

## **PIEDMONT PLANNING COMMISSION**

### **Regular Meeting Minutes for Monday, April 14, 2014**

A Regular Session of the Piedmont Planning Commission was held April 14, 2014, 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 March 31, 2014.

#### **CALL TO ORDER**

Chairman Zhang called the meeting to order at 5:00 p.m. He thanked recently resigned Commissioner David Hobstetter for his service to the City, congratulated Louise Simpson on her appointment as a Regular Commissioner and welcomed new Alternate Commissioner Eric Behrens.

#### **ROLL CALL**

Present: Commissioners Susan Ode, Louise Simpson, Tony Theophilos, Tom Zhang and Alternate Commissioner Eric Behrens

Absent: Commissioner Phillip Chase (excused)

Staff: City Planner Kate Black, Assistant Planner Kevin Jackson, Planning Technicians Jennifer Gavin, Janet Chang and Lauren Seyda and Recording Secretary Chris Harbert

City Council Liaison: Councilmember Tim Rood

#### **ELECTION OF OFFICERS**

##### **Resolution 6-PL-14**

RESOLVED, that the Planning Commission appoints Susan Ode to serve as Commission Chair for one year.

Moved by Theophilos, Seconded by Simpson

Ayes: Ode, Simpson, Theophilos, Zhang, Behrens

Noes: None

Absent: Chase

##### **Resolution 7-PL-14**

RESOLVED, that the Planning Commission appoints Tony Theophilos to serve as Commission Vice Chair for one year.

Moved by Simpson, Seconded by Zhang

Ayes: Ode, Simpson, Theophilos, Zhang, Behrens

Noes: None

Absent: Chase

Chairman Ode thanked Commissioner Zhang for his leadership over the last 12 months. She announced that Agenda Items #4 (Design Review, 57 Lincoln Avenue) and #15/16 (Variance, Design Review, Second Unit Permit with Parking Exception, 63 Wildwood Avenue) have been withdrawn from tonight's consideration.

#### **CONSENT CALENDAR**

By procedural motion, the Commission placed the following applications on the Consent Calendar:

- 147 Greenbank Avenue (Variance & Design Review)
- 408 Linda Avenue (Design Review)
- 25 Crest Road (Fence Design Review)
- 67 King Avenue (Variance & Design Review)
- 36 Greenbank Avenue (Variance & Design Review)

At the end of the meeting, the following Resolutions were approved adopting the Consent Calendar:

**Variance and  
Design Review  
147 Greenbank Avenue**

**Resolution 24-V/DR-14**

WHEREAS, the Property Owner is requesting permission to enclose a covered porch on the rear of the house to create approximately 57 sq. ft. of additional living space located at 147 Greenbank 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 exceed the allowable Floor Area Ratio percentage; 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:

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 unusually small size of the lot and the need to repair the rear porch which is structurally failing. Because of these circumstances, strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone which conform to the zoning requirements.
3. The variance is compatible with the immediately surrounding neighborhood and the public welfare because there is no impact on adjacent properties. The project improves the usability of the kitchen which is consistent with many homes in Piedmont.
4. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because without variance, the proposed improvements would be functionally unusable because of their reduced size.
5. The proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code.
6. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. The proposed improvements are architecturally integrated with the house and the project will remedy the existing architectural incompatibility and structural deficiencies of the existing rear porch.
7. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because the rear porch to be enclosed is small in size, single-story in height and poses no impacts on neighboring property. In addition, as conditioned, the project will increase the amount of greenspace on the property to the benefit of the owner and neighborhood.
8. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because all of the proposed improvements are located at the rear of the property and do not involve any changes in existing circulation patterns.

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

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review application for construction at 147 Greenbank 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, site safety security and other potential construction impacts, as well as other details involving the means and methods of completing the Project, including the construction route. The City Building Official has the authority to require modifications and amendments to the Construction Management Plan as deemed necessary throughout the course of the Project and until the Final Inspection.

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

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

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

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

c. If the work for any specific benchmark has not been completed within 90 days after the completion date set forth in the Approved

Schedule, and the delay in completion has not been caused by force majeure, the Director of Public Works has the option at any time thereafter to make a claim against the Property Owner's Performance Security, if one is required, in order to complete the benchmark. The Director of Public Works has the option to refer the application to the Planning Commission for public review.

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

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

5. **Hardscape.** As shown on the proposed site plans, Sheet A1 of the plans dated March 7, 2014, a portion of the rear concrete patio shall be removed so that hardscape coverage on the lot is no more than 70%.

Moved by Simpson, Seconded by Theophilos

Ayes: Ode, Theophilos, Simpson, Zhang, Behrens

Noes: None

Absent: Chase

**Design Review  
408 Linda Avenue**

**Resolution 74-DR-14**

WHEREAS, the Property Owner is requesting permission to make modifications to the 7-unit townhouse development approved by the City Council on September 6, 2011. The design modifications include numerous modifications to the number, sizes and locations of windows, doors and skylights; modifications to the roof-lines and dormers; modifications to architectural elements such as flower boxes and illuminated address numbers; a minor modification to units C and D to conform to setback regulations; and interior room layout modifications located at 408 Linda 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. While there are many proposed changes to window sizes, styles and locations, these modifications retain the non-uniform, non-tract design details previously approved for this project. The proposed improvements are simply modifications to a prior approval and these changes are architecturally pleasing and consistent with the originally approved design.

2. The new multi-level structure/expansion modifications have been designed in a way that reasonably minimizes view and light impacts on neighboring properties. The design changes have no impact on neighboring property views, light or privacy. The window and door changes are essentially in the same location as previously approved. The building size and height remain unchanged.
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. There are no changes to the number of units, parking or egress previously approved.
5. The proposed changes comply with Design Review Guidelines II-1, II-2, II-3, II-3(a) through (d), II-5, II-6(a) through (c), II-7 and II-7(a).

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

DR-38. **Supplemental Conditions.** These conditions are supplemental to those required by the City Council on September 6, 2009, for the project design review and vesting tentative map approvals, and only address the modifications proposed in the plans referenced below in Condition DR-39.

DR-39. **Approved Plan Set.** The approved plans are those submitted on March 31, 2014, with modifications submitted on April 4, 2014, after notices to neighbors were mailed and the application was available for public review.

DR-40. **Emergency Vehicle Access.** A minimum of 12 ft. of width and 11 ft. of height between the bottom of the underpass plate and the surface of the driveway shall be maintained under the Unit C bridge. Should modifications be required to comply, such modifications shall be subject to staff review prior to the issuance of a building permit.

DR-41. **Guest Parking Space.** The guest parking space shall be a minimum of 20 ft. deep. If modifications are necessary to comply, such modifications shall be subject to staff review prior to the issuance of a building permit.

DR-42. **Defense of Legal Challenge.** If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.

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

Moved by Simpson, Seconded by Theophilos

Ayes: Ode, Theophilos, Simpson, Zhang, Behrens

Noes: None

Absent: Chase

**Design Review  
25 Crest Road**

**Resolution 85-DR-14**

WHEREAS, the Property Owner is requesting permission to replace the existing rear fence along La Salle Avenue with a new 6 ft. high wood fence with swing gate; replace an existing fence atop an existing retaining wall with a new 8-1/2 ft. high wood fence measured from the lowest point of adjacent grade; replace existing railings atop existing retaining walls at the rear with new wood railings to have a maximum height of approximately 10 ft. measured from lowest point of adjacent grade; and replace an existing fence and gate at the front along Crest Road with a new 4 ft. high wood fence and swing gate located at 25 Crest 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 in that the proposed improvements are compatible in fence style and material with the existing house and surroundings.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because there is no impact on adjacent properties.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because there is no change in existing circulation patterns and all construction is taking place within the applicant's property.
4. The project complies with Design Review Guidelines V-1, V-2, V-3, V-4, V-5, V-5(a) through (c), V-7 and V-8.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for construction at 25 Crest 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. **Encroachment Permit.** Before the issuance of a building permit, the Property Owner shall apply for an encroachment permit to allow for the construction within the public right-of-way.

3. **Fence Location.** All new fences and gates (including all footings and posts), excluding the fence located along the property line between the applicants' property and 21 Crest Road (for which there is a Fence Location Agreement), shall be located completely within the applicants' property.

4. **Railing.** The finish of the new railing shall match that of the existing upper deck railing.

