

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, February 11, 2013

A Regular Session of the Piedmont Planning Commission was held February 11, 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 January 28, 2013.

CALL TO ORDER

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

ROLL CALL

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

Absent: Commissioner Melanie Robertson (excused)

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

City Council Liaison: Councilmember Robert McBain

CONSENT CALENDAR

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

Design Review 54 Lake Avenue

Resolution 6-DR-13

WHEREAS, Mr. Daniel Poon and Ms. Michelle Han are requesting permission to make several modifications to the property including constructing a 751 sq. ft. addition and 15 sq. ft. balcony to the rear of the house; making several window and door modifications throughout the house; installing additional exterior lighting; and hardscape changes in the rear yard located at 54 Lake Avenue, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements include but are not limited to: height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment. The distance between the proposed upper level addition/expansion or new multi-level structure and adjacent residences is reasonable and appropriate due to the existing topography and neighborhood development pattern. The exterior design elements of the proposed improvements are aesthetically pleasing as a whole and harmonious with existing neighborhood development in that all the new exterior elements match the existing exterior elements. This is a relatively minor addition at the upper level (382 SF). An additional 369 SF is at the basement level. The addition is neither bulky nor tall (maintain (e) ridgeline). The pattern of openings is consistent with the existing house and there is no mechanical or electrical equipment exposed.

2. The proposed upper level addition/expansion has been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as

defined in Section 17.2.70), including consideration of the location of the new construction, lowering the height of the addition, expansions within the existing building envelope (with or without excavation), lower level excavation for new multi-level structures, and/or changing the roof slope or ridge direction. The proposed improvements have little, if any, impact on neighbors' view or access to light. As mentioned above, the addition is small and relatively low, with a very shallow roof slope. The adjacent neighbor to the west is 5-6 feet higher than the subject property and is a full 3-story structure. The adjacent neighbor to the east is a full 2-story structure on an open corner. The existing structure on the subject property is benched into the side slope of the lot, thus minimizing the apparent height. Rather than raising the roof for the addition, we propose to actually excavate down approximately 18" for the new spaces at the lower floor.

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 scale of the proposed structure, including the addition, is quite reasonable. The existing house is essentially 1-story, but elevated above the street, due to the existing grade. The existing basement is essentially invisible from the street. We propose to excavate for the spaces at the lower floor so that there is no increase in height. Other houses up and down the street vary from 2-3 stories.

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 will be no change in the vehicular circulation on site. Therefore, there will be no adverse effect on the safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic. There will also be no change in the configuration of parking (no existing off-street parking).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Poon and Ms. Han for construction at 54 Lake Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

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

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

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

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

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

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

5. **Windows.** All the windows on the house shall have a consistent exterior color scheme.

RESOLVED FURTHER, that the approval of the Planning Commission/City Council and any conditions of that approval shall not extend to any particulars

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

Moved by Kellogg, Seconded by Zhang

Ayes: Chase, Henn, Kellogg, Zhang, Ode

Noes: None

Absent: Robertson

PUBLIC FORUM

There were no speakers for the public forum.

APPROVAL OF MINUTES

Resolution 2-PL-13

RESOLVED, that the Planning Commission approves as submitted its meeting minutes of January 14, 2013.

Moved by Zhang, Seconded by Henn

Ayes: Chase, Henn, Kellogg, Robertson, Zhang

Noes: None

Absent: None

REGULAR CALENDAR

The Commission considered the following items of regular business:

Proposed Ped/Bike SR2S Plan Outline

The City Planner presented for public hearing and Commission review the City's Draft Proposed Outline of the Piedmont Pedestrian and Bicycle Plan, with a Safe Routes to School (SR2S) component. The Outline when finalized and approved will be combined with letters of support from residents and a detailed work scope to form the City's application for grant funding to implement the Plan. She explained that resident written support of the Plan is an important component in determining Piedmont's competitiveness in receiving grant funding. Therefore, she urged residents to write or e-mail her office indicating their suggestions and support for a Pedestrian and Bicycle Plan that meets their needs. The Planner then introduced Niko Letunic, the City's transportation consultant for this project, who highlighted the contents of the Draft Outline, explaining that the outline serves as the guide for the development of a detailed work scope which will be submitted as part of the City's grant funding application documentation.

Correspondence was received from: Garrett Keating; Tom Gandesbery; Gary & Jen of 67 Wildwood Avenue; Nancy Beninati; Jennifer Bretan; Kurt Fleischer

Public testimony was received from:

Rajeev Bhatia submitted a memo requesting that the proposed Bike/Ped Plan include the following topics/policies: (i) standards for nighttime illumination along all collector, major arterial and minor arterial streets and intersections; (ii) standards for determining where pedestrian crosswalks should be provided when arterial and collector streets intersect with each other; (iii) consideration of adding additional rights-of-way for striped bike lanes as well as additional street trees to provide shade to pedestrians; and (iv) requirements for the removal of impediments to pedestrian travel along sidewalks, such as mailboxes and overgrown landscaping.

