

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, February 10, 2014

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

CALL TO ORDER

Chairman Zhang called the meeting to order at 5:00 p.m. He welcomed and introduced the City's newest planning technician Ms. Lauren Seyda.

ROLL CALL

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

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

CONSENT CALENDAR

The following Resolution was approved under one vote by the Commission:

Design Review 50 St. James Place

Resolution 12-DR-14

WHEREAS, the Property Owner is requesting permission to construct a new 356 sq. ft. multi-level addition; enlarge an existing bay window; construct a new seismic concrete wall adjacent to the garage; add exterior lighting; make window and door modifications; and make various interior improvements located at 50 St. James Place, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. 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 proposed improvements were designed so as to have no impact on neighbor light or views.
2. The proposed upper level addition has been designed in a way that reasonably minimizes view and light impacts on neighboring properties because it was designed to minimize the impact on view and light.
3. The size and height of the addition is commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and is in keeping with the existing neighborhood development pattern.
4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. 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. The property has sufficient off-street parking per the City Code.

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

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

1. **Construction Management Plan.** The property owner shall develop a comprehensive Demolition and Construction Management Plan. The Demolition and Construction Management Plan shall address noise, vibrations, traffic control, parking, debris removal, dust control, sanitary facilities, construction fencing and other potential construction impacts, as well as other details involving the means and methods of completing the Project, including the construction route. The Plan shall specifically address the location of the staging area for the delivery of concrete and other large deliveries of construction material, such as lumber and drywall. The Plan shall also address the location of the staging for the removal of demolition debris and recyclable materials and shall address the location for parking of worker vehicles. The City Building Official has the authority to require modifications and amendments to the Demolition and Construction Plan as deemed necessary throughout the course of the Project and until the Final Inspection.

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

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

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

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

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

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

4. **Contractor's General Liability Insurance.** To ensure that the contractor doing work in the City will be responsible for damages caused by the work to City property or to neighboring property, the Property Owner shall require all contractors and subcontractors performing work on the Project to maintain General Liability Insurance for protection from claims for damages because of bodily injury, including death, and claims for damages, other than to the contractor's work itself, to property which may arise out of or result from the contractor's operations. Such insurance shall be written for not less than \$1,000,000 per occurrence. The insurance shall include builder's risk. The insurance shall include an endorsement requiring 30 days' notice to the City if the insurance is cancelled or changed, and Property Owner shall immediately arrange for substitute insurance coverage. If the Property Owner does not have a general contractor, the Property Owner shall maintain property insurance and coverage for contractors, which is substantially equivalent to the contractor's requirement of this section.

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

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

7. **Double Trailer Truck Prohibition.** To reduce potential damage to the

streets and to avoid traffic hazards on narrow curving city streets, no double trailers shall be used as part of the Project.

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

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

Moved by Ode, Seconded by Theophilos

Ayes: Chase, Hobstetter, Ode, Theophilos, Zhang

Noes: None

Absent: None

PUBLIC FORUM

There were no speakers for the public forum.

APPROVAL OF MINUTES

Resolution 2-PL-14

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

Moved by Theophilos, Seconded by Chase

Ayes: Chase, Hobstetter, Ode, Theophilos, Zhang

Noes: None

Absent: None

REGULAR CALENDAR

The Commission considered the following items of regular business:

Housing Element Update

The Commission convened its third study session regarding the on-going update of the City's General Plan Housing Element (previous reviews were held on October 14, 2013 and January 13, 2014). City Planning Consultant Barry Miller narrated a power-point presentation detailing the results of the City's Housing Site Inventory which identified potential sites in Piedmont where new housing could be constructed in order to comply with the City's Regional Housing Needs Allocation for 2015-2022: 60 new units as follows:

- 7 above moderate income units
- 15 moderate income units
- 14 low income units
- 24 very low income units