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

Moved by Zhang, Seconded by Simpson

Ayes: Ode, Theophilos, Simpson, Zhang, Behrens

Noes: None

Absent: Chase

**Variance and  
Design Review  
67 King Avenue**

**Resolution 89-V/DR-14**

WHEREAS, the Property Owner is requesting permission to construct a new swimming pool, spa and fountain in the south side yard and a new outdoor kitchen with wood-burning pizza oven in the rear yard and make various hardscape and landscape changes throughout the rear half of the property located at 67 King 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 4 ft. left (south) side yard setback and to exceed the structure coverage limit; and

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

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 a portion of this property was donated to the City by a previous owner to create Crocker Park which resulted in the remaining property being in excess of code lot coverage limits and the location of the retaining wall being on the newly created property line. If there had been no donation of property, these variances would not be required. 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 property abuts a City park and there is no impact on neighboring residential properties.
4. Accomplishing the improvement without variance would cause unreasonable hardship in planning, design, or construction because the proposed improvements are architecturally compatible with the existing house and landscaping and pose no impact on neighboring properties. Variances to construct the proposed improvements would not have been necessary if a portion of the original lot had not been donated to the City for the creation of Crocker Park.
5. The proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code.
6. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. The proposed improvements are attractively designed and given the property's location adjacent to a City park, there are no impacts on neighboring homes.
7. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because for the reasons cited above.
8. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because all proposed construction will occur inside the property line. There is no change in existing circulation patterns.
9. The project complies with Design Review Guidelines II-1, II-2, II-3, II-3(a) through (d), II-6, II-6(a) through (c).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review application for construction at 67 King Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Contractor's General Liability Insurance.** To ensure that the contractor doing work in the City will be responsible for damages caused by the work to City property or to neighboring property, the Property Owner shall



require all contractors performing work on the Project to maintain General Liability Insurance for protection from claims for damages because of bodily injury, including death, and claims for damages, other than to the contractor's work itself, to property which may arise out of or result from the contractor's operations. Such insurance shall be written for not less than \$1,000,000 per occurrence. The insurance shall include an endorsement requiring notice to the City if the insurance is cancelled or changed, and Property Owner shall immediately arrange for substitute insurance coverage. If the Property Owner does not have a general contractor, the Property Owner shall maintain property insurance and coverage for contractors, which is substantially equivalent to the contractor's requirement of this section.

2. **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.

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

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

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

6. **Final Landscape Plan.** Before issuance of a building permit, the Property Owner shall submit for staff review and approval a Final Landscape Plan that shows trees proposed for retention as well as in-lieu trees required by a Certified Tree Preservation Plan. The final plan shall comply with Municipal Code Section 17.17.3, and shall not propose plants near the driveway that could obscure visibility of pedestrians on the sidewalk or vehicles on the street from drivers backing out of the driveway.

7. **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 existing trees proposed to remain on-site, particularly the tree at the rear of the new pizza oven and the tree at the southwest corner of the front courtyard, as well as any nearby off-site trees in Crocker Park. 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.

8. **Certified Tree Preservation Plan.** Before the issuance of a building permit, the Property Owner shall prepare for review and approval by staff a Tree Preservation Plan that incorporates the tree preservation measures recommended in the Arborist's Report required in Condition #7 above. 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 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. Replacement tree size is subject to staff review, and shall be commensurate with the size and numbers of trees to be removed. They shall generally be a minimum of 24" box size.

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.

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

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

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

necessary by the City Engineer. The Property Owner shall provide payment for this at the time of the Building Permit submittal.

11. **City Facilities Security.** At the option of the Director of Public Works the property owner may be required to provide a specific cash deposit, letter of credit, bank guarantee, or other similar financial vehicle ("City Facilities Security") in the amount of \$25,000 as established by the Director of Public Works. This financial vehicle serves as an initial sum to cover the cost of any potential damage to City property or facilities in any way caused by Property Owner, Property Owner's contractors or subcontractors, or any of their agents, employees or assigns, and related in any way to the Project. The Property Owner is responsible for the full cost of repair as determined by the City Engineer prior to final inspections. The form and terms of such City Facilities Security shall be determined by the Director of Public Works after consultation with the Property Owner. The Director may take into account any of the following factors: the cost of construction; past experience and costs; the amount of excavation; the number of truck trips; the physical size of the proposed project; the logistics of construction; the geotechnical circumstances at the site; and City right-of-way and repaving costs.

a. To provide clear baseline information to assist in determining whether damage to the City's facilities has been caused by the Property Owner or others working for or on behalf of Property Owner, the City will document such facilities (including, without limitation, streets and facilities along the approved construction route as specified in the Construction Management Plan, to establish the baseline condition of the streets and facilities. The City shall further re-document the streets as deemed appropriate after the Project commences until the Director of Public Works determines that further documentation is no longer warranted. As part of the documentation, the City may water down the streets to better emphasize any cracks or damage in the surface. The Property Owner is responsible for the full cost of the documentation and repair work as determined by the City Engineer, and shall reimburse the City for those costs prior to the scheduling of final inspection.

b. When the City Facilities Security is in a form other than cash deposit with the City, the proceeds from the City Facilities Security shall be made payable to the City upon demand, conditioned solely on the Director of Public Works' certification on information and belief that all or any specified part of the proceeds are due to the City.

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

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

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

a. Construction Site Control of Stormwater. The California Regional Water Quality Control Board requires all projects that disturb the site to comply with Provision C.6 of the San Francisco Bay Regional Stormwater NPDES Permit in order to prevent construction site discharges of pollutants and other regulated materials during construction. As required by the Chief Building Official and prior to the issuance of a building permit, the Applicant shall develop and submit a construction stormwater management plan as part of the Construction Management Plan to achieve timely and effective compliance with Provision C.6. Permit Provision C.6.c.ii provides sources for site specific, and seasonally- and phase-appropriate, effective Best Management Practices (BMPs) that may be incorporated into the stormwater management plan. Copies of the Municipal Regional Stormwater Permit are available from the Piedmont Public Works Department and on-line at [cleanwaterprogram.org](http://cleanwaterprogram.org).

b. Access onto Neighboring Property. Should the execution of the Foundation/Shoring/Excavation Plan require excavation into the neighboring property owned by the City of Piedmont or if access onto the City's property is necessary for construction, the applicant shall submit, prior to the issuance of Building Permit, a plan detailing the schedule and logistics for access onto the City's property for the purpose of excavation and/or construction. Said plan is subject to review and approval of the Director of Public Works.

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

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

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

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

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

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

Moved by Simpson, Seconded by Zhang

Ayes: Ode, Theophilos, Simpson, Zhang, Behrens

Noes: None

Absent: Chase

**Variance and  
Design Review  
36 Greenbank Avenue**

**Resolution 93-V/DR-14**

WHEREAS, the Property Owner is requesting permission to demolish the existing garage and replace it with a new garage located at the rear; construct a new deck and stair at the rear; remove an existing pergola at the front and replace it with a new multi-level powder room addition with balcony atop; make railing modifications; relocate the existing front entry door and wall; make window and door modifications throughout the house; add exterior lighting

throughout the house; and make various interior improvements including converting the basement level into habitable space located at 36 Greenbank 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 in the 4 ft. right (south) 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 finds that:

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 variance situation is pre-existing and this non-compliance is not being increased. Because of these circumstances, strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone which conform to the zoning requirements.
3. The variance is compatible with the immediately surrounding neighborhood and the public welfare because the proposed project is merely enclosing a front porch and adding a new garage to improve off-street parking for the property and neighborhood.
4. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because the proposed improvements would not be able to be constructed on the property and provide off-street parking benefits to the neighborhood.
5. The proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code.
6. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. The distances between the new garage, addition deck and adjacent residences are reasonable and appropriate due to the existing topography and neighborhood development pattern. Upper level setbacks greater than the setbacks required for the lower level have been considered and are not necessary to reduce losses of ambient and reflected light because there is no loss of ambient and reflected light.
7. The proposed garage addition and deck have been designed in a way that reasonably minimizes view and light impacts on neighboring properties because there are no view or light impacts on neighboring properties.
8. The size and height of the addition is commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and is in keeping with the existing neighborhood development pattern because the proposed improvements are designed well and the project involves enclosing a porch and improving the garage situation by constructing a new garage.

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. In accordance with Sections 17.16.1 and 17.22.1, the existing or proposed on-site parking is appropriate to the size of the new addition, deck and garage and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood because the applicants are reconstructing the garage and improving the existing driveway.

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

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review application for construction at 36 Greenbank Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **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.

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

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

4. **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.

5. **Property Line Location.** A licensed land surveyor shall be required by the Building Department to verify and mark the location of the south property

line at the time of foundation and/or frame inspection to verify the approved setback dimension measured to the new construction.

