

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, September 10, 2012

A Regular Session of the Piedmont Planning Commission was held September 10, 2012, in the City Hall Council Chambers at 120 Vista Avenue. In accordance with Government Code Section 54954.2(a) the agenda for this meeting was posted for public inspection on August 27, 2012.

CALL TO ORDER

Chairman Chase called the meeting to order at 5:05 p.m. He introduced and welcomed the planning department's newest Planning Technician Janet Chang

ROLL CALL

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

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

ANNOUNCEMENTS

Joint Meeting -- The Chairman announced that the Commission and City Council will hold a joint meeting on September 18th at 5:00 p.m. in the EOC Room. Topics of discussion will include wireless communication facilities and bicycle plans/safe routes to school. The public is invited to attend.

CONSENT CALENDAR

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

Variance 618 Moraga Avenue

Resolution 231-V-12

WHEREAS, Mr. and Mrs. Mike Eyre are requesting permission to demolish and rebuild the enclosed porch on the upper level front of the house to include: changing the corrugated shed roof to a gable roof (which increases the height) and constructing new walls and windows; and modifying the open porch at the entry level below to have a new arched opening located at 618 Moraga 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 front setback along Moraga 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 existing house is built within the front setback since it predates current zoning regs. We proposed to bring the existing sunroom to current building and planning code standards regarding ceiling height, egress, exterior

aesthetics. 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 as follows: the completed project remains a small house on a large lot. The sunroom has existed for many decades. The variance allow the front porch and sunroom to be architecturally consistent with the home. Many neighboring houses are in front setback due to similar topographical (steep upslope) constraints.

4. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction as follows: since the existing home is in front setback, any improvement would require a variance and home predates current setback minimums, and is located on a steep upslope through lot with limited private rear yard space.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application of Mr. and Mrs. Eyre for the above variance at 618 Moraga Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

**Design Review
618 Moraga Avenue**

Resolution 231-DR-12

WHEREAS, Mr. and Mrs. Mike Eyre are requesting permission to demolish and rebuild the enclosed porch on the upper level front of the house to include: changing the corrugated shed roof to a gable roof (which increases the height) and constructing new walls and windows; and modifying the open porch at the entry level below to have a new arched opening located at 618 Moraga 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 distance between the proposed upper level addition/expansion and adjacent residences is reasonable and appropriate due to the existing topography and neighborhood development pattern. Upper level setbacks greater than the setbacks required for the lower level have been considered and are/are not necessary to reduce losses of ambient and reflected light: the new sunroom roof and windows match existing roof pitch, style and materials. It adds appropriate emphasis to existing front porch since the front door is currently hard to find.

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 new sunroom roof is quite small and distant from neighbors and has insignificant effect on view and light. The height matches existing ceiling, window head heights, roof pitch and design.

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 location of improvement is determined by the existing construction. We proposed to bring existing sunroom to current building and planning code standards.

4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. In accordance with Sections 17.16.1 and 17.22.1, the existing or proposed on-site parking is/is not appropriate to the size of the new upper level or new multi-level structure or addition, and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood. The 111 sq. ft. addition is quite small on a 8,318 sq. ft. lot. The height of the new ridge is well below existing ridge and height limit. Design is similar to a gable dormer on right side neighbor's house.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Eyre for construction at 618 Moraga 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 applicant's Construction Management Plan.

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

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

- i. Completion of Excavation;
- ii. Completion of Retaining Walls;
- iii. Completion of Foundation;
- iv. Completion of Rough Framing;
- v. Completion of Electrical;
- vi. Completion of Plumbing;
- vii. Completion of 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. **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. **Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.

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

7. **Approved Plan Set.** The approved plans are those submitted on August 21, 2012.

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

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

**Fence Design Review
225 El Cerrito Avenue**

Resolution 232-DR-12

WHEREAS, Mr. and Mrs. Barry Dubin are requesting permission to replace an existing wood fence with a new wrought iron fence in the front yard of the property located at 225 El Cerrito 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, 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) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that: the proposed 3 rail wrought iron fence is consistent with our 1914 traditional brown shingle home. Its simple linear design is similar to the existing fence but has the advantage of being less large and bulky in appearance than the existing wood fence which was approved in 2004. In addition, the replacement fence will not be subject to deterioration as is the current wood fence. Also, there is substantial vegetation in our front yard that will be on both sides of the proposed replacement fence, thus softening any impact of a wrought iron fence.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because the height of the proposed replacement fence is 42 inches and will not have any impact on any neighbor's property, including their views, privacy and access to direct and indirect light.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because the proposed fence with a height of 42 inches will not have such an impact.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Dubin for construction at 225 El Cerrito 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.

