

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday September 10, 2007

A Regular Session of the Piedmont Planning Commission was held September 10, 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 August 31, 2007.

CALL TO ORDER

Vice Chairman Stehr called the meeting to order at 5:10 p.m. She announced that Agenda Items #15 (Variance/Design Review, 39 Crest Road) and #16 (Design Review, 99 Oakmont) have been withdrawn from tonight's agenda at the applicants' request. In addition Agenda Items #17 (Second Unit Code Changes) and #18 (Tankless Water Heater Policy) have also been withdrawn from tonight's consideration.

ROLL CALL

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

Absent: Chairman Clark Thiel

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

City Council Liaison: Mayor Nancy McEnroe

CONSENT CALENDAR

The following Resolutions were approved under one vote by the Commission:

Fence Design Review 407 Scenic Avenue

Resolution 277-DR-07

WHEREAS, Mr. Tom Brightbill is requesting permission to replace an existing concrete retaining wall and wood fence along the right (east) side yard, a portion of which will be located within the 20 ft. setback at 407 Scenic 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: The new wall is a replacement of an existing failing wall. It will not exceed 6 ft. in height. Terracing is not an option as it would reduce the size of the front yard.

2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect

light because it does not change the footprint of the existing or change the look. It is barely visible from adjoining properties.

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 egress change or through traffic in this area.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Brightbill for construction at 407 Scenic 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.

**Variance
191 Oak Road**

Resolution 280-V-07

WHEREAS, Mr. and Mrs. Brian Sturdivant are requesting permission to make modifications to the front and south side yard including new concrete retaining walls with guardrail atop, the widening of existing wood stairs, and various other hardscape improvements located at 191 Oak Road, Piedmont, California, which construction requires variance; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary in order to construct within the (north) side street setback; and

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

1. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to: the current hardscape and structure exceeds the allowable 40% coverage code limit, widening the stairs to meet code at front and rear of house increases this lot coverage by 7.8% to 53.7%. This is due to the undersized lot and oversized structure originally built. The setback code is currently 16 ft. the proposed stairs require 15'2". 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 as follows: The variance will

allow new stairs in front and rear yards to be built to code where stairs currently exist that do not meet code.

3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction as follows: If the variance is not granted, safety issues cannot be addressed. The rise and run of current stairs varies widely, there are no hand/guardrails that meet code on current stairs.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application of Mr. and Mrs. Sturdivant for the above variance at 191 Oak 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.

**Design Review
191 Oak Road**

Resolution 280-DR-07

WHEREAS, Mr. and Mrs. Brian Sturdivant are requesting permission to make modifications to the front and south side yard including new concrete retaining walls with guardrail atop, the widening of existing wood stairs, and various other hardscape improvements located at 191 Oak 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 retaining walls, foundation and drainage activities need to be addressed to maintain the structural integrity of the home. The proposed adjustments, changes and upgrades are all made to meet engineering specifications and to address design criteria to the best of our ability. These adjustments include the introduction of a fence system above the replacement retaining walls that reflects the style utilized on the stairway and landing area of the front entrance to the home. The rear redwood stairs that must be removed to address the foundation are to be replaced by like materials (redwood) but may be above grade in areas to obtain required rise over run objectives.

2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because none of the proposed adjustments will impact any sight lines, direct or indirect light or change any of the exterior style or character of the property. The proposed changes will provide for a stronger and better maintained property in the neighborhood.

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 none of the proposed changes will negatively impact vehicle, pedestrian or points of egress or ingress on the property or surrounding areas of Oak Road or Park Lane in any way.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Sturdivant for construction at 191 Oak 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 31, 2007, after neighbors were notified of the project and the plans were available for public review;
2. 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;
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;
4. The new stairs at the front of the residence shall be constructed to be on-grade.

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.

**Fence Design Review
25 Glen Alpine Road**

Resolution 305-DR-07

WHEREAS, Mr. and Mrs. Tom Sullivan are requesting permission to modify an existing front yard retaining wall and matching pillars, install a new wood gate with ornamental iron work and add exterior lighting located at 25 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 (including but not limited to height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that: The proposed elements stucco and brick for the columns match the existing materials on site. The new wood gate design matches the color of the garage door and the design of the gate – with open panels matches an existing detail at the building near the front door.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because the proposed design is similar in nature with existing entry gates, entry columns and iron work in the immediate neighborhood and will not affect neighboring views, or access to direct/indirect light. No change in privacy will affect neighborhood.
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 enlarged columns and the higher gate will not affect pedestrian or vehicle traffic on Glen Alpine Road.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Sullivan for construction at 25 Glen Alpine Road, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following condition:

- The new wall-mounted and landscape uplights (fixtures Gemini B25-20 and MU-20H-BZ on the Lighting Plan) shall be directed so that they do not shine on neighboring properties.

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.

**Design Review
327 St. James Drive**

Resolution 306-DR-07

WHEREAS, Ms. Maria Ross is requesting permission to modify the front yard with new planters between the existing driveway and entry stairs, a new painted metal guardrail, a new mailbox, and new landscaping located at 327 St. James Drive, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission finds that the proposal conforms with the criteria and standards of Section 17.20.9 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-1 and II-3;
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 Guidelines V-1 and V-5;
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because the proposal complies with Design Review Guidelines V-1 through V-5.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Ms. Ross for construction at 327 St. James Drive, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following condition:

- The applicant shall apply for an encroachment permit for the brick mailbox located in the City right-of-way, prior to the issuance of a building permit.

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

Moved by Kellogg, Seconded by Robertson

Ayes: Kellogg, Robertson, Stehr, Henn

Noes: None

Absent: Levine, Thiel

(Note: Alternate Commissioner Henn recused himself from the vote on Resolutions 280-V-07 and 280-DR-07)

PUBLIC FORUM

There were no speakers for the public forum.

APPROVAL OF MINUTES

Resolution 18-PL-07

RESOLVED, that the Planning Commission approves as submitted its meeting minutes of August 13, 2007.

Moved by Robertson, Seconded by Kellogg

Ayes: Kellogg, Robertson, Stehr, Henn

Noes: None

Absent: Levine, Thiel

By procedural motion, the Vice Chairman moved consideration of Agenda Item #4 (New House Design Review, 61 Glen Alpine Road) to later in the meeting when Commissioner Levine would be present to discuss the application given the Commission's desire to benefit from Commissioner Levine's experience with CEQA related issues.

