

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, October 10, 2016

A Regular Session of the Piedmont Planning Commission was held October 10, 2016, 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 26, 2016.

CALL TO ORDER

Chairman Behrens called the meeting to order at 5:03 p.m.

ROLL CALL

Present: Commissioners Eric Behrens, Susan Ode, Tom Ramsey, Tony Theophilos and Tom Zhang, and Alternate Commissioner Aradhana Jajodia

Staff: Planning Director Kevin Jackson, Senior Planner Pierce Macdonald-Powell, Associate Planner Jennifer Gavin, Assistant Planner Emily Alvarez, and Planning Technician Chris Yeager

Council Liaison: Councilmember Jonathan Levine

ANNOUNCEMENTS

Planning Director Jackson introduced the City's new Senior Planner, Pierce Macdonald-Powell.

PUBLIC FORUM

Dimitri Magganas, Piedmont resident, emphasized the importance of the proposed Chapter 17 Municipal Code modifications and commended the Planning Director and Staff for an excellent presentation to the City Council.

REGULAR SESSION

The Commission considered the following items of regular business:

Approval of Minutes

Resolution 28-PL-16

RESOLVED, that the Planning Commission approves as submitted its meeting minutes of the September 12, 2016, regular hearing of the Planning Commission.

Moved by Ode, Seconded by Ramsey

Ayes: Behrens, Jajodia, Ode, Ramsey

Noes: None

Recused: Theophilos, Zhang

Absent:

Consent Calendar

The Commission placed the following applications on the Consent Calendar:

- 57 Crest Road (Design Review)
- 1375 Grand Avenue #201 (Conditional Use Permit)

The Commission originally considered two additional applications for the consent calendar: 1243 Grand Avenue and 58 Nace Avenue. However, a neighbor of the project at 1243 Grand Avenue requested that it be removed from the consent calendar, and the landscape architect for the project at 58 Nace Avenue requested that it be removed from the consent calendar. Both applications are included in the regular calendar.

Resolution 29-PL-16

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

Moved by Zhang, Seconded by Theophilos

Ayes: Behrens, Ode, Ramsey, Theophilos, Zhang

Noes: None

Recused:
Absent:

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

**Design Review
57 Crest Road**

Resolution 285-DR-16

WHEREAS, the Property Owner is requesting permission to make various modifications at the rear of the property including to construct an approximately 832-square-foot two-story addition, to install a new built-in barbeque at the northwest corner of the yard, and to make modifications to windows, doors, exterior lighting, and hardscape, located at 57 Crest Road, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements include but are not limited to: 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 expansion and adjacent residences is reasonable and appropriate due to the existing topography and neighborhood development pattern. Upper level setbacks greater than the setbacks required for the lower level have been considered and are not necessary to reduce losses of ambient and reflected light. All windows, roof materials, stucco color, and texture will match the existing residence. The mass of the addition and the resulting modification to the existing rooflines will be consistent with the various massing features of the existing residence.
2. The proposed upper level 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. Visual impact and obstruction of neighbors' views has been minimized by confining the addition to the back and side yards of the property. The ridge, for a length of approximately 2 feet, has been raised less than a foot. This alteration is dictated by existing rooflines as they join with the proposed addition.
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. The proposed addition is a minor addition to the existing residence and neither the FAR, nor the allowable structural coverage are near the limit.
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 expansion, and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood. The proposal has no impact on the flow of vehicular traffic. The number of bedrooms or parking spots has not been altered from the existing conditions.

5. The project complies with Design Review Guidelines II-1, II-2, II-3, II-3(a), II-3(b), II-3(c), II-3(d), II-4, II-5, II-5(a), II-6, II-6(a), II-6(b), II-6(c), II-7, II-7(a).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for proposed construction at 57 Crest Road, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

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. **Notice of Restricted Use.** The two rooms in the basement labeled "Storage" and the room labeled "Laundry" at the Basement Level do 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.

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

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

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

- a. The Construction Completion Schedule with associated construction values for each benchmark shall set forth completion dates for the following benchmarks as needed: 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 any further construction benchmarks and conditions of occupancy as may be determined by the Director of Public Works.
- b. Before the Project begins, the Director of Public Works shall make a determination as to the reasonableness of the proposed completion dates applicable to the Project, and that determination shall constitute the "Approved Schedule" and be binding on the Property Owner. The City may, at the Property Owner's sole cost, engage the services of a consultant to review the Property Owner's proposed Construction Completion Schedule and, to the extent the period allocated for any work appears unjustifiable, recommend to the Director of Public Works a reasonable completion date for any benchmark.
- c. If the work for any specific benchmark has not been completed within 90 days after the completion date set forth in the Approved Schedule, and the delay in completion has not been caused by force majeure, the Director of Public Works has the option at any time thereafter to make a claim against the Property Owner's Site Security, if one is required, in order to complete the benchmark. The Director of Public Works has the option to refer the application to the Planning Commission for public review.

Moved by Theophilos, Seconded by Ode

Ayes: Behrens, Jajodia, Ode, Ramsey, Theophilos
Noes: None
Recused: Zhang
Absent:

**Conditional Use Permit
1375 Grand Ave #201**

Resolution 314-CUP-16

WHEREAS, Piedmont Physical Therapy and Pilates and BIO Biometric Innovative Options LLC are requesting a conditional use permit for a new physical therapy, Pilates, and wellness center at the existing commercial building located at 1375 Grand Avenue, Suite #201, Piedmont, California. The application proposes to modify a previously approved Conditional Use Permit, including changes to the office location within the building (previous location was 1345 Grand Avenue, Suite #101), number of occupants, and days and hours of operation; and

WHEREAS, the Piedmont Planning Commission has reviewed the application, the staff report, and any and all other documentation and testimony submitted in connection with the application and has visited the subject property; the Piedmont Planning Commission recommends that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(a), and the proposal conforms with the criteria and standards of Section 17.24.7 of the Piedmont City Code:

1. The proposed use is compatible with the General Plan and conforms to the zoning code. The City may require greater yard setbacks than required by the zoning district if necessary to provide for the health, safety and welfare of Piedmont residents, but this is not required in this situation. The proposed use is compatible with the general plan in that the building was constructed for office use in a commercial district, and there are similar uses within the building that are approved and existing.
2. The use is primarily intended to serve Piedmont residents (rather than the larger region), in that the service is within walking distance of many Piedmont residents, and the use is similar to exercise, nutrition, and health services nearby.
3. The use will not have a material adverse effect on the health, safety or welfare of persons residing or working in the vicinity. Considerations for this finding include no substantial increase in traffic, parking needs or noise; no adverse effect on the character of the neighborhood; and no tendency to adversely affect surrounding property value. There would instead be a positive effect from therapeutic services, and there is onsite parking available.

RESOLVED, that in consideration of the findings and facts set forth above, the Piedmont Planning Commission recommends approval by the City Council of the Conditional Use Permit application by Piedmont Physical Therapy and Pilates and BIO Biometric Innovative Options LLC at 1375 Grand Avenue, Suite #201, Piedmont, California, subject to the following conditions:

1. **Terms of the Approval.** A review of the conditional use permit shall occur in November 2018 and the conditional use permit shall have the following operational characteristics:

- a. Office Hours: **Monday through Saturday 7:00AM – 7:00PM**

- b. Types of Staff/Personnel: **Two full-time physical therapists, two part-time physical therapists, one clerical.**

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

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

Regular Calendar

The Commission considered the following items as part of the Regular Calendar:

**Variance,
Design Review, and
Fence Design Review
534 Boulevard Way**

The Property Owner is requesting permission to make modifications at the rear of the property along Sylvan Way including to demolish the existing one-car garage and construct a new three-car garage with approximately 696 square feet of living space above, and to make modifications to fences, retaining walls, and hardscape on the property. A variance is required in order to construct within the rear 20-foot setback.

Written notice was provided to neighbors. **Two affirmative and one negative response forms** were received. **Correspondence** was received from: Reese Jones, Eric Chen, Paul and Carol Cohen.