Tom Gandesbery referenced his e-mail in suggesting better cooperation and coordination between the City and School District in encouraging more students to bike or walk to school. In particular, he suggested the addition of more bike racks at schools, changes in vehicular circulation patterns/one-way streets to make it more inconvenient for parents to drop-off/pick-up their children at school and provide more clearly delineated bike lanes.

Ulla Smit voiced support for the proposed Bike/Ped Plan.

The Commission suggested that the Draft Outline (i) include more specificity of the type of issues which will be addressed under the Outline's list of criteria, such as those proposed by Mr. Bhatia; (ii) promote better utilization of the City's existing mid-block "pass-throughs" which serve as pedestrian short-cuts to schools, mass transit, etc. as a means of encouraging more walking in town. Better signage would educate residents as to the presence and benefits of these short-cuts; (iii) utilize the data and history compiled by the City's Capital Improvement Projects Committee in developing a needs assessment regarding sidewalks, traffic medians, pedestrian crosswalks, etc.; and (iv) tie in proposed bike/pedestrian improvements with the specific goals and objectives of the City's General Plan. In addition, the Commission suggested that staff and Mr. Letunic contact the City's elementary school Parents Clubs to solicit their membership support for the Ped/Bike Plan, especially the Safe Routes to School component.

**Variance and
Design Review
136 Ronada Avenue**

Mr. and Mrs. Eric Parker are requesting variance and design review to remodel and enlarge the residence by 420 sq. ft. through a basement expansion and construction of a 2-story rear addition; remodel the rear deck; construct a new entry porch awning; replace the entry porch guardrail; make window, door, exterior lighting and fencing modifications; and make various changes to the interior. The requested variances are from: (1) Section 17.10.7 to allow the new porch awning to extend to within 1'6" and the eave of the new rear addition to extend to within 2' of the left (east) side property line in lieu of the code required minimum of a 4' side yard setback; and (2) Section 17.22.2(b) to allow a floor area ratio of 59.2% in lieu of the code permitted maximum of 50% for a parcel exceeding 5,000 sq. ft. but less than 10,000 sq. ft. in area.

Written notice was provided to neighbors. **Seven affirmative, one negative response forms** were received. **Correspondence** was received from: Susan Kodani

Public testimony was received from:

Sunny Grewal, Project Architect, described the proposed improvements intended to accommodate the needs of the applicant's growing family. With regard to the requested floor area ratio (FAR) variance, he stressed that originally the home had two sunrooms which were removed in the 1960's and the current proposal is duplicating approximately half of the square footage that was originally present. The side yard variance is necessary in order to maintain the home's existing eave lines on the proposed addition as well as provide weather protection over the front door.

Eric Parker concurred with Mr. Grewal, adding that most homes in the immediate neighborhood exceed the City's FAR limits, the project has the support of neighbors and will improve his family's quality of life while

enhancing the neighborhood's property values. In response to Commission comments, he stated that expansion of the basement area to accommodate the desired extra living space is not desirable because of issues related to light, dampness and egress. He felt that the basement area did not provide quality living space.

Ulla Smit voiced her full support for application approval.

The Commission was divided in its support for application approval. Those in support noted that the project is (i) nicely designed and well integrated; (ii) represents a modest expansion of the home's existing building envelope to create quality living space with minimal impact on neighbors; (iii) represents no change in the home's existing bedroom count; and (iv) will not result in the appearance that the lot is being overbuilt -- the bulk and size of the resulting home will be consistent with existing neighborhood standards. Those Commissioners in opposition agreed that the project was well designed but emphasized the lack of hardship to justify granting a FAR and side yard variance for the eave extension. They emphasized that the home currently exceeds the City's FAR limits and that further FAR excess can be avoided if the proposed living space expansion is developed within the basement area. Furthermore, the side yard setback variance for eave extension can be avoided if the addition's wall is pulled back 18 inches so the eave does not extend into the setback. They felt that pulling back the addition would not architecturally nor aesthetically detract from the addition's appearance. Since the proposed expansion can be achieved without FAR and side yard variance, these variances should be denied in the interest of fairness, uniformity in applying the code, consistency with previous Commission decisions and to avoid setting a bad precedent. All of the Commissioners agreed that the side yard variance for the entry door awning was justified given the home's current location in relation to the side property line and the appropriateness of having weather protection at entry doors.

Resolution 350-V-12

WHEREAS, Mr. and Mrs. Eric Parker are requesting permission to remodel and enlarge the residence by 420 sq. ft. through a basement expansion and construction of a 2-story rear addition; remodel the rear deck; construct a new entry porch awning; replace the entry porch guardrail; make window, door, exterior lighting and fencing modifications; and make various changes to the interior located at 136 Ronada Avenue, Piedmont, California, which construction requires variance; and

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary in order to construct within the 4 ft. east side yard setback and to further 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: *with regard to the entry awning*: the placement of the house on the lot and the limited locations for the placement of canopy protection over the entry door; *with regard to FAR*: the unusual placement of this 3-story house at the very front of a very deep lot, with a 14 ft. front yard and a 72 ft. remaining rear yard. Because of these circumstances, strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone which conform to the zoning requirements.