REGULAR CALENDAR

The Commission considered the following items of regular business:

Appeal 50 Selborne Drive

Mr. Alan Wofsy is appealing a July 31 decision of the planning staff conditionally approving Mr. Sean Hilchey and Ms. Nora Canty's design review application to install two new ground mounted air conditioning units on the east side of their residence at 50 Selborne Drive. Planning staff required the following conditions in approving the Hilchey/Canty application:

- The applicants shall install a vegetated fence with a maximum height of 6 ft. between the proposed air conditioning units and north (rear) property line to preserve the privacy of the adjacent neighbor at 66 Inverleith Terrace. Said design change shall be subject to staff review and approval;
- The applicants shall maintain the dense, mature, vegetation along the rear property line to preserve the privacy screening between the air conditioning units and neighboring properties. This vegetation shall remain intact and be maintained for at least 10 years from the date of final inspection; and
- The approved plans are those submitted on June 19, 2007, with additional sound rating information submitted on July 23, 2007, after neighbors were notified of the project and the plans were available for public review.

Written notice was provided to neighbors. **No response forms** were received. **Correspondence** was received from Alan Wofsy, Aug. 10, Sept. 6; Bennett Christopherson, Aug. 30.

Public testimony was received from:

Bennett Christopherson, Appellant Representative, stated that the applicant's proposed trellis screening of the air conditioning units is inadequate to completely screen the equipment from the view from Mr.

Wofsy's bedroom window. He stated his client's preference that the units be enclosed behind a stucco wall which would be more in keeping with the architectural character of the home. He also requested that once installed on-site sound testing be conducted to insure that the units comply with the City's noise ordinance. He referenced an acoustical engineer's report retained by his client which indicated that there is a chance the units will exceed the noise ordinance when margin of error and pulsing effect is factored into the estimated decibel level.

Judith Mazia, Mr. Wofsy's wife, stressed that the units represent an eyesore in an otherwise beautiful grove of oak trees. She emphasized that the proposed trellis will not completely screen these units from view, will offer no noise buffering and will not enhance the aesthetics of the home.

Alan Wofsy agreed with his wife that the proposed trellis will look tacky. He also stressed his belief that the noise calculations submitted by the applicants are in error. He reiterated his preference that the air conditioning units be enclosed behind a solid stucco wall to mitigate his aesthetic, view and noise concerns.

Nora Canty noted that the acoustical reports indicate that the units will comply with the City's noise ordinance, the proposed arched trellis will be landscaped with vines and given the distance between the units and Mr. Wofsy's residence and the existing vegetation buffer between the two properties, there will be minimal impact on the Wofsy residence. However, she noted her willingness to remove the arch top on the trellis and instead square off this top to completely screen the units; noting however, her belief that this design will be less appealing.

Chester Nakahara, Chief Building Official, explained the City's methodology in calculating noise levels from mechanical equipment and his belief, based upon experience, that the noise from the air conditioning units will be below the level permitted by the code. He agreed that initially there were errors in the applicants' noise calculations but these errors were caught and corrected.

The Commission discussed the issues raised in Mr. Wofsy's appeal and concurred with staff's findings that story poles were not necessary or warranted in this case – the erection of story poles should be limited to those applications proposing second story additions or involving substantial view impact. The Commission also noted its confidence in relying upon building department assurances that the units will comply with the City's noise ordinance. However, the Commission agreed that the arched design of the proposed trellis will not completely screen the units from view and therefore, as conditioned in the staff's decision, the applicants' should modify the design of the trellis so as to provide complete screening, e.g, raise the height, increase the width and/or "square off" the top. The Commission agreed that this design modification could be handled at the staff level. The Commission also noted that there is no "tacked on" concern involved since the trellis is a landscape element, not a part of the residential structure.

Resolution 182-DR-07

WHEREAS, Mr. Sean Hilchey and Ms. Nora Canty are requesting permission to install two new ground mounted air conditioning units on

the east side of their residence located at 50 Selborne Drive, Piedmont, California, which construction requires design review; and

WHEREAS, planning staff conditionally approved Mr. Hilchey and Ms. Canty's application on July 31, 2007, and this approval decision was appealed by Mr. Alan Wofsy; 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 3 ft. and 4 ft. high air conditioning units meet Residential Design Guideline II-1 in that their scale is compatible with the existing residences in the neighborhood. The proposed air conditioning units also meet Residential Design Guideline II-3© in that they are designed to be carefully integrated into the three dimensional form and proportional relationships of the existing residence. As conditioned, the proposed units will be adequately screened and will be harmonious with the existing architecture of the house. The design and placement of the proposed air conditioning units are appropriate and as conditioned, meet the criteria established in Section 17.20.9(a)(i), which calls for the concealment of mechanical and electrical equipment. According to the sound rating output information provided by the applicant which does not include the screening, the proposed air conditioning units are expected to have a combined sound level of 46.5 decibels at the nearest property line and will therefore meet the 50 decibel limit required by the Piedmont Municipal Code, Section 5.2.21.

2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because as conditioned, the design is appropriate and will have no significant adverse effect on neighboring properties' existing views, privacy and access to direct and indirect light, in that the units are proposed to be located 30 ft. from the closest property line. Due to the down sloping shape of the lot, required screening, mature vegetation and the distance between the improvements and the adjacent neighbors, there will be no impact on light or neighboring views. The existing mature vegetation and conditioned privacy mitigation measure ensures adequate privacy between the proposed air conditioning units and the neighboring properties.

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 vehicular traffic will not be adversely affected.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies Mr. Wofsy's appeal and upholds planning staff's conditional approval of Mr. Hilchey and Ms. Canty's design review application for construction at 50 Selborne Drive, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. The applicants shall install, between the proposed air conditioning units and north (rear) property line, a vegetated fence approximately 7 ft. in height or of a shape determined by staff as necessary to provide adequate privacy when viewed from 66 Inverleith Terrace. The applicants have the discretion to propose either design alternative. Said design change shall be subject to staff review and approval;
2. The applicants shall maintain the dense, mature, vegetation along the rear property line to preserve the privacy screening between the air conditioning units and neighboring properties. This vegetation shall remain intact and be maintained for at least 10 years from the date of final inspection; and
3. The approved plans are those submitted on June 19, 2007, with additional sound rating information submitted on July 23, 2007, after neighbors were notified of the project and the plans were available for public review.

