

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, December 8, 2014

A Regular Session of the Piedmont Planning Commission was held December 8, 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 November 24, 2014.

CALL TO ORDER

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

ROLL CALL

Present: Commissioners Philip Chase, Susan Ode, Louise Simpson, Tony Theophilos, and Alternate Commissioner Eric Behrens

Absent: Tom Zhang (excused)

Staff: Planning Director Kate Black, Senior Planner Kevin Jackson, and Assistant Planners Jennifer Gavin and Janet Chang

Council Liaison: Councilmember Tim Rood

ANNOUNCEMENTS

Commissioner Ode announced that at the December 1, 2014, City Council meeting, the Council approved the Housing Element and adopted a resolution to approve a Conditional Use Permit at 370 Highland Avenue. Mayor Fujioka asked Commissioner Ode to thank the Commission for their work on these items.

CONSENT CALENDAR

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

- 30 Arroyo Avenue (Variance and Design Review)
- 55 Crocker Avenue (Design Review and Fence Design Review)
- 1375 Grand Avenue (Conditional Use Permit)
- 149 Ronada Avenue (Design Review)

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

Variance and Design Review 30 Arroyo Avenue

Resolution 256-V/DR-14

WHEREAS, the Property Owner is requesting permission to remodel and expand the residence by 97 square feet through: the construction of two rear additions and balcony; the replacement of a landing and stair in the west side yard; window, door, garage door and skylight modifications; new and replacement exterior lighting; and various changes to the interior, located at 30 Arroyo Avenue, Piedmont, California, which construction requires 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-foot setback from the property line along York Drive; 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

WHEREAS, with regard to variance, the Planning Commission finds that:

1. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to: the property is a peninsula lot, and it would be very difficult to construct a stair and landing for the house without a variance.
2. The variance is compatible with the immediately surrounding neighborhood and the public welfare, in that it has no impact on the public welfare.
3. Accomplishing the improvements without variance would cause unreasonable hardship in planning, design, or construction, because entrance stairs to the house could not be constructed otherwise.

WHEREAS, with regard to design review, the Planning Commission finds that the proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development, because the applicant plans to use building materials and design details that match the house.
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 neighboring properties.
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, because there is not an increase in the bulk or height of the house.
4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, because there is no impact on traffic patterns.
5. The project complies with Design Review Guidelines II-1, II-2, II-3, II-3(c) 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 30 Arroyo Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **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.
2. **Exterior Light Fixtures.** The new exterior light fixtures shall be downward-directed with an opaque or translucent shield that completely covers the light bulb.

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.** As required by the Building Department, a licensed land surveyor shall 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.

6. **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.

7. **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.

Moved by Simpson, Seconded by Theophilos

Ayes: Behrens, Chase, Ode, Simpson, Theophilos

Noes: None

Absent: Zhang

**Design Review and
Fence Design Review
55 Crocker Avenue**

Resolution 309-DR-14

WHEREAS, the Property Owner is requesting permission to make various site grading and landscape improvements throughout the property including new and replacement retaining walls, patios, and terraces; new on-grade paths, steps, handrails, and guardrails; and new trees, lawns, raised vegetable beds, exterior lighting, and a built-in bench, located at 55 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 Mediterranean garden is in keeping with the Mediterranean style of the house.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because it has no impacts.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, because there is no vehicular traffic flowing in or out of the project.
4. 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, II-7(a), IV-1, IV-1(a) and (b), IV-2, IV-2(a), IV-3, IV-3(a), IV-4, IV-4(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 proposed construction at 55 Crocker 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. **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, as well as any nearby off-site trees, including the live oak trees adjacent to Wildwood Gardens. 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.

4. **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. 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.

Before the Final Inspection, the Arborist shall file a report to the City certifying that all tree preservation measures as recommended have been implemented to his/her satisfaction and that all retained trees have not been compromised by the construction.

5. **Stormwater Design.** The California Regional Water Quality Control Board requires all projects, or a combination of related projects, that create and/or replace 2,500 square feet or more of impervious surface to comply with Provision C.3.i of the Municipal Regional Stormwater NPDES Permit. As required by the Chief Building Official, the Property Owner shall verify the total area of impervious surface to be created and/or replaced within the scope of this project, or this project combined with other related projects and/or permits, and incorporate the site design measure(s) required under Provision C.3.i into the plans submitted for a building permit. Copies of the Municipal Regional Stormwater Permit are available from the Piedmont Public Works Department and on-line at cleanwaterprogram.org.