**Fence Design Review
90 Inverleith Terrace**

Resolution 236-DR-12

WHEREAS, Mr. Dean Nickels and Ms. Kathryn Doyle are requesting permission to construct located at 90 Inverleith Terrace, 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, 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) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that: the design works off of the existing iron work (garden railings and other elements) and creates a light, welcoming entryway to the property. A balance is struck between complementing the mass of the construction materials and a visual lightness that invites the eye to peruse the garden and home beyond.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because the design will have no effect on neighbors' properties other than to enhance the street view of the home.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because gates will open inward and gate is set back 14 inches from the sidewalk. Foot traffic will not be affected.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Nickels and Ms. Doyle for construction at 90 Inverleith Terrace, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following condition:

- **Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding

selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.

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

Moved by Robertson, Seconded by Zhang
Ayes: Chase, Henn, Kellogg, Robertson, Zhang
Noes: None
Absent: None

PUBLIC FORUM

There were no speakers for the public forum.

APPROVAL OF MINUTES

Resolution 14-PL-12

RESOLVED, that the Planning Commission approves as submitted its meeting minutes of August 13, 2012.

Moved by Henn, Seconded by Robertson

Ayes: Henn, Kellogg, Robertson, Zhang, Ode

Noes: None

Abstain: Chase

Absent: None

REGULAR CALENDAR

The Commission considered the following items of regular business:

Design Review 211 Lafayette Avenue

Mr. and Mrs. Bill Newell are requesting design review to demolish the existing trellis on the west side of the garage and remodel the garage by making the following changes: increase the height of the roof in order to develop habitable space in the attic; add windows, a door and exterior lighting; and construct a new deck, stair and trellis on the west side. A previous application was denied by the Commission on July 9, 1990.

Written notice was provided to neighbors. **One affirmative, two negative response forms** were received. **Correspondence** was received from: Peggy Chan; Mindy Scott

Public testimony was received from:

Bill Newell described the proposal to convert the existing garage attic space into a fitness room with improved stair access as well as provide greater architectural compatibility between the garage and the existing home. He stated that the proposed deck off of the fitness room is intended as a small seating area to enjoy the sunset and bay view. This deck is not the primary outdoor living/entertaining area on the property and will not be used as such. There is no plumbing being added to the

proposed fitness room. He noted that in response to neighbor concerns over privacy, he is willing to add vegetation (Italian cypress) to fill-in an existing gap in the rear yard's vegetation screen. He also stated that in response to neighbor requests, he is now proposing the following Design Option B plan:

- the new gable on the east slope of the garage roof has been eliminated in favor of a hip roof in order to address the light concerns of the owners of 80 Woodland Way. The ridge height does not change between the original and Option B designs; and
- the deck and stair have been moved to a distance of at least 7 feet from the rear property line, rather than the originally proposed 4 feet, in order to address the privacy and noise concerns of the owner of 84 Woodland Way.

Fred Karren, Project Architect, described the major design changes incorporated into the Design Option B proposal which mitigate the privacy and view concerns of the neighbors at 80 and 84 Woodland Way.

The Commission supported approval of the modified design, agreeing that the Design Option B plan is a good solution for protecting the privacy of adjacent neighbors, the proposed improvements are attractively designed, architecturally compatible and in scale with the existing house and property. In addition, the absence of plumbing in the new fitness room will discourage the use of the garage deck as a "party space." The Chairman encouraged the applicant to restore the architecturally-unique rear yard fence to improve property aesthetics for both himself and his neighbor.

Resolution 178-DR-12

WHEREAS, Mr. and Mrs. Bill Newell are requesting permission to demolish the existing trellis on the west side of the garage and remodel the garage by making the following changes: increase the height of the roof in order to develop habitable space in the attic; add windows, a door and exterior lighting; and construct a new deck, stair and trellis on the west side of the property in accordance with Design Option B plans, dated August 28, 2012, located at 211 Lafayette Avenue, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. The distance between the new garage roof and adjacent residences as indicated in Design Option B is appropriate due to the existing topography and neighborhood development pattern. The original Design Option A had impacts on the existing neighborhood development. Upper level setbacks greater than the setbacks required

for the lower level have been considered and have been incorporated into the design to reduce losses of ambient and reflected light. The proposed addition has no windows in the direction of the two adjacent neighbors to the east and north and is similar in design to the existing house and garage.

