

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, March 9, 2015

A Regular Session of the Piedmont Planning Commission was held March 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 February 23, 2015.

DESIGN AWARD PRESENTATION

Following the 2014 Design Awards Reception held in the City Hall Courtyard, and prior to the start of the Regular Session, Chairman Ode called the meeting to order at 5:45 p.m. for the presentation of the 2014 Design Awards.

Mayor Fujioka congratulated the Design Award recipients, as well as their design and construction professionals, and thanked them for enhancing the aesthetics of Piedmont.

Chairman Ode summarized the Commission's review and selection process for the annual Design Awards. She explained that the Commission recognizes superior design and construction projects that exemplify the City's Design Review Guidelines. Award recipients received a Design Award Plaque, and their design and construction professionals received photographs of their project. The 2014 Design Awards honored exceptional projects in the following categories:

- Excellent Seamless Addition
- Excellent Second Unit
- Excellent Outdoor Living Space
- Excellent Comprehensive Remodel
- Excellent Modern Update
- Excellent Architecturally Consistent Site Improvements
- Excellent Historic Rehabilitation

Chairman Ode presented the Award for *Excellent Seamless Addition* to the owners of **55 Cambrian Avenue** in recognition of elegantly and meticulously matching the Spanish details from the rest of the house to create an addition that is truly seamless.

Commissioner Zhang presented the Award for *Excellent Second Unit* to the owners of **290 Scenic Avenue** in recognition of designing and constructing a second unit at the front of the property that is beautiful and in harmony with the Spanish style home and the neighborhood.

Commissioner Theophilos presented the Award for *Excellent Outdoor Living Space* to the owners of **109 Crocker Avenue** (represented by the project architects) in recognition of an inviting and functional landscape redesign that was both beautifully designed and skillfully constructed.

Commissioner Simpson presented the Award for *Excellent Comprehensive Remodel* to the owners of **213 Sunnyside Avenue** (represented by the project architect and contractor) in recognition of an exceptional, comprehensive remodel of the main residence and the addition of a harmonious Craftsman style garage.

Alternate Commissioner Behrens presented the Award for *Excellent Modern Update* to the owners of **10 Littlewood Drive** in recognition of their impressive

Contemporary-style remodel that showcases exceptional design and construction detail.

Commissioner Chase presented the Award for *Excellent Architecturally Consistent Site Improvements* to the owners of **37 Bonita Avenue** in recognition of an extensive landscape redesign that unifies the front and rear yards with the Craftsman style home.

Chairman Ode presented the Award for *Excellent Historic Rehabilitation* to the owners of **5 Hampton Court** in recognition of beautifully bringing back to life a historic Victorian-style playhouse.

Following the presentations, Chairman Ode congratulated all of the 2014 Design Award recipients and their design and construction professionals.

CALL TO ORDER

Chairman Ode called the Regular Session to order at 6:00 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 Planner Janet Chang, Assistant Planner Jennifer Gavin, and Planning Technician Sunny Chao

Council Liaison: Councilmember Tim Rood

APPROVAL OF MINUTES

Chairman Ode asked that the February 9, 2015, meeting minutes list Commissioner Simpson and Commissioner Theophilos as having made a motion and seconded the motion, respectively, for Resolution 2-DR-15 for 1750 Trestle Glen Road.

Resolution 5-PL-15

RESOLVED, that the Planning Commission approves as clarified its meeting minutes of the February 9, 2015, regular hearing of the Planning Commission.

Moved by Chase, Seconded by Theophilos

Ayes: Chase, Ode, Simpson, Theophilos, Zhang

Noes: None

Recused: None

CONSENT CALENDAR

The Commission placed the following applications on the Consent Calendar:

- 332 Jerome Avenue (Variance, Design Review and Fence Design Review)
- 327 Bonita Avenue (Fence Design Review)
- 5201 Park Boulevard (Conditional Use Permit)
- 100 Indian Road (Design Review)
- 1687 Grand Avenue (Variance and Design Review)

Resolution 6-PL-15

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

Moved by Simpson, Seconded by Theophilos

Ayes: Chase, Ode, Simpson, Theophilos, Zhang

Noes: None
Recused: None

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

**Variance,
Design Review, and
Fence Design Review
332 Jerome Avenue**

Resolution 10-V/DR-15

WHEREAS, the Property Owner is requesting permission to construct a new one-car carport with gates at the front of the property; add exterior lighting; and construct new fences along Jerome Avenue and Keefer Court located at 332 Jerome Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary to construct in the Jerome Avenue-facing setback, construct in the Keefer Court-facing setback, and to supply non-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 the variances, 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 the property is an unusually-shaped peninsula lot and there is no other place on the property to construct the carport or to add an additional conforming parking space. Strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone.
2. The variance is compatible with the immediately surrounding neighborhood and the public welfare because previously, there was a one-car carport on the property that was destroyed in a fire and the proposed carport is merely a replacement. Additionally, most of the houses in the neighborhood have one-car garages.
3. Accomplishing the improvements without variance would cause unreasonable hardship in planning, design, or construction, because of the unusually shaped lot.

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 fencing and carport are aesthetically pleasing. The exterior design elements of the carport are cohesive with the existing home. The carport design is intended to look like an arbor with the use of gates and fencing to obscure the car when parked in this structure. Use of paint grade wood is intended to mimick the

materials used to detail the existing home. Accented detailing such as finishing cuts to the edges of the trellis beams mirror the edges of rafter details on the home. Light fixtures will be carefully chosen to correlate to existing fixtures on the home.

2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because there will be no negative impact. The project will improve the appearance of the property.

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 current curb cut is a safety hazard for both pedestrians and vehicular traffic. Thus, the proposed new curb cut will improve visibility and vehicular access both in and out of the property.