3. The variances are compatible with the immediately surrounding neighborhood and the public welfare as follows: *with regard to the entry awning*: it is compatible with the neighboring house to the east and creates no adverse impact; *with regard to FAR*: the proposed addition and home is similar in size with existing neighboring residences and the proposed addition's size and location will not adversely impact neighboring properties because of its placement on the lot and its screening by mature landscaping.

4. Accomplishing the improvement without variance would cause unreasonable hardship in planning, design, or construction as follows: *with regard to the entry awning*: weather protection over the entry door is not possible without variance; *with regard to FAR*: the addition of living space in the basement area would create less quality of life in terms of light, air, ventilation and size -- it would be only 7 ft. deep.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application of Mr. and Mrs. Parker for construction at 136 Ronada Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

Moved by Henn, Seconded by Ode

Ayes: Chase, Henn, Ode

Noes: Kellogg, Zhang

Absent: Robertson

Resolution 350-DR-12

WHEREAS, Mr. and Mrs. Eric Parker are requesting permission to remodel and enlarge the residence by 420 sq. ft. through a basement expansion and construction of a 2-story rear addition; remodel the rear deck; construct a new entry porch awning; replace the entry porch guardrail; make window, door, exterior lighting and fencing modifications; and make various changes to the interior located at 136 Ronada 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 existing and proposed neighborhood development. These elements include but are not limited to: height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment. The 2-story addition does not visually overpower the scale of the existing 3-story residence, it provides a visual break to the existing rear facade and steps down in height from the existing building. The proposed design does not overpower adjacent parcels. The addition is within the code's height limits and its architecture and proposed materials will match the existing home.
2. The proposed upper level addition/expansion has been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.70), including consideration of the location of the new construction because the addition is 1-story lower than the existing roof line of the existing roof line of the house and the addition extends out a modest 8'4" beyond the existing structure and is less than 250 sq. ft. in footprint. The neighboring residence to the east is screened by mature vegetation.
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 addition is consistent in size and scale with other homes in the neighborhood. Building setbacks are consistent with other residences as well.
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 impact on existing circulation patterns or safety.
5. The project complies with Design Review Guidelines II-1, II-3(a) & (e), II-6, V-1 and V-2.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Parker for construction at 136 Ronada Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

2. **Contractor's General Liability Insurance.** To ensure that the contractor doing work in the City will be responsible for damages caused by the work to City property or to neighboring property, the Property Owner shall require all contractors and subcontractors performing work on the Project to maintain General Liability Insurance for protection from claims for damages because of bodily injury, including death, and claims for damages, other than to the contractor's work itself, to property which may arise out of or result from the contractor's operations. Such insurance shall be written for not less than \$1,000,000 per occurrence. The insurance shall include builder's risk. The insurance shall include an endorsement requiring 30 days' notice to the City if the insurance is cancelled or changed, and Property Owner shall immediately arrange for substitute insurance coverage.

As an alternative to requiring each subcontractor to obtain General Liability Insurance, the Property Owner may require the General Contractor to obtain an endorsement to cover his or her subcontractors.

If the Property Owner does not have a general contractor, the Property Owner shall maintain property insurance, including builder's risk and coverage for subcontractors, which is substantially equivalent to the contractor's requirement of this section.

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

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

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

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

b. Before the Project begins, the Director of Public Works shall make a determination as to the reasonableness of the proposed completion dates applicable to the Project, and that determination shall constitute

the "Approved Schedule" and be binding on the Property Owner. The City may, at the Property Owner's sole cost, engage the services of a consultant to review the Property Owner's proposed Construction Completion Schedule and, to the extent the period allocated for any work appears unjustifiable, recommend to the Director of Public Works a reasonable completion date for any benchmark.

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

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

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

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

Moved by Henn, Seconded by Ode

Ayes: Chase, Henn, Ode

Noes: Kellogg, Zhang

Absent: Robertson

The Commission recessed at 6:45 p.m. for a dinner break and to convene a Special Session to select the winners of the City's 2012 Design Awards.

SPECIAL SESSION

The Chairman announced that the purpose of the special session is to review those projects nominated for the Commission's 2012 Design Awards and select award recipients. Presentation of the awards will be made at the March 11th Planning Commission meeting immediately following a reception held at City Hall to honor all award recipients. The Commission selected the following award recipients:

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| Best Fence and Landscaping | 348 Wildwood Avenue |
| Best Garage | 420 Wildwood Avenue |
| Best Integrated Design for Garage and Accessory Structures | 312 Sea View Avenue |
| Best Comprehensive Remodel and Addition | 127 Hagar Avenue |
| Best Seamless Expansion within Building Envelope | 310 San Carlos Avenue |
| Best Green Remodel | 621 Blair Avenue |
| Best Outdoor Living Space | 53 Crest Road |
| Best Overall Renovation | 621 Blair Avenue |

Chairman reconvened the regular session at 7:30 p m.

