

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, May 9, 2011

A Regular Session of the Piedmont Planning Commission was held May 9, 2011, in the City Hall Council Chambers at 120 Vista Avenue. In accordance with Government Code Section 54954.2(a) the agenda for this meeting was posted for public inspection on April 29, 2011.

CALL TO ORDER

Chairman Henn called the meeting to order at 5:10 p.m.

ROLL CALL

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

Absent: Commissioner Clark Thiel (excused)

Staff: City Planner Kate Black, Assistant Planner Kevin Jackson, Planning Technicians Manira Sandhir and Zach Rehm and Recording Secretary Chris Harbert

CONSENT CALENDAR

There was no consent calendar.

PUBLIC FORUM

There were no speakers for the public forum.

APPROVAL OF MINUTES

Resolution 8-PL-11

RESOLVED, that the Planning Commission approves as submitted its meeting minutes of April 11, 2011.

Moved by Robertson, Seconded by Chase

Ayes: Chase, Henn, Kellogg, Robertson

Noes: None

Absent: Thiel

ANNOUNCEMENT

The City Planner announced that the Planning Commission will review the Draft Environmental Impact Report for the proposed 7-unit townhouse development project at 408 Linda Avenue on June 13. The public review and comment period for the Draft EIR will begin May 17. Interested residents are encouraged to submit their comments directly to the planning department and/or via public testimony at the June 13 meeting.

REGULAR CALENDAR

The Commission considered the following items of regular business:

Fence Design Review 431 Pacific Avenue

Mr. Chris Moore is requesting fence design review to replace an existing redwood fence with a new 6 ft. high stepped redwood fence adjacent to the sidewalk at the front (north) of the property.

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

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

Public testimony was received from:

Chris Moore stated his desire to relocate his new fence two feet closer to the sidewalk than the existing fence so as to maximize the rear yard

playground space for his children. He noted that there are other similarly placed fences in the neighborhood.

The Commission preferred that the 6 ft. high fence not be placed immediately adjacent to the sidewalk but pulled back approximately 1 foot to allow for the planting of vines/landscaping to soften the streetscape appearance of the fence. Also, pulling back the fence this distance will avoid encroachment into the City right-of-way. The Commission agreed that the stepped design and 6 ft. height of the replacement fence was appropriate given the fact that the applicant's property is a small corner lot with limited private outdoor living space.

Resolution 100-DR-11

WHEREAS, Mr. Chris Moore is requesting permission to replace existing redwood fence with a new 6 ft. high stepped redwood fence adjacent to the sidewalk at the front (north) of the property located at 421 Pacific Avenue, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements (including but not limited to height, stepped down design, materials and location on the parcel) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. The project complies with Design Review Guidelines V-1, V-2, V-5, V-5(a) through (c) and V-6.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because of its siting and stepped down design. The project complies with the above-referenced Design Review Guidelines.
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.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Moore for construction at 431 Pacific Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. The new replacement fence shall be located one foot from the edge of the sidewalk or six feet from the face of the curb, so it is not within the City right-of-way;
2. The applicant shall install planting on the street side of the new fence.

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 Robertson, Seconded by Kellogg

Ayes: Henn, Kellogg, Robertson, Zhang

Noes: None

Recused: Chase

Absent: Thiel

**Variance, Design
Review & Fence
Design Review
420 Wildwood Avenue**

Mr. and Mrs. Allen Bouch are requesting variance, design review and fence design review to demolish the existing garage, breezeway, stucco wall enclosing the rear yard, and the rear family room; construct a new 2-car garage, a new trellis arbor connecting the garage and house, a new family room with roof terrace atop, a new stucco wall enclosing the rear yard, a new outdoor fireplace and new built-in grill and counter; replace the retaining wall along the rear (south) property line; make window and door modifications on the rear of the house; add exterior lighting including wall lights, path lights and up lights; and make hardscape and landscape improvements throughout the rear and east side yards including a widened driveway. The requested variances are from: (1) Section 17.10.7 to allow the new family room eave, trellis arbor and new eave of the expanded garage to extend to within 5 ft. 9 in., 15 ft. 5 in. and 12 ft. 9 in., respectively, of the right side property line in lieu of the code required minimum of a 20 ft. street side yard setback; (2) Section 17.10.7 to allow the eave of the new expanded garage to extend to within 5 in. of the left side property line in lieu of the code required minimum of a 4 ft. side yard setback; and (3) Section 17.10.8 to allow the wall of the new expanded garage to extend to within 1 inch of the rear property line in lieu of the code required minimum of a 4 ft. rear yard setback.

A similar application was approved for this property on May 14, 2007.

