

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, November 10, 2014

A Regular Session of the Piedmont Planning Commission was held November 10, 2014, in the City Hall Council Chambers at 120 Vista Avenue. In accordance with Government Code Section 54954.2(a) the agenda for this meeting was posted for public inspection on October 27, 2014.

CALL TO ORDER

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

ROLL CALL

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

Absent: Commissioner Tony Theophilos (excused)

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

Council Liaison: Councilmember Tim Rood

CONSENT CALENDAR

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

- 210 Sunnyside Avenue (Fence Design Review)
- 429 Jerome Avenue (Design Review and Fence Design Review)
- 349 Scenic Avenue (Fence Design Review)
- 370 Highland Avenue (Conditional Use Permit)
- 1345 Grand Avenue (Design Review)

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

Fence Design Review 210 Sunnyside Avenue

Resolution 254-DR-14

WHEREAS, the Property Owner is requesting permission to construct an approximately 2 foot 6 inch tall wood fence atop an approximately 1 foot 6 inch tall stucco wall with a pedestrian gate enclosing the front (west) yard; and an approximate 6 foot 7 inch tall wood gate between the house and the garage at the front located at 210 Sunnyside Avenue, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development, in that the fence matches the design and materials used for the deck and is in complete harmony with the house.

2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because the

proposed fence is very small, is as tall as the former fence, and does not block any views.

3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, because the fence does not affect the safety of residents, pedestrians and the free flow of vehicular traffic; there is no change in the parking spaces; and the proposed fence is in same footprint as the previous fence.

4. The project complies with Design Review Guidelines V-1, V-2, V-3, V-4, V-5, V-5(a) through (c), V-6, V-7, V-8, V-9, V-10, and V-11.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for proposed construction at 210 Sunnyside Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

2. **Property Line Location.** At the discretion of the Building Official, a licensed land surveyor shall be required to verify and mark the locations of the north, west, and south property lines at the time of foundation and/or frame inspection to verify the location of the proposed construction. In lieu of surveying the north and south property lines, the property owner may submit a Fence Location Agreement with the adjacent neighbors at 206 Sunnyside Avenue and 212 Sunnyside, respectively, with approval by the Building Official.

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

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

**Design Review and
Fence Design Review
429 Jerome Avenue**

Resolution 269-DR-14

WHEREAS, the Property Owner is requesting permission to make various front yard improvements including demolishing an existing retaining wall and constructing a new retaining wall; constructing various free-standing walls; installing on-grade pavers; and constructing stucco planters located at 429 Jerome Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development, in that the planters and retaining walls in the front yard are compatible with the existing house.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because the planters and retaining walls are low and do not impose any affect on neighboring properties existing views and privacy.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, because there is no change in the circulation pattern, and the improvement of the driveway actually improves the use the garage.
4. The project complies with Design Review Guidelines II-1, II-2, II-3, II-3(a) through (d), II-4, II-5, II-5(a), II-6, II-6(a) through (c), II-7, IV-1, IV-1(a), IV-2, IV-3, IV-4, IV-4(a), IV-5, IV-6, V-1, V-1(a), and V-2.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for proposed construction at 429 Jerome 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. **Wall Location.** The new walls, including all footings, shall be located completely within the applicants' property. At the discretion of the Chief Building Official, a licensed land surveyor or civil engineer shall be required to verify and mark the location of the north and west property lines at the time of foundation inspection to verify that the approved construction is completely on the property at 429 Jerome Avenue. In lieu of a survey, the applicant may submit a Fence Location Agreement with the adjacent neighbor at 425 Jerome Avenue for the proposed wall along the west property line.
4. **Construction Management Plan.** The Property Owner shall develop a comprehensive Construction Management Plan. The Construction Management Plan shall address noise, vibrations, traffic control, parking, debris

removal, dust control, sanitary facilities, site safety security and other potential construction impacts, as well as other details involving the means and methods of completing the Project, including the construction route. The City Building Official has the authority to require modifications and amendments to the Construction Management Plan as deemed necessary throughout the course of the Project and until the Final Inspection.

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

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

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

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

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

Director of Public Works a reasonable completion date for any benchmark.

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

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

**Fence Design Review
349 Scenic Avenue**

Resolution 286-DR-14

WHEREAS, the Property Owner is requesting permission to construct a new picket fence with a swing gate atop the existing front yard retaining walls along Scenic and Alta Avenues; construct a new double swing gate at the existing front walkway; and seek retroactive approval for a fence atop an existing retaining wall along Alta Avenue located at 349 Scenic Avenue, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development, because the fence fits in with similar fences in the neighborhood.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because the fence will not affect existing views, privacy or access to direct or indirect light.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, because the fence will enhance safety on the applicant's property.
4. The project complies with Design Review Guidelines V-1, V-2, V-5, V-5(a) through (c), V-6, and V-10.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for proposed construction at 349 Scenic Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals,

including CEQA issues, the Property Owner shall defend and indemnify the City against any liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.

2. **Property Line Location.** At the discretion of the Building Official, a licensed land surveyor shall be required to verify and mark the locations of the north, east, and south property lines at the time of foundation and/or frame inspection to verify the location of the proposed construction. In lieu of surveying the north property line, the property owner may submit a Fence Location Agreement with the adjacent neighbor at 115 Alta Avenue with approval by the Building Official.

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

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

**Conditional Use Permit
370 Highland Avenue**

Resolution 301-CUP-14

WHEREAS, Shannon Bloemker for Glasshouse Corporation is requesting a Conditional Use Permit to operate a new business providing preventative maintenance for homeowners, including the complete cataloging of appliances and systems in an online database, located at 370 Highland Avenue, Suite 200, Piedmont, California; and

WHEREAS, the Piedmont Planning Commission has reviewed the application, the staff report, and any and all other documentation and testimony submitted in connection with the application and has visited the subject property; the Piedmont Planning Commission recommends that the project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e) and the proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. The proposed use is compatible with the General Plan and conforms to the zoning code, in that it is an appropriate use in an appropriate zone.
2. The use is primarily intended to serve Piedmont residents, in that it is a home maintenance company located directly adjacent to a real estate company, and it will be of benefit to Piedmont residents.
3. The use will not have a material adverse effect on the health, safety or welfare of persons residing or working in the vicinity, in that it is a very small business with no more than three employees; it won't create excessive noise; and some of the staff will walk to work.

