

## **PIEDMONT PLANNING COMMISSION**

Regular Meeting Minutes for Monday, March 8, 2010

A Regular Session of the Piedmont Planning Commission was held March 8, 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 February 26, 2010.

### **CALL TO ORDER**

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

### **ROLL CALL**

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

Absent: Commissioners Jonathan Levine and Clark Thiel

Staff: City Planner Kate Black, Assistant Planner Kevin Jackson, Planning Technicians Sylvia Toruño and Manira Sandhir and Recording Secretary Judith Larrabee

City Council Liaison: Councilmember Jeff Wieler

### **ANNOUNCEMENT**

Planning Technician Manira Sandhir announced all households in Piedmont will receive a census form the week of March 15<sup>th</sup>. She stated in the previous census Piedmont had the largest response rate in California of 86 percent. She encouraged all Piedmonters to take ten minutes to fill out the census form and return it promptly. She stated if the Census Bureau does not receive the census forms, it will have to hire census workers at considerable expense to taxpayers. She stated residents can get more information on the city's website, [www.ci.piedmont.ca.us](http://www.ci.piedmont.ca.us), or contact her directly for more information.

### **CONSENT CALENDAR**

There was no consent calendar.

### **PUBLIC FORUM**

There were no speakers for the public forum.

### **APPROVAL OF MINUTES**

#### **Resolution 3-PL-10**

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

Moved by Robertson, Seconded by Stehr

Ayes: Kellogg, Robertson, Stehr, Henn

Noes: None

Absent: Levine, Thiel

### **REGULAR CALENDAR**

The Commission considered the following items of regular business:

#### **Design Review 1078 Annerley Road**

Mr. and Mrs. Jack Caldwell are requesting design review to add a new upper level story of approximately 586 sq. ft. for a master bedroom suite; remodel the interior of the existing main and

lower levels; make window and door modifications; eliminate the chimney extension above the roofline; and demolish the existing roof dormer.

Written notice was provided to neighbors.

**Public testimony** was received from:

Jack Caldwell, the applicant, stated that his family takes great pride in their home and they have maintained it well. He stated his family is now trying to update their home to meet their needs today. He stated that recent construction on the garage and fence were done in the Craftsman style consistent with the character of the house. He stated he has been diligent in the permit process, with full permits for everything except for one issue, which was constructing the wall on the inside of his garage. He stated he removed the wall when it became an issue. He stated that he has worked to ensure his remodel will fit in with the neighborhood and have minimal impact on his neighbors. He stated all of his neighbors, except for one, are in full support of the project.

Jenna Caldwell, the applicant, thanked Kate Black, the City of Piedmont and architect Scott Donahue for their assistance. She stated that while the project is modest, it will make an immeasurable difference in her home. She stated the remodel will give her and her husband a private sanctuary to themselves with four walls and a door, their children will have bedrooms on the same floor and she will gain a separate laundry room – an important amenity for a working mother.

Scott Donahue, the architect, stated he believes this project is a reasonable one with a master suite, the children on the same floor, and the family room downstairs adjacent to the garden. He stated the applicants are planning on changing the bathroom in the lower level to a half bath to make things work. He stated the applicants are staying within the footprint; the house and garage take up 40 percent of the lot so it made sense to go up. He stated the addition steps down to the street and also sets back so it steps down to the closest neighbor. He stated the house will be consistent with the house to the west that has a roof about the same height as the addition. He stated the house will be consistent with the existing streetscape. He stated the addition is consistent with the present home in terms of materials, windows, roof slope, and eaves. He stated that they have responded to neighbors' concerns by removing the chimney and raising the sill height of the front window.

Billy Allen, a neighbor, stated the Caldwells considered minimizing the impact of their design on the neighborhood and that it would not change the character of the neighborhood. He

stated that only one neighbor on the street uses their garage. He stated the Caldwell's remodel would not cause any additional traffic in the neighborhood. He stated the Caldwell's have addressed all of the neighbors' concerns. He stated he is in full support of the project.

Serra Apaydin, a neighbor, stated an approval of the project on that side of the street would lead to dramatic changes in the neighborhood. She stated she is also concerned about the impact a second story addition would have on her view from her dining room and terrace.

Julia Fenske, a neighbor, stated the neighborhood is designed with a balanced mixture of smaller and larger homes, with the larger homes set above the smaller homes for an unobstructed view. She stated she is concerned that if this project is approved, it may set a precedent for smaller homes to build additions that will block neighboring views and ultimately impact the character of the neighborhood. She stated that this addition can have an impact on traffic congestion once the Caldwell's move and a larger family takes their place. She stated this addition will obstruct her view of Lake Merritt from her living room, her dining room and side yard.

Cheryl Charney, a neighbor, stated her vehement opposition to the project. She stated she considered it an insult to have a view of the Caldwell's bathroom and dressing area from her living room. She stated there is a problem with parking on the street, and the addition of this structure would add a five-bedroom home with no useable garage.

Royce Charney, a neighbor, stated his opposition to the project. He stated the Caldwells lied three times on this application. He stated the Caldwells said they had a legal permit from the City of Oakland to rehabilitate the garage; the garage was actually a home office with carpeting. He stated the Caldwells lied when they said they put a wall up to camouflage the office in 2009; the wall went up long before that. He stated the Caldwells stated they had a three-bedroom house when in actuality they have a bedroom downstairs and a family room. He stated this is a four-bedroom house without a useable garage. He stated the Caldwell's project calls for a massive room addition sitting on a 40-foot wide lot. He suggested one remedy would be to push out the back; the bedrooms and family room are already there and the house would have a better flow. He stated he submitted a detailed letter outlining his concerns and citing the guidelines.

Commissioner Robertson and Stehr expressed concerns that the garage needs to be usable. Commissioner Stehr believes a shade in the window would mitigate neighbor concerns.

Commissioner Henn agrees with neighbor concerns about lack of parking. Commissioner Kellogg stated there is a difference of opinion that needs to be sorted out fairly. He stated the idea of adding to the property, as long as it fits within the guidelines, stands to reason. Commissioner Kellogg stated the application fits within the FAR that's allowed on this property; there is no impact that would be discernable on the street in terms of additional parking. He stated this is another unusual property which is split between Oakland and Piedmont, and the standing precedent on how to treat that is the area of the overall property is what's evaluated against the allowable developable rights of that property. He stated the numbers that he is reviewing are all based on the entire area of the parcel, not just the Piedmont part. He stated this also applies to the garage; even though the garage happens to be in Oakland, it's still part of a Piedmont property. He asked how can it be made compliant with the City guidelines.

Concerning existing structure coverage, Commissioner Kellogg stated that the applicants cannot add any more structure anywhere on the property without requiring a variance; therefore, the option of saying just push out the back really is not valid without requiring a variance. Commissioner Kellogg stated going up would be a possibility and is within the developable rights of that parcel.

Commissioner Kellogg read a sentence in Section 17.20.9 in the Municipal Code regarding a new upper level addition to existing structures: "It should be designed in a way so that the new multi-level structure has been designed to reasonably minimize light and view impacts on neighboring properties, including consideration of location of the new structure, the height of the new structure and expansions of the existing envelope that you start with." Commissioner Kellogg stated that in this case, the envelope is being expanded and the current position of this second addition does obscure a certain amount of direct view of that skyline.

Concerning the design, Commissioner Kellogg stated, after reviewing the drawings carefully, the design fits with the home; it uses the same roof structure and that, in and of itself, is not really objectionable. He noted some work needs to be done on authenticating the operation of the garage, and that the addition could be done in a way this is not quite as much of an impingement on neighboring views. Commissioner Kellogg stated it is a tough call on the balanced right between what is really a major impact on view and what is not, but he believes it can be done in a way that mitigates or reduces that impact. He noted that the impact can be reduced somewhat, but it does not mean that you cannot have a second floor addition that would work.

One option the Commission discussed was moving the addition forward more toward the front of the house to reduce view impacts. At the conclusion of the Commissioner comments, the Commission was in concurrence that the design is not quite approvable, and encouraged the applicants to look for more ways to reduce the view impacts.

