

# PIEDMONT PLANNING COMMISSION

## Regular Meeting Minutes for Monday May 10, 2010

A Regular Session of the Piedmont Planning Commission was held May 10, 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 April 30, 2010.

### CALL TO ORDER

Following the 2010 Design Awards Reception held in the City Hall Courtyard, Chairman Robertson called the meeting to order at 5:30 p.m.

### ROLL CALL

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

Absent: Commissioner Jim Kellogg (excused)

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

City Council Liaison: Councilmember Jeff Wieler

### DESIGN AWARD PRESENTATION

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

- *Best New Home*
- *Best Contemporary Major Remodel*
- *Best Lower Level Expansion*
- *Best Basement Addition*
- *Best Second Story Addition*
- *Best Small Addition*
- *Best Deck*
- *Best Sustainable Design*
- *Best Dual Purpose Pavilion*
- *Best Landscaping*

Chairman Robertson presented the Award for *Best New Home* to **The Hampton House Trust of 393 Hampton Avenue** in recognition of a stunning new home designed with great sensitivity to its natural setting and fine detailing reminiscent of traditional styles of architecture.

Commissioner Stehr presented the Award for *Best Contemporary Major Remodel* to **Mr. and Mrs. Michael Evans of 122 Crocker Avenue** in recognition of a sleek modern residence showcasing exceptional design and construction detail.

Commissioner Levine presented the Award for *Best Lower Level Expansion* to **Mr. and Mrs. Barry Goldstein of 53 Lakeview Avenue** in recognition of a carefully integrated new basement addition with first floor terrace above reflecting and enhancing the existing Italian Renaissance architectural style of the home.

Chairman Robertson presented the Award for *Best Basement Addition* to **Mr. and Mrs. Dan Maidenberg of 124 Ricardo Avenue** in recognition of an ingenious expansion of habitable space on the basement level to preserve the attractive, modest proportions of the existing house and streetscape -- a superb example of subtle, sub-level home expansion.

Commissioner Thiel presented the Award for *Best Second Story Addition* to **Ms. Alison Reed and Mr. Edward Miguel of 109 Ramona** and former owners **Ms. Maryann Tucker and Scott Donahue** in recognition of a brilliantly crafted addition incorporating design details consistent with the Spanish-Mediterranean style residence.

Alternate Commissioner Henn presented the Award for *Best Small Addition* to **Ms. Patricia Gill of 314 Pacific Avenue** in recognition of a seamlessly integrated small addition, consistent in scale, mass and proportion with the existing home.

Commissioner Levine presented the Award for *Best Deck* to **Mr. and Mrs. George Bisharat of 360 Mountain Avenue** in recognition of a well-integrated deck that creates a serene, inviting outdoor living area.

Alternate Commissioner Henn presented the Award for *Best Sustainable Design* to **Ms. Yvonne Williams and Mr. Christopher Rat of 124 Ronada Avenue** in recognition of a second story expansion and rear yard remodel reflecting green building technologies.

Commissioner Stehr presented the Award for *Best Dual-Purpose Pavilion* to **Mr. and Mrs. Greg Bloom of 212 LaSalle Avenue** in recognition of the ingenious creation of 3-car garage which can also be used as an outdoor living recreational area.

Commissioner Thiel presented the Award for *Best Landscaping* to **Mr. and Mrs. Dennis Albers of 48 Lakeview Avenue** in recognition of the creation of a secluded outdoor refuge, greatly improving the outdoor living quality of the property.

## CONSENT CALENDAR

### Fence Design Review 400 Jerome Avenue

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

#### Resolution 110-DR-10

WHEREAS, Mr. Keith Roberts is requesting permission to replace an existing stone retaining wall with a new stucco-sided retaining wall along Jerome Avenue located at 400 Jerome Avenue, Piedmont, California, which construction requires design review; and

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

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

and proposed neighborhood development in that: the new retaining wall will be same height and length of existing retaining wall. New material will be concrete with stucco finish to match existing residence. Brick cap will retain visual continuity between existing to remain and new design.

