

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, May 12, 2014

A Regular Session of the Piedmont Planning Commission was held May 12, 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 April 28 2014.

CALL TO ORDER

Chairman Ode called the meeting to order at 5:00 p.m. The City Planner announced that the Commission has scheduled a Town Hall meeting on June 26 in the Police Department EOC Room to discuss and review the Housing Element Update project. The public is invited to attend.

ROLL CALL

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

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

City Council Liaison: Councilmember Tim Rood

CONSENT CALENDAR

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

- 21 Park Way (Variance & Design Review)
- 62 La Salle Avenue (Variance & Design Review)
- 135 Sunnyside Avenue (Variance & Design Review)
- 421 Wildwood Avenue (Fence Design Review)

At the end of the meeting, after Commissioner Chase left the meeting at 9:25 p.m., the following Resolutions were approved adopting the Consent Calendar:

Variance and Design Review 21 Park Way

Resolution 101-V/DR-14

WHEREAS, the Property Owner is requesting permission to remove an existing sunroom over the existing garage and construct a new outdoor deck with railing; make door modifications; and install exterior lighting located at 21 Park Way, 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 variance situation is pre-existing and removing the existing tacked-on and failing sunroom benefits the property. Because of these circumstances, strictly applying the terms of this

chapter would keep the property from being used in the same manner as other properties in the zone which conform to the zoning requirements.

3. The variance is compatible with the immediately surrounding neighborhood and the public welfare because the existing, tacked-on sunroom is leaking and any change to this structure necessitates the variance.
4. Accomplishing the improvement without variance would cause unreasonable hardship in planning, design, or construction because the existing sunroom is unsafe and any work related to this sunroom requires variance.
5. The proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code.
6. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. The proposed project dramatically improves the home's aesthetics and restores its original architectural integrity without changing the existing building envelope.
7. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because the proposed improvements are consistent with the home's original design.
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.
9. The project complies with Design Review Guidelines II-1, II-2, II-3(a) through (d), II-4, II-5, II-5(a), II-6, II-6(a) through (c), II-7 and II-7(a).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review application for construction at 21 Park Way, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **C&D Compliance.** Compliance with Chapter 9 Article III of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project.
2. **Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.
3. **Contractor's General Liability Insurance.** To ensure that the contractor doing work in the City will be responsible for damages caused by the work to City property or to neighboring property, the Property Owner shall require all contractors performing work on the Project to maintain General Liability Insurance for protection from claims for damages because of bodily injury, including death, and claims for damages, other than to the contractor's

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

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

5. **Downspout.** The new downspout shall be painted to match the existing adjacent structure color.

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

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

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

8. **Approved Plan Set.** The approved plans are those submitted on April 8, 2014, with modifications made on May 7, 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.

Moved by Theophilos, Seconded by Simpson

Ayes: Ode, Simpson, Theophilos, Zhang, Behrens

Noes: None

Absent: Chase

**Variance and
Design Review
62 La Salle Avenue**

Resolution 114-V/DR-14

WHEREAS, the Property Owner is requesting permission to modify a previously approved project to remodel the house by: adding a new awning over a main-level door at the front patio; altering the design of a rear basement-level window; omitting the stairs leading from the rear basement-level deck; and making various interior changes, including the addition of a 4th bedroom and new full bathrooms on the basement level located at 62 La Salle Avenue, Piedmont, California, which construction requires variance and design review; and

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

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

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 property is a downsloping lot and there is no place on the property where conforming parking can be constructed. However, the existing garage does accommodate the parking of two vehicles and is only slightly shorter than the code required depth dimension. 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 are many homes in the neighborhood with similar bedroom counts and non-conforming sized garages. The existing garage does accommodate the parking of two vehicles.
4. Accomplishing the improvement without variance would cause unreasonable hardship in planning, design, or construction because it would be impossible to add the proposed shower.
5. The proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code.
6. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. The project is logically designed and improves the property's light and air situation as well as unclutters the space under the small deck.
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.
9. The project complies with Design Review Guidelines II-1, II-2, II-3, II-3(a) through (d), II-4, II-5, II-5(a), II-6, II-6(a) through (c), II-7 and II-7(a).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review application for construction at 62 La Salle Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following condition:

- Compliance with the conditions of approval specified as part of the prior related approval on the residence at 62 La Salle Avenue under Design Review Application #13-0204 shall extend to this application.

