

## PIEDMONT PLANNING COMMISSION

### Regular Meeting Minutes for Monday, March 14, 2011

A Special and Regular Session of the Piedmont Planning Commission was held March 14, 2011, in the Police Department EOC and City Hall Council Chambers at 403 Highland and 120 Vista Avenue, respectively. In accordance with Government Code Section 54954.2(a) the agenda for this meeting was posted for public inspection on March 4, 2011.

#### CALL TO ORDER

Chairman Robertson called the special session to order at 5:10 p.m. in the EOC Room.

#### ROLL CALL

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

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

City Council Liaison: Councilmember Margaret Fujioka

#### SPECIAL SESSION

The Chairman announced that the purpose of the special session is to review those projects nominated for the Commission's 2011 Design Awards and select award recipients. Presentation of the awards will be made at the April 11th Planning Commission meeting immediately following a reception held at City Hall to honor all award recipients. The Commission selected the following award recipients:

**Best Second Unit** **110 Sunnyside Avenue**  
(*respectful of the property's historic architecture*)

**Best Second Story Addition** **407 Linda Avenue**  
(*lovely design*)

**Best Garage** **140 Monticello Avenue**  
(*a very well integrated design*)

**Best Two-Story Rear Addition** **58 Lakeview Avenue**  
(*seamless construction with attractive detailing and amenities*)

**Best Outdoor Living Area** **213 Bonita Avenue**  
(*attractive deck and landscaping*)

**Best Historic Remodel** **31 Jerome Avenue**  
(*a beautifully done renovation*)

**Best Sustainable Remodel** **29 Sylvan Way**  
(*a complete remodel with a sustainable design*)

#### REGULAR SESSION

Chairman Robertson called the regular session to order at 6:05 p.m. in the Council Chambers.

**APPRECIATION**

On behalf of the Commission and planning staff, Chairman Robertson presented retiring Commissioners Levine and Stehr with orchid plants in recognition and appreciation for their 6 years of outstanding service on the Commission.

**CONSENT CALENDAR**

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

**Design Review  
431 Pala Avenue**

**Resolution 26-DR-11**

WHEREAS, Mr. and Mrs. Jason Stein are requesting permission to make hardscape and landscape modifications in the rear (west) yard including the addition of a new spa, firepit, built-in benches, terraces and decks with guardrails and retaining walls and fences located at 431 Pala 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 spa is 18" high, brick to match the house and replaces an old 36" high redwood hot tub. The existing unsightly failed arbors are removed. The failed pool fence is replaced by an iron fence to match the house rail. The exposed aggregate concrete is being replaced with new stamped concrete with an adobe color to match the house. The new CMU walls will be stucco to match the house and replace old failed wood walls. The aesthetics will be vastly improved. Major visual eyesores are being removed. The new project will take advantage of the existing elevations.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because the impact on the neighboring properties will be vastly improved. This project does not block the views of the neighbors and is only visible from one house that sits several stories above this yard. This project is not visible from any other yard and will have a zero impact on privacy.
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 precautions will be taken to insure the neighbors safety and any issues regarding traffic and parking. This project is at the far end of Pala Avenue and does not have the traffic flow issues that may be seen in other parts of this street.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Stein for construction at 431 Pala Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. Based on the scope and nature of the proposed landscape and development plans, a best management practice plan for construction which complies with the Alameda Countywide Clean Water Program General and Residential Conditions of Approval will need to be developed by the applicant prior to obtaining a building permit;
2. Due to the scope and nature of the application, a construction management plan shall be developed and approved by staff prior to obtaining a building permit. Said plan shall be comprehensive while specifically addressing the duration of the project, construction hours, the staging of materials, and parking of worker vehicles to ensure the free flow of traffic along Pala Avenue;
3. Compliance with Chapter 9 Article III of the Municipal Code, which governs the recycling of construction and demolition debris, will be required on all phases of this project.

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

**Design Review and  
Fence Design Review  
33 York Drive**

**Resolution 39-DR-11**

WHEREAS, Mr. and Mrs. Brendan Heafey are requesting permission to install a new outdoor barbecue unit in an existing side yard patio and seek retroactive approval for the construction of a wood and concrete fence along the front (east) and right (north) side yards located at 33 York 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 (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 bbq counter is designed to match the house. The stucco base will match the stucco color of the house and the concrete countertop will match the terracotta roof color.