2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because the new design will be same height as existing 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 3 ft. setback from property line will remain as existing.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Roberts for construction at 400 Jerome Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following condition:

- The approved plans are those submitted on April 22, 2010 with additional information submitted on April 30, 2010, after neighbors were notified of the project and the plans were available for public review.

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

Moved by Levine, Seconded by Stehr

Ayes: Levine, Robertson, Stehr, Thiel, Henn

Noes: None

Absent: Kellogg

## **PUBLIC FORUM**

There were no speakers for the public forum.

## **APPROVAL OF MINUTES**

### **Resolution 7-PL-10**

RESOLVED, that the Planning Commission approves as submitted its meeting minutes of April 12, 2010.

Moved by Henn, Seconded by Stehr

Ayes: Robertson, Stehr, Henn

Noes: None

Abstain: Levine, Thiel

Absent: Kellogg

## **REGULAR CALENDAR**

The Commission considered the following items of regular business:

### **Design Review & Retaining Wall**

Mr. and Mrs. Steve Lucas are requesting design review and retaining wall design review to demolish the existing garage, front covered patio, greenhouse

**Design Review  
123 Florada Avenue**

and trash enclosure; construct a new conforming 2-car garage with roof deck in the west side yard; and stylistically alter and enlarge the existing 2,285 sq. ft. 2-story residence by adding approximately 2,039 sq. ft. of habitable space through a second story addition, basement expansion, and window and door modifications. The resulting 3-story residence is proposed to have 4 bedrooms; 3 full baths, 2 half baths, a family room, office, gym, laundry room, living room, dining room, kitchen, study, front and side and rear trellises, and upper level front and east side terraces. Proposed site improvements include: a new driveway, curb cut, retaining walls, entry path, landscaping and exterior lighting.

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

**Public testimony** was received from:

Steve Lucas described the proposed significant upgrade of the 70-year old home to improve its foundation and drainage situation, create a more functional basement and transform the existing non-descript architectural character of the home to a traditional style more in keeping with the neighborhood. He stated that pre-existing setback variance situations are being eliminated by the proposed upgrade.

The Commission agreed that the project is beautifully designed and reflects a tremendous upgrade of the property without adversely impacting neighboring properties. Commissioner Thiel encouraged the applicant to consider installing a different roof material than the proposed asphalt shingles, believing that the asphalt shingles detract from the overall beauty and quality of the upgrade. It was noted that a change in roof material could be handled at staff level. Commissioner Levine also questioned whether the application should be considered under the "New House" designation given the extent of the renovation. He agreed that the application was acceptable either as a New House or Major Remodel, noting that the only difference would be if certain Building Code requirements would be triggered under a "New House" classification. In the end, the Commission agreed to leave it to the Building Official to determine if the project should be considered as a "New House" or "Major Remodel."

**Resolution 46-DR-10**

WHEREAS, Mr. and Mrs. Steve Lucas are requesting permission to demolish the existing garage, front covered patio, greenhouse and trash enclosure; construct a new conforming 2-car garage with roof deck in the west side yard; and stylistically alter and enlarge the existing 2,285 sq. ft. 2-story residence by adding approximately 2,039 sq. ft. of habitable space through a second story addition, basement expansion, and window and door modifications located at 123 Florada Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e) and 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. As a major remodel, the project complies with Design Review Guidelines II-1 through II-7. If it is determined that the project should be classified as a "New House," it complies with Design Review Guidelines I-1 through I-12. In addition, the project either as a Major Remodel or New House complies with Design Review Guidelines III-2 through III-7 and IV-1 through 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), including the expansion partially within the existing envelope and lower level excavation.

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. and Mrs. Lucas for construction at 123 Florada 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. **C&D Compliance.** Compliance with Chapter 9 Article III of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project.
5. **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.

6. **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, Florada Avenue and La Salle 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.

7. **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.

8. **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.

9. **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.

10. **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.

11. **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.

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

13. **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 Final Landscape Plan shall be subject to staff review and approval prior to the issuance of a building permit.

14. **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.

15. **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.

16. **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.

17. **Exterior Light Fixtures.** All exterior wall and eave mounted light fixtures shall be downward-directed with an opaque or translucent shade that completely covers the light bulb.