2. The proposed upper level addition/expansion has been designed in a way that reasonably minimizes view and light impacts on neighboring properties because the roof line slopes away from neighboring properties, the hip has been added to minimize view impacts and a mature, landscaping hedge exists which screens the view of the addition from neighbors to the north.

3. The size and height of the addition is commensurate with the size of the lot and is in keeping with the existing neighborhood development pattern because the lot is large and the percent of lot coverage remains very low.

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 traffic or pedestrian traffic flow resulting from the proposed remodel and addition.

5. The proposed project complies with Design Review Guidelines III-1, III-4, III-5, III-5(a) and III-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. Newell for construction at 211 Lafayette 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. **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. **Light Fixtures.** The new exterior light fixtures shall be downward directed with an opaque or translucent shade that completely covers the light bulb.

5. **Design Option B.** The approved design is that reflected in Design Option B dated August 28, 2012, consisting of (i) a hip roof on the east side of the garage; (ii) the deck and stairs shifted a minimum of 7 ft. from the north property line; (iii) a deck size that shall not exceed 8 ft. 6 in. by 14 ft.; and (iv) the materials and architectural detailing as shown on the original set of plans dated May 18, 2012. Said design shall be subject to staff review and approval.

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

Moved by Henn, Seconded by Kellogg

Ayes: Chase, Henn, Kellogg, Robertson, Zhang

Noes: None

Absent: None

**Variance, Design
Review & Fence
Design Review
408 Moraga Avenue**

Mr. and Mrs. Eric Hohener are requesting variance, design review and fence design review to demolish the existing garage and driveway; remodel and enlarge the 2,036 sq. ft., 2-bedroom residence by adding two bedrooms and a study through the construction of a 343 sq. ft. upper level rear addition; construct a new dormer on the east slope of the roof; construct a new attached 2-car garage with a front trellis awning at the front of the house; make window, door, skylight and exterior lighting modifications throughout; construct new and replacement fencing in the west and east side yards, part of which is constructed within the 20 ft. front yard setback; and make various landscape and hardscape changes including a new driveway and curb cut at the northwest corner of the property, and a new on-grade entry stair at the northeast corner of the property. The requested variances are from: (1) Section 17.10.4 to allow a structure coverage of 45% in lieu of the code permitted maximum of 40%; (2) Section 17.10.6 to allow the new front trellis to extend beyond the front property line and 2 ft. into the City right-of-way and the new garage wall to extend to within 6 inches of the front property line in lieu of the code required minimum of a 20 ft. front yard setback; and (3) Section 17.10.7 to allow the new garage to extend to the right side property line in lieu of the code required minimum of a 4 ft. side yard setback.

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

Public testimony was received from:

KeriAnne Hohener stated that the intent of the project is to update and modernize an older home in order to meet modern family living needs. She stated that 4-bedroom residences are commonplace in the neighborhood and the proposed project will provide conforming off-street parking for the property which does not currently exist.

Don Sande, Project Architect, stated that the proposed garage location is the most logical for safe and convenient vehicle access, the applicants intend to work with the neighbors in providing visual screening of the garage and agreed with the Commission that the garage width could be reduced by 3 ft. in order to eliminate the need for the proposed garage trellis to extend into the City right-of-way. He also submitted a proposed plan/design for improving the aesthetics and architectural compatibility of the existing "tacked-on" family room, including a deck. The Commission voiced support for the proposed family room deck, directing that this modification be submitted as a separate Staff Design Review Application to allow neighbors an opportunity to review and comment on this proposal. However, the Commission felt that the proposed family room roof modifications submitted tonight could be incorporated into the current application's design/plans as a "condition" of project approval.

As to the proposed design, the Commission agreed that variance approval is justified to allow (i) the new garage to be located in the most logical and easily accessible location on the property; (ii) the proposed garage location is similar to existing neighborhood development; (iii) the elimination of the existing, non-functional 1-car garage on the property will enhance property aesthetics by improving the usability of the rear yard by eliminating the hardscape associated with this garage and driveway and replacing this hardscape with landscaping; and (iv) the amount of existing structure coverage on the property is being reduced. The Commission further agreed that reducing the width of the proposed garage by relocating the east wall westward 3 ft., will eliminate the need for the trellis to extend into the City right-of-way, allow more landscaping/greenery in the front yard to enhance streetscape aesthetics, provide more distance between the garage/driveway and a City street tree and still retain a functional, code-compliant 2-car garage. The Commission also noted that the proposed addition is seamlessly integrated into the existing house and preserves neighbor privacy -- there are no new windows on the west side of the addition.

