

## **PIEDMONT PLANNING COMMISSION**

### **Regular Meeting Minutes for Monday January 12, 2009**

A Regular Session of the Piedmont Planning Commission was held January 12, 2009, in the City Hall Council Chambers at 120 Vista Avenue. In accordance with Government Code Section 54954.2(a) the agenda for this meeting was posted for public inspection on December 29, 2008.

#### **CALL TO ORDER**

Chairman Stehr called the meeting to order at 5:00 p.m. She announced that Agenda Item #9 (Variance, Design Review, Retaining Wall Design Review, 120 Dracena Avenue) has been withdrawn from tonight's consideration at the request of the applicant.

#### **ROLL CALL**

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

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

City Council Liaison: Councilmember John Chiang

#### **CONSENT CALENDAR**

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

##### **Design Review 1080 Winsor Avenue**

##### **Resolution 343-DR-08**

WHEREAS, Mr. Steve Zirbelback and [REDACTED] are requesting permission to construct a 280 sq. ft. garage and carport addition to the rear of the house; add a roof deck atop the new garage addition; develop habitable space at the basement level to include a new bedroom, new rumpus room and 1.5 bathrooms; make window and door modifications; add exterior lighting; enlarge the rear driveway. Fence design review is required to construct a new fence within the 20 ft. rear street setback located at 1080 Winsor 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. All

additional windows will be similar to existing windows and are placed in aesthetic alignment with existing windows. The new garage and parking areas minimally increase the bulk of the structure and will not increase overall height. The new deck will be constructed in harmony with the style of existing structure and similarly to the decks of surrounding properties.

2. The proposed upper level addition/expansion has been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.70), including consideration of the location of the new construction, lowering the height of the addition, expansions within the existing building envelope (with or without excavation), lower level excavation for new multi-level structures, and/or changing the roof slope or ridge direction. The proposed plans should have no impact on views, privacy or access to direct or indirect light for any neighboring properties.

3. The size and height of the addition is commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and is in keeping with the existing neighborhood development pattern. The additional structure is approximately 10' x 10' with an approximate height of 15' which is well below the bottom of the existing roofline. Other nearby properties have similar decks.

4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. In accordance with Sections 17.16.1 and 17.22.1, the existing or proposed on-site parking is appropriate to the size of the new upper level or new multi-level structure or addition, and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood. There is no change to vehicular traffic flow or patterns.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Zirbelbach and [REDACTED] for construction at 1080 Winsor Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. The garage door shall be electronically operated;
2. The new light fixtures shall be downward-directed with a shade that completely covers the light bulb(s);
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 Winsor Avenue and the rear private street;
4. Compliance with Chapter 9 Article III of the Municipal Code, which governs the recycling of construction and demolition debris, will be required on all 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;

5. In order to reduce reflective glare, the new concrete paving in the rear of the property shall be either tinted or textured. Said tinting or texture shall be subject to staff review and approval.

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

Moved by Kellogg, Seconded by Levine

Ayes: Levine, Kellogg, Robertson, Stehr, Thiel

Noes: None

Absent: None

#### **PUBLIC FORUM**

Julie Watters urged the Commission to take a neutral position with regard to the proposed sports field development in Blair Park. She referenced the General Plan in noting her hope that "green space protections" in the Plan will be extended to Blair Park.

#### **ANNOUNCEMENT**

The Assistant Planner encouraged residents to complete the City's Climate Action Plan Survey on the City's website. Information received from the survey will assist the City in developing a plan for reducing greenhouse gas emissions.

#### **APPROVAL OF MINUTES**

##### **Resolution 1-PL-09**

RESOLVED, that the Planning Commission approves as submitted its meeting minutes of December 8, 2008.

Moved by Thiel, Seconded by Levine

Ayes: Levine, Kellogg, Robertson, Stehr, Thiel

Noes: None

Absent:

#### **REGULAR CALENDAR**

The Commission considered the following items of regular business:

##### **Design Review 62 Farragut Avenue**

Mr. and Mrs. Ken Mattson are requesting design review to demolish the existing carport and terrace on the eastern end of the house and construct a 3-story, 2,306 sq. ft. addition in the same general location consisting of an exercise room and bath at the basement level, a new kitchen, family room and terrace with an outdoor fireplace on the main level, and an expansion of the master bedroom (and relocation of the dormer and balcony) on the second level. Other exterior proposed modifications include changes to windows and doors; the construction of a new 2-car carport to the south of the existing garage; a new pool, spa, fountain and subterranean pool house at the rear of the property; a new wall with railings along the southern property line; and other site

improvements including retaining walls, trash cart storage, hardscape changes, landscape changes, and new exterior lighting. The application also seeks retroactive approval of the conversion of the basement level ballroom to a home theater, and the renovation of six bathrooms and half baths.

Written notice was provided to neighbors. **One affirmative, three negative response forms** were received. **Correspondence** was received from: Joseph & Beth Hurwich, November 23, 2008, January 3, 2009; Allen Hirsch, January 5; Sara Hirsch, January 5; Suzanne Summer, January 7; Karen Roland, January 12.

**Public testimony** was received from:

Ken Mattson stated that the alternative design proposal approved by the Commission in 2004 was never acceptable to him; hence it was not constructed. However, the current application proposes a parking plan and other improvements that he will construct if approved. He also stated that the City's proposed conditions of project approval are acceptable, provided a reasonable construction timetable is granted given the scope of the project.

Keith Morris, Project Architect, described the objectives and major design features of the proposed project, noting that the improvements will make this historic home more compatible with modern living standards while retaining the original architectural scale and structural integrity of this *Julia Morgan* designed home. He displayed colored renderings of the proposed plan in stressing how the new additions are well integrated into the existing home and property.

