

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, December 12, 2011

A Regular Session of the Piedmont Planning Commission was held December 12, 2011, 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 December 2, 2011.

CALL TO ORDER

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

ROLL CALL

Present: Commissioners Phillip Chase, Michael Henn, Jim Kellogg, Melanie Robertson, Clark Thiel and Alternate Commissioner Tom Zhang

Staff: City Planner Kate Black, Assistant Planner Kevin Jackson, Planning Technicians Sylvia Toruno and Andrea Argeulles

CONSENT CALENDAR

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

Design Review 420 Hampton Road

Resolution 285-DR-11

WHEREAS, Mr. and Mrs. Ron Peters are requesting permission to install an in-ground swimming pool and spa with a surrounding patio and supporting mechanical equipment along with new boulder stack walls with wood stairs located at 420 Hampton 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 project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e) and the proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. The exterior design elements (including but not limited to height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that: The swimming pool will be placed in the backyard at an elevation approximately 18" lower than the existing grade. The pool coping and paver patio material will be natural travertine stone in a light earth tone color. The mechanical equipment will be placed under the house behind enclosed wood framed-stucco wall(s) so the potential for noise is eliminated.

2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because the proposed pool and rock wall will not exceed the current backyard elevations. In addition, the backyard is heavily screened by trees and bushes. In our opinion, there are no view corridors into the backyard from the two side neighbors nor two back neighbors.

3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because the proposed pool and rock wall do not change or increase the vehicular traffic patterns or parking requirements. During construction, the concrete driveway provides ample off-street parking.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Peters for construction at 420 Hampton Road, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. Based on the scope and nature of the proposed landscape and development plans, a best management practice plan for construction which complies with the Alameda Countywide Clean Water Program General and Residential Conditions of Approval will need to be developed by the applicant prior to obtaining a building permit;

2. The Property Owner shall develop a comprehensive Construction Management Plan. The Construction Management Plan shall address noise, vibrations, traffic control, parking, debris removal, dust control, sanitary facilities, and other potential construction impacts, as well as other details involving the means and methods of completing the Project, including the construction route. The City Building Official has the authority to require modifications and amendments to the Construction Management Plan as deemed necessary throughout the course of the Project and until the Final Inspection.

a. Stormwater BMPs for Construction. Property Owner shall implement (1) stormwater treatment Best Management Practices (BMPs) and (2) Bay Area Stormwater Management Agencies Association's "Start at the Source" criteria for stormwater quality protection. City Staff may impose additional requirements involving the prevention of storm water pollution during construction and permanent drainage, erosion and sediment control. These items will be reviewed as part of the Property Owner's Construction Management Plan.

3. Compliance with Chapter 9 Article III of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project.

4. Prior to the issuance of a building permit and any excavation for the construction of the new swimming pool and related equipment, the applicants shall work with City staff to verify the location and depth of the sanitary sewer main pipe(s) and the location of easements in the rear yard. The City's review shall determine the pre-construction condition of the sewer main pipe(s) and the Director of Public Works shall determine whether any repairs to or replacement of the sewer main pipe(s), at the City's expense, is required before the beginning of excavation and/or construction. If applicable, any repair or replacement of the private sewer lateral shall be the responsibility of the property owner. As part of the final inspection the same sewer line

shall be inspected as required by the Director of Public Works, who shall also determine if the sewer line was damaged as a result of the construction and therefore must be repaired by the City at the applicants' expense.

5. If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.

6. Before the issuance of a building permit, the Property Owner shall apply for an encroachment permit to allow for the construction within the public right-of-way or public easement.

7. The hardscape surface coverage on the applicant's property shall not exceed 70%.

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 Thiel

Ayes: Chase, Henn, Kellogg, Robertson, Thiel

Noes: None

Absent: None

PUBLIC FORUM

There were no speakers for the public forum.

APPROVAL OF MINUTES

Resolution 16-PL-11

RESOLVED, that the Planning Commission approves as submitted its meeting minutes of November 14, 2011.

