

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday May 11, 2009

A Regular Session of the Piedmont Planning Commission was held May 11, 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 May 1, 2009.

CALL TO ORDER

Following the 2009 Design Awards Reception held in the City Hall Courtyard, Chairman Kellogg called the meeting to order at 5:35 p.m.

ROLL CALL

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

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

City Council Liaison: Councilmember John Chiang

DESIGN AWARD PRESENTATION

Chairman Kellogg summarized the Commission's review and selection process for annually recognizing superior design projects whose construction quality and design elements exemplify the City's Design Review Guidelines and enhance the aesthetics of the community. Tonight's presentation honors exceptional projects in the following categories:

- *Best New Home - Contemporary*
- *Best New Home – Traditional*
- *Best Seamless Second Story Addition*
- *Best Remodel & Landscape*
- *Best Garage*
- *Best Small Scale Remodel*
- *Best Deck*

Commissioner Robertson presented the Award for *Best New Home – Contemporary* to **Mr. and Mrs. Robert Tsao, on behalf of Calvin Tsao of 5 Hampton Court** in recognition of a stunning home reflecting a mix of modern exterior materials while still preserving and complimenting the large lot's natural setting.

Alternate Commissioner Henn presented the Award for *Best New Home - Traditional* to **Mr. and Mrs. Derek Benham of 280 Indian Road** in recognition of an excellent example of a large scale estate property.

Commissioner Thiel presented the Award for *Best Seamless Second Story Addition* to **Mr. Chris Lahey & Ms. Catherine Teare of 101 Nova Drive** in recognition of the creation of well integrated, modern living spaces without increasing streetscape massing.

Commissioner Stehr presented the Award for *Best Remodel and Landscape* to **Mr. and Mrs. Tom Sullivan of 25 Glen Alpine Road** in

recognition of a magnificent landscaped setting that provides pleasing outdoor areas while complimenting the architecture of the existing home.

Commissioner Stehr presented the Award for *Best Garage* to **Mr. Memet Ozsoy & Ms. Jennifer Davidhazy of 549 Blair Avenue** in recognition of a unified design with great attention to detail that significantly improves the front façade of the home.

Alternate Commissioner Henn presented the Award for *Best Small Scale Remodel* to **Mr. David Ng of 575 Crofton Road** in recognition of an attractive stylistic change to the exterior of an existing home to create an appealing appearance.

Chairman Kellogg presented the Award for *Best Deck* to **Mr. and Mrs. Mike Adams of 550 Blair Avenue** in recognition of a well-integrated, multi-level decking system designed to take advantage of the property's wonderful view.

ANNOUNCEMENTS

General Plan Housing Element – The City Planner encouraged residents to provide input in connection with the update of the City's General Plan Housing Element. The next meeting on this issue will be held immediately following the Planning Commission's regular calendar on June 8.

Climate Action Plan—The Assistant Planner announced that a community forum relating to the preparation of the City's Climate Action Plan will be held May 27. The public is invited to attend and provide input.

CONSENT CALENDAR

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

Design Review 1691 Grand Avenue

Resolution 74-DR-09

WHEREAS, Mr. and Mrs. Daniel Cavanaugh are requesting permission to relocate the entry steps and make structural and hardscape changes in the front yard to include a new 120 sq. ft. on-grade terrace, a new free-standing trellis with entry gate, new railing and new built-in sitting benches located at 1691 Grand Avenue, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements (including but not limited to height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that: The exterior design elements are designed to stay consistent with the current home style, with the gate and trellis matching the back and side yard gate and trellis.

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 not affect neighboring properties and will enhance the overall curb appeal of the home.

3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because there will be no impact.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Cavanaugh for construction at 1691 Grand Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following condition:

- The proposed railing shall meet all building code requirements

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

**Variance
104 Dracena Avenue**

Resolution 75-V-09

WHEREAS, Mr. John Lambert and Ms. Helen Potter are requesting permission to replace an existing sloped garage roof with a flat roof terrace that connects to the existing deck along the right (south) side of the residence located at 104 Dracena Avenue, Piedmont, California, which construction requires variance; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary in order to construct within the 20 ft. front yard setback; and

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

1. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to: due to the location of this historic house on the property, there is no other site for the garage to be located. The existing garage is non-conforming as it encroaches into the front setback. In addition, the existing garage, a 1950's addition to the existing residence, has an 8'0" header height at the overhead door but the rear plate of the garage is only 4'6" high inside making it impossible to both walk upright in the rear 5 ft. of the garage or to back a full-sized SUV or station wagon into the garage. In addition, the substandard height of the rear wall makes it less useful for

storage. The only way to resolve this problem is to add more height to the structure within the front setback, thereby requiring a variance. Significant changes have been made to the previous design (denied without prejudice) to make the project more in compliance with the City's guidelines as outlined in the applicant's submittal. 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 as follows: the remodel of this garage gives the owner as full use of his garage as other property owners who have full height ceilings in their garages. There is also precedence in the neighborhood to have garages in the front setback. There was a similar design approved for the neighbors down the street.

3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction as follows: there is no way to resolve the problem of the lower ceiling height of the garage without requesting variance. Raising the roof of the garage in any manner will require variance. The proposed design not only alleviates the unique problem with this garage but also remodels the existing garage to be stylistically more appropriate to the existing historic home using the same architectural finishes and details to harmonize with the existing architecture.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application of Mr. Lambert and Ms. Potter for the above variance at 104 Dracena 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.

**Design Review
104 Dracena Avenue**

Resolution 75-DR-09

WHEREAS, Mr. John Lambert and Ms. Helen Potter are requesting permission to replace an existing sloped garage roof with a flat roof terrace that connects to the existing deck along the right (south) side of the residence located at 104 Dracena 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 garage was added onto the home in the 1950's and was never stylistically appropriate both in scale and architecture to the original historic residence. The proposed remodel of the garage will make it fit better with the original home and not look like an unsympathetic addition. There are already a number of existing garages in the neighborhood whose roofs are being used as outdoor living space. The proposal will fit into an existing neighborhood pattern, where garages are often found in the front setback and often used as outdoor living space. Since this residence fronts onto Dracena Park, the addition of this outdoor living space will provide a way for the homeowners to watch their children playing in the park, provide additional community supervision for the neighborhood, as well as provide the possibility for more social interaction with neighbors.

2. The proposed upper level addition/expansion has been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.70), including consideration of the location of the new construction, lowering the height of the addition, expansions within the existing building envelope (with or without excavation), lower level excavation for new multi-level structures, and/or changing the roof slope or ridge direction: This proposed addition will not block any neighboring views as it is only seen by one adjacent neighbor to the south (110 Dracena) and is only 13 ft. high to the top of the proposed parapet wall (1'6" higher than the existing roof) and would be screened by existing trees. Since the garage is located to the north of that neighbor, the proposed structure will not block any sunlight.

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 garage cannot be located in any other part of this property due to the location of the home when it was constructed. The scale of the proposed design is now more in scale with the height of the existing residence and does conform to a pattern of other older homes in the neighborhood initially built without garages.

