

## **PIEDMONT PLANNING COMMISSION**

### **Regular Meeting Minutes for Monday, February 9, 2015**

A Regular Session of the Piedmont Planning Commission was held February 9, 2015, 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 January 26, 2015, with revisions posted on February 3, 2015, and February 6, 2015.

#### **CALL TO ORDER**

Chairman Ode called the meeting to order at 5:02 p.m.

#### **ROLL CALL**

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

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

Council Liaison: Councilmember Tim Rood

#### **CONSENT CALENDAR**

The Commission placed the following applications on the Consent Calendar and added Condition #2 to the approval of 1750 Trestle Glen Road:

- 1159 Harvard Road (Variance and Design Review)
- 1750 Trestle Glen Road (Fence Design Review)
- 800 Blair Avenue (Design Review and Fence Design Review)
- 77 Selborne Drive (Fence Design Review)
- 411 Pala Avenue (Variance)

#### **Resolution 2-PL-15**

RESOLVED, that the Planning Commission added Condition #2 to the approval of 1750 Trestle Glen Road, which was approved as part of the Consent Calendar.

Moved by Ode, Seconded by Chase

Ayes: Chase, Ode, Simpson, Theophilos, Zhang

Noes: None

Recused: None

Absent: None

#### **Resolution 3-PL-15**

RESOLVED, that the Planning Commission approves the Consent Calendar as noted.

Moved by Theophilos, Seconded by Chase

Ayes: Chase, Ode, Simpson, Theophilos, Zhang

Noes: None

Recused: None

Absent: None

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

**Variance and  
Design Review  
1159 Harvard Road**

**Resolution 75-V/DR-14**

WHEREAS, the Property Owner is requesting permission to construct an approximately 36-square-foot addition to the rear of the existing detached garage at the rear of the property located at 1159 Harvard 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 4-foot side 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 the 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 the proposal complies with the variance criteria under Section 17.21.6 of the Piedmont City Code:

1. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to the fact that existing garage is on the property line at the side yard and cannot be extended to conform to the required length of 20 feet without a variance. 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.
2. The variance is compatible with the immediately surrounding neighborhood and the public welfare, because the variance allows the modification to an existing condition.
3. Accomplishing the improvements without variance would cause unreasonable hardship in planning, design, or construction, because the variance is requested in order to allow conformance with the required length of 20 feet. Any future work on the residence would require this conformance.

WHEREAS, with regard to design review, the Planning Commission finds that the proposal conforms to 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 design of the proposed addition matches the design of the existing garage, with its stucco exterior, half timbering, and similar divided lite windows.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because it doesn't have any impact on these elements.
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 they are not being changed.
4. The project complies with Design Review Guidelines III-1, III-1(a), III-2, III-2(a), III-3, III-4, III-5, III-5(a), III-6, III-6(a), III-7, III-7(a).

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 1159 Harvard 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. **Contractor's General Liability Insurance.** To ensure that the contractor doing work in the City will be responsible for damages caused by the work to City property or to neighboring property, the Property Owner shall require all contractors performing work on the Project to maintain General Liability Insurance for protection from claims for damages because of bodily injury, including death, and claims for damages, other than to the contractor's work itself, to property which may arise out of or result from the contractor's operations. Such insurance shall be written for not less than \$1,000,000 per occurrence. The insurance shall include an endorsement requiring notice to the City if the insurance is cancelled or changed, and Property Owner shall immediately arrange for substitute insurance coverage. If the Property Owner does not have a general contractor, the Property Owner shall maintain property insurance and coverage for contractors, which is substantially equivalent to the contractor's requirement of this section.

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

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

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

**Fence Design Review  
1750 Trestle Glen Road**

**Resolution 2-DR-15**

WHEREAS, the Property Owner is requesting permission to make modifications to a previously approved application including removing an existing wood retaining wall; installing a new metal guardrail on top of the previously approved concrete retaining wall along Trestle Glen Road; and seeking

retroactive approval for a gate along Cavanaugh Court located at 1750 Trestle Glen Road, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development, because the wrought iron fence is attractive and will improve the look of the retaining wall.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because there is no impact.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress, because there is no impact. It will improve the safety of residents in the home.
4. The project complies with Design Review Guidelines V-1, V-2, V-5, V-5(a), V-5(b), V-5(c), V-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 1750 Trestle Glen Road, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

2. **Vegetative Screening.** Vegetation that screens the new guardrail and new retaining wall in the front yard shall be installed.

