

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, October 13, 2014

A Regular Session of the Piedmont Planning Commission was held October 13, 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 September 29, 2014.

CALL TO ORDER

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

ROLL CALL

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

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

City Council Liaison: Councilmember Tim Rood

CONSENT CALENDAR

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

- 345 El Cerrito Avenue (Design Review)
- 551 Blair Avenue(Variance)
- 141 Bell Avenue (Design Review and Fence Design Review)
- 330 San Carlos Avenue (Variance and Design Review)
- 133 Park Way (Second Unit with Parking Exception)
- 538 Blair Avenue (Variance and Design Review)
- 29 Lake Avenue (Exempt Second Unit Permit)
- 304 Pala Avenue (Fence Design Review)
- 940 Rose Avenue (Variance and Design Review)
- 311 Sheridan Avenue (Design Review)

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

Design Review 345 El Cerrito Avenue

The Applicants are requesting design review for retroactive approval of a sports court at the rear of their property off of San Carlos Avenue.

Written notice was provided to neighbors. **Three affirmative response forms were recieved.**

Resolution 146-DR-14

WHEREAS, the Property Owner is requesting retroactive approval for the construction of a sports court at the rear of the property off of San Carlos Avenue located at 345 El Cerrito 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:

- (a) Projects generally subject to design review pursuant to Section 17.20.9.
1. The exterior design elements (including but not limited to height, bulk, area openings, breaks in the facade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that: The Sports Court is a secondary structure at the back corner and is higher than 12 inches and has been in place for 10 years and it looks great and works well with the property.
 2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because: There is no impact.
 3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because: There is no impact.
 4. The project complies with Design Review Guidelines: II-1, II-2, and II-3.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for construction at 345 El Cerrito Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following condition:

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

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

Moved by Simpson, Seconded by Zhang

Ayes: Behrens, Chase, Simpson, Theophilos, Zhang

Noes: None

Absent: Ode

Variance
551 Blair Avenue

The Applicant is requesting variance to add a bathroom to the lower level of the residence, thereby creating a room eligible for use as a bedroom. The requested variance is from Section 17.16 of the City Code to allow the addition of a room

eligible for use as a bedroom to a residence with two covered parking spaces each measuring 9' by 19'5" in lieu of the code required minimum dimension of 9 ft. by 20 ft.

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

Resolution 243-V-14

WHEREAS, the Property Owner is requesting permission to add a bathroom to the lower level thereby creating a room eligible for use as a bedroom located at 551 Blair Avenue, Piedmont, California, which construction requires variance; and

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

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

The Piedmont Planning Commission makes the following findings:

1. The underlying lot and existing improvements present unusual physical circumstances including but not limited to: The existing lot is unusual and pie-shaped, which makes it difficult to provide conforming parking. The existing two-car garage is 19 feet 5 inches deep, which is only a few inches short of the required 20 feet depth. The house was built prior to current Piedmont standards and similar variances in the neighborhood have been previously approved by the Commission.
2. The variance is compatible with the immediately surrounding neighborhood and the public welfare as follows: There are no exterior changes.
3. Accomplishing the improvements without a variance would cause unreasonable hardship in planning, design or construction as follows: Extension of the garage to the front would require a variance for a front yard setback. Extension at the rear would require relocation of the existing stairway, which creates a structural hardship.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application for construction at 551 Blair Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

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. **Notice of Restricted Use.** The "storage" space does not meet habitation or safety requirements of the Piedmont Municipal Code. A notice of restricted use shall be recorded with the Alameda County Recorder's office advising current and future owners that the space does not meet the safety codes for habitation purposes.

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

Moved by Zhang, Seconded by Simpson

Ayes: Behrens, Chase, Simpson, Theophilos, Zhang

Noes: None

Absent: Ode

**Design Review and
Fence Design Review
141 Bell Avenue**

The Applicants are requesting design review and fence design review to make various front yard improvements including demolishing existing retaining walls and constructing new retaining walls; enlarging the driveway; constructing on-grade stairs with new handrails and other hardscape modifications; and adding exterior lighting.

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

Resolution 248-DR-14

WHEREAS, the Property Owner is requesting permission to make various front yard improvements including demolishing existing retaining walls and constructing new retaining walls; enlarging the driveway; constructing on-grade stairs with new handrails and other hardscape modifications; and adding exterior lighting located at 141 Bell 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:

(a) Projects generally subject to design review pursuant to Section 17.20.9.

1. The exterior design elements (including but not limited to height, bulk, area openings, breaks in the facade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment) are aesthetically pleasing as and harmonious with existing and proposed neighborhood development in that: The retaining walls and steps are designed to sit harmoniously on the sloped grades and composed to mimic the stepping in and staggering lines of the architectural lines of the house. The height, scale and massing of such materials are similar to those seen 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 proposed design will not adversely affect existing views, privacy and access to direct and indirect light of neighbors.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because: The proposed design will improve the safety of residents, pedestrians and vehicular occupants by providing a direct sightline while maneuvering a vehicle from the garage to Bell Avenue.
4. The project complies with Design Review Guidelines: II-1, II-2, II-3(a), II-3(b), II-4, II-5, II-5(a), II-6, II-6(a), II-6(b), II-6(c), II-7, II-7(a), IV-1, IV-1(a and b), IV-2, IV-2(a), IV-3, IV-3(a), IV-4, IV-4(a), IV-5, IV-5(a) and IV-6.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for construction at 141 Bell 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. **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.
4. **Retaining Wall Location.** The new retaining walls, including all footings, shall be located completely within the applicants' property. At the discretion of the Building Department, a licensed land surveyor shall be required to verify and mark the location of the south property line at the time of foundation inspection to verify that the approved construction is completely on

the property at 141 Bell Avenue. In lieu of a survey, the applicant may submit a Retaining Wall Location Agreement with the adjacent neighbor at 153 Bell Avenue for the proposed retaining wall along the south property line.

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

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

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

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

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

b. Before the Project begins, the Director of Public Works shall make a determination as to the reasonableness of the proposed completion

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

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

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

Moved by Chase, Seconded by Simpson

Ayes: Chase, Behrens, Simpson, Theophilos, Zhang

Noes: None

Absent: Ode

**Variance and Design
Review
330 San Carlos Avenue**

The Applicants are requesting variance and design review to add a room eligible for use as a bedroom at the existing basement level; replace existing aluminum siding with wood shingle siding and add wood trim to match the remainder of the house; and make various window and door modifications. The requested variance is from Section 17.16 of the code to allow the addition of room eligible for use as a bedroom to a residence with two covered parking spaces each measuring 8' by 17'6" in lieu of the code required minimum dimension of 9 ft. by 20 ft.

Written notice was provided to neighbors. **No response forms were received.**

Resolution 272-V/DR-14

WHEREAS, the applicants request Variance and Design Review to add a room eligible for use as a bedroom at the existing basement level without supplying conforming parking; replace existing aluminum siding with wood shingle siding and add wood trim to match the remainder of the house; and make various window and door modifications.

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, 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; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary in order to add a room eligible for use as a bedroom without supplying conforming parking is approved because it complies with variance criteria under Section 17.21.6 as follows:

Variance Findings:

1. The underlying lot and existing improvements present unusual physical circumstances including but not limited to: The existing garage is located at the end of a long narrow driveway, which runs between the property line and the length of the north side of the house. The existing garage is only accessible by one car and there's limited space to maneuver a car in and out of the garage and turn around. Therefore, increasing the size of the garage would not provide adequate access to a second parking space. Also, due to the steep upslope of the lot, it would not be feasible to add an additional parking space.
2. The variance is compatible with the immediately surrounding neighborhood and the public welfare as follows: Very few of the neighboring uphill homes along San Carlos Avenue have two covered parking spaces due to the topography. The residence has three on-street parking spaces that could be used for additional parking. On-street parking in the neighborhood is adequate because the property is not located near any schools or the Civic Center.
3. Accomplishing the improvements without a variance would cause unreasonable hardship in planning, design or construction as follows: Due to the unusual slope of the lot and the location of existing structures, there is no reasonable location to place a garage.

Design Review Findings:

- (a) Projects generally subject to design review pursuant to Section 17.20.9.
 1. The exterior design elements (including but not limited to height, bulk, area openings, breaks in the facade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that: The existing aluminum siding will be removed and replaced with wood shingle siding, which is consistent with the design of the original house. The bedroom at the lower level will have consistent windows with the remaining house and will not look tacked on.
 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 effect because the new bedroom is located at the bottom level of the house.
 3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because: Not having

to add a garage to the house improves safety because of the difficulty of maneuvering in and out of the existing driveway.

4. The project complies with Design Review Guidelines: II-1, II-2, II-3(a), II-3(b), II-3(c), II-6, and II-6(a), II-6(b), and II-6(c)

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review application for construction at 330 San Carlos Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **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.
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. **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. **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.
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. **Garage Door:** The garage door shall be electronically operated. If design modifications are required to accomplish this, those modifications shall be subject to staff review.

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

Moved by Behrens, Seconded by Zhang

Ayes: Behrens, Chase, Simpson, Theophilos, Zhang

Noes: None

Absent: Ode

**Second Unit with
Parking Exception
133 Park Way**

The Applicants are requesting a second unit permit to construct a new 330 sq. ft. second unit within the existing basement family room area, with access via an existing walkway from Ramona Avenue. A parking exception for this very low income unit is being requested. No exterior alterations are proposed.

