

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, March 10, 2014

A Regular Session of the Piedmont Planning Commission was held March 10, 2014, in the City Hall Council Chambers at 120 Vista Avenue. In accordance with Government Code Section 54954.2(a) the agenda for this meeting was posted for public inspection on February 25, 2013.

CALL TO ORDER

Following the 2014 Design Awards Reception held in the City Hall Courtyard, Chairman Zhang called the meeting to order at 5:30 p.m. He announced that Agenda Items #10 (Variance and Design Review, 1835 Trestle Glen), #14 (Design Review and Fence Design Review, 330 Sheridan Avenue), and #17 (Design Review 218 Greenbank Ave) had been removed from the agenda.

ROLL CALL

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

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

City Council Liaison: Councilmember Tim Rood

DESIGN AWARD PRESENTATION

Vice Chairman Ode summarized the Commission's review and selection process for annually recognizing superior design projects whose construction quality and design elements exemplify the City's Design Review Guidelines and enhance the aesthetics of the community. Award recipients received framed photographs of their designs and a cast stone Design Award Plaque which features the Piedmont Exedra. Tonight's presentation honors exceptional projects in the following categories:

- *Excellent Garage*
- *Excellent Garage Remodel & Addition*
- *Excellent Seamless Addition*
- *Excellent Bay Friendly Landscaping*
- *Excellent Minor Addition*
- *Excellent Upper Level Addition*

Vice Chairman Ode presented the Award for *Excellent Seamless Addition* to the owners of **304 Pala Avenue** in recognition of an architecturally harmonious integration of new living space and increased parking capacity to create an overall unified appearance.

Vice Chairman Ode presented the Award for *Excellent Garage Remodel and Addition* to **Mr. and Mrs. Bill Newell** of **211 Lafayette Avenue** in recognition of the creation of beautiful private outdoor space in an elegant and unobtrusive manner.

Commissioner Theophilos presented the Award for *Excellent Bay Friendly Landscape* to **Scott Cauchois** and **Karen Notsund** of **320 Wildwood Avenue** in recognition of the creation of a functional yet aesthetically pleasing landscape.

Commissioner Hobstetter presented the Award for *Excellent Minor Addition* to **James Lambert** and **Helen Potter** of **104 Dracena Avenue** in recognition of an elegant expansion of living spaces incorporating the architectural cues of the 1905 vintage home.

Commissioner Chase presented the Award for *Excellent Upper Level Addition* to **Mr. and Mrs. Rajeev Bhatia** of **100 St. James Drive** in recognition of a stunning and sleek contemporary style architecture that showcases exceptional design and construction detail.

Chairman Zhang presented the Award for *Excellent Garage* to **Thomas W. Reese** of **21 Pacific Avenue** in recognition of the creation of a new garage that skillfully and beautifully compliments and replicates the craftsman- style architecture of the residence.

Following the presentations, Chairman Zhang congratulated all of tonight's award recipients and their design and construction professionals.

CONSENT CALENDAR

Design Review 50 Selborne Drive

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

Resolution 259-DR-1

WHEREAS, the Property Owner is requesting permission to construct a new 520 sq. ft. swimming pool and make other various hardscape modifications to the rear yard located at 50 Selborne Drive, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements (including but not limited to height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that: it is regarding a swimming pool made up of walls, therefore it does not conflict with design elements such as height, bulk, pitch of the roof, area openings, breaks in the facade etc. and the electrical equipment is concealed.
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 effect on neighboring properties.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because this is a swimming pool and it has no impact on parking.
4. The project complies with Design Review Guidelines II-2, II-3(a) and II-3(b).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for construction at 50 Selborne Drive, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Construction Management Plan.** The Property Owner shall develop a comprehensive Construction Management Plan. The Construction Management Plan shall address noise, vibrations, traffic control, parking, debris removal, dust control, sanitary facilities, 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.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.

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

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

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

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

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

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

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

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

6. **Approved Plan Set.** The approved plans are those submitted on February 12, 2014, with additional information submitted on February 26, 2014, after notices to neighbors were mailed and the application was available for public review.

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

**Variance
190 Sandringham Road**

Resolution 36-V-14

WHEREAS, the Property Owner is requesting permission to add a room eligible for use as a bedroom located at 190 Sandringham Road, Piedmont, California, which construction requires variance; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary in order to add a room eligible for use as a bedroom without supplying code-complying parking; and

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

1. The project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e)
2. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to an illegal pre-existing unintended 5th bedroom. To resolve this manner the owners proposed two covered non-tandem and one uncovered parking space in lieu of 3 covered non-tandem spaces, which would be physically impossible. Because of these circumstances, strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone which conform to the zoning requirements.
3. The variance is compatible with the immediately surrounding neighborhood and the public welfare because: there will not be an impact on neighborhood parking.
4. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction as follows: the property will not support the construction of the three covered non-tandem parking garage.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application for construction at 190 Sandringham Road, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Approved Plan Set.** The approved plans are those submitted on February 6, 2014.
2. **Building Code Compliance - Bathroom.** The bathroom will have to meet current Building Code standards, including the 2013 California Residential, Plumbing, Electrical and Mechanical codes.

3. **Building Code Compliance - Kitchen.** The kitchen will have to meet current Building Code standards, including the 2013 California Residential, Plumbing, Electrical and Mechanical codes.

4. **Building Permit Plans.** The building permit drawings will have to be stamped and signed by an architect or have the prior architect's logo removed.