6. **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.

7. **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 Hardscaping and Landscaping; and
- v. 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.

Moved by Chase, Seconded by Simpson
Ayes: Behrens, Chase, Ode, Simpson, Theophilos
Noes: None
Absent: Zhang

Conditional Use Permit Resolution 338-CUP-14
1375 Grand Avenue

WHEREAS, The Stover Foundation is requesting a Conditional Use Permit to operate an administrative office for a charitable foundation funding educational programs, located at 1375 Grand Avenue, Suite 202, 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 recommends 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 17.24.7 of the Piedmont City Code, as follows:

1. The proposed use is compatible with the General Plan and conforms to the Zoning Code in that the office use is consistent with the standards of the requirements of Zone D, Sub paragraph 17.8.3. In addition, the office is in an established office complex with a history of office use.
2. The use is of benefit to Piedmont residents in that: it is a charitable foundation that funds educational programs, it benefits society in general, and it benefits Piedmont families with school-aged children.
3. The use will not have a material adverse effect on the health, safety or welfare of persons residing or working in the vicinity, because it is located in an existing office complex with parking, will not create any increased noise or traffic, and will only include two staff members.

RESOLVED, that in consideration of the findings and facts set forth above, the Piedmont Planning Commission recommends approval by the City Council of the Conditional Use Permit application by The Stover Foundation at 1375 Grand Avenue, Suite 202, Piedmont, California, subject to the following conditions:

1. **Terms.** The terms of the approval are as stated in the application, specifically including the following:
 - A. Days and Hours of Operation: Monday through Friday, 7am-4pm; and
 - B. Type(s) of Staff/Personnel, Number of Each: 1 founder, 1 financial controller; and
 - C. The approval shall be for 5 years from the initial approval date of January 5, 2015.
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.

Moved by Simpson, Seconded by Chase
Ayes: Behrens, Chase, Ode, Simpson, Theophilos
Noes: None
Absent: Zhang

**Design Review
149 Ronada Avenue**

Resolution 355-DR-14

WHEREAS, the Property Owner is requesting permission to make several interior and exterior modifications to the home including an approximately 250 square foot addition at the rear of the home; window and door modifications; a new flat profile skylight; modifications to hardscape and retaining walls at the rear of the property; and retroactive approval of a basketball hoop in the rear yard, located at 149 Ronada Avenue, Piedmont, California, which construction requires design review; and

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

the project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e) and the proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. The exterior design elements (including but not limited to height, bulk, area openings, breaks in the facade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that: the new building addition is consistent with the appearance of the existing home.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because the addition has no impact on neighbors.
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 II-1, II-2, II-3, II-3(a) through (d), II-6, II-6(a) through (c), II-7, IV-1, IV-2, IV-2(a), IV-4, 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 proposed construction at 149 Ronada 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. **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.

4. **Construction Completion Schedule.** Work on the Project, once begun, shall be promptly executed with continuous good faith and reasonable

progress. Since timely completion of this Project is of the essence, the Property Owner shall submit for approval a Construction Completion Schedule, which will specify, in detail, the duration and percentage complete of each phase.

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

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

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

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

5. **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.

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.

Moved by Simpson, Seconded by Behrens
Ayes: Behrens, Chase, Ode, Simpson, Theophilos
Noes: None
Absent: Zhang

APPROVAL OF MINUTES

Resolution 28-PL-14

RESOLVED, that the Planning Commission approves as submitted its meeting minutes of the November 10, 2014, regular hearing of the Planning Commission.

Moved by Theophilos, Seconded by Behrens
Ayes: Behrens, Chase, Ode, Simpson, Theophilos
Noes: None
Absent: Zhang

PUBLIC FORUM

There were no speakers for the public forum.

