

## PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, September 9, 2013

A Regular Session of the Piedmont Planning Commission was held September 9, 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 August 26, 2013.

### CALL TO ORDER

Chairman Zhang called the meeting to order at 5:05 p.m.

### ROLL CALL

Present: Commissioners David Hobstetter, Susan Ode, Tom Zhang and Alternate Commissioner Louise Simpson

Absent: Commissioners Phillip Chase and Tony Theophilos (both excused)

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

### CONSENT CALENDAR

The following Resolution was approved under one vote by the Commission:

#### **Design Review 133 Park Way**

#### **Resolution 240-DR-13**

WHEREAS, the Property Owner is requesting permission to demolish an existing 4 ft. high fence and construct a new 6 ft. 3-1/2 in. high wood fence with an 8 ft. high gate in the rear yard along Ramona Avenue located at 133 Park Way, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that the new fence has a lattice top and an attractively arched gate with additional design features to be filled-in.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because it replaces a previously existing fence at a somewhat higher height. Surrounding neighbors support the fence reconstruction project and there is no adverse impact on neighboring property.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because there is no change in existing circulation patterns and the new gate provides attractive ingress/egress to the property.
4. The project complies with Design Review Guidelines V-1, V-2, V-5 and V-6.

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

construction at 133 Park Way, 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 Simpson, Seconded by Ode

Ayes: Hobstetter, Ode, Zhang, Simpson

Noes: None

Absent: Chase, Theophilos

## **PUBLIC FORUM**

There were no speakers for the public forum.

## **APPROVAL OF MINUTES**

### **Resolution 10-PL-13**

RESOLVED, that the Planning Commission approves as submitted its meeting minutes of August 12, 2013.

Moved by Ode, Seconded by Hobstetter

Ayes: Hobstetter, Ode, Zhang, Simpson

Noes: None

Absent: Chase, Theophilos

## **REGULAR CALENDAR**

The Commission considered the following items of regular business:

### **Pedestrian/Bicycle Master Plan**

The City Planner introduced Niko Letunic of Eisen/Letunic, a transportation and planning consulting firm, who has been retained to prepare the City's Pedestrian and Bicycle Master Plan. Mr. Letunic stated that the purpose of tonight's introduction is to receive testimony from the public and the Commission related to the development of the Master Plan. He explained that the Piedmont Pedestrian and Bicycle Master Plan, with a *Safe Routes to School* component (PBMP) will assess the City's walking and bicycling needs and opportunities, identify and prioritize a broad range of improvements, create a roadmap for implementation and accomplish the following goal in the City's General Plan: "Encourage walking and bicycling as viable modes of transportation for traveling within Piedmont." The scope of work for Plan preparation will consist of the following 10 tasks:

1. Project initiation

2. Existing conditions
3. Needs assessment
4. Bicycle network and bicycle pedestrian facility improvements
5. Policy framework
6. Priority support programs
7. Implementation strategy
8. Draft plan document
9. Environmental review
10. Final plan document

During the plan preparation process, there will be numerous opportunities for public input and while the Planning Commission will have the primary role of project oversight, there will be additional hearings and presentations before the Piedmont Unified School District, the Piedmont Park Commission, the Piedmont Recreation Commission and two special community workshops. In addition, an on-line survey will be conducted to solicit comments from residents unable to attend any of the aforementioned meetings.

The Commission discussed the general preparation process and objectives of the Master Plan, voicing support for the project and encouraging Mr. Letunic to: (i) work with PUSD and the Police Department in proposing ways to discourage students and parents from driving to school because of the speeding and unsafe driving behavior associated with school arrivals and departures; and (ii) identify in the plan the location of the City's many pedestrian pathways and propose recommendations for revitalizing this pathway system.

**Correspondence** was received from: Duncan Watry

**Public testimony** was received from:

Tim Rood, a Piedmont Connect Member, submitted an initial needs assessment listing the City's "hot spots" identified by Connect in highlighting several existing problematic conditions for cyclists within the City.

