

# PIEDMONT PLANNING COMMISSION

## Regular Meeting Minutes for Monday, June 13, 2011

A Regular Session of the Piedmont Planning Commission was held June 13, 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 June 3, 2011.

### CALL TO ORDER

Chairman Henn called the meeting to order at 5:05 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, Manira Sandhir and Zach Rehm and Recording Secretary Chris Harbert

### ANNOUNCEMENTS

General Plan Housing Element -- The City Planner announced that on June 6th the City Council approved the General Plan's updated Housing Element. She thanked the Commission for its assistance in the preparation and public review of the update.

Energy Upgrade California -- The Assistant Planner advised residents of the financial incentives/rebates available to homeowners who make water and energy efficiency improvements to their property through the *Energy Upgrade California* program. Information regarding this program is available on the City's website and/or at the Public Works Department.

### CONSENT CALENDAR

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

#### **Retaining Wall & Design Review 163 St. James Drive**

#### **Resolution 106-DR-11**

WHEREAS, Mr. and Mrs. Arne Wagner are requesting permission to replace existing wood retaining walls in the front yard with new concrete retaining walls and new guardrails at the curb and driveway; and repair existing left (south) side yard decks and replace the guardrails located at 163 St. James Drive, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission finds that the 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 are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements include but are not limited to: height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of

mechanical and electrical equipment. The distance between the proposed upper level addition/expansion and adjacent residences is reasonable and appropriate due to the existing topography and neighborhood development pattern. All decks and retaining walls are being replaced to match existing and also match neighboring property materials, heights, etc. The conditions will be improved. The new retaining wall matches the existing in plan and height and location, and improves the eroding roadside. The side deck matches the existing size, materials, etc.

2. The proposed upper level addition/expansion has been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.70), including consideration of the location of the new construction, lowering the height of the addition, expansions within the existing building envelope (with or without excavation), lower level excavation for new multi-level structures, and/or changing the roof slope or ridge direction. The lot slopes down from front to back, therefore the multi-story structure to be replaced (to match existing) is out of view of the street and does not change appearance to the neighbors except it looks better because it is being improved. The neighbors have no view of the retaining wall, as it is lower than the road, and is screened with vegetation. The side deck will be replaced as is.

3. The size and height of the addition is commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and is in keeping with the existing neighborhood development pattern. Yes, it is. It matches many retaining wall conditions in Piedmont and deck is not changing height or being raised.

4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. In accordance with Sections 17.16.1 and 17.22.1, the existing or proposed on-site parking is appropriate to the size of the new upper level or new multi-level structure or addition, and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood. Nothing is changing as far as vehicular flow but pedestrian flow is improved with new guardrail and walk by curb. The work area will be fenced off next to the curb. Autos will be able to pass freely. Work trucks will be parked in driveway or away from the construction area.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Wagner for construction at 163 St. James Drive, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Construction Management Plan.** 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. Engineer Consultant. The City will, at the Property Owner's sole cost, engage the services of an Engineer to review the results of the geotechnical report, prepare a sound and vibration mitigation plan, and monitor the vibration and decibel levels at the Project (including being periodically present at the construction site during excavation and foundation work). If, in the Engineer's sole discretion, such monitoring indicates that the sound or vibration levels exceed those anticipated in the Property Owner's Construction Management Plan, all work on the Project may be immediately stopped by the City and may not resume until the City Engineer is fully assured that the sound and vibration transmissions generated by work on the Project can be maintained at or below a reasonable level and duration.

2. **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.

3. **Encroachment Permit.** 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.

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. **Geotechnical Report and Review.** The Property Owner shall submit a report prepared by a geotechnical engineer of the Property Owner's choice that fully assesses the existing site conditions, and addresses all issues regarding excavation and grading, foundations and their construction, drainage, retaining wall systems, periodic on-site observations, and other related items involving the Project.

6. **Consultant Cost Recovery.** In order to accommodate the scope and nature of the Project proposed by the Property Owner, if the

Director of Public Works deems it necessary to retain independent consultants with specialized expertise, the Property Owner shall make a cash deposit with the City at the time of the Building Permit Application in the amount of \$5,000 to be used to pay for the fees and expenses of such City consultants, or in any way otherwise required to be expended by the City for professional assistance (other than City Staff). If the cash deposit has been reduced to \$2,500 or less at any time, the Director of Public Works may require the Property Owner to deposit additional funds to cover any further estimated fees and expenses associated with consultants retained by the City for the Property Owner's Project. Any unexpended amounts shall be refunded to the Property Owner within 90 days after the Project has an approved Final Inspection by the Chief Building Official.

**7. Foundation/Shoring Excavation Plan.** At the option of the Building Official, the Property Owner may be required to submit foundation, excavation and shoring plans prepared by a structural engineer that fully address issues of site shoring, fencing and hillside security issues. The plans shall mitigate against any subsidence or other damage to City or neighboring properties. Such plans shall incorporate as appropriate the recommendations of the Property Owner's geotechnical engineer and the City's geotechnical consultant, and shall be subject to approval by the City Engineer and the Chief Building Official.

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.

**Retaining Wall &  
Design Review  
200 Howard Avenue**

**Resolution 133-DR-11**

WHEREAS, Mr. and Mrs. Julio Fong are requesting permission to remodel the basement to create approximately 398 ft. of habitable space; replace the existing non-conforming 1-car garage with a new conforming 2-car garage under the existing footprint of the house; enlarge the driveway; and modify multiple retaining walls and a fence at the front of the property located at 200 Howard 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, area openings, breaks in the façade, line and pitch of the roof,

materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that: the new garage doors are simpler and harmonious with the existing house design. The garage addition is under the existing building footprint so it will not affect the height, bulk, area openings, or roof. The rebuilt 6 ft. fence will match the existing fence and the rebuilt and existing retaining walls will be painted to match the existing building.

2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because: adding a separate garage door is appropriate and will have a very minimal effect on neighboring properties. No effect on views, privacy and light. The rebuilt fence and retaining walls will match existing.
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: adding a 1-car garage will not affect the safety of residents, pedestrians or the free flow of vehicular traffic.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Fong for construction at 200 Howard Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Construction Management Plan.** 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.
2. **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.
3. **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.

4. **Window Changes.** All existing un-permitted vinyl windows shall be replaced with aluminum-clad wood or fiberglass-clad wood windows with true or three-dimensional simulated divided light grills. The replacement windows shall have similar proportions to existing windows throughout the residence and they shall be painted to match.

