

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, December 13, 2010

A Regular Session of the Piedmont Planning Commission was held December 13, 2010, in the City Hall Council Chambers at 120 Vista Avenue. In accordance with Government Code Section 54954.2(a) the agenda for this meeting was posted for public inspection on December 3, 2010.

CALL TO ORDER

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

ROLL CALL

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

Absent: Commissioner Clark Thiel (excused)

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

CONSENT CALENDAR

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

Design Review 18 King Avenue

Resolution 307-DR-10

WHEREAS, Mr. Lorenzo Frediani are requesting permission to make substantial interior modifications, including the creation of a new bedroom, bath, laundry room, family room and half bath in the current non-habitable basement. Exterior changes involve windows and doors, new railings, new exterior lights, minor modifications to the garage and a new landscape plan located at 18 King 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 project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e) and 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 and arrangements of structures on the parcel) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that: the project does not increase the mass and bulk of the existing house because of excavation. The front facade of the house is being improved with new windows and better architectural details. The project complies with Design Review Guidelines II-1, II-2, II-3, II-3(a) & (b), II-4, II-6, II-6(a) though (c), II-7, III-2 and III-3.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because there is no change to the exterior envelope of the house.

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 to 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. Frediani for construction at 18 King Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Construction Management Plan.** The Property Owner shall develop a comprehensive Construction Management Plan. The Construction Management Plan shall address noise, vibrations, traffic control, parking, debris removal, dust control, sanitary facilities, and other potential construction impacts, as well as other details involving the means and methods of completing the Project, including the construction route. The City Building Official has the authority to require modifications and amendments to the Construction Management Plan as deemed necessary throughout the course of the Project and until the final issuance of a Certificate of Occupancy.

a. Stormwater BMP's for Construction. Property Owner shall implement (1) stormwater treatment Best Management Practices (BMPs) and (2) Bay Area Stormwater Management Agencies Association's "Start at the Source" criteria for stormwater quality protection. City Staff may impose additional requirements involving the prevention of storm water pollution during construction and permanent drainage, erosion and sediment control. These items will be reviewed as part of the Property Owner's Construction Management Plan.

2. **Construction Completion Schedule.** Work on the Project, once begun, shall be promptly executed with continuous good faith and reasonable progress. Since timely completion of this Project is of the essence, the Property Owner shall submit for approval a Construction Completion Schedule, which will specify, in detail, the duration and percentage complete of each phase.

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

- i. Completion of Excavation;
- ii. Completion of Retaining Walls;
- iii. Completion of Foundation;
- iv. Completion of Rough Framing;
- v. Completion of Electrical;
- vi. Completion of Plumbing;
- vii. Completion of Mechanical;
- viii. Completion of Fire Sprinklers;
- ix. Completion of Home;
- x. Completion of Hardscaping and Landscaping; and
- xi. any further construction benchmarks and conditions of occupancy as may be determined by the Director of Public Works.

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

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

4. **Contractor's General Liability Insurance.** To ensure that the contractor doing work in the City will be responsible for damages caused by the work to City property or to neighboring property, the Property Owner shall require all contractors and subcontractors performing work on the Project to maintain General Liability Insurance for protection from claims for damages because of bodily injury, including death, and claims for damages, other than to the contractor's work itself, to property which may arise out of or result from the contractor's operations. Such insurance shall be written for not less than \$1,000,000 per occurrence. The insurance shall include builder's risk. The insurance shall include an endorsement requiring 30 days' notice to the City if the insurance is cancelled or changed, and Property Owner shall immediately arrange for substitute insurance coverage.

As an alternative to requiring each subcontractor to obtain General Liability Insurance, the Property Owner may require the General Contractor to obtain an endorsement to cover his or her subcontractors.

If the Property Owner does not have a general contractor, the Property Owner shall maintain property insurance, including builder's risk and coverage for subcontractors, which is substantially equivalent to the contractor's requirement of this section.

5. **Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.

6. **Modifications to Conditions.** Any insurance or security requirement, or related Condition of Approval, may be implemented and, if necessary modified, in a reasonable manner with the joint agreement of the Director of Public Works and the City Attorney, consistent with the intent of the condition.

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

Moved by Kellogg, Seconded by Stehr

Ayes: Levine, Kellogg, Robertson, Stehr, Henn

Noes: None

Absent: Thiel

PUBLIC FORUM

Rick Schiller referenced the City Council's December 6 referral of the Moraga Canyon Sports Fields Project to the Commission for review and recommendation in asking the Commission to consider the following requests during its review: (1) require project proponents to indemnify the City against any potential litigation arising from project approval/construction by requiring proponents to post a bond to provide said litigation protection; (2) require story poles to be erected on the site and actual construction renderings to be provided; and (3) consider the alternative option of constructing a playfield at the City's Corporation Yard to lessen potential impacts and costs associated with this playfield development proposal.

Ralph Catalano requested that the Commission schedule discussions of the following Moraga Canyon Sports Fields Projects' issues on a future meeting agenda: (1) a plan for the erection of story poles on the site indicating the length and height of the proposed berm, retaining walls and fencing; (2) liability issues related to potential damage to nearby homes as a result of project excavation/construction activity; and (3) address and clarify which is the City's guiding principle for land use decisions: the City's General Plan or a City Council certified Moraga Canyon EIR. He asked the Commission to request the City Attorney to publicly report on this issue at a future meeting.

Al Peters also urged that story poles be erected for the Moraga Canyon Sports Fields Project and that Blair Park trees slated for removal or preservation be identified so that residents can better visualize the tremendous impact of the project on the Moraga Avenue streetscape.

APPROVAL OF MINUTES

Resolution 19-PL-10

RESOLVED, that the Planning Commission approves as submitted its meeting minutes of November 8, 2010.

Moved by Kellogg, Seconded by Henn

Ayes: Levine, Kellogg, Robertson, Stehr, Henn

Noes: None

Absent: Thiel

REGULAR CALENDAR

The Commission considered the following items of regular business:

**Design Review
201 Crocker Avenue**

Mr. and Mrs. Srikant Misra are requesting design review to modify previously approved (August 9, 2010) plans for a remodel and expansion of the house and garage by: including a loggia with trellis and outdoor kitchen at the rear left corner of the house; expanding the rear terrace; reconfiguring the south side terrace; making window and door modifications; changing the design of the garage cupola and rear entry stair; altering the number and placement of exterior light fixtures; and making various changes to the interior. Two Design Options (A & B) have been submitted for the loggia, with Option B being the applicants' and neighbor's preferred option.

Written notice was provided to neighbors. **Two affirmative response forms** were received. **Correspondence** was received from: Fred Karren, Dec. 2 & 3; Kirk Peterson, Nov. 24; Mary & John Wilson, Dec. 8;

Public testimony was received from:

Fred Karren, Project Architect, described the proposed modifications to the August approved design, noting that the modifications are in response to a neighbor's requests. Mr. Karren stated that the proposed Option B modifications are acceptable both to the applicant as well as the neighbor. He also stated that an arborist will be retained to supervise tree protections during construction and some infill tree planting may occur to fully restore the existing tree privacy screen between adjacent properties.

John Wilson confirmed that Option B reflects a mutually agreeable agreement reached between himself and the applicant.

The Commission agreed that the design modifications reflected a good compromise solution between neighbors while still maintaining the well designed, well-integrated appearance of the overall project.

