

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday February 11, 2008

A Regular Session of the Piedmont Planning Commission was held February 11, 2008, in the City Hall Council Chambers at 120 Vista Avenue. In accordance with Government Code Section 54954.2(a) the agenda for this meeting was posted for public inspection on January 31, 2008.

CALL TO ORDER

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

ROLL CALL

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

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

CONSENT CALENDAR

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

Variance 400 Highland Avenue

Resolution 472-V-07

WHEREAS, Piedmont Community Church is requesting permission to make hardscape and landscape improvements at the southeast corner of the property located 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 exceed the hardscape surface coverage limit; and

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

1. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to: the church occupies land zoned residential. The church predates the zoning. Providing parking and access is difficult without exceeding allowed coverage. Further, existing slopes and trees cause sloughing of sediment and litter onto pavements, a safety hazard and source of erosion into drains. 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 variance will allow the church to make significant improvements to landscaping on a highly visible corner. It will also minimize hazards to pedestrians. The landscaping will be brought to a higher standard, benefiting neighbors.

3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because it would be extremely difficult to correct sloughing of soil and litter without adding some kind of edging and terracing.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application of Piedmont Community Church for the above variance 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.

Resolution 472-DR-07

WHEREAS, Piedmont Community Church is requesting permission to make hardscape and landscape improvements at the southeast corner of the property located 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 proposed plantings are adapted to the mature redwood environment in project area. New decorative rocks will be placed to conceal existing utilities. Proposed rocks are Napa basalt. More regionally appropriate than existing stones.

2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because the proposed design will not affect neighboring properties' views, privacy or access to light.

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 circulation patterns are not affected.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Piedmont Community Church for construction at 400 Highland Avenue, 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 Highland Avenue, Highland Way and Mountain Avenue;
3. The above conditions are specific to this application and supplemental to conditions placed on prior variance and design review applications (#05-0086 and #07-0385).

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: Levine, Kellogg, Robertson, Stehr, Thiel

Noes: None

Absent: None

PUBLIC FORUM

Roy Alper, representative of Piedmont Station LLC the developer of the former PG&E property on Linda Avenue, requested the Commission to schedule a worksession wherein Piedmont Station could informally discuss with area residents as well as the Commission potential development concepts for this multi-family zoned property. The Chairman directed that this request be scheduled on the Commission's March agenda for consideration.

APPROVAL OF MINUTES

Resolution 4-PL-08

RESOLVED, that the Planning Commission approves as submitted its meeting minutes of January 14, 2008.

Moved by Stehr, Seconded by Kellogg

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

REGULAR CALENDAR

Variance and Design Review 162 Estates Drive

The Commission considered the following items of regular business:

Ms. Nancy Menke is requesting variance and design review to construct a new 2-car garage in the front left side of the property; add a new curb-cut and driveway; convert the existing garage at the rear of the property into a large storage area by replacing the existing garage door with siding; and make other site improvements including new exterior lighting and the construction of retaining walls at the front of the property. The requested variance is from Section 17.10.6 to construct within the 20 ft. front yard setback. This application was previously considered by the Commission on October 8, 2007.

Written notice was provided to neighbors. **One affirmative response** form was received. Correspondence was received from: George Nickelson, P.E., May 25 and October 16, 2007; Moses Wilson, P.E., January 17, 2008; Bill Hinkamp, January 31, 2008

Public testimony was received from:

Derek Pavlik, Project Designer, described the revisions made to the proposal in response to the October 2007 meeting, summarized the findings and recommendations of the applicant's traffic engineer (Nickelson) as well as the City's traffic engineer (Wilson) and noted that as the result of the traffic engineers' recommendation that the red curbing be extended 40 ft. north of the existing 170 Estates driveway, two on-street parking spaces will be lost.

Nancy Menke submitted photographs of the site in support of her contention that the proposal will significantly improve vehicle/pedestrian sight lines, eliminate the current practice of backing out onto Estates Drive and improve driveway maneuverability for both 170 and 162 Estates by eliminating the shared driveway situation. The old garage for 162 Estates will be retained as a pool house and storage for 170 Estates in connection with the proposed lot line adjustment. The proposal creates a new, separate driveway and garage for 162 Estates. In response to Commission questioning, she noted that the proposed lot line adjustment cannot be improved unless the new garage/driveway proposal is approved for 162 Estates. She also noted that the proposal may make it possible in the future to develop the three lots she currently owns behind 162, 170 and 172 Estates.

Bill Hinkamp, Project Contractor, reiterated that the 40 ft. extension of red curbing will improve traffic/pedestrian sight lines for 170 Estates and the proposed lot line adjustment will result in the creation of two conforming properties if the current application is approved.

The Commission was divided in its support for application approval. Commissioners Thiel and Levine opposed variance approval for the new garage at 162 Estates, stressing that the property currently has a functional 2-car garage, hence there is no need to build another garage, especially given that a variance is required to do so. They also cited the

traffic engineering reports in support of their contention that the proposal creates traffic/pedestrian safety issues that currently don't exist. Overall, they felt that it was an unnecessary project. The Commission majority supported variance approval, noting that traffic safety issues are mitigated by the traffic engineer's recommendations, the proposed location for the new garage and driveway is the only one possible on the lot, hence variance approval is justified and eliminating the current "shared driveway" situation benefits both 162 and 170 Estates. However, the Commission requested that since the new driveway will also serve as the main pedestrian entrance to 162 Estates, driveway aesthetics reflect this sense of entry by having either a tinted concrete color or paved driveway surface (not asphalt) and that exterior lighting be added along the steps leading up and around the corner.

The Commission also discussed at length issues related to the potential of the former 162 garage/pool house being converted to a second unit as well as easement issues and future shared driveway access related to the possible development of the three lots behind 170 Estates. The Commission also questioned whether the recommendation to extend the red curbing 40 ft. northward was primarily to benefit 170 Estates as opposed to 162. The Commission requested that the City's traffic engineer re-examine this issue, noting that the current application pertains to 162 Estates and if the red curb extension is not needed for this property, it would be inappropriate to lose valuable on-street parking as a condition of project approval – an advantage to 170 Estates not enjoyed by other property owners.

Resolution 318-V-07

WHEREAS, Ms. Nancy Menke is requesting permission to construct a new 2-car garage in the front left side of the property; add a new curb-cut and driveway; convert the existing garage at the rear of the property into a large storage area by replacing the existing garage door with siding; and make other site improvements including new exterior lighting and the construction of retaining walls at the front of the property located at 162 Estates Drive, Piedmont, California, which construction requires variance; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary in order to construct within the front yard setback; and

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

1. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to the fact that a conforming 2-car garage cannot be constructed outside of the front setback. 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 traffic engineers have

concluded that the proposal, as conditioned, will not impinge upon safe traffic flow along Estates and the location of the new garage is not visible to neighboring properties.

3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because if the existing garage is abandoned for 162 Estates as a result of a proposed lot line adjustment, there is no other place on the property to construct a conforming 2-car garage for 162 Estates. The project complies with Section 17.16 of the City Code.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application of Ms. Menke for the above variance at 162 Estates 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.
Moved by Kellogg, Seconded by Robertson
Ayes: Kellogg, Robertson, Stehr
Noes: Levine, Thiel
Absent: None

Resolution 318-DR-07

WHEREAS, Ms. Nancy Menke is requesting permission to construct a new 2-car garage in the front left side of the property; add a new curb-cut and driveway; convert the existing garage at the rear of the property into a large storage area by replacing the existing garage door with siding; and make other site improvements including new exterior lighting and the construction of retaining walls at the front of the property located at 162 Estates Drive, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements (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 III-1, III-2, III-3 and III-6. The proposed improvements are

compatible in scale with the existing residence, the massing and bulk of the new garage is minimized through its embedded location into the hill and proposed landscaping will further screen the garage structure from view from adjoining properties. The garage siting is appropriate because it is the only location that will allow a safe driveway onto Estates Drive.