The Site Inventory analysis concluded that there are 20 to 25 vacant lots which could be realistically developed for new above moderate units; approximately 10 lot splits which could realistically accommodate new housing units; almost no potential for new residential development on under-utilized multi-family zoned properties; the potential for 5 to 10 new units on under-utilized commercial properties; no potential for housing development on public land; and the greatest potential for developing new low and very-low income by legalizing existing "unintended" units and the construction of new second units. In conclusion,

while the City can easily demonstrate that it has the capacity to meet its assignment of 22 "above-moderate" and "moderate" income housing units, demonstrating the capacity for 38 "low" and "very low" units will be much more challenging. As a consequence, the City may have to consider implementing policy and programs to increase incentives for the development of (i) rent-restricted second units; and (ii) multi-family housing in Zones C and D. The Commission engaged in a Q & A session on housing-related issues following Mr. Miller's presentation.

**Design Review
288 St. James Drive**

The Property Owner is requesting design review to renovate the existing house, add a new 2-story addition, enlarge the garage and the existing "butler's unit" at the rear. New site improvements include the addition of 1,434 sq. ft. of new habitable space, a trellised parking space, the restoration of water features and new exterior lights.

Written notice was provided to neighbors. **One negative response form** was received. **Correspondence** was received from: Marc & Annie Perrin; Aaron Ross; Debra Yau;

Public testimony was received from:

Debra Yau, co-owner and Project Architect and Juan Perez, co-owner and Project Contractor, explained the design efforts made to restore the original architectural quality and character of this Miller & Warnecke historic home and the design and landscaping modifications made in response to neighbor requests.

Marc Perrin stated that his initial concerns regarding the project have been mitigated by the applicants' revisions to the butler's unit, garage addition, fencing and landscaping enhancements.

Arnold Abrams voiced support for project approval.

The Commission supported application approval, agreeing that the proposed additions have been seamlessly integrated into this historic home, complimenting the applicants for preserving original features and noting that the improvements have been specifically designed to minimize impact on adjacent neighbors and the project represents a beautiful restoration of a heritage property.

Resolution 374-DR-13

WHEREAS, the Property Owner is requesting permission to renovate the existing house, add a new 2-story addition, enlarge the garage and the existing "butler's unit" at the rear. New site improvements include the addition of 1,434 sq. ft. of new habitable space, a trellised parking space, the restoration of water features and new exterior lights located at 288 St. James Drive, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. 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 proposed additions are seamlessly integrated into the new home and are in keeping with the home's original architecture. In addition, the existing home is situated down in a valley and does not obstruct neighbor views, light or privacy.
2. The proposed upper level addition has been designed in a way that reasonably minimizes view and light impacts on neighboring properties because the home is situated in a valley at an elevation that is lower than surrounding homes.
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 slope at the rear of the home is too steep to be built upon.
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 additions and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood. The trellised carport brings the property into compliance with the City's parking code.
5. The project complies with Design Review Guidelines II-1, II-2, II-3(a) through (c), II-4, II-5, II-6, II-6(a) through (c), II-7, II-7(a), III-1, III-1(a), III-2, III-2(a), III-3, III-4, III-5, III-5(a), III-6, III-6(a), III-7 and III-7(a).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for construction at 288 St. James Drive, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Construction Management Plan.** The Property Owner shall develop a comprehensive Construction Management Plan. The Construction Management Plan shall address noise, vibrations, traffic control, parking, debris removal, dust control, sanitary facilities, 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. Optional: Stormwater BMPs for Construction. Property Owner shall implement (1) stormwater treatment Best Management Practices (BMPs) and (2) Bay Area Stormwater Management Agencies Association's "Start at the Source" criteria for stormwater quality

protection. City Staff may impose additional requirements involving the prevention of storm water pollution during construction and permanent drainage, erosion and sediment control. These items will be reviewed as part of the Property Owner's Construction Management Plan.

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

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

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

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

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

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

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

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

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

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

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

7. **Approved Plan Set.** The approved plans are those submitted on December 20, 2013, with modifications submitted January 24, February 6 and 7, 2014, after notices to neighbors were mailed and the application was available for public review.

