

# **PIEDMONT PLANNING COMMISSION**

## **Regular Meeting Minutes for Monday, July 13, 2009**

A Regular Session of the Piedmont Planning Commission was held July 13, 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 July 2, 2009.

### **CALL TO ORDER**

Chairman Kellogg called the meeting to order at 5:00 p.m. He announced that the applicant for Agenda Item #9 (Second Unit with Parking Exception, 1530 Grand Avenue) has requested a continuance.

#### **Resolution 14-PL-09**

RESOLVED, that the Planning Commission continues until August 10, 2009, consideration of an application for a second unit with parking exception for 1530 Grand Avenue.

Moved by Thiel, Seconded by Stehr

Ayes: Kellogg, Robertson, Stehr, Thiel, Henn

Noes: None

Absent: Levine

### **ROLL CALL**

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

Absent: Commissioner Jonathan Levine

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

City Council Liaison: Councilmember John Chiang

### **CONSENT CALENDAR**

The following Resolution was approved under one vote by the Commission:

#### **Design Review 431 Pala Avenue**

#### **Resolution 128-DR-09**

WHEREAS, Mr. and Mrs. Jason Stein are requesting permission to build an approximately 300 sq. ft. addition on the south rear corner of the house, including an expansion of the kitchen on the second story; construct a 175 sq. ft. deck with new railings west of the proposed addition; make window, door and roof modifications; add wood brackets and cladding to the posts of the upper-level deck; add exterior lighting; and make various changes to the interior located at 431 Pala Avenue, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements 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: Improvement to the exterior elevation is mainly to replace existing window to be consistent with front elevation. No work is done on the front. New back entry allows ease of egress.

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 second floor addition is located away from the closest adjacent residence, located at the center of the existing building, and does not change the existing height of the building.

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 size and height of the new addition does not extend beyond the existing building height.

4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. In accordance with Sections 17.16.1 and 17.22.1, the existing or proposed on-site parking is appropriate to the size of the new upper level addition, and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood. The new addition does not change the parking layout. The new back stairs allow for ease of 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. Stein for construction at 431 Pala 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 Pala 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 proposed windows shall be the same color as the existing windows on the residence;
5. The divided light grills on any new windows shall be true or three-dimensional simulated divided lights;
6. Where the window openings are proposed to be reduced in size or eliminated, the wall shall be patched and painted to match the surrounding walls;
7. The proposed exterior lights shall have an opaque or translucent shade that completely covers the light bulb.

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

Moved by Stehr, Seconded by Thiel

Ayes: Kellogg, Stehr, Thiel, Henn

Noes: None

Recused: Robertson

Absent: Levine

#### **PUBLIC FORUM**

There were no speakers for the public forum.

#### **APPROVAL OF MINUTES**

##### **Resolution 15-PL-09**

RESOLVED, that the Planning Commission approves as submitted its meeting minutes of June 8, 2009.

Moved by Henn, Seconded by Stehr

Ayes: Kellogg, Robertson, Stehr, Thiel

Noes: None

Absent: Levine

#### **REGULAR CALENDAR**

The Commission considered the following items of regular business:

**Variance and  
Design Review  
40 Jerome Avenue**

Mr. Mel Kong and Ms. Liz Burnett are requesting variance and design review to demolish the existing 150 sq. ft. second story bathroom and deck at the rear of the residence and build a 120 sq. ft. single story addition in its place; construct a 90 sq. ft. deck between the garage and rear addition; replace the rear yard brick patio with a larger on-grade deck and new railing; make window and door modifications; install a canvass awning on the rear façade; replace the garage door; add exterior lighting; and make various changes to the interior. The requested variance is from Section 17.10.4 to allow a structure coverage of 40.9% in lieu of the code permitted maximum of 40% coverage.

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

**Public testimony** was received from:

Mercedes Corbell, Project Architect, described the odd shape of the small, sloping lot and noted that the requested variance is to create safe and convenient access point between the house and the garage by providing an adequately sized landing. She acknowledged, however, that the variance could be avoided if the size of the landing was reduced. But she emphasized that to do so would negatively impact aesthetics and safety.

Liz Burnett stated that the existing driveway is of sufficient width to allow vehicle access to the garage.

The Commission agreed that the design of the improvements was attractive and appropriate for the property. However, the Commission noted that the desired improvements can be constructed without variance. Several options mentioned for eliminating the need for variance included: reducing the size of the laundry room, lowering a portion of the deck above grade, reducing the size of the upper deck landing, etc. Therefore, the Commission could not find any grounds or justification for approving the variance request.

