

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, January 14, 2013

A Regular Session of the Piedmont Planning Commission was held January 14, 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 December 31, 2012.

CALL TO ORDER

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

ROLL CALL

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

Staff: Assistant Planner Kevin Jackson, Planning Technicians Sylvia Toruno and Jennifer Feeley and Recording Secretary Chris Harbert

City Council Liaison: Councilmember Robert McBain

CONSENT CALENDAR

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

Conditional Use Permit 370 Highland Avenue

Resolution 333-CUP-12

WHEREAS, Edward Jones is requesting a Conditional Use Permit to continue to operate a investment brokerage service at 370 Highland Avenue, Piedmont, California, and;

WHEREAS, the Piedmont Planning Commission has reviewed the application, the staff report, and any and all other documentation and testimony submitted in connection with the application and has visited the subject property;

The Piedmont Planning Commission makes the following findings:

1. The use is of benefit to Piedmont residents because it provides convenient accessibility to brokerage and financial services.
2. The use will be properly related to other land uses and transportation and service facilities in the vicinity because it is within easy walking distance of several neighborhoods and regular bus line service in this commercial area of Piedmont.
3. Under all the circumstances and conditions of the particular case, the use will not have a material adverse effect on the health or safety of persons residing or working in the vicinity. This is a small office use located on the second floor of an existing commercial building.
4. The use will not be contrary to the standards established for the zone in which it is to be located. The use is located in a commercial zone and there are other offices located in this building.
5. The use will not contribute to a substantial increase in the amount of noise or traffic in the surrounding area. This is a 2-person office use and the number of employees does not exceed the former use of this space.
6. The use is compatible with the General Plan and will not adversely affect the character of the surrounding neighborhoods or tend to adversely affect the property values of homes in the surrounding neighborhoods.

7. Adequate provision for driveways to and from the property has been made; facilities for ingress and egress from secondary streets instead of arterials, where possible, have been made; provision for parking in compliance with this Chapter 17 has been made, together with sufficient agreements to enforce the carrying out of such plans as may be required by the Council.

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

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

RESOLVED, that in consideration of the findings and facts set forth above, the Piedmont Planning Commission recommends approval by the City Council of the application for a conditional use permit by Edward Jones for property located at 370 Highland Avenue, Piedmont, subject to the following conditions:

1. The term of the approval shall be 10 years.
2. If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.

Variance
219 Sunnyside Avenue

Resolution 354-V-12

WHEREAS, Mr. and Mrs. Scott Sanborn are requesting permission to construct a new balcony on the east facade, make window and door modifications; add exterior lighting and make various interior changes including the addition of a 4th bedroom located at 219 Sunnyside Avenue, Piedmont, California, which construction requires variance; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary in order to increase the number of rooms eligible for use as a bedroom from 3 to 4 without supplying conforming parking; and

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

1. The project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e).
2. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to: The existing garage, which is built

into the front slope of the property, contains two non-conforming parking spaces. To extend the length of the garage to meet the current requirement would entail excavating the slope further, constructing tall retaining walls and completely rebuilding the garage. Because of these circumstances, strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone which conform to the zoning requirements.

3. The variance is compatible with the immediately surrounding neighborhood and the public welfare as follows: Many of the properties in this neighborhood have non-compliant parking. The sloped nature of the lots on both sides of the street makes providing parking physically challenging. The existing garage does accommodate two average size vehicles. The applicants regularly park their cars in the garage. Granting the variance will not change the way they use their property or give them advantage.

4. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction as follows: Without the variance, the applicant could not remodel to create a third upstairs bedroom. Given the very large size of the lot and the existence of a usable garage, the proposed improvements are very modest.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application of Mr. and Mrs. Sanborn for the above variance at 219 Sunnyside Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

**Design Review
219 Sunnyside Avenue**

Resolution 354-DR-12

WHEREAS, Mr. and Mrs. Scott Sanborn are requesting permission to construct a new balcony on the east facade, make window and door modifications; add exterior lighting and make various interior changes including the addition of a 4th bedroom located at 219 Sunnyside Avenue, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements (including but not limited to height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and

electrical equipment) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that: The proposed new windows and doors are similar in size and style to the existing doors and windows. Like the existing windows, they are wood, a mix of casement, double-hung, and transom, with similar lite patterns.

