finds that such larger front, rear and side yard areas are necessary to provide for the health, safety and general welfare of the residents of Piedmont in accordance with its zoning laws. The required variances for this use have been granted.

RESOLVED, that in consideration of the findings and facts set forth above, the Piedmont Planning Commission recommends approval by the City Council of the application for a conditional use permit by the City of Piedmont for property located at 400 Highland Avenue, Piedmont, subject to the following condition:

- The term of the CUP shall be concurrent with the term of the lease agreement between the City and the Piedmont Community Church

Moved by Levine, Seconded by Kellogg

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

Design Review
55 Cambrian Avenue

Mr. and Mrs. Doug Brien are requesting design review and fence design review to make modifications throughout the property including: construction of a new swimming pool and new pool equipment shed; an extension of the front retaining wall; the construction of a new front entry stairs and railing; the installation of new fences, gates walls and exterior light fixtures; the construction of a new built-in barbeque; and other landscape and hardscape improvements.

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

Public testimony was received from:

Matthew Henning, Project Landscape Architect, stated that the intent of the project is to update 80-year old landscaping and a 1950's vintage pool. He responded to Commission questions concerning the height of the proposed wall atop a 3' retaining wall, noting that the 8 ft. height of the stucco wall in this location is necessary to provide pool privacy. The height of this segment of the wall is 8 ft. because it sits on a "crown." However, the stucco wall will align in height with a proposed 6 ft. redwood fence at the property line.

The Commission, with the exception of Commissioner Levine, supported project approval, agreeing that the stucco wall will be landscaped to soften its height and lessen its visual exposure. The wall is located approximately 50 ft. back from the street, its partial 8 ft. height is the result of the topography of the site, the wall provides privacy to the pool area, will align in height with a 6 ft. fence at the property perimeter and there is no impact on neighbor light, view or privacy. Commissioner Levine preferred that wall height not exceed 6 ft. anywhere on the property. The Commission requested that a specific landscape plan be submitted addressing wall screening.

Resolution 313-DR-07

WHEREAS, Mr. and Mrs. Doug Brien are requesting permission to make modifications throughout the property including: construction of a new swimming pool and new pool equipment shed; an extension of the front retaining wall; the construction of a new front entry stairs and railing; the installation of new fences, gates walls and exterior light fixtures; the construction of a new built-in barbeque; and other landscape and hardscape improvements located at 55 Cambrian 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 terms of its compatibility with the architectural style of the residence. The proposed improvements comply with Design Review Guidelines II-3 and IV-1.
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-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 all proposed improvements are contained within the boundaries of the property. An existing vehicle access point from the street has been converted to a pedestrian gate. The proposal complies with Design Review Guidelines V-7, V-8 and V-9.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Brien for construction at 55 Cambrian 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 Cambrian Avenue;
2. Compliance with Chapter 9 Article III of the Municipal Code, which governs the recycling of construction and demolition debris, will be required on all permits issued on or after February 1, 2007. Applicants of covered and non-covered projects are eligible to participate in the Incentive Program in which the City will provide one-half the cost of debris boxes provided by the City's franchised waste hauler and used exclusively for the purpose of removing recyclable construction and demolition debris;
3. Prior to the issuance of a building permit, the related Lot Line Adjustment application (#07-0267) shall be verified by the City Clerk and recorded with the Alameda County's office;
4. At the point where the proposed stucco clad wall merges with the proposed fence at the northwest perimeter of the property, said wall shall be no higher than 6 ft. within the side setback. A landscaping plan detailing the street and neighbor-side screening of the stucco wall at the north and northeast side of the property shall be submitted for staff review and approval;

5. If the pool enclosure encroaches within the 5 ft. reserve at the south boundary, an encroachment permit shall be obtained from the Public Works Department.

