

## PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, January 12, 2015

A Regular Session of the Piedmont Planning Commission was held January 12, 2015, 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 December 29, 2014.

### CALL TO ORDER

Commission Vice Chair Theophilos called the meeting to order at 5:04 p.m.

### ROLL CALL

Present: Commissioners Philip Chase, Tony Theophilos, Tom Zhang and Alternate Commissioner Eric Behrens

Absent: Chair Susan Ode (excused), Louise Simpson (excused)

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

Council Liaison: Councilmember Tim Rood

### CONSENT CALENDAR

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

- 160 Moraga Avenue (Design Review and Fence Design Review)
- 215 Crocker Avenue (Design Review)
- 155 St. James Drive (Variance)
- 27 Fairview Avenue (Design Review)
- 370 Highland Avenue, Suite 202 (Conditional Use Permit)
- 261 Scenic Avenue (Variance, Design Review and Fence Design Review)
- 24 York Drive (Design Review)
- 1601 Oakland Avenue (Variance and Design Review)
- 14 Dormidera Avenue (Variance and Design Review)

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

#### **Design Review and Fence Design Review 160 Moraga Avenue**

#### **Resolution 268-DR-14**

WHEREAS, the Property Owner is requesting permission to construct a 104-square-foot addition within the existing covered patio in the right (west) side yard; enlarge a window on the front façade; and make various changes to the interior. The application also seeks retroactive approval for previously constructed fencing enclosing the left (east) and right (west) side yards and window replacements previously installed throughout the house located at 160 Moraga 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. These elements include but are not limited to: the fact that the proposed project will be placed under the existing roof overhang, will maintain a one-foot overhang, and will not increase the footprint of the structure. The windows will work well with the neighborhood design and no major visual implications will show from the external view of the house. The proposed fence is aesthetically pleasing with the architecture of the home and with the neighborhood.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because the proposed addition will remain under an existing roof overhang and will not affect views, privacy or access to light.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress, because there are no adverse affects to parking and/or access with regards to the proposed project.
4. 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), V-1, V-2, V-3, V-4, V-5, V-5(a), V-5(b), V-5(c), 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 design review application for proposed construction at 160 Moraga Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Window Color:** All the windows on the house shall have a consistent color scheme.
2. **C&D Compliance.** Compliance with Chapter 9 Article III of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project.
3. **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.
4. **Property Line Location.** A licensed land surveyor shall be required by the Building Department to verify and mark the location of the west property line at the time of foundation and/or frame inspection to verify the approved setback dimension measured to the new construction.
5. **Construction Management Plan.** The Property Owner shall develop a comprehensive Construction Management Plan. The Construction Management Plan shall address noise, vibrations, traffic control, parking, debris removal, dust control, sanitary facilities, site safety security and other potential

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

- a. Construction Site Control of Stormwater. The California Regional Water Quality Control Board requires all projects that disturb the site to comply with Provision C.6 of the San Francisco Bay Regional Stormwater NPDES Permit in order to prevent construction site discharges of pollutants and other regulated materials during construction. As required by the Chief Building Official and prior to the issuance of a building permit, the Applicant shall develop and submit a construction stormwater management plan as part of the Construction Management Plan to achieve timely and effective compliance with Provision C.6. Permit Provision C.6.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](http://cleanwaterprogram.org).

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

- 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; and
  - viii. 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 Zhang  
Ayes: Behrens, Chase, Theophilos, Zhang  
Noes: None  
Recused:  
Absent: Ode, Simpson

**Design Review  
215 Crocker Avenue**

**Resolution 311-DR-14**

WHEREAS, the Property Owner is requesting permission to make various window, door and railing modifications; and seek retroactive approval for modifications to a deck and a rear stair and railing located at 215 Crocker Avenue, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements (including but not limited to height, bulk, area openings, breaks in the facade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development, because the proposed windows are designed to be proportionate to the existing windows by matching the transom sash height and dividing the units into separate panels. The new windows, stucco moulding and recessed sash shall match the existing windows.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because all of the proposed windows will replace existing windows and will not affect neighbors' privacy, and the new French doors are screened by landscaping from the adjacent neighbor's property.
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 it has no effect on these items.
4. 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 215 Crocker Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