2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because: All of the proposed project takes place within the existing building envelope except the addition of the master deck. This deck overlooks its own property. Neither it nor any of the proposed new windows compromise the privacy of the neighboring properties.

3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because: The proposed improvements have no impact on pedestrian or vehicular traffic flow and safety.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Sanborn for construction at 219 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.

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. 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.

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

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

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

**Variance
209 Crocker Avenue**

Resolution 361-V-12

WHEREAS, Mr. and Mrs. Stephen Pratt are requesting permission to modify the front facade of the existing rear detached garage located at 209 Crocker Avenue, Piedmont, California, which construction requires variance; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary in order to construct within the right (north) side yard setback; and

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

1. The project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e).
2. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to: A portion of the existing garage is located within 2'6" of the north property line. We are proposing decorative additions to the garage, a portion of which will be located in the setback within the existing footprint. Because of these circumstances, strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone which conform to the zoning requirements.

3. The variance is compatible with the immediately surrounding neighborhood and the public welfare as follows: The existing use and capacity of the garage will be maintained.

4. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction as follows: The garage is existing the only way to make it comply would be to demolish it and build it outside the required 4 ft. setback.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application of Mr. and Mrs. Pratt for the above variance at 209 Crocker Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

**Design Review
209 Crocker Avenue**

Resolution 361-DR-12

WHEREAS, Mr. and Mrs. Stephen Pratt are requesting permission to modify the front facade of the existing rear detached garage located at 209 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 in that: The proposed garage renovation matches the materials, details, and architectural vocabulary of the main house.

2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because: The design does not affect neighbors' views, privacy and access to light.

3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because: There are no changes to points of ingress and egress.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Pratt for construction at 209 Crocker Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

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

4. **Window Sash.** The color and dimensions of the blind window sash shall match the color and dimension of the window sashes on the main house.

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

**Design Review and
Fence Design Review
505 Scenic Avenue**

Resolution 362-DR-12

WHEREAS, Mr. and Mrs. Vittorio Salvo are requesting retroactive permission for modifications to a previously approved application (#09-0150 -- August 10, 2009), including an entry gate; a side yard gate and platform for a PG&E electrical panel; retaining walls; planters; a fountain; an enclosed gas meter; a trellis; and various landscaping plantings construct located at 505 Scenic Avenue, Piedmont, California, which construction requires design review; and

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

the 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: (1) the new front gate is more porous and inviting than the old dilapidated and solid wood gate. (2) The PG&E utility gate is designed to be indistinguishable from the adjacent fence. The utility platform is on grade and is not visible from the street. (3) the new (24") concrete planter reduces the scale of the fence and makes the front yard more approachable and inviting for passersbyers. (4) The trellis breaks the scale of the southeast wall below the garage.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because: Overall the effect is that the property looks more maintained and approachable than previously. The changes do not adversely affect neighboring properties.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because: The proposed project improves the safety of the property by making the garage very visible and the entrance into the property very well marked.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Salvo for construction at 505 Scenic Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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.
2. **Approved Plan Set.** The approved plans are those submitted on January 2, 2013, with revisions made on January 3, 2013, after notices to neighbors were mailed and the application was available for public review.

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

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

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

PUBLIC FORUM

There were no speakers for the public forum.

APPROVAL OF MINUTES

Resolution 1-PL-13

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

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

REGULAR CALENDAR

Design Review 291 Scenic Avenue

The Commission considered the following items of regular business:

Ms. Pam Hirtzer is requesting design review to make various exterior improvements including a rear deck expansion; door modifications; and stylistic changes to existing railings throughout the property.

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

Public testimony was received from:

Ahmad Mohazab, Project Architect, described the proposed change to a more transparent railing design and material in order to maximize the applicant's view into the lot's wooded setting. In response to Commission questions concerning whether the railing along the carport needed to be increased in height to 42 inches, Mr. Mohazab concurred that such a height increase is probably required by the building code and he agreed to increase the railing height from the proposed 36 inches to the 42 inch height.

