

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, December 9, 2013

A Regular Session of the Piedmont Planning Commission was held December 9, 2013, in the City Hall Council Chambers at 120 Vista Avenue. In accordance with Government Code Section 54954.2(a) the agenda for this meeting was posted for public inspection on November 25, 2013.

CALL TO ORDER

Chairman Zhang called the meeting to order at 5:00 p.m. He announced that Agenda Item #7 (Variance/Design Review/Fence Design Review, 406 El Cerrito Avenue) has been withdrawn from tonight's consideration at the applicant's request.

ROLL CALL

Present: Commissioners Phillip Chase, David Hobstetter, Tony Theophilos, Tom Zhang and Alternate Commissioner Louise Simpson

Absent: Commissioner Susan Ode (excused)

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

City Council Liaison: Councilmember Garrett Keating

PUBLIC FORUM

There were no speakers for the public forum.

CONSENT CALENDAR

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

Fence Design Review 29 Lake Avenue

Resolution 334-DR-13

WHEREAS, the Property Owner is requesting permission to construct a stamped concrete retaining wall with a maximum height of 36 inches at the front of the property located at 29 Lake Avenue, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that the proposed wall height and location are an improvement to the existing brick wall, its stamped concrete exterior will look like a natural rock base and the new wall is similar in appearance to other walls in the neighborhood.
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 the low retaining wall does not impact circulation patterns.

4. The project complies with Design Review Guidelines IV-1, IV-1(a) & (b), IV-3 and IV-3(a).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for construction at 29 Lake 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. **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 or public easement.

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.

**Variance and
Design Review
225 Palm Drive**

Resolution 335-V/DR-13

WHEREAS, the Property Owner is requesting permission to make modifications at the rear of the house, including constructing an approximately 98 sq. ft. second story addition with modifications to the roof and windows throughout the house located at 225 Palm Drive, Piedmont, California, which construction requires variance and design review; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary in order to exceed floor area ratio requirements; and

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

1. The project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e);
2. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to the fact that the house sits on a small lot and since it already exceeds the code's FAR limit, it cannot be changed

without the variance. Because of these circumstances, strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone which conform to the zoning requirements.

3. The variance is compatible with the immediately surrounding neighborhood and the public welfare because the variance is required in order to construct a master bedroom/bathroom suite suitable for modern living standards:

4. Accomplishing the improvement without variance would cause unreasonable hardship in planning, design, or construction because of the small lot size and the small usable space on the second floor, it is not possible to create a master bedroom without the variance.

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

6. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. The distance between the proposed upper level addition/expansion and adjacent residences is reasonable and appropriate due to the existing topography and neighborhood development pattern. Upper level setbacks greater than the setbacks required for the lower level have been considered and are not necessary to reduce losses of ambient and reflected light. The rear addition maintains the existing character of the house and is not readily visible from the street.

7. The proposed upper level addition/expansion has been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.77), including consideration of the location of the new construction, lowering the height of the addition, expansions within the existing building envelope (with or without excavation), lower level excavation for new multi-level structures, and/or changing the roof slope or ridge direction. The upper level expansion widens existing dormers and will have minimal impact on neighbor light and view. The addition is well set back from the side property lines.

8. The size and height of the addition is commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and is in keeping with the existing neighborhood development pattern. The proposed second story addition does not change the footprint of the house and most neighboring homes have upper story floors or full second stories.

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 upper level addition, and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood. The addition will not impact traffic patterns in the neighborhood and the existing home will remain a 3 bedroom, plus a very low-headroom study, residence.

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

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review application for proposed construction at 225 Palm Drive, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

a. 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. **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 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.

**Fence Design Review
37 Bonita Avenue**

Resolution 336-DR-13

WHEREAS, the Property Owner is requesting permission to extend a previously approved 7 ft. high wood fence 16 ft. into the front yard setback located at 37 Bonita 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 project is only adding a few feet of new fencing.
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 change in circulation patterns.