Public testimony was received from:

Grier Graff, project architect, described the proposed project and addressed the concerns voiced by neighbors. With regard to concerns about vehicular safety, he explained that the new garage provides conforming parking and improves maneuverability, since it is located farther from the rear property line than the existing garage. He referred to the vehicular circulation diagram that he submitted as part of the application and commented on the fire department's review of the project. With regard to the proposed setback variance, Mr. Graff pointed out that most houses and garages on Sylvan Way are built within the setbacks. He clarified the location of the property line and the edge of the pavement, and he explained that the wall of the new structure is proposed to be located a minimum of 2.5 feet from the property line and 6.5 feet from the edge of the pavement. He explained that public sidewalks do not exist on Sylvan Way but that the proposed project includes some pavement that can be used by pedestrians for the length of the property. Mr. Graff spoke briefly about a proposal in 2013 at a property with frontage on Sylvan Way that was denied in part because the application did not supply conforming on-site parking and explained how this project better meets the Commission's requests. Mr. Graff also discussed the design of the structure, and indicated how the roof was designed to minimize impacts on the neighbors. He offered to lower the structure by 1 foot using non-conventional framing methods.

Mr. Graff answered numerous questions posed by the Commission. In response to questions from Commissioner Ramsey, Mr. Graff confirmed that the south side of the proposed structure is less than 3 feet taller than the south side of the existing garage, taking into consideration the 1-foot reduction being offered. He also confirmed that the existing retaining wall that encroaches onto City property will be removed and that no existing street parking will be eliminated by the proposal. In response to a question from Commissioner Ode, Mr. Graff stated that his vehicular circulation diagram does not show the uphill direction of traffic, since he felt that the downhill direction was more difficult to maneuver. He offered to submit a diagram showing the uphill direction of traffic and expressed his willingness to move the building back a foot or so if the diagram shows the need to do so. In response to questions from Commissioner Theophilos, Mr. Graff agreed to significantly raise the sill of the two bedroom windows on the west side to improve the privacy for the neighbors at 530 Boulevard Way. He explained that modifications would need to be made to the north and south windows to meet requirements for emergency egress. In response to a question from Commissioner Ode about whether the structure could be set back 20 feet, Mr. Graff stated that a 20-foot setback is not typical of the neighborhood and would be an unfair hardship on the applicant. He acknowledged that the structure could be moved back a bit, but that moving the structure back has a greater impact on the neighbors to the west. He also explained that the proposed structure has 30-inch eaves that are architecturally consistent with the main house, and that a greater required setback, may translate into shallower eaves. In response to questions from Commissioner Zhang, Mr. Graff commented on the existing power lines along Sylvan Way and suggested that the nearest proposed window will be below the power lines and at least 5 feet away.

Laura Parada, homeowner, described her efforts to discuss the project with the neighbors and to address their concerns. She stated that she had postponed the hearing of the application so that the neighbors at 530 Boulevard Way could be present at the meeting. She acknowledged their concerns and outlined changes that were made to the proposal to address their concerns, including increasing the side yard setback and orienting social areas away from the neighbor. She also confirmed Mr. Graff's offer to reduce the height of the structure by 1 foot. Ms. Parada concluded by listing the benefits of the project, including the structure's architectural consistency with the main house, the greater space provided along Sylvan Way, better maneuverability, and the addition of a paved area that could be used by pedestrians. In response to a question from Commissioner Ode, Ms. Parada indicated that the existing garage is not usable due to the deteriorated state of the retaining wall and roof.

Christy and Jon Reining, neighbors at 530 Boulevard Way, both thanked Ms. Parada for her flexibility in scheduling the hearing. They indicated their concern for the project and argued that the current proposal will impact neighborhood safety and their family's privacy. With regard to neighborhood safety, Mr. and Ms. Reining described the narrow street, which they said is used by a significant number of pedestrians, including school-aged kids. They questioned the safety of adding a three-car garage to the street. With regard to their privacy, Mr. Reining explained that the new structure would have views into their house and outdoor areas. He argued that the project represents a significant change to the property, since the new structure is six times the size of the existing garage and the property is now proposed to have two frontages. In response to suggestions by the Commission, Mr. Reining stated that he deeply objects to moving the proposed structure farther back on the property, since it would impact his

privacy, but requested landscape screening if it does get moved. In response to a question from Commissioner Theophilos, Mr. Reining stated that traffic on Sylvan Way is a disaster, especially in the evening, and that cars traveling in both directions often have to back up or down the street to avoid another vehicle.

Carol Cohen, neighbor at 44 Sylvan Way, spoke in opposition to the application and emphasized her concerns regarding public safety. She explained that Sylvan Way, with its narrow width, blind turn, and no curbs or sidewalks, is still used heavily by pedestrians, including school-aged children. She referenced similar proposals in the neighborhood, including a project proposed in 2013 for 72 Wildwood Avenue. She stated that the application at 72 Wildwood Avenue was denied in part due to the negative impact it would have on pedestrian and vehicular safety on Sylvan Way, and she read from resolution 104-V/DR-13. Ms. Cohen argued that the City's regulations are in place for a reason and urged the Commission to deny the setback variance requested for 534 Boulevard Way. She also urged the Commission to refrain from approving any additional housing units on the street until the pedestrian and vehicle safety concerns have been mitigated. In response to questions from Commissioners Zhang and Theophilos, Ms. Cohen further described the traffic difficulties on Sylvan Way and stated that traffic travels in both directions. She also responded to comments from Commissioner Behrens, who pointed out that the application at 72 Wildwood Avenue was not proposing conforming parking.

Bill Perttula, neighbor at 100 Wildwood Avenue, stated that his only concern for the project is the proposed rear setback. He argued that the new structure would loom over Sylvan Way. In response to a question from Mr. Perttula regarding the accuracy of the story poles, Staff confirmed that the story poles have been verified, but that they do not represent the 1-foot reduction in height offered by the applicant.

Jenny Perttula, neighbor at 100 Wildwood Avenue, described the traffic issues on Sylvan Way and explained that cars have to back up or down the hill if a vehicle is coming in the opposite direction. She expressed her opinion that the garage should be moved back to allow for a 20-foot setback, and she suggested that the building façade be stepped to minimize the impact on the adjacent neighbor.

Following public testimony, Staff answered several questions from the Commission. Planning Director Jackson confirmed that Sylvan Way is a public street with a 20-foot setback. Associate Planner Gavin reported that she rode down Sylvan Way in a fire truck and that the fire department has indicated that the proposal will allow for greater access, due to the removal of the retaining wall and the greater setback of the garage.

The Commissioners had various opinions on the project. Commissioners Theophilos, Ramsey and Behrens expressed their full support for the project, with the 1-foot reduction in building height and the modified windows. They maintained that the proposal is in keeping with the development pattern along Sylvan Way, that it improves on an existing nonconformity, and that the architect has adequately addressed privacy concerns for the adjacent neighbor. They maintained that the project would not exacerbate traffic concerns on Sylvan Way and would in fact make them less severe. Commissioner Ramsey spoke favorably about the proposed design and explained that the mass of the building is a direct result of the City's parking requirements. Commissioner

Behrens stated that the project is in line with the City's policy to encourage off-street parking. Commissioner Ode was not in support of the project as proposed, due to the existing safety concerns on Sylvan Way. She stated that the garage would add three more cars that would have to maneuver along a street used by pedestrians. She indicated that she would be more supportive of a project that pursues a building configuration that does not require a variance but still minimizes privacy concerns for 530 Boulevard Way. Commissioner Zhang expressed support for the design of the project and the proposed modifications to the building height and windows, but was not in full support of the variance request. He acknowledged that the project is improving safety on Sylvan Way, but suggested that due to the increased intensity in use, the rear setback should be increased to at least 4 feet. He argued that a 4-foot setback would improve maneuverability, be in line with the neighborhood development pattern, and distance the structure from the existing power lines. He added that the greater setback would balance the desire of the applicants to intensify their use with the neighborhood's desire to improve safety along Sylvan Way. Commissioner Ramsey warned that the applicant could choose to reduce the depth of the eaves to help meet the 4-foot setback, which would negatively impact the structure's architectural integrity. He suggested that the 4-foot setback instead be taken to the structure wall, to preserve the deep eaves that are consistent with the main house. After receiving confirmation from Mr. Graff that the suggested change was acceptable, Commissioners Ramsey, Zhang, Behrens and Theophilos agreed to a minimum 4-foot setback to the structure wall.

