

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, May 13, 2013

A Regular Session of the Piedmont Planning Commission was held May 13, 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 April 29, 2013.

CALL TO ORDER

Chairman Zhang called the meeting to order at 5:00 p.m. He announced that the following agenda items have been withdrawn from tonight's consideration at the applicants' request: Agenda Item #4 (Variance/Design Review, 213 Ricardo Avenue); Agenda Item #6 (Design Review 26 Manor Drive); and Agenda Items #7 & #8 (Variance/Design Review/Second Unit Permit, 72 Wildwood Avenue)

ROLL CALL

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

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:

Variance 200 Crocker Avenue

Resolution 54-V-13

WHEREAS, the Property Owner is requesting permission to enclose an existing covered terrace on the south side of the residence located at 200 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 exceed the floor area ratio limit; and

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

1. The project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e)
2. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to: this is an architectural historic property in Piedmont that is being degraded by chronic water leak problems in the existing porch. 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 porch has led to a chronic depredation of the property and action is necessary to preserve and protect this historic structure. The project imposes no impact on neighboring properties or the public welfare.

4. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because of the potential for on-going depredation of this historic structure.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application for construction at 200 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
200 Crocker Avenue**

Resolution 54-DR-13

WHEREAS, the Property Owner is requesting permission to enclose an existing covered terrace on the south side of the residence located at 200 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 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 the existing Julia Morgan architectural style of the residence as well as neighborhood development. These elements include the windows, the ratio of the window openings and the materials proposed to complete the project.
2. The proposed upper level enclosure has been designed in a way that reasonably minimizes view and light impacts on neighboring properties. There is no impact on neighboring properties. The proposed improvements are above neighboring properties and cannot be seen by the public.
3. The size and height of the addition is commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and is in keeping with the existing neighborhood development pattern. There is no change in the existing footprint of the house and the proposed improvements will not impact any of the contextual architectural elements in the neighborhood.
4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. There is no change in existing circulation patterns.

5. The project complies with Design Review Guidelines II-1, II-2, II-3(a) through (d), II-4, II-5, II-5(a), II-6, II-6(a) through (c), II-7 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 200 Crocker 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. **Windows and Walls.** The color scheme of the new wood awning windows and cement plaster walls shall match that of the existing windows and exterior walls on the 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.

**Fence Design Review
460 Mountain Avenue**

Resolution 79-DR-13

WHEREAS, the Property Owner is requesting permission to make a design change to the previously approved (August 13, 2012) gate at the front of the property and build a new metal fence around the perimeter of the property at 460 Mountain Avenue, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. The proposed gate adds good visual entrance to the property, is attractively designed and is not overbearing. The black coating minimizes visual impact, the finials on the wrought iron fence provide a finished quality to the project that is appropriate for the neighborhood, the fence is appropriately stepped with the

property and the new gate design is more in keeping and consistent with the character of the neighborhood than the design previously approved.

2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because the wrought iron fence is open and does not obstruct neighbor views.

3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because there is no change in existing circulation patterns. The proposed fence does not obstruct vehicular or pedestrian sight lines nor impedes emergency vehicle access.

4. The project complies with Design Review Guidelines V-1, V-2, V-3, V-4, V-5, V-5(a) through (c), V-6, 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 460 Mountain 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.

Moved by Ode, Seconded by Chase

Ayes: Chase, Hobstetter, Ode, Theophilos, Zhang

Noes: None

Absent: None

PUBLIC FORUM

There were no speakers for the public forum.

APPROVAL OF MINUTES

Resolution 6-PL-13

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

Moved by Chase, Seconded by Hobstetter

Ayes: Chase, Hobstetter, Ode, Theophilos, Zhang
Noes: None
Absent: None

REGULAR CALENDAR

Design Review and Fence Design Review 331 Hillside Avenue

The Commission considered the following items of regular business:

The Property Owner is requesting design review and fence design review to stylistically alter and remodel the house by demolishing the front porte-cochere and rear deck; constructing a new front entry and porch with balcony above, decks at the rear and north side yard, and 274 sq. ft. of additions at the rear and front; making alterations to the roof, windows, doors, chimneys, guardrails and exterior lighting; and making various changes to the interior including relocating a bedroom from the second floor to the basement and creating a family room on the main level. The application also proposes various site modifications, including: the demolition of the north side yard trellis and rear shed; the construction of a new 4-car garage with terrace atop in the rear yard; the construction of a new free-standing stone wall along the front property line; the installation of two pole-mounted basketball hoops/backboards and batting/golfing cage netting within the rear sport court; landscape improvements in the front yard; and hardscape modifications throughout. A previous application was denied, without prejudice, by the Commission on March 11, 2013.