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

**Design Review
55 Craig Avenue**

Resolution 37-DR-14

WHEREAS, the Property Owner is requesting permission to construct an approximately 188 sq. ft. second story addition at the rear of the house that includes two new windows and a new skylight as well as various interior modifications located at 55 Craig Avenue, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements include but are not limited to: they maintain scale in relation to the bedroom, roof mass, and elevation. The exterior feature details are in character with the design. It maintains the height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment. The distance between the proposed upper level addition/expansion and adjacent residences is reasonable and appropriate due to the existing topography and neighborhood development pattern. Upper level setbacks greater than the setbacks required for the lower level have been considered and are/are not necessary to reduce losses of ambient and reflected light: because the new gable roof ridge is lower than the existing roof. The addition improves the aesthetic without blocking views. There is no impact on appearance.

2. The proposed upper level addition/expansion has been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.70), including consideration of the location of the new construction, lowering the height of the addition, expansions within the existing building envelope (with or without excavation), lower level excavation for new multi-level structures, and/or changing the roof slope or ridge direction:

3. The size and height of the addition is commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and is in keeping with the existing neighborhood development pattern:
4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because there is no change. In accordance with Sections 17.16.1 and 17.22.1, the existing or proposed on-site parking is appropriate to the size of the new upper level or new multi-level structure or addition, and additional parking is required to prevent unreasonable short and/or long term parking impacts on the neighborhood.
5. The project complies with Design Review Guidelines II-1, II-2, II-3(a), II-3(b), II-3(c), II-3(d), II-6, II-6(a), II-6(b), II-7, II-7(a)

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for construction at 55 Craig Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

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

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

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

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

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

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

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

**Fence Design Review
33 Pacific Avenue**

Resolution 45-DR-14

WHEREAS, the Property Owner is requesting permission to construct a 7 ft. high (maximum) terraced wood fence along Pacific and Scenic Avenues; a 7 ft. high (maximum) wood fence and gate adjacent to the proposed street-facing fence; a 4 ft. high (maximum) wire and wood side yard fence at the north of the property; and make various hardscape modifications in the front yard located at 33 Pacific Avenue, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements (including but not limited to height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that: this is merely a fence and it has no impact on the above criteria.
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 effect on the items listed above.
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 the neighborhood or parking.
4. The project complies with Design Review Guidelines V-1, V-2, V-3, V-5, V-5(a), V-5(b), V-5(c), V-7 and V-8.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for construction at 33 Pacific Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

2. **Fence Location.** The new fences, including all footings and posts, shall be located completely within the applicants' property. A licensed land surveyor shall be required by the Building Department to verify and mark the location of the north, east and south property lines at the time of foundation inspection to verify that the approved construction is completely on the property at 33 Pacific Avenue.

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

with applicable law). The City reserves the right to require compliance with applicable laws and to attach conditions after initial approval is given, if noncompliance is discovered or additional conditions are considered necessary and appropriate in light of Commission/Council findings.

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

**Variance, Design
Review & Retaining
Wall Design Review
68 Lincoln Avenue**

Resolution 47-V/DR-14

WHEREAS, the Property Owner is requesting permission to excavate and construct a new attached basement-level 3-car garage at the southwest corner of the house, the building of which includes: a new curb cut, new driveway, relocated street tree, and retaining wall modifications at Sheridan Avenue; a roof terrace atop the new garage; fencing and guardrail changes in the immediate area; landscape modifications in the west side yard; new exterior lighting on the face of the new garage and atop the two retaining wall columns flanking the new driveway; and various interior changes on the basement level located at 68 Lincoln Avenue, Piedmont, California, which construction requires variance and design review; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary in order to further exceed the 35 ft. building height limit; and

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

1. The project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e)
2. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to the fact that it is an upslope lot, the house is more than 12 feet from street level, and the garage is mostly underground to connect to the existing basement to access the house and elevator. Because of these circumstances, strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone which conform to the zoning requirements.
3. The variance is compatible with the immediately surrounding neighborhood and the public welfare because: due to the high roof form and upslope typography, the owner cannot use the property in the same manner as others in the same zone without the variance.
4. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because: it would be very difficult due to the overall height of the building and the fact that it is already nonconforming.
5. The proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code.

6. The exterior design elements (including but not limited to height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development because: it's a nice looking garage and it conforms to a beautiful house.
7. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because there is no impact.
8. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because it will improve traffic flow in and around the neighborhood. The owners have addressed neighbors concerns about pedestrian safety by adding lighting on posts and providing adequate width to the driveway.
9. The project complies with Design Review Guidelines III-2, III-3, III-4, III-5, III-5(a), III-6, III-6(a), III-7, III-7(a), IV-1, IV-1(a), IV-1(b), IV-2, IV-2(a), IV-3, IV-3(a), IV-4, IV-5, IV-5(a), IV-6, IV-5-1, IV-2, IV-4, V-5, V-5(a), V-5(b), V-5(c), and V-9

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review application for construction at 68 Lincoln Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Approved Plan Set.** The approved plans are those submitted on February 18, 2014, with additional material submitted on February 25, 2014, after notices to neighbors were mailed and the application was available for public review.
2. **Street Tree Replacement.** In order to mitigate the removal of a City-owned street tree within the street right-of-way resulting from the creation of a new 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 prior to the issuance of a building permit, 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.
3. **Contractor's General Liability Insurance.** To ensure that the contractor doing work in the City will be responsible for damages caused by the work to City property or to neighboring property, the Property Owner shall require all contractors performing work on the Project to maintain General Liability Insurance for protection from claims for damages because of bodily injury, including death, and claims for damages, other than to the contractor's work itself, to property which may arise out of or result from the contractor's operations. Such insurance shall be written for not less than \$1,000,000 per

occurrence. The insurance shall include an endorsement requiring notice to the City if the insurance is cancelled or changed, and Property Owner shall immediately arrange for substitute insurance coverage. If the Property Owner does not have a general contractor, the Property Owner shall maintain property insurance and coverage for contractors, which is substantially equivalent to the contractor's requirement of this section.

