

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, May 14, 2012

A Regular Session of the Piedmont Planning Commission was held May 14, 2012, 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 May 4, 2012.

CALL TO ORDER

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

ROLL CALL

Present: Commissioners Phillip Chase, Jim Kellogg, Melanie Robertson, Tom Zhang and Alternate Commissioner Susan Ode

Absent: Commissioner Michael Henn (excused)

Staff: City Planner Kate Black, Assistant Planner Kevin Jackson, Planning Technicians Sylvia Toruno, Andrea Arguelles and Jennifer Feeley and Recording Secretary Chris Harbert

City Council Liaison: Councilmember Robert McBain

CONSENT CALENDAR

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

Fence Design Review 335 Mountain Avenue

Resolution 70-DR-12

WHEREAS, Mr. and Mrs. Scott Ruegg are requesting permission to make ornamental changes to previously approved stone pillars at the driveway entry of the 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: New columns with stone cap only (no finial on column cap) are appropriate in scale and height compared with neighboring properties. Columns repeat building stone and cap used for residential facade. Cap at column matches existing (original) columns at the front entry garden. Change to driveway gate: new curve at top of gate inspired by existing curve at garage.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because: No change/effect on neighboring properties' 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: Design changes: no changes to vehicular traffic, circulation pattern, parking layout or points of ingress and egress.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Ruegg 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 Kellogg

Ayes: Chase, Kellogg, Robertson, Zhang, Ode

Noes: None

Absent: Henn

PUBLIC FORUM

There were no speakers for the public forum.

APPROVAL OF MINUTES

Resolution 10-PL-12

RESOLVED, that the Planning Commission approves as submitted its meeting minutes of April 9, 2012.

Moved by Ode, Seconded by Kellogg

Ayes: Chase, Kellogg, Robertson, Ode

Noes: None

Abstain: Zhang

Absent: Henn

REGULAR CALENDAR

The Commission considered the following items of regular business:

Variance and Design Review 1050 Winsor Avenue

Mr. Stephen Lee and Ms. Quynh Nguyen are requesting variance and design review to construct a roof deck and guardrail atop the rear garage. The requested variances are from: (1) Section 17.10.7 to allow the new guardrail to extend to the right (south) side property line in the lieu of the Code required minimum of a 4 ft. side yard setback; and (2) Section 17.10.6 to allow the new guardrail to extend to within 7'8" of the rear (east) property line in lieu of the Code required minimum of a 20 ft. street-side setback. A related application was approved by the Commission on May 11, 2009.

Written notice was provided to neighbors. **Two affirmative response forms** were received. **Correspondence** was received from: Zac Wald; Zachary Wald & Eliza Sorensen

Public testimony was received from:

Stephen Lee explained that the proposed roof deck will serve as a play area for his children because of the limited outdoor space on the property. He stated that the picket-style guard rail design along three of the four edges of the garage roof is similar in style to other railings in the neighborhood. The solid parapet wall railing along the south edge is proposed to provide extra privacy to his neighbor at 1042 Winsor. He noted his intention to install landscape planters adjacent to the railings to provide additional privacy screening.

Zachary Wald referenced his correspondence in requesting that the side yard setback variance not be approved because of the close proximity of the garage deck to his property. He felt that variance denial would reduce the intrusive impact deck use will have on his property, is appropriate because there is no construction hardship to justify approval and would not unduly impact the applicant because the resulting deck space will still be adequately sized. He also requested that the proposed south side parapet style railing be replaced with the same style of railing on the other three sides of the roof. He felt that the parapet railing would create a large blank wall facing his property, preferring instead the more open design of the picket railing, which would be more visually attractive and less imposing.

The Commission supported variance approval for the east (rear) setback, acknowledging the hardship imposed by the requirement for a 20 ft. setback along this rear alley, noting that other garages bordering this alley way are also within the setback and the separation distances between structures is such that there would be no adverse impact on neighboring properties in terms of privacy, view or light. However, the Commission opposed the south side setback request, agreeing that there is no hardship justifying approval of such a variance given that the railing can be easily repositioned outside of the setback to minimize intrusion on the adjacent neighbor. The Commission also preferred that this south side railing have the same picket design as the other railings along the deck (as opposed to the parapet wall design) so as to minimize visual bulk and mass.

Resolution 319-V-12

WHEREAS, Mr. Stephen Lee and Ms. Quynh Nguyen are requesting permission to construct a roof deck and guardrail atop the rear garage located at 1050 Winsor 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 construct within the 4 ft. (south) side yard setback; and

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

1. The 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 variance can be easily avoided by pulling back and repositioning the deck railing out of the setback.

2. The variance is not compatible with the immediately surrounding neighborhood and the public welfare because it intrudes upon the adjacent neighbor's privacy.

3. Accomplishing the improvement without variance would not cause unreasonable hardship in planning, design, or construction because it is a simple process to reposition the deck railing out of the south side setback.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies a side yard setback variance for Mr. Lee and Ms. Nguyen for proposed construction at 1050 Winsor Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Robertson, Seconded by Zhang

Ayes: Chase, Kellogg, Robertson, Zhang, Ode

Noes: None

Absent: Henn

Resolution 319(2)-V-12

WHEREAS, Mr. Stephen Lee and Ms. Quynh Nguyen are requesting permission to construct a roof deck and guardrail atop the rear garage located at 1050 Winsor 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 construct within the 20 ft. rear (east) street setback; and

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

1. The project is categorically exempt under the California Environmental Quality Act, as established by Public Resources Code 15300;

2. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to the fact that the rear of the property faces a private alley, resulting in a considerable separation distance from adjacent neighbors. 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 many garages along both sides of this private alley are located within the 20 ft. setback.