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

Resolution 273-SU-14

WHEREAS, the Property Owner is requesting permission to construct a new 330 sq. ft. second unit within the existing basement family room area, with

access via an existing walkway from Ramona Avenue located at 133 Park Way, Piedmont, California, which construction requires a second unit permit with parking exception; and

WHEREAS, a parking exception is requested pursuant to Section 17.40.7 (c) (ii) for a very low income second unit without on-site parking; and

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

Parking Exception Findings:

1. There is sufficient street parking available to accommodate the parking exception and it is located within 1/3 mile of a public transit stop; and
2. The exception will not negatively impact traffic safety and emergency vehicle access to the residences or create hazards by obstructing views or adjoining side yards because it will have no impact on those items.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the second unit permit with parking exception application for construction at 133 Park Way, 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. **Declaration of Rent Restriction.** In compliance with §17.40.7.c.3.i.a., a *Declaration of Rent Restriction* (in a form provided by the City) shall be recorded stating that the unit is rent-restricted as a very low income unit. The rent-restriction shall be recorded in the County Recorder's Office, and shall remain in effect for ten years. The ten-year period of rent restriction begins either: (a) on the date of recordation or date of final building inspection, whichever is later; or (b) according to the terms of the conditions of approval or a recorded declaration. If, after ten years, the termination of the recorded declaration is not automatic (by its terms), the City shall record a document terminating the declaration of rent restrictions, upon the written request of the property owner.
3. **Affordable Rent Certification.** In compliance with §17.40.7.c.3.i.b, prior to the occupancy of the rent-restricted unit, an owner who has executed a Declaration of Rent Restriction shall submit to the City a *Second Unit Affordable Rent Certification* (in a form provided by the City), and thereafter (i) on an annual basis, by each December 31 and as part of the annual City business license application and renewal; and (ii) upon any change in occupancy of the second unit. The second unit affordable rent certification shall be on a form provided by the City and shall specify whether or not the second unit is being occupied; the rent charged; the utilities that are included in the cost of rent; the

gross household income of the second unit household; and other information as determined appropriate by the City.

4. **Building Code Compliance.** The building Official shall make an inspection of the unit to determine compliance with the current Building Code, and with any other building requirements determined by the Piedmont Building Official to be related to the safety of occupants. All Building Code requirements for habitation as a second unit must be met. Related modifications to the exterior, if any, shall be subject to Administrative Design Review.

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

6. **Approved Plan Set.** The approved plans are those submitted on September 9, 2014.

7. **Floor Load.** If the enclosed space above the stair is used for storage, the floor loading shall support 40 lbs./sf live load.

8. **Fire Separation.** The second unit shall have 1 hour fire separation and STV 45 rating between it and the main unit.

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

Moved by Chase, Seconded by Simpson

Ayes: Behrens, Chase, Simpson, Theophilos, Zhang

Noes: None

Absent: Ode

**Exempt Second Unit
Permit
538 Blair Avenue**

The Applicants are requesting variance and design review to demolish the existing rear deck and terrace between the residence and the western property line and re-construct an expanded elevated terrace up to the property line running between the property and a vacant lot also owned by the applicants. The application involves an expansion of basement crawl space and storage below the terrace, window and door modifications on the western and southern elevations, an outdoor grill adjacent to the garage, and new exterior lighting. The requested variances are from: (1) Section 17.10.4 of the code to allow a structure coverage of 42% in lieu of the code permitted maximum of 40%; and (2) Section 17.10.7 to allow the new terrace to extend to the right (southwest) side property line in lieu of the code required minimum of a 4 ft. side yard setback.

Written notice was provided to neighbors. **Three affirmative response forms**

Resolution 274-V/DR-14

WHEREAS, the Property Owner is requesting permission to demolish the existing rear deck and terrace between the residence and the western property line and re-construct an expanded elevated terrace up to the property line running between the property and a vacant lot also owned by the applicants. The application involves an expansion of basement crawl space and storage below the terrace, window and door modifications on the western and southern elevations, an outdoor grill adjacent to the garage, and new exterior lighting located at 538 Blair Avenue, Piedmont, California, which construction requires variance and design review; and

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary in order to construct within the western setback and exceed the maximum structure coverage of the lot; 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).

Variance Criteria and Findings:

The variance from the setback and structure coverage is approved because they comply with the variance criteria under Section 17.21.6 as follow:

1. The underlying lot and existing improvements present unusual physical circumstances including but not limited to: The main lot is pie-shaped and its frontage on Blair Avenue at the wide arc and the two side property lines connect at the rear. Adjacent to the property is a rectangular, vacant lot owned by the applicant which functions as a formal yard of the two lots. The existing home and gardens consist of two legal lots which makes it difficult to construct the deck addition and elevated patio to the property line without a variance.
2. The variance is compatible with the immediately surrounding neighborhood and the public welfare as follows: The proposed improvements are certainly compatible with the surrounding neighborhood and there is no adverse impact on the public welfare. The combined area of the 2 lots is over 14,000 square feet. The proposed deck and improvements are certainly compatible with the surrounding neighborhood and there is no adverse impact on the public welfare.
3. Accomplishing the improvements without a variance would cause unreasonable hardship in planning, design or construction as follows: The only option for developing more outdoor living space on this property that is contiguous with the indoor living spaces is on the southwest face of the existing house. The location dictates that the proposed deck is located outside of the living space and that it extend to the property line. Therefore, there is no other appropriate location for the deck.

Design Review Findings:

- (a) As conditioned the project generally subject to design review pursuant to Section 17.20.9.
1. The proposed improvements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. All proposed building materials and details will match those of the existing house as closely as possible.
 2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because the design has basically no impact on neighboring properties.
 3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because there are no changes to patterns of circulation or points of ingress or egress proposed, therefore there is no adverse impact.
 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), II-6(b and c) and II-7.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review application for construction at 538 Blair 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 September 10, 2014, with modifications made on September 29 and October 1, 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.
3. **Bathroom Fan.** Because the proposed storage room blocks the existing bathroom window, a fan is required for ventilation.
4. **Property Line Location.** A licensed land surveyor shall be required by the Building Department to verify and mark the location of the western property line at the time of foundation and/or frame inspection to verify the approved location of the new construction.
5. **Notice of Restricted Use.** The new storage room under the terrace does not meet habitation or safety requirements of the Piedmont Municipal Code. A notice of restricted use shall be recorded with the Alameda County Recorder's office advising current and future owners that the space does not meet the safety codes for habitation/sleeping purposes.

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

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

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

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

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

b. Before the Project begins, the Director of Public Works shall make a determination as to the reasonableness of the proposed completion

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

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

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

Moved by Zhang, Seconded by Simpson

Ayes: Behrens, Chase, Simpson, Theophilos, Zhang

Noes: None

Absent: Ode

**Exempt Second Unit
29 Lake Avenue**

The Applicants are requesting approval of an exempt second unit permit to legalize a second unit believed to have been constructed prior to 1930.

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

Resolution 278-SU-14

WHEREAS, the Property Owner is requesting legalization of a second unit believed to have been constructed prior to 1930 located at 29 Lake Avenue, Piedmont, California, which construction requires an exempt second unit permit; and

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

1. The project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301 Class 3 (e),

Exempt Second Unit Findings:

1. The property is determined to have an exempt second unit based on sufficient reliable evidence that supports a finding that this property had a

second unit prior to 1930 because on the Sanborn map it shows that the unit was built in 1911. It was modified in 1946 with a permit, but this is the evidence the Planning Commission needs.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves an exempt second unit permit for property at 29 Lake Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following condition:

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.

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

Moved by Simpson, Seconded by Chase

Ayes: Behrens, Chase, Simpson, Theophilus, Zhang

Noes: None

Absent: Ode

**Fence Design Review
304 Pala Avenue**

The Applicants are requesting fence design review to add a new section of fence along the north property line.

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

Resolution 280-DR-14

WHEREAS, the Property Owner is requesting permission to add a new section of fence along the north property line located at 304 Pala 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:

Design Review Findings:

1. The exterior design elements (including but not limited to height, bulk, area openings, breaks in the facade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that: The fence is redwood lattice, 6x6 with posts and caps as layed out in the applicant's drawings.
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, considering the circulation pattern, parking layout and points of ingress and egress because: there will be no impact
4. The project complies with Design Review Guidelines: 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 fence construction at 304 Pala Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

2. **Fence Location.** The new fence, including all footings and posts, shall be located completely within the applicants' property. A licensed land surveyor may be required by the Building Official to verify and mark the location of the left (north) side property line at the time of foundation inspection to verify that the approved construction is completely on the property of 304 Pala Avenue. Alternatively, should the applicants come to an agreement with the adjacent property owners of 306 Pala Avenue, a fence location agreement may be submitted in lieu of the survey.

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

Moved by Chase, Seconded by Simpson

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

**Variance and Design
Review
940 Rose Avenue**

The Applicants are requesting variance and design review to construct a trellis and two-story addition at the rear of the house; make window and door modifications; and add new skylights. The requested variance is from Section 17.10.7 to allow the new eave of the addition to extend to within 2 ft. of the left side property line in lieu of the code required minimum of a 4 ft. side yard setback.

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

Resolution 281-V/DR-14

WHEREAS, the Property Owner is requesting permission to construct a trellis and two-story addition at the rear of the house; make window and door modifications; and add new skylights located at 940 Rose Avenue, Piedmont, California, which construction requires variance and design review; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code are necessary in order to construct within the north (left) side setback; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited 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). The variance is approved because it complies with variance criteria under Section 17.21.6 as follows:

Variance Findings:

1. The underlying lot and existing improvements present unusual physical circumstances including but not limited to: The variance is related to the east wall of the house which has a 10 1/2" intrusion into the setback and the eave over that corner of the house.
2. The variance is compatible with the immediately surrounding neighborhood and the public welfare as follows: There is no impact on the house to the left. I spoke with the neighbor and she said there was no impact. It is compatible with the rest of the neighborhood because all they are doing is pushing the two rooflines back.
3. Accomplishing the improvements without a variance would cause unreasonable hardship in planning, design or construction as follows: This is the only option the applicant can see for creating an appropriate interior space while trying to maintain the initial design intention of the house and to continue the roof lines.

As conditioned the project is approved because it complies with the design review criteria under Section 17.20.9 as follows:

The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. The applicants are extending the house toward the rear slightly and following the exact lines of the house so it looks very nice.