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

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

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

Moved by Theophilos, Seconded by Chase

Ayes: Chase, Hobstetter, Ode, Theophilos, Zhang

Noes: None

Absent: None

The Commission recessed at 6:05 p.m. for a dinner break and to convene in the Conference Room a special session for the purpose of reviewing those projects nominated for the Commission's 2013 Design Awards and selecting award recipients. Presentation of the awards will be made at the March 10 Planning Commission meeting immediately following a reception held at City Hall to honor all award recipients. The Commission selected the following award recipients:

| | |
|--|-----------------------------|
| Excellent Garage | 21 Pacific Avenue |
| Excellent Garage Remodel & Addition | 211 Lafayette Avenue |
| Excellent Seamless Expansion | 304 Pala Avenue |
| Excellent Bay Friendly Landscaping | 320 Wildwood Avenue |
| Excellent Minor Addition | 104 Dracena Avenue |
| Excellent Upper Level Addition | 100 St. James Drive |

Chairman reconvened the regular session at 6:40 p.m.

**Variance and
Design Review
448 Scenic Avenue**

The Property Owner is requesting variance and design review to construct a new 215 sq. ft. upper level bedroom and bathroom addition; construct a new roof deck with railing at the upper level; remove an existing roof over a portion of the main level and replace it with a new roof with skylight; remove an existing chimney and concrete wall and replace it with new stucco walls with parapet caps; add a new railing and awning at the west elevation; make window and door modifications throughout the house; add exterior lighting throughout the property; and make various interior improvements. The requested variances are from: (1) Section 17.16 to allow a residence with 4 rooms eligible for use as bedrooms and two covered parking spaces each measuring 9 ft. x 18 ft. in lieu of the code required minimum dimension of 9 ft. x 20 ft.; and (2) Section 17.22.2(a) to allow a floor area ratio of 58% in lieu of the code permitted maximum of 55% for a parcel less than 5,001 sq. ft. in area.

Written notice was provided to neighbors. **Two affirmative, one negative response forms** were received. **Correspondence** was received from: Ken & Joyce Polse;

Public testimony was received from:

Thomas Pippin, Project Architect, stated that the proposed project is intended to modernize this 1929 home which was last remodeled in the 1960's as well as remedy deferred maintenance problems. He reviewed the several renovation options explored, noting that these alternatives were rejected because of impacts to neighboring residences in terms of view and privacy loss.

Batya Aloush and her husband stated that they purchased the property in July and have spent considerable time and effort in designing the proposed improvements so as to minimize impacts on adjacent neighbors.

Ken Polse agreed that while some negative impact has been mitigated by the project's redesign, the proposed project will still result in significant light, view and privacy loss to his living room and bedroom. He requested that the second-story addition be located on the west side of the property to minimize impacts to his home.

The Commission acknowledged the unique circumstances and difficulties posed by the home's re-enforced concrete construction and sunken kitchen. However, while the Commission believed that a second story addition was possible on the property, it felt that the current design and siting imposed too much adverse impact on the east side neighbor. The Commission noted that the property already exceeds structure coverage limits and is close to the permitted FAR, further noting the difficulties involved in justifying a parking variance for a 4th bedroom. Suggestions for mitigating adverse impacts included: expanding above the kitchen and moving the second story addition more toward the street, lessening its visual mass/bulk on the streetscape through the use of glass and trellis elements and consideration of installing a car elevator to create a 4-car garage. In response to concerns voiced by the applicants that the Commission was unaware of the expansion constraints imposed by the home's interior and floorplan, the Commission responded that while it did tour the entire property and also viewed the proposal from neighboring properties, it did not enter the applicant's home because there was no request to do so.

