

## **PIEDMONT PLANNING COMMISSION**

### **Regular Meeting Minutes for Monday October 8, 2007**

A Regular Session of the Piedmont Planning Commission was held October 8, 2007, 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 September 24, 2007.

#### **CALL TO ORDER**

Chairman Thiel called the meeting to order at 5:00 p.m. He announced that Agenda Item #3 (Variance/Design Review, 312 Blair Avenue) has been deemed incomplete and withdrawn from tonight's consideration. Also, Agenda Item #15 (Second Unit Code Change) has been rescheduled to a future meeting.

#### **ROLL CALL**

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

Absent: Commissioner Jonathan Levine

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

City Council Liaison: Mayor Nancy McEnroe

#### **CONSENT CALENDAR**

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

##### **Non-Residential Sign Design Review 335 Highland Avenue**

##### **Resolution 354-DR-07**

WHEREAS, Mr. Chad Olcott and Ms. Laura Pochop, on behalf of Mulberry's Market, are requesting permission for non-residential signage on three of four previously approved awnings for the property. The signage is proposed to include the name of the store (Mulberry's Market) on the awning over the door of the market, and a mulberry leaf logo on two other awnings over windows for the market, with no lettering or logo on the fourth awning which is over the door to another business (Citibank) located at 335 Highland Avenue, Piedmont, California, which sign installation 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 17.19.2 of the Piedmont Zoning Code:

1. A maximum of one sign not required by law is permitted on the face of the building, unless the Planning Commission determines that one or more additional signs are needed for the convenience of the public. The applicant is proposing one sign on the south façade of 335 Highland Avenue. There is a decorative feature/logo on the other two canvas awnings that belong to this particular business that help articulate where the

applicant's business is located to clearly distinguish which part of the building belongs to Mulberry's Market.

2. Each sign, including a sign required by law, shall be simple in design. Graphic depictions related to the non-residential use are appropriate. The Mulberry's Market name will only appear on the awning above the entrance. The name Mulberry's Market will appear in sage green and the font used for the lettering is reminiscent of an old fashioned general store. The chocolate brown awnings with the sage green lettering are in keeping with the kinds of stores that would have been original to Piedmont when the town was founded 100 years ago. The awnings on either side of the entrance will have the Mulberry's Market logo (a mulberry leaf). The leaf logos are intended to add color and character to the large brown awnings.
3. Each sign, including a sign required by law, shall be compatible in design, color and scale to the front of the building, adjoining structures and general surroundings. It is the goal of Mulberry's Market to create a beautiful store that the town can be proud of. The proposed awnings and signs are harmonious with the character of downtown Piedmont. There will be no illumination used on the signage.
4. A sign shall be oriented toward the pedestrian and vehicular traffic. The awnings face the parking lot of the store. When looking at the store from Vista Avenue, the awnings are subtle and the writing is simple but effective.
5. The sign is proposed to be constructed of sturdy materials. The awnings are manufactured by a commercial awning company using Sunbrella fabric that holds up against the effects of weather and sun.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Olcott and Ms. Pochop for signage installation at 335 Highland Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

Moved by Stehr, Seconded by Kellogg

Ayes: Kellogg, Robertson, Stehr, Thiel, Henn

Noes: None

Absent: Levine

**PUBLIC FORUM**

There were no speakers for the public forum.

**APPROVAL OF MINUTES**

**Resolution 20-PL-07**

RESOLVED, that the Planning Commission approves as submitted its meeting minutes of September 10, 2007.

Moved by Kellogg, Seconded by Stehr

Ayes: Kellogg, Robertson, Stehr

Noes: None

Abstain: Thiel

Absent: Levine

**REGULAR CALENDAR**

The Commission considered the following items of regular business:

**Variance and  
Design Review  
1134 Ranleigh Way**

Mr. D. Prentice Starkey and Ms. Alice Klein are requesting variance and design review to develop habitable space on the basement level in order to accommodate a new family room and a new bedroom; construct an approximately 12.5 sq. ft. addition to the front of the garage; change the exterior wall material of the garage to stucco; make window and door modifications to the house and garage; add exterior lighting; excavate and construct a new rear yard patio; and make various other changes to the interior. The requested variances are from: (1) Section 17.10.4 to allow a structure coverage of 48% in lieu of the code permitted maximum of 40%; (2) Section 17.10.7 to allow the new garage extension to extend to the right side property line in lieu of the code required minimum of a 4 ft. side yard setback; and (3) Section 17.16 to allow a residence with three rooms eligible for use as bedrooms with only one covered parking space measuring 11'3" by 17'8" in lieu of the code required minimum of two covered parking spaces each measuring 9' by 20'.

Commissioner Henn recused himself from discussion and action on this application and left the chambers.

Written notice was provided to neighbors. **One affirmative response form** was received. **Correspondence** was received from: Prentice Starkey & Alice Klein, Oct. 2.

**Public testimony** was received from:

Prentice Starkey referenced his correspondence in describing the proposed improvements intended to add a bedroom and family room within the existing footprint of the home. While it is not feasible to construct a 2-car garage on the property, the existing 1-car garage is being lengthened by 1 ft. to make it more functional for off-street parking.

The Commission agreed that the design of the proposed improvements is architecturally compatible with the existing home, do not noticeably increase existing mass and pose no impacts on neighbor light or views. However, the Commission requested that in accordance with the City's Window policy, the existing rear upper floor aluminum windows be changed so as to be consistent with the new windows being added on the lower level of this elevation. The Commission further agreed that construction of a 2-car conforming garage is not practical given existing site constraints. However, the Commission felt that the

existing 1-car garage could be lengthened 2 ft. in order to create one conforming parking space, with an interior depth dimension of 20 ft.

**Resolution 301-V-07**

WHEREAS, Mr. D. Prentice Starkey and Ms. Alice Klein are requesting permission to develop habitable space on the basement level in order to accommodate a new family room and a new bedroom; construct an approximately 12.5 sq. ft. addition to the front of the garage; change the exterior wall material of the garage to stucco; make window and door modifications to the house and garage; add exterior lighting; excavate and construct a new rear yard patio; and make various other changes to the interior located at 1123 Ranleigh Way, Piedmont, California, which construction requires variance; and

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary in order to construct within the right (west) side yard setback, exceed the City's structure coverage limit and increase the number of rooms eligible for use as bedrooms without supplying conforming parking; and

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

1. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to the fact that the existing garage being modified is located within the setback and there is limited available space on the property to add a second conforming, covered parking space. Because of these circumstances, strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone which conform to the zoning requirements.
2. The variances are compatible with the immediately surrounding neighborhood and the public welfare because 1-car garages are commonplace in this particular neighborhood in Piedmont with vintage 1920's homes and the proposed small extension of the existing garage will result in the creation of a 1-car conforming garage.
3. Accomplishing the improvement without variance would cause unreasonable hardship in planning, design, or construction because there is very limited space available on the property to construct a second covered parking space. The project will improve the existing parking situation on the property.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application of Mr. Starkey and Ms. Klein for the above variances at 1134 Ranleigh Way, Piedmont, California, in accordance with the plans and specifications on file with the City.

RESOLVED FURTHER, that the approval of the Planning Commission/City Council and any conditions of that approval shall not extend to any particulars set forth in the documents submitted for the project which are inconsistent with or in violation of any applicable

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

Moved by Stehr, Seconded by Kellogg

Ayes: Kellogg, Robertson, Stehr, Thiel

Noes: None

Recused: Henn

Absent: Levine

#### **Resolution 301-DR-07**

WHEREAS, Mr. D. Prentice Starkey and Ms. Alice Klein are requesting permission to develop habitable space on the basement level in order to accommodate a new family room and a new bedroom; construct an approximately 12.5 sq. ft. addition to the front of the garage; change the exterior wall material of the garage to stucco; make window and door modifications to the house and garage; add exterior lighting; excavate and construct a new rear yard patio; and make various other changes to the interior located at 1123 Ranleigh Way, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements (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 proposal complies with Design Review Guidelines II-3, II-3(a) through (d) and II-4. The design of the improvements are compatible with the existing house and neighboring residences in terms of architectural style, scale, mass and overall integration.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because the existing garage is located at the rear of the house with only a small extension to the front of this structure being proposed. In addition the rehabilitation of this existing garage is compatible in architectural style and exterior materials with the existing house. Proposed window placements are appropriate. The proposal complies with Design Review Guidelines III-2, III-5, III-5(a) and II-7.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because there is no change to existing circulation patterns. Garage usability is being improved, the garage will have an electronically operated door and the proposed improvements will not impede