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

5. **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.

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

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

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

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

10. **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 magnolia tree in the west side yard 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 tree. 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. A tree 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.

11. **Certified Tree Preservation Plan.** Before the issuance of a building permit, the Property Owner shall prepare for review and approval by staff a Tree Preservation Plan that incorporates the tree preservation measures recommended in the Arborist's Report required by Condition #10 above. The tree preservation measures shall be on the appropriate sheets of the construction plans. The arborist shall be on-site during critical construction activities, including initial and final grading, to ensure the protection of the existing trees. The arborist shall document in writing and with photographs the tree protection measures during these critical construction phases. If some trees have been compromised, mitigation measures must be specified in writing, and implementation certified by the Project Arborist. Trees proposed for removal shall have an in-lieu replacement tree planted elsewhere on the property, which shall be shown on the final landscape plan. Replacement tree size is subject to staff review, and shall be commensurate with the size and numbers of trees to be removed. They shall generally be a minimum of 24" box size. Before the Final Inspection, the Arborist shall file a report to the City certifying that all tree preservation measures as recommended have been implemented to his/her satisfaction and that all retained trees have not been compromised by the construction.

12. **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.

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

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

- a. Construction Site Control of Stormwater. The California

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

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

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

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

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

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

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

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

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

APPROVAL OF MINUTES

Resolution 3-PL-14

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

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

Resolution 4-PL-14

RESOLVED, that the Planning Commission approves as submitted its meeting minutes of February 24, 2014.

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

Advised that a member of the public, Nancy Beninati, neighbor of 68 Lincoln Avenue, had arrived after approval of the Consent Calendar but nonetheless desired to speak against the 68 Lincoln Avenue project approvals, the Commission discussed the issue and considered a motion to reconsider the approval of Item # 18 – Variance, Design Review & Retaining Wall 68 Lincoln Avenue – as part of the Consent Calendar. The Chair was recused from acting on item #18 and left the room during the Commission discussion and vote. The motion was made and defeated as follows:

Resolution 5-PL-14

RESOLVED, that the Planning Commission reconsiders its decision on Item #18 – Variance, Design Review, & Retaining Wall Design Review – 68 Lincoln Avenue

Moved by Chase, Seconded by Hobstetter
Ayes: Chase, Hobstetter,
Noes: Theophilos, Simpson, Ode
Recused: Zhang

MOTION FAILED

Ms. Beninati addressed the Commission to express her concerns.

PUBLIC FORUM

Dimitri Magganas thanked the commission for volunteering their time. Mr. Magganas urged the Commission to consider two long-standing projects.

- 1) The lack of a town square
- 2) Affordable housing in Piedmont

REGULAR CALENDAR

Pedestrian and Bicycle Master Plan

The Commission considered the following items of regular business:

Niko Letunic of Eisen/Letunic, the transportation and planning consulting firm retained to prepare the City's Pedestrian & Bicycle Master Plan (PBMP), presented a draft Improvement Options briefing paper which recommends improvements to make walking and biking in Piedmont safer, easier and more popular. The suggested improvements are based upon input received from resident correspondence, community workshops, oral testimony received at previous Planning Commission meetings, walking audits and on-line survey responses. A second on-line survey is currently underway and will remain open until mid-March. Mr. Letunic summarized the major sections of the draft Improvement Options briefing paper:

Projected Funding -- it is anticipated that over the next 10 years, approximately \$1.62 Million will be available to Piedmont for pedestrian and bicycle improvements. The estimated cost of the proposed improvement projects, programs and activities outlined in the briefing paper is \$3.5M.

Summary of Improvement Options -- include enhanced, high-visibility crosswalks, additional sidewalk and curb-ramp work, new street lights, footpath and stairway enhancements, Highland Avenue reconfiguration, Oakland Avenue bridge improvements, accessible pedestrian countdown signals, alternative school drop-off and pick-up locations, spot improvement program for pedestrian projects and bicycle projects, bikeway networks (basic, enhanced and premium), bike racks and lockers, bicycle-detecting traffic signals.

Programs and Activities -- include walk-and-bike-to-school encouragement; general walking and biking promotion, traffic safety education, traffic law enforcement and promotion of the footpaths and stairways

Policies and Practices -- include both modifications to the City's existing policies/practices as well as the adoption of new policies related to traffic speeds, crosswalks & stop signs, sidewalks, curb ramps and street lights, school crossing guards, parking on sidewalks and in crosswalks, obstructed sightlines at intersections, private donations for improvements, rehabilitation of abandoned footpaths and stairways, street trees, "PE Hill" improvements, access to EBMUD reservoir, bikes in parks, parking consolidation and one-way streets, street maintenance and "complete streets," street surfaces, coordination with the City of Oakland on bikeways and bicycle sharing

Mr. Letunic noted that public feedback on these proposed improvements to-date has indicated the following:

- Strong Support -- for enhanced sidewalks; traffic-calming measures; restriping Grand & Highland Avenue from four lanes to two while adding bike lands and center turning lanes; restricting parking near

street corners; bike-route signage & sharrows; activities and events to promote walking and biking to school and generally

- Mixed or Divided Support -- for increased traffic law enforcement; restricting parking to one side of the street to make room for bike lanes; increased ticketing of parked cars that block sidewalks;
- Weak Support -- for improvements to the mid-block path & stairs; more sidewalk work and new curb ramps; pedestrian countdown signals and bike-detection technology at traffic lights

Mr. Letunic stated that following the close of the current on-line survey, he will develop a draft 10-year work program for the PBMP for public and Commission review and comment.

The Commission expressed interest in receiving updated traffic and speed studies. It was proposed that a few of the fellow Commissioners be part of a reach out effort and meet with the Safety Committee and the Police Department to address some of the concerns mentioned in the report: education, enforcement, public opinion, traffic studies, cars parking on the sidewalk, etc.