Resolution 377-V/DR-13

WHEREAS, the Property Owner is requesting permission to construct a new 215 sq. ft. upper level bedroom and bathroom addition; construct a new roof deck with railing at the upper level; remove an existing roof over a portion of the main level and replace it with a new roof with skylight; remove an existing chimney and concrete wall and replace it with new stucco walls with parapet caps; add a new railing and awning at the west elevation; make window and door modifications throughout the house; add exterior lighting throughout the property; and make various interior improvements located at 448 Scenic Avenue, Piedmont, California, which construction requires variance and design review; and

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary in order to add an additional bedroom without supplying conforming parking and to exceed the floor area ratio limit; and

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

1. The project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e)
2. The proposal does not conform with the criteria and standards of Section 17.20.9 of the Piedmont City Code.
3. The distance between the proposed upper level addition and adjacent residences is not sufficient. Upper level setbacks are not enough to mitigate the privacy impacts on 452 Scenic Avenue.
4. The proposed upper level addition has not been designed in a way that reasonably minimizes view impact on 452 Scenic Avenue.
5. The project fails to comply with Design Review Guidelines II-1, II-3(a) through (c) and II-5.
6. The requested variances associated with this project cannot be approved at this time because there is no approved design for the proposed construction.

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 448 Scenic Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Chase, Seconded by Ode

Ayes: Chase, Hobstetter, Ode, Theophilos, Zhang

Noes: None

Absent: None

**Design Review
75 Arroyo Avenue**

The Property Owner is requesting design review to make various modifications throughout the house, including an approximate 91 sq. ft. addition on the first story and a 787 sq. ft. second story addition; window and door modifications; modifications to guardrails and handrails at the rear stairs and exterior lighting throughout.

Written notice was provided to neighbors. **Five affirmative response forms** were received. **Correspondence** was received from: Randy Stamme

Public testimony was received from:

Theresa Dias, Project Architect, stated that the proposed renovation of this 1950's vintage home is intended to meet the needs of the new owner, adding that the applicants worked with their neighbors in developing the design and size of the additions. She noted that the proposed architectural detailing and exterior materials on the new construction are designed to create a seamless integration of the new additions with the existing house.

Flavio Gomes noted that the improvements will provide a comfortable living arrangement for his mother-in-law. He reiterated that he worked with his neighbors to reduce the overall size of his additions to minimize any view impacts.

The Commission supported application approval, agreeing that the project was compatible with the neighborhood and supported by neighbors. However, Commissioner Chase voiced concern that project approval could set an undesirable precedent by encouraging other single-story homes in the immediate area to add second story additions, thus reducing Piedmont's small housing stock.

Resolution 8-DR-14

WHEREAS, the Property Owner is requesting permission to make various modifications throughout the house, including an approximate 91 sq. ft. addition on the first story and a 787 sq. ft. second story addition; window and door modifications; modifications to guardrails and handrails at the rear stairs and exterior lighting throughout located at 75 Arroyo Avenue, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. 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 proposed improvements are set back and breaks in the facade reduce the perceived massing of the additions. The exterior materials and architectural detailing on the new construction matches that of the existing house and the proposed additions are harmonious with the lot's topography.
2. The proposed new additions have been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.70). The proposed improvements preserve views of the uphill neighbors and are only minimally visible from the street. There are no rear yard neighbors.
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 visual mass of the new addition from the streetscape is minimal and the resulting home is similar to other bungalows 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. 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 additions and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood. There is no significant change in existing property ingress/egress and the garage improvements will not impede access to the rear yard.

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

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for construction at 75 Arroyo Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

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

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

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

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

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

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

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

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

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

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

8. **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.

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

Moved by Ode, Seconded by Chase

Ayes: Chase, Hobstetter, Ode, Theophilos, Zhang

Noes: None

Absent: None

**Variance, Design
Review & Fence
Design Review
330 La Salle Avenue**

The Property Owner is requesting variance, design review and fence design review to substantially remodel and enlarge the existing 3,058 sq. ft. 4-bedroom house through the expansion of the main and lower levels and the construction of a new upper level for a resulting 5,166 sq. ft., 3-level, 6 bedroom, 5 bath residence with living room, dining room, kitchen, family room, laundry and rear decks at each level. The remodel of the house and site includes: various interior changes; the expansion of the existing garage to accommodate 2 conforming parking spaces; the construction of a new driveway and attached 1-car carport with trellis cover on the north side of the house; modifications to windows, doors, exterior lighting, the chimney, the roof, and rear decks; and hardscape, landscape, retaining wall, and fencing changes in the front, north (right) side and south (left) side yards. The requested variance is from Section 17.10.6 to allow the eave at the southeast corner of the upper level addition atop the garage to extend to within 10'9" of the front property line in lieu of the code required minimum of a 20 ft. front yard setback.