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

Moved by Henn, Seconded by Kellogg

Ayes: Kellogg, Robertson, Stehr, Henn

Noes: None

Absent: Levine, Thiel

**Sign Design Review
345 Highland Avenue**

Bank of America is requesting Non-Residential Sign Design Review to replace the existing, non-illuminated signage on the building with larger, internally illuminated signs facing Highland Avenue and Vista Avenue, and replace the signage on the doors facing Highland Avenue and the rear parking lot.

Written notice was provided to neighbors. **Sixteen negative response forms** were received. **Correspondence** was received from: Michelle Eldridge, Sept. 5; Tanya Vawter, Sept. 5; Drew Bendon, Sept. 5; Timothy Rood, Sept. 5; Tami Collins, Sept. 5; Frances Dalton, Sept. 5; Mallory Hill, Sept. 5; Steve Collins, Sept. 5; Roseanne & Ray Perman, Sept. 5; Sandy Todd, Sept. 6; Joyce Wang, Sept. 6; Melanie & Tyler Johnston, Sept. 6; Lillis & Max Stern, Sept. 4; Sharon Hom, Sept. 6;

Liz Burnett, Sept. 6; Sarah Bird, Sept. 6; FeliciaTudal, Sept. 6; Max Stern, Sept. 7; B. Suzanne Farley, Sept. 6.

Public testimony was received from:

Steve Allsop, Bank of America Representative, stated that Bank of America is rebranding all of its branches nationwide. However, he stressed the bank's willingness to modify its signage in order to comply with local rules and community aesthetics. Therefore, he withdrew the bank's request for illuminated signs. He noted the bank's desire to have two signs (one on Vista and one on Highland) given the bank's corner location and the fact that other competitor banks in the area have two signs. It was also noted that the design, size and scale of the proposed signs is that indicated on the K-2 specifications and photo rendering submitted.

Lillis Stern opposed the bank's request for illuminated signs. She also felt that a proposal to allow illuminated business signs in Piedmont is contrary to the community's long-standing policy and character and would affect the entire community. Therefore, she requested that if any such proposal is made in the future, the City's noticing radius be expanded beyond that of the immediate neighborhood in recognition of the community wide impact such signage would have.

The Commission agreed that illuminated business signs are unnecessary and incompatible with Piedmont's character. The Commission engaged in a lengthy discussion of the proposed signage design and locations, agreeing that there were discrepancies between the submitted plans and specification information as to actual size and proportion making it difficult to determine what is exactly being proposed. Nevertheless, the Commission agreed that the proposed square footage of the signs was too large, inconsistent in size with the signage on adjacent retail establishments and not in keeping with the City's preference for subtle business signage. The Commission was divided in its support for one or two signs on the building as well as whether the new signage should be on the fascia as proposed or on the solid wall below the roof overhang. In the end the Commission felt that it could not act on the application as currently submitted because of the confusion over what was actually being requested. The Commission requested that accurate drawings, clearly delineating what is being proposed be submitted.

Resolution 235-DR-07

WHEREAS, Bank of America is requesting permission to replace the existing, non-illuminated signage on the building with larger, internally illuminated signs facing Highland Avenue and Vista Avenue, and replace the signage on the doors facing Highland Avenue and the rear parking lot located at 345 Highland Avenue, Piedmont, California, which signage 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 Sections 17.19.2, 17.19.3 or 17.19.8 of the Piedmont City Code:

1. The proposed signage is not in proportion with the building and is larger and more prominent than other signs of equivalent retail businesses in the district;
2. The proposed signage is too large and visually intrusive;
3. The proposed signage needs to be redesigned so as to be properly scaled and respectful with the existing architecture of the building and adjoining retail establishments;
4. The application failed to provide accurate drawings upon which the Commission could act.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies, without prejudice, the design review application of Bank of America for construction at 345 Highland Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Kellogg, Seconded by Robertson

Ayes: Kellogg, Robertson, Stehr, Henn

Noes: None

Absent: Levine, Thiel

**Variance and
Design Review
53 Lakeview Avenue**

Mr. and Mrs. Barry Goldstein are requesting variance and design review to make modifications to the residence, including: demolishing the existing rear terrace, stairs and patio; constructing an approximately 734 sq. ft. rear basement level addition with first floor terrace above and new terrace stairs to the rear yard; making window and door modifications; modifying decorative railings on the west and north facades; adding exterior lighting; and making various changes to the interior including the expansion of the interior clearance dimensions of the existing garage. The requested variance is from Section 17.14.7 to allow the new rear basement addition to extend to within 10 ft. of the right side property line in lieu of the code required minimum of a 20 ft. street side setback.

Written notice was provided to neighbors. **Four affirmative response forms** were received. **Correspondence** was received from: Frances Wolfe, Sept. 3;

Public testimony was received from:

Stephen Sooter, Project Architect, stated that the proposal will restore the architectural integrity of the rear façade and has no impact on neighbors.

Sandra Goldstein summarized the extensive renovation of the property since her 1989 purchase of the home, noting that this is the last phase of the renovation.

The Commission agreed that the proposal will enhance the aesthetics of the home, creates usable square footage without any significant change in the existing building envelope, and improves the appearance and usability of the rear yard. The Commission concurred that variance approval is justified in this case since the home currently encroaches

into the setback – it was built prior to the establishment of the Estate Zone. It was further noted that a large portion of the new structure within the setback is below grade and therefore not visible to the public.

Resolution 307-V-07

WHEREAS, Mr. and Mrs. Barry Goldstein are requesting permission to make modifications to the residence, including: demolishing the existing rear terrace, stairs and patio; constructing an approximately 734 sq. ft. rear basement level addition with first floor terrace above and new terrace stairs to the rear yard; making window and door modifications; modifying decorative railings on the west and north facades; adding exterior lighting; and making various changes to the interior including the expansion of the interior clearance dimensions of the existing garage located at 53 Lakeview Avenue, Piedmont, California, which construction requires variance; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary in order to construct within the 20 ft. right (east) 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 fact that the existing house was constructed prior to the establishment of the Estate Zone. 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 proposed improvements are contained within the rear yard. There is no impact on neighboring properties because a large portion of the new structure within the setback is below grade, with no visual impact.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because the existing home encroaches into the setback and its current configuration limits where improvements can be made.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application of Mr. and Mrs. Goldstein for the above variance at 53 Lakeview 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 Robertson, Seconded by Henn