Written notice was provided to neighbors. **Three affirmative response forms** were received. **Correspondence** was received from: Martha Hertelendy; Paul Hertelendy

Public testimony was received from:

Amy Nunes, Project Architect, displayed a model of the proposed project in describing how the proposed design has been modified to more closely replicate the original 1913 architectural style of the home. She stated that two front dormer options are proposed for the front facade: Option 1 proposes two dormers on each side above the front entry, while Option 2 proposes three dormers on each side. She noted her clients' preference for Option 1.

Natalie and Robert Williamson emphasized that the project has been redesigned in response to Commission and neighbor requests, has improved privacy through the relocation of stairs and the elimination of a window, the low-profile garage will not block views, the existing north side vegetation screen will be maintained and the front facade now replicates the home's original 1913 style. Mr. Williamson also described the proposed netting on the existing sports court, noting that it is designed for safety and to keep golf/basketball/tennis balls from traveling onto neighboring property.

Darren Bonnington, Project Contractor, reiterated his March comments in explaining the steps that will be taken to minimize construction disruption/impact on the neighborhood.

The Commission discussed with the applicants and their architect the fact that this historic home has essentially three distinct architectural styles because of the multitude of add-ons over the years and the options available for increasing the home's overall design consistency through window treatments and other design refinements. In the end, the Commission, with the exception of

Commissioner Hobstetter, supported application approval. Those in support agreed that the redesign was responsive to Commission requests, the redesigned front facade was consistent within the immediate neighborhood context and very reflective of the original 1913 appearance of the home and the project improved neighbor privacy. The Commission majority also agreed that the proposed clear windows on the rear facade were acceptable as a means of maximizing the enjoyment/benefit of the property's beautiful Bay views. However, the Commission encouraged the applicants to work with staff in refining window detailing in order to create more visual integration of the home's facades. Commissioner Hobstetter felt that the proposed design was too pedestrian and uninspired for this historic property, requesting that the design be revised to create a greater unification of the home's varying architectural character. In particular, he felt that the front facade was too formal, symmetrical and generic in character. As to the proposed sport court netting, the Commission was divided as to its necessity and effectiveness, citing personal experiences. In the end, the Commission agreed to leave it to the applicants to decide if they wish to include or delete the sports court netting. The Commission also preferred the Option 1 dormer design.

Resolution 108-DR-13

WHEREAS, the Property Owner is requesting permission to stylistically alter and remodel the house by demolishing the front porte-cochere and rear deck; constructing a new front entry and porch with balcony above, decks at the rear and north side yard, and 274 sq. ft. of additions at the rear and front; making alterations to the roof, windows, doors, chimneys, guardrails and exterior lighting; and making various changes to the interior including relocating a bedroom from the second floor to the basement and creating a family room on the main level. The application also proposes various site modifications, including: the demolition of the north side yard trellis and rear shed; the construction of a new 4-car garage with terrace atop in the rear yard; the construction of a new free-standing stone wall along the front property line; the installation of two pole-mounted basketball hoops/backboards and batting/golfing cage netting within the rear sport court; landscape improvements in the front yard; and hardscape modifications throughout located at 331 Hillside 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. 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. The front entry creates a true entrance for the property; the front balcony is open and appropriately sized; the detailed elements, including windows, are appropriate and attractive; the addition addresses roof changes in an appropriate way; and the new divided light

windows are an appropriate substitute for the diamond windows that are being replaced.

2. The proposed 4-car garage has been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.70). The new garage is underneath the rear yard and therefore does not obstruct views. The new garage maintains the feeling of openness and imposes no real distraction to neighbors.

3. The size and height of the addition is commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and is in keeping with the existing neighborhood development pattern. The proposed redesign is much closer in appearance to the original 1913 house design which really defined the neighborhood in which the house exists. The front addition is in good balance with the house, does not overpower the house, retains the property's stately nature and is consistent with the uniform setback of other houses along Hillside.

4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. In accordance with Sections 17.16.1 and 17.22.1, the existing or proposed on-site parking is appropriate to the size of the newly remodeled house and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood. The 4-car garage provides off-street parking, there is no change in existing vehicular ingress/egress and there is no obstruction for emergency vehicles.

5. The project complies with Design Review Guidelines II-1, II-2, II-3, II-3(a) through (d), II-4, II-5, II-5(a), II-6, II-6(a) through (c), II-7, II-7(a), III-1, III-1(a), III-3, III-4, III-5, III-5(a), III-6(a), III-7, V-1, V-2, V-5, V-5(a) & (b), V-6, V-7 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 331 Hillside Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

3. **Garage Doors.** The new garage doors shall be electronically operated.

4. **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.c.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.

b. 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.

