

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, August 12, 2013

A Regular Session of the Piedmont Planning Commission was held August 12, 2013, 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 July 29, 2013.

CALL TO ORDER

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

ROLL CALL

Present: Commissioners Phillip Chase, David Hobstetter, Susan Ode, Tony Theophilos, Tom Zhang and Alternate Commissioner Louise Simpson

Absent: Councilmember Garrett Keating, City Council Liaison

Staff: City Planner Kate Black, Assistant Planner Kevin Jackson, Planning Technicians Jennifer Feeley, and Janet Chang and Recording Secretary Lisa Argue

CONSENT CALENDAR

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

Variance and Design Review 99 Crest Road

Resolution 179-V/DR-13

WHEREAS, the Property Owner is requesting permission to enclose the carport to create a 2-car garage with associated new windows and garage door, replace the roof in-kind, add new skylights, add exterior light fixtures, and make various changes to the interior located at 99 Crest Road, Piedmont, California, which construction requires variance and design review; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary in order to construct the new garage walls 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 existing carport falls within the City setback. In order to provide security for the homeowners and allow them to have an enclosed garage as almost all the surrounding neighbors have, a very small portion of the existing carport would be enclosed – and this area falls within the setback (very minimally).
3. The variance is compatible with the immediately surrounding neighborhood and the public welfare as follows: Almost all other homeowners in the neighborhood have an enclosed garage. For security purposes, these homeowners wish to have that same type of architecture and security.
4. Accomplishing the improvements without a variance would cause unreasonable hardship in planning, design or construction as follows: Without a variance the size of the carport to garage conversion would be too small to allow

for (2) 9' wide by 20' long parking spaces as required by the City code. To move the entire garage to fit outside the setback would be an extensive cost to the homeowners and prohibit this project.

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, area openings, breaks in the facade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that: The proposed change from a carport to a garage does not change the scale or proportion of the overall design of the house. Enclosing the carport allows for additional safety and privacy for both the homeowners and surrounding neighbors. The height, bulk, pitch of roof and arrangement of structures on site remains as-is from existing to proposed.

7. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because: The proposed design to enclose the carport to a garage, update the roofing material from tar and gravel to standing seam metal, and add 2 new awning windows on the garage wall, and 2 new skylights will not affect views, privacy, or access to direct or indirect light for any of the 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: The safety of residents, pedestrians and vehicular occupants will not be adversely affected by the proposed changes to the home design.

9. The project complies with Design Review Guidelines II-1, II-3 (a) through (d), II-4, II-6(a), II-7. II-7 (a). III-2, III-3, III-4, III-5, III-6, III-6(a), III-7, III-7(a).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review application for construction at 99 Crest Road, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Garage Door.** The new garage door shall be electronically operated.
2. **Window Material and Operation.** The new garage windows shall be wood to match the windows throughout the house, and their operation shall be either awning or fixed.
3. **Roof Color.** The new tar and gravel roof shall be a non-reflective medium or dark color to minimize the visual impact on upslope properties.
4. **Contractor's General Liability Insurance.** To ensure that the contractor doing work in the City will be responsible for damages caused by the work to City property or to neighboring property, the Property Owner shall require all contractors and subcontractors performing work on the Project to

maintain General Liability Insurance for protection from claims for damages because of bodily injury, including death, and claims for damages, other than to the contractor's work itself, to property which may arise out of or result from the contractor's operations. Such insurance shall be written for not less than \$1,000,000 per occurrence. The insurance shall include builder's risk. The insurance shall include an endorsement requiring 30 days' notice to the City if the insurance is cancelled or changed, and Property Owner shall immediately arrange for substitute insurance coverage. If the Property Owner does not have a general contractor, the Property Owner shall maintain property insurance, including builder's risk and coverage for subcontractors, which is substantially equivalent to the contractor's requirement of this section.

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

6. **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. **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.

8. **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. 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.

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
110 Crocker Avenue**

Resolution 187-DR-13

WHEREAS, the Property Owner is requesting permission to modify a section of the existing concrete retaining wall at the front of the property by adding a concrete stabilizer to the front of the existing wall located at 110 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 (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 and do not subject the neighbors to any change in these elements.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because it does not change those items.
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 it has no impact.
4. The project complies with Design Review Guidelines IV, IV-1, IV-2, IV-3, IV-4, IV-5, IV-6.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for construction at 110 Crocker Avenue, 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.

**Variance and
Design Review
213 Sunnyside Avenue**

Resolution 202-V/DR-13

WHEREAS, the Property Owner is requesting permission to construct a new conforming 2-car garage in the front; construct a new roof deck on top of the new garage; enlarge the existing curb cut; construct a new gas fire pit; make various hardscape modifications including the construction of an on-grade patio, stairs, retaining walls, landings, pavers and walkways; modify the existing stairs to the front entry; add a new skylight on the side-facing roof at the rear; extend the existing side porch; make various window and door modifications; add exterior lighting and make various interior modifications including adding a new bedroom at the lower level located at 213 Sunnyside Avenue, Piedmont, California, which construction requires variance and design review; and

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code is necessary in order to construct in the 20 ft. front yard setback and to exceed the structure coverage limit; 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 subject property immediately slopes steeply uphill from the sidewalk's edge. Enforcement of the 20' front setback for the new garage would require an excessive amount of excavation and retaining walls to achieve. This would also likely cause the loss of one or both of the existing mature oak trees which provide considerable screening of the existing residence. 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 variances are compatible with the immediately surrounding neighborhood and the public welfare as follows: The request for a variance to the front yard setback is consistent with many of the immediate neighbors to either side of the subject property and would not confer any special benefits or consideration not already enjoyed by those neighboring properties. The applicant is also asking for a variance to the 40% lot coverage by structures. Currently the existing home does not meet the required conforming parking spaces. Construction of the required two car garage will exceed the 40% maximum for lot coverage by structures by 2%. The applicant is respectively requesting a variance to achieve the required off street parking.