The proposed addition has been designed in a way that reasonably minimizes view and light impacts on the neighboring properties because she spoke with the only neighbor who could potentially have been impacted and she confirmed that she was not impacted. There was no window on the left side of the house that looks in onto her. There is no privacy, no light, no view impact.

The size and height of the addition is commensurate with the size of the lot and in keeping with the existing neighborhood development pattern because it is just pushing the back of the house back.

There is no impact on the safety of residents, pedestrians, or vehicle occupants. As conditioned, the application complies with the following Design Guidelines: II-1, II-2, II-3 and comments, II-4 except there is no garage impacted and no deck, II-6, and II-7.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review application for construction at 940 Rose Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

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

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

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

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

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

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

4. **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 and subcontractors 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 shall be required by the Building Department 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 construction.

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

Moved by Simpson, Seconded by Chase

Ayes: Behrens, Chase, Simpson, Theophilos, Zhang

Noes: None

Absent: Ode

Recused: Vice Chair Theophilos recused himself from participating in the 311 Sheridan Avenue hearing, and left the room.

**Design Review
311 Sheridan Avenue**

The Applicants are requesting design review to construct an approximate 64 sq. ft. addition to the upper level of the front of the house and make several window, door and exterior lighting modifications throughout the house.

Written notice was provided to neighbors. **One affirmative response form was received. Correspondence was received from: Ron Heckman and Valerie Fahey.**

Resolution 283-DR-14

WHEREAS, the Property Owner is requesting permission to construct an approximate 64 sq. ft. addition to the upper level of the front of the house and make several window, door and exterior lighting modifications throughout the house located at 311 Sheridan 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:

Design Review Findings:

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements include but are not limited to: height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of

structures on the parcel, and concealment of mechanical and electrical equipment. The distance between the proposed upper level addition/expansion or new multi-level structure and adjacent residences is reasonable and appropriate due to the existing topography and neighborhood development pattern. Upper level setbacks greater than the setbacks required for the lower level have been considered and are/are not necessary to reduce losses of ambient and reflected light because: The proposed addition matches the existing architectural design elements found in the existing Mediterranean Revival Style of the house. The proposed roof is to match the existing roof in materials, finish, color, gutter profile, pitch and overhang. The windows of the proposed addition are a combination of fixed arched and casement that matches existing window styles. The window updates at the rear and sides of the house will also be a combination of double-hung and casement that match existing window styles. Color, material, proportion, and divided light patterns of proposed windows and doors are to match the existing windows and doors. The exterior finish of the addition is to match the existing cement plaster finish in color and texture.

2. The proposed upper level addition/expansion or new multi-level structure/expansion has been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.77), including consideration of the location of the new construction, lowering the height of the addition, expansions within the existing building envelope (with or without excavation), lower level excavation for new multi-level structures, and/or changing the roof slope or ridge direction because: The maximum height of the proposed addition is below the adjacent existing roof ridge line heights. The exterior walls are set back from adjacent existing perimeter walls and also set within the building envelope. The proposed addition should not visibly extend past any existing outline of the house or create any light or view impacts on neighboring properties.
3. The size and height of the addition is commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and is in keeping with the existing neighborhood development pattern: As discussed above, the proposed addition is below existing height. The proposed addition also stays within the existing footprint of the existing front entry porch below it.
4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. In accordance with Sections 17.16.1 and 17.22.1, the existing or proposed on-site parking is/ or is not appropriate to the size of the new upper level or new multi-level structure or addition, and additional parking is/is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood: There are no proposed changes or affect to on-site or additional parking.
5. The project complies with Design Review Guidelines: II-1, II-2, II-3, II-3(a through d), II-4, II-5, II-5(a), II-6, II-6 (a through c), II-7, and II-7(a).

Commissioner Simpson asked if the Commission needed to make any comments about the light wattage in the back yard and the answer from staff was that it was approved on Consent and the Commission was just making the findings.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for construction at 311 Sheridan Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

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

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

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

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

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

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

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

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

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

Moved by Zhang, Seconded by Behrens

Ayes: Behrens, Simpson, Chase, Zhang

Noes: None

Absent: Ode

Recused: Theophilos

APPROVAL OF MINUTES

Resolution 20-PL-14

RESOLVED, that the Planning Commission approves as submitted its meeting minutes of September 8, 2014.

Moved by Theophilos, Seconded by Zhang

Ayes: Behrens, Chase, Simpson, Theophilos, Zhang

Noes: None

Absent: Ode

PUBLIC FORUM

There were no speakers for the public forum.

REGULAR CALENDAR

The Commission considered the following items of regular business:

Pedestrian and

The Commission considered the City's Draft Pedestrian and Bicycle Master Plan (PBMP) for recommendation for adoption to the City Council, prepared by Mr. Niko Letunic of Eisen/Letunic, the City's transportation and planning consultant. Mr. Letunic noted that the proposed PBMP was prepared based upon input

received at eight previous public meetings before the Commission, two special community workshops, joint meetings of the Park and Recreation Commissions, presentation to the Piedmont School District Board, on-line community surveys, walking audits and extensive resident correspondence. The Draft PBMP has been available for public review since August 8, 2014 and its corresponding CEQA documentation (Initial Study and Negative Declaration) has been available for public review since September 12, 2014. Approximately 55 comments were received on the draft plan and CEQA documents, the majority of which indicated support. He noted that in response to comments, and to make further minor clarifications to the draft, revisions were made as indicated in the red-line October 1 version provided to the Commission. He presented two resolutions for Commission approval recommending City Council (i) approval of the Initial Study and Negative Declaration; and (ii) approval of the October 1, 2014, Draft Pedestrian and Bicycle Master Plan.

Mr. Letunic reviewed the proposed five high priority projects: 1) Enhanced street crossings throughout the city; 2) Road diets on Grand and Highland Avenues; 3) A designated network of bikeways, including bike lanes, sharrows and signage; 4) A more detailed study of the Highland Avenue bend; and 5) Bridge railings on the Oakland Avenue Bridge. Mr. Letunic described and displayed examples of road diets, which had received the highest level of support. Based on comments, revisions were made to the plan.

Correspondence was received from: Garrett Keating, Deborah Leland, Neil Chadha, Tracey Woodruff, Catherine Sharpe, Police Chief Rikki Goede, Paula Geiger, Michelle Van Dever, Kurt Fleischer, Dan Harvitt, Kara Christenson, Patty Siskind, Joanne Jaffe, Brigid Gaffikin, Joannie Semitekol, Duncan Watry, Patricia Edmonds, Susan Ode, Phil Moscone, Rajeev Bhatia, Tim Rood, Lisa Cohen, Peter Schultze-Allen, Jonathan Ring, Emma Fuji, Len Gilbert, Shawn Antaya, Kiel Murray, Kimberly Moses, Lisa Joyce, Scott Donahue, Judy Kelly, Susan Chiodo, Kathy Burden, Jamie Flaherty Evans, Pete Nicks, Ken Evans, Liz Arney, John Tenney, Gayle Young, Laura Seidl, Melissa Wilk, Erica Benson and Charles Constanti, Klaus Zietlow, Lynn Nelson, Rick Schiller, Tom Gandesbery, and Diana Edgerton.

Public testimony was received from:

Jamie Flaherty Evans said she lives on Grand Avenue and voiced her support for the master plan and especially the diet on Grand Avenue which she thinks will slow down traffic. She suggested removing a couple of parking spaces near Ace Hardware to create a separate turn lane going into that business and said she did not believe the plan should be derailed because of one business, noting there are alternatives for the Ace Hardware lot.

Max Woodruff-Madeira said he lives on lower Cambridge and must cross Grand Avenue on his way to school, which is very dangerous. He suggested two lanes instead of four lanes which would slow down traffic and be less risky for students going to high school.

Rajeev Bhatia voiced support for the plan and distributed two handouts to the Commission outlining his suggestion for a left turn from Highland to Oakland Avenue which is the dominant movement at that intersection for buses and cars. He next noted congestion in the middle segment of Highland Avenue during peak hours and he suggested a left turn from Highland to Craig Avenue and a

right turn lane from Highland to Vista Avenue. In addition he referred to the very southern end of Vista Avenue and asked that the drawing acknowledge the existing diagonal parking spaces that are primarily used by the Police Department, and that they should remain.

In response to Mr. Bhatia's suggestions, Mr. Letunic clarified that because this is a master plan and the purpose of concept drawings is to have something sufficient to submit for grant funding. Once funding is available, the specific project details will be designed.

Mr. Bhatia suggested there might be difficulties with grant funds if the turn lanes and diagonal parking are not shown in the plan and asked to have a corrected drawing.

Dave Campbell, Advocacy Director, Bike East Bay, formerly the East Bay Bicycle Coalition, submitted a letter in support of the plan and applauded staff and consultants. He noted that the plan's proposed bikeway network is very well-connected. He also voiced support for Measure BB which will help fund and implement the plan.

Margaret Ovenden said she is happy the plan is moving forward and said she has walked her children to school for 11 years. She noted that the plan has carefully worked with each school and addresses many school routes such as Wildwood Avenue and Oakland Avenue. She also believes that the road diet on Grand Avenue will improve conditions at Ace Hardware. She encouraged the plan's approval and movement to the City Council.

Susan Fizzell said she and her family bike and heavily use the Grand and Piedmont corridors to school, daycare and to work. She supported the plan and its implementation, and hopes the Commission moves it forward to the City Council. She supported the high priority projects and especially the road diets, the dedicated bike lanes and pedestrian improvements, which will improve safety.

Rick Schiller asked if the City could work with the City of Oakland to address the Wildwood crossing at Grand, which is dangerous. He supported the road diets and believed they will mitigate traffic problems, and suggested elimination of a couple of parking spaces in front of Ace Hardware to prevent congestion. He asked that a priority area also be identified and something be done at the intersection of Moraga Avenue and Red Rock Road to open up more use at Blair Park. He also asked that the Public Works Director be provided guidance as to implementing the high priority list.