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

will be no changes to any vehicular, pedestrian or parking patterns by this proposed remodel.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Lambert and Ms. Potter for construction at 104 Dracena 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 Dracena 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 wood windows shall be painted to match the remaining windows and balusters throughout the residence.

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

**Design Review
30 Selborne Drive**

Resolution 83-DR-09

WHEREAS, Mr. and Mrs. Phil Chin are requesting permission to make various improvements, including to construct a new 35 sq. ft. addition at the rear; enclose two existing verandas and corridor on the south façade; construct a new outdoor fireplace and barbecue unit; make roof modifications; replace a garage door; add a new wall-mounted fountain; make window and door modifications; add exterior lighting; and make other hardscape improvements located at 30 Selborne Drive, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements (including but not limited to height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that: The proposed additions are largely done within existing covered space. The glazing of these areas is done with leaded glass doors and windows to match existing. All walls, roofing and details of the house addition and outdoor fireplace are to match the original home.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because the scope of the project was reduced to have no effect on neighbor's views, privacy or access to light.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because the project will have no effect on pedestrian or vehicular circulation or safety.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Chin for construction at 30 Selborne Drive, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. Due to the scope and nature of the application, a construction management plan shall be developed and approved by staff prior to obtaining a building permit. Said plan shall be comprehensive while specifically addressing the duration of the project, construction hours, the staging of materials, and parking of worker vehicles to ensure the free flow of traffic along Selborne Drive;
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 door shall be electronically operated; and
4. The proposed windows shall have either true or simulated-divided light grills.

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

PUBLIC FORUM

There were no speakers for the public forum.

APPROVAL OF MINUTES

Resolution 12-PL-09

RESOLVED, that the Planning Commission approves as submitted its meeting minutes of April 13, 2009.

Moved by Theil, Seconded by Henn

Ayes: Kellogg, Robertson, Stehr, Thiel, Henn

Noes: None

Abstain: Levine

Absent: None

REGULAR CALENDAR

The Commission considered the following items of regular business:

Conditional Use Permit, Design Review And Wireless Communication Facility 400 Highland Avenue

Jacob Reeves on behalf of T-Mobile is requesting conditional use permit, design review and wireless communication facility review for property at the Piedmont Community Church. The application proposes to install new wireless antennas inside the existing bell tower and add faux stained glass panels in the six bell tower openings. The related cabinets and other equipment, including cables, are proposed to be located in the interior of the tower and building.

- With regard to the CUP: (1) the equipment will operate 24 hours a day/seven days a week; (2) the facility will be unmanned; (3) there will be 1-2 maintenance technicians visiting the site once per month; (4) there will be no increase in traffic or parking demand resulting from this use

Written notice was provided to neighbors. **Six affirmative, six negative response forms** were received. **Correspondence** was received from: Tasha Skinner of T-Mobile, May 7; Linda Beach Cooperative PreSchool, May 6

Public testimony was received from:

Jacob Reeves stated that T-Mobile currently has no antenna sites in Piedmont yet its demand for services by Piedmont residents is steadily increasing. The proposed site within the church bell tower will completely hide the antennas and related cabinet equipment from public view. The design of the faux stained glass fiberglass panels to cover the bell tower openings was selected by the church. The term of T-Mobile's lease with the church is 30 years, the installation of the equipment should take approximately 2 to 3 weeks and noise associated with the cabinets (e.g., cooling fans) is estimated not to exceed 50

decibels from the property line (complies with the City's noise ordinance).

Bill Hammett, Project Engineer, cited his July 27, 2007, report indicating that the radio frequency from the equipment will be 100 times below Government standards and in full compliance with the FCC's Guidelines.

The Commission supported application approval, agreeing that the equipment will be completely hidden from view, will improve cell service for Piedmont residents and will provide additional revenue for the Piedmont Community Church. The Commission acknowledged that the existing cell tower site atop the Fire House roof is not a good option because significant structural upgrades would be required and even then the location would not provide the level of service coverage desired by T-Mobile. The Commission noted that because this is a new use for the area, a 10-year CUP term would be appropriate. The Commission opposed the proposed faux stained glass panel screens, noting that stained glass windows are not typically found on bell towers. The Commission preferred the use of shutters or translucent or dark fiberglass panels to cover the tower openings. The Commission suggested that the church chose from the three preferred screening options, subject to staff approval.

Resolution 286-DR-07

WHEREAS, Jacob Reeves on behalf of T-Mobile is requesting design review to install new wireless antennas inside the Piedmont Community Church's existing bell tower, add faux stained glass panels in the six bell tower openings, and install related cabinets and other equipment, including cables, within the interior of the tower and building at 400 Highland Avenue, Piedmont, California, 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. The proposed antennas are contained within the bell tower and the related equipment will be located inside the existing building. There will be no significant change to the existing exterior of this building. The proposal complies with Design Review Guidelines II-1, II-2 and II-3(a) and (b).
2. The proposed upper level addition has been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.70), including consideration of the location of the new construction, lowering the height of the addition, expansions

within the existing building envelope (with or without excavation), lower level excavation for new multi-level structures, and/or changing the roof slope or ridge direction. The proposed improvements are located within the envelope of an existing building, there will be no changes to the building's structure and no view or light impacts will be created.

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. There is no change to the existing size and height of building. The proposal complies with Design Review Guidelines II-6 and II-7.

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 will be no change in existing circulation patterns. The proposed monthly maintenance of the equipment will not impact the neighborhood's existing parking or traffic flow.

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

1. Due to the scope and nature of the application, a construction management plan shall be developed and approved by staff prior to obtaining a building permit. Said plan shall be comprehensive while specifically addressing the duration of the project, construction hours, the staging of materials, and parking of worker vehicles to ensure the free flow of traffic along Highland Avenue and Highland Way;
2. The plans approved are those submitted on April 29, 2009, after neighbors were notified of the applications;
3. The design of the proposed inset panels on the bell tower shall be subject to staff review and approval after consultation with the Piedmont Community Church.