Moved by Kellogg, Seconded by Chase

Ayes: Chase, Henn, Kellogg, Robertson, Thiel

Noes: None

Abstain: Thiel

Absent: None

REGULAR CALENDAR

The Commission considered the following items of regular business:

Proposed Second Unit Code Changes

The Commission continued its November 14th discussion of proposed revisions to the City's Second Unit Code, with tonight's focus on ways to promote second units at different income levels. The City Planner summarized her staff report detailing the history of the City's second unit code, providing an analysis of the City's various types of second

units and corresponding income levels and setting forth the obligations under Piedmont's State-certified Housing Element to encourage and facilitate the creation of second units that are affordable at different income levels. In particular, the City Planner stated that despite the success of the City's second unit program in creating "very low income" housing units, more effort needs to be focused on developing incentives to facilitate the creation of more "moderate, low and extremely low income" units. During the discussion, the City Planner and Commission offered the following suggestions for encouraging more moderate, low and extremely low income units:

- allowing uncovered, compact and motor-court parking spaces satisfy the parking requirements for "low income" units;
- legalizing units that were created prior to 1930 to increase the number of "moderate" units in Piedmont;
- encouraging the inclusion of second units in new home construction plans by not counting the square footage of these units in the property's FAR -- the size of the unit would be limited to 10% of the lot area or 700 sq. ft., whichever is less;
- limit the unit size that qualifies for "extremely low" income;
- require that second unit applications which involve two types of variance categories (one category related to dimension and one related to FAR) and a parking exception can only be approved as "extremely low income" units;
- in Zone C (multi-unit property) allow an additional allocation of 10% of the lot area to be dedicated for a rent-restricted income unit, above and beyond the 2,000 sq. ft. per unit allowed;

There was no **public testimony** received on this matter.

The Commission and City Planner encouraged residents to submit comments/suggestions regarding this topic. The City Planner agreed to provide draft language for amending the Second Unit Code to incorporate said suggestions for Commission consideration at the next hearing.

Design Review
96 Oakmont Avenue

Ms. Jienlin Chen is requesting design review to demolish an existing non-conforming garage and construct a new conforming 2-car garage with deck atop in the rear yard; make window and door modifications; add exterior lighting; construct new retaining walls and make other hardscape improvements. The application also seeks retroactive approval of the addition of a 4th bedroom and full bathroom at the basement level.

Written notice was provided to neighbors. **One affirmative response form** was received. **Correspondence** was received from: Dorothea Jones; Agnes Kang

Public testimony was received from:

Tuong Tran, Project Designer, described the proposed improvements, noting that the new garage floor slab will be on-grade, the existing driveway will be repaired and an existing oak tree will be preserved.

Agnes Kang requested that an arborist be on-site during construction to make sure the beautiful oak tree is protected. She also voiced concern that existing trees/vegetation that screens the two properties be maintained to preserve privacy.

The Commission determined that the project was acceptable, agreeing that although not artfully designed, the new garage will provide functional and conforming parking for the property which currently does not exist. The Commission also agreed that although the new garage and deck represented a large structure, its impact in terms of light, view or privacy on neighboring properties (especially 92 and 98 Oakmont) was not significant given the separation distances between these properties. The Commission also felt that the proposed location of the new garage was the most logical and reasonable given the property's difficult site conditions. The Commission did discuss possible alternative designs in terms of lowering the structure or rebuilding two 1-car garages, but in the end determined that the proposed design complied with the City's zoning and design codes and the possible alternative proposals would not significantly reduce neighbor impacts.

Resolution 301-DR-11

WHEREAS, Ms. Jienlin Chen is requesting permission to demolish an existing non-conforming garage and construct a new conforming 2-car garage with deck atop in the rear yard; make window and door modifications; add exterior lighting; construct new retaining walls and make other hardscape improvements. The application also seeks retroactive approval of the addition of a 4th bedroom and full bathroom at the basement level located at 96 Oakmont Avenue, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements (including but not limited to height, bulk, size, breaks in the façade, line of the deck, materials and arrangements of structures on the parcel) are aesthetically harmonious with existing and proposed neighborhood development in that it complies with Design Review Guidelines II-1, II-2, II-3, II-3(a), (b) & (d), II-5, III-1 and III-2.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because the siting of the garage improves vehicular access which in turn takes vehicle traffic off of the street and toward the rear of the lot as opposed to in the street. Its mass, height and siting does not have significant impact on neighboring light, view or privacy. The project complies with Design Review Guidelines II-1, II-2, II-3(a) & (c), III-1, III-3, III-4, III-5 and III-6.