A similar application was approved by the Commission on June 9, 2008, for a previous property owner.

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

Commissioner Hobstetter left the meeting at 7:40 p.m. due to illness. Alternate Commissioner Simpson recused herself from discussion and action on this application and left the chambers.

Public testimony was received from:

Brooks McDonald, Project Architect, described the proposed improvements to the historic home, noting that the current proposal is less massive than the design approved in 2008, the project will have no view or shadowing impacts on neighboring property and the second story addition is consistent with existing neighborhood conditions and streetscape aesthetics.

Kelly Stratman stated that she and her husband purchased the property in August 2013 and simply love the house. The proposed improvements will create a much needed home office as well as a guest room for her mother's visits. She also described her extensive discussions of the project with her neighbors, adding that the carport design was modified per neighbor requests.

The Commission supported application approval, agreeing that the setback variance was justified to maintain building line integrity and that the current design was even better than the one approved in 2008.

Resolution 11-V/DR-14

WHEREAS, the Property Owner is requesting permission to substantially remodel and enlarge the existing 3,058 sq. ft. 4-bedroom house through the expansion of the main and lower levels and the construction of a new upper level for a resulting 5,166 sq. ft., 3-level, 6 bedroom, 5 bath residence with living room, dining room, kitchen, family room, laundry and rear decks at each level. The remodel of the house and site includes: various interior changes; the expansion of the existing garage to accommodate 2 conforming parking spaces; the construction of a new driveway and attached 1-car carport with trellis cover on the north side of the house; modifications to windows, doors, exterior lighting, the chimney, the roof, and rear decks; and hardscape, landscape, retaining wall, and fencing changes in the front, north (right) side and south (left) side yards located at 330 La Salle Avenue, Piedmont, California, which construction requires variance and design review; and

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

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

1. The project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e)
2. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to fact that the variance situation is pre-existing. Because of these circumstances, strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone which conform to the zoning requirements.
3. The variance is compatible with the immediately surrounding neighborhood and the public welfare because it enables improved off-street parking and has no appreciable impact on surrounding properties.
4. Accomplishing the improvement without variance would cause unreasonable hardship in planning, design, or construction because it would be impractical to attempt to build on the property's rear steep slope and without variance approval, the aesthetics of the home would be adversely impacted.
5. The proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code.

6. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. The 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 proposed improvements are consistent with other Mediterranean style homes in the neighborhood and will maintain a uniform streetscape appearance.

7. The proposed upper level addition has been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.70). There is no apparent impact in terms of light and view.

8. The size and height of the addition is commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and is in keeping with the existing neighborhood development pattern. The proposed improvements enhance the existing residence and are similar in style and mass to other Mediterranean style homes in the neighborhood.

9. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. The project will improve the property's existing off-street parking situation.

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

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

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

2. **Exterior Light Fixtures.** The new exterior light fixtures on the house, both wall-mounted and pendant, shall be downward-directed with an opaque or translucent shade.

3. **Eave Design.** The design of the roof eaves on the new construction, where they project more than 12 inches from the wall surface, shall be consistent throughout the house, particularly in regards to any exposed rafter tails.

4. **Contractor's General Liability Insurance.** To ensure that the contractor doing work in the City will be responsible for damages caused by the

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

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

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

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

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

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

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.

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

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:

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

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

c. If the work for any specific benchmark has not been completed within 90 days after the completion date set forth in the

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

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

Moved by Chase, Seconded by Theophilos

Ayes: Chase, Ode, Theophilos, Zhang

Noes: None

Recused: Simpson

Absent: Hobstetter

ADJOURNMENT

There being no further business, Chairman Zhang adjourned the meeting at 7:55 p.m.