**Resolution 99-V-09**

WHEREAS, Mr. Mel Kong and Ms. Liz Burnett are requesting permission to demolish the existing 150 sq. ft. second story bathroom and deck at the rear of the residence and build a 120 sq. ft. single story addition in its place; construct a 90 sq. ft. deck between the garage and rear addition; replace the rear yard brick patio with a larger on-grade deck and new railing; make window and door modifications; install a canvass awning on the rear façade; replace the garage door; add exterior lighting; and make various changes to the interior located at 40 Jerome Avenue, Piedmont, California, which construction requires variance; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary in order to exceed the City's structural coverage limit; and

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

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

1. No evidence has been submitted that the underlying lot and existing improvements present unusual physical circumstances that 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 not compatible with the immediately surrounding neighborhood and the public welfare.
3. Accomplishing the improvement without a variance would not cause unreasonable hardship in planning, design, or construction hardship since applicant testimony indicated that the proposed project could be constructed without variance.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies the variance application of Mr. Kong and Ms. Burnett for the above variance at 40 Jerome Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Thiel, Seconded by Henn

Ayes: Kellogg, Robertson, Stehr, Thiel, Henn

Noes: None

Absent: Levine

#### **Resolution 99-DR-09**

WHEREAS, Mr. Mel Kong and Ms. Liz Burnett are requesting permission to demolish the existing 150 sq. ft. second story bathroom and deck at the rear of the residence and build a 120 sq. ft. single story addition in its place; construct a 90 sq. ft. deck between the garage and rear addition; replace the rear yard brick patio with a larger on-grade deck and new railing; make window and door modifications; install a canvass awning on the rear façade; replace the garage door; add exterior lighting; and make various changes to the interior located at 40 Jerome Avenue, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements (including but not limited to height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that the project complies with Design Review Guidelines II-1, II-2, II-3(a) & (b) and II-5.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because it reduces the existing impact on neighbor views and does not impact neighbor privacy or light.

3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because there is no impact on off-site circulation patterns and on-site circulation is improved.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Kong and Ms. Burnett for construction at 40 Jerome 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 Jerome Avenue;
2. Compliance with Chapter 9 Article III of the Municipal Code, which governs the recycling of construction and demolition debris, will be required on all 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;
3. The proposed windows shall be the same color as the existing windows on the residence;
4. The divided light grills on any new windows shall be true or three-dimensional simulated divided lights;
5. Where the window openings are proposed to be reduced in size or eliminated, the wall shall be patched and painted to match the surrounding walls;
6. The proposed exterior lights shall have an opaque or translucent shade that completely covers the light bulb;
7. The proposed improvements shall be redesigned so that the resulting property is within the structure coverage limits permitted by code. Said redesign shall be subject to Staff Design Review.

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

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

Moved by Thiel, Seconded by Henn

Ayes: Kellogg, Robertson, Stehr, Thiel, Henn

Noes: None

Absent: Levine

**Variance and  
Design Review  
1042 Winsor Avenue**

Mr. Zachary Wald and Ms. Eliza Sorenson are requesting variance and design review to demolish the existing fireplace and chimney; replace the left side yard entry with a new 21 sq. ft. bath addition; construct a new porch at the right side yard; construct a new carport at the rear of the property; install a new hot tub and construct a new deck in the rear and right side yards; make window and door modifications; add exterior lighting; install a new driveway and make other hardscape changes in the rear yard; and make various changes to the interior, including the development of habitable space on the basement level to accommodate a new 4<sup>th</sup> bedroom, bathroom, laundry and family room. The requested variances are from: (1) Section 17.10.6 to allow the new left side addition to extend to within 15 ft. and the new right side porch to extend to within 17 ft. of the front property line in lieu of the code required minimum of a 20 ft. front yard setback; (2) Section 17.10.8 to allow the new carport to extend to within 5 ft. of the rear property line in lieu of the code required minimum of a 20 ft. rear yard setback on a street side property line; and (3) Section 17.22(b) to allow a floor area ratio of 50.4% in lieu of the code permitted maximum of 50% for a parcel which exceed 5,000 sq. ft. but is less than 10,000 sq. ft. In response to a neighbor's request, the applicants have submitted an alternative *Option B* in which the proposed hot tub is relocated to a position within the new rear deck further away from the left (north) property line than originally proposed. It was also noted that 1,776 sq. ft. of the property is located in Oakland and 5,352 sq. ft. in Piedmont.

Written notice was provided to neighbors. **Five affirmative response forms** were received. **Correspondence** was received from: Quynh Nguyen & Stephen Lee

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

**Public testimony** was received from:

Eliza Sorenson stressed the unique nature of her property in that a portion of the property is in the City of Oakland and a portion is within the City of Piedmont and the property also borders a private alleyway. She stated that the proposed improvements are intended to improve the safety, architectural interest and livability of her home.

Zach Wald agreed with his wife, adding that currently the home has no bathroom on the main floor and the proposal for adding a half bath to the main level will significantly improve the livability of the house. He also reviewed the various locations examined for adding this half bath, noting that the proposed location is the best solution for preserving the historical integrity of the home. He noted that every home in the neighborhood encroaches into the front setback.