2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because the bbq unit is not visible from the street or by any neighbors.

3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because the bbq will be outside the normal path of travel for the deck.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Heafey for construction at 33 York Drive, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

Moved by Stehr, Seconded by Kellogg

Ayes: Levine, Kellogg, Robertson, Stehr, Thiel

Noes: None

Absent: None

*(Note: Chairman Robertson recused herself from the vote approving the Design Review Application for 431 Pala Avenue)*

#### **PUBLIC FORUM**

There were no speakers for the public forum.

#### **APPROVAL OF MINUTES**

##### **Resolution 5-PL-11**

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

Moved by Levine, Seconded by Thiel

Ayes: Levine, Kellogg, Robertson, Stehr, Thiel

Noes: None

Absent: None

#### **REGULAR CALENDAR**

The Commission considered the following items of regular business:

##### **Design Review 74 Sandringham Road**

Mr. Horacio Woolcott is requesting design review to modify the previously approved (April 12, 2010) design for a remodeled and enlarged house by: adding an elevator tower in the left side yard;

altering the design of the left side stairwell; adding a rear main-level sunroom; and making window, door and exterior lighting changes on the rear and left facades.

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

**Public testimony** was received from:

Horacio Woolcott described the proposed minor changes, explaining that the design of the elevator tower is different from that previously denied by the Commission.

Humberto Olivos, Project Architect, explained how the new elevator tower is now better integrated with the main house than the one previously denied.

The Commission agreed that the proposed changes improve the interior floorplan and livability of the home without any significant impact on neighbors. However, the Commission voiced concern over the visual incompatibility of the stair and elevator towers and suggested ways for unifying these two structures into a single bump-out projection for better aesthetics and to eliminate the current situation of two competing masses in close proximity. Suggestions included a preference for a single roof line for both elements as well as the use of the same roofing material (e.g. tile).

**Resolution 316-DR-10**

WHEREAS, Mr. Horacio Woolcott is requesting permission to modify a previously approved design for a remodeled and enlarged house by: adding an elevator tower in the left side yard; altering the design of the left side stairwell; adding a rear main-level sunroom; and making window, door and exterior lighting changes on the rear and left facades located at 74 Sandringham 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 and, as conditioned, the line and pitch of the roof. The project, as conditioned, complies with Design Review Guidelines II-1, II-2, II-3(a) through (d).
2. The proposed upper level addition/expansion has been designed in a way that reasonably minimizes view and light impacts on neighboring properties and the additional square footage required for the elevator does not add significantly to the mass of the previously approved design. The proposed sunroom does not significantly change the

previously approved massing. The modifications have no impact on neighbor light, views or privacy.

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. Given the previously approved modifications to this property, the currently proposed modifications are insignificant and do not add any appreciable bulk or massing to the property.

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 on-site circulation patterns are improved with the addition of the elevator.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Woolcott for construction at 74 Sandringham Road, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. Compliance with the conditions of approval specified as part of the prior approval on the residence at 74 Sandringham Road under Design Review Application #10-0083 shall extend to this application;

2. The roof line and/or massing of the elevator and stair towers shall be modified so as to maintain consistency with the roof line of the previously approved application (83-DR-10), subject to staff review and approval of said modification.

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 Stehr

Ayes: Levine, Kellogg, Robertson, Stehr, Thiel

Noes: None

Absent: None

**Variance and  
Design Review  
621 Blair Avenue**

Mr. and Mrs. Rob Bloemker are requesting variance and design review to construct substantial modifications to the existing 1-story, 2-bedroom residence with a 1-car garage, including: substantial modifications to the interior floor plan including the elimination of the existing garage; a modification to the existing building footprint on the northwestern side of the house; and substantial alterations to the exterior of the residence involving the windows and doors, wall and roof materials, deck railings, exterior lights and the addition of new skylights. The resulting residence will have 4 bedrooms and 3-1/2 baths. A comprehensive

landscape plan is proposed. The requested variance is from Section 17.16 to allow a 4 bedroom residence with 3 uncovered parking spaces (each measuring 9 by 20 ft.) in lieu of the Code required minimum of 2 covered parking spaces, each measuring 9 by 20 feet.