2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light. There is no impact because of the grade of the property and the fact that the new garage is essentially buried within the hill.

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 City's Traffic Engineer has indicated in his report that as conditioned, the curb-cut and traffic flow in and out of the property will be appropriate. The project complies with Design Review Guidelines III-7 and III-7(a).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Ms. Menke for construction at 162 Estates Drive, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. The approved plans are those submitted on September 26, 2007 with additional information submitted on September 28 and December 6, 2007;
2. 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;
3. 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 Estates Drive;
4. Compliance with Chapter 9 Article III of the Municipal Code, which governs the recycling of construction and demolition debris, will be required for all phases of this project, including the demolition of the existing site structures. As a covered project, this project is 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;

5. Prior to the issuance of a building permit, the “bonus room” and bathroom in the basement shall be inspected by the Building Official to determine if the rooms meet the building code. If they do, the “bonus room” would become a room eligible for use as a bedroom in compliance with the proposed parking for the property. If they do not meet one or more aspects of the building code, the applicant shall have the following options:
 - a. The applicant may modify the space to meet the building code, and any required exterior improvements (such as constructing an egress window) would be subject to staff review; or
 - b. The applicant may remove the bathroom and label the space as “storage.”
6. To insure that the garage is used as parking and to make sure that there is adequate back-up space in the driveway so that vehicles do not back onto Estates Drive, the proposed garage door shall be mechanically operated;
7. Foliage overhanging the retaining wall along the site should be trimmed back to the edge of the wall and maintained;
8. The City’s traffic engineer shall reconfirm that the proposed extension of the red curb “no parking” zone along the east side of Estates Drive about 40 feet north of the existing driveway is needed for the curb-cut and traffic circulation of 162 Estates Drive and not for 170 Estates (which is not a part of this application). If the traffic engineer confirms that this red zone extension is needed, the Public Works Department shall bill the applicant for the cost of modifying the red zone, which shall be paid for by the applicant prior to final inspection of the garage and driveway improvements;
9. All foliage should be trimmed that partially obscures the “curve ahead” warning sign on the southbound Estates Drive approach to Selborne Drive;
10. A standard “Stop Ahead” warning sign should be placed on the southbound Estates Drive. The Public Works Department shall bill the applicant for the cost of the sign and installation of the sign which shall be paid for by the applicant prior to final inspection of the garage and driveway improvements;
11. The retaining walls on both sides of the entry drive shall be curved inward to a distance of 5 ft. on either side of the driveway to further improve vehicular sight distances. Additionally, the walls shall be cut back so that a small planter with low growing landscape materials can be provided for improved visibility and a more attractive entrance to the property. The final design of the improvements shall be subject to staff review prior to the issuance of building permits;

12. The driveway surface material for 162 Estates shall be tinted or textured as appropriate for a pedestrian entrance; it shall not be plain concrete;
13. Exterior lighting shall be added to the bottom of the stairs leading to the front entry door to better identify the sense of public entry to 162 Estates.

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 Stehr

Ayes: Levine, Kellogg, Robertson, Stehr

Noes: Thiel

Absent: None

**Variance and
Design Review
1658 Lower Grand**

Ms. Carole Porter is requesting variance and design review to demolish the existing 2-car garage and build a new 2-car garage in the rear right corner of the lot. The requested variances are from: (1) Section 17.10.4 to allow the new garage to extend to within 2'6" of the right side property line in lieu of the code required minimum of a 4 ft. side yard setback; and (2) Section 17.10.8 to allow the new garage to extend to within 4-9/16 inches of the rear property line in lieu of the code required minimum of a 4 ft. rear yard setback.

The application was previously considered by the Commission on December 10, 2007.

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

Correspondence was received from: Kathie Long, January 29; Jeanne Chiang, Feb. 1.

Public testimony was received from:

Jeanne Chiang, Project Architect, described the proposed changes in the design in response to the December 10 meeting, noting that both garage parking spaces are usable and accessible and a neighbor's concerns re drainage have been addressed. She stated that the new garage is not located on the property line per the wishes of the adjacent neighbor. The existing vegetation in the 2-1/2 ft. gap between the new garage and the neighbors deck will remain.

Nancy Olsen supported project approval, agreeing that she requested that the new garage not be moved closer to her deck (which is located within the setback).

Kathie Long, the rear neighbor, also supported the revised design but requested that a temporary fence be erected during garage construction so that her dog can continue to be confined within her yard. She noted her intention to work with the applicant in installing a new rear yard fence once the new garage is built.

The Commission, with the exception of Chairman Thiel, supported project approval as submitted, agreeing that the revised design is responsive to neighbor and Commission requests and the design of the new garage is architecturally compatible with the existing house. The Commission requested, however, that: (1) the location of the sump pump be relocated away from the property line and more toward the middle of the driveway to minimize potential neighbor impacts; and (2) an arborist be retained to recommend methods for preserving/protecting existing trees during garage demolition/construction. Chairman Thiel preferred that the new garage be located on the side and rear property lines to eliminate creating small gaps between properties and thus avoid unmaintained “dead zones” as well as improve garage ingress/egress.

Resolution 423-V-08

WHEREAS, Ms. Carole Porter is requesting permission to demolish the existing 2-car garage and build a new 2-car garage in the rear right corner of the lot located at 1658 Lower Grand Avenue, Piedmont, California, which construction requires variance; and

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary in order to construct within the right side yard and rear yard setbacks; and

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

1. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to the fact that a new code conforming garage is being constructed in the location of an existing garage – the variance situation is pre-existing. 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 many garages in the neighborhood encroach into the setbacks and the new garage’s placement is consistent with the neighborhood.
3. Accomplishing the improvement without variance would cause unreasonable hardship in planning, design, or construction because without variance, nearly all of the property’s usable rear yard would be taken up with a garage structure.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application of Ms. Porter for the above variances at 1658 Lower Grand 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 Levine

Ayes: Levine, Kellogg, Robertson, Stehr, Thiel

Noes: None

Absent: None

Resolution 423-DR-08

WHEREAS, Ms. Carole Porter is requesting permission to demolish the existing 2-car garage and build a new 2-car garage in the rear right corner of the lot located at 1658 Lower Grand 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 III-1, III-2, III-3 and III-5. The new garage is compatible with the existing house in terms of architectural style, exterior materials, bulk and mass. It is well integrated into the property and the new garage will have an operable door and garage ingress/egress will not block public sidewalks.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because the new garage is replacing an existing garage in essentially the same location. The design of the new garage respects neighbors' views and light. The proposed improvements comply with Design Review Guidelines III-5(a) and III-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 garage ingress/egress will be slightly improved and the proposed improvements do not impede public access or traffic sight

lines. The project complies with Design Review Guidelines III-7 and III-7(a)

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Ms. Porter for construction at 1658 Lower Grand Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. The approved plans are those submitted on November 8, 2007, and revised architectural plans submitted on January 31, 2008, after neighbors were notified of the project and the plans were available for public review;
2. 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;
3. 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 Lower Grand Avenue;
4. 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;
5. Written approval from PG&E permitting construction within the 5 ft. wide electrical easement shall be submitted prior to the issuance of a building permit;
6. The applicants shall submit an arborist report addressing the preservation of existing trees between the applicant's property and that of the right side neighbor. If existing trees cannot be retained or die as a result of project construction, they shall be replaced.
7. The applicants shall erect a temporary fence at the rear of the property during construction;
8. The proposed sump pump shall be relocated to a site other than the property line, 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 Stehr, Seconded by Levine

Ayes: Levine, Kellogg, Robertson, Stehr

Noes: Thiel

Absent: None

**Variance and
Design Review
1665 Grand Avenue**

Mr. Bert Presberg and Ms. Kathleen Crombie are requesting variance and design review to construct a new dormer to accommodate a new bedroom, study and bath in the existing attic of the residence; construct a new trellis in the rear of the house; make window and door modifications; make interior renovations; add two skylights; and add exterior lighting. The requested variance is from Section 17.16 to allow the addition of a room eligible for use as a bedroom with 1 covered parking space measuring 9'11-1/2" by 18'10-1/2" in lieu of the code required minimum of two covered parking spaces each measuring 9 ft. by 20 ft.