18. The bridge at the curb at the existing driveway shall be removed.

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

Moved by Levine, Seconded by Henn

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

**Design Review  
205 Ricardo Avenue**

Mr. Mike Abell is requesting design review to change the roof material for the house and garage to a standing-seam panel metal roof. This original Staff Design Review Application is being deferred to the Commission for review and action.

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

**Public testimony** was received from:

Mike and Judy Abell submitted photographs of other homes with standing-seam metal roofs in support of their contention that the proposed roof is attractive and appropriate for their residence. They emphasized that the metal roof is 30% more energy efficient than standard asphalt shingles, is longer lasting and will not be readily visible from the street; although emphasizing their opinion that the proposed roof is quite attractive.

The Commission had no objection to metal roofs per se, agreeing that they represent new green building technology. However, the Commission, with the exception of Commissioners Robertson and Stehr, felt that the proposed standing-seam design of the roof was architecturally incompatible with the existing house. The Commission majority felt that perhaps a different type of metal roof, such as a clay tile style, would be more appropriate. Commissioners Robertson and Stehr felt that the simple, clean lines of the standing-seam roof was compatible with the home's architecture and its gray color was unobtrusive.

**Resolution 104-DR-10**

WHEREAS, Mr. Mike Abell is requesting permission to change the roof material the house and garage to a standing-seam panel metal roof located at 205 Ricardo 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) but that the proposal does not conform with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

- the proposed improvement does not comply with Design Review Guideline II-3 and II-3(b) in that standing-seam configuration of the proposed roof is architecturally inconsistent with the existing residence and does not relate to other architectural elements on the house.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies, without prejudice, the design review application of Mr. Abell for construction at 205 Ricardo Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Thiel, Seconded by Henn

Ayes: Levine, Thiel, Henn

Noes: Robertson, Stehr  
Absent: Kellogg

The City Planner stated that staff is in the process of drafting proposed revisions to the planning code to address new green building technologies, such as metal roofs. She encouraged the public to provide input regarding this issue.

**Variance and Second  
Unit Permit with  
Parking Exception  
30 Echo Lane**

Mr. and Mrs. David Kumamoto are requesting variance to create a new bedroom and bath within the northern portion of the existing space in the lower level of the house without providing conforming parking. A separate application has been submitted requesting permission to construct a new 400 sq. ft. very low income second unit within the southern portion of the existing lower level with a parking exception. No exterior alterations of the existing building or garage are proposed. The requested variance is from Chapter 17 to allow construction of a new room that is eligible for use as a bedroom for a residence with two covered parking spaces each measuring 17'7" by 17'2" in lieu of the code required minimum parking dimension of 9 ft. by 20 ft.

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

**Public testimony** was received from:

David and Tram Kumamoto stated that the intent of the project is to create a small second unit to be rented by their daughter's gymnastic coach. As to parking, they stated that because Echo Lane is a cul-de-sac, there is very little traffic flow. However, there is some on-street parking along Echo Lane and Abbott Way and also in front of their garage. They also described their proposed master bedroom addition, noting that no exterior changes to the residence are involved with this improvement.

The Commission supported project approval, noting that the applicant's existing 2-car garage can accommodate the parking of two vehicles and is used for parking. The variance is triggered because this existing garage is shorter than the code required dimension but the garage does function as a 2-car parking structure. The Commission also supported the creation of the low-income second unit as well as the master bedroom expansion, agreeing that they represent good use of existing space. The Commission noted there is on-street parking available for this second unit.