Duncan Watry, a daily bike commuter, voiced strong support for the PBMP and referenced his letter in urging that the City consider an "Early Wins Program" to implement several relatively inexpensive improvements to enhance bicyclist and pedestrian safety in advance of full plan completion and adoption. He mentioned in particular: (i) informational signage and the painting of "sharrows" to alert drivers that bicyclists have full use of traffic lanes when lanes are too narrow for designated bike lanes; and (ii) the installation of bike racks.

Margaret Ovenden, a Piedmont Connect Board Member, emphasized the importance of PUSD involvement in PBMP preparation, noting that the PUSD has joined the Alameda County Safe Routes to School Program and is in the process of informing/training parents and students on school arrival/departure options and protocols.

Sinan Sabuncuoglu urged Mr. Letunic to consult with Restoration Design Group, LLC, who has been recently retained by the City to develop the Blair Park Landscape Improvement Plan. He felt that any Blair Park improvement plan should include an uphill bike lane to afford safe passage for cyclists biking up heavily-traveled Moraga Avenue.

**Variance, Design  
Review & Second  
Unit Permit with  
Parking Exception  
226 Park View Avenue**

The Property Owner is requesting variance, design review and second unit permit with parking exception to remodel the existing 1-story accessory structure at the southwest corner of the property built with a permit in 1941 as a playroom for use as a 397 sq. ft. second dwelling unit. Proposed construction on the accessory structure includes a new gambrel roof, relocation of the west wall so that it is completely within the applicants' property, new bay window and entry awning on the north facade, window and door modifications, a change to the structure's exterior wall material and the addition of skylights and exterior lighting. The application also proposes to modify the cornice band on the existing garage. The requested variance is from Section 17.40.6(e) in order to develop the second unit without supplying the required number of parking spaces for the main house (the existing 3 bedroom residence has a 1-car substandard-sized garage). The proposed second unit will be a very low income unit with no on-site parking.

Written notice was provided to neighbors. **Six affirmative, one negative response forms** were received. **Correspondence** was received from: Paul Hennessey & Susan Dague; Alexandra Conroy

**Public testimony** was received from:

Barbara Westover, Project Architect, described the major renovation planned for the existing accessory structure, noting that this structure has been used as an adjunct living space for 65 years. The transformation of this accessory structure into a second unit is desired to afford the opportunity for accommodating a caregiver or tenancy by a college student or senior. She explained the proposed changes to the structure intended to lessen potential noise impacts on neighbors (wall insulation, dual-pane windows, relocation of main entry door, etc.) and stressed that this unit is conveniently located near public transportation.

Walter and Alexandra Conroy concurred with their architect in stressing that the unit has been used for years as a family TV room, music room and entertaining space and that the proposed changes to the structure and its potential occupancy will reduce the amount of noise that has been previously associated with the structure. They also felt that approval of the parking exception was justified, given that there is no on-street parking congestion in front of their home and given the size of the unit and its close proximity to shopping and mass transit, any very low income tenant may not have nor need a car.

The Commission discussed with the Architect the feasibility of enlarging the home's existing 1-car garage to accommodate two vehicles as well as issues involved with the proposed renovation in terms of restricting access to an existing sewer manhole, the extent of demolition and the visual impact of the proposed gambrel light monitor. In the end, the Commission supported variance approval, agreeing that the disadvantages from eliminating existing landscaping, reducing streetscape aesthetics and triggering side setback and structure coverage variances outweighed the benefits from expanding the existing garage to a 2-car capacity, especially since on-street parking for 3 to 4 cars is available in front of the residence. In voicing support for project approval, the Commission emphasized the critical need for Piedmont to provide low income housing opportunities, noted the considerable neighborhood support for the project, acknowledged that most homes in the neighborhood have non-conforming parking and agreed that the existing use and density of the property will not be significantly changed as a result of the project.

