

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday September 8, 2008

A Regular Session of the Piedmont Planning Commission was held September 8, 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 August 29, 2008.

CALL TO ORDER

Chairman Stehr called the meeting to order at 5:00 p.m. She announced that Agenda Item #10 (New House Design Review, 53 Cambrian Avenue) has been withdrawn from tonight's consideration.

ROLL CALL

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

Absent: Alternate Commissioner Michael Henn (excused)

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

City Council Liaison: Councilmember John Chiang

CONSENT CALENDAR

There was no consent calendar.

PUBLIC FORUM

There were no speakers for the public forum.

APPROVAL OF MINUTES

Resolution 21-PL-08

RESOLVED, that the Planning Commission approves as submitted its meeting minutes of August 11, 2008.

Moved by Thiel, Seconded by Robertson

Ayes: Kellogg, Robertson, Stehr, Thiel

Noes: None

Abstain: Levine

Absent: None

REGULAR CALENDAR

The Commission considered the following items of regular business:

Design Review 280 Indian Road 191 St. James Drive

Mr. and Mrs. Derek Benham and Mr. and Mrs. Jeffrey Gao are requesting retroactive design review approval for landscape changes, new pathways and water channeling features near Indian Creek at 280 Indian Road and 191 St. James Drive. In November 2006, the City Building Official discovered that significant landscape changes and pathways had been constructed outside the "limit of work" line designated for the Benham's construction of a new house and outbuildings on 280 Indian Road approved in 2004. Furthermore, some of the landscape changes/pathways were constructed on neighboring properties, with the most impacted neighbor being 191 St. James Drive. As a consequence of this discovery, the California Department of Fish and Game and EBMUD made site visits in connection with changes to Indian Gulch Creek, an EBMUD catch basin and daylighted underground pipe. In May 2007 a CEQA study was undertaken by LSA Associates that prepared an Initial Study and Mitigated Declaration. A Joinder Agreement was signed by the owners of 191 St.

James as the most expedient way for them to receive design review for construction of improvements on their property which they did not initiate or construct.

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

Public testimony was received from:

Todd Cole, Project Landscape Architect, stated that unfortunately the exact locations of the property lines for the lower garden portion of the applicants' property were not known at the time of construction.

The Commission concurred that the landscape improvements were beautiful, well integrated into the site and comply with the City's Design Review Guidelines, the spillway improvements are of high quality and correct existing erosion problems and that the CEQA analysis was professionally prepared and very comprehensive. The Commission agreed that the improvements do not impact adjacent properties nor detract from the natural ambience of the ravine setting.

Resolution 22-PL-08

WHEREAS, the Planning Commission after careful consideration of the Final CEQA Initial Study/Mitigated Negative Declaration (CEQA Study) relating to 280 Indian Road, Piedmont, California, State Clearinghouse Number: 2008082057, dated July 8, 2008 and also to 191 St. James Drive, Piedmont, California, finds such CEQA Study to be professionally prepared, to be in compliance with the requirements of the California Environmental Quality Act, and appropriate for adoption.

RESOLVED, that the Planning Commission hereby adopts such Final CEQA Initial Study/Mitigated Negative Declaration dated July 8, 2008, State Clearinghouse Number: 2008082057 as prepared by LSA Associates, with the following mitigation measure:

- The project applicant shall submit after-the-fact permit applications to the California Department of Fish and Game and the Regional Water Quality Control Board and comply with any recommended mitigation thereof. Proof of resolution shall be provided to the City of Piedmont Director of Public Works. The City of Piedmont may use funds available pursuant to a Bond Agreement between the City and the project applicant to pay for mitigation measures if the applicant does not complete the mitigation measures within the time period established by the regulator agencies or the City.

Moved by Kellogg, Seconded by Levine

Ayes: Kellogg, Levine, Robertson, Stehr, Thiel

Noes: None

Absent: None

Resolution 65-DR-07

WHEREAS, Mr. and Mrs. Derek Benham and Mr. and Mrs. Jeffrey Gao are requesting retroactive permission to construct landscape

changes, new pathways and water channeling features near Indian Creek at 280 Indian Road and 191 St. James Drive, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission finds that the proposal 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 IV-1(b) and IV-2. The retaining walls are well integrated into the natural habitat in terms of material and design, are of a minimum height necessary to create a spillway, are well terraced to control water flow and are attractively designed and constructed.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because the proposed improvements are not readily visible to the general public and are well integrated into the native landscape.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because the proposed improvements are in the rear of the property only accessible to the residents of 280 Indian Road. 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. Benham and Mr. and Mrs. Gao for construction at 280 Indian Road and 191 St. James Drive, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following condition:

- The applicants may remove non-native plants, along with debris that have accumulated on the property near the spillway.

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 Levine

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

**Design Review
135 Guilford Road**

Mr. and Mrs. George Nugent are requesting a modification to Condition #3 imposed on their Variance and Design Review Application for stair and gate improvements conditionally approved by the Planning Commission on May 12, 2008. The current application proposes to construct a new redwood fence and wrought iron railing atop with a maximum height of 9 ft. measured from the lowest adjacent grade. Condition #3 required that the proposed property fence be acceptable to the neighbor at 131 Guilford (Paul Newton). The proposed design of the fence is not acceptable to the neighbor.

Correspondence was received from: Debbie Newton, July 27.

Public testimony was received from:

Diana Nugent stated that she and her neighbor have been unable to reach an agreement regarding the fence design. She stressed the desire for the proposed fence to be of adequate height and screened with vines in order to provide privacy and screen the neighbor's driveway and storage area from view.