Resolution 280-DR-10

WHEREAS, Mr. and Mrs. Srikant Misra are requesting permission to modify previously approved (August 9, 2010) plans for a remodel and expansion of the house and garage by: including a loggia with trellis and outdoor kitchen at the rear left corner of the house; expanding the rear terrace; reconfiguring the south side terrace; making window and door modifications; changing the design of the garage cupola and rear entry stair; altering the number and placement of exterior light fixtures; and making various changes to the interior located at 201 Crocker Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e) and 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.

The modifications do not compromise the style of the originally approved plan but do reduce the massing toward the neighbor at 205 Crocker Avenue. The design changes are carefully integrated into the overall structure. The project complies with Design Review Guidelines II-1, II-2, II-3, II-3(a) through (c), II-5, II-5(a), II-6, II-6(a) & (b), II-7 and II-7(a).

2. The proposed "Option B" 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). Said option is approved by the neighbors and the garage cupola is well suited for the overall design of the project. The project complies with the above-referenced Guidelines as well as Guideline II-4.

3. The size and height of the addition is commensurate with the size of the lot, is in keeping with the existing neighborhood development pattern and respects the distance, light and privacy between neighbors. The project complies with the above-referenced Design Review Guidelines.

4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. There is no change in the previously approved circulation patterns.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Misra for construction at 201 Crocker Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. The Option B design plan is hereby approved
2. Compliance with the conditions of approval specified as part of the prior approval on the residence at 201 Crocker Avenue under Design Review Application #10-0197 shall extend to this application.
3. No swimming pool or pool equipment in the rear yard, or gate in the free-standing wall at the west edge of the driveway are approved as part of the scope of this application or previous (#10-0197) application.

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

Moved by Stehr, Seconded by Kellogg

Ayes: Levine, Kellogg, Robertson, Stehr, Henn

Noes: None

Absent: Thiel

**Variance and
Design Review
110 Somerset Road**

Mr. and Mrs. Hao J. Tan are requesting variance and design review to replace and remodel the front entry awning, door and side lights; enclose a main level rear deck for a 521 sq. ft. addition; replace the rear deck support posts; make window and skylight modifications; and add exterior lighting. The requested variance is from Section 17.22.2(b) to allow a Floor Area Ratio of 50.91% in lieu of the code permitted maximum of 50% for a parcel which exceeds 5,000 sq. ft. but is less than 10,000 sq. ft. in area.

Written notice was provided to neighbors. **Three affirmative, one negative response forms** were received. **Correspondence** was received from: Jane Berl, Dec. 8

Public testimony was received from:

Stefan Menzi, Project Architect, described the scope and purpose of the proposed improvements.

Jane Berl referenced her correspondence in requesting that the existing vegetation screen between properties be maintained to help preserve the privacy between her home and that of the applicants.

The Commission opposed application approval, agreeing that the project will increase the visual size, bulk and massing of the existing 5-bedroom home (with no conforming parking), eliminate all usable outdoor space on the main living level of the house, reduce neighbor light and impose potential privacy impacts from the enormous size of the skylight and the unnecessary addition of a south-facing window. In addition, the Commission felt that variance approval was not justified given the large size of the existing home, the existing use of the basement level as habitable space despite a current notice of "non-habitation," and several options available to reduce the home's square footage by 87 sq. ft. in order to avoid triggering the FAR variance. However, the Commission agreed that the proposed improvements to the front entry awning, door and side lights were attractive and acceptable -- they accentuate the home's entry and provide an overhang over the front door.

Resolution 289-DR-10

WHEREAS, Mr. and Mrs. Hao J. Tan are requesting permission to replace and remodel the front entry awning, door and side lights located at 110 Somerset Road, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e) the proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in terms of the height, area openings, breaks in the facade, line and pitch of the small roof over the door and materials.
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 on neighbor views, light or privacy.
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 effect on circulation patterns.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Tan for construction at 110 Somerset Road, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Construction Management Plan.** The Property Owner shall develop a comprehensive Construction Management Plan. The Construction Management Plan shall address noise, vibrations, traffic control, parking, debris removal, dust control, sanitary facilities, and other potential construction impacts, as well as other details involving the means and methods of completing the Project, including the construction route. The City Building Official has the authority to require modifications and amendments to the Construction Management Plan as deemed necessary throughout the course of the Project and until the final issuance of a Certificate of Occupancy.
2. **C&D Compliance.** Compliance with Chapter 9 Article III of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project.
3. **Notice of Non-Habitation.** A notice of non-habitation shall be placed on the lower level room labeled as "side hall."
4. **Illegal Construction.** The closet and kitchenette and any other built-in features within the lower level "side hall" that provide for the use of this room as anything other than a hallway or storage area shall be removed prior to the issuance of a Building Permit.

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

Moved by Levine, Seconded by Stehr

Ayes: Levine, Kellogg, Robertson, Stehr, Henn

Noes: None

Absent: Thiel

Resolution 289-V-10

WHEREAS, Mr. and Mrs. Hao J. Tan are requesting permission to enclose a main level rear deck for a 521 sq. ft. addition; replace the rear deck support posts; make window and skylight modifications; and add exterior lighting located at 110 Somerset Road, Piedmont, California, which construction requires variance; and

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

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

1. The underlying lot and existing improvements do not present unusual physical circumstances because of which strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone which conform to the zoning requirements.
2. The variance is not compatible with the immediately surrounding neighborhood.
3. Accomplishing the improvement without a variance can be accomplished without unreasonable hardship in planning, design or construction hardship by making the addition smaller or other ways to avoid adding approximately 100 sq. ft. to the property. There are issues with respect to the size and bulk of the proposed addition on the immediately surrounding neighborhood.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies, with prejudice, the variance application of Mr. and Mrs. Tan for the above variance at 110 Somerset Road, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Levine, Seconded by Stehr

Ayes: Levine, Kellogg, Robertson, Stehr, Henn

Noes: None

Absent: Thiel

Resolution 289(2)-DR-10

WHEREAS, Mr. and Mrs. Hao J. Tan are requesting permission to enclose a main level rear deck for a 521 sq. ft. addition; replace the rear deck support posts; make window and skylight modifications; and add exterior lighting located at 110 Somerset Road, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont

Planning Commission finds that the proposal does not conform with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

- The proposed design requires a floor area ratio variance in order to be constructed and because such a variance has not been granted, the proposed design cannot be constructed.

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. Tan for construction at 110 Somerset Road, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Levine, Seconded by Stehr

Ayes: Levine, Kellogg, Robertson, Stehr, Henn

Noes: None

Absent: Thiel

**Design Review
128 Arbor Drive**

Mr. and Mrs. Jeffrey Machle are requesting design review to construct a new upper level to the house for a master bedroom suite and study. Other changes include modifications to the interior floor plan, changes to windows and doors, and a new skylight.

Written notice was provided to neighbors. **Five affirmative response forms** were received. **Correspondence** was received from: Karen Sokal, Dec. 2; Sarah Pearson & Evan Seevak, Dec. 6; Elizabeth & Robert Andersen, Dec. 8.

Public testimony was received from:

Jeffrey Machle stated that the purpose of the project is to accommodate the needs of his growing family and improve floor plan circulation.

Carolyn Van Lang, Project Architect, described the scope of the project and the various expansion options examined.

The Commission agreed that the proposed improvements were well-integrated into this charming home and the step back design of the new upper level respected the 1-story massing and scale of the neighborhood. The Commission agreed that the garage door should be electronically operated.