RESOLVED, that in consideration of the findings and facts set forth above, the Piedmont Planning Commission recommends approval by the City Council of the Conditional Use Permit application by Glasshouse Corporation at 370 Highland Avenue, Piedmont, California, subject to the following conditions:

1. **Terms.** The terms of the approval are as stated in the application, specifically including the following:

- a. Days and Hours of Operation: Monday through Friday, 8am-5pm; and
- b. Type(s) of Staff/Personnel, Number of Each: 1owner/founder, 1 assistant, 1-2 software engineers; and
- c. The approval shall be for 5 years from the initial approval date of November 10, 2014.

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

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

**Design Review
1345 Grand Avenue**

Resolution 313-DR-14

WHEREAS, the Property Owner is requesting permission to replace and enlarge the elevator located at 1345 Grand Avenue, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development, in that the increased size of the elevator is somewhat hidden inside the building and will not impact the neighborhood.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because the elevator is inside a series of buildings, with only a slight change in the size of the elevator shaft.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, because it has no impact.
4. The project complies with Design Review Guidelines II-3, and II-3(a) through (d).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for proposed construction at 1345 Grand 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.

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

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

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

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

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

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

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

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

APPROVAL OF MINUTES

Resolution 24-PL-14

RESOLVED, that the Planning Commission approves as submitted its meeting minutes of the October 13, 2014 regular hearing of the Planning Commission.

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

Resolution 25-PL-14

RESOLVED, that the Planning Commission approves as submitted its meeting minutes of the October 30, 2014 Special Session of the Planning Commission.

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

ANNOUNCEMENTS

Chairman Ode announced that the City Council approved the City's Pedestrian and Bicycle Master Plan on November 3. According to Chairman Ode, the Council was complimentary of Mr. Niko Letunic of Eisen|Letunic, the City's transportation and planning consultant, and the Planning Staff, and was excited with the public involvement in the project. Additionally, Chairman Ode complimented and thanked Assistant Planner Janet Chang on her involvement with the Pedestrian and Bicycle Master Plan and her documentation of the public process.

PUBLIC FORUM

Jamie Flaherty Evans thanked the Commission for its work on the approval of the Pedestrian and Bicycle Master Plan and for listening to the needs and wants of the community.

Garrett Keating thanked the Commission for its involvement in the Pedestrian and Bicycle Master Plan process and complimented the Commission and Staff on their ability to solicit public input for a whole year. Mr. Keating also

encouraged the City to continue to revisit the Master Plan and solicit public input annually.

Stella Kennedy, a resident and teacher at Piedmont Middle School, complimented the Commission on its involvement in the Pedestrian and Bicycle Master Plan process, and thanked the Commission for providing a great opportunity for Piedmont's youth to learn about government and public participation.

REGULAR CALENDAR

Housing Element CEQA

The Commission considered the following items of regular business:

The Commission resumed its October 30, 2014, public hearing on the City's General Plan Housing Element update. Barry Miller, the City's Housing Element Consultant, summarized the process thus far, explaining that a Working Draft of the 2015-2023 Housing Element was completed in July 2014 and was considered by the Planning Commission and City Council at public hearings on July 14 and July 21. The Draft was reviewed by the Department of Housing and Community Development (HCD) in August. Minor administrative comments were received, and the document was amended in September to incorporate changes. A revised document was released on October 1, 2014. HCD has indicated that the latest draft complies with all aspects of the Government Code and will be certified upon adoption by the City. An Initial Study and Negative Declaration (IS/ND) were filed with the Alameda County Clerk Recorder and State Clearinghouse on October 8, 2014. The IS/ND concluded there would be no significant impacts associated with adopting the document. The comment period on the IS/ND closed on November 7, 2014.

Mr. Miller recommended that the Commission recommend that the City Council adopt the Housing Element Update Negative Declaration and the Housing Element at the December 1, 2014, City Council meeting.

No additional public correspondence has been received since the October 30, 2014, hearing.

The Commission thanked Mr. Miller and the Planning Staff for their work on the Piedmont Housing Element Update and expressed support for the adoption of the Housing Element Update.

Resolution 26-PL-14

WHEREAS, the City of Piedmont has completed an update of its Housing Element; and

WHEREAS, a Housing Element Update is defined as a "project" under the California Environmental Quality Act and is thus subject to environmental review; and

WHEREAS, the updated Piedmont Housing Element proposes no significant changes to the City's land use or transportation maps; and

WHEREAS, the updated Piedmont Housing Element demonstrates that the City can accommodate its Regional Housing Needs Allocation (RHNA) without rezoning properties or increasing currently allowable densities; and

WHEREAS, the City completed an Initial Study of the proposed Housing Element and determined that the potential for environmental impacts would be

mitigated by policies in the 2009 General Plan and the 2015-2023 Housing Element; and

WHEREAS, CEQA does not require a detailed evaluation of all projects that could conceivably be developed consistent with Housing Element policies but rather requires the City to conduct project-level environmental review for subsequent projects; and

WHEREAS, the City prepared a Negative Declaration for the Housing Element and delivered 15 copies of the Initial Study-Negative Declaration (IS-ND) to the State Clearinghouse and additional copies to the Alameda County Recorder on October 8, 2014; and

WHEREAS, the City provided public notice of the availability of the IS-ND for public review and posted copies of the document on its website for 30 days; and

WHEREAS, the comment period for the IS-ND ended on November 7, 2014; and

WHEREAS, the City reviewed and considered the comments received on the IS-ND prior to the November 10, 2014 Planning Commission hearing and determined that the findings of the IS-ND remain valid and no substantive changes to the document are required;

NOW THEREFORE BE IT RESOLVED that the Piedmont Planning Commission recommends that the City Council adopt the 2015-2023 Housing Element Update Negative Declaration.