**Design Review
211 Scenic Avenue**

Mr. Jason Chung is requesting design review to expand the existing rear mid-level and upper-level decks in a northerly direction to be the same size as the lowest level deck; make window and door modifications to the uppermost level rear wall; add exterior lighting; and replace the lower two railings with solid wood railings per two design options: Option 1 proposes opaque wood for the bottom 2/3, and glass for the top 1/3 of the railings; and Option 2 proposes opaque wood for the bottom 2/3 and stainless steel cables for the top 1/3 of the railings. A similar application was denied, without prejudice, by the Commission on November 13, 2012.

Written notice was provided to neighbors. **One negative response form** was received. **Correspondence** was received from: Jason Chung; Linda Lonay; Mohammad Hooshmand

Public testimony was received from:

Jason Chung stated that his deck project has been redesigned to eliminate the need for a structure coverage variance and submitted with two deck railing design options. He noted his preference for Option 1. He stated that an arborist has been retained to protect the large oak tree.

Mohammad Hooshmand and Linda Lonay reiterated their November comments in opposition to the proposed deck project, believing that the large deck expanse is too imposing on downhill neighbors and its use will intrude upon neighbor privacy and peace and quiet. However, if approved, they requested that solid deck railings be required in order to help reduce privacy impacts and that these railings be extended to the floor of the deck rather than with the proposed 6 inch gap. Mr. Hooshmand also voiced concern over privacy impacts associated with the large window on the north side of the 3rd level deck.

Jason Johnson, Project Contractor, stated his belief that the deck project reflects a modest expansion of the existing deck along the north end of the home that will not create noise or privacy problems for neighbors.

The Commission agreed that the redesign was responsive to Commission requests and reflected a modest improvement to the property that was appropriate in scale and size to the house and reasonable for providing outdoor living area on a steep downsloping lot. The Commission further agreed that either deck railing design option was acceptable. However, the Commission emphasized the importance of protecting and maintaining the existing oak tree at

its current height and density given its essential role in protecting the privacy of downhill neighbors. The Commission further agreed that to minimize neighbor privacy impacts: (i) the gap between the bottom of the deck railing and the top of the deck should be no greater than 2 inches; and (ii) the large window on the left side of the upper deck that is not screened by the oak tree should be either eliminated or modified to match in style and size with the home's other single, double-hung windows.

Resolution 360-DR-12

WHEREAS, Mr. Jason Chung is requesting permission to expand the existing rear mid-level and upper-level decks in a northerly direction to be the same size as the lowest level deck; make window and door modifications to the uppermost level rear wall; add exterior lighting; and replace the lower two railings with solid wood railings per two design options: Option 1 proposes opaque wood for the bottom 2/3, and glass for the top 1/3 of the railings; and Option 2 proposes opaque wood for the bottom 2/3 and stainless steel cables for the top 1/3 of the railings located at 211 Scenic Avenue, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. The proposed project utilizes similar deck technology, materials and detailing found in the neighborhood. The proposed decks are proportional to the house and lot in terms of scale and size and are essentially at the same depth as existing. The two proposed railing designs (Options 1 and 2) are both acceptable and subject to the applicant's choice. The proposed project is in keeping with the existing house in terms of materials, architectural detailing and style.
2. The proposed upper level addition/expansion has been designed in a way that reasonably minimizes view and light impacts on neighboring properties. The decks are located approximately 30 ft. away from the property line and neighbor impacts in terms of view, light and privacy are mitigated through the use of solid guardrails and the preservation of a large, mature oak tree. Said oak tree provides significant visual screening of the decks and therefore its retention is essential for the continued protection of neighbor light, view and privacy.
3. The size and height of the decks 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 project is appropriate in size and scale for the property.
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 impact to or change in existing circulation patterns.

5. The project complies with Design Review Guidelines II-1, II-2, II-3(a) through (d), II-5, II-5(a), II-6(b), 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 of Mr. Chung for construction at 211 Scenic Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

2. **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. **Contractor's General Liability Insurance.** To ensure that the contractor doing work in the City will be responsible for damages caused by the work to City property or to neighboring property, the Property Owner shall require all contractors and subcontractors performing work on the Project to maintain General Liability Insurance for protection from claims for damages because of bodily injury, including death, and claims for damages, other than to the contractor's work itself, to property which may arise out of or result from the contractor's operations. Such insurance shall be written for not less than \$1,000,000 per occurrence. The insurance shall include builder's risk. The insurance shall include an endorsement requiring 30 days' notice to the City if the insurance is cancelled or changed, and Property Owner shall immediately arrange for substitute insurance coverage.

As an alternative to requiring each subcontractor to obtain General Liability Insurance, the Property Owner may require the General Contractor to obtain an endorsement to cover his or her subcontractors.

If the Property Owner does not have a general contractor, the Property Owner shall maintain property insurance, including builder's risk and coverage for subcontractors, which is substantially equivalent to the contractor's requirement of this section.