The Commission voiced disappointment and regret that a mutually agreeable fence design has not been reached. The Commission felt that privacy factors were not of paramount importance in this case since the applicant's stairway is a service entrance and not a primary access point on the property. The Commission also agreed that the applicant's proposal for vines on the fence would interfere with and encroach onto the neighbor's landscaping and property posing a maintenance burden. As a compromise, the Commission felt that a 5 ft. solid redwood fence along the entire length of the retaining wall and stairway would be sufficient to achieve both the applicants' and the neighbor's objectives. Per Mrs. Nugent's testimony, it was agreed that the new fence, as shown on the submitted plans, would "zig-zag" between the retaining wall section of the fence and the stair way section. Furthermore, the new fence would end before it reaches the edge of the neighbor's garage.

Resolution 87-DR-08

WHEREAS, Mr. and Mrs. George Nugent are requesting permission to construct a new redwood fence and wrought iron railing atop with a maximum height of 9 ft. measured from the lowest adjacent grade at 135 Guilford 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, as conditioned, conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

- The proposed fence, as conditioned, complies with Design Review Guidelines V-1, V-2, V-5 and V-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. Nugent for fence construction at 135 Guilford Road, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following condition:

- The proposed property line fence between 135 and 131 Guilford Road shall be redesigned so as to be either a solid redwood fence, not to exceed 5 ft. in height, that runs along the retaining wall and down through the steps and shall end before the edge of the garage at 131 Guilford Road or an alternate design mutually agreeable to the both the applicant and the neighbor at 131 Guilford. Said fence redesign 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 Levine, Seconded by Kellogg

Ayes: Kellogg, Levine, Robertson, Stehr, Thiel

Noes: None

Absent: None

**Design Review
58 Lakeview Avenue**

Mr. and Mrs. Ryan Gilbert are requesting design review to construct a new two-story addition at the rear of the residence for a new family room and enlarged kitchen on the main level and an enlarged master bedroom on the upper level; make window and door modifications; remove the existing rear chimney; and construct a new outdoor deck with an outdoor barbeque at the rear of the residence. Other site improvements include a new widened driveway, new retaining walls and a new walkway. A prior application was approved by the Planning Commission in July for a new front entry and 2-car garage. The current application reflects modifications to the rear addition from the previously submitted application.

Written notice was provided to neighbors. **Two affirmative response forms** were received. **Correspondence** was received from: Ryan & Nicki Gilbert, August 28; Rudi Widman, Sept. 2; Gary Earl Parsons, Sept. 2; Randy & Rebecca Litteneker, Sept. 4;

Public testimony was received from:

Ryan Gilbert referenced the design changes made to the proposed rear addition in response to the July meeting, noting in particular a 4'11" ft. reduction in height and a realignment of the addition to move it farther away from the property line.

Rudi Widman and Gary Parsons, Project Architects, described the proposed design changes made in response to the July meeting, stated that no new fence is proposed along the east edge of the property (the submitted plans are in error) and the proposed alternative design submitted by the Littenekers and prepared by Grier Graff is incompatible with the home's architecture, unattractive and unacceptable.

Randy and Rebecca Litteneker opposed the redesign, stressing that it still fails to protect their light, privacy and views, requesting that the addition be reduced another 2 ft. in height and relocated as indicated by the alternative solution prepared at their request by local architect Grier Graff. It was noted that the view in question is of trees, not the neighbor's view of the Oakland skyline.

Grier Graff stated that he was retained by the Litteneker to propose an alternative expansion proposal that would have less impact on the Litteneker's property. He briefly described his design solutions.

Warren Leiber, Project Landscape Architect, stated that no new fence is proposed between the Litteneker and applicants' property, the existing hedge will be retained to provide a privacy screen between the two properties and will be protected during construction to insure its survivability.

John Wilkenson, Project Contractor, stated his belief that the proposed redesign is well integrated into the existing home and will not be visually obtrusive to the neighbor.

The Commission agreed that the redesign was responsive to Commission requests and did not impact the Litteneker's view, light or privacy, referencing in particular submitted photographs, the placement of windows and the location of the rearward most portion of the addition. However, the Commission felt that the roof pitch of the addition should be revised so as to reflect the roof pitch on existing dormers (4-1/2 and 12) to achieve a further minor reduction in height and create a more overall consistent integration with the existing house. The Commission agreed that the design of the addition was elegant, sensitive to neighbor impacts and well integrated. The Commission further noted that the addition is 8 ft. 7 in. from the property line, which separation distance is further enhanced because the neighbor's driveway is located between the property line and the neighbor's house.

Resolution 230-DR-08

WHEREAS, Mr. and Mrs. Ryan Gilbert are requesting permission to construct a new two-story addition at the rear of the residence for a new family room and enlarged kitchen on the main level and an enlarged master bedroom on the upper level; make window and door modifications; remove the existing rear chimney; and construct a new outdoor deck with an outdoor barbeque at the rear of the residence located at 58 Lakeview 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 not necessary to reduce losses of ambient and reflected light. The proposed addition is reasonable and appropriate for the topography of the lot and neighborhood development pattern. Vegetation screening between the property and neighbors exist and there is a significant separation distance between the addition and neighboring homes. The proposed project complies with Design Review Guidelines II-1, II-2, II-3, II-5, II-6 and II-7.

2. The proposed upper level addition/expansion has been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.70), including consideration of the location of the new construction, lowering the height of the addition, expansions within the existing building envelope (with or without excavation), lower level excavation for new multi-level structures, and/or changing the roof slope or ridge direction. There is no view or light impacts on neighboring property because of the location and height of the addition. The height of the addition has been lowered, the ridge slope changed and the location of the addition has been moved toward the center of the applicant's property.