Ayes: Kellogg, Robertson, Stehr, Henn

Noes: None

Absent: Levine, Thiel

Resolution 307-DR-07

WHEREAS, Mr. and Mrs. Barry Goldstein are requesting permission to make modifications to the residence, including: demolishing the existing rear terrace, stairs and patio; constructing an approximately 734 sq. ft. rear basement level addition with first floor terrace above and new terrace stairs to the rear yard; making window and door modifications; modifying decorative railings on the west and north facades; adding exterior lighting; and making various changes to the interior including the expansion of the interior clearance dimensions of the existing garage located at 53 Lakeview 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 II-3(a), (b), (c) and (d).
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because there is very little impact on neighboring properties. The proposed improvements are mostly contained within the lower level of the rear yard. It complies with Design Review Guidelines II-2, II-3 and II-5.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because there is no change in existing circulation patterns. The proposal adds more off-street parking and complies with Design Review Guideline II-6.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Goldstein for construction at 53 Lakeview Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. Due to the scope and nature of the application, a construction management plan shall be developed and approved by staff prior to obtaining a building permit. Said plan shall be comprehensive while specifically addressing the duration of the project, construction hours, the staging of materials, and parking of worker vehicles to ensure the free flow of traffic along Lakeview Avenue and Poplar Way;
2. 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;
3. New doors and windows shall be true or 3-dimensional simulated divided lites.

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 Henn

Ayes: Kellogg, Robertson, Stehr, Henn

Noes: None

Absent: Levine, Thiel

The Commission recessed at 6:45 p.m. for dinner and reconvened at 7:25 p.m. Commissioner Levine arrived at 7:15 p.m.

**New House
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.

Written notice was provided to neighbors. **Five affirmative and three negative response forms** were received. **Correspondence** was

received from: Mary Jane Betts, Sept. 3; Robert Fisher, Aug. 22 & 28, Sept. 3, 6; Gail & John Uilkema, Aug. 30, Sept. 5; Joy Rudy, Aug. 26; Suzan Kramer, Aug. 28; Wilson Wendt, Sept. 4; Ronnie & Teresa Baum, Sept. 6, City of Piedmont Chief Building Official, Sept. 7; Jennifer Hughes & Douglas Smith, Sept. 6; Richard Nolan, Sept. 10; Gail Uilkema, Sept. 9.

Public testimony was received from:

Jennifer Hughes and Doug Smith stated that they purchased their property in 1999 with the intent of eventually building their dream house. The current proposal fulfills this dream. They noted the care taken in the design to minimize disruption to the property's beautiful environment and maximize the preservation of neighbor privacy. They acknowledged that there have been several large construction projects in the Glen Alpine neighborhood recently and stressed their intent for all construction related vehicle traffic to use Calvert Court as the access and staging route for the project – they own an unimproved lot off of Calvert Court which allows direct access to 61 Glen Alpine from Calvert Court. They requested, however, flexibility to use the shared Glen Alpine driveway as a secondary access route only in those rare occasions when Calvert Court access is not the best option.

Dan Pelsinger, Project Contractor, stressed that 95% of all construction related staging and vehicle traffic will access the property from Calvert Court. However, he noted that at the later stages of project completion, it may be more expedient to use the Glen Alpine driveway for the delivery of landscape materials. He requested flexibility in this regard. He stressed that use of the Glen Alpine driveway would be quite rare and he noted his willingness to notify the neighborhood one week in advance when such use is anticipated. He anticipated that construction would take between 16 and 18 months to complete and that construction activity would occur in accordance with the City's regulations, e.g. 8 a.m. to 4:30 p.m. weekdays, no weekends.

Ian Moller, Project Architect, described the concept and details of the proposed Mediterranean Revival design of the new residence. He also explained the design and location of the required fire truck turnaround and noted that 25 new trees will be planted on the site to retain the property's park-like setting.

Bob Fisher voiced concern over noise disturbances if the shared Glen Alpine driveway is used for construction related activity, noting that his bedroom is only 10 ft. away from the driveway. He urged that as a condition of project approval, all construction related traffic be required to access the property from Calvert Court. He also requested that his arborist's *tree protection plan* be incorporated as a project condition and that the applicants be prevented from trespassing onto his property, with the exception of the activity necessary to construct the fire truck turnaround. He voiced concern that this project is likely to take 2-1/2 to 3 years to complete and as a consequence he will suffer significant construction related disruption and disturbance. He did not object to the design of the proposed new home.

Gail Uilkema also had no objection to the proposed design of the home but concurred with Mr. Fisher that no construction related traffic be

allowed to use the shared Glen Alpine driveway. She objected to the current proposal that ¾ ton pickups be allowed to use the driveway. She also requested that the *tree preservation plan* be extended to include the trees along the easement road off of Glen Alpine.

John Uilkema disagreed with the City Attorney's opinion that the proposed project qualifies for a Class 2 Categorical Exemption from CEQA, citing the unusual circumstances surrounding the small shared driveway, nestled into a wooded setting and so near an adjacent home's bedroom. Given this situation, construction traffic would pose a significant impact on the neighborhood's quality of life. He agreed with his wife that ¾ ton pickups should be prohibited from using the driveway.

The Commission concurred with the City Attorney's opinion that the project qualifies for a Class 2 Categorical Exemption from CEQA, noting that it proposes a new single family residence in essentially the same location as a current single family home. The Commission agreed that the design and siting of the new home was appropriate for the property and neighborhood and in keeping with the architectural quality of Piedmont. There will be no impact on neighbor view, light or privacy given its location down in the ravine. The Commission agreed that the shared driveway is not suitable for construction vehicle traffic because of its steep slope and narrow nature; however, it was noted that ¾ ton pickups are commonplace in the general population and are not typically viewed/used as strictly construction vehicles. The Commission was not opposed under special circumstances to permitting a limited amount of use of the shared driveway for construction related traffic toward the end of the project. The Commission also stressed the importance of the fire truck turnaround to the all the homes in this canyon area and requested City staff to evaluate if existing improvements to the shared driveway are required in order to insure suitable fire truck access to this part of the City.

The Commission also discussed at length the fact that Calvert Court residents were not specifically notified that all construction staging/access to the project will be from their street. It was noted that because Calvert Court is such a quiet street, the staging of this project will represent a significant change in existing vehicle volume and parking. Therefore, the Commission agreed to postpone approving the project until the next meeting to allow Calvert Court residents to be notified of the project staging conditions and provide these residents with an opportunity to voice any concerns or requests to the Commission at the October meeting.