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

5. **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. **Certified Tree Preservation Plan.** Before the issuance of a building permit, the Property Owner shall prepare for review and approval by staff a Tree Preservation Plan that incorporates the tree preservation measures recommended in the Arborist's Report, prepared by Ponderosa Tree Service, dated December 22, 2012. The tree preservation measures shall be applied before the beginning of construction and shall be continued to be applied for a minimum period of 10 years after project completion in order to maintain to the best potential possible, the health and life of the existing live oak tree which is a substantial element of protection for neighbor light, view and privacy. The oak tree shall also be retained at its current height and not be substantially trimmed, reduced in density or altered, other than as shown on the submitted plan and recommended by the Arborist Report, in a way that minimizes or reduces the effectiveness of its separation between the applicant's property and adjoining properties.

7. **Deck Railing Design.** The railings on the three decks shall be designed in such a way that the bottom rail of the railing be no more than 2 inches above the top of the deck. The applicant has the choice of constructing either proposed Option 1 or Option 2 railing design. Both are of equal merit in complying with the City's Design Review Guidelines.

8. **Window.** The fixed glass window shown on the submitted drawings to the north of the 3rd level deck shall be either (i) replaced with a single, double-hung window of no greater size than the bedroom window shown in the northwest corner on the north elevation; or (ii) eliminated and this portion of the north wall be made solid in material and color to match the existing wall.

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

Moved by Kellogg, Seconded by Henn

Ayes: Chase, Henn, Kellogg, Zhang, Ode

Noes: None

Absent: Robertson

**Variance and
Design Review
233 Estates Drive**

Mr. Robert Breuning is requesting variance and design review to modify a previously approved (February 13, 2012) application to stylistically alter and remodel the residence by increasing the height of the roof atop the master suite at the northwest corner of the house; adding a parapet to the roof of the garage; changing the design of the roof eave; changing the roof material; replacing the cantilevered roof over the rear deck with a lower cantilevered awning; changing the wall material at the upper level; and making window and door modifications. The requested variance is from Section 17.10.6 to allow the new additional structure of the flat roof eave and new parapet structure atop the garage to extend to within 13'0" and 14'9", respectively, of the front property line in lieu of the code required minimum of a 20 ft. front yard setback.

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

Public testimony was received from:

Robert Breuning stated the proposed minor changes to his February 2012 plan are intended to enhance the approved design by shielding the roof from street view.

Stephen Shoup, Project Architect, described how the proposed subtle design changes will improve the home's overall design.

The Commission agreed that the proposed changes will improve the home's appearance.

Resolution 366-V/DR-12

WHEREAS, Mr. Robert Breuning is requesting permission to modify a previously approved application to stylistically alter and remodel the residence by increasing the height of the roof atop the master suite at the northwest corner of the house; adding a parapet to the roof of the garage; changing the design of the roof eave; changing the roof material; replacing the cantilevered roof over the rear deck with a lower cantilevered awning; changing the wall material at the upper level; and making window and door modifications located at 233 Estates Drive, 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 add structure within the 20 ft. front yard setback; and

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

1. The project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e)
2. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to: the fact the variance situation is pre-existing and the proposed revisions improve the design approved last year.

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 similar conditions are found in the neighborhood and there is no impact on adjacent neighbors.
4. Accomplishing the improvement without variance would cause unreasonable hardship in planning, design, or construction because the proposed changes enhance the existing garage structure.
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. The proposed changes are of quality in terms of design and materials.
7. The proposed upper level addition/expansion has been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.70). The height of the roof is minimized by a flat roof and is no higher than the existing roof.
8. 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 project improves the roof of the existing house.
9. 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 impact or change in existing circulation patterns.
10. The project complies with Design Review Guidelines II-1, II-2, II-3(a) through (d), II-4, II-5, II-6, II-6(a) 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 of Mr. Breuning for construction at 233 Estates Drive, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following condition:

- Compliance with the conditions of approval specified as part of the prior related approval on the residence at 233 Estates Drive under Design Review Application #12-0019 shall extend to this application.

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

applicable laws and to attach conditions after initial approval is given, if noncompliance is discovered or additional conditions are considered necessary and appropriate in light of Commission/Council findings.

Moved by Zhang, Seconded by Ode

Ayes: Chase, Henn, Kellogg, Zhang, Ode

Noes: None

Absent: Robertson

**Variance and
Design Review
34 Estrella Avenue**

Mr. and Mrs. Ken Derr are requesting variance and design review to make various interior and exterior improvements including the addition of a bedroom at the upper level; a kitchen and family room remodel at the main level; construction of an approximately 224 sq. ft. rear deck expansion with a conforming 1-car garage below; installation of new skylights; and modifications to various windows. The requested variance is from Section 17.16 to allow a residence with 4 rooms eligible for use as bedrooms and 1 conforming parking space in lieu of the code minimum requirement of 2 conforming spaces.

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

Public testimony was received from:

Nicole Derr stated that the intent of the project is to convert an existing sunroom into a bedroom for one of her boys and add a second parking space under the deck so as to preserve yard space for her children.

Robert Kelly, Project Architect, explained the benefits of the proposed rear deck in connecting the house to the yard and creating a conveniently located and over-sized, second covered parking space for the property. He noted that the home was purchased as a 4-bedroom residence and has always been used as such.

The Commission supported application approval, noting that the property will have two covered parking spaces, albeit, slightly less than the required dimensions for code compliance, the deck is well integrated with the house in terms of its size and design and the project improves vehicle ingress/egress for both parking spaces.