4. Accomplishing the improvement without variances would cause unreasonable hardship in planning, design, or construction as follows: As stated above, due to the steeply upsloping nature of the property enforcement of the front setback requirement would require excessive excavation and retaining walls.

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, 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: this project is largely an interior remodel with just a few changes to the existing door and window locations. The lower level addition has been taken from the crawl space and is totally contained within the existing building footprint. The proposed new garage has been designed to match the existing house in terms of style, materials, roof pitch, trim, and detailing.

7. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because the proposed remodel will not change any neighbors' access to views or direct and indirect light. The proposed door and window changes will not change or have any affect on any neighbors privacy

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 the proposed location of the new garage versus the existing one creates little change to the existing conditions and so will not have any adverse effects as it relates to the safety of residents or pedestrians, and proposes no change to the existing free flow of vehicular traffic.

9. The project complies with Design Review Guidelines II-1, II-3, II-3(b), II-3(d), II-4, II-5(a), II-6, II-6(b), III-1, III-1(a), III-2(a), III-4, III-5, III-6, III-6(a), III-7, III-7(a), IV-1, IV-2, IV-2(a), IV-3, IV-3(a), IV-4, IV-5, IV-5(a), IV-6

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review application for construction at 213 Sunnyside 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. Construction Site Control of Stormwater. The California Regional Water Quality Control Board requires all projects that disturb the site to comply with Provision C.6 of the San Francisco Bay Regional Stormwater NPDES Permit in order to prevent construction site discharges of pollutants and other regulated materials during construction. As required by the Chief Building Official and prior to the issuance of a building permit, the Applicant shall develop and submit a construction stormwater management plan as part of the Construction Management Plan to achieve timely and effective compliance with Provision C.6. Permit Provision C.6.i provides sources for site specific, and seasonally-and-phase-appropriate, effective Best Management Practices (BMPs) that may be incorporated into the stormwater management plan. Copies of the Municipal Regional Stormwater Permit are available from the Piedmont Public Works Department and on-line at cleanwaterprogram.org.

b. Neighboring Property Owner Permission. Should the execution of the Foundation/Shoring/Excavation Plan require excavation into a neighboring property or if access onto the neighboring property is necessary for construction, the applicant shall submit, prior to the issuance of a Building Permit, a written statement from the neighboring property owner granting permission for access onto his/her property for the purpose of excavation and/or construction.

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 (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.

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

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

4. **Contractor's General Liability Insurance.** To ensure that the contractor doing work in the City will be responsible for damages caused by the work to City property or to neighboring property, the Property Owner shall require all contractors 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 an endorsement requiring notice to the City if the insurance is cancelled or changed, and Property Owner shall immediately arrange for substitute insurance coverage. If the Property Owner does not have a general contractor, the Property Owner shall maintain property insurance and coverage for contractors, which is substantially equivalent to the contractor's requirement of this section.

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

related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.

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

7. **Property Line Location.** A licensed land surveyor shall be required by the Building Department to verify and mark the location of the east (front) and north (right side) property lines at the time of foundation and/or frame inspection to verify the approved setback dimensions measured to the new construction.

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

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

9. **Foundation/Shoring Excavation Plan.** The Property Owner shall submit foundation, excavation and shoring plans prepared by a structural engineer that fully address issues of site shoring, fencing and hillside security issues. The plans shall not require any trespassing or intruding into neighboring properties (without prior written consent) and shall mitigate against any subsidence or other damage to neighboring properties. Such plans shall incorporate as appropriate the recommendations of the Property Owner's geotechnical engineer and the City's geotechnical consultant, and shall be subject to approval by the City Engineer and the Chief Building Official.

10. **Consultant Cost Recovery.** In order to accommodate the scope and nature of the Project proposed by the Property Owner, if the Director of Public Works deems it necessary to retain independent consultants with specialized expertise, including the City Engineer, the Property Owner shall make a cash deposit with the City at the time of the Building Permit Application in the amount of \$5,000 to be used to pay for the fees and expenses of such City consultants, or in any way otherwise required to be expended by the City for professional consultant assistance. If the cash deposit has been reduced to \$2,500 or less at any time, the Director of Public Works may require the Property Owner to deposit additional funds to cover any further estimated fees

and expenses associated with consultants retained by the City on a regular basis or specifically for the Property Owner's Project. Any unexpended amounts shall be refunded to the Property Owner within 90 days after the Project has an approved Final Inspection by the Chief Building Official.

11. City Attorney Cost Recovery. If there is a substantial additional commitment of City Attorney's time required to accommodate the scope and nature of the Project, the Property Owner shall, at the time of the Building Permit Application, make a cash deposit with the City in the amount of \$5,000 to be used to offset time and expenses of the City Attorney relating to the Project. If the cash deposit has been reduced to \$2,500 or less at any time, the Director of Public Works may require the Property Owner to deposit additional funds to cover any further estimated additional City Attorney time and expenses. Any unused amounts shall be refunded to the Property Owner within 90 days after the Project has an approved Final Inspection by the Chief Building Official.

12. Arborist's Report and Certified Tree Preservation Plan. Before the issuance of a building permit, the Property Owner shall submit an Arborist's Report that includes a Tree Preservation Plan that incorporates tree preservation measures recommended by the Arborist to preserve the three existing oak trees at the front of the property near the proposed construction of the new garage. The tree preservation measures shall be on the appropriate sheets of the construction plans. The arborist shall be on-site during critical construction activities related to the new retaining wall at the north side of the entrance to the driveway, including initial and final grading, to ensure the protection of the existing trees. The arborist shall document in writing and with photographs the tree protection measures used during these critical construction phases. If a tree has been compromised, mitigation measures must be specified in writing, and implementation certified by the Project Arborist. Should the Arborist recommend removal of any existing oak tree in the front, an in-lieu replacement tree or trees shall be planted elsewhere on the property. Replacement tree size is subject to staff review and shall be commensurate with the size and numbers of the trees to be removed and shall generally be a minimum of 24" box size. Before the Final Inspection, the Arborist shall file a report to the City certifying that all tree preservation measures as recommended have been implemented to his/her satisfaction and that all retained trees have not been compromised by the construction.