Written notice was provided to neighbors. **Five affirmative response forms** were received. **Correspondence** was received from: Gary & Sharon Rinehart; Andrew & Sharon Gillin

Public testimony was received from:

Grier Graff, Project Architect, described how the current design is an improvement over the one approved in 2007 and stated that neighbor concerns relating to drainage and landscaping issues will be addressed during the construction phase of the project. He noted that storm drains will be installed around the garage and all existing storm water flow on the property will be retained and diverted into the City's storm drain system.

Gary Rinehart referenced his letter in reiterating his concern that the common wall separating the two properties not be affected by the project and that existing drainage lines not be blocked. The City Planner explained that drainage issues are addressed by the Building Official during the building permit stage of construction.

The Commission agreed that the proposed design was superior to that approved in 2007 in terms of its aesthetics, integration with the existing house and architectural detailing. The Commission further agreed that variance approval was justified given the triangular shape and layout of existing structures on this corner lot.

Resolution 104-V/DR-11

WHEREAS, Mr. and Mrs. Allen Bouch are requesting permission to demolish the existing garage, breezeway, stucco wall enclosing the rear yard, and the rear family room; construct a new 2-car garage, a new trellis arbor connecting the garage and house, a new family room with roof terrace atop, a new stucco wall enclosing the rear yard, a new outdoor fireplace and new built-in grill and counter; replace the retaining wall along the rear (south) property line; make window and door modifications on the rear of the house; add exterior lighting including wall lights, path lights and up lights; and make hardscape and landscape improvements throughout the rear and east side yards including a widened driveway located at 420 Wildwood Avenue, Piedmont, California, which construction requires variance and design review; and

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary in order to construct within the left (east) side yard, the rear (south) side yard and the right (west) side yard ; 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 triangular configuration and corner nature of the lot and the fact that the existing garage is located within the rear and left setbacks. Because of these circumstances, strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone which conform to the zoning requirements.
3. The variances are compatible with the immediately surrounding neighborhood and the public welfare because there will be no material change in existing conditions.
4. Accomplishing the improvement without variance would cause unreasonable hardship in planning, design, or construction because given the triangular shape and configuration of structures on the

property, no improvements in the rear and side yard can be accomplished without variance.

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 in terms of scale compatibility, material consistency and architectural detailing. The project complies with Design Review Guidelines II-1, II-2, II-3, II-3(a) & (b). The new fence replaces an existing fence at the same height and position on the property and complies with Design Review Guidelines V-5, V-5(a) and V-6(b). The new garage will be in the same position as the existing garage and complies with Design Review Guidelines III-1, III-2 and III-3.

7. The proposed new upper level deck complies with Design Review Guidelines II-2, II-3(c) & (d) and does not materially alter existing view and light impacts on neighboring properties.

8. The size and height of the addition is commensurate with the size of the lot and in keeping with the existing neighborhood development pattern. The new roof over the family room is well integrated into the size and scale of the existing house and complies with Design Review Guideline II-3.

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. The new garage will have the same ingress/egress as existing and there is no change to the curb-cut on the property. The project complies with Design Review Guidelines III-5(a), III-6 and III-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. and Mrs. Bouch for proposed construction at 420 Wildwood 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. **Stormwater BMPs for Construction.** Property Owner shall implement 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. As there is a possibility that underground stormwater piping may exist adjoining the existing garage, that during the construction of this new project, that this existing piping be maintained to direct stormwater from adjoining properties into the City's stormwater system as currently existing and functioning, as acceptable to the City Building Official during the building permit process.

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. **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.

5. **CEQA Agreement.** The Applicant shall, pursuant to a form of agreement prepared by the City Attorney and executed by the Applicant, defend, at the Applicant's sole expense, indemnify and hold harmless the City of Piedmont, its elected and appointed officials, agents, officers and employees from and against any claim, demand, loss, liability, action or proceeding relating to, resulting from, or in connection with any determination, whether through its Planning Commission, City Council, City Staff, or otherwise, regarding applicability of the California Environmental Quality Act to the Applicant's Project, including but not limited to any determination that a Categorical Exemption applies or that an Initial Study, a Negative Declaration or an Environmental Impact Report is or is not required for the Project.

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 Chase

Ayes: Chase, Henn, Kellogg, Robertson, Zhang

Noes: None

Absent: Thiel

**Second Unit Permit
with Parking Exception
325 Howard Avenue**

Mr. Marc Pollock is requesting a Second Unit Permit to convert part of the lower level at the rear of the house into a legal, rent-restricted studio second unit with approximately 685 sq. ft. A parking exception is requested in order to develop the second unit without providing the required on-site parking. The application also proposed to correct some unapproved construction.

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

Public testimony was received from:

Marc Pollock responded to Commission questions concerning garage dimensions and lower level ceiling heights. He noted that currently the garage houses two motorcycles but with the proposed expansion, this garage will now be able to accommodate the parking of one car.