6. **BAAQMD Compliance.** The applicant shall comply with the Bay Area Air Quality Management District regulations related to any building demolition. The Demolition Notification form is available on their website at [www.BAAQMD.gov/forms](http://www.BAAQMD.gov/forms).

7. **Garage Doors.** The garage doors shall be mechanically operable. If design modifications are required to accomplish this, those modifications shall be subject to staff review.

8. **Approved Plan Set.** The approved plans are those submitted on March 31, 2014 with modifications submitted on April 3, 2014, after notices to neighbors were mailed and the application was available for public review.

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

a. Construction Site Control of Stormwater. The California Regional Water Quality Control Board requires all projects that disturb the site to comply with Provision C.6 of the San Francisco Bay Regional Stormwater NPDES Permit in order to prevent construction site discharges of pollutants and other regulated materials during construction. As required by the Chief Building Official and prior to the issuance of a building permit, the Applicant shall develop and submit a construction stormwater management plan as part of the Construction Management Plan to achieve timely and effective compliance with Provision C.6. Permit Provision C.6.c.ii provides sources for site specific, and seasonally- and phase-appropriate, effective Best Management Practices (BMPs) that may be incorporated into the stormwater management plan. Copies of the Municipal Regional Stormwater Permit are available from the Piedmont Public Works Department and on-line at [cleanwaterprogram.org](http://cleanwaterprogram.org).

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

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



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

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

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

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

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

Moved by Simpson, Seconded by Zhang

Ayes: Ode, Theophilos, Simpson, Zhang, Behrens

Noes: None

Absent: Chase

## **PUBLIC FORUM**

There were no speakers for the public forum.

## **APPROVAL OF MINUTES**

The Commission amended its March 10, 2014, meeting minutes as follows:

**Resolution 8-PL-14**

RESOLVED, that the Planning Commission amends its March 10th meeting minutes to revise the wording of Condition #13 of Resolution 40-V/DR-14 (page 34) as follows:

13. **Windows and Trellises.** All windows shall be divided light or 3-dimensional simulated divided light. The south (right) facade shall be modified to include windows. Trellises shall be considered as a possible additional feature on all facades. Said modifications shall be subject to staff review and approval.

Moved by Simpson, Seconded by Theophilos

Ayes: Ode, Theophilos, Simpson

Noes: None

Abstain: Zhang, Behrens

Absent: Chase

**Resolution 9-PL-14**

RESOLVED, that the Planning Commission amends its March 10th meeting minutes to delete the name "Simpson" from the aye votes listed on pages 10, 15, 25, 29 and 40.

Moved by Theophilos, Seconded by Zhang

Ayes: Ode, Theophilos, Zhang

Noes: None

Abstain: Simpson, Behrens

Absent: Chase

**Resolution 10-PL-14**

RESOLVED, that the Planning Commission amends its March 10th meeting minutes to add the following new paragraph on page 26 related to 27 Arroyo Avenue:

Commissioner Ode and Commissioner Hobstetter called attention to the area schematic map that was included in their review packets. The schematic shows footprints and setbacks throughout the area for all properties. Both Commissioners noted that while there is a consistent front setback for houses in the area, the back yards show a variety of setbacks and building configurations, so there is no standard and the project fits within the neighborhood.

Moved by Ode, Seconded by Theophilos

Ayes: Ode, Theophilos, Simpson, Zhang

Noes: None

Abstain: Behrens

Absent: Chase

**Resolution 11-PL-14**

RESOLVED, that the Planning Commission approves as amended herein its meeting minutes of March 10, 2014.

Moved by Simpson, Seconded by Theophilos

Ayes: Ode, Simpson, Theophilos, Zhang

Noes: None

Abstain: Behrens

Absent: Chase

**REGULAR CALENDAR**

The Commission considered the following items of regular business:

**Housing Element**

City Planning Consultant Barry Miller narrated a power-point presentation highlighting the contents of the General Plan's Housing Element, summarizing the City's 2007-2014 housing production, evaluating the City's performance in implementing its 2011 Housing Element goals, objectives and key actions, and proposing revisions to existing policies and programs to help the City achieve its housing targets over the next eight years. During the presentation, it was noted that Piedmont's housing needs allocation for 2007-2014 is 40 units. As of February 2014, the City has approved 41 housing units of which 23 have been constructed. Mr. Miller stated that tonight is the fourth in a series of six study sessions on the Housing Element (previous sessions were held on October 14, 2013, January 13 and February 14, 2014). The next session in May will provide a "constraints" analysis and a Town Hall Meeting to solicit additional public input on the issue will be held in June. Following these two remaining sessions, staff anticipates that an Administrative Draft of the updated Housing Element will be submitted to the Commission in July before being forwarded to the City Council and the California State Department of Housing and Community Development. The City will then work with state reviewers to revise the document during the fall so that a final Housing Element can be adopted by the end of 2014. Bay Area cities are required to adopt new Housing Elements for 2015-2022 by January 31, 2015.

Following a brief Q & A session by the Commission, Chairman Ode thanked Mr. Miller for his presentation.

**Variance and  
Design Review  
1835 Trestle Glen Road**

The Property Owner is requesting variance and design review to construct a new 698 sq. ft. accessory structure and 2-car garage, both of which are to be accessed from Cavendish Lane. The accessory structure is proposed to have the following features: habitable space with 2-bedrooms and 2-bathrooms, windows and doors throughout, skylights, exterior lighting, entry stair and driveway structures and hardscape changes. The requested variance is from Section 17.10.8 to allow the new driveway bridge structure and entry stair structure to extend to the rear property line and the eave of the new garage to within 3'11" of the rear property line in lieu of the code required minimum of a 20 ft. street-side setback.

Written notice was provided to neighbors. **Thirteen affirmative, four negative response forms** were received. **Correspondence** was received from: Brent Kauffman; Hellmuth & Eva Zieleniewicz; Trenton Lee & Ming-Chu Ling; Sally Baack;

**Public testimony** was received from:

Nerine Cherepy reviewed her ongoing renovation of the property since purchase, noting the continuing support of her neighbors for her upgrade improvements to what was a badly neglected home.

Chris Anderson, Project Architect, cited the challenges posed by the property's difficult site conditions and the creative solution devised for adding additional living space and off-street parking while minimizing structure height and massing.

Antonio Gomez responded to Commission concerns regarding construction vehicle traffic and parking by assuring that these concerns will be addressed by the project's Construction Management Plan. He also reviewed the significant

compromises made to mitigate privacy impacts on neighbors. He stated that the proposed second unit is intended to house his sister and mother.

Jason Grammer voiced concern that the project will adversely impact the Cavendish Lane neighborhood's already congested parking situation, impede emergency vehicle access to the neighborhood and destabilize the hillside. He felt that given the already congested nature of the neighborhood/street, it would be inappropriate to increase this congestion through the addition of a new habitable structure.

Sally Baack opposed the project, citing concerns over hillside stability, road damage, construction traffic/parking congestion, survey inaccuracies, pedestrian safety and the inappropriateness of adding more living space to a street which is already overcrowded. She felt that alternative designs exist that would not require encroachment into the Cavendish Lane setback.

Bruce Wagg supported project approval, noting that the proposed second unit is small in size and scale, off-street parking for this unit is being provided and the setback encroachment is consistent with other setbacks along the street.

Trenton Lee concurred with the comments of Mr. Grammer and Ms. Baack, stressing that the proposed second unit will adversely impact the privacy, light and view of his rental property and the removal of hillside vegetation to construct the new second unit could destabilize the hillside. He also felt that adding a second unit to a neighborhood of single-family homes would decrease property values in the area.

The Commission was divided in its support of the project. Commissioners Zhang and Theophilos felt that the lack of guest parking for the second unit would adversely impact the neighborhood. Commissioner Zhang suggested an alternative design option of combining the second unit and garage to reduce the overall structural footprint and thus provide room for on-site guest parking to mitigate parking congestion impacts on neighbors. The remaining Commissioners believed that stacking the garage/second unit would result in a significantly taller structure whose height would be out of character with the neighborhood and streetscape. The Commission majority was confident that the project's Construction Management Plan would successfully address and mitigate construction vehicle traffic/parking/staging concerns and impacts, the project provides more than the required off-street parking for the second unit, the extra width of the 2-car garage and driveway will help facilitate guest parking and the second unit and garage have been sensitively designed to mitigate any potential impacts on neighbor light and privacy.