4. The project complies with Design Review Guidelines V-1, V-2, V-5, 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 37 Bonita Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

2. **Fence Location.** The new fence, including all footings and posts, shall be located completely within the applicants' property. A licensed land surveyor shall be required by the Building Department to verify and mark the location of the south and east property lines at the time of foundation inspection to verify that the approved construction is completely on the property at 37 Bonita Avenue.

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

**Design Review
222 Park View Avenue**

Resolution 338-DR-13

WHEREAS, the Property Owner is requesting permission to make various interior and exterior changes, including finishing the basement level to create additional living space, several window and door changes throughout the house, and modifications to hardscape throughout the property located at 222 Park View 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 use of materials and door and window treatments are consistent with the existing house. There is no substantive change in massing and the proposed trellis will enhance the property's appeal.
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 change in circulation patterns.
4. The project complies with Design Review Guidelines II-1, II-2, II-3(a) through (d), II-4, II-5, II-5(a), 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 222 Park View Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

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. **Approved Plan Set.** The approved plans are those submitted on November 26, 2013, after notices to neighbors were mailed and the application was available 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 Chase, Seconded by Theophilos

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

APPROVAL OF MINUTES

Resolution 15-PL-13

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

Moved by Simpson, Seconded by Hobstetter

Ayes: Hobstetter, Theophilos, Zhang, Simpson

Noes: None

Abstain: Chase

Absent: Ode

REGULAR CALENDAR

The Commission considered the following items of regular business.

Pedestrian & Bicycle Master Plan

Niko Letunic of Eisen/Letunic, the transportation and planning consulting firm retained to prepare the City's Pedestrian & Bicycle Master Plan, submitted a needs assessment briefing paper summarizing the comments from a variety of channels, including the October 30th Public Workshop, the on-line community survey (over 450 responses), and a series of "Safe Routes to School" walking audits of the City's six public and private elementary and middle schools. He explained that the needs assessment will be used to develop a set of recommended infrastructure projects, programs and policies to make walking and biking in Piedmont safer, easier and more commonplace. The proposed improvements will be based on the following criteria: (i) do they address the highest priority needs as identified by residents; (ii) do they have the potential to encourage residents who are not currently walking/biking to do so and/or will they improve the safety of pedestrians and bicycle riders in Piedmont; (iii) are they the most cost effective way of achieving Plan objectives; and (iv) will there be community support for the proposed improvements. It is anticipated that these recommendations will be developed between now and February 2014 and will be presented for extensive public review and comment during February-March 2014. Following that review period, a final draft of the Master Plan will be prepared and submitted for City and public review in June-July 2014. During discussion of the needs assessment report, the Commission requested that the Plan address the following issues: (i) bicycle rider behavior; (ii) excessive traffic speed and how the police department intends to address this problem; (iii) possible speed calming measures; and (iv) consideration of the potential of creating a safe and attractive park way for pedestrians along Moraga Avenue.

Correspondence was received from: Alex Steffen; Kurt Fleischer; Susan Struble; Kara Christenson; Susan Ode and Lee Camp

Public testimony was received from:

Teddy King, former Chairperson of the Environmental Task Force, commended the Commission and staff for pursuing efforts to make Piedmont a more bike friendly community, stressing that pedestrian safety is one of the highest priorities of Piedmont families.

Pat Markovich urged the consultant and Plan to address the dangerous situation in the 100 block of Olive Avenue, noting that 3 inch pavement gaps along the edge of the roadway are causing numerous bicycle rider crashes. She also felt that the needs assessment report failed to acknowledge/address the hazardous

traffic conditions for pedestrians, especially children walking to and from Beach School, caused by heavy vehicle traffic flow and excessive speed at the Oakland Avenue/Sunnyside/Olive Avenue intersections. The Commission requested staff to alert the Public Works Department as to the need to repair the roadway and install better signage along Olive Avenue.

Garrett Keating recommended that Mr. Letunic review the 2003 and 2008 City Traffic Speed Surveys as source of information that could be useful in developing the Draft Plan recommendations.