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 Theophilos

Ayes: Ode, Simpson, Theophilos, Zhang, Behrens

Noes: None

Absent: Chase

**Variance and
Design Review
135 Sunnyside Avenue**

Resolution 118-V/DR-14

WHEREAS, the Property Owner is requesting permission to remove the existing sunroom at the rear and replace it with a new deck, railing and stair; construct a new sun shade awning at the rear; make window and door modifications throughout the house; install exterior lighting; and make interior improvements including extending the garage wall to create one conforming parking space, removing a bedroom at the ground level, and lowering the floor and adding two bedrooms at the basement level located at 135 Sunnyside Avenue, Piedmont, California, which construction requires variance and design review; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary in order to add a bedroom without supplying conforming parking; and

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

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 one conforming parking space is being provided and there is no space on the lot to add a second conforming parking space. Because of these circumstances, strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone which conform to the zoning requirements.
3. The variance is compatible with the immediately surrounding neighborhood and the public welfare because the project will add one conforming off-street parking space to this property which currently has none.
4. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because it is physically impossible to add a second conforming parking space on the property.
5. The proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code.

6. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. The project converts a non-original, tacked-on rear sunroom into an open-air deck.
7. The proposed deck 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 deck, 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.
8. The size and height of the new deck 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.
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.
10. The project complies with Design Review Guidelines II-1, II-2, II-3, II-3(a) through (d), II-4, II-5, II-5(a), II-6, II-6(a) through (c), II-7 and II-7(a).

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

1. **C&D Compliance.** Compliance with Chapter 9 Article III of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project.
2. **Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.
3. **Contractor's General Liability Insurance.** To ensure that the contractor doing work in the City will be responsible for damages caused by the work to City property or to neighboring property, the Property Owner shall require all contractors performing work on the Project to maintain General Liability Insurance for protection from claims for damages because of bodily injury, including death, and claims for damages, other than to the contractor's work itself, to property which may arise out of or result from the contractor's operations. Such insurance shall be written for not less than \$1,000,000 per occurrence. The insurance shall include an endorsement requiring notice to the City if the insurance is cancelled or changed, and Property Owner shall immediately arrange for substitute insurance coverage. If the Property Owner does not have a general contractor, the Property Owner shall maintain property

insurance and coverage for contractors, which is substantially equivalent to the contractor's requirement of this section.

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

5. **Property Line Location.** A licensed land surveyor shall be required by the Building Department to verify and mark the location of the right (north) 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 April 28, 2014 with modifications submitted on April 30, 2014 and May 2, 2014, after notices to neighbors were mailed and the application was available for public review.

7. **Windows.** The color scheme of the new windows shall match that of the existing windows throughout the house.

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

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

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

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

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

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

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

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

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 Zhang

Ayes: Ode, Simpson, Theophilos, Zhang, Behrens

Noes: None

Absent: Chase

**Fence Design Review
421 Wildwood Avenue**

Resolution 120-DR-14

WHEREAS, the Property Owner is requesting permission to replace a wood lattice fence along the left-side (west) property line with a 6 ft. tall wrought iron fence located at 421 Wildwood 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 of the fence are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that the new fence, with its brick base, matches existing materials and architectural details found on the house.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because it replaces an existing fence.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because there is no change to the property's circulation patterns.
4. The project complies with Design Review Guidelines V-1, V-2, V-3, V-5 V-5(a) through (c), V-6, V-7, V-8 and V-9.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for construction at 421 Wildwood Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

2. **Property Line Location.** A licensed land surveyor shall be required by the Building Department to verify and mark the location of the west property lines at the time of foundation inspection to verify that the approved construction is completely on the property of 421 Wildwood Avenue.

3. **Fence Location.** The new fence, including all footings and posts, shall be located completely within the applicants' property.

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 Zhang, Seconded by Simpson

Ayes: Ode, Simpson, Theophilos, Zhang, Behrens

Noes: None

Absent: Chase

PUBLIC FORUM

There were no speakers for the public forum.

APPROVAL OF MINUTES

Resolution 12-PL-14

RESOLVED, that the Planning Commission approves as submitted its meeting minutes of April 14, 2014.

Moved by Zhang, Seconded by Theophilos

Ayes: Ode, Simpson, Theophilos, Zhang, Behrens

Noes: None

Abstain: Chase

Absent: None

REGULAR CALENDAR

The Commission considered the following items of regular business:

Housing Element

City Planning Consultant Barry Miller narrated a power-point presentation briefly recapping the City's Housing Element update project and providing an analysis of the constraints to housing production in Piedmont. He stated that following this fifth presentation on the Housing Element update, a Town Hall meeting will be held on June 26 to receive additional public input. Given the importance of second units as a way for Piedmont to meet its regional housing needs assessment, Mr. Miller specifically encouraged second unit owners and tenants to provide testimony relating to the benefits of second units at the Town Meeting so that this type of information can be included in the City's Administrative Draft of the updated Housing Element. It is anticipated that the Administrative Draft will be submitted to the Commission in July before being forwarded to the City Council and the California State Department of Housing and Community Development. The City will then work with state reviewers to revise the document during the fall so that a final Housing Element can be adopted by the end of 2014. Bay Area cities are required to adopt new Housing Elements for 2015-2022 by January 31, 2015.