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

Public testimony was received from:

Jason Kaldis, Project Architect, stated that the exterior changes to the 1940's vintage home are minor and that the upper bedroom floor is original to the house. He argued that the proposal is not really adding a new bedroom but adding a bathroom to meet modern living standards. He also noted that there is no room on the property to add a second conforming or tandem parking space without significantly impacting the property's aesthetics and circulation/layout.

The Commission agreed that the design of the proposed improvements is excellent, the new improvements are seamlessly integrated into the existing home and are appropriate modernizations to an older home. The Commission further agreed that adding additional parking on the property is not possible without major restructuring of the house. In reality the pre-existing bedroom situation in the home remains unchanged--a bathroom rather than bedroom is being added.

Resolution 458-V-07

WHEREAS, Mr. Bert Presberg and Ms. Kathleen Crombie are requesting permission to construct a new dormer to accommodate a new bedroom, study and bath in the existing attic of the residence; construct a new trellis in the rear of the house; make window and door modifications; make interior renovations; add two skylights; and add

exterior lighting located at 1665 Grand Avenue, Piedmont, California, which construction requires variance; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary in order to add a room eligible for use as a bedroom without providing 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 no way to expand the existing garage without drastically altering the house. 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 project involves very little exterior change to the existing residence.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because there is no way to expand the existing garage and there is no other place for another garage on the property.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application of Mr. Presberg and Ms. Crombie for the above variance at 1665 Grand 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 Stehr

Ayes: Levine, Kellogg, Robertson, Stehr, Thiel

Noes: None

Absent: None

Resolution 458-DR-07

WHEREAS, Mr. Bert Presberg and Ms. Kathleen Crombie are requesting permission to construct a new dormer to accommodate a new bedroom, study and bath in the existing attic of the residence; construct a new trellis in the rear of the house; make window and door

modifications; make interior renovations; add two skylights; and add exterior lighting located at 1665 Grand 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. There is no change in the existing streetscape appearance of the residence. The proposed improvements comply with Design Review Guidelines II-1, II-2, II-3, II-3(a) through (c) and II-7 in terms of architectural style, scale and mass compatibility, good integration with the existing home and sensitive window and door placements and treatments in terms of preserving neighbor privacy.

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 new dormer faces the rear yard and the new upper window replaces an existing window. The project complies with Design Review Guideline II-7.

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 only visible change to the property occurs at the rear. The proposed improvements comply with Design Review Guidelines II-6, II-6©. The proposal respects existing setbacks.

4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. There is no change in existing circulation patterns. The project complies with Design Review Guideline III-7.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Presberg and Ms. Crombie for construction at 1665

Grand Avenue, 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 Grand Avenue;
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. Prior to the issuance of a building permit, a Notice of Non-Habitation shall be recorded to alert future buyers that the basement storage space is not safe for habitation;
5. All windows on the residence shall be aesthetically harmonious and consistent with the City's Design Review Guidelines, 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 Levine

Ayes: Levine, Kellogg, Robertson, Stehr, Thiel

Noes: None

Absent: None

The Commission recessed for dinner at 6:45 p.m. and reconvened at 7:20 p.m.

**Variance and
Design Review
551 Blair Avenue**

Ms. Sally Adams is requesting variance and design review to stylistically alter the existing residence by changing the exterior wall material from horizontal wood siding to wood shingles with wood trim, construct a wood trellis structure at the garage entry; remove the front window shutters; replace the garage door and replace the front entry guardrail. The requested variances are from: (1) Section 17.10.4 to allow a structure coverage of 42.8% in lieu of the code permitted maximum of 40%; and (2) Section 17.10.6 to allow the new wood trellis to extend to within 10 ft. of the front property line in lieu of the code required minimum of a 20 ft. front yard setback.

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

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

Public testimony was received from:

Bennett Christopherson, Project Architect, stated that the intent of the proposed improvements is to enhance the rather awkward, non-descript appearance and architecture of the existing 1952 era home. The proposed trellis is intended to soften the appearance of the garage and provide a shadowing/3-D effect.

The Commission concurred that the proposed improvements will improve the aesthetics of the home. However, the Commission agreed that while front setback encroachment cannot be avoided (pre-existing situation) and the trellis does not represent the addition of habitable space within the setback, the extent of the encroachment can be minimized if the depth of the proposed trellis is reduced from its current 7'6" protrusion by pulling it back so as to be flush with the entry patio. The Commission was confident that this pull-back would still create the desired shadowing lines and improved aesthetics.

Resolution 464-V-07

WHEREAS, Ms. Sally Adams is requesting permission to stylistically alter the existing residence by changing the exterior wall material from horizontal wood siding to wood shingles with wood trim, construct a wood trellis structure at the garage entry; remove the front window shutters; replace the garage door and replace the front entry guardrail located at 551 Blair Avenue, Piedmont, California, which construction requires variance; and

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary in order to construct within the 20 ft. front yard setback and to exceed the structure coverage limit; and

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

1. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to the fact that this is a small trellis addition and not habitable space being added within the

setback and as conditioned, this encroachment will not extend beyond the existing porch. 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 the existing house already encroaches into the front setback. The trellis addition is essentially decorative ornamentation, minor in nature and impact.

3. Accomplishing the improvement without variance would cause unreasonable hardship in planning, design, or construction because the front setback encroachment is a pre-existing condition.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application of Ms. Adams for the above variances at 551 Blair 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: Kellogg, Robertson, Stehr, Thiel

Noes: None

Recused: Levine

Resolution 464-DR-07

WHEREAS, Ms. Sally Adams is requesting permission to stylistically alter the existing residence by changing the exterior wall material from horizontal wood siding to wood shingles with wood trim, construct a wood trellis structure at the garage entry; remove the front window shutters; replace the garage door and replace the front entry guardrail located at 551 Blair Avenue, Piedmont, California, which construction requires design review and

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

1. The exterior design elements (including but not limited to height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment) are aesthetically pleasing as a

whole and harmonious with existing and proposed neighborhood development in that the proposed improvements comply with Design Review Guidelines II-3, II-3(a) through (d) and II-4. The proposed improvements are compatible in terms of scale, mass, exterior materials with the new architectural style being created, do not overpower the property and reflect overall good design integration.

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 proposed improvements maintain the character of the neighborhood and are consistent with the setback patterns of neighboring properties. The project complies with Design Review Guidelines II-6(a) through (c).