**Resolution 232-SU-13**

WHEREAS, the Property Owner is requesting permission to remodel the existing 1-story accessory structure at the southwest corner of the property built with a permit in 1941 as a playroom for use as a 397 sq. ft. second dwelling unit located at 226 Park View Avenue, Piedmont, California, which construction requires a second unit permit with parking exception; 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 17.40.7.c.ii 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 less than a mile away in two directions. In addition, there is on-street parking available in front of the residence and there is a high likelihood that the potential tenant of this small second unit will be using public transportation.
2. The parking exception will not negatively impact traffic safety or emergency vehicle access to residences or create hazards by obstructing views to or from adjoining sidewalks, driveways and streets. There is no change in existing conditions and there is adequate access for emergency vehicles.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the second unit permit with parking exception application for 226 Park View Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Second Unit Declaration.** In compliance with §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.
2. **Declaration of Rent Restriction.** In compliance with §17.40.7.c.iii.a.i, a Declaration of Rent Restriction (in a form provided by the City) shall be recorded stating that the unit is rent-restricted as a very low income unit. The rent-restriction shall be recorded in the County Recorder's Office, and shall remain in effect for ten years. The ten-year period of rent restriction begins either: (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.
3. **Affordable Rent Certification.** In compliance with §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.

4. **Affordable Rent Certification.** In compliance with Sections 17.40.6.a, and 17.40.7.c.iii.b, the second unit detached accessory structure may not be expanded by connecting to the main house. Prior to the issuance of a final permit, a Notice of Restricted Use shall be recorded stating that the unit is limited to 700 square feet. The rent-restriction shall be recorded at the County Recorder's Office.

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 Hobstetter

Ayes: Hobstetter, Ode, Zhang, Simpson

Noes: None

Absent: Chase, Theophilos

#### **Resolution 236-V/DR-13**

WHEREAS, the Property Owner is requesting permission to remodel the existing 1-story accessory structure at the southwest corner of the property built with a permit in 1941 as a playroom for use as a 397 sq. ft. second dwelling unit. Proposed construction on the accessory structure includes a new gambrel roof, relocation of the west wall so that it is completely within the applicants' property, new bay window and entry awning on the north facade, window and door modifications, a change to the structure's exterior wall material and the addition of skylights and exterior lighting. The application also proposes to modify the cornice band on the existing garage located at 226 Park View Avenue, Piedmont, California, which construction requires variance and design review; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary in order to develop a second unit without supplying the required number of parking spaces for the main house; 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 there is no change to the existing use/density of the main residence and the existing parking appears appropriate for this residence. Because of these circumstances, strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone which conform to the zoning requirements.
3. The variance is compatible with the immediately surrounding neighborhood and the public welfare because neighbors have not identified parking as a problem and most properties in the neighborhood have non-conforming parking.
4. Accomplishing the improvements without variance would cause unreasonable hardship in planning, design or construction because expanding the existing garage to a 2-car capacity would eliminate existing greenspace to the detriment of the property and neighborhood. In addition, expanding the existing garage would trigger additional variances.
5. The proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code.
6. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development because of the use of exterior materials and siding on the second unit that are consistent with the existing house.
7. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because the second unit's height is only being increased by its light monitor which is necessary to provide light and air to the second unit. There is no significant visual impact on the neighborhood from this light monitor. In addition, there is no change in the existing situation since the second unit structure has been in use for the last 65 years.
8. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. There is no change in existing circulation patterns. The second unit structure has existed for the last 65 years.
9. The project complies with Design Review Guidelines II-1, II-2, II-3, II-3(a) through (d), II-6, II-6(a) through (c) and II-7.

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 226 Park View 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 August 26, 2013, with additional information submitted on August 28, 2013

after notices to neighbors were mailed and the application was available for public review.

