

PIEDMONT PLANNING COMMISSION

Study Session and Regular Meeting Minutes for Monday, January 13, 2014

A Study Session and Regular Session of the Piedmont Planning Commission was held January 13, 2014, in the City Hall Council Chambers at 120 Vista Avenue. In accordance with Government Code Section 54954.2(a) the agenda for this meeting was posted for public inspection on December 30, 2013.

CALL TO ORDER

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

ROLL CALL

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

Staff: Assistant Planner Kevin Jackson, Planning Technicians Jennifer Feeley and Janet Chang and Recording Secretary Chris Harbert

City Council Liaison: Councilmember Garrett Keating

STUDY SESSION

The Chairman announced that the purpose of tonight's study session is to receive a power-point presentation from City Planning Consultant Barry Miller regarding the Housing Needs Assessment prepared in connection with the update of the City's General Plan Housing Element. Piedmont last adopted a Housing Element in June 2011, covering the period 2007-2014. The current update will cover the period from 2015-2022. State law requires all Bay Area jurisdictions to adopt an updated Housing Element by January 31, 2015. The Commission initially considered the Housing Element update issue on October 14, 2013. As presented by Mr. Miller, the Housing Needs Assessment provided data on Piedmont's population, economy, households and housing stock and an analysis of this data in evaluating Piedmont's housing needs. Mr. Miller stated that the Needs Assessment is the second of the following six main tasks involved in updating the City's Housing Element:

1. Evaluation of last Housing Element (October 14, 2013)
2. Needs Assessment (January 13, 2014)
3. Constraints Analysis (March 2014)
4. Adequate Site Analysis
5. Goals, Objectives, Policies
6. Action Plan

Following tonight's presentation and review, a series of Commission work sessions will be held, in addition to a community workshop, to further develop the update as outlined. The deadline for submitting the updated Housing Element to the state is January 1, 2015. The Commission thanked Mr. Miller for his presentation, agreeing that the data contained in the Needs Assessment appear to accurately reflect Piedmont's demographics.

CONSENT CALENDAR

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

**Design Review
61 King Avenue**

Resolution 297-DR-13

WHEREAS, the Property Owner is requesting permission to make modifications at the front of the property, including: modifying the material of the front retaining walls; adding new built-in stone benches; and adding a new water feature and sculpture. Modifications at the rear yard include constructing a new outdoor fireplace, benches and water feature. Also proposed are hardscape

changes throughout the property located at 61 King 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 project will protect existing redwood trees and add drought-tolerant plantings to the property. Design elements and greenery add architectural interest to the stairways and open patio areas. The proposed improvements are well integrated with the existing residence, do not add visual bulk and do not appear tacked-on.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because new plantings are at the lower level of the property and thus do not block 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 the new retaining walls and lower level plantings do not obstruct sight lines.
4. The project complies with Design Review Guidelines II-1, II-2, II-3, II-3(b) & (d), II-5, II-6, II-6(b), IV-1, IV-1(b), IV-2(a), IV-3, IV-3(a), IV-5(a) and IV-6.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for construction at 61 King Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

sources for site specific, and seasonally-and-phase-appropriate, effective Best Management Practices (BMPs) that may be incorporated into the stormwater management plan. Copies of the Municipal Regional Stormwater Permit are available from the Piedmont Public Works Department and on-line at cleanwaterprogram.org.

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

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

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

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

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

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

4. **Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any

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

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

Moved by Ode, Seconded by Theophilos

Ayes: Chase, Hobstetter, Theophilos, Ode, Zhang

Noes: None

Absent: None

PUBLIC FORUM

There were no speakers for the public forum.

APPROVAL OF MINUTES

Resolution 1-PL-14

RESOLVED, that the Planning Commission approves as submitted its meeting minutes of December 9, 2013.