Resolution 19-PL-07

RESOLVED, that the Planning Commission continues until October 8, 2007, further consideration of the design review application of Mr. Douglas Smith and Ms. Jennifer Hughes for the proposed construction of a new house at 61 Glen Alpine Road in order to provide notification to Calvert Court homeowners that per the project's construction management plan, the staging of this proposed construction will occur from Calvert Court; and

RESOLVED FURTHER, that notification of Calvert Court property owners will be in accordance with the City's standard noticing policy

based upon the notice radius from the applicants' Calvert Court property.

Moved by Levine, Seconded by Henn

Ayes: Kellogg, Levine, Robertson, Stehr, Henn

Noes: None

Absent: Thiel

**Variance and
Design Review
330 El Cerrito Avenue**

Mr. Peter Craigie and Ms. Conna McCarthy are requesting variance and design review to expand the existing driveway and make other on-grade hardscape and vegetative improvements. The requested variance is from Section 17.10.4 to allow a impervious surface coverage of 73.2% in lieu of the code permitted maximum of 70%.

Written notice was provided to neighbors. **One affirmative response form** was received. **Correspondence** was received from: Ina & Fred Pockrass, Aug. 10; Dagmar Fung & Jeffrey Jones, Aug. 18

Public testimony was received from:

Conna McCarthy stated the proposal is intended to improve the use and function of the current driveway and thus make using her garage for parking more convenient. She noted that because of the steep driveway slope and shady conditions, the existing "green" driveway has not been viable resulting in a muddy, eroded mess in wet weather. She added that the new driveway surface would be stained concrete or concrete pavers. She also noted that there is no other areas on the property where existing hardscape can be removed in order to avoid variance.

The Commission supported project approval, agreeing that improvements to the driveway are needed for safety reasons and it is impossible to sustain a "green strip" driveway because of the driveway's slope and shady conditions. The Commission noted that a paved driveway is consistent with neighborhood conditions.

Resolution 308-V-07

WHEREAS, Mr. Peter Craigie and Ms. Conna McCarthy are requesting permission to expand the existing driveway and make other on-grade hardscape and vegetative improvements located at 330 El Cerrito Avenue, Piedmont, California, which construction requires variance; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary in order to exceed the City's limit for hardscape surface coverage; 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 driveway is very narrow and steep and there is no other location on the property where a driveway can be located. 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 all houses along this block have similar driveways. The proposal is consistent with neighborhood standards.

3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because there are very limited areas where existing hardscape could be removed.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application of Mr. Craigie and Ms. McCarthy for the above variance at 330 El Cerrito 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 Robertson, Seconded by Levine

Ayes: Kellogg, Levine, Robertson, Stehr, Henn

Noes: None

Absent: Thiel

Resolution 308-DR-07

WHEREAS, Mr. Peter Craigie and Ms. Conna McCarthy are requesting permission to expand the existing driveway and make other on-grade hardscape and vegetative improvements located at 330 El Cerrito 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: the proposal complies with Design Review Guidelines II-1 and II-3. Greenery is maintained along both sides of the driveway and the materials are harmonious with the existing property.

2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because the project improves an existing condition and complies with Design Review Guidelines II-3 and II-4

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 fact vehicle safety is enhanced because of the improved maneuverability of the driveway and the enhancement of pedestrian sight lines.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Craigie and Ms. McCarthy for construction at 330 El Cerrito Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following condition:

- 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 El Cerrito 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 Levine

Ayes: Kellogg, Levine, Robertson, Stehr, Henn

Noes: None

Absent: Thiel

**Design Review
83 Hazel Lane**

Mr. and Mrs. Stephen Recht are requesting design review to make modifications to the rear deck and in the rear yard, including: demolishing the rear shed; removing the spiral deck stairs and constructing new stairs on the north side of the rear deck; constructing new retaining walls and a new patio at the rear of the carport, which is proposed to have a built-in barbecue, trellis and outdoor fireplace; adding exterior lighting throughout the rear yard; and making rear yard landscape and hardscape improvements.

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

Public testimony was received from:

Tom Brunhill, Project Landscape Contractor, responded to Commission questions concerning the height of the retaining wall and the loss of an existing Japanese maple tree. He noted that the health of the maple is not good and given its proximity to the fireplace it is best to remove this tree.

The Commission supported project approval requesting that since the retaining wall is not terraced, it be landscaped to soften its appearance. The Commission also requested that the landscape buffer proposed instead of a guardrail be substantial enough to fulfill this guardrail purpose. The Commission agreed that the project is a great improvement over existing conditions.

Resolution 309-DR-07

WHEREAS, Mr. and Mrs. Stephen Recht are requesting permission to make modifications to the rear deck and in the rear yard, including: demolishing the rear shed; removing the spiral deck stairs and constructing new stairs on the north side of the rear deck; constructing new retaining walls and a new patio at the rear of the carport, which is proposed to have a built-in barbecue, trellis and outdoor fireplace; adding exterior lighting throughout the rear yard; and making rear yard landscape and hardscape improvements located at 83 Hazel Lane, 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), (b) and (c) and IV-4. The design is consistent with the architecture of the home. The materials, detailing and relationship of the proposed improvements are compatible with the existing residence.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light.
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 these elements are unaffected. The project complies with Design Review Guidelines 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. Recht for construction at 83 Hazel Lane,

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 29, 2007, after neighbors were notified of the project and the plans were available for public review;
2. Prior to the issuance of a building permit, the applicants shall apply and pay for an encroachment permit for the construction of the new concrete retaining wall located in the City's sanitary sewer easement at the rear of the property;
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 Hazel Lane;
4. Compliance with Chapter 9 Article III of the Municipal Code, which governs the recycling of construction and demolition debris, will be required on all 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;
5. The retaining wall to the west of the patio seating area be protected with a landscaped barrier in lieu of a code complying guardrail;
6. The 9'6" high retaining wall bordering the patio and barbecue area be provided with a planting strip at the base of the wall or with a landscape mitigation that mitigates the height of the wall, such as ivy.