Resolution 306-DR-10

WHEREAS, Mr. and Mrs. Jeffrey Machle are requesting permission to construct a new upper level to the house for a master bedroom suite and study. Other changes include modifications to the interior floor plan, changes to windows and doors, and a new skylight located at 128 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 project is categorically exempt under the California Environmental Quality Act, pursuant to Section

15301, Class 1(e) and the proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that proposed improvements are in keeping with the existing Cal-Mission style home and adjoining neighboring residences. The architectural detailing, doors and windows match well with the existing home and blend in effectively to make the addition appear as an integral part of the existing residence. The project complies with Design Review Guidelines II-1, II-2, II-3, II-3(a) through (c).
2. The proposed upper level addition/expansion has been designed in a way that reasonably minimizes view and light impacts on neighboring properties. The project complies with Design Review Guidelines II-1, II-2, II-3(c) & (d) and II-7.
3. The size and height of the addition is commensurate with the size of the lot and is in keeping with the existing neighborhood development pattern. The project complies with Design Review Guidelines II-1, II-2 and II-3.
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. The position of the driveway and garage ingress/egress are unchanged. The project complies with Design Review Guideline III-7.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Machle for construction at 128 Arbor Drive, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Construction Management Plan.** The Property Owner shall develop a comprehensive Construction Management Plan. The Construction Management Plan shall address noise, vibrations, traffic control, parking, debris removal, dust control, sanitary facilities, and other potential construction impacts, as well as other details involving the means and methods of completing the Project, including the construction route. The City Building Official has the authority to require modifications and amendments to the Construction Management Plan as deemed necessary throughout the course of the Project and until the final issuance of a Certificate of Occupancy.

- a. **Stormwater BMPs for Construction.** Property Owner shall implement (1) stormwater treatment Best Management Practices (BMPs) and (2) Bay Area Stormwater Management Agencies Association's "Start at the Source" criteria for stormwater quality protection. City Staff may impose additional requirements involving the prevention of storm water pollution during construction and permanent drainage, erosion and sediment control. These items will be reviewed as part of the Property Owner's Construction Management Plan.

2. **Construction Completion Schedule.** Work on the Project, once begun, shall be promptly executed with continuous good faith and reasonable progress. Since timely completion of this Project is of the essence, the Property Owner shall submit for approval a Construction Completion Schedule, which will specify, in detail, the duration and percentage complete of each phase.

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

- i. Completion of Excavation;
- ii. Completion of Retaining Walls;
- iii. Completion of Foundation;
- iv. Completion of Rough Framing;
- v. Completion of Electrical;
- vi. Completion of Plumbing;
- vii. Completion of Mechanical;
- viii. Completion of Fire Sprinklers;
- ix. Completion of Home;
- x. Completion of Hardscaping and Landscaping; and
- xi. any further construction benchmarks and conditions of occupancy as may be determined by the Director of Public Works.

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

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

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

4. **Contractor's General Liability Insurance.** To ensure that the contractor doing work in the City will be responsible for damages caused by the work to City property or to neighboring property, the Property Owner shall require all contractors and subcontractors performing work on the Project to maintain General Liability Insurance for protection from claims for damages because of bodily injury, including death, and claims for damages, other than to the contractor's work itself, to property which may arise out of or result from the

contractor's operations. Such insurance shall be written for not less than \$1,000,000 per occurrence. The insurance shall include builder's risk. The insurance shall include an endorsement requiring 30 days' notice to the City if the insurance is cancelled or changed and Property Owner shall immediately arrange for substitute insurance coverage.

As an alternative to requiring each subcontractor to obtain General Liability Insurance, the Property Owner may require the General Contractor to obtain an endorsement to cover his or her subcontractors.

If the Property Owner does not have a general contractor, the Property Owner shall maintain property insurance, including builder's risk and coverage for subcontractors, which is substantially equivalent to the contractor's requirement of this section.

5. Defense of legal challenges. If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.

6. Modifications to Conditions. Any insurance or security requirement, or related Condition of Approval, may be implemented and, if necessary modified, in a reasonable manner with the joint agreement of the Director of Public Works and the City Attorney, consistent with the intent of the condition.

7. Geotechnical Report and Review. At the option of the Building Official, the Property Owner may be required to submit a report prepared by a geotechnical engineer of the Property Owner's choice that fully assesses the existing site conditions, and addresses all issues regarding excavation and grading, foundations and their construction, drainage, retaining wall systems, periodic on-site observations, and other related items involving the Project.

8. Garage Door. The garage door shall be electronically operated.

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

Moved by Kellogg, Seconded by Levine

Ayes: Levine, Kellogg, Robertson, Stehr, Henn

Noes: None

Absent: Thiel

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

**Variance and
Design Review
127 Hagar Avenue**

David Rucker, Colin Sherman and Eric Manou on behalf of Onsite Development, LLC are requesting variance and design review to substantially renovate and stylistically alter the residence. The alterations include interior floor plan modifications; new exterior materials; modifications to the roofline; changes to the windows and doors; the restoration of a 1-car garage; new rear upper and lower level decks; new exterior lighting; and site and landscape changes. The requested variances are from: (1) Section 17.10.6 to allow the wood fascia to extend to 10'4" 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 wood fascia to extend to within 2'10" and the western corner of the house to extend to within 3'10" to the left side property line in lieu of the code required minimum of a 4 ft. side yard setback. A similar project was denied by the Commission on October 11, 2010.

Written notice was provided to neighbors. **One affirmative and one negative response form** was received. **Correspondence** was received from: Burton Boltuch, Nov. 19; Bruce & Ellen Gilmore, Nov. 20; David Rucker, Nov. 17; Tom Zhang, Dec. 7; Michael Perkocha & Tina Stott, Nov. 24; Henry Chinn, Nov. 29 & 30; Elizabeth Kuhn, Dec. 13

Public testimony was received from:

Stephen Stepp, Project Architect, described the design changes made in response to the October meeting intended to minimize impacts on neighboring properties.

David Rucker referenced his letter of November 17 enumerating 9 specific design changes made in response to Commission requests, stated that approximately 50% of the existing house will be retained, noted that changes in the size and material of the stairway skylight will reduce light glare/spill by 66% over that originally proposed and summarized his efforts to discuss the project with neighbors in order to mitigate their concerns in the redesign.

Kathy Chinn, speaking on behalf of her parents, voiced appreciation for the design changes but felt that the project would still impose an unacceptable level of loss of view, light and privacy on her parents' home.

David Kuhn also voiced gratitude for the changes to the design, noting that his only remaining concern is evening light spill/glare from the large skylight over the stairway.

The Commission commended the applicants for their responsiveness to Commission and neighbor concerns and requests and agreed that the redesign significantly reduces the impact on neighbors while attractively renovating a poorly designed home. In particular, the Commission noted that the Chinn's panoramic western view of San Francisco Bay (primary view) is unaffected and only a portion of their southern (secondary view) is slightly impacted, the roof height is

ideally structured so as to preserve view sight lines and the material and reduction in size of the stairwell skylight will minimize any night glare and is appropriate in size and proportion for the home. Commissioner Stehr disagreed with regard to the stairway skylight, believing that it was still too large and intrusive. The Commission agreed that the project will significantly improve the existing property to the benefit of the neighborhood and reflected a good balance of reasonably minimizing impacts while dramatically improving aesthetics. During project review, the Commission discussed at length the advantages/disadvantages of moving the home approximately 18 inches eastward to further mitigate neighbor impacts. However, it was determined that such a design modification would be structurally complex and not result in any material difference in neighbor impact. The Commission also reiterated its October comments in support of variance approval, emphasizing that pre-existing site conditions and property topography justified variance approval.