Carolyn Van Lang, Project Architect, explained the reasons behind the location sites for the new carport and half bath, stressing that if the entire size of the property was considered, there would be no need for a floor area ratio variance. She also noted that a vegetation barrier is planned as a substitute for a guardrail adjacent to the new carport. However, should the building department require a guardrail, one will be added.

Michelle Wolpe voiced concern that the proposed side deck is too close to her property line. She requested that the deck be pulled farther back to minimize privacy and noise impacts.

The Commission concurred that the design of the improvements compliments the existing architectural style of the residence and the Option B hot tub plan is the best solution for the neighbors. As to variance, the Commission agreed that the addition of a half bath on the main floor is reasonable and the variance for this addition is justified since the bath will replace an existing stair structure with less impact on adjacent neighbors. Variance for floor area ratio is also justified and appropriate given the split lot nature of the property. However, the Commission, with the exception of Commissioner Stehr, opposed the granting of a variance for front yard encroachment of the side porch addition. The Commission majority felt that this variance could be easily avoided through a redesign. The Commission also supported the planting of an additional landscaping buffer between the applicant's property and that of the neighbor at 1036 Winsor to further mitigate potential privacy, view and acoustical impacts. Commissioner Stehr felt that the front setback variance for the side porch was justified in that other homes in the neighborhood have similar encroachments, the design and size of the porch provide architectural balance and symmetry to the home and the variance is justified given the fact that the existing house is located so far into the front yard setback – within the context of the neighborhood and existing site conditions, variance approval is justified.

**Resolution 125-V-09**

WHEREAS, Mr. Zachary Wald and Ms. Eliza Sorenson are requesting permission to demolish the existing fireplace and chimney; replace the left side yard entry with a new 21 sq. ft. bath addition; construct a new porch at the right side yard; construct a new carport at the rear of the property; install a new hot tub and construct a new deck in the rear and right side yards; make window and door modifications; add exterior lighting; install a new driveway and make other hardscape changes in the rear yard; and make various changes to the interior, including the development of habitable space on the basement level to accommodate a new 4<sup>th</sup> bedroom, bathroom, laundry and family room located at 1042 Winsor Avenue, Piedmont, California, which construction requires variance; and

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary in order to construct within the 20 ft. front setback; to construct within the 20 ft. rear street setback and to exceed the City's floor area ratio; 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 north front yard setback, rear setback and floor area ratio variances:**

1. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to the existing location of the house within the front setback, the presence of a private street (alley) at the rear of the property and the split lot nature of the property. Because of these circumstances, strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone which conform to the zoning requirements.
2. The variances are compatible with the immediately surrounding neighborhood and the public welfare because the existing house is already situated within the front setback and the addition of the half bath at the main level has no impact on neighboring property, the construction of a parking structure adjacent to the rear alleyway is consistent with existing neighborhood conditions and 25% of the lot area is located within the City of Oakland – if the entire size of the lot is considered, the property is well within the floor area ratio limits allowed by code.
3. Accomplishing the improvement without variance would cause unreasonable hardship in planning, design, or construction because of the existing conditions related to the home's placement on the lot, the presence of a rear private street (alley) and the fact that the home is partially located within Piedmont and partially located within Oakland.

**With regard to the south front yard setback variance:**

- Other design options exist for adding a right side porch to the home without encroaching into the front setback;

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application of Mr. Wald and Ms. Sorenson, granting the requested north front yard setback, rear yard setback and floor area ratio variances and denying the requested south front yard setback at 1042 Winsor 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 Thiel

Ayes: Kellogg, Robertson, Thiel

Noes: Stehr

Recused: Henn

Absent: Levine

*(Note: Commissioner Stehr reiterated her support for all the requested variances and her opposition to the Commission's denial of the front yard variance for the side porch addition).*