13. Final Landscape Plan. Before issuance of a building permit, the Property Owner shall submit for staff review and approval a Final Landscape Plan that includes the trees proposed for retention as well as in-lieu trees required by a Certified Tree Preservation Plan. The final plan shall comply with Municipal Code Section 17.17.3, and shall not propose plants near the driveway that could obscure visibility of pedestrians on the sidewalk or vehicles on the street from drivers backing out of the driveway.

14. Removal of Windows and Doors. Where windows and doors have been removed, the wall shall be patched and painted to match the siding of the adjacent wall.

15. Windows. The color scheme of the new windows shall match that of the existing windows throughout the house. New windows with simulated divided lites shall have three-dimensional simulated divided lites.

16. **Skylight.** The flashing around the new skylight shall be painted to match the color of the adjacent roof.

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
62 La Salle Avenue**

Resolution 204-DR-13

WHEREAS, the Property Owner is requesting permission to demolish the existing main-level rear deck; construct a new 507 sq. ft. main-level rear deck and a new lower-level rear landing and stair; replace, modify and add windows and doors throughout the house; change the exterior wall material from aluminum siding to stucco; add exterior lighting; and make various changes to the interior located at 62 La Salle Avenue, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements include but are not limited to: height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment. The distance between the proposed upper level addition/expansion or new multi-level structure and adjacent residences is reasonable and appropriate due to the existing topography and neighborhood development pattern. Upper level setbacks greater than the setbacks required for the lower level have been considered and are/are not necessary to reduce losses of ambient and reflected light: Stucco will be broken up by horizontal lines (tiles) at each floor. Windows will be all replaced and matching, and will be aluminum clad on the exterior; upper deck is well within the width of the house. New windows will be all matching, and have 3-dimensional profile on the exterior. Deck will have a minimal number of support posts (2).

2. The proposed upper level addition/expansion or new multi-level structure/expansion has been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.77), 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: New decks are in the back only, and are much narrower than the house to limit the impact on the neighbors.

3. The size and height of the addition is commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and is in keeping with the existing neighborhood development pattern: Neighboring houses have decks of various sizes. The applicants are only increasing lot coverage 2% (to 30%).

4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. In accordance with Sections 17.16.1 and 17.22.1, the existing or proposed on-site parking is/is not appropriate to the size of the new upper level or new multi-level structure or addition, and additional parking is/is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood: The new decks will have 42" railing for resident & visitor safety. The new decks are in the rear of the house, so there will be no impact on vehicles or pedestrians.

5. The project complies with Design Review Guidelines II-1, II-2, II-3, II-3(a) through (d), II-4, II-5, II-5(a), II-6(a) through (c), II-7, II-7(a).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for construction at 62 La Salle Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Environmental Hazards.** Prior to the issuance of a building permit as required by the Chief Building Official, the applicant shall provide a plan, including necessary testing, to verify compliance with all local, state and federal regulations regarding the disturbance and removal of hazardous materials (if any) on residential properties and/or in the proximity of schools, including lead-based paint and asbestos. Said plan for the proper removal and handling of hazardous materials shall be provided on the appropriate sheets of the construction plan sets and included in the Construction Management Plan.

2. **Contractor's General Liability Insurance.** To ensure that the contractor doing work in the City will be responsible for damages caused by the work to City property or to neighboring property, the Property Owner shall require all contractors 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 an endorsement requiring notice to the City if the insurance is cancelled or changed, and Property Owner shall immediately arrange for substitute insurance coverage. If the Property Owner does not have a general contractor, the Property Owner shall maintain property insurance and coverage for contractors, which is substantially equivalent to the contractor's requirement of this section.

3. **BAAQMD Compliance.** The Property Owner shall comply with the Bay Area Air Quality Management District regulations related to any building demolition. The Demolition Notification form is available on their website at www.BAAQMD.gov/forms.

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. **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. Construction Site Control of Stormwater. The California Regional Water Quality Control Board requires all projects that disturb the site to comply with Provision C.6 of the San Francisco Bay Regional Stormwater NPDES Permit in order to prevent construction site discharges of pollutants and other regulated materials during construction. As required by the Chief Building Official and prior to the issuance of a building permit, the Applicant shall develop and submit a construction stormwater management plan as part of the Construction Management Plan to achieve timely and effective compliance with Provision C.6. Permit Provision C.6.ii provides sources for site specific, and seasonally-and-phase-appropriate, effective Best Management Practices (BMPs) that may be incorporated into the stormwater management plan. Copies of the Municipal Regional Stormwater Permit are available from the Piedmont Public Works Department and on-line at cleanwaterprogram.org.

7. **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 Foundation;
 - iii. Completion of Rough Framing;
 - iv. Completion of Electrical;
 - v. Completion of Plumbing;
 - vi. Completion of Mechanical;
 - vii. Completion of Hardscaping and Landscaping; and
 - viii. 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. The Director of Public Works has the option to refer the application to the Planning Commission 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.