#### **Resolution 6-V/DR-14**

WHEREAS, the Property Owner is requesting permission to construct a new 698 sq. ft. accessory structure and 2-car garage, both of which are to be accessed from Cavendish Lane. The accessory structure is proposed to have the following features: habitable space with 2-bedrooms and 2-bathrooms, windows and doors throughout, skylights, exterior lighting, entry stair and driveway structures and hardscape changes located at 1835 Trestle Glen Road, 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. street-side setback from Cavendish Lane; 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:

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 steep topography of this through lot with a 20 ft. rear street-side setback. 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 many other homes in the neighborhood have driveways and garages within the 20 ft. setback. The project provides for a wider than required garage and driveway to help accommodate guest parking.
4. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because the steepness of the lot and the fact that the rear yard abuts a street, severely limits the area that can be built on without encountering unreasonable design, engineering and construction hardship. Without the setback variance, the proposed improvements would be unreasonably high, resulting in a very steep driveway, a huge driveway bridge and a very visually imposing building.
5. The proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code.
6. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. The design is appealing in that the structures cascade down the slope and there are breaks in the facade, elevation changes and architectural details so that the structures are not monolithic in appearance. The design creates depth and shadows to soften visual mass and the size, bulk and height of the structures are appropriate to the property and smaller than many other structures along Cavendish Lane. The exterior materials and architectural style of the proposed improvements are compatible with the existing house.
7. The proposed addition has been designed in a way that reasonably minimizes view and light impacts on neighboring properties because the proposed improvements are built into the steep slope to mitigate neighbor light and view impacts. The design was revised to eliminate a deck that could have resulted in a privacy intrusion to adjacent property.
8. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because the project provides for an over-sized 2-car garage to improve vehicle maneuverability and the 4 ft. cantilevered driveway area can be utilized for guest parking.
9. The project complies with Design Review Guidelines I-1(a) through (d), I-2, I-2(a) through (d), I-3, I-4, I-5, I-5(a) & (b), I-6, I-7, I-7(a), I-8, I-9, I-9(a), I-10,

I-11, I-12, III-1, III-1(a), III-2, III-3, III-4, III-5, III-5(a), III-6, III-6(a), III-7 and III-7(a).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review application for construction at 1835 Trestle Glen Road, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

2. **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.

3. **Exterior Light Fixtures.** The new exterior light fixtures shall be downward-directed with an opaque or translucent shade.

4. **Garage Door.** The garage door shall be electronically operable. If design modifications are required to accomplish this, those modifications shall be subject to staff review.

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

6. **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.

7. **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.

8. **Property Line Location.** A licensed land surveyor shall be required by the Building Department to verify and mark the location of the east and south

property lines at the time of foundation and/or frame inspection to verify the approved setback dimension measured to the new construction.

9. **Encroachment Permit.** Should it be necessary to construct all or part of a feature within the Cavendish Lane right-of-way, the Property Owner shall apply for an encroachment permit before the issuance of a building permit to allow for the construction within the public right-of-way.

10. **Final Landscape Plan.** Before issuance of a building permit, the Property Owner shall submit for staff review and approval a Final Landscape Plan that shows landscaping features in the southern half of the property including trees proposed for retention as well as in-lieu trees required by a Certified Tree Preservation Plan. The final plan shall comply with Municipal Code Section 17.17.3 and shall not propose plants near the new driveway that could obstruct visibility of pedestrians on the sidewalk or vehicles on the street from drivers backing out of the driveway.

11. **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 existing trees west of the new garage that are 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 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.

12. **Certified Tree Preservation Plan.** Before the issuance of a building permit, the Property Owner shall prepare for review and approval by staff a Tree Preservation Plan that incorporates the tree preservation measures recommended in the Arborist's Report required in Condition #11 above. 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 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. Replacement tree size is subject to staff review, and shall be commensurate with the size and numbers of trees to be removed. They shall generally be a minimum of 24" box size.

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.

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

**14. City Attorney Cost Recovery.** If there is a substantial additional commitment of City Attorney's time required to accommodate the scope and nature of the Project, the Property Owner shall, at the time of the Building Permit Application, make a cash deposit with the City in the amount of \$5,000 to be used to offset time and expenses of the City Attorney relating to the Project. If the cash deposit has been reduced to \$2,500 or less at any time, the Director of Public Works may require the Property Owner to deposit additional funds to cover any further estimated additional City Attorney time and expenses. Any unused amounts shall be refunded to the Property Owner within 90 days after the Project has an approved Final Inspection by the Chief Building Official.

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

a. Construction Site Control of Stormwater. The California Regional Water Quality Control Board requires all projects that disturb the site to comply with Provision C.6 of the San Francisco Bay Regional Stormwater NPDES Permit in order to prevent construction site discharges of pollutants and other regulated materials during construction. As required by the Chief Building Official and prior to the issuance of a building permit, the Applicant shall develop and submit a construction stormwater management plan as part of the Construction Management Plan to achieve timely and effective compliance with Provision C.6. Permit Provision C.6.c.ii provides sources for site specific, and seasonally- and phase-appropriate, effective Best Management Practices (BMPs) that may be incorporated into the stormwater management plan. Copies of the Municipal Regional Stormwater Permit are available from the Piedmont Public Works Department and on-line at [cleanwaterprogram.org](http://cleanwaterprogram.org).

**16. 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.

Moved by Simpson, Seconded by Behrens

Ayes: Ode, Simpson, Behrens

Noes: Theophilos, Zhang

Absent: Chase

The Commission recessed for dinner at 6:55 p.m. and reconvened at 7:20 p.m.

### **Design Review 330 Sheridan Avenue**

The Property Owner is requesting design review to make modifications to hardscape at the front of the property, including new retaining walls, stairs, and pond; an approximate 145 sq. ft. addition at the west side of the main residence; a new solarium atop a new wood deck on the west side of the property; a new wood deck adjacent to the existing well house on the west side of the property; and new exterior lighting.

Written notice was provided to neighbors. **Two affirmative, four negative response forms** were received. **Correspondence** was received from: Carolyn Collins & Mark Pallis;

**Public testimony** was received from:

Wilson Ng, Project Architect, described the proposed improvements, stating that one of the two atriums is intended to serve as a sunroom for the residence and the other as a greenhouse for the growing of herbs and plants used by the owner

who is an acupuncturist. Both atriums are pre-fabricated structures.

Carolyn Collins opposed the retaining wall, staircase and handrail elements of the project, emphasizing that the massive size of the retaining walls and their cinder-block construction is visually unattractive, the staircase is unnecessarily wide and glaring in appearance and the handrails are architecturally inconsistent with the quality of this Clarence Mayhew designed home. She urged that the staircase be narrowed and a substantial evergreen vegetation screen be planted to shield the elements from neighbor view.

Robert Becker also opposed the project, citing objections to the removal of greenery which used to screen the property from view. He also requested that no additional exterior lighting be approved and that the lighting already installed be motion-activated to minimize its night-time intrusiveness.

Amee Mikacich also requested that no other trees other than the one indicated in the plans be removed, stressing that the property's once lush and dense vegetation has disappeared to the detriment of adjacent properties.

The Commission opposed the project as currently constructed (without permits) and designed, agreeing that (i) the pre-fabricated atriums would be inconsistent with the architectural design and quality of this historic Clarence Mayhew home and would create an unacceptable tacked-on appearance; (ii) the staircase as constructed is too wide and glaring in appearance; (iii) the materials of the new cinder-block retaining walls fail to duplicate the attractive stone finishes of existing walls; (iv) the rear redwood deck is not well integrated with the residence and landscaping; (v) the pipe-railing design is too modern for the 1920's vintage home; (vi) the front landscaping has too many inconsistent elements to create a cohesive visual appearance; and (vii) the project fails to include a mature, vegetation screen to mitigate visual impacts on adjacent properties.

#### **Resolution 42-DR-14**

WHEREAS, the Property Owner is requesting permission to make modifications to hardscape at the front of the property, including new retaining walls, stairs, and pond; an approximate 145 sq. ft. addition at the west side of the main residence; a new solarium atop a new wood deck on the west side of the property; a new wood deck adjacent to the existing well house on the west side of the property; and new exterior lighting located at 330 Sheridan Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e) but the proposal does not conform with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. The exterior design elements are not aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that the proposed elements fail to match or compliment the home's existing architecture. The pre-fabricated atrium and sunroom are inappropriate for this Clarence Mayhew designed home, the redwood deck is incompatible with the 1920's era house and the front landscaping creates an overall inconsistent appearance. The use of cinder-block retaining walls results in a prison yard-like look to the

property and their use is inconsistent with the home's existing stone retaining walls. The staircase railing fails to match that on the house and the paving tiles around the foundation should be redesigned to better match the property's existing stone retaining walls and staircase material.