Resolution 236-V/DR-16

WHEREAS, the Property Owner is requesting permission to make modifications at the rear of the property along Sylvan Way including to demolish the existing one-car garage and construct a new three-car garage with approximately 696 square feet of living space above, and to make modifications to fences, retaining walls, and hardscape on the property, located at 534 Boulevard Way, Piedmont, California, which construction requires design review; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary to construct within the rear 20-foot 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 the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15303, Class 3(a) and (e); and

WHEREAS, with regard to variance, the Planning Commission finds that the proposal complies with the variance criteria under Section 17.21.6 of the Piedmont City Code:

1. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to: the rear of the existing lot is unusually steep (30% slope) as it drops down toward Sylvan Way and the location of the existing and proposed garage. The existing garage has a non-conforming side yard and street setback, as do many of the structures along Sylvan Way. The proposed garage location brings the side yard into conformance but maintains the non-conforming street setback, which is consistent with surrounding buildings.

2. The variance is compatible with the immediately surrounding neighborhood and the public welfare, because nearly all the buildings located along Sylvan Way have a reduced street setback. This pattern of development maximizes the separation between buildings and increases the privacy between neighbors across the rear yard area. Without the street setback variance, this pattern of development would be altered, the yard area on this lot would be reduced, and the impacts on the adjacent side neighbors would be increased. Granting the variance does not convey an advantage to the owner but simply continues development on the owner's lot in the same manner as the neighborhood.

3. Accomplishing the improvements without variance would cause unreasonable hardship in planning, design, or construction, because this area of the lot has a steep slope of approximately 30% down to Sylvan Way. In order to provide the required street setback, the garage and driveway would need to be cut into the slope much farther, resulting in an unusual development pattern for this block, and creating tall side retaining walls on each side of the driveway. Furthermore, the garden between the main house and the detached garage structure would be greatly reduced. This would create a hardship in the design, and it would be inconsistent with the design guidelines and neighborhood development pattern.

WHEREAS, with regard to design review, the Planning Commission finds that the proposal conforms to the criteria and standards of Section 17.20.9(b) of the Piedmont City Code:

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements include but are not limited to: 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 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. The exterior design elements are similar to those of the existing main residence and the nearest houses along Boulevard Way. They share a vocabulary of varied roof planes, overhangs, brackets, exposed rafter tails, wood trim and stucco, all comprised in a pleasing and harmonious manner. Like the main house, the building has lowered roof lines which flank dormer style windows. This reduces the massing and creates multiple breaks in the roof plane. Since the structure is built into the slope at the rear of the property, it is two stories high along the north side, but only one story at the south side. For the adjacent side neighbors it will appear as a cottage in the yard, while from Sylvan Way it will appear as a carriage house. The proposed building is located on Sylvan Way in a manner similar to the adjacent garages and houses, where nearly all the structures have reduced setbacks. The proposed setback distance varies along Sylvan Way due to the offset in plan and relationship to the street. Instead of being a single uniform plane, this breaks up the scale of the north facade to be consistent with the overall neighborhood character.

2. The proposed new multi-level structure 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. Since

the building is excavated into the slope it is only one story tall on the south side. The height is further reduced by using a lower roof slope of 7:12, whereas the main house has a roof slope of 10:12. Both of these design decisions reduce the overall height and minimize view impacts on the two adjacent side neighbors. By being located on the north side of the lot, and along Sylvan Way, the building will have minimal impact on those properties' access to direct and indirect light. In addition, the houses to the north are located 20 to 30 feet below Sylvan Way, and front onto Wildwood Avenue, so there is little if any impact on their views, light, or privacy. Finally, to lessen privacy impacts on the closest neighbor at 530 Boulevard Way, the entry and living spaces are located on the opposite side of the building toward the public path, and, as conditioned, the windows facing 530 Boulevard Way will be changed to transom windows to eliminate privacy issues.

3. The size and height of the addition are commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and are in keeping with the existing neighborhood development pattern. The existing lot is a large through lot fronting on both Boulevard Way and Sylvan Way. There are also a number of smaller lots in this block which front on only one of the streets. In both cases, the development pattern includes houses and garages along both streets. Replacing the existing building with a new one along Sylvan Way is consistent with existing patterns of development and appropriate for the lot size.

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 that the existing retaining wall will be eliminated, and as conditioned, the corner of the new structure will be four feet from the property line. In accordance with Sections 17.16.1 and 17.22.1, the proposed on-site parking is appropriate to the size of the new multi-level structure, and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood. The parking is appropriate for the size of the existing house and proposed building and conforms to the city requirements. The garage location is similar to the existing, but with an increased distance from Sylvan Way so there should be no additional effect on the safety of residents, pedestrians, or the flow of traffic. The project would add two garage spaces along Sylvan Way, which currently has a total of 40 garage spaces along its length. Since the proposal creates additional off-street parking spaces without eliminating any on-street spaces, parking in the area will benefit.

5. The project complies with Design Review Guidelines I-1, I-1(a), I-1(b), I-1(c), I-1(d), I-2, I-2(a), I-2(b), I-2(c), I-2(d), I-3, I-4, I-5, I-5(a), I-5(b), I-6, I-7, I-7(a), I-8, I-9, I-9(a), I-10, I-11, I-12, III-1, III-1(a), III-2, III-2(a), III-3, III-4, III-5, III-5(a), III-6, III-6(a), III-7, III-7(a), IV-1, IV-1(a), IV-1(b), IV-2, IV-2(a), IV-3, IV-3(a), IV-4, IV-4(a), IV-5, IV-5(a), IV-6, V-1, V-2, V-3, V-4, V-5, V-5(a), V-5(b), V-5(c), V-6, V-7, V-8, V-9, V-10, V-11.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review application for proposed construction at 534 Boulevard Way, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Environmental Hazards.** Prior to the issuance of a building permit as required by the Chief Building Official, the applicant shall provide a plan,

including necessary testing, to verify compliance with all local, state and federal regulations regarding the disturbance and removal of hazardous materials (if any) on residential properties and/or in the proximity of schools, including lead-based paint and asbestos. Said plan for the proper removal and handling of hazardous materials shall be provided on the appropriate sheets of the construction plan sets and included in the Construction Management Plan.

2. Contractor's General Liability Insurance. To ensure that the contractor doing work in the City will be responsible for damages caused by the work to City property or to neighboring property, the Property Owner shall require all contractors performing work on the Project to maintain General Liability Insurance for protection from claims for damages because of bodily injury, including death, and claims for damages, other than to the contractor's work itself, to property which may arise out of or result from the contractor's operations. Such insurance shall be written for not less than \$1,000,000 per occurrence. The insurance shall include an endorsement requiring 10 days prior notice to the City if the insurance is to be cancelled or changed, and Property Owner shall immediately arrange for substitute insurance coverage. If the contractor's insurance carrier states in writing that it is unable to provide the required endorsement, Property Owner shall be responsible for providing the City with the required notice if the insurance is to be cancelled or changed. Property Owner's failure to provide such notice shall constitute grounds for revocation of the City's design review approval and/or permit. If the Property Owner does not have a general contractor, the Property Owner shall maintain property insurance and coverage for contractors, which is substantially equivalent to the contractor's requirement of this section.

3. BAAQMD Compliance. The applicant shall comply with the Bay Area Air Quality Management District regulations related to any building demolition. The Demolition Notification form is available on their website at www.BAAQMD.gov/forms.

4. Window and Door Material. As specified in the plans, the building material for the new windows and doors shall be wood or aluminum clad wood.

5. Window Color Scheme. All the windows on the accessory structure shall have a consistent color scheme.

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. Garage Door. To facilitate vehicular access, the garage doors shall be motorized. If design modifications are required to accomplish this, those modifications shall be subject to staff review.

8. Emergency Vehicle Access. The applicant shall work with the Public Works Department to permanently install a red "No Parking" stripe across the driveway and "No Parking" signs in order to maintain adequate turning radius, as determined by the Fire Department, for access of emergency vehicles.

9. **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.

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

11. **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.

12. **Setback from Property Line Verification.** Prior to frame inspection, the applicant shall submit to the Building Official written verification by a licensed land surveyor stating that the construction is located at the setback dimension from the rear (north), left (west), and right (east) property lines as shown on the approved plans. The intent is to verify that the approved features, including fences and retaining walls, are constructed at the approved dimension from the property line(s) and completely within the applicant's property.

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

14. **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.