4. Accomplishing the improvement without variance would cause unreasonable hardship in planning, design, or construction because the existing garage, upon which the roof deck is proposed, is already

located within the setback. Pulling the deck railing back out of the 20 ft. rear setback would result in the deck being too small in size for any functional use.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves a rear setback variance for Mr. Lee and Ms. Nguyen for proposed construction at 1050 Winsor 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 Zhang

Ayes: Chase, Kellogg, Robertson, Zhang, Ode

Noes: None

Absent: Henn

Resolution 319-DR-12

WHEREAS, Mr. Stephen Lee and Ms. Quynh Nguyen are requesting permission to construct a roof deck and guardrail atop the rear garage located at 1050 Winsor Avenue, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements, including materials, picket-style design and colors, are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development and are well-integrated into the existing structure. The project complies with Design Review Guidelines II-1, II-2, II-3, II-4, II-6 and II-6(a).
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because the open, picket-style design will allow light to come through and respects the setback distance adjacent to the one neighbor who is impacted by the project. The project complies with Design Review Guidelines II-6 and II-7.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because there is no change to 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. Lee and Ms. Nguyen for construction at 1050 Winsor Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Exterior Lighting.** Flood lights on the rear of the garage shall be replaced with downward directed wall fixtures with an opaque or translucent shade that covers the light bulb.

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. **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.

4. **Deck Railing.** The guard rail along the south edge of the garage roof deck shall be repositioned out of the 4 ft. side yard setback and shall be designed to match the other guardrails around the deck. Said design modifications shall be subject to staff review and approval.

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

Moved by Robertson, Seconded by Zhang

Ayes: Chase, Kellogg, Robertson, Zhang, Ode

Noes: None

Absent: Henn

**Design Review
10 Dormidera Avenue**

Mr. and Mrs. Mark Gray are requesting design review for the installation of new railing on the front porch; a new garage door; a new side gate; two new planter boxes and retroactive approval for an existing handrail on the eastern side of the property. This application

was continued from the March 12, 2012, meeting. It was noted that because of staff oversight, no neighbor notice was given concerning the fact that planter boxes are proposed to be located within the 20 ft. front yard setback. Rather than delay action on this application to allow for neighbor noticing, Mr. Gray stated his intention to remove the planter boxes from the proposed scope of work.

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

Public testimony was received from:

Mark and Carla Gray described the proposed upgrades to their property in order to make it more architecturally consistent with itself. Mr. Gray reaffirmed his intention to remove the planter boxes proposed to be located within the front setback.

The Commission supported application approval, agreeing that the proposed improvements are well-integrated into the property and attractively designed.

Resolution 12-DR-12

WHEREAS, Mr. and Mrs. Mark Gray are requesting permission for the installation of new railing on the front porch; a new garage door; a new side gate; and retroactive approval for an existing handrail on the eastern side of the property located at 10 Dormidera 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, and line and pitch of the roof are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that the proposed improvements are well-integrated, appropriate in scale and do not appear tacked on. The project complies with Design Review Guidelines II-3, II-3(a) through (d) and II-4.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light. The proposed improvements reflect architectural compatibility and consistent window treatment. The project complies with Design Review Guidelines II-3(c), II-4 and II-5(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 there is no change in existing circulation patterns. The project complies with Design Review Guideline II-5.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Gray for construction at 10 Dormidera Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. The approved plans are those submitted on April 13 and May 14, 2012, after neighbors were notified of the project and the plans were available for public review. Said plan set shows the elimination of the window planter boxes as a proposed feature.
2. If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.

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

Moved by Ode, Seconded by Robertson

Ayes: Chase, Kellogg, Robertson, Zhang, Ode

Noes: None

Absent: Henn

**Variance and
Design Review
120 Monticello Avenue**

Mr. and Mrs. Marc Segal are requesting variance and design review to make various interior and exterior improvements including to construct an approximately 230 sq. ft. rear addition at the main level of the residence; partially enclose an existing entry porch; construct a new rear and right side yard deck; enlarge an existing street-facing dormer window and make roof modifications; construct a new dormer on the right (south) side-facing roof slope; add new railing; make window and door modifications; and install three new skylights. The requested variance is from Section 17.10.7 to allow the roof eave of the new rear addition to extend to the 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 response forms** were received.

Public testimony was received from:

Eva Chiu, Project Architect, described the proposed improvements, noting the modest changes in the existing building envelope, the need to address the home's structural deficiencies at the rear and the efforts to maintain the home's architectural integrity so as to create a seamless addition. She stated that the requested variance is needed in order to maintain the home's existing roof line on the addition to avoid a "tacked on" appearance. The existing house is located within the setback.

Taryn Segal explained the desire to upgrade and renovate the home in order to meet the needs of her growing family and provide a better utilization of existing space and rear outdoor areas. She added that the project was sensitively designed to minimize impacts on neighbors.

Antonio Lao, Project Architect, responded to Commission questions concerning four alternative roof design options for the addition, noting the applicant's preference for the design reflected in the submitted plans (continuous roof with tapered eaves). The Commission discussed the four roof design options at length. In the end, the Commission, with the exception of Commissioner Robertson, supported approval of the roof design proposed in the submitted plans. Commissioner Robertson preferred a slightly modified Option 3 (hip roof) design as a means of avoiding variance and imposing less impact on neighboring properties. The Commission majority supported variance approval, noting that the home is located within the setback and in order to maintain existing building lines to create a seamless addition, this pre-existing variance situation needs to be continued -- variance approval is justified for architectural integrity reasons. As to design, the Commission agreed that the proposal was well designed and maintained the home's existing architectural character and integrity. However, the Commission noted an inconsistency between the submitted plans and elevations with regard to the size and placement of the new entry vestibule enclosure window. To resolve any confusion, the Commission requested that this new 5 ft. wide window be centered in the entry wall.