**Resolution 291-DR-09**

WHEREAS, Mr. and Mrs. Jack Caldwell are requesting design review to add a new upper level story of approximately 586 sq. ft. for a master bedroom suite; remodel the interior of the existing main and lower levels; make window and door modifications; eliminate the chimney extension above the roofline; and demolish the existing roof dormer; 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:

1. The exterior design elements, while they are aesthetically pleasing as a whole and harmonious, some of the height/bulk area, openings and the pitch of the roof do not meet Guidelines. I, II-1, II-2.
2. The architectural style is consistent with the existing residence; however, specifically it does not comply with Guideline II-3(c) in that it is not carefully integrated into the three-dimensional port and proportional in relationship with the existing residence.
3. The architectural style does not comply with Guideline II-3(d). It is slightly unbalanced as proposed right now. A lower roof height would probably improve the situation. The siting is appropriate. Some of the comments have been a symmetrical situation might be better. That we leave to the architect and the homeowners.
4. The architectural style does not comply with Guideline II-6(b). It respects the setbacks; however, the height and the placements of the second story could be better located.
5. Guideline II-7, the windows, there might be a possible degree of adjustment of the windows. Guideline II-7(a), number, size and placement. The proposed upper level addition has not been designed in a way that reasonably minimizes view and light impacts on neighboring properties; does not comply with same guidelines as previously mentioned. The size and height of the addition, while it is commensurate with the size of the lot and is pretty much in keeping with the neighborhood development, the specific height of the second story and the roof is a bit

problematic for the neighborhood, citing the same design guidelines. The safety of residents and pedestrians could be improved by the actual use of a garage.

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. Caldwell for construction at 1078 Annerley Road, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Stehr, Seconded by Robertson

Ayes: Kellogg, Robertson, Stehr, Henn

Noes: None

Absent: Levine, Thiel

**Fence Design Review** Mr. and Mrs. Stephen Miller are requesting fence design review  
**3 Wildwood Gardens** to construct new concrete posts and a steel fence atop an existing concrete retaining wall along Wildwood Avenue.

Written notice was provided to neighbors.

**Public testimony** was received from:

Stephen Miller, the applicant stated his house had a large ivy wall that was held up by a steel fence for four or five decades. He stated that the ivy grew too heavy, the underlying metal eroded and the fence fell over in late November. He stated he wanted to put back a fence that would be in keeping with the house and the street, and that he has worked hard on a design that would complement the house and neighborhood.

Commissioner Henn stated his concern whether the fence would be a safety issue with obscuring the visibility of motorists, but he noted that the whole street is lined with six-foot fences and he has no problem with the design. Commissioner Henn noted the provision in the design guidelines that street fencing should be four feet with the exception of corners, and this is a corner. Commissioner Robertson concurred that she also had concerns about the guideline requiring four-foot fences in the front yard, but she notes that the design guidelines also call for fences to be consistent with existing fences on the street. She stated in this case the fence is providing continuity with other existing fences on the street. Commissioner Stehr agreed. Commissioner Kellogg stated he agreed with most of what has been said by the other commissioners, but he still thinks the fence is too high. He stated if it was just simply to be replaced it would not be before the Commission, but since it is here for design review, the Commission is setting a precedent that he cannot support. He stated if the Commission is going to set a precedent, it should be measured from the grade; six feet from the grade is an ample high fence.

Commissioner Henn asked staff if the wall had not fallen over and the applicant requested to put it back as it was, would it be before us. City Planner Black answered no, in circumstances where people have fences that are demolished or partially demolished, or even fences still standing, they may repair or completely replace the fencing, as long as the original fence was legally permitted and the new fence is an exact replacement, they can replace the entire thing and it is just subject to a building permit. City Planner Black further stated that the only reason a fence ever comes to the Planning Commission is that there is either a proposed change to a fence or a new fence in the front 20 feet of the property.

Commissioner Kellogg stated the Commission has had other applications where fences have been proposed sitting on top of retaining walls and the Commission has found the true dimension is from the ground, not from the top of the retaining wall.

**Resolution 9-DR-10**

WHEREAS, Mr. and Mrs. Stephen Miller are requesting permission to construct new concrete posts and a steel fence atop an existing concrete retaining wall along Wildwood Avenue located at 3 Wildwood Gardens, 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 Quality Act, pursuant to Section 15301, Class 1(e), Sections 15300 to 15329. and conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. The exterior design elements (including but not limited to height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that the fence is six feet high measured from the top of the retaining wall; it is black in color which will cause the fence to recede into the landscape in the rear yard; it complies with Guideline V-1 because this area of Wildwood Avenue is characterized by similar formal tall fences located behind the sidewalk.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because the fence is for a rear yard, with street frontage where such fences and fence heights, at least in

this case, are customary and help provide privacy or security for outdoor living areas; specifically it complies with Guideline V-5. It minimizes impact on adjacent residences and is attractive in design.

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 open fence will not affect the traffic safety or circulation or cause safety issues.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Miller for construction at 3 Wildwood Gardens, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

Moved by Henn, Seconded by Stehr

Ayes: Robertson, Stehr, Henn

Noes: Kellogg

Absent: Levine, Thiel

**Design Review and  
Fence Design Review  
74 Sandringham Road**

Mr. Horacio Woolcott is requesting design review to abandon the previously approved (February 9, 2009) design to expand and remodel the house and instead stylistically alter and enlarge the existing 2,143 sq. ft., 2-story residence by adding approximately 1,778 sq. ft. of habitable space through excavation and additions. The resulting 2-story residence is proposed to have 4 bedrooms, 3 full baths, a family room, laundry room, living room, dining room, kitchen, game room, elevator and conforming 2-car garage. Proposed site improvements include: new landscaping and exterior lighting, a new excavated and enlarged driveway; new entry steps and posts; new front yard retaining walls and fence; new driveway gate; and new fencing along the side and rear property lines.



Applications pertaining to this property were previously considered by the Commission on February 13, 2006, December 8, 2008 and February 9, 2009.

Written notice was provided to neighbors.

**Public testimony** was received from:

Mr. Horacio Woolcott, the applicant, updated the Commission on the progress of his application. He stated he received a permit to build on January 6, 2010. He stated the design is very simplistic, with a master bedroom with a bathroom built behind the house. He stated that the garage will be lowered with a family room and living room added and recessed back to be within compliance. He stated he wanted to change how the stairs went up and he would need an elevator if the garage was dropped. He stated it will be a six- to ten-month project. He stated he believed the current design is the easiest way to get a bedroom, a living room and a den or a family room in between the garage and the living room.

Umberto Olivos, the architect, reviewed the design plans for the property, emphasizing the applicant's desire to be as energy-efficient as possible. He stated the applicant is keeping almost 100 percent of the house minus the garage, which is 83 percent total square footage.

Ms. Stehr stated her reasons for approving the project. She stated the project is a much simpler remodel and requires less time to do. She stated it fits with the neighborhood and doesn't need any variances. She stated the main driver for the whole remodel is a little bit of addition space for an official master bedroom and access to the house. She stated that access to the house is the big problem; walking or driving up the driveway is very difficult. She stated what the applicant is proposing now is the best solution because they will get the driveway that they need and their master bedroom.

Commissioner Robertson expressed some concerns. One is from the neighbor to the left, would have a tremendous impact on him from what it is now. There is a filtered view and sunlight would be blocked to that property by a very large wall. She stated the Commission had concerns last time about the verticality of the garage wall so close to the sidewalk. She stated she was also concerned about the circular staircase on the left side having a negative impact on the neighbor to the left with all the windows. She summarized that her two biggest concerns are the impact on the front as it comes up from the street and also the negative impact on light to the neighbor to the left. She stated that the Commission discussed this issue previously at great length, and the profile the Commission came up with on the approved plan

addressed those concerns. She stated that this plan seems to be a step back from before.

