

## PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, October 8, 2012

A Regular Session of the Piedmont Planning Commission was held October 8, 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 September 24, 2012.

### CALL TO ORDER

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

### ROLL CALL

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

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

City Council Liaison: Councilmember Robert McBain

### ANNOUNCEMENT

The City Planner announced that staff is currently preparing a *Complete Streets Policy* (setting forth a multi-modal transportation vision for the City) for Commission review on November 13th. The public is invited to attend an open house regarding this policy at 4:30 p.m. in the Council Chambers on November 13th, followed by a public hearing on the draft policy at the Commission's regular November 13th meeting. Interested residents can contact City Hall for more information or to be placed on the City's e-mail notification list.

### CONSENT CALENDAR

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

#### **Fence Design Review 10 Blair Place**

#### **Resolution 246-DR-12**

WHEREAS, Mr. and Mrs. Stuart Buttlair are requesting permission to replace a fence and gate enclosing the front yard along Blair Place and Calvert Court and constructing a new fence and gate enclosing the side yard along Calvert Court located at 10 Blair Place, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission finds that the 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: Yes, we need to replace existing fences which are decomposing.

2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because: Yes

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: Not an impact on safety or pedestrian. Currently there is no sidewalk on Calvert or Blair Place. Very little traffic on Blair Place.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Buttlair for construction at 10 Blair Place, 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.

**Fence Design Review  
111 Sea View Avenue**

**Resolution 258-DR-12**

WHEREAS, Mr. and Mrs. Ted Reich are requesting permission to make various front yard improvements including a new entry stairs, retaining walls and planting areas located at 111 Sea 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 in that: The new exterior staircase and garden walls will be more in keeping with the design of the home. The scale of the proposed staircase and walls will be lower and in better proportion than the existing staircase and high walls.

2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because: The new stairs and garden walls won't change views, privacy or access to light at all.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because: The proposed design does not affect the safety of residents, pedestrians and vehicles. Traffic will not be affected at all.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Reich for construction at 111 Sea 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.** 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 (benchmark).
  - a. 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.
  - b. 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. The Director of Public Works has the option to refer the application to the Planning Commission for public review.
2. **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.

**Fence Design Review  
365 San Carlos Avenue**

**Resolution 266-DR-12**

WHEREAS, Mr. Dirk Ten Grotenhuis and Ms. Lisa Fuller are requesting permission to construct a new fence and gate enclosing the yard at the north end of the property located at 365 San Carlos Avenue, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements (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: Fence to be built of redwood to match existing. Similar style open slat style 1x8 vertical panels. 4 feet tall to contain children and pets from street.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because: Fence is on side yard and borders neighboring hedge row that is much higher than fence height. While fence borders yard and sidewalk, it does not block view into or out of yard or create noticeable shadow lines.
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: Fence will have two points of egress, one at back of house-latching gate and one at driveway-latching gate both to open into yard.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Ten Grotenhuis and Ms. Fuller for construction at 365 San Carlos Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. 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.
2. A 12-inch minimum width planting strip shall be provided between the edge of the sidewalk and the fence along San Carlos Avenue.

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

**Design Review  
6 Abbott Way**

**Resolution 268-DR-12**

WHEREAS, Ms. Laura Corthell is requesting permission to alter the architectural appearance of the residence by removing the wood siding and trim, replacing it with stucco siding and removing the entry trellis located at 6 Abbott Way, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements (including but not limited to height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that: The exteriors of the homes in my neighborhood

are a mixture of wood siding and stucco, so my home with the proposed change to stucco will continue to blend harmoniously with the others. I am not changing the size or shape of my home so the change should have very little if any impact.

2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because: The change from wood siding to stucco will have no effect on neighboring properties' existing views, privacy or access to direct or indirect light. The homes in my neighborhood are somewhat contemporary. The change of my exterior to stucco will continue to reflect a contemporary style.

3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because: The changes I am making to my home will not affect the safety of residents, pedestrians and vehicular occupants. The free flow of traffic will not be adversely affected or effected in any way whatsoever.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Ms. Corthell for construction at 6 Abbott 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 Inspection.

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

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

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

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

4. **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.

5. **Approved Plan Set.** The approved plans are those submitted on September 7, 2012, with modifications submitted September 28, 2012, after notices to neighbors were mailed and the application was available for public review.

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

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

**PUBLIC FORUM**

There were no speakers for the public forum.

**APPROVAL OF MINUTES**

**Resolution 15-PL-12**

RESOLVED, that the Planning Commission approves as submitted its meeting minutes of September 10, 2012.