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.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Ms. Adams for construction at 551 Blair 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. 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 Blair Avenue;
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. The proposed trellis shall be pulled back to approximately 4-1/2 ft., subject to the 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 Stehr, Seconded by Robertson

Ayes: Kellogg, Robertson, Stehr, Thiel

Noes: None

Recused: Levine

**Variance and
Design Review
139 Sunnyside Avenue**

Mr. Charles Robinson is requesting variance and design review to construct a new 9'6" high garage for a motorcycle, attached to the right rear corner of the house, in the right (north) side yard of the property. The requested variances are from: (1) Section 17.10.4 to allow a structure coverage of 64.45% in lieu of the code permitted maximum of 40%; and (2) Section 17.10.7 to allow construction to extend to within 5 inches of the right side property line in lieu of the code required minimum of a 4 ft. side yard setback.

Written notice was provided to neighbors. **No response forms** were received.

Public testimony was received from:

Mike Pond, Project Architect, acknowledged the small size of the existing house and lot and noted that the size and placement of the proposed garage/storage structure is intended to preserve the usability of the rear yard.

The Commission agreed that the design of the proposed structure is architecturally compatible with the existing house but that because of its small size it is really an accessory storage structure rather than parking garage. The Commission was reluctant to grant a variance for a storage structure that could probably be located elsewhere (e.g., under the deck), noted that a more feasible location for a 1-car garage would be at the rear corner and that the location of the proposed structure would essentially eliminate any exterior access to the rear yard – only access would be through the house – which creates an undesirable situation in terms of fire safety.

Resolution 459-V-07

WHEREAS, Mr. Charles Robinson is requesting permission to construct a new 9'6" high garage for a motorcycle, attached to the right rear corner of the house, in the right (north) side yard of the property located at 139 Sunnyside Avenue, Piedmont, California, which construction requires variance; and

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary in order to exceed structural coverage limits and to construct within the right 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 do not present unusual physical circumstances because of which 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 not compatible with the immediately surrounding neighborhood and the public welfare because by preventing exterior access to the rear yard, it creates an unsafe condition.
3. Accomplishing the improvement without variance would not cause unreasonable hardship in planning, design, or construction because there are other possible locations on the property for a garage and/or storage structure.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies the variance application of Mr. Robinson for the above variances at 139 Sunnyside Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Stehr, Seconded by Kellogg

Ayes: Levine, Kellogg, Robertson, Stehr, Thiel

Noes: None

Absent: None

Resolution 459-DR-07

WHEREAS, Mr. Charles Robinson is requesting permission to construct a new 9'6" high garage for a motorcycle, attached to the right rear corner of the house, in the right (north) side yard of the property located at 139 Sunnyside Avenue, Piedmont, California, which construction requires design review; and

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

- While the exterior design elements of the proposed improvements are aesthetically pleasing as a whole and harmonious with the existing and proposed development, the proposed improvements do not create a real garage and prevents exterior access to the rear yard creating an unsafe public safety situation. In addition, no variances have been granted in connection with the proposed design, therefore, the proposed improvements cannot be constructed. The project fails to comply with Design Review Guideline III-7(a).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies, without prejudice, the design review application of Mr. Robinson for construction at 139 Sunnyside Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Stehr, Seconded by Kellogg

Ayes: Levine, Kellogg, Robertson, Stehr, Thiel

Noes: None

Absent: None

**Design Review
22 Valant Place**

Mr. Mark Attarha and Ms. Nahid Nassiri are requesting design review to construct a new 2,333 sq. ft. residence with 2-stories over a basement and 2-car garage. The residence is proposed to have 3 bedrooms, 2-1/2 bathrooms, an open room with living, dining, study and kitchen areas, laundry area and skylights. Proposed site improvements include walkways, stairs, a driveway, exterior lights, and retaining walls. A landscape plan has been submitted.

Written notice was provided to neighbors. **Two affirmative, five negative response forms** were received. **Correspondence** was received from: Dean Johnson, Jan. 11, Feb. 6; Thomas Kronemeyer, Jan. 7, Feb. 4, 5; Dana Fox, Feb. 4; Dean & Nancy Johnson/Phil & Mary Pierpont, Jan. 10, Feb. 7; Tom & Margaret McAlone, Feb. 7; Grier Graff, Jan. 9, Feb. 6; Garrick Lew & Diane Hiura, Jan. 9, 10; ; Diane Allen & Kathleen Quenneville, Jan. 9; St. James Wood Homes Association, Jan. 10;

Public testimony was received from:

Grier Graff, Project Architect, described the substantial changes to the design made in response to the March 12, 2007, meeting and displayed a model of the proposed home in relation to adjacent residences and lot slope. He noted that there are no changes in the revised design and application from that originally scheduled for Commission review in January.

Curt Jensen, Project Soils Engineer, responded to Commission questions and described the proposed excavation and shoring practices planned for development. It was his professional opinion that the project can be safely excavated and constructed with no significant impact on adjacent residences.

Kathleen Quenneville, Thomas Kronemeyer, Tom McAlone, Garrick Lew, Dean Johnson and Ann O'Regan all opposed the proposed plan, citing concerns that: (1) there is too much excavation further up into the slope and that the house is being buried into the hillside, necessitating deep excavation – because of this excavation the project fails to comply with Design Review Guidelines requiring that the design work with the topography of the lot and follow the contours of the slope; (2) the lot is not buildable per the standards and regulations of many other cities, such as Glendora, Lafayette, etc.; (3) the proposed excavation on the site poses significant safety concerns to neighboring properties; (4) slope calculations provided by the applicant keep changing; (5) the footprint of the revised design is essentially the same as the plan denied in March 2007; (6) the revised design fails to comply with the City's Design Review Guidelines; (7) the master bedroom window intrudes upon the privacy of 23 Valant Place; (8) the revised design fails to avoid the steepest portions of the lot; (9) no soils testings/borings have been conducted to conclusively determine that the project can be safely constructed; (10) the CEQA process should be required to address construction safety issues; and (11) project approval will impose an unacceptable level of risk to adjoining properties.

In addition, Kathleen Quenneville on behalf of neighbors requested that if the project is approved, the following conditions be imposed:

- Property lines be surveyed
- Use of rock nails or other retention devices not extend beyond the 4 ft. setback distances;
- The insurance coverage for neighboring property be increased to \$10 Million and extended for a 5-year period;
- Adjacent neighbors be named as additional insured;
- The applicant sign a hold harmless agreement with the uphill neighbors.

Jack Summerfield requested that story poles from the March 2007 design be removed from the site because they pose a safety/nuisance hazard to neighborhood children. He also inquired as to the City's oversight processes to guarantee compliance with the project's multiple bond requirements.

During Commission questioning of speakers, it was acknowledged that: (1) the neighborhood has not retained a geotechnical or soils engineer to review the applicant's proposal and either confirm or refute the findings of the applicant's professionals; and: (2) that no damage to neighboring property resulted from the construction of 23 Valant Place.

The Commission advised speakers: (1) of the City's planning process which first approves a design and then determines if the approved design can be constructed as planned; (2) the City of Piedmont does not have a slope ordinance and therefore, the Commission has no authority to deny the project on that basis; (3) the City's Design Review Guidelines pertaining to working with the topography and contours of the site applies to the finished appearance of a home on a slope, not how the site was prepared or the home was constructed – site excavation is not prohibited; (4) 22 Valant Place is a buildable lot; and (5) the proposed development qualifies for a Class 3 Categorical Exemption from CEQA – the current application has less impact than other projects which have received a Class 3 exemption.

As to the proposed design, the Commission agreed that the current application reflects a significant reduction in bulk, the proposed home is commensurate with the size of the lot – no floor area, structure coverage, impervious surface coverage height variances are required or would be required even if areas that can't be built upon are excluded from the coverage calculations, neighbor privacy issues related to window placement are not involved and the architecture of the proposed home is attractive and compatible within the context of Piedmont and the immediate neighborhood. However, the Commission requested that design details regarding window material/treatment, retaining wall finishes, roof material, railings and other decorative features be subject to staff review and approval. The Commission directed, however, that the roof not be composition shingle (preferred slate or engineered/concrete slate) and that the bottom left (facing house) retaining wall should be stone or stone veneer.