Resolution 203-V/DR-12

WHEREAS, Mr. and Mrs. Eric Hohener are requesting permission to demolish the existing garage and driveway; remodel and enlarge the 2,036 sq. ft., 2-bedroom residence by adding two bedrooms and a study through the construction of a 343 sq. ft. upper level rear addition; construct a new dormer on the east slope of the roof; construct a new attached 2-car garage with a front trellis awning at the front of the house; make window, door, skylight and exterior lighting modifications throughout; construct new and replacement fencing in the west and east side yards, part of which is constructed within the 20 ft. front yard setback; and make various landscape and hardscape changes including

a new driveway and curb cut at the northwest corner of the property, and a new on-grade entry stair at the northeast corner of the property located at 408 Moraga 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 20 ft. front yard setback, construct within the 4 ft. west side yard setback and exceed the limit for the amount of structure on a property; 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 it would be unreasonable to construct a code-complying garage in any other location on the property -- a rear yard location would create an undue hardship by requiring ingress/egress along a long driveway, would substantially diminish the usability and quality of the rear yard and would not result in a safe circulation pattern for vehicles. 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 the garage as currently proposed and located provides the best and safest vehicle circulation for the property, several other garages along Moraga Avenue are located within the front setback, the proposed location is in keeping with existing neighborhood standards and the proposed location improves the property's vehicle ingress/egress circulation by substantially reducing the length of the driveway to and from the garage.
4. Accomplishing the improvement without variance would cause unreasonable hardship in planning, design, or construction because the proposed location is the best option for providing code-conforming off-street parking for this property.
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 that its mass, siting, architectural style and fenestration detailing are consistent with the original design scheme of the residence. The proposed improvements are well integrated into the existing house and do not create a tacked-on appearance.
7. The proposed upper level addition/expansion has been designed in a way that reasonably minimizes view and light impacts on neighboring

properties. The proposed improvements are in scale with the existing home and adjacent residences along Moraga Avenue. The roof design and height of the proposed addition is respectful in terms of scale, view, light and privacy of neighboring construction and does not result in any unreasonable impacts on neighboring properties.

8. The size and height of the addition is commensurate with the size of the lot and is in keeping with the existing neighborhood development pattern.

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. Vehicle traffic is enhanced because the proposed garage is in an easier location for ingress/egress rather than by a lengthy, narrow driveway which would be required for a garage location in the rear yard. The project improves the overall quality and safety of the property and neighborhood with a strategy for entering and exiting the garage that is similar to adjoining properties.

10. The project complies with Design Review Guidelines II-1, II-2, II-3(a) through (d), II-4, II-6, II-6(a) through (c), III-1, III-1(a), III-2, III-2(a), III-3, III-4, III-5, III-5(a), III-6, III-6(a), III-7, III-7(a), IV-1, IV-2, IV-3, IV-4, V-1, V-2, V-5 and V-7.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Hohener for construction at 408 Moraga Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Window Color Scheme.** The exterior color scheme for windows shall be consistent throughout the house.
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. **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 Bay Area Stormwater Management Agencies Association's "Blueprint for a Clean Bay" criteria for stormwater quality protection from construction-related activities. 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.

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. 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. **Foundation/Shoring Excavation Plan.** The Property Owner shall submit foundation, excavation and shoring plans prepared by a structural engineer that fully address issues of site shoring, fencing and hillside security issues. The plans shall not require any trespassing or intruding into neighboring properties (without prior written consent) and shall mitigate against any subsidence or other damage to neighboring properties. At his discretion, the Chief Building Official may require a Soils Report, the results of which shall be incorporated as appropriate into said foundation, excavation and shoring plans.

6. **Arborist's Report and Tree Preservation Plan.** Before the issuance of a building permit, the Property Owner shall submit an Arborist's Report and Tree Preservation Plan, prepared by a California licensed arborist, that includes an evaluation on the health of the tree and tree preservation measures to preserve existing City-owned street tree in front of 408 Moraga Avenue that is proposed to remain on-site. 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 the tree has have been compromised, mitigation measures must be specified in writing, and implementation certified by the Project Arborist. If the tree cannot be preserved and an in-lieu replacement street tree is proposed, the replacement tree species, size and location is subject to staff review, with the cost of said tree being the responsibility of the applicants. 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 the City-owned street tree has not been compromised by the construction.

