

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, November 9, 2009

A Regular Session of the Piedmont Planning Commission was held November 9, 2009, 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 October 30, 2009.

CALL TO ORDER

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

ROLL CALL

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

Absent: Commissioner Jonathan Levine (excused)

Staff: City Planner Kate Black, Assistant Planner Kevin Jackson, Planning Technicians Sylvia Toruno, Gabe Baracker and Manira Sandhir and Recording Secretary Chris Harbert

City Council Liaison: Councilmember John Chiang

CONSENT CALENDAR

There was no consent calendar.

PUBLIC FORUM

There were no speakers for the public forum.

APPROVAL OF MINUTES

Resolution 21-PL-09

RESOLVED, that the Planning Commission approves as submitted its meeting minutes of October 12, 2009.

Moved by Stehr, Seconded by Robertson

Ayes: Kellogg, Robertson, Stehr, Henn

Noes: None

Abstain: Thiel

Absent: Levine

REGULAR CALENDAR

The Commission considered the following items of regular business:

Design Review 330 Sheridan Avenue

Mr. Li Chun Ou is requesting design review to make modifications to his property, including to: remove illegal construction at the guest house; construct a new gate and post light at the front of the property; replace the wellhouse; construct a new deck at the rear of the main house; replace the existing deck and construct new stairs and guardrails at the rear of the guest house; construct fences along the rear property line and at the guest house; construct retaining walls throughout the property and at the rear of the guest house; add a new support post on the carport; construct new built-in planter boxes at both houses; add landscape and exterior lighting at both houses and throughout the property; make window changes on both houses; make hardscape and landscape changes; and make various changes to the interior of both houses.

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

Public testimony was received from:

Robert Wolf, Project Architect, stated that both houses have been vacant for two years while the applicants have been engaged in cleaning up the long-neglected site. The proposed improvements are intended to improve the livability and aesthetics of the property. In response to Commission questions, he agreed that the number of the existing 16 motion-sensor exterior lights could be reduced and their placement rearranged to lessen impacts on adjoining properties, the guest house windows will be aluminum and in compliance with the City's Window Policy and the guest house rear deck is existing – the project is proposing new seismic bracing for this deck.

Stephanie Rand submitted photographs of the applicant's property as seen from her home, noting that prior to the applicant's purchase of the property, she could not see into the property because of a dense tree and vegetation screen – this screen has been removed by the applicants, exposing the property to view. She requested that if the application is approved, the following conditions be imposed: (1) divided lights be installed in the new windows on the guest house; (2) the glare from existing exterior lights be reduced; (3) a replacement vegetation screen be planted to soften visual appearances; (4) the deck underpinning be covered by lattice that reaches all the way to the ground and planters be placed in front of the lattice for additional screening; and (5) the proposed metal mesh guardrails for the guest house be replaced with a design and material more in keeping with the architectural style of the structure.

The Commission agreed that the proposed site work and improvements to the main house were acceptable, appropriate and posed no significant impacts on adjacent neighbors. The Commission, with the exception of Commissioner Thiel, also felt that the replacement pump house was also acceptable as proposed given that it is a secondary structure. Commissioner Thiel preferred that more architectural detail be added to the pump house design to improve aesthetics and better relate this structure to the main and guest houses. In voicing support for application approval, the Commission requested that the project be modified to include: (1) a landscaping plan to recreate a privacy/visual screen along the north and west side of the property; (2) a redesign of the rear deck on the guest house to better architecturally integrate the deck with the house; (3) a reduction in the number of motion-sensor exterior lights; and (4) provide greater conformity between the railings around the deck and the ground level patio. The Commission felt that these design changes could be handled at staff level. The Commission also acknowledged that most of the existing windows on the guest house are not divided lights and therefore, requiring the new windows to be divided lights would be inappropriate. However, the Commission requested that all windows (existing and proposed) be painted the same color.