pedestrian or vehicle sight lines or create unsafe conditions. The proposal complies with Design Review Guidelines III-3, III-7 and III-7(a).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Starkey and Ms. Klein for construction at 1134 Ranleigh Way, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. The new garage door shall be electronically operated;
2. The new exterior wall-mounted light fixtures shall be downward directed with an opaque shade that completely covers the light bulb;
3. The applicants shall work with City staff to verify the location and depth of the sanitary sewer main and easement in the rear yard prior to the issuance of a building permit and any excavation and construction of the rear patio;
4. Due to the scope and nature of the application, a construction management plan shall be developed and approved by staff prior to obtaining a building permit. Said plan shall be comprehensive while specifically addressing the duration of the project, construction hours, the staging of materials, and parking of worker vehicles to ensure the free flow of traffic along Ranleigh Way and Portsmouth Avenue;
5. Compliance with Chapter 9 Article III of the Municipal Code, which governs the recycling of construction and demolition debris, will be required on all permits issued on or after February 1, 2007. Applicants of covered and non-covered projects are eligible to participate in the Incentive Program in which the City will provide one-half the cost of debris boxes provided by the City's franchised waste hauler and used exclusively for the purpose of removing recyclable construction and demolition debris;
6. The interior depth of the enlarged garage shall be 20 ft.
7. The existing windows on the rear upper level elevation shall be changed to match the new windows being added at the lower level of this elevation; said design changes subject to staff review and approval.

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

noncompliance is discovered or additional conditions are considered necessary and appropriate in light of Commission/Council findings.

Moved by Stehr, Seconded by Kellogg

Ayes: Kellogg, Robertson, Stehr, Thiel

Noes: None

Recused: Henn

Absent: Levine

**Design Review**  
**61 Glen Alpine Road**

Mr. Douglas Smith and Ms. Jennifer Hughes are requesting design review to demolish the existing house, garage and pool and reconstruct a new 5,822 sq. ft., two-story residence over a 2-car garage and basement, a pool and pool house. The new residence is proposed to have 4 bedrooms, 4 baths, 1 half-bath, a living room, dining room, kitchen, family room, gallery, entry hall, elevator, 3 pantries, library, office, mudroom, laundry room, workshop and storage. Also proposed is a pool, pool house, lanai, terraces, a pergola, retaining walls, exterior lighting and new landscaping. The existing tennis court is proposed to be retained. Also proposed is the widening of the existing driveway from Glen Alpine Road, which crosses over the properties at 44 and 67 Glen Alpine. A new fire truck turnaround is proposed near the existing tennis court. The application was continued from the Commission's September 10, 2007, meeting to allow notification to Calvert Court homeowners that the staging of this construction is proposed from Calvert Court.

Written notice was provided to neighbors. **Three affirmative, seven negative response forms** were received. **Correspondence** was received from: Julie Fujimoto, Oct. 4; Inge Frankel, Oct. 2; Kate Breen & Steve Canine, Oct. 3; Jukka Valkonen, Oct. 3; Sara Valkonen, Oct. 3; Oct. 3 letter signed by 10 Calvert Ct. residents; Karen Heller, Oct. 5; Ann Healy, Oct. 4; Robert Fisher, Oct. 3; Lonnie Simonson, Oct. 3; Julia Taylor, Oct. 5; Doug Smith, Aug. 29 and Oct. 5; Mark Haggerty, Oct. 5.;

**Public testimony** was received from:

Douglas Smith reiterated his September meeting comments in explaining the details of the proposed staging process, noting that his Glen Alpine property has site access from two different streets and acknowledging that it is the Commission's role to decide which access route will be the best for all concerned.

Dan Pelsinger, Project Contractor, explained the details of the proposed staging of the construction project from the applicants' undeveloped Calvert Court property (90 Calvert Court), noted his awareness of the concerns from Calvert Court neighbors regarding construction vehicle traffic and parking, emphasized his extensive experience with urban construction and his commitment that construction traffic will not block or impede general or emergency vehicle traffic along Calvert Court and that all construction materials will be stored on-site. In particular, he stated that Calvert Court and Glen Alpine neighbors will be given direct contact phone numbers in case there are any problems; construction activity, including deliveries, is anticipated to occur between 8:00 a.m. and 4:30 p.m.; the heaviest traffic volume will occur during the demolition/excavation phase which should last

approximately 40 days; and project construction is expected to be completed within 16 months. He assured the Commission of his intention to be a “good neighbor” and provide Glen Alpine driveway neighbors with advance notice when the driveway will be used for construction related deliveries/traffic during the final landscaping phase of the project.

Bob Fisher and Gail Uilkema, Glen Alpine residents, repeated their September meeting comments concerning the inappropriateness of using the shared Glen Alpine driveway for construction vehicle access to the property other than that related to landscaping deliveries during the final phase of project completion. They were convinced that Calvert Court is the best access point for project staging because of the roadway’s width and level-in access to 61 Glen Alpine.

Nina Aoni inquired re the reasoning behind the City’s two-staged notification to the Calvert Court neighborhood re this proposed project and whether 90 Calvert Court is located in Piedmont or Oakland. The City Planner explained the City’s notification policy and procedures, the Commission’s September direction that Calvert Court noticing be expanded and the fact that 90 Calvert Court is a “split border” property – part in Oakland and part in Piedmont.

Andrea Riley, Sara Valkonen, Kate Breen and Julia Taylor, all Calvert Court residents, strongly opposed the proposed construction staging of this project from Calvert Court, citing the following concerns: (1) potential safety hazards to the neighborhood’s children and senior citizens posed from large construction vehicles trying to navigate the street’s hills and blind spots – many of the neighborhood’s kids play in the street; (2) which government entity will have jurisdiction over the project to insure neighborhood mitigation measures are being followed/enforced given 90 Calvert Court is located both in Oakland and in Piedmont; (3) Calvert Court’s steepness and blind curves will make it quite difficult and dangerous for large construction vehicles to maneuver; (4) it is unfair to burden Calvert Court residents with the dirt, noise and heavy equipment traffic volume associated with a two-plus year major construction project – an entire neighborhood will be disadvantaged for the benefit of one Glen Alpine property owner; (5) the clean, peaceful ambience of the Calvert Court neighborhood will be adversely impacted in terms of noise, dirt, air quality, traffic and parking congestion and this is unfair and too much of a burden to bear; and (6) Calvert Court neighbors should be afforded the same rights as the Glen Alpine neighborhood -- just because the Glen Alpine neighborhood is tired of construction, it should not force the burden onto Calvert Court.

Jukka Valkonen, a Calvert Court resident, concurred with previous speakers in strongly opposing project staging from Calvert Court and in addition discussed at length his opinion that the City inappropriately acquiesced its responsibility to assess CEQA related issues to the applicant’s environmental consultant. Mr. Valkonen also questioned the adequacy of the City Attorney and City Planner’s credentials in determining that the proposed project qualifies for a Class 2 Categorical Exemption from CEQA. He felt that there was a failure of due process with regard to the City’s review and public noticing of CEQA related issues.



Dalida Benfield, a Calvert Court resident, opposed the project for the following reasons: (1) the scale of the proposed home and recreational facilities is incompatible with the scale and architectural character of existing homes in the neighborhood, compromises the integrity of the neighborhood and is out of balance with the area's natural features; (2) the proposed project compromises the visual and acoustical privacy of the neighborhood – a tennis court and pool in the bowl-like canyon will accentuate noise levels; (3) its inappropriate and unfair to use a vacant Calvert Court lot as an access point to the project because past construction projects have inconvenienced Glen Alpine residents – it is not right to transfer Glen Alpine's problem to Calvert Court; and (4) given the 'no-man's land' status of 90 Calvert Court as a split border property, project oversight and accountability is in question.

Malcolm Sproul of LSA Associates, the applicant's environmental consultant, responded to Commission questions concerning his firm's evaluation and assessment of CEQA related issues involved with the project. He noted his firm's conclusion that no special or significant site circumstances exist that warrant non-exemption CEQA status.

The Commission agreed that the design and siting of the proposed home was in keeping with the neighborhood, appropriate for the property and architecturally well integrated to the site. In particular, it was noted that the proposed home is appropriately sized and sited for the lot (no variances are required), the new home will not adversely impact adjacent neighbors in terms of light, view or privacy, a swimming pool currently exists on the property and private pools and tennis courts are not uncommon in Piedmont. The Commission noted that the proposed project approval conditions and construction management plans are intended to minimize neighbor impacts while according applicants their right to improve their properties. The Commission felt that the construction impacts voiced by Calvert Court neighbors would be the same if 90 Calvert Court were being developed and that it is inappropriate to prohibit residents from using a public street to access their property – most Piedmont homes are built or renovated via access from a public street. The Commission also agreed that Calvert Court provided the best construction access route to 61 Glen Alpine, concurring that use of a narrow, shared driveway easement for such activity is not desirable or practical. The Commission further concurred that City notification of this project was in accordance with City policy and Commission direction and that CEQA issues were examined as required by law. The Commission also agreed to the inclusion of revised language from the Building Inspector to further clarify use of the Glen Alpine driveway easement during construction (Condition #6d).

