

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, September 12, 2011

A Regular Session of the Piedmont Planning Commission was held September 12, 2011, in the City Hall Council Chambers at 120 Vista Avenue. In accordance with Government Code Section 54954.2(a) the agenda for this meeting was posted for public inspection on September 2, 2011.

CALL TO ORDER Chairman Henn called the meeting to order at 5:00 p.m. He introduced the City's newest planning technician Andrea Argeulles.

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

Absent: None

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

ANNOUNCEMENT The City Planner announced that hardbound copies of the City's General Plan, which include the recently state certified Housing Element, are now available at City Hall.

CONSENT CALENDAR The following Resolution was approved under one vote by the Commission:

**Fence Design Review
335 Mountain Avenue**

Resolution 247-DR-11

WHEREAS, Mr. and Mrs. Scott Ruegg are requesting permission to demolish two existing concrete columns and construct new 7 ft. high stone columns at the driveway entry of their property located at 335 Mountain 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: Previous entry columns damaged and removed during new utility replacement. They were 10 ft. high, 22 in. square concrete (painted) with ball finial cap. Adjacent neighbors in Estate Zone have columns located within the front 20 ft. setback. New replacement columns are repeating the building stone used in the residence and garage. The stone pattern and scale of column are similar to the existing columns at auto court. New replacement

columns are appropriate scale and height with existing neighborhood structures.

2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because new replacement columns have no effect on neighbors' existing views, privacy or access to direct or indirect light.

3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because new replacement column locations reviewed with City of Piedmont Fire Department and meet their requirement of 12 ft. clear between columns.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Reugg for construction at 335 Mountain 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 Chase

Ayes: Chase, Kellogg, Henn, Robertson, Thiel

Noes: None

Absent: None

PUBLIC FORUM

There were no speakers for the public forum.

APPROVAL OF MINUTES

Resolution 13-PL-11

RESOLVED, that the Planning Commission approves as submitted its meeting minutes of August 8, 2011.

Moved by Chase, Seconded by Kellogg

Ayes: Chase, Henn, Kellogg, Robertson, Thiel

Noes: None

Absent: None

REGULAR CALENDAR

The Commission considered the following items of regular business:

Variance, Design Review & Second Unit with Parking Exception 290 Scenic Avenue

Mr. and Mrs. Ahmad Mohazab are requesting variance, design review and second unit permit with parking exception to construct a 359 sq. ft. rent-restricted second unit above the existing garage. The requested variances are from: (1) Section 17D.5(b) to allow a floor area ratio of 64.54% in lieu of the code permitted maximum of 50%; (2) Section 17D.5(d) to allow the new upper level to extend to within 2 ft. 1-1/2 in. of the front property line in lieu of the code required minimum of 20 ft.;

and (3) Section 17D.5(d) to allow the new upper level to extend to within 2'10" of the right side property line in lieu of the code required minimum of a 4 ft. side yard setback.

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

Commissioner Robertson recused herself from discussion and action on this application and left the chambers.

Public testimony was received from:

Ahmad Mohazab, Applicant and Project Architect, stated that the proposed improvement will improve his property aesthetics as well as provide a housing benefit to the City. He noted that existing vegetation will screen the second unit addition from neighbor view and the privacy of neighbors will not be impacted because of differences in grade elevations and separation distances between properties. He added that the second unit will be located within walking distance to public transportation.

Kate Grassman voiced support for application approval, stating that the project is beautifully designed, will benefit the community, does not impact neighbor privacy and will have no adverse impact on parking -- there is no parking problem in this "circle area" of Scenic Avenue.

The Commission was divided in its support for application approval. While the entire Commission agreed as to the attractiveness of the design and its support in principle for the creation of second units in Piedmont, the Commission majority felt that the proposed project was unacceptable for the following reasons: (1) the existing property is already overbuilt and in excess of permitted floor area ratio coverage -- the addition of the second unit will significantly increase this non-conformance; (2) the garage is located very close to the front property line and street and the addition of the second unit atop this garage will result in a very tall and imposing structure on the narrow streetscape; (3) the project adds considerable additional structure within the front setback; (4) the property is located in close proximity to a very narrow section of Scenic Avenue which already experiences significant parking and traffic flow congestion -- adding additional habitable space without parking will compound this problem and adversely impact the neighborhood; (5) the project involves three variances and a parking exception, whose approval cannot be justified; (6) application approval could set a bad precedent in that unlike most second unit applications, the current application proposes adding additional structure to create new habitable space on a property rather than converting existing space within a building's footprint into habitable space; and (7) an opportunity exists for converting existing habitable space under the outdoor terrace into a second unit which would not increase the property's existing FAR nor require setback variances.

Commissioners Henn and Chase supported application approval, citing the following reasons: (1) many garages along Scenic are located in close proximity to the street; (2) the proposed second unit addition will be screened by existing vegetation; (3) the project will enhance property and streetscape aesthetics; (4) this "circle area" of Scenic

where the second unit will be located does not have a parking/traffic congestion problem; and (5) the property does not appear "overbuilt" from the street perspective because of its spacious front yard -- the addition of the second unit will not change this perspective.