**149 St. James Drive
Fence Design Review**

Resolution 207-DR-13

WHEREAS, the Property Owner is requesting permission to replace the existing wire fence, wood fence and three entry gates along St. James Drive with an approximately 5'6" high new wood fence and double-door entry gate; and make various on-grade hardscape modifications in the front yard located at 149 St. James Drive, Piedmont, California, which construction requires design review; and

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

the project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e) and the proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. The exterior design elements (including but not limited to height, bulk, area openings, breaks in the facade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that the proposed fence will be a vast improvement over the existing fence, which has reached the end of its useful life. Unlike the current fence, which is painted wood, the existing fence will be natural wood and will blend more seamlessly into the surroundings. The fence currently is comprised of uniform 12-inch-high horizontal boards, which are out of scale with the house's 4-inch siding. The new design reduces the height of the horizontal members and echoes the scale of the house's detailing. The gaps between the boards of the new fence will break up the mass of the vertical surface and, while providing privacy, also connect the house's front yard with the public street. The proposed fence changes only the aesthetic of the fence—for the better, in our opinion (and their neighbors with whom they have spoken agree); neither the location nor height will be changed.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because there will be no impact on neighboring properties' existing views, privacy, or access to direct and indirect sunlight. The house is uniquely located at a hair-pin turn; St. James Drive wraps 270 degrees around the house, and encloses our only usable outdoor space. Due to the steep drop off of the site, the front yard, right along St. James Drive, is the only available outdoor space for the house. St. James Drive is a busy and popular street, used by resident drivers, service vehicles, bicyclists, joggers, dog walkers, and others. The house is level to the street. The design of the proposed fence provides a degree of privacy without being imposing.
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 design will have no impact on the safety of the general public. The safety of visitors and guests will be greatly improved. The current entrances are dangerous due to the street curve. Currently the main gate is located in the most dangerous location possible—at the tip of the hair-pin curve—where visibility to oncoming cars is the most limited. With the increasing number of “silent” hybrid vehicles, this entrance has become even more dangerous. The new single entrance off to the side is in the safest location for visitors to cross the street to get to our house. Additionally, the proposed hardscaped entry area outside the fence is large enough to accommodate several people, keeping everyone safely off the street. The new fence will match the existing fence in location and height. The fence will not in any way decrease the public space. Requiring the applicant to move the fence from its current location to the property line would be a waste of unused space as there is no sidewalk, and no sidewalk is planned for the side of the street. The applicant is not trying to use usable public space for their private purposes.
4. The project complies with Design Review Guidelines V-1, V-2, V-3, V-4, V-5(a) through (c), V-6, V-7, V-8, V-9, V-10, V-11.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for construction at 149 St. James Drive, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **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.

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
116 Monticello Avenue**

Resolution 211-DR-13

WHEREAS, the Property Owner is requesting permission to remove an existing front yard wood fence and two entry gates varying in height with a maximum height of approximately 6 ft. and construct a newly designed wood fence (with a maximum height of approximately 6 ft.) and two entry gates (measuring 6'8" and 4'8" in height) in the same location located at 116 Monticello 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 existing fence which need to be replaced and will be more aesthetically pleasing to the neighbors

2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because it will not affect those issues.
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 circulation pattern will not be changed and will increase security of residents.
4. The project complies with Design Review Guidelines V-1, V-2, V-3, V-4, V-5 (a) through (c), V-6, V-7, V-8, V-9, V-10, V-11.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for construction at 116 Monticello Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following condition:

1. 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 Theophilos, Seconded by Hobstetter
Ayes: Chase, Hobstetter, Ode, Theophilos, Zhang,
Noes: None
Absent: None

PUBLIC FORUM

There were no speakers for the public forum.

APPROVAL OF MINUTES

Resolution 9-PL-13

RESOLVED, that the Planning Commission approves as submitted its meeting minutes of July 8, 2013.

Moved by Theophilos, Seconded by Chase
Ayes: Chase, Hobstetter, Ode, Theophilos, Simpson
Noes: None
Abstain: Zhang

Absent: None

REGULAR CALENDAR

Variance, Design Review & Second Unit Permit with Parking Exception 72 Wildwood Avenue

The Commission considered the following items of regular business:

The Property Owner is requesting variance, design review and second unit permit with parking exception to demolish an existing non-conforming rear 2-car garage and rebuild a conforming 2-car garage with an adjacent uncovered 1-car parking pad in the Sylvan Way setback. Attached to the proposed new garage is a proposed 690 sq. ft. 2-story, 1-bedroom residential structure. The top story of the residential structure is proposed for a 1 bedroom, 690 sq. ft., low income second unit. Exterior stairs located between this unit and the garage propose to lead to the lower level of the structure which has a hallway and open covered porch, a mechanical room, storage room and a 306 sq. ft. recreational room with a half bath. The recreational room cannot be connected to the second unit because it would create a unit that is too large for the lot per the City Code; hence this recreational room can only be used by the primary residence. A cantilevered upper level balcony facing the yard is proposed for the second unit. The requested variances are from: (1) Section 17.40.5(a)(ii) to allow the new garage to extend to within 1'6" of the east side property line in lieu of the code required minimum of a 4 ft. side yard setback; and (2) Section 17.40.5(a)(ii) to allow the new garage to extend to within 12'6" of the rear property line in lieu of the Code required minimum of a 20 ft. street-side setback. An Exception pursuant to Section 17.40.5(a)(iii) is requested to allow an open, uncovered on-site parking space in lieu of the code required minimum of a covered parking space.

Written notice was provided to neighbors. **Four affirmative, five negative response forms** were received. **Correspondence** was received from: Marcia & Wayne Abbott; Paul & Carol Cohen; Carlos Broullon;

Public testimony was received from:

Aaron Aubrecht and Amy Aubrecht, co-owners of the property, briefly presented the project and requested approval as submitted. Both answered questions from the Commission regarding efforts made to address the concerns of neighbors, and regarding the project itself.

T.C. Chen, Project Architect, described how the design has been modified to minimize impacts on neighboring property, but in keeping with the desires and budget of the applicant.

Carol Cohen, neighbor and resident of 44 Sylvan Way, voiced strong objections to the project, citing significant impact to light, privacy, and views on their property. She also addressed the scale of the project as not in keeping with the neighborhood, the ill- placement of the front of the unit to face Wildwood, and safety and parking issues arising on Sylvan Way.