Commissioner Henn stated the house is very tall and close to the street which is a negative from his viewpoint. He stated if it is simply the front elevator switching to a gable to a hip, all members of the Commission could envision that fairly well. He stated he would like to determine how to get the elevator shaft shorter because on lot this deep, an elevator is very desirable and he does not want to preclude that in any way. He stated the current plans for the elevator are too boxy and too tall. Commissioner Kellogg stated he had no problem in stating that the application is denied without prejudice. He reiterated the need to see the drawings that reflect what you are going to build.

#### **Resolution 33-DR-10**

WHEREAS, Mr. Horacio Woolcott is requesting permission to abandon the previously approved (February 9, 2009) design to expand and remodel the house and instead stylistically alter and enlarge the existing 2,143 sq. ft., 2-story residence by adding approximately 1,778 sq. ft. of habitable space through excavation and additions. The resulting 2-story residence is proposed to have 4 bedrooms, 3 full baths, a family room, laundry room, living room, dining room, kitchen, game room, elevator and conforming 2-car garage. Proposed site improvements include: new landscaping and exterior lighting, a new excavated and enlarged driveway; new entry steps and posts; new front yard retaining walls and fence; new driveway gate; and new fencing along the side and rear property lines located at 74 Sandringham Road, Piedmont, California, which construction requires design review; and

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

1. Although the exterior design elements are aesthetically pleasing on a whole to a great degree, they are not fully harmonious with existing and proposed standards of development. These elements include but are not limited to the height, bulk, line and pitch of the roof, materials, arrangement of structures on the parcel. The upper level setbacks may need to be greater than the setbacks for the lower level and need to be considered to reduce losses of ambient and reflected light. The guidelines that would apply are II-1 regarding scale of mass; II-2 regarding consistency of neighboring parcels and II-3 and II-3b, the individual elements. In addition, the remodeling cannot be distinguished from the original structure and should reflect the architectural style by breaking down the existing residence into individual components. That would be the materials, among

them the exterior wall coverings, doors, ornamentation, windows and roof.

2. The proposed upper level addition/expansion has not been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.70), including consideration of the location of the new construction, lowering the height of the addition, expansions within the existing building envelope (with or without excavation), lower level excavation for new multi-level structures, and/or changing the roof slope or ridge direction:

It could be improved. The guidelines affecting the views would be Guideline II-7 and II-7(a) with regard to impact on the neighbors in addition to the guidelines already cited.

3. The size and height of the addition is commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and is in keeping with the existing neighborhood development pattern. There may be some question on the height, so the guidelines already mentioned apply. Also Guidelines II-7 and II-7(a) apply regarding the placement of windows and so forth.

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

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies, without prejudice, the design review application of Mr. Horatio Woolcott for construction at 74 Sandringham Road, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Robertson, Seconded by Henn

Ayes: Kellogg, Robertson, Henn

Noes: Stehr

Absent: Levine, Thiel

City Planner Kate Black stated as a point of clarification for the record, except for the last finding, all of the guidelines Commissioner Robertson cited were guidelines that were not found to be in compliance. Commissioner Robertson apologized and agreed although the design complied with many of the guidelines, it did not comply with those particular ones.

The Commission recessed for dinner at 7:20 p.m. and reconvened at 7:59 p.m.

**Design Review  
141 Bell Avenue**

Mr. Vincent Ng and Ms. Susan Mar are requesting design review to expand the existing residence by 963 sq. ft. on the main and upper levels (adding 2 bedrooms and 2 baths). Modifications to the house include an upper level roof deck, a rear terrace and trellis, changes to windows and doors, and 2 new skylights. Modifications to the property include demolition of the existing greenhouse and rear storage structure, an expansion of the existing garage to provide 3 conforming parking spaces, a widened driveway, and significant landscape changes involving walkways, fencing and exterior lights.

Written notice was provided to neighbors.

**Public testimony** was received from:

Susan Mar, the applicant, spoke on behalf of herself and her husband Vincent Ng. She expressed her joy at the prospect of living on the same street as her sister and brother-in-law, Lilly and Wesley Chee. She stated chief among the benefits of living near to her sister and brother-in-law are the family gatherings and dinners. She expressed great excitement with the beautiful design of Arleta Chang, architect of Jarvis Architects. She stated she would give her remaining time to the architect.

Arleta Chang, architect, gave an extensive review of the project referring to drawings she set up before the Commissioners. She noted that most of the Moderne style of the house was proposed to be preserved, with the addition being added in keeping with the existing design

Lilly Mar-Chee, a neighbor, expressed her approval for the project. She stated that she had worked with Arleta Chang in the past and was heartened that her sister and brother-in-law had the opportunity to work with Arleta. She stated how impressed she was with the thoughtfulness of the design and how the house's original essence was integrated into the design. She stated she is looking forward to having her sister and brother-in-law three doors away.

Commissioner Henn expressed his strong support of the project. He applauded the applicant and architect for not giving up on this house which is clearly in very poor condition but does have a lot of distinctive character of an era that is not too well represented in Piedmont. He stated most of the Commission's findings deal with people who are trying to overbuild, and since it is a large lot and even with the addition is not terribly large, it does not hit any of the limits or parameters that trigger bringing it back for further

review with the Commission. He stated the property has three enclosed parking spaces and no significant landscaping that needs retaining. He stated the views are magnificent.

Commissioner Stehr expressed her strong support of the project. She stated she is glad that the home has been sold and will be revived. She acknowledged the architect's beautiful work. She stated this is the way to do an application where you talk to the neighbors and accommodate their requests and do the best that you can.

Commissioner Robertson echoed the sentiments of Commissioners Henn and Stehr. She congratulated the architect on the plans that maximizes all the attributes of the property, the view and the architecture. She stated the plans have been designed with great sensitivity to not only the house itself but the entire lot and the larger streetscape.

Commissioner Kellogg concurred with the other Commissioners. He stated that this home, once restored, will be a great improvement to the neighborhood and to Bell Avenue and one of the more elegant contemporary buildings in Piedmont. He noted that the way that the architect designed the upper level bedroom is a model of how to integrate a bedroom into the mass of the existing home and make it look as if it is actually an improvement to the original design.

Commissioner Kellogg stated there comments raised by neighbors that had to do with two properties; one is 153 Bell which would be to the south and 161 Bell. He asked the architect if she had any further dialog with the owner at 153 on the current landscape plan between the two properties.

The architect stated that she had visited the residents at 153 Bell more than twice where she discussed landscaping specifically. She stated the residents were quite accommodating and satisfied with the landscaping plans. She stated she moved the proposed trellis further from the property line per the residents' request. She also stated the residents indicated that the view from their family room was very important to them, and once the trellis was adjusted you could not see the trellis due to the planting and the tall fence between the property and the wall. Regarding the resident of 161 Bell, the architect stated she had not had a chance to speak with him. She stated she wanted to be sure that the front landscape was excellent because the resident of 161 Bell was pleased with his own landscape at his house. The architect stated to accommodate the resident of 161 Bell she printed photos of what she proposed. She stated she is confident that with her plant selection and taking care of these neglected plants behind the terraces, the front landscape and the rear landscape would greatly

complement the house and would be one of the nicer houses on the streetscape.

Commissioner Kellogg stated that the architect clarified to his satisfaction that the maintenance of the landscaping will be appropriate and therefore the quality level of the home itself, and that that would satisfy the comments raised by the owner at 161. He stated he was mostly focused on 153, the neighboring property. He acknowledged the architect's discussions with the residents of 153 and that the residents were not here tonight to speak otherwise. He stated he believes from the architect's comments and also what is shown on the drawings that the mitigation of the terrace and the trellis over the outdoor coffee space has been satisfied correctly with their initial concerns. He reiterated his support of the entire design and the way it carries forward the style of the home.