4. The project complies with Design Review Guidelines III-1, III-1(a), III-2, III-4, III-5, III-5(a), III-6, III-7, 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 variance and design review application for proposed construction at 332 Jerome Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

2. **Property Line Location.** 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 north, east, and south property lines at the time of foundation and/or frame inspection to verify the approved setback dimensions measured to the new carport and/or fences.

3. **Fence Location.** The new fence, including all footings and posts, shall be located completely within the applicant's property or an encroachment permit may be required.

4. **Carport.** The proposed carport gates facing Jerome Avenue shall be electronically operated.

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

Construction Management Plan as deemed necessary throughout the course of the Project and until the Final Inspection.

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

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

**Fence Design Review
327 Bonita Avenue**

Resolution 24-DR-15

WHEREAS, the Property Owner is requesting permission to demolish the existing front yard fence and gate; construct a new approximately 3 foot high fence within the City's right-of-way along Bonita Avenue; construct a new

approximately 3 foot high fence with an approximately 7 foot high trellis along the existing driveway; and install a new swing gate to the side yard located at 327 Bonita Avenue, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development, because the front yard picket fence and arbor are nicely designed to replace the existing fence. The design is consistent with the neighborhood development.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because of the location and minimal height of the fence and arbor.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, because there is no impact.
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).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for proposed construction at 327 Bonita Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

2. **Encroachment Permit.** Before the issuance of a building permit, the Property Owner shall apply for an encroachment permit to allow for the construction within the public right-of-way.

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

Conditional Use Permit Resolution 50-CUP-15
5201 Park Boulevard

WHEREAS, Zion Lutheran Church is requesting a Conditional Use Permit to permit a new, private K-8 school to operate on the premises, 8:30 am 3:00 pm, Monday through Friday. The Shu Ren International School is a dual immersion

English and Chinese school with 75 students. The application also proposes an additional half-hour in the Church services and activities on Sundays from 8:00 am to 1:00 pm, located at 5201 Park Boulevard, 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 17.20.9 of the Piedmont City Code:

1. The proposed use is compatible with the General Plan and conforms to the zoning code, in that the new use is proposed in same space that has been used as a school in the past. The Commission recognizes that the school will start with 75 students, but may grow to a maximum of 130, which is less than the prior school enrollment of 180.
2. The use is primarily intended to serve Piedmont residents (rather than the larger region), in that Piedmont residents will be offered priority enrollment.
3. The use will not have a material adverse effect on the health, safety or welfare of persons residing or working in the vicinity, in that this space was used for a school in the past.

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 Zion Lutheran Church at 5201 Park Boulevard, Piedmont, California, subject to the following conditions:

1. **Terms of the Approval.** A review of the conditional use permit shall occur in May of 2027 and the conditional use permit shall have the following operational characteristics:

Church: Sundays: **8:00 am to 1:00 pm; also evening activities**

School: Monday-Friday: **8:30 a.m. to 3:00 p.m.**

Types of Church and School Staff/Personnel: **Church: 1 full time pastor, 1 full-time youth director, 1 full-time parish administrator, 1 part-time organist. School: initially, 75 students, 5 full-time teachers, 1 full-time administrator; at possible maximum, 130 students, 9 full-time teachers, 2 full-time administrators, and 2 part-time support staff**

2. **Six-Month Geotechnical Reports.** As previously required by CUP #12-0054, over the course of the term of this conditional use permit modification, at intervals no longer than six months and at times coincident with significant slide activity, Zion Lutheran Church and School shall submit geological reports to the Public Works Department for review by the City Engineer addressing issues of slope stability, site safety and the ability of existing school buildings to withstand a major slope failure. In the event any of these geological reports indicate safety issue problems/concerns, the City Council has the authority to reconsider the Conditional Use Permit.

3. **Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any liability, fees and costs arising out of the defense, including the costs

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

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

**Design Review
100 Indian Road**

Resolution 54-DR-15

WHEREAS, the Property Owner is requesting permission to make various modifications to the rear yard including modifications to the hardscape, pool, on-grade stairs, retaining walls, and fences; and to construct a new spa, fire pit, columns, and benches, located at 100 Indian Road, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements include, but are not limited to, the fact that the project is not visible from outside the property and is harmonious with existing neighborhood development.
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 impact on any of 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 it has no impact on any of these elements.
4. The project complies with Design Review Guidelines II-1, II-2, 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), IV-1, IV-1(a), IV-1(b), IV-2, IV-2(a), IV-3, IV-3(a), IV-4, IV-4(a), IV-5, IV-5(a), 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 100 Indian 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. **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.

4. **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.

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

**Variance and
Design Review
1687 Grand Avenue**

Resolution 56-V/DR-15

WHEREAS, the Property Owner is requesting permission to demolish a rear addition built without a permit and the existing chimney; construct a new 615-square-foot single-story rear addition; make window and door modifications; add exterior lighting; make various hardscape and landscape improvements; and make various changes to the interior including the addition of a third bedroom, located at 1687 Grand 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 bedrooms 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 the parking 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: a steeply up-sloping lot, a zero setback at the garage, a narrow lot, and utilities at the front of the house that would be difficult to move. 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 most houses are similarly constructed, and this would not be a radical change.
3. Accomplishing the improvements without a variance would cause unreasonable hardship in planning, design, or construction, because the addition of another parking space is not physically possible.
4. This parking variance permits four rooms eligible for use as a bedroom.

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. These elements include, but are not limited to, the structure of the roof, the placement of windows, and the exterior stucco. The height, bulk, and design of the addition are commensurate with other homes in the neighborhood.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because the project will not impact 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 there will be no impact.
4. The project complies with Design Review Guidelines II-1, II-2, II-3(a), II-3(b), II-3(c), II-6, II-6(a), II-6(b), II-6(c), II-7, II-7(a).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review application for proposed construction at 1687 Grand Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Window and Door Material.** As specified in the plans, the building material for the new windows and doors shall be wood with fiberglass cladding.

