

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, September 8, 2014

A Regular Session of the Piedmont Planning Commission was held September 8, 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 August 25, 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, Tom Zhang and Alternate Commissioner Eric Behrens

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

Council Liaison: Councilmember Tim Rood

CONSENT CALENDAR

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

- 219 Sandringham Road (Design Review)
- 61 King Avenue (Fence Design Review)

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

Design Review 219 Sandringham Road

Resolution 193-DR-14

WHEREAS, the Property Owner is requesting permission to make several interior and exterior modifications throughout the property, including the development of additional living space at the lower level of the house; expanding the front patio and constructing a built-in bench; the construction of and modifications to retaining walls, hardscape, windows and doors, handrails, guardrails, and exterior lighting throughout the property; a new landscape wall in the rear yard; and a new upper and lower level deck and stairs at the rear of the house located at 219 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 in that the project's architectural detailing, rear porch support system and window treatments are consistent with those on the existing house and in the neighborhood.
2. The proposed upper level addition has been designed in a way that reasonably minimizes view and light impacts on neighboring properties because there is no impact.

3. The size and height of the addition is commensurate with the size of the lot and is in keeping with the existing neighborhood development pattern because the proposed deck and front patio are architecturally consistent with similar features found on other homes in the neighborhood.
4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. There is no change in existing circulation patterns.
5. 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), IV-1, IV-1(a) & (b), IV-2, IV-2(a), IV-3, IV-3(a), IV-4, IV-4(a), IV-5, IV-5(a), IV-6

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for construction at 219 Sandringham Road, 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, site safety security and other potential construction impacts, as well as other details involving the means and methods of completing the Project, including the construction route. The City Building Official has the authority to require modifications and amendments to the Construction Management Plan as deemed necessary throughout the course of the Project and until the Final Inspection.

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

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

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

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

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

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

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

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

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

5. **Approved Plan Set.** The approved plans are those submitted on August 1, 2014 and revisions submitted on August 28, 2014, after notices to neighbors were mailed and the application was available for public review.

6. **Sewer Main Condition and Repair.** City records indicate that City storm and sewer mains and associated easement(s) may be located near the proposed retaining wall near the west property line. At the time of submittal for a Building Permit and as required by the Director of Public Works, the Property Owner shall submit a revised copy of the site plan to show sewer manhole covers and any easements. The applicant shall also work with City staff to verify the location and depth of the storm and sanitary sewer mains. In addition, the City shall videotape the existing sanitary and storm sewer mains to assess their pre-construction condition in order to make a determination as to whether any repairs to or replacement of the sewer main is required prior to the commencement of excavation and/or construction. (The City is responsible for the cost of the main line, and the property owner for costs of the lateral.) As part of the final inspection the same sanitary and storm sewer lines shall be inspected as required by the Director of Public Works, who shall also determine if the sewer lines were damaged as a result of the construction and therefore must be repaired at the applicant's expense. The applicant is responsible to locate their private sewer lateral and note such location on the building permit drawings.

7. **Foundation Design.** At the discretion of the City Building Official, the applicant may be required to design the proposed retaining wall with special footings, piers, slabs or other systems, to avoid damage to the existing sewer nearby, and to enable future sewer repairs and replacements.

8. **Property Line Location.** As required by the Chief Building Official, a licensed land surveyor or Civil Engineer may be required by the Building Department to verify and mark the location of the north and south property lines at the time of foundation and/or frame inspection to verify the approved setback dimension measured to the new construction.

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

Moved by Chase, Seconded by Theophilos

Ayes: Chase, ode, Simpson, Theophilos, Zhang

Noes: None

Absent: None

**Fence Design Review
61 King Avenue**

Resolution 238-DR-14

WHEREAS, the Property Owner is requesting permission to make modifications at the front of the property including the construction of a stucco wall and metal picket fence atop; a new entry gate between the existing stucco pillars; and new exterior lighting 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 in that the project is proposing a low wall that has no impact on neighboring properties.
2. 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.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because there is no change in existing circulation patterns.
4. The project complies with Design Review Guidelines IV-1, IV-1(a), IV-2, IV-3, IV-3(a), IV-4, IV-4(a), IV-5, IV-5(a), IV-6, V-1, V-2, V-5, V-5(a) & (b), V-6, V-9.