Public testimony was received from:

Alex DiGiorgio spoke about safety concerns regarding the areas of Mesa and Moraga, Mesa and Highland, and Linda and Grand. A few suggestions were to paint the curb red, for greater visibility and to move the location of the crosswalk.

Garrett Keating, former Councilmember, mentioned there are a few anecdotal surveys that are available to the Commission that might be helpful. Mr. Keating spoke in favor of the application. He specifically mentioned 4 items for consideration:

- 1) Making foot paths more stroller friendly
- 2) The importance of a "Road Diet" specifically on Grand Avenue
- 3) Enhancing the crosswalk on El Cerrito
- 4) Moving the location of the bike rack to the Fairview / Jerome traffic center

Marisa Strong, a cyclist, spoke in favor of the proposed plan. Ms. Strong asked the Commission to consider the uphill bike routes, specifically on Wildwood. She also commented on resident's hedges and vegetation becoming overgrown. She would like to keep sidewalks open and safe by addressing this issue.

Margaret Ovenden, passed out a map for the Commission's consideration. The map includes routes students take to school. She would like to see a "Road Diet" on Grand Avenue to help slow traffic and increase safety. Ms. Ovenden encouraged the Commission to focus efforts on a few larger projects, rather than several smaller ones.

Tracey Woodruff, Piedmont resident, spoke in favor of the proposed plan. Ms. Woodruff encouraged the Commission to focus efforts on arterial streets like Grand Avenue.

Mike Henn, Piedmont resident, believes a back up plan is needed if Measure B does not pass. Mr. Henn believes in-pavement traffic calming devices (such as

speed bumps or Bots dots) to narrow paths or slow down traffic would be effective, but mentioned they were not included in the proposed plan. He also asked that the intersection of Wildwood and Grand be put back into the plan. Mr. Henn believes it's an important Piedmont intersection, even though it's technically in Oakland.

Bob Kunselman, Piedmont resident, thanked staff for the study. Mr. Kunselman emphasized education and outreach efforts are an important part of the process.

Sue Lin, member of the Public Safety Committee, mentioned the traffic light at Grand and Rose and the traffic-calming circle at Ramona have really helped traffic issues. Ms. Lin believes enhancing education and enforcement would be helpful in the problematic areas.

Rick Schiller emphasized the importance of addressing the intersection of Wildwood and Grand. He would like to see a sign, or something along those lines, to direct driver's attention to pedestrians trying to cross the intersection.

The Commission thanked Mr. Letunic and speakers for their comments.

The Commission recessed for dinner at 7:20 p.m. and reconvened at 7:40 p.m.

**Variance, Design
Review and Fence
Design Review
406 El Cerrito Avenue**

The Property Owner is requesting variance, design review and fence design review to expand the residence 1,788 sq. ft. by enlarging the basement and constructing 1,235 sq. ft., two-story addition above. The new construction will accommodate a larger kitchen, a new family room, and two new bedrooms and baths. A new rear deck is proposed with a wooden screen wall and trellis along the southern side. Modifications to the site fencing and exterior lighting are proposed. The application proposes two different garage designs:

Option A -- the existing non-conforming garage is proposed to be expanded to the south in order to accommodate two conforming parking spaces and include a new trellis at the front. The requested variances are from: (1) Section 17.10.6 to allow the proposed trellis to extend to within 2'1" and the garage to within 5' of the front property line in lieu of the code required minimum of a 20 ft. front yard setback; and (2) Section 17.10.7 to allow the new garage to extend to within 2'4" of the right side property line in lieu of the code required minimum of a 4 ft. side yard setback.

Option B -- the existing non-conforming garage is proposed to remain and a new trellis added to its front. The requested variances are from: (1) Section 17.10.6 to allow the proposed trellis to extend to within 2'1" of the front property line in lieu of the code required minimum of a 20 ft. front yard setback; and (2) Section 17.16 to allow a residence with 4 rooms eligible for use as bedrooms with one covered parking space measuring 16 ft. 6-1/2 in. by 20 ft. 9-1/2 in. in lieu of the code required minimum of two covered parking spaces each measuring 9 ft. by 20 ft.

Written notice was provided to neighbors. **Ten affirmative, six negative response forms** were received. **Correspondence** was received from: Jack & Nancy Lockhart

Public testimony was received from:

Steve Gregovich, homeowner, and Gary Parsons, architect, described the project to the Commission.

Nancy Lockhart, next-door neighbor, spoke in favor of Option B of the proposed plan. Her issues with Option A include:

- 1) Drainage problem
- 2) The garage would be too close to her home
- 3) The fence, being held up by ivy, would be compromised
- 4) Getting cars off of the street

The Commission commended the applicant on their efforts to alter their plans in response to neighbor's concerns. The Commission asked questions of Mr. Parsons and Mr. Gregovich. Mr. Gregovich explained that he did not want to lose the trees in his front yard for privacy reasons. The Commission discussed the various details of the proposed Options (A and B), including setbacks, the easement, drainage, and the possibility of moving the garage. They did not approve either option as proposed, and instead concluded that a third, hybrid option would be best: keeping the existing location of the southern garage wall to address the neighbor's concerns (proposed in Option B); keeping the existing location of the front garage wall and new trellis (proposed in both Options A and B); and expanding the garage to the north to provide for conforming parking due to the extent of the main house expansion and addition of two new bedrooms (proposed in Option A). While this would result in a temporary loss of privacy for the applicants, the entry could be redesigned and new trees could be planted that grow to provide privacy.