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

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

**Variance  
155 St. James Drive**

**Resolution 331-V-14**

WHEREAS, the Property Owner is requesting retroactive approval for a room eligible for use as a bedroom at the basement level located at 155 St. James Drive, Piedmont, California. A variance from the requirements of Chapter 17 of the Piedmont City Code is necessary in order to add a room eligible for use as a bedroom without supplying conforming parking; and

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

WHEREAS, the Planning Commission finds that the proposal conforms with the criteria and standards of 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 fact that a steep cliff is located on the property at the street. 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 it will not impact any traffic, views or habitable structures.

3. Accomplishing the improvements without variance would cause unreasonable hardship in planning, design, or construction, because of the very difficult physical conditions of the properties on this street.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission retroactively approves the variance application

at 155 St. James Drive, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Garage Door.** In order to encourage use of the garage, the garage door shall be electronically operable. If design modifications are required to accomplish this, those modifications shall be subject to staff review.

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 Chase, Seconded by Behrens

Ayes: Behrens, Chase, Theophilos, Zhang

Noes: None

Recused:

Absent: Ode, Simpson

**Design Review  
27 Fairview Avenue**

**Resolution 383-DR-14**

WHEREAS, the Property Owner is requesting permission to make various interior and exterior modifications to the property including an approximately 198 square foot upper level addition; modifications to windows and doors; and modifications to the roof located at 27 Fairview 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 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, because the addition is on the north side and will have a minimal impact on the neighborhood's access to sun and light. Additionally, the addition is proposed with seven-foot ceilings, which will add only four feet to the structure and minimize its impact.

2. The proposed upper level addition has been designed in a way that reasonably minimizes view and light impacts on neighboring properties, because the location and size of the addition has been designed to minimize the impact.

3. The size and height of the addition is commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and is in keeping with the existing neighborhood development pattern, because the

applicants have minimized the height of the addition and have designed the windows to be consistent.

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 upper level addition, and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood, because there are no impacts with this remodel.

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-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 27 Fairview Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

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

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

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

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

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

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

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

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

**Conditional Use Permit Resolution 389-CUP-14**  
**370 Highland Avenue**

WHEREAS, Edward Jones is requesting a Conditional Use Permit to provide investment brokerage, insurance sales, and related financial services, located at 370 Highland Avenue Suite 202 (situs address: 356 Highland Avenue), Piedmont, California; and

WHEREAS, the Piedmont Planning Commission has reviewed the application, the staff report, and any and all other documentation and testimony submitted in connection with the application and has visited the subject property; the Piedmont Planning Commission recommends that the project is categorically exempt under the California Environmental Quality Act, pursuant to Section



15301, Class 1(e) and the proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. The proposed use is compatible with the General Plan and conforms to the zoning code, in that it is an existing office space.
2. The use is primarily intended to serve Piedmont residents (rather than the larger region), in that it is located in the middle of Piedmont.
3. The use will not have a material adverse effect on the health, safety or welfare of persons residing or working in the vicinity, in that it is an office that has no effect on health or safety.

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 Edward Jones at 370 Highland Avenue Suite 202 (situs address: 356 Highland Avenue), Piedmont, California, subject to the following conditions:

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

- a. Days and Hours of Operation: Monday through Friday, 9am to 5pm; and
- b. Type(s) of Staff/Personnel, Number of Each: 1 financial advisor, 2 branch office administrators; and
- c. The approval shall be for 5 years from the date of approval.