**Variance and
Design Review
21 Richardson Way**

The Property Owner is requesting variance and design review to construct a new 66 sq. ft. addition at the rear, make various window and door modifications, add new exterior lighting and partially remove the existing rear brick wall. The requested variances are from: (1) Section 17.10.4 to allow a structure coverage of 44% in lieu of the code permitted maximum of 40%; and (2) Section 17.22.2(a) to allow a floor area ratio coverage of 90% in lieu of the code permitted maximum of 55% for a parcel which is less than 5,000 sq. ft. in area.

Commissioner Theophilos recused himself from discussion and action on the application and left the Council chambers.

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

Public testimony was received from:

Brad Dickason stated that his 1932 vintage home is in great need of a kitchen upgrade. He explained that kitchen expansion within the existing footprint of the home is precluded because of the presence of a circular staircase in the entryway.

Chairman Zhang noted the difficulty in assessing potential expansion options that would could eliminate the need for a floor area ratio variance because a complete floorplan of the house was not submitted. The Chairman voiced concern that the property already greatly exceeds FAR limits. The Commission supported the FAR variance, noting that only a 2% increase in existing FAR is being proposed, the size of the lot is very small in relation to the size of the residence, the home's beautiful circular stairway is a physical hardship justifying variance approval, other homes in the neighborhood have similar rearward expansions and the impact of the modest kitchen expansion is minimal on neighboring properties. As to design, the Commission agreed that the addition was nicely designed and well-integrated with the existing home.

Resolution 295-V/DR-13

WHEREAS, the Property Owner is requesting permission to construct a new 66 sq. ft. addition at the rear, make various window and door modifications, add new exterior lighting and partially remove the existing rear brick wall located at 21 Richardson Way, 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 exceed the floor area ratio and structure coverage limits; and

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

1. The project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e);
2. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to the fact that the home is situated on a very small lot and the coverage limit is already exceeded. There are significant physical constraints involved in kitchen expansion, i.e., a circular stairway in the foyer, which precludes expanding the kitchen in any other direction than rearward. 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 an immediately adjacent neighboring property has a greater setback into the property than what the applicant proposes.
4. Accomplishing the improvement without variance would cause unreasonable hardship in planning, design, or construction because of existing physical constraints.
5. The proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code:
6. The exterior design elements (including but not limited to height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. The proposed construction has been attractively designed, the addition is located at the rear of the property and is not visible from the street, the addition is well-integrated with the existing house and neighbors are in support of project approval.
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. In addition, there is neighbor support for this kitchen expansion project.
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 proposed construction is located exclusively at the rear of the house.
9. The project complies with Design Review Guidelines II-1, II-2, II-3, II-3(a) through (d), II-6 and II-7.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review application for proposed construction at 51 Richardson Way, Piedmont,

California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

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

4. **Windows and Doors.** The color scheme of the new windows and doors shall match that of the existing windows and doors throughout the residence.

5. **Removal of Windows and Doors.** Where windows and doors have been removed, the wall shall be patched and painted to match the siding of the adjacent wall.

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

Moved by Simpson, Seconded by Chase

Ayes: Chase, Hobstetter, Zhang, Simpson

Noes: None

Recused: Theophilos

Absent: Ode

**Variance and
Design Review**

The Property Owner is requesting variance and design review to demolish the existing enclosed rear porch and remodel and enlarge the residence by 514 sq. ft.

934 Kingston Avenue

of habitable area through various changes to the interior and the construction of a 2-level addition with basement below that includes an upper-level bed/sun room, a main-level family room, a basement workroom, and a new chimney on the west wall of the addition. The application also proposes to relocate and expand the existing 1-car garage; construct a new roof deck atop the relocated garage and a bridge between the new upper-level sun/bed room and new garage roof deck; make window, door, garage door and exterior lighting modifications; and make site improvements that include a new driveway, new rear patios, new rear retaining wall, new fencing; and landscape changes. The requested variance is from Section 17.16 to allow a residence with 4 rooms eligible for use as bedrooms with one conforming parking space in lieu of the code required minimum of two conforming parking spaces.