5. **Approved Plan Set.** The approved plans are those submitted on May 31, 2011, with additional information submitted on June 10, 2011, after notices to neighbors were mailed and the application was 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 Thiel, Seconded by Robertson

Ayes: Chase, Henn, Kellogg, Robertson, Thiel

Noes: None

Absent: None

#### **PUBLIC FORUM**

There were no speakers for the public forum.

#### **APPROVAL OF MINUTES**

##### **Resolution 9-PL-11**

RESOLVED, that the Planning Commission approves as submitted its meeting minutes of May 9, 2011.

Moved by Robertson, Seconded by Kellogg

Ayes: Chase, Henn, Kellogg, Robertson

Noes: None

Abstain: Thiel

Absent: None

#### **REGULAR CALENDAR**

The Commission considered the following items of regular business:

##### **Design Review, Fence Design Review, Variance Vesting Tentative Map and CEQA**

Piedmont Station LLC (PSLLC) is requesting design review, fence design review and variance to demolish the existing 5,700 sq. ft. two-story, concrete electrical utility substation (Substation E) that was constructed in 1926 and vacated by PG&E in 1991. Seven 3-story

**408 Linda Avenue**

over basement townhouses are proposed to be constructed, each with 4 bedrooms, 3+ baths, and ranging in size from approximately 2,130 to 2,445 sq. ft. Each townhouse is proposed to have two garage parking spaces, with one on-site guest parking space for the development. All of the units are proposed to be market rate condominium units. Retaining walls and fences are proposed along the Linda Avenue frontage. A variance to construct within the 20 ft. setback from the right-of-way adjacent to the Oakland Avenue bridge may be required. An application for a Vesting Tentative Map to create condominium ownership of the townhouse units has also been submitted. The application is subject to an Environmental Impact Report pursuant to the California Environmental Quality Act.

The Chairman announced that the purpose of tonight's hearing is to take testimony on all aspects of the application. He added that the Planning Commission may provide advisory comments to the applicants but will not take action on the project and will continue consideration of the application to a future hearing.

Written notice was provided to neighbors. **Correspondence** was received from: Bob Hamner; Rick Schiller; Garrett Keating;

**Public testimony** was received from:

Patrick Zimski, a principal of PSLLC, described how the proposed design of the project complies with the City's Design Review Guidelines and is appropriately scaled and sited on the property. He disagreed with staff's interpretation that the property is a "corner lot" and thus subject to a 20 ft. street side setback on along Oakland Avenue, stressing that Linda Avenue and Oakland Avenue do not intersect at the property's border. He stressed that requiring a 20 ft. setback would be hardship and would detrimentally affect the project's design. In addition, he noted that there is already a significant buffer distance between the property line and Oakland Avenue Bridge.

Ron Kriss, a principal of PSLLC, summarized the company's extensive neighborhood outreach efforts in discussing the proposed project and incorporating neighbor requests into the design.

Glen Jarvis, Project Architect, described the architectural details of the proposed townhouse village development, the efforts taken to minimize impact on adjoining buildings and the green building principles utilized in the design.

Debbie Hall voiced concern over the loss of privacy and indirect light to her adjacent property at 420 Linda, felt that the proposal was too massive in size and height relative to her home and challenged the conclusions of the Draft EIR with regard to aesthetic impacts and cumulative effects.

Rick Schiller felt that the project's parking analysis was deficit and should be redone to include (1) a parking analysis based on data specific to the size and number of the proposed townhouses rather than the generic data used by the ITE (Institute of Transportation Engineers); and (2) a on-street parking survey count conducted on a weekend and evening. He questioned the validity of the Draft EIR's

finding that there would be no demand on recreation, noting the likelihood that the units will be family occupied. He also felt that the Draft EIR failed to consider potential parking/traffic congestion associated with the development's single driveway. He suggested that the density impacts associated with the development be lessened by reducing the size of the townhouses to 3-bedrooms.

Garrett Keating referenced his letter setting forth concerns regarding the methodology used in assessing potential traffic/parking impacts. He requested that the parking analysis be modified to: (1) reconsider the parking needs for 4-bedroom condominiums; (2) include the dates when the parking survey was conducted; (3) re-assess the potential impact of spill-over parking from Grand Avenue (e.g. Kehilla Synagogue); and (4) re-examine the adequacy of only 1 guest parking space for the entire development.

Joe Phillips also voiced concern over the adequacy of the traffic/parking study, stressing that the study failed to address (1) children safety walking to and from Beach School during project construction; (2) over-flow guest parking impact on the neighborhood; and (3) possible congestion caused by contractor parking and the busing of children to Emeryville while Beach School is being seismically upgraded.

Micheline Stankus supported project approval, stressing that the existing PG&E building is an eyesore and the proposed design of the new development is attractive and of high quality.

Mark Spencer of DKS Associates, the Project's Traffic Consultant, summarized his firm's analysis of the parking/traffic situation, explained the rationale of ITE's parking assumptions, noted his professional opinion that the project reflects a low impact use in terms of parking and traffic generation, stressed that the proposed 2 parking spaces per unit complies with the City's zoning code and exceeds the 1-1/2 space per unit average cited by ITE and stated that a parking survey count was conducted in the afternoon and evening of May 11th. He agreed that ideally, a parking count should also be taken on a weekend and when overlapping events are taking place at Linda Playfield and Kehilla Synagogue. He emphasized, however, that the parking requirements for the project should not be based on a "worst case" scenario in terms of parking congestion. He also responded to a series of Commission questions concerning self-regulating parking assumptions, vehicle circulation in the courtyard, driveway location and its electronically operated gate in terms of pedestrian and traffic safety, peak traffic flow assumptions, CC&R's effectiveness in insuring that unit garages' are used for off-street parking and not storage and Beach School parking/traffic impacts relative to the project.

Project Architects Glen Jarvis and Arleta Chang also responded to Commission questions concerning specific design details related to pedestrian ingress/egress, garbage collection, child safety, vehicle maneuverability in the courtyard, the potential for reducing project height and density through a combination of 3 and 4 bedroom units, retention of the existing Black Acacia tree screen, etc.