2. The design is not appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because more vegetation planting is needed to screen the proposed improvements from neighbor view.

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.

4. The project fails to comply with Design Review Guidelines II-1, II-2, II-3(a) through (d), II-5, II-5(a), II-6, II-7, IV-1, IV-2, IV-2(a), IV-3, IV-3(a) and IV-4.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies, without prejudice, the design review application for construction at 330 Sheridan Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Simpson, Seconded by Zhang

Ayes: Ode, Simpson, Theophilos, Zhang, Behrens

Noes: None

Absent: Chase

**Design Review and  
Fence Design Review  
271 Crocker Avenue**

The Property Owner is requesting design review and fence design review to construct a new 7 ft. high wood fence with swing gate along Crocker Avenue; install a new patio and spa in the front yard setback; and make various hardscape modifications.

Written notice was provided to neighbors. **No response forms** were received.

**Public testimony** was received from:

Kate Dykes and Project Landscaper Cathy Padgett explained that the existing dense hedge which screens this corner-lot property from the street and bus stop is dying and the proposed project is intended to replace this hedge with a 6 ft. solid wood fence with a 1 ft. lattice top. The street-side of the fence will be planted with creeping fig vines and layers of small evergreen shrubs and flowers to complement the front yard landscaping. Ms. Dykes added that a solid rather than iron fence is preferred in order to better enclose the yard for her small children and provide a better privacy screen and noise buffer from the bus stop. She felt that a stucco fence matching the stucco exterior of her home would be too massive in appearance and a wrought-iron fence would also be inconsistent with the home's architecture.

The Commission, with the exception of Commissioner Simpson, supported project approval, agreeing that a wood fence is appropriate for this corner lot in order to provide privacy and security for the rear yard and a noise buffer from the immediately adjacent bus stop. The Commission majority was confident that the proposed landscaping would quickly transform the fence into a "green fence" not unlike what is presently provided by the hedge. Commissioner Simpson felt that a towering wood fence adjacent to such an important entrance

into Piedmont would set a bad precedent for the street and community. She preferred that a wrought-iron fence be erected.

**Resolution 73-DR-14**

WHEREAS, the Property Owner is requesting permission to construct a new 7 ft. high wood fence with swing gate along Crocker Avenue; install a new patio and spa in the front yard setback; and make various hardscape modifications located at 271 Crocker Avenue, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that the proposed spa is not visible to the public.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because there is no impact.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because there is no impact.
4. The project complies with Design Review Guidelines I-1, I-1(a) through (c), I-2, I-2(a) through (d), I-3, I-4, V-1, V-2, V-3, V-5, V-5(a) through (c) and V-6.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for construction at 271 Crocker Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

3. **Fence Location.** The new fence, including all footings and posts, shall be located completely within the applicants' property.

4. **Fence Landscaping.** The new fence shall be landscaped with fast-growing and clinging vegetation. Said landscaping is 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 Theophilos, Seconded by Zhang

Ayes: Ode, Theophilos, Zhang, Behrens

Noes: Simpson

Absent: Chase

**Non-Residential Signs  
Design Review and  
Conditional Use Permit  
1337 Grand Avenue**

Matt Newcomer for JumpstartMD is requesting Non-Residential Signs Design Review and a modification to a Conditional Use Permit at 1337 Grand Avenue. The Conditional Use Permit modification proposes to extend the business's hours of operation from the hours previously approved. The Non-Residential Signs Design Review proposes to install frost vinyl and graphic vinyl signs on windows located at the south elevation along Sunnyside Avenue; install vinyl text and ADA access signs on the entry door located at the south elevation along Sunnyside Avenue; and remove two existing signs from the previous tenant and replace them with two mounted wood signs at the east elevation along Grand Avenue.

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

**Public testimony** was received from:

Matt Newcomer, Operations Executive for JumpstartMD, stated that the weight loss clinic opened on March 4, 2014, with approximately 50% of the clients being Piedmont residents. He stated that the signage request is in response to the fact that clients have indicated some difficulty in finding the office from both Grand Avenue and the parking lot since the office space is tucked around the building corner. In addition, customers have requested the extended hours to better accommodate their needs.

Patrick Ellwood, Building Owner, stated that the two sandblasted wood signs are consistent with the building's standard signage and would replace those which existed for the previous tenant of the office space. He also noted that additional signage for Jumpstart would be appropriate for the convenience of clients since Jumpstart's office space is tucked around the corner and elevated from Sunnyside, thus making it somewhat difficult for new customers to find.

The Commission supported the extension of hours request. As to signage, the Commission supported the proposed request, noting that two signs facing Grand Avenue in lieu of one specified under the Code were acceptable given the location of the driveway on Sunnyside, but did find the large, brightly-colored

vinyl promotional signs to be excessive and inappropriate. The Commission noted that promotional window signage has never been approved for Piedmont businesses.

**Resolution 79-CUP-14**

WHEREAS, Matt Newcomer for JumpstartMD is requesting a modification of the hours of operation of JumpstartMD's Conditional Use Permit to operate a weight loss and counseling business in the suite previously occupied by Torrey Pines Bank and Kraft Automotive at 1337 Grand Avenue, Piedmont, California, and;

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

The Piedmont Planning Commission makes the following recommended findings:

1. The project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e)
2. The project meets the criteria under Section 17.24.6 of the Piedmont Municipal Code.
3. The proposed use is compatible with the General Plan and conforms to the zoning code. (The City may require greater yard setbacks than required by the zoning district if necessary to provide for the health, safety and welfare of Piedmont residents.) in that the use is similar to an adjacent medical business in the building.
4. The use is primarily intended to serve Piedmont residents (rather than the larger region) in that Piedmont residents have requested the proposed extension of business hours.
5. The use will not have a material adverse effect on the health, safety or welfare of persons residing or working in the vicinity. Consideration for this finding include no substantial increase in traffic, parking needs or noise; no adverse effect on the character of the neighborhood; no tendency to adversely affect surrounding property values in that the proposed extension of business hours has no impact on public health, safety of welfare.

RESOLVED, that in consideration of the findings and facts set forth above, the Piedmont Planning Commission recommends approval by the City Council of the application by JumpstartMD to modify the hours of operation of its Conditional Use Permit for property located at 1337 Grand Avenue, Piedmont, subject to the following conditions:

1. **Terms.** The modified terms of the approval are as stated in the application, specifically including the following:

- Days and Hours of Operation: Sunday and Monday: Closed; Tuesday: 7:00 a.m. to 1:30 p.m.; Wednesday 7:00 a.m. to 1:30 p.m., 2:00 p.m. to 7:00 p.m.; Thursday 7:00 a.m. to 1:30 p.m., 2:00 p.m. to 7:00 p.m.; Friday 7:00 a.m. to 3:00 p.m. and Saturday 7:00 a.m. to 1:00 p.m.

- Type(s) of Staff/Personnel, Number of Each: 1 clinician manager, 5 program counselors, 1 receptionist; and
- The approval shall be for 5 years from the initial approval date of December 2, 2013.

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

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 Theophilos, Seconded by Simpson

Ayes: Ode, Theophilos, Simpson, Zhang, Behrens

Noes: None

Absent: Chase

#### **Resolution 78-DR-14**

WHEREAS, Matt Newcomer for JumpstartMD is requesting permission to install frost vinyl and graphic vinyl signs on windows located at the south elevation along Sunnyside Avenue; install vinyl text and ADA access signs on the entry door located at the south elevation along Sunnyside Avenue; and remove two existing signs from the previous tenant and replace them with two mounted wood signs at the east elevation along Grand Avenue located at 1337 Grand 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, in part, conforms with the criteria and standards of Section 17.19.2 of the Piedmont City Code:

1. The two proposed sandblasted wood signs are needed for the convenience of the public given the unusual location of the business which is around the building corner on Sunnyside Avenue. These two signs are not intended to draw outsiders to the business but merely assist Piedmonters in finding the location of this use.

2. The proposed signage, with the exception of the proposed window promotional signs, are simple in design and graphic depiction. However, the

Commission finds that the proposed exterior vinyl promotional signs on the two windows at the south elevation along Sunnyside are inappropriate and unnecessary. Such promotional signage is inconsistent with past decisions/actions by the City to deny and/or require the removal of such signage as well as being contrary to the City's Non-Residential Signage Code.