Written notice was provided to neighbors. **Three negative response forms** were received. **Correspondence** was received from: Helen Danhaki

Public testimony was received from:

Timothy Mueller, Project Architect, described the proposed addition of a sun porch/studio and the design modifications to the expanded 1-car garage intended to minimize its impact on adjacent property and to make this structure function as a parking space for one car. He stressed that constructing a 2-car garage on the property is essentially impossible because of the property's limited amount of street frontage and the fact that such construction would eliminate the rear yard landscaping and outdoor living area. He noted that most homes along Kingston Avenue have non-conforming off-street parking.

William Ceasri felt that the proposal to lower garage height by 1 foot is insufficient to mitigate the adverse impacts on his property (loss of light and privacy) caused by such a massive structure, with a roof deck, right outside his living room window. He agreed that the removal of the walkway adjacent to the property, the planting of additional vegetation and the elimination of the garage roof deck would help mitigate the adverse impacts of the project on his property.

Miranda Lau felt that the proposed improvements were too massive in scale and size and too close to her property. She requested that the rear addition be pulled back closer to the applicant's existing rear staircase and the 10 ft. ceiling height of the garage be lowered.

While the Commission agreed that the design of the proposed improvements was attractive, the adverse impacts of the proposed garage were too significant to warrant project approval. The Commission suggested that the project be redesigned to: (i) locate the garage structure closer to the home; (ii) eliminate the garage roof deck; (iii) lower the garage ceiling height; and (iv) reduce the size and height of the chimney. Three Commissioners voiced support for a parking variance for the property, citing that there was insufficient frontage to support a 2-car parking structure and a 2-car garage would be inconsistent with the architectural style of the residence and would essentially eliminate the property's rear yard.

Resolution 302-V/DR-13

WHEREAS, the Property Owner is requesting permission to demolish the

existing enclosed rear porch and remodel and enlarge the residence by 514 sq. ft. of habitable area through various changes to the interior and the construction of a 2-level addition with basement below that includes an upper-level bed/sun room, a main-level family room, a basement workroom, and a new chimney on the west wall of the addition. The application also proposes to relocate and expand the existing 1-car garage; construct a new roof deck atop the relocated garage and a bridge between the new upper-level sun/bed room and new garage roof deck; make window, door, garage door and exterior lighting modifications; and make site improvements that include a new driveway, new rear patios, new rear retaining wall, new fencing; and landscape changes located at 934 Kingston 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 add a room eligible for use as a bedroom without supplying two conforming parking spaces; and

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

1. With regard to the requested variance, since there is no approved design for the project, the parking variance associated with this current design cannot be approved at this time; albeit three Commissioners have indicated support for such a variance should an acceptable design be submitted.
2. The proposal does not conform with the criteria and standards of Section 17.20.9 of the Piedmont City Code.
3. While the exterior design elements are aesthetically pleasing as a whole, they are not harmonious with existing and proposed neighborhood development in terms of their adverse impact on 944 and 932 Kingston Avenue. The height of the garage deck creates too much mass and adverse impact on adjacent properties.
4. The proposed upper level rear addition and garage have not been designed in a way that reasonably minimizes view and light impacts on neighboring properties, as evidenced by neighbor testimony.
5. The size and height of the rear addition and garage are commensurate with the size of the lot but the impact of these structures is not in keeping with the existing neighborhood development pattern.
6. 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.
7. The project fails to comply with Design Review Guidelines II-1, II-2, II-4, II-5, II-6, II-7 and III-1.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies, without prejudice, the variance and design review application for proposed construction at 934 Kingston Avenue,

Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Simpson, Seconded by Chase

Ayes: Chase, Hobstetter, Theophilos, Zhang, Simpson

Noes: None

Absent: Ode

The Commission recessed for dinner at 6:35 p.m. and reconvened at 7:00 p.m.