The Commission suggested that a separate mailer be sent to all second unit owners/tenants encouraging them to attend the Town Meeting and/or provide input.

Chairman Ode thanked Mr. Miller for his presentation.

Council Remand 27 Arroyo Avenue

The City Planner explained that the City Council has remanded back for action by the Planning Commission an application for design review submitted by the property owners of 27 Arroyo Avenue. The application proposes 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. The application was conditionally approved by the Planning Commission on March 10, 2014, and that approval was appealed by the property owners of 6 Parkside Drive. The City Council heard the appeal on April 21, 2014. The Council denied the appeal but remanded the application back to the Commission for the development of additional findings.

Commissioner Simpson recused herself from discussion and action on this matter and left the chambers.

Public testimony was received from:

Maurico Greene and his Project Architect Robert Kelly voiced their gratitude for the Planning Commission's consideration of the matter.

The Commission acknowledged its appreciation of the City Council's decision to deny the appeal and uphold the Commission's conditional approval of proposed construction at 27 Arroyo Avenue and agreed that the Commission's findings in support of project approval can be strengthened to better reflect the basis for its approval decision.

Resolution 381-DR-14

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 because: (i) the proposed 290 sq. ft. rear addition is sited so as not to impact neighbor view, light or privacy; (ii) the addition is limited in size to approximately one-third of the width of the lot; (iii) the design of the rear addition is consistent with the architectural style of the existing home and does not appear tacked-on in appearance -- there is consistency in roof material and slope; and (iv) the project reflects the variation in rear setbacks of the surrounding homes in the neighborhood.

2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because of the higher vantage point and difference in grade between the neighbor's property and the applicant's home. The proposed addition is lower than the home at 6 Parkside Drive and there is no significant loss in daylight or view. In addition, the lots in this neighborhood are shallow and there are limited expansion options available to homeowners. The proposed design reflects the best expansion

option available in that neighbor privacy is improved through a net loss in window area between the applicant's existing and proposed rear facade.

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 proposed addition is located at the rear of the property away from driveways and streets. In addition, the property provides conforming off-street parking. There is no change in existing vehicular and pedestrian traffic patterns and circulation.

4. The project complies with Design Review Guidelines II-1, II-2, II-3(a) through (d), II-6, 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 Zhang, Seconded by Chase

Ayes: Chase, Ode, Theophilos, Zhang

Noes: None

Recused: Simpson, Behrens

**Variance, Design
Review & Fence
Design Review
218 Greenbank Avenue**

Revive Neighborhood, LLC is requesting variance, design review and fence design review to remodel and expand the existing 1,628 sq. ft. 3-bedroom house through: the construction of a 91 sq. ft. upper level front addition and a 169 sq. ft. main level rear addition; the development of 179 sq. ft. of habitable space on the basement level through excavation and a front addition; the construction of a new entry stair and porch on the front of the house and the enclosure of the existing entry porch on the left side of the house as a new interior room; window, door, garage door, skylight and exterior lighting modifications; various changes to the interior; various landscape changes and various site modifications in the front yard (new on-grade entry steps, pathways, handrails and guardrails) and rear yard (new patio, stepping stones and rock wall). The requested variance is from Section 17.10.6 to allow the eave of the new front porch and the new front raised walkway to extend to within 16'17" and 19'6", respectively, of the front property line in lieu of the code required minimum of a 20 ft. front yard setback.

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

Public testimony was received from:

Lex Shan, Property Owner Representative, described the extensive design efforts made to minimize potential impacts on neighbors, believing that the current design reflects a fair compromise for all parties concerned.

Andras Szell opposed project approval, believing that the revised design is even worse than the originally proposed in terms of the upper level's shading his house and garden and the rear addition obstructing the light and view from his kitchen. He preferred the original proposal for excavating the basement area to provide additional living space be pursued.

David Lee also opposed the proposed project, believing that the project will result in a loss of open space feeling and light, too much shading of his garden planters and too much view obstruction from his front side window. He too preferred the original basement expansion option.

Arleta Chang, Project Architect, reviewed the various expansion options considered and described how the proposed additions are architecturally integrated into the existing Craftsman-style residence. She stressed that the front addition will not have a significant light/shadowing impact on neighbors because of its northern orientation, the view from Mr. Lee's large street-facing front window is unaffected (only a side window view is slightly affected), the upper level addition extends only 10 inches beyond existing building lines and aligns with the living room roof below and the design of the rear family room addition adds architectural interest and charm. She emphasized how the design and placement of the proposed additions were carefully selected to create minimal neighbor impact.