**Resolution 105-V-10**

WHEREAS, Mr. and Mrs. David Kumamoto are requesting permission to create a new bedroom and bath within the northern portion of the existing space in the lower level of the house located at 30 Echo Lane, Piedmont, California, which construction requires variance; and

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

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

1. The 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 property has an existing 2-car garage that accommodates the parking of two vehicles. 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 as follows because a 3 to 4-bedroom home with two covered, off-street parking spaces is allowable under the code.
4. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because the existing garage accommodates the parking of two vehicles and lengthening this garage to conform with code dimensions would not improve the structure's current capacity to park two vehicles. This extra length would be for storage space which is currently available underneath the garage and hence is not needed. Lengthening the garage would also adversely impact the kitchen stairway configuration.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application of Mr. and Mrs. Kumamoto for the above variance at 30 Echo Lane, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. 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. Applicant shall implement stormwater treatment Best Management Practices 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;
3. 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, offices 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;

4. Compliance with Chapter 9 Article III of the Municipal Code, which governs the recycling of construction and demolition debris, will be required on all phases of this project. As a Covered project, this project is eligible to participate in the Incentive Program in which the City will provide one-half the cost of debris boxes provided by the City's franchised waste hauler and used exclusively for the purpose of removing recyclable construction and demolition debris;

5. At permit submittal, the following shall be required:
- a. A one-hour floor/ceiling assembly between the dwelling units and a one-hour wall between the dwelling units; and
  - b. STC 50 sound rating required in floor/ceiling and wall assemblies separating dwelling units;

6. Egress window verification will be required for the new bedroom in the main unit

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: Levine, Robertson, Stehr, Thiel, Henn

Noes: None

Absent: Kellogg

**Resolution 106-SU-10**

WHEREAS, Mr. and Mrs. David Kumamoto are requesting permission to construct a new 400 sq. ft., very low income second unit within the southern portion of the existing lower level located at 30 Echo Lane, Piedmont, California, which construction requires a second unit permit and parking exception; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e) and the proposal conforms with the criteria and standards of Sections 17D.5 and .6 of the Piedmont City Code:

1. The parking exception will not be detrimental to the health, safety or general welfare of persons residing in the neighborhood and will not negatively impact traffic safety or emergency vehicle access to residences or create hazards by obstructing view to or from adjoining sidewalks and streets. While on-street parking is somewhat limited in the area, there is on-street parking available on Abbott Way and Maxwellton Road.

2. The parking exception will not adversely affect the character of the surrounding neighborhood. One more car will not change existing neighborhood conditions.
3. There is sufficient street parking available to accommodate the parking exception and the second unit is located within 1/2 mile of a public transit stop, either at Highland/Moraga; Harvard/Moraga or Maxwellton/Harvard.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the second unit with parking exception application of Mr. and Mrs. Kumamoto for construction at 30 Echo Lane, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. In compliance with Section 17D.5(g), prior to the issuance of a building permit, the completed, signed and notarized *Declaration of Restrictions - Property with Approved Second Dwelling Unit* form shall be recorded;
2. In compliance with Section 17D.6(d), prior to the issuance of a building permit, the completed, signed and notarized *Declaration of Rent Restrictions for Second Unit Affordable to Very Low Income Households* form shall be recorded;
3. In compliance with Section 17D.6(d), prior to the occupation of the second unit, the completed, signed and notarized *Rent-Restricted Second Unit Affordable Rent Certification* form shall be submitted. The form shall be submitted annually to provide evidence of continued compliance with the California Department of Housing and Community Development State Income Limits for Alameda County;
4. The second unit shall remain a very low income rent-restricted unit per the California Department of Housing and Community Development State Income Limits, adjusted annually for a period of 10 years from the date of this approval. Thereafter, the unit shall no longer be required to be a rent-restricted unit, but may continue to be used as a second unit;
5. The annual City of Piedmont rental tax is waived for the first year. Thereafter, the property owners shall annually comply with all required rental taxes and fees;
6. Egress window verification will be required in the second unit bedroom;
7. Compliance with conditions 1-6 if the second unit application (#10-0106) is approved and application #10-0105 for a variance is not approved.

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

**Fence Design Review  
455 Wildwood Avenue**

Mr. and Mrs. Michael Hebrard are requesting fence design review to make various front yard improvements, including to: construct a new wrought iron fence with stucco pilasters; install a new driveway gate; add exterior lighting; and other landscape modifications.

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

**Public testimony** was received from:

Doug McQuillan, Project Architect, described the proposed project, stressing that front yard fences and gates are quite common along Wildwood Avenue. He noted that the proposed design of the fence compliments the 1900's era craftsman style of the residence and there will be no change in existing vehicle/pedestrian access to the property.