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 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 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.

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. **Arborist's Report.** Before the issuance of a building permit, the Property Owner shall submit an Arborist's Report that includes tree preservation measures to preserve the existing redwood trees proposed to remain on-site. The tree preservation measures shall be on the appropriate sheets of the construction plans. The arborist shall be on-site during critical construction activities, including initial and final grading, to ensure the protection of the existing trees. The arborist shall document in writing and with photographs the tree protection measures used during these critical construction phases. If some trees have been compromised, mitigation measures must be specified in writing, and implementation certified by the Project Arborist. Trees proposed for removal shall have an in-lieu replacement tree planted elsewhere on the property, which shall be shown on the final landscape plan. Before the Final Inspection, the Arborist shall file a report to the City certifying that all tree preservation measures as recommended have been implemented to his/her satisfaction and that all retained trees have not been compromised by the 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 that shows trees proposed for retention as well as in-lieu trees required by a Certified Tree Preservation Plan. The final plan shall comply with Municipal Code Section 17.17.3, and shall not propose plants near the driveway that could obscure visibility of pedestrians on the sidewalk or vehicles on the street from drivers backing out of the driveway.

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

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

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 Simpson

Ayes: Chase, Ode, Simpson, Theophilos, Zhang

Noes: None

Absent: None

PUBLIC FORUM

Former Mayor and Planning Commissioner Patty White urged the Commission to prohibit short-term rentals (less than 30 days) because of the disruption and potential public safety and security concerns such rentals impose upon residential neighborhoods. She felt that such rentals were inconsistent with Piedmont's single-family character. However, she suggested that if such rentals cannot be prohibited, they be allowed only as code exceptions, requiring City Council approval.

APPROVAL OF MINUTES

Resolution 19-PL-14

RESOLVED, that the Planning Commission approves as submitted its meeting minutes of August 11, 2014.

Moved by Chase, Seconded by Theophilos

Ayes: Chase, Simpson, Theophilos, Zhang, Behrens

Noes: None

Recused: Ode

Absent: None

REGULAR CALENDAR

The Commission considered the following items of regular business:

Pedestrian and Bicycle Master Plan

The Commission resumed its August 11, 2014, consideration of the City's Pedestrian and Bicycle Master Plan (PBMP) prepared by Mr. Niko Letunic of Eisen/Letunic, the City's transportation and planning consultant. Mr. Letunic noted the extensive public input which has been received since the Draft Plan was released and also submitted for Commission review the Preliminary Draft of the CEQA Initial Study/Negative Declaration prepared in connection with the Draft PBMP. He stated that the Final PBMP and Final CEQA document will be presented for Commission review and recommendation on October 13th.

Correspondence was received from; Garrett Keating; Deborah Leland; Neil Chadha; Tracey Woodruff; Catherine Sharpe; Paula Geiger; Michelle Van

Dever; Kurt Fleischer; Dan Harvitt; Kara Christenson; Patty Siskind; Joanne Jaffe

Public testimony was received from:

Kurt Fleischer voiced his strong support for the PBMP's recommendation that a pedestrian safety railing be installed along the Oakland Avenue Bridge.

Tom Grandsbery also voiced support for the PBMP, emphasizing that it is likely in the future that more and more Piedmont residents will be walking and biking to their destinations for health and exercise reasons. He urged that the PBMP recommend that the School District and/or Recreation Department undertake a public education campaign to teach children how to ride bikes safely.

Margaret Ovenden urged that the PBMP address in more detail the issue of speed limits, clearly set forth the reasons behind its pedestrian/bicycle improvements/changes and base implementation of these changes upon facts and not public opinion. She also urged the School District to undertake an aggressive public service campaign to inform parents and students of the changes related to pedestrian/bike safety.