REGULAR CALENDAR

The Commission considered the following items of regular business:

Variance, Design Review, and Fence Design Review 30 Prospect Road

The Property Owner is requesting permission to demolish the existing greenhouse, trellis and hardscape at the northeast corner of the property and construct a new 342-square-foot accessory structure and covered patio, which are proposed to have the following features: habitable space with 1 bedroom, 1 bathroom and accessory kitchenette; a multipanel door; windows throughout; exterior lighting; a trellis patio cover, and hardscape improvements. The application also proposes new fencing to replace the existing fence along Prospect Court and enclosing the north side of the rear yard. A variance is required in order to construct within the 20-foot setback from the property line along Prospect Court.

Written notice was provided to neighbors. **7 negative response forms** were received. **Correspondence** was received from: Tracy Nemiro & Blake Wong, Shirley Sapphire, Gail & Darryl Trabish, Linda Chen & Jean Zee, Michael Roman, Susan Freeman, Sandy Lauren & Ray Sherman.

Public testimony was received from:

Annie Reding, homeowner, explained that she and her husband had recently purchased the property and do not yet live there. She stated that they had reached out to as many of the neighbors as possible regarding the proposed project.

Ajay Krismnan, homeowner, explained that the new structure is being proposed to provide space for a home office and for an occasional houseguest. He also stated that they plan to keep the alleyway quiet, both for themselves and their neighbors.

Ian Reed, Project Architect, explained that the variance is needed because of the 20-foot setback required at the alley, and that they designed the project to limit the impact on the neighboring homes by orienting the structure toward the main house. Mr. Reed stated that he understands the parking concerns in the neighborhood, but added that the existing code-compliant two-car garage provides adequate parking for four bedrooms and is above average for the neighborhood. He explained that the applicants do not intend to use the new structure as a rental unit and are open to removing the kitchen from the proposal. When Commissioner Chase asked why the roof design did not match that of the existing house, Mr. Reed said that the gentle shed roof was thought to be less intrusive to neighbors. When Commissioner Simpson asked about alternative locations for the proposed structure, Mr. Reed said that the location at the rear of the lot is the most level and buildable, and that other locations are not as feasible due to the layout of the main house and the property's excessive street frontage. Commissioner Simpson also asked about the possibility of further excavation to reduce the overall height. Mr. Reed responded that an additional foot of excavation may be possible, but that greater excavation would require the rebuilding of existing retaining walls and a significant increase in cost. When Commissioner Simpson asked about lowering the ceiling height, Mr. Reed confirmed that the ceiling can be lowered in places.

Sky Lanigan, Project Manager, explained that the highest point of the proposed structure is lower than the highest point of the existing greenhouse; that excavation is proposed to lower the finished floor elevation by three feet, as compared to the existing greenhouse; and that the proposed trellis would help to screen the structure for the neighbors. Mr. Lanigan also explained that the proposed structure is farther from the property line than the existing structures, and that without a setback variance, they could not build anything on the site. The Commissioners asked whether the alley gate can be removed, and Mr. Lanigan responded that they would prefer to retain the alley gate, since it provides access to the guesthouse without the need to traverse stairs.

Jean Zee, neighbor, spoke in opposition to the project because of the mass of the proposed structure and the location of the proposed windows overlooking her yard. She also expressed concern with the structure and its impact on noise, traffic, parking, and street safety. Ms. Zee asked for additional onsite parking if the project is approved. When questioned by Commissioner Simpson, Ms. Zee confirmed that a lower building height and the removal of the alley gate would alleviate her main concerns with the proposed project.

Blake Wong, neighbor, spoke in opposition to the proposed structure, citing concerns over its use as a guesthouse, its height, and its location within the setback. He stated that a home office could be built without a need for a setback variance. He added that no guesthouses exist in the neighborhood and that the owners should not be granted a variance for an unprecedented structure with an adverse effect on neighboring properties. He added his concerns over parking and safety on such a narrow street. When questioned by Commissioner Simpson, Mr. Wong confirmed that a lower building height and the removal of the kitchen would alleviate some of his concerns with the proposed project, but he reiterated that he is not in support of a setback variance.

Michael Roman, neighbor, spoke in opposition to the project, citing concerns over the structure's overall height and its appearance as a freestanding dwelling unit. He stated that the proposed structure would be closer to the three neighboring houses than to the applicant's house, and that it would significantly

impact the neighbors' privacy and views while minimally impacting the applicant. When asked by Commissioner Simpson, Mr. Roman confirmed that a lower building height would improve the application, but stated that he still has concerns about the size and use of the structure.