**Resolution 36-DR-10**

WHEREAS, Mr. Vincent Ng and Ms. Susan Mar are requesting permission to expand the existing residence by 963 sq. ft. on the main and upper levels (adding 2 bedrooms and 2 baths). Modifications to the house include an upper level roof deck, a rear terrace and trellis, changes to windows and doors, and 2 new skylights. Modifications to the property include demolition of the existing greenhouse and rear storage structure, an expansion of the existing garage to provide 3 conforming parking spaces, a widened driveway, and significant landscape changes involving walkways, fencing and exterior lights located at 141 Bell 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, as established by Public Resources Code 15301, Class(e) relating to "Additions to existing structures provided the addition will not result in an increase of more than 50% of the floor area of the structures before the addition, or 2,500 sq. ft., whichever is less and that the proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements include but are not limited to: height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment. The distance between the proposed upper level addition/expansion and adjacent residences is reasonable and appropriate due to the

existing topography and neighborhood development pattern. Upper level setbacks greater than the setbacks required for the lower level have been considered and are not necessary to reduce losses of ambient and reflected light;

2. The proposed upper level addition/expansion has been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.70), including consideration of the location of the new construction, lowering the height of the addition, expansions within the existing building envelope (with or without excavation), lower level excavation for new multi-level structures, and/or changing the roof slope or ridge direction;

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

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

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Ng and Ms. Mar for construction at 141 Bell Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

2. **Construction Completion Schedule.** Work on the Project, once commenced, shall be promptly executed with continuous good faith and reasonable progress. Since timely completion of

this Project is of the essence, the Applicant shall submit for approval a Construction Completion Schedule, which will specify, in detail, the duration and percentage complete of each phase.

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

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

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

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

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

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



**4. Renovation / New Construction.** Pursuant to Section 17.32.6 of the Municipal Code, if for any reason more than 70% of the existing physical structure (not including the greenhouse and storage structure at the rear of the property), as determined by the Building Official, is demolished or destroyed, the building shall conform to new Code requirements, including, but not limited to, the installation of a fire sprinkler system. Should this occur during demolition, a new hearing and public review by the Planning Commission may be required.

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

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

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

**8. 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.

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

Moved by Stehr, Seconded by Henn

Ayes: Kellogg, Robertson, Stehr, Henn

Noes: None

Absent: Levine, Thiel

**Conditional Use Permit  
Non-Residential Sign  
Design Review  
1235 Grand Avenue**

Ms. Sherri McMullen on behalf of McMullen is requesting a conditional use permit and non-residential sign design review for the retail space at 1235 Grand Avenue (formally the Patu store). The conditional use permit application proposes a new women's clothing store to be called McMullen which will sell women's clothing, shoes, jewelry and accessories, in addition to providing personal shopping and closet consultations to clients. The application proposes:

*Days and Hours of Operation:* Monday-Saturday, 11:00 a.m. to 6:00 p.m.; Sunday 12 to 5:00 p.m.

*On-Site Parking:* None

*Staff/Personnel:* Owner, Sherri McMullen; Assistant Manager, Katilin Petersen; additionally one intern per quarter to work two times a week

*Maximum Number of People on Site:* 3 to 5 people

The non-residential sign application proposes a new building-mounted sign with individual cast iron letters that are 18" high, for a total sign length of 6 ft. Two lights, located above the existing awning, are proposed to light the sign from below. Two additional lights existing under the awning are proposed to light the entryway.

Written notice was provided to neighbors.

**Public testimony** was received from:

Sherri McMullen, the applicant, stated she desires to serve the women of Piedmont with a clothing boutique focusing on quality merchandise and customer service. She stated she is offering an internship for students interested in fashion design.

Christopher Edgette stated that he and his wife live directly adjacent to the store. He expressed his support for the project.

The Commissioners were unanimous in their support of the application. Commissioners Robertson and Stehr expressed their support of their project. Commissioner Henn expressed his hope that the business would be successful. Commissioner Kellogg stated he believed the store would be a positive addition to the neighborhood. He stated that the storefront portion of the building has already been approved as a retail outlet, so it is appropriate to have this new store there. He also noted that the sign is simple, clever and well done.

The Commissioners questioned the applicant on the term of the lease. Ms. McMullen stated it is a ten-year lease, commencing on April 15, 2010. The Commissioners determined that they would make a recommendation to the City Council that the term of the conditional use permit be for ten years, starting on April 15, 2010, commensurate with the term of the lease.

**Resolution 38-CUP-10**

WHEREAS, Ms. Sherri McMullen on behalf of McMullen is requesting a Conditional Use Permit to operate a new, up-scale women's boutique clothing store at 1235 Grand Avenue, Piedmont, California, and;

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission recommends that the City Council determine that the project is categorically exempt under the California Environmental Quality Act, as established by Public Resources Code Section 15301, Class 1(1)(3), and that the proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. The use is of benefit to Piedmont residents in that it provides needed service in area which has been established up for retail. Based on the letters received from Piedmonsters, this new use has a great deal of support already;
2. The use will be properly related to other land uses and transportation and service facilities in the vicinity in that the building is currently a retail establishment in a commercial area, and they are continuing the retail use;
3. Under all the circumstances and conditions of the particular case, the use will not have a material adverse effect on the health or safety of persons residing or working in the vicinity in that it

is a continuation of a retail outlet, with no change or adverse effects.

4. The use will not be contrary to the standards established for the zone in which it is to be located because it is proposed in a commercial zone.

5. The use will not contribute to a substantial increase in the amount of noise or traffic in the surrounding area in that the use will replace an existing retail use that has only street parking.

6. The use is compatible with the General Plan and will not adversely affect the character of the surrounding neighborhoods or tend to adversely affect the property values of homes in the surrounding neighborhoods. The use is consistent with the General Plan and if anything, will improve the neighborhood.

7. Adequate provision for driveways to and from the property has been made; facilities for ingress and egress from secondary streets instead of arterials, where possible, have been made; provision for parking in compliance with this Chapter 17 has been made, together with sufficient agreements to enforce the carrying out of such plans as may be required by the Council. There will be on street parking, which is the same as the existing use.

8. The plans conform to all other laws and regulations of the City, provided, however, that the Council shall have the right to require front, rear and side yard setbacks greater than those otherwise provided in the laws and regulations of the City if the Council finds that such larger front, rear and side yard areas are necessary to provide for the health, safety and general welfare of the residents of Piedmont in accordance with its zoning laws. There is no change in the building or physical conditions proposed except for the sign.

RESOLVED, that in consideration of the findings and facts set forth above, the Piedmont Planning Commission recommends approval by the City Council of the application for a conditional use permit by Ms. McMullen on behalf of McMullen for property located at 1235 Grand Avenue, Piedmont, subject to the following condition:

- A 10-year term of the CUP, commensurate with the term of the lease, starting April 15, 2010

Moved by Robertson, Seconded by Stehr

Ayes: Kellogg, Robertson, Stehr, Henn

Noes: None

Absent: Levine, Thiel

**Resolution 39-DR-10**

WHEREAS, Ms. Sherri McMullen on behalf of McMullen is requesting permission to install a new building-mounted sign with individual cast iron letters that are 18" high, for a total sign length of 6 ft. Two lights, located above the existing awning, are proposed to light the sign from below. Two additional lights existing under the awning are proposed to light the entryway located at 1235 Grand Avenue, Piedmont, California, which construction requires non-residential sign 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 sign is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(g) and that the proposal conforms with the criteria and standards of Section 17.19.2 of the Piedmont City Code:

1. A maximum of one sign not required by law is appropriate for this property and for the convenience of the public, and only one sign is proposed for the building which complies;
2. Each sign, including the sign required by law, is simple in design, and in this case the sign is simplistic, with individual cast iron letters;
3. Each sign, including a sign required by law, is compatible in design, color and scale to the front of the building, adjoining structures and general surroundings, and in this case, the letters are simplistic and reflect the building design and store brand;
4. The sign is oriented toward the pedestrian and vehicular traffic in that they are mounted on the front of the building oriented to the traffic;
5. The sign is constructed of sturdy materials, in that they are cast iron.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the sign design review application of Ms. McMullen on behalf of McMullen for sign installation at 1235 Grand Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following condition:

- In accordance with Section 17.19.3 of the City Code, the illumination of the sign shall be turned off when the premises are not open to the public.