Resolution 5-V/DR-13

WHEREAS, Mr. and Mrs. Ken Derr are requesting permission to make various interior and exterior improvements including the addition of a bedroom at the upper level; a kitchen and family room remodel at the main level; construction of an approximately 224 sq. ft. rear deck expansion with a conforming 1-car garage below; installation of new skylights; and modifications to various windows located at 34 Estrella Avenue, Piedmont, California, which construction requires variance and design review; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code are necessary in order to add a 4th bedroom without supplying conforming parking; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after

having visited subject property, the Piedmont Planning Commission makes the following findings:

1. The project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e)
2. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to the fact that the existing 1-car garage and the proposed second parking space under the deck will reduce the property's current parking non-compliance. The home is currently used as a 4-bedroom home and there is no change in this usage. Because of these circumstances, strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone which conform to the zoning requirements.
3. The variance is compatible with the immediately surrounding neighborhood and the public welfare because it provides off-street parking for two vehicles.
4. Accomplishing the improvement without variance would cause unreasonable hardship in planning, design, or construction because it would require enlarging a parking structure that currently accommodates the parking of a vehicle.
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. These elements include but are not limited to: details that match the existing home and an expansion that adds additional living space and a garage without adding to the home's visual mass or bulk.
7. The proposed upper level addition/expansion has been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.70) because the home's existing character is preserved without imposing any obstructions to neighbor views or imposition on light.
8. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. The proposed project will improve vehicle circulation on the property by providing an improved turnaround.
- 9.. The project complies with Design Review Guidelines II-2, II-3, II-3(a), (b) & (c), II-4, II-5, II-5(a), II-6, II-6(a) & (b), II-7 and II-7(a)

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review application of Mr. and Mrs. Derr for construction at 34 Estrella Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Construction Management Plan.** Due to the scope and nature of the application, a construction management plan shall be developed and approved by staff prior to obtaining a building permit. Said plan shall be comprehensive

while specifically addressing the duration of the project, construction hours, the staging of materials, and parking of worker vehicles to ensure the free flow of traffic along Estrella Avenue;

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

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

4. **Windows.** The proposed windows shall be painted to match the remaining windows throughout the residence.

5. **Skylights.** The proposed skylight flashings shall be painted to match the adjacent roof color.

6. **Garage Door.** The garage door shall have an automatic opener.

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

Moved by Ode, Seconded by Kellogg

Ayes: Chase, Henn, Kellogg, Zhang, Ode

Noes: None

Absent: Robertson

**Design Review
68 Lincoln Avenue**

Mr. Levente Laczay and Ms. Julia Zhen are requesting design review to remodel and expand the house by 235 sq. ft. by: increasing the height of the pediment above the front entry; constructing a faux chimney on the front roof slope; removing two front dormers and chimney; enclosing an alcove off the rear mud room; enlarging the rear second floor balcony; relocating rear trellis brackets; making window, door and skylight modifications; adding exterior lighting; and making various changes to the interior. The application also proposes to remove an existing unpermitted air conditioning condenser in the front yard.

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

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

Public testimony was received from:

Julia Zhen stated that as new owners of the property, the proposed renovations are designed to better accommodate the needs of her husband who has a disabling medical condition.

Lucy Ling, Project Architect, described the proposed improvements, noting that the changes are all within the existing building envelope of the home.

The Commission supported application approval, agreeing that most of the changes to this Albert Farr designed home are internal with only subtle exterior changes to accommodate the elevator. The Commission agreed that the design of the proposed improvements were attractive and consistent in style and detailing with the existing home, the elevator shaft was cleverly disguised as a faux chimney and that overall, the changes do not materially detract from the quality of the home's historic architecture.

Resolution 8-DR-13

WHEREAS, Mr. Levente Laczay and Ms. Julia Zhen are requesting permission to remodel and expand the house by 235 sq. ft. by: increasing the height of the pediment above the front entry; constructing a faux chimney on the front roof slope; removing two front dormers and chimney; enclosing an alcove off the rear mud room; enlarging the rear second floor balcony; relocating rear trellis brackets; making window, door and skylight modifications; adding exterior lighting; and making various changes to the interior. The application also proposes to remove an existing unpermitted air conditioning condenser in the front yard located at 68 Lincoln 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 gable and front porch are designed to match the existing gable in detail and the existing roof in slope. The elevator shaft is designed with similar material and elements as existing chimneys. The guardrails for the extended rear balcony reuse the same guardrail to maintain the original style and character of the house.
2. The proposed upper level addition/expansion has been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.70). The proposed project involves front yard modifications along a well landscaped street with mature trees. There is no noticeable impact on neighboring properties' views or light.
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 project is

located on an extremely large lot and the improvements are miniscule in terms of square footage.

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 proposed improvements comply with Design Review Guidelines II-1, II-2 and II-3(a) & (d).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Laczay and Ms. Zhen for construction at 68 Lincoln Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Windows.** New windows shall be wood and divided light grilles shall be either true or 3-dimensional simulated.