Resolution 57-V/DR-12

WHEREAS, Mr. and Mrs. Marc Segal are requesting permission to make various interior and exterior improvements including to construct an approximately 230 sq. ft. rear addition at the main level of the residence; partially enclose an existing entry porch; construct a new rear and right side yard deck; enlarge an existing street-facing dormer window and make roof modifications; construct a new dormer on the right (south) side-facing roof slope; add new railing; make window and door modifications; and install three new skylights located at 120 Monticello 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 construct within the left side yard setback; and

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

1. The project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e)
2. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to the fact that the existing north wall of the house is located within the setback and its overhang extends nearly to the property line. To retain the architectural integrity and design motif of the existing home, it would be unreasonable to construct an addition that would be offset to the extent that it would not be within the side yard setback. The requested variance is to allow only the roof overhang of the addition to extend within the setback. To continue the architectural integrity and style of the home, it is appropriate to connect the home's existing roof with the proposed roof of the new addition. 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 in that the addition is solely facing to the rear yard. The adjoining neighbors are least affected by an angled roof with a tapered overhang so as to minimize the physical impact of the new addition on neighbor views and residences.
4. Accomplishing the improvement without variance would cause unreasonable hardship in planning, design, or construction for the above-stated reasons in paragraph 2. The project reflects an appropriate design that is integral with the existing architectural style and detailing of the residence. Since the existing house is located within the setback, it would be unreasonable for architectural reasons and quality of design to require an addition to be stepped back to the extent that its overhang does not protrude into the setback.
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 materials and detailing of the walls and the roof of the proposed addition are similar and compatible with the existing house. The massing of the addition is small enough that it is compatible with the neighborhood and the existing size of the residence. The project complies with Design Review Guidelines II-1, II-2, II-3(a), (b) and (c).
7. The proposed upper level addition has been designed in a way that reasonably minimizes view and light impacts on neighboring properties in that the location of the massing of the addition and the slope of the roof provides the smallest mass and lowest ridge height possible for the proposed addition. The project complies with Design Review Guidelines II-2(b), II-3(d), II-6 and II-7.
8. 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 in that the predominate location of the new addition is in the rear yard which is not truly visible from the street frontage, does not

have a material impact on the street frontage nor on the scale and mass of the existing home from the street perspective. The scale and mass impact of the addition on the rear of the home is modest and proportional. The project complies with Design Review Guidelines II-2 and II-6.

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. There is no impact on existing circulation patterns. The project complies with Design Review Guidelines II-8, II-9 and II-10.

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. Segal for proposed construction at 120 Monticello Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City and dated March 21, 2012, subject to the following conditions:

1. **Construction Management Plan.** Due to the scope and nature of the application, a construction management plan shall be developed and approved by staff prior to obtaining a building permit. Said plan shall be comprehensive while specifically addressing the duration of the project, construction hours, the staging of materials, and parking of worker vehicles to ensure the free flow of traffic along Monticello Avenue;

2. **Landscape Plan.** The applicant shall submit a landscaping plan for staff approval prior to the issuance of a building permit. After final building permit inspection, the applicant shall be allowed to make modifications to any aspect of the landscape plan that does not require design review under Chapter 17 of the City Code.

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. **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 Site Security, if one is required, in order to complete the benchmark. The Director of Public Works has the option to refer the application to the Planning Commission for public review.

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

6. **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.

7. **Windows.** The window facing the south elevation at the entry vestibule enclosure shall be 5 ft. wide and located in the center of the exterior wall.

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 Zhang

Ayes: Chase, Kellogg, Zhang, Ode

Noes: Robertson

Absent: Henn

The Commission recessed for dinner at 7:15 p.m. and reconvened at 7:45 p.m.

**Fence Design Review
325 Hampton Road**

Mr. and Mrs. Garry Tse are requesting fence design review to seek retroactive approval for the construction of an approximately 36" high concrete retaining wall along the front of the property.

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

Public testimony was received from:

Jennifer Tse stated that the new retaining walls were constructed to improve the aesthetics of her property. She stated that new landscaping will be planted in front of each wall, similar to other landscaped walls in the neighborhood.

The Commission noted the incompatibility of the new concrete CMU walls with the brick facade of the existing home as well as with the brick retaining walls of neighboring properties. Therefore, the Commission requested that a brick veneer be placed on the new walls mirroring the size, color, mortar style and shape of the home's brick work (the placement of a brick cap on the existing walls is not an acceptable mitigation measure). The Commission also requested that the lower retaining wall's tie-in with the home's front brick stairs be improved and that a landscaping plan for both walls be provided for staff review and approval.

Resolution 82-DR-12

WHEREAS, Mr. and Mrs. Garry Tse are requesting permission to seek retroactive approval for the construction of an approximately 36" high concrete retaining wall along the front of the property located at 325 Hampton Road, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements, as conditioned, are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect

light because the new retaining walls are relatively low in height and impose no shadowing or privacy impacts on neighboring properties. The project complies with Design Review Guidelines IV-1, IV-1(a).

3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because 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. Tse for construction at 325 Hampton Road, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Landscaping Plan.** The applicant shall submit a landscaping plan for staff approval prior to the issuance of a building permit. After final building permit inspection, the applicant shall be allowed to make modifications to any aspect of the landscape plan that does not require design review under Chapter 17 of the City Code, except that full irrigation must be provided to all landscaped areas.
2. **Encroachment Permit.** Prior to the issuance of a building permit, the applicants shall apply for an encroachment permit to allow for the construction of the new retaining walls within the City right-of-way and sanitary sewer easement.
3. **Sewer Condition and Repair.** City records indicate that a City sewer main and associated easement transect the property. Prior to the issuance of a building permit for the new retaining walls, the applicants shall work with City staff to verify the location and depth of the sanitary sewer main and the location of easements and any manholes and cleanouts in the front yard. In addition, the City shall videotape the existing sewer main to assess its pre-construction condition in order to make a determination as to whether any repairs or replacement of the sewer main is required prior to the commencement of excavation and/or construction. As part of the final inspection the same sewer line shall be inspected as required by the Director of Public Works, who shall also determine if the sewer line was damaged as a result of the construction and therefore must be repaired at the applicants' expense. The applicant is responsible to locate their private sewer lateral and note such location on the building permit drawings.
4. **Retaining Walls.** The face of the retaining walls shall have a brick finish to match the existing brick on the house in terms of shape, color and pattern. Also, the east end termination connection of the retaining wall to the home's brick stairs shall be improved. Said modifications to the retaining wall shall be subject to staff review and approval.