Moved by Chase, Seconded by Zhang

Ayes: Behrens, Chase, Ode, Simpson, Zhang

Noes: None

Absent: Theophilos

Resolution 27-PL-14

WHEREAS, State law requires every city and county in California to adopt a Housing Element as part of its General Plan; and

WHEREAS, State law further requires that Housing Elements be updated every eight years to demonstrate that each jurisdiction is capable of accommodating its “fair share” of the region’s housing needs and complies with the current requirements of the State Government Code; and

WHEREAS, cities and counties in the Bay Area were assigned new Regional Housing Needs Allocations in 2013 and required to update their Housing Elements by January 31, 2015; and

WHEREAS, the City of Piedmont was given a Regional Housing Needs Allocation of 60 units for 2015-2023, including 24 units of very low income housing, 14 units of low income housing, 15 units of moderate income housing, and 7 units of above moderate income housing; and

WHEREAS, the existing 2011 Housing Element had a horizon year of 2014 and did not include specific provisions beyond that year; and

WHEREAS, the City completed a year-long process of collecting and analyzing housing and demographic data about Piedmont, and preparing new Housing Element text, goals, policies, programs, and maps; and

WHEREAS, the Planning Commission held study sessions on the Housing Element on October 13, 2013; January 13, 2014; February 10, 2014; April 14, 2014; May 12, 2014; and July 14, 2014; and

WHEREAS, the Planning Commission hosted a “Town Meeting” on housing on June 30, 2014, attended by approximately 25 people; and

WHEREAS, the City Council held study sessions on the Housing Element on May 7, 2014 and on July 21, 2014; and

WHEREAS, the study sessions and other public meetings were duly noticed and promoted through e-mails, press releases, and direct communication with interested parties; and

WHEREAS, the proposed Element reflects input from those who participated; and

WHEREAS, a Working Draft of the proposed Element was submitted to the State Department of Housing and Community Development (HCD) for review in July 2014; and

WHEREAS, HCD communicated to the City the changes necessary for a compliance determination on August 25, 2014, and the City responded with a proposed Housing Element Addendum on September 11, 2014; and

WHEREAS, HCD provided the City with a pre-compliance letter on September 15, 2014, indicating the document would be deemed compliant if adopted with the Addendum as provided; and

WHEREAS, the Addendum has been merged into the Draft Housing Element to produce an Adoption Draft Housing Element; and

WHEREAS, the City has completed state-mandated environmental review procedures for the project and has approved a separate resolution for a Negative Declaration;

NOW THEREFORE BE IT RESOLVED that the Planning Commission of the City of Piedmont recommends adoption of the 2015-2023 Piedmont Housing Element by the Piedmont City Council.

Moved by Chase, Seconded by Zhang

Ayes: Behrens, Chase, Ode, Simpson, Zhang

Noes: None

Absent: Theophilos

**Design Review
153 Arbor Drive**

The Property Owner is requesting permission to make various window and skylight modifications to a previously approved application.

Written notice was provided to neighbors. **3 affirmative, 1 negative response forms** were received. **Correspondence** was received from: Penelope Teevan

Public testimony was received from:

Robert Kelly, Project Architect, explained that they had agreed to relocate the skylights to the south side of the roof, in accordance with a condition of the prior approval; however, due to the nature of the roof's construction, it would be difficult to place the skylights on the south side of the roof. He later clarified that installing the skylights on the north side of the roof would be of great monetary expense to the applicants and would provide limited light, because their location would be beneath the eaves of the existing cupola. He explained that they are, therefore, requesting permission to relocate the skylights back to the north side of the roof. Mr. Kelly explained that a window change is also being proposed, due to a minor architectural error. He stated that the new window design will not impact the neighbor, because of the size and location of the window. He also stated that they have been considerate of the neighbor in locating the windows and have not placed any windows opposite of the neighbor's bedroom. He stated that he believes it to be unreasonable to regulate light shining from people's windows.

Poppea Dorsam, homeowner, reiterated that during construction, it was determined that the skylights could not be constructed on the south side of the roof. She said that they have tried to work with the neighbor by agreeing to install blackout shades on the skylights and by eliminating a kitchen window that was across from the neighbor's bedroom. She stated that the new kitchen window is about eight feet away from the neighbor's window, has a view of a fence and hedge, and improves the neighbor's privacy.

Ted Dagnese, homeowner, described the existing and proposed window locations and explained the increased privacy that will be granted by the proposed application. He explained that because of the 4:12 roof slope, the view from the proposed skylights will be of the sky only. He also stated that the light from the skylights will not bend and shine down into the neighbor's window. When asked about the use of blackout shades, Mr. Dagnese stated that the blackout shades are automatic and that they would put in a good effort to close the shades in the evening.

Penelope Teevan, neighbor, explained that the previous window was setback 12 feet from the proposed window, and that the proposed window is only eight feet away. Additionally, she stated that, although the window is at an angle, it can still shine light into her home, and that light from the window and skylights will be disruptive and will keep her from enjoying her view. Ms. Teevan is not convinced that the neighbors will close their blinds or the blackout shades, because of a prior experience in which they did not adequately control security lights that shined brightly at her house. With construction underway, light reflects off of the current plywood roof and into her home during the day, according to Ms. Teevan. She assumes that light will reflect off of the skylights in the same manner. She requests that the neighbors put the skylights on the south side of the roof where they will get more light.

The Commission was divided in its support of the project. Commissioners Zhang and Ode supported the proposed window because it improved the neighbor's privacy by constructing it offset from the neighbor's bedroom window. However, they stated that the applicants could reduce the impact on the neighbor by making a greater effort to install the skylights on the south side of the roof. They remained in support of the original condition of approval that required the skylight to be moved to the south side of the roof. They did not support the currently proposed skylight location. Commissioners Behrens,

Simpson, and Chase supported the project as proposed, and did not think that it significantly impacted the neighbor. They stated that the skylights are higher than the bedroom windows and therefore will not directly shine light into the neighboring windows. They did not see a need to relocate the skylights to the south side of the roof, especially given the accommodations of the applicants to put in black-out shades and reduce the impact of the window.