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

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

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

10. Neighboring Property Inspection. With each neighbor's consent, a structural engineer (chosen by the City, and paid for by the Property Owner) shall inspect the neighboring garage at 2 Highland Avenue with the intent of establishing base-line information to later be used in determining whether damage was caused by any activities on Property Owner's property (including damage caused by vibrations or other factors due to excavation, construction or related activities). The inspection shall include both foundations and non-foundation related details (walls, windows, general overall condition, etc.) at a level of inspection City Staff deems appropriate. The inspection shall only include readily visible and accessible areas of the neighboring homes. The structural engineer shall provide a full report to the City of his or her conclusions, and the report may be considered in developing the Construction Management Plan. If other independent consultants or specialists are required by the City to review plans and monitor construction activity, they shall be retained at the Property Owner's cost. Before a neighbor agrees to an inspection, City will advise neighbors that the property inspection is necessarily a public record under the California Public Records Act. Within 45 days after the Certificate of Occupancy is issued on Property Owner's property, the same structural engineer chosen by the City (or a substitute structural engineer chosen by the City) shall inspect the same area in each neighboring home and property initially inspected, and shall present to the City a Report detailing any evidence of apparent damage that has been or reasonably might have been caused by activities on the neighboring Property Owner's property at 2 Highland Avenue. The Report may include text, photographs, diagrams or other evidence that would document the apparent damage. The Report will become a public record and may be used in connection with private causes of action.

11. Fence Design. The fence proposed along the east property line, as indicated on plans stamped August 27, 2012, shall be sloped down to maintain a height of 5 ft. to its termination at the far north end of the property. Said design shall be subject to staff review and approval.

12. Garage. The proposed garage as shown on plans stamped August 27, 2012, shall be changed in width to be 22 feet maximum outside dimension measured from the west property line, its trellis, as originally designed, shall not extend beyond the property's boundaries, and its roof surface shall be finished with a tile roofing material appropriate for its architectural design. Said modifications shall be subject to staff review and approval.

13. Family Room Roof. The roof over the family room shall be modified to remove its overhangs and a water-proofed parapet be installed around its perimeter with the same architectural detailing as an existing parapet on an adjoining house and in keeping with the door/parapet/trellis design illustrated on Sheet 5 (Rear Elevation South)

of the drawing submitted tonight and dated September 10, 2012. Said design shall be subject to staff review and approval.

14. Family Room Deck. The proposed deck over the family room as documented on Sheet 5 (Rear Elevation South) submitted tonight is not approved at this time but the applicant has the option to submit this design modification as a separate Staff Design Review 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 Kellogg, Seconded by Henn

Ayes: Chase, Henn, Kellogg, Robertson, Zhang

Noes: None

Absent: None

The Commission recessed for dinner at 7:30 p.m. and reconvened at 8:00 p.m.

**Fence Design Review
50 Sandringham Road**

Mr. Anantha Pradeep is requesting fence design review to make several modifications to the front of the property at the sidewalk along Sandringham Road including constructing a new ornamental iron fence atop new brick retaining walls; new ornamental iron gates; and new brick columns with lighting.

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

Public testimony was received from:

Anantha Pradeep stated that his home was recently burglarized and as a result, he is proposing the new fence for security reasons. He emphasized that the new fence is needed to retain a very large guard dog he intends to acquire to better protect his children and property. He stressed that the design of the new fence is intended to compliment the Tudor Revival style of his residence.

Brenda Munoz, Project Designer, described the proposed lighting to be installed at the fence's vehicle and pedestrian entrances.

The Commission voiced concern that the mass and height of the proposed fence was too imposing on the streetscape and therefore requested that the design be modified as follows: (1) the proposed brick columns be included only along either side of the fence's two entrances and at its termination points -- all other fence support structures be black steel or wrought iron posts; (2) the height of the arched wrought iron fence inserts not exceed 6 ft.; and (3) the brick support columns, including lights, not exceed 6 ft. 9 in. in height. The

Commission also requested that a landscaping planting strip be provided along the street-facing side of the fence to soften its visual impact. There was a lengthy discussion as to whether there was a need for a front property line survey in this case. In the end, the Commission felt that since the new fence would be pulled back from the location of the property's former fence in order to provide for the addition of a new planting strip between the new fence and the sidewalk, no survey was necessary.

