

## **PIEDMONT PLANNING COMMISSION**

### **Regular Meeting Minutes for Monday, July 8, 2013**

A Regular Session of the Piedmont Planning Commission was held July 8, 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 June 24, 2013.

#### **CALL TO ORDER**

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

#### **ROLL CALL**

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

Absent: Chairman Tom Zhang (excused)

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

City Council Liaison: Councilmember Garrett Keating

#### **CONSENT CALENDAR**

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

##### **Fence Design Review 37 Bonita Avenue**

##### **Resolution 132-DR-13**

WHEREAS, the Property Owner is requesting permission to construct various improvements at the front of the property including a new wrought iron fence on top of a stucco wall; one redwood and one wrought iron gate; on-grade stairs with handrails; and various landscape and on-grade hardscape changes located at 37 Bonita 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 proposed exterior landscaping will match the adjacent house in style, detailing and materials and the proposed fence and gate will be in a similar style to that of the house. The stucco will be painted to match the house, the height of the fence will be modest (not to exceed 42 inches) and both will be set back from the street approximately 30 feet.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because all neighbors have approved the design and no views, privacy or light will be affected.
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 V-1, V-2, V-3, V-4, V-5(a) through (c), V-7, V-8 and 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 37 Bonita 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  
27 York Drive**

**Resolution 142-V/DR-13**

WHEREAS, the Property Owner is requesting permission to demolish an existing garage that crosses the rear (western) property line and is shared by the property at 26 Manor Drive and construct a 2-car garage in the right (northwestern) rear corner of the lot located at 27 York Drive, 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 right (northern) and rear (western) setbacks; and

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

1. The project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e)
2. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to the fact that the setback variances are pre-existing and other garages in the immediate neighborhood have similar setback encroachments. 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 there are similar non-compliant variance situations in the neighborhood.

4. Accomplishing the improvement without variance would cause unreasonable hardship in planning, design, or construction because without variance, vehicle ingress/egress to the garage would not be possible.

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 the existing stucco siding, roof pitches, doors and garage opening and location) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development.

7. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because there is no impact on neighboring properties.

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

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

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review application for construction at 27 York Drive, 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. **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. **BAAQMD Compliance.** The applicant shall comply with the Bay Area Air Quality Management District regulations related to the demolition of the garage. The Demolition Notification form is available on their website at [www.BAAQMD.gov/forms](http://www.BAAQMD.gov/forms).

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. **Sewer Main Condition and Repair.** City records indicate that City storm and sewer mains and associated easement(s) may be located near the proposed construction. The applicant shall work with City staff to verify the location and depth of the storm and sanitary sewer mains. In addition, the City shall videotape the existing sanitary and storm sewer mains to assess their pre-construction condition in order to make a determination as to whether any repairs to or replacement of the sewer main is required prior to the commencement of excavation and/or construction. (The City is responsible for the cost of the main line, and the property owner for costs of the lateral.) As part of the final inspection the same sanitary and storm sewer lines shall be re-inspected as required by the Director of Public Works, who shall also determine if the sewer lines were damaged as a result of the construction and therefore must be repaired at the applicant's expense. The applicant is responsible to

locate their private sewer lateral and note such location on the building permit drawings.

8. **Foundation Design.** At the discretion of the City Building Official, the applicant may be required to design the proposed garage foundation with special footings, piers, slabs or other systems, to avoid damage to the existing sewer nearby, and to enable future sewer repairs and replacements.

9. **Encroachment Permit.** Before the issuance of a building permit, the Property Owner shall apply for an encroachment permit to allow for the construction over the public sewer easement.

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

11. **BAAQMD Compliance.** The applicant shall comply with the Bay Area Air Quality Management District regulations related to the demolition of the garage. The Demolition Notification form is available on their website at [www.BAAQMD.gov/forms](http://www.BAAQMD.gov/forms).

12. **Roof Water Runoff.** Water runoff will not be permitted to drain onto neighboring properties. If design modifications are required to address this requirement, they shall be subject to staff review.