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

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

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Gilbert for construction at 58 Lakeview 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 Lakeview 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 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;
4. The windows shall have true divided lights, or simulated three-dimensional divided lights, subject to staff review;
5. The roof of the proposed addition shall have a 4-1/2 and 12 pitch;
6. The existing hedge between the applicant's property and that of his neighbor shall be maintained during construction and replaced if damaged. This hedge shall be maintained for a period of 5 years, unless the applicant and neighbor agree otherwise;
7. The existing fence shall be maintained unless the applicants and neighbor agree otherwise.

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

Moved by Levine, Seconded by Kellogg

Ayes: Kellogg, Levine, Robertson, Stehr, Thiel

Noes: None

Absent: None

**Design Review and
Fence Design Review**

Mr. Steven Bratman and Ms. Amy Logan are requesting design review to make stylistic changes to the front façade of the residence,

21 Bonita Avenue

construct a new wood trellis, make window modifications and add exterior lighting. Fence design review is requested to install a new 8 ft. high wood entry gate at the front of the property at 21 Bonita Avenue.

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

Public testimony was received from:

Amy Logan stated that an extensive interior renovation of her home is now complete and the proposed application is intended to improve the front exterior aesthetics of the property as well as provide privacy to her living room and front yard. She noted that the living room windows have a direct view to the street. In addition, at night, headlight glare into this room is disturbing. Also, the front yard is the home's primary outdoor living area.

Steven Bratman noted his willingness to lower the gate height to 5 or 6 ft., believing that a 4 ft. height in accordance with the City's Design Review Guidelines would look awkward given the height of the adjacent hedge and would be insufficient to provide the level of privacy desired to the front yard and living room.

The Commission felt that there was no justification to deviate from the Design Review Guideline for a 4 ft. front gate height, stressing that to do so would be inconsistent with past Commission decisions regarding front yard fence heights. The Commission noted that the applicant's property is not a corner lot with limited outdoor living area and the existing dense hedge provides an adequate level of privacy.

Commissioner Kellogg agreed with limiting the gate height to 4 ft. but supported allowing the proposed wood framing of this gate to be at the proposed 7+ ft. height so landscaping can be grown above the gate, spanning the two sections of hedge for additional privacy screening. The Commission agreed that the other proposed front entry improvements to the home were attractive and consistent with the City's Design Review Guidelines.

Resolution 233-DR-08

WHEREAS, Mr. Steven Bratman and Ms. Amy Logan are requesting permission to make stylistic changes to the front façade of the residence, construct a new wood trellis, make window modifications and add exterior lighting located at 21 Bonita 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-1, II-2, II-3 and II-6. The proposed improvements are consistent with and embellish the existing architectural style of the residence.

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.

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.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Bratman and Ms. Logan for construction at 21 Bonita Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following condition:

- The new wood doors with 3-dimensional simulated divided light grilles shall be painted to match the remaining windows and doors throughout the residence

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

Moved by Thiel, Seconded by Levine

Ayes: Kellogg, Levine, Robertson, Stehr, Thiel

Noes: None

Absent: None

Resolution 234-DR-08

WHEREAS, Mr. Steven Bratman and Ms. Amy Logan are requesting permission to install a new 8 ft. high wood entry gate at the front of the property located at 21 Bonita Avenue, Piedmont, California, which construction requires fence 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, as conditioned, 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 gate, as lowered, is consistent with the character of the existing house, compatible with the home's architecture and provides visual prominence to the home's entry. The project complies with Design Review Guidelines V-1, V-2, V-3 and V-5.

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

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.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the fence design review application of Mr. Bratman and Ms. Logan for construction at 21 Bonita Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following condition:

- The height of the proposed gate shall be lowered to 4 ft., with said redesign 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 Levine, Seconded by Levine

Ayes: Levine, Robertson, Stehr, Thiel

Noes: Kellogg

Absent: None

The Commission recessed for dinner at 7:00 p.m. and reconvened at 7:35 p.m.

**Variance and
Design Review
811 Highland Avenue**

Ms. Nonie Ramsay is requesting variance and design review to construct a new green house and add new garage doors to the existing garage at the southwest corner of the property. The requested variance is from Section 17.10.8 to add new doors to the garage located on the rear property line in lieu of the code required minimum of a 4 ft. rear yard setback.

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

Public testimony was received from:

Thayer Hopkins, Project Architect, stated that the proposed project is a small extension of the existing garage at the rear of the property and the

design of the green house and extension match the architectural details of the existing house.

The Commission agreed as to the attractiveness and well crafted nature of the proposed design. However, with the exception of Chairman Stehr, the Commission majority felt that there was no hardship or justification for granting the rear yard setback variance. The Commission majority noted that the proposed improvements could easily be located outside of the 4 ft. setback. Chairman Stehr felt that variance approval was justified in order to avoid creating a 4 ft. "dead zone."