#### **Resolution 125-DR-09**

WHEREAS, Mr. Zachary Wald and Ms. Eliza Sorenson are requesting permission to demolish the existing fireplace and chimney; replace the left side yard entry with a new 21 sq. ft. bath addition; construct a new porch at the right side yard; construct a new carport at the rear of the property; install a new hot tub and construct a new deck in the rear and right side yards; make window and door modifications; add exterior lighting; install a new driveway and make other hardscape changes in the rear yard; and make various changes to the interior, including the development of habitable space on the basement level to accommodate a new 4<sup>th</sup> bedroom, bathroom, laundry and family room located at 1042 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, with the exception of the proposed new porch at the right side yard, conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. The exterior design elements (including but not limited to height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that the project complies with Design Review Guidelines II-1, II-2, II-3(a) through (d), II-4, II-6, III-1, III-1(a) and III-6.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because most of the exterior changes occur at the lower level with very little impact on adjacent neighbors. As conditioned for the planting of additional landscaping, any adverse impacts will be mitigated. In addition to the Design Review Guidelines cited above, the proposed project complies with Design Review Guidelines II-7 and II-7(a).
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. The addition of a new carport with access off of the rear alley will increase off-street parking. The project complies with Design Review Guidelines III-1, III-1(a), III-2 and III-2(a).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Wald and Ms. Sorenson for construction at 1042 Winsor 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 Winsor Avenue and the rear alley;
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 approved plan for the proposed hot tub is the *Option B* design. Prior to the scheduling of an initial inspection, the applicants shall submit written verification from a licensed acoustical engineer that a post-construction field test confirms the hot tub's compliance with the 50 decibel limit at the property line as required by Section 5.2.20 of the Piedmont Building Code. Should the hot tub be in violation of Section 5.2.20 requirements, the applicants shall take one of the following three actions:
  - a. The applicants shall remove the hot tub;
  - b. The applicants shall submit an application for Design Review for the replacement of the hot tub with an alternate hot tub that complies with Section 5.2.20 requirements; or
  - c. The applicants shall submit an application for Design Review for modifications to the hot tub that bring it into compliance with Section 5.2.20 requirements.
5. The proposed south porch element of the plan shall be redesigned so as to eliminate any encroachment into the front yard setback. Said redesign shall be subject to staff review and approval;

6. An electronically operated garage door shall be added to the existing garage. The design of this door shall be subject to staff review and approval;
7. The Building Official shall determine whether a guardrail adjacent to the carport is required;
8. The applicants shall submit a plan for providing a landscape buffer between the edge of the deck and their neighbor's property at 1036 Winsor; said landscaping plan shall be subject to staff review and approval.

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

Moved by Robertson, Seconded by Thiel

Ayes: Kellogg, Robertson, Stehr, Thiel

Noes: None

Recused: Henn

Absent: Levine

The Commission recessed for dinner at 6:30 p.m. and reconvened at 7:05 p.m.

**Variance and  
Design Review  
232 Wildwood Avenue**

Ms. Gini Zhang is requesting variance and design review to demolish the existing garage, front porch, bay on west side of the house, and most of the driveway terrace; construct a new 1-car garage with roof deck in the west side yard, a new front porch, a main level addition on the west side of the house, a basement level rear addition, and a new upper level roof deck; make window and door modifications; add exterior lighting; make hardscape changes in the rear yard; and make various changes to the interior, including the development of a 1-car garage and habitable space on the basement level to accommodate an additional 4<sup>th</sup> bedroom, 1-1/2 bathrooms, and family room. The requested variances are from: (1) Section 17.10.7 to allow the new garage to extend to within 8 inches and the driveway terrace to extend to within 4-1/2 inches of the right side property line in lieu of the code required minimum of a 4 ft. side yard setback; and (2) Section 17.10.7 to allow the wall of the new rear basement addition to extend to within 2'3" and the upper level roof deck to extend to within 7'6" of the left side property line in lieu of the code required minimum of a 4 ft. side yard setback. A similar application was denied without prejudice by the Commission on April 13, 2009.

Written notice was provided to neighbors. **Three affirmative, one negative response forms** were received. **Correspondence** was received from: Anne Weinberger, July 10.

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

**Public testimony** was received from:

Gini Zhang apologized for past mistakes regarding her improvements, noted the reasons for adding new living area and stressed that her improvements are consistent with other houses in the neighborhood.

Carolyn Van Lang, Project Architect, stated that she was retained following the April meeting and that the newly revised proposal reflects the suggestions made by the Commission. She noted that the requested variances are pre-existing and consistent with neighborhood standards. In response to questions, she stated that a property survey has not been conducted. The City Planner added that because proposed improvements are located near property lines, the Building Official will require a boundary location survey as a part of the permitting process.

Scott Patton, an adjacent neighbor, stated that he had a survey performed five years ago in connection with his remodel. He supported application approval, stating that the revised design improves his view and privacy situation and the addition of on-site parking will benefit the neighborhood as a whole.

The Commission agreed that the variance situation is pre-existing and the redesign is responsive to Commission requests and an improvement over the April submittal. However, the Commission requested that the upper level deck railing on the side facing Ms. Weinberger's property be solid to preserve privacy. In addition, Commissioner Thiel voiced concern that the proposed garage/parking plan is not workable and as a consequence the garage will not be used for parking. He suggested that the design be modified by switching the location of the 2<sup>nd</sup> parking stall in the garage with the family room as a means of making garage parking more functional.