Moved by Chase, Seconded by Hobstetter

Ayes: Chase, Hobstetter, Theophilos, Zhang, Simpson

Noes: None

Abstaind: Ode

Absent: None

REGULAR CALENDAR

The Commission considered the following items of regular business:

Design Review 201 Mountain Avenue

The Property Owner is requesting design review to remodel and expand the existing 1,531 sq. ft. 2-bedroom house through: the construction of a 382 sq. ft. main level rear addition and a 756 sq. ft. second story addition; window, door, skylight and exterior lighting modifications; various changes to the interior including the addition of two bedrooms; and hardscape changes throughout the property.

Written notice was provided to neighbors. **One affirmative, twenty negative response forms** were received. **Correspondence** was received from: Carol & Denis Mahoney; Jessica & Michael Berg; Katie & Gary Korotzer; Georgia Cornell; Katie Faust; Andrea Hackett; Jeff & Margaret Hiller; Francisco & Elizabeth Keville; Andrea & Jed Levin; Anian Tunney; Robbin Zarbo; Karen & Larry Hawkins; Mark & Carla Gray; Lucy Ling

Chairman Zhang recused himself from discussion and action on this application and left the chambers.

Public testimony was received from:

Zeliang Zhou with his real estate agent and translator Ming Zhou stated that he purchased 201 Mountain Avenue so his wife, who has a medical condition, would be closer to the school attended by his children. He stressed that prior to

purchasing the small 2-bedroom home, he consulted with the Piedmont building department to ascertain that a second story addition to the home would be possible in order to accommodate his 6-person family. Both Messrs. Zhou felt that the proposed addition would improve the home's aesthetics, make it more compatible and comparable with other 2-story homes in the neighborhood and increase neighborhood property values.

Lucy Ling, Project Architect, explained the intent of the proposed design as well as reviewed other expansion options considered, stressing that the proposed project is the best option in terms of preserving the property's existing corner garden, enhancing the neighborhood's architectural character and minimizing neighbor view and light blockage. She presented a sun/shade study in support of her contention that there would be no significant change in the existing light/privacy situation at 213 Mountain and 6 Dormidera. She also explained that (i) downward expansion options were considered but rejected because of bedrock/excavation concerns, costs and neighborhood disturbances as well as a belief that there would be insufficient natural light and ventilation to the new living space; and (2) a 2-story addition over the garage was rejected because it would loom over 6 Dormidera because of the structure's close proximity to the property line.

Catherine Zhang supported application approval, stating that the existing house is the smallest in the neighborhood and thus is out of character with existing neighborhood conditions in terms of size and scale. She felt that the proposed addition was attractively designed, would improve streetscape aesthetics, was not an overbuilding of the lot and would not overwhelm adjacent neighboring property.

Larry & Karen Hawkins, Packo & Elizabeth Keville, Herbert Wilkinson, Katie Korotzer, Anian Tunney, Georgia Cornell, Carla & Mark Gray, Andrea Levin, Margaret Hiller and Amy Griffith all voiced opposition to the proposed project, citing the following reasons: (i) significant loss of San Francisco, the Marin Headlands and Mt. Tam views as well as privacy from the kitchen, breakfast room and family room of 213 Mountain Avenue; (ii) significant loss of privacy and light to the kitchen, family room, patio and garden of 6 Dormidera; (iii) the unattractive visual intrusion of having to view 475 sq. ft. of plain house siding from 6 Dormidera; (iv) a belief that the proposed improvement was too bulky and oversized for the lot and created an "unwelcoming" appearance to the streetscape; (v) unfair that the applicant should be allowed to benefit at the great expense of existing neighbors who will have their existing quality of life and property enjoyment and value significantly decreased; (vi) real estate assessments that the proposed project will significantly decrease the property value of 213 Mountain and 6 Dormidera; (vii) the desirability of maintaining diversity in Piedmont housing stock by preserving small, single level homes which are highly desired by seniors; (ix) the desirability of resisting the creation of monolithic, similar-sized homes within a neighborhood -- housing size and style diversity adds to Piedmont's unique residential character; (x) significant loss of a view corridor of the San Francisco Bay and Golden Gate Bridge from 10 Dormidera; (xi) the fact that contrary to the applicant's assertion, there are numerous 1-story homes in the immediate area; (xii) concern that allowing this project will set a bad precedent by encouraging other 1-story homes in the neighborhood to pursue second story additions; and (xiii) the unattractive appearance of a boxy, bulky addition with such a large expanse of unarticulated siding.