13. **Approved Plan Set.** The approved plans are those submitted on June 7, 2013, with revisions and supplemental information submitted on June 13 and 27, 2013.

14. **Garage Door.** The new garage door shall be electronically operated.

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.

**Second Unit Permit  
with Parking Exception  
190 Sandringham Road**

**Resolution 161-SU-13**

WHEREAS, the Property Owner is requesting permission to legalize an existing 576 sq. ft. unintended studio basement level second unit with an uncovered on-site parking space located at 190 Sandringham Road, Piedmont, California, which requires a second unit permit with parking exception 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 17.40 of the Piedmont City Code:

1. In looking at the totality of circumstances, there is sufficient street parking available to accommodate the parking exception, including proximity to public transit services. The parking area and driveway is exceedingly large and can accommodate additional parking.
2. The exception will not negatively impact traffic safety or emergency vehicle access to residences, or create hazards by obstructing views to or from adjoining sidewalks, driveways and streets. There is adequate space for all these functions to occur.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves a second unit permit with parking exception for the Property Owner at 190 Sandringham Road, 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 June 7, 2013.
3. **Building Code.**
  - A. The second unit shall have a minimum 7'6" ceiling height;
  - B. The second unit shall have a 1-hour fire separation between the main house area and second unit as well as a STC rating of 45; and
  - C. The kitchen lighting will have to meet Title 24 requirements of 50% of lighting wattage from high efficacy fixtures.
4. **Interior Unit Separation.** In accordance with Section 17.40.7.c.iii.b., the existing interior access shall be permanently blocked.
5. **Second Unit Declaration.** In compliance with Section 17.40.6.g, prior to the issuance of a building permit, the completed, signed and notarized *Declaration of Restrictions - Property with Approved Second Dwelling Unit*, form shall be recorded.
6. **Declaration of Rent Restriction.** In compliance with Section 17.40.7.c.iii.a.i., a *Declaration of Rent Restriction* (in a form provided by the City) shall be recorded stating that the unit is rent-restricted as a low income unit. The rent-restriction shall be recorded in the County Recorder's Office, and shall remain in effect for ten years. The ten-year period of rent restriction begins either: (a) on the date of recordation or date of final building inspection, whichever is later; or (b) according to the terms of the conditions of approval or a recorded declaration. If, after ten years, the termination of the recorded

declaration is not automatic (by its terms), the City shall record a document terminating the declaration of rent restrictions, upon the written request of the property owner.

7. **Affordable Rent Certification.** In compliance with Section 17.40.7.c.iii.a.ii, prior to the occupancy of the rent-restricted unit, the applicant shall submit to the City a *Second Unit Affordable Rent Certification*, and thereafter (i) on an annual basis, by each December 31 and as part of the annual City business license application and renewal; and (ii) upon any change in occupancy of the second unit. The second unit affordable rent certification shall be on a form provided by the City and shall specify whether or not the second unit is being occupied; the rent charged; the utilities that are included in the cost of rent; the household size of the second unit; the names and ages of the second unit occupants; the gross household income of the second unit household; and other information as determined appropriate by the City.

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

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

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

## **PUBLIC FORUM**

There were no speakers for the public forum.

## **APPROVAL OF MINUTES**

### **Resolution 8-PL-13**

RESOLVED, that the Planning Commission approves as submitted its meeting minutes of June 10, 2013.

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

## **REGULAR CALENDAR**

The Commission considered the following items of regular business:

### **Variance and Design Review 1069 Ranleigh Way**

The Property Owners are requesting variance and design review to demolish an existing 1-story addition on the rear of the house and construct a new 2-story 302 sq. ft. addition in a similar location; make several window and door modifications throughout the house; add a new skylight to the north side of the roof; add new exterior lighting; and make several interior changes. The requested variance is from Section 17.10.7 to allow the eave of the addition to

extend to within 1'4" of the right side property line in lieu of the code required minimum of a 4 ft. side yard setback.

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

**Public testimony** was received from:

Dan Hano, Project Architect, described the proposed improvements intended to replace an existing 1-story rear addition with a more architecturally compatible 2-story addition in essentially the same footprint.