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

Moved by Kellogg, Seconded by Levine

Ayes: Kellogg, Levine, Robertson, Stehr, Henn

Noes: None

Absent: Thiel

**New House and
Retaining Wall
71 Dudley Avenue**

Mr. Roger Ha and Ms. Jennifer Lee are requesting New House and Retaining Wall Design Review on Parcel B, the northernmost of the two parcels at 71-73 Dudley Avenue. The application proposes an approximately 4,371 sq. ft., three level house with 5 bedrooms, 5 full baths, 1 half bath, a living room, dining room, kitchen, great room, office, laundry room, 3-car garage, on-grade entry steps leading to a raised front entry porch, and a rear roof deck at the upper level master suite. The application also proposes to construct a new pool house, refurbish the existing swimming pool, construct retaining walls along the new sidewalk and flanking the new driveway, add and/or replace fencing, and make comprehensive hardscape and landscape changes throughout the property, including the removal of several large trees. The residence is proposed on the northernmost half of the property which was recently subdivided (April 2005) into two lots and will require the demolition of the existing house and other structures.

**New House and
Retaining Wall
73 Dudley Avenue**

Mr. Roger Ha and Ms. Jennifer Lee are requesting design review to construct a new house and retaining wall on Parcel A, the southernmost of the two parcels at 71-73 Dudley Avenue. The application proposes an approximately 4,072 sq. ft., two-level house with 4 bedrooms, 3 full baths, 1 half bath, a living room, dining room, kitchen, family room, laundry room, 2-car garage, on-grade entry steps. The application also proposes to construct retaining walls along the new sidewalk, along the north edge of the new driveway and at the rear patio; to construct a new fence along the north property line; and to make comprehensive hardscape and landscape changes throughout the property, including the removal of several large trees. The residence is proposed on the southernmost half of the property which was recently subdivided into two lots (April 2005), and will require the demolition of the existing house and other structures.

Vice Chairman Stehr announced that the Commission would consider 71 and 73 Dudley Avenue applications concurrently. Similar applications were considered by the Commission on July 9, 2007.

Written notice was provided to neighbors. **Three affirmative, one conditional affirmative and two negative response forms** were received. **Correspondence** was received from: Wendy & Mason Willrich, Sept. 5; Pauline & Anthony Pearsall, Sept. 6.

Public testimony was received from:

Grier Graff, Project Architect submitted photographs of the view from the Pearsall rear patio in support of his contention that the proposed home at 71 Dudley will not constitute a visual or privacy intrusion to this neighbor. He explained the design revisions made to both 71 and 73 Dudley in response to the Commission's meeting of July 9. He noted that the bathroom windows facing the Pearsall property on the first floor will be obscure glass and agreed to install obscure glass in the second floor bathroom window as well. He preferred that the second floor stairway window remain clear glass since this window is above eye-level and thus imposes no privacy impact.

Pauline Pearsall objected to the proposed siting of 71 Dudley, believing that the home will compromise her privacy and fails to abide by the neighborhood's existing pattern of creating private outdoor space

adjacent to neighboring outdoor space. She requested that the scale of 71 Dudley be reduced and the home be reoriented on the property to angle it further away from her property line.

The Commission agreed that the redesigns were responsive to Commission requests, sensitive to neighbor impacts and compatible with the existing architectural style and character of the neighborhood. The Commission further agreed that 71 Dudley does not impact the privacy or view from the Pearsall property as evidenced by the submitted photographs and the fact that approximately 80% of the Pearsall's view of the new home will be blocked by existing and proposed vegetation and trees. The Commission acknowledged the siting constraints on 71 Dudley in order to preserve an existing redwood grove and felt that reorienting the proposed home on the lot as requested by Ms. Pearsall would destroy this redwood grove.

Resolution 20-PL-07

RESOLVED, that with regard to the application for 71 Dudley Avenue, the Addendum to the Negative Declaration has been reviewed and the Planning Commission has determined that the change defined in the addendum (the removal of Trees #6 and #7) is so minor that a subsequent negative declaration pursuant to Section 15162 of the Public Resources Code (the California Environmental Quality Statutes) is not necessary.

Moved by Levine, Seconded by Henn

Ayes: Kellogg, Levine, Robertson, Stehr, Henn

Noes: None

Absent: Thiel

Resolution 315-DR-07

WHEREAS, Mr. Roger Ha and Ms. Jennifer Lee are requesting permission to construct an approximately 4,371 sq. ft., three level house with 5 bedrooms, 5 full baths, 1 half bath, a living room, dining room, kitchen, great room, office, laundry room, 3-car garage, on-grade entry steps leading to a raised front entry porch, and a rear roof deck at the upper level master suite. The application also proposes to construct a new pool house, refurbish the existing swimming pool, construct retaining walls along the new sidewalk and flanking the new driveway, add and/or replace fencing, and make comprehensive hardscape and landscape changes throughout the property, including the removal of several large trees located at 71 Dudley Avenue, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements include but are not limited to: height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment. The distance between the proposed 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 necessary to reduce losses of ambient and reflected light: The proposal complies with Design Review Guidelines I-1(a), (c) and (d), I-2(a), (b) and (c), I-5(b), I-6, I-7, I-8, I-9, I-10, I-11, IV and V.

2. The proposed new multi-level structure has been designed in a way that reasonably minimizes view and light impacts on neighboring properties, specifically 716 Blair, (as defined in Section 17.2.70), including consideration of the location of the new construction, lowering the height of the addition and changing the roof slope. The proposal complies with Design Review Guidelines I-1(a), (c) and (d), I-2(a), (b) and (c), I-5(b), I-6, I-7, I-8, I-9, I-10, I-11, IV and V.

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. This neighborhood is a fairly consistent group of 2-story houses and ranch houses with various topographies. The proposed new home is built into the hill and is consistent with the design of other houses and is compatible with the neighborhood. While the proposed home has a partial a second story, this second story will not tower over adjoining properties and because of its consistent design does not set a precedent for additional stories to be added to existing houses.