3. With the exception of the aforementioned vinyl promotional signs, each sign, including a sign required by law, is compatible in design, color and scale to the front of the building and matches other existing signs on the building.

4. With the exception of the aforementioned vinyl promotional signs, the signs are oriented toward the pedestrian and vehicular traffic and will not impede traffic because of their muted design.

5. With the exception of the aforementioned vinyl promotional signs, the signs are constructed of sturdy materials.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves, in part, the non-residential signs design review application for construction at 1337 Grand Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Defense of Legal Challenge.** 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. **Promotional Signs.** The proposed exterior vinyl promotional signs that cover two windows at the south elevation along Sunnyside are not approved and shall not be installed.

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

Moved by Simpson, Seconded by Theophilos

Ayes: Ode, Theophilos, Simpson, Zhang, Behrens

Noes: None

Absent: Chase

**Variance and  
Design Review  
150 Maxwellton Road**

The Property Owner is requesting variance and design review to reconstruct and remodel the fire-damaged house with the following alterations: roof modifications that include a new roof slope, new front and rear gables over the main level and new eave features such as exposed rafter tails and knee braces; a



change to the exterior wall material; an enlarged rear solarium; the removal of unpermitted lower deck enclosures; the addition of a new trellis over the main level rear doors; the removal of the front chimney and lowered height of rear chimney; modifications to windows, doors, guardrails, privacy screen and exterior lighting throughout; the addition of a new skylight on the rear roof slope; replacement of the garage door; and various changes to the interior. The requested variance is from Section 17.10.6 to allow the rafter tail of the new roof on the uppermost level to extend to within 11'1" in lieu of the code required minimum of a 20 ft. front yard setback.

Written notice was provided to neighbors. **Six affirmative response forms** were received. **Correspondence** was received from: Christine Read & Richard Saykally; Alan Cohen

**Public testimony** was received from:

Colin Russell, Project Architect, stated that the original home was destroyed by fire 8 months ago and the design of the proposed rebuild has been enhanced to improve the home's architectural detailing, livability and view. Colored renderings of the proposed design were displayed.

Alan Cohen emphasized his eagerness to reoccupy his home, noting that he has discussed the redesign with neighbors who fully support his project.

The Commission agreed that the new home is beautifully designed and that the variance for eave encroachment is justified in order to enhance the home's architectural quality and appearance.

#### **Resolution 80-V/DR-14**

WHEREAS, the Property Owner is requesting permission to reconstruct and remodel the fire-damaged house with the following alterations: roof modifications that include a new roof slope, new front and rear gables over the main level and new eave features such as exposed rafter tails and knee braces; a change to the exterior wall material; an enlarged rear solarium; the removal of unpermitted lower deck enclosures; the addition of a new trellis over the main level rear doors; the removal of the front chimney and lowered height of rear chimney; modifications to windows, doors, guardrails, privacy screen and exterior lighting throughout; the addition of a new skylight on the rear roof slope; replacement of the garage door; and various changes to the interior located at 150 Maxwellton Road, 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. front yard setback; and

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

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 setback

encroachment is a pre-existing condition, it has no adverse impact on neighboring property and variance approval is appropriate for architectural reasons. Because of these circumstances, strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone which conform to the zoning requirements.

3. The variance is compatible with the immediately surrounding neighborhood and the public welfare because the front setback encroachment poses no adverse impact on neighboring property.

4. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because it enables construction of a beautifully designed home and allows the home to maximize the property's use and view corridors.

5. The proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code.

6. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. The new structure has been designed to be architecturally integrated with the existing lovely craftsman-designed building.

7. The proposed upper level addition/expansion has been designed in a way that reasonably minimizes view and light impacts on neighboring properties. There will be no impact on neighboring property. The bulk, height and location of the new structure essentially replaces what is already there.

8. The size and height of the new structure is commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and is in keeping with the existing neighborhood development pattern. The project is improving on the original design of the house and removing a non-conforming greenhouse.

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 project is replacing a home that was destroyed by fire. There is ample parking and good access to the property.

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

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review application for construction at 150 Maxwellton Road, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

hazardous materials shall be provided on the appropriate sheets of the construction plan sets and included in the Construction Management Plan.

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 performing work on the Project to maintain General Liability Insurance for protection from claims for damages because of bodily injury, including death, and claims for damages, other than to the contractor's work itself, to property which may arise out of or result from the contractor's operations. Such insurance shall be written for not less than \$1,000,000 per occurrence. The insurance shall include an endorsement requiring notice to the City if the insurance is cancelled or changed, and Property Owner shall immediately arrange for substitute insurance coverage. If the Property Owner does not have a general contractor, the Property Owner shall maintain property insurance and coverage for contractors, which is substantially equivalent to the contractor's requirement of this section.

3. **BAAQMD Compliance.** The applicant shall comply with the Bay Area Air Quality Management District regulations related to any building demolition. The Demolition Notification form is available on their website at [www.BAAQMD.gov/forms](http://www.BAAQMD.gov/forms).

4. **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.

5. **Garage Door.** The garage door shall be mechanically operable. If design modifications are required to accomplish this, those modifications shall be subject to staff review.

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

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

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

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

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

11. **Geotechnical Report and Review.** At the option of the Building Official, the property owner may be required to submit a report prepared by a geotechnical engineer of the Property Owner's choice that fully assesses the existing site conditions, and addresses all issues regarding excavation and grading, foundations and their construction, drainage, retaining wall systems, periodic on-site observations, and other related items involving the Project.

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

12. **Sound and Vibration Mitigation Plan and Review.** As required by the Director of Public Works, the Property Owner shall submit a plan prepared by a licensed engineer of the Property Owner's choice that fully assesses the existing site conditions for the mitigation and monitoring of vibration and decibel levels at the Project during construction (including being periodically present at the construction site during excavation and foundation work). If, in the Engineer's sole discretion, such monitoring indicates that the sound or vibration levels exceed those anticipated in the Property Owner's Construction Management Plan and/or the Sound and Vibration Mitigation Plan, all work on the Project may be immediately stopped by the City and may not resume until the City Engineer is fully assured that the sound and vibration transmissions generated by work on the Project can be maintained at or below a reasonable level and duration.

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

13. **City Facilities Security.** At the option of the Director of Public Works and based on the construction route identified in the Construction Management Plan, the property owner may be required to provide a specific cash deposit, letter of credit, bank guarantee, or other similar financial vehicle (“City Facilities Security”) in the amount of \$25,000 as established by the Director of Public Works. This financial vehicle serves as an initial sum to cover the cost of any potential damage to City property or facilities in any way caused by Property Owner, Property Owner’s contractors or subcontractors, or any of their agents, employees or assigns, and related in any way to the Project. The Property Owner is responsible for the full cost of repair as determined by the City Engineer prior to final inspections. The form and terms of such City Facilities Security shall be determined by the Director of Public Works after consultation with the Property Owner. The Director may take into account any of the following factors: the cost of construction; past experience and costs; the amount of excavation; the number of truck trips; the physical size of the proposed project; the logistics of construction; the geotechnical circumstances at the site; and City right-of-way and repaving costs.

a. To provide clear baseline information to assist in determining whether damage to the City’s facilities has been caused by the Property Owner or others working for or on behalf of Property Owner, the City will document such facilities (including, without limitation, streets and facilities along the approved construction route as specified in the Construction Management Plan, to establish the baseline condition of the streets and facilities. The City shall further re-document the streets as deemed appropriate after the Project commences until the Director of Public Works determines that further documentation is no longer warranted. As part of the documentation, the City may water down the streets to better emphasize any cracks or damage in the surface. The Property Owner is responsible for the full cost of the documentation and repair work as determined by the City Engineer, and shall reimburse the City for those costs prior to the scheduling of final inspection.

b. When the City Facilities Security is in a form other than cash deposit with the City, the proceeds from the City Facilities Security shall be made payable to the City upon demand, conditioned solely on the Director of Public Works’ certification on information and belief that all or any specified part of the proceeds are due to the City.

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

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

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

a. Construction Site Control of Stormwater. The California Regional Water Quality Control Board requires all projects that disturb the site to comply with Provision C.6 of the San Francisco Bay Regional Stormwater NPDES Permit in order to prevent construction site discharges of pollutants and other regulated materials during construction. As required by the Chief Building Official and prior to the issuance of a building permit, the Applicant shall develop and submit a construction stormwater management plan as part of the Construction Management Plan to achieve timely and effective compliance with Provision C.6. Permit Provision C.6.c.ii provides sources for site specific, and seasonally- and phase-appropriate, effective Best Management Practices (BMPs) that may be incorporated into the stormwater management plan. Copies of the Municipal Regional Stormwater Permit are available from the Piedmont Public Works Department and on-line at [cleanwaterprogram.org](http://cleanwaterprogram.org).