Garrett Keating credited staff and the consultant for their work and noted that the development of the plan has been a very comprehensive process and an example of how public projects should be vetted and decided upon. He asked that the Commission adopt the plan and move it onto Council, given the extensive public record. From survey results, he noted 60% are walkers and 20% are bicyclists, and that walkers supporting many of the bike improvements. He also noted that the CEQA analysis shows that impacts on driving are not significant. He thinks the Ace Hardware dynamic will be driven by those coming up Oakland turning into Ace and agreed eliminating parking should be looked at. He also suggested that the Bicycle and Pedestrian Advisory Committee review how funding is spent and included in the final plan.

Commissioners supported the road diets, commended staff and the consultant on their work on the master plan, identified substantial public input, recognized increased safety measures, supported review of parking during certain hours and requested a condition to include further refinement of road diets on Grand Avenue at Ace Hardware on Highland and the intersection of Wildwood and Grand. Ms. Black noted that this intersection is in the City of Oakland and both cities will work on this problem. Concerning the design of the Highland Avenue road diet, Ms. Black suggested wording could be added that when the actual design of improvements occurs, details be further studied and developed, including alternatives mentioned by Mr. Bhatia. Ms. Black proposed the following revisions (added language shown in italics):

- Second paragraph on page 79 be amended to read: “While the PBMP includes general concept drawings for road diets (on pages 79 and 81), detailed design and traffic engineering drawings will need to be made before the projects are implemented, *and shall be reviewed by the Planning Commission and Bicycle Pedestrian Advisory Committee.* The design for Highland Avenue could consider the possibility of landscaped islands and it will need to ensure the turn lane accommodates left-turning AC Transit busses at Oakland Avenue.”
- Last paragraph on page 101 be amended to read: : “Coordinate with Oakland staff on the funding, planning, design and implementation of bikeways connecting the two cities, *and other roadway improvements of importance to both cities, including the intersection of Wildwood and Grand Avenues.*”

The Commission agreed with the modified language to pages 79 and 101, and recommends the adoption of a Resolution of the City Council of the City of Piedmont approving the Initial Study and Negative Declaration for the Piedmont Pedestrian and Bicycle Master Plan pursuant to the California Environmental Quality Act (Attachment I to the staff report), and the adoption of a Resolution of the City Council of the City of Piedmont approving the October 1, 2014 Draft Pedestrian and Bicycle Master Plan, 2015-2024 (Attachment II to the staff report), with the specific modifications prepared by staff at the meeting.

Resolution 21-PL-14

WHEREAS, the City of Piedmont ("City") has finished preparing the Piedmont Pedestrian and Bicycle Master Plan ("Plan"); and

WHEREAS, the Plan is defined as a "project" under the California Environmental Quality Act ("CEQA") and is thus subject to environmental review; and

WHEREAS, a consultant for the City, under direction of City staff, prepared an Initial Study for the project as required by CEQA, for the purpose of deciding whether the project might have a significant effect on the environment; and

WHEREAS, on the basis of the Initial Study, City staff concluded that the project will not have a significant effect on the environment and, therefore, prepared a Negative Declaration under CEQA for the project; and

WHEREAS, the City has advertised a Notice of Intent under CEQA to adopt the Initial Study/Negative Declaration ("IS/ND") for the Plan in the Piedmont Post, sent out an email blast about the IS/ND, and mailed the Notice of Intent along with the IS/ND to potentially interested agencies and to the Alameda County clerk; 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 at least 20 days, as required under CEQA; and

WHEREAS, no comments were received on the IS/ND during the comment period that required a substantial revision and subsequent recirculation of the document under CEQA; and

WHEREAS, comments were received on the IS/ND during the comment period for the document, but were more appropriately addressed through revisions to the Draft Plan rather than to the IS/ND itself; and

WHEREAS, the Draft Piedmont Pedestrian and Bicycle Master Plan, for which the IS/ND was prepared, has been on the City's website since August 8, 2014; and

WHEREAS, the IS/ND itself has been on the City's website since September 12, 2014;

NOW, THEREFORE, BE IT RESOLVED, that the Piedmont Planning Commission recommends City Council adoption of the Negative Declaration for the Piedmont Pedestrian and Bicycle Master Plan.

Moved by Chase, Seconded by Zhang

Ayes: Behrens, Chase, Simpson, Theophilus, Zhang

Noes: None

Absent: Ode

Resolution 22-PL-14

WHEREAS, the City of Piedmont ("City") has received grant funding from the Alameda County Transportation Commission ("Alameda CTC") for \$102,000 for the preparation of the Piedmont Pedestrian and Bicycle Master Plan ("Plan") and Initial Study/Negative Declaration; and

WHEREAS, the preparation of the Plan has involved significant community participation, including eight Planning Commission meetings, two special community workshops, two joint meetings of the Park and Recreation Commissions, presentation to the Piedmont Unified School District Principals, a Piedmont Unified School District Board meeting, two online community surveys with more than 700 responses, and more than 70 individual written comments; and

WHEREAS, the City developed the Plan with an interjurisdictional and regional perspective, taking into account the City of Oakland's Bicycle Master Plan and Pedestrian Master Plan and the Alameda Countywide Pedestrian Plan and Bicycle Plan; and

WHEREAS, the City prepared a draft Plan document and draft Initial Study and Negative Declaration document for the Plan in compliance with the State California Environmental Quality Act (CEQA) Guidelines, found in Title 14 of the California Administrative Code, under Division 6, Chapter 3; and

WHEREAS, the Plan is in conformance with California State Law's California Vehicle Code and California Streets and Highways Code; and

WHEREAS, the Plan is in conformance with Chapter 4A on Bicycles of the City's Municipal Code; and

WHEREAS, the Plan is in conformance with the following City General Plan Goals Policies and Actions:

Goal 2: Commercial and Mixed Use Areas

Action 2B: Commercial Development Standards

Goal 4: Special Sites

Policy 4.1: Civic Center

Goal 7: Mobility and Choice

Policy 7.1: Balancing Travel Modes

Policy 7.2: Balancing Investments

Policy 7.3: Reducing Vehicle Miles Travelled

Policy 7.4: Synchronizing Land Use and Transportation Decisions

Policy 7.5: Public Facility Access

Policy 7.6: Regional Perspective

Action 7.A: Participation in Regional Planning

Action 7.B: Intergovernmental Coordination

Goal 8: Traffic Flow

Policy 8.4: Traffic Hot Spots

Policy 8.8: Traffic Planning with Oakland

Action 8.B: Traffic Monitoring

Goal 10: Walking and Bicycling

Policy 10.1: Sidewalks

Policy 10.2: Pedestrian Paths

Policy 10.3: Street Crossings

Policy 10.4: Bike Routes

Policy 10.5: Bicycle Infrastructure

Policy 10.6: Sidewalk Condition

Action 10.A: Sidewalk Repairs

Action 10.B: Additional Sidewalks

Action 10.C: Pedestrian Path Update and Naming

Action 10.D: Safe Routes to School

Action 10.E: Bicycle Plan

Action 10.F: Pedestrian Crossing Improvements

Goal 12: Safe Streets

Policy 12.1: Enforcement of Traffic Laws

Policy 12.2: Maintaining Sight Lines

Policy 12.3: Emergency Vehicle Access

Policy 12.4: Traffic Calming

Policy 12.5: Traffic Management Plans

Policy 12.6: Rules of the Road Education

Action 12.A: Traffic Safety Monitoring

Action 12.B: Oakland Avenue Safety Plan

Goal 14: Urban Forest

Policy 14.1: Street Tree Maintenance

- Policy 14.3: Selecting Appropriate Street Trees
- Policy 14.5: Landscaping
- Action 14.A: Street Tree Standards
- Action 14.B: Replacement of Hazardous Trees
- Action 14.C: Tree Planting Initiatives
- Goal 15: Air and Water Quality
 - Policy 15.1: Transportation Control Measures
 - Policy 15.3: Urban Runoff
- Goal 16: Sustainable Development
 - Policy 16.1: Linking Land Use and Transportation Choices
 - Policy 16.4: Permeable Pavement
- Goal 23: Park Planning and Management
 - Policy 23.10: Pedestrian and Bicycle Access to Parks
 - Action 23.E: Moraga Avenue Pedestrian Improvements
- Goal 27: City Identity and Aesthetics
 - Policy 27.1: Streets as Public Space
 - Policy 27.2: Sidewalks and Planting Strips
 - Policy 27.4: City Gateways
 - Policy 27.5: Beautification Efforts
 - Policy 27.7: Street Lighting
 - Policy 27.9: Signs
 - Policy 27.10: Design Continuity
 - Action 27.D: Funding for Beautification Projects
 - Action 27.F: Street Lighting Standards
- Goal 31: Historic Preservation
 - Policy 31.3: Context-Sensitive Design
- Goal 33: Municipal Facilities and Governance
 - Policy 33.3: Sharing Municipal Services; and

WHEREAS, the Plan is consistent with the City's Complete Streets Policy whose goal is to maintain the City's transportation system and facilities so that they are safe and convenient for all users and modes, as appropriate to the function and context of each facility, and in ways that reflect local conditions and community values; and

WHEREAS, the Plan is in conformance with the following objectives of the City's Climate Action Plan:

- Objective TL-1: Facilitate Walking and Biking in the Community
 - TL-1.1: Consider expanding and enhancing bicycling and pedestrian infrastructure throughout the community if financially feasible and practical.
 - TL-1.2: Install bike racks in commercial and civic areas of the City where racks do not currently exist if financially feasible and practical.
 - TL-1.3: Consider incorporating pedestrian-friendly design features into the City's civic/commercial centers.
 - TL-1.4: Evaluate the potential for mixed-use development in Piedmont's existing commercial center.
- Objective TL-2: Make Public Transit More Accessible and User-Friendly
 - TL-2.1: Work with AC transit to conduct a public transit gap study and provide bus stops with safe and convenient bicycle and pedestrian access and essential improvements.
- Objective TL-3: Reduce Vehicle Emissions and Trips

TL-3.4: Work with schools to improve/expand walking, school bus use, safe routes to school programs, and trip reduction programs.