Resolution 209-V-11

WHEREAS, Mr. and Mrs. Ahmad Mohazab are requesting permission to construct a 359 sq. ft. rent-restricted second unit above the existing garage located at 290 Scenic Avenue, Piedmont, California; which construction requires variance; and

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary in order to exceed the maximum floor area ratio and construct within the front and right (north) side yard setbacks; 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. The size of the lot is average for this area of Scenic and is not exceptionally small so that the usability of the existing structure is not limited. The existing facilities on the lot already exceed the allowable FAR and the existing structure does not preclude the applicants from using or enjoying their property to the same extent as other property owners in Piedmont.
2. The variances are not compatible with the immediately surrounding neighborhood and the public welfare because the additional square footage being requested is within 3 ft. of the front property line on a very narrow street within a neighborhood context of structures much lower in height at this location. Higher structures within the neighborhood are set farther back from the street on the uphill and downhill sides. Therefore, variances allowing a 2-story structure within 3 ft. of the front property line is not compatible with the immediately surrounding neighborhood.
3. Accomplishing the improvement without variance would not cause unreasonable hardship in planning, design, or construction. The proposed improvements represent a second structure that does not impact the livability of the existing house; therefore, variance denial does not create an unreasonable hardship on the applicants.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies the variance application of Mr. and Mrs. Mohazab for the above variances at 290 Scenic Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Thiel, Seconded by Kellogg

Ayes: Kellogg, Thiel, Zhang

Noes: Chase, Henn

Recused: Robertson

Resolution 209-DR-11

WHEREAS, Mr. and Mrs. Ahmad Mohazab are requesting permission to construct a 359 sq. ft. rent-restricted second unit above the existing garage located at 290 Scenic Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission finds that the proposal, as designed, requires variances which were not granted.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies without prejudice the design review application of Mr. and Mrs. Mohazab for construction at 290 Scenic Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Thiel, Seconded by Kellogg

Ayes: Henn, Kellogg, Thiel, Zhang

Noes: Chase

Recused: Robertson

**Design Review
340 San Carlos Avenue**

Mr. Mark Menke and Ms. Anne-Marie Lamarche are requesting design review to install a new spa and modify the guardrail at the front terrace, make door and window modifications at the rear kitchen, add new exterior lighting and make various interior changes on the basement and main levels.

Written notice was provided to neighbors. **Two affirmative response forms** were received. **Correspondence** was received from: William Holland, AIA.

Public testimony was received from:

Bill Holland, Project Architect, described the proposed improvements, noting that most of the project will be visually undetectable (interior remodeling). He emphasized the property's unique site characteristics with regard to the roof terrace in terms of grade changes, screening and existing and proposed uses. He added that the structural changes to the terrace necessary to accommodate the spa will not be visible -- the terrace's current exterior appearance will remain unchanged.

The Commission, with the exception of Commissioner Thiel, supported application approval, noting the project's great attention to detail, the fact that even though the proposed glass/bronze guardrail around the spa is not consistent with the Arts & Crafts style architecture of the home, this guardrail element does not detract from the architectural quality of the home, is not visible from the streetscape and allows the applicant to take full advantage of the view potential of the property. Commissioner Kellogg noted his insistence that project approval require that the guardrail/structural improvements proposed be constructed "as shown" on the submitted plans. Commissioner Thiel felt that the glass/bronze guardrail was out of character with the

existing home's architecture and posed a potential privacy/reflective glare impact on surrounding homes. He preferred that spa screening be achieved by raising the height of the existing stucco parapet wall.

Resolution 229-DR-11

WHEREAS, Mr. Mark Menke and Ms. Anne-Marie Lamarche are requesting permission to install a new spa and modify the guardrail at the front terrace, make door and window modifications at the rear kitchen, add new exterior lighting and make various interior changes on the basement and main levels located at 340 San Carlos 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 while not perfectly harmonious with existing and proposed neighborhood development, it is sufficiently discreet and out of the sight lines of passers-by and neighbors to have very limited impact. The location and use of glass material will have minimal reflective impact on the streetscape and neighbors. The project complies with Design Review Guidelines II-1, II-2, II-3, II-3(a) through (d), II-4, II-5, II-6, II-6(a) through (c), 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 there is no impact, with only the minimal potential impact of reflective light. The project complies with the above-cited Design Review 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 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. Menke and Ms. Lamarche for construction at 340 San Carlos 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. The proposed structure and any needed reinforcement changes shall comply with the Uniform Building Code and not impact the design approved by the Planning Commission.

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, Henn, Kellogg, Robertson

Noes: Thiel

Absent: None

**Fence Design Review
400 Jerome Avenue**

Mr. and Mrs. Keith Roberts are requesting retroactive approval for the construction of a new wood fence and gate along the northeast (right) property line.