**Resolution 135-V-09**

WHEREAS, Ms. Gini Zhang is requesting permission to demolish the existing garage, front porch, bay on west side of the house, and most of the driveway terrace; construct a new 1-car garage with roof deck in the west side yard, a new front porch, a main level addition on the west side of the house, a basement level rear addition, and a new upper level roof deck; make window and door modifications; add exterior lighting; make hardscape changes in the rear yard; and make various changes to the interior, including the development of a 1-car garage and habitable space on the basement level to accommodate an additional 4<sup>th</sup> bedroom, 1-1/2 bathrooms, and family room located at 232 Wildwood Avenue, Piedmont, California, which construction requires variance; and

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary in order to construct within the left (east) side yard setback and within the right (west) side yard setback; and

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

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

1. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to the fact that the variances are pre-existing and the encroachments are not being increased as a result of the project. Because of these circumstances, strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone which conform to the zoning requirements.
2. The variances are compatible with the immediately surrounding neighborhood and the public welfare because many houses along the street are within the side yard setbacks. In addition, the proposal improves the on-site parking situation which benefits the neighborhood.
3. Accomplishing the improvement without variance would cause unreasonable hardship in planning, design, or construction because the existing house is located within the setbacks and there are severe limitations in terms of garage locations.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application of Ms. Zhang for the above variances at 232 Wildwood Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

Moved by Stehr, Seconded by Robertson

Ayes: Kellogg, Robertson, Stehr, Thiel

Noes: None

Recused: Henn

Absent: Levine

#### **Resolution 135-DR-09**

WHEREAS, Ms. Gini Zhang is requesting permission to demolish the existing garage, front porch, bay on west side of the house, and most of the driveway terrace; construct a new 1-car garage with roof deck in the west side yard, a new front porch, a main level addition on the west side of the house, a basement level rear addition, and a new upper level roof deck; make window and door modifications; add exterior lighting; make hardscape changes in the rear yard; and make various changes to the interior, including the development of a 1-car garage and habitable space on the basement level to accommodate an additional 4<sup>th</sup> bedroom, 1-1/2 bathrooms, and family room located at 232 Wildwood Avenue, Piedmont, California, which construction requires design review and

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements include but are not limited to: height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment. The distance between the proposed upper level addition/expansion and adjacent residences is reasonable and appropriate due to the existing topography and neighborhood development pattern. Upper level setbacks greater than the setbacks required for the lower level have been considered and are not necessary to reduce losses of ambient and reflected light. The proposed improvements involve minimal changes to the front yard and comply with Design Review Guidelines II-1, II-2, II-3, II-3(a) through (d), II-5, II-6, II-6(a) & (b), III-2, III-2(a), III-3 and III-4.

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. Most of the proposed expansion occurs at the lower level. The project complies with Design Review Guidelines II-7, III-5, III-5(a).

3. The size and height of the addition is commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and is in keeping with the existing neighborhood development pattern. Most of the proposed development is at the lower level as part of an infill under an existing overhang. The addition at the main floor faces the driveway and rear yard bulk is minimized. The project complies with Design Review Guideline III-5.

4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. In accordance with Sections 17.16.1 and 17.22.1, the existing or proposed on-site parking is appropriate to the size of the new upper level addition, and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood. A new garage is being added to the property. The project complies with Design Review Guidelines III-7 and III-7(a).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Ms. Zhang for construction at 232 Wildwood 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 Wildwood Avenue;
2. Compliance with Chapter 9 Article III of the Municipal Code, which governs the recycling of construction and demolition debris, will be required on all 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;
3. The new garage doors shall be electronically operated;
4. All new and non-original windows shall be wood.
5. The proposed guardrail on the left side of the upper level deck shall be of a height and of solid material on the side facing the neighbor's property to preserve privacy for this neighbor. Said redesign shall be subject to staff review and approval.
6. The Building Official shall require the verification of property boundaries.

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

Moved by Stehr, Seconded by Robertson

Ayes: Kellogg, Robertson, Stehr

Noes: Thiel

Recused: Henn

Absent: Levine

**Variance and  
Design Review  
21 Bonita Avenue**

Mr. Steven Bratman and Ms. Amy Logan are requesting variance and design review for retroactive approval for the construction of an attached wood trellis at the front of the residence. The requested variance is from Section 17.10.6 to allow the trellis to extend to within 14'5" of the front property line in lieu of the code required minimum of a 20 ft. front yard setback.

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



**Public testimony** was received from:

Amy Logan apologized for her impulsive installation of the trellis but stressed that the trellis is consistent with other trellises in the neighborhood and provides privacy to her front yard which is the only accessible and usable outdoor space on the property – her rear yard does not have convenient access from the house and is bordered by a day care center. She added that variance approval is justified because of the small size of her lot and the fact that there is a 14 ft. City right-of-way.