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, Levine, Robertson, Stehr, Thiel

Noes: None

Absent: None

Resolution 285-CUP-07

WHEREAS, Jacob Reeves on behalf of T-Mobile is requesting a Conditional Use Permit to install new wireless antennas, including related cabinets, cables and other equipment, inside the existing Piedmont Community Church bell tower at 400 Highland Avenue, Piedmont, California, and;

WHEREAS, the Piedmont Planning Commission has reviewed the application, the staff report, and any and all other documentation and testimony submitted in connection with the application and has visited the subject property;

The Piedmont Planning Commission makes the following findings:

1. The use is of benefit to Piedmont residents. The proposed facility will improve and increase T-Mobile service in an area that is currently underserved. The facility has been designed to have no visual impacts.
2. The use will be properly related to other land uses and transportation and service facilities in the vicinity. The proposed facility will not be visible and will not disrupt any of the surrounding land uses. The facility will improve service in the area that will benefit the other land uses in the area.
3. Under all the circumstances and conditions of the particular case, the use will not have a material adverse effect on the health or safety of persons residing or working in the vicinity. The facility will be constructed in accordance with all applicable codes. In addition, it will operate in full compliance with the FCC's Guidelines.
4. The use will not be contrary to the standards established for the zone in which it is to be located. The use is compatible with all zones. It has been designed to be completely invisible; there will be minimal noise associated with the use and there will be no increased traffic or demand on parking.
5. The use will not contribute to a substantial increase in the amount of noise or traffic in the surrounding area. The cabinets are proposed to be inside an existing storage room inside the building and therefore will not contribute to a substantial increase in noise in the area. The facility will be unmanned and will only require visits once per month by the technicians. Therefore, there will not be a substantial increase in traffic in the area.
6. The use is compatible with the General Plan and will not adversely affect the character of the surrounding neighborhoods or tend to adversely affect the property values of homes in the surrounding neighborhoods. The proposed facility will not be visible, will not generate noise or traffic and will not adversely affect the character of the surrounding neighborhood. The facility will improve telecommunications in the surrounding neighborhood.

7. Adequate provision for driveways to and from the property has been made; facilities for ingress and egress from secondary streets instead of arterials, where possible, have been made; provision for parking in compliance with this Chapter 17 has been made, together with sufficient agreements to enforce the carrying out of such plans as may be required by the Council. There are no changes to the ingress/egress proposed for this site. No additional parking is needed or proposed as part of this application.

8. The plans conform to all other laws and regulations of the City, provided, however, that the Council shall have the right to require front, rear and side yard setbacks greater than those otherwise provided in the laws and regulations of the City if the Council finds that such larger front, rear and side yard areas are necessary to provide for the health, safety and general welfare of the residents of Piedmont in accordance with its zoning laws. The proposal conforms with the laws and regulations of the City.

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

- *Permit Term:* 10 years
- *Hours of Operation:* 24 hours daily/7 days a week
- *Facility will be unmanned*
- *Monthly maintenance visits by 1-2 technicians*

Moved by Stehr, Seconded by Robertson

Ayes: Kellogg, Levine, Robertson, Stehr, Thiel

Noes: None

Absent: None

Resolution 90-90

WHEREAS, Jacob Reeves on behalf of T-Mobile is requesting permission to install new wireless antennas inside the Piedmont Community Church's existing bell tower and add faux stained glass panels in the six bell tower openings. The related cabinets and other equipment, including cables, are proposed to be located in the interior of the tower and located at 400 Highland Avenue, Piedmont, California, which construction requires compliance with Chapter 17G of the Piedmont City Code; 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 17G.3.1

(a) New wireless communication facilities shall be collocated with existing facilities and with other planned new facilities whenever feasible and aesthetically desirable. In addition, where feasible and aesthetically desirable, service providers are encouraged to collocate with other facilities where the collocation is found to minimize the overall visual impact.

The only possible collocation site is the Fire Station at 120 Vista Avenue. A facility at this location would not minimize the overall visual impact--in fact, a facility at the Fire Station would be much more visible. The proposal at the Piedmont Community Church is completely invisible--no part of the facility will be seen and there will be no exterior changes to the existing building. A facility at the Fire Station would be roof-mounted and would be highly visible.

In addition, a facility at the Fire Station would not provide the necessary coverage to the surrounding area and would not provide the same level of coverage that a facility at the Piedmont Community Church would provide. Please see the enclosed exhibits for further comparison of the church and the fire station.

We understand the City's desire for us to locate our facility on the Fire Station. However, as part of our ongoing research into the feasibility of locating there, we had a structural engineering firm evaluate the Fire Station. Their results and conclusions (shown in the attached letter dated August 5, 2008) find that the existing tower "is not in conformance with the requirements of the relevant standards for the existing, reserved, and proposed loading." They further conclude that "it will not be feasible to reinforce this tower because of the very thin tube wall thicknesses." They state that in order to provide an adequate tower foundation, a steel structure would have to be designed and built that would support the imposed tower mast and guy loads. Foundation for this steel structure would also have to be designed and built which would most likely disrupt the existing layout and use of the building and is not practical in this case.

- (i) In order to facilitate collocation, all service providers shall cooperate in the siting of equipment and antennas to accommodate a reasonable number of operators at a given site where found to be feasible and aesthetically desirable.
- (b) All ground mounted wireless communication equipment, antennas, poles, or towers shall be of a minimum functional height.

The antennas are proposed to be inside the existing belltower and will not be visible. The antennas are proposed to be 41'9" above ground level. This is the lowest functional height that will 1) allow us to provide the necessary coverage to the area and 2) enable us to design a facility that will be not only visually unobtrusive, but virtually unnoticeable.

All other equipment will be inside the existing building and will not be visible.

- (c) All equipment, antennas, poles, or towers shall have a non-reflective finish and shall be painted or otherwise treated to minimize visual impacts.

No portion of the facility will be visible. The antennas will be inside the existing belltower behind stained glass windows and all other equipment will be inside the building.

- (d) All ground mounted equipment, antennas, poles, or towers shall be sited to be screened, by existing development, topography, or vegetation, to the extent feasible. Ground mounted facilities are encouraged to be located within areas where substantial screening by existing vegetation can be achieved. Additional new vegetation or other screening may be required as a condition of approval for the permit.

The facility is not proposed to be ground-mounted, however it has been sited to be completely screened by the existing building. The antennas will be inside the existing belltower behind stained glass windows and all other equipment will be inside the existing building.

- (e) Roof mounted equipment and antennas shall be located as far away as feasible and aesthetically desirable from the edge of the building. Antennas attached to a building shall be painted or otherwise treated to match the exterior of the building or the antenna's background color.

The antennas are proposed to be completely hidden inside the existing belltower and will not be visible. They are proposed to be behind stained glass windows at top of the existing belltower.

- (f) Where feasible, the location of wireless communication facilities shall be encouraged to be located on publicly owned or controlled property or right-of-way.

As described above, the Fire Station would not provide adequate coverage to the area in need. In addition, a facility at the Fire Station would be visually obtrusive. We are unable to place our antennas on the existing lattice guy tower and would have to locate them elsewhere on the roof. The Fire Station is not structurally able to support our antennas without constructing a steel structure and foundation to support them which would likely disrupt the existing layout and use of the building.

Locating on other publicly-owned or publicly-controlled property or right-of-way in the area would have similar problems of being highly visible and of not providing adequate coverage and service to users.

- (g) All equipment associated with a wireless communication facility shall be removed within 30 days of the discontinuation of the use and the site shall be restored to its original preconstruction condition. In addition, the service provider shall provide the City with a notice of intent to vacate a site a minimum of 30 days prior to the vacation. For facilities to be located on public property, this removal requirement shall be included within the terms of the lease. For facilities to be located on private property, since the subject property

owner shall be ultimately responsible for removal of the equipment, the terms of private leases are encouraged to include the equipment removal as a provision of the lease.