Following the lengthy question and answer session, the Commission voiced its agreement that the project's design reflected an artful architectural articulation, no setback variance was required for the reasons cited by the applicants and that the project is well sited and designed within the context of the surrounding neighborhood and Piedmont in general. As to the Draft EIR, the Commission agreed that it was thorough and objective. However, the Commission requested that a supplemental traffic study be conducted to address the following: (1) the *specific* parking and traffic requirements for this particular site and development (do not rely on ITE general assumptions); (2) parking data/counts at critical/peak times, indicating potential project impacts associated with Beach School/Playfield and Kehilla activities; (3) estimate how often it can be expected that all available on-street parking will be fully utilized as a result of overlapping activities; and (4) determine whether the parking requirements for a dense townhouse development are different from that of a single-family residence. The Commission acknowledged that with summer vacation, Beach School activities/impacts will have to be estimated based on past data and information rather than actual observations. The Commission requested Mr. Spencer to work with staff in obtaining information from the School and Kehilla upon which to base findings and conclusions related to parking/traffic impacts.

Also, with regard to the EIR, some Commissioners requested that the EIR: (1) examine whether a two driveway design would result in better traffic flow; (2) provide an alternative mitigation plan analysis based on a 6 unit development; (3) include up-to-date population data from the 2010 Census. Also, correct the figure cited regarding the project's impact on Piedmont's population (should read less than one-fifth of 1%); (4) re-examine its noise analysis to consider road noise impacts on the proposed units; (5) more clearly indicate which trees are to be retained and which are to be removed; (6) re-evaluate whether its alternative scheme analysis (page 72) of deducting 10% from each unit is meaningful -- a suggestion was made that a greater downsize deduction would be more meaningful.

The Commission further requested that the next submittal provide the following: (1) more detailed information regarding proposed grading and retaining walls adjacent to 420 Linda Avenue; (2) whether proposed CC&R's will address the use of front yards and garage parking -- will front yard patios/BBQ's be permitted under the CC&R's; (3) clarify via story poles and side indicators how the southwest corner property line at the sidewalk aligns with the property's other lines; (4) provide a landscape plan for the border with 420 Linda that will protect this property's privacy and light; (5) reconsider the need for air conditioned units; (6) correct the discrepancy in the plans regarding Unit A's 1st floor relationship in terms of elevation grade to the patio level; and (7) explain how adjacent properties' utilities will be affected by the project's utility undergrounding. In addition, the Commission requested staff to refer that aspect of the project related to trees and walkways within the City right-of-ways to the City's parks department and Park Commission for review and comment. It was suggested that the future maintenance of trees and walkways within the City right-of-way be the responsibility of the project development.

#### **Resolution 10-PL-11**

RESOLVED, that the Planning Commission continues further consideration of Piedmont Station, LLC's proposed development at 408 Linda Avenue to August 8, 2011.

Moved by Thiel, Seconded by Chase

Ayes: Chase, Henn, Kellogg, Robertson, Thiel

Noes: None

Absent: None

The Commission recessed for dinner at 8:00 p.m. and reconvened at 8:25 p.m.

**Variance and  
Design Review  
9 & 11 Requa Place**

Mr. and Mrs. Paul Felton are requesting variance and design review to construct an extensive formal rear garden spanning both properties involving new terraces, stairways, walkways, landscaping, lawns, seating benches, a water fountain, an enlarged driveway, fencing and exterior lights. Interior and exterior improvements to the main residence are also proposed, including window and door modifications, including a new trellis and new window awnings; the addition of habitable space at the lower level resulting in a new playroom, media room, and storage space; and other ornamental modifications. The requested variance is from Section 17.10.7 to allow the new trellis on 9 Requa Place to extend to within 16'3" of the left (south) side property line in lieu of the code required minimum of a 20 ft. street side yard setback. A previous application for lot line adjustment was approved by staff on June 2, 2011.

Written notice was provided to neighbors. **Two affirmative response forms** were received. **Correspondence** was received from Ken Ohtaka

**Public testimony** was received from:

DD Felton explained that after the death of her parents, she purchased the vacant lot (11 Requa) adjacent to her parents' home with the intention of creating a beautiful formal garden to compliment her proposed substantial renovation of 9 Requa Place. At staff's request, her proposal maintains the separate integrity of the two lots.

James Clardy, Project Architect, described the proposed renovation of 9 Requa, explained that the variance situation is pre-existing since the house is located within the setback but that the proposed improvements will actually reduce the amount of existing encroachment into the setback.

Ken Ohtaka voiced objection to the creation of a formal garden on a property which has long been a natural, pristine, wildland amenity enjoyed by the neighborhood for years. He felt that the large, high profile driveway was out of character with the neighborhood and cited concerns over possible erosion and landslide risks as a result of the proposed development. He requested that a geotechnical report be prepared prior to project approval.

The Commission supported project approval, agreeing that variance approval is justified given its pre-existing condition, acknowledging that improvements to the southwest corner of the house cannot be made without variance and finding that the amount of existing setback encroachment is being decreased. The Commission also felt that the

proposed garden improvements are beautiful and represent a non-intrusive development of this lot with no negative impact on neighbors. The Commission further acknowledged that the existing eclectic design of the home can accommodate the proposed architectural detail changes to the residence.

**Resolution 109-V-11**

WHEREAS, Mr. and Mrs. Paul Felton are requesting permission to construct an extensive formal rear garden spanning both properties involving new terraces, stairways, walkways, landscaping, lawns, seating benches, a water fountain, an enlarged driveway, fencing and exterior lights. Interior and exterior improvements to the main residence are also proposed, including window and door modifications, including a new trellis and new window awnings; the addition of habitable space at the lower level resulting in a new playroom, media room, and storage space; and other ornamental modifications located at 9 & 11 Requa Place, Piedmont, California, which construction requires variance; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary in order to construct within the 20 ft. side yard street setback; and

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

1. The project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e)
2. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to the fact that the proposed trellis will be in the same location as existing faux balconies and that the new trellis will lessen the amount of existing encroachment into the setback. 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.
3. The variance is compatible with the immediately surrounding neighborhood and the public welfare because the existing home and architectural details are already located within the setback and there are other similar trellises in the neighborhood.
4. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because the variance situation is a pre-existing condition.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application of Mr. and Mrs. Felton for the above variance at 9 & 11 Requa Place, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

Moved by Robertson, Seconded by Thiel

Ayes: Chase, Henn, Kellogg, Robertson, Thiel

Noes: None

Absent: None

#### **Resolution 109-DR-11**

WHEREAS, Mr. and Mrs. Paul Felton are requesting permission to construct an extensive formal rear garden spanning both properties involving new terraces, stairways, walkways, landscaping, lawns, seating benches, a water fountain, an enlarged driveway, fencing and exterior lights. Interior and exterior improvements to the main residence are also proposed, including window and door modifications, including a new trellis and new window awnings; the addition of habitable space at the lower level resulting in a new playroom, media room, and storage space; and other ornamental modifications located at 9 & 11 Requa Place, 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, 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 project complies with Design Review Guidelines II-1, II-2, II-3(a), (b) & (d), II-6, II-6(a) & (b), II-7 and II-7(a).
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because the location of the new construction, the placement of windows and the proposed garden components comply with the above-cited Design Review Guidelines as well as Guidelines V-5, V-5(a), V-6 and V-8.
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. Proposed improvements to the driveway will improve garage ingress/egress. The project complies with the above-cited Design Review 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. Felton for construction at 9 & 11 Requa Place, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **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.