The Commission supported application approval, agreeing that the project will help meet the City's low income housing needs, correct unapproved construction, increase the property's on-site parking capability and utilize existing space. Furthermore, the property's close proximity to multiple sources of public transportation makes it an ideal location for a second unit.

Resolution 107-SU-11

WHEREAS, Mr. Marc Pollock is requesting a Second Unit with Parking Exception to convert part of the lower level at the rear of the house into a legal, rent-restricted studio second unit with approximately 685 sq. ft. located at 325 Howard Avenue, Piedmont, California, 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 17D.6(b)2 of the Piedmont City Code:

1. The parking exception will not be detrimental to the health, safety or general welfare of persons residing in the neighborhood and will not negatively impact traffic safety or emergency vehicle access to residences or create hazards by obstructing view to or from adjoining sidewalks and streets. There are no changes being made to the building's existing footprint in order to add the second unit.

2. The parking exception will not adversely affect the character of the surrounding neighborhood because more parking will be created on-site for the main house and given the property's close proximity to public transportation, the potential tenant of the second unit may not necessarily have a car.
3. There is sufficient street parking available to accommodate the parking exception and the second unit is located within 1/3 mile of a public transit stop.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the second unit with a parking exception application of Mr. Pollock for construction at 325 Howard Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. Second Unit Declaration. As part of the submittal for a building permit, the completed, signed and notarized *Declaration of Restrictions - Property with Approved Second Dwelling Unit* form shall be recorded. In compliance with Section 17D.5(g), the issuance of the building permit may not occur until the *Declaration* is recorded.
2. Very Low Income Second Unit Declaration. As part of the submittal for a building permit, the completed, signed and notarized *Declaration of Rent Restrictions for Second Unit Affordable to Very Low Income Households* form shall be recorded. In compliance with Section 17D.6(d), the issuance of the building permit may not occur until the *Declaration* is recorded.
3. Rent Certification. In compliance with Section 17D.6(e), prior to the occupation of the second unit, the completed, signed and notarized *Rent-Restricted Second Unit Affordable Rent Certification* form shall be submitted. The form shall be submitted annually to provide evidence of continued compliance with the California Department of Housing and Community Development State Income Limits for Alameda County.
4. 10 Year Requirement. The second unit shall remain a very low income rent-restricted unit per the California Department of Housing and Community Development State Income Limits, adjusted annually for a period of 10 years from the date of this approval. Thereafter, the unit shall no longer be required to be a rent-restricted unit, but may continue to be used as a second unit.
5. Annual Rental Tax. The annual City of Piedmont rental tax is waived for the first year. Thereafter, the property owners shall annually comply with all required rental taxes and fees.
6. Construction Management Plan. A comprehensive Construction Management Plan shall be developed by the applicant. 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 shall have 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.

7. Stormwater BMPs for Construction. Applicant shall implement stormwater treatment Best Management Practices (BMPs) as well as 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 Applicant's Construction Management Plan.

8. 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.

9. Approved Plan Set. The approved plans are those submitted on April 8, 2011 with modifications submitted on April 25, 2011.

10. Building Code Compliance. Building Official shall make a thorough inspection of the unit to determine compliance with the current Building Code, and with any other building requirements determined by the Piedmont Building Official to be related to the safety of occupants. All Building Code requirements for habitation as a second unit must be met. Related modifications to the exterior, if any, shall be subject to Staff Review, except if staff believes that such change may have a material impact on an adjacent property, and should be processed through Administrative, Staff or Planning Commission Design Review. Specifically, plans submitted for a building permit shall comply with the following:

10A. Confirm that the configuration shown in the proposed new second unit bathroom complies with the Building Code clearance requirements (30" wide, 24" clear in front of toilet).

10B. The area off of the bathroom must open completely to the area with windows and exit door (it cannot be a cased opening).

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 Robertson, Seconded by Chase

Ayes: Chase, Henn, Kellogg, Robertson, Zhang

Noes: None

Absent: Thiel

**Variance, Design
Review & Fence
Design Review
38 La Salle Avenue**

Mr. Wesley Collier and Ms. Virginia O'Rourke are requesting variance, design review and fence design review to make the following modifications on the property: demolish the existing entry stairs; construct a new entry stairway; enclose a part of the existing porch to create a new entry foyer; make window and door modifications; add exterior lighting; construct new retaining walls; add guardrails and handrails; and make landscape and hardscape changes throughout. The requested variance is from Section 17.10.6 to allow the new entry stairs that are greater than 12 in. above grade to extend to within 6 ft. of the front property line and walls of the new on-grade entry stairs to extend to 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:

Pamela Collier, Project Architect, explained that the intent of the project is to correct structural problems with the home's existing front stairway and to change the overall front entry design to create a more welcoming and gracious entrance with materials more in keeping with the mid-century architectural style of the home. She noted that the variance situation is pre-existing and cannot be avoided.