T-Mobile agrees to remove any facility within 30 days of the discontinuation of the use and to restore the site to its original preconstruction condition.

(h) A wireless communication receiving and transmission facility shall not adversely affect the public health, peace and safety.

The proposed facility will not adversely affect the public health, peace, and safety. The facility will operate in full compliance with the FCC's guidelines. The enclosed *Statement of Hammett & Edison, Consulting Engineers, Inc.*, dated July 27, 2007, describes the proposed facility and its compliance with the FCC's guidelines. In addition, no noise or visible impacts will result from this facility.

(i) For any application, the City Council may require an independent third party review, at the expense of the applicant, to confirm the radio frequency needs of the applicant.

and with the criteria and standards of Section 17.G.4 of the Piedmont City Code:

(a) The applicant shall prove beyond a reasonable doubt that no site within Zone B and no site outside of the City can provide adequate wireless communications coverage to the area within the City which is in question.

As mentioned above, the Fire Station--which is in Zone B--would not provide sufficient coverage to the area. There is a coverage deficit of approximately 520 homes with the Fire Station versus the Piedmont Community Church (please see *BA12792 Coverage Comparison*) and the coverage to several areas is not as good from the Fire Station (please see *BA12792 CW Test Results*).

(b) The applicant shall further prove beyond a reasonable doubt that the site outside of Zone B being applied for is either the best site to provide wireless communications coverage for the Piedmont homes in question or that it is one of several equally good sites outside of Zone B, the location of such other sites to be clearly identified.

As shown in the exhibits, the Piedmont Community Church would provide more and better coverage to the surrounding area than the Fire Station would. In addition, we also looked at the commercial shopping center across Highland Avenue to the west ("Citibank Building"). While this candidate would provide improved coverage over the Fire Station, it would not provide as much coverage or as good of coverage as the Piedmont Community Church would provide. Please see *BA12792 Coverage Comparison* and the other exhibits for additional comparison information on this candidate.

It is clear from the comparisons that the coverage from the Piedmont Community Church is more comprehensive, thus reducing the need for additional sites in this area.

- (c) Cost shall not in itself be considered in the recommendation. However consideration may be given to whether a specific location will be substantially uneconomic for the applicant over a period of years, including consideration of all possible costs of construction, leasing or developing the proposed site as compared to the enhancement in revenues, economic benefits and coverage that such site will provide both within the City and outside the City limits.

T-Mobile has a lease with the Piedmont Community Church, and all cost factors have been reviewed and worked out between both parties. The cost for this site will justify the coverage and revenue the site will generate. The cost to modify the Fire Station to allow T-Mobile to locate on the roof and existing lattice guy tower alone does not justify the cost for the coverage and will not create much (if any) revenue for years to come, and with the high monthly rent, the coverage provided by this candidate does not justify the high cost.

- (d) The development standards in Section 17G.3 shall be fully considered.

The development standards have been considered and are addressed in items a-h above.

- (e) If the site is to be located in Zone A, strong preference shall be given to a site that is not a single family residence, particularly a higher structure already in existence which would provide appropriate wireless coverage for the area in the City which cannot otherwise be served as set forth in Section 17G.4.1(a) hereof.

The facility is proposed to be in Zone A. In accordance with this criterion, the site is proposed to be on a site that contains a non-residential use, the Piedmont Community Church. In further accordance, we are proposing to utilize a higher structure already in existence, the existing church belltower. As described above, and shown in the enclosed exhibits, a facility at the Piedmont Community Church would provide appropriate wireless coverage for an area of the city which cannot otherwise be served. *BA12792 Coverage Comparison* shows the coverage that would be provided by this facility and the additional homes to be served by locating the site on the church--above and beyond the coverage to be provided and the homes to be served if located at another site.

Further, a site at this location would enable T-Mobile to construct a completely screened and invisible facility. A facility at the other locations would be much more visible.

- (f) The proposed site and the facilities to be installed by the applicant should be in as close conformance with the design review provisions of Chapter 17 of the City Code as is reasonably possible.

As described, the proposed facility will be completely screened and invisible. The antennas will be inside the existing church belltower and all equipment will be inside the existing church building.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission recommends City Council approval of the wireless communications application of Jacob Reeves on behalf of T-Mobile for construction at 400 Highland Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

Moved by Stehr, Seconded by Levine

Ayes: Kellogg, Levine, Robertson, Stehr, Thiel

Noes: None

Absent: None

Resolution 13-PL-09

RESOLVED, that the Planning Commission concurs with the findings of the Initial Study prepared in connection with T-Mobile's communication facility application that because the proposed antennas are to be located inside the church bell tower and the related equipment inside the building, the application proposes a less than significant impact as confirmed by the State Historic Preservation Officer.

Moved by Stehr, Seconded by Levine

Ayes: Kellogg, Levine, Robertson, Stehr, Thiel

Noes: None

Absent: None

Conditional Use Permit, Design Review, Variance & Wireless Communication Facility 333 Highland Avenue

Jacob Reeves on behalf of T-Mobile is requesting conditional use permit, design review and wireless communication facility review for property at the Citibank Building at 333 Highland Avenue. The application proposes to install new wireless communication antennas and related equipment on the roof of the building above Citibank. The antennas are proposed in a new "chimney" on the northern face of the building designed to stylistically match the existing chimney located on the southern face of the building, which is proposed to be raised in height approximately 2'6". Related cabinets and equipment are proposed to be located on the roof behind a 7 ft. high screen wall on the northern face of the building under Option A and more centrally located in the center of the roof behind an approximate 8'4" screen wall under Option B. A new access ladder is proposed at the rear of the building. The requested variance is from Section 17.10.5 to allow a building height of 37'6" to the top of the new chimney and

the existing chimney in lieu of the code permitted maximum building height of 35 ft.

Written notice was provided to neighbors. **Six affirmative, five negative response forms** were received. **Correspondence** was received from: Tasha Skinner of T-Mobile, May 7;

Public testimony was received from:

Jacob Reeves stated that since T-Mobile was granted its first location choice for a wireless communication facility in Piedmont, he officially withdrew T-Mobile's application pertaining to 333 Highland Avenue. The Piedmont Community Church location satisfies T-Mobile's communication needs in Piedmont.

**Variance, Design
Review & Fence
Design Review
1535 Grand Avenue**

Mr. Buck O'Neill and Ms. Melissa Carpenter are requesting variance, design review and fence design review to demolish the existing garage, construct a new carport in approximately the same location, make changes to the rear porch and stair, modify the rear kitchen window, construct new fencing in the left (south) side yard, install a new driveway gate, and add exterior lighting. The requested variances are from: (1) Section 17.10.4 to allow a structure coverage of 51.6% in lieu of the code permitted maximum of 40%; (2) Section 17.10.7 to allow the new carport to extend to the left side yard property line in lieu of the code required minimum of a 4 ft. side yard setback; and (3) Section 17.10.8 to allow the new rear porch stair to extend to within 6'1" of the rear property line, the new rear porch to extend to within 4'11" and the carport to extend to within 1 inch of the rear property line in lieu of the code required minimum of a 20 ft. street side rear yard setback.