The Commission was divided in its support of application approval. Those in favor agreed that: (1) the trellis, when covered by the bougainvillea is a better and more attractive solution for creating privacy than a 10 ft. tall hedge; (2) almost every house in the neighborhood has structures within the front setback; (3) the design and scale of the trellis is compatible with the house's Spanish-style architecture; (4) the front yard is the only usable outdoor space on the property; and (5) the trellis mimics the trellis over the entry. Those opposed: (1) preferred that a landscaping, rather than structural solution be employed for providing the desired front yard privacy; (2) felt the design and quality of the trellis structure was not appropriate for its front yard setting; (3) variance approval is not justified because the trellis is not essential construction; and (4) if the landscaping ever died, the result would be an unattractive, rather industrial-looking appearance at the streetscape.

**Resolution 142-V-09**

WHEREAS, Mr. Steven Bratman and Ms. Amy Logan are requesting permission for retroactive approval for the construction of an attached wood trellis at the front of the residence located at 21 Bonita 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 small size of the lot, the lack of outdoor living space and the fact that the existing home is located on the front property line. Because of these circumstances, strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone which conform to the zoning requirements.
2. The variance is compatible with the immediately surrounding neighborhood and the public welfare because there are similar front yard encroachments in the neighborhood and the trellis structure will be well screened from street view by existing hedges.

3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because a covered patio area in the only usable outdoor area on the property would not be possible. The applicants would be at a disadvantage from other residents in the neighborhood.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application of Mr. Bratman and Ms. Logan for the above variance at 21 Bonita Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

Moved by Henn, Seconded by Stehr

Ayes: Stehr, Thiel, Henn

Noes: Kellogg, Robertson

Absent: Levine

#### **Resolution 142-DR-09**

WHEREAS, Mr. Steven Bratman and Ms. Amy Logan are requesting permission for retroactive approval for the construction of an attached wood trellis at the front of the residence 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 improvement is consistent with the architectural details of the property.

2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because the design will have no effect on neighbors' or streetscape views.

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 or vehicle access.

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 applicant shall submit a landscaping plan for staff approval prior to the issuance of a building permit. After final building permit inspection, the applicant shall be allowed to make modifications to any aspect of the landscape plan that does not require design review under Chapter 17 of the City code, except that full irrigation must be provided to all landscaped areas.

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

Moved by Henn, Seconded by Thiel

Ayes: Stehr, Thiel, Henn

Noes: Kellogg, Robertson

Absent: Levine

**Conditional Use Permit  
1300 Grand Avenue**

Kehilla Community Synagogue is requesting modifications to the operations, programs, employees and hours of operation at the Synagogue and to operate a new preschool with 15 students. The application proposes to make an interior modification to enlarge the room for the preschool, but no exterior modifications to the property or building are proposed.

The proposed changes in use include:

*Days & Hours of Operation:*

Monday: 8:00 a.m. – 9:30 p.m.

Tuesday: 7:30 a.m. – 9:30 p.m.

Wednesday: 8:00 a.m. – 9:30 p.m.

Thursday: 8:00 a.m. – 9:30 p.m.

Friday: 8:00 a.m. – 10:30 p.m.

Saturday: 8:00 a.m. – 10:30 p.m.

Sunday: 9:00 a.m. – 9:30 p.m.

Preschool Hours: Monday-Friday: 8 a.m. – 3 p.m.

*Types of Staff/Personnel:*

Clergy: 1.9 FTE

Administrative: 3.4 FTE, including 0.4 FTE for new Preschool Administrative Assistant  
Program Directors: 2.5 FTE, including 1.0 FTE for new Preschool Director;  
Teaching Staff: up to 30 individuals, working between 2 and 7 hours per week; seasonally, including teenage teaching assistants. Some teachers work off-site. There will be two additional new positions for a Preschool teacher and a Preschool aide;  
Custodial: 0.7 FTE

*Maximum Number of People On Site: 285*

*Number of On-Site Parking Spaces: 18*

Written notice was provided to neighbors. **Seven affirmative, seven negative response forms** were received. **Correspondence** was received from: Kehilla Community Synagogue; Margaret Ovenden & Rev. Don Ashburn; Julie Archibald, Angela & Neil Teixeira; Rick Schiller; Don Condon; Don Condon/Vivian Barron/Kenneth & Meredith Rasco/Ferdinand Brislawn/Rosie Newhall & David Riker/Manny Myers & Bevan Vinton/Ron & Lindsey Leung/Chuck Chakravartula & Penny Mori/Neil & Angela Texeira/Rick Schiller; Michael Strimling; Wilma Luders; Binh Nguyen; Natalie Grubb; Wilma & Joseph Leather; Vivan Barron; Ken Mockel; John Bilorusky; Neil Teixeira; Rick Schiller; Bevan Vinton & Manny Myers;

The City Planner submitted two legal memos from the City Attorney prepared today in response to public comments regarding the definition of “church” and “private schools within the scope of Chapter 16.” She noted that copies of these memos are available for the audience.