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.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Ha and Ms. Lee for construction at 71 Dudley Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. Due to the scope and nature of the application and in order to meet ADA Design Standards, the applicants shall install and maintain a sidewalk with adjoining curb and gutter along Dudley Avenue. Said sidewalk shall have a minimum width of 4 feet, the curb and gutter shall be repaired as needed, and plans for the sidewalk, curb and gutter shall be subject to Staff review and approval;
2. Based on the scope and nature of the proposed landscape and development plans, a best management practice plan to prevent stormwater pollution from construction-related activities 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 development of this property as part of a larger common plan of development with the adjacent property at 73 Dudley

Avenue in which more than 10,000 square feet of impervious surface is being added or replaced, 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; BASMAA's "Permanent Post-Construction Stormwater BMP Fact Sheets;" or the State of California Best Management Practices Handbooks;

4. Prior to the issuance of a building permit, the applicants shall prepare and submit a Tree Preservation Plan by a Certified Arborist that incorporates construction considerations and tree care recommendations for all the trees that are intended to be retained, including Coast Redwood trees #1, #2, #3, #4, #5 and #8 as indicated in the August 10, 2005, Arborist's Report. The final plan shall include but is not limited to tree preservation notes (such as creating a Tree Protection Zone around the dripline of all significant trees with a fence, and prohibiting construction equipment, underground utilities, or trenching from entering this Zone; and ensuring that any herbicides used during project construction activities are safe for use around trees and labeled for their use) on the appropriate sheets of the construction set of plans, and shall specify that a Certified Arborist be on-site during certain activities (such as trenching for foundations). This Tree Preservation Plan shall be subject to review and approval by staff;
5. Trees on the project site may provide nesting habitat for raptors or other special-status bird species¹ that could be adversely affected if the trees were removed during nesting season, and if active nests were present. Disturbance or destruction of nesting special-status bird habitat during the breeding season (February 1 through July 31) could potentially result in an impact to biological resources. Furthermore, any removal or destruction of active nests and any killing of migratory birds would violate the federal Migratory Bird Treaty Act (16USC, Section 703, 1989) and/or the California Fish and Game Code, Sections 3500-3516. Tree #7 shall not be removed, disturbed, or destroyed during the breeding season (February 1 through July 1). To the extent practicable, construction activities shall be performed or vegetation removed from September through January to avoid the general nesting period for birds. If construction or vegetation removal cannot be performed during this period, pre-construction surveys should be performed by a qualified biologist no more than 14 days prior to construction activities to locate any active nests prior to the start of construction and prior to the removal of any tree. If active nests are observed,

¹ Special-status bird species are considered to be those listed by appropriate state or federal agencies as endangered, rare, or threatened (consistent with Section 15380 of the state CEQA Guidelines), as well as those identified by these agencies as candidates for listing and those of "special concern." Also included are birds of prey (falcons and owls) given special protection in California Fish and Game Code Section 3503.5."

buffer zones shall be established around trees with nests, with a size acceptable to the California Department of Fish and Game. Construction activities shall avoid buffered zones and no tree will be removed until young have fledged or the nest is otherwise abandoned;

6. The applicants shall provide two 24" box specimen replacement trees of a native species, as part of the landscape plan to mitigate the loss of the 30" Coast Redwood (Tree #7). The species and locations of the trees are subject to staff review and approval;
7. A comprehensive Construction Management Plan shall be developed by the City for the project, after receiving an initial draft from the Applicants, 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;
8. A performance bond or other financial vehicle shall be required from Applicants to ensure the completion of the full construction of the house, including foundation and landscaping, 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 Applicants. 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 Applicants' 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 Applicants to increase the amount of the cash deposit, bond or other financial vehicle by such additional amount plus 25%, and Applicants 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 or bond to the extent the Director of Public Works in his sole discretion shall determine is appropriate;
9. A specific cash deposit or bond shall be made by the Applicants in the amount of \$200,000.00 to cover the cost of any damages to City property or facilities in any way caused by Applicants, Applicants' agents or assigns, including but not limited to any of

Applicants' 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 Applicants.

- a. To provide clear baseline information to determine whether damage is caused by the Applicants or others working for or on behalf of Applicants on this Project, specifically relating to damage to Dudley Avenue 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 Applicants within 21 days after receiving written notification of the work performed and the amount to be reimbursed.
 - b. 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 narrow curving city streets.
10. 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 Applicants 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 Applicants in 10a. 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 Applicants.

- c. If any work has not been completed for a specific milestone or benchmark as set forth in 10a. 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 8 in order to complete such milestone or benchmark;
11. 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;
12. 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;
13. Applicants 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 Applicants 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 Applicants covering any further estimated Staff time and expenses;
14. Applicants 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 4, 5, 9 and 10 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 Applicants covering any further estimated fees and expenses of professionals. Any amount remaining unexpended shall be refunded to the Applicants within 90 days after the Project is “finaled” by the Chief Building Official;
15. 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 is eligible to participate in the Incentive Program in which the City will provide one-half the cost of debris boxes provided by the City’s franchised waste hauler and used exclusively for the purpose of removing recyclable construction and demolition debris. Materials that can be reused at this or another project (fireplace surrounds, roof tiles, etc.) shall be salvaged to the extent possible; and

16. The second floor bathroom window facing north (toward 716 Blair) shall have obscure glass. The first floor bathroom windows facing 716 Blair shall also have obscure glass

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

Moved by Levine, Seconded by Henn

Ayes: Kellogg, Levine, Robertson, Stehr, Henn

Noes: None

Absent: Thiel

With regard to 73 Dudley, the Commission agreed that the proposed design preserves the existing oak grove, is well sited so as to balance the building height with the entry drive elevation and slope uphill to the rear of the lot and is well articulated and compatible with neighboring homes.

Resolution 21-PL-07

RESOLVED, that with regard to the application for 73 Dudley Avenue, the Addendum to the Negative Declaration has been reviewed and the Planning Commission has determined that the change defined in the addendum (the removal of Trees #6 and #7) is so minor that a subsequent negative declaration pursuant to Section 15162 of the Public Resources Code (the California Environmental Quality Statutes) is not necessary.

Moved by Levine, Seconded by Kellogg

Ayes: Kellogg, Levine, Robertson, Stehr, Henn

Noes: None

Absent: Thiel

Resolution 316-DR-07

WHEREAS, Mr. Roger Ha and Ms. Jennifer Lee are requesting permission to construct an approximately 4,072 sq. ft., two-level house with 4 bedrooms, 3 full baths, 1 half bath, a living room, dining room, kitchen, family room, laundry room, 2-car garage, on-grade entry steps. The application also proposes to construct retaining walls along the new sidewalk, along the north edge of the new driveway and at the rear patio; to construct a new fence along the north property line; and to make comprehensive hardscape and landscape changes throughout the property, including the removal of several large trees located at 73 Dudley Avenue, Piedmont, California, which construction requires design review; and

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

Planning Commission finds that the proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements include but are not limited to: height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment. The distance between the proposed 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 necessary to reduce losses of ambient and reflected light: The proposal complies with Design Review Guidelines I-1(a), (c) and (d), I-2(a), (b) and (c), I-5(b), I-6, I-7, I-8, I-9, I-10, I-11, IV and V.