Pam Hirtzer stated the proposed changes to the home's decking and railing are to improve aesthetics and enhance the functionality and enjoyment of her property.

The Commission supported application approval, agreeing that the railing height around the carport should be increased to 42 inches in height, acknowledging that the steep slope nature of the lot justifies the creation of usable outdoor area directly off of the home's main living level and noting that the proposed improvements will have no impact on adjacent neighbors.

Resolution 342-DR-12

WHEREAS, Ms. Pam Hirtzer is requesting permission to make various exterior improvements including a rear deck expansion; door modifications; and stylistic changes to existing railings throughout the property located at 291 Scenic Avenue, Piedmont, California, which construction requires design review; and

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

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in their style and detailing. The proposed railings incorporate wood elements, are designed to maximize the view of the property's native landscaping and are appropriately appealing and well-suited to the property.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light. The proposed improvements will improve the quality, consistency and transparency of the property's railings. The project will not materially affect neighboring property.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. The safety of the property is being enhanced by replacing the carport's existing guardrail with a new code-compliant, 42 inch high railing.
4. The project complies with Design Review Guidelines II-2, II-3(a) through (d), II-5 and II-8.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Ms. Hirtzer for construction at 291 Scenic Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. Due to the scope and nature of the application, a construction management plan shall be developed and approved by staff prior to obtaining a building permit. Said plan shall be comprehensive while specifically addressing the duration of the project, construction hours, the staging of materials, and parking of worker vehicles to ensure the free flow of traffic along Scenic Avenue;
2. If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.
3. The guardrail surrounding the carport shall be modified to reflect the same design style as proposed but with a height of 42 inches. Said modification to be subject to staff review and approval.

RESOLVED FURTHER, that the approval of the Planning Commission/City Council and any conditions of that approval shall not extend to any particulars set forth in the documents submitted for the project which are inconsistent with or in violation of any applicable law, including but not limited to Chapters 5 and

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

Moved by Kellogg, Seconded by Henn

Ayes: Chase, Henn, Kellogg, Robertson, Zhang

Noes: None

Absent: None

**Fence Design Review
145 Lexford Road**

Mr. and Mrs. Howard Fields are requesting fence design review for retroactive approval for the construction of a new driveway and pedestrian gate as well as the installation of a new deer fence along Lexford Road and Huntleigh Road.

Written notice was provided to neighbors. **Correspondence** was received from: Vivian Dorsch, Dana & Misako Sack

Public testimony was received from:

John Huebschwerlen, Project Contractor, submitted samples of the wire fence material, stated that the fence is virtually invisible because it is hidden by vegetation and that the new cedar gate will darken in color over time. The gate has an automatic opener that is triggered by vehicles but not deer.

The Commission discussed at length, agreeing that the style and materials of the deer fence are inappropriate and inconsistent with the design standards of the neighborhood and Piedmont in general. While the Commission acknowledged the large size of the property (essentially 3 parcels), it emphasized that a more attractive fencing design should be proposed for at the very least, the portions of the property bordering the Huntleigh and Lexford Road frontages. The Commission was divided as to whether the proposed utilitarian design of the fence could be retained for the interior portions of the large lot. The Commission also objected to the height and design of the driveway gate, agreeing that the new gate was not well integrated with the property and lacked architectural quality and detailing. During the discussion of this application, the following suggestions were made for improving the construction: (i) wood or stone fence posts -- for the fence portions bordering street frontage, a low stone retaining wall with metal grill and stone posts; (ii) staining the cedar gate a dark brown color to match the house or having a steel grill gate that matches the deer fence; (iii) providing stone piers for the gate (rather than wood) to better tie in with the property's existing stone entry features; and (iv) pulling the fence inward, farther up the slope and adding more vegetation/landscaping to more completely screen the fence from view.