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

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

- i. Completion of Excavation;
- ii. Completion of Retaining Walls;
- iii. Completion of Foundation;
- iv. Completion of Rough Framing;
- v. Completion of Electrical;
- vi. Completion of Plumbing;
- vii. Completion of Mechanical;
- viii. Completion of Fire Sprinklers;
- ix. Completion of Home;
- x. Completion of Hardscaping and Landscaping; and
- xi. any further construction benchmarks and conditions of occupancy as may be determined by the Director of Public Works.

b. Before the Project begins, the Director of Public Works shall make a determination as to the reasonableness of the proposed completion dates applicable to the Project, and that determination shall constitute the "Approved Schedule" and be binding on the Property Owner. The City may, at the Property Owner's sole cost, engage the

services of a consultant to review the Property Owner's proposed Construction Completion Schedule and, to the extent the period allocated for any work appears unjustifiable, recommend to the Director of Public Works a reasonable completion date for any benchmark.

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

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

7. **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.

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

9. **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.

10. **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.

11. **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.

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

13. **Consultant Cost Recovery.** In order to accommodate the scope and nature of the Project proposed by the Property Owner, if the Director of Public Works deems it necessary to retain independent consultants with specialized expertise, including the City Engineer, the Property Owner shall make a cash deposit with the City at the time of the Building Permit Application in the amount of \$5,000 to be used to pay for the fees and expenses of such City consultants, or in any way otherwise required to be expended by the City for professional consultant assistance. If the cash deposit has been reduced to \$2,500 or less at any time, the Director of Public Works may require the Property Owner to deposit additional funds to cover any further estimated fees and expenses associated with consultants retained by the City on a regular basis or specifically for the Property Owner's Project. Any unexpended amounts shall be refunded to the Property Owner within 90 days after the Project has an approved Final Inspection by the Chief Building Official.

14. **City Attorney Cost Recovery.** If there is a substantial additional commitment of City Attorney's time required to accommodate the scope and nature of the Project, the Property Owner shall, at the time of the Building Permit Application, make a cash deposit with the City in the amount of \$5,000 to be used to offset time and expenses of the City Attorney relating to the Project. If such cash deposit has been reduced to \$2,500.00 or less at any time, the Director of Public Works may require the Property Owner to deposit additional funds to cover any further estimated additional City Attorney time and expenses. Any unused amounts shall be refunded to the Property Owner within 90 days after the Project has an approved Final Inspection by the Chief Building Official.

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

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

16. **Vegetation Screen.** The applicants shall maintain the existing vegetation screen between the house and the north property line at the existing height for a period of 10 years.

17. **Window Treatment.** The applicants shall work with staff to insure (i) an appropriate reveal between the window plane and wall plane; and (ii) that the characteristics of the front windows are replicated on the rear facade.

18. **Sports Court Netting.** The applicants have the discretion to either install or eliminate the proposed sports court netting.

19. **Front Dormers.** The Commission approves Dormer Option 1 which proposes two dormers per side at the front elevation.

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

Moved by Ode, Seconded by Chase

Ayes: Chase, Ode, Theophilos, Zhang

Noes: Hobstetter

Absent: None

**Design Review
320 Pacific Avenue**

The Property Owner is requesting design review to remove the existing wood retaining walls and concrete steps in the rear yard and construct several new rear yard features, including: a new 836 sq. ft. lower deck and stairs with storage area below; various retaining walls and grade changes to create a new seating area, lawn terrace and 371 sq. ft. sport court; an outdoor kitchen on the new deck; a fire pit and built-in bench at the seating area; a pole-mounted basketball hoop/backboard and fence enclosure at the new sport court; guardrails and handrails throughout the new deck and terrace; new exterior lighting including flood lights, uplights, path lights and step lights; raised planting beds west of the lawn terrace; replacement fencing along the east and west property lines; and various hardscape and landscape improvements.

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

Chairman Zhang recused himself from discussion and action on this application and left the Council Chambers.

Public testimony was received from:

Brian Koch and Jayson Wood, Project Landscape Architects, described the proposed improvements to the rear yard designed to provide a safe play area for the applicants' children as well as create outdoor entertaining space. They referenced the geotechnical and soils engineers consulted on the project because of the steepness of the lot and noted the project's grading plan and the fact that storm-water runoff on the property will be captured through a cistern system that will use this runoff for irrigation purposes.

The Commission, with the exception of Commissioner Theophilos, supported application approval, agreeing that the project proposed a good solution for better utilizing the rear yard of a small, steep lot and was designed to be consistent with the style of the residence. As requested by a neighbor, the Commission supported the use of non-reflective, powder coated material for the sport court fencing. The Commission also discussed with the Project Architects proposed exterior lighting impacts, with the architects indicating that the sport court lighting and uplighting will be shielded to minimize light spill on surrounding properties. The Commission agreed that given the distance between neighboring homes and the type of exterior lighting, said lighting will have no impact on neighbors. Commissioner Theophilos opposed the sport court component of the project, believing that given the small size of the lot, such an amenity so close to neighboring property would intrude upon neighbor peace and quiet. He preferred that the area be lawn.