Written notice was provided to neighbors. **One affirmative response form** was received. **Correspondence** was received from: Jo Ellen Lezotte; Mark Becker;

Commissioners Levine and Thiel recused themselves from discussion and action on this application and left the chambers.

**Public testimony** was received from:

Shannon and Rob Bloemker stated that they purchased the home last May and desire to upgrade and reconfigure the existing footprint to make the home more suitable for family habitation. They also stressed their intention to have the renovated home qualify for a LEED Platinum green building rating. They also emphasized that their original design was significantly scaled back per neighbor requests to minimize impacts.

Michelle Kaufmann, Project Architect, explained the proposed design, noting that originally the applicants preferred an upper story expansion but this expansion option was opposed by neighbors, thus the currently proposed single story plan. She noted the unique characteristics of the site, including the fact of 20 foot setback requirements along most of the lot's property lines. She also reviewed the various garage/carport options explored which were ultimately rejected because of aesthetic impacts on the streetscape, visual impacts on neighbors and concern that such structures would impede vehicle turnaround maneuverability so that cars would have to back out of the driveway (an extremely dangerous situation). She stated that currently the driveway and parking area functions quite nicely as is.

Laura Amen thanked the applicants' for being responsive to neighbor requests and concerns, agreed that the current uncovered parking area creates no visual problems for neighbors and functions quite nicely. She did voice concern that the proposed skylights could impose night light spill impacts on the neighborhood.

Jo Ellen and John Lezotte also thanked the applicant's for their willingness to minimize impacts on neighbors and supported application approval. They too agreed that the current parking situation is the best in terms of functionality, minimizing visual impacts on neighbors and maximizing the safety of vehicle ingress/egress.

The Commission agreed that the project's design reflected a beautiful renovation of an older home with minimal impact on neighbors and utilizing green building technologies. However, the Commission emphasized that while the current uncovered parking situation is functional and not visible, no hardship findings can be made to justify variance approval. The Commission noted that covered parking for at least two cars could be easily provided without compromising vehicle turnaround, suggesting an elegantly designed, floating trellis/arbor option for covering a portion, if not all, of the parking area. The

Commission agreed that the addition of covered parking to comply with the City Code would not create a visual imposition on neighboring properties nor impede vehicle turnaround capability. Given the doubling in bedrooms, the Commission felt it imperative that code compliant parking be provided. In addition, the Commission requested that proposed skylights have translucent glass to minimize impacts on neighbors and that the existing driveway gate be removed. The Commission felt that the manually operated driveway gate lessens the convenient use of the rear parking area for off-street parking. In addition, it was noted that the submitted plans do not indicate the presence/retention of this gate.

**Resolution 332-V-10**

WHEREAS, Mr. and Mrs. Rob Bloemker are requesting permission to construct substantial modifications to the existing 1-story, 2-bedroom residence with a 1-car garage, including: substantial modifications to the interior floor plan including the elimination of the existing garage; a modification to the existing building footprint on the northwestern side of the house; and substantial alterations to the exterior of the residence involving the windows and doors, wall and roof materials, deck railings, exterior lights and the addition of new skylights. The resulting residence will have 4 bedrooms and 3-1/2 baths. A comprehensive landscape plan is proposed for property located at 621 Blair 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 bedrooms without providing conforming covered parking; and

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

1. The underlying lot and existing improvements do not present unusual physical circumstances 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. There is ample opportunity on the property to easily create covered parking for at least two vehicles. The proposed improvements represent a doubling of the home's existing bedroom count and thus covered parking should be provided in accordance with City Code Section 17.16.1.
2. The variance is not compatible with the immediately surrounding neighborhood and the public welfare because code compliant parking can be achieved which would be minimally intrusive on neighbors. Given the property's steep, sloping lot and the fact that the parking area is hidden from view from the street, conforming parking would not have a detrimental impact on neighbors.
3. Accomplishing the improvement without a variance would not cause unreasonable hardship in planning, design, or construction because code compliant parking can be provided on the property.



RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies the variance application of Mr. and Mrs. Bloemker for the above variance at 621 Blair Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Kellogg, Seconded by Stehr

Ayes: Kellogg, Robertson, Stehr, Henn

Noes: None

Recused: Levine, Thiel

**Resolution 332-DR-10**

WHEREAS, Mr. and Mrs. Rob Bloemker are requesting permission to construct substantial modifications to the existing 1-story, 2-bedroom residence with a 1-car garage, including: substantial modifications to the interior floor plan including the elimination of the existing garage; a modification to the existing building footprint on the northwestern side of the house; and substantial alterations to the exterior of the residence involving the windows and doors, wall and roof materials, deck railings, exterior lights and the addition of new skylights. The resulting residence will have 4 bedrooms and 3-1/2 baths. A comprehensive landscape plan is proposed for property located at 621 Blair 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 in that the project complies with Design Review Guidelines II-1, II-2, II-3(a) & (b) and II-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 material change in the existing massing or placement of the house on the property. The project complies with Design Review Guideline II-3(b).
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 existing driveway cut will remain unchanged, adequate room exists for vehicle turnaround and there is no change in existing pedestrian access. The project complies with Design Review Guideline II-8.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Bloemker for construction at 621 Blair 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 issuance of a Certificate of Occupancy.

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.

b. Optional: Renovation / New Construction. Pursuant to Section 17.32.6 of the Municipal Code, if for any reason more than 70% of the physical structure (as determined by the Building Official) is demolished or destroyed, the building shall conform to new building and planning Code requirements. If this occurs during demolition, all work must stop and a new hearing and public review by the Planning Commission is required.

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

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

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

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

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

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

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

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

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

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

6. **Modifications to Conditions.** Any insurance or security requirement, or related Condition of Approval, may be implemented and, if necessary modified, in a reasonable manner with the joint agreement of the Director of Public Works and the City Attorney, consistent with the intent of the condition.

7. **Approved Plan Set.** The approved plans are those submitted on February 11, 2011 with modifications submitted on February 28 and March 4, 2011, after notices to neighbors were mailed and the application was available for public review.

8. **Off-Street Parking.** The applicant shall provide off-street covered parking (9 ft. by 20 ft. in dimension) for a minimum of two vehicles at the rear of the property. Said covering can be an architecturally designed trellis or other type of covering similar in style with the house roof, or an enclosed garage or a covered open carport. Said covering shall be consistent in style and material with the existing house, positioned so that adequate vehicle maneuvering is maintained and constructed so that no variance is required. The height of the proposed covering shall be in keeping with the eave/roof line of the existing house. The design of said covered parking to be consistent with City Code Section 17.16.1 and subject to staff review and approval.

9. **Skylights.** New skylights shall be glazed with translucent material at the selection of the applicants' architect.

10. **Driveway Gate.** The existing driveway gate shall be removed as it is not shown on the submitted/approved plans.

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

Moved by Kellogg, Seconded by Stehr

Ayes: Kellogg, Robertson, Stehr, Henn

Noes: None

Recused: Levine, Thiel

**Variance and  
Design Review  
1114 Harvard Road**

Mr. and Mrs. Chris Dixon-Thayer are requesting variance and design review to demolish the rear covered deck and remodel and enlarge the 1,829 sq. ft. residence by adding 1,629 sq. ft., a family room and a fourth bedroom through a multi-story rear addition with deck and balcony, the development of habitable space on the basement and attic levels, and the addition of three dormers. The application also proposes: window, door and skylight modifications throughout; new exterior lighting; various changes to the interior; the replacement of the

garage door; and the return of the illegally converted garage back to vehicular parking. The requested variance is from Section 17.16 to allow a residence with 4 rooms eligible for use as bedrooms with 1 covered parking space measuring at least 9 ft. by 20 ft. in lieu of the code required minimum of two such spaces.

Written notice was provided to neighbors. **Four affirmative, two negative response forms** were received. **Correspondence** was received from Ruth & Jay Koch.

**Public testimony** was received from:

Denelle Dixon-Thayer stated that she purchased the property last November and the proposed project is intended to upgrade the home to accommodate modern family needs while maintaining the home's existing cottage style architecture. She reviewed the various expansion options explored and felt that the proposed plan was the best in terms of minimizing view and privacy impacts on neighbors.

