

**City of Piedmont
COUNCIL AGENDA REPORT**

DATE: June 6, 2005
FROM: Kate Black, City Planner
SUBJECT: **Conditional Use Permit for “Patu” at 1235 Grand Avenue**

RECOMMENDATION:

1. Approve the Planning Commission’s recommendation of approval of the conditional use permit for a term of 10 years; and
2. Adopt the Planning Commission’s findings (page 3) by reference.

APPLICATION SUMMARY:

The applicant, Bijan Zahidi, requests a Conditional Use Permit and Sign Design Review to convert the existing Grand Avenue Rug Gallery store to a mid- to high-end imported household bed and bath linens and accessories retail store called Patu. The applicant proposes to occupy the entire ground level of the building with the new bed and bath store, but proposes to continue using the existing mezzanine space for the repair of Persian rugs. No physical changes to the store or mezzanine are proposed, so design review is not required. A sign application was submitted concurrently with the conditional use permit application, and on May 9, 2005, the Planning Commission approved a new sign for the front of the building.

1235 Grand Avenue is unusual in that it is possibly Piedmont’s only mixed-use development with retail on the ground and mezzanine levels at the front of the property, and a single-family residence above and to the rear of the property. One garage parking space exists on the site with access from Grand Avenue.

The applicant wishes to change the existing retail use as a rug store (covered under a prior conditional use permit), to a new retail use selling imported bed and bath accessories. Such a change requires a new conditional use permit. The applicant has submitted a business overview (Exhibit D, page 34) that describes the proposed new store, along with a parking analysis prepared by a Rug Gallery employee (Exhibit E, page 36).

More detailed information in response to the specific application form questions, are provided by the applicant **in bold**:

1. Days and Hours of Operation: **9:00 AM to 6:00 PM Monday through Saturday - closed Sunday.**
2. Number of On-Site Parking Spaces: **None**
3. Maximum Number of People Using Business/Organization at One Time: **7-10**
4. Type(s) of Staff/Personnel, Number of Each: **Manager is full time; stock clerk and computer/bookkeeper are Piedmont High School Students working after school and Saturday each part time 20/hours a week.**
5. Projected Busiest Hours/Days: **Saturday 11:00 AM to 3:00 PM**
6. Potential Neighborhood Impacts: **No change from the existing.**
7. Anticipated Gross Annual Revenue: **\$500,000**

CONDITIONAL USE COMPLIANCE - ZONE D:

The proposed use is located in Zone D. According to Section 17.8.1 of the City Code: *A Zone D is established to regulate and control commercial development in appropriate areas of the City, which will serve the residents of the City, consistent and in harmony with the character of existing and proposed development in the neighborhood and adjacent residential areas. Commercial uses which will serve the residents of the City are those uses which residents would be expected to use on a regular basis. They do not include uses which would be expected to draw the major portion of their clientele from outside the City of Piedmont and the surrounding area.*@

In accordance with Section 17.8.3, retail uses of a type which will primarily serve City residents are allowed as conditional uses in Zone D. Section 17.24.2 (b) of the Piedmont City Code, requires that a conditional use permit be obtained or renewed prior to a change in actual existing use.

PLANNING COMMISSION ACTION:

In accordance with Piedmont City Code, the Planning Commission held a hearing on the application on Monday, May 9, 2005. As noted in the attached meeting minutes (Exhibit A, page 6), the Commission unanimously recommended approval of the proposed conditional use permit, for a term of ten years.

During the Commission deliberations, the Commission noted that the applicant has successfully operated a commercial business at the site since 1987 and that a specialty linen boutique will provide a convenient and useful service to Piedmont residents since there is no other bed and bath store nearby.