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 Henn

Ayes: Kellogg, Robertson, Stehr, Henn

Noes: Levine

Absent: Thiel

**Variance and
Design Review
334 Wildwood Avenue**

Mr. MaoLin Zheng is requesting variance and design review to construct a rear upper level deck, install new doors and add new exterior lighting on the south elevation. The requested variance is from Section 17.10.7 to allow the new deck to extend to within 14 ft. of the right side property line in lieu of the code required minimum of a 20 ft. side yard setback bordering a street.

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

Public testimony was received from:

MaoLin Zheng described his proposed improvements, noting in particular the desire to add a small deck off the upper level dining room to take advantage of a San Francisco/Oakland view. He noted that no neighbor windows face this proposed deck, hence there is no privacy impact.

The Commission supported variance approval, noting that because the property borders an alley used as a driveway, a 20 ft. setback is triggered where normally only a 4 ft. setback would be required. The Commission agreed that the proposed design of the improvements are consistent with the architectural style of the residence, of high quality and craftsmanship and impose no privacy concerns because of the topography, separation distance and dense vegetation existing between neighboring properties. The Commission did request that the proposed single light door be modified to either a true or simulated divided light design so as to be more consistent with other windows on the residence.

Resolution 358-V-07

WHEREAS, Mr. MaoLin Zheng is requesting permission to construct a rear upper level deck, install new doors and add new exterior lighting on the south elevation located at 334 Wildwood 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 construct within the 20 ft. street side 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 underlying lot and existing improvements present unusual physical circumstances, including but not limited to the fact that the existing house is located within the setback and that a 20 ft. side yard variance is required in this case because of the presence of an alley/driveway. Otherwise, only a 4 ft. setback would be required and the proposed deck would not encroach because it is 14 ft. away from the property line. Because of these circumstances, strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone which conform to the zoning requirements.
2. The variance is compatible with the immediately surrounding neighborhood and the public welfare because the proposed improvements are well integrated with the residence and are screened by dense vegetation. There is little impact on neighboring property.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because it would be impossible to add the proposed deck without variance.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application of Mr. Zheng for the above variance at 334 Wildwood Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

Moved by Robertson, Seconded by Henn

Ayes: Kellogg, Levine, Robertson, Stehr, Henn

Noes: None

Absent: Thiel

Resolution 358-DR-07

WHEREAS, Mr. MaoLin Zheng is requesting permission to construct a rear upper level deck, install new doors and add new exterior lighting on the south elevation located at 334 Wildwood Avenue, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements include but are not limited to: height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment. The distance between the proposed upper level addition/expansion and adjacent residences is reasonable and appropriate due to the existing topography and neighborhood development pattern. Upper level setbacks greater than the setbacks required for the lower level have been considered and reduce losses of ambient and reflected light. The proposed improvements comply with Design Review Guidelines II-1, II-2, II-3(a), (b) and (c), II-5 and II-6(a).

2. The proposed upper level deck has been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.70), including consideration of the location of the new construction, lowering the height of the addition, expansions within the existing building envelope (with or without excavation), lower level excavation for new multi-level structures, and/or changing the roof slope or ridge direction. The proposed improvements comply with Design Review Guidelines II-1, II-2, II-3(a), (b) and (c), II-5 and II-6(a).

3. The size and height of the addition is commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and is in keeping with the existing neighborhood development pattern. The proposed improvements are well integrated into the house, reflecting consistent design elements. The proposed improvements comply with Design Review Guidelines II-1, II-2, II-3(c), II-3(d), II-5, II-5(a) and II-6(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 accordance with Sections 17.16.1 and 17.22.1, the existing or proposed on-site parking is appropriate to the size of the new upper level addition, and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood. The proposed improvements are confined within the property borders and comply with the above mentioned Design Review Guidelines.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Zheng for construction at 334 Wildwood Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following condition:

1. The approved plans are those submitted through October 31, 2007, after neighbors were notified of the project and the plans were available for public review;
2. The door to the proposed deck shall have either true or simulated divided lites so as to be compatible with other windows on this side of the house. Said design change shall be subject to staff review and approval.