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

Public testimony was received from:

Nancy Kent, Landscape Architect, described the unique layout of the lot and the applicants' need to protect their rear yard from pedestrian traffic exiting Witter Field. The new fence and gate replaced a privacy hedge/fence and gate which previously existed on the property. She added that the applicants intend to plant vegetation (or install planter pots) at the base of the existing retaining wall depending upon which solution is best given the very poor drainage situation in this area.

The Commission acknowledged the hardship imposed on a property bordered by three streets and the need for fencing to provide privacy and security for the property. However, the Commission preferred that the portion of the fence within the 20 ft. Jerome-side setback be stepped down in height so that the resulting fence height does not exceed 4 ft. within this setback area. The Commission agreed that a stepped-down design for this portion of the fence would be more in keeping with the previous fence design, provide better aesthetics for the property,

preserve street sightlines and be more compatible in height with other fences along the street.

Resolution 230-DR-11

WHEREAS, Mr. and Mrs. Keith Roberts are requesting retroactive approval for the construction of a new wood fence and gate along the northeast (right) property line located at 400 Jerome Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission finds that the 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, area openings, breaks in the façade, arrangements of structures on the parcel) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that the proposed improvements comply with Design Review Guidelines V-1, V-2, V-5, V-5(a) & (b), V-6, V-10 and V-11.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because, as conditioned, it takes into consideration the topography and the stepping of the fence. The project complies with the above-cited Guidelines in addition to Guideline V-5(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 project complies with the above-cited Guidelines.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Roberts for construction at 400 Jerome Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following condition:

- the front section of the fence between the post next to the gate and the first post shall be lowered in height to 4 ft. so that a stepped design is created.

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

Moved by Robertson, Seconded by Chase
Ayes: Chase, Kellogg, Henn, Robertson, Thiel
Noes: None
Absent: None

**Variance and
Design Review
1685 Grand Avenue**

Mr. Matthew Goldstein and Ms. Laura Ruberto are requesting permission to add 785 sq. ft. to the rear of the existing 1,191 sq. ft. house, including a new office, family room, bedroom and bath. The addition is proposed to be 1-story but due to the slope of the lot, will result in a split level house, having window and door modifications, three new skylights and new exterior landscaping and lighting. The requested variance is from Section 17.16 to allow a residence with 3 rooms eligible for use as a bedroom with 1 covered, non-tandem parking space measuring 11' by 16'11" 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. **Three affirmative response forms** were received. **Correspondence** was received from Erika & Daniel Clowes.

Public testimony was received from:

Matthew Goldstein and Laura Ruberto stated that the proposed project is intended to make their home more functional to meet the needs of their growing family and restore the home's original 3-bedroom intent. They reviewed their consultation with neighbors regarding the proposal. The existing garage can be used for parking and can accommodate their two vehicles. However, on-street parking is more convenient and less hazardous. Expanding the garage to conform with code dimensions would negatively impact neighboring property, require the removal of a street tree and would not significantly improve the property's existing on-site parking situation. They added that front stair and walkway repairs will be pursued once this current addition is approved and constructed.

Su-Lin Hennecke, Project Architect, noted the narrow width of the lot and the home's close proximity to neighboring property and explained how these factors influenced the proposed design and landscaping.

The Commission supported application approval, agreeing that variance approval is justified given the lot's narrow width and topography, the linear layout of the existing home and the fact that the proposed addition will not increase the home's existing occupancy load nor increase the property's current parking demand. The Commission further agreed that constructing a conforming 2-car garage on the property is impractical because it would eliminate the property's entire front yard, reduce on-street parking and involve significant construction/excavation hardship. However, the Commission agreed that the existing garage should be made functional for off-street parking through the installation of a new garage door with automatic opener. As to design, the Commission agreed that the modest addition is attractively designed and architecturally consistent with the existing home and neighboring property, will have no significant impact on

adjacent neighbors and will be screened from neighbor view by proposed landscaping.

Resolution 240-V/DR-11

WHEREAS, Mr. Matthew Goldstein and Ms. Laura Ruberto are requesting permission to add 785 sq. ft. to the rear of the existing 1,191 sq. ft. house, including a new office, family room, bedroom and bath. The addition is proposed to be 1-story but due to the slope of the lot, will result in a split level house, having window and door modifications, three new skylights and new exterior landscaping and lighting located at 1685 Grand Avenue, 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 add a room eligible for use as a bedroom without providing conforming parking; and

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

1. The 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 property's narrow width (35 ft.) and steep front slope. Constructing a conforming 2-car garage on the property is not physically realistic or feasible and would completely eliminate the property's entire Grand Avenue frontage. 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 constructing a 2-car conforming garage would double the width of the curb-cut on Grand and would further impact bicycle and vehicle safety along Grand Avenue.
4. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because additional habitable space cannot be constructed on this property without a parking variance because construction of conforming parking is physically impractical.
5. The proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code in that:
 - a. 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 project complies with Design Review Guidelines II-1, II-2, II-3, II-3(a) through (c), II-6 and II-7.

b. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because the proposed 1-story addition with a hip roof is well designed and proportional to adjoining neighboring homes and structures. The project complies with Design Review Guidelines II-6 and II-7.

c. 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, as conditioned, will improve the functionality of the existing garage.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review application of Mr. Goldstein and Ms. Ruberto for the above variance at 1685 Grand 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.