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

**Design Review and  
Fence Design Review  
800 Blair Avenue**

**Resolution 7-DR-15**

WHEREAS, the Property Owner is requesting permission to add a new spa and free standing wall at the southwest corner of the property located at 800 Blair Avenue, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements include but are not limited to: that the spa is not visible from the neighboring properties, that the spa is on grade and that the coping will match the flagstone patio, that the spa equipment will be in an enclosed/roofed shed beyond the setback, and that the 30-inch free-standing wall encloses the spa to give a sense of privacy.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because the spa is enclosed behind an existing wood fence and is not visible from the street.
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 spa is not visible from the street and does not affect circulation.
4. The project complies with Design Review Guidelines II-1, II-2, II-3, II-3(a), II-3(b), II-3(c), II-3(d), II-4, II-5, II-5(a), II-6, II-6(a), II-6(b), II-6(c), II-7, II-7(a), V-1, V-2, V-3, V-4, V-5, V-5(a), V-5(b), V-5(c), V-6, V-7, V-8, V-9, V-10, V-11.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for proposed construction at 800 Blair 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.

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

**Fence Design Review  
77 Selborne Drive**

**Resolution 11-DR-15**

WHEREAS, the Property Owner is requesting retroactive approval for removing an existing concrete fence and wrought iron gate; and constructing a new wood

paneled fence along Selborne Drive located at 77 Selborne Drive, 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, because the proposed fence is an improvement over the previously existing cinder-block fence, which was inconsistent with the design of the existing house.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because it will not have an impact on these items.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, because the project will improve the safety of residents.
4. The project complies with Design Review Guidelines V-1, V-2, V-3, V-4, V-5, V-5(a), V-5(b), V-5(c), V-6, V-7, V-8, V-9, V-10, V-11.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for proposed construction at 77 Selborne Drive, 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. At the discretion of the Building Official, a licensed land surveyor may be required by the Building Department to verify and mark the location of the property lines at the time of foundation inspection to verify the approved setback dimension measured to the new fence and that it is completely within the applicants' property.

Moved by Chase, Seconded by Zhang  
Ayes: Chase, Ode, Simpson, Theophilus, Zhang  
Noes: None  
Recused: None  
Absent: None

**Variance  
411 Pala Avenue**

**Resolution 20-V-15**

WHEREAS, the Property Owner is requesting permission to make various interior changes to the house and seek retroactive approval for a full bathroom at the basement level which creates a room eligible for use as a bedroom, located at 411 Pala 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 to add a third room eligible for use as 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, the Planning Commission finds that the proposal complies with the variance criteria under Section 17.21.6 of the Piedmont City Code:

1. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to: the steep and narrow driveway and the size of the lot make it extremely difficult to provide conforming parking. Strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone that conform to the zoning requirements.
2. The variance is compatible with the immediately surrounding neighborhood and the public welfare, because other properties have even less compliant parking.
3. Accomplishing the improvements without variance would cause unreasonable hardship in planning, design, or construction, because the homeowner would not be able to get approval for this previously existing basement bedroom without a variance.

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 411 Pala 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. **Garage Door.** In order to encourage use of the garage, the garage door shall be electronically operable. If design modifications are required to accomplish this, those modifications shall be subject to staff review.



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

#### **APPROVAL OF MINUTES**

##### **Resolution 4-PL-15**

RESOLVED, that the Planning Commission approves as submitted its meeting minutes of the January 12, 2015, regular hearing of the Planning Commission.

Moved by Theophilos, Seconded by Zhang

Ayes: Behrens, Chase, Theophilos, Zhang

Noes: None

Recused: Ode, Simpson

Absent: None

#### **PUBLIC FORUM**

There were no speakers for the public forum.

#### **REGULAR CALENDAR**

The Commission considered the following items of regular business:

##### **Reconsideration of Conditions of Approval 53 Cambrian Avenue**

The Property Owner is requesting reconsideration of and/or modifications to four conditions of approval required by the City when a project to construct a new 4,347-square-foot, 4-bedroom house was originally approved in 2009.