**Public testimony** was received from:

Sandy Bredt, Executive Director of Kehilla Synagogue, summarized the involvement of membership, operations and services since 2004, noted that the Synagogue has not been made aware of any neighborhood complaints until now and reviewed the neighborhood meetings held and compromises made in response to neighborhood concerns.

Tim Silk, a Kehilla member assisting in the development of the pre-school program, emphasized the great need within Piedmont and Alameda County for additional pre-school programs.

Monica Hadda, Pre-School Director, explained the vision for the proposed pre-school, noting in particular that it will be a secular school with emphasis on fostering Jewish cultural traditions and Spanish language skills – children of all faiths are welcomed to attend. In response to Commission questions, she stated that: (1) a maximum of 15 children will be on site at any one time – total enrollment, however, may be greater; (2) a specific drop-off and parking plan for parents and teachers has not yet been developed; (3) play equipment will be used and stored in the play area. It is estimated that outdoor play time will be staggered and it can be expected that children will be outside playing approximately 3 to 4 hours a day; (4) priority enrollment will

be given to Piedmont residents: (5) incentives will be given to those parents who walk their children to the school; (6) the school is a “for profit” sole proprietorship enterprise; (7) the school session will be from 8:30 a.m. to 2:30 p.m. weekdays and it is expected that the children will attend for the entire duration.

Seth Frohman and Sharon Grodin, Kehilla Board of Trustee Members, stated that other religious institutions in Piedmont have pre-schools and religious/non-religious uses comparable to that being requested by Kehilla, noted that the expanded hours being requested are to accommodate the activities associated with occasional special events, fundraisers, Jewish holidays and committee and group meetings – many of which are attended by or associated with Piedmont residents, charities and organizations. Mr. Frohman also explained that Piedmont Adult School activities were begun at the site approximately a year after the synagogue’s CUP was granted. Originally, the Adult School arrangement was to be temporary (1 year) but the School requested time extensions to this arrangement. The Adult School use is now included as part of the current application.

Rabbi David Cooper noted that the property (formerly a church) was originally built to accommodate over 200 people and the synagogue is not requesting any expansion in the current size or capacity of the building.

David Riker, Rosie Newhall, Catherine Nguyen, Chuck Chakrarartula, Rick Schiller, Angela Haller, all Fairview residents, and Kenneth Mockel, Grand Avenue resident, spoke in opposition to application approval, citing the following reasons: (1) Kehilla’s operations and activities have greatly increased since its original CUP was granted and this increase in services, programs and events has significantly impacted the neighborhood in terms of parking congestion, traffic flow, evening noise disturbances; (2) the addition of a pre-school at the site, with its corresponding traffic and noise and its close proximity to neighboring homes is unreasonable and unacceptable; (3) Kehilla has already violated the terms and limits of its original CUP but the City has failed to enforce compliance – the neighborhood fears that if the requested expansion is allowed, Kehilla will continue to push the limits of its approval to the continuing detriment of the neighborhood’s residential character and quality; (4) pre-school operations at other Piedmont churches are far removed from adjacent residences – this is not the case with Kehilla; and (5) while the residential parking district has helped mitigate parking congestion, parking and traffic congestion on weekends and evenings remains high.

Commissioner Thiel supported application approval, citing the following reasons: (1) the property was built years ago with a certain capacity level, classrooms and other facilities and the current application is consistent with the original use envisioned for the property; (2) the addition of a 15 children pre-school at the site will not significantly impact the existing traffic/parking situation; (3) the addition of a pre-school will benefit the Piedmont community; (4) there is no evidence that the requested modification in hours will necessarily mean an increase in existing traffic/number of people using the facility to any discernible or detrimental degree; (5) the property is located in a mixed use neighborhood of commercial, residential and religious

properties; and (6) there is no basis to deny the intended uses for which the building was built.

The remaining Commissioners requested that more information be submitted so that a thorough and fair evaluation of the application can be made. In particular, the Commission requested:

- A drop-off and parking plan for the pre-school, including faculty parking, student arrival and departure points, the frequency and location of food service deliveries, etc.
- A list of the types of non-religious activities occurring at other Piedmont religious institutions, including morning and evening programs/events, number of attendees, noise generation, etc.
- The parking arrangements of other pre-schools in the community, especially those held on church property;
- Information regarding the amount of activity occurring at Kehilla after normal “commercial business” hours;
- Whether a “for profit” pre-school activity that is not a direct subsidiary of Kehilla complies with City Code criteria for Zone A;
- Whether the pre-school will generate any tax revenue for Piedmont;
- How proposed parking/traffic impacts of the requested extended use relate to the findings of the City’s 2008 *Fairview/Grand/Wildwood* traffic study performed by Wiltec;
- The number of Piedmont residents who are members of Kehilla or use the facility; and
- Documented evidence submitted by neighborhood residents in support of their allegations that Kehilla operations are having a significant adverse impact on the neighborhood.