Resolution 236-DR-12

WHEREAS, Mr. Anantha Pradeep is requesting permission to make several modifications to the front of the property at the sidewalk along Sandringham Road including constructing a new ornamental iron fence atop new brick retaining walls; new ornamental iron gates; and new brick columns with lighting located at 50 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, the wrought iron fence and the brick columns. The brick is compatible with the brick driveway and neighboring retaining walls on the left.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because, as conditioned, the fence will be more open in appearance and be accented by landscaping. There is no negative impact on neighbor privacy, light or air.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because the proposal includes power-operated gates to access the driveway and a secure gate for pedestrian entrance.
4. The project complies with Design Review Guidelines IV-1, IV-1(a) & (b), IV-2, IV-2(a), IV-3, IV-3(a), IV-4, IV-4(a), IV-5, IV-5(a), IV-6, V-1, V-2, V-3, V-4 and V-5.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Pradeep for construction at 50 Sandringham Road, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

2. **Approved Plan Set.** The approved plans are those submitted on August 28, 2012, after notices to neighbors were mailed and the application was available for public review.

3. **Brick Columns.** The proposed brick columns will only be on each side of the pedestrian entry gate, on each side of the driveway gate and at each end of the fence. The wrought iron segments of the fence shall be no higher than 6 ft. at the top of the arch (including the brick), with stepped down wrought iron support posts. The proposed brick columns shall have a maximum height, including light fixtures, of 6 ft. 9 in. Said design modifications shall be subject to staff review and approval.

4. **Landscaping.** The proposed wall shall have a planting strip of a minimum width of 18 inches between the closest point of the structure and the sidewalk.

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 Henn

Ayes: Chase, Henn, Kellogg, Robertson, Zhang

Noes: None

Absent: None

**New House Variance
and Design Review
419 Hillside Court**

Ms. Wendi Lelke-Wallway is requesting variance and design review to demolish the existing 1,391 sq. ft. house and detached garage and construct a new 3-story house with attached garage. The new house is proposed to have 4,468 sq. ft. of habitable space that includes 4 bedrooms, 2 full bathrooms, 4 half bathrooms, a living-dining-kitchen-family great room, laundry room, office, media room and gymnasium. Proposed exterior features include windows and doors throughout, skylights, exterior lighting, entry porch and driveway structures, an entry trellis, trellis awnings, a roof deck, 3 rear decks, 2 balconies, fencing changes, and hardscape and landscape modifications. The requested variances are from: (1) Section 17.10.6 to allow the new driveway bridge structure to extend to within 9 inches of the front property line in lieu of the code required minimum of a 20 ft. front yard setback; (2) Section 17.10.7 to allow the entry patio trellis to extend within 9 inches and the entry patio structure to within 1'6" of the north

side property line in lieu of the code required minimum of a 4 ft. side yard setback; and (3) Section 17.10.7 to allow the new driveway bridge structure to extend to within 1'6" of the east side property line in lieu of the code required minimum of a 4 ft. side yard setback.

It was noted that the floor plan of the proposed new house will contain a 700 sq. ft. second unit which under State law and Section 17.40 of the City Code is not subject to review by the Planning Commission and is being ministerially processed by staff under a separate application #12-0098.

A previous application was denied, with prejudice, by the Commission on June 11, 2012.

Written notice was provided to neighbors. **One affirmative, two negative response** forms were received. **Correspondence** was received from: Rick Fehr; John Randolph; Rick Fehr & Susan Varner; Fred Morse; Constance Hubbard

Public testimony was received from:

Wendi and Justin Lelke-Wallway explained how their project was redesigned in response to the June meeting and responded to questions regarding existing and proposed landscaping.

Jorge Maezono, Project Architect, described the lot's challenging site conditions, explained how the new house has been repositioned closer to Piedmont Middle School to minimize neighbor impacts and reviewed how the design has been influenced by the applicants' desire to protect and retain a large redwood tree.

John Randolph stated that while the redesign is an improvement over the original submittal, he felt that the new house was still too tall in relation to his own residence. He requested that the height of the new house be lowered and that no variance be granted to allow the proposed home to be constructed within the setback next to his property.