**Variance, Design Review
& Fence Design Review
445 Mountain Avenue**

The Property Owner is requesting variance, design review and fence design review to demolish the existing detached 3-car garage and replace it with a new 3-car garage attached to the residence. Modifications to the residence are proposed, including: the demolition of the existing elevator located at the southeastern corner of the house along Mountain Avenue and construction of a new one at the rear of the residence; significant interior modifications; expansions of the residence at the lower and main levels; modifications to the windows and doors; and new exterior lighting. Modifications to site improvements are proposed, including: new and modified retaining walls and a new driveway gate. The requested variances are from: (1) Section 17.10.5 to allow the new elevator structure to have a height of 35 ft., 7 in. in lieu of the code permitted maximum height of 35 ft.; and (2) Section 17.14.7 to allow the eave of the new garage to extend to within 6 ft., 7-1/2 in. of the right side property line in lieu of the code required minimum of a 20 ft. side yard setback.

Commissioner Theophilos recused himself from discussion and action on this application and left the Council Chambers.

Written notice was provided to neighbors. **Eight affirmative, one negative response forms** were received.

Public testimony was received from:

Fred Karren, Project Architect, described the proposed renovation of this 100-year old home, noting the intention of the improvements to restore the home's original window treatment integrity and replace a 1930's vintage elevator with a new elevator at the rear of the home. He noted a recent revision to the plan to replace the proposed 3-car garage with a new 4-car garage attached to the house. The associated curb cut for this garage structure would be likewise increased. Mr. Karren noted that the most affected neighbor (449 Mountain Avenue) has agreed to this change. He also stated that the height of the new elevator shaft exceeds the code height limit (hence the need for variance) but is still below the top ridge line of the house and is not visible to the public.

The Commission complimented the architect on the attractiveness of the design, suggesting that more architectural detailing be added to the garage doors. The Commission also discussed the design and proposed modifications related to the retaining wall and driveway gate necessitated by the expansion of the garage to a 4-car capacity, with Mr. Karren stating that the driveway gate will be a 4 ft. high wrought iron picket design, matching other wrought iron detailing on the home. As to the garage doors, Mr. Karren noted that windows and/or other architectural detailing will be added to the doors to enhance their visual aesthetics.

The Commission supported project approval, including the recent revision to a 4-car garage, noting that the most affected neighbor (449 Mountain) has approved of this design change. The Commission noted that the side yard variance situation is pre-existing and the proposed project will actually reduce the extent of this existing side yard encroachment.

Resolution 328-V/DR-13

WHEREAS, the Property Owner is requesting permission to demolish the existing detached 3-car garage and replace it with a new 4-car garage attached to the residence. Modifications to the residence are proposed, including: the demolition of the existing elevator located at the southeastern corner of the house along Mountain Avenue and construction of a new one at the rear of the residence; significant interior modifications; expansions of the residence at the lower and main levels; modifications to the windows and doors; and new exterior lighting. Modifications to site improvements are proposed, including: new and modified retaining walls and a new driveway gate located at 445 Mountain 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 the garage within the northern property line setback and to exceed the height limit with the elevator at the rear; and

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

1. The project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e);
2. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to the fact that setback variance is pre-existing and the relocation of the elevator will improve the home's usability and access, especially for elderly and/or disabled residents. 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 they are pre-existing situations with no impact on neighboring property.
4. Accomplishing the improvement without variance would cause unreasonable hardship in planning, design, or construction because it would preclude the use of a new elevator.
5. As conditioned, 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 new garage and adjacent residences is reasonable and

appropriate due to the existing topography and neighborhood development pattern. The most affected neighbor is in support of this project.

7. The proposed upper level addition and new garage have been designed in a way that reasonably minimizes view and light impacts on neighboring properties. There is no impact.

8. The size and height of the addition and new garage are commensurate with the size of the lot and are in keeping with the existing neighborhood development pattern. There are existing, multiple-car garages in the neighborhood.

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 will enhance the safety of vehicle ingress/egress to a property located on a busy, high-speed street.

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

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review application for proposed construction at 445 Mountain Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

2. **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.

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. **Approved Plan Set.** The approved plans are those submitted on November 25, 2013, with revisions to Sheets A113 and A201 submitted on December 6, 2013..

8. **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, 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 assistance (other than City Staff). 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 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.

9. **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.