Rachelle Hebrard stated that the proposed wrought iron fence will replace an existing hedge. The fence is for the safety and security of her children and dogs to prevent them from running into the street.

The Commission, with the exception of Chairman Robertson, supported application approval, agreeing that there are numerous fences and walls of similar height along the street, the design of the fence is attractive and more open than the current hedge barrier, and the height of the fence is appropriate given the size and scale of the house and the slope of the property. The Commission majority felt that a lower height fence would be architecturally out of proportion with the tall house. Chairman Robertson felt that there was no compelling reason for a 6 ft. fence height on an upsloping lot and that the setback nature of the fence was out of character with other fences along the street.

**Resolution 109-DR-10**

WHEREAS, Mr. and Mrs. Michael Hebrard are requesting permission to make various front yard improvements, including to: construct a new wrought iron fence with stucco pilasters; install a new driveway gate; add exterior lighting; and other landscape modifications located at 455 Wildwood Avenue, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that the proposed fence is elegant and attractive in design, is similar to other fences in the neighborhood and complies with Design Review Guidelines V-1.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because of the open character of the design. The proposed fence provides a more open view into the



yard than existing conditions. The project complies with Design Review Guideline V-5.

3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because the proposed fence replaces an existing hedge. There is no impact.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Hebrard for construction at 455 Wildwood Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

Moved by Henn, Seconded by Stehr

Ayes: Levine, Stehr, Thiel, Henn

Noes: Robertson

Absent: Kellogg

**Variance, Design  
Review & Fence  
Design Review  
128 Indian Road**

Mr. John Shrewsberry and Ms. Erecia Miller are requesting variance, design review and fence design review to demolish the existing garage and fencing across the driveway; construct a new 4-car garage with half-bath, covered breezeway and garbage enclosure; replace the exterior siding and window on the house's north dormer; make various hardscape and landscape improvements throughout the property including new fencing and retaining walls; add exterior lighting and make various changes to the interior including a reduction from 11 to 9 in the number of rooms eligible for use as a bedroom. The requested variance is from Section 17.10.6 to allow the eave of the new garage to extend 4 ft. into the private north street setback in lieu of the 20 ft. required setback.

Written notice was provided to neighbors. **Two affirmative response forms** were received. **Correspondence** was received from; Dale Block, May 7; Margaret Thomas, May 7.

**Public testimony** was received from:

John Shrewsberry stated that he has spent the last 4 years upgrading the interior of the old home and is now turning his attention to the yard. He noted that the intent of the improvements is to restore the original architectural character and integrity of the large property by building a more architecturally consistent garage than the existing structure. He also stated that he is prevented from accessing his garage structure from the private road bordering most of his property.

Bennett Christopherson, Project Architect, explained the design elements of the proposal intended to correct aesthetic deficiencies from previous renovations and

stated that the garage skylights would be clear glass (not white or frosted) to eliminate night glow intrusions. These skylights are intended to provide natural light to the garage interior, thus eliminating the need for windows in the garage doors and walls. He also reviewed alternative sites examined for new garage locations, noting that the proposed site offers the best aesthetics from Indian Road, minimizes hardscape as well as preserves an existing large oak tree. He also stated that the proposed garage turnaround plan complies with the City's guidelines.

The Commission acknowledged the unusual "flag lot" characteristics of this large property, the hardship caused by a third of the property being bordered by a private roadway and the inability of the applicant to access his garage from this roadway. The Commission agreed as to the attractiveness of the proposed plan. There was considerable Commission discussion as to whether variance approval could be justified in this situation given the large size of the property and possible options for locating either the proposed garage outside of the 20 ft. setback or constructing two 2-car garages on the property to satisfy code parking requirements. In the end the Commission agreed that the proposed plan and location for the garage was the best in terms of property aesthetics, minimizing hardscape, for preserving a very large oak tree which provides privacy to both the applicants and their neighbors and is the least intrusive option for neighbors. During the discussion, the Commission agreed that the private street on which the property's extensive 20 ft. setback is predicated is in actuality a shared driveway for four houses -- the roadway doesn't have a name or address associated with it. Therefore, if this roadway is considered a shared driveway, the applicant's garage plan indicating a 4 ft. setback from this pavement is in accordance with the City Code.