15. **Building Height and Floor Level Verification.** Prior to foundation and/or frame inspection, the applicant shall provide the Building Official written verification by a licensed land surveyor stating that the floor level(s) and roof of the new structure(s) are constructed at the approved height(s) above grade.

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

- a. Construction Site Control of Stormwater. The California Regional Water Quality Control Board requires all projects that disturb the site to comply with Provision C.6 of the San Francisco Bay Regional Stormwater NPDES Permit in order to prevent construction site discharges of pollutants and other regulated materials during construction. As required by the Chief Building Official and prior to the issuance of a building permit, the Applicant shall develop and submit a construction stormwater management plan as part of the Construction Management Plan to achieve timely and effective compliance with Provision C.6. Permit Provision C.6.c.ii provides sources for site specific, and seasonally- and phase-appropriate, effective Best Management Practices (BMPs) that may be incorporated into the stormwater management plan. Copies of the Municipal Regional Stormwater Permit are available from the Piedmont Public Works Department and on-line at cleanwaterprogram.org.
- b. Neighboring Property Owner Permission. Should the execution of the Foundation/Shoring/Excavation Plan require excavation into a neighboring property or if access onto the neighboring property is necessary for construction, the applicant shall submit, prior to the issuance of Building Permit, a written statement from the neighboring property owner granting permission for access onto his/her property for the purpose of excavation and/or construction.

17. 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 as needed: 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 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.

18. **Building Height.** The ridge height of the new building shall be reduced by 12 inches.

19. **Setback Along Sylvan Way.** The minimum setback along Sylvan Way, measured to the corner wall of the building, shall be 4 feet, rather than the proposed 2 feet, 6 inches.

20. **Window Design.** Windows on the west façade shall be reduced in size and shall have raised sills in a transom style. These changes and other window changes to provide emergency egress shall be subject to staff review and approval.

Moved by Theophilos, Seconded by Ramsey
Ayes: Behrens, Ramsey, Theophilos, Zhang
Noes: Ode
Recused:
Absent:

The Commission recessed for dinner at 6:30 p.m. and reconvened at 7:01 p.m.

**Fence Design Review
1243 Grand Avenue**

The Property Owner is requesting retroactive approval for a wood fence constructed within 20 feet of the rear property line, which is located along the alleyway between Grand and Olive Avenues.

Written notice was provided to neighbors. **One affirmative and one negative response forms** were received. **Correspondence** was received from: Helen Steers.

Public testimony was received from:

Herb Canada (316 Olive Avenue), Helen Steers (340 Olive Avenue), and Betsy Whitely (328 Olive Avenue) spoke in opposition to the existing gate that was built without a permit. They argued that, even if the gate is made inoperable, it still gives the appearance of access to the privately owned alleyway behind Olive Avenue. Mr. Canada described the difficulties he has encountered with people mistaking the private alley for a public alley, and he stated that the gate reinforces this misunderstanding and would encourage future owners to make the gate operable. Ms. Steers described post spacing and indicated that the gate still gives the perception of vehicular access to the alley. She suggested that the gate be removed and replaced by a solid fence. Ms. Whitely stated that the current post spacing makes the fence flimsy. She urged the Commission to not approve the fence as is and to require a solid fence with adequate post spacing in place of the existing gate. She also suggested that the fence be built so that its "bad side" does not face the alley. In response to questions from the Commission, Mr. Canada, Ms. Steers, and Ms. Whitely all confirmed that an attractive, solid fence with evenly spaced posts and no gate is acceptable.

Greg Gasorso, a representative for the property owner, explained that a prior owner built the fence, and that the current owner has no intention of using the gate. He stated that the owner is happy to remove the gate and the appearance of a gate, install posts at 6 feet on center, and build a “good side” to the fence facing the alley.

The Commissioners were in full support of the changes agreed to by the neighbors and the owner’s representative and proposed a condition of approval to address these changes.

Resolution 272-DR-16

WHEREAS, the Property Owner is requesting retroactive approval for a wood fence constructed within 20 feet of the rear property line, located along the alleyway between Grand and Olive Avenues at 1243 Grand Avenue, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development, in that, as conditioned, a wood fence with evenly spaced posts and a “good side” facing the alley will replace an existing chain-link fence and non-permitted wooden gate.
2. The design is appropriate, considering its effect on neighboring properties’ existing views, privacy and access to direct and indirect light, because, as conditioned, the fence will have a “good side” facing the neighbors’ properties and will be consistent with similar wood fences in the neighborhood.
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 with removal of the gate, there is no negative impact, and the fence will not obstruct emergency access to the properties.
4. As conditioned, the project complies with Design Review Guidelines V-1, V-2, V-5, V-5(a), V-5(b), V-5(c), V-6, V-7, V-8, V-11.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for proposed construction at 1243 Grand Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

2. **Fence Design.** The gate shall be removed and replaced with a solid fence. The entire fence shall have posts spaced at 6 feet or less on center, and a "good side" shall be added to the side facing the alley. Design changes shall be subject to staff review and approval.

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

**Variance & Admin
Design Review Referred
58 Nace Avenue**

The Property Owner is requesting permission to modify the design of a previously approved deck on top of the garage located on the left (north) property line. A variance is required in order to construct in the front setback.

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

Public testimony was received from:

Michael McFadden, project landscape architect, responded to the Commission's proposed condition that would require the deck construction to not encroach on the public right-of-way. He explained that compliance with the condition would complicate construction of the deck, and he requested that the applicant instead be allowed to apply for an encroachment permit for the 3-inch encroachment. He explained that the existing garage and parapet wall are located within the public right-of-way, and the approved drawings already include a 6-inch extension of the parapet wall with a railing atop.

Commissioner Ramsey suggested that the railing be placed directly behind the parapet, so that it would be fully on the applicant's property. He explained that the Commission is willing to grant an exception for the extension of the parapet, since it is in the same location as the existing parapet, but that it does not want to set a precedent for allowing the deck railing, which is new construction, within the public way. Mr. McFadden was amenable to this solution.

Resolution 287-V/DR-16

WHEREAS, the Property Owner is requesting permission to modify the design of a previously approved deck on top of the garage located on the left (north) property line, located at 58 Nace Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary to construct in the front setback; and

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

WHEREAS, with regard to variance, the Planning Commission finds that the proposal complies with the variance criteria under Section 17.21.6 of the Piedmont City Code:

1. The underlying lot and existing improvements present unusual physical circumstances, in that the property is a very small corner lot with an angled property line. The existing home and garage are located within the front and side yard setbacks, and the existing garage extends 3 inches into the city right-of-way. Strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone which conform to the zoning requirements
2. The variance is compatible with the immediately surrounding neighborhood and the public welfare, because the garage is similar to others in the neighborhood that abut the property line along the street, and the rebuilt garage will match the existing garage footprint.
3. Accomplishing the improvements without variance would cause unreasonable hardship in planning, design, or construction, because the lot is so small, that rebuilding the garage without a setback variance would not be possible and would give other properties in the area an advantage by allowing garages within the setback.

WHEREAS, with regard to design review, the Planning Commission finds that the proposal conforms to the criteria and standards of Section 17.20.9(a) of the Piedmont City Code:

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements include but are not limited to: the reconstructed garage with the roof top deck and screen wall, and the window and door modifications.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because the design is similar to existing development patterns, the screen wall at the deck provides privacy, and the design was previously approved by the Planning Commission and was resubmitted due to corrections with the survey.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress, because there is no change proposed to vehicle or pedestrian access.
4. The project complies with Design Review Guidelines II-1, II-2, II-3(a), II-3(b), II-3(c), II-3(d), II-4, II-6, II-6(a), II-6(b), II-6(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(a), III-7, III-7(a).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review application for proposed construction at 58 Nace Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Door Material.** As specified in the plans, the building material for the new door shall be wood.

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

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. **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.

6. **Divided Lites.** The divided lites on the garage door and door leading to the deck shall have true divided lites or 3D simulated divided lites.

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

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

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

9. **Deck Railing.** The new construction, including the deck railing, shall be located so that it is completely within the property lines.