Written notice was provided to neighbors. **Two affirmative and four negative response forms** were received. **Correspondence** was received from: Caryl H. James and Hope & Larry Salzer.

**Public testimony** was received from:

David Bowie, Attorney for the applicant, stated that he and his clients have reviewed the Planning Commission Staff Report and are prepared to go along with the recommendations made by the City. He did request, however, that condition 19, which requires subsidence security, be released after the foundation is in place and the inspector has signed-off on it. He added that a soil engineer recently revisited the site and prepared a report stating that soil conditions are unchanged since the last report. Mr. Bowie said that he would provide the letter to the City.

Neighbor Jerry Herrick, Neighbor Caryl James, and Peter Smith, an attorney for Caryl James, all spoke regarding conditions 19 and 21. They stressed the importance of these conditions for protecting the neighboring properties and requested that the conditions remain as written in 2009.

In response to the Commission's questions, Planning Director Kate Black briefly explained that the original conditions were a result of a complicated and lengthy process involving the City Attorney, City Engineer, Building Official, and other City Staff. The Director also commented that similar conditions have been placed on similar applications.

The Commissioners were unanimous in their support of the Staff recommendations, stating that all of the conditions were carefully considered by Staff and are appropriate for the scope of the project.

**Resolution 396-DR-14**

WHEREAS, the Property Owner is requesting reconsideration of and/or modifications to four conditions of approval required by the City when a project to construct a new 4,347-square-foot, 4-bedroom house was originally approved in 2009, located at 53 Cambrian Avenue, Piedmont, California; and

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

WHEREAS, the Planning Commission recommends approval of modifications to Conditions of Approval 6 and 7 of Application #09-0008, for the construction of a new house at 53 Cambrian Avenue, approved by the City Council on July 6, 2009, making the following findings:

1. With regard to Condition #6 - City Facilities Security - given that the City has lowered the security amount required under the standard City Facilities Security condition of approval to \$50,000, it is appropriate to lower the security amount for this project due to the fact that the site is an upsloping site, and the project has an estimated 185 cubic yards of off-haul fill material that will need to be taken from the site over City streets, which according to Republic Services Inc., equals about 18 10-yard debris boxes each weighing approximately 5 tons.; and

2. With regard to Condition #7 - Performance Security- Given that the City has replaced the Performance Security with a standard Construction Site Safety Security condition of approval in the amount of \$25,000 for projects similar in scope to this one, it is appropriate to do so for this project.

WHEREAS, the Planning Commission recommends denying the applicants' request for modifications to Conditions of Approval 19 and 21 of Application #09-0008, for the construction of a new house at 53 Cambrian Avenue, approved by the City Council on July 6, 2009, making the following findings:

1. The \$300,000 Subsidence Security under Condition #19 was fully considered by the Planning Commission, and upheld under appeal by the City Council in 2009. Given that there has been no changed circumstance with regard to City standards or practices associated with this condition and because no change to the project is proposed and no evidence of a change in the site conditions has been provided, Condition #19 should remain without modification; and

2. The Neighboring Property Security under Condition #21 was fully considered by the Planning Commission, and upheld under appeal by the City Council in 2009. Given that there has been no changed circumstance with regard to City standards or practices associated with this condition and because no change to the project is proposed and no evidence of a change in the site conditions has been provided, Condition #21 should remain without modification.

3. The applicants have stated that they do not disagree with the staff recommended recommendations and have consented to the adoption of these recommendations.

RESOLVED, that in consideration of the findings and facts set forth above, the Piedmont Planning Commission recommends 1) approval by the City Council of modifications to Conditions of Approval 6 and 7 of Application #09-0008, and 2) denial by the City Council of modifications to Conditions of Approval 19 and 21 of Application #09-0008, for the construction of a new house at 53 Cambrian Avenue, Piedmont, California, approved by the City Council on July 6, 2009, subject to the following conditions:

1. **Revised Condition #6: City Facilities Security.** The Property Owner shall provide a specific cash deposit, letter of credit, bank guarantee, or other similar financial vehicle ("City Facilities Security") in the amount of \$50,000 as established by the Director of Public Works. This financial vehicle serves as an initial sum to cover the cost of any potential damage to City property or facilities in any way caused by Property Owner, Property Owner's contractors or subcontractors, or any of their agents, employees or assigns, and related in any way to the Project. The Property Owner is responsible for the full cost of repair as determined by the City Engineer prior to final inspections. The form and terms of such City Facilities Security shall be determined by the Director of Public Works after consultation with the Property Owner. The Director may take into account any of the following factors: the cost of construction; past experience and costs; the amount of excavation; the number of truck trips; the physical size of the proposed project; the logistics of construction; the geotechnical circumstances at the site; and City right-of-way and repaving costs.