Gail Trabish, neighbor, spoke in opposition to the project. She stated that her bedroom window directly overlooks the proposed structure and that it would impact her with regards to privacy, noise and light. She added that a proposed habitable dwelling unit is not in harmony with the neighborhood. When questioned by Commissioner Simpson, Ms. Trabish confirmed that her concerns would be mostly addressed by lowering the building height, removing the alley gate, adding frosted windows, and removing the kitchen; however, she suggested that the shower/bathtub should also be removed from the plans.

The Commissioners were in agreement that the project, as proposed, could not be approved, but that the application may be approvable once changes are made to the design. Commissioner Theophilos recommended that the Commission deny the application without prejudice and suggested that any new design include a reduction in the height and size of the proposed building, further excavation to lower the structure, the elimination of the proposed kitchen, the removal of the alley gate, and the addition of window frosting on the alley-side windows. Commissioner Chase added his concerns regarding the design compatibility of the proposed shed roof and the approvability of a variance for this proposal. Commissioner Ode stated that she would like to see a redesign that did not include a shower or bathtub as part of the proposed structure. Commissioner Theophilos added that parking is not an issue with this application, since the applicants have a code-compliant two-car garage and are entitled to a fourth bedroom. Because of the property's code-compliant parking, Commissioner Behrens stated that he was not in support of requiring the removal of the shower/tub or the removal of the alley gate, and reminded the neighbors that any future use of the structure as a second unit would require additional permitting.

The Commissioners asked Staff about a code amendment that had been previously discussed at a prior Planning Commission hearing with regards to setbacks along alleyways, shared driveways, and other minor thoroughfares. Planning Director Kate Black said that as directed by the Commission, a code amendment is likely be proposed in 2015.

Resolution 245-DR-14

WHEREAS, the Property Owner is requesting permission to demolish the existing greenhouse, trellis and hardscape at the northeast corner of the property and construct a new 342-square-foot accessory structure and covered patio, which are proposed to have the following features: habitable space with 1 bedroom, 1 bathroom and accessory kitchenette; a multipanel door; windows throughout; exterior lighting; a trellis patio cover, and hardscape improvements. The application also proposes new fencing to replace the existing fence along Prospect Court and enclosing the north side of the rear yard located at 30 Prospect 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 currently proposed design does not conform with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. The exterior design elements of the proposed structure are not harmonious with the main house, because the proposed roof is not consistent with the roof of the main house, and some of the design elements of the main house have not been carried through to the proposed structure.
2. The design is not appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because of the height and bulk of the proposed structure. A redesigned project should consider further excavation, a reduction in building size, a reduction in building height, the removal of the alley gate, the removal of the kitchen, and the addition of frosting on the rear windows.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, because the existing property includes code-compliant parking.
4. The project does not comply with Design Review Guidelines II-1, II-2, II-3, II-3(a) through (d), II-6, II-6(a) through (c), II-7, II-7(a), V-1, V-2, V-3, V-4, V-5, V-5(a) through (c), V-6, V-7, V-8, V-9, V-10, and V-11.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies, without prejudice, the currently proposed design review application for proposed construction at 30 Prospect Road, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Simpson, Seconded by Theophilos

Ayes: Behrens, Chase, Ode, Simpson, Theophilos

Noes: None

Absent: Zhang

Resolution 245-V-14

WHEREAS, the Property Owner is requesting permission to demolish the existing greenhouse, trellis and hardscape at the northeast corner of the property and construct a new 342-square-foot accessory structure and covered patio, which are proposed to have the following features: habitable space with 1 bedroom, 1 bathroom and accessory kitchenette; a multipanel door; windows throughout; exterior lighting; a trellis patio cover, and hardscape improvements. The application also proposes new fencing to replace the existing fence along Prospect Court and enclosing the north side of the rear yard located at 30 Prospect Road, Piedmont, California, which construction requires design review; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary to construct within the 20-foot setback from the property line along Prospect Court; 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 variance finding specific to the currently proposed design:

1. The currently proposed variance cannot be approved, because the currently proposed design is not approved.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies, without prejudice, the current variance application for proposed construction at 30 Prospect Road, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Simpson, Seconded by Chase

Ayes: Behrens, Chase, Ode, Simpson, Theophilos

Noes: None

Absent: Zhang

**Variance and
Design Review
3 Huntleigh Road**

The Property Owner is requesting permission to construct a 415 square foot bedroom addition at the rear of the property; add exterior lighting; seek retroactive approval for a bay window; and make various hardscape modifications. A variance is required to add a bedroom without supplying conforming parking.