Chris Ford, Project Landscape Architect, explained the proposed tree removals as well as the safeguards planned for protecting two large oak trees during construction.

The Commission discussed at length the design details of the proposed front entry steps and landings as well as possible design options to reduce the visual massing and extent of encroachment into the front setback. The Commission agreed that changes to the home's front entry were needed and that variance approval for any improvement was justified since no change to the existing entry is possible without variance. However, the Commission, with the exception of Chairman Henn, felt that the proposed front entry design created too much mass and bulk within the front setback. Several suggestions were made to reduce this mass/bulk through a lowering and pulling back of the wall and the use of open railings. Chairman Henn felt that alternative designs were not really possible given the elevation of the house in relation to street grade but he did support a more open railing design rather than solid wall. He felt that this design modification could be accomplished at staff level. The Commission majority preferred that a redesign of the front entry be resubmitted for Commission review and approval. As to proposed improvements in the rear and side yard, the Commission agreed that these elements of the project were an improvement over existing conditions and acceptable. Therefore, the Commission agreed to separate out portions of the project, reiterating its support of variance approval in concept.

Resolution 110-V/DR-11

WHEREAS, Mr. Wesley Collier and Ms. Virginia O'Rourke are requesting permission to demolish the existing entry stairs, construct a new entry stairway and enclose a part of the existing porch to create a

new entry foyer at 38 La Salle 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 construct within the 20 ft. setback along La Salle Avenue; 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 entry stairs proposed to be replaced are located within the front setback, with an entry door approximately 13 ft. higher than curb level. Thus any improvement to the front of this structure will require variance. 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 any improvement to the entry stairway is not possible without variance
4. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because the house is located on a steep, upslope lot with its front door located approximately 20 ft. from the front property line; thus any improvements to related to the front stairway leading to the home cannot be accomplished without variance.
5. While the proposed design in terms of its materials, architectural detailing and horizontal striations are an improvement over existing conditions and comply with Design Review Guideline II-3(b), the vertical massing of the proposed entry stairs do not comply with Design Review Guidelines II-1, II-2 and II-6. Therefore, the proposed construction as designed does not conform with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves in concept Mr. Collier and Ms. O'Rourke's variance application but denies, without prejudice, design review for the proposed modifications to the front entry at 38 La Salle Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following condition with regard to variance approval:

- Said variance approval is contingent upon the applicant submitting a new design for the front entry that complies with the City's Design Review Guidelines.

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 Robertson

Ayes: Chase, Kellogg, Robertson, Zhang

Noes: Henn

Absent: Thiel

Resolution 110-DR-11

WHEREAS, Mr. Wesley Collier and Ms. Virginia O'Rourke are requesting permission to make window and door modifications; add exterior lighting; construct new retaining walls, fencing, patio and driveway; add guardrails and handrails; and make landscape and hardscape changes throughout the property located at 38 La Salle Avenue, Piedmont, California, which construction requires design review and fence 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 improvements comply with Design Review Guidelines II-1, II-2, II-3, II-3(a) & (b), IV-1, IV-2, V-1, V-2, V-4 and V-5.
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 project improves the livability of the home without materially impacting the light and view of neighbors. The project complies with Design Review Guidelines II-2 and II-3.
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.
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. The driveway and curb-cut positioning will remain unchanged from that existing and the quality of the proposed driveway material

enhances the property. The project complies with Design Review Guideline III-7.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Collier and Ms. O'Rourke for proposed rear and side yard construction at 38 La Salle 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.
 - 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. **Arborist's Report.** Before the issuance of a building permit, the Property Owner shall submit an Arborist's Report that includes tree preservation measures to preserve the existing oak trees on the City's right of way along La Salle Court. The tree preservation measures shall be on the appropriate sheets of the construction plans. The arborist shall be on-site during critical construction activities, including initial and final grading, to ensure the protection of the existing trees. The arborist shall document in writing and with photographs the tree protection measures used during these critical construction phases. If some trees have been compromised, mitigation measures must be specified in writing, and implementation certified by the Project Arborist. Trees proposed for removal shall have an in-lieu replacement tree planted elsewhere on the property, which shall be shown on the final landscape plan. Before the Final Inspection, the Arborist shall file a report to the City certifying that all tree preservation measures as recommended have been implemented to his/her satisfaction and that all retained trees have not been compromised by the construction.

5. **New Windows.** The new windows shall closely match the remaining existing windows in color, and recess, frame, and sash dimensions.

6. **Light Fixtures.** The new wall light fixtures shall be downward directed with an opaque or translucent shade that completely covers the light bulb.

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 Chase

Ayes: Chase, Henn, Kellogg, Robertson, Zhang

Noes: None

Absent: Thiel

ADJOURNMENT

There being no further business, Chairman Henn adjourned the meeting at 7:30 p.m.