Resolution 308-V-10

WHEREAS, Messrs. David Rucker, Colin Sherman and Eric Manou on behalf of Onsite Development, LLC are requesting permission to substantially renovate and stylistically alter the residence. The alterations include interior floor plan modifications; new exterior materials; modifications to the roofline; changes to the windows and doors; the restoration of a 1-car garage; new rear upper and lower level decks; new exterior lighting; and site and landscape changes located at 127 Hagar 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 and left (south) 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:

1. The project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e)
2. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to the fact that the existing house is located within the setbacks and cannot be improved without variance. Because of these circumstances, strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone which conform to the zoning requirements.
3. The variances are compatible with the immediately surrounding neighborhood and the public welfare because many other homes in the area are located within the front and side yard setbacks. The existing level of setback and parking non-conformity on the property will be reduced by the project.
4. Accomplishing the improvement without variance would cause unreasonable hardship in planning, design, or construction because it is

impossible to improve the existing house without variance because this home is located within the setbacks.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application of Messrs. Rucker, Sherman and Manou on behalf of Onsite Development, LLC for the above variances at 172 Hagar 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 Levine, Seconded by Henn

Ayes: Levine, Kellogg, Robertson, Stehr, Henn

Noes: None

Absent: Thiel

Resolution 308-DR-10

WHEREAS, Messrs. David Rucker, Colin Sherman and Eric Manou on behalf of Onsite Development, LLC are requesting permission to substantially renovate and stylistically alter the residence. The alterations include interior floor plan modifications; new exterior materials; modifications to the roofline; changes to the windows and doors; the restoration of a 1-car garage; new rear upper and lower level decks; new exterior lighting; and site and landscape changes located at 127 Hagar 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 renovation and adjacent residences is reasonable and appropriate due to the existing topography and neighborhood development pattern. The project complies with Design Review Guidelines II-1, II-2, II-3, II-4, II-5, II-6 and II-7.

2. The proposed upper level addition/expansion has been designed in a way that reasonably minimizes view and light impacts on neighboring

properties (as defined in Section 17.2.70), including consideration of the location of the new construction, lowering the height of the ceiling, pulling back the proposed deck expansion and walls, changes in the window placements, and working within the existing building envelope, including excavation at the lower levels. The current height of the roof minimizes as much as possible any impact to the neighbors to the north -- the primary, western view of the San Francisco Bay is unobstructed. The secondary southern view will be impacted somewhat; however, a significant portion of this southern view will remain. The translucent laminate material of the stairway skylight and its reduction in size will reduce by 66% the amount of light emanating from this skylight.

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

4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Rucker, Sherman and Manou on behalf of Onsite Development, LLC for construction at , Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Construction Management Plan.** The Applicant shall develop a comprehensive Construction Management Plan. The Construction Management Plan shall address noise, vibrations, traffic control, parking, debris removal, dust control, sanitary facilities, and other potential construction impacts, as well as other details involving the means and methods of completing the Project, including the construction route. The City Building Official has the authority to require modifications and amendments to the Construction Management Plan as deemed necessary throughout the course of the Project and until the final issuance of a Certificate of Occupancy.

a. Stormwater BMPs for Construction. Applicant shall implement (1) stormwater treatment Best Management Practices (BMPs) and (2) Bay Area Stormwater Management Agencies Association's "Start at the Source" criteria for stormwater quality protection. City Staff may impose additional requirements involving the prevention of storm water pollution during construction and permanent drainage, erosion and sediment control. These items will be reviewed as part of the Applicant's Construction Management Plan.

b. Renovation / New Construction. Pursuant to Section 17.32.6 of the Municipal Code, if for any reason more than 70% of the physical structure (as determined by the Building Official) is demolished or destroyed, the building shall conform to new building and planning Code requirements. If this occurs during demolition, all work must stop and a new

hearing and public review by the Planning Commission is required.

2. **Construction Completion Schedule.** Work on the Project, once begun, shall be promptly executed with continuous good faith and reasonable progress. Since timely completion of this Project is of the essence, the Applicant shall submit for approval a Construction Completion Schedule, which will specify, in detail, the duration and percentage complete of each phase.

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

- i. Completion of Excavation;
- ii. Completion of Retaining Walls;
- iii. Completion of Foundation;
- iv. Completion of Rough Framing;
- v. Completion of Electrical;
- vi. Completion of Plumbing;
- vii. Completion of Mechanical;
- viii. Completion of Fire Sprinklers;
- ix. Completion of Home;
- x. Completion of Hardscaping and Landscaping; and
- xi. any further construction benchmarks and conditions of occupancy as may be determined by the Director of Public Works.

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

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

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

4. **Contractor's General Liability Insurance.** To ensure that the contractor doing work in the City will be responsible for damages caused by the work to City property or to neighboring property, the Property Owner shall require all contractors and subcontractors performing work on the Project to maintain General Liability Insurance

for protection from claims for damages because of bodily injury, including death, and claims for damages, other than to the contractor's work itself, to property which may arise out of or result from the contractor's operations. Such insurance shall be written for not less than \$1,000,000 per occurrence. The insurance shall include builder's risk. The insurance shall include an endorsement requiring 30 days' notice to the City if the insurance is cancelled or changed, and Property Owner shall immediately arrange for substitute insurance coverage.

As an alternative to requiring each subcontractor to obtain General Liability Insurance, the Property Owner may require the General Contractor to obtain an endorsement to cover his or her subcontractors.

If the Property Owner does not have a general contractor, the Property Owner shall maintain property insurance, including builder's risk and coverage for subcontractors, which is substantially equivalent to the contractor's requirement of this section.

5. **Insurance Cancellation Notice.** The Applicant shall require that all insurance policies obtained to satisfy any specific Condition of Approval provide the City with at least 30 days prior written notice from the insurance company of the cancellation of or change to any insurance coverage. The Applicant shall immediately arrange for substitute insurance coverage to replace any such cancellation or change, subject to the approval of the City Attorney.

6. **Defense of legal challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.

7. **Modifications to Conditions.** Any insurance or security requirement, or related Condition of Approval, may be implemented and, if necessary modified, in a reasonable manner with the joint agreement of the Director of Public Works and the City Attorney, consistent with the intent of the condition.

8. **Approved Plan Set.** The approved plans are those submitted on November 12, 2010 with updated information submitted on November 17, 2010, and December 3, 2010 after notices to neighbors were mailed and the application was available for public review.

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

Peer Review. The City, at the Applicant's sole expense, shall retain an independent geotechnical consultant to perform a peer-review of the Applicant's geotechnical report and advise the City in

connection with the Applicant's proposals. The City Engineer shall select this independent geotechnical consultant, whose services shall be provided for the sole benefit of the City and whose reports and recommendations can be relied upon only by the City. The independent geotechnical consultant shall also review the building plans during the permit approval process, and may provide periodic on-site observations during excavation and construction of the foundations as deemed necessary by the City Engineer. The Applicant shall provide payment for this at the time of the Building Permit submittal.

10. Foundation/Shoring/Excavation Plan. The Applicant shall submit foundation, excavation, and shoring plans prepared by a structural engineer that fully address issues of site shoring, fencing and hillside security issues. The plans shall not require any trespassing or intruding into neighboring properties (without prior written consent), and shall mitigate against any subsidence or other damage to neighboring properties. Such plans shall incorporate as appropriate the recommendations of the Applicant's geotechnical engineer and the City's geotechnical consultant, and shall be subject to approval by the City Engineer and the Chief Building Official.