Lise Thogersen, Project Architect, explained how the proposed improvements will address deferred maintenance, modernize an outdated floorplan and rectify prior illegal construction. She also noted that various parking options were explored but given the narrowness of the lot, code conforming parking is not physically possible. However, she noted that an automatic garage door opener will be added to the property's existing 1-car garage to convert this structure back for off-street parking purposes. The lot will accommodate three tandem parking spaces (including the garage space).

Ruth Koch opposed the project, citing a loss of view from her kitchen/breakfast room window.

The Commission agreed that it is not physically possible to provide conforming off-street parking on the narrow lot and felt that since the property's existing 1-car garage is being converted back into a parking structure, variance approval is justified. The Commission also agreed that the proposed improvements reflect an innovative use of attic and basement space to create habitable space with minimal impact on neighbors. The Commission felt that the design did not significantly impact views from the Koch property given the separation distance (3 homes away) and the fact that the Koch view is of the applicant's yard and thus not a significant view. As to the rear elevation, while some concern was voiced re its bulk, mass and two elevated decks, it was agreed that essentially the bulk and mass was approved years ago, the property is extremely deep and the deck and balcony overlook a neighbor's driveway.

**Resolution 15-V/DR-11**

WHEREAS, Mr. and Mrs. Chris Dixon-Thayer are requesting permission to construct located at 1114 Harvard Road, Piedmont, California, which construction requires variance and design review; 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 conforming parking; and

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

1. The project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e); and

With regard to variance:

2. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to the fact that because of the location of the house on the narrow lot, there is no vehicle access to the rear of the property to add a second parking space and the existing, non-conforming 1-car garage at the front of the property will be made code conforming. 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 other neighbors have vehicle access to their rear yards so that additional parking can be accommodated. This option is not available to the applicants.
4. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because it is physically impossible to provide conforming off-street parking on the lot; and

With regard to design review:

5. The proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code;
6. 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 distance between the proposed upper level addition and adjacent residences is reasonable and appropriate due to the existing topography, neighborhood development pattern and the location of the house on the lot. Upper level setbacks greater than the setbacks required for the lower level have been incorporated into the design. The project complies with Design Review Guidelines II-1, II-2, II-3, II-4, II-5, II-6 and II-7.
7. 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, expansions within the existing building envelope, lower level excavation and the changing of the roof slope.

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

9. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review application of Mr. and Mrs. Dixon-Thayer for proposed construction at 1114 Harvard Road, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Exterior Light Fixtures.** New exterior light fixtures shall be downward-directed with an opaque or translucent shade that completely covers the light bulb.

2. **Garage Door.** The new garage door shall be electronically operated.

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 issuance of a Certificate of Occupancy.

4. **Renovation / New Construction.** Pursuant to Section 17.32.6 of the Municipal Code, if for any reason more than 70% of the physical structure (as determined by the Building Official) is demolished or destroyed, the building shall conform to new building and planning Code requirements. If this occurs during demolition, all work must stop and a new hearing and public review by the Planning Commission is required.

5. **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.

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

7. **Skylights.** All new skylights shall be translucent.

RESOLVED FURTHER, that the approval of the Planning Commission/City Council and any conditions of that approval shall not extend to any particulars set forth in the documents submitted for the

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

Moved by Levine, Seconded by Stehr

Ayes: Levine, Kellogg, Robertson, Stehr, Thiel

Noes: None

Absent: None

**Fence Design Review  
212 Ramona Avenue**

Mr. Barry Barnes and Ms. Samantha Spielman are requesting fence design review to construct a new fence and gate at the rear (south) property line.

Written notice was provided to neighbors. **Three affirmative, one negative response forms** were received. **Correspondence** was received from: Patricia Makinen; Kenneth McKean

**Public testimony** was received from:

Samantha Spielman stated that the proposed fence will match existing fences on her property and is consistent in design with other fences in the neighborhood. The intent of the fence is to enclose her property to create a safe play area for her children.

Patricia Makinen referenced a long-standing dispute over the location of her shared property line with the Barnes/Spielman, noting a conflict between the 2006 survey results submitted by the applicants and a boundary worksheet prepared on her behalf. She also strongly objected to gate replacement, stressing that the gate was never used by the property's former owner as an access point. She emphasized that the gate is located in close proximity to her front entry.