TL-3.5: Provide public education regarding reducing motor vehicle-related greenhouse gas emissions; and

WHEREAS, the Plan is in conformance with the following final recommendations of the City’s Environmental Task Force (ETF):

No. 27: Initiate a “Safe Routes to School” program to encourage walking and bicycling to school.

NOW, THEREFORE, BE IT RESOLVED, that the Piedmont Planning Commission recommends City Council adoption of the Piedmont Pedestrian and Bicycle Master Plan, dated October 1, 2014 subject to the following modifications:

- Page 79, second paragraph be revised to read: “While the PBMP includes general concept drawings for road diets on pages 79 and 81, detailed design and traffic engineering drawings will need to be made before the projects are implemented and shall be reviewed by the Planning Commission and the Bicycle Pedestrian Advisory Committee review.”
- Page 101, last box be revised to state: “Be informed about and coordinate with Oakland staff on the funding, planning, design and implementation of bikeways connecting the two cities and other roadway improvements of importance to both cities including the intersection of Wildwood and Grand Avenue.”

This resolution shall become effective immediately upon its passage and adoption.

Moved by Chase, Seconded by Zhang

Ayes: Behrens, Chase, Simpson, Theophilos, Zhang

Noes: None

Absent: Ode

Recused:

Alternate Commissioner Behrens recused himself from participating in the 218 Bonita Avenue hearing, and left the room.

**Design Review
218 Bonita Avenue**

The Applicants are requesting design review for a new 699-square foot detached guest cottage with a new patio and outdoor kitchen located at the southeast corner of the property, and construct a new attached 1-car pergola carport at the south (right) side of the house. The guest cottage and adjacent patio are proposed to have the following features: habitable space with 1 bedroom, 1 bathroom, and kitchen/dining/living room; a covered front porch and stair; a chimney; a door; windows throughout; exterior lighting; and hardscape and landscape improvements. The carport design includes new exterior lighting and hardscape and landscape modifications.

Written notice was provided to neighbors. **Two affirmative and five negative response forms** were received. **Correspondence was received from:** Catherine Michels Dunham and Herbert E. Michels, Jr., Stephen & Lori Taylor, Jean

Simpson, Paul & Kaye Tiao, Fernanda and James Meagher, James & Susan Penrod,

Public testimony was received from:

Tim Wooster, Architect for Mark Becker, Inc., representing owners Richard and Jude Rowe, gave an overview of the proposal for a guest cottage, new patio, outdoor kitchen and a new attached 1-car pergola carport. He stated that the elements improve the functionality of the property by providing more livable space and adding a third parking space which benefits neighborhood parking; that in August they received comments, concerns and objections and took two months to share the design with the community; and that the two most significant design changes in response to neighbor comments were to eliminate the previously proposed front carport and a reduction in the size/scale of the guest cottage which was reduced by 4 feet in height and 26% in mass.

Commissioner Simpson asked Mr. Wooster a series of questions as to whether the applicants considered light impacts of the guest cottage on rear and adjacent residents and made any resulting determinations regarding those impacts. In response to this questioning, Mr. Wooster replied that: the applicants are confident the cottage will not cast a shadow because the cottage is 7 1/2 feet from the property line and the top plate is at about the level of the neighbor's first floor and nearly 80 feet away from 215 Highland; that no windows on the guest cottage would be visible from 219 Highland and there is an existing fence and mature trees at the property line; that a similar determination was made regarding 221 Highland of no shadow lines or view impacts; that 225 Highland is 32 feet away to the southeast and there will be no shadow cast; that the outdoor patio and kitchen would not be visible to any homes because it is in front of the cottage and behind the garage and not visible from 412 Blair's patio; that no new structures would be visible from 212 Bonita or 224 Bonita. Commissioner Simpson modified her questioning of Mr. Wooster to address the potential impacts of the new carport. In response he stated that regarding impacts of the vehicles, any number of vehicles could be on the driveway but the carport fits one car and the garage fits two cars. He confirmed Commissioner Simpson's observation that the only aspect of the new carport that is visible from the street would be a 3 foot eave of the carport.

Upon further questioning by Commissioner Zhang, Mr. Wooster stated that the applicants considered incorporating the cottage with the existing garage to keep the structure further away from the adjacent homes, but that they rejected that design scenario because they wanted as much natural light in the project as possible. Commissioner Chase confirmed with Mr. Wooster that the story poles were revised to be red tape to illustrate the new revised design and that these revised story poles were not visible in the photos submitted with Paul Tiao's letter.

Upon further Commission questioning, Mr. Rowe gave an explanation regarding the history of the garage, noting the existing garage was very low and 1950's in style and he hired an architect to redesign it in 1999. He added that the garage is on the property line and very large, accommodating up to six cars but only two spaces conform to City regulations. Commissioners confirmed with staff that the application is for design review for the structures which includes the guest cottage, carport and related site improvements and that the separate application for a second unit is subject to ministerial review by staff per State law.

John Stewart, 217 Bonita Avenue, cited the issue as contentious, acknowledged the elimination of the front yard pergola but he cited parking problems on the street and the revised plan does not address public safety or good neighbor privacy and voiced opposition to the plan. Commissioner Simpson confirmed with Mr. Stewart that he could see the 3 foot trellis and there would be no impact on his light, views or privacy.

Cathy Michels Dunham, 212 Bonita Avenue, said she is speaking for her deceased father and voiced concerns of additional parking on the street, noise levels from the backyard from the deck which would affect her privacy, and did not support the project. Commissioner Simpson confirmed with Ms. Dunham there were no impacts on her privacy, views or light from the guest cottage.

Herb Michels, Jr. said his parents purchased the home at 212 Bonita Avenue in 1958 and he voiced concerns with speeding and parking on the street, and overall vehicular and pedestrian safety, and asked the Commission to review traffic concerns as well as emergency vehicle access to the cottage.

Commissioner Simpson confirmed with staff that the plans had been reviewed by the Fire Chief who noted that the guest cottage in the back of the property should have a separate address that identifies it for response calls, have fire sprinklers, and have adequate access from the street. Commissioners again confirmed with staff that the application for a second unit permit was not under review by the Commission at this hearing. Furthermore, Commissioner Theophilos clarified with Mr. Jackson the application proposed the on-site parking required by Code but in taking action on the application the Commission would need to make a finding as to whether the structures have a direct impact on vehicular and pedestrian safety.

Susan Penrod, 224 Bonita Avenue, agreed parking is difficult, pedestrians and children, cars, bikes, strollers are numerous and an additional house and cars will put pressure on an already saturated situation. She supported requirements for additional off-street parking and compliance that the space be used. As a next door neighbor, the Rowe's front door and driveway are adjacent to her kitchen and sliding back door to the back yard, and the new carport will directly impact the central focal point of their home with noise, privacy and pollution. What separates them is a retaining wall, 5 foot high fence and a laurel hedge. She also cited impacts from the Rowe's gardener's gas-powered leaf blower and presented a map showing the actual placement of the house and asked the Commission to deny the application.

Upon questioning by Commissioners Simpson and Zhang, Ms. Penrod confirmed that the cottage is not visible from her backyard, but is from two bedrooms and a stairway leading up to the third floor, and that it has no light impact, views, or privacy impacts, and that her objection is to the proposed carport, which Ms. Penrod can see from her home although a laurel hedge provides some obstruction. Ms. Penrod also confirmed there is a history of residents at 218 Bonita Avenue using the back portion of the driveway to park cars.

David Bowie, attorney, representing the Penrod's, said the concern is with respect to placement of the carport and the issue of privacy and putting the carport in the proposed location does not solve additional parking because it is

an almost impossible parking access which would require parallel parking, and the removal of existing trees and vegetation. He suggested the logical place for parking is adjacent to and adjoining the garage at the rear of the home, and that wider paving would allow one to back out of the carport, move cars around and drive forward onto Bonita instead of backing out, which is difficult and dangerous. Mr. Bowie said he does not oppose the project, but in this case where there are privacy impacts, it should be incumbent upon the applicant to put those impacts as much as possible on the Rowe's own property and absorb and mitigate them. He added that if moved to the rear, the carport may have some impact on the applicant's property which is fair, given his desire to add the second unit which will create the burden on the remaining neighbors and have less streetscape impact.

Commissioner Simpson confirmed with Mr. Bowie that Commissioners visiting the site would not necessarily to be inside 224 Bonita to realize the impact of this carport but that the impact could be seen from the outside. He recognized that none of the Commissioners were invited to 224 Bonita to view what the impact is from inside the home, but they would have been welcomed to do so.

James Penrod, 224 Bonita Avenue, stated if the parking space is placed next to the garage, which is most logical, it will serve the guest cottage it is supposed to serve better because it will be close to it, but as currently proposed the parking location was awkward to get to the cottage and as such he was opposed to the request. Mr. Penrod also noted he can see through the laurel hedge where the car would be parked and said he was unaware he was able to invite Commissioners to his home and contact them privately.

Shamus Meagher, 412 Blair, said he and his wife oppose the project and said his wife submitted a letter dated July 26th stating objections. Their back patio outside of their master bedroom looks over the Rowe's fence and they are about 3 feet below the grade of the Rowe's backyard. He objected to Piedmont promoting second units in the community, said he did not object the Rowe's adding to their existing structure, was opposed to having parking in the back along his property line, and suggested doing a census on all parking not used in the neighborhood.