2. **Construction Management Plan.** 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.

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. **Windows & Doors.** The proposed windows and doors shall be painted to match the remaining windows throughout the residence.

5. **California's Water Efficient Landscape Ordinance.** Property Owner shall comply with the requirements of California's Model Water Efficient Landscape Ordinance that went into effect January 1, 2010, by submitting the following required information to the Building Department:

- (a) Landscape Documentation Package that includes the following 6 items:
  - a. Project Information;
  - b. Water Efficient Landscape Worksheet;
  - c. Soil Management Report;
  - d. Landscape Design Plan;
  - e. Irrigation Design Plan; and
  - f. Grading Design Plan

The Landscape Documentation Package is subject to staff review and approval before the issuance of a building permit.

(b) Once a building permit has been issued, the Property Owner shall submit a copy of the Water Efficient Landscape Worksheet to the local water purveyor, East Bay Municipal Utility District.

(c) After completion of work, the Property Owner shall submit to the City and East Bay Municipal Utility District a Certificate of Completion, including an irrigation schedule, an irrigation maintenance schedule, and an irrigation audit report. The City may approve or deny the Certificate of Completion.

6. **Lot Line Adjustment.** Prior to the issuance of a building permit, the lot line adjustment for the properties at 9 and 11 Requa Place approved on June 2, 2011, must be recorded.

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

**Fence Design Review  
114 Wildwood Gardens**

Mr. and Mrs. Brian Hebert are requesting fence design review to make modifications in the rear (north) yard, including: a new 10 ft. high retaining wall with a 2'6" high guardrail above, located 7'6" from the rear (north) property line and 4 ft. from the edge of the existing pavement of the street, within the City's right-of-way; grade changes that include filling with approximately 8 ft. of soil at the highest point to create a level rear yard that extends into the City's right-of-way; and hardscape and landscape modifications.

Written notice was provided to neighbors. **Five affirmative response forms** were received. **Correspondence** was received from Rick & Kathleen Seabolt

**Public testimony** was received from:

Brian Hebert stated that the intent of the project is to create a level play area for his children as well as gain more privacy for his property. He submitted a revised sketch/design intended to satisfy the concerns of his neighbor by proposing two retaining walls and a planting pocket in front to eliminate the neighbor's concern that street parking in the area could result as a result of the project and a desire for greenery at the streetscape. The intrusion into the City's right-of-way was also reduced to 4 ft. in the alternative design.

Rick Seabolt strongly supported approval of the revised retaining wall design, emphasizing the importance of preventing street parking in the area and creating an attractive, terraced green belt that extends out to the roadway's edge to align with neighboring properties.

The Commission voiced support for the revised design, agreeing that street parking in the area should not be encouraged. However, the Commission requested that this revised design be further modified so that the upper retaining wall is located on the applicant's property line, the rock wall at the street edge and a 30 inch high retaining wall in between, with landscaping between these walls. Commissioner Thiel preferred that this redesign be resubmitted for Commission review and approval. The Commission majority was comfortable that the proposed changes could be successfully handled at staff level. The Commission agreed that the original design was unacceptable because of the inappropriateness of constructing a 10 ft. high retaining wall within the City right-of-way, citing the expense and difficulty involved in removing this wall should the City ever need to access or utilize its right-of-way. Furthermore, the Commission agreed that the massiveness/height of the originally proposed, full-scale, non-stepped retaining wall was contrary to the City's Design Review Guidelines.

**Resolution 134-DR-11**

WHEREAS, Mr. and Mrs. Brian Hebert are requesting permission to make modifications in the rear (north) yard, including: a new 10 ft. high retaining wall with a 2'6" high guardrail above, located 7'6" from the rear (north) property line and 4 ft. from the edge of the existing

pavement of the street, within the City's right-of-way; grade changes that include filling with approximately 8 ft. of soil at the highest point to create a level rear yard that extends into the City's right-of-way; and hardscape and landscape modifications located at 114 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, as conditioned, conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that the revised wall assembly, as conditioned, complies with Design Review Guidelines IV-2, IV-2(a), IV-3 and IV-5.
2. The design, as conditioned, is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because the project will improve the continuity of the exposure on Wildwood Gardens.
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 retain the edge of pavement along Wildwood Gardens, not increase the tunnel effect along the roadway and will be parallel or similar to other retaining walls on adjoining properties.

and, in addition, the Commission finds that:

4. The originally proposed placement of the main structured retaining wall within the City right-of-way is not acceptable because there is no intrinsic right of homeowners to build within City right-of-ways, there is no viable justification to allow a full-scale, structured retaining wall that would be difficult and expensive to remove to be allowed within a City right-of-way and the original design as submitted fails to comply with the City's Design Review 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. Hebert for construction at 114 Wildwood Gardens, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Construction Management Plan.** 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.

2. **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.

3. **Encroachment Permit.** Before the issuance of a building permit, the Property Owner shall apply for an encroachment permit to allow for the construction of the retaining walls and grade changes within the public right-of-way along Wildwood Gardens.

4. **Utilities Consent.** Prior to the issuance of a building permit, the applicants shall provide written consent for the proposed project from existing underground utilities that may have the potential to be impacted by the construction in the City's right-of-way.