The Commission clarified that property line disputes are private, civil matters not within the purview or jurisdiction of the Commission. As to the project, the Commission agreed that the fence design was attractive and appropriate for the property and the gate has existed for years. However, the Commission requested that the new gate be designed to swing in toward the applicants' property (not outward) and that the portion of the fence located on an existing retaining wall not exceed 6 ft. in total height when measured from the low side of the retaining wall.

**Resolution 37-DR-11**

WHEREAS, Mr. Barry Barnes and Ms. Samantha Spielman are requesting permission to construct a new fence and gate at the rear (south) property line located at 212 Ramona 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 the height and arrangements of structures on the parcel, are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. The proposed fence is compatible with the architectural style of the house and similar in appearance to other fences on the property and in the immediate neighborhood. The plan to rebuild an existing retaining wall as needed is appropriate. The gate is appropriate for convenience. The project complies with Design Review Guidelines V-1, V-2 and V-5.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because the fence is located behind an existing tall shrub and is well designed for the Lorita streetscape view. The project complies with Design Review Guidelines V-5, V-5(a) through (c).
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. The gate is pre-existing and allows emergency access into the yard. The project complies with Design Review Guidelines V-7 and V-8.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Barnes and Ms. Spielman for construction at 212 Ramona Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. The applicants shall construct the fence and gate entirely on their property at 212 Ramona Avenue;
2. The applicants shall repair the portion of the existing retaining wall that lies on their property at 212 Ramona Avenue, or in the City right-of-way;
3. 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;
4. The fence shall be no higher than 6 ft. at the retaining wall site as measured from the lower side of the retaining wall.
5. The gate shall swing inward toward the applicants' side of the property.

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

Moved by Stehr, Seconded by Kellogg

Ayes: Levine, Kellogg, Robertson, Stehr, Thiel

Noes: None

Absent: None

**Variance and  
Design Review  
39 Estrella Avenue**

Mr. and Mrs. Paul Cheng are requesting variance and design review to make modifications to the residence including: a 55 sq. ft. rear (north) addition at the main level to add a bathroom resulting in a new room eligible for use as a bedroom; a 50 sq. ft. upper level addition to the right (east) side; roof changes; window and door modifications throughout the residence; a new skylight; interior changes; and new exterior lighting. The requested variances are from: (1) Section 17.10.7 to allow the new upper story addition to extend to within 3'4" of the right side property line in lieu of the code required minimum of a 20 ft. street side setback along Moraga Avenue; and (2) Section 17.16 to allow a residence with 4 rooms eligible for use as a bedroom with 1 covered, 9' by 20' parking space in lieu of the code required minimum of two such spaces.

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

**Public testimony** was received from:

Paul Cheng stated he purchased his home last November and the proposed improvements are intended to update this older home to increase its livability as well as improve access into the rear yard.

Eric Chou, Project Architect, described the subtle changes to the exterior and minor expansion in existing square footage to create a more symmetrical facade. He also noted that per Alameda County Tax Assessment Records, the existing home has been considered a 4-bedroom residence since 1926 and taxed accordingly. Therefore, he felt that no additional bedrooms were being added as a result of the project. He noted that the property will have two covered tandem parking spaces but it would be extremely difficult to provide code conforming parking.

The Commission agreed that the conversion of an existing half bath to full bathroom on the upper level was appropriate given that it is the only bathroom on this level. It further agreed that variance approval was justified given that conforming parking cannot be physically constructed on the property and the room being created as eligible for

use as a bedroom has existed, been used and been taxed as a bedroom for decades. The Commission agreed that the proposed improvements do not significantly change the existing mass or size of the home, two covered off-street parking spaces are being provided (albeit tandem) and the contrast in siding material on the new addition is architecturally compatible with the existing house.