Former City Councilmember Garrett Keating also requested that the PBMP address traffic speed limits and that it include language specifically indicating that annual review of the effectiveness of the Plan's implemented improvements shall be conducted by both the Planning Commission and the City's Bicycle Plan Advisory Committee.

The Commission complimented Mr. Letunic on the thoroughness and easy readability of the PBMP. In discussing the Plan, Commissioner Theophilos reiterated his concern that proposed *road diets* along Grand and Highland Avenues could result in severe traffic congestion in front of Ace Hardware and Mulberry's Market, respectively. He voiced support for designated bike lanes only when they do not eliminate existing traffic lanes. He also opposed the removal of the existing "walk your bike" sign along Moraga Avenue for safety and liability reasons. The Commission supported: (i) scheduling a workshop on the PBMP once the Plan is adopted and specific designs for the recommended changes are presented by traffic engineers; and (ii) involving the Bike Advisory Committee in the evaluation of the effectiveness of the Plan's proposed changes and in formulating modification recommendations, as necessary, to the City Council. The Commission also requested that a compilation of all comments received regarding the PBMP since its public release be provided to the Commission at the October meeting.

Variance, Design Review & Fence Design Review
275 Sea View Avenue The Property Owner is requesting variance, design review and fence design review to construct: a single story addition on the western side of the garage for additional habitable square footage at the lower level, with a deck above; an addition on the eastern side of the garage to create a third garage space; a small main level addition in the central rear of the lot; a raised roof at the northern end of the house; a new front entry with a raised roof; new doors and windows throughout the house; new skylights; and stylistic alterations through new materials and architectural elements, along with modifications to the existing retaining walls. The requested variances are from: (1) Section 17.10.4 to allow a structure coverage of 42.82% in lieu of the code permitted maximum of 40%; and (2) Section 17.10.6 to allow the proposed trellis to extend to within 18" of

the street facing side property line in lieu of the code required minimum of a 20 ft. setback.

Written notice was provided to neighbors. **Four affirmative, two negative response forms** were received. **Correspondence** was received from: Jane Mac Neur Roesch

Public testimony was received from:

Steve Chan explained that he purchased his home earlier this year and desires to update and modernize the structure to better accommodate his family's needs. He added that the proposed second unit was specifically designed and placed to maximize its rental marketability until such time that his family needs to use the unit.

Carolyn Van Lang, Project Architect, described the proposed design changes intended to open up the floorplan and increase natural light to the interior of the main house as well as provide a secluded location and separate entrance for the second unit. She also stated that the recessed door, with trellis overhang, proposed for the 3rd garage is intended to break up the 3-door garage facade by adding architectural interest. She also noted that a second-story addition was originally considered but rejected to minimize neighbor impact and create more privacy for the second unit.

As currently designed, the Commission opposed application approval, citing concerns that: (i) the design of the second unit was too "box-like" in appearance, created a tacked-on appearance and was not architecturally consistent nor integrated with the design of the home; (ii) variance approval is not justified given the size of the lot and the fact that the garage wall could be pulled back to eliminate trellis encroachment into the setback; (iii) the loss of large mature trees in the construction area along the La Salle frontage would adversely impact the streetscape ambience; (iv) the proposed 3rd garage would necessitate the removal of a large portion of the home's brick wall, thereby destroying the home's architectural balance; (v) the second unit's flat roof deck, with cable railing, is architecturally inconsistent with the existing home and would result in a significant loss of privacy to the south side neighbor; (vi) the configuration of the 3rd garage door with trellis overhang detracts from the home's architectural quality and aesthetics; (vii) the proposed raised entry foyer/tower element is architecturally inconsistent with the existing home; and (viii) alternative design options exist for providing the desired living space without variance and without detracting from the home's architectural quality.