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

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

Moved by Zhang, Seconded by Ode

Ayes: Chase, Kellogg, Robertson, Zhang, Ode

Noes: None

Absent: Henn

**Fence Design Review
30 Littlewood Drive**

Mr. and Mrs. Tom Liu are requesting fence design review to replace the decorative front yard metal railing and gate with a code compliant metal picket railing and gate.

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

Public testimony was received from:

Tom Liu stated the proposed front railing is being required by the City's building department in connection with his already approved driveway project.

Bill Holland, Project Architect, stated the property's driveway is being improved for safety reasons and the proposed simple picket-style design of the guardrail will be black in color, will blend into the vegetation and is architecturally compatible with the 1950's Ranch style architecture of the home.

The Commission voiced initial concern that the simple, industrial-style look of the front railing would fail to give visual prominence to the home's front entry. However, Mr. Holland explained that the new pedestrian front entry into the home provides the necessary prominence and the railing is neutral in style so as not to compete nor conflict.

Resolution 83-DR-12

WHEREAS, Mr. and Mrs. Tom Liu are requesting permission to replace the decorative front yard metal railing and gate with a code compliant metal picket railing and gate located at 30 Littlewood Drive, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that the simple, sleek design of the proposed railing and gate is in keeping with the home's architecture and will be visually unobtrusive.

The project complies with Design Review Guidelines V-5, V-5(b), V-7 and V-8.

2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because its transparent appearance will blend into the landscaping. There is no impact on neighbor view. The project complies with Design Review Guidelines V-4 and V-5(a).

3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. The proposed improvements will improve public safety by providing a code-compliant guardrail. The project complies with Design Review Guideline V-5.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Liu for construction at 30 Littlewood Drive, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following condition:

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

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

Moved by Ode, Seconded by Kellogg

Ayes: Chase, Kellogg, Robertson, Zhang, Ode

Noes: None

Absent: Henn

**Second Unit with
Parking Exception
38 Dudley Court**

Ms. Wendy Willrich is requesting a Second Unit Permit with a parking exception to convert an existing maid's quarters/guest house adjacent to the garage to a 474 sq. ft. low income second unit. The parking exception is requested to permit the on-site parking space for one vehicle required for the unit to be uncovered.

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

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

Public testimony was received from:

Wendy Willrich stated that there is a 3-car garage on the property which is only 2 inches less than the code required dimension. In addition to this covered parking, there is a large parking court on the property which is screened from public view by the lot's topography and existing vegetation and which does not interfere with garage ingress/egress. Therefore, the requested parking exception will have no adverse impact on the neighborhood.

The Commission agreed that the property is well suited for the charming second unit, noting that there is ample on-site parking which is totally screened from public view. In addition, there is ample access onto the property for emergency vehicles. The Commission agreed that the second unit would have no material impact on neighboring properties.

Resolution 84-SU-12

WHEREAS, Ms. Wendy Willrich is requesting a Second Unit Permit with a parking exception to convert an existing maid's quarters/guest house adjacent to the garage to a 474 sq. ft. low income second unit. The parking exception is requested to permit the on-site parking space for one vehicle required for the unit to be uncovered; 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 17D.6(b)2 of the Piedmont City Code:

1. The proposed second unit will not create a significant adverse effect on any adjacent property or surrounding neighborhood. It is a very small unit, with the likelihood of only one occupant. There is ample off-street parking for this unit and public transportation within three blocks.
2. The lot and the arrangement of existing and proposed physical improvements on the lot can accommodate the proposed second unit size without adversely affecting the views, privacy or access to light and air of neighboring properties. No changes are being made to this existing structure. The uncovered parking for this unit is fully screened, is 20 ft. by 20 ft. 10 in. in size and is available to this second unit via private entry.
3. In looking at the totality of circumstances, there is sufficient street parking available to accommodate the parking exception, including proximity to public transit services. As

already stated, there is adequate off-street parking and public transportation within 3 blocks for this unit.

4. The parking exception will not negatively impact traffic safety or emergency vehicle access to residences, or create hazards by obstructing views to or from adjoining sidewalks, driveways and streets. There is ample parking on this property and even if the driveway is full of cars, there is plenty of space for any emergency vehicles.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the second unit with a parking exception application of Ms. Willrich for construction at 38 Dudley Court, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. Second Unit Declaration. In compliance with Section 17.40.6.g, prior to the issuance of a building permit, the completed, signed and notarized *Declaration of Restrictions - Property with Approved Second Dwelling Unit* form shall be recorded.
2. Declaration of Rent Restriction. In compliance with Section 17.40.7.c.3.i.a, a *Declaration of Rent Restriction* (in a form provided by the City) shall be recorded stating that the unit is rent-restricted as a low income unit. The rent-restriction shall be recorded in the County Recorder's Office, and shall remain in effect for ten years. The ten-year period of rent restriction begins either: (1) on the date of recordation or date of final building inspection, whichever is later; or (b) according to the terms of the conditions of approval or a recorded declaration. If, after ten years, the termination of the recorded declaration is not automatic (by its terms), the City shall record a document terminating the declaration of rent restrictions, upon the written request of the property owner.
3. Affordable Rent Certification. In compliance with Section 17.40.7.c.3.i.b, prior to the occupancy of the rent-restricted unit, the applicant shall submit to the City a *Second Unit Affordable Rent Certification*, and thereafter (i) on an annual basis, by each December 31 and as part of the annual City business license application and renewal; and (ii) upon any change in occupancy of the second unit. The second unit affordable rent certification shall be on a form provided by the City and shall specify whether or not the second unit is being occupied; the rent charged; the utilities that are included in the cost of rent; the household size of the second unit; the names and ages of the second unit occupants; the gross household income of the second unit household; and other information as determined appropriate by the City.
4. Building Code Compliance. Verify the door to the garage is weatherstripped, self-closing and 20-minute fire rated (1/3/8 solid core). The building Official shall make an inspection of the unit to determine compliance with the certain aspects of the Building code as determined by the Piedmont Building Official to be related to the safety of occupants, including egress windows and smoke detectors. Related modifications to the exterior, if any, shall be subject to Administrative Design Review.