Sea View residents Allen Hirsch, Beth Hurwich, Sara Hirsch and Karen Roland voiced their frustration over the 12 years of construction activity that has occurred at the property, the applicant's flagrant disregard of planning approvals and conditions in the past, and their concern that Mr. Mattson will fail to abide by any new conditions or timelines imposed by the Commission. They all strongly urged that if the current application is approved, the City exercise due diligence in insuring that conditions and construction timetables are strictly enforced and the current eyesore nature of the Sea View side of the property due to illegal construction and debris is corrected. In addition, Mrs. Roland requested that a drainage plan be included as a condition of approval, that no elevated exterior lighting be approved, the Sea View sidewalk be repaired, an acoustical study of the pool equipment be conducted and that guarantees be included to insure that proposed landscaping will be properly maintained.

Tam Hege agreed that the proposed improvements are attractively designed and consistent with the original historic architecture of the home. But she too urged the Commission to strictly enforce project approval conditions, especially with regard to the timeline for project completion.

The Commission agreed that the design of the improvements were well-crafted and attractive, well integrated into the historic home, appropriate in size and scale for the existing house and property and created no significant impact on neighbor view or privacy. The

Commission emphasized that existing non-compliance issues are rectified by this current application and clarified that the City Council and planning department, not the Commission, is responsible for enforcement of project conditions and construction timeline adherence. The Commission also noted that issues related to drainage, pool equipment noise compliance and sidewalk repair will be addressed at the building permit stage. The Commission further agreed that the proposed conditions of approval should be augmented by additional conditions to insure project completion (performance bond), landscaping maintenance, downward-directed exterior lighting and the indistinguishable match of new roof material, stucco, color, brick and fenestrations to that existing.

**Resolution 196-DR-08**

WHEREAS, Mr. and Mrs. Ken Mattson are requesting permission to demolish the existing carport and terrace on the eastern end of the house and construct a 3-story, 2,306 sq. ft. addition in the same general location consisting of an exercise room and bath at the basement level, a new kitchen, family room and terrace with an outdoor fireplace on the main level, and an expansion of the master bedroom (and relocation of the dormer and balcony) on the second level. Other exterior proposed modifications include changes to windows and doors; the construction of a new 2-car carport to the south of the existing garage; a new pool, spa, fountain and subterranean pool house at the rear of the property; a new wall with railings along the southern property line; and other site improvements including retaining walls, trash cart storage, hardscape changes, landscape changes, and new exterior lighting. The application also seeks retroactive approval of the conversion of the basement level ballroom to a home theater, and the renovation of six bathrooms and half baths located at 62 Farragut Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission finds that the 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 size, topography and neighborhood development pattern. Upper level setbacks greater than the setbacks required for the lower level have been considered and are not necessary to reduce losses of ambient and reflected light. The project complies with Design Review Guidelines II-1, II-2, II-3, II-4, II-5, IV-1, IV-2. The proposed improvements are well articulated and fit well with the existing house, they respect the integrity of the original design and artfully works the addition into the existing structure.
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 significant loss of ambient or reflective light caused by the addition. The geometry of the existing site and setbacks are honored. The siting of the house on the property is such that the building additions and modifications do not significantly impact neighboring structures. The project complies with Design Review Guidelines II-1, II-2, II-3, II-4, II-5, IV-1, IV-2.

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. This is a very large lot and the size of the addition needs to be substantial to avoid the appearance of a “tacked on.” The project is in keeping with the existing neighborhood development pattern. This is an unique property and neighborhood.

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. The on-site circulation patterns are improved and the off-site circulation patterns are not affected.

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

1. **Construction Management Plan.** A comprehensive Construction Management Plan shall be developed by the applicant. The Construction Management Plan shall address noise, vibrations, traffic control, parking, debris removal, dust control, sanitary facilities, and other potential construction impacts, as well as other details involving the means and methods of completing the Project including the construction route. The City Building Official shall have the authority to require modifications and amendments to the Construction Management Plan as deemed necessary throughout the course of the Project and until the final issuance of a Certificate of Occupancy.
2. **Construction Completion Schedule.** Work on the Project, once commenced, 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 phase.

a. The Construction Completion Schedule with associated construction values for each benchmark shall set forth completion dates for the following benchmarks:

- i. Completion of Excavation;
- ii. Completion of Retaining Walls;
- iii. Completion of Foundation;
- iv. Completion of Rough Framing;
- v. Completion of Electrical;
- vi. Completion of Plumbing;
- vii. Completion of Mechanical;
- viii. Completion of Fire Sprinklers;
- ix. Completion of Home;
- x. Completion of Hardscaping and Landscaping;

and of any further construction benchmarks and conditions of occupancy as may be determined by the Director of Public Works.

b. The Director of Public Works shall, before the Project commences, make a determination as to the completion dates applicable to the Project and such determination shall constitute the "Approved Schedule" and be binding on the Applicant. The City may, at the Applicant's sole cost, engage the services of a consultant to review the Applicant's proposed Construction Completion Schedule and, to the extent the period allocated for any work appears unjustifiable, recommend to the Director of Public Works a reasonable completion date for any benchmark.

c. If the work for any specific benchmark has not been completed within 90 days after the completion date set forth in the Approved Schedule, and the delay in completion has not been caused by force majeure, the Director of Public Works shall have the option at any time thereafter to make claim against the Applicant's Performance Security in order to complete such benchmark.

3. **Stormwater BMPs for Construction.** Applicant shall implement 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 the prevention of storm water pollution during construction and permanent drainage, erosion and sediment control. These items will be reviewed as part of the Applicant's Construction Management Plan.