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

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

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

- i. Completion of Excavation;
- ii. Completion of Retaining Walls;

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

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

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

18. **Rear Yard Fencing.** Prior to the issuance of a building permit for the approved construction, any fencing along the side and rear property lines greater in height than 6 ft. measured from lowest adjacent grade and constructed without a building permit shall be corrected so that it meets Section 17.17.1(b)(ii) of the Municipal Code. Alternatively, the property owner may submit an application seeking approval for a fence in this location that is greater than 6 ft. in height.

19. **Exterior Deck Area.** No increase in the size and extent of the exterior perimeter decks is approved as part of this 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 Simpson, Seconded by Zhang

Ayes: Ode, Theophilos, Simpson, Zhang, Behrens

Noes: None

Absent: Chase

**Design Review and  
Retaining Wall  
Design Review  
85 Sandringham Road**

The Property Owner is requesting design review and retaining wall design review to make various interior and exterior modifications, including development of the lower level and basement level of the house to create an approximate 1,524 sq. ft. of additional living space; a modification to the front roof line; modifications to windows, doors and exterior lighting throughout the house; and new retaining walls at the front of the property.

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

**Public testimony** was received from:

Danny Riddell stated that the purpose of his project is to update and modernize the home's floorplan to better suit his family's needs.

John Ware, Project Architect, explained how the proposed remodel will improve the home's interior circulation, energy efficiency, natural light and garden entry.

The Commission supported project approval, agreeing that the design reflects a clever solution for utilizing the home's existing space, improving the front facade aesthetics and increasing the usability of the outdoor living area without negatively impacting adjacent neighbors.

**Resolution 84-DR-14**

WHEREAS, the Property Owner is requesting permission to make various interior and exterior modifications, including development of the lower level and basement level of the house to create an approximate 1,524 sq. ft. of additional living space; a modification to the front roof line; modifications to windows, doors and exterior lighting throughout the house; and new retaining walls at the front of the property located at 85 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. The conversion from brick to stucco enhances the property's aesthetics.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because there is no change to the home's existing footprint.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because there is no change in existing circulation patterns.



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

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for construction at 85 Sandringham Road, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

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

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

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

c. If the work for any specific benchmark has not been completed within 90 days after the completion date set forth in the Approved

Schedule, and the delay in completion has not been caused by force majeure, the Director of Public Works has the option at any time thereafter to make a claim against the Property Owner's Performance Security, if one is required, in order to complete the benchmark. The Director of Public Works has the option to refer the application to the Planning Commission for public review.

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

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

5. **Garage Door.** The garage doors shall be mechanically operable. If design modifications are required to accomplish this, those modifications shall be subject to staff review.

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

Moved by Theophilos, Seconded by Simpson

Ayes: Ode, Theophilos, Simpson, Zhang, Behrens

Noes: None

Absent: Chase

**Variance and  
Design Review  
161 Sandringham Road**

The Property Owner is requesting variance and design review to make various interior and exterior modifications including the development of space at the lower level of the house to create approximately 78 sq. ft. of additional living space; new exterior stairs on the north side of the property; modifications to doors and windows and new exterior lighting throughout the house. The requested variances are from: (1) Section 17.10.4 to allow a structure coverage of 40.4% in lieu of the code permitted maximum of 40%; and (2) Section 17.10.7 to allow a side yard setback of 3'11" in lieu of the code required minimum of 4 ft.

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

**Public testimony** was received from:

Thomas Blanford explained that the intent of the project is to make better use of existing spaces.

Lisa Joyce, Project Architect, described the proposed improvements and the challenging conditions posed by the lot's steep down-sloping topography. She stated that the requested variances are required in order to eliminate the existing safety hazards associated with stairway access from the main level of the home to the rear yard.

The Commission agreed that variance approval was justified for security, safety and aesthetic reasons.

**Resolution 88-V/DR-14**

WHEREAS, the Property Owner is requesting permission to make various interior and exterior modifications including the development of space at the lower level of the house to create approximately 78 sq. ft. of additional living space; new exterior stairs on the north side of the property; modifications to doors and windows and new exterior lighting throughout the house located at 161 Sandringham Road, 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 in the 4 ft. right (north) side yard setback and to exceed the structure coverage percentage allowed on the lot; 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:

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 steep slope of the lot. 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 is no impact.
4. Accomplishing the improvement without variance would cause unreasonable hardship in planning, design, or construction because it would preclude development of a safe way to access the rear of the house/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 the architectural detailing of the home and walls is compatible with the neighborhood.

7. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because there is no impact on neighboring properties.

8. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because there is no change in existing circulation.

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

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review application for construction at 161 Sandringham Road, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

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

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

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

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

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

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

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

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

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

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 Theophilos, Seconded by Simpson

Ayes: Ode, Theophilos, Simpson, Zhang, Behrens

Noes: None

Absent: Chase

**Variance and  
Design Review  
120 Moraga Avenue**

The Property Owner is requesting variance and design review to remodel and expand the existing 1,037 sq. ft. 2-bedroom house through: the raising of the house by 4 ft.; the construction of a 52 sq. ft. lower level rear addition; the development of 1,053 sq. ft. of habitable space on the lower level; the demolition of the existing garage and side stairs, and the construction of a new attached 2-car garage with roof deck atop; the construction of a new front porch landing and stairs; window, door, garage door and exterior lighting modifications; various changes to the interior including the addition of two bedrooms and two bathrooms; and hardscape and landscape changes throughout the property including a widened driveway and curb cut, a reconfigured front entry path, and a new rear patio. The requested variances are from: (1) Section 17.10.6 to allow the new front porch and the eave of the new raised house to extend to within 7'2" and 11'10", respectively, 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 wall of the new garage to extend to the right (west) 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 eave of the new raised house to extend to within 1'4" of the left (east) side property line in lieu of the code required minimum of a 4 ft. side yard setback.

Written notice was provided to neighbors. **Four affirmative response forms** were received. **Correspondence** was received from: Craig & Jill Tanner

**Public testimony** was received from:

Hermann Kim stated that his 2-bedroom/1-bath home is the smallest on the block and needs to be expanded to accommodate his growing family.

Lise Thogersen, Project Architect, stated that approximately 90% of the homes in the neighborhood encroach into the front setback because of the steep topography of the area, adding that the three requested variances are pre-existing conditions on the property. She reviewed the alternative expansion plans examined, noting that upper level expansion created too much impact on adjacent homes, downward (excavation) expansion would result in undesirable, subterranean living spaces and outward expansion would eliminate the property's small rear yard.

Jill and Craig Tanner opposed the project, citing the loss of SF Bay view from the upper level windows of their property which in turn would significantly

decrease property value and enjoyment. They felt it unfair that the applicant should benefit at their expense.

The Commission, with the exception of Chairman Ode, supported project approval, believing that the partial Bay view cited by the Tanners was not from main living areas nor significant enough to affect their property value. The Commission majority felt that the applicant had made significant design compromises to minimize impact on neighboring property. However, the Commission requested that the height of the raised home be reduced by 1 foot to further mitigate potential view and light impacts. The majority agreed that alternative expansion options were not feasible for the reasons cited by the architect. Chairman Ode felt that the project, as designed, did impose significant adverse impact on the Tanners' view, light and sight-lines. She preferred that the home's height be lowered by 2 ft.

**Resolution 90-V/DR-14**

WHEREAS, the Property Owner is requesting permission to remodel and expand the existing 1,037 sq. ft. 2-bedroom house through: the raising of the house by 4 ft.; the construction of a 52 sq. ft. lower level rear addition; the development of 1,053 sq. ft. of habitable space on the lower level; the demolition of the existing garage and side stairs, and the construction of a new attached 2-car garage with roof deck atop; the construction of a new front porch landing and stairs; window, door, garage door and exterior lighting modifications; various changes to the interior including the addition of two bedrooms and two bathrooms; and hardscape and landscape changes throughout the property including a widened driveway and curb cut, a reconfigured front entry path, and a new rear patio located at 120 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 add structure within the 20 ft. front yard setback, the 4 ft. left (east) side yard setback and the 4 ft. right (west) 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 finds that:

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 steepness of the lot and the fact that nearly every home along the downhill side of Moraga Avenue encroaches into the front setback. 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 setback encroachments are similar to those on an adjacent property and the immediate neighborhood in general.