Nancy Lim also felt that the proposed house was too large, citing concerns over a loss of privacy and view. She also voiced concern over the impacts large construction vehicle traffic and parking would have on Hillside Court's small cul-de-sac, including potential safety impacts to neighborhood children.

Alex Hsieh and Rick Fehr opposed the proposed project, noting that the proposed house is three-times larger than the home it replaces and as a consequence, its large size and 3-story height will loom over neighboring properties resulting in a substantial loss of privacy. They requested that the size of the home be reduced.

The Commission agreed that the redesign was responsive to Commission requests in terms of its relocation on the lot but felt that its size, bulk and height was still too imposing on neighboring properties. To mitigate said impacts, the Commission urged the applicants to lower the home's ground floor level by 2 to 3 feet (with corresponding lowering of all the levels above) and reduce the overall size of the home, noting that such action would eliminate the need for the entry

patio variance and minimize the intrusive impacts of the roof deck on the Randolph property. In addition, the Commission suggested that the driveway be ramped downward rather than upward to provide safer vehicle ingress/egress to the garage, noting that such action could possibly eliminate the need for the driveway bridge variance. Other suggestions included (i) consideration of removing the large redwood tree to open up more design and placement options for reducing the vertical mass of the new home and (ii) following the contours of the lot's topography to a greater degree. As to the design, the Commission agreed that the architectural style and quality of the proposed design was excellent but noted that as proposed, the size of the home reflects a maximum build out of the lot in terms of structure coverage, building height and floor area ratio. Including the square footage associated with the second unit, the total size of the proposed home is 5,168 sq. ft.

Resolution 328-V/DR-12

WHEREAS, Ms. Wendi Lelke-Wallway is requesting permission to demolish the existing 1,391 sq. ft. house and detached garage and construct a new 3-story house with attached garage. The new house is proposed to have 4,468 sq. ft. of habitable space that includes 4 bedrooms, 2 full bathrooms, 4 half bathrooms, a living-dining-kitchen-family great room, laundry room, office, media room and gymnasium. Proposed exterior features include windows and doors throughout, skylights, exterior lighting, entry porch and driveway structures, an entry trellis, trellis awnings, a roof deck, 3 rear decks, 2 balconies, fencing changes, and hardscape and landscape modifications located at 419 Hillside Court, 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 20 ft. front yard setback, within the 4 ft. east side yard setback and within the 4 ft. north side 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 requested variances are not relevant at this time because the proposed design fails to comply with the City's Design Review Guidelines. However, two of the requested variances can be construed as reasonable because of the unusual physical circumstances associated with the shape of the lot and its difficult access from the public street. Therefore, variances to allow a bridge structure to provide vehicle ingress/egress to the property is not an unreasonable request. However, the design of the currently proposed bridge structure is not acceptable because it elevates upward which results in the creation of unnecessary bulk, size and height of the proposed residence. A more acceptable design would be for this bridge structure to be sloped downward from the street curb to the garage. Such a downward trajectory more closely follows the steep, downhill nature of the lot and would provide safer garage ingress/egress. The requested side yard variance for the home's

entry does not appear to be justified since other options exist that do not require such a variance.

3. The proposed design in terms of its mass, bulk, size, height and impact on adjacent neighbors is excessively large. The design proposes the maximum amount of structure coverage and building height allowed under the code resulting in a home which is substantially larger than neighboring homes. There is no reasonable compatibility with the surrounding neighborhood. The proposed design in terms of its architectural character, style, detailing are of satisfactory quality that meets the credentials of Piedmont homes. Another home that would be smaller in terms of mass, bulk and vertical height using the proposed siting location and general layout of the current plan would be reasonable.

4. The proposed new multi-level structure has been designed in a way that reasonably minimizes view and light impacts on neighboring properties in terms of its siting on the lot. The northeast corner siting of the proposed residence is an improvement over a previous submittal and is respectful of preserving neighboring homes' views, light and privacy. This siting is encouraged for any future home design on the property.

5. The size, scale, bulk and height of the proposed new home is not in keeping with the existing neighborhood development pattern, especially in terms of its upper levels. The proposed home is intrusive and overbearing in terms of its relationship with neighboring homes. One option to reduce the intrusive impact of the proposed construction would be to lower the overall elevation of each living floor by several feet.

6. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are reasonably attended to by the positioning of the driveway at the property's only entry point (northeast corner) to provide reasonable traffic flow in and out of the garage.