Resolution 236-V-08

WHEREAS, Ms. Nonie Ramsay is requesting permission to construct a new green house and add new garage doors to the existing garage at the southwest corner of the property located at 811 Highland Avenue, Piedmont, California, which construction requires variance; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary in order to construct the new addition within the rear 4 ft. 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. Accomplishing the improvement without a variance would not cause unreasonable hardship in planning, design, or construction because the proposed improvements can be easily located/constructed outside of the 4 ft. rear setback.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies the variance application of Ms. Ramsay for the above variance at 811 Highland Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Thiel, Seconded by Robertson

Ayes: Kellogg, Levine, Robertson, Thiel

Noes: Stehr

Absent: None

Resolution 236-DR-08

WHEREAS, Ms. Nonie Ramsay is requesting permission to construct a new green house and add new garage doors to the existing garage at the southwest corner of the property located at 811 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 improvements blend within the context of the existing garage and residence by drawing from materials in use. The new roof pitches match the existing roof slope. The proposed improvements comply with Design Review Guidelines II-1, II-2 and II-3.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because existing views will be minimally affected, if at all. The addition is not seen by a majority of neighbors.
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. Ramsay for construction at 811 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;
3. Because no variance has been granted in connection with these proposed improvements, the project shall be redesigned so as to eliminate any encroachment into the 4 ft. rear yard setback or require any other variance. Said redesign shall be subject to Staff Design Review 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 Thiel, Seconded by Robertson

Ayes: Kellogg, Levine, Robertson, Thiel

Noes: Stehr

Absent: None

**Variance and
Design Review
52 Sharon Avenue**

Mr. Bradford Kraetzer and Ms. Andrea Hackett are requesting variance and design review to develop habitable space on the basement level including a bedroom, bathroom and family room; add and replace doors and windows; construct an awning over a new basement level front entry; add exterior lighting; make hardscape changes in the front yard; and request retroactive approval of a shed/play structure in the rear yard. The requested variances are from: (1) Section 17.10.6 to allow the new basement awning to extend to within 17'3" of the front property line in lieu of the code required minimum of a 20 ft. front yard setback; and (2) Section 17.16 to allow a residence with 4 rooms eligible for use as bedrooms with one of the two required covered parking spaces measuring 8 ft. by 20 ft. in lieu of the code required minimum dimension of 9 ft. by 20 ft.

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

Public testimony was received from:

Brad Kraetzer stated that in connection with correcting basement foundation and drainage problems, the project involves adding desired living space within the existing footprint of the home. He noted that the existing garage accommodates two cars – it is just 12 inches narrower than the code required parking dimension.

The Commission, with the exception of Commissioner Thiel, supported variance approval, noting that the front yard setback for the entry overhang does not protrude further in the setback than an existing bay window and expanding the existing garage in order to conform with code parking dimensions would constitute a construction hardship because the existing garage is built into the hillside and cannot be widened without total garage demolition and reconstruction. The Commission majority noted that the existing garage accommodates the parking of two cars that is required for a 4 bedroom house. Commissioner Thiel felt that the existing upstairs den could be easily converted into a bedroom and therefore, the existing house is actually a 4 bedroom residence being expanded to a 5 bedrooms, without conforming parking. The Commission majority felt that the existing upstairs den was not being used as a bedroom and since it does not have direct access to a bathroom, it does not meet the code definition of a room eligible for use as a bedroom; thus the proposal creates a 4 bedroom house with two covered parking spaces, albeit a bit narrower than that required by code. The Commission agreed that the design of

the proposed improvements was attractive and appropriate for the existing architecture and the proposal represents a good use of the existing property.

Resolution 237-V-08

WHEREAS, Mr. Bradford Kraetzer and Ms. Andrea Hackett are requesting permission to develop habitable space on the basement level including a bedroom, bathroom and family room; add and replace doors and windows; construct an awning over a new basement level front entry; add exterior lighting; make hardscape changes in the front yard; and request retroactive approval of a shed/play structure in the rear yard located at 52 Sharon 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 supply 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 the existing garage accommodates the parking of two vehicles, even though it is slightly narrower than the code required width. The existing garage is built into the hillside and cannot be widened without demolition and reconstruction. 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 existing garage provides two-car parking.
3. Accomplishing the improvement without variance would cause unreasonable hardship in planning, design, or construction because it would require the existing garage to be demolished and rebuilt in order to gain 12 inches of additional width.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application of Mr. Kraetzer and Ms. Hackett for the above variance at 52 Sharon Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

applicable laws and to attach conditions after initial approval is given, if noncompliance is discovered or additional conditions are considered necessary and appropriate in light of Commission/Council findings.

Moved by Robertson, Seconded by Kellogg

Ayes: Kellogg, Levine, Robertson, Stehr

Noes: Thiel

Absent: None

Resolution 237-V-08

WHEREAS, Mr. Bradford Kraetzer and Ms. Andrea Hackett are requesting permission to develop habitable space on the basement level including a bedroom, bathroom and family room; add and replace doors and windows; construct an awning over a new basement level front entry; add exterior lighting; make hardscape changes in the front yard; and request retroactive approval of a shed/play structure in the rear yard located at 52 Sharon 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 front 20 ft. setback; and

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

1. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to the fact that the existing house is located within the front setback and cannot be improved 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 variance is compatible with the immediately surrounding neighborhood and the public because the proposed entry overhang does not protrude further into the setback than an existing bay window. There is no adverse impact on neighboring properties.
3. Accomplishing the improvement without variance would cause unreasonable hardship in planning, design, or construction because the existing house is located within the setback and cannot be improved without variance.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application of Mr. Kraetzer and Ms. Hackett for the above variance at 52 Sharon Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

RESOLVED FURTHER, that the approval of the Planning Commission/City Council and any conditions of that approval shall not extend to any particulars set forth in the documents submitted for the project which are inconsistent with or in violation of any applicable law, including but not limited to Chapters 5 and 17 of the City Code,

nor does the approval extend to matters not set forth, or inadequately represented, in submitted documents (whether or not consistent with applicable law). The City reserves the right to require compliance with applicable laws and to attach conditions after initial approval is given, if noncompliance is discovered or additional conditions are considered necessary and appropriate in light of Commission/Council findings.