3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because the new garage will increase on-site parking, will make the property compliant and move the vehicular traffic off the road, does not change points of ingress and egress and does affect pedestrian traffic. The project complies with the above-referenced Guidelines.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Ms. Chen for construction at 96 Oakmont Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Construction Management Plan.** 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 Oakmont Avenue;

2. **Construction Completion Schedule.** Work on the Project, once begun, shall be promptly executed with continuous good faith and reasonable progress. Since timely completion of this Project is of the essence, the Property Owner shall submit for approval a Construction Completion Schedule, which will specify, in detail, the duration and percentage complete of each phase.

a. The Construction Completion Schedule with associated construction values for each benchmark shall set forth completion dates for the following benchmarks:

- i. Completion of Excavation;
- ii. Completion of Retaining Walls;
- iii. Completion of Foundation;
- iv. Completion of Rough Framing;
- v. Completion of Electrical;
- vi. Completion of Plumbing;
- vii. Completion of Mechanical;
- viii. Completion of Fire Sprinklers;
- ix. Completion of Home;
- x. Completion of Hardscaping and Landscaping; and
- xi. any further construction benchmarks and conditions of occupancy as may be determined by the Director of Public Works.

b. Before the Project begins, the Director of Public Works shall make a determination as to the reasonableness of the proposed completion dates applicable to the Project, and that determination shall constitute the "Approved Schedule" and be binding on the Property Owner. The City may, at the Property Owner's sole cost, engage the services of a consultant to review the Property Owner's proposed Construction Completion Schedule and, to the extent the period allocated for any work appears unjustifiable,

recommend to the Director of Public Works a reasonable completion date for any benchmark.

c. If the work for any specific benchmark has not been completed within 90 days after the completion date set forth in the Approved Schedule, and the delay in completion has not been caused by force majeure, the Director of Public Works has the option at any time thereafter to make a claim against the Property Owner's Performance Security, if one is required, in order to complete the benchmark.

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

4. **Contractor's General Liability Insurance.** To ensure that the contractor doing work in the City will be responsible for damages caused by the work to City property or to neighboring property, the Property Owner shall require all contractors and subcontractors performing work on the Project to maintain General Liability Insurance for protection from claims for damages because of bodily injury, including death, and claims for damages, other than to the contractor's work itself, to property which may arise out of or result from the contractor's operations. Such insurance shall be written for not less than \$1,000,000 per occurrence. The insurance shall include builder's risk. The insurance shall include an endorsement requiring 30 days' notice to the City if the insurance is cancelled or changed, and Property Owner shall immediately arrange for substitute insurance coverage.

As an alternative to requiring each subcontractor to obtain General Liability Insurance, the Property Owner may require the General Contractor to obtain an endorsement to cover his or her subcontractors.

If the Property Owner does not have a general contractor, the Property Owner shall maintain property insurance, including builder's risk and coverage for subcontractors, which is substantially equivalent to the contractor's requirement of this section.

5. **Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.

6. **Windows.** The proposed metal windows shall be painted and have a wood trim to match the remaining windows throughout the residence.

7. **Unpermitted Structures.** The applicant shall remove or seek design review approval for any existing unpermitted structures on the property, including a trailer adjacent to the existing non-conforming garage, prior to the issuance of a building permit.

8. **Arborist's Report.** Before the issuance of a building permit, the Property Owner shall submit an Arborist's Report that includes tree preservation measures to preserve existing trees proposed to remain on site, as well as any nearby off-site trees. The tree preservation measures shall be on the appropriate sheets of the construction plans. The arborist shall be on-site during critical construction activities, including initial and final grading, to ensure the protection of the existing trees. The arborist shall document in writing and with photographs the tree protection measures used during these critical construction phases. If some trees have been compromised, mitigation measures must be specified in writing, and implementation certified by the Project Arborist. Trees proposed for removal shall have an in-lieu replacement tree planted elsewhere on the property, which shall be shown on the final landscape plan. Before the Final Inspection, the Arborist shall file a report to the City certifying that all tree preservation measures as recommended have been implemented to his/her satisfaction and that all retained trees have not been compromised by the construction.

9. **Landscaping Plan.** Prior to the issuance of a building permit, a final hardscape and landscape plan shall be submitted for staff review and approval that incorporates a curved turnaround into the "T" of the existing garage.

10. **Exterior Lighting.** All exterior lighting shall be downward directed with an opaque or translucent shade completely covers the light bulb.

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 Thiel, Seconded by Chase

Ayes: Chase, Henn, Kellogg, Robertson, Thiel

Noes: None

Absent: None

The Commission recessed for dinner at 6:35 p.m. and reconvened at 7:00 p.m.