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

**Variance,  
Design Review, and  
Fence Design Review  
261 Scenic Avenue**

**Resolution 390-V/DR-14**

WHEREAS, the Property Owner is requesting permission to demolish an existing grape stake fence and gate and replace them with a new wood fence and gate along Scenic Avenue; construct a new stair structure with railings; construct a new trash enclosure; and make various hardscape modifications located at 261 Scenic 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 the new stair structure within the front yard setback; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to 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 fact that the property is one of the most steeply sloped properties in Piedmont, and that 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 it will have no impact on surrounding neighbors. It cannot be seen by neighboring properties and will not obstruct the neighbors' views.
3. Accomplishing the improvements without variance would cause unreasonable hardship in planning, design, or construction, because access to the house would be more difficult without the variance, due to the steep slope of the lot.

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

1. The exterior design elements of the structures proposed match the existing structure of the house and are harmonious with existing and proposed neighborhood development, because of congruency of style and the lack of visibility from the street.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because the project has no impact on these items.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress, because the project has no impact on these items.
4. The project complies with Design Review Guidelines II-1, II-1(a), II-1(b), II-1(c), II-1(d), II-2, II-2(a), II-2(b), II-2(c), II-2(d), II-3, II-4, II-5, II-5(a), II-5(b), II-6, II-7, II-7(a), II-8, II-9, II-9(a), II-10, II-11, II-12, 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 261 Scenic Avenue, Piedmont,

California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

3. **Fence Location.** The new fence, including all footings and posts, shall be located completely within the applicants' property. A licensed land surveyor shall be required by the Building Department to verify and mark the location of the front property line at the time of foundation inspection to verify the approved setback dimension measured to the new fence and that it is completely within the applicants' property.

4. **Final Landscape Plan.** The existing tree south of the garage proposed for removal shall have an in-lieu replacement tree planted elsewhere on the property, which shall be shown on the final landscape plan. Replacement tree size is subject to staff review, and shall be commensurate with the size and numbers of trees to be removed.

Before issuance of a building permit, the Property Owner shall submit for staff review and approval a Final Landscape Plan of the front yard that shows trees proposed for retention as well as in-lieu trees. 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.

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

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

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

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

b. Neighboring Property Owner Permission. Should access onto the neighboring property be necessary for construction, the applicant shall submit, prior to the issuance of Building Permit, a written statement from the neighboring property owner granting permission for access onto his/her property for the purpose of excavation and/or construction.

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

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

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

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

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

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

**Design Review  
24 York Drive**

**Resolution 392-DR-14**

WHEREAS, the Property Owner is requesting permission to construct a 917-square-foot second story addition for a new master bedroom suite and family room with exterior features such as new windows and skylights located at 24 York 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 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 addition is consistent with neighborhood development. The bulk of the addition is reduced and pushed back at the front, in comparison to the size of garage. The addition is detailed consistently with the existing home and integrated into the existing home through the use of consistent roof lines and stepped bulk.
2. The proposed addition has been designed in a way that reasonably minimizes view and light impacts on neighboring properties, because the addition is situated away from the rear neighbors; the addition is stepped back with an ornamental roof added near the south neighbor to increase privacy and improve appearance; window sizes and locations have been adjusted to minimize privacy impacts; and the location of the addition at the south side minimizes the loss of sunlight to neighbors. The location of the addition to the south and southwest minimizes privacy concerns for the rear 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 because of the large lot and relatively small upper floor addition. Structure coverage is less than 25%, where 40% is allowed.

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 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, because there is no change in the parking or circulation pattern.

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-5(b), II-5(c), II-6, II-6(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 24 York Drive, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Existing Bedroom Elimination.** In order to eliminate privacy and make the main-level room between the garage and kitchen ineligible for use as a bedroom, at least 50% of the wall plane between this room and the kitchen shall be open

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

3. **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.

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

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

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

site discharges of pollutants and other regulated materials during construction. As required by the Chief Building Official and prior to the issuance of a building permit, the Applicant shall develop and submit a construction stormwater management plan as part of the Construction Management Plan to achieve timely and effective compliance with Provision C.6. Permit Provision C.6.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](http://cleanwaterprogram.org).