Resolution 271-DR-08

WHEREAS, Mr. Li Chun Ou is requesting permission to make modifications to his property, including to: remove illegal construction at the guest house; construct a new gate and post light at the front of the property; replace the wellhouse; construct a new deck at the rear of the main house; replace the existing deck and construct new stairs and guardrails at the rear of the guest house; construct fences along the rear

property line and at the guest house; construct retaining walls throughout the property and at the rear of the guest house; add a new support post on the carport; construct new built-in planter boxes at both houses; add landscape and exterior lighting at both houses and throughout the property; make window changes on both houses; make hardscape and landscape changes; and make various changes to the interior of both houses located at 330 Sheridan 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 they comply with Design Review Guidelines II-1, II-2, II-3(a) through (c); II-5, II-5(a), II-6, II-6(a), IV-1 and IV-1(a) & (b).
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because the main house deck is tucked out of the way and the proposed improvements will improve neighbor views. The project complies with the above-stated guidelines in addition to Guidelines II-3(b), II-6, II-6(b), V-5 and V-5(a).
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 traffic sight lines are not obstructed and emergency vehicle access to the property is provided. The project complies with Design Review Guidelines V-7, V-8, V-9 and V-11.

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

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

parking of worker vehicles to ensure the free flow of traffic along Sheridan and Lincoln Avenues;

3. Compliance with Chapter 9 Article III of the Municipal Code, which governs the recycling of construction and demolition debris, will be required on all phases of this project. 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;
4. All proposed and existing windows shall be painted an uniform color;
5. A landscaping plan shall be submitted for staff review and approval proposing vegetation to conceal the guest house deck from neighbor views along the north and west sides of the property;
6. The design of the guest house deck shall be modified so as to provide greater architectural integration; said redesign shall be subject to staff review and approval;
7. The ground level patio railing shall match the deck railing; said railing design shall be subject to staff review and approval;
8. The number and placement of existing motion-sensor exterior light fixtures shall be evaluated by staff with the objective of minimizing impact on adjacent properties. The number of existing exterior motion-sensor lights shall be reduced; said lighting readjustment shall be subject to staff review and approval.

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

Moved by Robertson, Seconded by Stehr

Ayes: Kellogg, Robertson, Stehr, Henn

Noes: Thiel

Absent: Levine

**Variance and
Design Review
210 Pacific Avenue**

The City Planner stated that the City Council has remanded back for action by the Commission an application for variance and design review submitted by Mr. and Mrs. Heesuk Kim. On August 10, 2009, the Commission conditionally approved Mr. and Mrs. Kim's

application to make modifications to their residence, including a 694 sq. ft. expansion of the house by adding rear bays to the main and lower levels and adding a new upper level. This approval was appealed and on September 21 the City Council denied the appeal and upheld the Commission's conditional approval with the exception that it remanded back to the Commission further consideration of measures to mitigate privacy impacts on 214 Pacific related to the Kim's proposed south side windows and to address the issue of significance in terms of view impacts on 209 Pacific Avenue's front yard.

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

Correspondence was received from: David Baer & Linda Dubins, November 8.

Public testimony was received from:

Edward Buchanan and Glen Jarvis, Project Architects, stated that in response to the City Council's remand, the project has been modified so that the two upper level windows facing the Baer/Dubins' property at 214 Pacific will now be awning windows with obscure glass. These two windows are approximately 11 ft. away and 5 ft. below the Baer/Dubins' bedroom windows, negating any potential impact in terms of privacy or acoustical intrusion. The proposed stairwell window is above eye-level, faces a blank wall on the Baer/Dubins residence and is intended to allow natural light into the stairwell. As to the significance of the front yard view at 209 Pacific (the Saunders' residence), they submitted photographs indicating that only a small portion of the existing panoramic view of the S.F. Bay will be affected by the project, stated that changing the Kim's proposed roof line to a flat roof would not significantly change the impact on this front yard view, noted that the Saunders' front yard is a whole story below the main level of their home and the outstanding views from inside the Saunders' residence remain unaffected and emphasized that the steep sloping nature of the Saunders' front yard essentially precludes its use as livable outdoor area; the absence of patio hardscape and/or furniture further indicates that the front yard is not used as a gathering place.

Linda Dubins referenced her correspondence and photographs in arguing that the two upper level windows, as modified, will still intrude upon her acoustical privacy because they remain operable. She also voiced her continuing objection to the stairwell window, citing privacy reasons. She discussed at length with the Commission her concerns regarding other aspects of the Kim project that adversely impact her light, privacy and view and reiterated her preference that a previously approved plan for rearward expansion be pursued.

Lyn, Jim and Vincent Saunders emphasized the importance of their entry way garden view in terms of property enjoyment and value, felt that gardens should receive the same consideration in terms of view importance as decks and other outdoor living areas regardless of whether they have hardscape and furniture and emphasized that the front yard is utilized by their family in enjoying afternoon sunshine and sunsets.