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

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

4. **Garage Door.** In order to facilitate the parking of vehicles in the existing garage, the garage door shall be electronically operable. If design modifications are required to accomplish this, those modifications shall be subject to staff review.

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

6. **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.

7. **Property Line Location.** As required by the Chief Building Official, a licensed land surveyor or civil engineer shall verify and mark the location of the north and south property lines at the time of foundation and/or frame inspection to verify the approved setback dimension measured to the new construction.

8. **Final Landscape Plan.** Before issuance of a building permit, the Property Owner shall submit for staff review and approval a Final Landscape Plan for the area in the rear and side yards near the new addition that shows trees proposed for retention as well as in-lieu trees required by a Certified Tree Preservation Plan. The final plan shall comply with Municipal Code Section 17.17.3.

9. **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 near the new addition that are proposed to remain on-site, as well as any nearby off-site trees. The tree preservation measures shall be on the appropriate sheets of the construction plans. The arborist shall be on-site during critical construction activities, including initial and final grading, to ensure the protection of the existing 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.

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.

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.

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

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 38 Monte Avenue

The Property Owner is requesting permission to expand the main house at the main and upper levels; make window and door changes; construct a two car garage on Monte Avenue; demolish the existing garage structure in the northern corner of the lot; and construct a two-story cottage. Site modifications include a 980 square foot play court 10 feet from the Park Way property line, a new patio and spa along the eastern property line, a new patio and fire pit along the northern property line, and a new central patio with a built-in barbeque. Modifications to the fencing are proposed along Park Way. A setback variance on Monte Avenue is required in order to construct the garage within the 20-foot setback, and a setback variance on Park Way is required in order to construct the play court area.

Written notice was provided to neighbors. **Three positive, two negative, and one response forms indicating no position** were received. **Correspondence** was received from Christiana Macfarlane.

Public testimony was received from:

Wendy Posard, Project Designer, explained that the intent of the project is to match the existing historic character of the house and be in keeping with the existing development pattern of the street. She explained the efforts that were made to adjust the design to address the concerns of neighbors, which included limiting the size of the garage and cottage. In response to a question from the Commission, Ms. Posard explained that if the garage were pushed back farther into the slope, it would result in higher retaining walls and a tunneling effect.

Jeff George, Project Landscape Architect, stressed the lengths that the applicants went in meeting with neighbors to address their concerns about the project. He stated that the impervious surface coverage of the proposed project is well below

the amount allowed on the site. Mr. George added that the new play court is proposed to replace a much larger paved area that exists on the property; that significant landscaping will be added; and that a portion of the property will be lowered three feet to mitigate views.

Jen Friedman, homeowner, stated that the new location of the garage is in keeping with neighborhood development. She explained that, in response to neighbors' concerns, they have lowered the height of the garage and added additional vegetation. She also explained that they have attempted to work with neighbors throughout the process.

Lilly Guardia-LaBar, neighbor, read a letter from neighbors Joe and Kathleen Addiego. The letter explained the concerns they have with the project, including the impact on neighbors' light, the elimination of street parking, the impact on the architectural integrity of the applicants' house, the reduction in greenery, and the addition of noise to the neighborhood. On her own behalf, Ms. Guardia-LaBar expressed concern that the proposal was intrusive, but deferred to the Planning Commission's objective view as to whether the project meets the City Ordinances.

Christiana Macfarlane, neighbor, expressed appreciation for the work the applicant has done to address the neighbors' concerns, but voiced her concern that the project was still out of scale with the neighborhood. She explained that the concentrated hardscape in the backyard would create excessive noise, and expressed her concern for the removal of mature vegetation.

The Commissioners commended the designers on the design of the project and its architectural consistency. They indicated that the design of the changes to the main resident were attractive and well designed. However, with the exception of Commissioner Simpson, the Commission was not in support of granting a setback variance for the garage under the current design on Monte Avenue, noting that there were other garages in the setback on the block, but that they were further down the street. They discussed several options for the garage, including pushing it farther into the slope of the site or relocating it to the other side of the property, along Park Way. Although the Commissioners were open to either option, they indicated they had concerns about the tunneling effect that would result from pushing the garage back into the slope, and were concerned about the loss of street parking and a street tree on Monte Avenue.

The Commissioners were also split with regards to the proposed cottage. Commissioners Simpson, Ode, Chase and Zhang stated that they would consider approving a two-story cottage. Commissioner Theophilos was in support of a one-story cottage only, due to the impacts a two-story cottage would have on neighbors. The Commissioners expressed support for the setback variance for the proposed sport court.

Commissioner Chase suggested that the applicants explore alternatives for the garage, including a sketch that showed the garage pushed further back into the slope along with any other design modifications, and one placing the garage along Park Way in the area of the proposed play court. He suggested discussing these design alternatives with the neighbors, noting that he believed the application might be approvable with modifications.

Resolution 17-DR-15

WHEREAS, the Property Owner is requesting permission to expand the main house at the main and upper levels; make window and door changes; construct a two car garage on Monte Avenue; demolish the existing garage structure in the northern corner of the lot; and construct a two-story cottage. Site modifications include a 980 square foot play court 10 feet from the Park Way property line, a new patio and spa along the eastern property line, a new patio and fire pit along the northern property line, a new central patio with a built-in barbeque, and a modified fence along Park Way, located at 38 Monte Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary to construct the garage within the 20-foot setback along Monte Avenue and to construct the play court area within the setback along Park Way; 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 currently proposed design does not conform with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. Although the design of the house is aesthetically pleasing, the visual impact of the cottage and garage is not appropriate. Additionally, the elimination of street trees along Monte Avenue will have a visual impact on the neighborhood.
2. The exterior design is pleasing but the height of the proposed two-story cottage impacts neighboring properties.
3. The removal of a street tree and a street parking space will adversely affect parking on Monte Avenue.
4. The project does not comply with the Design Review Guidelines I-1, I-2, I-6, I-9, III-1, III-1(a), III-2, III-2(a), III-5, III-5(a), III-6, III-7.
5. Action on the Variances is not necessary for this application, because the currently proposed design is not approvable.