**Resolution 111-V-10**

WHEREAS, Mr. John Shrewsberry and Ms. Ereca Miller are requesting permission to demolish the existing garage and fencing across the driveway; construct a new 4-car garage with half-bath, covered breezeway and garbage enclosure; replace the exterior siding and window on the house's north dormer; make various hardscape and landscape improvements throughout the property including new fencing and retaining walls; add exterior lighting and make various changes to the interior including a reduction from 11 to 9 in the number of rooms eligible for use as a bedroom located at 128 Indian Road, Piedmont, California, which construction requires variance; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary in order to construct within the 20 ft. north private street 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 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 presence of a private driveway. The plans indicate a 4 foot setback from this roadway which is compliant with City Code requirements. The entire 450 ft. of the east and north side of the property face this private driveway and the Commission has determined that this

private roadway is a driveway rather than street. Because of these circumstances, strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone which conform to the zoning requirements.

3. The variance is compatible with the immediately surrounding neighborhood and the public welfare because there are existing structures on this property within the 20 ft. setback and the proposed plan is simply trading the location of a garage from one location to another.

4. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because the roadway necessitating the 20 ft. setback is really a private driveway rather than street.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application of Mr. Shrewsberry and Ms. Miller for the above variance at 128 Indian Road, 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: Levine, Robertson, Stehr, Thiel, Henn

Noes: None

Absent: Kellogg

#### **Resolution 111-DR-10**

WHEREAS, Mr. John Shrewsberry and Ms. Erecia Miller are requesting permission to demolish the existing garage and fencing across the driveway; construct a new 4-car garage with half-bath, covered breezeway and garbage enclosure; replace the exterior siding and window on the house's north dormer; make various hardscape and landscape improvements throughout the property including new fencing and retaining walls; add exterior lighting and make various changes to the interior including a reduction from 11 to 9 in the number of rooms eligible for use as a bedroom located at 128 Indian Road, Piedmont, California, which construction requires design review; and

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

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

and proposed neighborhood development in that the proposed improvements comply with Design Review Guidelines II-3, II-3(b) through (d), II-4, II-6(a), II-7, III-1, III-2, III-2(a), III-3, III-4, III-5, III-5(a), III-6, III-6(a), III-7, III-7(a), V-1, V-2, V-4, V-5, V-5(a) & (b), V-6, V-7, V-8, V-9, V-10 and V-11. The proposed improvements create a cohesive overall design that is appropriate with the scale and architecture of the existing house.

2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because the single-story garage is located at least 24 ft. away from neighboring properties and complies with the above-referenced 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 circulation patterns remain unchanged. The project complies with Design Review Guidelines III-7, III-7(a), V-7, V-8, V-9 and V-10.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Shrewsberry and Ms. Miller for construction at 128 Indian Road, 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. **Stormwater Design.** Because this Project anticipates the addition or replacement of more than 10,000 square feet of impervious surface, the Applicant shall prepare a stormwater management plan prior to obtaining a building permit. Wherever possible and to the maximum extent practicable, the plan shall incorporate site design practices and measures to promote infiltration of stormwater and reduce the amount of impervious surface on the site as outlined in the following documents: The Bay Area Stormwater Management Agencies Association's (BASMAA) "Start at the Source" design guidance manual, which is available in PDF format at [www.cleanwaterprogram.org/businesses\\_developers.htm](http://www.cleanwaterprogram.org/businesses_developers.htm); BASMAA's "Permanent Post-Construction Stormwater BMP Fact Sheets;" or the State of California Best Management Practices Handbooks.

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. **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.

7. **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. **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.

9. **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.

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

11. **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.

12. **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 applicant 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.

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

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

15. The new garage doors shall be electronically operated.

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

Moved by Stehr, Seconded by Thiel

Ayes: Levine, Robertson, Stehr, Thiel, Henn

Noes: None

Absent: Kellogg

## ADJOURNMENT

There being no further business, Chairman Robertson adjourned the meeting at 8:10 p.m.