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.

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 Ode

Ayes: Kellogg, Robertson, Zhang, Ode

Noes: None

Recused: Chase

Absent: Henn

**Design Review
222 Park View Avenue**

Mr. and Mrs. Keith Petersen are requesting design review to make various interior and exterior changes including finishing the basement level to create additional living space, several window and door changes throughout the house, the addition of a trellis on the lower level of the south facade, and the addition of wood window canopies over second story windows on the south facade.

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

Public testimony was received from:

John Malick, Project Architect, described the proposed improvements, noting that most of the changes occur at the rear of the property and involve only minor exterior changes to the home.

The Commission supported application approval, agreeing that the proposed improvements are creatively designed to improve the floorplan, livability and circulation of the existing home.

Resolution 85-DR-12

WHEREAS, Mr. and Mrs. Keith Petersen are requesting permission to make various interior and exterior changes including finishing the basement level to create additional living space, several window and door changes throughout the house, the addition of a trellis on the lower level of the south facade, and the addition of wood window canopies over second story windows on the south facade located at 222 Park

View Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission finds that the 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. The size, bulk and exterior appearance of the home is not being significantly changed but the quality and livability of the home is being enhanced. The project complies with Design Review Guidelines II-1, II-2 and II-3(a) through (d).
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because it has been very carefully designed and situated on the property to avoid impacting neighbor light, views or privacy. The project entails mainly improvements to the interior of the home, with the exception of doors and windows which face the rear yard. The project complies with Design Review Guidelines II-6 and II-7.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because there is no 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. Petersen for construction at 222 Park View 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.
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.

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

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

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

Moved by Kellogg, Seconded by Robertson

Ayes: Chase, Kellogg, Robertson, Zhang, Ode

Noes: None

Absent: Henn

**Variance and
Design Review
6 Lorita Avenue**

Mr. and Mrs. Conrad McReddie are requesting variance and design review to demolish the existing front entry steps and construct a new entry stair and landing with guardrails. The requested variance is from Section 17.10.6 to allow the new entry stairs to extend to within 16 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. **One affirmative response form** was received. **Correspondence** was received from: Suzanne Tipton

Public testimony was received from:

Conrad McReddie, Project Contractor & Owner, described the proposed repairs needed to the front entry of his 1910 vintage home for structural and code-compliant reasons. In response to Commission concerns that the design of the proposed wrought iron railing was too Mediterranean in style for the Dutch Colonial architecture of the home, Mr. McReddie submitted a photograph of an alternative design option depicting a more straight, vertical wrought iron style. The Commission preferred this alternative railing design, requesting that the lower railings on the house also be changed to match this more straight-forward design. This was acceptable to Mr. McReddie.

Resolution 87-V/DR-12

WHEREAS, Mr. and Mrs. Conrad McReddie are requesting permission to demolish the existing front entry steps and construct a new entry stair and landing with guardrails located at 6 Lorita Avenue, Piedmont, California, which construction requires variance and design review; and

WHEREAS, variance from the requirements of Chapter 17 of the Piedmont City Code are necessary in order to construct within the 20 ft. 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, as established by Public Resources Code 15300;
2. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to the fact that the existing front entry stairs to be replaced are located within the front setback -- a pre-existing situation. 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 properties in the neighborhood have similar steep topographies which require retaining walls, stairs and railings located within the front setback in order to gain entry into the homes.

4. Accomplishing the improvement without variance would cause unreasonable hardship in planning, design, or construction because it would be impossible to have a landing in front of the home's entry door without variance.

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 in that the height, bulk and area of the proposed improvements is virtually the same as existing. The proposal is a reconstruction of existing elements in order to be code-compliant, with new architectural finishes which are more in keeping with the architectural style of the residence. The project complies with Design Review Guidelines II-3, II-3(a) & (b).

7. 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 existing conditions. The proposed improvements will enhance the approach to the home's entry door. The project complies with Design Review Guideline II-3(b).

8. 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 to existing circulation patterns. The project will improve pedestrian access to the property, enhance the quality of the home's entry and achieve code compliance. 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 variance and design review application of Mr. and Mrs. McReddie for the above variance at 6 Lorita 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. **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.

3. **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.

4. **Railing Design.** The design of the front railing shall be that depicted in the photograph dated May 14, 2012, indicating a wrought iron rail with a straight vertical bars, varying in height according to code from 3 ft. at the stair to 3 ft. 6 in. at the landings. The existing railings at the lower stair, beginning at the sidewalk and extending to the first landing, shall be replaced with railings matching that of the upper level railing design. The installation of said railings shall be subject to staff review and approval.

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

Moved by Kellogg, Seconded by Robertson

Ayes: Chase, Kellogg, Robertson, Zhang, Ode

Noes: None

Absent: Henn

**Fence Design Review
106 Crocker Avenue**

Mr. and Mrs. Michael Lynn are requesting fence design review for retroactive approval for the replacement of a 6'8" maximum high fence located along the south (right) side property line.