Upon questioning by Commissioner Simpson Mr. Meagher confirmed that his house is downhill from the proposed second unit, that he has a back patio on the right side of his home, that windows facing the cottage are below the level of the cottage, that his house is 40 feet away from the structure, that no light studies were done and there would be no shadows on his house, and that his primary concern is that it blocks his view in the distance of a Victorian house down the street, and that he is not thrilled with a second unit and additional traffic. Commissioner Simpson asked and Ms. Black discussed the City's second unit program in the Housing Element of the General Plan, stating that the program is the City's way of meeting its regional housing needs allocation.

Mr. Meagher also asked that additional drainage be installed between his house and the Rowe's given flooding issues with their house and Ms. Creason's house and the need to pump out water by the Fire Department.

Paul Tiao, 221 Highland, objected the proposed new building which will be directly behind their house and backyard due to loss of privacy in their backyard, view obstruction of sunsets and open space from their backyard,

blockage of light to their backyard and bedrooms, crowdedness, aesthetically displeasing building design, noise, potential safety concerns from potential fire or burglaries, and change in characteristics of their current lifestyle.

When questioned by Commissioner Simpson Mr. Tiao verified that house is 73 feet away from the closest wall of the proposed new structure, there are mature trees at the shared property lines, there is a garage off to the left between the main house and 218 Bonita, the garage roof is at or above the new proposed structure, that the pictures Mr. Tiao sent were from the old story poles, that a great portion of his view would not be obstructed because it is not situated directly behind the Tiao's house, that he did not invite the Commission to view the impact from his house, that there are two windows with views of the structure: one from the master and one from the family room deck, that his house is uphill from the proposed structure, and that the new residence is 15 feet high and that sky and open air will still be seen.

Alice Creason said she lives at the corner of Bonita and Blair, reiterated concerns of traffic and parking concerns, voiced concerns of short and long term impacts from the project, and explained that she has determined that the applicants cannot comply with receiving a ministerial act due to parking issues, and this is why they are before the Commission, that if the Commission approves the parking, the second unit could be approved by staff. She noted the cottage is a complete second house but it is connected to the garage where its furnace and hot water heater are located which is a change of use to the existing building which triggers a variance, square footage issues, and the parking space proposed is not standard, not covered, no garage door and it sits right beyond the front door which is difficult and unsafe to park. She asked the Commission deny the request based on safety from traffic, that the carport does not meet requirements and is not compatible with existing structures, that the second house is incompatible with the existing home, there is a need for a variance for co-joining the house and garage to a change of use, incompatibility with the neighborhood, as well as drainage problems.

When questioned by Commissioner Simpson Ms. Creason confirmed that she lives at 408 Blair and she can see the new cottage from her home, that she lives directly next door to 412 Blair, and that the proposed structure does not impact her light, view, or privacy.

Commissioners asked Ms. Creason to describe drainage problems and she said during heavy rains, neighbors get a deluge of water, and at one time, water was captured at 218 Bonita and it cascaded through a couple of properties, creating damage. Water tends to well up and surface water or runoff occurs.

Lori Sarkisian Taylor, said that as she stated in a letter she submitted on August 11th the Rowe's had decided they wanted to place a second structure on their property, notified neighbors and found the majority did not support it and that since August, they were not once contacted by the Rowes, which creates an unfriendly feeling. She stated that it is important to note that the Rowe's have done everything in their power to meet the standards for construction, but have not met with neighbors. Her concerns are that the house is too close to the fence line, that she can see the cottage from her home, and that parking is a problem as well.

Commissioner Simpson received confirmation from Ms. Taylor that she lives at 230 Bonita Avenue or two houses from 218 Bonita Avenue, that from six windows of her home she can see the proposed structure's roofline, the existing home, garage, and story poles, and that the structure would have no light, view or privacy impacts on her home.

Richard Rowe, 218 Bonita Avenue, said the projects he has done have improved the property which is the area next to the front door and the existing garage. The third project he implemented was installation of a dry river bed 10 years ago and in the winter it fills to a waterfall which goes into a catchment area, pipe, and a sump pump and to the street. He is working to make sure there are no impacts to his neighbors, but the water is draining from many areas and other properties onto his. He considers himself a good neighbor and there have been a number of projects he was asked to comment on which he supported and included the Penrod's kitchen which moved a wall closer to his driveway. The Kennedy's house was doubled in size which he supported as well as the Moscone's project next door and he thinks it is important to be a good neighbor and help people do what is important and he thanked the Commission for considering his project.

Commissioners asked Mr. Rowe how the existing garage is used, clarifying that unlike his neighbors, who have no conforming parking, he has two conforming parking spaces, that he has only two cars and a mechanical garage door, and that he backs out of the driveway, which is similar to how the neighborhood uses their driveways and garages.

During the Commission's discussion of the project, Commissioner Simpson said only one neighbor had concerns with light and view with respect to the second unit; that the architect minimized any impacts relating to the second design review finding; and that the only issue is the 3 foot eave from the carport design which she believes is consistent with the porch. In terms of the impact of the carport on the Penrod's home, the Rowe's property has a history of cars parking in that area and she supported approval of the project.

Commissioner Chase stated that although lowering the cottage by 4 feet is an improvement, the cottage will have an impact on the neighborhood due to impacts ranging from view shed, water, traffic and noise. He added that the property is very large and offers opportunities for a second unit but also requires that the design of a structure be carefully sited into the property as whole. After noting that the cottage is tacked on behind an existing garage and has no aesthetic elements that relate to the actual main house, he suggested the applicants could incorporate a unit similar in size and style into the garage and by extending it at the corner; and could provide some gravel parking or turning areas on the west side to be more compatible with neighbors' concerns. Agreeing with Mr. Bowie's point about the difficulty of parking a car on the left side of the driveway, which will impact neighbors, Commissioner Chase suggested redesigning the project to incorporate part of the existing garage and move the proposed guest house into a better position on the lot to lessen impacts on neighbors, noting that safety is an issue and a vehicle turnaround on the lot would be preferable. He also suggested to the applicants work with planning or building staff to address drainage. In conclusion, he stated he has a number of objections to this proposal, but the project could return to the Commission with a satisfactory structure that would provide for a guest house with more thought being taken as to where parking would be.

Upon Commissioner Simpson's request, staff confirmed that detailed drainage plans are reviewed by the Building Department and that the Commission's responsibility is to look at any design aspects of any drainage that was required by the Department and not engineering drawings.

Commissioners Zhang and Theophilos noted that the lack of communication between neighbors and the Applicant made this project more contentious than necessary, and echoed comments relating to the large property offering plenty of design opportunities such as combining the unit with the garage or a reduction in pitch of roof. They felt there is a need for a redesign to address the parking and neighborhood concerns. Commissioner Simpson said that although she believes the project is approvable, but that after hearing the comments of her fellow commissioners she was convinced the project could be made better as noted.

Resolution 202-DR-14

WHEREAS, the Property Owner is requesting permission to construct a new 699 sq. ft. detached guest cottage with a new patio and outdoor kitchen located at the southeast corner of the property, and construct a new attached 1-car pergola carport at the south (right) side of the house. The guest cottage and adjacent patio are proposed to have the following features: habitable space with 1 bedroom, 1 bathroom, and kitchen/dining/living room; a covered front porch and stair; a chimney; a door; windows throughout; exterior lighting; and hardscape and landscape improvements. The carport design includes new exterior lighting and hardscape and landscape modifications located at 218 Bonita Avenue, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements (including but not limited to height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment) are not aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that: the underlying lot and existing improvements proposed have not taken advantage of the entirety of the physical plot which is very unusual; that the structure is not the same vernacular style as the main house and it should relate either to the garage or to the main house, it does not incorporate any architectural style that is contextual with the neighborhood. The proposed trellis is incompatible with the existing house and because of the way it adjoins the front porch.
2. The design is not appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because it impairs light and openness to existing neighboring houses at 221 Highland Avenue (guest cottage) and 224 Bonita Avenue (carport). It impacts noise, privacy and parking because of the covered parking structure.

3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are adversely affected, considering the circulation pattern, parking layout and points of ingress and egress from the driveway which can be improved with a better design so cars have the opportunity to turn around on the property and come out face forward.
4. There was only one homeowner that indicated any concern because of the second structure with privacy, which was 221 Highland and (Chase) that the carport had some impact on 224 Bonita Avenue.
5. The project fails to comply with Design Review Guidelines: II-1, II-3, II-3(a through d), II-4, II-5, II-5(a), II-6, II-6(a through c), II-7, II-7(a), III-1, III-1(a), III-2, III-2(a), III-3, III-4, III-5, III-5(a), III-6, III-6(as), III-7, and III-7(a).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies, without prejudice, the design review application for construction at 218 Bonita Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Chase, Seconded by Zhang

Ayes: Chase, Simpson, Theophilos, Zhang

Noes: None

Recused: Behrens

Absent: Ode

The Commission recessed for dinner at 7:45 p.m. and reconvened at approximately 8:15 p.m.

Variance/Design Review 448 Scenic Avenue

The Applicant is requesting a Variance and Design Review in order to make modifications to a previously approved Staff Design Review application including making modifications to windows, doors, hardscape, exterior lighting, and various interior improvements; converting the existing upper level storage room into a bedroom and the existing upper level closet into a full bathroom; constructing a new roof deck with railing; constructing a new stair to the new roof deck; adding a new electrical service panel; and installing new skylights. A variance is required to convert an existing storage room into an additional bedroom without supplying conforming parking.

Written notice was provided to neighbors. **One negative response form** was received. **Correspondence** was received from: Joyce and Ken Polse and Batya Aloush.