4. **City Facilities Security.** The Applicant shall provide a specific cash deposit, letter of credit, bank guarantee, bond, or other similar financial vehicle ("City Facilities Security") in the amount of \$50,000, as established by the Director of Public Works, to cover the cost of any damage to City property or facilities in any way caused by Applicant, Applicant's contractors or subcontractors, or any of their agents, employees or assigns, or others working for or on behalf of Applicant on this Project, and related in any way to the Project. The form and terms of such City Facilities Security shall be determined by the Director of Public Works after consultation with the Applicant.

a. To provide clear baseline information to assist in determining whether damage to the City's facilities has been caused by the Applicant or others working for or on behalf of Applicant on this Project, the City will document such facilities (including, without limitation, *streets and facilities along the approved construction route as specified in the Construction Management Plan* to establish the baseline condition of such streets and facilities, and shall further re-document the streets as deemed appropriate after the Project commences until the Director of Public Works determines that further documentation is no longer warranted. As part of such documentation, the City may possibly hose or water down the streets to better emphasize any cracks or damage in the surface thereof. The Applicant shall be responsible for the full cost of all such documentation and related work, and shall reimburse the City therefore within 21 days after receiving written notification of the work performed and the amount to be reimbursed.

b. Proceeds from the City Facilities Security shall be payable to the City upon demand, conditioned solely on the Director of Public Works' certification on information and belief that all or any specified part of such proceeds are due and owing to the City. The City shall not be required to prove or otherwise establish in any way that such proceeds are required to compensate it for damages to City property or facilities, that Applicant is directly or indirectly responsible therefore, or any other prerequisites to the City's entitlement to collect such proceeds from the provided security.

5. **Consultant Cost Recovery.** As the City must, in order to accommodate the scope and nature of the Project proposed by the Applicant, retain independent consultants with specialized expertise, the Applicant shall, prior to issuance of the building permit, make a cash deposit with the City in the amount of \$5,000 to be used to pay for the fees and expenses of such City consultants, or in any way otherwise required to be expended by the City for professional assistance (other than City Staff), in conjunction with the Project, 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 may require the Applicant to deposit additional funds to cover any further estimated fees and expenses associated with consultants retained by the City for the Applicant's Project. Any unexpended amounts shall be refunded to the Applicant within 90 days after the Project has an approved Final Inspection by the Chief Building Official.

6. **City Attorney Cost Recovery.** Due to the substantial additional commitment of City Attorney's time required to accommodate the scope and nature of the Project proposed by the Applicant, the Applicant shall, prior to commencement of construction, make a cash deposit with the City in the amount of \$5,000 to be used to offset time and expenses of the City Attorney relating to the Project. If such cash deposit has been reduced to \$2,500.00 or less at any time, the Director of Public Works may require the Applicant to deposit additional funds to cover any further estimated additional City Attorney time and expenses. Any unused amounts shall be refunded to the Applicant within 90 days after the Project has an approved Final Inspection by the Chief Building Official.



7. **Property Insurance.** The Applicant shall purchase and maintain property insurance on an “all-risk” policy form, including builder’s risk, in the amount of the initial total expected costs to complete the Project, plus the value of subsequent modifications and revisions, comprising total value for the entire Project on a replacement cost basis without optional deductibles. Such property insurance shall include interests of the Applicant, its contractor, subcontractors and sub-subcontractors in the Project, and shall be maintained until the entire Project has been completed and has an approved Final Inspection by the Chief Building Official.

8. **Contractor’s General Liability Insurance.** The Applicant shall require all contractors and subcontractors performing work on the Project to maintain General Liability Insurance for protection from claims for damages because of bodily injury, including death, and claims for damages, other than to the contractor’s work itself, to property which may arise out of or result from the contractor’s operations. Such insurance shall be written for not less than \$1,000,000 per occurrence.

9. **Professional Liability Insurance.** The Applicant shall require its architect, any structural engineer, soils engineer, geotechnical engineer and other engineers and professional consultants retained to perform work relating to the Project to procure and maintain for a period of no fewer than 5 years after completion of the Project, professional liability insurance with coverage limits of no less than \$1,000,000.00 per claim.

10. **Insurance Cancellation Notice.** The Applicant shall require that all insurance policies obtained to satisfy any specific Condition of Approval provide the City with at least 10 days prior written notice from the insurance company of the cancellation of or change to any insurance coverage provided therein. Applicant shall immediately arrange for substitute insurance coverage to replace any such cancellation or change, subject to the approval of the City Attorney.

11. **Creditors’ Claims.** All security, funds or financial vehicles set forth in any of these Conditions of Approval shall be earmarked or dedicated so that they are not subject to creditors’ claims.

12. **CEQA Agreement.** The Applicant shall, pursuant to a form of agreement prepared by the City Attorney and executed by the Applicant, defend, at Applicant’s sole expense, indemnify and hold harmless the City of Piedmont, its elected and appointed officials, agents, officers and employees from and against any claim, demand, loss, liability, action or proceeding relating to, resulting from, or in connection with any determination, whether through its Planning Commission, City Council, City Staff, or otherwise, regarding applicability of the California Environmental Quality Act to the Applicant’s Project, including but not limited to any determination that a Categorical Exemption applies or that an Initial Study, a Negative Declaration or an Environmental Impact Report is or is not required for the Project.

13. **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. This Project is eligible to participate in an 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.

14. **Modifications to Conditions.** Any bonds, financial vehicles, insurance requirements or related Conditions of Approval may be modified in a reasonable manner with the joint agreement of the Director of Public Works and the City Attorney, provided that such modified Conditions of Approval continue to satisfy the general intent of the Condition as originally set forth herein.