As to CEQA, the Commission noted that there has been no submitted evidence to indicate that the proposed project should not qualify for a Class 3 Categorical Exemption.

Resolution 5-PL-08

RESOLVED, that the Planning Commission determines that the current application for proposed construction on 22 Valant Place qualifies for the Class 3 Categorical Exemption that applies to most single family construction projects in California, on the grounds that it is of sufficiently small size and is consistent with the Commission findings with respect to other projects in Piedmont which have received a categorical exemption.

Moved by Levine, Seconded by Kellogg

Ayes: Levine, Kellogg, Robertson, Stehr, Thiel

Noes: None

Absent: None

Resolution 461-DR-07

WHEREAS, Mr. Mark Attarha and Ms. Nahid Nassiri are requesting permission to construct a new 2,333 sq. ft. single-family residence located at 22 Valant Place, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements include but are not limited to: height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment. The distance between the proposed new multi-level structure and adjacent residences is reasonable and appropriate due to the existing and proposed topography and neighborhood development pattern. Upper level setbacks are greater than the setbacks required for the lower level and are necessary to reduce the effect on neighboring properties. The proposed improvements comply with Design Review Guideline I-1, I-10, I-11, I-12 and IV-1. Even though there is no predominate architectural style in the neighborhood, the architectural style of the proposed home is consistent with some of the Tudor style houses to the immediate left. The design of the new residence is compatible with the mixed architectural style of other houses in the neighborhood. The siting of the residence differentiates between public and private space and discourages visual access by persons driving by or walking on the sidewalk. The home's entry is visible from the street. The design of the home's retaining walls are consistent in character with other walls in the neighborhood and with the residence.

2. The proposed new multi-level structure 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, the height of the construction, and excavation to lower the level and the shape and direction of roof. The proposed new home complies with Design Review Guidelines I-2, I-7, I-8 and I-9. The siting of the new house is compatible with other homes in the area – it follows the curve of the street and respects in terms of

privacy and light the residences on either side. The siting and landscaping of the new home does make an effort to preserve neighboring residences' existing views. It does have some outdoor space and is screened from contiguous parcels. The placement of windows, appliance ventilation and exhaust ports respect the visual and acoustical privacy of neighboring properties.

3. The size and height of the new home 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 new house complies with Design Review Guidelines I-5 and I-6. It has been constructed into the steep slope to take advantage of the topography and to reduce the visual bulk of the structure and avoid the appearance of excessively large bulk. It is physically integrated into the neighborhood and when the project is completed, the new home will appear as if it belongs in this part of the neighborhood.

4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic will not be adversely affected when the project is completed.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Attarha and Ms. Nassiri for construction at 22 Valant Place, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. A foundation plan, and excavation and shoring plan shall be developed by a structural engineer, at the Applicant's cost, and said plans shall address issues of site shoring, fencing and hillside security issues. Said plans shall be based on not trespassing or intruding into neighboring properties, and causing no subsidence or other damage to such neighboring properties, and shall be approved by the City Engineer and the City Building Official. Such plans shall be based on the recommendations of the project geotechnical engineer and the City's geotechnical consultant.

2. A geotechnical report shall be submitted that will assess the existing site conditions. An independent geotechnical consultant shall be retained by the City at the sole expense of the Applicant to review the geotechnical report and advise the City in connection with the excavation, retaining wall systems, foundations and their construction, and other related items involving Applicant's property. Such independent geotechnical consultant shall review the building plans during the permit approval process, and shall provide periodic on-site observation during excavation and construction of the foundations. The City Engineer shall select an appropriate independent geotechnical consultant.

3. A comprehensive Construction Management Plan shall be developed by the City on the project, after receiving an initial draft from the Applicant, and after development of such Plan, the City Building Official shall have the authority to require amendments to the Construction Management Plan, as he deems necessary, throughout the course of the project until the final issuance of a Certificate of Occupancy. The Construction Management Plan shall address noise,

vibrations, traffic control, parking, debris removal, dust control, and other construction impacts, as well as numerous other details involving the construction project.

4. A performance bond or other financial vehicle shall be required from Applicant to ensure the completion of the full construction of the house, including foundation and landscaping, all based on the plans approved by the City. Such bond or other financial vehicle shall be determined by the Director of Public Works in the form of a cash deposit, bond, or other financial vehicle that will absolutely ensure completion of the entire project, with the final amount and type and exact terms of the financial vehicle to be determined by the Director of Public Works after consultation with the Applicant. Such amount shall not only include all reasonable expected costs to complete the project, but a 25% additional amount over the total anticipated costs to cover unexpected expenditures, particularly in light of the difficulty in excavating and preparing the foundation for the project. An estimator shall be retained by the City (at Applicant's sole expense) to estimate the total costs of such project, and as the project proceeds if costs to complete the project may increase beyond the original estimate made by the estimator, based on a later evaluation by the estimator, City may require the Applicant to increase the amount of the cash deposit, bond or other financial vehicle by such additional amount plus 25%, and Applicant shall provide City with written evidence of completion of such increase within 15 working days after receiving written notice thereof from City. Such cash deposit, bond or other financial vehicle shall not be released until the entire project has been "finaled" as complete by the Chief Building Official, provided that if in the judgment of the Director of Public Works, sufficient work has been completed pursuant to the inspections of the Building Official, the director of Public Works may reduce such cash deposit or bond to the extent the Director of Public Works in his sole discretion shall determine is appropriate.

5. A specific cash deposit, bond or other financial vehicle shall be made by the Applicant in the amount of \$200,000.00, to cover the cost of any damages to City property or facilities in any way caused by Applicant, Applicant's agents or assigns, including but not limited to any of Applicant's contractors, subcontractors or their employees and agents, relating to the project, the terms of such cash deposit or bond or financial vehicle to be determined by the Director of Public Works after consultation with the Applicant.

- a. To provide clear baseline information to determine whether damage is caused by the Applicant or others working for or on behalf of Applicant on this Project, specifically relating to damage to Valant Place and Trestle Glen Road within the City of Piedmont Boundaries and other city streets to be used by trucks, vehicles, and other equipment involving the Project, City will video all the streets to be used by such trucks, vehicles, and other equipment to determine the baseline condition of such streets, and shall further re-video the streets every two weeks after the Project commences until all of the excavation and foundation work have been fully completed. As part of such videoing, City may possibly hose or water down the streets to better emphasize any cracks or damage in

the surface thereof. The full cost of all such videoing and related work shall be reimbursed to the City by Applicant within 21 days after receiving written notification of the work performed and the amount to be reimbursed.