Public testimony was received from:

Thomas Pippin, Project Architect, said in February 2014, their project for a fourth bedroom addition was rejected due to the objections of neighbors at 452 Scenic Avenue. Since then they moved forward with staff review for approval of ground floor modifications and to start construction. The current project includes: removal of a half bath to create an upstairs 4th bedroom, construct a door to the west to the deck for egress, construct a full bath for the upstairs bedroom, construct a stair from existing courtyard to a balcony over the kitchen and at the deck over the living room, various lighting, replacement of various windows and new skylights, and move an electrical box to be in compliance

with current code. He said the project does not push the envelope out or add massing to the neighborhood. The compromise is a much smaller bedroom at the upper level. Regarding outreach with neighbors, they contacted many neighbors including those at 452 Scenic, who had concerns about light and view. The owners arrived at a plan to satisfy their concerns. In January, a revised plan was developed which sacrificed square footage and views. The Polses never communicated their clear approval or disapproval and the owners went forward and developed a full construction set of plans for review. In the meantime, the Polses raised their concerns with Commissioners on a site visit, and the project was rejected in February 2014. The applicants moved forward with a minimum scope for staff review and began construction. In the spring, the owners approached the Polses to reach a compromise plan for the second floor bedroom, which included a minimal expansion and this was rejected as well. During construction, he met with the Polses for 2 hours to illustrate potential deck plans and the Polses only accepted shrinking the deck to an unusable space.

Commissioners discussed the Polses' objection to new construction on the second level and confirmed the roof deck was moved to the east side of the house or furthest away from the neighbors, reduced the size of the roof deck, deleted an existing exterior door, proposed the new deck rail to be a thin cable railing, and lowered the height of the roof/deck floor.

Batya Aloush, owner, 448 Scenic Avenue, emphasized and restated comments regarding the many changes as stated by the project architect. She also stated that she does not believe the new deck will impact the view or privacy of the Polses.

Commissioner Simpson asked and confirmed that the two proposed skylights will be located within original voids in the wood beam structure of the roof.

Yoel Asulin, 448 Scenic Avenue, owner, discussed the parking variance, noting that the existing garage is short by 14" in depth, but does fit their vehicles. They fully intend to park their cars in their garage and plan to also install an EV charging station. They also have working motorized garage doors.

Jonenchin Haim, general contractor, said when they began the work, he met with neighbors and indicated he could address any issues. The neighbor contacted him once regarding a dust issue, which was resolved immediately. They had to move the electrical service because it was not up to code with PG&E. In order to get power into the house, another small pole and junction box was added to the house and through the roof because of the house's concrete walls.

Jennifer Polse said she is speaking on behalf of her parents Joyce and Ken Polse of 452 Scenic Avenue, who are on a pre-planned vacation. She stated letters and photographs were provided, as well as a site visit attended by all the Commissioners. Her parents object to the addition of the deck on the upper level due to its impact on their views and privacy and claim that the proposal does not comply with Planning Code 17.20.9.A.3. Her parents have a view of the bay from primarily the upper windows of the house, which are the only windows that have this view. She noted that this view looks out to where the deck will be placed and if the deck is used with furniture, tables, an umbrella and people, it has the potential to completely obstruct their view. The deck wire railings do not alleviate their concerns because it does not prevent people from using the deck.

The second concern is privacy. The upstairs room is a bedroom with a direct sightline view of people on the proposed deck. They met several times with the architect and owners, and made two proposals both of which would alleviate concerns with respect to views and privacy issues, while still leaving a large deck for the applicants, which were rejected by the applicants.

Commissioner Simpson asked and clarified with Ms. Polse that the room cited as being impacted is a bedroom, but is currently being used as an office, that the window looking out to 448 Scenic is to the west of the room and the front window looks out toward the street. Commissioner Simpson noted that in order to see the view, one must sit on the window seat and crane their head to see the deck, and that it is the only window that has an impacted view.

Commissioners noted the impact of the deck on the neighbor's bay view to be minimal, said the applicants have done a lot to mitigate concerns of the Polses, which includes lowering the roof/deck floor, making the railing inconspicuous and other significant modifications. The Commission believes the owners will use the garage which they believe is accessible, voiced preference to have the left hand garage door be made mechanically operable, considered centering the stairway and skylights, but upon discussion did not require amendment due to the fact that the original roof beam structure voids were previously in place and would be difficult to patch and match the existing ceiling. The Commission supported approval of the variance and design review application as proposed.

Resolution 265-V/DR-14

WHEREAS, the Property Owner is requesting permission to make modifications to a previously approved Staff Design Review application including making modifications to windows, doors, hardscape, exterior lighting and various interior improvements; converting the existing upper level storage room into a bedroom and the existing upper level closet into a full bathroom; constructing a new roof deck with railing; constructing a new stair to the new roof deck; adding a new electrical service panel; and installing new skylights located at 448 Scenic Avenue, Piedmont, California, which construction requires variance; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary in order to convert an existing storage room into an additional bedroom without supplying conforming parking; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission 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 house is constructed of concrete, which makes it extremely difficult to move walls, unlike the majority of wood framed structures in Piedmont, and gives reason to the approval of a parking variance. There is also an existing non-conforming two-car garage. The non-conformance is relatively minimal with the existing garage spaces measuring 9 feet by 18-½ feet. The applicants have

demonstrated that two cars fit inside the existing garage. The existing garage doors are also mechanically operated and the single movement of the garage door is satisfactory because the existing design of the garage door is aesthetically pleasing.

3. The variance is compatible with the immediately surrounding neighborhood and the public welfare as follows: The house was built in 1929 with the existing non-conforming garage, and although somewhat undersized, it is usable and most residents in the neighborhood do also park their cars in their garage.
4. Accomplishing the improvements without a variance would cause unreasonable hardship in planning, design or construction as follows: Because the house is made out of concrete and sits on an upslope steep lot, it would be very difficult to excavate to increase the size of the existing garage.
 - (a) Projects generally subject to design review pursuant to Section 17.20.9.
 1. The exterior design elements (including but not limited to height, bulk, area openings, breaks in the facade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that: There is a proposed door to the west of the new upper level bedroom that provides egress. The new stair that leads to the upper level deck is compatible with the house and aesthetically pleasing. The proposed electrical box on the east side of the house already installed which will be painted. The design of the proposal is aesthetically pleasing for the unique house. The proposed railing matches existing elements of the house and will be painted black.
 2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because: The applicants have minimized impacts on neighbors by moving the deck and balcony addition to the west side of the house and away from the street and away from the east side of the house. The new railing is made up of thin wires making it see-through. There are no light impacts on any neighbors and view impacts are minimal. The neighbors at 452 Scenic would have to crane their neck when looking out the front-facing window in the upper level bedroom to see the new roof deck. The upper level front-facing window is the only window that has any impact. There is no impact on privacy because from the new roof deck, one cannot see into the upper level bedroom window of 452 Scenic.
 3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because: There is an existing two-car garage with a mechanically operated garage door.
 4. The project complies with Design Review Guidelines: II-1, II-2, II-3, II-3(a), II-3(b), II-3(c), II-4, II-5, II-5(a), II-6, II-6(a), II-6(b), II-6(c), and II-7, II-7(a).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review application for construction at 448 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. **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. **Property Line Location.** A licensed land surveyor shall be required by the Building Department to verify and mark the location of the right side (west) property line at the time of foundation and/or frame inspection to verify the approved setback dimensions measured to the new balcony stair.

4. **Skylight.** The flashings around the new skylights shall be painted to match the color of the adjacent roof or deck accordingly.

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

6. **Removal of Windows and Doors.** Where windows and doors have been removed, the wall shall be patched and painted to match the siding of the adjacent wall.

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

8. **Roof Deck.** If the roof deck is built as approved, the Notice of Restricted Use condition required by the previously approved Staff Design Review #14-0057 shall be void.

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.

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 (benchmark).

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

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

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

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

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

Moved by Simpson, Seconded by Chase

Ayes: Behrens, Chase, Simpson, Theophilus, Zhang

Noes: None

Absent: Ode
Absent: Ode

Design Review
330 Sheridan Avenue

The Applicant is requesting design review to make modifications to hardscape at the front of the property including new retaining walls, stairs, patio, and pond; an approximate 151 square foot addition at the west side of the main residence; a modification to the wood deck on the west side of the property; and a new awning off of the existing well house.

Written notice was provided to neighbors. **One affirmative response form** was received. **Correspondence was received from:** Mark Pallis, Carolyn Collins, and Aimee Mikachic.

Public testimony was received from:

David Thorne, Landscape Architect, said he was hired to analyze how an existing landscape was not conforming given it was non-permitted and red-tagged. To prepare for the current application he met with staff to understand the background on the project and with the neighbor, Carolyn Collins to talk with her and look at the project from her house. They generated a set of extensive plans to reduce the impact to the neighbor and improved safety through new stair and hand rail design. He highlighted key points: reduction of excess paving, reduced impervious materials by 40%, narrowed the stairway width, framed the stairs with veneered walls and new planting, removed the pipe railings and replaced with traditional rail and hired an arborist to ensure new walls will not harm trees. Ms. Collins was invited onto the property and during the visit it was noted that two existing redwood trees along the north property line are the wrong tree given their size and maturity. He suggested a condition to work with staff and Ms. Collins to arrive at an alternative tree to maintain privacy.

Commissioner Behrens asked Mr. Thorne about the proposed redwood tree replacement and about the stone veneer finish, which Mr. Thorne described as a stone veneer applied to the walls and is intended to match the look and color of the existing stone walls at the house. It was clarified by Staff that the new retaining walls are being reduced to 30" or less and not subject to design review.

Carolyn Collins, 124 Caperton, reminded the Commission that many of them toured her property before and that the views at the rear of her house are oriented towards the landscaping at the front yard of 330 Sheridan. The applicant and Mr. Thorne have addressed many of the issues, but her major concern is that screening is still insufficient. She said the two remaining redwood trees which were conditioned as part of a prior Planning Commission approval are not healthy and asked that they be replaced with better thriving and better screening trees. She also requested more mature Japanese Maple trees be included in the project bigger than 24 inch box. She also asked that this planting be frontloaded and prioritized for completion at a date certain.