Resolution 110-DR-13

WHEREAS, the Property Owner is requesting permission to remove the existing wood retaining walls and concrete steps in the rear yard and construct several new rear yard features, including: a new 836 sq. ft. lower deck and stairs with storage area below; various retaining walls and grade changes to create a new seating area, lawn terrace and 371 sq. ft. sport court; an outdoor kitchen on the new deck; a fire pit and built-in bench at the seating area; a pole-mounted basketball hoop/backboard and fence enclosure at the new sport court; guardrails and handrails throughout the new deck and terrace; new exterior lighting including flood lights, uplights, path lights and step lights; raised planting beds west of the lawn terrace; replacement fencing along the east and west property lines; and various hardscape and landscape improvements located at 320 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. These

elements include, but are not limited to, the mass and layout of the overall structure, the stairways, breaks in the retaining walls, surface materials of the walkways and the sport court and the concealment of storm water capture equipment.

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 impact on neighbor view, light and privacy and the design of the improvements is consistent with the Mediterranean architecture in 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 through II-6(e), IV-1, IV-1(a) & (b), IV-2, IV-3, IV-3(a), V-1, V-2, V-5 V-5(a) & (c) and V-11.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for construction at 320 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 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.c.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.

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 Hardscaping and Landscaping; and
- viii. any further construction benchmarks and conditions of occupancy as may be determined by the Director of Public Works.

b. Before the Project begins, the Director of Public Works shall make a determination as to the reasonableness of the proposed completion dates applicable to the Project, and that determination shall constitute the "Approved Schedule" and be binding on the Property Owner. The City may, at the Property Owner's sole cost, engage the services of a consultant to review the Property Owner's proposed Construction Completion Schedule and, to the extent the period allocated for any work appears unjustifiable, recommend to the Director of Public Works a reasonable completion date for any benchmark.

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

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

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. **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.
6. **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.
7. **Double Trailer Truck Prohibition.** To reduce potential damage to the streets and to avoid traffic hazards on narrow curving city streets, no double trailers shall be used as part of the Project.
8. **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.
9. **Consultant Cost Recovery.** In order to accommodate the scope and nature of the Project proposed by the Property Owner, if the Director of Public Works deems it necessary to retain independent consultants with specialized expertise, including the City Engineer, the Property Owner shall make a cash deposit with the City at the time of the Building Permit Application in the amount of \$5,000 to be used to pay for the fees and expenses of such City consultants, or in any way otherwise required to be expended by the City for professional consultant assistance. If the cash deposit has been reduced to \$2,500 or less at any time, the Director of Public Works may require the Property Owner to deposit additional funds to cover any further estimated fees and expenses associated with consultants retained by the City on a regular basis or specifically for the Property Owner's Project. Any unexpended amounts shall be refunded to the Property Owner within 90 days after the Project has an approved Final Inspection by the Chief Building Official.
10. **City Attorney Cost Recovery.** If there is a substantial additional commitment of City Attorney's time required to accommodate the scope and nature of the Project, the Property Owner shall, at the time of the Building Permit Application, make a cash deposit with the City in the amount of \$5,000 to be used to offset time and expenses of the City Attorney relating to the Project. If such cash deposit has been reduced to \$2,500.00 or less at any time, the Director of Public Works may require the Property Owner to deposit additional funds to cover any further estimated additional City Attorney time and expenses. Any unused amounts shall be refunded to the Property Owner within 90 days after the Project has an approved Final Inspection by the Chief Building Official.
11. **Final Landscape Plan.** Before issuance of a building permit, the Property Owner shall submit a Final Landscape Plan that complies with Municipal Code Section 17.17.3 and that shows plantings in the City's sewer easement along the rear property line that facilitate the long-term integrity and

maintenance of the sewer main. Said final landscape plan shall be subject to staff review and approval.

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

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

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

14. **Fencing.** The sports court fencing shall be powder coated in a non-reflective, non-light color.

15. **Outdoor Lighting.** Outdoor lighting fixtures shall be shielded and down-lit to minimize light spill on surrounding properties.

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 Hobstetter

Ayes: Chase, Hobstetter, Ode, Simpson

Noes: Theophilos

Recused: Zhang

The Commission recessed at 6:50 p.m. for a dinner break and an informal briefing session with the City Attorney on the importance for the Commission to make sound, defensible findings for each action taken on an application. The Commission reconvened at 7:50 p.m. to make findings for the applications approved on tonight's consent calendar.

ADJOURNMENT

There being no further business, Chairman Zhang adjourned the meeting at 8:00 p.m.