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

Moved by Robertson, Seconded by Henn

Ayes: Kellogg, Levine, Robertson, Stehr, Henn

Noes: None

Absent: Thiel

**Second Unit Permit,
Parking Exception
161 Bell Avenue**

Mr. and Mrs. Michael Karasik are requesting permission to convert an existing 329 sq. ft. office with a full bath and kitchenette (considered under the City Code to be an “unintended second unit”) into a legal, rent-restricted studio second unit. A parking exception is requested in order to convert the unintended second unit without providing the required on-site parking for the rent-restricted studio unit.

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

Public testimony was received from:

Michael Karasik responded to Commission questions and inquired re specific provisions of the rent-restricted ordinance.

The Commission supported application approval, agreeing that this area of Bell Avenue has no parking congestion problems.

Resolution 366-SU-07

WHEREAS, Mr. and Mrs. Michael Karasik are requesting permission to convert an existing 329 sq. ft. office with a full bath and kitchenette (considered under the City Code to be an “unintended second unit”) into a legal, rent-restricted studio second unit. A parking exception is requested in order to convert the unintended second unit without providing the required on-site parking for the rent-restricted studio unit located at 161 Bell Avenue, Piedmont, California, which conversion requires a second unit permit; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such

application, and after having visited subject property, the Piedmont Planning Commission finds that the proposal conforms with the criteria and standards of Section 17D.6(b)2 of the Piedmont City Code:

1. The parking exception will not be detrimental to the health, safety or general welfare of persons residing in the neighborhood and will not negatively impact traffic safety or emergency vehicle access to residences or create hazards by obstructing view to or from adjoining sidewalks and streets;
2. The parking exception will not adversely affect the character of the surrounding neighborhood.
3. There is sufficient street parking available to accommodate the parking exception or the second unit is located within 1/3 mile of a public transit stop.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the second unit permit application of Mr. and Mrs. Karasik at 161 Bell Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. Prior to the issuance of a building permit the completed, signed and notarized "Declaration of Restrictions – Property with Approved Second Dwelling Unit" form shall be recorded;
2. Prior to the issuance of a building permit or second unit permit, the completed, signed and notarized "Rent-Restricted Second Unit Affordable Rent Certification" form shall be recorded;
3. The second unit shall remain a very low income rent-restricted unit per the California Department of Housing and Community Development, 2006 State Income Limits, adjusted annually;
4. The annual City of Piedmont rental tax is waived for the first year. Thereafter, the property owners shall annually comply with all required rental taxes and fees;
5. In consideration of the exceptions granted, and in order to maintain the affordable housing stock, an owner is prevented from terminating a rent-restricted second unit permit for 10 years after the date of the Planning Commission approval, unless the Planning Commission, at its discretion, approves the termination of the rent-restricted second unit permit.

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

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

Moved by Levine, Seconded by Kellogg

Ayes: Kellogg, Levine, Robertson, Stehr, Henn

Noes: None

Absent: Thiel

**Variance and
Design Review
60 Hazel Lane**

Ms. Nonie Ramsay is requesting variance and design review to renovate and stylistically alter the existing residence, while maintaining the basic building “footprint,” by: demolishing the attic level and reducing the building height; changing the roof slope, height and eave overhang; restoring the 1-car garage on the lower level; replacing the rear porch cover with a trellis; eliminating the rear balcony; replacing all the windows and doors; changing building materials throughout; adding new exterior lighting; and making hardscape and landscape improvements for a resulting 3 bedroom, 2-1/2 bath residence. The requested variances are from: (1) Section 17.10.6 to allow the new eave to extend to within 13 ft. of the front property line in lieu of the code required minimum of a 20 ft. front yard setback; and (2) Section 17.10.7 to allow the new eave to extend to within 1 ft. of the left side property line in lieu of the code required minimum of a 4 ft. side yard setback.