**Fence Design Review
62 Farragut Avenue**

Mr. and Mrs. Ken Mattson are requesting fence design review to make fence modifications at the southeast corner of the property, including: increasing the height of the Sea View Avenue fence and post, and installing new fencing atop concrete walls along the rear property line.

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

Public testimony was received from:

Michael Dethlefsen, Project Designer, explained the reasons for the proposed fence modifications intended to better enclose the new pool and pool deck as well as provide a seamless interface with adjacent fencing.

Ken Mattson responded to Commission questions concerning his ownership of the adjacent lot.

The Commission agreed that the proposed fence modifications were in keeping with the height and scale of the existing residence and estate property, were architecturally consistent with the house and would increase the safety and security of the pool area.

Resolution 317-DR-11

WHEREAS, Mr. and Mrs. Ken Mattson are requesting permission to make fence modifications at the southeast corner of the property, including: increasing the height of the Sea View Avenue fence and post, and installing new fencing atop concrete walls along the rear property line located at 62 Farragut Avenue, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements (including but not limited to height, bulk, the line and pitch of the fence and posts, materials and arrangements of structures on the parcel) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that the project complies with Design Review Guidelines V-1, V-2, V-5 and V-5(a), (b) & (c).
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because it is a very open fence design, it has no impact on light and it will be screened with vine vegetation. The project complies with the above-cited Guidelines.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because there is no change in existing circulation patterns. The project will improve the safety and security of the property by making the pool area less susceptible to intruders. The project complies with the above-cited Guidelines.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Mattson for construction at 62 Farragut Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. Compliance with the conditions of approval specified as part of the prior approval on the residence at 62 Farragut Avenue under Design Review Application #08-0196 shall extend to this application.

2. The approved plans are those submitted on November 23 and December 12, 2011, 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 Robertson, Seconded by Chase

Ayes: Chase, Henn, Kellogg, Robertson, Thiel

Noes: None

Absent: None

**Fence Design Review
3 Wildwood Gardens**

Mr. and Mrs. Stephen Miller are requesting fence design review to construct improvements in the east side yard and rear yard, including: retaining walls; fencing along the east property line; new exterior lighting; and various landscape and hardscape changes such as on-grade side path and steps, handrails, and replacement driveway surface.

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

Public testimony was received from:

Chris Ford, Project Architect, stated that the purpose of the proposed improvements is to improve guest access to the home and property.

The Commission supported application approval, agreeing that the improvements will significantly enhance the use and enjoyment of the property and provide a better articulated entrance to the home. The size and height of the fencing is consistent with other fences on the property and within the neighborhood. Its open, trellis style design with vegetation landscaping will be an attractive addition to property aesthetics.

Resolution 320-DR-11

WHEREAS, Mr. and Mrs. Stephen Miller are requesting permission to construct improvements in the east side yard and rear yard, including: retaining walls; fencing along the east property line; new exterior lighting; and various landscape and hardscape changes such as on-grade side path and steps, handrails, and replacement driveway surface located at 3 Wildwood Gardens, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements (including but not limited to height and area openings breaks in the fence) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. The design of the fence is relatively modern and in keeping with the architectural style of the house. The project complies with Design Review Guidelines IV-1 and IV-2.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because there is no apparent impact on neighboring properties in terms of privacy or light. The project complies with Design Review Guidelines IV-1 and IV-2.
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 project will improve circulation by providing broader access along the side of the house through a formal entrance. The project complies with Design Review Guidelines V-1, V-2, V-4 and V-5.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Miller for construction at 3 Wildwood Gardens, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

Moved by Chase, Seconded by Robertson

Ayes: Chase, Henn, Kellogg, Robertson, Thiel

Noes: None

Absent: None

**Second Unit Permit
with Parking and
Unit Size Exceptions**

Mr. William Watral and Ms. Michelle Lee are requesting a second unit permit with parking and unit size exceptions to convert the prior 2-story garage and pool equipment structure (now used as storage) at the rear

162 Estates Drive

of the lot to a 901 sq. ft., 2-story second unit; construct a new upper level balcony for the second unit; alter the exterior appearance of the structure including windows, doors and new skylights; and make landscape and exterior lighting changes. A parking exception is requested in order to construct the second unit without providing conforming on-site parking and a unit size exception is requested in order to construct a unit that exceeds 700 sq. ft.

Written notice was provided to neighbors. **One affirmative response form** was received.