Written notice was provided to neighbors. **One affirmative, two negative response forms** were received. **Correspondence** was received from: Tracy & Mark D'Ambrosi, May 11;

Public testimony was received from:

Bruce Tomb, Project Designer, described the intent of the modest proposal to upgrade the property's aesthetics by replacing an old garage shed with a new carport and adding a gate and fence on the property line to totally enclose the rear yard. He stated that a survey of the property was conducted, however, the property lines were not staked. He added that a carport, rather than garage, is desired to create a visually more open rear yard as well as make parking ingress/egress easier.

Mark & Tracy D'Ambrosi opposed project approval, citing the following objections: (1) removing the existing garage and replacing it with an open carport construction will eliminate the existing privacy screen created by the garage wall and the dense vegetation screening that will be destroyed during demolition and construction; (2) the proposed side yard fence on the property line will also result in the loss of existing vegetation screening and may aggravate a prior drainage problem between the two properties; (3) the proposed fence and gate will create undesirable massing at the streetscape; (4) locating the fence on the property line will result in only a 8 inch separation between the

fence and the wall of his home, preventing access for wall maintenance and potentially creating a fire hazard by having a fence directly under the eaves of his home. They requested that the proposed fence be pulled back farther away from the property line. They also questioned the accuracy of the applicant's survey.

Pat Dresser also opposed the proposed fence and gate, citing the loss dense vegetation and the replacement of this vegetation with a high, solid fence that will create an undesirable "fortress" appearance for the neighborhood.

The Commission opposed project approval, citing the following reasons: (1) the size and design of the proposed carport is inconsistent with the home's architecture; (2) the proposed gate location, with its manual operation, will make accessing this carport inconvenient and impractical for parking purposes; (3) the variance request to move the new carport closer to the neighboring property cannot be justified given the adverse impacts the close proximity will have on the neighbor; (4) the results of the survey appear questionable – more verification is required as to the exact location of the property line; (5) the proposed side yard fencing will have a detrimental impact on the adjacent neighbor in terms of privacy loss, view degradation and potential fire safety hazard; and (6) the location of a 6 ft. high fence and gate within the 20 ft. street side setback is unacceptable.

Resolution 61-DR-09

WHEREAS, Mr. Buck O'Neill and Ms. Melissa Carpenter are requesting permission to demolish the existing garage, construct a new carport in approximately the same location, make changes to the rear porch and stair, modify the rear kitchen window, construct new fencing in the left (south) side yard, install a new driveway gate, and add exterior lighting located at 1535 Grand Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission finds that the proposal does not conform 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 not aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. The proposed project fails to comply with Design Review Guidelines V-5, II-1, II-2, II-3, III-3, III-6 and III-7. In particular, the proposed side yard fence fails to minimize adverse impacts on adjacent properties in terms of views and access, creates a potential safety hazard because it restricts the neighbor's access to that side of his house for maintenance purposes, creates the potential for "dead" space that cannot be accessed for clearing of debris and there is a question as to the exact location of the property line in terms of fence location. Also, the proposed carport is not compatible in terms of scale, mass or architectural consistency with the existing residence and the proposed gate without an electronic opener will preclude the convenient

use of the carport for parking resulting in the likelihood that on-street parking will increase. The proposed project fails to comply with Design Review Guidelines II-1, II-2, II-3, III-3, III-6 and III-7.

2. The design is not appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light for the reasons cited above.

3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because it creates the potential for increased on-street parking congestion.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies, without prejudice, the design review application of Mr. O'Neill and Ms. Carpenter for construction at 1535 Grand Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Levine, Seconded by Thiel

Ayes: Kellogg, Levine, Robertson, Stehr, Thiel

Noes: None

Absent: None

Resolution 61-V-09

WHEREAS, Mr. Buck O'Neill and Ms. Melissa Carpenter are requesting permission to demolish the existing garage, construct a new carport in approximately the same location, make changes to the rear porch and stair, modify the rear kitchen window, construct new fencing in the left (south) side yard, install a new driveway gate, and add exterior lighting located at 1535 Grand Avenue, Piedmont, California, which construction requires variance; and

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary in order to exceed the City's structure coverage limit, construct within the 20 ft. rear street setback and construct within the 4 ft. left (south) 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:

- Because there is no approved design for this property, there is no basis upon which to grant variance.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies, without prejudice, the variance application of Mr. O'Neill and Ms. Carpenter for the above variances at 1535 Grand Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Levine, Seconded by Thiel

Ayes: Kellogg, Levine, Robertson, Stehr, Thiel

Noes: None

Absent: None

**Variance and
Design Review
210 Pacific Avenue**

Mr. and Mrs. Hong Kim are requesting variance and design review to make changes to the existing house by adding 694 sq. ft. through expansions to the main and lower levels and including a new 604 sq. ft. upper level story for a master bedroom suite; adding new bays and expansions of the existing main and lower level rear decks, a new enclosed rear storage area under the lower level deck and a new upper level rear deck; making door and window modifications; and modifying the garage by expanding the width and depth to provide for conforming parking and changing the flat roof to a pitched roof. The requested variances are from: (1) Section 17.10.6 to allow the eaves of the garage to extend to within 1'11" of the front property line in lieu of the code required minimum of a 20 ft. front yard setback; and (2) Section 17.10.7 to allow the new house upper level eaves to extend to within 4 ft. of the right side property line and the eaves of the remodeled garage to extend to the right side property line in lieu of the code required minimum of a 4 ft. side yard setback.

Written notice was provided to neighbors. **Five affirmative, five negative response forms** were received. **Correspondence** was received from: Linda Dubins & David Baer, May 6; Lynn & Jim Saunders, May 5; George & Melissa Lagusis, May 5; Karin & Don Mai, May 7;

Commissioner Thiel recused himself from discussion and action on this application.

Public testimony was received from:

Glen Jarvis & Edward Buchanan, Project Architects, described the site conditions and objectives of the proposed project, noting that the variance situation is pre-existing, the shadowing, privacy and view impacts on adjacent properties will be minimal, and the only option for adding living space on this narrow lot is upward.

Melissa Lagusis voiced concern that if the current application is approved, other homes along that side of the street may request similar upward expansion additions that would impact the views and property values of the homes along her side of Pacific Avenue.

Lynn Saunders opposed the project citing loss of view from her home and yard which in turn would diminish and value and enjoyment of her property. She felt that the proposed addition created too much massing on the streetscape, was inappropriate given the density of the neighborhood and was inconsistent with the size of the lot.

Don & Karin Mai opposed the project citing the loss of mature vegetation, the shadowing of their carport and side entry, a reduction in privacy and a depreciation of property value. In addition, Ms. Mai relayed her neighbor's objection (214 Pacific) that the proposal will result in the loss privacy on her upper level as well as this neighbor's view of Mt. Tam.

Clark Thiel opposed the project, stating that the proposed addition will have a significant adverse impact on his South Bay view.