Moved by Robertson, Seconded by Kellogg

Ayes: Kellogg, Levine, Robertson, Stehr, Thiel

Noes: None

Absent: None

Resolution 237-DR-08

WHEREAS, Mr. Bradford Kraetzer and Ms. Andrea Hackett are requesting permission to develop habitable space on the basement level including a bedroom, bathroom and family room; add and replace doors and windows; construct an awning over a new basement level front entry; add exterior lighting; make hardscape changes in the front yard; and request retroactive approval of a shed/play structure in the rear yard located at 52 Sharon 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-1, II-2 and II-3.
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. All the proposed improvements are within the existing building envelope and there are no new openings in the façade. The project complies with Design Review Guidelines II-1, II-2, II-3 and II-7.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because there is no impact on circulation patterns.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Kraetzer and Ms. Hackett for construction at 52 Sharon 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 August 27, 2008, with additional information submitted on August 28, 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 Sharon Avenue;
4. Prior to the issuance of a building permit, the applicants shall submit a landscaping plan for the front and right side yards. Said plan shall be subject to staff review and approval. After final building permit inspection, the applicant shall be allowed to make modifications to any aspect of the landscape plan that does not require design review under Chapter 17 of the City Code;
5. The new exterior light fixtures shall be downward directed with an opaque shade that completely covers the light bulb; and
6. Compliance with Chapter 9 Article III of the Municipal Code, which governs the recycling of construction and demolition debris, is required.

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

Moved by Robertson, Seconded by Kellogg

Ayes: Kellogg, Levine, Robertson, Stehr, Thiel

Noes: None

Absent: None

**Design Review
48 Lakeview Avenue**

Mr. and Mrs. Dennis Albers are requesting design review to make modifications at the rear of the residence, including: removing the existing pool and spa, constructing a new fountain, fire pit and retaining walls; adding exterior lighting; and making various hardscape and landscape improvements.

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

Public testimony was received from:

Denise Bates, Project Landscape Architect, stated that an existing retaining wall on the property line is failing and there is an issue between property owners as to who is responsible for this wall. The proposed project will construct a new retaining wall in front of this wall at the same height; said new retaining wall will contain a planter.

The Commission agreed re the elegance of the proposed landscaping plan.

Resolution 242-DR-08

WHEREAS, Mr. and Mrs. Dennis Albers are requesting permission to make modifications at the rear of the residence, including: removing the existing pool and spa, constructing a new fountain, fire pit and retaining walls; adding exterior lighting; and making various hardscape and landscape improvements located at 48 Lakeview Avenue, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements (including but not limited to height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that the project complies with Design Review Guidelines II-3(b) and IV. The materials and detailing style of the proposed landscaping improvements are compatible with the architectural style of the residence and are well integrated on the site.
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 material impact. The project complies with Design Review Guidelines II-6 and IV-1.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because the proposed improvements are located at the rear of the property and do not change existing circulation patterns. The project complies with Design Review Guideline II-7.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Albers for construction at 48 Lakeview Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. Due to the scope and nature of the application, a construction management plan shall be developed and approved by staff prior to obtaining a building permit. Said plan shall be comprehensive while specifically addressing the duration of the project, construction hours, the staging of materials, and parking of worker vehicles to ensure the free flow of traffic along Lakeview and Lincoln Avenues;
2. Compliance with Chapter 9 Article III of the Municipal Code, which governs the recycling of construction and demolition debris, will be required on all 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.

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 Levine

Ayes: Kellogg, Levine, Robertson, Stehr, Thiel

Noes: None

Absent: None

**Variance and
Design Review
336 Olive Avenue**

Mr. and Mrs. Robert Holmes are requesting variance and design review to convert an existing enclosed sleeping porch into a bedroom and pave the parking area at the rear of the property. The requested variance is from Section 17.16. to add a room eligible for use as a bedroom to a residence with no covered parking in lieu of the code required minimum of two, non-tandem covered parking spaces each measuring 9 ft. by 20 ft.

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

Public testimony was received from:

Grier Graff, Project Architect, stated that the existing bedroom and parking conditions on the property have existed for over 40 years and the application is intended to recognize existing uses. He stated that the property's original 1-car garage was removed prior to 1967. In response to Commission questions, he felt that the proposed mechanical crawl space on the property would be inappropriate for use as garage parking because it would be 7 ft. above the grade of the alley and thus too steep for vehicle ingress/egress.

The Commission voiced concern that the application is seeking legal approval for a 4-bedroom house with no covered parking. The Commission requested that some attempt be made to create covered off-street parking, noting that there appears to be several options available for constructing either a one or two car carport or garage. Therefore, the applicant has failed to demonstrate a hardship to justify the granting of a parking variance to the extent being requested. The Commission noted that although the sleeping porch has been used as a bedroom for years, legally permitting this bedroom will increase the property value of the residence. Therefore, it is reasonable to require the applicant to either propose conforming off-street parking or demonstrate hardship why code compliance cannot be achieved.