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

**REGULAR CALENDAR**

The Commission considered the following items of regular business:

**Variance and  
Design Review**

Mr. and Mrs. Joe Hurwich are requesting variance and design review to remodel the garage by increasing the height and changing the slope of

**260 Sea View Avenue**

its rear (east) roof, and making various changes to its interior including the installation of two vehicle lifts. The requested variances are from: (1) Section 17.10.7 to allow the new roof structure atop the rear of the garage to extend to within 3' 3" of the right (south) property line in lieu of the code required minimum of a 4 ft. side yard setback; and (2) Section 17.16 to allow a residence with 4 rooms eligible for use as bedrooms with 2 covered parking spaces each measuring at least 7'10" by 20 ft. in lieu of the code's minimum parking space dimension of 9 ft. by 20 ft.

Written notice was provided to neighbors. **Three affirmative response forms** were received. **Correspondence** was received from: Katie & Ken Millhiser; Bert Kurtin; Damian Manolis

**Public testimony** was received from:

Joe Hurwich explained that the intent of the project is to modify his currently conforming 2-car garage to accommodate the parking of 4 full-size vehicles through the installation of vehicle lifts. He noted that all affected neighbors support his project. He also stated his belief that a parking variance is not required for this project, since the vehicle lifts are not permanent structures -- they will not be affixed to the garage and in all likelihood, should he sell his property, he will take the lifts with him. It is the presence of these vehicle lifts that makes the interior parking space dimensions of his garage slightly non-conforming, albeit, two cars can and will be still parked at the lower level. Therefore, he requested that a parking variance not be on record as associated with his property, since without the lifts, the garage is a code-conforming structure. He also requested a fee refund for the parking variance.

The Commission agreed that a parking variance was not required in this case since the vehicle lifts are removable equipment that do not impede the existing 2-car parking capability of the garage's lower level and in fact they increase the garage's overall parking capacity to four full-size cars. The Commission supported approval of the setback variance to preserve the architectural integrity of the garage which is currently located within the setback. As to design, the Commission agreed that the change from a flat to a pitch roof at the rear of the garage improves the structure's overall architectural integrity and appearance, the change is not visible to the public, it does not block neighboring properties' view or light and the project removes an existing "tacked on" element of the garage (flat roof). In response to a neighbor's concern over runoff, Mr. Hurwich stated that gutters will be installed along the rear edge of the garage roof.

**Resolution 259-V/DR-12**

WHEREAS, Mr. and Mrs. Joe Hurwich are requesting permission to remodel the garage by increasing the height and changing the slope of its rear (east) roof, and making various changes to its interior including the installation of two vehicle lifts located at 260 Sea View 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 additional structure within the 4 ft. right (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 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 placement and dimensions of the existing garage. The existing garage is located within the side yard setback . The proposed garage modification will match the existing side yard encroachment. 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 side yard setback variance is compatible with the immediately surrounding neighborhood and the public welfare because the proposed improvements are aesthetically pleasing and will not adversely affect neighboring properties.
4. Accomplishing the improvement without a side yard setback variance would cause unreasonable hardship in planning, design, or construction because the variance situation is pre-existing and without variance, the proposed improvements to this garage would be constructed in such a way as to be aesthetically awkward and significantly detract from the overall appearance, quality and architectural integrity of the garage.
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 proposed project reflects an attractive design that matches the existing style of the garage and house. It replaces a flat roof design that is incompatible with the existing structure.
7. The proposed upper level addition/expansion has been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.70), including consideration of the location of the new construction, lowering the height of the addition, expansions within the existing building envelope (with or without excavation), lower level excavation for new multi-level structures, and/or changing the roof slope or ridge direction. The location of the raised garage roof does not affect neighboring views or privacy due to its location and existing vegetation buffer.
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 is quite large and the proposed project does not exceed the parameters related to structural size or coverage in the zoning ordinance.

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. In accordance with Sections 17.16.1 and 17.22.1, the existing or proposed on-site parking is appropriate to the size of the new upper level addition, and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood. The project increases the property's off-street parking capability.

10. The project complies with Design Review Guidelines III-1, III-5(a) and III-6.

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. Hurwich for construction at 260 Sea View Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Garage Doors.** The garage doors, when reinstalled, shall be electronically operated.

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. **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 (benchmark).

a. 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.

b. 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. The Director of Public Works has the option to refer the application to the Planning Commission for public review.