Public testimony was received from:

Michelle Lee, Project Architect and Applicant, stated that she and her husband are new owners of the property. She provided an overview of her desire to convert an existing storage structure (former garage) into a new studio second unit because the previous owner had constructed a new garage at the front of the property. She reviewed the minimal changes to the exterior of the old garage structure in order to accommodate the new second unit.

John Abel opposed the granting of a parking exception for the second unit, stressing that street parking in the area is extremely hazardous due to the curvature of the road and traffic speeds. He noted the extensive accident history in the immediate area because of speeding downhill traffic and uphill drivers' disregard for the stop signs. He also voiced concern that if the second unit tenant parks in the driveway turnaround, cars exiting the driveway would be forced to back out onto Estates, compounding an already dangerous situation. The City Planner clarified that as a condition of prior approvals, the driveway turnaround cannot be used as a long-term parking space for either the primary house or the second unit.

William Watral agreed that on-street parking on Estates is hazardous because speeding drivers fail to observe the stop signs and if cars are parked on street, only one traffic lane is available for two-way traffic. However, he stated his expectation that the second unit tenant will park above the unit, where ample on-street parking exists (if the tenant of this rent-restricted unit even has a car). He fully expected that any tenant would most likely utilize nearby public transit stops. Both he and his wife supported the addition of more red curbing along both sides of the street and stepped up police enforcement of stop sign observance.

The Commission agreed that the design of second unit was beautiful and architecturally compatible with the existing residence and the size of the unit was reasonable and appropriate given the size of the existing garage/storage structure being converted into habitable space. The Commission further agreed that approval of the requested parking exception was justified based on prior Commission approvals of second units, the fact that primary residence has conforming off-street parking, a determination that the addition of one more car in the neighborhood would not have a material or detrimental impact on existing traffic/parking conditions and that there is ample on-street parking available within reasonable walking distance of the unit. In addition, several bus line stops are located in the immediate area. The

Commission engaged in a lengthy discussion of the hazardous traffic conditions along this section of Estates Avenue, referencing a previous traffic study prepared in connection with a prior application for 162 Estates, and encouraged the Public Works Department and Police Department to consider possible traffic safety measures to help mitigate neighborhood concerns.

Resolution 323-SU-11

WHEREAS, Mr. William Watral and Ms. Michelle Lee are requesting a second unit permit with parking and unit size exceptions to convert the prior 2-story garage and pool equipment structure (now used as storage) at the rear of the lot to a 901 sq. ft., 2-story second unit; construct a new upper level balcony for the second unit; alter the exterior appearance of the structure including windows, doors and new skylights; and make landscape and exterior lighting changes. A parking exception is requested in order to construct the second unit without providing conforming on-site parking and a unit size exception is requested in order to construct a unit that exceeds 700 sq. ft. located at 162 Estates Drive, Piedmont, California, which construction requires design review and a second unit permit with parking and unit size exceptions; and

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

conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. The exterior design elements (including but not limited to: area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that the project complies with Design Review Guidelines II-1, II-2, II-3, II-3(a), (b) &(c). The unit utilizes existing architectural shape and mass and is respectful of existing materials and detailing that are commensurate with the existing residence and the design of the structure that the second unit will occupy.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because the position of the second unit does not directly or materially impact any neighbors. The building housing the second unit is pre-existing and is isolated in the rear yard of the existing residence. The project complies with Design Review Guidelines II-2 and II-6.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not materially affected, because the unit will utilize the existing driveway to the property. It will also utilize a pathway that will create a

adequate identification and entrance to the second unit which will be improved per a condition of project approval. The project complies with Design Review Guidelines II-7 and II-8.

conforms with the criteria and standards of Sections 17D.6(a)2.b and 17D.6(b)1.b of the Piedmont City Code:

1. The unit size will not create a significant adverse impact on any adjacent property, the surrounding neighborhood, or the general public good because the second unit will be within an existing structure on the property. Other than a new deck, the mass and scale of the building will remain as is. Using available space which would be built within the split level of one building is an appropriate use of existing property.
2. The lot and the arrangement of existing and proposed physical improvements on the lot can accommodate the unit size exception without adversely affecting the views, privacy, or access to light and air of neighboring properties.
3. The parking exception will not be detrimental to the health, safety or general welfare of persons residing in the neighborhood in that it will not materially or negatively impact the traffic flow and vehicle access to the residences in the neighborhood that are different from the pre-existing condition without the second unit. There is reasonable parking within walking distance of this property. With regard to traffic flow at the intersection of Selborne and Estates Drive, if the Public Works Department should deem that it is appropriate to enhance the safety and quality of traffic flow at the intersection due to its own review or from comments raised by neighborhood residents, any consideration that Public Works gives to making the intersection safer would be supported by the Planning Commission as an enhancement and improvement to the neighborhood. However, this would not materially affect the addition of a second unit on the applicants' property.
4. The parking exception will not adversely affect the character of the surrounding neighborhood because the streets adjoining this property are quite wide/broad and have space within a series of blocks that will allow for parking as well as the fact that it is supported by a large measure of public transit facilities both on Park Boulevard and Inverleith.
5. There is sufficient street parking available to accommodate the parking exception and the second unit is located within 1/3 mile of a public transit stop as noted above.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the second unit with a parking exception application of Mr. Watral and Ms. Lee for construction at 162 Estates Drive, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. Second Unit Declaration. As part of the submittal for a building permit, the completed, signed and notarized *Declaration of Restrictions - Property with Approved Second Dwelling Unit* form shall be recorded. In compliance with Section 17D.5(g), the issuance of the building permit may not occur until the *Declaration* is recorded.
2. Very Low Income Second Unit Declaration. As part of the submittal for a building permit, the completed, signed and notarized *Declaration of Rent Restrictions for Second Unit Affordable to Very Low Income Households* form shall be recorded. In compliance with Section 17D.6(d), the issuance of the building permit may not occur until the *Declaration* is recorded.
3. Rent Certification. In compliance with Section 17D.6(e), prior to the occupation of the second unit, the completed, signed and notarized *Rent-Restricted Second Unit Affordable Rent Certification* form shall be submitted. The form shall be submitted annually to provide evidence of continued compliance with the California Department of Housing and Community Development State Income Limits for Alameda County.
4. 10 Year Requirement. The second unit shall remain a very low income rent-restricted unit per the California Department of Housing and Community Development State Income Limits, adjusted annually for a period of 10 years from the date of this approval. Thereafter, the unit shall no longer be required to be a rent-restricted unit, but may continue to be used as a second unit.
5. Annual Rental Tax. The annual City of Piedmont rental tax is waived for the first year. Thereafter, the property owners shall annually comply with all required rental taxes and fees.
6. Building Code Compliance. Building Official shall make a thorough inspection of the unit to determine compliance with current Building Code, and with any other building requirements determined by the Piedmont Building Official to be related to the safety of occupants. All Building Code requirements for habitation as a second unit must be met. Related modifications to the exterior, if any, shall be subject to Administrative Design Review.
7. Construction Management Plan. A comprehensive Construction Management Plan shall be developed by the applicant. The Construction Management Plan shall address noise, vibrations, traffic control, parking, debris removal, dust control, sanitary facilities, and other potential construction impacts, as well as other details involving the means and methods of completing the Project including the construction route. The City Building Official shall have the authority to require modifications and amendments to the Construction Management Plan as deemed necessary throughout the course of the Project and until the final issuance of a Certificate of Occupancy.
8. Construction Completion Schedule. Work on the Project, once begun, shall be promptly executed with continuous good faith and reasonable progress. Since timely completion of this Project is of the essence, the Property Owner shall submit for approval a Construction

Completion Schedule, which will specify, in detail, the duration and percentage complete of each phase.

a. The Construction Completion Schedule with associated construction values for each benchmark shall set forth completion dates for the following benchmarks:

- i. Completion of Excavation;
- ii. Completion of Retaining Walls;
- iii. Completion of Foundation;
- iv. Completion of Rough Framing;
- v. Completion of Electrical;
- vi. Completion of Plumbing;
- vii. Completion of Mechanical;
- viii. Completion of Fire Sprinklers;
- ix. Completion of Home;
- x. Completion of Hardscaping and Landscaping;

and any further construction benchmarks and conditions of occupancy as may be determined by the Director of Public Works.

b. The Director of Public Works shall, before the Project commences, make a determination as to the completion dates applicable to the Project and such determination shall constitute the "Approved Schedule" and be binding on the Property Owner. The City may, at the Property Owner's sole cost, engage the services of a consultant to review the Property Owner's proposed Construction Completion Schedule and, to the extent the period allocated for any work appears unjustifiable, recommend to the Director of Public Works a reasonable completion date for any benchmark.

c. If the work for any specific benchmark has not been completed within 90 days after the completion date set forth in the Approved Schedule, and the delay in completion has not been caused by force majeure, the Director of Public Works has the option at any time thereafter to make a claim against the Property Owner's Performance Security, if one is required, in order to complete the benchmark.