The Commission agreed that the property was in great need of improvement, the proposed design was attractively integrated into the existing residence and variance approval was justified given its pre-existing condition and the property's topography. The Commission also agreed that the front addition would not have a significant impact on the Lee's residence in terms of light and view blockage. As to the rear addition, the Commission preferred that it be relocated more to the center and slightly redesigned to minimize its potential bulk/light impact on 214 Greenbank. It was suggested that the west wall of the rear addition would remain as proposed but the east wall would be relocated to the window-seat. The addition would maintain the same amount of square footage as proposed but would incorporate Craftsman-style architectural details, a squared bay projection and a corresponding roof form.

Resolution 46-V/DR-14

WHEREAS, Revive Neighborhood, LLC is requesting permission to remodel and expand the existing 1,628 sq. ft. 3-bedroom house through: the construction of a 91 sq. ft. upper level front addition and a 169 sq. ft. main level rear addition; the development of 179 sq. ft. of habitable space on the basement level through excavation and a front addition; the construction of a new entry stair and porch on the front of the house and the enclosure of the existing entry porch on the left side of the house as a new interior room; window, door, garage door, skylight and exterior lighting modifications; various changes to the interior; various landscape changes and various site modifications in the front yard (new on-grade entry steps, pathways, handrails and guardrails) and rear yard (new patio, stepping stones and rock wall) located at 218 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 steep front slope topography of the lot, the location of the home on the lot and the fact that the variance situation is pre-existing. Because of these circumstances, strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone which conform to the zoning requirements.
3. The variance is compatible with the immediately surrounding neighborhood and the public welfare because the proposed front entry improvements will create a more private front entrance than currently exists for this home. It also compliments the architectural style of the house to the right.
4. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because given the lot's topography and the need for such a significant stair and landing component

for the entrance, there are no other options other than constructing within the front setback.

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

6. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. The new front entry design preserves open space for neighboring properties, maintains and enhances the overall beauty of the neighborhood, compliments neighboring architecture and increases privacy for the left-side neighbor. The rear family room addition has been reduced in size from a 2-story to a 1-story structure, its plate height has been reduced and, as conditioned, it will be relocated to minimize neighbor impact. The addition is setback from neighboring property by distances of between 10 and 20 feet.

7. The proposed upper level addition/expansion has been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.70). The new front entry configuration will provide more privacy to the east-side neighbor by relocating the existing entrance to the home from the side to the front of the house. The new front entry configuration will not negatively affect the west-side neighbor because the new entrance replaces existing structure with a new landing and stair configuration. The project will create minimal shadowing impacts on neighboring properties.

8. As conditioned, the size and height of the rear addition is commensurate with the size of the lot, is in keeping with the existing neighborhood development pattern and reflects a reasonable compromise on the part of the applicant to minimize impact on neighbors.

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. There is no change in existing circulation patterns. The garage is being improved through the addition of an electronically operated door.

10. The project complies with Design Review Guidelines II-1, II-2, II-3, II-3(a) through (d), II-4, II-5, II-5(a), II-6, II-6(a) through (c), II-7 and II-7(a), IV-1, IV-3(a), V-1, V-2, V-3, V-4, V-5, V-5(a) through (c), V-7, V-8 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 218 Greenbank 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 May 1, 2014, after notices to neighbors were mailed and the application was available for public review.

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

5. **Exterior Light Fixtures.** Exterior light fixtures shall be downward-directed with an opaque or translucent shade that completely covers the light bulb.

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 east property lines at the time of foundation and/or frame inspection to verify the approved setback dimension measured to the new construction.

10. **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 entire site that shows proposed vegetation including trees proposed for retention as well as any in-lieu trees. The final plan shall comply with Municipal Code Section 17.17.3.

11. **City Attorney Cost Recovery.** If there is a substantial additional commitment of City Attorney's time required to accommodate the scope and nature of the Project, the Property Owner shall, at the time of the Building Permit Application, make a cash deposit with the City in the amount of \$5,000

to be used to offset time and expenses of the City Attorney relating to the Project. If such cash deposit has been reduced to \$2,500.00 or less at any time, the Director of Public Works may require the Property Owner to deposit additional funds to cover any further estimated additional City Attorney time and expenses. Any unused amounts shall be refunded to the Property Owner within 90 days after the Project has an approved Final Inspection by the Chief Building Official.

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

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

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

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

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

- i. Completion of Excavation;
- ii. Completion of Retaining Walls;
- iii. Completion of Foundation;
- iv. Completion of Rough Framing;
- v. Completion of Electrical;
- vi. Completion of Plumbing;

- vii. Completion of Mechanical;
- viii. Completion of Fire Sprinklers;
- ix. Completion of Home;
- x. Completion of Hardscaping and Landscaping; and
- xi. any further construction benchmarks and conditions of occupancy as may be determined by the Director of Public Works.