Resolution 244-V-08

WHEREAS, Mr. and Mrs. Robert Holmes are requesting permission to convert an existing enclosed sleeping porch into a bedroom and pave the parking area at the rear of the property located at 336 Olive Avenue, Piedmont, California, which construction requires variance; and

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

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

1. The underlying lot and existing improvements 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. Other adjacent properties have off-street parking structures.
2. The variance is not compatible with the immediately surrounding neighborhood and the public welfare because other adjacent properties have off-street parking structures.
3. It has not been shown that accomplishing the improvement without a variance would cause unreasonable planning, design or construction hardship.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies the variance application of Mr. and Mrs. Holmes for the above variance at 336 Olive 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 Thiel, Seconded by Robertson

Ayes: Kellogg, Levine, Robertson, Stehr, Thiel

Noes: None

Absent: None

Resolution 244-DR-08

WHEREAS, Mr. and Mrs. Robert Holmes are requesting permission to convert an existing enclosed sleeping porch into a bedroom and pave the parking area at the rear of the property located at 336 Olive 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:

- A parking variance necessary to approve the proposed design has not been granted.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies, without prejudice, the design review application of Mr. and Mrs. Holmes for construction at 336 Olive Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Thiel, Seconded by Robertson

Ayes: Kellogg, Levine, Robertson, Stehr, Thiel

Noes: None

Absent: None

**Fence Design Review
201 Estates Drive
207 Estates Drive**

Mr. and Mrs. Marvin Cohen are requesting fence design review to replace an existing wood fence along Hampton Road and increase the height of an existing aluminum guardrail at the west side of the residence at 201 Estates Drive. Mr. and Mrs. Steven Phillips are requesting fence design review to replace an existing wood fence along the west and north side of the property, replace two wood gates at the existing garage and replace a wood gate along the south property line at 207 Estates Drive. The two applications involve the same fence along adjacent properties.

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

Public testimony was received from:

Suzy Cohen stated that the 30-year old rear fence bordering 201 and 207 Estates is failing and the proposal is to build a new fence in the same location and at the same height. The fence at 201 Estates provides

privacy and screening for her lower terraced decking from Hampton Road.

Kirk Peterson, Project Architect, responded to Commission questions.

The Commission supported approval of both applications, agreeing that the rear yard fence provides privacy to both property owners, the new fence will be at the same height as the existing fence, the design of the new fence is nicely detailed and will improve existing aesthetics along the street, and the fence height is justified given the corner location of 201 Estates and the fact that the rear yards are the primary usable, private outdoor area on the properties. The applications reflect no significant change in streetscape conditions that have existed for 30 years.

Resolution 245-DR-08

WHEREAS, Mr. and Mrs. Marvin Cohen are requesting permission to replace an existing wood fence along Hampton Road and increase the height of an existing aluminum guardrail at the west side of the residence located at 201 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, materials and the arrangements of structures on the parcel) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that the proposal complies with Design Review Guidelines V-1, V-2, V-5(a) and V-5(b). The materials, height and stepped down nature of the fence are consistent with other fences and walls in the neighborhood.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because the new fence replaces an existing fence in the same location and at the same height. There is no change in existing conditions.
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. The project improves public safety by replacing a failing fence with a new sturdier one that will not obstruct ingress or egress. The project complies with Design Review Guideline V-8.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Cohen for construction at 201 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 Robertson, Seconded by Kellogg

Ayes: Kellogg, Levine, Robertson, Stehr, Thiel

Noes: None

Absent: None

Resolution 258-DR-08

WHEREAS, Mr. and Mrs. Steve Phillips are requesting permission to replace an existing wood fence along the west and north side of the property, replace two wood gates at the existing garage and replace a wood gate along the south property line located at 207 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, materials and the arrangements of structures on the parcel) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that the proposal complies with Design Review Guidelines V-1, V-2 and V-5(b). The materials and height of the fence are consistent with other fences and walls in the neighborhood.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because the new fence replaces an existing fence in the same location and at the same height. There is no change in existing conditions.
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. The project improves public safety by replacing a failing fence with a new sturdier one that will not obstruct ingress or egress. The project complies with Design Review Guideline V-8.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Phillips for construction at 207 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 Robertson, Seconded by Kellogg

Ayes: Kellogg, Levine, Robertson, Stehr, Thiel

Noes: None

Absent: None

**Variance and
New House
Design Review
155 Maxwellton**

Mr. Elton Welke, Trustee for the Irene Valeska Trust, is requesting variance and new house design review to construct a new 2,649 sq. ft. single-family residence on a vacant lot. The two-story residence is proposed to have 3 bedrooms, 3-1/2 baths, a dining area, kitchen/family room, library, laundry room, elevator and conforming 2-car garage. Proposed site improvements include patios, walkways, gates, stairs, a driveway, retaining walls, and exterior lighting. The requested variances are from: (1) Section 17.10.4 to allow a structure coverage of 48.4% in lieu of the code required maximum of 40% (*a portion of the lot is in Oakland – if the entire lot was considered (Piedmont & Oakland areas combined), the proposed structure coverage would be 39.9% and would not require variance*); (2) Section 17.10.4 to allow an impervious surface coverage of 74.6% in lieu of the code permitted maximum of 70% (*a portion of the lot is in Oakland – if the entire lot was considered (Piedmont & Oakland areas combined), the proposed impervious surface coverage would be 68% and would not require variance*); (3) Section 17.10.6 to allow the eaves of the new house to extend to within 15'6" of the front property line in lieu of the code required minimum of a 20 ft. front yard setback; and (4) Section 17.22.(b) to allow a floor area ratio of 58% in lieu of the code permitted maximum of 50% (*a portion of the lot is in Oakland – if the entire lot was considered (Piedmont & Oakland areas combined), the proposed FAR would be 46% and would not require variance*).

A previous application was considered by the Planning Commission on July 14, 2008.

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

Public testimony was received from:

Phillip Perkins, Project Architect, described the design changes to the proposed home made in response to the July meeting, noting in particular a reduction in home height of 3'9" and a greater separation distance between the new home and the property at 5530 Maxwellton. He noted that the revised design preserves the panoramic views of 5530 Maxwellton.