Resolution 228-V-14

WHEREAS, the Property Owner is requesting permission to construct: a single story addition on the western side of the garage for additional habitable square footage at the lower level, with a deck above; an addition on the eastern side of the garage to create a third garage space; a small main level addition in the central rear of the lot; a raised roof at the northern end of the house; a new front entry with a raised roof; new doors and windows throughout the house; new skylights; and stylistic alterations through new materials and architectural elements, along with modifications to the existing retaining walls located at 275 Sea View Avenue, 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 construct within the La Salle Avenue setback and to exceed the maximum permitted structure coverage of the lot; 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 do not present unusual physical circumstances because of which 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. The requested variances are triggered by a desire to increase the marketability of the proposed second unit. There is sufficient room under the house to construct a second unit without the need for variance.
3. The variances are not compatible with the immediately surrounding neighborhood and the public welfare because the proposed project would have a detrimental impact on neighbor privacy.
4. Accomplishing the improvement without variance would cause not unreasonable hardship in planning, design, or construction because it is physically possible to construct, without variance, a second unit on the property that is architecturally compatible with the existing home.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies, without prejudice, the variance application for proposed construction at 275 Sea View Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City. Moved by Simpson, Seconded by Theophilos

Ayes: Chase, ode, Simpson, Theophilos, Zhang

Noes: None

Absent: None

Resolution 228-DR-14

WHEREAS, the Property Owner is requesting permission to construct: a single story addition on the western side of the garage for additional habitable square footage at the lower level, with a deck above; an addition on the eastern side of the garage to create a third garage space; a small main level addition in the central rear of the lot; a raised roof at the northern end of the house; a new front entry with a raised roof; new doors and windows throughout the house; new skylights; and stylistic alterations through new materials and architectural elements, along with modifications to the existing retaining walls located at 275 Sea View Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited 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 and harmonious with existing and proposed neighborhood development because the proposed improvements are inconsistent with the mid-century architecture of the existing home.
2. The design is not appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because the proposed patio atop the upper level addition poses a significant privacy intrusion upon the south side neighbor.
3. The size and height of the addition is not commensurate with the size of the lot nor in keeping with the existing neighborhood development pattern because of its architectural inconsistency with the home's mid-century design and the detrimental impact on the privacy of the south side neighbor.
4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected because there is no impact on existing circulation patterns.
5. The project fails to comply with Design Review Guidelines II-1, II-2, II-3, II-3(a) through (d), II-5, II-5(a) and II-7.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies, without prejudice, the design review application for proposed construction at 275 Sea View Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Simpson, Seconded by Zhang
Ayes: Chase, ode, Simpson, Theophilos, Zhang
Noes: None
Absent: None

The Commission requested that if a revised design is submitted, the submitted plans be reorganized to clearly indicate what is existing, what was approved pursuant to staff design review and what is being currently proposed. The Commission also noted that it had no objection to the proposed north end gable, agreeing that this element could be approved at staff level.

The Commission recessed for dinner at 6:30 p.m. and reconvened at 6:55 p.m.

**Variance and
Design Review
40 Sharon Avenue**

The Property Owner is requesting variance and design review to construct a 31 sq. ft. addition at the right rear (southeast) corner of the residence by enclosing an existing porch; and make various window and door modifications on the south and east facades. The requested variance is from Section 17.22.2(a) to allow a floor area ratio of 60% in lieu of the code permitted maximum of 55% for a parcel less than 5,000 sq. ft. in size.

Written notice was provided to neighbors. **Four affirmative response forms** were received. **Correspondence** was received from: Sellers & Christine Stough; Masayo Jiang; owner of 34 Sharon Avenue

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

Public testimony was received from:

Mara Lee Parker stated that she has owned the 1938 vintage home for 12 years and the proposed improvements are intended to create better rear yard access from the home as well as improve the home's floorplan and circulation.

Carolyn Van Lang, Project Architect, described how the proposed improvements will improve access to the rear yard and create a more open floorplan for entertaining.