The Commission discussed the project at length, voicing concern that the project as currently designed imposes significant light, view, and privacy impact on the neighbor at 44 Sylvan Way. Concerns were also voiced about an increase in traffic and parking with the addition of a second unit on the Sylvan Way side of the property, knowing that Sylvan Way is already highly impacted in this regard. Several Commissioners brought up issues of construction vehicles on Sylvan, which City Planner Kate Black explained would be addressed in the requisite

Construction Management Plan. Overall the Commission acknowledged that the site itself is difficult to work on, given the grade of the slope, and the proximity of adjacent properties. Also, with the current design, the impact to the neighbors and neighborhood would be greater than the value added of the project in its current state. Alternatives to the submitted proposal were offered, including situating a 2nd unit under the main house fronting on Wildwood Avenue, a single-story second unit, constructing a 2nd unit above the back garage or not having any work done to impact Sylvan Way at all.

The Commission expressed a willingness to consider a variance in the future related to a new garage associated with a new project design.

Resolution 104-V/DR/SU-13

WHEREAS, the Property Owner is requesting permission to demolish and rebuild an existing non-conforming rear 2-car garage and rebuild a conforming 2-car garage with an adjacent uncovered 1-car parking pad in the Sylvan Way setback; construct a proposed 690 sq. ft. 2-story, 1-bedroom residential structure attached to the new garage, with a top story consisting of a 1 bedroom, 690 sq. ft., low income second unit; construct exterior stairs located between this unit and the garage leading to the lower level of the structure which has a hallway and open covered porch, a mechanical room, storage room and a 306 sq. ft. recreational room with a half bath (The recreational room cannot be connected to the second unit because it would create a unit that is too large for the lot per the City Code; hence this recreational room can only be used by the primary residence), and construct a cantilevered upper level balcony facing the yard on the second unit located at 72 Wildwood Avenue, Piedmont, California, which construction requires variance, design review and second unit permit with parking exception; and

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary in order to reconstruct the garage in the eastern side yard setback and the Sylvan Way 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 present unusual physical circumstances, including but not limited to the fact that the variance situation is pre-existing on this odd-shaped lot and rebuilding a new conforming 2-car garage would benefit the Sylvan neighborhood in the future. However, because there is no approved design for a new 2-car garage, associated variances for such a garage cannot be approved at this time.
2. The proposal does not conform with the criteria and standards of Section 17.20.9 of the Piedmont City Code.
3. The exterior design elements are not aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. The proposed second unit faces Wildwood Avenue rather than Sylvan Way and its cantilevered second floor creates an awkward appearance that does not enhance the structure's aesthetics. In addition, the construction of an additional second unit adjacent to Sylvan Way would place an undue burden on Sylvan Way

residents in that this through-lot configuration is already bordered by numerous houses and garages creating traffic congestion and potential safety hazards.

4. The proposed new multi-level structure has not been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.70). The proposed 2-story second unit will entirely obstruct the view and light of 44 Sylvan Way, resulting in a 19 ft. tall wall looming over this neighboring property. Several design alternatives exist to mitigate this negative impact on neighboring properties.

5. The size and height of the structure is not in keeping with the size of the lot and neighborhood development pattern. The proposed second unit would be the only second unit in the neighborhood with an independent, first-floor recreation room and the only second unit with a parking exception. It would be preferable that if the property owners wish to have a family recreation room, this room be located within the primary residence and not in the second unit. Also, granting a parking exception for this second unit would be far more detrimental to the Sylvan Way neighborhood than advantageous for the City of Piedmont in terms of housing stock inventory.

6. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are adversely affected, considering the circulation pattern, parking layout and points of ingress and egress in relation to Sylvan Way. Sylvan Way is a very narrow street, frequently used as a short-cut and is bordered by numerous garages. Allowing a parking exception for the proposed second unit would result in additional traffic and parking congestion along this narrow roadway to the detriment of the neighborhood in terms of pedestrian and vehicle safety.

7. The project does not comply with Design Review Guidelines I-1(a), I-2(d), I-4, I-7, II-1, III-1, III-3(a), III-4.

8. The proposal does not conform with the criteria and standards of Section 17.40 of the Piedmont City Code.

9. In looking at the totality of circumstances, there is not sufficient street parking available to accommodate the parking exception.

10. The parking exception will negatively impact traffic safety and create hazards by obstructing views to or from adjoining sidewalks, driveways and streets.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies, without prejudice, the variance, design review and second unit permit with parking exception application for construction at 72 Wildwood Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Simpson, Seconded by Chase

Ayes: Chase, Hobstetter, Theophilos, Zhang, Simpson

Noes: None

Recused: Ode

Absent: None

**Fence Design Review
& Design Review
1919 Oakland Avenue**

The Property Owner is requesting fence design review and design review to rebuild the landing and stairs at the front entryway with modifications to exterior materials; build new freestanding walls at the east side of the property; and make various hardscape changes along the south and east sides of the property.

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

Public testimony was received from:

Allan Duckett, Owner who presented and requested approval of the project as submitted.

The Commission asked questions regarding the use of stamped colored concrete as opposed to mimicking the original brick, commenting on the various different styles of stonework being used. Commissioner Ode commended the installation of a drip irrigation system. The overall consensus is that the project brings welcomed improvement to the property.

Resolution 203-DR-13

WHEREAS, the Property Owner is requesting permission to rebuild the landing and stairs at the front entryway with modifications to exterior materials; build new freestanding walls at the east side of the property; and make various hardscape changes along the south and east sides of the property located at 1919 Oakland 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 the exterior stairs with the wrought iron railing are harmonious with existing and proposed neighborhood development in that they are consistent with the style of the neighborhood.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because there is no negative impact.
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.
4. The project complies with Design Review Guidelines II-1, II-2, II-3(a) through (d), II-5(a), II-6, II-6(a) through (c), II-7, II-7(a), V-1, V-2, V-3, V-4, V-5, V-5(a) through (c), V-6, V-7, V-9.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for construction at 1919 Oakland Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **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.

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.

3. **Encroachment Permit.** When required by the Chief Building Official, 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.