- b. No double trailers shall be used as part of the Project, particularly relating to removal of rocks and debris, to reduce potential damage to the streets and to avoid traffic hazards on the cul-de-sac and narrow curving city streets.
6. The Applicant shall provide adequate and appropriate insurance or bond or other financial vehicle, as approved by the Director of Public Works against damage to neighboring properties at 21 and 23 Valant Place, as well as 294, 298 and 300 Indian Road by any construction, excavation, and related work in any way involving the project, such insurance, bond, or other financial vehicle to be in the amount of \$2,500,000.00 and with any conditions established by the Director of Public Works after consultation with the Applicant. If the Director of Public Works determines that obtaining any particular insurance would be extremely difficult for Applicant due to its lack of availability even at an increased cost, the Director of Public Works may authorize an alternative method of providing equal protection to neighboring properties, including but not limited to partial coverage by Umbrella Insurance if that appears appropriate. Such insurance or any alternative method shall allow for claims to be made for up to two years after the issuance of the Certificate of Occupancy on Applicant's project. Any and all such insurance, bond or other financial vehicle shall specifically indicate that it covers damages to the above properties, and if such insurance is meant to also cover other potential damages, such as personal injuries or damages to other than the above named properties, any such further coverage shall be in addition to the \$2,500,000.00 earmarked for neighboring properties.
7. Implementation of stormwater treatment Best Management Practices (BMPs) as well as Bay Area Stormwater Management Agencies Association's Start at the Source criteria for stormwater quality protection is required. Requirements shall be made by City Staff involving storm water pollution prevention during construction, as well as final drainage erosion control, and these items will be reviewed as part of the Construction Management Plan.
8. Applicant shall provide a written guaranty signed by Applicant, Applicant's general contractor, and Applicant's structural engineer that there will be no subsidence or erosion to any neighboring properties caused in any way by Applicant's excavation, construction or any other activities relating to such project, and acknowledging that all work may be immediately stopped by City in the event of such subsidence or erosion until the City Engineer can be fully reassured that no further subsidence or erosion will occur from such neighboring properties. As an alternative, Applicant may post a cash bond or other financial vehicle acceptable to the Director of Public Works that will provide sufficient funds that will be immediately available to remedy any

subsidence or erosion that may occur on neighboring properties in an amount to be determined by the Director of Public Works, but which will not be less than \$500,000.00. Such written guaranty, cash bond or similar financial vehicle shall not be released until the entire Project has been completed and “finaled” by the Chief Building Official.

9. The funds provided under Conditions 4, 5, and 8 hereof shall be provided to City upon demand without City having to prove in any way that such funds are required, either for completion of the project under Condition 4 or for damages to City property or facilities under Condition 5 or for repairs or remedies to subsidence or erosion under Condition 8, other than the determination of the Director of Public Works that they are needed and the amount that is needed.
10. Work on the project shall take place with continuous good faith, and reasonable progress. Since timely completion of this project is of the essence, the Applicant shall submit for approval a Construction Completion Schedule, which will specify, in detail, the duration and percentage complete of each subcontract and phase during any given week of the construction schedule.
 - a. Such Construction Completion Schedule shall set forth completion dates for the following milestones or benchmarks:
 1. Completion of Excavation;
 2. Completion of Rear Retaining Walls;
 3. Completion of Foundation;
 4. Completion of Rough Framing;
 5. Completion of Electrical;
 6. Completion of Plumbing;
 7. Completion of Mechanical;
 8. Completion of Fire Sprinklers;
 9. Completion of Home;
 10. Completion of Landscaping;

and of any final Conditions of occupancy, meaning completion of the entire Project.

- b. The City shall have an independent professional review the completion dates proposed by Applicant in 10a. above, and to the extent such completion dates are unrealistically long for the work to be accomplished, shall suggest a reasonable completion date for that milestone or benchmark. The Director of Public Works shall make a final determination on the reasonable completion dates that shall apply to the Project before the Project commences, and such determination shall be binding on the Applicant.
 - c. If any work has not been completed for a specific milestone or benchmark as set forth in 10a. above by the date finally determined by the Director of Public Works, such work still has not been completed 90 days after such completion date, and the delay in completion has not been caused by an Act of God, the Director of Public Works shall have the option at any

time thereafter to make claim against the funds to be provided pursuant to Condition 5 in order to complete such milestone or benchmark.

11. Based on the results of the geotechnical report, an acoustical engineer, chosen by the City, may be required by Director of Public Works, at the applicant's expense to monitor the vibration and decibel levels of the project, including being periodically present at the construction site during excavation and foundation work, and based on such monitoring will be able to stop work when it becomes, in the opinion of such engineer, excessive.
12. Any bonds, financial vehicles or related conditions in the list of these specific conditions may be modified in a reasonable manner with the joint agreement of the Public Works Director and the City Attorney, provided that such modifications must carry out the general intent of each such condition.
13. All funds or financial vehicles set forth in any of the above conditions shall be earmarked or dedicated so that they are not subject to creditors claims.
14. Applicant shall make a cash deposit with the City prior to commencement of construction in the amount of \$15,000.00 to be used to offset time and expenses of City Staff relating to the Project, any amounts remaining to be refunded to the Applicant within 90 days after the Project has been "finaled" by the Chief Building Official. If such cash deposit has been reduced to \$2,500.00 or less at any time, the Director of Public Works shall have the authority to require additional funds to be deposited by Applicant covering any further estimated Staff time and expenses.
15. Applicant shall make a cash deposit with the City prior to commencement of construction in the amount of \$25,000.00 to be used to pay for the fees and expenses relating to the professionals called for in other Conditions, including but not limited to Conditions 1, 2, 6, 10, 11 and 21, hereof, or in any way otherwise required to be expended by the City for professional assistance (other than City Staff) relating to the Project, such funds to be expended at the discretion of the Director of Public Works. If such cash deposit has been reduced to \$2,500.00 or less at any time, the Director of Public Works shall have the authority to require additional funds to be deposited by Applicant covering any further estimated fees and expenses of professionals. Any amount remaining unexpended shall be refunded to the Applicant within 90 days after the Project is "finaled" by the Chief Building Official.
16. Notwithstanding any other condition hereof, any structural engineer, soils engineer, geotechnical engineer or other engineer or professional consultant to be retained by the Applicant to perform work relating to project on Applicant's property shall be required to maintain errors and omissions insurance coverage with limits of no less than \$1,000,000.00 per claim that will specifically be available to cover any errors and/or omissions relating to any work performed by that professional involving Applicant's property.

17. Prior to the issuance of a building permit, the applicants shall prepare a Tree Preservation Plan that incorporates the tree preservation measures recommended in the Arborist's Report, David W. Nelson, The Care of Trees, dated November 7, 2006. The final plan shall include tree preservation notes (such as requiring fencing at the drip-line of trees near excavation and construction areas) on the appropriate sheets of the construction set of plans, and a Certified Arborist shall specify whether or not he/she should be on-site during certain activities (such as the excavation for the large rear retaining wall). Trees proposed for removal shall have an in-lieu replacement tree proposed elsewhere on the property, which shall be shown on the final landscape plan. This tree preservation plan shall be subject to review and approval by staff.
18. The garage door shall be mechanically operated.
19. Compliance with Chapter 9 Article III of the Municipal Code, which governs the recycling of construction and demolition debris, shall be required for all phases of this project. As a Covered project, this project is 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.
20. The Applicant shall execute an Agreement prepared by the City Attorney to defend, at Applicant's sole expense, indemnify and hold harmless the City of Piedmont, its agents, offices and employees from any claim, action or proceeding against the City of Piedmont relating to its determination through its Planning Commission, City Council and/or City Staff in applying the California Environmental Quality Act to the Applicant's Project, including but not limited to a determination that a Categorical Exemption applies or that neither an Initial Study, a Negative Declaration nor an Environmental Impact Report is required for the Project.
21. A structural engineer chosen by the City shall inspect neighboring homes and retaining walls with regard to any possible damage that may be caused by vibrations or other factors due to excavation, construction or other activities on Applicant's property, and such inspection shall include both foundations and non-foundation related details (walls, windows, general overall condition, etc.) at the Applicant's cost and at a level of inspection City Staff deems appropriate. Such inspection shall only include readily visible and accessible areas of such neighboring homes, shall be made with the intent of establishing base-line information to later be used in determining damage caused by any activities on Applicant's property, and shall only take place with the permission of the homeowner as to such homeowner's home and property. The specifics of each such inspection shall be agreed to between such City-selected structural engineer and the City staff. The structural engineer shall provide a full report to the City of his conclusions, and such report shall be considered in developing the Construction

Management Plan. If other independent consultants or specialists are required by the City to review plans and monitor construction activity, they shall be at the Applicant's cost.