Many of the speakers urged the applicant to expand downward with a lower level addition, believing that such an approach would not endanger the property's existing redwood trees and would better preserve the current siting relationship between the applicant's property and neighboring residences. A suggestion was also made that the existing garage be converted into the desired master bedroom suite and that new garage parking be constructed under the house.

The Commission concurred that the proposed project fails to comply with City Code Sections 17.1, 17.20.1(c) and 17.20.9(b) because of the significant adverse impact the proposed improvements impose on neighboring property in terms of view, light and privacy loss and the fact that the proposed development is not properly related to its site and neighboring residences. The Commission was not opposed in concept to the addition of new living space on the property, but encouraged the applicant to consider designs that do not involve increasing the home's existing ridge line height unless it can be clearly demonstrated that such an increase will not have a negative impact on adjacent properties. The Commission also encouraged the applicant to work more closely with neighbors in designing any resubmittal.

Resolution 372-DR-13

WHEREAS, the Property Owner is requesting permission to remodel and expand the existing 1,531 sq. ft. 2-bedroom house through: the construction of a 382 sq. ft. main level rear addition and a 756 sq. ft. second story addition; window, door, skylight and exterior lighting modifications; various changes to the interior including the addition of two bedrooms; and hardscape changes throughout the property located at 210 Mountain Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e) but that the proposal does not conform with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. The exterior design elements are not aesthetically pleasing as a whole nor are they harmonious with existing and proposed neighborhood development. The proposed design is not well integrated into the existing home, creating a tacked-on "pop-top" appearance. In addition, there does not appear to have been a good faith effort on behalf of the Property Owner to meet with neighbors to discuss the proposal and minimize its adverse impact on the neighboring properties.

2. The proposed upper level addition/expansion has not been designed in a way that reasonably minimizes view and light impacts on neighboring properties. The proposed upward expansion creates an *McMansion* on the property that obliterates the view, light and privacy of adjacent neighbors as follows:

213 Mountain -- significant loss of privacy to the kitchen, breakfast room, dining room and deck of this 1900's vintage home which was specifically sited on the lot for privacy, light and view.

6 Dormidera -- significant loss of view of the Bay Bridge, downtown San Francisco, the Golden Gate Bridge and Marin Headlands as well as substantial loss of direct sunlight to the garden from such a looming structure.

191 Mountain -- loss of privacy and glen view.

10 Dormidera -- loss of Bay Bridge and Bay view and loss of western sunlight.

206 Mountain -- significant loss of privacy to the home and patio.

3. The size and height of the addition is not commensurate with the size of the lot. The property is a small corner lot with a downslope topography. The proposed *McMansion* size and style of the proposed improvement is not in keeping with the lot size. In addition, the proposed upward expansion project sets a bad precedent in terms of failing to preserve diversity in Piedmont housing stock as well as is inconsistent with the 1-story residences at 15 and 29 Dormidera, 61, 62 and 77 Sharon and 5 Sharon Court.

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.

5. The proposed project fails to comply with Design Review Guidelines II-1, II-2, II-3(a) through (d), II-6, II-7 and II-7(a).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies, with prejudice, the design review application for construction at 201 Mountain Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Simpson, Seconded by Hobstetter

Ayes: Chase, Hobstetter, Theophilos, Ode, Simpson

Noes: None

Recused: Zhang

The Commission recessed for dinner at 7:30 p.m. and reconvened at 7:50 p.m.

By procedural motion, the Commission agreed to reorder agenda consideration to await the arrival of the next applicant.