11. Consultant Cost Recovery. In order to accommodate the scope and nature of the Project proposed by the Property Owner, if the Director of Public Works deems it necessary to retain independent consultants with specialized expertise, the Property Owner shall make a cash deposit with the City at the time of the Building Permit Application in the amount of \$5,000 to be used to pay for the fees and expenses of such City consultants, or in any way otherwise required to be expended by the City for professional assistance (other than City Staff). If the cash deposit has been reduced to \$2,500, or less at any time, the Director of Public Works may require the Property Owner to deposit additional funds to cover any further estimated fees and expenses associated with consultants retained by the City for the Property Owner's Project. Any unexpended amounts shall be refunded to the Property Owner within 90 days after the Project has an approved Final Inspection by the Chief Building Official.

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

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

14. **Final Landscape Plan.** The Applicant shall provide a Final Landscape Plan which shall comply with Municipal Code Section 17.17.3, and shall not propose plants near the driveway that could obscure visibility of pedestrians on the sidewalk or vehicles on the street from drivers backing out of the driveway. The Final Landscape Plan is subject to staff review and approval before the issuance of a building permit and said plan shall not include the planting of a ginkgo tree in the front yard -- the mature tree height in the front yard shall not exceed 20 ft.

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

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 Henn

Ayes: Levine, Kellogg, Robertson, Stehr, Henn

Noes: None

Absent: Thiel

Commissioner Stehr reiterated her opposition to the size of the proposed stairway skylight.

**New House & Fence
Variance and
Design Review
14 Littlewood Drive**

Mr. Todd Sirimongkolvit and Ms. Pauline Pattajoti are requesting variance and design review -- new house and fence to construct a new 4,317 sq. ft. single family residence on a vacant lot. The 2-story residence is proposed to have 4 bedrooms, 2 full baths, 2 half baths, a dining area, kitchen/dining/living great room, office, interior courtyard with fountain and pond, a rear deck with spa, east side decks at both levels, several skylights and conforming 3-car garage. Proposed site improvements include exterior lighting, a driveway bridge with new curb-cut, on-grade paths and stairs, retaining and free-standing walls, and modified and additional vegetation. The requested variance is from Section 17.10.6 to construct a driveway bridge to within 4'10" of the front property line in lieu of the code required minimum of a 20 ft. front yard setback.

Commissioner Stehr recused herself from discussion and action on this application and left the chambers.

Written notice was provided to neighbors. **Three affirmative response forms** were received. **Correspondence** was received from: Jennifer Hughes & Doug Smith, Dec. 9; Todd Sirimongkolvit & Pauline Pattajoti, Dec. 8

Public testimony was received from:

Todd Sirimongkolvit stated that he purchased his property 2-1/2 years ago and conducted an extensive study of past design attempts to build on this lot in preparation of the current submittal.

John Ware, Project Architect, displayed a model of the proposed home as well as colored renderings of the design in explaining the major elements of the proposed modern California Ranch architectural style residence. He referenced how the lot's steep topography, narrow street and wooded oak setting influenced the design and responded to questions concerning the conceptual solar panels, roof material/color, clear-glass skylights, oak tree preservation and replacement and sidewalk installation. He stated that the wide driveway is intended to provide turning radius room for the 3-car garage, provide additional off-street parking and serve as a play area for the applicant's children.

Karen Heller urged application approval, believing that the proposed design respects the topography of the lot, neighbor privacy and provides an elegant and attractive home.

The Commission concurred that the proposed design is beautiful, appropriate for the lot's topography, carefully crafted and sensitive to neighbor impacts. The Commission engaged in a lengthy discussion as to whether the proposed driveway bridge requires variance. The City Planner agreed that a determination as to whether the driveway bridge should be considered a primary or secondary structure or retaining wall is subject to code interpretation, noting that staff erred on the conservative side by requiring variance. In the end the Commission decided that the bridge is an elevated concrete structure that is subject to variance because of its location within the front setback. The Commission further determined that variance approval was justified because of site constraints and the fact that only the bridge (not the house) encroaches into the setback. Commissioner Henn voiced concern over the extraordinary wide width (35') of the driveway, believing that the variance could be avoided with a more standard 10 to 12 foot driveway width. The remaining Commissioners supported the driveway as proposed, stating the width includes the pedestrian entrance to the home, allows extra off-street parking for a property fronted by red curbing on the street, provides a vehicle turnaround and a proportionally sized entrance to the 3-car garage, serves as an important design feature by creating an elegant approach to the home and its curb-cut does not reduce/impact on-street parking. The Commission requested the Building Official to insure that the driveway's positioning and curb-cut is appropriate for this portion of Littlewood Drive, agreeing that if any modification is required, said change be subject to staff review and approval.

Resolution 309-V-10

WHEREAS, Mr. Todd Sirimongkolvit and Ms. Pauline Pattajoti are requesting permission to construct a new 4,317 sq. ft. single family residence on a vacant lot. The 2-story residence is proposed to have 4 bedrooms, 2 full baths, 2 half baths, a dining area, kitchen/dining/living great room, office, interior courtyard with fountain and pond, a rear deck with spa, east side decks at both levels, several skylights and conforming 3-car garage. Proposed site improvements include exterior lighting, a driveway bridge with new curb-cut, on-grade paths and

stairs, retaining and free-standing walls, and modified and additional vegetation located at 14 Littlewood Drive, Piedmont, California, which construction requires variance; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary in order to construct a driveway bridge 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 project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e).
2. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to the topography of the lot and the requirement for a driveway bridge in order to provide garage ingress/egress. 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.
3. The variance is compatible with the immediately surrounding neighborhood and the public welfare because there is no material impact on mass, views or neighborhood circulation. The variance is required in order to allow any improvements to the property.
4. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because development on the property is not feasible without the proposed driveway bridge.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application of Mr. Sirimongkolvit and Ms. Pattajoti for the above variance at 14 Littlewood Drive, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

Moved by Kellogg, Seconded by Levine

Ayes: Levine, Kellogg, Robertson

Noes: Henn

Recused: Stehr

Absent: Thiel

Resolution 309-DR-10

WHEREAS, Mr. Todd Sirimongkolvit and Ms. Pauline Pattajoti are requesting permission to construct a new 4,317 sq. ft. single family residence on a vacant lot. The 2-story residence is proposed to have 4 bedrooms, 2 full baths, 2 half baths, a dining area, kitchen/dining/living great room, office, interior courtyard with fountain and pond, a rear deck with spa, east side decks at both levels, several skylights and conforming 3-car garage. Proposed site improvements include exterior lighting, a driveway bridge with new curb-cut, on-grade paths and stairs, retaining and free-standing walls, and modified and additional vegetation located at 14 Littlewood 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(b), (i) through (iv) of the Piedmont City Code:

- The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development, are appropriate in terms of their minimal effect on neighboring properties' views, light and privacy and do not adversely impact pedestrian or vehicle traffic. The project complies with Design Review Guidelines I-1, I-1(b) & (c), I-2, I-2(a) & (b), I-5, I-5(a) & (b), I-6, I-7, I-8, I-9, I-11, I-12, IV-1, IV-2 and IV-3.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Sirimongkolvit and Ms. Pattajoti for construction at 14 Littlewood Drive, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Construction Management Plan.** The Property Owner shall develop a comprehensive Construction Management Plan. The Construction Management Plan shall address noise, vibrations, traffic control, parking, debris removal, dust control, sanitary facilities, and other potential construction impacts, as well as other details involving the means and methods of completing the Project, including the construction route. The City Building Official has the authority to require modifications and amendments to the Construction Management Plan as deemed necessary throughout the course of the Project and until the final issuance of a Certificate of Occupancy.