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

Moved by Robertson, Seconded by Stehr

Ayes: Kellogg, Robertson, Stehr, Henn

Noes: None

**Variance, Design  
Review & Retaining  
Wall Design Review  
201 Park Way**

Mr. and Mrs. Jim Riddiough are requesting variance, design review and retaining wall design review to substantially alter the existing 2bedroom, 2 bath single-story-over-basement house by adding 992 sq. ft. through a rear addition and lower level excavation for a resulting 2,534 sq. ft. 4 bedroom, 3 bath house with an expanded kitchen, new family room and expanded garage. The proposed construction involves stylistic changes, window and door modifications, new roof with skylights, new exterior lighting, and modifications to the site that include a new driveway, entry path and retaining walls. The requested variance is from Section 17.10.6 to allow the new trellis over the garage and the new front eave to extend to within 15'8" and 16'7" respectively of the front property line in lieu of the code required minimum of a 20 ft. yard setback. A similar application was denied, without prejudice, by the Commission on August 13, 2007.

Written notice was provided to neighbors.

**Public testimony** was received from:

Lisa Riddiough, the applicant, provided a short history of the project including a previous application for a second story addition that was denied by the Commission in 2007. She noted that at the 2007 hearing the Commission urged them to consider a plan that would go down and back and utilize the down-slope topography of the property in a more efficient way. She stated she gave thoughtful consideration to all of the comments and concerns by both the neighbors and the Commission and she understood the concerns of the two- story and the overall design. She stated the plan now is more fitting with the neighborhood and accommodates all the neighbors' concerns for privacy and light. Ms. Riddiough expressed frustration that despite her attempts to solicit the input of the adjacent side neighbors, the

Welmonds and Raymonds, on the current design, the neighbors were uncooperative.

Lisa Joyce, the architect, explained how she developed the project design. She stated she reviewed neighbor and Planning Commission comments, analyzed the needs of the family and topography of the lot and patterns of development in the neighborhood. She stated the design has attempted to protect the privacy of both the Welmonds and the Riddiough family and to preserve the existing rear patio as the outdoor living area. She directed the Commissioners' attention to Sheet A1, a neighborhood site map, included as a handout in their packets, that shows the relative sizes of the existing houses in the neighborhood. She pointed out that the existing house is one of the smallest houses on the street relative to its lot, and the proposed improvements bring it up to the level of neighboring homes. In response to questions by Commissioner Henn, she stated that the property to the west should receive more sunlight as a result of the change from a gable to hip roof and the removal of the chimney.

Jim Riddiough, the applicant, expressed that he and his wife have been conscientious in redesigning a plan that addresses all of the previous concerns of the Planning Commission and the neighbors. He stated he diligently worked to address these concerns and still find the neighbors objecting to the project even though the new design will not adversely affect the neighbors light or privacy. He stated his family is looking to the Commission to affirm their plans to expand their living spaces in a similar way as other neighbors on our street have done. He appealed to the Commission to approve the plan based on its merits.

Andrew Welmond, a neighbor, expressed his strong disapproval for the project. He stated he bought his house at 137 Park Way 36 years ago because of the open views, the circulating air and the sunlight, which are the main appealing characteristics of the house. He stated he is very concerned that the proposed project at 201 Park Way will have an adverse impact on the essentials of a healthy life. He stated if the project is approved, he and his wife will have a tall wall of a two-level or two-story house close to their property with windows and a deck invading their privacy. He stated the towering 20-foot wall and roof tops will deprive them of a visual open space. He stated that not only will they see an invasive wall, but it will also deprive them of sunshine at breakfast time into the kitchen and dining room. He stated that he had submitted photographs. He stated the project will also deprive him and his wife of the benefit of outdoor relaxation and privacy by obscuring the backyard, especially in the morning. He stated that the increased sound levels from the open windows and deck will invade their tranquility and that the addition will

prevent air circulation and sunlight. With a final note that should the project be built the market value of his family's house will be diminished, he reminded the Commission that he has written a letter outlining his concerns, and he requests the Commission review all the concerns and deny the approval of the application.

Commissioner Robertson stated that although the project has good architectural style and design, she believed the Welmond's complaint is valid in that it tends to negatively impact their property's light and privacy. Commissioner Stehr disagreed with Commissioner Robertson. She stated although she agrees that there is some impact to the Welmonds with the project, the project is nevertheless a perfect example of using the topography of the land to obtain the space the applicant is looking for. She stated that the project is modest and should provide the Welmonds with more privacy because it focuses outdoor activity to the east side of the applicants' property. She added that, all things considered and relative to the previous application, that the plans are an excellent solution: the style is not dramatically changed and still fits into the neighborhood; and the hip roof minimizes light interference. Commissioner Henn agreed with Commissioner Stehr. He noted that the proposed plans do reflect the comments the Commission provided when denying the previous application: the addition should be at the rear rather than going up; to use a low-pitch hip roof to minimize visibility impacts on neighbors; and to minimize windows facing neighbors. In addition, he felt that retention of the existing hedge along the west property line would greatly minimize any impacts on the neighboring property. He stated he is in support of the project as proposed unless there is some mitigations the Commission could think of that might improve the situation even more.

Commissioner Kellogg stated that he agreed with some of the comments that have been raised by Commissioners Stehr and Henn, that is that the proposed addition in this size and this mass is not out of scale and not out of keeping with the neighborhood. He stated the plan adds a new bay to the back; it is adding some amount of square footage, but it is well within the limits allowed for the property and it does fit in that scale factor with adjoining homes. He expressed his desire to complement the designer who has taken due note of what was discussed earlier in the last application hearing about the roofing. He stated it is no longer thought of as a new Tudor home on a 1950s street or lot because it is using the hip roof in a positive way to mitigate in some degree the possible impact on the neighborhood. However, he wanted to point out is there is a substantial amount of new work being proposed here: rebuilding the wall completely on the east, completely rebuilding the roof and the second floor. He stated with that kind of magnitude of work, the Commission needs to evaluate whether it the best design that could be placed on that



site. He stated his agreement with Commissioner Robertson in that the project would have an impact on the light and to a degree, the privacy of the Welmonds, noting that the existing tall hedge would help mitigate this impact.

Because there was a 2-2 vote split on whether or not to approve the application, the Commission engaged in a lengthy discussion amongst themselves and with the project architect regarding alternate design options to ensure that all design approaches had been considered so that the light and privacy impacts on neighbors could be minimized. It was noted that the applicant had proposed to remove the tall hedge along the common property line shared with the Welmonds, and several Commissioners expressed concern with that.

In regards to the option of relocating the two-story rear projection to the other side of the lot (away from the Welmonds), or “flipping,” the rear addition to the west side of the property, Ms. Joyce stated that this option was explored but was ultimately rejected because: the resulting outdoor living area would be disconnected from the main level rooms and would be shaded and cold; that it would worsen the privacy and noise impacts on the Welmonds; and that this alternative scheme would require much more excavation. Commissioner Kellogg offered a room flow revision under the “flipped” plan that would address the connection with the outdoor living area and the main and lower level rooms, noting that it would involve the removal or relocation of the office. The neighbors were asked to provide their opinion on the “flipped” plan, and whether they preferred the proposed plans. Mr. Welmond expressed that he did not approve of the plan, noting that the applicants could excavate more space in the basement. Ultimately, Commissioners Stehr and Henn felt that with the elimination of the rear master bedroom deck and the retention of a hedge along the west property line, the proposed construction provided the best design to minimize light, privacy and acoustic impacts on neighboring properties. After much discussion, Commissioner Kellogg agreed to support the application since the alternate plans did not meet the neighbor’s approval, and no material advantage appeared to be obtained with the redesign. He also noted that in approving the project on a 3-1 vote, the Commission would have the ability to add specific conditions to mitigate light and privacy impacts, but with a 2-2 vote, might not be able to, since a split vote means the application is deemed to be approved. He noted that with additional conditions to mitigate impacts, the proposed plans reasonably minimize light and privacy. Commissioner Robertson still felt there was an impact on the Welmonds and was unconvinced that all design options had been fully explored..