15. **CEQA Compliance.** The final plans, including any subsequent modifications under the Building Permit shall be prepared in compliance with the 10 Rehabilitation Standards specified in the Historic Resources Evaluation Technical Report, dated December 2008.

16. **Structural Stability.** Prior to the issuance of Building Permits, the applicant shall provide certification by a structural engineer that combined with the proposed concrete balustrades, the retaining wall meets engineering standards for stability, and that no additional structural support is required. Modifications required for structural stability shall be subject to staff review. If building permits are not issued prior to the expiration of this Planning Commission approval, the Public Works Director shall issue a Compliance Order.

17. **Geotechnical Report and Review.** The Applicant shall submit a report prepared by a geotechnical engineer of the Applicant's choice that fully assesses the existing site conditions, and addresses all issues regarding excavation and grading, foundations and their construction, drainage, retaining wall systems, periodic on-site observations, and other related items involving the Project.

18. **Performance Security.** The Applicant shall provide a specific cash deposit, letter of credit, bank guarantee, performance bond, or other similar financial vehicle ("Performance Security") to insure full compliance with these Conditions of Approval and the completion of the full construction of the Project, including all site improvements and landscaping, in accordance with the plans approved by the City.

- a. The Performance Security shall be in amount to include all expected costs to complete the Project, plus 25% to cover cost escalation, unexpected expenditures and other contingencies. If, as the Project proceeds, the expected cost to complete the Project increases beyond the original estimate in the opinion of the Director of Public Works, the 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 compliance within 15 working days after receiving written notice of the additional required amount. The City shall retain, at the Applicant's sole expense, an

independent estimator to determine the total expected costs to complete the Project and any subsequent revisions thereto.

- b. The Director of Public Works shall approve the form and amount of the Performance Security, which shall absolutely ensure completion of the entire Project. Performance under the Performance Security shall commence upon demand by the City, conditioned solely on the Director of Public Works' certification on information and belief that all or any specified part of such Performance Security is due and owing to the City. The City shall not be required to prove or otherwise establish in any way that Applicant is in default of any condition, covenant or restriction, or any other prerequisite to the City's entitlement to performance by the provided security.
- c. The Performance Security shall not be released until the entire Project has an approved Final Inspection by the Chief Building Official, provided that if, in the judgment of the Director of Public Works, sufficient work has been completed according to the benchmarks and construction values as established under the Construction Completion Schedule, such Performance Security may be reduced to the extent the Director of Public Works in his sole discretion shall determine is appropriate.

19. **Final Landscape Plan.** The Applicant shall provide a Final Landscape Plan that shows trees proposed for retention as well as in-lieu trees. Such final plan shall also comply with the provisions of Section 17.17.3 of the Municipal Code, and shall not propose plants near the driveway that could obscure visibility of pedestrians on the sidewalk or vehicles on the street from drivers backing out of the driveway. The Final Landscape Plan shall be subject to staff review and approval prior to the issuance of a building permit. The vegetation shall remain intact and be maintained for at least 10 years from the date of final inspection. The Final Landscape Plan shall also include exterior lighting that complies with the City's lighting guidelines and requirements.

20. **Sidewalk.** Prior to the issuance of Building Permits, the Building Department shall determine if the sidewalk needs to be repaired in accordance with standard City procedures.

21. **Materials.** The slate roof, the finish of new stucco, brick and painted fenestrations shall match existing to create a totally integrated appearance.

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: Levine, Kellogg, Robertson, Stehr, Thiel

Noes: None

Absent: None

**Resolution 2-PL-09**

WHEREAS, in April of 2000, the property owners of 62 Farragut Avenue were granted Design Review approval (#99-0459) to make exterior site improvements, and such improvements required a time extension (#00-0266), as well as retroactive approval of modifications that did not get prior approval (#02-0173), and such improvements were not completed until August of 2005; and

WHEREAS, in 2003, the property owners started construction of further site improvements without obtaining Planning Permits or Building Permits; and

WHEREAS, a Stop Work order was issued on the property on October 16, 2003, due to improvements being constructed not in compliance with approved plans;

WHEREAS, most of the unapproved construction was removed from the property with the exception of the wall and railings which were permitted to remain to support modifications to the corner of the driveway pending a revised application to correct the construction and engineering of the wall;

WHEREAS, on December 13, 2004, the Planning Commission approved the retaining wall and railing, and specified two conditions of approval to correct the construction of the wall to ensure that it would be properly engineered and the final permits would be completed in a timely manner, which approval was upheld under appeal by the City Council on February 7, 2005; and

WHEREAS, the applicants never obtained building permits to correct the construction of the wall, and the Planning Commission approval of the wall expired; and

WHEREAS, the wall and railing were never removed from the property and no subsequent Planning or Building application was submitted for approval of the wall or to correct the wall; and

WHEREAS, on August 19, 2008, the City Planner and Building Official made an interior inspection of the residence and determined that in addition to other unapproved construction made to the interior of the residence without building permits (construction of a home theater in the prior basement ballroom and renovation of 6 bathrooms), the wall and railings remained unchanged from 2004; and

WHEREAS, the repeated violations of City Codes and substantial delays in corrective actions on the part of the property owners have

resulted in undue additional costs to the City including staff activities aimed at obtaining compliance;  
NOW, THEREFORE BE IT RESOLVED, that if Building Permits are not issued by January 12, 2010 (12 months from the Planning Commission decision), the Public Works Director is directed to issue a Compliance Order, to correct the construction and engineering of the wall, and if such Order is not complied with, the Director of Public Works shall refer the matter to the City Council pursuant to Section 1.9 of the City Code.