Resolution 329-V/DR-13

WHEREAS, the Property Owner is requesting permission to expand the residence 1,788 sq. ft. by enlarging the basement and constructing 1,235 sq. ft., two-story addition above. The new construction will accommodate a larger kitchen, a new family room, and two new bedrooms and baths. A new rear deck is proposed with a wooden screen wall and trellis along the southern side. Modifications to the site fencing and exterior lighting are proposed located at 406 El Cerrito Avenue, Piedmont, California, which construction requires variance and design review; and

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary in order to construct within the front and side yard setbacks (Option A), in order to construct within the front setback and add two rooms eligible for use as bedrooms without providing conforming parking (Option B); and

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

1. The project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e).
2. The request for the front yard setback variance is approved because it complies with the criteria of Section 17.21.6 with the following findings:

The underlying lot and existing improvements present unusual physical circumstances, including but not limited to the existing front of the garage

structure within the setback, and in order to create a parking structure that is conforming with the width of the structure, will require moving the north wall in in the front yard setback in any circumstance. Because of these circumstances, strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone, which conform to the zoning requirements;

The variance is compatible with the immediately surrounding neighborhood and the public welfare because it will not have an effect on them; and

Accomplishing the improvement without variance would cause unreasonable hardship in planning, design, or construction.

3. The side setback variance is denied due to the proximity to the lot line to the south - which has substantial and privacy-granting vegetation on it and would not be compatible with the immediately surrounding neighborhood.

4. The parking variance is denied as the existing garage does not meet the parking space requirements, and due to the extent of expansion (almost doubling the size of the house) and adding two bedrooms, and as such the parking should be brought up to code..

5. The proposal conforms with the criteria and standards of Section 17.20.9(b) of the Piedmont City Code with the following findings:

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: height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment. The distance between the proposed upper level addition/expansion and adjacent residences is reasonable and appropriate due to the existing topography and neighborhood development pattern. Upper level setbacks greater than the setbacks required for the lower level have been considered and are not necessary to reduce losses of ambient and reflected light: because the architect took into account the view shed of the neighbors and modified the original proposed design. So it would qualify under category II-3, II-3a, II-3b, II-3c, II-6b, II-6c, II-7a, Section III, III-1, III-1a, III-2, III-2a, III-3, III-4, III-5, III-5a, III-6, III-6a, III-7, and III-7a.

The proposed upper level addition/expansion has been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.70), including consideration of the location of the new construction, lowering the height of the addition, expansions within the existing building envelope (with or without excavation), lower level excavation for new multi-level structures, and/or changing the roof slope or ridge direction:

The size and height of the addition is commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and is in keeping with the existing neighborhood development pattern: because of the unusual citing of the house on the corner lot which tapers to the northerly part. Based on the applicants desire to maintain a backyard for their children to play in that would be consistent with II-1, II-2, II-3, II-3a, II-3b, and II-3c.

The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. In accordance with Sections 17.16.1 and 17.22.1, the existing or proposed on-site parking is appropriate to the size of the new upper level or new multi-level structure or addition, and additional parking is not required to prevent unreasonable short and long term parking impacts on the neighborhood because as approved, the project will provide an additional useable space in the garage, as opposed to the nonconforming site that is there presently.

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

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review application for construction at 406 El Cerrito Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

b. Engineer Consultant. At the sole discretion of the Building Official, the City will, at the Property Owner's sole cost, engage the services of an Engineer to review the results of the geotechnical report, prepare a sound and vibration mitigation plan, and monitor the vibration and decibel levels at the Project (including being periodically present at the construction site during excavation and foundation work). If, in the Engineer's sole discretion, such monitoring indicates that the sound or vibration levels exceed those anticipated in the Property Owner's Construction Management Plan, all work on the Project may be immediately stopped by the City and may not resume until the City Engineer is fully assured that the sound and vibration transmissions generated by work on the Project can be maintained at or below a reasonable level and duration.

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

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

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

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

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

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

4. **Contractor's General Liability Insurance.** To ensure that the contractor doing work in the City will be responsible for damages caused by the work to City property or to neighboring property, the Property Owner shall require all contractors performing work on the Project to maintain General Liability Insurance for protection from claims for damages because of bodily injury, including death, and claims for damages, other than to the contractor's

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

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

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

7. **Approved Plan Set.** The approved plans are those submitted on February 7, 2014 with modifications and new materials submitted on February 14, February 21, and February 25, 2014 after notices were provided to neighbors.

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

Peer Review. Under Alternative A, 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.

9. **Foundation/Shoring/Excavation Plan.** Under Alternative A, the Property Owner shall submit foundation, excavation, and shoring plans prepared by a structural engineer that fully address issues of site shoring, fencing and hillside security issues. The plans shall not require any trespassing or intruding into neighboring properties (without prior written consent), and shall mitigate

against any subsidence or other damage to neighboring properties. Such plans shall incorporate as appropriate the recommendations of the Property Owner's geotechnical engineer and the City's geotechnical consultant, and shall be subject to approval by the City Engineer and the Chief Building Official.

10. Neighboring Property Inspection. Under Alternative A, and with the neighbor's consent, a structural engineer (chosen by the City, and paid for by the Property Owner) shall inspect the neighboring home at 412 El Cerrito and retaining walls with the intent of establishing base-line information to later be used in determining whether damage was caused by any activities on Property Owner's property (including damage caused by vibrations or other factors due to excavation, construction or related activities). The inspection shall include both foundations and non-foundation related details (walls, windows, general overall condition, etc.) at a level of inspection City Staff deems appropriate. The inspection shall only include readily visible and accessible areas of the neighboring homes. The structural engineer shall provide a full report to the City of his or her conclusions, and the report may be considered in developing the Construction Management Plan. If other independent consultants or specialists are required by the City to review plans and monitor construction activity, they shall be retained at the Property Owner's cost. Before a neighbor agrees to an inspection, City will advise neighbors that the property inspection is necessarily a public record under the California Public Records Act.