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

Public testimony was received from:

Thayer Hopkins, Project Architect, stated that the proposed project will reduce the height and size of the existing house, enhance view corridors for neighbors, improve the livability and functionality of the home’s interior and correct existing building code violations. He emphasized that the project is not a “tear-down.” He also discussed at length with the Commission possible design alternatives to eliminate or minimize the extent of setback encroachment by the home’s proposed 3-1/2 ft. deep overhangs and eaves.

Commissioner Levine moved to deny the application, without prejudice, because he felt that the extent of the setback encroachment was excessive and could be minimized if the eave line was pulled back. **THIS MOTION DIED FOR LACK OF SECOND.**

The Commission preferred to approve the project with the condition that the eaves be reduced in size/pulled back to minimize the amount of encroachment, stressing that all other elements of the project comply with the City’s Design Review Guidelines and a setback variance is unavoidable because the existing home is not centered on the property – the only issue is how much of an encroachment is necessary. In the end, the Commission and architect agreed that the eaves/metal gutter could be pulled back so as to be 2 ft. from the side property line. The Commission felt that this reduction in eave depth would still preserve proper proportionality and architectural integrity while minimizing the extent of setback encroachment. It was noted that the requested eave

reduction could impact the height of the ridge line. The Commission granted the applicant discretion to either retain the proposed ridge height or increase the height to a maximum roof slope of 4 and 12 if necessary.

Resolution 371-V-07

WHEREAS, Ms. Nonie Ramsay is requesting permission to renovate and stylistically alter the existing residence, while maintaining the basic building "footprint," by: demolishing the attic level and reducing the building height; changing the roof slope, height and eave overhang; restoring the 1-car garage on the lower level; replacing the rear porch cover with a trellis; eliminating the rear balcony; replacing all the windows and doors; changing building materials throughout; adding new exterior lighting; and making hardscape and landscape improvements for a resulting 3 bedroom, 2-1/2 bath residence located at 60 Hazel Lane, Piedmont, California, which construction requires variance; and

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code is necessary in order to construct within the 20 ft. front yard (west) setback and the 4 ft. left side yard (north) 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 underlying lot and existing improvements present unusual physical circumstances, including but not limited to the fact that the existing house is already within the left and front setbacks and any improvement to the roof would require variance. The home is not centered on the property and in order to make the roof symmetrical, encroachment into the setback is required. Because of these circumstances, strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone which conform to the zoning requirements.
2. The variances are compatible with the immediately surrounding neighborhood and the public welfare because similar style homes in the neighborhood have roof overhangs that extend beyond house walls.
3. Accomplishing the improvement without variance would cause unreasonable hardship in planning, design, or construction because the existing home already encroaches into the setbacks.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application of Ms. Ramsay for the above variances at 60 Hazel Lane, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following condition:

- The left and front yard setback encroachment for the eaves and gutter of the new roof shall not exceed 2 ft. beyond the walls of the existing structure.

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

Moved by Levine, Seconded by Henn

Ayes: Kellogg, Levine, Robertson, Stehr, Henn

Noes: None

Absent: Thiel

Resolution 371-DR-07

WHEREAS, Ms. Nonie Ramsay is requesting permission to renovate and stylistically alter the existing residence, while maintaining the basic building "footprint," by: demolishing the attic level and reducing the building height; changing the roof slope, height and eave overhang; restoring the 1-car garage on the lower level; replacing the rear porch cover with a trellis; eliminating the rear balcony; replacing all the windows and doors; changing building materials throughout; adding new exterior lighting; and making hardscape and landscape improvements for a resulting 3 bedroom, 2-1/2 bath residence 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 are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements include but are not limited to: height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment. The distance between the proposed upper level addition/expansion and adjacent residences is reasonable and appropriate due to the existing topography and neighborhood development pattern. Upper level setbacks greater than the setbacks required for the lower level have been considered and are/are not necessary to reduce losses of ambient and reflected light. The scale and mass of the proposed improvements is compatible with the scale and mass of the existing residence and neighboring properties. The proposed remodel of the home is architecturally consistent with itself. The siting and design of the garage is compatible. The location of windows and exhaust vents respect the visual and acoustical privacy of neighbors.