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

**Variance and
Design Review
1144 Oakland Avenue**

The Property Owner is requesting permission to raise the existing house by 2 feet and develop approximately 1139 square feet of habitable space, including an approximately 168-square-foot two-story addition at the back left (east) corner of the house and the development of approximately 971 square feet at the basement level; to remove the existing entryway stair and reorient the front door; to expand the size of the existing attached garage and driveway; to construct a new upper level deck at the rear of the house; to make various modifications to retaining walls, fences, and hardscape throughout the property; and to make modifications to windows, skylights, and doors throughout the house. Variances are required in order to construct within the left (east) setback and the front (north) setback.

Written notice was provided to neighbors. **Two affirmative response forms, two negative response forms, and two response forms indicating no position** were received. **Correspondence** was received from: Ruth Ruark, and Ellen Reed and Bill Guy.

Public testimony was received from:

Lucy Ling, project architect, described the proposed project and explained how the house would be raised to create livable space in the basement. She explained

that the variances are necessary to raise the walls that already sit within the side and front setbacks. She also described the changes proposed for the front of the house, including the expansion of the garage and the front entry modifications. Ms. Ling explained how the project's design lessens impacts on the neighbors by minimizing window area, proposing high windows on both sides of the house, keeping the height of the house to a minimum, and reducing the expanse of the mansard roof. She showed photographs to demonstrate how the proposed project would retain the east neighbor's significant views and views of the sky. Ms. Ling also commented on the exterior materials proposed, which she said are of high quality and in keeping with the existing design of the house. In response to questions from Alternate Commissioner Jajodia, Ms. Ling commented on a sewer lateral located beneath the garage, clarified the floor elevations within the house, explained the strategy for raising the house, discussed the proposed design details at the front entry, offered to provide a materials palette for review, and reported that all the new windows were changed to be casement or awning style windows for consistency. In response to questions from Commissioner Theophilos, Ms. Ling discussed design alternatives that were considered, but maintained that the current design is minimal and efficient and is the least impactful alternative. In response to a suggestion that the expansion be flipped or moved to the west, Ms. Ling expressed concern that the impact will be transferred to the other neighbor. She agreed to plant tall hedges on the west side of the deck, and pointed out that a 6-foot high fence and trees already exist on the east side.

Hussein Saffouri, neighbor at 1140 Oakland Avenue, voiced his concerns for the proposed project, despite his eagerness to see the property renovated. He stated that the proposed deck would impede upon his privacy and suggested that the applicants either build stairs instead of a deck or commit to planting screening trees on the west side of the deck. He also asked for assurance that the enlargement of the garage doors and driveway would not result in any damage to the large trees along Oakland Avenue. Lastly, Mr. Saffouri expressed his general concern for the significant expansion of small homes in Piedmont.

Bill Guy and Ellen Reed, neighbors at 1148 Oakland Avenue, spoke in opposition to the project. Mr. Guy began by voicing their discomfort with having a sitting Planning Commissioner act as the architect for the project; however he acknowledged that Commissioner Zhang followed all state laws by assigning another architect to represent the project and recusing himself from the discussion. Mr. Guy noted their initial concern that the project would block their views of the Oakland skyline and the hills, but he reported that this significant view appears to be unobstructed by the story poles. He did, however, express concern for the affect that the project would have on the light in their first floor bedroom, kitchen and family room. Ms. Reed emphasized the importance of light in these rooms, especially in the kitchen and family room, and argued that the proposed rear extension would block light and the view of the sky from these rooms. She stated that she and her husband oppose the rear extension of the house and believe that the house can be adequately expanded without the extension. In response to a question from Commissioner Ode about whether they would prefer to have a deck adjacent to their house, Ms. Reed stated that she would not be amenable to that change due to the privacy impact of an adjacent deck.

Ailken Liu spoke on behalf of her parents, the owners of 1144 Oakland Avenue. She explained that her family needs more space and that the house needs to be

upgraded. She described the project and stated that her parents tried to minimize the impacts on the neighbors.

The Commission was divided in its support of the project. Commissioners Jajodia, Ode, and Theophilos spoke in support of the project's design and complimented the architect on space efficiency, but expressed concern for the impacts the project would have on the neighbors. Alternate Commissioner Jajodia suggested that the architect explore solutions to mitigate the neighbors' concerns, and offered an idea of flipping the rear expansion and rear deck to lessen the impact on both neighbors. She also requested that the applicant submit a materials palette. Commissioner Ode suggested that the rear deck be replaced with stairs and that the addition be moved further to the west. Commissioner Theophilos suggested that the application be denied without prejudice and that the applicant return with ideas on how to mitigate the impact. Commissioner Behrens was in full support of the project and considered the mitigation efforts to be adequate, stating that the applicant has proposed to go to the enormous expense of lifting the house to minimize the impact on the neighbors. He questioned whether moving the addition would help significantly, and he expressed support for the landscape screening.

Resolution 293-V/DR-16

WHEREAS, the Property Owner is requesting permission to raise the existing house by 2 feet and develop approximately 1139 square feet of habitable space, including an approximately 168-square-foot two-story addition at the back left (east) corner of the house and the development of approximately 971 square feet at the basement level; to remove the existing entryway stair and reorient the front door; to expand the size of the existing attached garage and driveway; to construct a new upper level deck at the rear of the house; to make various modifications to retaining walls, fences, and hardscape throughout the property; and to make modifications to windows, skylights, and doors throughout the house, located at 1144 Oakland Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary to construct within the left (east) setback and the front (north) 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 the subject property, the Piedmont Planning Commission finds that the proposal does not comply with the criteria and standards of Section 17.20.9(b) of the Piedmont City Code:

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development; however the distance between the addition at the rear of the house and adjacent residences is not appropriate.
2. The proposed addition has been designed in a way that does not minimize view and light impacts on neighboring properties, because the size and bulk of the rear addition impacts the neighbors on both sides.
3. The size and height of the addition are commensurate with the size of the lot and are in keeping with the existing neighborhood development pattern,

because, with the exception of the rear addition, the project only proposes a two-foot height increase and stays within the limits of the existing footprint.

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. The proposed on-site parking is appropriate to the size of the new addition, and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood. There is no impact on pedestrian or vehicular circulation.

5. The project does not comply with Design Review Guidelines II-1 and II-2.

6. Action on the variances is not necessary for this application, because there is no approved design requiring a variance.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies without prejudice the variance and design review application for proposed construction at 1144 Oakland Avenue Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Jajodia, Seconded by Ode

Ayes: Jajodia, Ode, Theophilos

Noes: Behrens

Recused: Ramsey, Zhang

Absent:

**Design Review
237 Park View Avenue**

The Property Owner is requesting permission to construct a 297-square-foot second-story addition, trellis, and roof deck at the northeast corner of the house; to modify the roofline at the southeast corner of the house; to make window modifications on the east (right) façade; and to seek retroactive approval for a hot tub in the rear (north) yard.

Written notice was provided to neighbors. **Two affirmative response forms** were received. **Correspondence** was received from: Lynda Kravitz and Andrew Fisher, Nairobi and Frank Kim, Susan McCreary, Tanya Sherman; Nancy Frank; Buffy and Jim Yeh; Genevie Delsol; Rick Barker.

Public testimony was received from:

Carolyn Van Lang, project architect, spoke on behalf of the owners, explaining that they would like to add a second full bathroom, create a master suite, and add storage to the house. She explained that the perimeter wall height was kept low to have minimal impact on the neighbors. She noted that the design elements are proposed to be consistent with the existing architecture, including the dormers, roofline, roof slope, window lite pattern, balcony detailing, and wood corbels. She suggested that the changes in the front of the house are minor and that the addition is reasonable, and she reported that the neighbors are in full support of the project.

The Commission was in full support of the project. Commissioner Ode commended the applicants on their efforts to include the neighbors. Commissioner Ramsey stated that the addition was efficient and seamless.