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

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

14. **Rear Family Room Addition.** The rear family room addition shall be relocated with the west wall as proposed and the east wall moved to align with the east wall of the window seat. The depth of the family room, measured from the existing rear wall of the house, shall be 8 ft. with a 2 ft. bay projection. The design shall include the same amount of square footage as currently proposed, with a squared bay projection, Craftsman-style architectural detailing and a corresponding roof form. Said redesign 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 Theophilos

Ayes: Chase, Ode, Simpson, Theophilos, Zhang

Noes: None

Absent: None

The Commission recessed for dinner at 6:45 p.m. and reconvened at 7:10 p.m.

Design Review
233 Estates Drive

The Property Owner is requesting design review to modify a previously approved application to stylistically alter and remodel the residence by changing the design and materials of the garage door and by changing the roof from a

dark non-reflective color, which was a condition of approval of the original application, to a white reflective color. The Planning Commission conditionally approved variance/design review applications to stylistically alter and remodel the residence on February 13, 2012 and February 11, 2013. Staff conditionally approved administrative design review modifications on July 9, 2013 and January 27, 2014.

Written notice was provided to neighbors. **One affirmative response form** was received.

Public testimony was received from:

Jeff Prose, Project Contractor, displayed photographs of the roof and garage doors in explaining that because of office staff turn-over, project details were inadvertently overlooked, resulting in a different than approved roof color and garage door being installed. He felt that the change from a wood to a metal and glass garage door actually enhanced the modern architectural appearance and style of the contemporary home. As to the roof color, he stressed that because of the lot's topography and the existence of the roof parapet, the roof surface cannot be seen from the street or by any neighbor. He noted that the white roof has a longer life expectancy than a dark-colored roof. He also stated that if the white roof is not permitted, a two-part coating would be applied to the roof to darken its color. He voiced concern that this coating application may not totally bond with the roof surface and as a consequence, the coating may peel over time and have to be reapplied every 5 years or so.

The Commission voiced its displeasure that specific approved project conditions were ignored. Notwithstanding, the Commission agreed that the change in garage door was acceptable, concurring that it enhanced the contemporary architectural appearance of the home. As to the roof color, the Commission acknowledged that because of Piedmont's topography and the importance of views to residents, it is imperative that roof surfaces blend into surrounding vegetation and background colors so as to be as visually imperceptible as possible. Hence the City Code regulations and policies restricting the installation of light-colored, reflective roof surfaces. However, the Commission was divided in support of the roof color change, with Commissioners Simpson and Ode arguing that approving the color change in this site specific case could be justified for the following reasons: (i) the roof surface is not visible to the public because of its screening by the roof parapet and the fact that there are no uphill neighbors who overlook the home; (ii) requiring the roof surface to be coated with dark colored paint/material may cause this surface coating to peel over time, resulting in recurring maintenance and aesthetic issues; (iii) the sheen/brightness of the white roof will probably dim over time; (iv) the economic hardship involved in requiring the removal of the existing solar panels in order to reinstall a dark-colored TPO roof surface as originally approved; (v) the absence of any neighbor objections or complaints; and (vi) a belief that the white colored roof enhances the effectiveness of the solar panels.

Resolution 104-DR-14

WHEREAS, the Property Owner is requesting permission to modify a previously approved application to stylistically alter and remodel the residence by changing the design and materials of the garage door and by changing the roof from a dark non-reflective color, which was a condition of approval of the original application, to a white reflective color located at 233 Estates 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 of the garage door are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that its modern design and material compliments the contemporary architectural style of the residence. As to the white roof color, given the site specific nature of this application, this violation of approved conditions can be overlooked because the roof surface cannot be seen from the street, adjacent residences nor uphill properties due to the roof parapet and the home's location.
2. The proposed design changes are appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because: (i) the change in garage door material and design does not impact neighboring properties; and (ii) as referenced above, the white roof cannot be seen by the public, adjacent neighbors or upslope property owners. Requiring the white roof to be coated with a dark color/material could result in the necessity that this coating be reapplied every 5 years, which would be difficult to enforce, and which could result in unsightly peeling.
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 garage door is electronically operated for ease of ingress/egress.
4. The project complies with Design Review Guidelines II-1, II-2, II-3, II-3(a) through (d), II-4, II-5, II-6, II-6(a) through (c), II-7 and II-7(a)

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for construction at 233 Estates Drive, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

- Except for Condition #3, compliance with the conditions of approval specified as part of the prior related approval on the residence at 233 Estates Drive under Design Review Application #12-0019 shall extend to this application.

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 Ode

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

MOTION FAILED

The Commission majority opposed approving the roof color change, citing the bad precedent involved in allowing such a major disregard/violation of an approved project condition to stand, the importance of upholding the City's prohibition against light, reflective roof surfaces that visually "pop" given Piedmont's hilly topography and the fact that a portion of the applicant's roof is visible to the immediately adjacent uphill neighbor, and from certain locations on the street. The Commission acknowledged that while the window of this uphill neighbor is currently screened, a future owner of the property may choose to open up this window. Following a Commission question, the applicant's representative stated that they would paint a darker color over the white roof rather than replacing the roof altogether. He also indicated that he could paint around the installed solar equipment.