Resolution 351-DR-12

WHEREAS, Mr. and Mrs. Howard Fields are requesting retroactive permission for the construction of a new driveway and pedestrian gate as well as the installation of a new deer fence along Lexford Road and Huntleigh Road located at 145 Lexford 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) but it does not conform with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. The exterior design elements are not aesthetically pleasing as a whole nor harmonious with existing and proposed neighborhood development in terms of (i) the materials and design of the deer fence, (ii) the materials, design and size of the gate, (iii) the placement of the elements of the property and (iv) the consistency of the materials throughout the project.
2. The design is not appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because its visual impact does not meet the high design standards of the neighborhood.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress.
4. The project fails to comply with Design Review Guidelines V-1, V-2, V-5, V-5(b) & (c).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies, without prejudice, the design review application of Mr. and Mrs. Fields for construction at 145 Lexford Road, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Robertson, Seconded by Zhang

Ayes: Chase, Kellogg, Robertson, Zhang

Noes: Henn

Absent: None

Commissioner Henn noted that his "no" vote reflected his support of the fence as designed for the interior, non-street frontage portions of the property.

**Variance and
Design Review
218 Pacific Avenue**

Mr. and Mrs. Matt Horsley are requesting variance and design review to excavate the basement level to create more living space including a new bedroom and full bathroom; build an addition at the rear of the house at the basement level; make several door and window modifications throughout the house; enlarge the upper level deck at the rear of the house; and to make modifications to stairs, walkways and retaining walls throughout the property. The requested variance is from Section 17.16 to allow a residence with 4 rooms eligible for use as bedrooms with a covered carport measuring 18 ft. 10 in. in width by 19 ft. 5-1/2 in. in length on the right side and 15 ft. 2 in. on the left side in lieu of the code required minimum dimension of 20 ft. by 18 ft.

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

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

Public testimony was received from:

Matt Horsley described the proposed improvements intended to create additional living area and a more cohesive floorplan.

The Commission supported application approval, agreeing that the project (i) develops underutilized space without adding to the home's visual mass or bulk; (ii) upgrades and improves the aesthetics and functionality of the home and rear yard; and (iii) does not materially impact neighboring properties. As to variance, the Commission, with the exception of Commissioner Robertson, supported variance approval, agreeing that the variance situation is pre-existing, the existing carport can accommodate the parking of two vehicles and many homes in the neighborhood have 1-car garages. Commissioner Robertson felt that in reality the carport only functions as a 1-car parking structure but that two parking spaces could be created if it was modified so as to create straight-in parking, thus avoiding the need for a parking variance. The Commission majority voiced concern that such a modification would involve other variances and increase the property's mass and scale. As to design, the Commission noted its preference for a landscaped buffer for the proposed front yard poured-concrete retaining wall and a wrought iron vertical picket railing atop the rear retaining wall, requesting that the poured-concrete rear retaining wall have a textured, stucco-like finish.

Resolution 353-V-12

WHEREAS, Mr. and Mrs. Matt Horsley are requesting permission to excavate the basement level to create more living space including a new bedroom and full bathroom; build an addition at the rear of the house at the basement level; make several door and window modifications throughout the house; enlarge the upper level deck at the rear of the house; and to make modifications to stairs, walkways and retaining walls throughout the property located at 218 Pacific Avenue, Piedmont, California, which construction requires variance; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary in order to increase the number of rooms eligible for use as a bedroom from 3 to 4 without supplying conforming parking; and

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

1. The project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e).
2. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to: the tight configuration on the lot and the limited options available for code compliance. Because of these circumstances, strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone which conform to the zoning requirements.
3. The variance is compatible with the immediately surrounding neighborhood and the public welfare because the existing carport is very similar to other parking structures and capacities in the neighborhood. There are no good alternatives for avoiding a parking variance.

4. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because the slope of the property prevents any additional modifications without variance.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application of Mr. and Mrs. Horsley for the above variance at 218 Pacific Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

Moved by Ode, Seconded by Henn

Ayes: Chase, Henn, Kellogg, Ode

Noes: Robertson

Recused: Zhang

Resolution 353-DR-12

WHEREAS, Mr. and Mrs. Matt Horsley are requesting permission to excavate the basement level to create more living space including a new bedroom and full bathroom; build an addition at the rear of the house at the basement level; make several door and window modifications throughout the house; enlarge the upper level deck at the rear of the house; and to make modifications to stairs, walkways and retaining walls throughout the property located at 218 Pacific Avenue, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that the proposed project provides an opportunity to restore original elements of the home's design, such as matching the wooden windows throughout the home and replacing wood with cement plaster that matches the existing residence. The attractive design is compatible with the existing home and its setting on the lot and there is no additional increase in existing building height or footprint.

2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because there is no change in the existing situation and relationship with neighboring properties. There is no impact on neighbor views or access to light. Neighbor privacy is enhanced through the removal of some doors and stairs. The proposed improvements are consistent in scale and mass with the neighborhood.

3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because there is no change in existing circulation patterns.

4. The project complies with Design Review Guidelines II-1, II-2, II-3(a) through (d), II-6, II-6(b), II-7, II-7(a), IV-1, IV-1(a), (b) & (e) and IV-3(a).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Horsley for construction at 218 Pacific Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

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

- i. Completion of Excavation;
- ii. Completion of Retaining Walls;
- iii. Completion of Foundation;
- iv. Completion of Rough Framing;
- v. Completion of Electrical;
- vi. Completion of Plumbing;
- vii. Completion of Mechanical;
- viii. Completion of Fire Sprinklers;
- ix. Completion of Home;
- x. Completion of Hardscaping and Landscaping; and

b. any further construction benchmarks and conditions of occupancy as may be determined by the Director of Public Works.

c. 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.

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

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

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

5. **Final Landscape Plan.** Before issuance of a building permit, the Property Owner shall submit for staff review and approval a Final Landscape 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.

6. **Guardrail.** The property owner shall provide a guardrail or landscape barrier at the new retaining wall located at the front yard of the property that meets the requirements of the Building Code. The property owner shall provide a guardrail at the new retaining walls at the rear yard of the property that meet the requirements of the Building Code. The specific design of the front retaining wall and guardrail shall be poured concrete with a landscape buffer. The design of the guardrail on the rear retaining wall shall be a vertical, picket wrought iron rail which maintains the curved design of the retaining wall. Said rear retaining wall shall have a textured finish on poured concrete. The design for said guardrails and barrier shall be subject to staff review and approval.

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

Moved by Ode, Seconded by Kellogg

Ayes: Chase, Henn, Kellogg, Robertson, Ode

Noes: None

Recused: Zhang

**Variance and
Design Review
131 La Salle Avenue**

Mr. and Mrs. Paul Swenson are requesting variance and design review to remodel an accessory structure that is a legal second unit by reducing its size, altering the interior, changing the roof design, and making window, door, exterior lighting, hardscape and landscape modifications. The requested variances are from: (1) Section 17.10.7 to allow the new roof structure to extend to within 4 in. of the side property line in lieu of the code required minimum setback of 4 ft.; (2) Section 17.10.8 to allow the new roof structure to extend to within 5 in. of the rear property line in lieu of the Code required minimum setback of 4 ft.; and (3) Section 17.32.4(e)(iii) to allow a reduction in size of the second unit and to increase the amount of hardscape coverage related to the second unit by 192 sq. ft. partially due to a new gravel surface area replacing the demolished part of the accessory structure.

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

Public testimony was received from:

Grier Graf, Project Architect, stated that the intent of the project is to remodel the existing second unit to make it more usable, more architecturally consistent with the main residence and reduce the impact of this unit on neighbors. He noted his concern that proposed Condition #2 requiring the marking of the north and east property lines is not really necessary since the property has been surveyed and there are no changes being proposed affecting the second unit's location on the lot relative to these property lines. The Commission agreed, suggesting that the requirement as to whether or not the property lines be marked should be left to the discretion of the Chief Building Official.