a. **Stormwater BMPs for Construction.** Because this Project anticipates the addition or replacement of more than 5,000 square feet of impervious surface, the Property Owner shall prepare a stormwater management plan prior to obtaining a building permit. Wherever possible and to the maximum extent practicable, the plan shall incorporate site design practices and measures to promote infiltration of stormwater and reduce the

amount of impervious surface on the site as outlined in the following documents: The Bay Area Stormwater Management Agencies Association's (BASMAA) "Start at the Source" design guidance manual, which is available in PDF format at www.cleanwaterprogram.org/businesses_developers.htm; BASMAA's "Permanent Post-Construction Stormwater BMP Fact Sheets;" or the State of California Best Management Practices Handbooks. City Staff may impose additional requirements involving the prevention of storm water pollution during construction and permanent drainage, erosion and sediment control. These items will be reviewed as part of the Property Owner's Construction Management Plan.

b. Engineer Consultant. The City will, at the Property Owner's sole cost, engage the services of an Engineer to review the results of the geotechnical report, prepare a sound and vibration mitigation plan, and monitor the vibration and decibel levels at the Project (including being periodically present at the construction site during excavation and foundation work). If, in the Engineer's sole discretion, such monitoring indicates that the sound or vibration levels exceed those anticipated in the Property Owner's Construction Management Plan, all work on the Project may be immediately stopped by the City and may not resume until the City Engineer is fully assured that the sound and vibration transmissions generated by work on the Project can be maintained at or below a reasonable level and duration.

2. **Construction Completion Schedule.** Work on the Project, once begun, shall be promptly executed with continuous good faith and reasonable progress. Since timely completion of this Project is of the essence, the Property Owner shall submit for approval a Construction Completion Schedule, which will specify, in detail, the duration and percentage complete of each phase.

- a. The Construction Completion Schedule with associated construction values for each benchmark shall set forth completion dates for the following benchmarks:
 - i. Completion of Excavation;
 - ii. Completion of Retaining Walls;
 - iii. Completion of Foundation;
 - iv. Completion of Rough Framing;
 - v. Completion of Electrical;
 - vi. Completion of Plumbing;
 - vii. Completion of Mechanical;
 - viii. Completion of Fire Sprinklers;
 - ix. Completion of Home;
 - x. Completion of Hardscaping and Landscaping;
and
 - xi. any further construction benchmarks and conditions of occupancy as may be determined by the Director of Public Works.
- b. Before the Project begins, the Director of Public Works shall make a determination as to the reasonableness of the proposed completion dates applicable to the Project, and that determination shall constitute the "Approved Schedule" and be binding on the Property Owner. The City may, at the

Property Owner's sole cost, engage the services of a consultant to review the Property Owner's proposed Construction Completion Schedule and, to the extent the period allocated for any work appears unjustifiable, recommend to the Director of Public Works a reasonable completion date for any benchmark.

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

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

4. **Contractor's General Liability Insurance.** To ensure that the contractor doing work in the City will be responsible for damages caused by the work to City property or to neighboring property, the Property Owner shall require all contractors and subcontractors performing work on the Project to maintain General Liability Insurance for protection from claims for damages because of bodily injury, including death, and claims for damages, other than to the contractor's work itself, to property which may arise out of or result from the contractor's operations. Such insurance shall be written for not less than \$1,000,000 per occurrence. The insurance shall include builder's risk. The insurance shall include an endorsement requiring 30 days' notice to the City if the insurance is cancelled or changed, and Property Owner shall immediately arrange for substitute insurance coverage.

5. **Defense of legal challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.

6. **Modifications to Conditions.** Any insurance or security requirement, or related Condition of Approval, may be implemented and, if necessary modified, in a reasonable manner with the joint agreement of the Director of Public Works and the City Attorney, consistent with the intent of the condition.

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

- a. Peer Review. The City, at the Property Owner's sole expense,

shall retain an independent geotechnical consultant to perform a peer-review of the Property Owner's geotechnical report and advise the City in connection with the Property Owner's proposals. The City Engineer shall select this independent geotechnical consultant, whose services shall be provided for the sole benefit of the City and whose reports and recommendations can be relied upon only by the City. The independent geotechnical consultant shall also review the building plans during the permit approval process, and may provide periodic on-site observations during excavation and construction of the foundations as deemed necessary by the City Engineer. The Property Owner shall provide payment for this at the time of the Building Permit submittal.

8. **Foundation/Shoring/Excavation Plan.** The Property Owner shall submit foundation, excavation, and shoring plans prepared by a structural engineer that fully address issues of site shoring, fencing and hillside security issues. The plans shall not require any trespassing or intruding into neighboring properties (without prior written consent), and shall mitigate against any subsidence or other damage to neighboring properties. Such plans shall incorporate as appropriate the recommendations of the Property Owner's geotechnical engineer and the City's geotechnical consultant, and shall be subject to approval by the City Engineer and the Chief Building Official.

9. **City Facilities Security.** The Property Owner shall provide a specific cash deposit, letter of credit, bank guarantee, or other similar financial vehicle ("City Facilities Security") in the amount of \$50,000, as established by the Director of Public Works, to cover the cost of any damage to City property or facilities in any way caused by Property Owner, Property Owner's contractors or subcontractors, or any of their agents, employees or assigns, and related in any way to the Project. The form and terms of such City Facilities Security shall be determined by the Director of Public Works after consultation with the Property Owner. The Director may take into account any of the following factors: the cost of construction; past experience and costs; the amount of excavation; the number of truck trips; the physical size of the proposed project; the logistics of construction; the geotechnical circumstances at the site; and City right-of-way and repaving costs.

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

- b. When the City Facilities Security is in a form other than cash deposit with the City, the proceeds from the City Facilities Security shall be made payable to the City upon demand, conditioned solely on the Director of Public Works' certification on information and belief that all or any specified part of the proceeds are due to the City.

10. **Site Safety Security.** The City and the public have an interest in not having an unfinished project blighting the neighborhood and undermining property values. These public interests are primarily safety and aesthetics, and diminishment of property values. Prior to the issuance of a building permit, the Property Owner shall provide a specific cash deposit, letter of credit, bank guarantee, or other similar financial vehicle ("Site Safety Security") in the amount of \$30,000 to ensure that the Project site is not left in a dangerous or unfinished state.

- a. The Site Safety Security shall be in an amount to include three components:
 - i. safety, which means the cost to make the site and structure safe if construction should cease mid-way through the Project;
 - ii. aesthetics, which means an amount to install and maintain landscaping all around the Project to protect the immediate local views from neighbors and public property; and
 - iii. staff and consultant time to evaluate and implement this condition.

If, as the Project proceeds, the expected cost of these components increases beyond the original estimate in the opinion of the Director of Public Works, the City may require the Property Owner to increase the amount of the Site Safety Security by the additional amount. The Property Owner shall provide City with written evidence of compliance within 15 working days after receiving written notice of the additional required amount. The City shall retain, at the Property Owner's expense, an independent estimator to verify the total expected costs to complete the Project and any subsequent revisions.

- b. The form and amount of the Site Safety Security is subject to the approval of the Director of Public Works. Payment to City under the Site Safety Security shall be made payable upon demand by the City and prior to the issuance of the Building Permit, conditioned solely on the Director of Public Works' certification on information and belief that all or any specified part of such Site Safety Security is due to the City.