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

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

The Commission recessed for dinner at approximately 6:55 p.m. and reconvened at approximately 7:15 p.m.

**Variance and
Design Review
333 Scenic Avenue**

The Property Owner is requesting permission to demolish the walled patio in the east side yard and remodel and expand the residence through the following construction: a 73-square-foot main-level kitchen addition on the east side of the house; a 163-square-foot upper-level bedroom addition on the west side of the

house; window, door, skylight and exterior lighting modifications; and various changes to the interior. One variance is required in order to further exceed the 55% floor area ratio limit.

Written notice was provided to neighbors. **One affirmative response form** was received. **Correspondence** was received from: Janet S. Simon and Nancy and Tuck Coop.

Public testimony was received from:

Greer Graff, Project Architect, explained the changes that were made to the project since the last Planning Commission hearing. He stated that the roof deck and the front yard setback variance are no longer being proposed, and that they have reduced the width of the addition. He also discussed alternatives that the applicants considered. An addition at the lower level was deemed infeasible because it would be completely below grade and non-habitable. An addition above the proposed kitchen expansion was deemed inappropriate, because it would severely impact the neighbor to the east and result in significant massing and structural design problems. Reconfiguring the upper floor to accommodate three bedrooms was deemed unsatisfactory, because the rooms would be no greater than the minimum size per code, and the reconfiguration would result in significant structural modifications to the house. Mr. Graff stated that they had met with the neighbors at 111 Alta Avenue to discuss alternatives, but that they were unwilling to explore any construction on the applicant's roof. He argued that the current proposal is consistent with the neighborhood and the design guidelines and has the least impact on the neighbors.

Alessandra Lanzara and Yoav Banin, homeowners, presented a slideshow showing how the light and views of the neighbor at 111 Alta Avenue will be minimally impacted by the proposal. They presented photographs of existing views from the kitchen window at 111 Alta Avenue and a photographic shade study. They also presented a privacy study showing how privacy would be improved by the proposal. Lastly, they presented a map identifying that 50% of the homes within a 100-foot radius exceed the floor area ratio limits; 83% of the homes have three bedrooms on the same level; and all the homes that exceed the floor area ratio limit (with the exception of the applicants' home) have three bedrooms on the same level. Mr. Banin concluded by explaining the efforts they have made to minimize the impacts on neighbors.

Nancy Coop, neighbor at 111 Alta Avenue, stated that the impacts to their house have not been significantly reduced by the recent proposal. She stated that the bulk of the proposed addition would impact their light, privacy and visual open space. She referred to the Municipal Code to argue that the application does not meet the hardship requirements for a variance approval and would impact the visual open space and privacy that the floor area ratio requirement is meant to preserve. Lastly, she stressed that having two houses in close proximity and on awkward lots is a circumstance that calls for diligent enforcement of the code, not leniency.

Tuck Coop, neighbor at 111 Alta Avenue, expressed his concerns with the proposal, including the addition's bulk and its impact on their view, light and privacy. Mr. Tuck referenced the Municipal Code, which calls for the preservation of privacy, and stated that no variances shall be granted for reasons that are personal to the applicant. He stressed that the proposed addition is only

22 square feet smaller than the previously proposed addition and still negatively impacts his home.

John Chalik, neighbor at 332 Scenic Avenue, expressed support for the Coops at 111 Alta Avenue, and voiced his concern for the impact that the addition would have on the Coop's kitchen. He also commented on the closeness of the properties and argued that a floor area ratio variance does not make sense in such a situation. He expressed sympathy toward the applicant's need for more space, but argued that variances cannot be granted based on personal needs.

The majority of the Commissioners expressed their support for the proposal, stating that the applicant had made a significant reduction in the project's impact on the neighbor by removing the roof deck from the application and reducing the size of the addition. They also commended the applicants for studying other architectural options, for thoroughly analyzing the impacts of the project, and for significantly reducing the impacts on the neighbors' views, light and privacy. Commissioner Chase was the only Commissioner to initially consider the impact on the neighbor to still be significant.

Commissioner Simpson suggested that the floor area ratio variance was warranted, due to the unusual lot. She explained that the driveway is not part of the applicants' property and is instead located within an easement. She suggested that if the driveway had been part of the property it would help to reduce the floor area ratio of the property.

Although most of the Commissioners were in support of the project as is, they discussed several options for improving privacy for the neighbors at 111 Alta Avenue. They discussed reducing the size of the new bedroom windows or adding a louvered screen between the houses.

Resolution 57-V/DR-15

WHEREAS, the Property Owner is requesting permission to demolish the walled patio in the east side yard and remodel and expand the residence through the following construction: a 73-square-foot main-level kitchen addition on the east side of the house; a 163-square-foot upper-level bedroom addition on the west side of the house; window, door, skylight and exterior lighting modifications; and various changes to the interior, located at 333 Scenic 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 further exceed the 55% floor area ratio limit; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission finds that 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 relatively small, pie-shaped lot on a very steep downslope in a congested neighborhood. Access

to the home is provided by a substantial driveway located, not on the subject property, but as part of an easement. The area of the driveway is therefore not part of the lot area and cannot be incorporated into the floor area ratio calculation. 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, as shown in the applicants' analysis of a 100-foot radius around the subject property. The analysis identifies that 50% of the homes in this congested area exceed the floor area ratio limits; 83% of the homes have three bedrooms on the same level; and all the homes that exceed the floor area ratio limit (with the exception of the applicants' home) have three bedrooms on the same level. Prohibiting this variance would prohibit this home from being used in the same manner as other properties in the vicinity.

2. The variance is compatible with the immediately surrounding neighborhood and the public welfare, for the same reasons as stated above, in variance finding #1.