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

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

- i. Completion of Rough Framing;
- ii. Completion of Electrical;
- iii. Completion of Plumbing;
- iv. Completion of Mechanical;
- v. Completion of Fire Sprinklers;
- vi. 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 Theophilos  
Ayes: Behrens, Chase, Theophilos, Zhang  
Noes: None

Recused:  
Absent: Ode, Simpson

**Variance and  
Design Review  
1601 Oakland Avenue**

**Resolution 394-V/DR-14**

WHEREAS, the Property Owner is requesting permission to expand the kitchen at the rear of the house along the northern property line, add a trellis at the eastern end of the house, convert the attic to habitable square footage, make modifications to the windows, doors and chimneys, and add skylights and exterior lights located at 1601 Oakland 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 within the northern property line setback; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to 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 fact that the existing house is already nonconforming in terms of the side yard setback, and the proposal follows the existing side yard setback.
2. The variance is compatible with the immediately surrounding neighborhood and the public welfare, because the setback nonconformity is preexisting and is typical of the neighborhood.
3. Accomplishing the improvements without variance would cause unreasonable hardship in planning, design, or construction, because without granting the variance, the layout of the interior of the house would be negatively affected.

WHEREAS, with regard to design review, the Planning Commission finds that 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 new construction 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 proposed roof is significantly lower than the height of the building and will not create any losses of ambient or reflected light.
2. The proposed construction has been designed in a way that reasonably minimizes view and light impacts on neighboring properties, because it is a minor addition to the side of the house, and the height and bulk are minimal compared to the volume of the house.



3. The size and height of the addition is commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and is in keeping with the existing neighborhood development pattern, because the addition is a small extension of the existing kitchen.

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 construction, and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood, because there is no change to the parking or circulation pattern proposed.

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).

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 1601 Oakland Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Approved Plan Set.** The approved plans are those submitted on December 22, 2014.

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

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

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

a. Construction Site Control of Stormwater. The California Regional Water Quality Control Board requires all projects that disturb the site to comply with Provision C.6 of the San Francisco Bay Regional Stormwater NPDES Permit in order to prevent construction site discharges of pollutants and other regulated materials during

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

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

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

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

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

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

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

7. **Exterior Light.** An exterior light is required at the new French doors.

Moved by Zhang, Seconded by Theophilos

Ayes: Chase, Theophilos, Zhang

Noes: None

Recused: Behrens

Absent: Ode, Simpson

**Variance and  
Design Review  
14 Dormidera Avenue**

**Resolution 395-V/DR-14**

WHEREAS, the Property Owner is requesting permission to remodel and expand the residence by 128 square feet through the following alterations: the demolition of the existing rear addition and rear mechanical chimney; the construction of a new 2-story rear addition; window, door, skylight and exterior lighting modifications; and various changes to the interior located at 14 Dormidera 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 within the 4-foot left (east) side yard setback; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to 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 of the property and the fact that the existing house is in need of improvements. 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 addition will not intensify the use and will improve the appearance of the neighborhood.
3. Accomplishing the improvements without a variance would cause unreasonable hardship in planning, design, or construction, because there is a limited amount of space for adding the improvements. Additionally, the existing house is already located within the setback, and the proposal continues the existing nonconformity toward the rear.

WHEREAS, with regard to design review, the Planning Commission finds that 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 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 addition is located within the same footprint. Additionally, the proposal will considerably improve the appearance of the house by making the roof slopes consistent and by eliminating a previous inharmonious addition.
2. The proposed addition has been designed in a way that reasonably minimizes view and light impacts on neighboring properties, because the applicants have lowered the roof design in response to neighborhood comments and have eliminated their concerns.
3. The size and height of the addition is commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and is in keeping with the existing neighborhood development pattern, because the addition is not adding to the footprint of the house and will improve the appearance of the house.
4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. The existing or 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, because there are no impacts.
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-6, II-6(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 14 Dormidera Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Exterior Light Fixtures.** New exterior light fixtures shall be downward directed with an opaque or translucent shade that completely covers the light bulb.
2. **C&D Compliance.** Compliance with Chapter 9 Article III of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project.
3. **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.