4. Accomplishing the improvement without variance would cause unreasonable hardship in planning, design, or construction because the proposed construction would not be possible.
5. The proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code.
6. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. The distance between the addition and adjacent residences is reasonable and appropriate due to the existing topography and neighborhood development pattern. Upper level setbacks greater than the setbacks required for the lower level have been considered and are not necessary to reduce losses of ambient and reflected light. The project has no material impact on neighboring property.
7. As conditioned, the proposed addition has been designed in a way that reasonably minimizes view and light impacts on neighboring properties because the height of the proposed construction will be lowered by 12 inches.
8. The size and height of the addition is commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and is in keeping with the existing neighborhood development pattern. Many of the homes along this portion of Moraga Avenue have similar improvements.
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. In accordance with Sections 17.16.1 and 17.22.1, the existing or proposed on-site parking is appropriate to the size of the new addition and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood. The project includes the expansion of the existing 1-car garage to a 2-car capacity.
10. The project complies with Design Review Guidelines II-1, II-2, II-3(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 and III-7(a).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review application for construction at 120 Moraga Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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 performing work on the Project to maintain General Liability Insurance for protection from claims for damages because of bodily injury, including death, and claims for damages, other than to the contractor's work itself, to property which may arise out of or result from the contractor's operations. Such insurance shall be written for not less than \$1,000,000 per occurrence. The insurance shall include an endorsement requiring notice to the City if the insurance is cancelled or changed, and Property Owner shall immediately arrange for substitute insurance coverage. If the Property Owner does not have a general contractor, the Property Owner shall maintain property insurance and coverage for contractors, which is substantially equivalent to the contractor's requirement of this section.

3. **BAAQMD Compliance.** The applicant shall comply with the Bay Area Air Quality Management District regulations related to any building demolition. The Demolition Notification form is available on their website at [www.BAAQMD.gov/forms](http://www.BAAQMD.gov/forms).

4. **Roof Color.** The proposed flat roof shall be a non-reflective medium or dark color to minimize the visual impact on upslope properties.

5. **Exterior Light Fixtures.** New exterior light fixtures shall be downward directed with an opaque or translucent shade that completely covers the light bulb.

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. **Garage Door.** The garage door shall be mechanically operable. If design modifications are required to accomplish this, those modifications shall be subject to staff review.

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

11. **Final Landscape Plan.** Before issuance of a building permit, the Property Owner shall submit for staff review and approval a Final Landscape Plan that shows trees proposed for retention as well as in-lieu trees required by a Certified Tree Preservation Plan. The final plan shall comply with Municipal

Code Section 17.17.3, and shall not propose plants near the driveway that could obscure visibility of pedestrians on the sidewalk or vehicles on the street from drivers backing out of the driveway.

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

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

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

**14. Sound and Vibration Mitigation Plan and Review.** As required by the Director of Public Works, the Property Owner shall submit a plan prepared by a licensed engineer of the Property Owner's choice that fully assesses the existing site conditions for the mitigation and monitoring of vibration and decibel levels at the Project during construction (including being periodically present at the construction site during excavation and foundation work). If, in the Engineer's sole discretion, such monitoring indicates that the sound or vibration levels exceed those anticipated in the Property Owner's Construction Management Plan and/or the Sound and Vibration Mitigation Plan, all work on the Project may be immediately stopped by the City and may not resume until the City Engineer is fully assured that the sound and vibration transmissions generated by work on the Project can be maintained at or below a reasonable level and duration.

- a. Peer Review. The City, at the Property Owner's sole expense, shall retain an independent engineering consultant to perform a peer-review of the Property Owner's Sound and Vibration Mitigation Plan and advise the City in connection with the Property Owner's proposals. The City Engineer shall select this independent engineering consultant, whose services shall be provided for the sole benefit of the City and whose reports and recommendations can be relied upon only by the City. The independent engineering consultant shall also review the building plans during the permit approval process, and may provide

periodic on-site observations during excavation and construction as deemed necessary by the City Engineer. The Property Owner shall provide payment for this at the time of the Building Permit submittal.

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

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

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

a. **Construction Site Control of Stormwater.** The California Regional Water Quality Control Board requires all projects that disturb the site to comply with Provision C.6 of the San Francisco Bay Regional Stormwater NPDES Permit in order to prevent construction site discharges of pollutants and other regulated materials during construction. As required by the Chief Building Official and prior to the issuance of a building permit, the Applicant shall develop and submit a construction stormwater management plan as part of the Construction Management Plan to achieve timely and effective compliance with Provision C.6. Permit Provision C.6.c.ii provides sources for site specific, and seasonally- and phase-appropriate, effective Best Management Practices (BMPs) that may be incorporated into the stormwater management plan. Copies of the Municipal Regional Stormwater Permit are available from the Piedmont Public Works Department and on-line at [cleanwaterprogram.org](http://cleanwaterprogram.org).

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

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

**18. 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:

- xii. Completion of Excavation;
- xiii. Completion of Retaining Walls;
- xiv. Completion of Foundation;
- xv. Completion of Rough Framing;
- xvi. Completion of Electrical;
- xvii. Completion of Plumbing;
- xviii. Completion of Mechanical;
- xix. Completion of Fire Sprinklers;
- xx. Completion of Home;
- xxi. Completion of Hardscaping and Landscaping; and
- xxii. any further construction benchmarks and conditions of occupancy as may be determined by the Director of Public Works.

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

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

Public Works has the option to refer the application to the Planning Commission for public review.

19. **Building Height.** The proposed house shall be lowered by 12 inches.

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 Theophilos, Seconded by Simpson

Ayes: Theophilos, Simpson, Zhang, Behrens

Noes: Ode

Absent: Chase

**Variance and  
Design Review  
1133 Ranleigh Way**

The Property Owner is requesting variance and design review to replace windows throughout the main level, make main-level rear door modifications on the west facade, and make various changes to the interior including the addition of a 4th bedroom. The application also seeks retroactive approval for the construction of a trellis structure located in the left (west) side yard. The requested variance is from Section 17.16 to allow the addition of a room eligible for use as a bedroom to a residence with one covered parking space measuring 8'3" by 17'6" in lieu of the code required minimum of two covered parking spaces each measuring 9 ft. by 20 ft.

Written notice was provided to neighbors. **No response forms** were received.

**Public testimony** was received from:

Anna LaForte described the proposed improvements intended to update her recently purchased home.

Tracy Anthony, Project Contractor, explained that the proposed improvements are intended to create a "grandparents" suite as well as replace existing windows in kind. He noted that while the existing garage cannot be expanded to accommodate two vehicles, a mechanically operated door opener can be added to make the garage more functional for off-street parking.

**Resolution 91-V/DR-14**

WHEREAS, the Property Owner is requesting permission to replace windows throughout the main level, make main-level rear door modifications on the west facade, and make various changes to the interior including the addition of a 4th bedroom. The application also seeks retroactive approval for the construction of a trellis structure located in the left (west) side yard located at 1133 Ranleigh Way, Piedmont, California, which construction requires variance and design review; and

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

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

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 steep slope of the property and the existing garage's location on the lot. Because of these circumstances, strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone which conform to the zoning requirements.
3. The variance is compatible with the immediately surrounding neighborhood and the public welfare because it is consistent with other homes in the neighborhood situated on lots with steep uphill rear slopes.
4. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because it is not economically feasible to construct a conforming garage on the 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. The home as designed will be compatible in size and location with other homes in the neighborhood.
7. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because there is no material impact on neighboring properties.
8. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because there is no impact.
9. The project complies with Design Review Guidelines II-1, II-2 and II-3(a) through (c).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review application for construction at 1133 Ranleigh Way, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Divided Light Grilles on Windows.** Where proposed to match the existing conditions, divided light grilles on the new windows shall be either true or 3-dimensional simulated.

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. **Property Line Location.** A licensed land surveyor shall be required by the Building Department to verify and mark the location of the east property line at initial inspection to verify the approved setback dimension measured to the new construction.

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

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

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

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

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

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

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

7. **Trellis Structure.** The plans shall be revised to accurately show the trellis structures as they are currently constructed with north-south overhead beams connecting only the two pairs of posts closest to the street.

8. **Garage Door.** The garage door shall be mechanically operable. If design modifications are required to accomplish this, those modifications shall be subject to staff review.

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

Moved by Theophilos, Seconded by Simpson

Ayes: Ode, Theophilos, Simpson, Zhang, Behrens

Noes: None

Absent: Chase

## ADJOURNMENT

There being no further business, Chairman Ode adjourned the meeting at 10:55 p.m.