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

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

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

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

8. **Sewer Main Condition and Repair.** City records indicate that City storm and sewer mains and associated easement(s) may be located near and underneath the proposed construction next to the rear (south) property line. All easements and manhole covers shall be shown on the building permit drawings. The applicant shall also 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 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.

9. **Roof.** The proposed flat roof for the second unit accessory structure shall not be light-colored or reflective.

10. **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.

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. **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, site safety security 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](http://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.

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

**13. 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.

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 Ode

Ayes: Hobstetter, Ode, Zhang, Simpson

Noes: None

Absent: Chase, Theophilos

The Commission recessed for dinner at 6:50 p.m. and reconvened at 7:15 p.m.

**Fence Design Review  
311 Sheridan Avenue**

The Property Owner is requesting fence design review to build a new wood fence with a maximum height of 6 ft. along the east (rear) property line and partially located within the 20 ft. north (left) side street setback along Lakeview Avenue. The new fence is proposed to be located either on the shared property line with 76 Lakeview Avenue or up to 12 inches west of the east property line.

Written notice was provided to neighbors. **Two affirmative, one negative response forms** were received. **Correspondence** was received from: Valerie Fahey & Ron Heckmann

**Public testimony** was received from:

Martin Fahey read a prepared statement on behalf of his daughter and son-in-law setting forth their objections to the fencing project on the grounds of (i) loss of light, air and view; (ii) potential obstruction to emergency personnel access to their property; and (iii) opposition to the solid wood construction.

James and Emily Pettit stated that the new redwood fence will replace or supplement an existing decaying fence, with only a 15 ft. section of the new fence located within the street side setback of their corner lot. The fence is desired to provide yard privacy and family security. They also described the contentious relationship with their neighbor (the Faheys) and their lack of confidence that a mutually agreeable fencing situation between the two properties can be worked out. As a consequence, the new fence will be constructed entirely within their property.

The Commission discussed fence construction and design issues with the applicants, voicing preference that every effort be made to reach a mutually agreeable fencing design with their neighbor. Barring that, the Commission preferred that the fence design be modified to provide a 4 ft. high section of solid wood fencing with a 2 ft. lattice top for the portion of the fence outside of the setback. As to the section of the fence within the setback, the Commission requested that the lattice top section extend no higher than the base of the brick column cap. The Commission felt that this design change would still accomplish the applicant's desire to enclose their yard but minimize the visual impact of a 6 ft. high solid fence on the Fahey property. By a procedural motion that was unanimously carried, the Commission reopened the public testimony

portion of the hearing to allow the applicants to submit a photograph of a proposed fence design reflecting a solid wood fence with lattice top. Said fence design was deemed acceptable by the Commission.

**Resolution 235-DR-13**

WHEREAS, the Property Owner is requesting permission to construct a new wood fence with a maximum height of 6 ft. along the east (rear) property line and partially located within the 20 ft. north (left) side street setback along Lakeview Avenue located at 311 Sheridan Avenue, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that the staggered vertical board pattern minimizes visual mass, the use of natural materials blends in with the surrounding area and the design of the fence is consistent with the architectural character of the residence.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because the new fence will not create additional shading on neighboring property, there is no reduction of outdoor space and the project will increase privacy for both the applicants and their neighbors.
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 and no encroachment onto the sidewalk nor obstruction of emergency vehicles.
4. The project complies with Design Review Guidelines V-1, V-2, 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 311 Sheridan 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. **Fence Location.** The new fence, including all footings and posts, shall be located completely within the applicants' property. A licensed land surveyor shall be required by the Building Department to verify and mark the location of the east property line at the time of foundation inspection to verify that the approved construction is completely on the property of 311 Sheridan Avenue. Alternatively, should the applicants come to an agreement with the adjacent property owners of 76 Lakeview Avenue, the new fence may be located directly on the shared property line, with portions of the fence on both properties, on the condition that the owners of 76 Lakeview Avenue submit an application for a "zero cost" building permit that is to be attached to the "full cost" building permit application for the approved construction submitted by the owners of 311 Sheridan Avenue.
3. **Demolition of Existing Fence.** The complete demolition and/or removal of an outdoor feature, including the existing fence along the east property line, does not require Design Review per Piedmont Municipal Code Section 17.20.4(ix). Thus the demolition of the existing fence is not approved or regulated within the scope of this application. This condition does not preclude any agreements between the property owners for the removal of the fence located on the property line of 311 Sheridan Avenue and 76 Lakeview Avenue.
4. **Fence Design.** The design of the proposed fence shall be modified to reflect a ratio of approximately 3 parts solid wood to 1 part lattice, with the height of the lattice top reaching the base of the brick column cap and run straight across for that portion of the fence located within the setback. Said fence design 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 Ode, Seconded by Hobstetter