5. **Revised Design.** The design of the approved retaining wall is that related to the single page sketch submitted tonight labeled "east elevation." The proposed wall shall be at the same height as indicated on said sketch but shall be located on the applicant's property line. The proposed 18 inch high stone-clad planter at the base of the wall shall be moved 2 ft. to the north so as to align with the edge of the street pavement and be parallel to retaining walls on adjoining properties. The area between the structured retaining wall and the edge of the street may be filled with naturally sloped landscaping so that there is a maximum exposure at the structured retaining wall of 5 ft. vertical or an intermediate retaining wall of a maximum height of 30 inches, with

the same materials and finishes as the structured wall, could be introduced along the length of the property to step between the high point and the low point. Said design changes shall be subject to staff review and approval. The two planting beds created between the walls shall contain appropriate landscaping similar in size and type as indicated on the original drawing dated May 19th.

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

Moved by Kellogg, Seconded by Chase

Ayes: Chase, Kellogg, Henn, Robertson

Noes: Thiel

Absent: None

**Design Review  
44 Farragut Avenue**

Panama City Partners, LLC are requesting design review to repair and remodel the house and property through the following construction: reshingle the roof and replace the glass conservatory roof with a new solid roof; replace the rear stairs from the garage roof deck to the rear yard; add a new landing and built-in barbeque on the garage roof deck; construct new rear patio terraces with a new outdoor kitchen, fire pit and planters; add a new glass canopy awning above the rear basement doors; install a new electrical panel on the east facade; install 4 new air conditioning units in 2 new subgrade utility enclosures in the front yard; make window and door modifications throughout; add exterior lighting; make hardscape and landscape changes in the front and rear yards; and make various interior changes for a resulting home with 7 bedrooms, 6 full baths, 3 half baths and 3 kitchens.

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

**Public testimony** was received from:

Marc Furststein stated that he recently purchased this 100-year old home that requires extensive renovation prior to having his family occupy the residence. He stressed that the proposed renovations will not enlarge the existing home's footprint and involve only minor changes to the exterior -- the majority of work consists of interior renovations.

Bennett Christopherson, Project Architect, remarked on the unique architectural heritage of this landmark residence and the proposed efforts to restore and retain the residence's original architectural integrity while modernizing the home to meet today's living standards.

The Commission agreed that the improvements were elegantly designed and appropriate. However, Commissioner Thiel felt that the

proposed composition shingle roof material was incompatible with the architectural style of the residence, suggesting that the roof material be slate or concrete tile. Mr. Christopherson responded that the home's attic trusses cannot support the weight of a tile roof, adding that the roof is not readily visible to the public nor a significant feature of the home.

**Resolution 143-DR-11**

WHEREAS, Panama City Partners, LLC is requesting permission to repair and remodel the house and property through the following construction: reshingle the roof and replace the glass conservatory roof with a new solid roof; replace the rear stairs from the garage roof deck to the rear yard; add a new landing and built-in barbeque on the garage roof deck; construct new rear patio terraces with a new outdoor kitchen, fire pit and planters; add a new glass canopy awning above the rear basement doors; install a new electrical panel on the east facade; install 4 new air conditioning units in 2 new subgrade utility enclosures in the front yard; make window and door modifications throughout; add exterior lighting; make hardscape and landscape changes in the front and rear yards; and make various interior changes for a resulting home with 7 bedrooms, 6 full baths, 3 half baths and 3 kitchens located at 44 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, 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 do not change the fundamental structure of the home but do improve the aesthetics of the rear facade. The project complies with Design Review Guidelines II-1 through 7 and IV-1 through 6.
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 impact. 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 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 Panama City Partners, LLC for construction at 44

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

1. **Stormwater BMP Plan.** 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, as outlined in *Blueprint for a Clean Bay*, will need to be developed by the applicant prior to obtaining a building permit.
2. **Construction Management Plan.** 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.
3. **C&D Debris Recycling.** 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. **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.

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 Kellogg

Ayes: Chase, Kellogg, Henn, Robertson

Noes: Thiel

Absent: None

**Variance and  
Design Review  
46 Lake Avenue**

Mr. Albert Chan and Ms. Anouk Lim are requesting variance and design review to make various improvements to the existing residence including to enlarge an existing dormer on the west-facing roof slope and construct a new dormer on the east-facing roof slope; demolish and

rebuild existing east (left) side yard stairs; enclose an existing carport with new garage doors; install new skylights; make window and door modifications; add new exterior lighting; replace an existing chimney; and make various interior changes resulting in a home with 3 rooms eligible for use as a bedroom, 2 full baths, a kitchen, dining room and new family room at the basement level. The requested variance is from Section 17.16 to allow a 3 bedroom residence with no conforming off-street parking in lieu of the code required minimum of two covered, non-tandem parking spaces each measuring 9 ft. by 20 ft.

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

**Public testimony** was received from:

Albert Chan stated that the proposed improvements are intended to improve the safety of his children as well as provide a seismic upgrade and modernization of this older housing stock. He stated that the existing carport does accommodate the parking of his two vehicles and with the addition of doors, will be converted into a garage. He noted that the existing carport could not be easily enlarged in order to comply with the City's parking space dimensions because of its steel re-enforced concrete construction and the fact that it serves as a retaining wall for neighboring property.

Robin Pennell, Project Architect, described the architectural features of this 1910 Craftsman home, stressing that per county tax records the home has always been considered a 3 bedroom residence with a 2-car garage.

The Commission supported application approval, agreeing that variance approval is warranted since the existing carport is functional as a 2-car garage and will be improved through the addition of doors with an automatic door opener. As to the design, the Commission agreed that the project improves the livability of the residence and the style of the new garage doors compliments the craftsman architecture of the home. Some Commissioners suggested that the applicant consider enclosing the area underneath the sun room (a potting shed) to abate a potential fire hazard. Mr. Chan replied that his structural engineer is exploring this potential as a means of increasing seismic safety.

