

## PIEDMONT PLANNING COMMISSION

Special Meeting Minutes for Thursday, October 30, 2014

A Special Session of the Piedmont Planning Commission was held October 30, 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 October 13, 2014.

### CALL TO ORDER

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

### ROLL CALL

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

Absent: Commissioner Tom Zhang (excused)

Staff: Planning Director Kate Black, Senior Planner Kevin Jackson, Planning Technician Lauren Seyda and Recording Secretary Chris Harbert

City Council Liaison: Councilmember Tim Rood

### CONSENT CALENDAR

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

- 141 Scenic Avenue (Variance & Design Review)
- 140 Cambridge Way (Variance & Design Review)

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

#### **Variance and Design Review 141 Scenic Avenue**

#### **Resolution 284-V/DR-14**

WHEREAS, the Property Owner is requesting permission to construct a landing and elevated stairs in the right (northern) side yard located at 141 Scenic Avenue, Piedmont, California, which construction requires variance; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary in order to construct within the 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 makes the following findings:

1. The project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e).
2. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to the steep slope of the property, the location of the home on the lot and the necessity for stairs in order to access the home and yard. 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 neighbors have indicated their support of this project, the proposed location for the stairs is the only logical placement given

the property's steep topography and home location and without stairs, the property could not be accessed safely, including public safety personnel.

4. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because given the location of the home on this steep lot, there are limited options to traverse the area without some sort of structure. Without variance, safe access to the home and yard would not be possible.

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 in that the proposed stairs are consistent in style and appearance with an approved fence and the stairs are not visible to the general public -- the stairs are only seen by one neighbor.

7. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light. The stairs are located behind a fence, thus there is no visual or light impact on neighboring property.

8. 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 without the stairs, neither the property owner nor emergency personnel would be able to safely access the existing home and yard.

9. The project complies with Design Review Guidelines II-1, II-2, II-3, II-3(a) through (d) and II-6.

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 141 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. **Approved Plan Set.** The approved plans are those submitted on September 12, 2014.

RESOLVED FURTHER, that the approval of the Planning Commission/City Council and any conditions of that approval shall not extend to any particulars set forth in the documents submitted for the project which are inconsistent with or in violation of any applicable law, including but not limited to Chapters 5 and 17 of the City Code, nor does the approval extend to matters not set forth, or inadequately represented, in submitted documents (whether or not consistent

with applicable law). The City reserves the right to require compliance with applicable laws and to attach conditions after initial approval is given, if noncompliance is discovered or additional conditions are considered necessary and appropriate in light of Commission/Council findings.

Moved by Simpson, Seconded by Chase

Ayes: Chase, Ode, Simpson, Theophilos, Behrens

Noes: None

Absent: Zhang

**Variance and  
Design Review  
140 Cambridge Way**

**Resolution 288-V/DR-14**

WHEREAS, the Property Owner is requesting permission to replace an existing concrete patio with a redwood deck in the rear; construct an approximately 3'6" tall redwood guardrail atop a 5'10" cement plaster wall at the right (west) rear; and make exterior lighting and door modifications at the rear located at 140 Cambridge Way, Piedmont, California, which construction requires variance; and

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary in order to further exceed the structure coverage and to construct in the right side yard setback and the rear yard setback; and

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

1. The project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e).
2. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to the fact that because the home is bordered by three streets, it has three 20 ft. setbacks which severely limit the use of 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 variances are compatible with the immediately surrounding neighborhood and the public welfare because, without variance, there is very limited space in which to create an usable outdoor living area.
4. Accomplishing the improvement without variance would cause unreasonable hardship in planning, design, or construction because usable outdoor living area for the enjoyment of the property owner could not be created.
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 because the overall design of the deck is compatible with the surrounding landscape.
7. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because there is no impact on neighbor light or air.

8. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because there is no change in existing circulation patterns.

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

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 140 Cambridge Way, 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 October 7, 2014, after notice to neighbors were mailed and the application was available for public review.

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

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.

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

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

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

Ayes: Chase, Ode, Simpson, Theophilos, Behrens

Noes: None

Absent: Zhang

## **PUBLIC FORUM**

Jordan Wong, a PHS student, requested the Commission to consider requiring design review for home security camera installations because such installations can result in privacy loss and poor visual aesthetics for neighbors. As an example, he stated that a security camera installed by his neighbor is a visual blight and an intrusion into his privacy because this camera overlooks his rear yard. The Commission requested staff to consider including a design review requirement for security camera installations when staff submits potential code change recommendations to the Commission next year.

**REGULAR CALENDAR**

**Housing Element  
Update**

The Commission considered the following item of regular business:

Chairman Ode opened the seventh in a series of Commission-held public hearings on the City's General Plan Housing Element update. Mr. Barry Miller, the City's Housing Element Consultant, narrated a power-point presentation of the City's Draft 2015-2023 Housing Element, noting that the current Draft reflects changes requested by the State Department of Housing and Community Development (HCD) based upon its August review of the Draft. On September 15, the City received a pre-compliance letter from HCD indicating that the Element meets the statutory requirements of State Law. Mr. Miller requested that tonight the Commission take public testimony on the Draft and continue the public hearing to the Commission's regular meeting of November 10th. At the November 10 meeting, staff will report on any comments received in response to the Draft as well as provide two resolutions for Commission consideration and action: one covering the Housing Element and another covering the Negative Declaration. The City Council is scheduled to take action on the Housing Element on December 1st based upon the Commission's recommendation. Following the City Council's action, the adopted Element will be submitted to the State for formal compliance determination.

**Public testimony** was received from:

Dimitri Magganas thanked the Commission for its volunteer service, requested the Commission to approve the Draft Housing Element and encouraged the City to examine under-utilized public spaces as well as ways to improve the City's IT capabilities.

The Commission complimented Mr. Miller and planning staff on the quality of the Draft and the fact that so many of the proposed Action Programs are currently "on-going." The Commission noted its support for approving the Housing Element as currently drafted.

**Resolution 23-PL-14**

RESOLVED, that the Planning Commission continues until November 10, 2014, the public hearing on the Draft Piedmont Housing Element.

Moved by Theophilos, Seconded by Behrens

Ayes: Chase, Ode, Simpson, Theophilos, Behrens

Noes: None

Absent: Zhang

**ADJOURNMENT**

There being no further business, Chairman Ode adjourned the meeting at 5:45 p.m.