9. Stormwater BMPs for Construction. Applicant shall implement stormwater treatment Best Management Practices as well as Bay Area Stormwater Management Agencies Association's "Start at the Source" criteria for stormwater quality protection. City staff may impose additional requirements involving the prevention of storm water pollution during construction and permanent drainage, erosion and sediment control. These items will be reviewed as part of the applicant's Construction Management Plan.

10. C&D Compliance. Compliance with Chapter 9 Article III of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project.

11. Defense of Legal Challenges. If there is a third party administrative, legal or equitable action challenging the project

approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.

12. Pedestrian Walkway. The pedestrian walkway that leads from the driveway entrance to the property to the front door of the second unit shall be constructed with adequate paving that will create a unified, smooth and level approach for pedestrians entering the unit. The materials and detailing of said paving shall be commensurate with materials that are used on the property at this present time. Said design shall be subject to staff review and approval.

13. Driveway Turnaround. The intent of the circulation on the property is that the paved circulation "T" which is adjoining the parking garage is intended for the safe and adequate circulation of vehicles in and out of the property. Therefore, is not intended to become a full-time, off-street parking space.

Moved by Kellogg, Seconded by Thiel

Ayes: Chase, Henn, Kellogg, Robertson, Thiel

Noes: None

Absent: None

**Design Review
300 Hillside Avenue**

Mr. and Mrs. Neil Goodhue are requesting design review to construct a 1-story, 638 sq. ft. family room addition with a terrace above at the rear of the house; make window and door modifications and add new balusters at the proposed terrace to match existing on the property.

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

Public testimony was received from:

Scott Sullivan, Project Architect, stated that the intent of the project is to update an architecturally historic home to better accommodate modern lifestyles. The addition will have minimal impact on neighbors and its location preserves a valuable oak tree.

The Commission agreed that the proposed addition reflects and maintains the architectural quality and beauty of the original home and given the large size of the property, the addition and upper level terrace will have no impact on neighboring properties.

Resolution 355-DR-11

WHEREAS, Mr. and Mrs. Neil Goodhue are requesting permission to construct a 1-story, 638 sq. ft. family room addition with a terrace above at the rear of the house; make window and door modifications and add new balusters at the proposed terrace to match existing on the property located at 300 Hillside Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such

application, and after having visited subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e) and the proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. The exterior design elements (including but not limited to height, the appearance of the windows in the house, the line and pitch of the balustrade, the doors and the general exterior surfacing of the structure) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that the project complies with Design Review Guidelines II-2, II-3, II-3(a), (b), (c).
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because there is no identifiable impact on neighbors. The project complies with Design Review Guidelines II-1, II-7.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because there is no impact on vehicle/pedestrian traffic flow. In fact, the project will add an additional point of ingress/egress in a very aesthetically and practical pleasing manner. The project complies with Design Review Guidelines II-5(a), II-6(a), (b) & (c), II-7 and II-7(a).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Goodhue for construction at 300 Hillside 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. The Property Owner shall develop a comprehensive Construction Management Plan. The Construction Management Plan shall address noise, vibrations, traffic control, parking, debris removal, dust control, sanitary facilities, and other potential construction impacts, as well as other details involving the means and methods of completing the Project, including the construction route. The City Building Official has the authority to require modifications and amendments to the Construction Management Plan as deemed necessary throughout the course of the Project and until the Final Inspection.
 - a. Stormwater BMPs for Construction. Property Owner shall implement (1) stormwater treatment Best Management Practices (BMPs) and (2) Bay Area Stormwater Management Agencies Association's "Start at the Source" criteria for stormwater quality protection. City Staff may impose additional requirements involving the prevention of storm water pollution during construction and permanent drainage,

erosion and sediment control. These items will be reviewed as part of the Property Owner's Construction Management Plan.

3. Compliance with Chapter 9 Article III of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project.
4. If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.
5. The proposed windows and doors shall be painted to match the existing.

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 Chase, Seconded by Robertson

Ayes: Chase, Henn, Kellogg, Robertson, Thiel

Noes: None

Absent: None

ADJOURNMENT

There being no further business, Chairman Henn adjourned the meeting at 8:40 p.m.