7. The impacts on the neighborhood during the lengthy term of construction should be considered in any future submittal to protect the safety and integrity of neighboring homes. It would be appropriate that any future proposal acknowledge the criteria necessary to provide a safe, protected flow of vehicle and pedestrian traffic in the neighborhood during the course of construction. This can be accomplished by providing a detailed Construction Management Plan for building department review and approval. The goal of protecting public safety is an essential element for project approval.

8. While the Commission has excluded from consideration the proposed second unit component of the project, this component contributes to the overall unacceptable mass, bulk and height of the residence.

9. The project fails to comply with Design Review Guidelines I-1, I-1(b) & (c), I-2(a), I-3, I-4, I-5, I-5(a) & (b), I-6, I-7, I-10.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies, without prejudice, the

variance and design review application of Ms. Lelke-Wallway for construction at 419 Hillside Court, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Kellogg, Seconded by Zhang

Ayes: Chase, Henn, Kellogg, Robertson, Zhang

Noes: None

Absent: None

Design Review
38 Greenbank Avenue

Mr. and Mrs. Mark Andrews are requesting design review to remodel and enlarge the residence by creating approximately 672 sq. ft. of habitable space at the basement level. The application also proposes to make roof and siding modifications to an existing addition at the rear of the residence; make various changes to the interior; replace the front entry awning; add four low-profile skylights; demolish an existing awning on the left facade; make window and door modifications; construct new patio stairs; add new exterior lighting; and make other hardscape improvements.

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

Public testimony was received from:

Patricia Andrews stated that the purpose of the proposed project is to update her 100-year old residence.

Lisa Joyce, Project Architect, explained how the proposed project will correct significant architectural deficiencies while modernizing the old home to meet contemporary living standards. She noted that while a gable roof design was originally considered for the addition, it was determined that such a roof line would impose too much impact on the adjacent neighbor. Therefore, the existing hip roof will be retained but the bubble skylights replaced. She added that the playstructure was installed without realizing that City permission was required. It has not yet been determined whether her clients will remove this structure or apply for City approval.

The Commission supported project approval, agreeing that the creative design improves the home's functionality and livability.

Resolution 239-DR-12

WHEREAS, Mr. and Mrs. Mark Andrews are requesting permission to remodel and enlarge the residence by creating approximately 672 sq. ft. of habitable space at the basement level. The application also proposes to make roof and siding modifications to an existing addition at the rear of the residence; make various changes to the interior; replace the front entry awning; add four low-profile skylights; demolish an existing awning on the left facade; make window and door modifications; construct new patio stairs; add new exterior lighting; and make other hardscape improvements located at 38 Greenbank 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, line and pitch of the roof, materials and arrangements of structures on the parcel.
2. The proposed upper level addition/expansion has been designed in a way that reasonably minimizes view and light impacts on neighboring properties. A decision was made not to change the existing roof profile in order to preserve neighboring views. All the proposed construction is contained within the existing building envelope. New windows are placed to preserve neighbor privacy.
3. The size and height of the addition is commensurate with the size of the lot 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. There is no change in existing circulation patterns.
5. The project complies with Design Review Guidelines II-1, II-2, II-3(a) through (d), II-4, II-5, II-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 design review application of Mr. and Mrs. Andrews for construction at 38 Greenbank Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Approved Plans.** The approved plans are those submitted on September 5, 2012, after neighbors were notified of the project and the plans were available for public review.
2. **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 Greenbank Avenue.
3. **Construction Completion Schedule.** Work on the Project, once begun, shall be promptly executed with continuous good faith and reasonable progress. Since timely completion of this Project is of the essence, the Property Owner shall submit for approval a Construction Completion Schedule, which will specify, in detail, the duration and percentage complete of each phase.

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

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

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

c. If the work for any specific benchmark has not been completed within 90 days after the completion date set forth in the Approved Schedule, and the delay in completion has not been caused by force majeure, the Director of Public Works has the option at any time thereafter to make a claim against the Property Owner's 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.

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. **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. **Windows & Doors.** The proposed windows and doors shall be painted to match the remaining windows throughout.

7. **Play Structure.** The play structure located in the rear yard shall be subject to Administrative Design Review with affected adjacent neighbor sign-off.

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 Zhang

Ayes: Chase, Henn, Kellogg, Robertson, Zhang

Noes: None

Absent: None

ADJOURNMENT

There being no further business, Chairman Chase adjourned the meeting at 11:00 p.m.