Resolution 236-DR-14

WHEREAS, the Property Owner is requesting permission to make various window and skylight modifications to a previously approved application located at 153 Arbor Drive, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development, because the new proposed detailing is consistent with that of the original house.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because there is no significant adverse affect on view or light. The proposed kitchen window is smaller and lower than the previously existing window and is offset by approximately eight-feet from the neighboring window. Privacy is ensured by an existing fence and dense vegetation. The proposed skylights will have limited impact because of their location above the neighbor's windows and the inclusion of black-out shades. There is a considerable construction impediment to relocating the skylights to the originally-approved location on the north side of the roof, and a skylight in that location would be shaded by the eave of the cupula.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, because there is no impact.
4. The project complies with Design Review Guidelines II-3, II-3(a) through (d), II-6, II-6(a), II-7, and II-7(a)

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for proposed construction at 153 Arbor Drive, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

2. **Window Trim and Color Scheme.** The trim and the color scheme of the new windows shall be consistent with that of the remaining windows throughout the house.

3. **Roof Cricket.** The roof cricket shall be of the same material and color as that of the existing adjacent roof.

Moved by Simpson, Seconded by Behrens

Ayes: Behrens, Chase, Simpson

Noes: Ode, Zhang

Absent: Theophilos

**Design Review
445 Mountain Avenue**

The Property Owner is requesting permission to make modifications to a previously approved application including reconfigure the air conditioning unit well with a new screen wall surround; reconfigure the pool equipment screen wall; add new gates along the screen wall facing Mountain Avenue; construct a new barbecue area; construct a new retaining wall with guardrail atop along the west property line; add new landscape lighting throughout the property; add new exterior light fixtures throughout the house; replace an exterior stair; add new planters; modify windows, doors, and the garage door; make various modifications to hardscape features; remove previously approved landscape features; add new stucco siding to the exterior of dormers; add new security cameras throughout the house; add a new electrical panel; and add new outdoor wall-mounted speakers to the western façade of the house.

Written notice was provided to neighbors. **2 affirmative response forms** were received. **Correspondence** was received from: Josephine Shuman

Public testimony was received from:

Jeff George, Project Landscape Architect, described the proposed changes to the landscape. He said that they have reduced the improvements around the pool, diminished the walls, eliminated an arbor, reconfigured a stairway, added landscape lights in the front and back yards, and revised the pool equipment and AC unit enclosures.

Fred Karren, Project Architect, described the proposed changes to the architecture, including the deletion of a skylight, a window, and a door; a change in the material of some windows; and the addition of speakers. The speakers would not impact neighbors, especially those who are across the street, due to the mass of the house and the distance between the speakers and the neighbors.

Matt Levy, the homeowner, explained that the larger number of speakers will help to reduce the noise impact on the neighborhood, since the speakers can be focused on certain zones of the yard and the volume can be kept low. Alternatively, with fewer speakers, the volume would have to be turned on loudly to reach all parts of the yard.

The Commissioners supported approval of the project and complimented the applicants on the project design. They also commended the applicants for considering the impact that the speakers might have on their neighbors.

Commissioner Chase added that, as with any speakers in the city, the police will act on high noise levels, and mitigate as necessary.

Resolution 276-DR-14

WHEREAS, the Property Owner is requesting permission to make modifications to a previously approved application including reconfigure the air conditioning unit well with a new screen wall surround; reconfigure the pool equipment screen wall; add new gates along the screen wall facing Mountain Avenue; construct a new barbecue area; construct a new retaining wall with guardrail atop along the west property line; add new landscape lighting throughout the property; add new exterior light fixtures throughout the house; replace an exterior stair; add new planters; modify windows, doors, and the garage door; make various modifications to hardscape features; remove previously approved landscape features; add new stucco siding to the exterior of dormers; add new security cameras throughout the house; add a new electrical panel; and add new outdoor wall-mounted speakers to the western façade of the house 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, because the window and siding changes of the dormers are consistent with the rest of the house, and the concealed mechanical equipment will blend in with the overall project.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because it will have no impact on those issues.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, because, as previously approved, the ingress and egress aspects of the plan have been discussed and approved on their merits.
4. The project complies with Design Review Guidelines II-1, II-2, II-3, II-3(a) through (d), II-4, II-5, II-5(a) through (c), II-6, II-6(a) through (c), IV-1, IV-1(a) and (b), IV-2(a), IV-3, IV-3(a), IV-4(a), IV-5(a), V-1, V-2, V-3, V-4, V-5, V-5(a) through (c), V-6, V-7, V-8, V-9, V-10, and V-11.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for proposed 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. **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. **Property Line Location.** At the discretion of the Building Official, a licensed land surveyor shall be required to verify and mark the location of the east property line at the time of foundation and/or frame inspection to verify the approved setback dimension measured to the new air conditioning unit.

4. **Windows.** The color scheme of the new windows shall match that of the remaining windows on the house.

5. **Garage Door.** The new garage door shall be electrically operated.

6. **Mechanically Generated Noise.** Prior to the issuance of a building permit, the applicants 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.

7. **Approved Plan Set.** The approved plans are those submitted on September 10, October 1, October 10, October 21, October 27, and October 31, 2014 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. **Construction Management Plan.** The Property Owner shall develop a comprehensive Construction Management Plan. The Construction Management Plan shall address noise, vibrations, traffic control, parking, debris removal, dust control, sanitary facilities, site safety security and other potential construction impacts, as well as other details involving the means and methods of completing the Project, including the construction route. The City Building Official has the authority to require modifications and amendments to the Construction Management Plan as deemed necessary throughout the course of the Project and until the Final Inspection.

a. Construction Site Control of Stormwater. The California Regional Water Quality Control Board requires all projects that disturb the site to comply with Provision C.6 of the San Francisco Bay

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

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

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

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

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

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

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

The Commission recessed for dinner at 6:30 p.m. and reconvened at 6:55 p.m.

**Variance and
Design Review
333 Scenic Avenue**

The Property Owner is requesting permission to demolish the walled patio in the east side yard and remodel and expand the residence through the following construction: a 66-square-foot main-level kitchen addition on the east side of the house; a 185-square-foot upper-level bedroom addition with adjacent roof deck and guardrails on the west side of the house; window, door, skylight and exterior lighting modifications; and various changes to the interior. Two variances are required in order to construct within the 20-foot setback from the property line along Scenic Avenue and to further exceed the 55% floor area ratio limit.