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

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

2. **Revised Condition 7: Construction Site Safety Security.** The City and the public have an interest in not having an unfinished project blighting the neighborhood and undermining property values. These public interests are primarily construction site safety and aesthetics, and diminishment of property values. Prior to the issuance of a Building Permit, the Property Owner shall provide a specific cash deposit, letter of credit, bank guarantee, or other similar financial vehicle ("Site Safety Security") in the amount of \$25,000 to ensure that the Project site is not left in a dangerous or unfinished state.

- a. The Construction Site Safety Security shall be in an amount to include three components:
  - i. safety, which means the cost to make the site and structure safe if construction should cease mid-way through the Project;
  - ii. aesthetics, which means an amount to install and maintain landscaping all around the Project to protect the immediate local views from neighbors and public property; and
  - iii. staff and consultant time to evaluate and implement this condition.

If, as the Project proceeds, the expected cost of these components increases beyond the original estimate in the opinion of the Director of Public Works, the City may require the Property Owner to increase the amount of the Construction Site Safety Security by the additional amount. The Property Owner shall provide City with written evidence of compliance within 15 working days after receiving written notice of the additional required amount. The City shall retain, at the Property Owner's expense, an independent estimator to verify the total expected costs to complete the Project and any subsequent revisions.

- b. The form and amount of the Construction Site Safety Security is subject to the approval of the Director of Public Works. Payment to City under the Construction Site Safety Security shall be made payable upon demand by the City and prior to the issuance of the Building Permit, conditioned solely on the Director of Public Works' certification on information and belief that all or any specified part of such Security is due to the City.

- c. The Construction Site Safety Security shall not be released until the Project has an approved Final Inspection by the Chief Building Official. However, if sufficient work has been completed according to the benchmarks and construction values as established under the Construction Completion Schedule, the Site Safety Security may be reduced to the extent the Director of Public Works in his sole discretion determines is appropriate.

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

**Variance and  
Design Review  
74 Sea View Avenue**

The Property Owner is requesting permission to remodel and stylistically change the residence through the following alterations: the demolition and removal of the existing 3-car carport, entry features, kitchen chimney and decks in the south side yard; the construction of a new 3-car garage, a new front gable roof and dormer; a new front entry and courtyard with outdoor kitchen, and new decks and balconies on the south and east facades; changes in roof and wall materials; window, door, skylight and guardrail modifications throughout; new exterior lighting; various hardscape and landscape improvements; and various changes to the interior including the development of habitable space within the basement level and the addition of 2 rooms eligible for use as a bedroom (for a total of 8 bedrooms). Two variances are required: 1) In order to construct within the 20-

foot side yard setback measured from the north (left) property line, and 2) To increase the number of rooms eligible for use as a bedroom to eight without supplying the required number (four) of conforming parking spaces.

Written notice was provided to neighbors. **Two response forms** indicating no position were received. **Correspondence** was received from Jerry and Jan Kennelly.

**Public testimony** was received from:

April Gruber, homeowner and Project Architect, discussed the proposed parking variance. She stated that the property is large and has a long driveway that easily accommodates off-street parking. She also explained that one of the eight bedrooms on the property is a historic hunting lodge that has no heat or insulation, and that they intend another of the eight bedrooms to be used as a basement game room. She added that other homes in the neighborhood have been granted a similar variance. Ms. Gruber explained that the setback variance is requested to change the flat roof to a pitched roof, which will not affect any neighbors' views, light or air. Lastly, to address neighbor concerns, Ms. Gruber suggested a redesign of the south façade of the garage and submitted a proposed design.