4. **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.

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

a. Construction Site Control of Stormwater. The California Regional Water Quality Control Board requires all projects that disturb the site to comply with Provision C.6 of the San Francisco Bay Regional Stormwater NPDES Permit in order to prevent construction site discharges of pollutants and other regulated materials during construction. As required by the Chief Building Official and prior to the issuance of a building permit, the Applicant shall develop and submit a construction stormwater management plan as part of the Construction Management Plan to achieve timely and effective compliance with Provision C.6. Permit Provision C.6.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](http://cleanwaterprogram.org).

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

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.

7. **Roof Design.** The hipped roof of the rear addition shall be modified so that the ridge is lowered 2 feet and the roof slope changed to 4:12 as shown on the revised elevations submitted on January 8, 2015.

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

**APPROVAL OF MINUTES**

**Resolution 1-PL-15**

RESOLVED, that the Planning Commission approves as submitted its meeting minutes of the December 8, 2014 regular hearing of the Planning Commission.  
Moved by Behrens, Seconded by Chase  
Ayes: Behrens, Chase, Theophilos  
Noes: None  
Recused: Zhang  
Absent: Ode, Simpson

**PUBLIC FORUM**

Dimitri Magganas spoke regarding the City of Oakland’s new mayor and his hopes for positive change in the area. He recommended that the City of Piedmont proactively and comprehensively improve upon its institutional productivity.

**REGULAR CALENDAR**

The Commission considered the following items of regular business:

**Design Review  
221 Carmel Avenue**

The Property Owner is requesting permission to remodel and expand the residence through the following construction: the demolition of the existing stairs in the left (south) side yard; the development of 531-square-foot of habitable space on the basement level for a laundry and workshop; a 178-square-foot main level addition at the rear of the house; an expanded main-level rear deck and stair; an expanded upper-level rear roof deck; a new rear deck guardrail design; window, door and exterior lighting modifications; a new

garage door in an enlarged opening to provide access to two parking spaces within the garage; and various changes to the interior.

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

**Public testimony** was received from:

Yarko Sochynsky, homeowner, explained that the intent of the project is to expand the den, enclose an exterior stairway, improve the kitchen, expand the deck, update the basement, and restore the garage to a two-car garage.

Bill Holland, Project Architect, stated that the goal is to modernize the house and to make it safer and more livable. He explained that the primary purpose of the proposed addition is to accommodate a new, interior stairway to replace an existing, unsafe stairway. He added that the proposal also improves the garage door to make it easier for two cars to use the garage. In response to concerns raised by the Commission about the usability of the garage, Mr. Holland explained that the proposal meets the City's residential parking standards. When asked whether he can push the interior staircase into the storage area instead of expanding the footprint of the house, he said that he is willing to discuss that option with the applicant, but feels it is unnecessary since the proposal meets the City's parking standards and improves the non-conforming parking situation that was previously approved by the City.

Linda Ruby, neighbor, expressed concern for the proposal and how it might impact her ability to add a second story to her garage, especially if new views over her garage are created by the proposed project. She also expressed concern that the addition will loom over her backyard and that water from the applicant's yard pours onto her property.

Commissioners Zhang and Theophilos were not in support of the application as proposed, because of their concerns about the tight space provided for cars to enter and exit the garage. Commissioner Zhang suggested that the applicants push the staircase into the storage area to minimize the expansion of the house and the narrowing of the driveway. Commissioner Chase, however, was in full support of the application as proposed and stated his belief that the proposal meets the City's standards, and improves a non-conforming garage. To address the parking concerns, the Commissioners were unanimous in their support of adding a condition to the approval that required the proposal to meet the City's Residential Parking and Driveway Policy, subject to Staff review. Commissioner Zhang also suggested that the deck windscreen and railing have a consistent design.