Written notice was provided to neighbors. **2 affirmative response forms** were received. **Correspondence** was received from: Janet S. Simon; Jill & David Lindenbaum; Tuck & Nancy Coop; and Mary Prisco.

Public testimony was received from:

Greer Graff, Project Architect, described the project and explained the need for the variances. He explained that a setback variance is required because of a triangular piece of the roof that extends slightly into the setback. He stated that although they are willing to pull this portion of the project back one foot to be out of the setback, the variance is being proposed to keep the roof in line with the existing roof, which also extends slightly into the setback. This variance is being requested for architectural and water-proofing reasons. Mr. Graff explained that the location of the proposed deck railing also requires a setback variance, but is in line with the existing building walls. He explained that two railing designs have been presented for consideration—a solid railing option, which will preserve privacy, but have a greater impact on views, and an open railing option that will help to preserve the view, but limit privacy. Either option is acceptable to the applicants. Mr. Graff explained that the second variance is for floor area ratio (FAR) and is being requested so that all the bedrooms can be on the same floor, instead of being separated by two floors. He stated that the addition impacts the neighbor's view by seven degrees through their kitchen window, which is not their primary view and is already partially obscured by trees and a chimney.

Alessandra Lanzara, the homeowner, explained that they are requesting an addition to their home because the current configuration is not good for their family. She explained that the first goal of the project is to address the well-being of her children. Her two young children are currently sharing the second bedroom on the upper floor, but her younger son, who has asthma, needs his own room. Ms. Lanzara explained that the second goal of the project is to create a space for her and her husband to work from home, and that the third goal is to improve privacy. She stated that the neighbor's kitchen window, which has been enlarged, now looks into their bedroom.

Yoav Banin, the homeowner, explained that the proposal reinstates a deck that used to exist on the second floor, above the living room. According to old plans, the preexisting deck included a solid fence between the two properties, for

privacy. Mr. Banin said that prior to purchasing the property, they were told by their real estate agent that they could rebuild the deck. He said that they then discussed their plans with someone in the Planning Department, who said that it could probably be rebuilt. Mr. Banin outlined the steps they took to reach out to neighbors, including meeting with the Coops multiple times, modifying their plans to address the Coops' concerns, and offering two railing options for the deck. He described the Coops' view from their kitchen window to be a secondary view that is partially obstructed by a tree and a chimney.

Nancy Coop, the neighbor at 111 Alta Avenue, addressed her concern for the project, stating that the City Code does not support the variances proposed and that the proposed project contributes to a loss of light, view and privacy for her house. She stated that the house at 333 Scenic Avenue already surpasses the allowable FAR, and that granting a variance that suits this owner's personal needs is not in the best interest of the City. She added that the FAR is designed to limit the bulk of a building and that the proposed bulk is not compatible with the surrounding neighborhood. Mrs. Coop stated that the house at 333 Scenic Avenue already has 3 bedrooms and 2 outdoor areas, so there is no unreasonable hardship caused in denying the plan. She added that the proposal will significantly impact her privacy and views. She explained the process she went through to remodel her own home, indicating that all improvements were done with approvals by the Planning Department and that the neighbors were in support of the changes. She summarized by stating that the plan stands to unfairly benefit one homeowner while negatively impacting another. When asked whether she would support one deck railing over another, Mrs. Coop said that she could not support either deck railing, and that she had no knowledge of the preexisting deck when she purchased her home. She said that she could support the proposed kitchen addition on the main floor. Upon questioning by Commissioner Simpson, Ms. Tuck confirmed that she has expansive west-facing views of the Bay from her dining room, living room, master bedroom, and secondary bedroom; that when she bought the house she knew it was in an urban area with the house at 333 Scenic Avenue approximately 7 feet from hers; that the view south from her home is across the roof and property of the applicants; that she does not own air rights to the applicants' property; that she now understands that historically the applicants house had a roof deck but that the deck has not been there the entire time she has lived in her house; that the proposed bedroom has no north-facing windows so as to respect the Coops privacy; that the metal cable railing for the roof deck would minimize light and view impacts but would adversely affect privacy; that her kitchen windows were installed after they moved into the house; that the applicants had conversations with her and her husband about the project before the application was submitted to the City; that her primary living areas are the living room, dining room, master bedroom and kitchen; and that the size, steep slope and pie shape of the applicants' property makes it difficult to expand their residence or build upwards and that these characteristics also apply to the Coop property.

John Chalik, the neighbor at 332 Scenic Avenue, read a letter from Tuck Coop, the homeowner of 111 Alta Avenue who could not attend the meeting. According to Mr. Coop's letter, in the fourteen years that he has lived on the property, there has never been a roof deck at 333 Scenic Avenue. Mr. Coop's letter described the remodel at his own home, which included new windows to improve the views. He stated that the proposed project will have a significant impact on the light and views from those windows and will make it impossible for the neighbors to not look directly into their house. He added that a person standing on the proposed deck could look directly into their house. Mr. Coop's

letter concluded by stating that the project would enhance the value of the applicant's house while decreasing the value of his house. Speaking for himself, Mr. Chalik questioned what the point of the FAR rule is if a project like this can be approved. He concluded by stating that the job of the Planning Commission is not to consider the specific needs of an individual family at a given moment, but to look further ahead on the impact to future owners.

The Commission was divided in its support of the project. Commissioner Simpson was supportive of the proposal in its entirety, stating that it was unfair to deprive the applicants the ability to add to their home, and pointing out that the Coops' main view, which was from the front of their house, was not impacted. She was open to the idea of reducing the size of the bedroom addition on the second floor, but was not in support of eliminating the roof deck. The remaining commissioners were in agreement, stating that the project was difficult to support, because of its need for an FAR variance, its substantial bulk, and its impact on the adjacent neighbor. They were sympathetic of the family's needs and desire to expand, but noted that a variance cannot be granted on the personal hardships of the property owner. They acknowledged that the property is unusual in its shape and steep slope, but could not support the FAR variance because of the significant impact on the adjacent neighbor and the neighborhood as a whole. They discussed options for instead creating additional space in the basement including beneath the existing kitchen patio, which would not add to the bulk of the house. The commissioners approved a motion to bring Mr. Graff, the Project Architect, back to the podium to discuss the idea of expanding the lower floor. Mr. Graff explained that the lower floor, which is contained in the earth and only has window access at the front, could not be adequately expanded. The commissioners expressed support for additional options for expansion, even those that might require an FAR variance, but only if the impact on the neighbors was significantly reduced. The commissioners expressed support for the proposed kitchen addition, due to its minimal size, functionality, and low impact on the adjacent neighbors, but could not support the application as a whole.