#### **Resolution 21-PL-07**

RESOLVED, that after a hearing on the matter, the Piedmont Planning Commission determines that the 61 Glen Alpine Application qualifies for the Class 2 Categorical Exemption pursuant to Section 15302 of the CEQA Guidelines that applies to replacement or reconstruction, in this case being a single family residence, based upon

- information from the applicants' environmental consultant, LSA Associates, that the project is in compliance with the

general requirements for single family residence and does not qualify for a special exception due to unusual circumstances or conditions; and

- the City Attorney's review and opinion citing the following findings:
  1. As a general matter, almost all applications for construction of only one single family residence fall within the Class 3 Categorical Exemption, and on a state-wide basis, it is relatively unusual to have such single family residence not qualify for the Categorical Exemption;
  2. In this case we are dealing with the replacement of a currently existing residence by a new single family residence on approximately the same exact site, which instead qualifies for a Class 2 Categorical Exemption pursuant to Section 15302 of the CEQA Guidelines;
  3. To my knowledge there has only been one application for construction of a single family residence in Piedmont where it was held that a Categorical Exemption did not apply, and in that case involving 139 Lexford Road, the construction project was redesigned and resubmitted, and based on the redesigned project, it was found that a Categorical Exemption did apply;

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

**Resolution 307-DR-07**

WHEREAS, Mr. Douglas Smith and Ms. Jennifer Hughes are requesting permission to demolish the existing house, garage and pool and reconstruct a new 5,822 sq. ft., two-story residence over a 2-car garage and basement, a pool and pool house. The new residence is proposed to have 4 bedrooms, 4 baths, 1 half-bath, a living room, dining room, kitchen, family room, gallery, entry hall, elevator, 3 pantries, library, office, mudroom, laundry room, workshop and storage. Also proposed is a pool, pool house, lanai, terraces, a pergola, retaining walls, exterior lighting and new landscaping. The existing tennis court is proposed to be retained. Also proposed is the widening of the existing driveway from Glen Alpine Road, which crosses over the properties at 44 and 67 Glen Alpine. A new fire truck turnaround is proposed near the existing tennis court located at 61 Glen Alpine 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 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 new multi-level structure and adjacent residences is reasonable and appropriate due to the existing topography and neighborhood development pattern. Upper level setbacks greater than the setbacks required for the lower level have been considered and are/are not necessary to reduce losses of ambient and reflected light. The project complies with Design Review Guidelines I-1, I-2, I-5, I-6, I-9, I-12 and IV. The proposed improvements are architecturally compatible with the neighborhood – it is consistent in style with itself and other similar California Mediterranean homes in Piedmont; the siting of the new home is comparable with adjacent properties, appropriate for the lot's topography and minimizes impact to the lot; the new home is physically integrated into its ravine setting in terms of massing and relationship to adjacent properties; its siting on the lot and its placement of windows, doors, openings, appliances, ventilation, equipment and fenestrations respects the privacy, light, acoustics and view of neighbors; the home's entrance is appropriate for its driveway access; and retaining walls are modest in height and well integrated with the grade of the property.

2. The proposed new multi-level structure has been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.70), including consideration of the location of the new construction, lowering the height of the addition, expansions within the existing building envelope (with or without excavation), lower level excavation for new multi-level structures, and/or changing the roof slope or ridge direction. Given the ravine location of the property and home, there is no significant impact on neighboring properties in terms of light, shading or view.

3. The size and height of the addition is commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and is in keeping with the existing neighborhood development pattern. The size of the proposed home is small in proportion to the overall boundaries of the property and within the scale of a property of this magnitude. The proposed home comprises only 8% of the total lot size.

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 multi-level structure and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood. The project complies with Design Review Guidelines II-6 and II-7 in that there is no significant impact on vehicle safety or access. Ingress via the Glen Alpine driveway easement remains unchanged; on-site guest parking is improved and as a condition of project approval, a fire truck turnaround and driveway upgrade is being provided to a level satisfactory to City

emergency personnel since the driveway easement is a primary entrance point into the ravine.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Smith and Ms. Hughes for construction at 61 Glen Alpine Road, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. The approved plans are those submitted on August 30, 2007 after neighbors were notified of the project and the plans were available for public review;
2. Due to the demolition and redevelopment of more than 10,000 square feet of this site, including the construction of more than 10,000 square feet of impervious surfaces, the applicants shall prepare a stormwater management plan prior to obtaining a building permit. Wherever possible and to the maximum extent practicable, said 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 any of the following three 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;
3. To address potential impacts during construction, implementation of 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 shall be required. Requirements shall be made by City Staff involving storm water pollution prevention during construction, as well as final drainage erosion control, and these items shall be reviewed as part of the Construction Management Plan. An erosion and sediment control plan shall be submitted for approval and implemented before any de-construction of the existing site or structures can begin. The nearest adjacent storm drain inlets at Calvert Court shall be protected from sediment and debris run-off. Locations of inlets to be verified with the Building Official. Calvert court shall be swept regularly to minimize the migration of dust and soil debris onto the street;
4. A comprehensive Construction Management Plan shall be developed by the Applicant on the project. After receiving an initial draft from the Applicant, and after development of such Plan, the City Building Official shall have the authority to require amendments to the Construction Management Plan, as he deems necessary, throughout the course of the project until the final issuance of a Certificate of Occupancy. The Construction Management Plan shall address noise, vibrations, traffic control, parking, debris removal, dust control, and other construction impacts, as well as numerous other details involving the construction project;
5. A performance bond or other financial vehicle shall be required from Applicant to ensure the completion of the full construction of the

house, including and landscaping, irrigation and final site improvements, all based on the plans approved by the City. Such bond or other financial vehicle shall be determined by the Director of Public Works in the form of a cash deposit, bond, or other financial vehicle that will absolutely ensure completion of the entire project, with the final amount and type and exact terms of the financial vehicle to be determined by the Director of Public Works after consultation with the Applicant. Such amount shall not only include all reasonable expected costs to complete the project, but a 25% additional amount over the total anticipated costs to cover unexpected expenditures, particularly in light of the difficulty in excavating and preparing the foundation for the project. An estimator shall be retained by the City (at Applicant's sole expense) to estimate the total costs of such project, and as the project proceeds if costs to complete the project may increase beyond the original estimate made by the estimator, based on a later evaluation by the estimator, City may require the Applicant to increase the amount of the cash deposit, bond or other financial vehicle by such additional amount plus 25%, and Applicant shall provide City with written evidence of completion of such increase within 15 working days after receiving written notice thereof from City. Such cash deposit, bond or other financial vehicle shall not be released until the entire project has been "finaled" as complete by the Chief Building Official, provided that if in the judgment of the Director of Public Works, sufficient work has been completed pursuant to the inspections of the Building Official, the Director of Public Works may reduce such cash deposit, bond, or other financial vehicle, to the extent the Director of Public Works in his sole discretion shall determine is appropriate;

6. A specific cash deposit or bond shall be made by the Applicant in the amount of \$100,000.00, to cover the cost of any damages to City property or facilities in any way caused by Applicant, Applicant's agents or assigns, including but not limited to any of Applicant's contractors, subcontractors or their employees and agents, relating to the project, the terms of such cash deposit or bond or financial vehicle to be determined by the Director of Public Works after consultation with the Applicant.

a. The Applicant shall sign a Guaranty to the City prepared by the City Attorney requiring the Applicant to pay the City by cash, cashier's check, or certified check any amount of damages to City property or facilities in any way caused by Applicant, such payment to be due and payable in full within 21 working days of the date City mails written notice thereof to Applicant at 61 Glen Alpine Road, Piedmont, CA 94611, which notice shall reasonably detail the damages involved, including the City's estimated cost in repairing or replacing the damaged City property and facilities. City shall not be required to prove such damages to any other person or entity, including any Court, and the building permits for the project shall not be "finaled" until such payment has been received by City.