The Commissioners were in full support of the setback variance, but were divided in their support of the parking variance. Commissioners Theophilos and Chase expressed support for the parking variance, citing the property's large size, adequate off-street parking, and the approval of similar variances in the neighborhood. They were in support of making findings based on Section 17.22.4(a) of the Municipal Code, which suggests that variances may be approved in certain circumstances, such as on large lots where adequate uncovered parking is not highly visible from the street. Commissioners Simpson, Zhang, and Ode were not in support of a parking variance, stating that a fourth parking spot was easy to add to such a large lot, and that uncovered parking was visible now that vegetation had been removed from the property. In response to a question about adding a fourth parking space, the applicant suggested that the garage be moved slightly to accommodate an unenclosed, covered parking space between the proposed garage and the house.

The Commissioners also discussed the design of the project, and had mixed opinions on its approvability. Commissioners Chase, Ode and Zhang supported the applicants' efforts to upgrade the house and approved of the proposed design. Commissioner Simpson expressed concern for the design of the garage and the proposed metal roof. Several Commissioners also expressed concern regarding the removal of mature vegetation on the property. To address these concerns, the Commission discussed requiring a landscape plan, a dark roof color, and a redesign of the west wall of the garage.

#### **Resolution 12-V-15**

WHEREAS, the Property Owner is requesting permission to remodel and stylistically change the residence through the following alterations: the demolition and removal of the existing 3-car carport, entry features, kitchen chimney and decks in the south side yard; the construction of a new 3-car garage, a new front gable roof and dormer; a new front entry and courtyard with outdoor kitchen, and new decks and balconies on the south and east facades; changes in roof and wall materials; window, door, skylight and guardrail modifications throughout; new exterior lighting; various hardscape and

landscape improvements; and various changes to the interior including the development of habitable space within the basement level and the addition of 2 rooms eligible for use as a bedroom (for a total of 8 bedrooms) located at 74 Sea View 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 to construct within the 20-foot side yard setback measured from the north (left) property line; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission finds that the proposal complies with the variance criteria under Section 17.21.6 of the Piedmont City Code:

1. The underlying lot and existing improvements present unusual physical circumstances, in that the existing roof is non-conforming in its location within the setback.
2. The variance is compatible with the immediately surrounding neighborhood and the public welfare, because it allows for a more aesthetically pleasing roof design.
3. Accomplishing the improvements without variance would cause unreasonable hardship in planning, design, or construction, because it would require restructuring of the house.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the setback variance at 74 Sea View Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Chase, Seconded by Zhang

Ayes: Chase, Ode, Simpson, Theophilos, Zhang

Noes: None

Recused: None

Absent: None

#### **Resolution 12(2)-V-15**

WHEREAS, the Property Owner is requesting permission to remodel and stylistically change the residence through the following alterations: the demolition and removal of the existing 3-car carport, entry features, kitchen chimney and decks in the south side yard; the construction of a new 3-car garage, a new front gable roof and dormer; a new front entry and courtyard with outdoor kitchen, and new decks and balconies on the south and east facades; changes in roof and wall materials; window, door, skylight and guardrail modifications throughout; new exterior lighting; various hardscape and landscape improvements; and various changes to the interior including the development of habitable space within the basement level and the addition of 2 rooms eligible for use as a bedroom (for a total of 8 bedrooms) located at 74 Sea View 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 to increase the number of rooms eligible for use as a

bedroom to eight without supplying the required number (four) of 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 finds that the proposal does not comply with the variance criteria under Section 17.21.6 of the Piedmont City Code, finding that:

The underlying lot and existing improvements do not present unusual physical circumstances, in that the lot is large and can accommodate a fourth conforming parking space. The applicant suggested adding a fourth conforming parking space and volunteered to make a change to the plans to accommodate the fourth parking space.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies the proposed parking variance at 74 Sea View Avenue, Piedmont, California.

Moved by Simpson, Seconded by Zhang

Ayes: Chase, Ode, Simpson, Theophilos, Zhang

Noes: None

Recused: None

Absent: None

#### **Resolution 12-DR-15**

WHEREAS, the Property Owner is requesting permission to remodel and stylistically change the residence through the following alterations: the demolition and removal of the existing 3-car carport, entry features, kitchen chimney and decks in the south side yard; the construction of a new 3-car garage, a new front gable roof and dormer; a new front entry and courtyard with outdoor kitchen, and new decks and balconies on the south and east facades; changes in roof and wall materials; window, door, skylight and guardrail modifications throughout; new exterior lighting; various hardscape and landscape improvements; and various changes to the interior including the development of habitable space within the basement level and the addition of 2 rooms eligible for use as a bedroom (for a total of 8 bedrooms) located at 74 Sea 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. The distance between the addition and adjacent residences is reasonable and appropriate due to the existing topography and neighborhood development pattern. Upper level setbacks are not an issue. As conditioned, the roof will not create reflected light. The proposed height, bulk, area openings, and breaks in the façade are all consistent with the original structure.