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. 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. Approved Plan Set. Except as otherwise conditioned, the approved plans are those submitted on August 26, 2011 with modifications submitted on August 29 and September 1, 2011, after notices to neighbors were mailed and the application was available for public review.

7. Geotechnical Report and Review. At the option of the Building Official, the Property Owner shall be required to 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.

Peer Review. The City, at the Property Owner's sole expense, shall retain an independent geotechnical consultant to perform a peer-review of the Property Owner's geotechnical report and advise the City in connection with the Property Owner's proposals. The City Engineer shall select this independent geotechnical consultant, whose services shall be provided for the sole benefit of the City and whose reports and recommendations can be relied upon only by the City. The independent geotechnical consultant shall also review the building plans during the permit approval process, and may provide periodic on-site observations during excavation and construction of the foundations as deemed necessary by the City Engineer. The Property Owner shall provide payment for this at the time of the Building Permit submittal.

8. Foundation/Shoring Excavation Plan. The Property Owner shall 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 not require any trespassing or intruding into neighboring properties (without prior written consent), and 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.

9. **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.

10. **Survey Lines.** Due to the close proximity of the addition to the northern and southern side property lines, and in order to verify the 4 ft. setback at the time of foundation and/or frame inspection (should the proposed project be approved), the Building Department will require the east and south property lines to be located and marked by a licensed land surveyor.

11. **Garage Roof Landscaping.** The proposed landscaping on the roof of the garage is not approved as part of this application, but may be applied for in a subsequent application, provided that it meets all Building and Planning Code criteria.

12. **Garage Doors.** The applicants shall restore the functionality of the existing garage by the installation of a mechanically operated garage door, 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 Kellogg, Seconded by Thiel

Ayes: Chase, Henn, Kellogg, Robertson, Thiel

Noes: None

Absent: None

The Commission recessed for dinner at 6:55 p.m. and Vice Chairman Thiel reconvened the meeting at 7:30 p.m. It was noted that Chairman Henn had recused himself from discussion and action on the remaining

agenda items. Commissioner Kellogg recused himself from discussion and action on the next agenda item (Fence Design Review, 150 Highland)

**Fence Design Review
150 Highland Avenue**

Mr. and Mrs. Lionel Chan are requesting retroactive approval for the construction of a new wood fence along Blair Avenue that encloses their rear yard.

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

Public testimony was received from:

Lionel Chan stated that the new fence replaced an old fence that was collapsing. The fence is needed to enclose the property's rear yard for the safety of his grandchildren who now live on the property with his daughter. He noted that both his daughter and contractor contacted the City about the fence replacement project and were told that no permits were needed for a replacement fence. He apologized for any misunderstanding. He stated that the only difference between the two fences is that the former fence was covered in ivy. He stated his belief that the new fence seems to be a bit lower than the former fence.

The Commission, with the exception of Commissioner Robertson, supported application, noting (1) the appropriateness of this corner property to have a 6 ft. fence to provide rear yard privacy and security; (2) acknowledging that since there are several other rear yard fences in the area, the new fence is not out of context or character with the neighborhood; and (3) agreeing that the fence's current rather prominent visual appearance will lessen as the redwood ages over time and blends into the background. Commissioner Robertson felt that the new fence located immediately adjacent to the sidewalk was too stark, too tall and too imposing on the streetscape. She preferred that the fence be pulled back to allow for street side landscaping to grow and soften the fence's visual appearance.

Resolution 241-DR-11

WHEREAS, Mr. and Mrs. Lionel Chan are requesting permission to construct a new wood fence along the Blair Avenue side of their property located at 150 Highland 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 color of the redwood fence will age with time to better blend in with the house.

2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because the fence replaces a former fence at this site and there are other similar fences in the neighborhood.

3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because 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 design review application of Mr. and Mrs. Chan for construction at 150 Highland 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 Zhang, Seconded by Chase

Ayes: Chase, Thiel, Zhang

Noes: Robertson

Recused: Henn, Kellogg

**Conditional Use Permit
1333 Grand Avenue**

Ms. Robin Costa-Gustafson is requesting a conditional use permit to continue to operate a classic dance school under the name of Piedmont Ballet Academy. The application proposes to continue classical ballet training for children, teens and adults as it has operated for the past 12 years. The proposed operation is as follows:

Days & Hours of Operation: Monday-Friday, 3:00 p.m. to 9:00 p.m.
Saturday, 9:30 a.m. to 3:30 p.m.