Resolution 282-V-14

WHEREAS, the Property Owner is requesting permission to demolish the walled patio in the east side yard and remodel and expand the residence through the following construction: a 66-square-foot main-level kitchen addition on the east side of the house; a 185-square-foot upper-level bedroom addition with adjacent roof deck and guardrails on the west side of the house; window, door, skylight and exterior lighting modifications; and various changes to the interior located at 333 Scenic Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary in order to construct within the 20-foot setback from the property line along Scenic Avenue and to further exceed the 55% floor area ratio limit; and

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

1. The underlying lot and existing improvements present unusual physical circumstances, in that the lot is pie-shaped and has a long curved side facing the

street, which limits development; and the existing development already exceeds the allowable floor area ratio (FAR), so any proposed addition to the house also exceeds the FAR and have adverse impact on neighboring properties.

2. The variances are not compatible with the immediately surrounding neighborhood and the public welfare, because the bulk and volume of the development would not be compatible with its siting in the neighborhood, and because there are significant impacts to the neighbor's light and view.

3. Accomplishing the improvement without variance would not cause unreasonable hardship in planning, design, or construction, because the house already has three bedrooms and three bathrooms and substantial living space. Denying the variance will not restrict this property from being used in the same manner as other properties in the neighborhood.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies, without prejudice, the current variance application for proposed construction at 333 Scenic Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City. Moved by Zhang, Seconded by Chase

Ayes: Behrens, Chase, Ode, Zhang

Noes: Simpson

Absent: Theophilos

Resolution 282-DR-14

WHEREAS, the Property Owner is requesting permission to demolish the walled patio in the east side yard and remodel and expand the residence through the following construction: a 66-square-foot main-level kitchen addition on the east side of the house; a 185-square-foot upper-level bedroom addition with adjacent roof deck and guardrails on the west side of the house; window, door, skylight and exterior lighting modifications; and various changes to the interior located at 333 Scenic Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission finds that the currently proposed design does not conform with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. The exterior design elements are aesthetically pleasing as a whole, but are not harmonious with existing and proposed neighborhood development, because the proposed addition is too close to the adjacent neighbor and impacts the privacy and views of the neighbor, despite the applicants efforts to reduce these impacts.

2. The design is not appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because the size and height of the addition impacts the views and privacy of the neighbor.

3. The size and height of the addition is not commensurate with the size of the lot because the house is already over the floor area ratio limit and within the setback.

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

5. The project does not comply 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 denies, without prejudice, the currently proposed design review application for proposed construction at 333 Scenic Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Zhang, Seconded by Behrens

Ayes: Behrens, Chase, Ode, Zhang

Noes: Simpson

Absent: Theophilos

**Design Review and
Fence Design Review
1250 Grand Avenue**

The Property Owner is requesting permission to construct a new approximately 7 foot 4 inch high fence with arbor atop, and pedestrian gate along Grand Avenue; construct new approximately 4 foot high fences along the north and south property lines; construct a new approximately 8 foot 6 inch high pergola at the front of the property; construct a new approximately 4 foot 8 inch high motorized gate with approximately 5 foot high columns at the front driveway; and add exterior lighting.

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

Public testimony was received from:

Miguel De Avila, homeowner, explained that him and his wife recently purchased the home, and that it previously housed the Ann Martin Center. They have the challenge of being the first family to live in the house in decades and the challenge of reconciling its residential use with the surrounding neighborhood. He described the location of the house as being across from both the Kehilla Synagogue and Ace Hardware, and having qualities of a corner lot. Mr. De Avila discussed the privacy and security concerns they have due to the house's location, and stated their desire to separate their home from the non-residential activities and vehicular traffic surrounding it. Mr. De Avila said that they looked into using vegetation to solve the problem, but that it was not adequate for their needs.

Maria Morga, homeowner, understands that the Commission does not want to create a precedent for all properties to construct a fence at the front of their property, but she stated that their situation is unique and stressed that a fence is needed to address their safety concerns.

Chris Ford, the Project Landscape Architect, described the physical aspects of the design, and he explained that the design provides privacy and screening and is aesthetically pleasing and consistent with the existing house and the neighborhood.

The Commissioners supported approval of the project and complimented the applicants on the project design. They stated that the project enhanced the design of the house and does not appear like a massive barricade, and they commended the applicants on converting the old school into a residence, which

was a benefit to the community. Commissioner Chase disclosed that he met with the applicants and Project Landscape Architect prior to the applicants' design review submittal to discuss their concerns and preview the preliminary design. The Commissioners agreed that, although it is not typical to approve a large fence in the front yard, the fence is warranted on this property for reasons of security, privacy, and safety.

Resolution 306-DR-14

WHEREAS, the Property Owner is requesting permission to construct a new approximately 7 foot 4 inch high fence with arbor atop, and pedestrian gate along Grand Avenue; construct new approximately 4 foot high fences along the north and south property lines; construct a new approximately 8 foot 6 inch high pergola at the front of the property; construct a new approximately 4 foot 8 inch high motorized gate with approximately 5 foot high columns at the front driveway; and add exterior lighting located at 1250 Grand Avenue, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development, in that the design and fenestration of the pergola, fence and gates match the Craftsman style of the house, and the proposed planting is consistent with the existing planting.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because it will have no impact on those issues for the neighbors. There are also fences similar in design in the neighborhood.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, because it will improve the applicants' safety and security as they enter and exit the property.
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), V-1, V-2, V-3, V-4, V-5, V-5(a) through (c), V-6, V-7, V-8, V-9, V-10, and V-11.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for proposed construction at 1250 Grand 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.** Proposed fences, gates, and pergola, including footings, are required to be located entirely within the property lines of 1250 Grand Avenue. At the discretion of the Building Official, a licensed land surveyor or civil engineer shall be required to verify and mark the locations of the north, south, and west property lines at the time of foundation and/or frame inspection to verify the approved setback dimension measured to the proposed construction. In lieu of surveying the north property line, the property owner may submit a Fence Location Agreement with the adjacent neighbor at 4 Fairview Avenue with approval by the Building Official.