2. The proposed addition has been designed in a way that reasonably minimizes view and light impacts on neighboring properties, because, as conditioned, windows will be placed on the south side of the garage.
3. The size and height of the addition is commensurate with the size of the lot, because the lot is very large, and the proposal will not create an unreasonable change in the usage pattern or floor to area ratio of the property.
4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. The existing or proposed on-site parking is appropriate to the size of the new additions, and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood, because there will be no impacts on traffic, and, as conditioned, the proposed garage will be moved slightly to accommodate a fourth covered parking space.
5. The project complies with Design Review Guidelines II-1, II-2, II-3, II-3(a), II-3(b), II-3(c), II-3(d), II-4, II-5, II-5(a), II-5(b), II-5(c), II-6, II-6(a), III-1, III-1(a), III-2, III-2(a), III-3, III-4, III-5, III-5(a), III-6, III-6(a), III-7, III-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 74 Sea View Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

3. **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.

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



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

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

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

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

9. **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](http://cleanwaterprogram.org).

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

- a. Construction Site Control of Stormwater. The California Regional Water Quality Control Board requires all projects that disturb the site to comply with Provision C.6 of the San Francisco Bay Regional Stormwater NPDES Permit in order to prevent construction site discharges of pollutants and other regulated materials during construction. As required by the Chief Building Official and prior to the issuance of a building permit, the Applicant shall develop and submit a construction stormwater management plan as part of the Construction Management Plan to achieve timely and effective compliance with Provision C.6. Permit Provision C.6.c.ii provides

sources for site specific, and seasonally- and phase-appropriate, effective Best Management Practices (BMPs) that may be incorporated into the stormwater management plan. Copies of the Municipal Regional Stormwater Permit are available from the Piedmont Public Works Department and on-line at [cleanwaterprogram.org](http://cleanwaterprogram.org).

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

**11. 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.

12. **Garage Design.** The south side of the garage shall be redesigned, (in line with the drawing submitted on February 9, 2015), subject to staff review and approval.

13. **Carport.** A conforming carport shall be added adjacent to the proposed garage and the house, subject to staff review and approval.

14. **Landscape Plan.** A landscape plan shall be submitted prior to issuance of a building permit.

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

**Variance and  
Design Review  
110 Maxwellton Road**

The Property Owner is requesting permission to remodel the residence by constructing a new 543-square-foot deck with a bridge and arbored gate in the front yard; converting the carport into a garage; constructing a new 28-square-foot waste cart enclosure and reconstructed stair structure in the left (south) side yard; increasing the overhang of the roof eaves; making window, door and garage door modifications; installing new exterior lighting; making various hardscape improvements in the front yard; and making various interior changes including the addition of a fourth bedroom within the lower level. Three variances are required in order to construct within the 20-foot front yard setback, to construct within the 4-foot left (south) side yard setback, and to add a fourth room eligible for use as a bedroom without supplying the required parking.

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

**Public testimony** was received from:

Kyle Killion, homeowner, spoke briefly to state his family's excitement with moving to Piedmont and updating their home.

Robin Pennell, Project Architect, explained that the applicants are proposing a new garage to replace an existing carport and to add a new entrance to the house. He explained that a parking variance is required, because one of the two parking spaces will be four inches short of conforming. He also explained that setback variances are needed due to the topography of the site.

The Commissioners commended the applicants on a well-designed project and applauded the efforts of the applicants to improve the parking, improve the front entrance, and preserve the mature redwoods on the property. They were in full support of the three variances, given the unusual physical circumstances of the lot.