Written notice was provided to neighbors. **One affirmative and one negative response form** was received. **Correspondence** was received from: Kathryn Hayes

Public testimony was received from:

Michael Creed, Project Contractor, stated that the new fence replaces one that had failed. The new fence matches in material an existing fence elsewhere in the yard and will be stained to match the dark brown color of this existing fence.

The Commission felt that the fence as constructed was too high and imposing, suggesting that it be stepped so as not to exceed 4 ft. in height within the front setback and stepped in height until the point where it connects with an existing fence. The Commission also requested that a building permit be obtained for the recently reconstructed concrete rubble retaining wall, noting that it is currently in violation of the building code.

Resolution 92-DR-12

WHEREAS, Mr. and Mrs. Michael Lynn are requesting retroactive approval for the replacement of a 6'8" maximum high fence located along the south (right) side property line located at 106 Crocker 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, as conditioned, are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in terms of height, materials and arrangement of structures on the property. The project complies with Design Review Guidelines V-1, V-5, V-5(a) & (c) and V-6.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light once the existing fence is lowered in height as a condition of project approval. The project complies with Design Review Guidelines V-5 and V-6.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because there is no impact on property 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. Lynn for construction at 106 Crocker Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. Prior to the final inspection and at the applicant's expense, the south property line shall be located and marked by a licensed land surveyor or civil engineer in order to verify that the approved fence is located in the applicant's property.

2. The height of the fence within the front setback area shall not exceed 4 ft. in height as measured from the lowest point of grade. At the point this fence connects with an existing fence at the rear of the property, the fence height shall not exceed 6 ft. in height.
3. The new fence shall be stained a dark color to match the color of an existing fence.
4. Prior to the issuance of a building permit for the new fence, the applicant shall correct the overly high stacking concrete rubble wall.

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 Zhang

Ayes: Chase, Kellogg, Robertson, Zhang, Ode

Noes: None

Absent: Henn

**Variance and
Design Review
4 Park Way**

Mr. John Moss and Ms. Lisa Scimens are requesting variance and design review to construct a 22 sq. ft. addition at the front left corner of the house by filling an existing open corner on the first floor; to add wood stairs and a new paved patio on the left (east) side yard; to add a new landing and stairs from an existing rear mid-level deck to the new paved patio; and to make window, door and exterior lighting modifications. The requested variance is from Section 17.10.6 to allow new construction to extend to within 17'7" 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. **One affirmative response form** was received.

Public testimony was received from:

Lisa Joyce, Project Architect, explained that the purpose of the project is to improve the functionality and usability of the home by filling in an existing cut-out at the front corner of the house and thereby correct an existing rather awkward interior configuration. The variance is required because the existing house is located within the setback.

The Commission supported application approval, agreeing that the simple, well-planned design improves the livability of the residence. Variance approval is justified given that the existing house is located within the front setback and cannot be improved without variance.

Resolution 96-V/DR-12

WHEREAS, Mr. John Moss and Ms. Lisa Scimens are requesting permission to construct a 22 sq. ft. addition at the front left corner of the house by filling an existing open corner on the first floor; to add wood stairs and a new paved patio on the left (east) side yard; to add a new landing and stairs from an existing rear mid-level deck to the new paved patio; and to make window, door and exterior lighting modifications located at 4 Park Way, Piedmont, California, which construction requires variance and design review; and

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

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

1. The project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e)
2. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to the fact that the existing house is located within the front setback and it is logical to infill the left front corner of the house to improve the home's functionality. 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 several homes in the neighborhood encroach into the front setback. The variance situation is pre-existing.
4. Accomplishing the improvement without variance would cause unreasonable hardship in planning, design, or construction because since the front of the home is within the front setback, no improvements to this portion of the home can be made without variance.
5. The proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code.
6. The exterior design elements (including but not limited to height, bulk and area openings) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development because the proposal involves infilling an existing space using the same exterior materials as existing to create a seamless addition.
7. 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 on neighboring properties.
8. 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 to existing circulation patterns.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review application of Mr. Moss and Ms. Scimens for proposed construction at 4 Park Way, 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.

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

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

Moved by Zhang, Seconded by Robertson

Ayes: Chase, Kellogg, Robertson, Zhang, Ode

Noes: None

Absent: Henn

**Variance and
Design Review
58 Lake Avenue**

Mr. Lexin Shan is requesting variance and design review to demolish the rear laundry addition constructed without a permit; remodel and enlarge the 1,000 sq. ft. 2-bedroom residence by adding a family room and 2 bedrooms through the development of 866 sq. ft. of habitable space on the basement level; construct a new attached 2-car garage with roof deck at the front of the house; reconstruct the front entry stair and landing; make window, door and exterior lighting modifications throughout; and make various landscape and hardscape changes including the addition of a patio in the left side yard and the widening of the driveway and curb cut. The requested variance is from Section 17.10.6 to allow the new garage to extend to within 5 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. **Three affirmative response forms** were received.

Public testimony was received from:

Lexin Shan stated that he purchased his "fixer-upper" in January and desires to add a 2-car garage because of neighborhood parking congestion. However, the only place on the property to construct a garage is within the front setback. He stated that most other homes in the neighborhood also have garages in the front. The proposed roof deck over the garage will be the only accessible outdoor area from the main level of the home. He submitted a revised drawing, dated today, changing the proposed deck railing from a stucco parapet wall to an open railing design.

The Commission supported application approval, noting that the property is in great need of renovation and agreeing that most garages in the neighborhood are located within the front setback, thus the proposal is in keeping with neighborhood standards and development patterns. The Commission also supported the change from the proposed stucco deck wall to an open, wrought iron style to minimize mass and bulk. However, to minimize privacy/visual intrusion on the streetscape, the Commission requested that this garage roof deck railing be pulled back 2 ft. from the front edge. In addition, the Commission suggested that planter boxes be installed on the outside of the pulled-back railing. The Commission felt that this change in railing design should also be continued along the front entry stairs, eliminating the need for the existing stucco pillar in the center of the spiral stairs.