**Resolution 327-DR-14**

WHEREAS, the Property Owner is requesting permission to remodel and expand the residence through the following construction: the demolition of the existing stairs in the left (south) side yard; the development of 531-square-foot of habitable space on the basement level for a laundry and workshop; a 178-square-foot main level addition at the rear of the house; an expanded main-level rear deck and stair; an expanded upper-level rear roof deck; a new rear deck guardrail design; window, door and exterior lighting modifications; a new garage door in an enlarged opening to provide access to two parking spaces within the garage; and various changes to the interior located at 221 Carmel Avenue, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development, in that all proposed building materials and details will match those of the existing house as closely as possible. The proposed rear yard setback is greater than the existing rear yard setback. The expansion of the deck is only to provide direct access to the kitchen door. The roof deck expansion is only to conform to the extent of the proposed addition. The open railing, as opposed to the existing windscreen, reduces the bulk of the proposed structure.
2. The proposed upper level addition has been designed in a way that reasonably minimizes view and light impacts on neighboring properties, because the proposed addition is well separated from existing adjacent structures. As proposed, the south wall of the house will have less window area facing the adjacent neighbor than currently exists. Although modestly taller than existing, the proposed roof deck will actually appear less bulky due to the open railing detail.
3. The size and height of the addition is commensurate with the size of the lot, in that the proposed upper level expansion leaves respective rear and side yard setbacks of 32'-0" and 14'-0" where only 4'-0" is required. By all other measures, the proposed improvements fall well within the City's limits and guidelines.
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 there are no changes to patterns of circulation or points of ingress or egress proposed. The existing single-car garage and proposed two-car garage are similar in their accessibility.
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(a), II-5(b), II-5(c), II-6(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 design review application for proposed construction at 221 Carmel Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

2. **Environmental Hazards.** Prior to the issuance of a building permit and 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.

3. **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.

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. **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. **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](http://cleanwaterprogram.org).

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

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

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

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

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

8. **Driveway.** The project shall comply with the City’s Residential Driveway and Turn-Around Policy, per Staff review and approval.

9. **Windscreen Design.** The windscreen on the garage shall be modified to be consistent aesthetically with the new guardrail design on the rear decks, subject to Staff Design Review.

Moved by Chase, Seconded by Zhang

Ayes: Chase, Theophilos, Zhang

Noes: None

Recused: Behrens

Absent: Ode, Simpson

**Variance and  
Design Review  
68 Oakmont Avenue**

The Property Owner is requesting permission to construct an approximately 517 square foot second story addition and an approximately 15 square foot addition on the first story. A variance is required in order to add a fifth room eligible for use as a bedroom without supplying conforming parking.

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

**Public testimony** was received from:

Melanie Layman, homeowner, explained that the project aims to redesign the floor plan to better suit the needs of her family and to add a second-floor master bedroom and bathroom. She commented that the second-floor addition was designed to minimize impacts on neighbors. When asked whether the applicants would be willing to remove the shower from the basement bathroom to eliminate the need for a variance, Ms. Layman said that they will remove it if necessary, but that they prefer to leave it as is.

Michael Layman, homeowner, explained that the application proposes to open up the wall to the basement to remove its privacy. He added that they do not intend to use the basement as a bedroom and that it would be difficult for any owner to use the basement room as a bedroom. Mr. Layman also explained that parking on the street is typically not difficult and reported that there are several properties in the neighborhood with five bedrooms and one parking space. He added that their house has more parking than most of the houses in the neighborhood, because of its two-car garage and long driveway.