Resolution 312-DR-16

WHEREAS, the Property Owner is requesting permission to construct a 297-square-foot second-story addition, trellis, and roof deck at the northeast corner of the house; to modify the roofline at the southeast corner of the house; to make window modifications on the east (right) façade; and to seek retroactive approval for a hot tub in the rear (north) yard, located at 237 Park 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 the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e), and the proposal conforms with the criteria and standards of Section 17.20.9(b) of the Piedmont City Code:

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements include but are not limited to: height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment. The distance between the proposed upper level addition and adjacent residences is reasonable and appropriate due to the existing topography and neighborhood development pattern. Upper level setbacks greater than the setbacks required for the lower level have been considered and are not necessary to reduce losses of ambient and reflected light. The plate height of the addition is kept at 6 feet to minimize the height of the wall. The materials and line of the roof are harmonious with the existing neighborhood development (such as 235 Park View Avenue).
2. The proposed upper level addition has been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.77), 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. The roof over the addition is designed to slope away from the neighbor to the right. The plate height (where the wall meets the rafters) is kept low to minimize the new wall height.
3. The size and height of the addition are commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and are in keeping with the existing neighborhood development pattern, because the FAR for the proposed project is 36.58%, still relatively low when compared to the FAR of a few neighboring properties (53%, 52%, and 44%). The height of the addition is not taller than the existing height and cannot be seen from the street.
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 addition, and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood. There is no change to the circulation pattern, parking layout, or points of ingress and egress. The safety of pedestrians, vehicle occupants, and traffic are not affected.

5. The project complies with Design Review Guidelines II-1, II-2, II-3, II-3(a), II-3(b), II-3(c), II-3(d), II-4, II-5, II-5(a), II-6, II-6(a), II-6(b), II-6(c), II-7, II-7(a).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for proposed construction at 237 Park View Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Hot Tub Sound Testing.** Before issuance of a building permit, the applicant shall submit verification by an acoustical engineer that the hot tub meets the sound requirements outlined in Section 5.2.21 of the Building Code that limits mechanically-generated noise sources as having a maximum sound transmission of 50 decibels, A-weighted, as measured at the nearest property line.

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

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

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

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

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

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

- a. The Construction Completion Schedule with associated construction values for each benchmark shall set forth completion dates for the following benchmarks as needed: 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 any further construction benchmarks and conditions of occupancy as may be determined by the Director of Public Works.
- b. Before the Project begins, the Director of Public Works shall make a determination as to the reasonableness of the proposed completion dates applicable to the Project, and that determination shall constitute the "Approved Schedule" and be binding on the Property Owner. The City may, at the Property Owner's sole cost, engage the services of a consultant to review the Property Owner's proposed Construction Completion Schedule and, to the extent the period allocated for any work appears unjustifiable, recommend to the Director of Public Works a reasonable completion date for any benchmark.
- c. If the work for any specific benchmark has not been completed within 90 days after the completion date set forth in the Approved Schedule, and the delay in completion has not been caused by force majeure, the Director of Public Works has the option at any time thereafter to make a claim against the Property Owner's Site Security, if one is required, in order to complete the benchmark. The Director of Public Works has the option to refer the application to the Planning Commission for public review.

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

**Variance and
Design Review
111 Fairview Avenue**

The Property Owner is requesting permission to construct a 1,246-square-foot, second-story addition; to expand the existing 210-square-foot garage at the front (south) of the house to 348 square feet; to widen the driveway and curb cut at the front of the house; to construct a covered porch with built-in barbecue at the rear (north) elevation; to construct new stairs along the left (west) property line; and to make various modifications throughout the exterior of the house, including changes to windows and doors, garage doors, a skylight, wood trim and outriggers, plaster columns, exterior lighting, and the chimney. Three variances are required in order to construct within the front (south) and right (east) setbacks and to add two additional rooms eligible for use as a bedroom without supplying conforming parking.

Written notice was provided to neighbors. **Four affirmative response forms, one negative response form, and two response forms indicating no position** were received. **Correspondence** was received from: Anne Bevilacqua, and Terry London and Teri Liegler.

Public testimony was received from:

Hubert Lau, homeowner, described the house as a former rental with lots of deferred maintenance. He stated that the project aims to add three second-story bedrooms for his growing family. He described his efforts to reach out to the neighbors, and he listed the neighbors that have indicated their support for the project. He explained that they amended the plans and agreed to remove some existing trees at the front of the property to ameliorate the concerns of the neighbor at 105 Fairview Avenue. He reported that the neighbor at 108 Fairview Avenue has recommended that they reduce the size of the upper story and expand at the rear of the house instead. Mr. Lau responded that such a change would make it difficult for his family to have three bedrooms on one level and it would put the project over its structure coverage limit. He maintained that the proposal was in line with the neighborhood development.

Carolyn Van Lang, project architect, described the project and explained the layout of the floor plan. She explained that a parking variance is requested for a two-car garage that is slightly noncompliant in length due to the location of the front setback and an interior stairway. She discussed the concerns of the neighbor at 108 Fairview Avenue and explained that having the second story in line with the front wall of the house would result in a more cohesive design, inside and out. Ms. Van Lang noted that the height of the upper floor was kept to a minimum, and the style of the house was in keeping with other houses in the neighborhood.

Terry London, neighbor at 108 Fairview Avenue, described the house as being minimally maintained over the years and said he welcomes an improvement to the property. He expressed concerns, however, for the bulk of the proposed project and argued that it is too massive for the lot and the neighborhood. He also expressed concern for the prairie-style architecture, which he said was not in keeping with the neighborhood. He suggested that the applicants consider pushing the second story back, using a broken roofline, and/or placing some of the addition at the rear of the house.

The Commission was in full support of the project. Commissioner Zhang was in favor of the applicants using the existing footprint of the house and placing all the bedrooms on one level. He spoke favorably about the building materials and window composition. He also noted that the design was compatible with the surrounding neighborhood, which he said has numerous two-story houses with similar configuration and style. Commissioner Ode noted that the parking variance is appropriate, since the garage provides usable off-street parking that is only slightly nonconforming in size. Alternate Commissioner Jajodia stated that the bulk of the addition fits well with the neighborhood pattern and will be softened by trees along Fairview Avenue. Commissioner Behrens commended the applicants for improving a previously neglected property.

Resolution 315-V/DR-16

WHEREAS, the Property Owner is requesting permission to construct a 1,246-square-foot, second-story addition; to expand the existing 210-square-foot garage at the front (south) of the house to 348 square feet; to widen the driveway and curb cut at the front of the house; to construct a covered porch with built-in barbecue at the rear (north) elevation; to construct new stairs along the left (west) property line; and to make various modifications throughout the exterior of the house, including changes to windows and doors, garage doors, a skylight, wood trim and outriggers, plaster columns, exterior lighting, and the chimney,

located at 111 Fairview Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, three variances from the requirements of Chapter 17 of the Piedmont City Code are necessary to construct within the front (south) and right (east) setbacks and to add two additional rooms eligible for use as a bedroom without supplying conforming parking; and

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

WHEREAS, with regard to variance, the Planning Commission finds that the proposal complies with the variance criteria under Section 17.21.6 of the Piedmont City Code:

1. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to: the size and irregular configuration of the lot. The garage is usable and is only 1 foot, 6 inches short of compliant. The setback variances are appropriate due to the existing footprint of the house and the narrowing of the lot toward the rear. Strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone that conform to the zoning requirements.
2. The variances are compatible with the immediately surrounding neighborhood and the public welfare, because they will not trigger any negative impacts to the neighbors.
3. Accomplishing the improvements without variance would cause unreasonable hardship in planning, design, or construction, because of the lot configuration.

WHEREAS, with regard to design review, the Planning Commission finds that the proposal conforms to the criteria and standards of Section 17.20.9(b) of the Piedmont City Code:

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. The distance between the addition and adjacent residences is reasonable and appropriate due to the existing topography and neighborhood development pattern. Upper level setbacks greater than the setbacks required for the lower level have been considered and are not necessary to reduce losses of ambient and reflected light. The upper story is set back from the garage and porch and will not create any adverse impacts to the light of the neighbors.
2. The proposed addition has been designed in a way that reasonably minimizes view and light impacts on neighboring properties, as demonstrated in the architect's view study. The owner has agreed to remove several trees at the front of the property, which will improve the light at 105 Fairview Avenue.
3. The size and height of the addition are commensurate with the size of the lot, and are in keeping with the existing neighborhood development pattern, because the house is compatible with the mostly two-story houses in the neighborhood.

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. The proposed on-site parking is appropriate to the size of the new addition, and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood. The proposal provides one additional off-street parking space in the garage and improves the condition of the driveway, so the safety of residents and pedestrians is actually improved.

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

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review application for proposed construction at 111 Fairview Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Window and Door Material.** As specified in the plans, the building material for the new windows and doors shall be aluminum-clad wood.