3. **Driveway Gate.** The new driveway gate shall be electrically operated.

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

**Design Review
11 Muir Avenue**

The Property Owner is requesting permission to make modifications to previously approved plans including constructing a new elevated pool deck and spa; modifications to the design of the guardrails and handrails; the expansion of the previously approved pool shed; a new driveway gate; modifications to hardscape; and the addition of new windows at the north side of the house.

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

Public testimony was received from:

Reid Settlemier described the project, which includes changing the location of the previously approved spa, expanding the pool shed, and refining other design elements.

The Commissioners supported approval of the project, stating that the changes are minor, that they are in line with the overall project, and that they appear to have little impact on the neighbors.

Resolution 314-DR-14

WHEREAS, the Property Owner is requesting permission to make modifications to previously approved plans including constructing a new elevated pool deck and spa; modifications to the design of the guardrails and handrails; the expansion of the previously approved pool shed; a new driveway gate; modifications to hardscape; and the addition of new windows at the north side of the house located at 11 Muir Avenue, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development, in that the proposal is consistent with the prior approved plans, the changes are minor, and the changes do not interfere with the bulk or the height of the previously approved design.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because the proposed changes do not affect the neighbors.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected.
4. The project complies with Design Review Guidelines II-1, II-2, II-3, II-3(a) through (d), II-4, II-5, II-5(a), II-6 (a) through (c), II-7, II-7(a), V-3, and V-5.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for proposed construction at 11 Muir 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.

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 Site Security, if one is required, in order to complete the benchmark. The Director of Public Works has the option to refer the application to the Planning Commission for public review.

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

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

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

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

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

7. **Property Line Location.** A licensed land surveyor may 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 that any new construction is constructed completely on the property at 11 Muir Avenue.

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. **Driveway Gate.** The driveway gate shall be mechanically operable. If design modifications are required to accomplish this, those modifications shall be subject to staff review.

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

**Variance,
Design Review &
Second Unit Permit
127 Wildwood Gardens**

The Property Owner is requesting permission to construct a two-story, 700 square foot, one-bedroom second unit with a garage parking space toward the rear of the property at the end of the existing auto court. A variance is required because the existing four bedroom house does not have conforming parking.

Written notice was provided to neighbors. **1 affirmative, and 1 negative response forms** were received. No correspondence was received.

Public testimony was received from:

David Hobstetter, the homeowner and Project Architect, stated that the site is ideal for providing moderately-priced housing with minimal impact to the neighbors. He explained the need for a parking variance, which is due to a lack of conforming parking for the existing house. He stated that the existing house has never had conforming parking and that parking is not an issue on the property. Mr. Hobstetter discussed the design of the proposed two-story structure, which was designed to nestle into the hillside and is meant to fit with the existing house. Lastly, he discussed the options for the roof of the proposed structure and clarified that he is requesting approval for two options—a flat green roof and a hipped composite roof. His preference is for the green roof, but since he is unsure that the green roof will be a viable option due to a nearby redwood tree, he is also asking for approval of a hipped composite roof.

The Commissioners supported approval of the project, stating that the design of the project is elegant and thoughtful. They supported approval of both roof options, but expressed a desire for the green roof to be implemented, if possible. The Commissioners supported the variance request, especially given the legislative intent language of the Code in Section 17.22.4 that allows for accommodating unique circumstances in situations where the parking is not visible from the street. Lastly, the Commissioners commended the applicant on adding additional housing.

Resolution 315-V/DR-14

WHEREAS, the Property Owner is requesting permission to construct a two-story, 700 square foot, one-bedroom second unit with a garage parking space toward the rear of the property at the end of the existing auto court located at 127 Wildwood Gardens, Piedmont, California, which construction requires design review; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary because the existing four bedroom house does not have 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 makes the following findings:

1. The project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e).
2. The underlying lot and existing improvements present unusual physical circumstances including but not limited to: the proposed parking configuration for the main house has been in existence since the construction of the house in 1924; the second unit has its own parking space; and there is adequate parking in the existing auto court, noting that the project complies with Section 17.22.4(a)(5) of the Piedmont City Code, which allows for the accommodation of unique existing parking circumstances, such as not requiring the addition of covered parking spaces on large lots, where there is additional uncovered parking that is not highly visible from the street.
3. The variance is compatible with the immediately surrounding neighborhood and the public welfare as follows: most homes in this area in fact park one car in the garage and leave one on the street or in the driveway.

4. The underlying lot and existing improvements present unusual physical circumstances including but not limited to: the existing home is historic and modifying the plan would require the modification and demolition of substantial historic fabric.
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, in that the proposed structure matches the existing house, has an elegant design, and steps down the hill. The green roof will be aesthetically pleasing, if feasible, and the composite roof will also be attractive and in keeping with the existing house.
7. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because the proposed structure has been designed to minimize view and light impacts on neighbors. The size and height of the structure is commensurate with the size of the lot and in keeping with the neighborhood development pattern, because it steps down the hill.
8. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, because there will be new parking for the new structure and there is adequate parking for the existing house.
9. 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 variance and design review application for proposed construction at 127 Wildwood Gardens, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Second Unit Declaration.** In compliance with §17.40.6.g, prior to the issuance of a building permit, the completed, signed and notarized *Declaration of Restrictions - Property with Approved Second Dwelling Unit* form shall be recorded.

2. **Approved Plan Set.** The approved plans are those submitted on October 28, 2014 after notices to neighbors were mailed and the application was available for public review.

3. **Lake or Streambed Alteration Program.** Given the proposed project's proximity to Trestle Glen Creek, the project may require a Streambed Alteration Agreement from the California Department of Fish and Game (CDFG). Therefore, it is the applicants' responsibility to be in compliance with the CDFG Lake or Streambed Alteration Program. The Fish and Game Code (Section 1602) requires the CDFG to be notified by the person or entity that proposes an activity that will: substantially divert or obstruct the natural flow of any river, stream or lake; substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake; or deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake. Should the project NOT require CDFG notification, the applicants shall submit to the City:

- Prior to the issuance of a building permit, a written statement from a qualified California Environmental Professional that states that the project does not meet the criteria that requires notification of the CDFG per Fish and Game Code section 1602; and
- Immediately prior to the project's Final Inspection, a report from the qualified California Environmental Professional that certifies that the streambed has not been altered at any time during the project construction per the criteria noted in Fish and Game Code section 1602.