Ayes: Hobstetter, Ode, Zhang, Simpson

Noes: None

Absent: Chase, Theophilos

**Fence Design Review  
101 Scenic Avenue**

The Property Owner is requesting fence design review to demolish an existing stone retaining wall on the south side of the property along Blair Avenue and construct a new wood retaining wall in the same location.

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

**Public testimony** was received from:

Stuart Corns, Project Designer/Contractor, explained that the applicant's existing stone retaining wall is failing and the proposed replacement plan was mutually agreed upon by the applicant and his south-side neighbor. In addition, the project will correct existing drainage problems between the two properties at the applicant's sole expense. He added that replacing the existing wall with a new stone wall was deemed too expensive (2-1/2 times the cost) for the applicant since the neighbor was unwilling to contribute toward the cost of a new wall. To soften the appearance of the new wood retaining wall, a planting strip will be installed in front of the wall to allow for the planting of climbing vines to eventually screen the wall's surface from view. Mr. Corns noted that an alternative design option (Option B) proposed to provide for a wood shingle exterior on the new wall has been rescinded because of maintenance concerns.

The Commission emphasized the historic architectural character of the applicant's beautiful home (which has a stone base) in preferring that the new retaining wall reflect and preserve the property's high-quality via a stone wall replacement design. The Commission stressed that a stone retaining wall would be more appropriate for the traditional architectural of the residence, would be more visually consistent and attractive for this prominent corner location, would be more in keeping with the neighborhood, would provide a better, long-term solution for retaining the property than wood and would be more in keeping with the City's Design Review Guidelines.

**Resolution 238-DR-13**

WHEREAS, the Property Owner is requesting permission to demolish an existing stone retaining wall on the south side of the property along Blair Avenue and construct a new wood retaining wall in the same location located at 101 Scenic Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission finds that the proposal does not conform with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. The exterior design elements and materials are not aesthetically pleasing as a whole nor harmonious with the existing residence and neighborhood.
2. The design is not appropriate for the neighborhood because many homes in the neighborhood have stone retaining walls of high quality.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected.
4. The project fails to comply with Design Review Guidelines IV-2, IV-3, IV-5, IV-6, V-1, V-2, V-5, V-7, V-8 and V-9.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies, without prejudice, the design review application for construction at 101 Scenic Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Hobstetter, Seconded by Simpson

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

**Design Review  
407 Scenic Avenue**

The Property Owner is requesting design review to replace the vertical wood siding on the upper level of the front of the house with a stucco facade.

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

**Public testimony** was received from:

Sameer Srivastava stated that as a new owner of the property, he is currently in the process of making repairs and renovations to the home. During this process, it was discovered that the existing vertical wood siding on the upper level of the home is rotted and his architect has recommended that this siding be replaced with stucco to make the home more visually interesting and more compatible with neighboring residences.

The Commission felt that a stucco upper level exterior with wood lower level base is an atypical architectural approach that could result in a proportional visual imbalance. Therefore, the Commission preferred that the upper level siding be replaced with vertical board and batten.