Written notice was provided to neighbors. **1 affirmative response form** was received. No correspondence was received.

Public testimony was received from:

Jeff Nguyen, homeowner, explained that he and his wife would like to add an addition at the rear of their house so that their parents can live with them and still maintain adequate privacy. He stated that a parking variance is being requested for the additional bedroom. In support of the variance, he said that there is very little traffic on the street and that most residents do not park on the street. Mr. Nguyen added that his neighbors are supportive of the project.

Susanne Stadler, Project Architect, described the proposed project as an extension of the "L"-shaped form of the house. She stated that the roof will be continued at its current height and that the addition will have a wood shingle roof in keeping with the house. She said that the addition is not visible from the street or adjacent neighbors. Ms. Stadler explained that they are requesting a parking variance to add a fifth bedroom to the house. She said that if they were to instead add an additional parking space, it would require extensive regrading of the existing driveway, a large retaining wall, and the removal of vegetation, which would change the view of the property from the street. If a variance is not approvable, she suggested that an existing small bedroom could be changed into a walk-in closet to preserve the bedroom count; however, the homeowners prefer to keep the small bedroom as a home office. She also stated that this project is an example of allowing intergenerational families age in place.

The Commission supported the approval of the rear addition, stating that it had very little visual impact and was well designed. The Commission was not in support of the parking variance, since alternative design solutions were possible that would eliminate the need for the parking variance. The Commission was supportive of redesigning the floor plan to maintain four bedrooms in the house including turning a small bedroom into a closet or office for the master bedroom or removing the small bedroom's wall to the hallway. Additional solutions were discussed including expanding the existing garage or constructing a carport or detached garage structure in the front yard, but the applicant stated that they were unlikely to propose this more invasive solution at this time.

Resolution 351-V/DR-14

WHEREAS, the Property Owner is requesting permission to construct a 415 square foot bedroom addition at the rear of the property; add exterior lighting; seek retroactive approval for a bay window; and make various hardscape modifications, located at 3 Huntleigh Road, Piedmont, California, which construction requires design review; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary 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 the project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e); and

WHEREAS, with regard to variance, the Planning Commission finds that:

1. The variance is denied without prejudice because it does not comply with the variance criteria of Section 17.21.6 of the Piedmont City Code.
2. The underlying lot and existing improvements do not present sufficient unusual physical circumstances, in that alternative designs exist that would eliminate the need for the variance, such as excavating for a larger garage or building a retaining wall and trellis structure opposite the garage for an additional parking space.
3. The variance is not compatible with the immediately surrounding neighborhood and the public welfare, because alternative designs exist that would eliminate the need for the variance.

WHEREAS, with regard to design review, the Planning Commission finds that the proposal conforms with the design review criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements include, but are not limited to, the fact that the design is in conformity with the design of the house and the addition is not visible from neighboring properties.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because it is not visible to the neighbors.
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 bedroom is at the back of the house and cannot be seen by the neighbors, and because the proposed parking variance is not approved.
4. 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), and II-7.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies, without prejudice, the variance application, and approves the design review application for proposed construction at 3 Huntleigh Road, 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. **Garage Door.** The existing garage door shall remain electrically operable. If design modifications are required to accomplish this, those modifications shall be subject to staff review.

4. **Windows.** The color scheme of the proposed windows shall match that of the remaining windows throughout the house.

5. **Fence.** No fencing with a maximum height greater than 6 feet measured from lowest point of adjacent grade is approved as part of this application.

6. **Approved Plan Set.** The approved plans are those submitted on November 21, 2014 with modifications made on November 25, 2014 after notices to neighbors were mailed and the application was available for public review.

7. **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.

8. **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.

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.

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.