The Commission requested that the proposal be redesigned to lessen its adverse impact on neighbors. In particular, the Commission suggested that: (1) the size of the master bedroom suite and decks be reduced; (2) opaque glass be installed in the upper level windows; (3) the direction and pitch of the roof be changed to minimize shadowing on the neighbor's stained glass window (e.g., consider changing roof ridge direction and pursuing a hip rather than gable design); (4) lower the 8 ft. ceiling heights at the edges of the room to minimize the height of the ridge. The Commission agreed that notwithstanding the aforementioned neighbor impacts, the proposed design in concept was both beautiful and elegant. The Commission also noted that the requested variances would be approvable if a more acceptable design is submitted.

Resolution 71-DR-09

WHEREAS, Mr. and Mrs. Hong Kim are requesting permission to make changes to the existing house by adding 694 sq. ft. through expansions to the main and lower levels and including a new 604 sq. ft. upper level story for a master bedroom suite; adding new bays and expansions of the existing main and lower level rear decks, a new enclosed rear storage area under the lower level deck and a new upper level rear deck; making door and window modifications; and modifying the garage by expanding the width and depth to provide for conforming parking and changing the flat roof to a pitched roof located at 210 Pacific Avenue, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements are not aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements include but are not limited to: height, bulk, line and pitch of the roof, materials, arrangements of structures on the parcel. The proposed improvements do not comply with Design Review Guidelines II-1, II-2, and II-3. In particular, the scale and mass of the proposed improvements is not compatible with the neighborhood, especially with regard to the right side neighbor. The project as currently designed overpowers this right side neighbor.
2. The proposed upper level addition/expansion has not 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 size of the rear decks is too large and fails to minimize bulk or detrimental impact on neighbor privacy. The project fails to comply with Design Review Guideline II-5 and II-6.

3. There is a question as to whether size and height of the addition is commensurate with the size of the lot, both from the street side and down side perspective.

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.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies, without prejudice, the design review application of Mr. and Mrs. Kim for construction at 210 Pacific Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Levine, Seconded by Stehr

Ayes: Kellogg, Levine, Robertson, Stehr, Henn

Noes: None

Recused: Thiel

Resolution 71-V-09

WHEREAS, Mr. and Mrs. Hong Kim are requesting permission to make changes to the existing house by adding 694 sq. ft. through expansions to the main and lower levels and including a new 604 sq. ft. upper level story for a master bedroom suite; adding new bays and expansions of the existing main and lower level rear decks, a new enclosed rear storage area under the lower level deck and a new upper level rear deck; making door and window modifications; and modifying the garage by expanding the width and depth to provide for conforming parking and changing the flat roof to a pitched roof located at 210 Pacific 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 front yard and right (northern) side yard setbacks; and

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

- Because there is no approved design for this property, there is no basis for granting the requested variances.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies, without prejudice, the variance application of Mr. and Mrs. Kim for the above variances at 210 Pacific Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Levine, Seconded by Stehr

Ayes: Kellogg, Levine, Robertson, Stehr, Henn

Noes: None

Recused: Thiel

Alternate Commissioner Henn voiced his position that if an alternate design is not as good as the current submittal, then he was willing to approve the original design.

The Commission recessed for dinner at 8:30 p.m. and reconvened at 8:55 p.m.

**Design Review
117 Arbor Drive**

Mr. Aaron Jeung and Ms. Joyce Tanaka are requesting design review to construct a 2-story rear addition enlarging the residence by approximately 663 sq. ft.; make window modifications; reconstruct a modified front entry stair and porch; make hardscape improvements including a new rear patio and retaining wall; install new skylights; add exterior lighting and make various changes to the interior.

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

Public testimony was received from:

Frank Bergamaschi, Project Architect, submitted photographs indicating that the current garage can accommodate the parking of two vehicles and is structurally sound for this purpose.

The Commission supported application approval provided that the existing garage is inspected to insure its ability to safely park two vehicles and an electronically operated door opener is installed on the garage to facilitate its use for parking. Otherwise, the Commission agreed that the proposal was well integrated into the existing house and compatible with the neighborhood.

Resolution 79-DR-09

WHEREAS, Mr. Aaron Jeung and Ms. Joyce Tanaka are requesting permission to construct a 2-story rear addition enlarging the residence by approximately 663 sq. ft.; make window modifications; reconstruct a modified front entry stair and porch; make hardscape improvements including a new rear patio and retaining wall; install new skylights; add exterior lighting and make various changes to the interior located at 117 Arbor Drive, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements 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 comply with Design Review Guidelines II-1, II-2, II-3, II-3(a) and (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, 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 expansion is within the existing envelope of the building and complies with Design Review Guidelines II-6 and II-6(a) and (b)

3. The size and height of the addition is commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and is in keeping with the existing neighborhood development pattern. The proposed expansion is to the rear and has little impact on neighboring properties. The project complies with Design Review Guidelines II-6 and II-7.

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 impact on existing circulation patterns.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Jeung and Ms. Tanaka for construction at 117 Arbor Drive, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. Excavation in the area of the known existing 12-inch storm drain pipe previously identified by the Public Works maintenance crew shall occur by hand. If this drain pipe is exposed as part of the excavation for new construction, the excavated area shall be backfilled according to the direction of the Director of Public Works. Any damage to this storm drain pipe and associated costs for its repair is the responsibility of the property owner;

2. Based on the scope and nature of the proposed landscape and development plans, a best management practice plan for construction which complies with the Alameda Countywide Clean Water Program General and Residential Conditions of Approval will need to be developed by the applicant prior to obtaining a building permit;

3. Due to the scope and nature of the application, a construction management plan shall be developed and approved by staff prior to obtaining a building permit. Said plan shall be comprehensive while specifically addressing the duration of the project, construction hours, the staging of materials, and parking of worker vehicles to ensure the free flow of traffic along Arbor Drive and Hill Lane;

4. 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;

5. Compliance with Chapter 9 Article III of the Municipal Code, which governs the recycling of construction and demolition debris, will be required on all 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;

6. The garage shall have an electronically operated door;

7. A licensed architect or engineer shall inspect the garage to verify its structural soundness for the purpose of off-street parking. If proposed modifications to the garage are recommended by the inspector, said modifications shall be subject to staff review and approval.

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

Moved by Robertson, Seconded by Thiel

Ayes: Kellogg, Levine, Robertson, Stehr, Thiel

Noes: None

Absent: None

**Variance and
Design Review
1050 Winsor Avenue**

Mr. Stephen Lee and Ms. Quynh Nguyen are requesting variance and design review for retroactive approval of the construction of an approximately 230 sq. ft. basement level room and two new windows on the south façade and permission to install a new garage door and reconstruct the driveway. The requested variance is from Section 17.16 to allow a residence with 4 rooms eligible for use as bedrooms with 2 covered parking spaces measuring 9' by 18' in lieu of the code required minimum dimension of 9' by 20.'

Written notice was provided to neighbors.