Within 45 days after the Certificate of Occupancy is issued on Property Owner's property, the same structural engineer chosen by the City (or a substitute structural engineer chosen by the City) shall inspect the same area in each neighboring home and property initially inspected, and shall present to the City a Report detailing any evidence of apparent damage that has been or reasonably might have been caused by activities on the Property Owner's property. The Report may include text, photographs, diagrams, or other evidence that would document the apparent damage. The Report will become a public record and may be used in connection with private causes of action.

11. Consultant Cost Recovery. In order to accommodate the scope and nature of the Project proposed by the Property Owner, if the Director of Public Works deems it necessary to retain independent consultants with specialized expertise, the Property Owner shall make a cash deposit with the City at the time of the Building Permit Application in the amount of \$10,000 to be used to pay for the fees and expenses of such City consultants, or in any way otherwise required to be expended by the City for professional assistance (other than City Staff). If the cash deposit has been reduced to \$2,500 or less at any time, the Director of Public Works may require the Property Owner to deposit additional funds to cover any further estimated fees and expenses associated with consultants retained by the City for the Property Owner's Project. Any unexpended amounts shall be refunded to the Property Owner within 90 days after the Project has an approved Final Inspection by the Chief Building Official.

12. 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.

13. **Certified Tree Preservation Plan.** Before the issuance of a building permit, the Property Owner shall prepare for review and approval by staff a Tree Preservation Plan that incorporates the tree preservation measures recommended in the Arborist's Report, prepared by Peter K. Rudy, Certified Arborist, dated February 21, 2014. The tree preservation measures shall be on the appropriate sheets of the construction plans. The arborist shall be on-site during critical construction activities, including initial and final grading, to ensure the protection of the existing trees. The arborist shall document in writing and with photographs the tree protection measures during these critical construction phases. If some trees have been compromised, mitigation measures must be specified in writing, and implementation certified by the Project Arborist.

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

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

15. **Redesign of Entryway and Landscaping.** The redesign of the entryway and landscaping shall be subject to staff design review.

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

Moved by Chase, Seconded by Ode

Ayes: Chase, Hobstetter, Ode, Zhang, Theophilos

Noes: None

**Design Review
27 Arroyo Avenue**

The Property Owner is requesting design review to construct a new 290 sq. ft. single-story bedroom addition at the rear; make window and door modifications; add two concrete landings; add exterior lighting; install new skylights; and make various interior improvements.

Written notice was provided to neighbors. **Two affirmative, one negative response forms** were received. **Correspondence** was received from: Christine Cumbelich

Public testimony was received from:

Robert Kelly, architect, described the project to the Commission.

Mauricio Greene and Ileri Penaloza-Greene, homeowners, addressed the Commission and explained their need for the addition.

Christine Cumbelich, neighbor, expressed her opposition to the project and her concerns for the possible loss of privacy.

Richard Wrensen, neighbor, explained to the Commission his disappointment in the fact that the applicant, prior to today's meeting, had not approached him. He asked the Commission to deny the plan as it is proposed. Privacy, sunlight, and poor planning were all topics included in his explanation.

One Commissioner felt that the neighboring adjacent houses are all currently lined up at the rear and that the proposed addition could be relocated toward the northwest of the property to create less impact on the neighbor at the rear. However the majority of the Commission generally supported the application approval, agreeing that the proposed plan is a reasonable approach due to the existing interior layout, is not over-sized, is at a reasonable plate height and meets setback and height limits. The majority noted that the adjacent residence at the rear is a split-level house, and consequently the proposed addition is lower than the bedrooms and bathrooms of the neighboring house, reducing adverse privacy and light impacts.

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

Resolution 381-DR-13

WHEREAS, the Property Owner is requesting permission to construct a new 290 sq. ft. single-story bedroom addition at the rear; make window and door modifications; add two concrete landings; add exterior lighting; install new skylights; and make various interior improvements located at 27 Arroyo Avenue, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements (including but not limited to height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that: it's a 290 sq-foot rear addition that is cited to minimize impact on neighbors.

2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because while it does have some impact on access to direct and indirect light, it is not significant enough to not satisfy the requirement.

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. The existing on-site parking is appropriate to the size of the new addition, and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood because it has no impact on parking and it has no impact on the free flow of vehicular traffic.

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

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for construction at 27 Arroyo Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

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

- i. Completion of Excavation;
- ii. Completion of Retaining Walls;
- iii. Completion of Foundation;
- iv. Completion of Rough Framing;
- v. Completion of Electrical;
- vi. Completion of Plumbing;
- vii. Completion of Mechanical;
- viii. Completion of Fire Sprinklers;
- ix. Completion of Home;
- x. Completion of Hardscaping and Landscaping; and

xi. any further construction benchmarks and conditions of occupancy as may be determined by the Director of Public Works.

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

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

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

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

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

6. **Final Landscape Plan.** Before issuance of a building permit, the Property Owner shall submit for staff review and approval a Final Landscape Plan that shows any proposed landscaping located within the City's easement.

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

8. **Skylights.** The flashings around the new skylights shall be painted to match the color of the adjacent roof.

RESOLVED FURTHER, that the approval of the Planning Commission/City Council and any conditions of that approval shall not extend to any particulars

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

Moved by Theophilos, Seconded by Ode

Ayes: Hobstetter, Ode, Zhang, Theophilos

Noes: Chase

**Variance and
Design Review
201 Mountain Avenue**

The Property Owner is requesting variance and design review to remodel and expand the existing 1,531 sq. ft., 2-bedroom house through: the construction of 633 sq. ft. of main-level additions at the front, right side and rear; the replacement of guardrails and addition of a hip roof at the front entry porch; window, door, skylight and exterior lighting modifications; various changes to the interior including the addition of two bedrooms; the installation of a new fence enclosing the right side yard; and hardscape changes throughout the property. The requested variance is from Section 17.10.7 to allow the eave of the new addition to extend to within 17'6" of the left, street-side property line in lieu of the code required minimum of a 20 ft. setback.