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

3. **Skylight Flashing.** The metal flashing around the new skylight shall be painted to match the adjacent roof color.

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

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

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

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

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

9. **Setback from Property Line Verification.** Prior to foundation inspection the applicant shall submit to the Building Official written verification

by a licensed land surveyor stating that the construction is located at the setback dimension from the east, west and south property lines as shown on the approved plans. The intent is to verify that the approved features are constructed at the approved dimension from the property lines.

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

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

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

- a. The Construction Completion Schedule with associated construction values for each benchmark shall set forth completion dates for the following benchmarks as needed: 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 any further construction benchmarks and conditions of occupancy as may be determined by the Director of Public Works.
- b. Before the Project begins, the Director of Public Works shall make a determination as to the reasonableness of the proposed completion dates applicable to the Project, and that determination shall constitute the "Approved Schedule" and be binding on the Property Owner. The City may, at the Property Owner's sole cost, engage the services of a consultant to review the Property Owner's

proposed Construction Completion Schedule and, to the extent the period allocated for any work appears unjustifiable, recommend to the Director of Public Works a reasonable completion date for any benchmark.

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

Moved by Zhang, Seconded by Ode
Ayes: Behrens, Jajodia, Ode, Theophilos, Zhang
Noes: None
Recused: Ramsey
Absent:

**Variance,
Design Review, and
Fence Design Review
58 Crest Road**

The Property Owner is requesting permission to remodel the exterior of the home, including to construct a new terraced courtyard, water feature, retaining walls and fences in the front (northwest) of the home; to make modifications to the size and location of the rear (southeast) pool deck including the installation of a new fire pit; to remove the existing pool changing room and construct an approximately 368-square-foot two-story pool house at the rear of the home; to construct new retaining walls and guardrails at the right of the home; to install two skylights on the northeast facing roof; and to modify windows, doors, exterior lighting, guardrail design and hardscape throughout the property. A variance is required in order to construct within the front (northwest) setback.

Written notice was provided to neighbors. **Three affirmative response forms and one response form indicating no position** were received.

Correspondence was received from: Susan Hill, and Philip and Jill Halverson.

Public testimony was received from:

Rich Malaspina, homeowner, explained that he and his wife recently purchased this mostly-original late 1970s house and are proposing much-needed upgrades. Following testimony from his architect and Ms. Hill (below), Mr. Malaspina continued his testimony to address questions about the landscape. He handed out an updated landscape diagram to the Commissioners and informed the Commission that he and Ms. Hill have agreed to plant bamboo along the property line between their houses to block the view from the new deck extension into Ms. Hill's house. He also noted that although he removed Acacia trees from the property, the roots remain and will continue to sprout and come back as shrubs. He explained that the massive Acacia root system is still in place for erosion control, and that drainage issues will be addressed with the building permit submittal. Mr. Malaspina also responded to comments about the deck railing and noted that its transparency allows those sitting on the deck to see the bay views. He argued that the house at 54 Crest Road cannot be seen unless one is standing right at the railing, and that the railing, whether transparent or opaque will not impact the neighbor's privacy. He suggested that the bamboo screening would provide adequate privacy for the neighbor. Mr. Malaspina also responded to questions from Commissioner Ramsey regarding the proposed wall

and vehicular safety, and he stated that he would like to keep the wall, but acknowledged some flexibility with regard to its height.

Phred Starkweather, project architect, explained that the project proposes to expand the rear deck, create an entry courtyard and garden, and connect the two outdoor spaces with an opened interior floor plan that takes advantage of the bay view. He explained that the new front entry stair requires a variance due to the lowering of the grade at the front of the house. Mr. Starkweather outlined the changes to the design that were made to minimize the impact on neighbors, including relocating and reducing the size of the pool house and amending the landscape plan. He also reviewed the design details and materials. In response to questions from the Commissioners about the proposed front wall, Mr. Starkweather explained how the wall is designed to relate to the grade and explained that it would provide privacy for the garden. He suggested that the 4-foot limitation on front yard fences has been loosely interpreted around Piedmont, but he acknowledged that, in comparison to existing conditions, visibility from the driveway would be diminished. Mr. Starkweather also responded to questions from Commissioner Theophilos regarding landscape screening, drainage, the transparent deck railing, and the view corridor. He described the custom horizontal lattice proposed to screen the support structure of the deck.

Susan Hill, neighbor at 54 Crest Road, discussed her concerns with the proposal. She stated that front yard fences in Piedmont are usually limited to 4 feet tall, and considered the proposed front yard wall as too solid and too imposing. She suggested that the applicant instead use pillars with wire between them to make it more transparent. She also discussed her concerns with the rear deck, including the loss of privacy in her back yard and bedrooms and the visible deck supports. She suggested that the applicant replace the transparent railing with an opaque railing. She also commented on stormwater runoff from the property and expressed concern for the mature trees that were removed from the property. Ms. Hill suggested that the landscape plan include tall evergreen plants suitable for screening. She also suggested that a cyclone fence, rather than a solid fence be installed at the property line, so that she could grow plants on it.

Philip Halverson, neighbor at 60 Crest Road, spoke in full support of the proposal. He stated that the property had been neglected for a long time and that he fully endorses the proposed project. He commended the applicants for the work they had done on their prior home across the street and stated that it was a major improvement to the neighborhood.

The Commissioners considered the project to be well designed, but were not in support of the front wall, which they considered to be too tall and opaque and more consistent with the Spanish style of the wall across the street than with the modern airiness of the proposed house. Commissioner Ode stated that the proposed wall would create a tunnel effect with the retaining wall across the street, and she cited Design Guideline IV-5, which urges applicants to avoid such a tunneling effect. Commissioner Ramsey added that the wall does not meet Design Guidelines V-5(a), V-9, V-1, V-2, and V-6. The Commissioners spoke briefly about how the applicant might amend the wall to make it approvable. With regard to the privacy concerns of the downhill neighbor, the Commissioners agreed that the concerns could be addressed through additional screening vegetation, and that an opaque railing is not necessary. They supported requiring a comprehensive landscape plan as a condition of approval.

Resolution 317-V/DR-16

WHEREAS, the Property Owner is requesting permission to remodel the exterior of the home including: to construct a new terraced courtyard, water feature, retaining walls and fences in the front (northwest) of the home; to make modifications to the size and location of the rear (southeast) pool deck including the installation of a new fire pit; to remove the existing pool changing room and construct an approximately 368-square-foot two-story pool house at the rear of the home; to construct new retaining walls and guardrails at the right of the home; to install two skylights on the northeast facing roof; and to modify windows, doors, exterior lighting, guardrail design and hardscape throughout the property, located at 58 Crest Road, Piedmont, California, which construction requires design review; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary to construct within the front (northwest) 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 the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e); and

WHEREAS, with regard to variance, the Planning Commission finds that the proposal complies with the variance criteria under Section 17.21.6 of the Piedmont City Code:

1. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to: the sloping topography of the existing site and the elevation of the existing entry of the house, which is located more than 5 feet above the sidewalk. Strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone that conform to the zoning requirements.
2. The variance is compatible with the immediately surrounding neighborhood and the public welfare, because other homes have stairs that extend into the front setback.
3. Accomplishing the improvements without variance would cause unreasonable hardship in planning, design, or construction, because code conforming stairs to access the home would require construction in the setback, due to the rise/run requirements of the stairs and the height differential of the entry and sidewalk grade.

WHEREAS, with regard to design review, the Planning Commission finds that the proposal conforms to the criteria and standards of Section 17.20.9(b) of the Piedmont City Code:

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. The distance between the addition and adjacent residences is reasonable and appropriate due to the existing topography and neighborhood development pattern. Upper level setbacks greater than the setbacks required for the lower level have been considered and are not necessary to reduce losses of ambient and reflected light, because the modifications to the main house do not expand beyond the existing footprint, and the pool house is sited below the site line of

the uphill neighbor and at the farthest distance away from the downhill neighbor.

2. The proposed addition has been designed in a way that reasonably minimizes view and light impacts on neighboring properties, because the modifications to the main house don't expand beyond the existing footprint, and because of the siting of the pool house.

3. The size and height of the addition are commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and are in keeping with the existing neighborhood development pattern, because lot coverage for structures and hardscapes are well below code limits and the FAR is below the allowable.