Commission noted that while they were disappointed that the garage door design was different from the design approved, the new design was in keeping with the modern design of the residence, did not create any adverse impacts on the neighborhood and was approvable under the City's design guidelines.

Resolution 104-DR-14

WHEREAS, the Property Owner is requesting permission to modify a previously approved application to stylistically alter and remodel the residence by changing the design and materials of the garage door and by changing the roof from a dark non-reflective color, which was a condition of approval of the original application, to a white reflective color located at 233 Estates 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 that the proposal conforms in part with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

As to the Change in Garage Door:

1. The exterior design elements of the garage door are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that its modern design and material compliments the contemporary architectural style of the residence.
2. The proposed design change related to the garage door is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because the change in garage door material and design does not impact 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. The proposed design changes do not affect existing circulation patterns.

4. The garage door component of the project complies with Design Review Guidelines II-1, II-2, II-3, II-3(a) through (d), II-4, II-5, II-5(a), II-6, II-6(a) through (c), II-7 and II-7(a).

As to the Change in Roof Color:

5. The change in roof color is contrary to the project's original approval which approved the installation of only a dark-colored, non-reflective TPO roof surface.

6. Even with the parapet facing, a small portion of the white color roof surface is visible from the street and to an uphill neighbor. There is the potential that this light, reflective roof surface could adversely impact an uphill neighbor in the future.

7. Allowing the change in roof color would set a unwise precedent of permitting highly reflective roof surfaces in stark contrast with the color of surrounding vegetation and building material, resulting in conditions that are not aesthetically pleasing.

8. The change in roof color fails to comply with Design Review Guidelines II-1, II-2, II-3(a) through (c), II-4, II-5, II-5(a), II-6, II-6(a) through (c), II-7 and II-7(a).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for construction at 233 Estates Drive, Piedmont, California, as it relates to a change in garage door design and materials and denies the application as it relates to the change in roof surface color, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. Compliance with the conditions of approval specified as part of the prior related approval on the residence at 233 Estates Drive under Design Review Application #12-0019 shall extend to this application.
2. The applicant has six months in which to comply with the intent of Condition #3 of Design Review Application #12-0019 relating to roof color. If such compliance is not met to staff's satisfaction within this 6 month period, the City shall record a Notice of Non-Compliance.

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 Zhang

Ayes: Chase, Ode, Simpson, Theophilos, Zhang

Noes: None

Absent: None

**Design Review and
Fence Design Review
445 Mountain Avenue**

The Property Owner is requesting design review and fence design review to make substantial site alterations, including modifications to the pool, and the construction of new walls, retaining walls, fencing, driveway and entry gates, patios, landscaping, barbeque area, arbor, fire pit and exterior lighting. The applications also propose minor modifications to the windows and doors of the residence and the ridgeline and garage doors of the previously approved 4-car garage. The Planning Commission approved substantial alterations to this residence in December 2013.

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

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

Public testimony was received from:

Fred Karren, Project Architect, described the minor design changes intended to enhance the property's aesthetics and improve garage ingress/egress. He noted two design options for the two double garage doors, both of which are acceptable to the applicant.

Jeff George, Landscape Architect, described the major design features of the 3-part landscaping plan.

Matthew Levy explained that the proposed niche in the retaining wall and fence is intended to allow temporary driveway parking for quick "ins and outs" without blocking driveway access to and from the garage.

The Commission supported application approval, agreeing that the design changes and landscaping plan were elegant and appropriate for this beautiful property. The Commission further agreed that both garage door options were acceptable. The Commission acknowledged that if a car was parked in the driveway niche, it would necessitate that cars exiting the garage would have to back out onto Mountain Avenue. The Commission suggested that a driveway mirror or other device be installed to assist drivers when backing out onto the street.

Resolution 119-DR-14

WHEREAS, the Property Owner is requesting permission to make substantial site alterations, including modifications to the pool, and the construction of new walls, retaining walls, fencing, driveway and entry gates, patios, landscaping, barbeque area, arbor, fire pit and exterior lighting located at 445 Mountain Avenue, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that (i)

the bulk and materials of the project are appropriate; (ii) window changes are minimal; (iii) the perimeter fencing, retaining wall and all landscaping components are appropriate; (iv) the new garage doors are aesthetically pleasing, attractive and consistent with what has already been approved; and (v) the lowering of the garage height reduces the potential of light loss to adjacent neighbors.

2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because there are fewer windows and a lower garage roof.

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. All of the improvements are located on the applicant's property. If cars exiting the garage have to back out onto Mountain Avenue occasionally, this can be safely accomplished.