b. To provide clear baseline information to determine whether damage is caused by the Applicant or others working for or on behalf of Applicant on this Project, specifically relating to damage to Glen Alpine Road or Calvert Court within the City of Piedmont Boundaries and other city streets to be used by trucks, vehicles, and other equipment involving the Project, City shall video all the streets to be

used by such trucks, vehicles, and other equipment to determine the baseline condition of such streets, and shall further re-video the streets every two weeks after the Project commences until all of the excavation and foundation work have been fully completed. As part of such videoing, City may possibly hose or water down the streets to better emphasize any cracks or damage in the surface thereof. The full cost of all such videoing and related work shall be reimbursed to the City by Applicant within 21 days after receiving written notification of the work performed and the amount to be reimbursed.

c. No double trailers shall be used as part of the Project, particularly relating to removal of rocks and debris, to reduce potential damage to the streets and to avoid traffic hazards on the cul-de-sac and narrow curving city streets.

d. All construction vehicles shall come to the construction site from Calvert Court, provided that passenger vehicles and pick-up trucks not exceeding  $\frac{3}{4}$  tons may access the site from Glen Alpine Road, and a note to that effect shall be listed on the building permit plans. A sign to that effect shall be posted at the intersection of the driveway and Glen Alpine Road. City staff shall approve the size and text of the signage prior to the issuance of building permits. The applicants may propose specific exceptions to this requirement as part of their construction management plan that identifies the type of vehicles, number of trips, number of days, and why access from Glen Alpine Road driveway is necessary. At least one week prior to any approved Glen Alpine Road driveway use exception, the applicants shall provide advance written warning to all property owners who have an interest in the common easement, specifying the type of vehicles, number of trips and number of days the vehicles will be using the access. No parking of construction related vehicles or materials is permitted on Glen Alpine Road.

e. At no time may passenger or construction vehicles be parked in any area within the Glen Alpine driveway and easement during construction, and a note to that effect shall be listed on the building permit plans.

7. Work on the project shall take place 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 subcontract and phase during any given week of the construction schedule.

a. Such Construction Completion Schedule shall set forth completion dates for the following milestones or benchmarks:

1. Completion of Demolition
2. Completion of Excavation;
3. Completion of Retaining Walls;
4. Completion of Foundation;
5. Completion of Rough Framing;
6. Completion of Electrical;
7. Completion of Plumbing;
8. Completion of Mechanical;

9. Completion of Fire Sprinklers;
10. Completion of Home;
11. Completion of Landscaping;

and of any final Conditions of occupancy, meaning completion of the entire Project.

b. The City shall have an independent professional review the completion dates proposed by Applicant in 7a. above, and to the extent such completion dates are unrealistically long for the work to be accomplished, shall suggest a reasonable completion date for that milestone or benchmark. The Director of Public Works shall make a final determination on the reasonable completion dates that shall apply to the Project before the Project commences, and such determination shall be binding on the Applicant.

c. If any work has not been completed for a specific milestone or benchmark as set forth in 7a. above by the date finally determined by the Director of Public Works, such work still has not been completed 90 days after such completion date, and the delay in completion has not been caused by an Act of God, the Director of Public Works shall have the option at any time thereafter to make claim against the funds to be provided pursuant to Condition 5 in order to complete such milestone or benchmark;

8. Any bonds, financial vehicles or related conditions in the list of these specific conditions may be modified in a reasonable manner with the joint agreement of the Public Works Director and the City Attorney, provided that such modifications shall carry out the general intent of each such condition;

9. All funds or financial vehicles set forth in any of the above conditions shall be earmarked or dedicated so that they are not subject to creditors claims;

10. Applicant shall make a cash deposit with the City prior to commencement of construction in the amount of \$15,000.00 to be used to offset time and expenses of City Staff relating to the Project, any amounts remaining to be refunded to the Applicant within 90 days after the Project has been "finaled" by the Chief Building Official. If such cash deposit has been reduced to \$2,500.00 or less at any time, the Director of Public Works shall have the authority to require additional funds to be deposited by Applicant covering any further estimated Staff time and expenses;

11. Applicant shall make a cash deposit with the City prior to commencement of construction in the amount of \$5,000.00 to be used to pay for the fees and expenses relating to the professionals called for in other Conditions, including but not limited to Conditions 3, and 6 hereof, or in any way otherwise required to be expended by the City for professional assistance (other than City Staff) relating to the Project, such funds to be expended 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 shall have the authority to require additional funds to be deposited by Applicant covering any further estimated fees and expenses of professionals. Any amount

remaining unexpended shall be refunded to the Applicant within 90 days after the Project is “finaled” by the Chief Building Official;

12. The garage doors shall be mechanically operated;

13. Compliance with Chapter 9 Article III of the Municipal Code, which governs the recycling of construction and demolition debris, shall be required for all phases of this project, including the demolition of the existing site structures and the pool. As a Covered project, this project may be 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. Should the City’s franchisee, at its sole option, waive the requirement for exclusive debris box service during demolition and/or construction, the project shall nonetheless be required to comply with the City’s 50% minimum diversion requirement, and the Applicant shall submit a Waste Reduction and Recycling Plan as part of the building permit submittal that sets forth how the City’s diversion requirement will be met.

14. A grading plan, prepared by a licensed Civil Engineer, shall be submitted as part of the building permit plans that shows the total extent of excavation and off-haul of all soil or other debris from the site.

15. The applicants shall submit a letter from the California Department of Fish and Game (CDFG) that the Streambed Alteration Agreement application, dated August 22, 2007, has been approved by the California Department of Fish and Game (CDFG). Alternatively, the applicants may submit a letter from the CDFG indicating that they have declined to issue a Streambed Alteration Agreement, but will allow the applicant to implement the project as described in the application with no alterations to the project description. No building permit shall be issued until either letter has been submitted to the City.

16. A tree preservation plan, prepared by a California Licensed Arborist, shall be submitted, at a minimum, for any tree to be retained within 15 feet of any construction (including retaining walls and terraces) or excavation. Such plan shall require the fencing of trees at the dripline, and any other tree preservation measures necessary to preserve the health of the trees during excavation and construction. The tree preservation notes shall be included on the construction plans.

17. Provide driveway structural section and detail (thickness of asphalt concrete, aggregate base, etc.) that will support fire department equipment.

18. Provide details of retaining walls and planter walls that abut driveways so that they can be checked for structural adequacy for fire department equipment and vehicle loads.

19. Parking of any vehicles, or storage of any items in any area of the fire truck turn around indicated on Sheets C-1, C-2, and 1, or in any area on the 12 foot paved driveway accessed from Glen Alpine Road is prohibited. The City shall erect signs setting forth this “No Parking” restriction at Applicants expense. This “No Parking” restriction is being



required by the Fire Department for proper fire access and will apply regardless of this particular construction project.

20. Prior to the issuance of a building permit, the plans shall indicate a fire department connection in a location to be determined by the Fire Marshal.

21. A dry standpipe is required from Glen Alpine Road to the fire truck turn-around, in a location to be determined by the Fire Marshal. Prior to the issuance of a building permit, the plans shall indicate the selected location.

22. Prior to the issuance of a building permit, the plans shall indicate a Knox Box in a location to be determined by the Fire Marshal.

23. All buildings and structures are required to have a fully monitored fire alarm system.

24. All buildings and structures are required to have a fully automated sprinkler system.

25. Due to the distance from a water supply, the narrow access road, the distance from Glen Alpine Road, the proposed bay windows and open trellis, difficult side yard access, and the terrain of the property, access to the roof must be provided via a fixed ladder. The location of the ladder shall be subject to approval by the Fire Marshal, and shall be subject to staff review approval prior to the issuance of a building permit. Staff shall have the option of deferring the design to the Planning Commission.

26. As part of the construction process, all floor elevations must be certified by the project surveyor or civil engineer and submitted to the City of Piedmont. Because the project is proposed at the maximum height permitted under the City Code without a variance, prior to the framing inspection, the surveyor shall verify in writing that the building height is in accordance with the approved plans.

27. Construction access by vehicles from Calvert Court shall only occur during business hours from 8:00 a.m. to 4:30 p.m., Monday through Friday, with special extensions or exemptions being submitted in writing at least one week in advance along with notice to affected neighboring residents. Access from Calvert Court shall be provided in such a way that no staging or material storage shall be allowed on Calvert Court – it should be all contained within the applicants' property. Contractor employees or related companies shall park on the applicants' property whenever possible and that parking on Calvert Court be done in a way that maintains safe and appropriate public access.

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

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

Moved by Kellogg, Seconded by Robertson

Ayes: Kellogg, Robertson, Stehr, Henn

Noes: None

Recused: Thiel

Absent: Levine

The Commission recessed for dinner at 7:25 p.m. and reconvened at 7:55 p.m.