Resolution 99-V/DR-12

WHEREAS, Mr. Lexin Shan is requesting permission to demolish the rear laundry addition constructed without a permit; remodel and enlarge the 1,000 sq. ft. 2-bedroom residence by adding a family room and 2 bedrooms through the development of 866 sq. ft. of habitable space on the basement level; construct a new attached 2-car garage with roof deck at the front of the house; reconstruct the front entry stair and landing; make window, door and exterior lighting modifications throughout; and make various landscape and hardscape changes including the addition of a patio in the left side yard and the widening of the driveway and curb cut located at 58 Lake 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 construct within the front 20 ft. 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 is triangular in shape and very limited in its area of buildability because of setbacks and topography. 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 most garages in the neighborhood are partly constructed within the front setback. The proposed garage is compatible in scale and mass with the existing home and neighborhood conditions.

4. Accomplishing the improvement without variance would cause unreasonable hardship in planning, design, or construction because in order to build a garage outside of the front setback, there would be a substantial, unrealistic reduction of the usable area of the home as well as cause considerable structural and circulation difficulties in garage ingress/egress.

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, design and style of fenestration. The proposed improvements are appropriate for the neighborhood, consistent with the overall architectural style of the existing house, well integrated onto the property and represent a substantial improvement over what currently exists. 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-7, III-1, III-1(a), III-2, III-3 and III-4.

7. The proposed structure/expansion has been designed in a way that reasonably minimizes view and light impacts on neighboring properties. The garage is very carefully structured with an angled floor that is related to the significant front slope of the property, the height of the proposed home is essentially the same as the existing home, and the proposed improvement is commensurate and in proportion with the size of the lot and neighboring properties. The project complies with Design Review Guidelines II-1, II-2, II-6 and II-7.

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. The lot can accommodate the proposed improvements and the scale, size and location of the proposed garage is similar to other garages in the neighborhood and is in keeping with scale and mass of the home and neighboring structures. The project complies with the above-stated Guidelines.

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. Off-street parking on the property is being improved with the addition of a new 2-car conforming garage, an improved driveway and a front

entrance to the home separate from that from the driveway. The project complies with Design Review Guideline III-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. Shan for proposed construction at 58 Lake Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. The approved plans are those submitted on April 25 and May 2, with additional information submitted on May 4, 2012, after neighbors were notified of the project and the plans were available for public review;
2. The site plan(s) submitted for a building permit shall show the curb and street trees.
3. Prior to foundation inspection for the garage, the front property line 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.
4. In order to mitigate the removal of a City-owned street tree within the street right-of-way resulting from the widening of the driveway, the applicant shall submit, prior to the issuance of a building permit, a tree replacement payment in the amount of \$500. Said payment shall cover the cost of labor and materials for a new street tree in a location to be determined by the Director of Public Works.
5. The new garage door(s) shall be electronically operated.
6. 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. 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.
7. 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.

8. The applicant shall submit a landscaping plan for staff approval prior to the issuance of a building permit. The plan shall address the front, rear and side yards. After final building permit inspection, the applicant shall be allowed to make modifications to any aspect of the landscape plan that does not require design review under Chapter 17 of the City Code.

9. 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.

10. 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.

11. The garage deck railing shall be modified to include a 42 in. high, open wrought iron rail with vertical pickets setback 2 ft. to the south from the north elevation of the garage to enhance the stepping of the vertical wall within the front yard setback that adjoins the public sidewalk. Said design modification shall be subject to staff review and approval.

12. The existing stucco spiral wall railing at the entry stairs shall be replaced with a wrought iron railing from the entry stairs to the garage roof stairs, matching in materials and style the railing on the garage deck. Said design modification shall be subject to staff review and approval. The building official shall determine whether adjustments to the actual stairs may be required in order to meet the current building code regulations.

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 Ode

Ayes: Chase, Kellogg, Robertson, Zhang, Ode

Noes: None

Absent: Henn

**Design Review
119 Magnolia Avenue**

Mr. David Rosenfield and Ms. Shirley Woo are requesting design review to make various front and rear yard improvements including to construct new terraced retaining walls along Magnolia Avenue; make modifications to an existing driveway; construct an approximately 7'4" high fence and matching gate; remove an existing pool; construct a new 10 ft. high arbor; and make other hardscape and landscape improvements.

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

Public testimony was received from:

Peter Wolfe, Project Architect, reviewed the repairs and proposed improvements to the property, noting efforts to duplicate house detailing in the proposed design and materials.

The Commission supported application approval, agreeing that it reflected a creative, well designed solution for addressing property deficiencies, was well-integrated into the site, reduced the amount of existing impervious surface, provided very attractive landscaping and had minimal impact on neighboring properties.

Resolution 101-DR-12

WHEREAS, Mr. David Rosenfield and Ms. Shirley Woo are requesting permission to make various front and rear yard improvements including to construct new terraced retaining walls along Magnolia Avenue; make modifications to an existing driveway; construct an approximately 7'4" high fence and matching gate; remove an existing pool; construct a new 10 ft. high arbor; and make other hardscape and landscape improvements located at 119 Magnolia 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 is very well designed, with carefully planned landscaping.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because the landscaping improvements are in keeping with the scale of the home and neighboring properties. There are no adverse impacts on neighbor view or 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. The driveway is being improved to provide safer ingress/egress. There are no changes to the property's entrance.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Rosenfield and Ms. Woo for construction at 119 Magnolia Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Construction Management Plan.** Due to the scope and nature of the application, a construction management plan shall be developed and approved by staff prior to obtaining a building permit. Said plan shall be comprehensive while specifically addressing the duration of the project, construction hours, the staging of materials, and parking of worker vehicles to ensure the free flow of traffic along Magnolia Avenue;
2. **C&D Compliance.** Compliance with Chapter 9 Article III of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project.