Written notice was provided to neighbors. **Six negative response forms** were received. **Correspondence** was received from; Lucy Ling; Jeffrey & Margaret Hiller; MaryJane Lowenthal; Elizabeth & Paco Keville; Karen & Larry Hawkins

Public testimony was received from:

Lucy Ling, the architect, presented the significant design changes to the Commission. Ms. Ling answered questions asked by the Commission regarding the variance, bedroom #3, and the proposed fence.

Elizabeth Keville, neighbor, asked the Commission to carefully consider the aesthetics of the project, specifically the siding.

Karen Hawkins, neighbor, expressed that she is pleased with the overall direction of the plans, but she expressed some concern with the aesthetics of the siding.

Larry Hawkins, neighbor, spoke about his opposition to the proposed fence and the view from his home. He asked the Commission to consider other more aesthetically pleasing options.

The Commission was pleased with the applicants overall improvements and changes to the original plans. They agreed that there was a lack of aesthetic appeal on the sidewall, and were concerned that the "cottage-like" appearance was being compromised. They recommended the windows throughout the house should be true divided light or 3D simulated light, suggested the possibility of retaining some corner windows and adding some trellis on all façades, and wanted the south façade to be modified to be more visually appealing through the addition of windows, a trellis or some other feature.

Resolution 40-V/DR-14

WHEREAS, the Property Owner is requesting permission to remodel and expand the existing 1,531 sq. ft., 2-bedroom house through: the construction of 633 sq. ft. of main-level additions at the front, right side and rear; the replacement of guardrails and addition of a hip roof at the front entry porch; window, door, skylight and exterior lighting modifications; various changes to the interior including the addition of two bedrooms; the installation of a new fence enclosing the right side yard; and hardscape changes throughout the property located at 201 Mountain Avenue, Piedmont, California, which construction requires variance and design review; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary in order to construct within the 20 ft. street-side setback along Dormidera Avenue; and

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

1. The project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e)
2. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to the fact that it's an odd corner lot and the variance being requested is for an existing nonconforming room, and the wall is being pushed out only under the existing eave. Because of these circumstances, strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone which conform to the zoning requirements.
3. The variance is compatible with the immediately surrounding neighborhood and the public welfare because: it should have no impact on the public welfare and no impact on traffic.
4. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because: it's a very small room using an existing kitchen and reconfiguring it into a small bedroom, which is an existing nonconforming condition.
5. The proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code.
6. The exterior design elements (including but not limited to height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that: all of the new expansions are not on the ground floor, the applicant has addressed all of the concerns that the Commission identified during the last review. The new addition will use the same materials including wood siding, brick based shingle roofing to maintain the existing rhythm, texture, and color of the existing house in harmony with the neighborhood development. As conditioned, they will maintain the existing cottage feel of the house.

7. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because every concern that was previously expressed by the neighbors has been addressed. There will be no impact on view, privacy, or light.

8. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because they're maintaining the current two car garage, therefore there is no impact.

9. 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-5, II-6, II-6(a), II-6(b), II-6(c), II-7, and II-7(a).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review application for construction at 201 Mountain Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

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

5. **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 and rear yards that includes trees proposed for retention as well as any in-lieu trees. 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.

6. **Arborist's Report.** Before the issuance of a building permit, the Property Owner shall submit an Arborist's Report that includes tree preservation measures to preserve existing trees proposed to remain on-site (particularly, the redwood tree at the southwest corner of the property), 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.

7. **Certified Tree Preservation Plan.** Before the issuance of a building permit, the Property Owner shall prepare for review and approval by staff a Tree Preservation Plan that incorporates the tree preservation measures recommended in the Arborist's Report required in condition #6, above. The tree preservation measures shall be on the appropriate sheets of the construction plans. The arborist shall be on-site during critical construction activities, including initial and final grading, to ensure the protection of the existing trees. The arborist shall document in writing and with photographs the tree protection measures during these critical construction phases. If some trees have been compromised, mitigation measures must be specified in writing, and implementation certified by the Project Arborist. Trees proposed for removal shall have an in-lieu replacement tree planted elsewhere on the property, which shall be shown on the final landscape plan. Replacement tree size is subject to staff review, and shall be commensurate with the size and numbers of trees to be removed. They shall generally be a minimum of 24" box size. Before the Final Inspection, the Arborist shall file a report to the City certifying that all tree preservation measures as recommended have been implemented to his/her satisfaction and that all retained trees have not been compromised by the construction.

8. **Exterior Wall-Mounted Light Fixtures.** The new exterior wall-mounted light fixtures shall be downward-directed with an opaque or translucent shade that completely covers the light bulb.

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

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

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

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

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

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

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

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

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

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

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

12. **Encroachment Permit.** Before the issuance of a building permit, the Property Owner shall apply for an encroachment permit to allow for the construction of a proposed new retaining wall within the public right-of-way of Dormidera Avenue.

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

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

Moved by Simpson, Seconded by Chase

Ayes: Chase, Hobstetter, Ode, Theophilos, Simpson

Noes: None

Recused: Zhang

**Variance and
Design Review
135 Greenbank Avenue**

The Property Owner is requesting variance and design review to remodel and expand the existing 1,184 sq. ft., 3-bedroom house through: the construction of a 276 sq. ft. main-level rear addition and a 13 sq. ft. bay on the south facade; the development of 616 sq. ft. of habitable space and a 2-car garage on the basement level; alterations to the front porch; window, door, garage door and exterior lighting modifications; various changes to the interior including the

addition of a 4th bedroom and 2 bathrooms; and various site modifications, including a widened curb cut and driveway, the removal of a street tree, new fencing in the north and south side yards and hardscape and landscape changes throughout. The requested variance is from Section 17.10.6 to allow the new garage and entry porch to extend to within 15'1" of the front property line in lieu of the code required minimum setback of 20 ft.