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. The existing or proposed on-site parking is appropriate to the size of the new additions, and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood. As conditionally approved, the fence will be limited to four feet, so that there will be no change in ingress or egress or the safety of residents and pedestrians.

5. The fence, as proposed, does not comply with Design Review Guidelines V-1, V-2, V-5(a), V-6, V-9.

6. As conditioned, with a modified front yard fence, the project complies with Design Review Guidelines II-1, II-3, II-3(a), II-3(b), II-3(c), II-3(d), II-4, II-5, II-5(a), II-6, II-6(a), IV-1, IV-1(b), IV-2, IV-2(a), IV-3, IV-3(a), IV-4, IV-4(a), IV-5, IV-5(a), IV-6, V-1, V-2, V-3, V-4, V-5, V-5(a), V-5(b), V-5(c), V-6, V-7, V-8, V-9, V-10, V-11.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review application for proposed construction at 58 Crest Road, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

3. **Exterior Lighting.** All new exterior light fixtures shall be downward directed with an opaque or translucent shade that completely covers the light bulb unless otherwise noted in the submitted lighting plan.

4. **Fire Pit.** Final design of the fire pit shall be subject to staff review and approval.

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

6. Building Height and Floor Level Verification. Prior to foundation and/or frame inspection, the applicant shall provide the Building Official written verification by a licensed land surveyor stating that the floor levels and roof of the new pool house are constructed at the approved heights above grade.

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

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

9. Setback from Property Line Verification. Prior to frame inspection, the applicant shall submit to the Building Official written verification by a licensed land surveyor stating that the construction of the entry staircase is located at the setback dimension from the front property line as shown on the approved plans. The intent is to verify that the approved features are constructed at the approved dimension from the property line.

10. Notice of Restricted Use. The storage rooms in the lower level of the house and the pool house do 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.

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

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

Permit are available from the Piedmont Public Works Department and on-line at cleanwaterprogram.org.

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

12. **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 as needed: 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 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.

13. **Landscape Plan.** The applicant shall submit a final landscaping plan that provides privacy screening along the right property line for the downhill neighbor, subject to staff review and approval.

14. **Fence Height.** The front fence/wall shall have a maximum height of 4 feet within the front yard setback, subject to staff review and approval.

15. **Screening.** The applicant shall have the option to install screening on the underside of the deck, subject to staff review and approval.

Moved by Ramsey, Seconded by Theophilos
Ayes: Behrens, Jajodia, Ode, Ramsey, Theophilos
Noes: None
Recused: Zhang
Absent:

**Variance and
Design Review
58 Fairview Avenue**

The Property Owner is requesting permission to make modifications to the attic level, including raising the roofline and making alterations to the eaves, creating 1,130 square feet of habitable living space by finishing the attic and seeking retroactive approval for the enclosure of a second-story sleeping porch, installing three skylights, and making window modifications; and to seek retroactive approval for several windows throughout the house. Variances are required in order to construct within the right (west) setback and to increase the number of rooms eligible for use as a bedroom to 5 without supplying conforming parking.

Written notice was provided to neighbors. **Six affirmative response forms and three response forms indicating no position** were received.

Public testimony was received from:

Sean Byrnes, homeowner, stated that the three goals of the project are to add a second bathroom, to have three bedrooms on the same level, and to maintain the look of the house. He reported that the former owners had been approved for a similar, smaller project, and that their plans inspired the project. He explained that the project proposes to raise the roof of the house and to keep the changes minimal. Mr. Byrnes reported on the discussions he had with neighbors and discussed the concerns of the neighbors at 50 Fairview Avenue. He explained that they had considered many configurations to alleviate this neighbor's concerns, but had not found a mutually agreed upon solution.

Alice Brown, neighbor at 50 Fairview Avenue, expressed her concerns for the proposed addition's effect on her ambient light and sky view. She maintained that the addition would loom over her home and affect the quality of light in her kitchen. She noted that a public walk exists between the two houses, but that they are still close to each other. In response to a question from Commissioner Behrens, Ms. Brown confirmed that no significant view would be disturbed by the addition.

Ben Anderson, project architect, reported that the existing house has two bedrooms on the first floor and two illegally built bedrooms on the second floor. He explained that the applicants are requesting a parking variance for their nonconforming two-car garage, since they would like to add three bedrooms on the second floor and prefer not to eliminate a bedroom on the first floor. He also explained that a side yard setback variance would be needed to construct the addition within the setback adjacent to the public walk. He described his design process, and indicated that he took it as a challenge to connect the designs of the original house and the previously constructed second floor addition, not realizing at the time that the previously constructed addition was done so illegally. He explained the difficulties he encountered in incorporating code-compliant egress windows on the second floor with the original architecture of the house, and explained how this process defined the placement of the

bedrooms. In response to questions from the Commission, Mr. Anderson confirmed that having five bedrooms was not originally a program requirement, but that the applicants prefer not to make significant changes on the first floor. He maintained that the long driveway could serve as a third tandem, uncovered parking space for the property, and he responded to questions regarding his survey of five-bedroom homes in the neighborhood. In response to Commissioner Ramsey's comments and questions about design details that are not in keeping with the historically significant architecture of the existing house, Mr. Anderson explained his reasoning behind the window design and made note of several corrections on the drawings. In response to questions regarding the project's impact on the adjacent neighbor, Mr. Anderson stated that the neighbor's direct light would not be significantly impacted, but that her ambient light would be affected. He also noted that the proposed roof would be similar in height to adjacent roofs and in keeping with the neighborhood development pattern. Mr. Anderson stated that although he looked at other design alternatives to minimize the impact on the neighbor, such as dormers or pitching the roof in the opposite direction, he considered the horizontal lines of the existing roof to be significant and worthy of duplication.

The Commissioners were unanimously in agreement that the existing house, with its California bungalow architecture, is historically significant and requires a higher level of respect with regard to architectural consistency. While acknowledging that a second story addition might work on the home, the Commissioners expressed their concern that the proposed addition appears tacked on and lacks the proper window design, proportions, and balance indicative of a California bungalow. With regard to the parking variance, several Commissioners expressed their reluctance to approve a parking variance for five bedrooms, since opening up one of the first floor bedrooms to the living space could eliminate the fifth bedroom. Commissioner Theophilos suggested that the applicant attempt to mitigate the loss of light to the adjacent neighbor.

Resolution 318-V/DR-16

WHEREAS, the Property Owner is requesting permission to make modifications to the attic level, including raising the roofline and making alterations to the eaves, creating 1,130 square feet of habitable living space by finishing the attic and seeking retroactive approval for the enclosure of a second-story sleeping porch, installing three skylights, and making window modifications; and to seek retroactive approval for several windows throughout the house, located at 58 Fairview Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary to construct within the right (west) setback and to increase the number of rooms eligible for use as a bedroom to 5 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 the subject property, the Piedmont Planning Commission finds that the project does not comply with the criteria and standards of Section 17.20.9(b) of the Piedmont City Code:

1. Portions of the exterior design elements match the existing details and size (including the roof pitch, eave rake details, overhang details, siding, and

brackets) and are aesthetically pleasing, are harmonious with existing and proposed neighborhood development, and conform to the Design Review Guidelines. However, the proportions, new window placement and details, and balance of the second story addition, are not compatible with the existing residence and do not conform to the Design Review Guidelines. Upper level setbacks greater than the setbacks required for the lower level have been considered at the front of the house to minimize the impact of the second story addition and to reduce the loss of ambient and reflected light.

2. For the side setbacks, the proposed addition has not been designed in a way that reasonably minimizes light impact on the property to the right.
3. The size and height of the addition are commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and are in keeping with the existing neighborhood development pattern, because the proposed FAR is below the allowable, the home size is similar to adjacent homes, and the proposed addition does not increase the footprint.
4. The five-bedroom proposal requires a variance for the number of parking spaces required at the site. The proposed on-site parking is not appropriate for the size of the new addition, based on the number of proposed bedrooms.
5. The project does not comply with Design Review Guidelines II-1, II-3, II-3(a), II-3(b), II-3(c), II-3(d).
6. Action on the variances is not necessary for this application, because there is no approved design requiring a variance.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies without prejudice the variance and design review application for proposed construction at 58 Fairview Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

ADJOURNMENT

There being no further business, Chairman Behrens adjourned the meeting at 10:20 p.m.