#### **Resolution 147-V-11**

WHEREAS, Mr. Albert Chan and Ms. Anouk Lim are requesting permission to make various improvements to the existing residence including to enlarge an existing dormer on the west-facing roof slope and construct a new dormer on the east-facing roof slope; demolish and rebuild existing east (left) side yard stairs; enclose an existing carport with new garage doors; install new skylights; make window and door modifications; add new exterior lighting; replace an existing chimney; and make various interior changes resulting in a home with 3 rooms eligible for use as a bedroom, 2 full baths, a kitchen, dining room and new family room at the basement level located at 46 Lake 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 increase the number of rooms eligible for use as a bedroom without supplying the required 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 project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e);
2. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to the fact that the existing 2-car garage, albeit non-conforming in dimension, is built into the hillside. It would entail complicated engineering to rebuild this structure to comply with code specified dimensions. 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.
3. The variance is compatible with the immediately surrounding neighborhood and the public because the proposed improvements do not increase the home's existing intensity of use -- there is no change in the home's number of bedrooms. The improvements to the existing garage (doors with automatic opener) are architecturally compatible with the craftsman style architecture of the home.
4. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because it would be impractical to enlarge the existing garage to comply with code specified parking dimensions.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application of Mr. Chan and Ms. Lim for the above variance at 46 Lake Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

Moved by Robertson, Seconded by Kellogg

Ayes: Chase, Kellogg, Henn, Robertson, Thiel

Noes: None

Absent: None

**Resolution 147-DR-11**

WHEREAS, Mr. Albert Chan and Ms. Anouk Lim are requesting permission to make various improvements to the existing residence including to enlarge an existing dormer on the west-facing roof slope and construct a new dormer on the east-facing roof slope; demolish and rebuild existing east (left) side yard stairs; enclose an existing carport with new garage doors; install new skylights; make window and door modifications; add new exterior lighting; replace an existing chimney; and make various interior changes resulting in a home with 3 rooms eligible for use as a bedroom, 2 full baths, a kitchen, dining room and new family room at the basement level located at 46 Lake Avenue, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements include but are not limited to: height, bulk, area openings, line and pitch of the roof, materials and arrangements of structures on the parcel. The proposed improvements comply with Design Review II-1, II-2, II-3, II-3(b) through (d); II-4, II-6, II-6(a) & (b), II-7, II-7(a), III-1, III-1(a), III-2, III-2(a), III-3 and III-7.
2. The proposed upper level addition/expansion has been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.70), including consideration of the location of the new construction, lowering the height of the addition, expansions within the existing building envelope (with or without excavation), lower level excavation for new multi-level structures, and/or changing the roof slope or ridge direction. The proposed improvements are barely visible from the street and the windows on the new dormers are high up on the structure. The project complies with the above-cited Guidelines.
3. The size and height of the addition is commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and is in keeping with the existing neighborhood development pattern. Dormers are a common feature of craftsman style architecture. The project complies with the above-cited Guidelines.
4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. The existing off-street parking is being improved through the installation of architecturally compatible garage doors with an automatic opener.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Chan and Ms. Lim for construction at 46 Lake

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

1. **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.

d. 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.

2. **Construction Management Plan.** 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.

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. **Windows & Doors.** The proposed windows and doors shall be painted to match the remaining windows throughout the residence.

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 Kellogg

Ayes: Chase, Kellogg, Henn, Robertson, Thiel

Noes: None

Absent: None

**Variance, Design  
Review & Fence  
Design Review  
1761 Trestle Glen**

Mr. and Mrs. Davin Chow are requesting variance, design review and fence design review to seek retroactive approval for a fence located above an existing retaining wall in the rear (south) yard and make modifications to the residence that include: expansion of the main level by approximately 201 sq. ft. in the front (north) to accommodate a new entry porch, foyer, closet, and elevator shaft; expansion of the ground level by approximately 40 sq. ft. for a new elevator lobby, an approximately 63 sq. ft. addition in the right (west) side yard for a new laundry room, landing, and steps; modifications to the roof including a new front gable and skylight relocation; a new retaining wall in the front (north) yard; new garage doors; new railing; new exterior lighting; interior modifications; hardscape changes; and window and door modifications. The requested variances are from: (1) Section 17.10.6 to allow the new addition above the lower level elevator lobby to extend to within 16'7" of the front property line in lieu of the code required minimum of a 20 ft. front yard setback; and (2) Section 17.10.7 to allow a right side yard setback of 3'4" in lieu of the code required minimum of a 4 ft. side yard setback.

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

**Public testimony** was received from:

Yui Hay Lee, Project Architect, displayed drawings of the six areas of the home to be improved and described the proposed changes intended to improve the streetscape aesthetics of the property and enhance the home's 1960's Ranch-style architecture. He stated that the fence was constructed by a prior owner. In response to Commission questions,

Mr. Lee acknowledged that it would be possible to reduce the size of the laundry room so that the room's roof overhang does not encroach into the side yard setback.

The Commission supported application approval, as modified to eliminate the need for a side yard setback variance, with the exception of Commissioner Chase. Commissioner Chase felt that both variances were acceptable given the lack of any adverse impact on adjacent properties. The Commission as a whole agreed that variance approval for front yard setback encroachment is justified given the hilly topography of the site and the desirability of adding an elevator to this home. The Commission complimented the applicant on the cleverly designed elevator which will improve the livability and convenience of a home situated on a very steep slope. As to design, the Commission agreed that the proposed improvements were carefully integrated into the home and reflected high quality architecture that enhance the aesthetics of the property.

**Resolution 150-V(1)-11**

WHEREAS, Mr. and Mrs. Davin Chow are requesting permission to construct within the side yard setback at 1761 Trestle Glen Road, which construction requires a variance from the requirements of Chapter 17 of the Piedmont City Code; 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 do not present unusual physical circumstances because of which 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 not compatible with the immediately surrounding neighborhood and the public welfare because it would result in a needless encroachment into the side yard setback that could potentially create fire hazards.
3. Accomplishing the improvement without a variance would not cause unreasonable hardship in planning, design, or construction because the proposed improvements can easily be facilitated by decreasing the size of the laundry room while still retaining the room's functionality.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies Mr. and Mrs. Chow's request for a side yard setback variance at 1761 Trestle Glen Road, Piedmont, California.