2. The proposed new multi-level structure has been designed in a way that reasonably minimizes view and light impacts on neighboring properties, specifically 716 Blair, (as defined in Section 17.2.70), including consideration of the location of the new construction, lowering the height of the addition and changing the roof slope. The proposal complies with Design Review Guidelines I-1(a), (c) and (d), I-2(a), (b) and (c), I-5(b), I-6, I-7, I-8, I-9, I-10, I-11, IV and V.

4. 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. This neighborhood is a fairly consistent group of 2-story houses and ranch houses with various topographies. The proposed new home is built into the hill and is consistent with the design of other houses and is compatible with the neighborhood. While the proposed home has a partial a second story, this second story will not tower over adjoining properties and because of its consistent design does not set a precedent for additional stories to be added to existing houses.

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.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Ha and Ms. Lee for construction at 73 Dudley Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. Due to the scope and nature of the application and in order to meet ADA Design Standards, the applicants shall install and maintain a sidewalk with adjoining curb and gutter along Dudley Avenue. Said sidewalk shall have a minimum width of 4 feet, the curb and gutter shall be repaired as needed, and plans for the sidewalk, curb and gutter shall be subject to Staff review and approval;

2. Based on the scope and nature of the proposed landscape and development plans, a best management practice plan to prevent stormwater pollution from construction-related activities 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 development of this property as part of a larger common plan of development with the adjacent property at 71 Dudley Avenue in which more than 10,000 square feet of impervious surface is being added or replaced, 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; BASMAA's "Permanent Post-Construction Stormwater BMP Fact Sheets;" or the State of California Best Management Practices Handbooks;
4. Prior to the issuance of a building permit, the applicants shall prepare and submit a Tree Preservation Plan by a Certified Arborist that incorporates construction considerations and tree care recommendations for all the trees that are intended to be retained, including Monterey pine trees #9 and #10 as indicated in the August 10, 2005, Arborist's Report. The final plan shall include but is not limited to tree preservation notes (such as creating a Tree Protection Zone around the dripline of all significant trees with a fence, and prohibiting construction equipment, underground utilities, or trenching from entering this Zone; and ensuring that any herbicides used during project construction activities are safe for use around trees and labeled for their use) on the appropriate sheets of the construction set of plans, and shall specify that a Certified Arborist be on-site during certain activities (such as trenching for foundations). This Tree Preservation Plan shall be subject to review and approval by staff;
5. Trees on the project site may provide nesting habitat for raptors or other special-status bird species² that could be adversely affected if the trees were removed during nesting season, and if active nests were present. Disturbance or destruction of nesting special-status bird habitat during the breeding season (February 1 through July 31) could potentially result in an impact to biological resources. Furthermore, any removal or destruction of active nests and any killing of migratory birds would violate the federal Migratory Bird Treaty Act (16USC, Section 703, 1989) and/or the California Fish

2 Special-status bird species are considered to be those listed by appropriate state or federal agencies as endangered, rare, or threatened (consistent with Section 15380 of the state CEQA Guidelines), as well as those identified by these agencies as candidates for listing and those of "special concern." Also included are birds of prey (falcons and owls) given special protection in California Fish and Game Code Section 3503.5."

and Game Code, Sections 3500-3516. Tree #6 shall not be removed, disturbed, or destroyed during the breeding season (February 1 through July 1). To the extent practicable, construction activities shall be performed or vegetation removed from September through February to avoid the general nesting period for birds. If construction or vegetation removal cannot be performed during this period, pre-construction surveys should be performed by a qualified biologist no more than 14 days prior to construction activities to locate any active nests prior to the start of construction and prior to the removal of any tree. If active nests are observed, buffer zones shall be established around trees with nests, with a size acceptable to the California Department of Fish and Game. Construction activities shall avoid buffered zones and no tree will be removed until young have fledged or the nest is otherwise abandoned;

6. The applicants shall provide two 24" box specimen replacement trees of a native species, as part of the landscape plan to mitigate the loss of the 48" Coast Redwood (Tree #6). The species and locations of the trees are subject to staff review and approval;
7. A comprehensive Construction Management Plan shall be developed by the City for the project, after receiving an initial draft from the Applicants, 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;
8. A performance bond or other financial vehicle shall be required from Applicants to ensure the completion of the full construction of the house, including foundation and landscaping, 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 Applicants. 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 Applicants' 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 Applicants to increase the amount of the cash deposit, bond or other financial vehicle by such additional amount plus 25%, and Applicants 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 "finalized" 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 or bond to the extent the Director of Public Works in his sole discretion shall determine is appropriate;

9. A specific cash deposit or bond shall be made by the Applicants in the amount of \$175,000.00 to cover the cost of any damages to City property or facilities in any way caused by Applicants, Applicants' agents or assigns, including but not limited to any of Applicants' 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 Applicants.
 - a. To provide clear baseline information to determine whether damage is caused by the Applicants or others working for or on behalf of Applicants on this Project, specifically relating to damage to Dudley Avenue 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 Applicants within 21 days after receiving written notification of the work performed and the amount to be reimbursed.
 - b. 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 narrow curving city streets.
10. 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 Applicants 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 Applicants in 10a. 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 Applicants.

- c. If any work has not been completed for a specific milestone or benchmark as set forth in 10a. 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 8 in order to complete such milestone or benchmark;
11. 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;
12. 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;
13. Applicants 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 Applicants 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 Applicants covering any further estimated Staff time and expenses;
14. Applicants 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 4, 5, 9 and 10 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 Applicants covering any further estimated fees and expenses of professionals. Any amount remaining unexpended shall be refunded to the Applicants within 90 days after the Project is "finaled" by the Chief Building Official;
15. 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 is eligible to participate in the Incentive Program in which the City will provide one-half the cost

of debris boxes provided by the City's franchised waste hauler and used exclusively for the purpose of removing recyclable construction and demolition debris. Materials that can be reused at this or another project (fireplace surrounds, roof tiles, etc.) shall be salvaged to the extent possible; and

16. The window design shall be true divided lites or simulated 3-dimensional divided lites.

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

Moved by Levine, Seconded by Robertson

Ayes: Kellogg, Levine, Robertson, Stehr, Henn

Noes: None

Absent: Thiel

ADJOURNMENT

There being no further business, Vice Chairman Stehr adjourned the meeting at 10:25 p.m.