Public testimony was received from:

Stephen Lee stated that he purchased the property last year and the project is intended to rectify the situation regarding the basement level living space. He stated that the basement room is used as a family room. He added that while the garage fails to meet the code's parking space dimensions, it does accommodate the parking of two vehicles.

T. C. Chen, Project Architect, stated that the garage cannot be enlarged to conform with code dimension requirements (slightly less in width and length) because the structure is bordered by a retaining wall and a neighbor's garage and cannot therefore be widened and the slope of the driveway precludes lengthening. The existing basement level space is being upgraded to comply with current building code requirements for habitable space.

The Commission supported application approval agreeing that the proposed improvements benefit the property and have no adverse impact on neighbors. However, Commissioner Levine felt that the requested parking variance was unnecessary because the basement room fails to meet the privacy requirements for a bedroom; hence no room eligible for use as a bedroom was being added -- the basement level room is not a bedroom. The remaining Commissioners felt that the basement room could easily be converted into a bedroom with the addition of a door. The Commission majority agreed that a parking variance was justified because site constraints prevent the existing garage from being expanded to meet code dimension requirements but that this existing garage can accommodate the parking of two vehicles.

Resolution 80-V-09

WHEREAS, Mr. Stephen Lee and Ms. Quynh Nguyen are requesting retroactive permission for the construction of an approximately 230 sq. ft. basement level room and two new windows on the south façade and to install a new garage door and reconstruct the driveway located at 1050 Winsor Avenue, Piedmont, California, which construction requires variance; and

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

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

1. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to the fact that the property has a 2-car garage but the interior dimensions of the parking spaces within the garage are slightly less than that required by code. With the addition of an electronically operated garage doors, the existing garage will be a functional 2-car garage. 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. Other garages in the neighborhood are similarly located and sized.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because to

the left there is a neighbor's garage and on the right is a retaining wall, so that the applicant's 2-car garage cannot be expanded in width to conform with code dimensions and its depth cannot be expanded because of the slope of the driveway.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application of Mr. Lee and Ms. Nguyen for the above variance at 1050 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 Stehr, Seconded by Robertson

Ayes: Kellogg, Robertson, Stehr, Thiel

Noes: Levine

Absent: None

Resolution 80-DR-09

WHEREAS, Mr. Stephen Lee and Ms. Quynh Nguyen are requesting retroactive permission for the construction of an approximately 230 sq. ft. basement level room and two new windows on the south façade and to install a new garage door and reconstruct the driveway located at 1050 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 (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 new construction is occurring within the building envelope, there is no change in the scale, mass or architectural style of the residence and the new windows comply with Design Review Guidelines II-3(a) and (b). The garage doors comply with Design Review Guidelines II-4 and II-7(a).
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light. The property's floor area ratio is not a consideration for variance

because pursuant to Section 17.22.3 the proposed improvements are within the existing building envelope.

3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because the repaired garage and new driveway paving will allow off-street parking. The electronically operated garage door complies with Design Review Guideline III-3.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Lee and Ms. Nguyen for construction at 1050 Winsor Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. The proposed windows shall be painted to match the existing windows in the remainder of the residence;
2. The proposed exterior light 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 Robertson

Ayes: Kellogg, Levine, Robertson, Stehr, Thiel

Noes: None

Absent: None

**Variance and
Design Review
948 Kingston Avenue**

Ms. Susan Alland is requesting variance and design review to make window modifications and seeks retroactive approval for the construction of a rear covered deck and the conversion of basement level storage areas and garage to habitable space that would include a family room, bedroom, laundry room, utility room and full bath. The requested variances are from: (1) Section 17.10.4 to allow a structure coverage of 43.1% in lieu of the code permitted maximum of 40%; and (2) Section 17.16 to allow a residence with 3 rooms eligible for use as bedrooms and no covered off-street parking. A similar application was approved by the Commission on June 9, 2008.

Written notice was provided to neighbors. **Four affirmative response forms** were received. **Correspondence** was received from: Grier Graff, April 29

Public testimony was received from:

Susan Alland reviewed the lengthy history of her efforts to resolve building code issues with the City resulting from unpermitted construction which occurred prior to her purchase of the property in 1972. She stressed that the rear deck and basement living area with full bath existed at the time of purchase, there was no garage on the property and the City's current parking to bedroom count requirements were not in effect at the time she purchased her 3 bedroom/2 bath home with no off-street parking. She requested that the Commission overturn its June 9 decision that the rear deck be reduced in size and the shower in the basement bathroom be removed.

Grier Graff, Project Architect, stated that the basement level improvements were probably code compliant at the time of construction (legal ceiling height in 1970's and there was no requirement to provide off-street parking). He stated that the current proposal is designed to make this existing living area compliant with current building code requirements. In addition, the June 9 request to reduce the size of the deck will result in an awkward deck design and probably lead to the removal of mature trees to create usable yard space to compensate for the loss of usable outdoor area on the deck. He urged the Commission not to penalize a current property owner for the mistakes/illegal construction of prior owners.

The Commission acknowledged the complexity of situations such as Ms. Alland's and discussed at length the City's current parking policy linking the number of bedrooms to off-street parking spaces. In the end, Commissioners Levine and Thiel opposed application approval, citing the following reasons: (1) the proposal to retain the full bath and improve the living conditions of the basement level will enhance the livability and potential density of a residence with no off-street parking and these attempts to make this home more "marketable" without providing at least a carport in the driveway is contrary to City policy; (2) enabling this basement level area to be an official "third bedroom" pursuant to the building code without providing any off-street parking confers a special benefit on this applicant; (3) denying the application will still enable the applicant to use the lower level as she has always done but it will not meet building code requirements, hence it cannot be listed as a 3-bedroom residence – it will remain a 2 bedroom home with no off-street parking; (4) when the applicant repaired the original deck in 1994 without permit, a trellis was added which changed the original design -- the size of this new deck contributes to the property's excess in structure coverage and variance approval is not justified.

The remaining Commissioners supported application approval, citing the following: (1) there will be no change in the use of the property that has existed over the last 40 years; (2) it is not possible to add covered off-street parking on the property – there is no place for a garage and a driveway carport would significantly detract from property aesthetics; (3) the existing deck size is reasonable and appropriate – reducing the size of this deck would result in a "stoop" rather than deck and be essentially useless space; (4) the basement level living space has been and will continue to be used as habitable space and therefore for safety reasons should be brought up to current building code standards; and (5) the requested improvements are all within the existing building envelope of the property. The Commission majority agreed, however, that the deck trellis is architecturally incompatible with the residence, is

not original to the property and should be removed – structure coverage variance for this element cannot be justified.