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

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

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

Moved by Zhang, Seconded by Kellogg

Ayes: Chase, Kellogg, Robertson, Zhang, Ode

Noes: None

Absent: Henn

**Proposed Bay Friendly
Landscaping Code
Changes**

Planning Technician Feeley requested Commission consideration and support for City Council approval of a proposed ordinance amending Section 17.18 of the City Code to add Bay-Friendly Landscaping Requirements. She reported that the Alameda County Waste Management Authority Board (StopWaste.Org) is requiring cities within its jurisdiction to adopt a Bay-Friendly Landscaping Ordinance in order to receive FY 2011-12 Import Mitigation Grant Funding. In Piedmont's case, the anticipated grant funding for FY 11-12 would be approximately \$22,000. For the past several years, this grant funding has been used to help fund the cost of the City's residential curbside E-waste recycling program, the C&D recycling and drop box incentive program, participation in the Alameda County climate protection program, the recycling outreach materials program and implementation of the recycling and receptacle plan for Piedmont's public spaces. The proposed ordinance would require adherence to Bay-Friendly landscaping techniques for all commercial and residential landscaping projects that meet the ordinance's thresholds for compliance. This new ordinance mirrors one previously adopted by the City pertaining to civic projects. Under the proposed ordinance, the City Council would maintain the right to waive ordinance provisions when the public interest is not served by compliance with the Bay-Friendly landscaping standards and in actuality the proposed compliance thresholds are such that most residential projects would not meet the eligibility requirements. However, ordinance adoption would indicate City support and leadership in promoting Bay-Friendly landscaping, waste reduction, healthy environments and climate

protection objectives and spur public awareness and interest in voluntarily complying with the Bay-Friendly principles. She noted that on May 2, the Park Commission also endorsed City Council adoption of the proposed ordinance, suggesting that residents needing to submit landscape plans be requested to complete and submit a checklist (or information form) of Bay Friendly Basics Landscaping practices so that these applicants would have an opportunity to learn more about Bay-Friendly practices and consider incorporating these practices into their landscaping designs/plans. It was also felt that completed checklist information would be helpful to the City for data collection purposes. Staff has amended the proposed ordinance to include this provision. In addition, the Park Commission strongly encouraged the Planning Commission to consider adding to its annual *Design Awards* program, a category recognizing Bay-Friendly landscaping projects as a means of further incentivizing residents to embrace Bay-Friendly principles.

Public testimony was received from:

Peter Wolfe strongly supported ordinance adoption, agreeing that there is a growing trend in the Bay Area supporting the use of resources in a sustainable way.

The Commission supported Council adoption of the proposed ordinance, agreeing that Bay-Friendly principles are already being incorporated into many private landscaping projects and concurring with the Park Commission's recommendations pertaining to providing residents with the Bay-Friendly checklist to complete and consider in connection with project applications as well as including a Bay-Friendly landscaping category in the annual *Design Awards* program.

Resolution 11-PL-12

RESOLVED, that the Planning Commission recommends City Council adoption of the Bay-Friendly Landscaping Ordinance, as amended by staff, finding that:

1. The proposed ordinance is categorically exempt from the requirements of CEQA per Section 15308, "Actions by Regulatory Agencies for Protection of the Environment" of the CEQA Guidelines, which exempts actions taken by regulatory agencies for protection of the environment.
2. The design, construction and maintenance of landscapes within the City can have a significant impact on the City's environmental sustainability, resource usage and efficiency, waste management, and the health and productivity of residents, workers and visitors to the City.
3. Based on studies by StopWaste.Org, plant debris from landscape construction, renovation and maintenance comprises 5.6% of the materials disposed in Alameda County landfills.
4. Bay-Friendly landscape design, construction, operation and maintenance can have a significant positive effect on energy, water and resource efficiency, waste and pollution generation, wildlife habitat and the health and productivity of a property's occupants over the life of the landscape.
5. Bay-Friendly landscape design contributes to a reduction in greenhouse gas emissions in compliance with the City's

Climate Action goals, improves air quality and enhances urban sustainability.

6. Bay-Friendly landscaping benefits are spread throughout the systems and features of the landscape, the larger SF Bay area ecosystem and the community. Bay-Friendly landscaping is a whole systems approach to the design, construction and maintenance of the landscape in order to support the integrity of the San Francisco Bay watershed. Key components of Bay-Friendly landscaping include reducing waste and using materials that contain recycled content; nurturing healthy soils while reducing fertilizer use; conserving water, energy and topsoil; using Integrated Pest Management (IPM) to minimize chemical use; reducing stormwater runoff; and creating wildlife habitat.
7. It is critical to both the economic and environmental health of the City that the City provide leadership to both the private and public sectors in the area of Bay-Friendly landscaping.
8. Bay-Friendly landscaping design, construction, operation and maintenance techniques are increasingly widespread in residential and commercial landscape construction. In Alameda County, StopWaste.Org has taken the lead in defining and promoting environmentally friendly landscaping for the commercial, institutional and residential sectors by developing the Bay-Friendly Landscape Guidelines for professional landscapers and the Bay-Friendly Gardening Guidelines for residents; and

RESOLVED FURTHER, that the Commission directs that its annual *Design Awards Program* be expanded to include a category recognizing Bay-Friendly landscaping designs.

Moved by Kellogg, Seconded by Robertson

Ayes: Chase, Kellogg, Robertson, Zhang, Ode

Noes: None

Absent: Henn

ADJOURNMENT

There being no further business, Chairman Chase adjourned the meeting at 11:15 p.m.