4. The project complies with Design Review Guidelines II-1, II-2, II-3, II-3(a) through (d), II-4, II-5, II-6, II-6(a) through (c), II-7, II-7(a), III-1(a), III-2, III-2(a), III-3, III-4, III-5, III-5(a), III-6, III-6(a), III-7, III-7(a), IV-1, IV-3, IV-3(a), IV-5, V-1, V-2, V-5, V-5(a), 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 445 Mountain Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Construction Management Plan.** The Property Owner shall develop a comprehensive Construction Management Plan. The Construction Management Plan shall address noise, vibrations, traffic control, parking, debris removal, dust control, sanitary facilities, 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. Alternatively, the Construction Management Plan for Application #13-0368 may be amended to address the features approved under these applications (#s 14-0107 & 14-0119). In either case, the following shall apply:

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.

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

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

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

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

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

Alternatively, the Construction Completion Schedule for Application #13-0368 may be amended to address the features approved under these applications (#s 14-0107 & 14-0119).

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 March 28, 2014 from the office of the Karren Company and plans submitted April 11, 2014 with modifications made May 1, 2014 from Jeff George Landscape Architecture & Design, after notices to neighbors were mailed and the application was available for public review.

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

9. **Garage Door.** Both garage door design options shown on the plans dated April 21, 2014, are approved. The garage door shall be mechanically operable. If design modifications are required to accomplish this, those modifications shall be subject to staff review.

10. **Mechanically Generated Noise.** Prior to the issuance of a building permit, the permit plans shall verify that the proposed air conditioning units and pool equipment comply with the City's requirements under Section 5.2.28 related to mechanically generated noise sources.

11. **Retaining Walls.** New retaining walls higher than 30” will require engineering.

12. **Driveway Mirror.** The applicants shall install a driveway mirror.

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, Ode, Simpson, Zhang, Behrens

Noes: None

Recused: Theophilos

Resolution 107-DR-14

WHEREAS, the Property Owner is requesting permission to make minor modifications to the windows and doors of the residence, an alteration (lowering in one location) of the previously proposed ridgeline of the garage and changing from three individual garage doors to two large garage doors (to accommodate 4 vehicles) located at 445 Mountain Avenue, Piedmont, California, which construction requires design review; and

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that (i) the bulk and materials of the project are appropriate; (ii) window changes are minimal; (iii) the perimeter fencing, retaining wall and all landscaping components are appropriate; (iv) the new garage doors are aesthetically pleasing, attractive and consistent with what has already been approved; and (v) the lowering of the garage height reduces the potential of light loss to adjacent neighbors.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because there are fewer windows and a lower garage roof.
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. All of the improvements are located on the applicant's property. If cars exiting the garage have to back out onto Mountain Avenue occasionally, this can be safety accomplished.
4. The project complies with Design Review Guidelines II-1, II-2, II-3, II-3(a) through (d), II-4, II-5, II-6, II-6(a) through (c), II-7, II-7(a), III-1(a), III-2, III-2(a), III-3, III-4, III-5, III-5(a), III-6, III-6(a), III-7, III-7(a), IV-1, IV-3, IV-3(a), IV-5, V-1, V-2, V-5, V-5(a), 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 445 Mountain Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Construction Management Plan.** The Property Owner shall develop a comprehensive Construction Management Plan. The Construction Management Plan shall address noise, vibrations, traffic control, parking, debris removal, dust control, sanitary facilities, 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. Alternatively, the Construction Management Plan for Application #13-0368 may be amended to address the features approved under these applications (#s 14-0107 & 14-0119). In either case, the following shall apply:

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.

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

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

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

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

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

Alternatively, the Construction Completion Schedule for Application #13-0368 may be amended to address the features approved under these applications (#s 14-0107 & 14-0119).

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 March 28, 2014 from the office of the Karren Company and plans submitted April 11, 2014 with modifications made May 1, 2014 from Jeff George Landscape Architecture & Design, after notices to neighbors were mailed and the application was available for public review.

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

9. **Garage Door.** Both garage door design options shown on the plans dated April 21, 2014, are approved. The garage door shall be mechanically operable. If design modifications are required to accomplish this, those modifications shall be subject to staff review.

10. **Mechanically Generated Noise.** Prior to the issuance of a building permit, the permit plans shall verify that the proposed air conditioning units and pool equipment comply with the City's requirements under Section 5.2.28 related to mechanically generated noise sources.

11. **Retaining Walls.** New retaining walls higher than 30" will require engineering.

12. **Driveway Mirror.** The applicants shall install a driveway mirror.