The Commission supported application approval, agreeing that the proposed improvements were attractively designed, will enhance the utilization of the home and eliminate an existing "tacked on" appearance to the property.

**Resolution 163-V/DR-13**

WHEREAS, the Property Owner is requesting permission to demolish an existing 1-story addition on the rear of the house and construct a new 2-story 302 sq. ft. addition in a similar location; make several window and door modifications throughout the house; add a new skylight to the north side of the roof; add new exterior lighting; and make several interior changes located at 1069 Ranleigh Way, Piedmont, California, which construction requires variance and design review; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code are necessary in order to construct within the 4 ft. right side yard (north) setback; and

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

1. The project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e)
2. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to the fact that the residence is located on a non-conforming lot in Zone A. The lot contains approximately 4,950 sq. ft. of area and 34.9 ft. of frontage. The minimum lot area required in Zone A is 10,000 sq. ft. and 90 ft. The existing non-conforming right side yard setback is 1'4" (4 ft. required). The addition is proposed to remain a 1'4". Only the roof line eave extends into the 4 ft. setback. Because of these circumstances, strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone which conform to the zoning requirements.
3. The variance is compatible with the immediately surrounding neighborhood and the public welfare because it has unanimous neighbor support with the request that truck traffic be reasonable in the back alley and advance notice of closure be provided to neighbors. The addition is in the rear of the residence above an existing addition. The footprint remains essentially the same and does



not negatively impact neighbors. In addition, the roof line of the proposed addition is adjacent to a public pedestrian pathway rather than another residence.

4. The proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code.

5. The exterior design elements (including but not limited to all new double-hung windows, an architecturally consistent roof overhang and improvement of the front porch by removal of an existing window) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. The proposed modifications replace an existing single-story addition at the rear of the home and replace windows previously installed without permit. The intent is to install code-compliant windows and rebuild the rear portion of the home with a facade that is more consistent with the style and materials of the original home and a roof that will match the style and pitch of the original home.

6. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because the project has no negative impact on neighbors and it balances the rear elevation of the house. The proposed modifications, none of which will be visible from the street, will result in a total of 2,705 sq. ft. of living space, which is consistent with the size of neighboring properties. The ridge of the proposed addition will align with the existing ridge of the original home and the roof is configured as a hipped roof, consistent and contiguous with the existing roof on the original structure.

7. 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 all of the construction is at the rear of the house.

8. The project complies with Design Review Guidelines II-1, II-2, II-3(a) through (d), II-6(a) & (b), II-7 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 for construction at 1069 Ranleigh Way, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

a. **Protection of Pedestrians on City Pedestrian Path.** As a part of the Construction Management Plan, the property owner shall provide a plan for protecting pedestrians using the public walkway adjacent to the north property line of 1069 Ranleigh Way.

b. **Neighbor Notification.** As part of the project's Construction Management Plan, proper notice shall be provided to adjacent neighbors related to back alley truck traffic and closures.

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. **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. **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.

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.

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 Simpson, Seconded by Chase

Ayes: Chase, Hobstetter, Ode, Theophilos, Simpson

Noes: None

Absent: Zhang

**Design Review  
120 Hazel Lane**

The Property Owner is requesting design review to make several changes in the right (east) side yard, including: the demolition of the existing pool house; the construction of a new 210 sq. ft. pool house with associated new windows and doors; the construction of a new 392 sq. ft. covered porch on the east side of the house; the addition of exterior lighting; the replacement of the existing pool and spa with a new smaller pool and raised spa; the raising of grade around the pool so that it is consistent throughout; the installation of a new elevator connecting the garage with the new pool house; and various fencing, hardscape and landscape modifications. The application also seeks retroactive approval for the installation of a pole-mounted basketball backboard in front of the garage next to the sidewalk.

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

**Public testimony** was received from:

Mason Disosway, Project Architect, described the proposed improvements intended to add an elevator for more convenient access between the garage and house as well as make the property's pool area safer and handicap accessible.