3. Accomplishing the improvements without a variance would cause unreasonable hardship in planning, design, or construction, for the same reasons as stated above, in variance finding #1, and because other design alternatives were explored.

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. 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 the applicants have done everything they can to make this addition compatible with their neighbors.

2. The proposed addition has been designed in a way that reasonably minimizes view and light impacts on neighboring properties, because, the applicant has removed the previously proposed roof deck and reduced the size of the addition to significantly reduce the impact on the neighbors. The impact on views and direct light is minimal, and, as confirmed by Mr. Coop at 111 Alta Avenue, there is no impact on ambient light. The applicant has made every concession to protect privacy and included no windows on the side of the bedroom that is facing the neighbor's kitchen. According to the applicants' analysis, a sight line study shows that privacy will be improved by the addition. Additionally, as conditioned, the applicant must either remove one of the west facing windows or install a louvered privacy screen, no higher than 6 feet, subject to staff review and approval.

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 as evidenced by the applicants' analysis of a 100-foot radius around the subject property, which indicates that 50% of the homes in this congested area exceed the floor area ratio limits; 83% of the homes have three bedrooms on the same level; and all the

homes that exceed the floor area ratio limit (with the exception of the applicants' home) have three bedrooms on the same level.

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.

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-6, II-6(a), II-6(b), II-6(c), 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 333 Scenic 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. **Window and Door Material.** As specified in the plans, the building material for the new windows and doors shall be wood.

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. **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 or civil engineer shall be required by the Building Department to verify and mark the location of the north, east and front property lines at the time of foundation and/or frame

inspection to verify the approved setback dimension measured to the new construction.

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

8. **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.

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.

10. **Privacy Mitigation.** In order to mitigate privacy concerns with the northern neighbor, the applicant shall remove one of the west facing windows or install a louvered privacy screen, no higher than 6 feet, subject to staff review and approval.

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

**Variance,
Design Review, and
Fence Design Review
122 Dudley Avenue**

The Property Owner is requesting permission to make several modifications to the front yard including modifications to the front entrance by enlarging the front porch by 10 square feet; constructing new plinths; modifying retaining walls; and to seek retroactive approval for fences. Two variances are required in order to further exceed the structure coverage limits and to construct new structure within the front setback.

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

Public testimony was received from:

Christopher Hong, homeowner, described the project improvements and explained the variance requests. He stated that the existing front-yard setback is non-conforming and is similar to adjacent properties. He also described the deteriorating state of the existing porch.

The Commissioners were in unanimous support of the project. They considered the improvements to greatly improve the house and the neighborhood, and regarded the variance requests as warranted. They pointed out that the structure coverage would only be increasing one-half a percent, and that the new porch would be extended along the existing non-conforming setback.

Resolution 60-V/DR-15

WHEREAS, the Property Owner is requesting permission to make several modifications to the front yard including modifications to the front entrance by enlarging the front porch by 10 square feet; constructing new plinths; modifying retaining walls; and to seek retroactive approval for fences located at 122 Dudley Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, two variances from the requirements of Chapter 17 of the Piedmont City Code are necessary in order to further exceed the structure coverage limits and to construct new structure within the front 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 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 existing structure square footage is above the city code limit of 40%. There have been no changes to the structure footprint since the property was purchased in 2011. In addition, the existing front setback is non-conforming with an existing 14 foot setback. Lastly, the area on the north property line is unusable due to severe slope of over 40%.
2. The variance is compatible with the immediately surrounding neighborhood and the public welfare, because the setback of the house is similar to the setback of adjacent neighbors' houses. Additionally, the improvements are consistent with the neighborhood development pattern and the neighborhood aesthetic.
3. Accomplishing the improvements without variance would cause unreasonable hardship in planning, design, or construction, because the stairs are failing and need to be replaced.

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 they are similar to those throughout the neighborhood.

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 impact.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, because it has no impact.
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(c), II-7, II-7(a), IV-1, IV-1(a), IV-1(b), IV-2, IV-2(a), IV-3, IV-3(a), IV-4, IV-4(a), IV-5, IV-5(a), IV-6, V-1, V-2, V-3, V-4, 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 variance and design review application for proposed construction at 122 Dudley Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

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

4. **Landscape Barrier.** The property owner shall provide a landscape barrier at the new retaining wall located at the front yard of the property that meets the requirements of the Building Code. The design for said barrier shall be subject to staff review and approval.

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 may be required by the Building Department to verify and mark the location of the front (west) and right (south) side property lines at the time of foundation and/or frame inspection to verify the approved setback dimension measured to the new construction.

7. 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.

8. 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, Ode, Simpson, Theophilos, Zhang
Noes: None
Recused: Chase

**Variance and
Design Review
95 Arroyo Avenue**

The Property Owner is requesting permission to construct an approximately 687-square-foot second-story addition; make modifications to windows, doors, and exterior lighting throughout the house; and to seek retroactive approval for a trampoline in the rear yard. A variance is required in order to construct within the west (left) side yard setback.

Written notice was provided to neighbors. **Five negative response forms** were received. **Correspondence** was received from: Susan Johnson, Matt Heafey, Susan and Kei Kodani, Tom and Ann Lister.

Public testimony was received from:

Patrick Collins, homeowner, explained the impetus for the project, citing the small size of the existing two-bedroom home and his family's need for a larger house and a greater number of bedrooms. He explained that they do not want to add to the rear of the house, because they want to preserve the back yard as a play space for their family; and added that the basement is unusable as habitable space. Mr. Collins explained that the intent was to add a modest addition, in keeping with the other two and three-story houses in the neighborhood, and that they attempted to be considerate of their neighbors' privacy.

Jack Backus, Project Architect, stated that creating habitable space in the basement is not possible, due to the slope of the site. He also explained that adding to the rear of the house was not feasible, due to the structure coverage limitations on the lot. Mr. Backus reported that, after visiting the rear neighbor's property, they stepped the addition back farther to address her concerns.