Moved by Thiel, Seconded by Levine

Ayes: Levine, Kellogg, Robertson, Stehr, Thiel

Noes: None

Absent: None

The Commission recessed for dinner at 6:30 p.m. and reconvened at 7:00 p.m.

**Staff Design  
Review Referral  
151 Sandringham Road**

Mr. Robert Anderson and Ms. Kimberly Guillen are requesting design review to build a new upper level deck in the rear yard, make window and door modifications and install new exterior lighting on the rear façade. Two design options are submitted:

- Option A reflects the original deck application, a 521 sq. ft. upper level deck at the rear of the house that extends 8 ft. from the rear exterior of the house;
- Option B reflects the reconfigured project design, a 541-1/2 sq. ft. upper level deck at the rear of the house that extends 10 ft. from the rear wall of the house, but has the southwest corner angled back 10 ft. from the right (west) property line.

Written notice was provided to neighbors. **Ten affirmative and three negative response forms** were received. **Correspondence** was received from: Lynn & Gary Anderson, Nov. 19; John & Alexis Hacker, Nov. 10, Dec. 6, Jan. 9; Fred & June Elia, Nov. 10, Jan. 4; Ilana & Reed Bennett-Eisen, Nov. 18, Dec. 16, January 8; Phil & Tiffany Chang, Jan. 2; Phil & Jeri Cardon, Jan. 6; Virginia Sanseau, January 9; Velda Egan, January 8.

**Public testimony** was received from:

Robert Anderson & Kimberly Guillen explained the intent and objectives of both design options, noting their preference for Option A. They also stressed that the privacy loss claims by their neighbor at 93 Cambrian (Bennett-Eisen/Friedkin) are in part due to the removal of extensive vegetation by Bennett-Eisen/Friedkin. They added that some of this vegetation was removed from their property without permission.

Larry Pullen, Project Contractor, described the proposed support system for the rear deck, noting that vegetation will screen its visual impact.

Alexis Hacker voiced support for Option A, noting that there are at least 7 homes in the neighborhood with rear decks.

June Elia and Nancy Zackler also voiced support for Option A and felt that the proposal was consistent with neighborhood conditions and standards.

Reed Bennett-Eisen & Illana Friedkin voiced strong opposition to the deck proposal, stressing that their property is the most impacted and that both options are unacceptable because of the loss of privacy to their rear yard and bedrooms. They stressed that if vegetation is planted to screen the deck from view, this screening would create too much shade in their rear yard.

Reuven Viahay agreed that both deck proposals would have a significant impact on the Bennett-Eisen/Friedkin property in terms of privacy loss and noise disturbance.

The Commission advised the applicant that the submitted plans were too vague and incomplete to visualize how the proposed deck designs are integrated into the existing house. Notwithstanding the inadequacy of submitted plans, the Commission agreed that the both deck options would cause a severe privacy impact to 93 Cambrian. The Commission suggested that alternative design schemes are available to lessen the deck's impact on the adjacent neighbor, e.g. rebuild the existing deck, with or without stairs, and add a separate 8 ft. wide deck off the rear of the house.

**Resolution 297-DR-08**

WHEREAS, Mr. Robert Anderson and Ms. Kimberly Guillen are requesting permission to build a new upper level deck in the rear yard, make window and door modifications and install new exterior lighting on the rear façade located at 151 Sandringham Road, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements are not aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that the proposed deck has not been adequately designed and depicted on submitted plans to visualize how the deck would integrate into the existing house. The underside of the deck has not been adequately considered. The project fails to comply with Design Review Guidelines II-1, II-2, II-3(b) and (c), II-5 and II-5(a).
2. The design is not appropriate, considering its effect on neighboring properties' existing views and privacy because it dominates over neighboring properties' open space and reduces neighbor privacy. The proposal fails to comply with Design Review Guidelines II-5(a) and II-6.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies, without prejudice, the design review application of Mr. Anderson and Ms. Guillen for

construction at 151 Sandringham Road, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Robertson, Seconded by Thiel

Ayes: Levine, Kellogg, Robertson, Stehr, Thiel

Noes: None

Absent: None

**Staff Design  
Review Appeal  
93 Cambrian Avenue**

Mr. Robert Anderson and Ms. Kimberly Guillen are appealing a December 15, 2008, planning staff conditional approval of Mr. Reed Bennett-Eisen and Ms. Ilana Friedkin's design review application to construct new stairs and railings at the southeast side of the property, replace a garage door, expand an existing outdoor landing, seek retroactive approval for window modifications, add exterior lighting and make other hardscape improvements at 93 Cambrian Avenue

**Correspondence** was received from: Kimberly Guillen & Robert Anderson, Dec. 26 and 31, 2008;

**Public testimony** was received from:

Robert Anderson & Kimberly Guillen stated that the expansion of the existing landing essentially creates a deck and entertaining area directly facing Sandringham Road resulting in a loss of privacy to their property. They referenced the piecemeal nature of recent construction undertaken by the applicants and stressed that much of this construction was without proper approvals and permits. They also noted that the applicants' removal of mature vegetation has exacerbated the privacy loss situation between the two properties. They emphasized that there are no other front yard decks in the neighborhood and the expansion of the landing and the installation of gas, electrical and water lines indicates the intent to create a patio and outdoor entertaining area in the front yard. They also stated that the installation of a new curb has created drainage problems. They submitted a handout listing all of the illegal construction activity that has occurred at 93 Cambrian.