#### **Resolution 16-09**

RESOLVED, that the Piedmont Planning Commission continues until August 10, 2009, further consideration of Kehilla Community Synagogue’s conditional use permit application.

Moved by Stehr, Seconded by Robertson

Ayes: Kellogg, Robertson, Stehr, Henn

Noes: Thiel

Absent: Levine

As an aside, Alternate Commissioner Henn suggested that consideration be given to amending the City Code to substitute the phrase “religious institution” for “church” in recognition of society’s multi-religious diversity.

#### **Variance and Design Review 220 Mountain Avenue**

Mr. and Mrs. Stephen Collins are requesting variance and design review to make various improvements, including: to construct an approximately 635 sq. ft. 2-story addition with a balcony and deck at the rear; make window replacements; make hardscape and landscape modifications; and make various changes to the interior. The requested variance is from Section 17.10.7 to allow new construction to extend to within 2 ft. of the right side property line in lieu of the code required minimum of a 4 ft. setback.

Written notice was provided to neighbors. **Four affirmative, one negative response form** was received.

**Public testimony** was received from:

Tami & Stephen Collins explained the proposal to upgrade their 1918 vintage home to accommodate their growing family and meet modern living standards.

Gary Parson, Project Architect, stated that the existing house encroaches into the setback and the addition continues this encroachment to maintain architectural consistency and integrity. Although, he added that in some areas the existing side yard encroachment will be lessened.

The Commission agreed that the plan is attractively designed, sensitive to neighbor impacts and improves the overall quality of the property. The Commission agreed that variance approval is justified to maintain architectural integrity/consistency and avoid a “tacked on” appearance. Commissioner Thiel voiced his belief that the property’s non-conforming parking situation should be considered given the reconfiguration of the bedroom on the lower level. It was noted, however, the existing bedroom count of the home is not being changed.

**Resolution 145-V-09**

WHEREAS, Mr. and Mrs. Stephen Collins are requesting permission to make various improvements, including: to construct an approximately 635 sq. ft. 2-story addition with a balcony and deck at the rear; make window replacements; make hardscape and landscape modifications; and make various changes to the interior located at 220 Mountain, 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 structure in the right side yard setback; and

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

1. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to the fact the original roof of the house encroaches into the setback and only the new eave and a small portion of the trellis will extend into the setback. Because of these circumstances, strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone which conform to the zoning requirements.
2. The variance is compatible with the immediately surrounding neighborhood and the public welfare because only the roof overhang and portion of the trellis will intrude into the setback and the project proposes removal of a side stairway that currently encroaches into this setback. The project creates less bulk than existing and improves access to the rear yard.

3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because the existing house is already located within the setback. The new construction within the setback is well above ground level and will not obstruct access.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application of Mr. and Mrs. Collins for the above variance at 220 Mountain Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

Moved by Stehr, Seconded by Robertson

Ayes: Kellogg, Robertson, Stehr, Thiel, Henn

Noes: None

Absent: Levine

#### **Resolution 145-DR-09**

WHEREAS, Mr. and Mrs. Stephen Collins are requesting permission to make various improvements, including: to construct an approximately 635 sq. ft. 2-story addition with a balcony and deck at the rear; make window replacements; make hardscape and landscape modifications; and make various changes to the interior located at 220 Mountain, 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 expansion and adjacent residences is reasonable and appropriate due to the existing topography and neighborhood development pattern. The new portion extends into the yard at the rear less than what it is replacing. The upper level setbacks are appropriate and logical and there is no reduction in loss of ambient light for adjacent neighbors. The project complies with Design Review Guidelines II-1, II-2, II-3(a) through (d), II-4, II-5, II-5(a) II-6 and II-6(a) & (b).



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 and expansions within the existing building envelope at the basement level. The project complies with the above referenced Design Review Guidelines in addition to Guidelines II-7 and II-7(a).
3. The size and height of the addition is commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and is in keeping with the existing neighborhood development pattern. Floor area ratio and lot coverage are well below the maximum allowable and the project complies with Design Review Guidelines II-1, II-2, II-3(a).
4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. In accordance with Sections 17.16.1 and 17.22.1, the existing or proposed on-site parking is appropriate to the size of the new upper level addition, and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood. There is no change to vehicular ingress and egress and all construction is contained in the rear with the exception of some window replacements.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Collins for construction at 220 Mountain 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 Mountain Avenue;
2. Compliance with Chapter 9 Article III of the Municipal Code, which governs the recycling of construction and demolition debris, will be required on all 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 Stehr, Seconded by Henn

Ayes: Kellogg, Robertson, Stehr, Thiel, Henn

Noes: None

Absent: Levine

**ADJOURNMENT**

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