The Commission supported application approval, agreeing that the proposed improvements are well-integrated with the architectural style and proportion of the existing home and are not visible from the streetscape. The Commission briefly discussed a response form received late today expressing concern that the proposed elevator could damage the root system of redwood trees located in the sidewalk parking strip fronting an adjacent property. The Commission felt that the elevator was far removed from the redwoods and thus it was reluctant to impose on the applicants the financial burden of obtaining an arborist report regarding this issue.

**Resolution 164-DR-13**

WHEREAS, the Property Owner is requesting permission to make several changes in the right (east) side yard, including: the demolition of the existing pool house; the construction of a new 210 sq. ft. pool house with associated new windows and doors; the construction of a new 392 sq. ft. covered porch on the east side of the house; the addition of exterior lighting; the replacement of the existing pool and spa with a new smaller pool and raised spa; the raising of grade around the pool so that it is consistent throughout; the installation of a new elevator connecting the garage with the new pool house; and various fencing, hardscape and landscape modifications located at 120 Hazel Lane, 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 existing residence is a traditional home in the Georgian Revival style and the proposed improvements are entirely consistent with this architecture and compatible with the traditional architecture of other homes in the neighborhood. In addition, the proposed improvements are not visible from the street or adjacent properties.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because there is limited, if any, effect on 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 there is no change to existing circulation patterns.

4. The project complies with Design Review Guidelines II-3(a) through (c), II-4, II-5, II-5(a), II-6, II-6(a), II-7 and 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 120 Hazel Lane, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **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.

2. **BAAQMD Compliance.** The applicant shall comply with the Bay Area Air Quality Management District regulations related to the demolition of the garage. The Demolition Notification form is available on their website at [www.BAAQMD.gov/forms](http://www.BAAQMD.gov/forms).

3. **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.

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](http://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 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 Chase, Seconded by Theophilos

Ayes: Chase, Hobstetter, Ode, Theophilos, Simpson

Noes: None

Absent: Zhang

**Variance and  
Design Review  
54 Sotelo Avenue**

The Property Owner is requesting variance and design review to construct various rear yard features including: a new main level deck with exterior staircase; a new lower level deck; guardrails and handrails throughout the new decks; various retaining walls; walkways, stairs and landings; a 250 sq. ft. addition at the main and lower levels; and various interior improvements. The requested variance is from Section 17.10.7 to allow the edge of the new lower level deck to extend to within 6 ft. of the right (south) side property line in lieu of the code required minimum of a 20 ft. side yard setback.

Written notice was provided to neighbors. **Two affirmative response forms** were received. **Correspondence** was received from: John & Elizabeth Shaw; Pam & Bob McBain; Kristin & Lyle Johnson

**Public testimony** was received from:

Kristen Johnson stated that she and her husband purchased the property last month and are in the process of completing a renovation begun by the previous owner to make the home more livable as well improve access to the yard. She noted that per a neighbor's request, existing trees and vegetation will be maintained to preserve privacy.

John Shaw supported project approval, agreeing that the property needs considerable upgrade and thanked the applicant for agreeing to preserve the existing hedge separating their property. He requested, however, that the proposed condition related to hedge preservation explicitly mention that the existing hedge will be preserved at its "existing height and density."

Lawrence Rugg, Project Architect, responded to Commission concerns that the proposed lattice along the deck staircases intended to screen the substructure of the deck/stairs created considerable visual massing and bulk by agreeing that

this lattice trellis could be modified so as to follow the top railing of the stairs or the stringer of the stair. This was acceptable to the Commission as a means of reducing massing.

The Commission acknowledged the difficult site conditions posed by the steep lot and applauded the applicant's intention to improve the rear facade of the house. While voicing support for project approval, the Commission discussed the layout and proposed uses of the deck spaces with the architect, suggesting that the overall design could be improved through slight modifications of the deck's form/configuration to provide more architectural interest. In particular, Commissioner Chase suggested a design similar to the trellis work and pergola found on the McBain property. The Commission encouraged the applicant and architect to work with staff to achieve this enhanced architectural objective.