On-Site Parking Spaces: None

Maximum Number of People on Site: 10 to 12

Types of Staff/Personnel: 2 part-time teachers

Written notice was provided to neighbors. **Three affirmative response forms** were received. **Correspondence** was received from: Elizabeth & Robert Andersen

Public testimony was received from:

Robin Costa-Gustafson stated that she is the new owner of the ballet school which has operated at the site for the past 12 years. She stated that she has been an instructor at the school for the last 11 years and noted her intention to operate the school with the same hours and number of students that has existed in the past -- she anticipated no

change in current use conditions. She stated that the school has a maximum of three instructors, although typically only one or two instructors are ever at the site at the same time. She also stated that she has an agreement with the building owner (Daniel Cobb, DDS) to use the building's rear parking lot -- this parking arrangement has been in place for the last 11 years. She requested a 10-year CUP term, noting that she has a 5 year lease agreement with renewal option.

James Stewart stated that he was the previous owner of the ballet school and will continue teaching at the academy but prefers to turn over the business aspects of the operation to Ms. Costa-Gustafson. He concurred that there will be no changes in the current operation of the school and the existing parking agreement with Dr. Cobb will remain in effect under the new ownership.

The Commission supported application approval, noting that the ballet school has had an established presence in the community for years during which it has provided a great service and benefit to Piedmont residents. The Commission supported a 10 permit term in recognition of the school's long-standing operation and minimal impact on the surrounding neighborhood.

Resolution 243-CUP-11

WHEREAS, Ms. Robin Costa-Gustafson is requesting a Conditional Use Permit to continue to operate a classic dance school under the name *Piedmont Ballet Academy* at 1333 Grand Avenue, Piedmont, California, and;

WHEREAS, the Piedmont Planning Commission has reviewed the application, the staff report, and any and all other documentation and testimony submitted in connection with the application and has visited the 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 use is of benefit to Piedmont residents. The school will continue to provide classical ballet training to Piedmont children, teens and adults.
3. The use will be properly related to other land uses and transportation and service facilities in the vicinity. The use is located in a commercial zone and has been operating at the site for at least 12 years.
4. Under all the circumstances and conditions of the particular case, the use will not have a material adverse effect on the health or safety of persons residing or working in the vicinity. There has been no complaints regarding this use and there is really no adverse effect on the health or safety of neighbors.
5. The use will not be contrary to the standards established for the zone in which it is to be located for the reasons set forth in paragraph #3.

6. The use will not contribute to a substantial increase in the amount of noise or traffic in the surrounding area. It is a continuing use. There is no change in existing use and there are no complaints regarding this use.

7. The use is compatible with the General Plan and will not adversely affect the character of the surrounding neighborhoods or tend to adversely affect the property values of homes in the surrounding neighborhoods. There is no change in current use. The use could enhance property values by providing cultural education and after-school opportunities.

8. Adequate provision for driveways to and from the property has been made; facilities for ingress and egress from secondary streets instead of arterials, where possible, have been made; provision for parking in compliance with this Chapter 17 has been made, together with sufficient agreements to enforce the carrying out of such plans as may be required by the Council. There are no changes in existing conditions.

9. The plans conform to all other laws and regulations of the City, provided, however, that the Council shall have the right to require front, rear and side yard setbacks greater than those otherwise provided in the laws and regulations of the City if the Council finds that such larger front, rear and side yard areas are necessary to provide for the health, safety and general welfare of the residents of Piedmont in accordance with its zoning laws. The use complies with City regulations.

RESOLVED, that in consideration of the findings and facts set forth above, the Piedmont Planning Commission recommends approval by the City Council of the application for a conditional use permit by Ms. Costa-Gustafson for property located at 1333 Grand Avenue, Piedmont, subject to the following conditions:

1. The term of the Conditional Use Permit shall be 5 years, with an automatic renewal term of an additional 5 years to coincide with Ms. Costa-Gustafson lease agreement;
2. That a written use agreement between the ballet academy and the dental office of the building owner, Daniel Cobb, DDS, shall be provided indicating the school's right to use the dentist parking lot behind the building;
3. That the maximum number of instructors at the premises not exceed three and the maximum number of students per class not exceed twelve;
4. That the maximum hours of use of the site be as follows:

Monday through Friday	2:30 p.m. to 9:30 p.m.
Saturday	9 a.m. to 4 p.m.
Sunday	Closed

Moved by Robertson, Seconded by

Ayes: Chase, Kellogg, Robertson, Thiel, Zhang

Noes: None

Recused: Henn

**Variance, Design
Review & Fence
Design Review
51 Maxwellton Road**

Mr. John Hunter and Ms. Deborah Leland are requesting variance and design review to construct a spiral staircase addition to the rear deck and construct various site modifications in the south and west yards, including: new retaining walls; new fencing; a level play area; built-in planter boxes and bench; on-grade paths and steps with handrails; new exterior lighting; and various landscape changes. The requested variance is from Section 17.10.6 to allow the new spiral staircase to extend to within 15 ft. of the front property line in lieu of the code required minimum of a 20 ft. front yard setback.