PLANNING COMMISSION FINDINGS:

In making their recommendation of approval, the Commission recommended the following findings for approval, which were adapted from the applicant's findings (indicated in bold):

1. The use is of benefit to Piedmont residents. **The applicant has operated a commercial retail business at this site for 18 years, during which time he has provided and will continue to provide employment opportunities for Piedmont students as well as high end goods to Piedmont residents.**
2. The use will be properly related to other land uses and transportation and service facilities in the vicinity **because this is an existing retail site in a commercially zoned area.**
3. Under all the circumstances and conditions of the particular case, the use will not have a material adverse effect on the health or safety of persons residing or working in the vicinity. **This is an existing retail site in a commercially zoned area and the proposed change in merchandise will have no new impact.**
4. The use will not be contrary to the standards established for the zone in which it is to be located. **This site is commercially zoned and has operated as a retail establishment for over 18 years.**
5. The use will not contribute to a substantial increase in the amount of noise or traffic in the surrounding area. **This is an existing retail site in a commercially zoned area and the proposed change in merchandise will have no new impact.**
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. **This site is commercially zoned and has operated as a retail establishment for over 18 years.**
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. **The proposed retail use is similar to the existing retail use established by the original use permit and the new use will comply with the parking conditions established by the original approval.**
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. **No changes will occur to the exterior of the building.**

CONDITIONAL USE PERMIT CRITERIA AND PROCEDURES:

Conditional uses which serve the residents of the City are those uses which residents would be expected to use on a regular basis. They do not include uses which would be expected to draw the major portion of their clientele from outside the City of Piedmont and the surrounding area.

Section 17.24 of the City Code sets forth the procedures and approval criteria for conditional use permits:

Determination. In accordance with Section 17.24.5 of the City Code, the Planning Commission and City Council shall make their determinations on the individual merit of each application without following or establishing precedent. The primary basis for approval or denial shall be the general good of the City.

Procedure. In accordance with Section 17.24.4 of the City Code, after reviewing all of the application information and testimony provided at the hearing, the Planning Commission will make a recommendation to the City Council that the permit be approved or denied. The Commission may recommend modifications to the permit or conditions of approval as necessary to preserve the health, safety, general welfare, beauty, and tranquility of the City, and may recommend a specific expiration date of the permit. If no date is specified, the term shall be one year, pursuant to Section 17.24.7 (b).

According to Piedmont City Code Section 17.24.8, the City Council shall hold a hearing to consider the recommendation of the Planning Commission and any further evidence regarding the application and either approve or disapprove the Conditional Use Permit request. To approve the application for a conditional use permit the City Council must make findings to support all of the following standards (it is recommended that the Council adopt the Planning Commission's findings on page 3):

- (a) The use is of benefit to Piedmont residents because;
- (b) The use will be properly related to other land uses and transportation and service facilities in the vicinity because;
- (c) 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 because;
- (d) The use will not be contrary to the standards established for the zone in which it is to be located because;
- (e) The use will not contribute to a substantial increase in the amount of noise or traffic in the surrounding area because;
- (f) 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 because;
- (g) 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; and

(h) 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.

CLEANWATER CONSIDERATIONS

The proposed project will not create *or replace* more than 5,000 square feet of impervious surfaces and will not result in any significant changes to water runoff at the site. Implementation of stormwater treatment Best Management Practices (BMPs) as well as the Bay Area Stormwater Management Agencies Association's *Start at the Source* criteria for stormwater quality protection is not necessary.

CEQA COMPLIANCE

The proposed project is Categorically Exempt from the provisions of the California Environmental Quality Act pursuant to Article 19, Sections 15300 through 15329.

PERMIT STREAMLINING ACT:

This application was submitted on April 5, 2005 and was deemed complete on May 5, 2005. Under the Permit Streamlining Act, the City Council must either approve or disapprove the application by the June 20, 2005 meeting.

Date Report Prepared: Wednesday, June 1, 2005

EXHIBITS IN PACKET:

Exhibit A, page 6	Planning Commission Meeting Minutes
Exhibit B, page 10	Neighborhood/Public Comments
Exhibit C, page 31	Application Form
Exhibit D, page 34	Business Overview
Exhibit E, page 36	Parking Survey
Exhibit F, separate	Architectural Plans

PIEDMONT PLANNING COMMISSION

Special and Regular Meeting Minutes for Monday, May 9, 2005

A Special and Regular Session of the Piedmont Planning Commission was held May 9, 2005, in the City Hall Conference Room and 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 25, 2005.

CALL TO ORDER

Chairman Greenman called the Special Session to order at 5:00 p.m.