Hong Kim stressed that because his home is considerably lower in elevation than the Baer/Dubins residence, the privacy of his property has been impacted for years and when the Baer/Dubins were allowed to construct a new lower level deck last year, this deck adversely impacted the privacy of his bedrooms. He requested the same degree of fairness in allowing him the opportunity to improve his property and take advantage of view potential.

The Commission discussed all aspects of the Kim's proposal at length as a means of determining the best options for minimizing impact, including specific detailed and technical questioning of the project architect to determine if there are construction alternatives to lower the roofline. Issues and possible mitigation measures discussed included:

209 Pacific View Issues:

- a flat versus pitched roof line with a determination that 209 Pacific front yard view obstruction would not be significantly different regardless of which roof line was constructed;
- a flat roof would result in a less attractive view (tar & gravel vs. shingle) for the Saunders;
- the roof line/plate line height of the proposed upper level addition is as low as practical;
- only a small portion of the existing view from the front yard will be obstructed by the project and this front garden view is of secondary importance to the property – the primary, significant views from inside 209 Pacific are unaffected;
- the Saunders' front entry steps and garden are located within the 20 ft. front yard setback which is not considered or permitted as living space under the City Code;
- the Saunders' objection does not meet the Code standard in terms of qualifying as a significant view impact;
- the Kim project complies with City Code Section 17.20.9 in terms of its "reasonableness" in minimizing view and privacy impacts;
- protecting the view from every area of a front yard would result in a situation that would make it practically impossible for other properties in the neighborhood to improve their properties;
- the Kim's project has been sensitively designed to minimize view impacts on adjacent neighbors;

214 Pacific Privacy Issues:

- the proposed awning design and obscure glass components of the two upper level bath windows, coupled with the separation distance and elevation difference between the Kim and

Baer/Dubin homes, will prevent any direct viewing through the windows and limit the extent of window opening thus mitigating privacy and acoustical concerns;

- these upper level windows are not in the Kim's general living spaces (they are in a toilet room and upper level stair landing) and thus are not "viewing" windows in terms of potential privacy impacts;
- these upper level windows are viewed from two small windows in the Baer/Dubin bedroom that are on a different side of their bedroom from much larger windows which overlook the S.F. skyline and Bay – the two windows in question are not the "view" windows in the Baer/Dubin residence;
- the stairwell window provides natural light into the Kim residence and is a better option than a skylight which can create waterproofing and evening glare problems and would be visible from the street. However, Baer/Dubin privacy concerns can be further mitigated if the south corner of this stair window is opaque glass;
- the Kim project complies with City Code Section 17.20.9 in terms of its "reasonableness" in minimizing view and privacy impacts;
- reducing the size of the two upper level windows and stairwell window would not alter their impact on the Baer/Dubin residence but would diminish the amount of natural light into the Kim residence;

Resolution 22-PL-09

RESOLVED, that the Planning Commission reaffirms its August 10, 2009, conditional approval of Mr. and Mrs. Heesuk Kim's variance and design review application to make modifications to their residence at 210 Pacific Avenue in accordance with the findings and conditions set forth in Planning Commission Resolutions 178-V-09 and 178-DR-09; and

RESOLVED FURTHER, in accordance with the City Council's remand directing the Commission to specifically address the front yard view significance at 209 Pacific and privacy issues at 214 Pacific related to proposed south facing windows, the Commission has discussed these issues at length, prioritizing exterior area views and finding that while the spectacular views from the house at 209 Pacific are still maintained, a small portion of the west facing view of the San Francisco Bay will be slightly obscured from the front landing and yard. However, the Commission has determined that this view from the front landing and yard is of secondary importance to the property in the overall consideration of view involving immediate surrounding properties. In addition the Commission finds that an extensive view is still visible beyond and beside the roof of the Kim's residence, the front yard at 209 Pacific is not primary living space on the property, the Kim's proposal is reasonable per the criteria set forth in Section 17.29(b)(ii) of the City Code and the height of the Kim's residence has been lowered as much

as rationally possible. The Commission has examined the issue of the front yard view and in balancing the rights of the applicant to improve his property, the Commission has deemed it reasonable to allow minor view infringement from the front yard at 209 Pacific given that this front yard is not primary living space and the proposed construction has minimal impact on this view.