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

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

6. **Roof Gutters.** Gutters will be installed at the rear of the garage, with said installation subject to staff review and approval.

7. **Parking Variance.** No parking variance is required for this application because the modifications to the interior of the garage that reduce the width of the parking spaces to a non-conforming dimension is only temporary given the portable nature of the vehicle lifts being placed in the garage. The garage structure itself remains a code-conforming 2-car garage.

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 Henn, Seconded by Kellogg

Ayes: Chase, Henn, Kellogg, Robertson, Zhang

Noes: None

Absent: None

**Variance, Design  
Review and Second  
Unit Permit, with Unit  
Size and Parking  
Exceptions  
358 Wildwood Avenue**

Mr. Farzad Khabiri and Ms. Asieh Mansour are requesting variances, design review and a second unit permit with unit size and parking exceptions to construct a 1-bedroom, 901 sq. ft. second unit in the lower level of the house. Exterior modifications include new stairs and landings in the front and right side of the residence, window and door modifications, and exterior lighting. The requested variances are from Chapter 17 for parking and construction in the front setback.

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

**Public testimony** was received from:

Bennett Christopherson, Project Architect, explained that the intent of the project is to correct the home's structural deficiencies as well as address illegal construction by a prior owner; all without any changes to the home's existing footprint or building envelope. He noted that the a front setback variance is required for the new stairs which are not visible from the street. The 5-bedroom home has a 2-car conforming garage and the parking variance for the second unit is justified since it is physically impossible to add additional parking on the steeply sloping lot. However, he emphasized that there is no parking congestion in the neighborhood and the second unit is located near public transportation.

Eric Horne voiced support for application approval.

The Commission supported application approval, agreeing that variance approval is justified: (i) given the lot's difficult topography and the home's placement on the lot (front setback variance); (ii) the fact that second unit housing benefits the City and there would be no benefit in reducing the size of the second unit since it is fully contained within the home's existing building envelope (unit size); and (iii) the unit is located within 0.3 mile of public transportation in a neighborhood with no significant parking congestion problems (parking exception). It was further noted that the size/width of the property's driveway allows for additional off-street parking options. The Commission further agreed that the design of the improvements is well-integrated into the existing home, utilizes existing building space and improves the safety, functionality and livability of the residence with no adverse impacts on adjacent properties.

**Resolution 260-V/DR/SU-12**

WHEREAS, Mr. Farzad Khabiri and Ms. Asieh Mansour are requesting permission to construct a 1-bedroom, 901 sq. ft. second unit in the lower level of the house located at 358 Wildwood Avenue, Piedmont, California, which construction requires variances, design review and second unit permit, with unit size and parking exceptions; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e) and the proposal conforms with the criteria and standards of Sections 17.21.6 and 17.20.9 of the Piedmont City Code:

1. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to the lot's steep topography, existing site conditions and its unusually sized front easement. It is not physically possible to add additional conforming off-street parking but the existing driveway provides an option for additional on-site parking and there is ample on-street parking available

in the neighborhood. 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.

2. The variances are compatible with the immediately surrounding neighborhood and the public welfare because most homes in the neighborhood have 2-car garages.
3. Accomplishing the improvement without variance would cause unreasonable hardship in planning, design, or construction because of the steep lot characteristic of the property.
4. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that the proposed improvement to the home's entry is pleasing and architecturally compatible with the existing home and neighborhood.
5. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because there is no significant change in the home's existing building envelope.
6. 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; and

WHEREAS, the Piedmont Planning Commission also finds that the project complies with the criteria and standards of Sections 17.40.c.i and 17.40.c.ii as follows:

7. The proposed second unit will not create a significant adverse impact on any adjacent property and the surrounding neighborhood because the space to be filled by the second unit is already existing -- there is no change to the home's existing building envelope.
8. 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 view, privacy, or access to light and air of neighboring properties. The proposed second unit is located within the building envelope of the existing home -- there is no additional mass or structure being added to the home.
9. In looking at the totality of circumstances, there is sufficient street parking available to accommodate the parking exception, including proximity to public transit services.
10. 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 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 variance, design review and second unit permit, with unit size and parking exceptions

application of Mr. Khabiri and Ms. Mansour for construction at 358 Wildwood Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

a. **Stormwater BMPs for Construction.** Because this Project anticipates the addition or replacement a significant area of impervious surface, the Property Owner shall prepare a stormwater management plan prior to obtaining a building permit. As required by the City's Municipal Regional Stormwater NPDES Permit and to the extent practicable, the plan shall incorporate site design practices and measures to promote infiltration of stormwater during and after construction, and reduce the amount of impervious surface on the site as outlined in the following documents: The Bay Area Stormwater Management Agencies Association's (BASMAA) "Start at the Source" design guidance manual, which is available in PDF format at [www.cleanwaterprogram.org/businesses\\_developers.htm](http://www.cleanwaterprogram.org/businesses_developers.htm); BASMAA's "Permanent Post-Construction Stormwater BMP Fact Sheets;" or the State of California Best Management Practices Handbooks.