ROLL CALL

Present: Commissioners Arleta Chang, Marty Greenman, Tamra Hege, Jonathan Levine, Suzanne Summer and Alternate Commissioner Clark Thiel

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

Sign Design Review 1235 Grand Avenue

Resolution 117-DR-05

WHEREAS, Mr. Bijan Zahiti, on behalf of PATU, is requesting permission to convert the existing Grand Avenue Rug Gallery store to an imported mid-to high-end household bed and bath linens and accessories retail store called PATU located at 1235 Grand Avenue, Piedmont, California, which conversion requires 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 proposal conforms with the criteria and standards of Section 17.19.2 of the Piedmont City Code:

1. The design of the improvement is desirable because only one new sign is being proposed.
2. The proposed sign is simple in design. Graphic depictions related to the non-residential use are appropriate.
3. The sign is compatible in design, color and scale to the front of the building, adjoining structures and general surroundings.
4. The sign is oriented toward the pedestrian and vehicular traffic.
5. The sign is constructed of sturdy materials.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the sign design review application of Mr. Zahiti, on behalf of PATU, for new signage at 1235 Grand 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

**Conditional Use Permit
1235 Grand Avenue**

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.

Mr. Bijan Zahiti, on behalf of PATU, is requesting a conditional use permit to convert the existing Grand Avenue Rug Gallery store to an imported mid- to high-end household bed and bath linens and accessories retail store called PATU. The applicant proposes to occupy the entire ground level of the building with the new bed and bath store but proposes to continue using the existing mezzanine space for the repair of Persian rugs. No physical changes to the store or mezzanine are proposed but the applicant is proposing a new sign.

Written notice was provided to neighbors. **Six affirmative and one negative response forms** were received. **Correspondence** was received from: Elizabeth Silver, dated April 22; Christopher York, May 6; E.P. Anderson, May 2.

Public testimony was received from:

Bill Kendrick, Project Architect, stated that the application proposes a minor merchandise change in the commercial retail use of the property with no reconfiguration of the space and no exterior changes with the exception of a new sign.

Charles Lee and David Moe, Piedmont High School students, who are part-time employees of Mr. Zahiti, urged application approval, stressing that Mr. Zahiti has hired Piedmont students for years as a means of providing students with invaluable business experience. They noted that Mr. Zahiti requires his employees to park on Fairview Avenue, away from Grand Avenue residences. Mr. Moe also referenced a parking survey he conducted of the area, indicating that on average, Grand Avenue parking spaces turn over every 15 minutes.

The Commission supported CUP renewal, agreeing that Mr. Zahiti has operated a commercial business at the site since 1987 and that a specialty linen boutique will provide a convenient and useful service to Piedmont residents since there is no other bed and bath store nearby.

Resolution 116-CUP-05

WHEREAS, Mr. Bijan Zahiti, on behalf of PATU, is requesting a Conditional Use Permit to operate an imported mid- to high-end household bed and bath linens and accessories retail store called PATU at 1235 Grand Avenue, Piedmont, California, and;

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

The Piedmont Planning Commission makes the following findings:

1. The use is of benefit to Piedmont residents. The applicant has operated a commercial retail business at this site for 18 years, during which time he

has provided and will continue to provide employment opportunities for Piedmont students as well as high end goods to Piedmont residents.

2. The use will be properly related to other land uses and transportation and service facilities in the vicinity because this is an existing retail site in a commercially zoned area.

3. Under all the circumstances and conditions of the particular case, the use will not have a material adverse effect on the health or safety of persons residing or working in the vicinity. This is an existing retail site in a commercially zoned area and the proposed change in merchandise will have no new impact.

4. The use will not be contrary to the standards established for the zone in which it is to be located. This site is commercially zoned and has operated as a retail establishment for over 18 years.

5. The use will not contribute to a substantial increase in the amount of noise or traffic in the surrounding area. This is an existing retail site in a commercially zoned area and the proposed change in merchandise will have no new impact.

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. This site is commercially zoned and has operated as a retail establishment for over 18 years.

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. The proposed retail use is similar to the existing retail use established by the original use permit and the new use will comply with the parking conditions established by the original approval.

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. No changes will occur to the exterior of the building.

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 Mr. Zahiti on behalf of PATU for property located at 1235 Grand Avenue, Piedmont, subject to the following conditions:

- A term of 10 years.

Moved by Hege, Seconded by Summer

Ayes: Chang, Hege, Levine, Summer, Clark

Noes: None

Recused: Greenman