RESOLVED FURTHER, with regard to privacy impacts on 214 Pacific Avenue, the Commission has determined that in addition to the proposed modifications of changing the two upper level south facing windows to an awning design with obscure glass, the south corner of the proposed stairwell window shall also have obscure glass to further mitigate privacy impacts on 214 Pacific, finding that:

1. the distance between the proposed upper level addition and adjacent residence is reasonable and appropriate due to the existing topography and neighborhood development. The upper level setback is greater than the lower level and was implemented to preserve light and create privacy between the two properties. The project complies with Design Review Guidelines II-7 and II-7(a); and
2. The position and design of the roof of the proposed second story addition mitigates as much as possible the impact of view and light from the north. The position of the ridge allows neighboring properties views to the east and west as well as more light to south facing windows than would be possible with any other ridge orientation.

Moved by Stehr, Seconded by Henn

Ayes: Kellogg, Robertson, Stehr, Henn

Noes: None

Recused: Thiel

Absent: Levine

The Commission recessed for dinner at 7:35 p.m. and reconvened at 8:10 p.m.

**Design Review
57 Lincoln Avenue**

Ms. Ruth Miska is requesting design review to partially enclose the underside of an existing rear deck by installing two new wood doors on the west façade. This application is being referred for Commission review and action because staff has determined that enclosing the existing space could potentially meet the City Code's definition of Floor Area, which in turn would require a floor area ratio variance.

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

No Public testimony was received. Neither the applicant nor a representative was present to discuss the application.

The City Planner stated that this Staff Design Review Application was deferred to the Commission because of the potential that enclosing the existing space could meet the City Code's definition of Floor Area, which would then trigger a floor area variance that has not been requested. The Planner requested Commission determination as to

whether the proposed application does or does not meet the definition of Floor Area.

The Commission, with the exception of Chairman Kellogg, acknowledged that fully enclosing the space is a logical and appropriate solution for satisfying the applicant's desire for a secure storage area or habitable space and variance approval for such an enclosure is justifiable given that no additional mass would be created on the property nor would the existing exterior dimensions of the residence be altered. The Commission majority voiced concern that approving a partial enclosure could set an undesirable precedent in that similar partial enclosures could easily be fully enclosed later without proper City review and approvals of floor area related issues. It was noted that in this case, when fully enclosed the proposed improvement would only exceed the City's FAR limit by 0.3%, the applicant originally indicated her preference that the area be fully enclosed and it would be more advantageous for the applicant to have this area deemed habitable space rather than have a "notice of non-habitation" recorded on the property. Chairman Kellogg felt that the application was approvable as submitted, adding that a partial enclosure of the space could be accomplished without involving issues of floor area if a lattice gate was substituted for the proposed French doors, thus ensuring that the space would not be habitable.

Resolution 252-DR-09

WHEREAS, Ms. Ruth Miska is requesting permission to partially enclose the underside of an existing rear deck by installing two new wood doors on the west façade located at 57 Lincoln Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission finds that the proposal does not conform with the criteria and standards of Section 17.20.9 of the Piedmont City Code finding that:

- The proposed project is not an expansion within the existing building envelope and is sufficiently analogous to an enclosed porch or lanai to add increased floor area for the purposes of Floor Area Ratio which would take it over the 50% permitted limit for floor area. Therefore, a floor area ratio variance is required but no application for such a variance has been submitted.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies, without prejudice, the design review application of Ms. Miska for construction at 57 Lincoln Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Thiel, Seconded by Stehr

Ayes: Robertson, Stehr, Thiel, Henn

Noes: Kellogg

Absent: Levine

Design Review
26 Sea View Avenue

Mr. and Mrs. Arun Sarin are requesting design review for retroactive approval to replace the light fixtures on six tennis court light poles at the tennis court located on a separate lot adjacent to the north of the property at 26 Sea View (also owned by the applicants). Each pole has two light fixtures, for a total of 12 lights. The height of the poles with the new lights is proposed to increase approximately 6 inches.