2. **Exterior Light Fixtures.** New exterior light fixtures shall be downward directed with opaque or translucent shades that completely cover the light bulb.

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

a. Renovation / New Construction. Pursuant to Section 17.32.6 of the Municipal Code, if for any reason more than 70% of the physical structure (as determined by the Building Official) is demolished or destroyed, the building shall conform to new building and planning Code requirements. If this occurs during demolition, all work must stop and a new hearing and public review by the Planning Commission is required.

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

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

Completion Schedule and, to the extent the period allocated for any work appears unjustifiable, recommend to the Director of Public Works a reasonable completion date for any benchmark.

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

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

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

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

Moved by Henn, Seconded by Kellogg

Ayes: Chase, Henn, Kellogg, Ode

Noes: None

Recused: Zhang

Absent: Robertson

Design Review
238 Sandringham Road

[REDACTED] are requesting design review to remodel and expand the residence by 160 sq. ft. through upper-level additions at the front (south) and left (west) sides of the house; make window, door and skylight modifications; and make various changes to the interior.

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

Public testimony was received from:

Colby Lavin stated that he has completed the interior renovation of his home which he purchased in 2009 and now intends to address a persistent water leak

problem associated with the front porches as well as improve the bedroom/bath situation on the upper floor to accommodate the needs of his growing family.

Glen Jarvis, Project Architect, described the proposed improvements intended to eliminate water leak problems as well as improve the exterior aesthetics of the home.

The Commission supported project approval, agreeing that it improves the property in several ways and is attractively designed and well integrated with the existing house.

Resolution 10-DR-13

WHEREAS, [REDACTED] are requesting permission to remodel and expand the residence by 160 sq. ft. through upper-level additions at the front (south) and left (west) sides of the house; make window, door and skylight modifications; and make various changes to the interior located at 238 Sandringham Road, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements include but are not limited to: height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment. The use of wrap-around casement windows are appropriate and well integrated with the original architecture style of the home and improves the home's overall quality. The proposed project helps to unify the home in terms of detailing and materials and the incorporation of an existing enclosed porch into the master bedroom bay.
2. The proposed upper level modifications have been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.70). They are appropriate in terms of size and scale, there is no material impact on neighbor view, light or privacy and the project reflects an excellent contemporary interpretation of 1930's style modern architecture.
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 home's height, bulk, mass or size. The project applies a hip roof consistently to enclose the entire residence to create a positive architectural execution.
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 impact on existing circulation patterns.

5. The project complies with Design Review Guidelines II-1, II-2, II-3(a) through (d), 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 of [REDACTED] for construction at 238 Sandringham Road, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

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

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

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

4. **Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any

liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.

5. **Window Material.** The new windows shall be either aluminum-clad wood windows or wood windows finished to match existing.

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

Moved by Kellogg, Seconded by Henn

Ayes: Chase, Henn, Kellogg, Zhang, Ode

Noes: None

Absent: Robertson

Conditional Use Permit Ms. Heidi Marchesotti on behalf of Mason McDuffie Real Estate Inc., dba
342 Highland Avenue Highland Partners Better Homes & Gardens is requesting renewal of a Conditional Use Permit to continue offering real estate brokerage services at 342 Highland Avenue. The application proposes:

Days & Hours of Operation: 8:30 a.m. to 10:30 p.m., 7 days a week, but no accompanied clients after 5:30 p.m.

Types of Staff/Personnel: 1 manager; 1 full-time secretary; 2 half-time secretaries and 75 brokers and/or agents -- but no more than 25 people in the offices at one time.

Number of On-Site Parking Spaces: None

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

Public testimony was received from:

Ken Hecht, Attorney for the Applicant, stated that this is the third conditional use permit for this business that has operated at the site for the last 20 years. He stated that there are no changes in the existing conditions or operations of the business. He requested a 10 year permit term to coincide with the company's lease.

The Commission supported application approval, noting that the applicant has operated at the site for decades, has provided services to both residents and the community over these years and is a proven community-oriented business.

Resolution 11-CUP-13

WHEREAS, Ms. Heidi Marchesotti on behalf of Mason McDuffie Real Estate Inc., dba Highland Partners Better Homes & Gardens is requesting renewal of a Conditional Use Permit to continue to operate a real estate brokerage service at 342 Highland Avenue, Piedmont, California, and;

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

The Piedmont Planning Commission makes the following findings:

1. The use is of benefit to Piedmont residents. The business has operated in this location since 1994 and has proved to be a positive addition to the community by providing excellent services to residents.
2. The use will be properly related to other land uses and transportation and service facilities in the vicinity. The business has proven its worth over a considerable length of time and has not jeopardized the quality of transportation or service facilities in the vicinity. It has demonstrated that parking and transportation in the neighborhood is adequate to service this enterprise.
3. Under all the circumstances and conditions of the particular case, the use will not have a material adverse effect on the health or safety of persons residing or working in the vicinity. There is no manufacturing or other activity that would have any impact in that regard for the neighborhood or persons working in the enterprise. The business provides a positive impact on Piedmont.
4. The use will not be contrary to the standards established for the zone in which it is to be located. The applicant is a standard business occupancy located in a commercial office building zoned for this use.
5. The use will not contribute to a substantial increase in the amount of noise or traffic in the surrounding area. The occupancy will continue to be restricted to 25 occupants at a time maximum in the office and this has been proven over a substantial length of time to be satisfactory and not have a negative impact on traffic flow.
6. The use is compatible with the General Plan and will not adversely affect the character of the surrounding neighborhoods or tend to adversely affect the property values of homes in the surrounding neighborhoods. This occupant enhances the quality and value of the community through its professional real estate services.
7. Adequate provision for driveways to and from the property has been made; facilities for ingress and egress from secondary streets instead of arterials, where possible, have been made; provision for parking in compliance with this Chapter 17 has been made, together with sufficient agreements to enforce the carrying out of such plans as may be required by the Council. There is no off-street parking directly associated with this use. There is adequate pedestrian entrance and egress from adjoining street frontage. It has been proven over a substantial length of time that this occupant creates no negative impact on street frontage or circulation on adjoining streets.

8. The plans conform to all other laws and regulations of the City, provided, however, that the Council shall have the right to require front, rear and side yard setbacks greater than those otherwise provided in the laws and regulations of the City if the Council finds that such larger front, rear and side yard areas are necessary to provide for the health, safety and general welfare of the residents of Piedmont in accordance with its zoning laws. There is no material change proposed in this application.

RESOLVED, that in consideration of the findings and facts set forth above, the Piedmont Planning Commission recommends approval by the City Council of the application for a conditional use permit by Ms. Marchesotti on behalf of Mason McDuffie Real Estate Inc., dba Highland Partners Better Homes & Gardens for property located at 342 Highland Avenue, Piedmont, subject to the following conditions:

1. The term of the approval shall be 10 years, co-terminating with the lease.

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

Moved by Kellogg, Seconded by Ode

Ayes: Chase, Henn, Kellogg, Zhang, Ode

Noes: None

Absent: Robertson

**Variance and
Design Review
211 Linda Avenue**

Mr. and Mrs. Richard Odenheimer are requesting variance and design review to develop additional habitable space on the lower level including a bedroom and full bathroom; replace a lower level window on the left (south) facade; and install a new handrail along existing stairs in the left side yard. The requested variance is from Section 17.16 to allow the addition of a room eligible for use as a bedroom to a residence with two covered parking spaces measuring 20'10" by 18'6" in lieu of the code required minimum dimension of 18 ft. by 20 ft.

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

Public testimony was received from:

Richard Odenheimer described the proposed improvements intended to convert an existing room which has been used as a bedroom for years into a legally conforming space. He stated that his existing 2-car garage accommodates his two vehicles, even though it is slightly shorter in length than the parking space dimension required by code.

Bernie Stein, Project Architect, stated that the proposed improvements will not be visible from the street, the existing garage was built to code at the time of its construction and accommodates the parking of two vehicles and that the proposed new vinyl window matches the home's existing vinyl windows.

The Commission supported application approval, agreeing that the project is a logical improvement to the property, the existing garage functions as a 2-car garage and the new vinyl window matches existing vinyl windows which were previously approved for the residence. The Commission acknowledged that while the City's Window Policy discourages the use of vinyl windows as a new window treatment, it does encourage overall window consistency within a home. Therefore, since the new vinyl window proposed for the new legal bedroom matches the existing vinyl windows on the home, this element of the project is consistent with City policy.

Resolution 12-V/DR-13

WHEREAS, Mr. and Mrs. Richard Odenheimer are requesting permission to develop additional habitable space on the lower level including a bedroom and full bathroom; replace a lower level window on the left (south) facade; and install a new handrail along existing stairs in the left side yard located at , 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 add a 4th bedroom without supplying conforming parking; and

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

1. The project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e)
2. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to: the fact that the existing garage functions as a 2-car parking structure and making this structure conform with the code's parking space dimensions would involve considerable excavation and construction hardship in order to add just a few inches of depth. 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 there is no change in existing conditions.
4. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because it would necessitate considerable excavation and structural hardship in order to make the existing 2-car functional garage conform to code dimensions.
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. There will

be no change in window appearance or impact on the neighborhood. The new proposed window is obscured by a railing and is not visible from the street.

7. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because the proposed improvements are identical to existing conditions.

8. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. There is no change to vehicular traffic circulation and the new railing adds an element of safety.

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

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Odenheimer for construction at 211 Linda Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Construction Management Plan.** Due to the scope and nature of the application, a construction management plan shall be developed and approved by staff prior to obtaining a building permit. Said plan shall be comprehensive while specifically addressing the duration of the project, construction hours, the staging of materials, and parking of worker vehicles to ensure the free flow of traffic along Linda Avenue;

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

3. **Windows.** The proposed lower level bedroom window shall match the existing windows throughout the residence in terms of color and quality.

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 Zhang

Ayes: Chase, Henn, Kellogg, Zhang, Ode

Noes: None

Absent: Robertson

ADJOURNMENT

There being no further business, Chairman Chase adjourned the meeting at 10:35 p.m.