**Design Review  
1 Maxwellton Road**

Mr. Stephen Parker is requesting design review to make modifications to a previously approved design for a new house by shifting the location of the house slightly to the northwest; adjusting the location of exterior walls; eliminating 1 parking space by reducing the size of the garage at the southeast corner of the house; creating an access easement for the adjacent property to the east; changing the design and location of the driveway; changing the east side yard terraces; changing the design of the entry and tower eaves; making window and door modifications; and making various changes to the interior.

Written notice was provided to neighbors. **One affirmative, two negative response forms** were received.

**Public testimony** was received from:

Stephen Parker explained the proposed changes intended to improve property aesthetics and structural integrity. He noted that the changes have minimal impact on neighbors.

Douglas Vance supported the requested design modifications but requested that the Commission expressly indicate that action tonight on this application in no way approves a driveway for Mr. Parker's other parcel, which is shown on one of the submitted drawings.

The Commission supported approval of the requested changes, agreeing that they are modest in scope, do not impact the architectural style or massing of the new house, are consistent with prior approvals and will resolve access issues related to the other property.

**Resolution 310-DR-07**

WHEREAS, Mr. Stephen Parker is requesting permission to make modifications to a previously approved design for a new house by shifting the location of the house slightly to the northwest; adjusting the location of exterior walls; eliminating 1 parking space by reducing the size of the garage at the southeast corner of the house; creating an access easement for the adjacent property to the east; changing the design and location of the driveway; changing the east side yard terraces; changing the design of the entry and tower eaves; making window and door modifications; and making various changes to the interior located at 1 Maxwellton 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 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 or new multi-level structure and adjacent residences is reasonable and appropriate due to the existing topography and neighborhood development pattern. Upper level setbacks greater than the setbacks required for the lower level have been considered and are/are not necessary to reduce losses of ambient and reflected light. The proposed design changes are not dissimilar to those previously approved. The proposed improvements comply with Design Review Guidelines I-1, I-1(a) through (d), I-5 and I-5(a) in that the proposed design is compatible in terms of scale, mass and architectural consistency with the neighborhood and works well with the topography of the site.

2. The proposed new multi-level structure has been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.70), including consideration of the location of the new construction, lowering the height of the addition, expansions within the existing building envelope (with or without excavation), lower level excavation for new multi-level structures, and/or changing the roof slope or ridge direction. The proposed improvements comply with Design Review Guidelines I-2(a) through (d), I-9 and I-9(a). There is no significant change in impact from that previously approved.

3. The size and height of the addition is commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and is in keeping with the existing neighborhood development pattern. The proposed improvements comply with Design Review Guidelines I-2(a) through (d) in that they are similar to what was previously approved.

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 multi-level structure and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood. The project complies with Design Review Guideline I-11. There will be a slight improvement in property circulation.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Parker for construction at 1 Maxwellton Road,

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

1. Compliance with the conditions of approval specified as part of the prior approvals on the residence at 1 Maxwellton Road, under Building Permits #05-00605 and #07-00368, and Design Review applications #04-0324, #05-0089; #05-0168, #05-0403, #06-0205 and #06-0343 shall extend to this application;
2. Based on the modifications proposed in the current application, the applicant shall submit a revised landscaping plan for staff approval prior to the issuance of a building permit. After final building permit inspection, the applicant shall be allowed to make modifications to any aspect of the landscape plan that does not require design review under Chapter 17 of the City Code;
3. No driveway to the property to the east is approved as part of this application.

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

Moved by Stehr, Seconded by Kellogg

Ayes: Kellogg, Robertson, Stehr, Thiel, Henn

Noes: None

Absent: Levine

**Variance and  
Design Review  
21 Jerome Avenue**

Mr. Chuan Chang and Ms. Kelly Hwang are requesting variance and design review to modify a previously approved 1-car garage to replace a recently demolished attached garage at the northwest corner of the lot. The application also proposes a new pedestrian door on the east elevation and to add exterior light fixtures. The requested variances are from: (1) Section 17.10.7 to allow the garage to extend to the left side property line in lieu of the code required minimum of a 4 ft. side yard setback; and (2) Section 17.10.8 to allow the garage to extend to within 2'7" of the rear property line in lieu of the code required minimum of a 4 ft. rear yard setback. A similar application was approved by the Commission on April 9, 2007.

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

**Public testimony** was received from:

Taylor Fang, Project Contractor, explained that because the originally approved plans were in error with regard to the actual location of the

applicant's property line, the garage cannot be built as previously approved. The newly submitted plans indicate the correct property line location – no other change to the previous plan is proposed. He requested that the applicants' be granted a fee waiver for this second variance application since it was triggered as a result of a technical issue related to the misidentification of the property line location.

The Commission agreed that a new variance application is not required because the previously approved variance was for a new garage of the same design and in essentially the same location – the only difference is the result of a recent site survey. Since the existing fence will continue to define the placement of the garage, there is no change in existing site conditions with regard to garage placement. Furthermore, because the new site survey indicates that the applicant's property is larger than previously indicated, there is no longer the need for the applicant to remove existing hardscape in order to comply with the City's impervious surface coverage limits. The Commission agreed that the variance application fee should be refunded to the applicants. The Commission acknowledged that as a consequence of the new survey, the new garage will be slightly narrower than that originally proposed/approved, but this new garage will be wider than the old garage it replaces.

**Resolution 22-07**

RESOLVED, that the Planning Commission determines that no new variance is required in connection with Mr. Chuan Chang and Ms. Kelly Hwang's current application to modify a previously approved 1-car garage because the variance previously granted for this garage construction is adequate and still applicable to the current application. Moved by Robertson, Seconded by Stehr

Ayes: Kellogg, Robertson, Stehr, Thiel, Henn

Noes: None

Absent: Levine

**Resolution 314-DR-07**

WHEREAS, Mr. Chuan Chang and Ms. Kelly Hwang are requesting permission to modify a previously approved 1-car garage to replace a recently demolished attached garage at the northwest corner of the lot. The application also proposes a new pedestrian door on the east elevation and to add exterior light fixtures located at 21 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 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 it complies with Design Review Guidelines III-1 and III-2 in terms of its siting relationship to the existing house and

neighboring garages. The design of the garage is consistent in architectural style and materials with 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 it complies with Design Review Guideline III-5. There will be no change in existing neighbor view, light or feeling of openness.

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 it complies with Design Review Guidelines III-7 and III-7(a). The new garage is located in the same position on the property as the old garage it replaces.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Chang and Hwang for construction at 21 Jerome Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. The approved plans are those submitted on September 25, 2007, after neighbors were notified of the project and the plans were available for public review;
2. The left side yard and rear yard setback variance fees shall be refunded to the applicant;
3. All new proposed exterior light fixtures shall be downward directed; and
4. Due to the scope and nature of the application, a construction management plan shall be developed and approved by staff prior to obtaining a building permit. Said plan shall be comprehensive while specifically addressing the duration of the project, construction hours, the staging of materials, and parking of worker vehicles to ensure the free flow of traffic along Jerome Avenue;

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

Moved by Robertson, Seconded by Stehr

Ayes: Kellogg, Robertson, Stehr, Thiel, Henn

Noes: None

Absent: Levine

After passing the gavel to Vice Chairman Stehr, Chairman Thiel left the meeting at 8:25 p.m.

**Variance, Design  
Review & Fence  
Design Review  
39 Crest Road**

Mr. Andy Ball is requesting variance, design review and fence design review to construct a new 3-car garage with attic storage above it at the right corner of the property; expand the main level of the house toward the rear of the property for a new family room, breakfast area and enlarged kitchen; add a new roof deck above the new family room; make interior modifications; convert the existing garage into an exercise room; construct a new pool and spa and pool equipment structure along the right side of the property; and make other site improvements including a new circular driveway and modifications to the existing brick wall at the front of the property. The requested variance is from Section 17.10.7 to allow the rear wall and sod roof of the garage to extend to within 6 inches of the right side property line, the spa 1 ft. from this line and the pool 3'4" from this line in lieu of the code required minimum of a 4 ft. side yard setback.

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

**Public testimony** was received from:

Bill Remick, Project Architect, described the proposed improvements intended to modernize the 1928 vintage home. He also described the design details of the garage roof and driveway, noting that the sod roof aspect of the garage will minimize its visual appearance, the driveway surface will be colored stone or textured concrete and that a 2 ft. high retaining wall will be required along the downhill side of the driveway, although no retaining wall is shown on the plans.