Written notice was provided to neighbors. **Five affirmative, four negative response forms** were received. **Correspondence** was received from: Brook Settlemier, Nov. 9; Anne & Mark Ward, Nov. 9; Michelle & Tim Winchester, Nov. 8; William & Elizabeth Schultz, Nov. 5; William Schultz, Oct. 12 & 16; Annette Clear, Nov. 5; Karen Sullivan, Nov. 5

Public testimony was received from:

Fred Karren, Project Architect, referenced City building permits and photographs indicating that the existing tennis court light poles and fixtures have been in place since 1970. He noted that the 2-1/2 acre property has been vacant since 2008 while undergoing extensive reconstruction. He stated that as part of the correction of deferred maintenance on this neglected property, the court's old, inefficient 12 light fixtures have been replaced with new energy efficient fixtures and old, dead vegetation has been removed. He assured the Commission that the project's landscape architect will consult with neighbors with regard to the new landscaping screen planned for the tennis court area.

Rick White, Project Electrician, responded to Commission questions by stating that the old lighting system produced 33,000 lumens while the new light fixtures will produce 36,000 lumens – the industry standard for tennis courts. The amount of wattage required for the new lights (400) is considerably less than that required for the old lights (1,500).

Elizabeth Schultz submitted a copy of the 1970 building permit in support of her contention that court lighting was not legally installed – no specific mention of lights is indicated on the permit. She also provided a copy of a Palm Springs ordinance regulating tennis court lighting. She emphasized that in the 15 years she has lived adjacent to the applicant's property, the tennis courts lights were never used. She stressed that almost the entire neighborhood is opposed to the lighting installation, believes that court lighting is not necessary nor appropriate for their neighborhood and that approving anything other than "courtesy" lighting of the court would set a bad precedent. She noted that the tennis court is far removed from the applicant's residence but in very close proximity to neighboring homes.

A Commission majority agreed that court lighting appears to have been included in the original 1970 building permit and that the existing light standards are original to court construction. The majority further agreed that if the light fixtures were simply being replaced in-kind, it would be a building permit and not design review issue. However, because different light fixtures are proposed at a different height, the issue of lighting impacts on the neighborhood should be considered. But the Commission acknowledged that without a lighting study indicating the difference in lighting impacts between the old lighting system and the new one, an evaluation of the impacts cannot be made at

this time. Therefore, the Commission requested the applicant to submit a lighting study providing the following information: (1) foot candle calculations of the old lighting system versus the new one and the amount of spill light generated by both systems; (2) the lowest amount of wattage/footcandle lumens required to play tennis at night; (3) how much spill and ambient light did the old system generate compared to what the new system will create; and (4) light meter measurements taken from 10 ft. away from the court and at the property line – said measurements to be taken with and without the court lights being on. If possible the Commission requested that the old lighting be reinstalled and a test made of the light generated thereby in comparison with the amount of light produced by the new fixtures.

Resolution 254-DR-09

WHEREAS, Mr. and Mrs. Arun Sarin are requesting retroactive permission to replace the light fixtures on six tennis court light poles at the tennis court located on a separate lot adjacent to the north of the property at 26 Sea View (also owned by the applicants). Each pole has two light fixtures, for a total of 12 lights. The height of the poles with the new lights is proposed to increase approximately 6 inches located at 26 Sea View Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission finds that the proposal does not conform with the criteria and standards of Section 17.20.9 of the Piedmont City Code because:

1. there is insufficient information to make the necessary finding that the proposed design is appropriate considering its effect on neighboring properties' existing privacy and access to direct and indirect light. No information has been submitted (1) indicating the amount of light that will be spilling over from the applicant's property to neighboring property and (2) the intensity of the proposed light levels in comparison with the previous light levels;
2. there is insufficient information to make the finding that the proposed project complies with Section 17.2.7(vii) of the City Code in reasonably minimizing light impacts on neighboring properties.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies, without prejudice, the design review application of Mr. and Mrs. Sarin for construction at 26 Sea View Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Thiel, Seconded by Henn

Ayes: Kellogg, Robertson, Stehr, Thiel, Henn

Noes: None

Absent: Levine

**Variance and
Design Review
31 Jerome Avenue**

Mr. and Mrs. Gary Zalewski are requesting variance and design review to make modifications to a residence including the addition of a rear deck, window and door changes, the creation of a family room and half bath in the basement, the demolition of a shed attached to the rear carriage house, and the demolition of a shower enclosure installed on the rear stairs without City approvals by a prior owner. The requested variance is to add a room eligible for use as a bedroom without providing conforming parking.