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 trees proposed for retention. 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.

11. **Garage Doors.** The garage doors shall be modified to enhance their design compatibility with the main house and aesthetic appeal. Said modifications shall be subject to staff review and approval.

12. **Retaining Wall & Driveway Gate.** Modifications to the retaining wall and driveway gate shall be subject to staff review and approval.

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

Moved by Chase, Seconded by Simpson

Ayes: Chase, Hobstetter, Zhang, Simpson

Noes: None

Recused: Theophilos

Absent: Ode

**Design Review
11 Muir Avenue**

The Property Owner is requesting design review to construct new retaining walls, partially terraced, along and near the rear (west) and right (south) side property lines at the southwest corner of the property for the purpose of supporting a new level rear yard; install a new wrought iron guardrail atop the upper retaining wall, and make various landscape and hardscape improvements within the vicinity of the wall. Similar applications were denied by the Planning Commission on August 12 and October 14, 2013.

Alternate Commissioner Simpson recused herself from discussion and action on this application and left the Council Chambers.

Written notice was provided to neighbors. **One negative response form** was received. **Correspondence** was received from: David White

Public testimony was received from:

Reid Settlemier described his third design for creating a level play area for his children, noting that the current project has been revised to minimize impacts on 335 La Salle Avenue, the two versus three retaining wall system will allow larger planting areas to screen the improvements from view and that the retaining walls will be screened with vegetation.

Rochelle Wolk stated that the redesign is an improvement over previous versions but still felt that the project will box in the only remaining open side of her lot, thereby reducing light, air and feeling of open space. She noted her preference for a 3-wall retaining system rather than the proposed 2-wall system.

David White, speaking on behalf of his mother-in-law (Rochelle Wolk) agreed that the current redesign is an improvement over earlier proposals but voiced his concerns that the retaining walls may channel drainage onto his mother-in-law's property and that access to the sewer cleanout may be impeded.

Lawrence Rugg, Project Architect, stated that the current redesign is responsive to Commission and neighbor requests, there is a significant distance between the walls and the neighbor's property, there will be no change in the existing drainage situation between the properties and sewer cleanout access will be easily preserved.

The Commission supported application approval, agreeing that the revised design was responsive to earlier requests and the plan reflects compromises made by the applicant to minimize impacts on the adjacent neighbor. The Commission noted that the proposal's impact on the neighbor is not significant, especially when considering that only the far end of the neighbor's yard is affected and there will be ample landscaping to screen the tiered retaining walls. The Commission added that the visual renderings of the project illustrate the attractiveness of the proposal and the resulting significant visual improvement over existing conditions.

Resolution 332-DR-13

WHEREAS, the Property Owner is requesting permission to construct new retaining walls, partially terraced, along and near the rear (west) and right (south) side property lines at the southwest corner of the property for the purpose of supporting a new level rear yard; install a new wrought iron guardrail atop the upper retaining wall, and make various landscape and hardscape improvements within the vicinity of the wall located at 11 Muir 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 terms of the height, setback and construction materials of the new retaining walls and the proposed landscaping plan for the property.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because, as a whole, there is no major impact on the back yard views, privacy and light of neighboring property. The redesigned retaining walls are substantially stepped back from the neighbor's property from that originally proposed.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because the proposed project creates a level use and play area in the rear yard in contrast to the current steeply sloped topography of the applicant's rear yard. There is no impact on circulation patterns.

4. The project complies with Design Review Guidelines IV-1, IV-1(a) & (b), IV-3, IV-3(a), IV-5 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 11 Muir Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Previously Required Conditions of Approval.** Compliance with the conditions of approval specified as part of the prior approval on the residence at 11 Muir Avenue under Design Review Application #12-0212 shall extend to this application.

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

3. **Neighboring Property Owner Permission.** Should the construction of the retaining walls and execution of the landscaping plan require excavation into a neighboring property or if access onto the neighboring property is necessary for construction or execution, 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.

4. **Encroachment Permit.** As required by the Director of Public Works and before the issuance of a building permit, the Property Owner shall apply for an encroachment permit to allow for the construction of proposed new features within the City's sanitary sewer easement.