**Resolution 42-V/DR-11**

WHEREAS, Mr. and Mrs. Paul Cheng are requesting permission to make modifications to the residence including: a 55 sq. ft. rear (north) addition at the main level to add a bathroom resulting in a new room eligible for use as a bedroom; a 50 sq. ft. upper level addition to the right (east) side; roof changes; window and door modifications throughout the residence; a new skylight; interior changes; and new exterior lighting located at 39 Estrella Avenue, Piedmont, California, which construction requires variance and design review; and

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary in order to increase the number of rooms eligible for use as a bedroom without supplying conforming parking and to construct within the 20 ft. setback along Moraga Avenue; 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); and

With regard to variance:

2. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to the fact that: (1) the setback variance is a pre-existing condition of the home on this corner lot; and (2) per the Alameda County Tax Assessor, the existing house has been considered a 4-bedroom residence since 1926 and the proposed improvements are making this existing 4th bedroom code compliant. 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 proposed dormer has no material impact on massing or neighbor views or privacy since it faces Moraga Avenue. There is no change in existing driveway location and the existing carport is being improved to function as a code-complying 1-car garage.
4. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because: (1) the existing house is located within the setback and cannot be improved without variance; and (2) there is insufficient room on the property to

add two conforming off-street parking spaces without significantly impacting the existing house; and

With regard to design review:

5. The proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code;
6. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. The project complies with Design Review Guidelines II-1, II-2, II-3, II-3(a) & (b) in that the proposed improvements are consistent in architectural style, materials and detailing with the existing house, the combination of horizontal lap siding and shingle shakes is appropriate provided they are painted the same color and the color of new windows and doors will match existing.
7. 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). The project complies with Design Review Guideline II-2, II-3 and II-3(a) & (b) in that it is a minor adjustment to add a dormer at the second level, it is symmetrical with the existing style and roof structure of the home and it fits in an architecturally correct way with the existing building.
8. 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. There is no material impact on the mass or scale of the residence.
9. 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 entry and exit from the property and the existing curb-cut of the driveway remain unchanged. There is no change in existing circulation patterns. The project complies with Design Review Guideline II-7.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review application of Mr. and Mrs. Paul Cheng for proposed construction at 29 Estrella Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

the staging of materials, and parking of worker vehicles to ensure the free flow of traffic along Estrella and Moraga Avenues;

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

4. The windows shall be the same color throughout the residence;

5. Any new divided lights shall be true or three dimensional simulated;

6. The flashings of the new skylights shall be painted to match the surrounding roof color; and

7. The new exterior light fixtures shall have an opaque or translucent shade that completely covers the light bulb.

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

Moved by Kellogg, Seconded by Stehr

Ayes: Levine, Kellogg, Robertson, Stehr, Thiel

Noes: None

Absent: None

**Window Design Review  
150 Moraga Avenue**

Mr. Robert Richardson is requesting window design review to seek retroactive approval for the replacement of six windows at the rear of the house.

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

**Public testimony** was received from:

Robert Richardson stated that his mother purchased the property 45 years ago and endured racial prejudice in the process in order to provide her family with the educational benefits of living in Piedmont.

Charles Pineda, a childhood friend of the applicant, urged application approval, noting that the new windows improve the home's insulation and energy efficiency, are similar in appearance with other windows on the home and have no visual impact on neighbors.

The Commission was divided in its support of the application. Those in favor of application approval felt the new windows were visually

compatible with the home's original wood windows in terms of size and design, were an improvement over the windows they replaced and met the intent of the City's Window Policy. Those opposed noted that the new non-paintable vinyl windows violated the City's Window Policy prohibiting non-paintable windows and there was no justification for the Commission to deviate from this non-discretionary rule.

**Resolution 53-DR-11**

WHEREAS, Mr. Robert Richardson is requesting retroactive approval for the replacement of six windows at the rear of the residence located at 150 Moraga 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 compatible with the existing neighborhood development in that it is not unusual to undertake home repairs in stages. The new windows are similar to others which are viewed both from the street and the rear. The project complies with Design Review Guidelines II-3 and II-3(b).
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because there is no change in existing conditions. The new windows are replacements in the same size and location as those previously 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 there is no change in existing circulation patterns.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the window design review application of Mr. Richardson for construction at 150 Moraga Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following condition:

- The wood siding on the rear of the house shall be painted to match the stucco siding on the remainder of the house

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

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

Moved by Stehr, Seconded by Kellogg

Ayes: Kellogg, Robertson, Stehr

Noes: Levine, Thiel

Absent: None

**ADJOURNMENT**

There being no further business, Chairman Robertson adjourned the meeting at 9:25 p.m.