#### **Resolution 40-V-10**

WHEREAS, Mr. and Mrs. Jim Riddiough are requesting permission to substantially alter the existing 2 bedroom, 2 bath single-story-over-basement house by adding 992 sq. ft. through a rear addition and lower level excavation for a resulting 2,534 sq. ft. 4 bedroom, 3 bath house with an expanded kitchen, new family room and expanded garage. The proposed construction involves stylistic changes, window and door modifications, new roof with skylights, new exterior lighting, and modifications to the site that include a new driveway, entry path and retaining walls located at 201 Park Way, Piedmont, California, which construction requires variance; and

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

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

1. The 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 house already sits in the front yard setback at 16 feet 20 inches and it is moving to 15 feet 8 inches to the front of the trellis and is slightly larger roof over the entry. The trellis, because of where it is sitting, provides a simple softening of the garage facade. It is not living space. 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 all the houses along the same side of Park Way are similarly situated in the front yard. There is no change to the public welfare with a two-inch greater eave at the front porch and another smaller trellis over the garage.
4. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because these are because these are very minor encroachments into the setback; they are preexisting; the eaves are protective parts of the house and the trellis is a very minor aesthetic addition and will not change the character of the neighborhood nor does it give any advantage to the homeowner or the applicant.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application of Mr. and Mrs. Riddiough for the above variance at 201 Park Way, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

Moved by Stehr, Seconded by Henn

Ayes: Kellogg, Robertson, Stehr, Henn

Noes: None

Absent: Levine, Thiel

#### **Resolution 40-DR-10**

WHEREAS, Mr. and Mrs. Jim Riddiough are requesting permission to substantially alter the existing 2 bedroom, 2 bath single-story-over-basement house by adding 992 sq. ft. through a rear addition and lower level excavation for a resulting 2,534 sq. ft. 4 bedroom, 3 bath house with an expanded kitchen, new family room and expanded garage. The proposed construction involves stylistic changes, window and door modifications, new roof with skylights, new exterior lighting, and modifications to the site that include a new driveway, entry path and retaining walls located at 201 Park Way, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements include but are not limited to: height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment. The

distance between the proposed upper level addition/expansion and adjacent residences is reasonable and appropriate due to the existing topography and neighborhood development. There are no variances for the side additions. The layout is well-designed, making all space useable. And a logical clean simple lines of the new style that provide a well-defined entry. Upper level setbacks greater than the setbacks required for the lower level have been considered and are not necessary to reduce losses of ambient and reflected light, because additionally the hip roof will mitigate the loss of early morning light to the western neighbors. And with regard to the new style: the bulk, mass, scale, neighborhood compatibility and uniform front yard setbacks as a new house it will comply, specifically with Guidelines I-1, I-1(a), I-1(b), I-1(c), I-1(d), I-1, I-2(a), I-2(b), I-2(c), I-2(d), I-5, I-5(b), I-6, I-7, I-8, I-9, I-9(a), I-10, I-11, I-12. It also complies with Guidelines II-1, II-2, II-3(a), II-3(b), II-3(c), II-3(d), II-4, and II-6. And the retaining walls comply with Guidelines IV-1, IV-1(b), IV-2, IV-2(a), IV-3, IV-3(a), IV-5 and IV-6.

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). Considering all other options, the layout being proposed provides sound barriers between the two pieces of property, between the property to the west and the applicants' property, as opposed to having the L-shaped layout on the eastern side, which would focus more of the outdoor activity fence-to-fence with the western property. And the Guidelines the project complies with are exactly the same as stated previously for finding #1.

3. The size and height of the addition is commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and is in keeping with the existing neighborhood development pattern. The existing house is one of the smallest in the neighborhood. The applicants have used the topography to their advantage to create a habitable lower-level infill under the expanded main floor rather than adding a second story. And it complies with the same Guidelines as previously stated.

4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the same parking layout with new conforming garage. The points of ingress and egress are not changed. The onsite parking is brought up to code Sections 17.16.1 and 17.22.1. And there should be no change to the neighborhood once the construction is complete.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the

design review application of Mr. and Mrs. Riddiough for construction at 201 Park Way, 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 February 12, 2010 with additional information submitted on February 23 & 26, 2010, after neighbors were notified of the project and the plans were available for public review.

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

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

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

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

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

b. The Director of Public Works shall, before the Project

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

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

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

5. **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.

6. **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.

a. **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. Said 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. Payment for this shall be provided by the applicant at the time of the Building Permit submittal.

7. **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 Code requirements, including, but not limited to, the installation of a fire sprinkler system. Should this occur during demolition without the prior approval of the Chief Building Official, a new hearing and public review by the Planning Commission may be required. Should Building Official determine that more than 70% of the physical structure will be demolished, the following 3 conditions (a, b and c) shall apply:

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

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

ii. Proceeds from the City Facilities Security shall

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

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

i. The Performance Security shall be in an amount to include all expected costs to complete the Project, plus 25% to cover cost escalation, unexpected expenditures and other contingencies. If, as the Project proceeds, the expected cost to complete the Project increases beyond the original estimate in the opinion of the Director of Public Works, the City may require the Applicant to increase the amount of the Performance Security by such additional amount plus 25%, and Applicant shall provide City with written evidence of compliance within 15 working days after receiving written notice of the additional required amount. The City shall retain, at the Applicant's sole expense, an independent estimator to determine the total expected costs to complete the Project and any subsequent revisions thereto.

ii. The Director of Public Works shall approve the form and amount of the Performance Security, which shall absolutely ensure completion of the entire Project. Performance under the Performance Security shall commence upon demand by the City, conditioned solely on the Director of Public Works' certification on information and belief that all or any specified part of such Performance Security is due and owing to the City. The City shall not be required to prove or otherwise establish in any way that Applicant is in default of any condition, covenant or restriction, or any other prerequisite to the City's entitlement to performance by the provided security.



iii. The Performance Security shall not be released until the entire Project has an approved Final Inspection by the Chief Building Official, provided that if, in the judgment of the Director of Public Works, sufficient work has been completed according to the benchmarks and construction values as established under the Construction Completion Schedule, such Performance Security may be reduced to the extent the Director of Public Works in his sole discretion shall determine is appropriate.

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

8. **Consultant Cost Recovery.** In order to accommodate the scope and nature of the Project proposed by the Applicant, should the City deem it necessary to retain independent consultants with specialized expertise, the Applicant shall, at the time the Director of Public Works deems it to be necessary, make a cash deposit with the City in the amount of \$5,000 to be used to pay for the fees and expenses of such City consultants, or in any way otherwise required to be expended by the City for professional assistance (other than City Staff), in conjunction with the Project, at the discretion of the Director of Public Works. If such cash deposit has been reduced to \$2,500.00 or less at any time, the Director of Public Works may require the Applicant to deposit additional funds to cover any further estimated fees and expenses associated with consultants retained by the City for the Applicant's Project. Any unexpended amounts shall be refunded to the Applicant within 90 days after the Project has an approved Final Inspection by the Chief Building Official.

9. **Property Insurance.** The Applicant shall purchase and maintain property insurance on an "all-risk" policy form, including builder's risk, in the amount of the initial total expected costs to complete the Project, plus the value of subsequent modifications and revisions, comprising total value

for the entire Project on a replacement cost basis without optional deductibles. Such property insurance shall include interests of the Applicant, its contractor, subcontractors and sub-subcontractors in the Project, and shall be maintained until the entire Project has been completed and has an approved Final Inspection by the Chief Building Official.

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

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

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

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

**14. Final Landscape Plan.** The Applicant shall provide a Final Landscape Plan that shows trees proposed for retention as well as any in-lieu trees. Such final plan shall also comply with the provisions of Section 17.17.3 of the Municipal Code, and shall not propose plants near the driveway that could obscure visibility of pedestrians on the sidewalk or vehicles on the street from

drivers backing out of the driveway. The plan should include at least 6-foot tall evergreen shrubs between the applicants' house and the western property that should be maintained for a period of 10 years. The Final Landscape Plan shall be subject to staff review and approval prior to the issuance of a building permit.