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

Public testimony was received from:

Deborah Leland stated that the intent of the improvements is to create usable/accessible outdoor areas on her steeply sloping property. She reviewed the difficult site conditions of the property, including the fact that 20 ft. setbacks border three sides of the lot. Therefore, the variance situation is pre-existing and unavoidable.

Lisa Friedlander, Project Landscape Architect, emphasized that all of the property's usable outdoor areas are located within the setbacks bordering the three sides of the lot. She explained how the improvements were designed to compliment and enhance the natural, open setting of the lot.

The Commission supported variance approval, citing the lot's difficult site conditions and the fact that the variance situation is pre-existing and almost no improvements to the property can be made without variance. As to design, the Commission, with the exception of Commissioner Thiel, felt that the improvements reflected a innovative solution for creating usable and accessible outdoor space on this challenging lot, were well integrated with the lot's topography and were not readily visible to neighbors. Commissioner Thiel supported the project as designed with the exception of the spiral staircase. He felt that the design and material of the staircase was not compatible with the home's architecture. He preferred that this element be deleted or relocated along the side property line. Ms. Friedlander responded that a side location for the staircase would be ideal but unfortunately there is insufficient room on the side to add the staircase. It was noted that the property's large oak tree would help screen the staircase from view.

Resolution 246-V-11

WHEREAS, Mr. John Hunter and Ms. Deborah Leland are requesting permission to construct a spiral staircase addition to the rear deck and construct various site modifications in the south and west yards, including: new retaining walls; new fencing; a level play area; built-in planter boxes and bench; on-grade paths and steps with handrails; new exterior lighting; and various landscape changes located at 51 Maxwellton 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 20 ft. front 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 property's setbacks affect almost the entire piece of property making it virtually impossible to make improvements without variance. In addition, the home's footprint is within the setback parameters. 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 it improves an existing condition of failing stairs and will improve property aesthetics for the neighborhood. In addition, because of the property's steep slope, the proposed improvements are not readily visible to neighbors or the public, either from the lower or upper part of the road.
4. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because of existing site conditions and a desire to preserve a valuable oak tree which provides shade and a pleasing appearance to the house. In addition, the lower level of the house is not habitable and therefore access is through the main floor of the house out through the deck. A spiral staircase will accomplish the objective of having ease of access from the main floor while retaining the oak tree.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application of Mr. Hunter and Ms. Leland for the above variance at 51 Maxwellton 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 Chase, Seconded by Robertson

Ayes: Chase, Kellogg, Robertson, Thiel, Zhang
Noes: None
Recused: Henn

Resolution 246-DR-11

WHEREAS, Mr. John Hunter and Ms. Deborah Leland are requesting permission to construct a spiral staircase addition to the rear deck and construct various site modifications in the south and west yards, including: new retaining walls; new fencing; a level play area; built-in planter boxes and bench; on-grade paths and steps with handrails; new exterior lighting; and various landscape changes located at 51 Maxwellton 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 outer patio and spiral staircase and adjacent residences is reasonable and in fact dictated by the existing topography. 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, II-6(a) through (c), IV-1, IV-1(a) & (b), IV-2, IV-2(a), IV-3, IV-3(a), IV-4, IV-4(a), IV-5, IV-5(a), IV-6, V-1, V-2, V-5, V-5(a) through (c), V-6, V-7, V-8, V-10 and V-11.
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) and does not impact the general appearance of the roof or ridge or any of the parts of the multi-level structure -- it is an outdoor patio being merged into an existing cantilevered deck structure. The project complies with the above-cited Design Review 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. The proposed improvements do not represent an inordinately large addition to the house and allows the applicants to enjoy presently unusable pieces of their property. The project complies with the above-cited Design Review 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 proposed patio and spiral staircase does not impact vehicular traffic flow. The project complies with the above-cited Guidelines.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Hunter and Ms. Leland for construction at 51 Maxwellton Road, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Property Line Location Verification.** Prior to foundation inspection for the retaining walls and fencing along the property line, the south and east property lines shall be located and marked by a licensed land surveyor or civil engineer in order to verify that the approved features are constructed at the approved dimension from the property lines.
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. **Stormwater Requirements.** Property Owner shall implement Bay Area Stormwater Management Agencies Association's "Start at the Source" criteria for stormwater quality protection during construction. City staff may impose additional requirements involving the prevention of storm water pollution during construction and permanent drainage, erosion and sediment control. These items will be reviewed as part of the applicant's Construction Management Plan.
4. **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.