**Resolution 166-V/DR-13**

WHEREAS, the Property Owner is requesting permission to construct various rear yard features including: a new main level deck with exterior staircase; a new lower level deck; guardrails and handrails throughout the new decks; various retaining walls; walkways, stairs and landings; a 250 sq. ft. addition at the main and lower levels; and various interior improvements located at 54 Sotelo Avenue, Piedmont, California, which construction requires variance and design review; and

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

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

1. The project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e).
2. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to the fact that the house is on a non-conforming lot in Zone E which requires that side yard setbacks be a minimum of 20 ft. The existing primary structure is within 5'3-3/4" of the property line. 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 all new construction is in the rear and both adjacent neighbors have decks that extend into the side yard setback areas at the rear of the homes. The proposed decks are consistent with construction in the neighborhood. In addition, the proposed new construction will decrease lot coverage from an existing 37.9% to 37.7% and will increase the side yard setback to 6 ft. from the existing non-conforming setback of 4 ft. 4 in.
4. The proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code.



5. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. The distance between the proposed multi-level addition and decks 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 because of the existing downslope topography. The height, bulk and placement of the new decks and new construction at the rear of the residence creates minimal to no impact on neighboring property views or sight lines as conditioned with regard to the preservation of an existing privacy screen. The backyards of the Sotelo properties are essentially open space, abutting Tyson Lake. The rear construction and arrangement of the structure on the down slope mitigates negative impacts of the new construction on the east and west neighbors. The neighbors on both sides support the project as conditioned.

6. The proposed addition and decks have been designed in a way that reasonably minimizes view and light impacts on neighboring properties because the new addition and decks are situated at the rear of the residence and are consistent with the size and bulk of neighboring residences. Zone E contains large homes on large lots. The proposed construction is compatible.

7. The size and height of the addition and decks are 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 because of the Zone E lot and home size and because the proposed development is well within structure and hardscape limits. The proposed construction will provide only 29% structure coverage (40% is allowed) and will reduce hardscape coverage to 37.7% (60% is allowed)

8. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected because all of the garage is located at the rear of the house and the project includes an electronic garage door opener to increase garage usability.

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

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 54 Sotelo 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.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](http://cleanwaterprogram.org).
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. **Property Line Location.** A licensed land surveyor shall be required by the Building Department to verify and mark the location of the right (south) property line at the time of foundation and/or frame inspection to verify the approved setback dimension measured to the new construction.
5. **Notice of Restricted Use.** The three storage rooms on the lower 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 the space does not meet the safety codes for habitation purposes.
6. **Removal of Windows and Doors.** The removed windows and doors shall be patched to match the siding of the adjacent wall.
7. **Windows.** The new windows shall be consistent in material, color scheme, reveal, and recess throughout the residence.
8. **Decks.** The new main level and lower level decks shall meet California Building Code fire protection requirements. In addition, the applicant is encouraged to work with staff to consider possible design modifications intended to enhance the overall visual quality of the decks and better define and reflect how the decks will be used and how they relate to their surroundings and view potential. Said modifications shall be subject to Staff Design Review.

9. **Approved Plan Set.** The approved plans are those submitted on June 21 and 24, 2013, with additional information submitted on July 5, 2013, after notices to neighbors were mailed and the application was available for public review.

10. **Privacy Screening.** To ensure adequate privacy screening between the two properties at 50 and 54 Sotelo Avenue, the applicants shall maintain the existing mature vegetation on their property along the south (right side) property line as shown on sheets A1.0 and A1.1 with the additional information submitted on July 5, 2013. This vegetation shall remain intact and be maintained at its existing height and opacity for at least 5 years from the date of a final inspection.

11. **Deck Screening.** The applicant shall work with staff to modify the proposed vertical lattice screen so as to create a less imposing visual impact (e.g., modified so as to follow the top railing of the stairs). Said modification 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 Simpson, Seconded by Theophilos

Ayes: Chase, Hobstetter, Ode, Theophilos, Simpson

Noes: None

Absent: Zhang

## ADJOURNMENT

There being no further business, Vice Chairman Ode adjourned the meeting at 6:30 p.m.