5. **City Sanitary Sewer Main.** City records and site inspections indicate that City-owned sanitary sewer mains and associated easement are located along the south property line in the area of the proposed construction and that alterations to the sewer infrastructure may be necessary as a result of the construction proposed by the property owner. Any alterations to the City sanitary sewer main line and associated structures that are required because of the development proposed by the property owner shall be designed and constructed by the City. The cost of said design and construction to the City sanitary sewer infrastructure and altered connections to it is the responsibility of the property owner and shall be paid prior to the issuance of a building permit.

6. **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.

7. **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.

8. **Arborist's Report and Certified Tree Preservation Plan.** Before the issuance of a building permit, the Property Owner shall submit an Arborist's Report and Tree Preservation Plan that includes tree preservation measures to preserve existing conifer tree located in the northeast corner of the adjacent property at 335 La Salle Avenue near the proposed construction, as well as any other nearby off-site trees. 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 tree(s). 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. 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 on the applicant property and adjacent properties have not been compromised by the construction.

9. **Landscape Plan.** Before issuance of a building permit, the Property Owner shall include in the construction plans a Landscape Plan for the terrace area between the retaining walls and for the base of the lower wall. The final plan shall comply with Municipal Code Section 17.17.3. Modifications to the Landscape Plan subsequent to the issuance of a building permit and prior to final inspection shall be subject to staff review and approval.

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

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

Moved by Chase, Seconded by Hobstetter

Ayes: Chase, Hobstetter, Theophilos, Zhang

Noes: None

Recused: Simpson

Absent: Ode

**Variance and
Design Review
103 Oakmont Avenue**

The Property Owner is requesting variance and design review to make various interior and exterior modifications, including excavation of the basement area to create approximately 376 sq. ft. of living space including a full bathroom and a bedroom and modifications to windows and doors throughout the house and garage. 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 conforming parking space in lieu of the code required minimum of two conforming parking spaces for a 4 bedroom residence.

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

Public testimony was received from:

Stacy Eisenmann, Project Architect, stated that the project involves bringing an existing non-conforming basement bedroom space up to code to house a caregiver. She noted that because of the pie-shaped wedge lot, a second parking space cannot be physically added to the property; however, the applicants intend to replace the existing garage door and improve the driveway situation in order to make the existing garage function for off-street parking.

The Commission supported variance approval, agreeing that the unusual and irregular shape of the lot precludes the addition of a second parking space. With regard to project design, the Commission discussed with the Architect existing and proposed window treatments, agreeing in the end that the large rear window be divided into six equal squares to maximize light to the sunroom area.

Resolution 333-V/DR-13

WHEREAS, the Property Owner is requesting permission to make various interior and exterior modifications, including excavation of the basement area to create approximately 376 sq. ft. of living space including a full bathroom and a bedroom and modifications to windows and doors throughout the house and garage located at 103 Oakmont 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 add an additional bedroom without supplying conforming parking; and

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

1. The project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e);
2. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to the pie-shaped wedge nature of the lot and the configuration of the house on the site. 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 improvements are located at the rear of the house and are architecturally compatible with the existing house.
4. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because it is not feasible to construct a second parking space on the lot.
5. The proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code:
6. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in terms of finished materials, window treatments and door designs.
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 the proposed improvements are located at the rear of the property and have no material impact on existing circulation patterns.
9. The project complies with Design Review Guidelines II-1, II-2, II-3, II-3(a) & (b), II-7, III-2, III-2(a), III-3 and III-4.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review application for proposed construction at 103 Oakmont Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

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

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

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

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

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

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

6. **Rear Window.** The design of the large rear window shall reflect six large squares, with said design modification subject to staff review and approval.

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

Moved by Hobstetter, Seconded by Chase

Ayes: Chase, Hobstetter, Theophilos, Zhang, Simpson

Noes: None

Absent: Ode

ADJOURNMENT

There being no further business, Chairman Zhang adjourned the meeting at 8:50 p.m.