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, Robertson, Zhang

Noes: Thiel

Recused: Henn

**Variance and
Design Review**

Mr. and Mrs. Paul Gerken are requesting variance and design review to demolish an existing garage and attached workshop located in the rear

120 Ronada Avenue

yard; construct a new 354 sq. ft. 1-car garage at the southwest corner of the property, including new exterior light fixtures on its front facade; and make hardscape changes including the replacement of the concrete driveway turnaround with pervious pavers. The requested variances are from: (1) Section 17.10.7 to allow the new garage to extend to within 1 in. of the right (west) side property line in lieu of the code required minimum of a 4 ft. side yard setback; (2) Section 17.10.8 to allow the new garage to extend to within 1 in. of the rear property line in lieu of the code required minimum of a 4 ft. rear yard setback; and (3) Section 17.16 to allow a house with 5 rooms eligible for use as bedrooms with one covered, non-tandem parking space measuring 16 ft. by 20 ft. 2 in. in lieu of the code required minimum of two parking spaces each measuring 9 ft. by 20 ft.

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

Public testimony was received from:

Grier Graff, Project Architect, stated that the proposed new garage can accommodate two vehicle, even though it fails to conform with the code's parking dimensions. He explained the reasons for relocating the garage to the other side of the property, noting that its location is more consistent with other garages in the neighborhood and improves vehicle ingress/egress to the property. He also apologized for the inadvertent error of failing to obtain necessary permits and approvals for recent window changes, noting that the current design review application addresses this oversight. He also requested flexibility in complying with staff's proposed Sewer and Condition and Repair condition, noting uncertainties with regard to the number of laterals involved, adding that the sewer and sewer easement is located on a neighboring property.

The Commission felt that no hardship existed to justify variance approval in this case, stating that the large size of the lot presented several options for providing 3 conforming parking spaces for the 5-bedroom home while still retaining an ample sized rear yard. The Commission also felt that the proposed garage design/layout was not really functional as a two car parking structure.

Resolution 248-V-11

WHEREAS, Mr. and Mrs. Paul Gerken are requesting permission to demolish an existing garage and attached workshop located in the rear yard; construct a new 354 sq. ft. 1-car garage at the southwest corner of the property, including new exterior light fixtures on its front facade; and make hardscape changes including the replacement of the concrete driveway turnaround with pervious pavers located at 120 Ronada Avenue, Piedmont, California, which construction requires variance; and

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary in order to construct within the rear yard (south) setback; construct within the right side yard (west) setback and construct a new garage without supplying the required number of conforming parking spaces; 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. The existing lot provides the opportunity to create three conforming off-street parking spaces within the property. However, the current proposal does not provide three such spaces although it uses the southwest leg of the property in a effective way to provide parking with a structure that requires a side and rear yard variance. But because this parking design plan is not being approved, the Commission will not approve the requested side and rear yard variances because it has not been satisfactorily demonstrated that the variances are required and driven by the only methodology of providing legal, off-street parking.
2. The variances would be compatible with the immediately surrounding neighborhood and the public welfare in that the structure proposed in the southwest leg of the property would not have a material impact on neighbors' view, light or privacy. However, the proposed structure does not satisfy parking requirements so therefore the variance is invalid in its current application form.
3. Accomplishing the improvement without variance would not cause unreasonable hardship in planning, design, or construction in that it does not require variance in that location in order to satisfy the need for parking. Therefore, the applicant will need to resubmit a revised design that will demonstrate that the parking requirements could be met in concert with the proposed structure that may or may not be in position in that southwest quadrant of 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. Gerken for the above variances at 120 Ronada Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Kellogg, Seconded by Robertson

Ayes: Chase, Kellogg, Robertson, Thiel, Zhang

Noes: None

Recused: Henn

Resolution 248-DR-11

WHEREAS, Mr. and Mrs. Paul Gerken are requesting permission to demolish an existing garage and attached workshop located in the rear yard; construct a new 354 sq. ft. 1-car garage at the southwest corner of the property, including new exterior light fixtures on its front facade; and make hardscape changes including the replacement of the concrete driveway turnaround with pervious pavers located at 120 Ronada Avenue, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements of the proposed garage are adequate in terms of fitting within the scale and size of adjoining properties and reasonably within the style of the existing home. However, are not qualified for approval because they do not meet the requirements for off-street parking. This is a 5-bedroom home which requires three off-street parking spaces, each measuring 9 ft. by 20 ft. Said parking spaces can either be within a closed garage or covered carport. The project fails to comply with the City's parking requirements and design review issues related to architecture, siting and neighbor light, view and privacy are not relevant because the proposed design is not being approved.
2. The issue of the safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic would be subject to review as to having a functional, desirable layout for the driveway, its approach and exit from potential garage location to provide functional circulation for three cars, adequately addressing the needs/desires of the applicant to have the parking fit within the property and provide maximum usability of their existing land.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies, without prejudice, the design review application of Mr. and Mrs. Gerken for construction at 120 Ronada Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Kellogg, Seconded by Robertson

Ayes: Chase, Kellogg, Robertson, Thiel, Zhang

Noes: None

Recused: Henn

**Variance and
Design Review
123 Dudley Avenue**

Mr. and Mrs. Paul Raskin are requesting variance and design review to demolish an existing stucco-sided cantilevered deck at the rear of the residence along Mountain Avenue and construct a new and enlarged wood deck. The requested variance is from Section 17.10.4 to allow a structure coverage of 41% in lieu of the code permitted maximum of 40%.