Gary Anderson agreed that the applicants' removal of a beautiful magnolia tree and other shrubs and landscaping has been unfortunate and appears to have occurred in order to create a second entry to the home and an outdoor barbecue and entertaining area in essentially the front yard. He felt that such development was inappropriate and without a landscaping plan, it is impossible to determine what type of visual and acoustical screening is planned for this entertaining area. In addition, he voiced his fear that a second entry point to the home will create parking congestion in front of his home on Sandringham. He objected to the applicants attempt to turn their front yard into a rear yard.

Alexis Hacker, speaking on behalf of the St. James Woods Homes Association, noted the Association's difficulty in understanding the scope and intent of the applicants' construction because of the amount of illegal construction and the piecemeal approach. She felt that the planning staff's approval of unauthorized work was unfair, the expansion of the landing was not in keeping with neighborhood standards or the City's Design Review Guidelines and the

improvements do negatively impact neighbor view and privacy. She also explained that the applicants' removal of the large magnolia tree and mature vegetation, without prior permission, was contrary to the covenants of the Homes Association but emphasized that the Association has had a hard time keeping up with the amount of illegal activity at the property.

Nancy Zacker concurred with Ms. Hacker's comments, stressing her strong objection to a wooden platform in the front yard at this very prominent corner of Sandringham. She also voiced concern that perhaps the illegally installed gas line could be for the future addition of a hot tub.

June and Fred Elia agreed with Mr. Gary Anderson and Alexis Hacker statements and submitted photographs in support of their contention that the removal of the magnolia tree has lessened their privacy. They noted that the applicants removed a rear deck that was a more appropriate area for outdoor entertaining and joined with the other speakers in opposing the creation of a new outdoor entertaining area in the front yard.

Christian Brown, Project Designer and Contractor, apologized for the lack of proper permits, noted that originally the applicants had planned to create a patio off the landing but now have abandoned those plans and are willing to remove the gas line, stated that the large magnolia tree was removed because of root damage to the home's foundation and the desire to create usable outdoor space in this area. He stated that the rear yard is too small and shady for pleasant outdoor entertaining and because the property is a corner lot, it is not usual for such properties to have outdoor areas facing one of the street frontages. He noted that the current application reflects the complete design; no other improvements are planned. He also stated that a landscaping plan is currently being prepared and will be submitted to the City shortly.

Reed Bennett-Eisen urged the Commission to uphold the planning staff's decision, stating that the appeal is a retaliatory response because of his objections to the Anderson/Guillen deck proposal. He apologized for his failure to obtain proper permits for the work undertaken and noted that he was unaware of the Homes Association's regulations regarding the removal of vegetation. He assured the Commission that there will be no future misunderstandings with regard to City and Homes Association regulations.

Reuven Viahay stated that homeowner association rules are often unknown until brought to someone's attention and that the applicants had no intent to disregard Association rules. He also stressed that there are many decks and barbecue areas in the neighborhood and the objections voiced tonight reflect malicious neighborhood opposition to the applicants.

Ellen Kyce of King Avenue described her personal 4-year battle with a neighbor regarding the removal of privately-owned tree, noting that such instances are not uncommon.

The Commission agreed that planning staff committed no error in reaching its decision and thus, there was no basis to overturn staff's



decision. With regard to the specific construction, the Commission, with the exception of Commissioner Levine, agreed that: (1) front porches are commonplace in the neighborhood and the proposed landing is essentially a front porch consistent with the neighborhood – it is too small to be suitable as an outdoor entertaining area and neighbor view and privacy are not impacted; (2) gas, water and electrical lines and drainage improvements are not within the purview of the Commission – these are building department issues. In any event, these utility components are not shown on the submitted drawings; (3) Homeowner association compliance issues are a private matter, not within the purview of the Commission; and (4) the other elements of the proposal are aesthetically appropriate for the existing home. Therefore, there is no reason to deny the application. Commissioner Levine agreed with the Commission majority except for his belief that the front landing was too large and a landscaping plan for this prominent tree-lined street corner should be required before the landing component of the plan is approved.

**Resolution 3-PL-08**

WHEREAS, Mr. Reed Bennett-Eisen and Ms. Ilana Friedkin are requesting permission to construct new stairs and railings at the southeast side of the property, replace a garage door, expand an existing outdoor landing, seek retroactive approval for window modifications, add exterior lighting and make other hardscape improvements located at 93 Cambrian Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, Planning staff conditionally approved Mr. Bennett-Eisen and Ms. Friedkin's application on December 15, 2008, and this approval was appealed by Mr. Robert Anderson and Ms. Kimberly Guillen; and

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

1. the planning staff's decisions with regard to this application are supported by the weight of evidence;
2. there was no significant error in planning staff's application of Chapter 17 of the City Code;
3. there was no significant violation of the noticing provisions of Section 17.28 or other pertinent notice provisions of Chapter 17 ;
4. there were no significant errors discovered after the planning staff's decision that would cause the Commission to take action to overturn staff's decision;
5. there was no significant error in the application of approved City policies.

In addition, the Planning Commission finds that the proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code as set forth in planning staff's findings of December 15, 2008:

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies Mr. Anderson and Ms.

Guillen's appeal and upholds planning staff's conditional approval of the design review application of Mr. Bennett-Eisen and Ms. Friedkin for construction at 93 Cambrian Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. The applicant shall install evergreen vegetation in the front yard planting area along the northeast property line to preserve and enhance privacy between 93 Cambrian Avenue and 151 Sandringham Road. The choice of plant material is subject to staff review and approval. This vegetation shall remain intact and be maintained for at least 10 years from the date of a final inspection.
2. No front yard improvements other than those included in the plans submitted on November 21, 2008, with additional information submitted on November 24, 2008, are approved under this application. New landscape improvements that are subject to design review shall be approved under a separate design review application;
3. The new garage door shall be electronically operated; and
4. The above conditions are specific to this application and supplemental to conditions placed on the prior related design review application (#08-0217).