In response to a question from Commissioner Simpson regarding the Commission's capability of setting conditions of approval regarding tree maturity and project prioritization, City Planner, Kate Black, clarified that the Commission could make such conditions but that they must make a nexus between an impact and a condition.

Amee Mikacich, 128 Caperton, said she lives to the west of the new addition and behind the pump house neither of which they can see given a row of trees blocking the view of the pump house and project. She would like to see the tree screen there now be maintained and enhanced if at all possible and requested seeing material debris from the construction project removed, given her direct view of them as Commissioners saw during their site visit to 128 Caperton.

Commissioners recognized that the applicants addressed concerns, supported the new decorative railing, improvements in landscaping, proposed atrium which conforms to the rest of the Clarence Mayhew house, concurred with the planting of larger Japanese Maple trees, suggested a condition of approval that redwood trees be replaced with fast growing trees which Ms. Collins and staff can support, that the Japanese Maple and Redwood trees be replaced as soon as possible and construction debris be cleaned up.

Resolution 277-DR-14

WHEREAS, the Property Owner is requesting permission to make modifications to hardscape at the front of the property, including new retaining walls, stairs, patio, and pond; an approximate 151 sq. ft. addition at the west side of the main residence; a modification to the wood deck on the west side of the property; and a new awning off of the existing well house located at 330 Sheridan 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:

- (a) The Project generally subject to design review pursuant to Section 17.20.9.
 - 1. The exterior design elements (including but not limited to height, bulk, area openings, breaks in the facade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that: The proposed landscape is appropriately scaled and softened with new planting areas and new planting. The proposed atrium is designed to be harmonious by incorporating materials that match the existing house. The proposed awning at the existing well house is composed of matching materials. The proposed awning with the solar panels is not subject to design review per state law but is not significant in bulk or size.
 - 2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because: The project is conditioned that the final landscape plan as proposed by staff in Item 7 and that more mature Japanese Maple trees be replaced with 24 inch box Japanese Maple trees and that tree screening placed be maintained.
 - 3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because: The proposed improvements will not affect existing pedestrian nor vehicular

traffic patterns. Proposed improvements are not adjacent to public roads or walks and do not affect the current traffic patterns.

4. The project complies with Design Review Guidelines: II-1, II-2, II-3, II-3(a through e), II-5, II-6, II-6(a through c), II-7 and II-7(a).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for construction at 330 Sheridan 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.ii provides sources for site specific, and seasonally-and-phase-appropriate, effective Best Management Practices (BMPs) that may be incorporated into the stormwater management plan. Copies of the Municipal Regional Stormwater Permit are available from the Piedmont Public Works Department and on-line at cleanwaterprogram.org.

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

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

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

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

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

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

d. All construction related debris shall be removed from the property prior to final inspection.

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

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

5. **Certified Tree Preservation Plan.** Before the issuance of a building permit, the Property Owner shall prepare for review and approval by staff a Tree Preservation Plan that incorporates the tree preservation measures recommended in the Arborist's Report, prepared by SBCA Tree Consulting, dated August 28, 2014. The tree preservation measures shall be on the appropriate sheets of the construction plans. The arborist shall be on-site during critical construction activities, including initial and final grading, to ensure the protection of the existing trees. The arborist shall document in writing and with photographs the tree protection measures during these critical construction phases. If some trees have been compromised, mitigation measures must be specified in writing and

implementation certified by the Project Arborist.

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

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

7. **Final Landscape Plan.** Before issuance of a building permit, the Property Owner shall submit for staff review and approval a Final Landscape Plan that shows trees proposed for retention as well as in-lieu trees required by a Certified Tree Preservation Plan. The final plan shall comply with Municipal Code Section 17.17.3, and shall not propose plants near the driveway that could obscure visibility of pedestrians on the sidewalk or vehicles on the street from drivers backing out of the driveway. The plan shall include the replacement of two redwood trees at the north west corner of the front yard with three fast growing tall plantings. The landscape plan shall also require the use of more mature Japanese Maple Trees at the front landscape.

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

Moved by Theophilos Seconded by Zhang

Ayes: Behrens, Chase, Simpson, Theophilos, Zhang

Noes: None

Absent: Ode

**Design Review
275 Sea View Avenue**

The Applicant is requesting design review to remodel and expand the residence through the following construction: a new gable roof on the north side of the house; an 86-square-foot basement-level addition with a main-level covered roof deck atop on the west side of the house; the removal of 101-square-feet of the enclosed rear loggia; a 6-square-foot main-level bathroom addition and a basement light well at the south end of the rear patio; the development of a third garage space within the east side of the basement; window, door and garage door modifications; the addition of skylights; new and replacement exterior lighting; various changes to the interior of the main and basement levels including the addition of 838-square-feet of habitable area; various site modifications in the south side yard including a widened driveway, relocated retaining wall, and new on-grade stairs; and various landscape changes throughout the property.

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

Public testimony was received from:

Applicant Steve Chan said he listened to the transcript from the previous meeting to address concerns, spent time with immediate neighbors, the majority of which were very supportive, said they removed the tower and variance request by making the ground floor smaller and pushed the lower-level development into the garage, and said neighbors had built a similar deck to the one proposed which they said they never use. They also tucked the garage in under the master bedroom and are happy to plant mature trees to replace other trees. Upon questioning by the Commissioners, Mr. Chan confirmed the project included aluminum garage doors with frosted glass, a brick retaining wall at the driveway to match existing walls, and an option for wood guardrails at the deck.

Carolyn Van Lang, project architect, explained the way the driveway works for the third car garage, which is curved back minimizing the driveway width and allowing a safer condition with a turnaround allowing cars to turn to drive forward towards the street.

Commissioners said the redesign was very well done, supported the frosted glass garage doors, recognized the applicant and architect made a concerted effort to address all the Commission's concerns and acknowledged that the applicant eliminated the need for a variance.

Resolution 287-DR-14

WHEREAS, the Property Owner is requesting permission to remodel and expand the residence through the following construction: a new gable roof on the north side of the house; an 86 sq. ft. basement-level addition with a main-level covered roof deck atop on the west side of the house; the removal of 101 sq. ft. of the enclosed rear loggia; a 6 sq. ft. main-level bathroom addition and a basement light well at the south end of the rear patio; the development of a 3rd garage space within the east side of the basement; window, door and garage door modifications; the addition of skylights; new and replacement exterior lighting; various changes to the interior of the main and basement levels including the addition of 838 sq. ft. of habitable area; various site modifications in the south side yard including a widened driveway, relocated retaining wall (for which fence design review is required) and new on-grade stairs; and various landscape changes throughout the property located at 275 Sea View Avenue, Piedmont, California, which construction requires design review; and

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

- (b) Upper level additions (new upper levels or expansions) and new multi-level structures or expansions.
 1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These

elements include but are not limited to: height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment. The distance between the proposed upper level addition/expansion or new multi-level structure and adjacent residences is reasonable and appropriate due to the existing topography and neighborhood development pattern. Upper level setbacks greater than the setbacks required for the lower level have been considered and are not necessary to reduce losses of ambient and reflected light because the design is taking the consideration of the Commission's and neighbors comments to push back the addition so that no more street side setback variance is required. Also the garage is tucked into the basement so there is no need for the side yard setback requirements. They tried to minimize adding the footprint to areas that are marginally noticeable such as the southwest corner of the house and the small expansion within the backyard and courtyard balanced by reduction in space in the west wall of the house. So it is a very smart development and making use of the underground space.

2. The proposed upper level addition/expansion or new multi-level structure/expansion has been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.77), including consideration of the location of the new construction, lowering the height of the addition, expansions within the existing building envelope (with or without excavation), lower level excavation for new multi-level structures, and/or changing the roof slope or ridge direction because the proposed second unit and the garage addition is basically mostly within the footprint of the existing house and with the windows very well thought out.
3. The size and height of the addition is commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and is in keeping with the existing neighborhood development pattern because the proposed addition as mentioned is mostly underground so there is minimum addition on the ground so it is very noticeable because it is in the backyard and also at the corner of the house.
4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. In accordance with Sections 17.16.1 and 17.22.1, the existing or proposed on-site parking is appropriate to the size of the new upper level or new multi-level structure or addition, and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood because the said parking space is proposed in a very smart way that is underground and is provided by a driveway that doesn't need to enlarge the curb cut and so there is no adverse impact to on-coming traffic and to pedestrians.
5. The project complies with Design Review Guidelines: II-1, II-2, II-3, II-3(a through c), II-4, II-5, II-5(a), II-6, II-6(a through c), II-7, II-7(a), III-1, III-1(a), III-2, III-2(a), III-3, III-4, III-5, and IV-1, IV-1(a and b), IV-2, IV-2(a), IV-3, and IV-6.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for construction at 275 Sea View Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following fourteen conditions:

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

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

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

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

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

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

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

8. **Final Landscape Plan.** Before issuance of a building permit, the Property Owner shall submit for staff review and approval a Final Landscape

Plan that shows trees proposed for retention as well as in-lieu trees required by a Certified Tree Preservation Plan. The final plan shall comply with Municipal Code Section 17.17.3, and shall not propose plants near the driveway that could obscure visibility of pedestrians on the sidewalk or vehicles on the street from drivers backing out of the driveway.

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

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

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

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

12. **City Attorney Cost Recovery.** If there is a substantial additional commitment of City Attorney's time required to accommodate the scope and nature of the Project, the Property Owner shall, at the time of the Building

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

13. 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.

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

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

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

- x. Completion of Hardscaping and Landscaping; and
- xi. any further construction benchmarks and conditions of occupancy as may be determined by the Director of Public Works.

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

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

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

Moved by Zhang, Seconded by Simpson

Ayes: Behrens, Chase, Simpson, Theophilos, Zhang

Noes: None

Absent: Ode

ADJOURNMENT

There being no further business, Chairman Chase adjourned the meeting at 10:08 p.m.