Steve Debacker, neighbor, expressed his concern for the size of the addition and its impact on his house.

Fred Karren, a local architect, spoke on behalf of Susan Johnson of 55 Monticello Avenue, and discussed the development of Arroyo Avenue and its history as the route for the historic Key System that ran through Piedmont. He noted that the houses built along the former Key Route are 1 story with basement below and expressed his concern that the addition was too high and too large for the scale of the neighborhood. He cited Piedmont Design Guidelines II-1 and II-2, stating that the project does not meet these guidelines.

Susan Johnson, neighbor, expressed her concerns for the application, stating that the addition will look directly into her living space, deck and garden. She

argued that the proposed addition would eliminate her privacy and impact her light and views. Ms. Johnson reported that she has had several Piedmont real estate agents confirm that her house would lose significant value if the addition were approved.

The Commissioners were unanimous in their opposition to the project, as proposed. They were concerned about the bulk and tacked-on appearance of the addition, and stated that the pop-up addition was not in keeping with the California style of the house and neighborhood. Commissioner Chase stated that, in contrast, the other second-story addition on the street is not obtrusive, due to the house's positioning and the design of the addition. Additionally, the Commissioners were convinced that the addition would impact—and in some Commissioner's opinions, obliterate—the neighbor's view, light, and privacy.

Several alternatives were discussed. Commissioner Zhang suggested that a second-story addition might still be possible, if the addition were to be scaled down, relocated and redesigned to make better use of the attic space. However, the majority of the Commission instead favored adding on to the rear of the house and/or developing the basement. Some said that they would not approve any second-story addition on the house. Commissioner Simpson stated that she would be more likely to approve a structure coverage variance for a rear addition than she would a second-story addition on the house. The Commission agreed that the application should be denied with prejudice, since they were not ready to approve any design similar to that which was proposed.

Resolution 61-V/DR-15

WHEREAS, the Property Owner is requesting permission to construct an approximately 687-square-foot second-story addition; make modifications to windows, doors, and exterior lighting throughout the house; and to seek retroactive approval for a trampoline in the rear yard, located at 95 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 to construct within the west (left) 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 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 are aesthetically pleasing, but the distance between the addition and adjacent residences is not reasonable and appropriate due to the existing topography and neighborhood development pattern. There is only one other house on the street that has a second story, and the proposal would not maintain the conformity of the neighborhood.
2. The proposed addition has not been designed in a way that reasonably minimizes view and light impacts on neighboring properties, because it entirely blocks the westward view of the neighbor to the east.
3. The size and height of the addition is not commensurate with the size of the lot and is not in keeping with the existing neighborhood development pattern, because it exceeds the height of the other houses on the street, which do not

have second story structures. The house must conform to the typical scenario on Arroyo Avenue of one-story houses.

4. The project does not comply with Design Review Guidelines II-1, II-2, II-3, II-3(a), II-3(c), II-6, II-6(b).

5. Action on the variance is not necessary for this application, because the currently proposed design is not approvable.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies, with prejudice, the design review application for proposed construction at 95 Arroyo Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Chase, Seconded by Theophilos

Ayes: Chase, Ode, Simpson, Theophilos, Zhang

Noes: None

Recused: None

**Variance and
Design Review
1454 Grand Avenue**

The Property Owner is requesting permission to demolish the existing 1-car garage located at the front of the property and construct a new 2-car garage with roof deck atop in the same location. The proposed construction includes a new garage door, a guardrail for the deck, new exterior lighting, reconstruction of the front retaining wall, and a widened curb cut. Two variances are required in order to construct within the front yard and left (north) side yard setbacks.

Written notice was provided to neighbors. **Three negative response forms** were received. **Correspondence** was received from: Lisa Joyce and Tom Wetherbee.

Public testimony was received from:

Maria Topete, homeowner, explained that the garage has been in disrepair for a long time and is currently unusable. She further explained that replacement of the garage proved to be difficult over the years, since collaboration with the neighbor was required to replace a garage that straddles two properties. For this reason, the two properties are proposing two separate structures. Ms. Topete indicated that a two-car garage was necessary, because of the busy street and the scarcity of on-street parking. She explained that the roof deck would provide a much-needed play area for her kids.

Robert Barbosa, homeowner, described the existing garage as a hazard and an eyesore for the neighborhood. He expressed his eagerness to collaborate with his neighbors to improve the property and the neighborhood.

Francisco Avila, Project Designer, spoke in response to questions from the Commission. He explained that the two garages can not be moved farther away from each other, without impacting the access to the houses. He also said that the current location maintains the existing street trees.

The Commissioners were unanimous in their support for replacing the dilapidated, shared garage with a separate two-car garage. They expressed concern, though, with the apparent mass of the two double garages side-by-side, and suggested that the facades of the two garages be articulated differently. The Commissioners discussed several options for varying the design of the garages,

including different garage door designs, paint colors and design detailing. Commissioner Chase suggested that a vertical trellis could be added to the garage, and Commissioner Zhang suggested that the guardrail could be moved back to accommodate a planter box at the top of the garage. The Commissioners agreed to place a condition of approval on the application requiring such façade articulation, subject to staff review and approval. They also agreed to provide some flexibility within the variance approval to make these minor structural façade changes within the setback.