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

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

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

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

4. **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.

5. **Approved Plan Set.** The approved plans are those submitted on September 4, 2012, with modifications submitted on September 28, 2012, after notices to neighbors were mailed and the application was available for public review.

6. **Building Code.** Openable windows with sill height less than 24 in. and a 72 ft. drop need fall protection.

7. **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.

8. **Declaration of Rent Restriction.** In compliance with Section 17.40.7.c.iii.a.i, a *Declaration of Rent Restriction* (in a form provided by the City) shall be recorded stating that the unit is rent-restricted as a very 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.

9. **Affordable Rent Certification.** In compliance with Section 17.40.7.c.iii.a.ii, 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.

10. **Annual Rental Tax.** The property owners shall annually comply with all required rental taxes and fees.

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, Henn, Kellogg, Robertson, Zhang

Noes: None

Absent: None

**Design Review  
118 Greenbank Avenue**

Mr. Lorenzo Frediani is requesting design review to remodel and enlarge the residence by creating habitable space on the basement level and constructing an approximately 638 sq. ft. master bedroom and bathroom single-story addition at the rear. The application also proposes to make the following improvements: construct an approximately 90 sq. ft. kitchen expansion; enlarge the existing non-conforming garage; construct a new rear patio; enlarge the existing driveway; make various hardscape improvements including retaining walls and walkways throughout the property; install a new skylight tube; make window and door modifications; add exterior lighting; and make other interior improvements including the addition of two bedrooms.

A similar application for a master bedroom addition was denied without prejudice by the Commission on August 13, 2012.

Written notice was provided to neighbors. **One affirmative, two negative response forms** were received. **Correspondence** was received from: Hassan Javadi-Tabrizi; Nahid Javadi; Vena Kostroun; Colleen Vetter;

**Public testimony** was received from:

Lorenzo Frediani and Daniel Ramirez, Project Partners, described the changes made to the project in response to the August meeting and per discussions with neighbors. In particular, they noted their willingness to further revise the redesign to lower the roof pitch to 4 and 12 and relocate proposed French doors and windows on the master bedroom suite. They also noted their willingness to locate the proposed solar tube facing east.

Colleen Vetter opposed the project, citing adverse impacts on the Javadi property.

Nahid Javadi noted that while the redesign is an improvement over the August submittal, the proposed construction will still intrude upon her

privacy and light. She reiterated her preference for an upward rather than outward expansion of the existing home.

The Commission agreed that the redesign was responsive to Commission requests, was appropriately sized and placed on the lot and imposed no significant impacts on neighbor views, light or privacy. The Commission supported the change to: (i) a 4 and 12 roof pitch to lower overall building height and create greater roof slope consistency; and (ii) the relocation of the Master Bedroom French doors from the north wall to the east wall (with the corresponding relocation of the bedroom windows from the east wall to the west wall) to provide greater neighbor privacy. In addition, the Commission requested that the proposed patio have an exposed aggregate or other type of textured surface and that the number of proposed exterior lights be reduced. The Commission also requested that tall, dense vegetation be planted along the north property line to provide a visual buffer between the properties. These changes were acceptable to the applicants. There was a brief discussion regarding shifting the proposed construction 2 ft. more toward the south, but it was determined that such a relocation could negatively impact the south side neighbor without said neighbor being aware/notified of such a change. The Commission noted that the separation distance between the proposed construction and the Javadi property (north side) is approximately 24 ft., and shifting the addition an additional 2 ft. southward would result in a separation distance from the south side neighbor of only 6 ft. In the end, the Commission supported the addition's location as proposed in the submitted plans.

**Resolution 262-DR-12**

WHEREAS, Mr. Lorenzo Frediani is requesting permission to remodel and enlarge the residence by creating habitable space on the basement level and constructing an approximately 638 sq. ft. master bedroom and bathroom single-story addition at the rear. The application also proposes to make the following improvements: construct an approximately 90 sq. ft. kitchen expansion; enlarge the existing non-conforming garage; construct a new rear patio; enlarge the existing driveway; make various hardscape improvements including retaining walls and walkways throughout the property; install a new skylight tube; make window and door modifications; add exterior lighting; and make other interior improvements including the addition of two bedrooms located at 118 Greenbank 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.