Electric Vehicle Charging Docks

The Assistant Planner explained that as part of the comprehensive rewrite of Chapter 17 and the Design Review Guidelines, staff is seeking guidance regarding the placement of electric vehicle charging docks given the significant increase in the number of applications for such installations. The position of the Commission since March 2012 has been that such charging docks only be allowed within garage interiors. However, staff is receiving more and more applications requesting permission to install such docks along the exterior side of a house, garage or driveway to permit charging activity in driveways.

Correspondence was received from: Justis Fennell; Grier Graff; Cheryl Rogers

Public testimony was received from:

John Kelson & Elizabeth Dalrymple encouraged the Commission to be flexible in allowing such minor exterior attachments to be placed wherever it is most convenient for residents as a means of encouraging the use of this new "green" technology. They noted that most residents prefer to charge their electric cars at night (most cost effective) and park these cars in the driveway for convenience and ease of access. They stressed that the electrical outlets

required for electric vehicles is no more visually intrusive than standard garden hose reels.

Grier Graff concurred re the desirability of the City to encourage residents to utilize electric vehicles by allowing flexibility in charging dock locations. He noted that by allowing driveway locations for such docks, it will encourage more residents to use their driveways for off-street parking rather than park on the street.

Justis Fennell referenced his submitted documentation in urging that the City encourage the use of non-polluting cars by granting flexibility in charging dock locations. He suggested that charging dock installations (i) be exempt from design review when proposed to be located along the side or rear of a house or garage; (ii) such installations only be concealed and subject to Administrative Staff Design Review when proposed on the front of a residence; and (iii) that such installations be subject to a reasonable, flat fee and a streamlined permit process. He also displayed examples of the different types of chargers available: 110 volt (level 1) and 220 volt (level 2) and photographs of 440 volt high-speed, commercial grade chargers (level 3) which are not suitable for residential use. He also stated that the Cities of Berkeley and Palo Alto are considering allowing the placement of unrestricted, curbside charging stations to accommodate the growing use of electric cars. He suggested that the Commission hold a workshop on this issue to hear from experts in the field.

Jordan DiGiorgio reported on the importance Governor Brown is placing on encouraging the use of electric vehicles in urging that Piedmont streamline the process for residents to receive permits for the installation of charging docks. She noted the importance for public safety reasons that illegal installations be discouraged and felt that the best way to achieve this goal is by instituting a streamline permit process, a reasonable fee schedule and flexibility in approving charger location sites.

Alex DiGiorgio concurred with previous speakers, emphasizing that encouraging the use of electric vehicles is an important way of achieving the goals of the City's Climate Action Plan.

The Commission supported a streamline permitting process for the installation of electric vehicle charging docks, agreeing that locations on the side of homes adjacent to driveways and toward the rear of properties would be acceptable and that up-coming Code changes should encourage electric vehicle use by minimizing or eliminating design review requirements for installations of charging docks that are not in the front yard or on or near the front of the house. The Commission also supported a flat fee schedule, suggesting that a flat fee be established for each electrical level of charging dock. The Chairman requested that charging dock suppliers provide the City with photographs/information on the type of standard equipment required for level 1 and level 2 installations so that this documentation can be included in City files and considered "pre-approved" for the purposes of streamlining application processing as part of up-coming Code changes.

**Variance and
Design Review
934 Kingston Avenue**

The Property Owner is requesting variance and design review to demolish the existing enclosed rear porch and remodel and enlarge the residence by 514 sq. ft. of habitable area through various changes to the interior and the construction of a 2-level addition with basement below that includes a basement workroom, main-level family room with a fireplace/chimney at its west wall, and upper-level bed/sun room; remove and reconstruct the garage in a new location to

supply 1 conforming parking space; make window, door, garage door and exterior lighting modifications; and make site improvements that include a new driveway, new rear patios, new rear retaining wall, new fencing and latticework; and landscape changes. The requested variance is from Section 17.16 to allow the addition of a room eligible for use as a bedroom with one conforming parking space in lieu of the code required minimum of two such spaces. A similar application was denied by the Commission on December 9, 2013.