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 Hobstetter

Ayes: Chase, Hobstetter, Ode, Theophilos, Zhang

Noes: None

Absent: None

**Fence Design Review
& Design Review
536 Magnolia Avenue**

The Property Owner is requesting fence design review and design review to remodel and expand the house through the following: the reconstruction of the existing carport as a 2-car garage with roof deck atop and stairs to the rear yard; the construction of a 122 sq. ft. main-level rear addition; the enlargement and relocation of the upper-level rear deck; window, door, skylight and exterior lighting modifications; guardrail design alterations throughout; the removal of two chimneys; various changes to the interior including the retroactive approval for the development of habitable space on the basement level; and the widening of the driveway and construction of a new retaining wall with guardrail in the front yard. A similar application was denied without prejudice by the Commission on June 10, 2013.

Written notice was provided to neighbors. **One negative response form** was received. **Correspondence** was received from: Hanna Lin & Mike Lucaccini;

Public testimony was received from:

Michael Lucaccini, owner, clarified modifications in the project's design following the Commission's recommendations of June 10, 2013. These include a deck modification to a split level design and moving the deck stairs to the south side of the deck – both to address privacy and view concerns of the neighbors. Also, moving the addition and main floor deck to the North, lowering the garage ceiling height from 12' to 8', reducing the over hang and the upper floor deck, removing the privacy screen, and changing the guardrail design to a more traditional style. An arborist was also consulted regarding the health of the incense cedar that is close to the planned widened driveway.

The Commission commended the applicant for the intelligent improvements and modifications to the original design that indicated clearly listening and addressing the concerns of neighbors and the Commission.

Resolution 208-DR-13

WHEREAS, the Property Owner is requesting permission to remodel and expand the house through the following: the reconstruction of the existing carport as a 2-car garage with roof deck atop and stairs to the rear yard; the construction of a 122 sq. ft. main-level rear addition; the enlargement and relocation of the upper-level rear deck; window, door, skylight and exterior lighting modifications; guardrail design alterations throughout; the removal of two chimneys; various changes to the interior including the retroactive approval for the development of habitable space on the basement level; and the widening of the driveway and construction of a new retaining wall with guardrail in the front yard located at 536 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. These elements include but are not limited to: height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment. The distance between the proposed upper level addition/expansion or new multi-level structure and adjacent residences is reasonable and appropriate due to the existing topography and neighborhood development pattern. Upper level setbacks greater than the setbacks required for the lower level have been considered and are/are not necessary to reduce losses of ambient and reflected light because there is minimal increase in the floor area ratio and garage reconstruction maintains the lines with minimal impact on mass, the upper deck design is in alignment with the existing rooflines:

2. The proposed upper level addition/expansion has been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.70), including consideration of the location of the new construction, lowering the height of the addition, expansions within the existing building envelope (with or without excavation), lower level excavation for new multi-level structures, and/or changing the roof slope or ridge direction:
3. The size and height of the addition is commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and is in keeping with the existing neighborhood development pattern:
4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. In accordance with Sections 17.16.1 and 17.22.1, the existing or proposed on-site parking is appropriate to the size of the new upper level or new multi-level structure or addition, and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood.
5. 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(a), III-1, III-1(a), III-2, III-2(a), III-4, III-5(a), III-6(a), III-7, III-7(a), IV-3.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for construction at 536 Magnolia Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Roof Color.** The proposed flat roofs shall be a non-reflective medium or dark color to minimize the visual impact on upslope properties.
2. **Certified Tree Preservation Plan.** Before the issuance of a building permit, the Property Owner shall prepare for review and approval by staff a Tree Preservation Plan that incorporates tree preservation measures for the front yard incense cedar recommended in the Arborist's Report, prepared by Dennis Yniguez of Tree Decisions, dated July 29, 2013. The tree preservation measures shall be on the appropriate sheets of the construction plans. The arborist shall be on-site during critical construction activities related to the new retaining wall at the north side of the entrance to the driveway, including initial and final grading, to ensure the protection of the existing incense cedar tree. The arborist shall document in writing and with photographs the tree protection measures used during these critical construction phases. If the incense cedar tree has been compromised, mitigation measures must be specified in writing, and implementation certified by the Project Arborist. Should the Arborist recommend removal of the incense cedar tree, an in-lieu replacement tree or trees shall be planted elsewhere on the property. Replacement tree size is subject to staff review and shall generally be a minimum of 24" box size. Before the Final Inspection, the Arborist shall file a report to the City certifying that all tree preservation measures as recommended have been implemented to his/her satisfaction and that the incense cedar tree has not been compromised by the construction.

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 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 an endorsement requiring notice to the City if the insurance is cancelled or changed, and Property Owner shall immediately arrange for substitute insurance coverage. If the Property Owner does not have a general contractor, the Property Owner shall maintain property insurance and coverage for contractors, which is substantially equivalent to the contractor's requirement of this section.

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

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

6. **Double Trailer Truck Prohibition.** To reduce potential damage to the streets and to avoid traffic hazards on narrow curving city streets, no double trailers shall be used as part of the Project.

7. **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.

8. **Property Line Location.** A licensed land surveyor shall be required by the Building Department to verify and mark the location of the north property line at the time of foundation and/or frame inspection to verify the approved setback dimension measured to the new construction.

9. **Notice of Restricted Use.** The utility and storage rooms located on the east side of the basement level do not meet habitation or safety requirements of the Piedmont Municipal Code. A notice of restricted use shall be recorded with the Alameda County Recorder's office advising current and future owners that these two rooms do not meet the safety codes for habitation or sleeping purposes.