2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because there is adequate separation distances between properties and the design and location of a 1-story addition minimizes adverse impact on neighbor light, view and privacy.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because the project provides for a conforming 2-car garage, with a parking area in front, that is well-integrated into the house.
4. The project complies with Design Review Guidelines II-1, II-2, II-3(a) through (d), II-4, II-5, II-5(a), II-6, II-6(a) through (c), II-7, II-7(a), III-1, III-2, III-3, III-4, III-5, III-5(a), III-6, III-6(a), III-7 and III-7(a).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Frediani for construction at 118 Greenbank Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

- a. 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.

- b. 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. The Director of Public Works has the option to refer the application to the Planning Commission for public review.

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. **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 (benchmark).

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.

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.

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. The Director of Public Works has the option to refer the application to the Planning Commission for public review.

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.

5. **Windows and Doors.** The proposed wood windows and doors shall be painted to be consistent with the remaining windows and doors throughout the residence. The French door proposed on the north wall of the Master Bedroom shall be relocated to the east wall and the two windows on the Master Bedroom east wall shall be removed and replicated on the west wall; with said changes subject to staff review and approval.

6. **Approved Plan Set.** The approved plans are those submitted on September 21, 2012, with revisions made on September 27, 2012, after neighbors were notified of the project and the plans were available for public review.

7. **Patio.** The patio paving shall be either aggregate to match the driveway or another type of textured surface. Said paving material subject to staff review and approval.

8. **Outdoor Lighting.** Outdoor lighting shall be provided at the French doors. However, the overall number of exterior lighting fixtures shall be reduced from that proposed in the submitted plans. Said lighting changes subject to staff review and approval.

9. **Roof Pitch.** The roof of the proposed addition shall have a 4 and 12 pitch for consistency.

10. **Landscaping.** Screening landscaping shall be planted along the north property line.

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 Henn

Ayes: Chase, Henn, Kellogg, Robertson, Zhang

Noes: None

Absent: None

**Variance and  
Design Review  
140 Estates Drive**

Mr. Ali Partovi and Ms. Gina Tega are requesting variance and design review for retroactive approval of a patio terrace and water feature structures constructed in the north side yard. The requested variance is from Section 17.10.7 to allow the northernmost pier of the lower patio terrace and water feature atop to extend to within 5 inches of the left (north) side property line in lieu of the code required minimum of a 4 ft. side yard setback.

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

**Public testimony** was received from:

John Hopkins, Project Architect, described the large-scale improvements recently completed at the property and the inadvertent error resulting in the patio terrace and water features being incorporated into the previously approved plan. He described how the patio and water features are an integral part of the reinforcement of an existing retaining wall, emphasizing that these features border an empty lot and are not visible to the public.

The Commission agreed that the project was beautifully designed and given that the adjacent empty lot is essentially unbuildable, has no impact on adjacent properties. The Commission further determined that the patio terrace and water features are consistent with the intent and definition of "secondary structures" pursuant to the City Code and thus no variance is required.

**Resolution 267-DR-12**

WHEREAS, Mr. Ali Partovi and Ms. Gina Tega are requesting retroactive approval for a patio terrace and water feature structures constructed in the north side yard located at 140 Estates 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 natural stone and water elements blend into the existing topography of the site and mask the noise from the roadway below.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because there are no neighbors in the area adjacent to these elements. The improvements are located adjacent to a vacant property with an incredibly steep slope making future development of this property questionable.
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 improvements are located in the rear yard and have no impact on vehicular traffic.
4. The project complies with Design Review Guidelines II-1, II-2, II-3, II-3(a), II-5, II-5(a), II-6 and II-6(a) & (b); and

WHEREAS, the Planning Commission further finds that the constructed patio terrace and water feature structures are "secondary structures" pursuant to the intent and definition of the City Code and

thus, no variance for their location within the 4 ft. setback of the north property line is necessary nor required.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Partovi and Ms. Tega for construction at 140 Estates Drive, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following condition:

- **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 Zhang

Ayes: Chase, Henn, Kellogg, Robertson, Zhang

Noes: None

Absent: None

## ADJOURNMENT

There being no further business, Chairman Chase adjourned the meeting at 7:45 p.m.