**15. California's Water Efficient Landscape Ordinance:** Applicants shall comply with the requirements of California's Model Water Efficient Landscape Ordinance that went into effect January 1, 2010. Should the project meet the ordinance compliance thresholds, the applicants shall submit 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 shall be subject to staff review and approval prior to the issuance of a building permit.

b. Once a building permit has been issued, the applicant 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, a Certificate of Completion, including an irrigation schedule, an irrigation maintenance schedule, and an irrigation audit report shall be submitted to the City and the local water purveyor for review. This Certificate of Completion may be approved or denied by the City.

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

**17.** The balcony at the rear of the master bedroom shall be removed and access from the master bedroom to the rear patio may be provided otherwise.

RESOLVED FURTHER, that the approval of the Planning Commission/City Council and any conditions of that approval

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

Moved by Stehr, Seconded by Henn

Ayes: Kellogg, Stehr, Henn

Noes: Robertson

Absent: Levine, Thiel

**Fence Design Review  
210 San Carlos Avenue**

Mr. Colin Wong and Ms. Valerie Smith are requesting retroactive approval for the construction of a front yard concrete retaining wall and wrought iron guardrail atop adjacent to the existing driveway with a combined maximum height of 7 ft. and for two proposed terraced concrete retaining walls to be located in the front yard facing San Carlos Avenue.

Written notice was provided to neighbors.

**Public testimony** was received from:

The architect appeared and stated in view of the late hour he would answer any questions of the Commission.

Commissioner Robertson stated that the appearance of the unpainted retaining wall and guardrail seemed stark and suggested toe planting as a way to soften the appearance. Commissioners Henn, Stehr, and Kellogg agreed and suggested a landscaping plan be submitted.

**Resolution 41-DR-10**

WHEREAS, Mr. Colin Wong and Ms. Valerie Smith are requesting retroactive permission for the construction of a front yard retaining wall and guardrail atop and two terraced concrete retaining walls in the front yard facing San Carlos Avenue located at 210 San Carlos 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), Article 19 Section 15.300 through 15.329, 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 in that they comply with Guidelines V-1, V-2, V-3, V-5 and V-5(a)(c) where a visual impact of the wall has been mitigated by stepping down on the front part and having appropriate vegetation as a condition of approval, and also Guideline V-9, the fence wall located adjacent to the driveway does not obstruct the view of the driveway.

2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because it really has no impact on that due to its size. Therefore it complies with the foregoing previously-mentioned guidelines.

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 wall and the fence are put in the position where it has no visual impact. So it all complies with the foregoing previously-mentioned guidelines. A condition of approval is because of the starkness of the way the wall is now, the guideline requirement is that vegetation be incorporated into the retaining walls. Another condition of approval is that a landscaping plan be prepared and presented to staff for approval.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Wong and Ms. Smith for construction at 210 San Carlos Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following condition:

1. The applicant shall submit a landscape plan, subject to staff approval, 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 Robertson, Seconded by Stehr

Ayes: Kellogg, Robertson, Stehr, Henn

Noes: None

Absent: Levine, Thiel

**Design Review**  
**140 Ronada Avenue**

Mr. and Mrs. Eric Smit are requesting design review to make various modifications to the residence, including to: convert the entire basement (1,110 sq. ft.) into habitable space to include a bedroom and a den; eliminate a bedroom on the upper level; make window and door modifications on the south and west facades of the main residence and the garage; add new door awnings; add exterior lighting; replace an existing detached trellis with a larger trellis attached to the main house; add a new gate and wall; and make various hardscape changes in the rear yard. A previous rear addition expansion that was approved by the Commission in November 2008 has expired and the current application is a different proposal.

Written notice was provided to neighbors.

**Public testimony** was received from:

Jim Nybakken appeared on behalf of Mark Becker, the project architect, and stated that the current proposal was a scaled back version of an application that was approved by the Commission in November of 2008. He summarized the project as one that gave the Smit family some much-needed usable space in the basement and rear yard through excavation with minimal impacts on the street or neighbors. He described the scope of work, including the interior work, rear yard improvements and window and door modifications. When asked by Commissioner Henn, about any proposals to improve the broken driveway, he replied that the driveway would have to be replaced or repaired to work. Also, when asked about the increase in building height, he explained that due to excavation in the rear yard, the average height of the residence would increase

Commissioner Stehr stated she had this item on the Consent Calendar and she supports the project. She added that this is the perfect way to add on to a house without having any impact on the neighborhood as far as visual, bulk, mass. She stated that the project is still under the floor area ratio and the excavation has the least changes to the neighborhood visually.

Commissioner Henn concurred with Commissioner Stehr that the project has no impacts if you build within the existing walls and roof of the house.

Commissioner Robertson stated it essential that the garage be usable and that a large hedge is blocking the garage at the present time. She added that the windows on the west elevation appear chaotic. Mr. Nybakken clarified that this was due to the taller window being a stairwell window.

Commissioner Kellogg agreed with the comments of the other Commissioners and stated it is better for the applicant to expand or build out the basement level and have it be a positive space, a positive addition to the home, without having a material effect on the neighbors. He stated that the garage needs to be brought back to a usable condition. He pointed out that there is a careful appropriate mitigation of removing one of the bedrooms in the upper level in order to be able to have enough bedroom count to have an additional one in the basement or lower level. He stated with the number of bedrooms in the property you would need two off-street parking spaces if you were going to build the project with a new garage. He added it would be very difficult to get two off-street parking spaces, but there certainly is an ability to have one functional space and recommended that as one of the conditions of approval. He argued that the deep garage may not be enough for tandem parking, but is in effect a big storage locker and was certain that the rear part of the garage shall remain as storage. He wondered if the rest of the Commission would be amenable to segregating the storage space from the garage to make it usable at least as a legitimate one-car garage. The rest of the Commissioners disagreed in that it was outside the scope of work and that potentially two small cars could fit in the existing tandem garage. He was convinced and said that the garage could be made more usable through driveway repairs and concluded that the project was appealing with a well-designed floor plan and addition to the back yard.

#### **Resolution 45-DR-10**

WHEREAS, Mr. and Mrs. Eric Smit are requesting permission to make various modifications to the residence, including to: convert the entire basement (1,110 sq. ft.) into habitable space to include a bedroom and a den; eliminate a bedroom on the upper level; make window and door modifications on the south and west facades of the main residence and the garage; add new door awnings; add exterior lighting; replace an existing detached trellis with a larger trellis attached to the main house; add a new gate and wall; and make various hardscape changes in the rear yard located at 140 Ronada 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 Article 19, Section 15300 through 15329 and 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 which include new windows, awnings, doors, and a trellis that are visible changes and are compatible with the scale, mass and architectural style of the residences in the neighborhood. The major portion of the addition is accomplished through excavation in the basement in the lower level and it complies with Guidelines II-1, II-2, and II-3 with regard to the scale, mass and architectural style. It complies with Guideline II-3(a); nothing will look tacked on; II-3(b), the individual components of the foundation, doors, exterior wall covering, ornamentation, new windows are all components that match architecturally. This applies with Guideline II-3(c); it is carefully integrated into the three-dimensional form and proportional relationships of the existing residence. It is still balanced due to the same shell for the house.

2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light. It has no impact with minor changes to the windows and door location, and it complies with Guideline 2-7, the exterior location of the windows respects the visual and acoustical privacy of residences located on contiguous parcels, including their outdoor yards and open space; and Guideline 2-7A, the window placement, number and size respects the visual and acoustical privacy as just stated.

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 will be used. One of the conditions would be that the driveway be repaired so that the garage is actually usable.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Smit for construction at 140 Ronada Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:



1. Based on the scope and nature of the proposed landscape and development plans, a best management practice plan for construction which complies with the Alameda Countywide Clean Water Program General and Residential Conditions of Approval will need to be developed by the applicant prior to obtaining a building permit;
2. Due to the scope and nature of the application, a construction management plan shall be developed and approved by staff prior to obtaining a building permit. Said plan shall be comprehensive while specifically addressing the duration of the project, construction hours, the staging of materials, and parking of worker vehicles to ensure the free flow of traffic along Ronada Avenue;
3. Compliance with Chapter 9 Article III of the Municipal Code, which governs the recycling of construction and demolition debris, will be required on all phases of this project;
4. The new windows shall be the same color as the remaining windows throughout the residence;
5. The proposed divided light grids shall be true or three dimensional simulated;
6. Any new exterior light fixtures shall be downward directed with opaque or translucent shades that completely cover the light bulbs;
7. The driveway shall be repaired so that the garage is usable; and
8. The garage door shall have an electronically operated garage door opener.