**Resolution 13-V/DR-15**

WHEREAS, the Property Owner is requesting permission to remodel the residence by constructing a new 543-square-foot deck with a bridge and arbored gate in the front yard; converting the carport into a garage; constructing a new

28-square-foot waste cart enclosure and reconstructed stair structure in the left (south) side yard; increasing the overhang of the roof eaves; making window, door and garage door modifications; installing new exterior lighting; making various hardscape improvements in the front yard; and making various interior changes including the addition of a fourth bedroom within the lower level located at 110 Maxwellton Road, Piedmont, California, which construction requires design review; and

WHEREAS, three variances from the requirements of Chapter 17 of the Piedmont City Code are necessary to construct within the 20-foot front yard setback, to construct within the 4-foot left (south) side yard setback, and to add a fourth room eligible for use as a bedroom without supplying the required 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 the proposal complies with the variance criteria under Section 17.21.6 of the Piedmont City Code:

1. The setback variances are appropriate, because of the size and steep slope of the lot. The parking variance is appropriate, in that the second parking space is only 4 inches short of conforming to the parking requirements.
2. The variances are compatible with the immediately surrounding neighborhood, because there will be no impact on any neighbors and, will in fact, improve the parking situation for the neighborhood. Additionally, the proposal is consistent with the neighborhood, in that most of the properties along the street have structures within the front and side setbacks.
3. Accomplishing the improvements without setback variances would be impossible because of the nature of the lot.

WHEREAS, with regard to design review, the Planning Commission finds that the proposal conforms to 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 proposal is consistent with other properties in the neighborhood that have structures within the front and side yard setbacks. Additionally, the garage will be more attractive than the existing carport.
2. The proposed addition has been designed in a way that reasonably minimizes view and light impacts on neighboring properties, because there is no impact.
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 garage will be similar in size and height to the existing carport, and the design is consistent with other residences along the street.

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, because the proposed garage is an improvement and it makes the neighborhood safer.

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

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review application for proposed construction at 110 Maxwellton Road, 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 electronically operable. If design modifications are required to accomplish this, those modifications shall be subject to staff review.

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. **Window Color Scheme.** All the windows on the house shall have a consistent color scheme.

4. **Exterior Lighting.** All new exterior light fixtures shall be downward directed with an opaque or translucent shade that completely covers the light bulb.

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 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.

7. **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 any new improvements within the public right-of-way.

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

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

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

**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.

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

The Commission recessed at 6:30 p.m. for a dinner break and for a special session in the Conference Room to review those projects nominated for the Commission’s 2014 Design Awards. Presentation of the awards will be made at the March 9, 2015, Planning Commission meeting immediately following a reception held at City Hall to honor all award recipients. The Commission selected the following award recipients:

Excellent Second Unit	290 Scenic Avenue
Excellent Comprehensive Remodel	213 Sunnyside Avenue
Excellent Modern Update	10 Littlewood Drive
Excellent Rehabilitation of a Historic Secondary Structure	5 Hampton Court
Excellent Seamless Addition	55 Cambrian Avenue
Excellent Outdoor Living Space	109 Crocker Avenue
Excellent Architecturally Consistent Site Improvements	37 Bonita Avenue

Chairman Ode reconvened the regular session at 7:05 p.m.

**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 317-square-foot accessory structure with covered patio, which are proposed to have the following features: habitable space with 1 bedroom; 1 bathroom; 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 northeast corner 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. **Seven negative response forms** were received. **Correspondence** was received from: Susan Freeman, Gail and Darryl Trabish, and Jean Zee.

**Public testimony** was received from:

Ajay Krishnan, homeowner, explained that the intended use of the new structure is as a home office and an occasional guesthouse for visiting family. He stated that they have tried to address the concerns voiced at the prior hearing, and requested that any remaining changes be made as part of this application.

Ian Reed, Project Architect, explained the changes that had been made since the prior application. He explained that the applicants reduced the bulk of the structure by lowering its height, excavating further, and redesigning the roof. He stated that the new design improves upon neighbors' privacy, since all of the proposed windows will have obscure glass and will be located below the top of the fence. Mr. Reed also explained that the previously proposed kitchenette and alley gate have been removed from the proposal. He stated that the new exterior design is more in keeping with the existing house, that neighbors' views have been preserved, and that the property has conforming parking. He added that the only variance requested is to place the structure within the 20-foot setback at the alley. He stated that this type of variance might not be required in the future, as the Planning Commission considers changing alley setbacks throughout the City.

Jean Zee, neighbor, spoke in opposition to the project, stating that the structure is still too large and that the story poles extend above the top of the fence. She requested that all of the windows be opaque, including those on the fence side. She expressed concern that the structure could become a one-bedroom house.