Ali Koohyar, speaking on behalf of his parents, reiterated that the proposed modest-sized home is perfect for his parents in their retirement years and while the design changes have made home construction more expensive, his parents are thrilled with the prospect of living in the new home.

Billie, Mark and Carolyn Blumert agreed that the redesign is an improvement over the original submittal, but voiced concern over the high and wide profile of the chimneys, the lack of detail regarding the materials and design of proposed retaining walls and the overall size of the house to the lot. They requested that the house be lowered another 3 ft. and have a similar profile and alignment with Lina Parks' home at 157 Maxwellton.

Lina Parks voiced concern over the proposed chimneys and noted her preference that the home be pulled back outside of the front setback.

The Commission acknowledged the design challenges posed by the vacant lot, concurred that the proposed California Mission style architecture is well-crafted and compatible with the neighborhood, agreed that the redesign minimizes bulk and preserves existing neighborhood views and the size of the 3-bedroom home is appropriate for the lot and average in terms of Piedmont homes – the proposed home is not too big. The Commission discussed potential options for lowering the home another few feet by reducing ceiling heights and creating a split-level floorplan. However, in the end the Commission referenced submitted photographs of the story poles in agreeing that a significant height reduction has already been made and any further lowering would have no real impact on improving neighbor views. But it would detract from the overall aesthetics and elegance of the exterior elevations as well as create a less desirable floorplan for occupation by senior residents. The Commission agreed that the proposed chimney height and width could be redesigned to lessen their visual impact and that the rear retaining wall should be pulled forward approximately 2 ft. to allow for the planting of vegetation screening.

Resolution 246-V-08

WHEREAS, Mr. Elton Welke, Trustee for the Irene Valeska Trust, is requesting permission to construct a new 2,649 sq. ft. single family residence located at 155 Maxwellton Road, 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 yard setback and exceed the City's structure coverage, hardscape coverage and floor area ratio limits; 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 applicant's property is both a corner lot and a split-lot between the

Cities of Oakland and Piedmont; if its total size (not just that portion in Piedmont) was considered, there would be no variances for structure, hardscape or floor area coverages. The front setback variance is necessary to preserve the views, light and privacy of a neighboring home that is located on the property line. Because of these circumstances, strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone which conform to the zoning requirements.

2. The variances are compatible with the immediately surrounding neighborhood and the public welfare because three of the four variances would not be necessary if the property was entirely located within the City of Piedmont. The front yard setback variance is for the exclusive benefit of an adjacent side neighbor to mitigate the impact caused by this neighboring home being located directly on the property line. In addition, this variance allows the proposed home to have a lower height and be better integrated into the topography of the lot, thus preserving existing neighborhood views.

3. Accomplishing the improvement without variance would cause unreasonable hardship in planning, design, or construction because without variance, it would be impossible to develop this split-lot property and preserve the views, light and privacy of adjacent neighbors.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application of Mr. Welke for the above variances at 155 Maxwellton 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 Levine, Seconded by Robertson

Ayes: Kellogg, Levine, Robertson, Stehr, Thiel

Noes: None

Absent: None

Resolution 246-DR-08

WHEREAS, Mr. Elton Welke, Trustee for the Irene Valeska Trust, is requesting permission to construct a new 2,649 sq. ft. single family residence located at 155 Maxwellton 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 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 topography and neighborhood development pattern. Upper level setbacks greater than the setbacks required for the lower level have been considered and are/are not necessary to reduce losses of ambient and reflected light. The proposed improvements comply with Design Review Guidelines I-1, I-2, I-5, I-6, I-7, I-8, I-9, I-10, I-11 and I-12 in terms of architectural style and siting compatibility with adjacent residences, taking advantage of site topography to reduce visual bulk, its integration into the neighborhood to maintain existing vegetation and preserve significant views, its creation of usable outdoor space, its respect of neighbor visual and acoustical privacy, its continuation of existing streetscape conditions and its creation of an observable entry from the street.

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, 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 height of proposed residence has been lowered and the proposed design is excavated into the hillside.

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

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

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Welke for construction at 155 Maxwellton Road, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **C&D Compliance.** Compliance with Chapter 9 Article III of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project. 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, subject to continued availability of funds.

2. **Construction Management Plan.** A comprehensive Construction Management Plan shall be developed by the applicant, and after receiving an initial draft from the Applicant, 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, sanitary facilities, and other construction impacts, as well as other details involving the means and methods of completing the construction project.

3. **Stormwater BMPs for Construction.** Applicant shall implement the stormwater treatment Best Management Practices (BMPs) as well as Bay Area Stormwater Management Agencies Association's Start at the Source criteria for stormwater quality protection. City Staff may impose additional requirements involving 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.

4. **Approved Schedule.** Work on the project shall be promptly executed 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 further construction completion milestones and final Conditions of occupancy, meaning completion of the entire Project, as determined by the Director of Public Works.

b. The City may, at the applicant's sole cost, engage the services of a consultant to review the completion dates

proposed by Applicant in 4a. above, and to the extent such completion dates appear unrealistic 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 for a specific milestone or benchmark has not been completed within 90 days after the completion date set forth in the Approved Schedule, and the delay in completion has not been caused by 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 6 herein in order to complete such milestone or benchmark.

5. **City Facilities Security.** A specific cash deposit, bond, letter of credit, bank guarantee or other similar financial vehicle ("City Facilities Security"), shall be provided by the Applicant in the amount of \$200,000 as established by the Director of Public Works, 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, bond, letter of credit, bank guarantee financial or other similar financial vehicle (City Facilities Security), 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 Maxwellton Road and other streets within the City of Piedmont Boundaries to be used by trucks, vehicles, and other equipment involving the Project, City will document 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-document 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 documentation, 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 documentation 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.