**Resolution 249-DR-13**

WHEREAS, the Property Owner is requesting permission to replace the vertical wood siding on the upper level of the front of the house with a stucco facade located at 407 Scenic Avenue, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements, as conditioned, are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that the use of dense board and batten vertical siding is harmonious with the home's existing T1-1 exterior.
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 material impact on 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 impact on existing circulation patterns.
4. The project, as conditioned, complies with Design Review Guidelines II-1, II-2, II-3 and II-7.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for construction at 407 Scenic Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

2. **Upper Level Siding.** The siding on the upper level front facade of the home shall be vertical board and batten in harmony with the proportioning of the material around the rest of the house. Said siding 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 Hobstetter, Seconded by Simpson

Ayes: Hobstetter, Ode, Zhang, Simpson

Noes: None

Absent: Chase, Theophilos

## Chapter 17 Code Revisions

The City Planner submitted proposed amendments to the City's Zoning Code (Chapter 17) intended to bring the Zoning Code into compliance with the City's General Plan and Housing Element Actions and Programs, recent changes in California law as well as improve code clarity/consistency and streamline application procedures. She explained that the proposed modifications are the culmination of eleven previous hearings before the Commission, commencing in 2010. She recommended that after Commission and public review of these proposed modifications, the Commission recommend their adoption to the City Council. The Planner added that following adoption of these Phase II code changes (Phase I was the rewrite of the City's Second Unit Code completed in May 2012), the following additional Phases will be presented:

- Phase III - Modifications to Zoning Code to address resident comments, City Council and Planning Commission directives, and to clarify and streamline procedures;
- Phase IV - Reorganization of Chapter 17, including all the Phase I-III amendments, for easier navigation by members of the public; and

- Phase V - Rewrite of the 1988 Design Guidelines to adjust to changes in technology and lifestyles, clarify the language and to add new guidelines for mixed use, commercial uses and hillside developments.

The Planner then introduced Deputy City Attorney Judith Robbins who assisted in the drafting of the Phase II amendments.

**Correspondence** was received from: Maureen Kennedy; Rajeeve Bhatia;

**Public testimony** was received from:

Karen Westmont, a Piedmont Connect Member and housing advocate, suggested that the City's Second Unit Ordinance incorporate the requirement that rents for affordable housing be income qualifying and set at 30% of income. She also urged the Commission to consider allowing housing to be developed within the City's excess pavement areas, citing examples where multi-level housing units could be located in place of existing traffic medians and along wide roadways where traffic calming measures are needed.

John Malick, a local architect, urged the Commission to promote and maintain the City's mixed use zones, citing the benefits of residential and commercial co-development. He also requested that the City Code recognize the unique characteristics of the Grand Avenue commercial zone from that of the Civic Center. Therefore, he proposed the establishment of a Zone D1, submitting specific language for amending Chapter 17 to set forth the intent and regulations of this new zoning designation.

Rakeeve Bhatia, an urban planner, referenced his letter in concurring as to the importance of preserving the City's commercial uses and sites and proposing specific code amendments intended to accomplish this objective.

Given the importance of the issue, the Commission preferred to review the proposed code changes, including those submitted by the speakers, in more depth and detail before making a recommendation to the City Council. As a means of affording an adequate review and consideration of the proposed changes, the Commission suggested that a special work session on the topic be scheduled for either Monday, September 23rd or 30th, with full notice to the public via the local press and other media outlets. Staff concurred. During the Commission's discussion, support was voiced: (i) for the inclusion of language such as "encourages/discourages" to help guide the Commission in the decision-making process. Ms. Robbins suggested that rather than include such language in the Zoning Ordinance, this type of guidance be provided within the language of the City's Design Review Guidelines; and (ii) the creation of a "picture book" Master Plan vision for the City, noting the benefits of visual aids in depicting the types of preferred design and development for specific areas of the community.

## **ADJOURNMENT**

There being no further business, Chairman Zhang adjourned the meeting at 9:45 p.m.