11. Removal of a Bedroom. The floor plans shall be modified to eliminate one of the bedrooms, subject to staff review.

Moved by Theophilos, Seconded by Chase

Ayes: Behrens, Chase, Ode, Simpson, Theophilos

Noes: None

Absent: Zhang

The Commission recessed for dinner at 6:45 p.m. and reconvened at 7:15 p.m.

**Design Review
43 Estrella Avenue**

The Property Owner is requesting permission for the expansion of the house on the first floor at the right rear (northeastern) corner of the house for an enlarged kitchen, and the expansion of the second story above for a new master bedroom closet and laundry room. Other modifications include window and door changes and new exterior lighting.

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

Public testimony was received from:

Rob Kelly, Project Architect, answered Commissioners questions and clarified the architectural plans.

The Commissioners were unanimous in their support of the project, stating that the project is well designed and improves the house. They added that the project has no impact on the neighboring properties.

Resolution 352-DR-14

WHEREAS, the Property Owner is requesting permission for the expansion of the house on the first floor at the right rear (northeastern) corner of the house for an enlarged kitchen, and the expansion of the second story above for a new master bedroom closet and laundry room. Other modifications include window and door changes and new exterior lighting, located at 43 Estrella Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality

Act, pursuant to Section 15301, Class 1(e) and the proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. The distance between the 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, because they have no impact on any of the neighbors. The project is entirely consistent with the existing design of the Craftsman style house, including the proposed bracket detailing and the size and shape of the proposed windows.
2. The proposed addition has been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.77), because there are no impacts to neighbors, and the proposed windows face the cemetery.
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, because the architect has taken great care in assuring that the addition is in keeping with the existing neighborhood 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. 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: because nothing is being done that would have an impact on parking.
5. 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 design review application for proposed construction at 43 Estrella Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Approved Plan Set.** The approved plans are those submitted on November 6, 2014 with modifications submitted November 17, 2014.
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. **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. **Modifications to Conditions.** Any insurance or security requirement, or related Condition of Approval, may be implemented and, if necessary modified, in a reasonable manner with the joint agreement of the Director of Public Works and the City Attorney, consistent with the intent of the condition.

6. **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.

Moved by Theophilos, Seconded by Behrens
Ayes: Behrens, Chase, Ode, Simpson, Theophilos
Noes: None
Absent: Zhang

**Design Review
926 Kingston Avenue**

The Property Owner is requesting permission to make several interior and exterior modifications to the property, including an approximate 198 square foot addition at the lower level on the south east corner of the house; modifications to windows, doors, and skylights; expand the deck at the rear of the house; and to seek retroactive approval for a trampoline in the rear yard.

Written notice was provided to neighbors. **1 negative response form** was received.

Public testimony was received from:

Venus French, homeowner, summarized the project and answered Commissioners questions. She stated that she proposed a jeweler's bench at the rear of the garage and an expansion at the rear of the house for an office. She explained that the cable rail is in keeping with the modern style at the rear of the house, and she answered questions about the goldsmith process and the need for a vent hood.

David Ludwig, Project Architect, explained that the project is a minimal expansion in keeping with the City's Code and includes window improvements throughout.

The Commissioners unanimously supported project approval and expressed their willingness to approve either railing option or window option presented. The Commissioners were in agreement that the rear garage window did not pose a significant impact on the rear neighbor. The Commission also agreed that the trampoline should be retroactively approved.

Resolution 357-DR-14

WHEREAS, the Property Owner is requesting permission to make several interior and exterior modifications to the property, including an approximate 198 square foot addition at the lower level on the south east corner of the house; modifications to windows, doors, and skylights; expand the deck at the rear of the house; and to seek retroactive approval for a trampoline in the rear yard, located at 926 Kingston Avenue, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. The distance between the proposed upper level deck 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, because the proposed modifications have no impact on ambient and reflected light. Both railing design options and windows design options are in keeping with the existing house.