Resolution 62-V/DR-15

WHEREAS, the Property Owner is requesting permission to demolish the existing 1-car garage located at the front of the property and construct a new 2-car garage with roof deck atop in the same location. The proposed construction includes a new garage door, a guardrail for the deck, new exterior lighting, reconstruction of the front retaining wall, and a widened curb cut, located at 1454 Grand Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, two variances from the requirements of Chapter 17 of the Piedmont City Code are necessary to construct within the front yard and left (north) side yard setbacks; 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 the variances, 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 the lot is an uphill slope without adequate space on either side of the property to build a garage anywhere other than in front of the residence. The only viable location for a garage is in the current location. 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 variances are compatible with the immediately surrounding neighborhood and the public welfare, because many of the garages in the neighborhood are two-car structures that are positioned at the front of the property at street level. This project is entirely consistent with the rest of the neighborhood. As conditioned, the applicant may add a structural design element to the garage to reduce the apparent mass of the garage. Such an element is approved under the front yard and side yard setback variances and is subject to staff review and approval.
3. Accomplishing the improvements without the variances would cause unreasonable hardship in planning, design, or construction, because there are no other alternatives to put a garage or any off-street parking on the property, and the project would not be possible without the variances. To ask the homeowners to continue to park on the street presents a safety issue.

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. Most of the houses along this side of the street have a similar appearance and have similar garages at the front of the property.
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 impact on existing views, privacy or access to light.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress, because the project actually improves the free-flow of vehicular traffic and safety.
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 1454 Grand Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

2. **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.

3. **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.

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.** 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.

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

7. **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.

8. **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.

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.** As required by the Chief Building Official, a licensed land surveyor or civil engineer shall verify and mark the location of the north and west property lines at the time of foundation and/or frame inspection to verify the approved setback dimension measured to the new construction.

11. **Final Landscape Plan.** Before issuance of a building permit, the Property Owner shall submit for staff review and approval a Final Landscape Plan for the front yard. The final plan shall comply with Municipal Code Section 17.17.3, and shall not propose plants near the driveway that could obscure visibility of pedestrians on the sidewalk or vehicles on the street from drivers backing out of the driveway.

12. **Arborist's Report, Tree Preservation Plan or Replacement.** Before the issuance of a building permit, the Property Owner shall submit an Arborist's Report and Tree Preservation Plan, prepared by a California licensed arborist, that includes an evaluation on the health of the tree and tree preservation measures to preserve the existing City-owned street tree in front of 1454 Grand Avenue that is proposed to remain on-site. The tree preservation measures shall be on the appropriate sheets of the construction plans. The arborist shall be on-site during critical construction activities, including initial and final grading, to ensure the protection of the existing trees. The arborist shall document in writing and with photographs the tree protection measures used

during these critical construction phases. If the tree has 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 the City-owned street tree has not been compromised by the construction. If as determined by the City's Parks and Projects Manager, the street tree cannot be preserved and in order to mitigate the removal of a City-owned street tree within the street right-of-way resulting from the creation of a widened driveway and curb cut, the applicants shall cover the full cost of labor and materials for the removal of the existing street tree and the installation of a new street tree, which shall be carried out by the City or its contractor(s). Accordingly and as required by the Chief Building Official, the applicants shall submit an initial tree replacement payment in the amount of \$750, with any further payments necessary to cover costs in excess of \$750 to be submitted prior to the scheduling of a final inspection. The location, size and species of the replacement street tree shall be determined by the Director of Public Works or his designee.

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

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

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

15. Consultant Cost Recovery. In order to accommodate the scope and nature of the Project proposed by the Property Owner, if the Director of Public Works deems it necessary to retain independent consultants with specialized expertise, including the City Engineer, the Property Owner shall make a cash deposit with the City at the time of the Building Permit Application in the amount of \$5,000 to be used to pay for the fees and expenses of such City consultants, or in any way otherwise required to be expended by the City for

professional consultant assistance. If the cash deposit has been reduced to \$2,500 or less at any time, the Director of Public Works may require the Property Owner to deposit additional funds to cover any further estimated fees and expenses associated with consultants retained by the City on a regular basis or specifically for the Property Owner's Project. Any unexpended amounts shall be refunded to the Property Owner within 90 days after the Project has an approved Final Inspection by the Chief Building Official.

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

17. **Subsidence.** The Property Owner acknowledges and agrees that all work on the Project may be immediately stopped by the City in the event of any unanticipated landslides, subsidence, creep, erosion or other geologic instability, and may not resume until the City Engineer is fully assured that no further subsidence or erosion will occur. If in the opinion of the City Engineer, the instability poses a danger to public or private property, and Property Owner is not responding in a diligent manner, the Director of Public Works may use proceeds from the Site Safety Security required above to address the instability.

18. **Coordination of Demolition and Construction.** The issuance of a demolition permit of the existing garage structure which lies both on the subject property and the adjacent property at 1456 Grand Avenue, shall not occur until building permits have been issued for the construction of new garage structures on 1454 Grand Avenue and 1456 Grand Avenue.

19. **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.

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.

20. **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 Garage;
- 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.

21. **Façade Articulation.** The façade of the garage shall be different in appearance from the garage at 1456 Grand Avenue, including any additional elements, such as trellis, subject to staff review and approval.

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

**Variance and
Design Review
1456 Grand Avenue**

The Property Owner is requesting permission to demolish the existing 1-car garage located at the front of the property, construct a new 2-car garage with roof deck atop in the same location, and make various changes to the interior of the house including the development of 2 bedrooms within the basement level (for a total of 4 bedrooms). The proposed construction includes a new garage door, a guardrail for the deck, new exterior lighting, reconstruction of the front retaining wall, and a widened curb cut. Three variances are required in order to exceed the 40% structure coverage limit and to construct within the front yard and right (south) side yard setbacks.

Written notice was provided to neighbors. **Three negative response forms** were received. **Correspondence** was received from: Lisa Joyce and Tom Wetherbee.

Public testimony was received from:

Jill Knowland Rapposelli, homeowner, stated that she and her husband recently purchased the house. She requested that the Commission approve a replacement of the dilapidated garage. She said that they are completely open to the different design details that were discussed with regards to 1454 Grand Avenue. Ms. Knowland Rapposelli stressed that a two-car garage is necessary for safety reasons. She also reported that no trees will be removed, because of the placement of the driveway.