Resolution 81-V-09

WHEREAS, Ms. Susan Alland is requesting permission to make window modifications and seeks retroactive approval for the construction of a rear covered deck and the conversion of basement level storage areas and garage to habitable space that would include a family room, bedroom, laundry room, utility room and full bath located at 948 Kingston Avenue, Piedmont, California, which construction requires variance; and

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary in order to exceed the City's structure coverage limit and to retroactively convert a garage to habitable space and add a third room eligible for use as a bedroom without supplying conforming parking elsewhere on the property; 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:
 - with regard to the parking variance: the fact that there is no place on the property where covered off-street parking could be physically or legally placed on the property.
 - with regard to the structure coverage variance: the height of the deck does not have material effect on neighboring properties. 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:
 - with regard to the parking variance: the improvements have existed for years, other properties in the neighborhood lack off-street parking and the property does have an off-street parking pad;
 - with regard to the structure coverage variance: the excess coverage is tucked away within the yard and has no impact on neighboring properties;
3. Accomplishing the improvement without variance would cause unreasonable hardship in planning, design, or construction because:
 - with regard to the parking variance: there is no place on the property where a conforming garage could be constructed;
 - with regard to the structure coverage variance: the deck's size would essentially be a stoop instead of a deck and therefore would be unsafe because of its small size.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application of Ms. Alland for the above variances at 948 Kingston Avenue,

Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following condition:

- The trellis on the deck be removed.

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

Moved by Robertson, Seconded by Stehr

Ayes: Kellogg, Robertson, Stehr

Noes: Levine, Thiel

Absent: None

Resolution 81-DR-09

WHEREAS, Ms. Susan Alland is requesting permission to make window modifications and seeks retroactive approval for the construction of a rear covered deck and the conversion of basement level storage areas and garage to habitable space that would include a family room, bedroom, laundry room, utility room and full bath located at 948 Kingston 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 improvements comply with Design Review Guidelines II-1, II-2, II-3 and II-3(b) and (c).
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because there will be no substantial change in existing conditions. The new windows will improve the appearance of the rear wall.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because there is no change in existing circulation patterns. The proposal complies with Design Review Guidelines II-7 and II-7(a).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Ms. Alland for construction at 948 Kingston 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 Kingston Avenue;
2. The trellis on the deck shall be removed;
3. The deck guardrails shall be brought up to code, 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 Stehr

Ayes: Kellogg, Robertson, Stehr

Noes: Levine, Thiel

Absent: None

At the end of the lengthy discussion concerning the issue of parking variances and bedroom counts, the Commission suggested that the City Council be asked to direct the Commission to re-evaluate the City's parking requirements, policies and issues.

**Design Review
139 Lake Avenue**

Mr. Jonathan Davis and Ms. Susan Miller are requesting design review to make various improvements, including construction of an approximately 435 sq. ft. second floor expansion; enlarge the existing garage; make roof modifications; add a new trellis; construct a new trash enclosure; add two skylights; make window and door modifications; and add exterior lighting. A similar application was denied without prejudice on March 9, 2009.

Written notice was provided to neighbors. **Correspondence** was received from: Susan Miller & Jonathan Davis, April 10

Public testimony was received from:

Jonathan Davis stated that the proposal has been redesigned in response to the March meeting and there are now no neighborhood objections.

Lisa Joyce, Project Architect, described the revisions to the proposed design.

The Commission agreed that the redesign was responsive to the Commission's March requests.

Resolution 82-DR-09

WHEREAS, Mr. Jonathan Davis and Ms. Susan Miller are requesting permission to make various improvements, including construction of an approximately 435 sq. ft. second floor expansion; enlarge the existing garage; make roof modifications; add a new trellis; construct a new trash enclosure; add two skylights; make window and door modifications; and add exterior lighting located at 139 Lake 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 comply with Design Review Guidelines II-1, II-2, II-3, II-3(a) through (d), II-4, II-6(a) through (c) and II-7. The improvements are well integrated into the existing home in terms of scale, mass and architectural compatibility and consistent with neighborhood conditions in terms of its siting on the lot and sensitivity to neighbor impacts.
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: window placements and treatments respect neighbor privacy and comply with Design Review Guideline 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. The project complies with Design Review Guidelines cited above.

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 impact on existing circulation patterns. The existing garage is being enlarged.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Davis and Ms. Miller for construction at 139 Lake 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 Lake and Howard Avenues;
2. Compliance with Chapter 9 Article III of the Municipal Code, which governs the recycling of construction and demolition debris, will be required on all phases of this project. As a Covered project, this project is eligible to participate in the Incentive Program in which the City will provide one-half the cost of debris boxes provided by the City's franchised waste hauler and used exclusively for the purpose of removing recyclable construction and demolition debris;
3. A notice of non-habitation shall be filed with the County of Alameda for the proposed basement storage space; and
4. The proposed windows and doors shall be painted a color that matches the color of the remaining existing windows throughout.

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

Moved by Stehr, Seconded by Levine

Ayes: Kellogg, Levine, Robertson, Stehr, Thiel

Noes: None

Absent: None

Fence Design Review

Mr. George Lazar is requesting fence design review to make front

1637 Grand Avenue

yard improvements, including replacing existing retaining walls and adding new guardrails on top.

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

Public testimony was received from:

George Lazar stated that the top portion of his parking pad retaining wall has collapsed and the proposal is to rebuild the wall as originally existed with the addition of guardrails required by code. In response to Commission questioning, Mr. Lazar stated that the original garage was removed per City permission in 1985, with the side walls and pad left in place -- the site has been used as a parking pad ever since. He noted he has no desire to add a roof over the pad to reconvert it back to a garage. The Commission voiced its regret that a perfect opportunity to rebuild the original garage was being missed. Mr. Lazar responded that in order to rebuild the garage, existing trees would have to be removed. The Commission encouraged the applicant to consider installing a trellis over the parking pad and screen the side 13 ft. high retaining walls with climbing vines.

Resolution 84-DR-09

WHEREAS, Mr. George Lazar is requesting permission to make front yard improvements, including to replace existing retaining walls and add new guardrails on top located at 1637 Grand Avenue, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements (including but not limited to height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that the proposed design of the guardrails is consistent with the City's Design Review Guidelines.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because there is no impact. The project will improve public safety.
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. Lazar for construction at 1637 Grand Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. The proposed handrail on the left side of the stairs at the sidewalk, adjacent to the driveway, shall have a height not less than 34 inches and not more than 38 inches, to meet Building Code requirements, and there shall be a guardrail on the left side of the stairs at the sidewalk, adjacent to the driveway, not less than 42 inches high, to meet Building Code requirements. The openings between pickets shall be not less than 4 inches wide, to meet Building Code requirements. Guardrails are not required in all locations indicated on the plans and the applicant has the option to install guardrails in those locations;
2. Prior to the issuance of a building permit, the applicant shall apply for an Encroachment Permit to allow for the construction of the retaining wall footing that will be in the City's right-of-way at the sidewalk;
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 Grand Avenue;
4. The top and sides of the parking pad retaining wall shall be screened with vegetation; and
5. Guardrails only where required by the Building Department

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

Moved by Levine, Seconded by Stehr

Ayes: Kellogg, Levine, Robertson, Stehr, Thiel

Noes: None

Absent: None

ADJOURNMENT

There being no further business, Chairman Kellogg adjourned the meeting at 11:10 p.m.