Robert Kelly, Project Architect, explained that the house was in keeping with the neighborhood, which has a mix of one and two-story houses. He explained that the intent of the design is to minimize the bulk of the addition, to retain the storybook appearance of the house, and to minimize impacts on neighbors. Mr. Kelly argued that the basement should be considered a family room instead of a bedroom.

David Richmond, neighbor, spoke in support of the project. He explained that the applicants spent a lot of time and effort talking with neighbors and finding a design that minimizes the impact on neighbors.

The Commissioners were in favor of the design of the addition and appreciated the applicants' efforts to reduce its bulk and impacts on neighbors. The Commissioners were divided in their support of the variance. Commissioners Zhang and Theophilos were initially in favor of requiring interior modifications, such as the removal of the shower, to eliminate the need for a variance. However, the Commission ultimately agreed with Commissioner Chase, who was in support of the application as proposed, stating his belief that the proposed basement family room should not be considered a bedroom.

**Resolution 388-V/DR-14**

WHEREAS, the Property Owner is requesting permission to construct an approximately 517 square foot second story addition and an approximately 15 square foot addition on the first story located at 68 Oakmont 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 add a fifth room eligible for use as a bedroom without supplying conforming parking; and

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

the project is categorically exempt under the California Environmental Quality Act, pursuant to 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 existing garage is only accessible by one car due to the existing house location. Enlarging the garage to a three-car garage is not feasible because of the small size of the lot (and limiting lot coverage ratios) and the significant impact it would have on the use of the existing small rear yard.
2. The variance is compatible with the immediately surrounding neighborhood and the public welfare, because there are many other similar houses in the neighborhood with non-compliant parking. Additionally, there is a long driveway where tandem parking is possible for keeping cars off of the street.
3. Accomplishing the improvements without variance would cause unreasonable hardship in planning, design, or construction, because there is a slope to the lot and there is no reasonable place on the property to add additional parking. For example, building a garage underneath the house would require a complete re-design of the home and the elimination of existing living space.

WHEREAS, with regard to design review, the Planning Commission finds that 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.
2. The proposed upper level addition has been designed in a way that reasonably minimizes view and light impacts on neighboring properties, because a great deal of effort was put into dialog with the neighbors to accomplish that goal. The bulk of the addition is minimized with sloping roofs and central massing.
3. The size and height of the addition is commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and is in keeping with the existing neighborhood development pattern, because there are several other homes on the street with similar second stories.
4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, because there will be no impact.
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 variance and design review application for proposed construction at 68 Oakmont Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

2. **Garage Door.** In order to encourage use of the garage, the garage door shall be electronically operable. If design modifications are required to accomplish this, those modifications shall be subject to staff 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. **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.

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. **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.

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

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

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

xi. any further construction benchmarks and conditions of occupancy as may be determined by the Director of Public Works.

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

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

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

The Commission recessed for dinner at 6:45 p.m. and reconvened at 7:20 p.m.

**Design Review and  
Fence Design Review  
5 Sandringham Road**

The Property Owner is requesting permission to make modifications to the front landscape including new landscape boulders; modified walls; a new built-in bench; a new water feature; and new exterior lighting.

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

**Public testimony** was received from:

Lisa Collins, a representative for the homeowner and Project Landscape Architect, explained that the project intent is to add more lushness and layering to the front yard landscaping and to make it more in keeping with the house and neighborhood.

The Commissioners were in support of approving the project. Commissioner Zhang stated that the proposed design was more consistent with the design of the house and would add more interest to the corner of the neighborhood. Commissioners Chase and Behrens did not think that the proposed design matched what would have been original to the house, but expressed support for the project.