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 Thiel

Ayes: Kellogg, Robertson, Stehr, Thiel

Noes: Levine

Absent: None

**Variance, Design  
Review & Fence  
Design Review  
47 Jerome Avenue**

Mr. and Mrs. Moon Lau are requesting variance, design review and fence design review to seek retroactive approval for various modifications made to the residence including: the enclosure of a front entry porch; construction of a new side yard deck; modifications to the existing roof; addition of a new deck atop the existing garage; installation of new vinyl windows and wood front door; replacement of an existing garage door; construction of new stucco-sided entry stairs and guardrail; and other ornamental changes to the residence. The requested variances are from: (1) Section 17.10.4 to allow a structure coverage of 64% in lieu of the code permitted maximum of 40%; (2) Section 17.10.4 to allow a hardscape surface coverage of 98.2% in lieu of the code permitted maximum of 70%; (3) Section 17.10.6 to allow

the new porch enclosure to extend to within 6 ft. of the front property line in lieu of the code required minimum of a 20 ft. front yard setback; (4) Section 17.10.7 to allow the new right side yard deck to extend to the side property line in lieu of the code required minimum of a 4 ft. side yard setback; and (5) Section 17.10.7 to allow the new parapet roof modification to extend to within 3'6" of the left side property line in lieu of the code required minimum of a 4 ft. side yard setback.

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

**Public testimony** was received from:

Eric Lau, the applicant's son, apologized for the lack of proper permits for the construction work, stating that his father's architect and contractor assured him that all necessary permits would be applied for and obtained. He then described the reasons behind the improvements and that the new concrete replaced that which previously existed.

The Commission requested that the proposed improvements be modified and a new application submitted reflecting (1) a reduction in the amount of property hardscape to as close to the 70% maximum allowable as possible; (2) a reduction in retaining wall heights; (3) reducing the height and mass of the garage by making the guard rail more open in design; and (4) a survey of the south property line be prepared to demonstrate that the retaining wall is on the applicant's property or a signed fence agreement with the adjacent neighbor approving the location of the wall be submitted. In particular, the Commission voiced its objection to the front archway and the 11 ft. high right side retaining wall, requesting that these elements be eliminated. The Commission also suggested that while the left side yard paving is acceptable, hardscape from the rear and right side yard be reduced and planting areas be created. The Commission also requested that more effort be made to make the property's walls more open and light.

**Resolution 309-V/DR-08**

WHEREAS, Mr. and Mrs. Moon Lau are requesting retroactive approval for various modifications made to the residence including: the enclosure of a front entry porch; construction of a new side yard deck; modifications to the existing roof; addition of a new deck atop the existing garage; installation of new vinyl windows and wood front door; replacement of an existing garage door; construction of new stucco-sided entry stairs and guardrail; and other ornamental changes to the residence located at 47 Jerome Avenue, Piedmont, California, which construction requires variance and design review; and

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary in order to exceed the City's structure coverage limit; exceed the City's hardscape surface coverage limit; construct within the front setback; construction within the right side yard setback; and construction within the left side yard setback; and

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

application, and after having visited subject property, the Piedmont Planning Commission makes the following findings:

**With regard to the structure coverage variance:** while the existing property currently exceeds the maximum coverage allowed by code and therefore is a pre-existing condition, the current design fails to minimize the amount of additional structure coverage being requested. The proposal should be modified to minimize the amount of structure coverage on the property.

**With regard to hardscape surface coverage:** the variance situation is pre-existing but the current application increases the amount of existing hardscape. Such an increase cannot be justified when there are ways to reduce the amount of hardscape coverage so as to come closer to the code permitted maximum of 70%. While the left side sidewalk is required and a variance for this coverage is justified, a modified design could provide a reasonable amount of planting area on the property to reduce the amount of overall property hardscape.

**With regard to the front setback encroachment:** the improvements are unacceptable as proposed. While location of the garage and stairs in the front setback is acceptable, the height and bulk of structure within this setback is being increased to an unacceptable degree. In particular, the solid walls with a new guardrail atop of the garage roof patio, the solid wall at the front entry stair, the arched opening to the front stairway, and the right front 10 ft. high retaining walls are unacceptable in their current design. Their impact can be significantly mitigated by proposing a reduction in height or eliminating the walls and replacing with guardrails to create a more open and appealing street frontage.

**With regard to the right side yard setback encroachment:** there is no hardship justifying variance approval for the new retaining walls at the patio to enclose this area. This variance can be eliminated.

**With regard to the left side yard setback encroachment:** while this is a pre-existing condition and variance approval to upgrade the roof and garage is justifiable, the height and bulk of the garage improvements can be reduced through the use of an open guardrail as opposed to the a solid wall, thus reducing massing within the setback.

Based upon the above findings,

1. The underlying lot and existing improvements do present unusual physical circumstances related to the siting of the building and pre-existing conditions on the lot. However, the design elements of the current application make variance approval at this time unacceptable.
2. The variances are not compatible with the immediately surrounding neighborhood and the public welfare as currently designed.
3. In some instances, variance approval is justified for proposed improvements to the property; however, not as currently designed.
4. The exterior design elements are not aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood

development in that they fail to comply with Design Review Guidelines II-1, II-2 and II-3(a).

5. The design is appropriate in terms of the deck and windows, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light. These components comply with Design Review Guidelines II-4 and II-3(b). However, the other design features of the project are not acceptable and fail to comply with the City's Design Review Guidelines.

6. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. There are no material changes to the traffic flow in and out of the property. The project complies with Design Review Guideline II-7.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies, without prejudice, the variance and design review application of Mr. and Mrs. Lau for construction at 47 Jerome Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Kellogg, Seconded by Levine

Ayes: Kellogg, Levine, Robertson, Stehr, Thiel

Noes: None

Absent: None

**Design Review and  
Fence Design Review  
131 Crocker Avenue**

Mr. and Mrs. Ronnie Baum are requesting design review and fence design review to make modifications to a previously approved front yard design, including: constructing a fence, columns and gates along the front and side property lines, constructing a seat wall in the front yard, adding a moveable barbeque in the front yard, adding landscape lighting and making hardscape and landscape changes.

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

**Public testimony** was received from:

Denise Bates, Project Architect, stated her belief that the fence approved by the Commission last year was out of scale because of 6 ft. columns and a 4 ft. gate. The current design proposes a 6 ft. open gate as well as simplifies the interior of the garden and adds a curved seat wall.

The Commission referenced the City's Design Review Guidelines in reinforcing its position that front yard fences should not exceed 4 ft. in height so as to avoid "walling in" properties. The Commission noted that because the property has a usable rear yard outdoor entertaining area, there is no need to enclose the front yard with a high fence and gate. The Commission reiterated its previous request that the gate not exceed 4 ft. in height and suggested that the columns be reduced in height for better visual proportions; Mrs. Bates agreed. It was also agreed that the total height of the columns with caps could slightly exceed the 4 ft. height limit. The Commission agreed that the remainder of the landscaping changes were beautiful and acceptable.

**Resolution 345-DR-08**

WHEREAS, Mr. and Mrs. Ronnie Baum are requesting permission to make modifications to a previously approved front yard design, including: constructing a fence, columns and gates along the front and side property lines, constructing a seat wall in the front yard, adding a moveable barbeque in the front yard, adding landscape lighting and making hardscape and landscape changes located at 131 Crocker 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 in that the garden related improvements comply with Design Review Guidelines II-1, II-2 and II-3 and the fence related improvements, as conditioned, comply with Design Review Guidelines V-1, V-2, V-3, V-5 and V-6.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Brown for construction at 131 Crocker Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. No changes to the exterior or interior structure of the house are approved as part of this application;
2. Compliance with the conditions of approval specified as part of the prior related approvals for the residence at 131 Crocker Avenue under Variance and Design Review applications #08-0077, #08-0135 and #08-0147 and building permit #B08-00454 shall extend to this application;
3. The height of the proposed fence shall not exceed 4 ft. in any location;
4. The height of the proposed columns, with decorative cap, may slightly exceed the 4 ft. height, subject to staff approval;
5. The height of the proposed gate shall not exceed 4 ft.

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, Robertson, Stehr, Thiel

Noes: Levine

Absent: None

#### **Draft General Plan**

Mr. Barry Miller, the City's General Plan Update Consultant, announced that the Piedmont Draft General Plan and Draft Initial Study-Mitigated Negative Declaration have been completed and are now subject to public review. Copies of these documents are available on the City's website and at City Hall. Mr. Miller referenced the seven public workshops that the Commission has held during the Plan update process and requested that the Commission hold the first of two public hearings on the proposed Draft. Chairman Stehr then opened a public hearing to discuss the Draft General Plan and Mitigated Negative Declaration.

#### **Public testimony** was received from:

Morrisa Sherman, spokesperson for *The Friends of Moraga Canyon*, voiced the group's strong opposition to the proposed transformation of Blair Park into a youth sports complex. She stressed that the park is currently zoned as a dog park and open space and the proposed sports development would destroy over 150 trees and an existing wildlife habitat. She argued that the proposed sports development is not in keeping with the General Plan's "green values," is inappropriate for the site and would create a visual eyesore because of excessively high retaining walls at the street edge. She invited the Commission to come to her home this Friday to view Blair Park from her property's perspective.

Julie Watters concurred with Ms. Sherman's objection to the destruction of Blair Park's delicate eco-system, stressed that the park's open space is an important community asset and that the proposal to develop the property into a sports complex is being rushed through the process by soccer group proponents. She urged the Commission to hold public hearings on the proposed sports development project prior to any action to approve the project.

Mr. Miller explained that the proposed sports field development at Blair Park does comply with the City's Draft General Plan as the property is designated for parks, recreation and open space use and soccer fields are considered an appropriate use under the definition of "open space."

The Commission announced that a second hearing on the proposed Draft Plan and Mitigated Declaration would be scheduled at the

Commission's February meeting. The Commission then reviewed Chapters 8, 9, 10 and 11 and the following revisions were suggested:

- Policy 27.3 View Preservation – use the word “significant” rather than “important” with regard to view references. Also, include a cross-reference to Chapter 5 that encourages the planting of trees that do not block significant views;
- Action Item 27.b – add a new action item to address new types of roof top structures related to solar and wind power generators, satellite dishes, etc. to insure that such installations are consistent with the City's Design Review Guidelines and Piedmont's “greening” position;
- Policy 27.7 – add an Action Item to address the current inconsistency in street light illumination. Define a minimum footcandle level for street lights on City roadways as a safety issue;
- Chapter 8 – add an action item recommending that the City's Design Review Guidelines be reviewed and updated to include commercial and multi-family structures as well as better articulate priorities as to what type of construction is more important than others, e.g. houses more important than garages, etc.
- Chapter 11 – consider reassigning the priority for a “Bart Shuttle” to a short-term priority.

#### **ADJOURNMENT**

There being no further business, Chairman Stehr adjourned the meeting at 11:15 p m.