Written notice was provided to neighbors. **One affirmative, two negative and one "no comment" response forms** were received.

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

Public testimony was received from:

Grier Graff, Project Architect, stated that the current application is similar to one approved by the Commission in 2004 but never constructed. However, the existing deck has now collapsed and needs replacing. He noted discussions with neighbors regarding the proposed project and described the specific deck and railing design features,

materials and footprint. He felt that the proposed deck and railing design compliments the home's architecture and is in keeping with the neighborhood.

Paul and Florence Raskin stated that their existing deck is failing and needs replacing and is being expanded in accordance with the approval granted in 2004.

Peggy Hutchins voiced concern over privacy intrusion in requesting that the new deck be "enclosed" as is the current deck so that privacy for both herself and the applicants is preserved. She opposed the proposed open cable railing.

Jack and Bobbe Stehr opposed increasing the size of the existing deck, stating that the property is already maxed out in terms of structure coverage and noting that the size of the existing deck is quite large and adequate for functioning as usable outdoor space. In addition, they opposed the proposed open, metal cable railing, believing that this design and material was inconsistent with the home's craftsman-style architecture, out of keeping with the neighborhood and would make the new deck too visually intrusive. They preferred a solid deck railing of a material similar to that on the home to provide more privacy to both the applicants and neighborhood. It was noted that the approved 2004 deck design included an enclosed railing design. Mrs. Stehr also requested that a landscaping plan be submitted in connection with any application approval, noting concern that existing vegetation that screens the deck area will most likely be destroyed during project construction.

Mr. Grier responded that the applicants are willing to submit a landscaping plan and have a solid railing design, provided that the height of the solid portion of the railing not exceed 30 inches so as to preserve views from the deck.

The Commission agreed that variance approval was not justified, citing the absence of hardship given that the deck reconstruction is a complete replacement project which allows the applicant ample opportunity to reconfigure the deck's footprint to avoid variance while at the same time achieving the 8 ft. depth desired by the applicants. As to design, the Commission agreed that an entirely open railing design imposed too much impact on neighbors in terms of privacy and visual clutter intrusion. The Commission preferred a combination of a lower solid/upper open railing design to minimize neighbor impacts while preserving the applicants' view potential from the deck. The Commission noted the several design options available for achieving this objective.

Resolution 249-V-11

WHEREAS, Mr. and Mrs. Paul Raskin are requesting permission to demolish an existing stucco-sided cantilevered deck at the rear of the residence along Mountain Avenue and construct a new and enlarged wood deck located at 123 Dudley Avenue, Piedmont, California, which construction requires variance; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary in order to exceed the City's structure coverage; and

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

1. The underlying lot and existing improvements 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. Since the existing deck is being rebuilt, it can be reconfigured in a way to meet design goals without exceeding the City's structure coverage limit.
2. The variance is not compatible with the immediately surrounding neighborhood and the public welfare because it imposes excessively on adjoining neighbors.
3. Accomplishing the improvement without a variance would not cause unreasonable hardship in planning, design, or construction because there are many solutions available to achieve the applicants' goals without requiring variance.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies the variance application of Mr. and Mrs. Raskin for the above variance at 123 Dudley Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Robertson, Seconded by Zhang

Ayes: Kellogg, Robertson, Thiel, Zhang

Noes: None

Recused: Chase, Henn

Resolution 249-DR-11

WHEREAS, Mr. and Mrs. Paul Raskin are requesting permission to demolish an existing stucco-sided cantilevered deck at the rear of the residence along Mountain Avenue and construct a new and enlarged wood deck located at 123 Dudley Avenue, Piedmont, California, which construction requires design review; and

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

1. The proposed design requires variance which has not been approved.
2. The exterior design elements, though aesthetically pleasing to an extent, are not completely harmonious with existing neighborhood development in that the proposed deck railing is not completely

compatible with the home's existing architecture and the size of the deck is not aesthetically pleasing as a whole or harmonious with the existing neighborhood. The project fails to comply with Design Review Guidelines II-1, II-2, II-3, II-5 and II-5(a).

3. The proposed upper level deck has not been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.70). The size is excessive with regard to neighboring properties and the way the posts have been handled gives a tacked-on appearance. The project fails to comply with Design Review Guidelines II-1, II-2, II-3, II-3(a) through (d).

4. The size and height of the deck is not commensurate with the size of the lot because, as designed, it requires a structure coverage variance to be built. No variance for this design has been approved. The project fails to comply with the above-cited Guidelines.

5. 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.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies, without prejudice, the design review application of Mr. and Mrs. Raskin for construction at 123 Dudley Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Robertson, Seconded by Zhang

Ayes: Kellogg, Robertson, Thiel, Zhang

Noes: None

Recused: Chase, Henn

ADJOURNMENT

There being no further business, Vice Chair Thiel adjourned the meeting at 9:25 p.m.