Blake Wong, neighbor, spoke in opposition to the project, citing the structure's close proximity to his house. He expressed concern that the structure is still too large and that there are no other structures like it in the neighborhood. He said that, despite the reduction in height, the proposed structure is still taller than the original main house. He expressed his opposition to a setback variance, stating that a code change has not yet happened and may never happen.

The Commissioners were unanimously in support of the application, commending the applicants on addressing all of the Commission's concerns and minimizing impacts on neighbors. They discussed the reduction in building height and size, the removal of the kitchenette and alley gate, the inclusion of obscure glass, and the redesign of the roof. With regards to the setback variance, they noted that the existing structures are also within the setback and that the lot can be considered a corner lot, making compliance with setbacks more difficult. In response to a question from the Commission, Planning Director Kate Black explained that, as directed by the Commission, a code amendment is likely to be proposed in 2015 to address setbacks along alleyways, shared driveways, and other minor thoroughfares.



**Resolution 16-V/DR-15**

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 317-square-foot accessory structure with covered patio, which are proposed to have the following features: habitable space with 1 bedroom; 1 bathroom; 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 northeast corner 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 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 the proposal complies with the variance criteria under Section 17.21.6 of the Piedmont City Code:

1. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to: the fact that this is a corner lot with a very unusual shape; the street is not a major thoroughfare; and there is an existing nonconforming structure in the same location as the proposed structure.
2. The variance is compatible with the immediately surrounding neighborhood, because the applicants have made every effort to address the neighbors' concerns. Additionally, the proposal is consistent with the neighborhood, because there are numerous structures located within the setback in the immediately surrounding neighborhood, along Piedmont Court.
3. Accomplishing the improvements without variance would cause unreasonable hardship in planning, design, or construction, because without the variance, the project would not be possible.

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

1. The exterior design elements are aesthetically pleasing, in that the applicants have addressed all of the Commission's previous concerns. The roof was changed from flat to gabled to match the architecture of the house, and the materials of the new fence will be aesthetically pleasing and will match the materials 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 the applicants made every effort to minimize the impact on neighbors by reducing the building height and bulk, reducing the square-footage of the structure, removing the kitchenette, including obscure glass on the alley-side windows,

redesigning the structure to match the main house, and removing the alley gate. Additionally, the overall ambiance of the neighborhood will be improved because of the removal of the existing dilapidated greenhouse structure.

3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, because the alley gate has been removed, ensuring no additional vehicular use in the alley.

4. The project complies with Design Review Guidelines II-1, II-2, II-3, II-3(a), II-3(b), II-3(c), II-3(d), II-4, II-5, II-5(a), II-6, II-6(a), II-6(b), II-6(c), II-7, II-7(a), V-1, V-2, V-3, V-4, V-5, V-5(a), V-5(b), V-5(c), V-8, V-10, V-11.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance, design review and fence design review application for proposed construction at 30 Prospect Road, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Fencing Location.** The new fencing along Prospect Court shall be located entirely upon the applicants' property and not in the City-owned Right-of-Way.

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

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

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

6. **Roof Color.** The proposed gable roof shall be a color consistent with that on the main house.

7. **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.

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

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

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

11. **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.

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

a. **Construction Site Control of Stormwater.** The California Regional Water Quality Control Board requires all projects that disturb the site to comply with Provision C.6 of the San Francisco Bay Regional Stormwater NPDES Permit in order to prevent construction site discharges of pollutants and other regulated materials during

construction. As required by the Chief Building Official and prior to the issuance of a building permit, the Applicant shall develop and submit a construction stormwater management plan as part of the Construction Management Plan to achieve timely and effective compliance with Provision C.6. Permit Provision C.6.c.ii provides sources for site specific, and seasonally- and phase-appropriate, effective Best Management Practices (BMPs) that may be incorporated into the stormwater management plan. Copies of the Municipal Regional Stormwater Permit are available from the Piedmont Public Works Department and on-line at [cleanwaterprogram.org](http://cleanwaterprogram.org).

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

**13. 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: Chase, Ode, Simpson, Theophilos, Zhang  
Noes: None  
Recused: None  
Absent: None

**ADJOURNMENT**

There being no further business, Chairman Ode adjourned the meeting at 7:50 p.m.