**Resolution 391-DR-14**

WHEREAS, the Property Owner is requesting permission to make modifications to the front landscape including new landscape boulders; modified walls; a new built-in bench; a new water feature; and new exterior lighting located at 5 Sandringham 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 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. These elements include, but are not limited to, the natural stone proposed on the ground and on the face of the existing brick planters, which will create a more harmonious look to the property; and the proposed lush vegetation, which will create more interest for this peninsula corner of the neighborhood.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because no structures are proposed that will impact views or privacy.
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 vehicle patterns are not changed, and the proposed natural-looking entrance path will create more interest.
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-5, II-5(a), II-6, II-6(a), II-6(b), II-6(c), II-7, II-7(a), V-1, V-2.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for proposed construction at 5 Sandringham Road, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **C&D Compliance.** Compliance with Chapter 9 Article III of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project.
2. **Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.

3. **Property Line Location.** A licensed land surveyor shall be required by the Building Department to verify and mark the location of the north and east property lines to verify that all new features are located on the property of 5 Sandringham Road.

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

**Second Unit Permit/  
Reasonable  
Accommodation  
213 Hillside Avenue**

The Property Owner is requesting approval of a Second Unit Permit to allow a second unit under the Reasonable Accommodations for individuals with disabilities provisions of the Municipal Code, and/or a determination that the basement servants' quarters qualify as an Exempt 503 square foot studio second unit, to be used by a caregiver.

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

**Public testimony** was received from:

Jay Hann, homeowner, stated that his goal is to create a living space in the basement for a caregiver. He explained that the space once served as servants' quarters for the original owners of the house, and that although the kitchen had been removed, plumbing and other features were still visible. He proposes to reinstate this previously existing kitchen. In response to Commissioners questions, Dr. Hann stated that he was willing to put in a full kitchen to create an Exempt Second Unit, if it would benefit the City.

Planning Director Kate Black explained that there are two different Code provisions the Commission can use for their consideration of this application. First, the Commission could determine that the basement servants' quarters qualify as an Exempt Second Unit, if they believe there is evidence that a second unit existed on the property prior to 1930. An Exempt Second Unit determination remains with the property and can be used by future owners. Planning Director Black explained that the Commission can instead approve a Second Unit under the Reasonable Accommodations for individuals with disabilities provisions of the Municipal Code. Such an approval allows a person with a disability to make improvements without a variance on a project that would otherwise require a variance. She explained that in the case of this application, a parking variance would normally be needed to add a seventh bedroom without adding an additional parking space. An approval under the Reasonable Accommodations for individuals with disabilities provisions of the Municipal Code would only remain as long as the current owner resides in the house.

The Commissioners were unanimously in support of approving an Exempt Second Unit on the property, citing physical and documentary evidence that a second unit existed on the property since before 1930. The Commissioners agreed that the Second Unit would benefit both the family and the City.



**Resolution 393-SU-EX-14**

WHEREAS, the Property Owner is requesting a determination that the basement servants' quarters qualify as an Exempt 503 square foot studio second unit, to be used by a caregiver at 213 Hillside Avenue, Piedmont, California; 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

WHEREAS, the Planning Commission finds that the property is determined to have an Exempt Second Unit based on sufficient, reliable evidence that supports a finding that this property had a second unit by 1930. Such evidence includes a newspaper article from 1909 mentioning servants' quarters in the house, a 1980s Second Unit Registration form, a statement from a neighbor in the 1980s stating that a second unit existed on the property, and physical evidence of a second unit in the house.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission determines that the basement servants' quarters qualify as an Exempt second unit at 213 Hillside Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

2. **Building Code Compliance.** All building Code requirements for habitation as a second unit must be met along with any other building requirements determined by the Piedmont Building Official to be related to the safety of occupants. Related modifications to the exterior, if any, shall be subject to Administrative Design Review.

3. **Construction Management Plan.** A comprehensive Construction Management Plan shall be developed by the applicant. 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 shall have 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 issuance of a Certificate of Occupancy.

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. **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 Chase, Seconded by Zhang

Ayes: Chase, Theophilos, Zhang

Noes: None

Recused: Behrens

Absent: Ode, Simpson

**ADJOURNMENT**

There being no further business, Commissioner Theophilos adjourned the meeting at 8:30 p.m.