The Assistant Planner referenced staff's recommended Condition #1 proposing that the applicant receive a refund of the \$355 fee paid in connection with the variance from Section 17.32.4. He explained that when Chapter 17 was revised and updated in May of last year, the approved revisions included Code amendments allowing exterior modifications to second units if the proposed modifications enhance the overall attractiveness of the units. However, during the review and revision process, the requirement of Section 17.32.4(e)(iii) was inadvertently overlooked. Staff intends to submit additional Chapter 17 revisions for City Council approval later this year which will include Code changes to allow for reductions in size and increases in hardscape surfaces for existing non-conforming second units. These changes will then make Section 17.32.4 consistent with the intent of earlier Code changes permitting exterior modifications to second units. Therefore, should the City Council adopt the proposed Code change to Section 17.32.4, staff recommends that the \$335 variance fee be refunded to the applicant. Mr. Graff and the Commission concurred with this recommendation, agreeing that the size reduction variance is an unintended code technicality that should be corrected.

As to design, the Commission agreed that the proposed improvements reflect a beautiful and well-integrated design.

Resolution 358-V/DR-12

WHEREAS, Mr. and Mrs. Paul Swenson are requesting permission to remodel an accessory structure that is a legal second unit by reducing its size, altering the interior, changing the roof design, and making window, door, exterior lighting,

hardscape and landscape modifications located at 131 La Salle Avenue, Piedmont, California, which construction requires variance and design review; and

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary in order to construct within the 4 ft. rear (north) yard setback; construct within the side (east) yard setback; and to modify the exterior design of an existing non-conforming second unit; 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 location and size of the second unit on the lot and the fact that the setback variances are pre-existing. 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 because the size of the existing non-conforming second unit is being reduced and there is no adverse impact on neighboring properties resulting from this reduction in size.
4. Accomplishing the improvement without variance would cause unreasonable hardship in planning, design, or construction because the variance situation is pre-existing, consequently no improvements to the existing structure would be possible without variance.
5. This submitted application does not trigger the need for a new second unit application.
6. The proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code.
7. 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 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 not necessary to reduce losses of ambient and reflected light. Proposed materials are consistent with the main residence and existing unit. The proposed roof pitches are similar to the main residence which has varying roof slopes.
8. The proposed upper level addition/expansion has been designed in a way that reasonably minimizes view and light impacts on neighboring properties. The

maximum height and main ridge locations of the second unit remain the same with the reduction in volume and changes to roof slope which provide more air and light to neighbors. The extension of the main ridge and gable toward the north property line allows for a simplified structural construction.

9. 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) because the size of the proposed design is suitable for the size of the lot in that it results in a reduction in structure coverage and the maximum height of the remodeled second unit remains unchanged to the ridge height.

10. 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 on-site parking is appropriate to the size of the new upper level structure and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood. There is no change in existing circulation patterns or parking configuration. The property has adequate parking for the demonstrated need.

11. The project complies with Design Review Guidelines II-1, II-3(c), II-5, II-6 and II-7(a).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review application of Mr. and Mrs. Swenson for construction at 131 La Salle Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Variance Fee Refund.** Should the City Council approve by December 31, 2013, changes to Chapter 17 of the Municipal Code, particularly Section 17.32.4(e), that allow a reduction in size and an increase in hardscape surface coverage as they relate to an existing non-conforming Second Unit, the applicants may seek a refund of the \$355 fee paid for the variance request from Section 17.32.4.

2. **Property Line Location.** If required by the Chief Building Official, a licensed land surveyor shall verify and mark the location of the north and east property lines at the time of foundation and/or frame inspection to verify the approved setback dimension measured to the new construction.

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

a. **Renovation / New Construction.** Pursuant to Section 17.32.6 of the Municipal Code, if for any reason more than 70% of the physical structure (as determined by the Building Official) is demolished or destroyed, the building shall conform to new building and planning

Code requirements. If this occurs during demolition, all work must stop and a new hearing and public review by the Planning Commission is required.

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

a. 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.

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.

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

Moved by Henn, Seconded by Robertson

Ayes: Chase, Henn, Kellogg, Robertson, Zhang

Noes: None

Absent: None

ADJOURNMENT

There being no further business, Chairman Chase adjourned the meeting at 7:35 p.m.