2. The proposed upper level addition/expansion has been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.70), including consideration of

the location of the new construction, lowering the height of the addition, expansions within the existing building envelope (with or without excavation), lower level excavation for new multi-level structures, and/or changing the roof slope or ridge direction. The proposed improvements have minimal impact on adjacent properties.

3. The size and height of the addition is commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and is in keeping with the existing neighborhood development pattern.

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

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, subject to the following conditions:

1. Based on the scope and nature of the proposed landscape and development plans, a best management practice plan for construction which complies with the Alameda Countywide Clean Water Program General and Residential Conditions of Approval will need to be developed by the applicant prior to obtaining a building permit;
2. Due to the scope and nature of the application, a construction management plan shall be developed and approved by staff prior to obtaining a building permit. Said plan shall be comprehensive while specifically addressing the duration of the project, construction hours, the staging of materials, and parking of worker vehicles to ensure the free flow of traffic along Hazel Lane, Requa Place and Requa Road;
3. Compliance with Chapter 9 Article III of the Municipal Code, which governs the recycling of construction and demolition debris, will be required on all permits issued on or after February 1, 2007. Applicants of covered and non-covered projects are eligible to participate in the Incentive Program in which the City will provide one-half the cost of debris boxes provided by the City's franchised waste hauler and used exclusively for the purpose of removing recyclable construction and demolition debris;
4. If the survey map prepared by Bay Area Land Surveying, Inc., dated April 6, 2007, and submitted on September 27, 2007, discloses any information not in agreement with any document or map recorded with the Alameda County Recorder's Office,

a Record of Survey, which will be reviewed by the City Engineer, shall be filed as required by Section 8762 of the Professional Land Surveyors' Act;

5. The proposed eaves, including gutters, of the entire roof shall not extend beyond 2 ft. from the walls of the house;
6. The ridge line of the house can remain as proposed or can be increased upward to a maximum roof slope of 4 and 12.

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

Moved by Levine, Seconded by Robertson

Ayes: Kellogg, Levine, Robertson, Stehr, Henn

Noes: None

Absent: Thiel

The Commission recessed for dinner at 7:10 p.m. and reconvened at 7:50 p.m.

**Variance and
Design Review
123 Greenbank Avenue**

Mr. and Mrs. Tim Wright are requesting variance and design review to make modifications to the residence, including: demolition of the existing garage and chimney; construction of a new 1-car garage and storage rooms within the basement area; expansion of the size and height of the upper-level dormers; door and window modifications; installation of skylights; hardscape improvements including an enlarged driveway; new exterior lighting; and various changes to the interior. The requested variances are from: (1) Section 17.10.6 to allow the eave of the house to extend to within 14'4" of the front property line in lieu of the code required minimum of a 20 ft. front yard setback; and (2) Section 17.10.7 to allow the new rear dormer to extend to within 3'1" of the left side property line in lieu of the code required minimum of a 4 ft. side yard setback.

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

Public testimony was received from:

Tim Wright described the intent of the proposed improvements and noted that the width of the new garage cannot be increased to accommodate 2 cars because the location of a City street tree prevents ingress/egress to a second parking space.

The Commission agreed that the design of the project will improve the aesthetics and functionality of the home and variance approval is

warranted to maintain existing building lines (pre-existing condition). The Commission supported granting the applicant the option of expanding the width of the new garage to a 2-car dimension if permission is received from the City for the removal of the existing street tree.