- c. The Site Safety Security shall not be released until the Project has an approved Final Inspection by the Chief Building Official. However, if sufficient work has been completed according to the benchmarks and construction values as established under the Construction Completion Schedule, the Site Safety Security may be reduced to the

extent the Director of Public Works in his sole discretion determines is appropriate.

11. Consultant Cost Recovery. In order to accommodate the scope and nature of the Project proposed by the Property Owner, if the Director of Public Works deems it necessary to retain independent consultants with specialized expertise, the Property Owner shall make a cash deposit with the City at the time of the Building Permit Application in the amount of \$5,000 to be used to pay for the fees and expenses of such City consultants, or in any way otherwise required to be expended by the City for professional assistance (other than City Staff). If the cash deposit has been reduced to \$2,500. or less at any time, the Director of Public Works may require the Property Owner to deposit additional funds to cover any further estimated fees and expenses associated with consultants retained by the City for the Property Owner's Project. Any unexpended amounts shall be refunded to the Property Owner within 90 days after the Project has an approved Final Inspection by the Chief Building Official.

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

13. Arborist's Report. Before the issuance of a building permit, the Property Owner shall submit an Arborist's Report that includes tree preservation measures to preserve existing trees proposed to remain on-site, as well as any nearby off-site trees. The tree preservation measures shall be on the appropriate sheets of the construction plans. The arborist shall be on-site during critical construction activities, including initial and final grading, to ensure the protection of the existing trees. The arborist shall document in writing and with photographs the tree protection measures used during these critical construction phases. If some trees have been compromised, mitigation measures must be specified in writing, and implementation certified by the Project Arborist. Trees proposed for removal shall have an in-lieu replacement tree planted elsewhere on the property, which shall be shown on the final landscape plan. Before the Final Inspection, the Arborist shall file a report to the City certifying that all tree preservation measures as recommended have been implemented to his/her satisfaction and that all retained trees have not been compromised by the construction.

14. California's Water Efficient Landscape Ordinance: Property Owner shall comply with the requirements of California's Model Water Efficient Landscape Ordinance that went into effect January 1, 2010, by submitting the following required information to the Building Department:

- a. Landscape Documentation Package that includes the

following 6 items:

- i. Project Information;
- ii. Water Efficient Landscape Worksheet;
- iii. Soil Management Report;
- iv. Landscape Design Plan;
- v. Irrigation Design Plan; and
- vi. Grading Design Plan.

The Landscape Documentation Package is subject to staff review and approval before the issuance of a building permit.

- b. Once a building permit has been issued, the Property Owner shall submit a copy of the Water Efficient Landscape Worksheet, to the local water purveyor, East Bay Municipal Utility District.
- c. After completion of work, the Property Owner shall submit to the City and East Bay Municipal Utility District a Certificate of Completion, including an irrigation schedule, an irrigation maintenance schedule, and an irrigation audit report. The City may approve or deny the Certificate of Completion.

15. Double Trailer Truck Prohibition. To reduce potential damage to the streets and to avoid traffic hazards on narrow curving city streets, no double trailers shall be used as part of the Project.

16. Lake or Streambed Alteration Program. Given the proposed project's proximity to Trestle Glen Creek, the project may require a Streambed Alteration Agreement from the California Department of Fish and Game (CDFG). Therefore, it is the applicants' responsibility to be in compliance with the CDFG Lake or Streambed Alteration Program. The Fish and Game Code (Section 1602) requires the CDFG to be notified by the person or entity that proposes an activity that will: substantially divert or obstruct the natural flow of any river, stream or lake; substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake; or deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake. Should the project NOT require CDFG notification, the applicants shall submit to the City:

- Prior to the issuance of a building permit, a written statement from a qualified California Environmental Professional that states that the project does not meet the criteria that requires notification of the CDFG per Fish and Game Code section 1602; and
- Immediately prior to the project's Final Inspection, a report from the qualified California Environmental Professional that certifies that the streambed has not been altered at any time during the project construction per the criteria noted in Fish and Game Code section 1602.

Should the project require CDFG notification, the applicants shall submit to the City a copy of the Lake or Streambed Alteration Notification form within 7 days of its submittal to the CDFG, plus, within 7 days of its receipt from the CDFG,

one of the following two items as verification of compliance with the Lake or Streambed Alteration Program:

- a. A written statement from the CDFG indicating that it has declined to issue a Streambed Alteration Agreement in response to the applicant's Streambed Alteration Agreement application, but will allow the applicant to implement the project as described in the application with no alterations to the project description; or
- b. A copy of the CDFG's approval of the applicant's Streambed Alteration Agreement for the project.

Information on the CDFG Lake or Streambed Alteration Program can be found at <http://www.dfg.ca.gov/habcon/1600/>.

17. **Garage Door.** The garage doors shall be electronically operated.

18. **Curb-Cut.** As part of the building permit process, the location of the driveway curb-cut shall be subject to the final approval of the Public Works Department and if any adjustments to the curb-cut are necessary, said change shall be subject to staff review and approval.

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

**Fence Design Review
471 Mountain Avenue**

Mr. Rui de Figueiredo is requesting fence design review to construct an approximately 4 ft. high cement-sided fence and an 8'8" high wood entry trellis along the front of the property.

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

Commissioner Stehr recused herself from discussion and action on this application and left the chambers.

Public testimony was received from:

Jorge Saucedo, Project Contractor, stated that the purpose of the new replacement fence is to improve the curb-appeal of the property. He

described the material of the new fence (cement siding mimicking redwood), noting that there will be no change in fence height or length from that existing. He added that the home's existing siding will also be replaced soon with the same material as the fence. Both the fence and house will be painted to match.

The Commission supported application approval, requesting that the fence along the left side of the entry gate be stepped so as to match the fencing on right side of the gate.

Resolution 311-DR-10

WHEREAS, Mr. Rui de Figueiredo is requesting permission to construct an approximately 4 ft. high cement-sided fence and an 8'8" high wood entry trellis along the front of the property located at 471 Mountain 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 project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e) and 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 because the design and materials are attractive and compatible with the existing residence.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because it replaces an existing fence of the same dimensions. There is no change in existing conditions.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because the fence and gate are consistent with the illustration shown in the City's Design Review Guidelines. There is no change in existing circulation patterns.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. de Figueiredo for construction at 471 Mountain Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. The approved plans are those submitted on December 1, 2010, after neighbors were notified of the project and the plans were available for public review;
2. No changes proposed to the main residence or front walkway are approved as part of this application.

3. There shall be at least one step to the left side (west) of the gate in the fence height so as to match the style of the fence on the right side.

4. The fence shall be painted to match the house color.

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

Moved by Henn, Seconded by Levine

Ayes: Levine, Kellogg, Robertson, Henn

Noes: None

Recused: Stehr

Absent: Thiel

**Special Planning
Commission
Reconsideration
3 Maxwellton Road**

Mr. Stephen Parker is requesting a Special Planning Commission Reconsideration to remove a condition of approval required of a prior property owner in 2004 to provide the installation and irrigation in perpetuity of landscaping behind the "sight-line" wall at the intersection of Maxwellton Road and the driveway that serves 1, 3, 5 & 7 Maxwellton Road. A bond in the amount of \$22,000 was required, and the request is to remove the requirements for bonding and landscape irrigation in perpetuity.