Andy Ball promised the Commission that the driveway retaining wall will not exceed 30 inches in height and any landscaping that is removed during construction will be replaced, with consultation from affected neighbors. He noted his conversations with neighbors regarding the project, adding that an arborist will be consulted in order to protect his neighbor's tulip tree and that sound buffering will be added around the pool equipment to minimize noise.

The Commission agreed that the design of the garage was innovative, well integrated with the property and effective in solving the property's traffic circulation problems while minimizing impacts on neighbors. The Commission supported variance approval in order to avoid the necessity of backing out onto the street. There was a difference of opinion between the applicant and the Commission as to whether the bocce ball court under construction and the driveway retaining wall should have been included on the submitted plans. It was noted that these issues will be resolved by the planning department.

**Resolution 317-V-07**

WHEREAS, Mr. Andy Ball is requesting permission to construct a new 3-car garage with attic storage above it at the right corner of the property; expand the main level of the house toward the rear of the property for a new family room, breakfast area and enlarged kitchen; add a new roof deck above the new family room; make interior modifications; convert the existing garage into an exercise room;

construct a new pool and spa and pool equipment structure along the right side of the property; and make other site improvements including a new circular driveway and modifications to the existing brick wall at the front of the property located at 39 Crest Road, Piedmont, California, which construction requires variance; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code are necessary in order to construct within the right side yard setback; and

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

1. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to the very limited space available for adequate garage ingress/egress necessary to maintain a garage size in compliance with the home's bedroom count. Because of these circumstances, strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone which conform to the zoning requirements.
2. The variance is compatible with the immediately surrounding neighborhood and the public welfare because the portion of the garage located within the setback is tucked into the grade so as not to be visible from the street or adjoining property.
3. Accomplishing the improvement without variance would cause unreasonable hardship in planning, design, or construction because a 3-car garage is required for this property and there is no other place to locate such a garage and still provide adequate circulation without detrimentally impacting the architectural quality of the home.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application of Mr. Ball for the above variance at 39 Crest 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 Kellogg, Seconded by Robertson

Ayes: Kellogg, Robertson, Stehr, Henn

Noes: None

Absent: Levine, Thiel



**Resolution 317-DR-07**

WHEREAS, Mr. Andy Ball is requesting permission to construct a new 3-car garage with attic storage above it at the right corner of the property; expand the main level of the house toward the rear of the property for a new family room, breakfast area and enlarged kitchen; add a new roof deck above the new family room; make interior modifications; convert the existing garage into an exercise room; construct a new pool and spa and pool equipment structure along the right side of the property; and make other site improvements including a new circular driveway and modifications to the existing brick wall at the front of the property located at 39 Crest 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 project complies with Design Review Guidelines II-2 and II-2(a) through (c). The proposed improvements are well integrated into the site and are compatible with the existing home and neighborhood in terms of architectural style, mass and scale.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because the proposed improvements are architecturally compatible with the existing house, the size, siting and circulation of the new garage are appropriate for vehicle circulation and respectful with regard to the home's entry. The proposed pool has no impact because it is flush with the grade. The project complies with Design Review Guidelines III-1, III-2, III-5 and III-6.
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 new garage does not adversely impact street frontage or traffic flow.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Ball for construction at 39 Crest Road, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. Based on the scope and nature of the proposed landscape and development plans, a best management practice plan for construction which complies with the Alameda Countywide Clean Water Program General and Residential Conditions of

Approval will need to be developed by the applicant prior to obtaining a building permit;

2. Due to the scope and nature of the application, a construction management plan shall be developed and approved by staff prior to obtaining a building permit. Said plan shall be comprehensive while specifically addressing the duration of the project, construction hours, the staging of materials, and parking of worker vehicles to ensure the free flow of traffic along Crest Road;
3. Compliance with Chapter 9 Article III of the Municipal Code, which governs the recycling of construction and demolition debris, will be required on all permits issued on or after February 1, 2007. Applicants of covered and non-covered projects are 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;
4. Because a portion of the proposed modification to the existing brick wall encroaches onto the City right-of-way, an encroachment permit is required;
5. The garage doors shall be mechanically operated;
6. Prior to the issuance of building permit, a licensed arborist shall prepare recommendations for the protection of the applicant's and neighbors' landscaping, especially with regard to the neighbor's tulip tree;
7. The new driveway shall include a retaining wall, with a maximum height of 30 inches, to mitigate the pavement level from the existing front landscaped yard to protect this existing landscaping. Design of said wall shall be subject to staff review and approval. Any removed landscaping shall be replaced in kind in terms of quantity and size;
8. The new driveway shall not have a poured concrete finish;
9. Approval of this application does not include any approval for construction not indicated on submitted plans.

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

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

**Variance and  
Design Review  
162 Estates Drive**

Ms. Nancy Menke is requesting variance and design review to construct a new 2-car garage in the front left side of the property; add a new curb-cut and driveway; convert the existing garage at the rear of the property into a large storage area by replacing the existing garage door with siding; and make other site improvements including new exterior lighting and the construction of retaining walls at the front of the property. The requested variance is from Section 17.10.6 to allow the eaves of the new garage to extend to within 7'9" of the front property line.

Written notice was provided to neighbors. **One affirmative response form** was received. **Correspondence** was received from: George Nickelson, Traffic Engineer, May 25.

**Public testimony** was received from:

Derek Parlik, Project Designer, noted that a lot line adjustment is being prepared in connection with the current application so as to create a more distinct and attractive front entry for 162 Estates. He noted that the new garage is designed so as to minimize its visual impact. A comprehensive landscaping plan has also been prepared to screen the new garage and retaining walls and compensate for the loss of three very large and mature cedar trees. He also discussed with the Commission potential traffic safety impacts associated with the garage's new driveway, referencing the findings and recommendations of the applicant's traffic engineer George Nickelson.

Rene Bradshaw, Project Landscape Architect, responded to Commission questions concerning the loss of the cedar trees and proposed new plantings. She displayed colored renderings of the proposed new landscaping and pedestrian entry.

Nancy Menke, owner of both 162 and 170 Estates Drive, described the dangerous situation for vehicles and pedestrians due to the current arrangement of the shared driveway and her desire to create a much safer situation with the proposed plan. She felt that the proposed plan will improve the pedestrian and vehicle safety of both properties. She noted that the existing cedar trees are not structurally sound and block her view of the San Francisco Bay. She also stated her desire to retain the old garage and use this structure as an artist studio/workshop. She noted that the upper level of this old garage provides privacy to the pool.

The Commission concurred in concept with creating a more defined entry for 162 Estates and correcting the deficiencies and inconveniences associated with the current shared driveway situation. However, the Commission voiced concern over potential traffic/pedestrian safety hazards resulting from the new garage and driveway curb-cut's close proximity to a very busy intersection, as evidenced in the applicant's traffic engineering report, as well as the engineer's suggestions which would require the City to modify current

traffic controls at this intersection. The Commission also felt that the proposed new pedestrian entry to 162 Estates was somewhat awkward and could be improved. Given the Commission's belief that there were other better and safer design alternatives than the one currently presented, it preferred that the matter be continued so that the City's Traffic Engineer could review and comment and other possible garage/driveway design options could be explored. Ms. Menke stated her willingness to pay the costs of City Traffic Engineer review. Some design alternatives mentioned included orienting the garage toward the west rather than southwest and relocating the driveway 20 to 30 ft. more northward.

**Resolution 23-PL-07**

RESOLVED, that the Planning Commission deems Ms. Nancy Menke's variance and design review application for proposed construction at 162 Estates Drive to be incomplete and continues further consideration of this application to a future meeting pending receipt of additional information from the City Traffic Engineer, including examination of possible alternative driveway designs.

Moved by Henn, Seconded by Robertson

Ayes: Kellogg, Robertson, Stehr, Henn

Noes: None

Absent: Levine, Thiel

**New House  
Design Review  
110 Ricardo Avenue**

Mr. George Ong is requesting new house design review to demolish the existing residence and garage and construct a new 2,249 sq. ft., 2-story residence with 3 bedrooms, 2-1/2 baths, a kitchen, living room, dining room, family room and office, over a 2-car garage excavated partially below grade under the house at the front. The application proposes site modifications including a relocated driveway, new retaining walls, exterior lighting and landscaping. A similar application was denied without prejudice on December 13, 2004.

Written notice was provided to neighbors. **Two affirmative, two negative response forms** were received. **Correspondence** was received from: Franklin & Catherine Yap, Oct. 3.

**Public testimony** was received from:

Jennie Ong stated that the existing house is badly deteriorated, uninhabitable and has been abandoned for two years.