Resolution 375-V-07

WHEREAS, Mr. and Mrs. Tim Wright are requesting permission to make modifications to the residence, including: demolition of the existing garage and chimney; construction of a new 1-car garage and storage rooms within the basement area; expansion of the size and height of the upper-level dormers; door and window modifications; installation of skylights; hardscape improvements including an enlarged driveway; new exterior lighting; and various changes to the interior located at 123 Greenbank Avenue, Piedmont, California, which construction requires variance; and

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code is necessary in order to construct within the 20 ft. front yard (north) setback and the 4 ft. left side yard (east) 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 underlying lot and existing improvements present unusual physical circumstances, including but not limited to the fact that the existing home encroaches into the setbacks – pre-existing condition. Because of these circumstances, strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone which conform to the zoning requirements.
2. The variances are compatible with the immediately surrounding neighborhood and the public welfare because there will be no change in the existing streetscape condition.
3. Accomplishing the improvement without variance would cause unreasonable hardship in planning, design, or construction because it is impossible to improve the house without variance.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application of Mr. and Mrs. Wright for the above variances at 123 Greenbank 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 Henn, Seconded by Levine

Ayes: Kellogg, Levine, Robertson, Stehr, Henn

Noes: None

Absent: Thiel

Resolution 375-DR-07

WHEREAS, Mr. and Mrs. Tim Wright are requesting permission to make modifications to the residence, including: demolition of the existing garage and chimney; construction of a new 1-car garage and storage rooms within the basement area; expansion of the size and height of the upper-level dormers; door and window modifications; installation of skylights; hardscape improvements including an enlarged driveway; new exterior lighting; and various changes to the interior located at 123 Greenbank Avenue, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements include but are not limited to: height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment. The distance between the proposed upper level addition/expansion and adjacent residences is reasonable and appropriate due to the existing topography and neighborhood development pattern. Upper level setbacks greater than the setbacks required for the lower level have been considered and are/are not necessary to reduce losses of ambient and reflected light. The proposed improvements comply with Design Review Guidelines II-3(a) and (b) in terms of architectural style, scale and mass compatibility.
2. The proposed upper level addition/expansion has been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.70), including consideration of the location of the new construction, lowering the height of the addition, expansions within the existing building envelope (with or without excavation), lower level excavation for new multi-level structures, and/or changing the roof slope or ridge direction. There is no material impact on neighboring properties. The proposed improvements comply with Design Review Guidelines II-1, II-2 and II-3;
3. The size and height of the addition is commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and is in keeping with the existing neighborhood development pattern:

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

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

1. The new garage door shall be electronically operated;
2. The new exterior-mounted light fixtures shall be downward directed with an opaque shade that completely covers the light bulb;
3. Based on the scope and nature of the proposed landscape and development plans, a best management practice plan for construction which complies with the Alameda Countywide Clean Water Program General and Residential Conditions of Approval will need to be developed by the applicant prior to obtaining a building permit;
4. 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 Greenbank Avenue;
5. Compliance with Chapter 9 Article III of the Municipal Code, which governs the recycling of construction and demolition debris, will be required on all permits issued on or after February 1, 2007. Applicants of covered and non-covered projects are eligible to participate in the Incentive Program in which the City will provide one-half the cost of debris boxes provided by the City's franchised waste hauler and used exclusively for the purpose of removing recyclable construction and demolition debris;
6. The applicant shall submit a landscaping plan for the front yard for staff approval prior to the issuance of a building permit. After final building permit inspection, the applicant shall be allowed to make modifications to any aspect of the landscape plan that does not require design review under Chapter 17 of the City Code;
7. The applicant has the option to widen his proposed garage to a 2-car conforming width if permission is received from the City for the removal of the existing street tree in front of his

property. Any subsequent change in the design of the proposed garage as a result of the applicant choosing this option, shall be subject to staff review and approval.

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

Moved by Henn, Seconded by Kellogg

Ayes: Kellogg, Levine, Robertson, Stehr, Henn

Noes: None

Absent: Thiel

Second Unit Code Change

Per Commission discussion of April 9, 2007, the Assistant Planner submitted proposed amendments to the City's Second Unit Code (Chapter 17D) which would allow owners of existing, legal, non-conforming second units to make aesthetic/energy efficiency improvements to these units (no change in square footage, bedroom count, location or increase in structure/impervious surface coverage) without necessitating that such altered units be rent-restricted for 10 years. The Assistant Planner submitted two options for amending the code:

Option #1 – which allows modifications to the exterior of second units to make the units more architecturally consistent with the main residence and to comply with the City's Design Review Guidelines and building code regulations. However, the types of modifications allowed are not specifically delineated.