Moved by Thiel, Seconded by Kellogg

Ayes: Kellogg, Henn, Robertson, Thiel

Noes: Chase

Absent: None

**Resolution 150-V-11**

WHEREAS, Mr. and Mrs. Davin Chow are requesting permission to seek retroactive approval for a fence located above an existing retaining wall in the rear (south) yard and make modifications to the residence that include: expansion of the main level by approximately 201 sq. ft. in the front (north) to accommodate a new entry porch, foyer, closet, and elevator shaft; expansion of the ground level by approximately 40 sq. ft. for a new elevator lobby, an approximately 63 sq. ft. addition in the right (west) side yard for a new laundry room, landing, and steps; modifications to the roof including a new front gable and skylight relocation; a new retaining wall in the front (north) yard; new garage doors; new railing; new exterior lighting; interior modifications; hardscape changes; and window and door modifications located at 1761 Trestle Glen Road, Piedmont, California, which construction requires variance; and

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

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

1. The project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e);
2. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to the steep upward slope of the property, the number and extent of existing structures within the front setback, the existing siting of the home on the lot and the fact that approaching and entering the front of the home would not be possible without construction within the front yard setback. 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.
3. The variance is compatible with the immediately surrounding neighborhood and the public welfare because while the existing structures within the front setback are adequate to get into the house, the proposed improvements do not increase the bulk or mass within this setback to any significant degree.
4. Accomplishing the improvement without variance would cause unreasonable hardship in planning, design, or construction because the house would be inaccessible without construction within the front setback.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application of Mr. and Mrs. Chow for the above variance at 1761 Trestle Glen Road, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

Moved by Robertson, Seconded by Kellogg

Ayes: Chase, Kellogg, Henn, Robertson, Thiel

Noes: None

Absent: None

#### **Resolution 150-DR-11**

WHEREAS, Mr. and Mrs. Davin Chow are requesting permission to seek retroactive approval for a fence located above an existing retaining wall in the rear (south) yard and make modifications to the residence that include: expansion of the main level by approximately 201 sq. ft. in the front (north) to accommodate a new entry porch, foyer, closet, and elevator shaft; expansion of the ground level by approximately 40 sq. ft. for a new elevator lobby, an approximately 63 sq. ft. addition in the right (west) side yard for a new laundry room, landing, and steps; modifications to the roof including a new front gable and skylight relocation; a new retaining wall in the front (north) yard; new garage doors; new railing; new exterior lighting; interior modifications; hardscape changes; and window and door modifications located at 1761 Trestle Glen Road, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements include but are not limited to: height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment. The distance between the proposed entry structure and adjacent residences is reasonable and appropriate due to the existing topography and neighborhood development pattern. The upper level setback is greater than the setbacks at the lower levels and additional setbacks are not necessary to reduce losses of ambient and reflected light. The project complies with Design Review Guidelines II-1, II-2, II-3, II-3(a) through (d), II-5, II-7, II-7(a), IV-1, IV-2, IV-3 and IV-5.

2. The proposed upper level addition has been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.70), including consideration of the location of the new construction, lowering the height of the addition, expansions

within the existing building envelope (with or without excavation), lower level excavation for new multi-level structures, and/or changing the roof slope or ridge direction. There is no impact on the views or light of neighboring properties given the location of the new construction, the pitch of the structure, the expansions within the existing building envelope and the use of lower level modifications to increase access into the house.

3. The size and height of the addition is commensurate with the size of the lot and is in keeping with the existing neighborhood development pattern.

4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. In fact, the proposed improvements improve circulation patterns in that the garage modifications increase garage accessibility and the proposed elevator improves pedestrian circulation at the site and makes the home more accessible.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Chow for construction at 1761 Trestle Glen Road, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Construction Management Plan.** 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.
2. **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.
3. **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.

4. **Exterior Light Fixtures.** The new exterior light fixtures shall be downward directed with opaque or translucent shades that completely cover the light bulbs.
5. **Windows.** The new windows shall be the same color as the remaining existing windows.
6. **Approved Plan Set.** The approved plans are those submitted on June 8, 2011, after notices to neighbors were mailed and the application was available for public review.
7. **Laundry Room.** The proposed laundry room shall be redesigned so that it does not encroach into the side yard setback. The eave overhang for this room shall be consistent with the rest of the structure.

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 Kellogg

Ayes: Chase, Kellogg, Henn, Robertson, Thiel

Noes: None

Absent: None

**Design Review**  
**45 Wildwood Avenue**

Mr. and Mrs. Eric Downing are requesting design review to enclose the rear portion of the entry porch for a 232 sq. ft. foyer/study addition with bay window and decorative roof railing; remodel the remaining entry porch with new covered landing, columns, railing and steps; make window and door modifications; add exterior lighting; install a tankless water heater within a recessed cabinet on the rear wall of the addition; and make various changes to the interior. A similar application was denied by the Commission on April 11, 2011.

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

**Public testimony** was received from:

Andrew Lee, Project Architect, described the proposed design changes made in response to the April meeting.

The Commission agreed that the redesign was responsive to Commission requests and represented a significant improvement over the previous submittal.

**Resolution 152-DR-11**

WHEREAS, Mr. and Mrs. Eric Downing are requesting permission to enclose the rear portion of the entry porch for a 232 sq. ft. foyer/study addition with bay window and decorative roof railing; remodel the remaining entry porch with new covered landing, columns, railing and steps; make window and door modifications; add exterior lighting; install a tankless water heater within a recessed cabinet on the rear wall of the addition; and make various changes to the interior located at 45 Wildwood 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 are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. The scale and bulk of the addition is within the same constraints as the existing trellis entry way that is being replaced. The proposed improvements are consistent with the existing residence in terms of use of materials and architectural detailing. The positioning of the front entry doors and the detailing of the entry portico accentuate the front entrance to the home and are consistent in scale and context with the existing style of the residence. The project complies with Design Review Guidelines II-1, II-2, II-3 and II-3(a) & (b).
2. The proposed upper level addition/expansion has been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.70). The proposed improvements are separated from the nearest neighbor by the driveway plus the adjoining setback on the neighbor's west property line. The project complies with Design Review Guideline II-7.
3. The size and height of the addition is commensurate with the size of the lot and is in keeping with the existing neighborhood development pattern. The project complies with the above-cited Guidelines.
4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. The bay window as proposed projects approximately 13 inches from the face of the wall and is therefore a safe distance from the usable portion of the driveway. The project complies with Design Review Guidelines 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. Downing for construction at 45 Wildwood Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Tankless Water Heater.** The tankless water heater shall be enclosed within a cabinet set within the exterior wall. The cabinet door to the tankless water heater shall be flush with and painted to match the exterior wall. In addition, all conduits and pipes to the heater shall be enclosed within the wall.
2. **Exterior Light Fixtures.** The new exterior light fixtures shall be downward directed with opaque or translucent shades that completely cover the light bulb.
3. **Construction Management Plan.** 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.
4. **Flashing.** Exposed flashing on the new roof of the entry portico and addition shall be finished to match the adjoining wood trim.