- a. Within 45 days after the Certificate of Occupancy is issued on Applicants property the same structural engineer chosen by the City or a substitute structural engineer chosen by the City shall inspect the same exact area in each neighboring home and property initially inspected, and shall present to the City a Report detailing any evidence of apparent damage that has been or reasonably might have been caused by activities on Applicant's property, including any photographic evidence, diagrams or the like that would document such apparent damage. Such Report may be used in connection with claims pursuant to Condition 6 hereafter.
22. The bottom left retaining wall (facing the house) shall be stone or stone-faced.
 23. Design details of the house, including roof material, windows, railings and other decorative features shall be subject to staff review and approval. The roof material shall not be composite shingle.

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

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

After a brief recess and pursuant to a procedural motion unanimously carried, the Commission agreed to consider Agenda Item #11 prior to Agenda Item #10.

**Variance and
Design Review
1900 Oakland Avenue**

Mr. and Mrs. Rick Coffin are requesting variance and design review to replace the existing roof material on the garage and playroom with a new foam roofing system. The requested variance is from Section 17.10.7 to allow the existing garage and playroom to extend to 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. **One affirmative response form** was received.

Public testimony was received from:

Rick Coffin explained the proposed installation of a rack system in connection with the installation of solar panels over the existing garage and playroom located within the side yard setback. He added that his solar contractor recommended that for additional energy efficiency, he replace the existing tar and gravel roof material with a polyurethane foam material. He submitted samples of the foam material, noting that the color can be either putty or gray. The City Planner noted that the installation of solar panels is not within the Commission's purview to consider – only the new roof material and racking system is subject to City review and approval.

The Commission acknowledged that the variance situation is pre-existing and will not be changed by the addition of the new roof material, solar panels and rack system. The Commission further agreed that the color of the foam should be either the gray or other dark color to match the house – it should definitely not be white. Chairman Thiel voiced his preference that the roof slope on the garage and playroom be changed to a pitched roof more in keeping with the existing house.

Resolution 7-V-08

WHEREAS, Mr. and Mrs. Rick Coffin are requesting permission to replace the existing roof material on the garage and playroom with a new foam roofing system located at 1900 Oakland 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 a new solar module structure atop the garage and playroom within the 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 variance situation is pre-existing. The garage and playroom are currently located within the setback and are the most logical place for the installation of the racking system and solar panels. 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 racking system and roof material are concealed from public view.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because the garage and playroom atop which the new installation will occur are located within the setback.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application

of Mr. and Mrs. Coffin for the above variance at 1900 Oakland 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 Stehr

Ayes: Levine, Kellogg, Robertson, Stehr, Thiel

Noes: None

Absent: None

Resolution 7-DR-08

WHEREAS, Mr. and Mrs. Rick Coffin are requesting permission to replace the existing roof material on the garage and playroom with a new foam roofing system located at 1900 Oakland Avenue, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements (including but not limited to height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that the proposed location conceals the new racking system and solar panels from view and as conditioned, the color of the new roofing material will match the existing house to maintain architectural compatibility. The project complies with Design Review Guidelines II-3(b) and II-4
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because the installation on the roof of the existing garage and playroom will shield the solar panel support system from view. The project complies with Design Review Guidelines II-6, II-6(a) and (b).
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 circulation patterns.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review

application of Mr. and Mrs. Coffin for construction at 1900 Oakland Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following condition:

1. The approved plans are those submitted on January 11, 2008, with additional information submitted on January 24, 25 and 30, and February 8, 2008, after neighbors were notified of the project and the plans were available for public review;
2. The color of the proposed foam roofing material shall not be white but can be gray or another color matching the existing roof.

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 Stehr

Ayes: Levine, Kellogg, Robertson, Stehr, Thiel

Noes: None

Absent: None

**Fence Design Review
95 Inverleith Terrace**

Mr. and Mrs. David McClain are requesting fence design review to replace the existing stone retaining wall at the front property line with a new concrete retaining wall with stone veneer.

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

Public testimony was received from:

Grier Graff, Project Architect, agreed to Commission requests to move the wall back 6 to 8 inches in order to create an area at the toe of the wall for the planting of vines and to slightly “batter” the wall to minimize its impact on the sidewalk.

Resolution 6-DR-08

WHEREAS, Mr. and Mrs. David McClain are requesting permission to replace the existing stone retaining wall at the front property line with a new concrete retaining wall with stone veneer located at 95 Inverleith Terrace, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements (including but not limited to height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that the proposed replacement wall is similar in type and material to the existing wall it replaces. The project complies with Design Review Guideline IV-1.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because the new wall will be the same height as the existing wall it replaces.
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 significant change in existing impacts. The new wall will be in the same place as an existing wall, albeit, with a small planting strip in front to allow the wall to be landscaped. The project complies with Design Review Guideline IV-6.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. McClain for construction at 95 Inverleith Terrace, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. 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;
2. The new wall shall be located approximately 8 inches from the property line to allow for the planting of screening vines, the wall shall be cast-in-place concrete with a stone veneer and reflect a battered style approximating a 5% slope. Said design modifications 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 Kellogg, Seconded by Robertson

Ayes: Levine, Kellogg, Robertson, Stehr, Thiel

Noes: None
Absent: None

**Fence Design Review
39 Crest Road**

Mr. Andrew Ball is requesting fence design review to construct a new 6 ft. high stone retaining wall with a new wood and wire fence atop at the rear of the property along LaSalle Avenue.

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

Public testimony was received from:

Philip Dow, Project Contractor, described the proposed new fencing.

The Commission, with the exception of Commissioners Thiel and Levine, supported application approval, agreeing that the new fence fits within the context of the property, its “open design” will allow it to be screened by vegetation and thus provide a “green” privacy barrier for the rear yard on this through lot bordering a public park and its stepped down design is consistent with the topography of the lot.

Commissioners Thiel and Levine supported the stone retaining wall component of the project but felt that an overall 6 ft. high privacy fence within the 20 ft. street side setback was too intrusive and unnecessary given that an existing fence already establishes a private rear yard outdoor area. They felt that there were already too many fences at this prominent corner.

Resolution 10-DR-08

WHEREAS, Mr. Andrew Ball is requesting permission to construct a new 6 ft. high stone retaining wall with a new wood and wire fence atop at the rear of the property along LaSalle Avenue located at 39 Crest 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 conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. The exterior design elements (including but not limited to height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that the proposed improvements comply with Design Review Guidelines V-2. The proposed retaining wall and fence is compatible with the architectural style of the residence and provides visual interest and variety.
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 proposed improvements comply with Design Review Guidelines V-5, V-5(a) through (c) in that the new

wall and fence reflect a high quality of design and construction, are appropriately sited on the property and will be screened by vegetation.