Ivan Chin, Project Architect, stated that the proposal has been redesigned in response to the December 2004 meeting. He described the proposed design, noting efforts to minimize massing and shading impacts and stating that the project involves a tear-down and complete rebuild. He also agreed that the height of the house could be lowered, however, it would diminish light to the southside windows.

Gareth Fong, an Arroyo resident, and Cathy Yap, a Ricardo resident, agreed that the house has been a neighborhood eyesore for years and a major improvement is needed. However, they strongly objected to the proposed height of the new home, citing concerns over loss of sky view, privacy and light. Mr. Fong particularly noted his concerns that the new home would block his recently installed solar panels and that

demolition could release asbestos and other dangerous/toxic materials into the environment. He requested that a construction management plan be required to address these issues. Both Mr. Fong and Ms. Yap requested that the overall height of the new home be lowered to minimize adverse impacts on the neighborhood.

The Commission agreed that conceptually the design of the new home is attractive and appropriate in size for the lot and neighborhood; however, it requested that the overall height of the structure be lowered approximately two to three feet. Suggestions for lowering included greater excavation of the garage/basement level, reducing the 9 ft. ceiling height of the second story; having a hip rather than gable roof and/or modifications to how the home is framed. The Commission also requested that the two upper level bedroom windows be located above eye-level so as to preserve neighbor privacy.

**Resolution 320-DR-07**

WHEREAS, Mr. George Ong is requesting permission to demolish the existing residence and garage and construct a new 2,249 sq. ft., 2-story residence with 3 bedrooms, 2-1/2 baths, a kitchen, living room, dining room, family room and office, over a 2-car garage excavated partially below grade under the house at the front. The application proposes site modifications including a relocated driveway, new retaining walls, exterior lighting and landscaping located at 110 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 proposal does not conform with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. Although the exterior design elements are aesthetically pleasing as a whole, there are some inconsistencies in terms of height and bulk and therefore the proposed improvements are not in compliance with Design Review Guidelines I-2 and I-6.
2. The proposed new multi-level structure has not been designed in a way that reasonably minimizes view, light and privacy impacts on neighboring properties (as defined in Section 17.2.70). The project fails to comply with Design Review Guidelines I-6, I-7 and I-9. The proposed design fails to minimize light and privacy impacts on neighboring property because of its too tall height and upper window placement.
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. 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 multi-level structure and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood. The proposed design improves pedestrian safety and provides additional off-street parking. It complies with Design Review Guideline III-5.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies, without prejudice, the design review application of Mr. Ong for construction at 110 Ricardo Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Robertson, Seconded by Kellogg

Ayes: Kellogg, Robertson, Stehr, Henn

Noes: None

Absent: Levine, Thiel

**Design Review  
98 SeaView Avenue**

Mr. and Mrs. Jeff Camp are requesting design review to install a tankless water heater to the exterior wall at the north side of the house.

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

**Public testimony** was received from:

Jeff Camp stated that the north wall where the installation of the tankless water heater is proposed also contains the home's electrical meter and garbage can area and is not visible to neighbors. He stated that he is in the process of increasing the energy efficiency of his entire house and the tankless water heater is one important component of this energy transformation. He also stated that by installing the heater on the exterior of his home, he frees up space in his garage and avoids the necessity of venting the new heater.

The Commission supported application approval, agreeing that the proposal complies in concept with proposed revisions to the City's tankless water heater policy which will be discussed later in the meeting.

**Resolution 351-DR-07**

WHEREAS, Mr. and Mrs. Jeff Camp are requesting permission to install a tankless water heater to the exterior wall at the north side of the house located at 98 SeaView Avenue, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements are harmonious with existing neighborhood development in that the proposed location does not detract from the home's aesthetics and is in compliance with Design Review Guidelines II-3(a) through (c).
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because the proposed location of the water heater is not visible to neighbors. The project complies with Design Review Guideline II-6.
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 existing circulation patterns are unchanged.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Camp for construction at 98 SeaView Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following condition:

- The electrical, water and natural gas connections to the heater shall be painted to match the surrounding color. Water heater instructions shall not be painted over.

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

Moved by Kellogg, Seconded by Robertson

Ayes: Kellogg, Robertson, Stehr, Henn

Noes: None

Absent: Levine, Thiel

**Variance, Design  
Review & Fence  
Design Review  
48 Wildwood Gardens**

Mr. and Mrs. Stephen Welch are requesting variance, design review and fence design review to make various modifications at the rear including the reconfiguration of an existing deck, replace and add a new retaining wall and fence, construct a new arbor, add new stucco columns and metal railing to the rear deck, new stairs and handrail, the demolition of an existing gazebo, and other hardscape and landscape improvements. The requested variance is from Section 17.10.7 to allow the redesigned deck to extend to within 15'6" of the rear property line in lieu of the code required minimum of a 20 ft. rear yard setback. A similar application was denied, without prejudice, on July 9, 2007.

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

**Public testimony** was received from:

Gary Lazar, Project Landscape Contractor, described the design modifications made to the project in response to the July 9 meeting and discussions with affected neighbors. He noted that the neighbors now approve the revised design.

Stephen Welch reviewed his discussion with his neighbors in revising the design to mitigate their privacy and acoustical concerns. He also stated that the existing street retaining wall will not be replaced at this time. Although it is leaning, it is not in danger of collapse and the neighbors do not wish it to be replaced.

The Commission agreed that the redesign is attractive and responsive to Commission and neighbor requests.

**Resolution 355-V-07**

WHEREAS, Mr. and Mrs. Stephen Welch are requesting permission to make various modifications at the rear including the reconfiguration of an existing deck, replace and add a new retaining wall and fence, construct a new arbor, add new stucco columns and metal railing to the rear deck, new stairs and handrail, the demolition of an existing gazebo, and other hardscape and landscape improvements located at 48 Wildwood Gardens, Piedmont, California, which construction requires variance; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code are necessary in order to construct within the rear setback; and

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

1. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to the topography of the site and existing construction that limits the location of usable outdoor area. Because of these circumstances, strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone which conform to the zoning requirements.
2. The variance is compatible with the immediately surrounding neighborhood and the public welfare because, as redesigned, the proposed improvements mitigate potential privacy impacts on neighbors. In particular, the originally proposed hot tub has been eliminated.
3. Accomplishing the improvement without variance would cause unreasonable hardship in planning, design, or construction because the amount of usable outdoor space on this property would be small and insufficient relative to character of the area.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application of Mr. and Mrs. Welch for the above variance at 48 Wildwood Gardens, Piedmont, California, in accordance with the plans and specifications on file with the City.

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



applicable laws and to attach conditions after initial approval is given, if noncompliance is discovered or additional conditions are considered necessary and appropriate in light of Commission/Council findings.

Moved by Henn, Seconded by Robertson

Ayes: Kellogg, Robertson, Stehr, Henn

Noes: None

Absent: Levine, Thiel

**Resolution 355-DR-07**

WHEREAS, Mr. and Mrs. Stephen Welch are requesting permission to make various modifications at the rear including the reconfiguration of an existing deck, replace and add a new retaining wall and fence, construct a new arbor, add new stucco columns and metal railing to the rear deck, new stairs and handrail, the demolition of an existing gazebo, and other hardscape and landscape improvements located at 48 Wildwood Gardens, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission finds that the 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 it complies with Design Review Guidelines II-3(a) and II-3(b).
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because of the separation distance between properties and existing landscape screening. The project complies with Design Review Guidelines II-3, II-6, II-6(a) and II-6(c).
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. There is no impact on circulation patterns because the proposed improvements are internal to the property. The project complies with Design Review Guideline II-7.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Welch for construction at 48 Wildwood Gardens, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. The approved plans are those submitted on September 25, 2007, after neighbors were notified of the project and the plans were available for public review;

2. Based on the scope and nature of the proposed landscape and development plans, a best management practice plan for construction which complies with the Alameda Countywide Clean Water Program General and Residential Conditions of Approval will need to be developed by the applicant prior to obtaining a building permit;
3. Due to the scope and nature of the application, a construction management plan shall be developed and approved by staff prior to obtaining a building permit. Said plan shall be comprehensive while specifically addressing the duration of the project, construction hours, the staging of materials, and parking of worker vehicles to ensure the free flow of traffic along Wildwood Gardens;

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

Moved by Henn, Seconded by Kellogg

Ayes: Kellogg, Robertson, Stehr, Henn

Noes: None

Absent: Levine, Thiel

**Appeal  
427 Pacific Avenue**

Mr. Michael Perkocha and Ms. Tina Stott are appealing a September 13, 2007, planning staff decision conditionally approving an application submitted by Mr. and Mrs. Bruce Gilmore seeking retroactive approval for the elimination of stairs at the southwest corner of the new driveway turnaround terrace and an increase in the terrace wall height to 8'6" (maximum) above the lowest adjacent grade, and for new landscape vegetation to screen the west and south faces of the terrace wall at their residence at 427 Pacific Avenue. Staff conditions for project approval were:

1. The approved plans are those submitted on July 23 and August 23, 2007, with additional landscape information submitted on September 11, 2007, after neighbors were notified of the project and the plans were available for public review;
2. As shown in the approved landscape plans, the applicants shall install evergreen vegetation at the base of the west and south walls of the driveway turnaround terrace to screen the mass and bulk of the retaining walls and guardrails as viewed from Hagar Avenue and neighboring properties. After final building permit inspection, this vegetation and the existing vegetation at the base of the south wall shall remain intact and be maintained for a period of at least 10 years, but the applicants shall be allowed to make modifications to any aspect of the landscape plan that does

not require design review under Chapter 17 of the City Code;  
and

3. The west and south facing walls of the driveway turnaround terrace shall be painted a dark-toned color that is consistent with the color scheme of the house.