Written notice was provided to neighbors. **Two negative response forms** were received. **Correspondence** was received from: Mark Feldkamp, Dec. 13; Doug Vance, Dec. 10; Stephen Parker, Nov. 12

Public testimony was received from:

Stephen Parker clarified that there has been an address change and the property formerly identified as #3 Maxwellton is now #5 Maxwellton. He stated that the City has held a \$22,000 bond since 2004 and he requested that this money be released back to him. He stated that drought tolerant landscaping was installed at the sight line wall and its drip irrigation system is directly and permanently tied to his home at #5 Maxwellton. He felt that there is no longer a need for long-term irrigation of the vegetation, hence the bond money should be released.

The Commission acknowledged that the sight line wall, slope stability grid and landscaping are located on the City right-of-way and were installed as public safety measures to improve traffic sight lines and to stabilize the hillside that was damaged as a result of an excavation error by the property developer. While the Commission felt that Mr. Parker's personal bond probably should not be held in perpetuity, there is a need to permanently tie the obligation for maintaining soil erosion protection landscaping to the property at #5 Maxwellton since this was the

agreement reached with the original property developer. Therefore, the Commission requested staff to ask the City Attorney to examine this issue and provide acceptable legal options for maintaining the intent of this project condition and continue to afford protections to the City while allowing Mr. Parker's bond to be released. The Commission emphasized that this is a public safety issue and no evidence has been submitted that a maintenance fund to support the grid and landscaping is no longer required.

Resolution 312-10

WHEREAS, Mr. Stephen Parker is requesting a Special Planning Commission Reconsideration to remove a condition of approval required of a prior property owner in 2004 to provide the installation and irrigation in perpetuity of landscaping behind the "sight-line" wall at the intersection of Maxwellton Road and the driveway that serves 1, 3, 5 & 7 Maxwellton Road, Piedmont, California; and

RESOLVED, that after reviewing the application and any and all testimony and documentation submitted in connection with such request, and after having visited subject property, the Piedmont Planning Commission continues consideration of said request pending consultation with the City Attorney as to other possible alternatives for providing the City with protections while enabling at some point in the future the return of Mr. Parker's bond funds, believing that Mr. Parker's money should not be retained in perpetuity.

Moved by Levine, Seconded by Kellogg

Ayes: Levine, Kellogg, Robertson, Stehr, Henn

Noes: None

Absent: Thiel

**Design Review
304 Pala Avenue**

Mr. Burr Nash and Ms. Lisa Rasmussen are requesting design review to demolish the front entry and driveway fence; construct a new front entry, a new attached 2-car garage with roof deck and trellis at the front of the house and a 221 sq. ft. main level rear addition; make window and door modifications; make various changes to the interior; and make site modifications that include a new driveway, new pathways and new exterior lighting.

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

Commissioners Robertson and Levine recused themselves from discussion and action on this application and left the chambers.

Public testimony was received from:

Mark Becker, Project Architect, described the intent of the project to improve property ingress and parking availability as well as create a more cohesive look for the residence.

The Commission agreed as to the excellence of the design and a creative solution for this historic residence.

Resolution 313-DR-10

WHEREAS, Mr. Burr Nash and Ms. Lisa Rasmussen are requesting permission to demolish the front entry and driveway fence; construct a new front entry, a new attached 2-car garage with roof deck and trellis at the front of the house and a 221 sq. ft. main level rear addition; make window and door modifications; make various changes to the interior; and make site modifications that include a new driveway, new pathways and new exterior lighting located at 304 Pala Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e) and 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 because the traditional shingle-style addition is consistent with the existing home and well articulated and detailed. The project complies with Design Review Guidelines II-1, II-2, II-3, II-4, II-6, III-1 and III-3.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because the design respects neighbor views and privacy given its distance from neighboring properties and the screening by trees. The project complies with Design Review Guidelines II-1, II-6, II-7, III-1 and III-5.
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 garage and driveway design allows vehicles to turn around so as to exit the property forward for increased safety.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Nash and Ms. Rasmussen for construction at 304 Pala Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Approved Plan Set.** The approved plans are those submitted on November 19, 2010, with additional information submitted on December 2, 2010, after notices to neighbors were mailed and the application was available for public review.
2. **Construction Management Plan.** The Property Owner shall develop a comprehensive Construction Management Plan. The Construction Management Plan shall address noise, vibrations, traffic control, parking, debris removal, dust control, sanitary facilities, and

other potential construction impacts, as well as other details involving the means and methods of completing the Project, including the construction route. The City Building Official has the authority to require modifications and amendments to the Construction Management Plan as deemed necessary throughout the course of the Project and until the final issuance of a Certificate of Occupancy.

a. Stormwater BMPs for Construction. The Property Owner shall implement (1) stormwater treatment Best Management Practices (BMPs) and (2) Bay Area Stormwater Management Agencies Association's "Start at the Source" criteria for stormwater quality protection. City Staff may impose additional requirements involving the prevention of storm water pollution during construction and permanent drainage, erosion and sediment control. These items will be reviewed as part of the Property Owner's Construction Management Plan.

3. **Construction Completion Schedule.** Work on the Project, once begun, shall be promptly executed with continuous good faith and reasonable progress. Since timely completion of this Project is of the essence, the Property Owner shall submit for approval a Construction Completion Schedule, which will specify, in detail, the duration and percentage complete of each phase.

- a. The Construction Completion Schedule with associated construction values for each benchmark shall set forth completion dates for the following benchmarks:
 - i. Completion of Excavation;
 - ii. Completion of Retaining Walls;
 - iii. Completion of Foundation;
 - iv. Completion of Rough Framing;
 - v. Completion of Electrical;
 - vi. Completion of Plumbing;
 - vii. Completion of Mechanical;
 - viii. Completion of Fire Sprinklers;
 - ix. Completion of Home;
 - x. Completion of Hardscaping and Landscaping; and
 - xi. any further construction benchmarks and conditions of occupancy as may be determined by the Director of Public Works.
- b. Before the Project begins, the Director of Public Works shall make a determination as to the reasonableness of the proposed completion dates applicable to the Project, and that determination shall constitute the "Approved Schedule" and be binding on the Property Owner. The City may, at the Property Owner's sole cost, engage the services of a consultant to review the Property Owner's proposed Construction Completion Schedule and, to the extent the period allocated for any work appears unjustifiable, recommend to the Director of Public Works a reasonable completion date for any benchmark.

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

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

5. **Defense of legal challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.

6. **Arborist's Report.** Before the issuance of a building permit, the Property Owner shall submit an Arborist's Report that includes tree preservation measures to preserve existing trees proximate to the new driveway and additions that are proposed to remain on-site. The tree preservation measures shall be on the appropriate sheets of the construction plans. The arborist shall be on-site during critical construction activities, including initial and final grading, to ensure the protection of the existing trees. The arborist shall document in writing and with photographs the tree protection measures used during these critical construction phases. If some trees have been compromised, mitigation measures must be specified in writing, and implementation certified by the Project Arborist. Trees proposed for removal shall have an in-lieu replacement tree planted elsewhere on the property, which shall be shown on the final landscape plan. Before the Final Inspection, the Arborist shall file a report to the City certifying that all tree preservation measures as recommended have been implemented to his/her satisfaction and that all retained trees have not been compromised by the construction.

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

8. **Garage Door.** The new garage shall have an electronically operated wood garage door.

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

applicable law). The City reserves the right to require compliance with applicable laws and to attach conditions after initial approval is given, if noncompliance is discovered or additional conditions are considered necessary and appropriate in light of Commission/Council findings.

Moved by Henn, Seconded by Kellogg

Ayes: Kellogg, Stehr, Henn

Noes: None

Recused: Levine, Robertson

Absent: Thiel

ADJOURNMENT

There being no further business, Chairman Robertson adjourned the meeting at 10:30 p.m.