6. **Performance Security.** A performance bond or other similar financial vehicle ("Performance Security") shall be required from Applicant to ensure the completion of the full construction of the project, including all site improvements and landscaping, in accordance with the plans approved by the City. The form and amount of the Performance Security shall be approved by the Director of Public Works and shall absolutely ensure completion of the entire project.

The Performance Security shall be in an amount to include all expected costs to complete the project, plus a 25% additional amount over the total anticipated costs to cover unexpected expenditures. 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 Performance Security 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 Performance Security 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 Performance Security to the extent the Director of Public Works in his sole discretion shall determine is appropriate.

7. **Geotechnical Review.** 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.

8. **Foundation/Shoring/Excavation Plan.** 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.

9. **Staff Cost Recovery.** Applicant shall make a cash deposit with the City prior to commencement of construction in the amount of \$10,000 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.

10. **Consultant Cost Recovery.** Applicant shall make a cash deposit with the City prior to commencement of construction in the amount of \$5,000 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 2, 4, 8, 12, 18 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.

11. **Requirement to Provide Funds.** The funds provided under Conditions 5, 6, and 13 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 6 or for damages to City property or facilities under Condition 5 or for repairs or remedies to subsidence or erosion under Condition 13, other than the determination of the Director of Public Works that they are needed and the amount that is needed.

12. **CEQA Agreement.** 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.

13. **Subsidence/Erosion Security.** The 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 at the discretion of and in an amount to be determined by the Director of Public Works, but which will not be less than \$500,000.00, 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. 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.

14. **Insurance Cancellation Notice.** The City shall be required to be provided at least 10 days prior written notice from the insurance company of the cancellation of or change to any insurance coverage set forth in these Conditions, specifically including but not limited to that

required pursuant to Condition 20 herein. Applicant shall immediately arrange for substitute insurance coverage to replace any such cancellation or change, subject to the approval of the City Attorney.

15. **Errors and Omissions Insurance.** 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.

16. **Modifications to Conditions.** 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.

17. **Creditors' Claims.** 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.

18. **Recommended Tree Preservation Plan.** Prior to the issuance of a building permit, the applicants shall prepare a Tree Preservation Plan that addresses the trees mentioned to be retained in the Arborist's Report, Prepared by Chris Kukula of Barry Kukula Associates, dated June 9, 2008. The final plan shall include, but is not limited to, tree preservation notes (such as creating a Tree Protection Zone around the dripline of all significant trees with a fence, and prohibiting construction equipment, underground utilities, or trenching from entering this Zone; and ensuring that any herbicides used during project construction activities are safe for use around trees and labeled for their use) on the appropriate sheets of the construction set of plans, and shall specify that a Certified Arborist be on-site during certain activities (such as trenching for foundations). This Tree Preservation Plan shall also apply to the City's trees at the front of the property and be subject to review and approval by staff.

19. **Acoustical Engineer Consultant.** 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.

20. **Neighboring Property Damage Security.** The Applicant shall provide adequate and appropriate insurance or bond or other similar financial vehicle ("Neighboring Property Damage Security"), as approved by the Director of Public Works against damage to neighboring properties at 151 and 5530 Maxwellton Road by any construction, excavation, and related work in any way involving the project, including without limitation subsidence and erosion. Such

insurance, bond, or other financial vehicle to be in the amount of \$500,000 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 \$500,000 earmarked for neighboring properties.

21. **Neighboring Property Inspection.** 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 20 herein.

22. **Double Trailer Truck Prohibition.** To reduce potential damage to the streets and to avoid traffic hazards on narrow curving city streets, no double trailers shall be used as part of the Project, particularly relating to removal of rocks and debris.

23. **Stormwater Design BMPs.** Due to the development of this property in which more than 10,000 square feet of impervious surface is being added or replaced, the applicants shall prepare a stormwater management plan prior to obtaining a building permit. Wherever possible and to the maximum extent practicable, said plan shall incorporate site design practices and measures to promote infiltration of stormwater and reduce the amount of impervious surface on the site as outlined in any of the following three documents: The Bay Area Stormwater Management Agencies Association's (BASMAA) "Start at the Source" design guidance manual, which is available in PDF format at www.cleanwaterprogram.org/businesses_developers.htm; BASMAA's "Permanent Post-Construction Stormwater BMP Fact Sheets;" or the State of California Best Management Practices Handbooks.

24. A final landscape plan which provides greater detail of plant sizes, locations, spacing and irrigation shall be submitted and approved by staff prior to the issuance of a building permit.

25. The garage door shall be mechanically operated.

26. Prior to the issuance of a building permit, the applicants shall apply for an encroachment permit for the construction of the new retaining walls and stairs within the City Street Right-of-Way.

27. The rear retaining wall shall be pulled forward 2 ft. to allow for the planting of vegetation screening.

28. The proposed chimneys shall be redesigned 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 Levine, Seconded by Robertson

Ayes: Kellogg, Levine, Robertson, Stehr, Thiel

Noes: None

Absent: None

ANNOUNCEMENTS

General Plan – The City Planner announced that the Commission will receive an "Introduction to the General Plan" on October 2 at 6:30 p.m. The public is invited to attend this presentation.

Goodbye—Chairman Stehr announced that Planning Technician Cyrus Dorosti is leaving City employment to return to school to obtain his Masters in Architecture. The Commission wished Mr. Dorosti well and thanked him for his service to the City.

ADJOURNMENT

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