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

Public testimony was received from:

Gary Zalewski reviewed the significant upgrades proposed for his turn-of-the-century Colonial Revival residence and his design efforts to restore the original architecture of the home. He stated that the current garage/carriage house accommodates the parking of two vehicles although it is 2 ft. less in length than the dimension required by code. He noted that extending the 100-year old garage/carriage house another 2 ft in length would compromise the historic quality of this heritage structure.

The Commission supported application approval, agreeing that the current garage/carriage house can accommodate the parking of two vehicles and in addition, there is ample space on-site for the parking of additional cars out of street view. The Commission acknowledged that the garage/carriage house is a historic structure that is not being altered as a part of the currently proposed construction project. Hence, variance approval is justified in order to preserve and retain the historic integrity of the property. The Commission further agreed that the proposed improvements do not impact neighboring properties and are architecturally compatible with the home's historic architecture.

Resolution 257-V-09

WHEREAS, Mr. and Mrs. Gary Zalewski are requesting permission to make modifications to a residence including the addition of a rear deck, window and door changes, the creation of a family room and half bath in the basement, the demolition of a shed attached to the rear carriage house, and the demolition of a shower enclosure installed on the rear stairs without City approvals by a prior owner located at 31 Jerome 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 add a room eligible for use as a bedroom without providing conforming parking; and

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

1. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to the age and condition of the parking structure and the fact that this existing

garage/carriage house can accommodate the parking of two vehicles. Because of these circumstances, strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone which conform to the zoning requirements.

2. The variance is compatible with the immediately surrounding neighborhood and the public welfare because the existing parking structure can accommodate the parking of two vehicles and without variance, this historic structure could be demolished. Variance approval is consistent with City policies giving special consideration to protecting historic structures.

3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because it could result in the demolition of a historic structure in order to construct a conforming parking structure.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application of Mr. and Mrs. Zalewski for the above variance at 31 Jerome Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

Moved by Henn, Seconded by Stehr

Ayes: Kellogg, Robertson, Stehr, Thiel, Henn

Noes: None

Absent: Levine

Resolution 257-DR-09

WHEREAS, Mr. and Mrs. Gary Zalewski are requesting permission to make modifications to a residence including the addition of a rear deck, window and door changes, the creation of a family room and half bath in the basement, the demolition of a shed attached to the rear carriage house, and the demolition of a shower enclosure installed on the rear stairs without City approvals by a prior owner located at 31 Jerome Avenue, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements (including but not limited to height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that the proposed improvements comply with Design Review Guidelines II-1, II-2, II-5(a) and II-6(a).
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because impacts have been minimized. The project complies with Design Review Guidelines II-1, II-2, II-5 and II-6.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because there is no impact on circulation patterns.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Zalewski for construction at 31 Jerome Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. The approved plans are those submitted on October 29, 2009, after neighbors were notified of the project and the plans were available for public review;
2. Based on the scope and nature of the proposed landscape and development plans, a best management practice plan for construction which complies with the Alameda Countywide Clean Water Program General and Residential Conditions of Approval will need to be developed by the applicant prior to obtaining a building permit;
3. Due to the scope and nature of the application, a construction management plan shall be developed and approved by staff prior to obtaining a building permit. Said plan shall be comprehensive while specifically addressing the duration of the project, construction hours, the staging of materials, and parking of worker vehicles to ensure the free flow of traffic along Jerome Avenue;
4. Compliance with Chapter 9 Article III of the Municipal Code, which governs the recycling of construction and demolition debris, will be required on all phases of this project. As a Covered project, this project is eligible to participate in the Incentive Program in which the City will provide one-half the cost of debris boxes provided by the City's franchised waste hauler and used exclusively for the purpose of removing recyclable construction and demolition debris.

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

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

Moved by Henn, Seconded by Stehr

Ayes: Kellogg, Robertson, Stehr, Thiel, Henn

Noes: None

Absent: Levine

Resolution 23-PL-09

RESOLVED, that the Planning Commission determines that Mr. and Mrs. Gary Zalewski's proposed construction project at 31 Jerome Avenue is categorically exempt under the California Environmental Quality Act, pursuant to Article 19, Sections 15300 through 15329.

Moved by Henn, Seconded by Stehr

Ayes: Kellogg, Robertson, Stehr, Thiel, Henn

Noes: None

Absent: Levine

ADJOURNMENT

There being no further business, Chairman Kellogg adjourned the meeting at 9:50 p.m.