Written notice was provided to neighbors. **Two affirmative, one negative response forms** were received. **Correspondence** was received from: Gregg Hauser

Public testimony was received from:

Nic Ehr, architect, presented the project and answered questions asked by the Commission. They discussed the topics of street trees, setbacks, light fixtures, the garage door, and the over all aesthetics of the property.

Resolution 44-V/DR-14

WHEREAS, the Property Owner is requesting permission to remodel and expand the existing 1,184 sq. ft., 3-bedroom house through: the construction of a 276 sq. ft. main-level rear addition and a 13 sq. ft. bay on the south facade; the development of 616 sq. ft. of habitable space and a 2-car garage on the basement level; alterations to the front porch; window, door, garage door and exterior lighting modifications; various changes to the interior including the addition of a 4th bedroom and 2 bathrooms; and various site modifications, including a widened curb cut and driveway, the removal of a street tree, new fencing in the north and south side yards and hardscape and landscape changes throughout located at 135 Greenbank Avenue, Piedmont, California, which construction requires variance and design review; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary in order to construct within the 20 ft. front yard setback; and

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

1. The project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e)
2. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to the fact that the existing facility encroaches on the front and side yard setbacks, the upper level addition complies with the setback, and the garage addition is within an existing nonconforming situation. Because of these circumstances, strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone which conform to the zoning requirements.
3. The variance is compatible with the immediately surrounding neighborhood and the public welfare because: nearly every house on the same block has a garage that partly encroaches a setback and many are two car garages.

4. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because: there is limited street frontage and lack of access to any other part of the property where a two-car garage could be built.
5. The proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code.
6. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements include but are not limited to: height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment. The distance between the proposed upper level 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 bulk and design are consistent with the mass of neighboring houses. The two separate garage doors add the perception of less bulk.
7. The proposed upper level addition has been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.79), including consideration of the location of the new construction, lowering the height of the addition, expansions within the existing building envelope (with or without excavation), lower level excavation for new multi-level structures, and/or changing the roof slope or ridge direction with the expansion of the rear, no one will be affected.
8. The size and height of the addition is commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and is in keeping with the existing neighborhood development pattern: because the expanded home is similar to other neighbors homes in the neighborhood and the height addition is one story.
9. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. In accordance with Sections 17.16.1 and 17.22.1, the existing or proposed on-site parking is appropriate to the size of the new addition, and additional parking is not required to prevent unreasonable short or long term parking impacts on the neighborhood because the new parking layout will provide two parking spots, which could reduce the dependence of on street parking. The garage is integrated in the area and design. It presents no impediment to site lines to traffic on the street.
10. The project complies with Design Review Guidelines II-3, II-3(a), II-3(b), II-3(d), II-4, II-6, II-6(a), II-6(b), II-7 for the remodel and III-1, III-2, III-3, III-4, III-5, III-5(a), III-6, III-6(a), III-7, III-7(a) for the garage.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review application for construction at 135 Greenbank Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Garage Doors.** The garage doors shall be electronically operable. If design modifications are required to accomplish this, those modifications shall be subject to staff review and approval.

2. **Exterior Light Fixtures.** All of the exterior light fixtures shall be downward-directed with an opaque or translucent shade.

3. **Street Tree Replacement.** In order to mitigate the removal of a City-owned street tree within the street right-of-way resulting from the creation of an expanded 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 prior to the issuance of a building permit, 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.

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

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

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

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

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

related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.

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

10. **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.

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

12. **Arborist's Report.** Before the issuance of a building permit, the Property Owner shall submit an Arborist's Report that includes tree preservation measures to preserve existing trees proposed to remain on-site, as well as any nearby off-site trees, particularly the oak trees on or adjacent to the south (left) property line. 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.

13. **Certified Tree Preservation Plan.** Before the issuance of a building permit, the Property Owner shall prepare for review and approval by staff a Tree Preservation Plan that incorporates the tree preservation measures recommended in the Arborist's Report required in Condition #12 above. The tree preservation measures shall be on the appropriate sheets of the construction plans. The arborist shall be on-site during critical construction activities, including initial and final grading, to ensure the protection of the existing trees. The arborist shall document in writing and with photographs the tree protection measures during

these critical construction phases. If some trees have been compromised, mitigation measures must be specified in writing, and implementation certified by the Project Arborist.

Trees proposed for removal shall have an in-lieu replacement tree planted elsewhere on the property, which shall be shown on the final landscape plan. Replacement tree size is subject to staff review, and shall be commensurate with the size and numbers of trees to be removed. They shall generally be a minimum of 24" box size.

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

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

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

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

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

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

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

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

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

16. Trellis and Garage Door Opening. The architect shall work with staff to introduce horizontal trellis or other similar feature above the garage doors. The garage doors and garage door openings shall be modified to provide more visual interest. Said modifications shall be subject to staff review and approval.

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

Moved by Ode, Seconded by Theophilos

Ayes: Chase, Hobstetter, Ode, Theophilos, Zhang

Noes: None

ANNOUNCEMENT

Assistant Planner Kevin Jackson informed the Commission that the nomination ceremony for a new Planning Commission Chair and Vice Chair will be held at next months meeting.

ADJOURNMENT

There being no further business, Chairman Zhang adjourned the meeting at 10:40 p.m.