Written notice was provided to neighbors. **No response forms** were received. **Correspondence** was received from: David & Elizabeth Kuhn, Sept. 28; Allan & Louisa Gutsche, Oct. 3; Harold Smith, Sept. 29; John Yadegar, Oct. 5; Michael Perkocha & Tina Stott, Sept. 24.

**Public testimony** was received from:

Miles Berger, Project Architect, concurred with staff's decision and noted that the height of the retaining wall was higher than that originally proposed and approved because the grade in one corner of the property was lower than originally thought when the dense landscaping cover was removed during construction. He felt that the change in height was an insignificant deviation from the approved plan and emphasized that this wall will be completely obscured by landscaping in approximately two years when newly planted vegetation matures. He also stated that the stairs were removed because they ended on a neighbor's property and were no longer needed or desired to access the area – more convenient access is gained from the other side of the applicant's property.

Michael Perkocha, the appellant, referenced his appeal correspondence in reiterating his belief that staff's review and action on the Gilmore's application was deficient and inconsistent with City code requirements. In particular, he felt that the wall should have been terraced in compliance with the City's design review guidelines, the staff imposed landscaping conditions are unenforceable, the proposed landscaping of the wall does not enhance the residential character of the area, staff should have required a professionally prepared landscape plan and the removed stairs helped break up the mass of the large wall. Mr. Perkocha also voiced his concern that if the Gilmore's replace an existing fence, additional juniper landscaping which has spread between both his and the applicant's property will be removed.

Bruce Gilmore clarified that the fence in question is located on his property and the juniper shrubs benefit both properties – the trunks of the large junipers are on Mr. Perkocha's property. Mr. Gilmore stated that the fence needs to be replaced as a joint effort between himself and Mr. Perkocha.

The Commission concurred with staff's findings and decision, noting in particular the proposed drought tolerant landscaping is an appropriate choice given the isolated nature of this steep hillside area and the benefit of low maintenance, hardy vegetation to prevent hillside erosion. In addition, the Commission noted that the height of the wall is only different from that originally approved in one corner where a change in grade is not unusual on a steeply sloping property – the wall height in relationship to the driveway is as originally approved.

**Resolution 269-DR-07**

WHEREAS, Mr. and Mrs. Bruce Gilmore are requesting retroactive approval for the removal of stairs at the southwest corner of the new driveway turnaround terrace and an increase in the terrace wall height to 8'6" (maximum) above the lowest adjacent grade, and for new landscape vegetation to screen the west and south faces of the terrace wall at their residence at 427 Pacific Avenue, Piedmont, California, which construction requires staff design review; and

WHEREAS, City planning staff conditionally approved Mr. and Mrs. Gilmore's design review application on September 13, 2007, and this conditional approval decision was appealed by Mr. Michael Perkocha; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application and appeal, 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: as conditioned, the design and materials of the modified driveway turnaround terrace meet Residential Design Guidelines II-3©, IV-3 and IV-3(a), are aesthetically pleasing as a whole and are harmonious with the existing architecture of the house. The driveway terrace with the elimination of the stairs to the western yard has been designed with cement plaster surface walls that are consistent with the original and previously approved design of the garage and house. The walls at the south and west sides of the driveway turnaround terrace lack the terracing and height limits recommended in Design Review Guideline IV-2 and IV-2(a) but their mass and bulk as seen from Hagar Avenue and neighboring properties will be screened and minimized by landscape vegetation, which as proposed in the landscape plan and required by condition of approval #2 will be planted at the toe of the walls, and therefore will meet Design Review Guideline IV-4. The proposed landscape vegetation in the yard facing Hagar Avenue is consistent with Section 17.18.1 of the City Code in that it: enhances the natural beauty and visual character of the City, subject property and neighborhood; provides vegetation screening of the driveway terrace walls; and prevents erosion and enhances fire protection. The landscaping as proposed and the color of the retaining wall meet the general intent of Design Review Guideline IV-1 with the exception of one corner due to the natural slope of the land. Otherwise, the retaining wall complies with the intent of the code. The overall design scheme of the improvements comply with Design Review Guidelines II-3(a) through (d) and II-4.

2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light. The increased height of the walls relative to adjacent grade is due to the elimination of the steps, which had a terracing effect, and to corrections to the previously approved plans, which showed grade at the

southwest corner of the driveway terrace at a greater elevation than that which actually exists. The altitudinal height of the walls did not change from what was previously approved and, as conditioned, the design, including vegetative screening and non-reflective color of the walls, is appropriate and will have no adverse effect on neighboring properties' existing views, privacy and access to direct and indirect light. Due to the topography, mature vegetation and the distance between the improvements and the adjacent neighbors, there will be no impact.

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. Due to the nature and location of the proposed construction, the safety of residents, pedestrians and vehicle occupants and the free flow of traffic will not be adversely affected. The project complies with Design Review Guideline II-7 in that the retaining wall adequately forms the correct driveway approach to the garage and the issue where the grade meets the bottom of the dry wall does not impact traffic, pedestrian or vehicle circulation.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies Mr. Perkocha's appeal and upholds staff's conditional approval of the design review application of Mr. and Mrs. Gilmore for construction at 415 Pacific Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. The approved plans are those submitted on July 23 and August 23, 2007, with additional landscape information submitted on September 11, 2007, after neighbors were notified of the project and the plans were available for public review;
2. As shown in the approved landscape plans, the applicants shall install evergreen vegetation at the base of the west and south walls of the driveway turnaround terrace to screen the mass and bulk of the retaining walls and guardrails as viewed from Hagar Avenue and neighboring properties. After final building permit inspection, this vegetation and the existing vegetation at the base of the south wall shall remain intact and be maintained for a period of at least 10 years, but the applicants shall be allowed to make modifications to any aspect of the landscape plan that does not require design review under Chapter 17 of the City Code; and
3. The west and south facing walls of the driveway turnaround terrace shall be painted a dark-toned color that is consistent with the color scheme of the house.

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

applicable laws and to attach conditions after initial approval is given, if noncompliance is discovered or additional conditions are considered necessary and appropriate in light of Commission/Council findings.

Moved by Kellogg, Seconded by Henn

Ayes: Kellogg, Robertson, Stehr, Henn

Noes: None

Absent: Levine, Thiel

**Proposed Revisions  
To Tankless Water  
Heater Policy**

Per Commission direction of August 13, the Assistant Planner submitted a revised version of the City's Tankless Water Heater Policy to allow tankless water heaters to be installed on the exterior of residences if the heater is screened from public/neighbor view, the installation of the heater does not detract from the architectural aesthetics of the residence, the heater is located outside of required setbacks and the heater does not impose adverse noise or venting impacts on adjacent neighbors. The Commission discussed the various provisions of the revised draft, requesting that more information be submitted concerning the venting and piping options available for exterior mounted water heaters before action is taken on the proposed draft. In particular, it was suggested that local contractors and plumbers be contacted for their input with regard to installation options and photographs and/or trade and manufacturer articles be compiled regarding this issue. Staff agreed to do so.

**Resolution 24-PL-07**

RESOLVED, that the Planning Commission continues until a future meeting further consideration of proposed revisions to the City's Tankless Water Heater Policy.

Moved by Kellogg, Seconded by Robertson

Ayes: Kellogg, Robertson, Stehr, Henn

Noes: None

Absent: Levine, Thiel

**ADJOURNMENT**

There being no further business, Vice Chair Stehr adjourned the meeting at 11:50 p.m.