2. The proposed upper level deck has been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.77), because the project does not impact the neighbors' views or light.
3. The size and height of the upper level deck and lower level 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 upper level deck and lower level addition are not readily visible to the neighbors and are commensurate with the size of the lot.
4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. In accordance with Sections 17.16.1 and 17.22.1, the existing or proposed on-site parking is appropriate to the size of the new upper level deck and lower level addition, and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood, because the proposed modifications have no impact on parking.
5. 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 design review application for proposed construction at 926 Kingston Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Roof Color.** The proposed flat roof shall be a non-reflective medium or dark color to minimize the visual impact on upslope properties.
2. **Vent Color.** The new exhaust vent on the east wall of the garage shall be painted to match the adjacent wall color.
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. **Notice of Restricted Use.** The garage does not meet habitation or safety requirements of the Piedmont Municipal Code. A notice of restricted use shall be recorded with the Alameda County Recorder's office advising current and future owners that the space does not meet the safety codes for habitation purposes.

6. 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.

7. 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.

Moved by Theophilos, Seconded by Simpson
Ayes: Behrens, Chase, Ode, Simpson, Theophilos
Noes: None
Absent: Zhang

**Variance and
Design Review
16 Nace Avenue**

The Property Owner is requesting permission to remodel and expand the residence through the following construction: increasing the height of the roof at the northeast corner of the house; removing the chimney; window, door and exterior lighting modifications; and various changes to the interior including the development of 189-square-feet of additional habitable space on the basement level and the installation of a new bathroom on the upper level. A variance is required in order to construct the roof addition within the 4-foot left (north) side yard setback.

Written notice was provided to neighbors. **2 affirmative, 1 negative response forms** were received.

Public testimony was received from:

Ahmad Mohazab, Project Architect, summarized the project and explained that a setback variance is needed to change the slope of the existing roof that extends into the setback.

The Commissioners were unanimous in their support of the project, stating that the variance is needed to preserve the design integrity of the existing house, which has eaves that project into the setback.

Resolution 358-V/DR-14

WHEREAS, the Property Owner is requesting permission to remodel and expand the residence through the following construction: increasing the height of the roof at the northeast corner of the house; removing the chimney; window, door and exterior lighting modifications; and various changes to the interior including the development of 189-square-feet of additional habitable space on the basement level and the installation of a new bathroom on the upper level, located at 16 Nace Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary in order to construct the roof addition within the 4-foot left (north) side yard setback; and

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

WHEREAS, with regard to variance, the Planning Commission finds that:

1. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to: the fact that this particular overhang was previously built prior to current setback requirements, the utility of the lot will be greatly improved because of the additional dormer that will carry up the setback intrusion to another level, and that most properties in this zone do not

conform to this requirement. Applying this requirement to the applicants would unfairly restrict their use of the property.

2. The variance is compatible with the immediately surrounding neighborhood and the public welfare, because there is no impact on the neighbors and eaves that extend into the side yard setbacks are a common characteristic of the neighborhood development.

3. Accomplishing the improvements without variance would cause unreasonable hardship in planning, design, or construction, because it would limit a previously designed and built house to a smaller envelope and would impair the applicants' full use of their property.

WHEREAS, with regard to design review, the Planning Commission finds that the proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development, in that the proposal is in keeping with the existing house.

2. The proposed addition has been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.77), because there will be no impact.

3. The size and height of the addition is commensurate with the size of the lot and is in keeping with the existing neighborhood development pattern, because it improves the utility of the house within the same envelope.

4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, because there are no impacts.

5. The project complies with Design Review Guidelines II-1, II-2, II-3, II-3(a) through (d), II-4, II-6, and II-6(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 16 Nace Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Approved Plan Set.** The approved plans are those submitted on November 21, 2014 with additional information submitted on November 26, 2014, after notices to neighbors were mailed and the application was available for public review.

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

3. **Emergency Egress.** The master bedroom on the northern side of the upper level shall be supplied with a window that meets the emergency egress requirements of the Building Code. If design modifications are required to accomplish this, those modifications shall be subject to staff review and approval.

4. **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.

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. **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.

7. **Notice of Restricted Use.** The storage room within the former garage does not meet habitation or safety requirements of the Piedmont Municipal Code. A notice of restricted use shall be recorded with the Alameda County Recorder's office advising current and future owners that the space does not meet the safety codes for habitation or sleeping purposes.

8. **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.

9. **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.

Moved by Chase, Seconded by Simpson
Ayes: Behrens, Chase, Ode, Simpson, Theophilos
Noes: None
Absent: Zhang

ADJOURNMENT

There being no further business, Chairman Ode adjourned the meeting at 8:20 p.m.