10. **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. Construction Site Control of Stormwater. The California Regional Water Quality Control Board requires all projects that disturb the site to comply with Provision C.6 of the San Francisco Bay Regional Stormwater NPDES Permit in order to prevent construction site discharges of pollutants and other regulated materials during construction. As required by the Chief Building Official and prior to the issuance of a building permit, the Applicant shall develop and submit a construction stormwater management plan as part of the Construction Management Plan to achieve timely and effective compliance with Provision C.6. Permit Provision C.6.ii provides sources for site specific, and seasonally-and-phase-appropriate, effective Best Management Practices (BMPs) that may be incorporated into the stormwater management plan. Copies of the Municipal Regional Stormwater Permit are available from the Piedmont Public Works Department and on-line at cleanwaterprogram.org.

11. 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. The Director of Public Works has the option to refer the application to the Planning Commission 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 Ode , Seconded by Chase

Ayes: Chase, Hobstetter, Ode, Theophilos, Zhang

Noes: None

Absent: None

**Design Review
11 Muir Avenue**

The Property Owner is requesting design review for the demolition of the existing 3-car garage and construction of a new 3-car garage attached to the rear of the house; construction of a new terrace above the garage with two railing design alternatives; window and door modifications to accommodate interior changes to all three levels of the residence; a new outdoor shower and a 8'6" high pool equipment house at the northern property line; new exterior lighting; and modifications to the site paving. A new retaining wall is proposed on the rear (western) and side (southern) property lines that will be a maximum of 13 ft high in the southwestern corner of the property (to accommodate a new level rear yard) and will have a 42" high guardrail and a 10 ft. high mesh fence on top for a sports field.

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

Public testimony was received from:

Reid Settlemier, Owner, presented the project as submitted. He stressed that the house would not be altered in appearance from the front at all, and all proposed changes involve the rear side of the property. He spoke with Commissioners extensively about the modifications to the balustrade, incorporating new code regulations as well as aesthetics.

Lawrence Rugg, Project Architect, spoke about 3 main project desires: maintain the appearance of the house from the street, take advantage of the western views of San Francisco bay, and make the backyard more usable. Moving the garage enables the view to open up and create more usable space in the yard, and making a sports area in the southwestern corner would not obstruct the views. The design for the ballustrade was also done in consideration of the views.

Rochelle Wolk, neighbor and resident of 335 La Salle addressed her grave concerns and strong objections to the part of the project regarding the 13' high retaining wall, 42" high guardrail and a 10 ft. high mesh fence on top for a sports field. This would negatively impact the air, light, and view of her property. It would also jeopardize an old spruce tree in the corner of the yard where construction is proposed. Changes to the land contour and drainage patterns caused by the retaining wall and the amount of fill being proposed behind the wall may lead to future problems with drainage, landscaping and containment. The sports yard also brings concerns about noise and privacy.

David White, resident at 160 Sandringham Road and son-in-law of Ms. Wolk expressed great concern about the retaining wall and mesh fence, which would block the only area of Ms. Wolk's yard that allows for light, and airflow, and essentially placing her yard in a "hole". Even with the depression of the sports yard, issues would still need to be addressed regarding noise and privacy.

The Commission addressed concerns of neighbor Rochelle Wolk at 335 La Salle Avenue regarding the building of a retaining wall at the southwest corner of the applicants property. The retaining wall, 42" high guardrail and a 10 ft. high mesh fence on top for a sports field would greatly negatively impact the property at 335 La Salle Avenue. Upon questioning, Mr. Settlemier presented a written list of landscape materials that could be planted to mitigate the visual impact of the retaining wall, and indicated a willingness to change the height and grade. The Commission generally expressed concern about the impact of the retaining wall on the adjacent property, and stressed that this property is a landmark home in Piedmont and is not prepared to review a conceptual project not yet documented with plans. Commissioner Theophilos expressed particular concerns about the height of the combined retaining wall, guardrail and mesh fence. Recommendations included depressing the sports yard rather than having it elevated to the requirement of such a high wall, including a terracing of 2 6 foot set back walls, and doing away with the sports yard from the corner of the yard altogether. Regarding the ballastrade, despite the desire to have the original design kept intact, the Commission agreed that both designs would be acceptable.

Resolution 212-DR-13

WHEREAS, the Property Owner is requesting permission for the demolition of the existing 3-car garage and construction of a new 3-car garage attached to the rear of the house; construction of a new terrace above the garage with two railing design alternatives; window and door modifications to accommodate interior changes to all three levels of the residence; a new outdoor shower and a 8'6" high pool equipment house at the northern property line; new exterior lighting; and modifications to the site paving. A new retaining wall is proposed on the rear (western) and side (southern) property lines that will be a maximum of 13 ft high in the southwestern corner of the property (to accommodate a new level rear yard) and will have a 42" high guardrail and a 10 ft. high mesh fence on top for a sports field construct located at 11 Muir 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 with the exception of the retaining wall and sports yard/court and landscaping, 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:
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because with the elimination of the sports court and retaining wall, it has none of these items.
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 none of these are affected.
4. As conditioned, the project complies with Design Review Guidelines: II-1, II-2, II-3(a), II-3(b), II-4, II-5, II-6, II-6(a) and (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, III-7(a).
5. Both railing designs are approved.

With respect to the retaining wall, it does not comply with the criteria and standards of Section 17.20.9 of the Piedmont City Code, and does not comply with Design Review Guidelines IV-1, IV-2, IV-2(a), IV-3, IV-3(a), IV-4, IV-4(a).

RESOLVED, that based on the findings and facts set forth heretofore, with the exception of the retaining wall and sports yard/court and landscaping, the Piedmont Planning Commission approves the design review application for construction at 11 Muir Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

- a. Stormwater BMPs for Construction. Property Owner shall implement (1) stormwater treatment Best Management Practices (BMPs) and (2) Bay Area Stormwater Management Agencies Association's "Start at the Source" criteria for stormwater quality protection. City Staff may impose additional requirements involving the prevention of storm water pollution during construction and permanent drainage, erosion and sediment control. These items will be reviewed as part of the Property Owner's Construction Management

Plan.