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, Ode, Simpson, Zhang, Behrens

Noes: None

Recused: Theophilos

**Variance and
Design Review
153 Arbor Drive**

The Property Owner is requesting variance and design review to construct an approximately 755 sq. ft. one-story addition at the rear of the home and make several door and window modifications throughout the house. The requested variances are from: (i) Section 17.10.4 to allow a structure coverage of 41.7%

in lieu of the code permitted maximum of 40%; and (ii) Section 17.16 to allow a residence with 4 rooms eligible for use as bedrooms with one conforming parking space and one covered parking space measuring 14'6" by 18'4" in lieu of the code required minimum of 9 ft. by 20 ft.

Written notice was provided to neighbors. **Three affirmative, one negative response forms** were received. **Correspondence** was received from: Penelope Teevan; Sarah Pearson & Evan Seevak

Public testimony was received from:

Robert Kelly, Project Architect, explained the various design options examined and the efforts made to minimize project impact on the adjacent neighbor at 155 Arbor. He noted that the structure coverage variance was necessitated by expanding outward rather than upward, noting that if a second story addition was added, no variance would be required. However, it was determined that a second story addition would have too much negative impact on 155 Arbor. With regard to the parking variance, he noted that the existing garage, although non-conforming in size, does accommodate the parking of two vehicles.

Poppea Dorsam and Ted Dagnese summarized their extensive efforts in working with neighbors to design their expansion project and stressed that the intent of the project is to provide a better sleeping arrangement for their children and a more usable/functional kitchen and breakfast room area. They felt that their proposal did not adversely impact 155 Arbor in terms of light, view or privacy. However, as a further concession, they noted their willingness to relocate the two kitchen skylights to the opposite side of the ridge, away from 155 Arbor.

Penelope Teevan voiced her support of the project if the kitchen skylights are relocated away from her home. She also felt that the project will require the construction of a retaining wall in connection with the kitchen improvements. To this end, she requested that an engineered retaining wall be required as a condition of project approval to protect the stability of her property.

The Commission supported application approval, agreeing that variance approval was justified given the unusual configuration of the applicant's front property, the 2-car functionality of the existing garage and as a way of avoiding significant adverse impact on an adjacent neighbor. The Commission agreed that the proposed project will improve the usability, functionality and aesthetics of the home, is attractively designed and architecturally consistent with the existing home.

Resolution 116-V/DR-14

WHEREAS, the Property Owner is requesting permission to construct an approximately 755 sq. ft. one-story addition at the rear of the home and make several door and window modifications throughout the house located at 153 Arbor Drive, Piedmont, California, which construction requires variance and design review; and

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary in order to exceed the structure coverage limit and to add an additional room eligible for use as a bedroom without supplying conforming parking; and

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

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 downhill, sloping lot has a triangular frontage which precludes a substantial portion from being usable by the applicant. A structure coverage variance would not be necessary if the lot had a more traditional rectangular frontage. Because of these circumstances, strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone which conform to the zoning requirements.
3. The variances are compatible with the immediately surrounding neighborhood and the public welfare because the structure coverage variance is triggered by the applicant's desire to minimize the project's impact on an adjacent neighbor. The structure coverage variance triggered by the single-story expansion design could have been avoided with a second-story expansion plan. However, a two-story addition would have a significant negative impact on the adjacent neighbor. The existing garage is non-conforming in dimension per the code (hence the need for variance) but the existing garage does accommodate the parking of two vehicles. There are other similar garage situations in the neighborhood.
4. Accomplishing the improvement without variance would cause unreasonable hardship in planning, design, or construction for the reasons cited above.
5. The proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code.
6. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. The proposed design in terms of its roof, windows, doors and layout is consistent with the architectural style of the existing residence.
7. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because the proposed single-story expansion is low in height, is screened by existing dense vegetation and proposed kitchen skylights will be relocated away from the neighbor at 155 Arbor Drive.
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 there is no change in existing circulation patterns. Vehicle access to the property is through a private lane with only neighborhood traffic.
9. The project complies with Design Review Guidelines II-1, II-2, II-3, II-3(a) through (c), II-6, II-6(a) through (c), II-7, II-7(a), III-1, III-2, III-2(a), III-4, III-5, III-6 and III-7.

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 153 Arbor 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.

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 (right) and south (left) property lines at the time of foundation and/or frame inspection to verify the approved setback dimension measured to the new construction.

6. **Kitchen Skylights.** The proposed two kitchen skylights shall be relocated to the opposite side of the ridge from 155 Arbor Drive. Said relocation subject to staff review and approval.

7. **Retaining Wall.** Should it be determined that a retaining wall is required between the applicants and the neighbor to the rights properties, and is higher than 30 inches in height, said retaining wall shall be professionally engineered in accordance with City requirements

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

Moved by Chase, Seconded by Simpson

Ayes: Chase, Ode, Simpson, Theophilos, Zhang

Noes: None

Absent: None

ADJOURNMENT

There being no further business, Chairman Ode adjourned the meeting at 9:45 p.m.