The Commissioners were unanimous in their support for replacing the dilapidated, shared garage with a separate two-car garage. They referred to their discussion for 1454 Grand Avenue, stating that the same concerns for façade articulation existed with this project. They agreed to place a similar condition of approval on the application requiring such façade articulation, subject to staff review and approval. They also agreed to provide some flexibility within the variance approval to make these minor structural façade changes within the setback.

Resolution 63-V/DR-15

WHEREAS, the Property Owner is requesting permission to demolish the existing 1-car garage located at the front of the property, construct a new 2-car garage with roof deck atop in the same location, and make various changes to the interior of the house including the development of 2 bedrooms within the basement level (for a total of 4 bedrooms). The proposed construction includes a new garage door, a guardrail for the deck, new exterior lighting, reconstruction of the front retaining wall, and a widened curb cut, located at 1456 Grand Avenue, 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 exceed the 40% structure coverage limit and to construct within the front yard and right (south) side yard setbacks; 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 the variances, 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 the lot is an uphill slope without adequate space on either side of the property to build a garage anywhere other than in front of the residence. The only viable location for a garage is in the current location. 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. This lot is smaller than most of the lots in the neighborhood, including the immediately adjacent lot at 1454 Grand Avenue.

2. The variances are compatible with the immediately surrounding neighborhood and the public welfare, because many of the garages in the neighborhood are two-car structures that are positioned at the front of the property at street level. This project is entirely consistent with the rest of the neighborhood. As conditioned, the applicant may add a structural design element to the garage to reduce the apparent mass of the garage. Such an element is approved under the front yard and side yard setback variances and is subject to staff review and approval.

3. Accomplishing the improvements without the variances would cause unreasonable hardship in planning, design, or construction, because there are no other alternatives to put a garage or any off-street parking on the property, and the project would not be possible without the variances. To ask the homeowners to continue to park on the street presents a safety issue.

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. Most of the houses along the street have a similar appearance and have similar garages at the front of the property.

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 impact on existing views, privacy or access to light.

3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation

pattern, parking layout and points of ingress and egress, because the project actually improves the free-flow of vehicular traffic and safety.

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 1456 Grand Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

2. **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.

3. **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.

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.** 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.

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

7. **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.

8. **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.

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.** As required by the Chief Building Official, a licensed land surveyor or civil engineer shall verify and mark the location of the south and west property lines at the time of foundation and/or frame inspection to verify the approved setback dimension measured to the new construction.

11. **Final Landscape Plan.** Before issuance of a building permit, the Property Owner shall submit for staff review and approval a Final Landscape Plan for the front yard. The final plan shall comply with Municipal Code Section 17.17.3, and shall not propose plants near the driveway that could obscure visibility of pedestrians on the sidewalk or vehicles on the street from drivers backing out of the driveway.

12. **Arborist's Report, Tree Preservation Plan or Replacement.** Before the issuance of a building permit, the Property Owner shall submit an Arborist's Report and Tree Preservation Plan, prepared by a California licensed arborist, that includes an evaluation on the health of the tree and tree preservation measures to preserve the existing City-owned street tree in front of 1456 Grand Avenue that is proposed to remain on-site. The tree preservation measures shall be on the appropriate sheets of the construction plans. The arborist shall be on-site during critical construction activities, including initial and final grading, to ensure the protection of the existing trees. The arborist shall document in writing and with photographs the tree protection measures used during these critical construction phases. If the tree has 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 the City-owned street tree has not been compromised by the construction. If as determined by the Planning Commission or the City's Parks and Projects Manager, the street tree cannot be preserved and in order to mitigate the removal of a City-owned street tree within the street right-of-way resulting from the creation of a widened driveway and curb cut, the applicants shall cover the full cost of labor and materials for the removal of the existing street tree and the installation of a new street tree, which shall be carried out by the City or its contractor(s). Accordingly and as required by the Chief Building Official, the applicants shall submit an initial tree replacement payment in the amount of \$750, with any further payments necessary to cover costs in excess of \$750 to be submitted prior to the

scheduling of a final inspection. The location, size and species of the replacement street tree shall be determined by the Director of Public Works or his designee.

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

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

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

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

16. **City Attorney Cost Recovery.** If there is a substantial additional commitment of City Attorney's time required to accommodate the scope and nature of the Project, the Property Owner shall, at the time of the Building Permit Application, make a cash deposit with the City in the amount of \$5,000 to be used to offset time and expenses of the City Attorney relating to the Project. If such cash deposit has been reduced to \$2,500.00 or less at any time,

the Director of Public Works may require the Property Owner to deposit additional funds to cover any further estimated additional City Attorney time and expenses. Any unused amounts shall be refunded to the Property Owner within 90 days after the Project has an approved Final Inspection by the Chief Building Official.

17. **Subsidence.** The Property Owner acknowledges and agrees that all work on the Project may be immediately stopped by the City in the event of any unanticipated landslides, subsidence, creep, erosion or other geologic instability, and may not resume until the City Engineer is fully assured that no further subsidence or erosion will occur. If in the opinion of the City Engineer, the instability poses a danger to public or private property, and Property Owner is not responding in a diligent manner, the Director of Public Works may use proceeds from the Site Safety Security required above to address the instability.

18. **Coordination of Demolition and Construction.** The issuance of a demolition permit of the existing garage structure which lies both on the subject property and the adjacent property at 1454 Grand Avenue, shall not occur until building permits have been issued for the construction of new garage structures on 1454 Grand Avenue and 1456 Grand Avenue.

19. **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.

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.

20. **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 Garage;
- 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.

21. **Façade Articulation.** The façade of the garage shall be different in appearance from the garage at 1454 Grand Avenue, including any additional elements, such as trellis, subject to staff review and approval.

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

ADJOURNMENT

There being no further business, Chairman Ode adjourned the meeting at 9:58 p.m.