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

Moved by Kellogg, Seconded by Robertson

Ayes: Chase, Kellogg, Henn, Robertson, Thiel

Noes: None

Absent: None

**Design Review  
38 La Salle Avenue**

Mr. Clay Collier and Ms. Virginia O'Rourke are requesting design review to make modifications to the front (east) yard along La Salle Avenue that includes: the demolition of the existing 93 sq. ft. front entry stairs; the construction of a new 327 sq. ft. front entry stairs; exterior lighting; new walls and retaining walls; and landscape modifications. A variance from the front setback requirement along La Salle Avenue for the new front entry stairs was granted in concept by the Commission on May 9, 2011, subject to a design that complies with the City's Design Review Guidelines.



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

**Public testimony** was received from:

Pamela Collier, Project Architect, described the design changes made to the front entry stairs in response to the April meeting.

The Commission agreed that the design changes were responsive to Commission requests and reflected a significant improvement over the previous submittal. It was clarified that most accurate drawing of the proposed planter wall was shown on Sheet A.2.3 of the project architect's submittal (as opposed to the landscape architect's submittal).

**Resolution 153-DR-11**

WHEREAS, Mr. Clay Collier and Ms. Virginia O'Rourke are requesting permission to make modifications to the front (east) yard along La Salle Avenue that includes: the demolition of the existing 93 sq. ft. front entry stairs; the construction of a new 327 sq. ft. front entry stairs; exterior lighting; new walls and retaining walls; and landscape modifications located at 38 La Salle 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 are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements include but are not limited to: height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials and arrangements of structures on the parcel. The distance between the proposed upper level addition and adjacent residences is reasonable and appropriate due to the existing topography and neighborhood development pattern. The proposed project complies with Design Review Guidelines II-1, II-2, II-3, II-3(a) through (d), II-5(a) through (c) and II-6(a) through (c).
2. The proposed upper level addition/expansion has been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.70), including consideration of the location of the new construction, lowering the height of the addition, expansions within the existing building envelope. The project complies with Design Review Guidelines II-1, II-2, II-3, II-3(a) through (d), II-5, II-5(a), II-6 and II-6(a) through (c).
3. The size and height of the addition is commensurate with the size of the lot and is in keeping with the existing neighborhood development pattern. The project complies with Design Review Guidelines II-1, II-2, II-3, II-3(a) through (d), II-5, II-5(a), II-6 and II-6(a) through (c).

4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. The project complies with Design Review Guidelines II-1, II-2, II-3, II-3(a) through (d), II-5, II-5(a), II-6 and II-6(a) through (c).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Collier and Ms. O'Rourke for construction at 38 La Salle Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. The design being approved is shown on Sheet A.2.3; and
2. The conditions placed on the related Variance and Design Review Application #11-0110 shall extend to this application.

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

Moved by Chase, Seconded by Thiel

Ayes: Chase, Kellogg, Henn, Robertson, Thiel

Noes: None

Absent: None

**Design Review  
1835 Trestle Glen**

Dr. Nerine Cherepy is requesting design review to make modifications to the residence that include: the addition of approximately 867 sq. ft. of habitable space with two new rooms eligible for use as a bedroom divided between two levels at the rear (south) of the house, making it a 3-story, 4 bedroom, 3-1/2 bath residence over a basement; roof modifications including the construction of a new gable roof above the proposed addition; new skylights and solar tubes; and window and door modifications throughout.

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

**Public testimony** was received from:

Nerine Cherepy summarized the proposed improvements to her newly purchased home intended to improve energy efficiency and make the home more livable for her family. In response to Commission questions, she acknowledged that the home currently has a mix of window styles, treatments and materials and noted her preference not to have divided light windows.

On a motion by Commissioner Thiel, seconded by Commissioner Robertson and unanimously carried, the Commission agreed to extend tonight's meeting to 11:45 p.m. in order to complete agenda consideration.

Antonio Robles, Project Architect, explained the characteristics of the proposed paintable fiberglass windows.

The Commission supported application approval, agreeing that the new addition was well positioned with regard to the property's topography and consistent with the home's existing architecture. However, the Commission preferred that the new windows be either casement or single or double-hung with true or simulated divided lights so as to be more in keeping with the home's architectural style.

**Resolution 154-DR-11**

WHEREAS, Dr. Nerine Cherepy is requesting permission to make modifications to the residence that include: the addition of approximately 867 sq. ft. of habitable space with two new rooms eligible for use as a bedroom divided between two levels at the rear (south) of the house, making it a 3-story, 4 bedroom, 3-1/2 bath residence over a basement; roof modifications including the construction of a new gable roof above the proposed addition; new skylights and solar tubes; and window and door modifications throughout located at 1835 Trestle Glen 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 are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements include but are not limited to: height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials and arrangements of structures on the parcel. The distance between the proposed upper level addition/expansion and adjacent residences is reasonable and appropriate due to the existing topography and neighborhood development pattern. The addition appropriately steps with the hillside, is tucked in behind the existing structure and does not have any physical impact on neighboring structures. The upper level setbacks are greater than the setbacks at the lower level and aid in the reduction of impact on ambient and reflected light on neighboring properties. The project complies with Design Review Guidelines II-1, II-2, II-3, II-3(a) through (d), II-4, II-6, II-7 and II-7(a).
2. The proposed upper level addition/expansion has been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.70), including consideration of the location of the new construction. The location of the existing structure steps up the side and the proposed addition is tucked in behind it and integrates into the hillside appropriately.

3. The size and height of the addition is commensurate with the size of the lot in that the lot is more than sufficiently large to support this relatively modest-sized expansion. The expansion is in keeping with the existing neighborhood development pattern, especially along this side of Trestle Glen Road.

4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. In accordance with Sections 17.16.1 and 17.22.1, the existing on-site circulation patterns are not modified or changed.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Dr. Cherepy for construction at 1835 Trestle Glen Road, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Construction Management Plan.** 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.

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.

e. 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. The new room located on the southwest corner of the 3rd floor addition shall meet all building code requirements for habitation.
6. The new 3rd floor bathroom shall meet all building code requirements.
7. The flashing of the new skylights and solar tubes shall be painted to closely match the surrounding color.
8. The new windows shall be the same color throughout.
9. The new exterior light fixture shall be downward directed, with an opaque or translucent shade that completely covers the light bulb.
10. The proposed new windows shall be changed to either casement or single or double hung windows with true or simulated divided lights. Said window changes 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 Thiel, Seconded by Robertson

Ayes: Chase, Kellogg, Henn, Robertson, Thiel

Noes: None

Absent: None

## **ADJOURNMENT**

There being no further business, Chairman Henn adjourned the meeting at 11:45 p.m.