Option #2 – specifically delineates the types of minor exterior changes that are allowed under the proposed code amendment.

In addition, staff recommended other amendments to the code, including a definition for "legally created" as well as revised section numbers. Staff recommended that should the Commission support the proposed amendments, it do so with the understanding that additional modifications may occur after the City Attorney has an opportunity to review the draft (currently the City Attorney is out of the country).

The Commission supported the proposed draft, agreeing that the amendments will encourage property owners to maintain their second units in accordance with the City's design standards. The Commission supported Option #1 to provide the greatest degree of flexibility.

Resolution 26-PL-07

RESOLVED, that the Planning Commission recommends City Council approval of the proposed Option #1 amendments to Chapter 17D, including the proposed definition of "legally created," as submitted by

staff in its report dated November 13, 2007, subject to the review and approval of the City Attorney and with the understanding that additional, minor modifications may be made to the draft as a result of the City Attorney's review; and

RESOLVED FURTHER, that if the City Attorney recommends that significant modifications be made to the proposed amendments, said draft be remanded back to the Commission for review and approval prior to its forwarding to the City Council.

Moved by Levine, Seconded by Kellogg

Ayes: Kellogg, Levine, Robertson, Stehr, Henn

Noes: None

Absent: Thiel

Tankless Water Heater Policy

Per Commission discussion of August 13, 2007, the Assistant City Planner submitted proposed revisions to the City's *Tankless Water Heater Policy* to allow tankless water heaters to be installed on the exterior of residences. The proposed policy specified the types of exterior installations that would be exempt from design review and those which would require Administrative Design Review, Staff Design Review or Planning Commission Design Review depending upon proposed installation method, location and appearance.

The Commission, with the exception of Alternate Commissioner Henn, supported the proposed policy, agreeing that it was responsive to Commission requests. The Commission majority noted that the revised policy would expedite the process for approving tankless water heater installations while still upholding the City's design aesthetics and code requirement for the concealment of mechanical equipment. Alternate Commissioner Henn felt that the proposed policy was too onerous and as such failed to encourage residents to avail themselves of energy efficient technology. The Commission engaged in a lengthy discussion of whether the City is or should be "position neutral" on this issue, with the Commission majority stressing that tankless water heaters can be installed in various places within a home's interior (basement, attic, crawl space, garage, etc.) without triggering design review considerations. It is only when such heaters are proposed for exterior placement that City review is required to insure and protect the community's aesthetics.

Resolution 27-PL-07

RESOLVED, that the Planning Commission recommends City Council approval of the revised *Tankless Water Heater Policy*, as set forth in Exhibit A of the Assistant Planner's report dated November 13, 2007.

Moved by Levine, Seconded by Robertson

Ayes: Kellogg, Levine, Robertson, Stehr

Noes: Henn

Absent: Thiel

ANNOUNCEMENTS

General Plan Review – The Commission agreed to hold a special meeting on January 28, 2008, to consider the General Plan update.

Garbage Franchise Contract – The City Planner stated that the City Council will hold a public hearing on December 3 to receive resident input regarding whether the City should retain its back yard garbage

collection service under the terms of a new contract to become effective in July 2008 or opt for curbside collection, with an option for back yard subscription. She encouraged residents to contact City Hall with their comments and opinions regarding this issue and to attend the December 3 public hearing.

Joint Planning Commission/City Council Meeting – Vice Chairman Stehr requested that at the next joint Commission/Council meeting, the issue of raising City appeal fees be discussed. She felt that the current \$300 fee was too low to off-set costs and discourage frivolous appeals.

ADJOURNMENT

There being no further business, Vice Chairman Stehr adjourned the meeting at 9:15 p.m.