Written notice was provided to neighbors. **One affirmative and one negative response form** was received. **Correspondence** was received from: Helen Danhaki

Public testimony was received from:

Tom Dinwoodie and his Project Architect Tim Mueller described how the project was redesigned in response to the December meeting and incorporates neighbor input.

The Commission supported application approval, agreeing that the redesign was responsive to Commission requests, a vast improvement over the original proposal and reflected an elegant way for preserving and improving the historic home.

Resolution 378-V/DR-13

WHEREAS, the Property Owner is requesting permission to demolish the existing enclosed rear porch and remodel and enlarge the residence by 514 sq. ft. of habitable area through various changes to the interior and the construction of a 2-level addition with basement below that includes a basement workroom, main-level family room with a fireplace/chimney at its west wall, and upper-level bed/sun room; remove and reconstruct the garage in a new location to supply 1 conforming parking space; make window, door, garage door and exterior lighting modifications; and make site improvements that include a new driveway, new rear patios, new rear retaining wall, new fencing and latticework; and landscape changes located at 934 Kingston Avenue, Piedmont, California, which construction requires variance and design review; and

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

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

1. The project the project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e).
2. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to the fact that the home is a historic structure of great age and the reconstruction of the garage in its current location is the best and only option for providing off-street parking on the property . Because of these circumstances, strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone which conform to the zoning requirements.

3. The variance is compatible with the immediately surrounding neighborhood and the public welfare because there is no impact on immediately surrounding neighbors in terms of view or property ingress/egress.
4. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because of the steep slope of the property and the difficulty of constructing an aesthetic design that will match the existing house to maintain the home's architectural integrity and appearance from the street
5. The proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code.
6. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. The distance between the proposed upper level addition/expansion and adjacent residences is reasonable and appropriate due to the existing topography and neighborhood development pattern. Upper level setbacks greater than the setbacks required for the lower level have been considered and are not necessary to reduce losses of ambient and reflected light. The project has been significantly revised to address these issues.
7. The proposed rear addition and garage have been designed in a way that reasonably minimizes view and light impacts on neighboring properties for the reasons cited above.
8. The size and height of the addition is commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and is in keeping with the existing neighborhood development pattern. The design of the garage and rear addition matches the architectural style of the existing house.
9. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. There is clear sight lines from property ingress/egress and the proposed improvements will not change existing circulation patterns.
10. The project complies with Design Review Guidelines II-1, II-2, II-3, II-3(a) through (c), II-4, II-5, II-5(a), II-6, II-6(b), II-7, II-7(a), III-1, III-1(a), III-2, III-2(a), III-3, III-4, III-5, III-5(a), III-6, III-6(a), III-7 and III-7(a).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review application for construction at 934 Kingston 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. **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.

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 and west property lines at the time of foundation and/or frame inspection to verify the approved setback dimension measured to the new construction.

5. **Final Landscape Plan.** Before issuance of a building permit, the Property Owner shall submit for staff review and approval a Final Landscape Plan for the front and rear yards that includes trees proposed for retention as well as any 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.

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

7. **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.

8. **Exterior Wall-Mounted Light Fixtures.** The new exterior wall-mounted light fixtures shall be downward-directed with an opaque or translucent shade that completely cover the light bulb.

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

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

sources for site specific, and seasonally-and-phase-appropriate, effective Best Management Practices (BMPs) that may be incorporated into the stormwater management plan. Copies of the Municipal Regional Stormwater Permit are available from the Piedmont Public Works Department and on-line at cleanwaterprogram.org.

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

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

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

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

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

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

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

Moved by Chase, Seconded by Theophilos

Ayes: Chase, Hobstetter, Theophilos, Ode, Zhang

Noes: None

Absent: None

ADJOURNMENT

There being no further business, Chairman Zhang adjourned the meeting at 9:20 p.m.