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

Moved by Stehr, Seconded by Robertson

Ayes: Kellogg, Robertson, Stehr, Henn

Noes: None

Absent: Levine, Thiel

**Variance and  
Design Review  
151 Sandringham Road**

Mr. Robert Anderson and Ms. Kimberley Guillen are requesting variance and design review to construct various improvements, including: an approximately 311 sq. ft. main level deck in the rear yard; window and door modifications; and new exterior lighting. The requested variance is from Section 17.10.4 to allow a structure coverage of 42% in lieu of the code permitted maximum of 40%. A similar application was denied without prejudice on January 12, 2009.

Written notice was provided to neighbors.

**Public testimony** was received from:

Frank Bergamaschi, the architect, stated he was asked to help with this project and take all the competing concerns from the prior application and do a proposal that would be acceptable or at least respectful of the concerns of the Commission, the concerns of the applicant, and the concerns of the neighbors. He stated that he reviewed the tapes from the Commission meeting last January, reviewed everything with the applicant, contacted the neighbor at 93 Cambrian which led to some phone calls and e-mail exchanges that continue up to today. He summarized the project changes keeping in mind these competing constraints and various viewpoints. He offered detailed photographs to the Commissioners.

Kim Guillen, the applicant, thanked the Commissioners for their time, attention and candor, and also taking their time to come and see the new design of deck proposal. She stated the Commissioners could see on that visit what her neighbors see -- her challenging yard in the back -- and they could see from the inside of the house how the deck location would work with the interior spaces. She stated the project is important to her family because they cannot enjoy their rear yard as their neighbors do. She stated it is a convoluted two flights to the rear yard, and if you carry food, you don't end up with much of it by the time you get down to the bottom. She added that once you get down to the bottom, it is absolutely never warm. She stated that the architect has designed a deck that maintains the architectural integrity of their home. She mentioned that the request for a variance was due to Building Code and life-safety concerns.

Rena Rickles stated she is representing the applicants in this second time before the Commission. She discussed the definitions of variances and findings and what it takes to justify a finding. She summarized the several reasons why the Commission can rank this variance and that the findings can be made. She discussed what forced the applicants into the variance, and that it was not one thing but taken in combination.

Tanjia Mapes, grandmother to the applicant and neighbor, spoke in support of the project. She stated that one of the reasons the applicants purchased their home was to be near her home. She stated her grandchildren often play at 151, and she is very familiar with the property. She stated the backyard is dark, cold and a deep well. She pointed out that the architect has done a wonderful job addressing privacy, function, and the style of the home. She stated the proposed deck matches in size every deck on the street. Finally, she read into the record a letter of support from the residents at 161 Sandringham Road, who live next door to the applicant.

Reed Bennett-Eisen, the adjacent neighbor at 93 Cambrian, spoke against the project. He stated he is very concerned about the invasion of privacy and negative impacts on their existing views that this deck expansion will create in his backyard and southeast bedrooms. He requested that the Commission deny the application as currently proposed.

Commissioner Robertson stated she believed the project could not be approved as proposed because she couldn't support a variance, and Commissioner Stehr concurred. They agreed that this is not an all-or-nothing proposal and that the applicant could construct a smaller deck, noting that the neighbors at 161 Cambrian have a deck that is only seven feet deep. Commissioner Henn largely agreed and stated that upper-level decks often generate opposition because they are social centers. Commissioner Kellogg stated he agreed with most everything the other Commissioners mentioned.

The Commissioners asked staff about the Building Code matters, and City Planner Kate Black stated that she had discussed this with Bob Akiyama, Plans Examiner, and Chester Nakahara, building Official, who both stated that there were no Building Codes that required the deck to be built as proposed. Ms. Black passed a memo from Chester Nakahara stating so to the Commissioners and made it available to the applicant and members of the public. The Commission then discussed the various aspects of the proposed project, noting that there were several ways the deck could be redesigned without the need for a variance. They indicated a preference for a redesigned deck within the maximum lot coverage limit, constructed within the existing area shown by the existing story poles, with the living portion toward the east (away from 93 Cambrian). They believed the redesigned deck could be approved at a staff level, but to insure that neighbor concerns are heard, they thought it would be appropriate to require the modification to be reviewed through Staff Design Review (which has a formal notice to the neighbors), noting that staff have the ability to refer any design the staff has concerns with to the Commission for final action.

**Resolution 47-V-10**

WHEREAS, Mr. Robert Anderson and Ms. Kimberley Guillen are requesting permission to construct various improvements, including: an approximately 311 sq. ft. main level deck in the rear yard; window and door modifications; and new exterior lighting located at 151 Sandringham Road, Piedmont, California, which construction requires variance; 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 do not present unusual physical circumstances, in that they do not prevent a deck from being built within the allowable area. 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 not compatible with the immediately surrounding neighborhood and the public welfare because it causes the lot coverage to exceed what is allowable without the physical circumstances that would prevent a complying deck from being built.
4. Accomplishing the improvement without a variance is possible and would not cause unreasonable hardship in planning, design, or construction because a smaller deck can be built just as easily as the deck being proposed.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies the variance application of Mr. Anderson and Ms. Guillen for the above variance at 151 Sandringham Road, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Robertson, Seconded by Stehr  
Ayes: Kellogg, Robertson, Stehr, Henn  
Noes: None  
Absent: Levine, Thiel

**Resolution 47-DR-10**

WHEREAS, Mr. Robert Anderson and Ms. Kimberley Guillen are requesting permission to construct various improvements, including: an approximately 311 sq. ft. main level deck in the rear yard; window and door modifications; and new exterior lighting located at 151 Sandringham Road, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to Article 19, Section 15300 through 15329 and Section 15301, Class 1(e) and as conditioned, 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. These elements include the materials, the arrangements of structures on the parcel and the detailing and the way the deck conforms with the existing design elements at the house. And that complies with Guidelines II-1, II-2, II-3, II-3(a), in that the deck will not look tacked on, II-3(b) in that the deck is consistent with the architectural style of the house and it is consistent with the materials, the railings and the ornamentation. It is also consistent with Guideline II-5, in that the deck on the down slope will be integrated with the design of the residence and will be designed in a way that will decrease its effective bulk. It is also compatible with Guideline II-6(b), because it respects the neighboring setbacks.

2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because when it is redesigned with a smaller footprint it will be able to be much less obtrusive and will diminish the effect on the neighboring properties. That will comply with Guideline II-7, in addition to those already mentioned.

3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because the project will have no effect on that.

4. The project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e)

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Anderson and Ms. Guillen for construction at 151 Sandringham Road, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. Due to the scope and nature of the application, a construction management plan shall be developed and approved by staff prior to obtaining a building permit. Said plan shall be comprehensive while specifically addressing the duration of the project, construction hours, the staging of materials, and parking of worker vehicles to ensure the free flow of traffic along Sandringham Road and Cambrian Avenue; and
2. The deck shall be redesigned so that it does not need a variance. The living portion of the deck would be located at the east end of the residence closer to the kitchen (away from 93 Cambrian) to contain most of the noise and activities. The new design, is subject to staff design review. The design that is being approved does not have vertical cross bracing, and if that is going to be required the Commission will have to revisit the design. Concerning whether or not the story poles need to be reset and verified, the Commission leaves the decision to the discretion of the planning staff.

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

Moved by Robertson, Seconded by Stehr

Ayes: Kellogg, Robertson, Stehr, Henn

Noes: None

Absent: Levine, Thiel

## ADJOURNMENT

There being no further business, Chairman Kellogg adjourned the meeting at 12:01 p.m.