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

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

4. **Contractor's General Liability Insurance.** To ensure that the contractor doing work in the City will be responsible for damages caused by the work to City property or to neighboring property, the Property Owner shall require all contractors 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 an endorsement requiring notice to the City if the insurance is cancelled or changed, and Property Owner shall immediately arrange for substitute insurance coverage. If the Property Owner does not have a general contractor, the Property Owner shall maintain property insurance and coverage for contractors, which is substantially equivalent to the contractor's requirement of this section.

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

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

7. **Approved Plan Set.** The approved plans are those submitted on August 1, 2013, after notices to neighbors were mailed and the application was available for public review;

8. **Geotechnical Report and Review.** At the option of the Building Official, the Property Owner may be required to submit a report prepared by a geotechnical engineer of the Property Owner's choice that fully assesses the exiting site conditions, and addresses all issues regarding excavation and grading, foundations and their construction, drainage, retaining wall systems, periodic on-site observations, and other related items involving the Project.

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

9. **Foundation/Shoring Excavation Plan.** At the option of the Building Official, the Property Owner shall submit foundation, excavation and shoring plans prepared by a structural engineer that fully address issues of site shoring, fencing and hillside security issues. The plans shall not require any trespassing or intruding into neighboring properties (without prior written consent) and shall mitigate against any subsidence or other damage to neighboring properties.

Such plans shall incorporate as appropriate the recommendations of the Property Owner's geotechnical engineer and the City's geotechnical consultant, and shall be subject to approval by the City Engineer and the Chief Building Official.

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

(a) Landscape Documentation Package that includes the following 6 items:

- a. Project Information;
- b. Water Efficient Landscape Worksheet;
- c. Soil Management Report;
- d. Landscape Design Plan;
- e. Irrigation Design Plan; and
- f. Grading Design Plan

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

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

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

(The form for the Landscape Document Package and a Frequently Asked Questions document on the CA-WELO requirements is available at the Public Works Counter and on the City website at www.ci.piedmont.ca.us)

11. BAAQMD Compliance. The Property Owner shall comply with the Bay Area Air Quality Management District regulations related to any building demolition. The Demolition Notification form is available on their website at www.BAAQMD.gov/forms.

12. Stormwater Design. The California Regional Water Quality Control Board requires all projects, or a combination of related projects, that create and/or replace 2,500 sq. ft. or more of impervious surface to comply with Provision C.3.i of the Municipal Regional Stormwater NPDES Permit. As required by the Chief Building Official, the Property Owner shall verify the total area of impervious surface to be created and/or replaced within the scope of this project, or this project combined with other related projects and/or permits, and incorporate the site design measure(s) required under Provision C.3.i into the plans submitted for a building permit. Copies of the Municipal Regional Stormwater Permit are available from the Piedmont Public Works Department and on-line at cleanwaterprogram.org.

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 Theophilos , Seconded by Chase

Ayes: Chase, Hobstetter, Ode, Theophilos, Zhang

Noes: None

Absent: None

**Design Review
74 Sandringham Road**

The Property Owner is requesting design review to modify a previously approved design (April 12, 2010) and location for new entry steps and handrails and to modify the design of a new fence on the street-side edge of the driveway from what was previously required by the Planning Commission.

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

Public testimony was received from:

Horacio R. Woolcott, Owner, described the changes in construction of the retaining wall contrary to the previously approved plans and, in response to Commissioners questions, the reasons for that change, including concealment of the utility meter, and need for structural strength of the retaining wall.

The Commission reviewed the various submitted plans and inconsistencies therein. They expressed dismay at the construction work that has taken place in opposition to the approved plans of April 12, 2010 and discussed at length the reasons behind this. Requests were made to soften the appearance of the wall with vegetation, and increase ornamentation of the wrought iron. The Commission stressed that as the original wall was meant to be much lower, the higher wall should be softened with vegetation. It was also stressed that architectural renderings should not be inconsistent, which leads to confusion in decision and implementation.

Resolution 217-DR-13

WHEREAS, the Property Owner is requesting permission to modify a previously approved design and location for new entry steps and handrails and to modify the design of a new fence on the street-side edge of the driveway from what was previously required by the Planning Commission located at 74 Sandringham Road, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e) and as conditioned, 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 it eliminates the jutting out curve of the staircase that keeps it from jutting out on the driveway and will incorporate wrought iron fencing of various wall heights, and there are similar stone work /wrought iron designs in the neighborhood.

2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because it will not affect those issues.

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 applicant has provided a well designed ingress and egress and will not affect neighborhood traffic pattern.

4. As conditioned, the project complies with Design Review Guidelines: II-1, II-3, II-3a, II-3b, II-3c, II-3d, II-5, II-5a, II-6, II-6a, II-6b, II-6c, IV-1a, IV-1b, IV-2a, IV-3, IV-4, IV-5, IV-6, V-I, V-2, V-3, V-5a, V-5c, V-9

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

1. No changes to the house are proposed or approved within the scope of this application.

2. Compliance with the conditions of approval specified as part of the prior approval on the residence at 74 Sandringham Road under Design Review Application #10-0083 shall extend to this application, except that condition #25 regarding the design of the fence along the northern edge of the driveway and steps in front of the garage, shall be revoked. The fence shall have a maximum height measured from the driveway grade of 5'10" that includes a 3 ft. stone base that increases in height to 3'7" directly adjacent to the 6 ft. high pedestrian gate, and where the fence runs along the steps to the side yard it shall have a maximum height measured from the nose of the stairs of 5'5" that includes a 5 1/2 inch stucco clad wall.

3. Both sides of the steps will have applied stone on the concrete retaining wall and the applicant must create some artistry using the railing and metal posts that would compliment the Mediterranean style, with the design subject to staff 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 Chase , Seconded by Theophilos

Ayes: Chase, Hobstetter, Ode, Theophilos, Zhang

Noes: None

Absent: None

ADJOURNMENT

There being no further business, Chairman Zhang adjourned the meeting at 9:30 p.m.