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.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Ball for construction at 39 Crest Road, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

Moved by Stehr, Seconded by Kellogg

Ayes: Kellogg, Robertston, Stehr

Noes: Levine, Thiel

Absent: None

**Variance and
Design Review
4 Park Way**

Mr. John Moss and Ms. Lisa Scimens is requesting variance and design review to construct two new wrought iron balconies, add exterior wall trimming, install a new guardrail, and make window and door modifications on the front (west) façade of the residence. The application also seeks retroactive approval for the construction of a rear deck, hot tub, and bay addition at the front of the residence. The requested variances are from: (1) Section 17.10.6 to allow proposed construction to extend to within 15'1" 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 existing hot tub to extend to 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:

John Moss stated that the intent of the project is to improve the aesthetics of his home's rather non-descript façade by adding architectural detailing and interest. In the process it was discovered that the hot tub and deck, which existed at the time of property purchase 11 years ago is illegal construction. He stated that his family hasn't used the hot tub for years and if it is not possible to replace the old motor so as to be sound compliant, he will remove the hot tub. However,

because of a scheduled special event at his home in May, he requested that hot tub removal be required before the project is “finaled” rather than before a building permit is issued so that his façade related improvements can be completed prior to the May event.

Lisa Joyce, Project Architect, agreed that it is unlikely that the old hot tub will comply with the City’s noise ordinance and that in addition to removing the hot tub, it is likely that the existing deck will also be removed in connection with the next phase of improvements – the relandscaping of the property.

The Commission agreed that the proposed improvements to the home’s façade are attractive and appropriate and will provide the home with a nice sense of entry. The Commission agreed that the old hot tub and deck should be removed or relocated to another area of the property. There is no justification for approving a setback variance for these elements since there is room to locate these amenities elsewhere on the property without variance.

Resolution 11-V-08

WHEREAS, Mr. John Moss and Ms. Lisa Scimens are requesting permission to construct two new wrought iron balconies, add exterior wall trimming, install a new guardrail, and make window and door modifications on the front (west) façade of the residence. The application also seeks retroactive approval for the construction of a rear deck, hot tub, and bay addition at the front of the residence located at 4 Park Way, Piedmont, California, which construction requires variance; and

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary in order to construct within the front and left side yard setbacks; and

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

With regard to the proposed front yard improvements:

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 front setback and no improvements to its façade can be made without variance. 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 front yard setback variance for the front yard improvements are compatible with the immediately surrounding neighborhood and the public welfare because other homes in the neighborhood have similar front yard setbacks.
3. Accomplishing the improvement without variance would cause unreasonable hardship in planning, design, or construction because the

existing home is located within the front yard setback and cannot be altered/improved without variance.

With regard to the existing rear deck and hot tub:

4. The underlying lot and existing improvements do not present unusual physical circumstances because of which 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. There are other areas on the property, outside of the side yard setback where a hot tub and deck could be located.
5. The side yard setback variance for the rear hot tub and deck is not compatible with the immediately surrounding neighborhood and the public welfare because these elements are located too close to the neighboring property line.
6. Accomplishing the improvement without variance would not cause unreasonable hardship in planning, design, or construction because the hot tub and deck can be located elsewhere on the property where no variance is required.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves a front yard variance for proposed front façade improvements and denies a side yard variance for the existing rear deck and hot tub as set forth in the variance application of Mr. Moss and Ms. Scimens at 4 Park Way, 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 Stehr

Ayes: Levine, Kellogg, Robertson, Stehr, Thiel

Noes: None

Absent: None

Resolution 11-DR-08

WHEREAS, Mr. John Moss and Ms. Lisa Scimens are requesting permission to construct two new wrought iron balconies, add exterior wall trimming, install a new guardrail, and make window and door modifications on the front (west) façade of the residence. The application also seeks retroactive approval for the construction of a rear deck, hot tub, and bay addition at the front of the residence located at 4 Park Way, 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 it complies with Design Review Guidelines II-3(a) through (d). The proposed improvements are well integrated into the existing house, exterior materials are consistent with the existing house and the overall appearance does not look tacked on.
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 proposed improvements are stylistic in nature to the front of the home.
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.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves, with the exception of the rear yard hot tub and deck, the design review application of Mr. Moss and Ms. Scimens for construction at 4 Park Way, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. The approved plans are those submitted on January 31, 2008, after neighbors were notified of the project and the plans were available for public review;
2. The proposed windows shall be painted to match the remaining windows throughout the residence;
3. The removal of the existing rear yard hot tub and deck shall be completed prior to the final inspection of the project.

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 Stehr

Ayes: Levine, Kellogg, Robertson, Stehr, Thiel

Noes: None
Absent: None

**Variance and
Design Review
144 Ronada Avenue**

Mr. Toby Cozart and Ms. Helen Conroy are requesting variance and design review to make modifications to the residence, including: demolition of the existing rear powder room, deck stairs, barbecue and chimney; construction of a rear addition to the main and basement levels; construction of new rear deck stairs; window and door modifications; the addition of exterior lighting; replacement of the front lamp post, and various changes to the interior. The requested variance is from Section 17.10.7 to allow the new stair landing to extend to within 3 ft. of the side property line in lieu of the code required minimum of a 4 ft. side yard setback.

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

Public testimony was received from:

Toby Cozart described the proposed improvements, noting in particular efforts to minimize uphill neighbor view obstruction based upon discussions with this neighbor.

T.C. Chen, Project Architect, responded to Commission questions concerning the design of the proposed roof, emphasizing that the proposed design satisfies the uphill neighbor's request that his view not be obstructed.

The Commission supported project approval, agreeing that the proposed improvements do not involve any significant changes from that existing.

Resolution 12-V-08

WHEREAS, Mr. Toby Cozart and Ms. Helen Conroy are requesting permission to make modifications to the residence, including: demolition of the existing rear powder room, deck stairs, barbecue and chimney; construction of a rear addition to the main and basement levels; construction of new rear deck stairs; window and door modifications; the addition of exterior lighting; replacement of the front lamp post, and various changes to the interior located at 144 Ronada 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 left 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 topography of the lot, the relationship of the applicant's property to that of his

adjacent neighbor and the fact that the retaining wall is already located within the setback. 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 provide a secondary emergency access.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because the proposed improvements are not creating a new situation but replacing a new landing pad above the old one.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application of Mr. Cozart and Ms. Conroy for the above variance at 144 Ronada 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 Robertston

Ayes: Levine, Kellogg, Robertson, Stehr, Thiel

Noes: None

Absent: None

Resolution 12-V-08

WHEREAS, Mr. Toby Cozart and Ms. Helen Conroy are requesting permission to make modifications to the residence, including: demolition of the existing rear powder room, deck stairs, barbecue and chimney; construction of a rear addition to the main and basement levels; construction of new rear deck stairs; window and door modifications; the addition of exterior lighting; replacement of the front lamp post, and various changes to the interior located at 144 Ronada 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 new multi-level structure 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 not necessary to reduce losses of ambient and reflected light. The project complies with Design Review Guidelines II-3, II-3(a) through (d). The proposed improvements are compatible in scale, mass and architectural style with the existing residence and neighborhood, are well integrated into the existing residence and exterior materials and architectural details match existing.

2. The proposed new multi-level structure/expansion has been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.70), including 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 been designed so as to be sensitive to neighbor view impacts and responsive to neighbor requests related to the roof design and removal of the barbecue and chimney. The project complies with Design Review Guidelines II-6, II-6(a) and (b) and II-7.

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 project complies with Design Review Guidelines II-1 and II-2. The proposed improvements are at the rear of the property and are consistent with the rear setbacks of other neighbors.

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. There is no impact on existing circulation patterns.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Cozart and Ms. Conroy for construction at 144 Ronada Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. The approved plans are those submitted on January 25, 2008, with additional information submitted on January 29, 2008, after neighbors were notified of the project and the plans were available for public review;
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 Ronada Avenue;

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.

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 Kellogg

Ayes: Levine, Kellogg, Robertson, Stehr, Thiel

Noes: None

Absent: None

ADJOURNMENT

There being no further business, Chairman Thiel adjourned the meeting at 11:25 p.m.