Should the project require CDFG notification, the applicants shall submit to the City a copy of the Lake or Streambed Alteration Notification form within 7 days of its submittal to the CDFG, plus, within 7 days of its receipt from the CDFG, one of the following two items as verification of compliance with the Lake or Streambed Alteration Program:

- a. A written statement from the CDFG indicating that it has declined to issue a Streambed Alteration Agreement in response to the applicant's Streambed Alteration Agreement application, but will allow the applicant to implement the project as described in the application with no alterations to the project description; or
- b. A copy of the CDFG's approval of the applicant's Streambed Alteration Agreement for the project.

Information on the CDFG Lake or Streambed Alteration Program can be found at <http://www.dfg.ca.gov/habcon/1600/>.

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

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

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

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

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

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

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

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. **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.

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 may be required by the Building Department to verify and mark the location of the north, east, west and south property lines at the time of foundation and/or frame inspection to verify the approved setback dimension measured to the new construction.

10. **Fire Sprinkler.** The new building must be fire sprinkled.

11. **Roof Design.** The new structure housing the secondary unit may be constructed with one of the following two proposed roof designs: the sloped roof with composite shingles or the flat green vegetated roof.

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

**Design Review
12 Nellie Avenue**

The Property Owner is requesting permission to construct a two-story addition at the rear of the house to enlarge the kitchen, dining and living areas on the main level and a bedroom and playroom on the lower level. Also proposed are new windows throughout the house, wooden stairs from the lower level to the rear yard, and exterior lighting.

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

Public testimony was received from:

Lincoln Chu, the homeowner, explained the rear addition and other improvements throughout the house. When asked whether he had plans for landscape improvements, Mr. Chu said that, although there are no set plans, they are hoping to approach the landscape following this project.

Sudthita Cheunkarndee, the Project Architect, described the project as a small addition that impacts the functionality of the home immensely. She added that there is no change to the roof height. When asked about the fiberglass windows, she explained that new aluminum windows would not qualify for the 2013 energy code. The proposed fiberglass windows have a petite profile similar to that of the existing aluminum windows and qualify for the energy code.

The Commissioners supported approval of the project, stating that the project dramatically increases the utility of the house. They also pointed out that the rear addition will have no impact on the neighbors.

Resolution 316-DR-14

WHEREAS, the Property Owner is requesting permission to construct a two-story addition at the rear of the house to enlarge the kitchen, dining and living areas on the main level and a bedroom and playroom on the lower level. Also proposed are new windows throughout the house, wooden stairs from the lower level to the rear yard, and exterior lighting located at 12 Nellie 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 there is no change to the footprint or architectural style of the house. The distance between the addition and the neighboring properties is reasonable based on the existing topography and neighborhood development pattern.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because the height and size of the roof has not changed.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, because there is no change to the existing footprint of the structure.
4. The project complies with Design Review Guidelines II-1, II-2, II-3, II-3(a) through (d), II-5, II-7, and II-7(a).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for proposed construction at 12 Nellie 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 October 29, 2014 after notices to neighbors were mailed and the application was available for public review.

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

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

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

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

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

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

i. Completion of Excavation;

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

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

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

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

**Fence Design Review
534 Boulevard Way**

The Property Owner is requesting permission to construct a new fence at the rear of the property off of Sylvan Way.

Written notice was provided to neighbors. **5 affirmative response forms** were received.

Public testimony was received from:

Richard Freeman, the homeowner, explained that he is proposing to reconstitute part of an old fence at the rear of his property. He stated that when he cleaned overgrowth from the yard, he created an enormous opening. He explained that a retaining wall is also proposed to keep the dirt off Sylvan Way. Lastly, Mr. Freeman said that a survey was completed after the application was submitted.

The Commissioners supported approval of the project, stating that a fence would be an improvement. They discussed concern over the dirt that was obscuring the red emergency no-parking line on Sylvan Way. Assistant Planner Jennifer

Gavin reported that the Fire Department found the proposal to be satisfactory, but that the street needed to be cleaned of dirt and that the red line needed to be reestablished.

Resolution 318-DR-14

WHEREAS, the Property Owner is requesting permission to construct a new fence at the rear of the property off of Sylvan Way located at 534 Boulevard Way, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development, in that the proposed dog-eared picket fence matches a fence across the street and is consistent with those in the neighborhood; and that the retaining wall will improve the condition of dirt in the street.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because there will be no impact.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, because the proposed project should increase safety in the area once the dirt is cleaned up, the red line is reestablished, and the retaining wall is constructed.
4. The project complies with Design Review Guidelines V-1, V-2, V-3, V-4, V-5, V-5(a) through (c), V-6, V-7, V-8, V-9, V-10, and V-11.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for proposed construction at 534 Boulevard Way, 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 or Civil Engineer shall be required to verify and mark the location of the north and east property lines at the time of foundation and/or frame inspection to verify the new retaining wall and fence are built entirely on the property of 534 Boulevard Way.

3. **City Facilities Security.** The Property Owner shall provide a specific cash deposit, letter of credit, bank guarantee, or other similar financial vehicle (“City Facilities Security”) in the amount of \$1,000 or as established by the Fire Chief and Director of Public Works. This financial vehicle serves as an initial sum to cover the cost of any potential damage to City property or facilities as it relates to Fire Department markings or signage caused by Property Owner, Property Owner’s contractors or subcontractors, or any of their agents, employees or assigns, and related in any way to the Project. The Property Owner is responsible for the full cost of repair as determined by the City Engineer prior to final inspections. The form and terms of such City Facilities Security shall be determined by the Fire Chief and Director of Public Works after consultation with the Property Owner.

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.

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

ADJOURNMENT

There being no further business, Chairman Ode adjourned the meeting at 9:25 p.m.