The Commission supported application approval, agreeing that variance approval is justified given the property's steep slope, small size and the fact that the requested 1% increase in existing floor area results from the enclosure of an existing porch with no adverse impact on adjacent neighbors. The Commission also agreed as to the benefits of updating Piedmont's older housing stock, noted that the proposed improvements will enhance the functionality and use of the property and that the project's design is consistent with the home's architecture.

Resolution 230-V/DR-14

WHEREAS, the Property Owner is requesting permission to construct a 31 sq. ft. addition at the right rear (southeast) corner of the residence by enclosing an existing porch; and make various window and door modifications on the south and east facades located at 40 Sharon 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 further exceed the floor area ratio limit; and

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

1. The project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e)
2. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to the very steep slope and relatively small size of the lot and the fact that the proposed project is enclosing an existing porch area. 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 the neighboring property.
4. Accomplishing the improvement without variance would cause unreasonable hardship in planning, design, or construction because the proposed project is enclosing an existing porch area in order to create habitable space and this creation of approximately 31 sq. ft. of additional floor area has no impact on adjacent properties.
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 French doors, window treatment and rear yard access improvements are consistent with the home's architecture.
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 neighboring properties.
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(a) through (d), II-4, II-5, II-5(a), II-6, II-6(a) through (c), II-7 and 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 construction at 40 Sharon Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Window Trim and Color Scheme.** The trim and the color scheme of all windows shall be consistent throughout the house.
2. **Exterior Lighting.** The exterior lights shall be downward directed.
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. **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. **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.
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 (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 Behrens

Ayes: Chase, Ode, Simpson, Theophilos, Behrens

Noes: None

Recused: Zhang

**Variance and
Design Review
1061 Harvard Road**

The Property Owner is requesting variance and design review to demolish an unapproved enclosed porch at the rear; construct an approximately 29 sq. ft. addition and approximately 78 sq. ft. deck and stair at the rear; make window and door modifications; and make various interior improvements. The requested variances are from: (1) Section 17.10.4 to allow a structure coverage of 41.4% in lieu of the code permitted maximum of 40%; and (2) Section 17.16 to allow 3 rooms eligible for use as bedrooms with only one covered parking space measuring 11'4" by 17'4" in lieu of the code required minimum of two covered parking spaces each measuring 9 ft. by 20 ft.

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

Public testimony was received from:

Barbara Vivino stated that she has owned the home since 2006 and last May a major water break damaged her home. During the repair of the damage, it was discovered that the existing porch (constructed by a previous owner and present at the time of her purchase) was illegal. In connection with eliminating this illegal construction, she decided to take advantage of the opportunity to improve the access to her rear yard, open up her kitchen area and make the existing lower level half-bath into a full bath.

Howard Lasseter, Project Architect, stated that converting the half-bath into a full bath has triggered the parking variance. He noted that almost all of the homes in the neighborhood have substandard 1-car garages and thus variance approval would be consistent with the neighborhood standard. He added that the property's 1-car garage door has an automatic opener and the submitted drawings of the existing garage door are incorrect.

The Commission supported application approval, agreeing that the proposed improvements are attractively designed, will improve the functionality of the home and preserve the home's existing architectural quality and style. Variance approval is justified and consistent with neighborhood standards -- re the parking variance: the narrow width of the existing driveway essentially precludes vehicle ingress/egress to the garage (as is the case with most other properties in the immediate area) and re the structure coverage variance: the proposed deck replaces an existing porch and is reasonably sized to provide usable outdoor living area in such a small rear yard. The Commission did request that proposed front replacement windows on the second floor match the craftsman-style design of the home's original living room window.

Resolution 240-V/DR-14

WHEREAS, the Property Owner is requesting permission to demolish an unapproved enclosed porch at the rear; construct an approximately 29 sq. ft. addition and approximately 78 sq. ft. deck and stair at the rear; make window and door modifications; and make various interior improvements located at 1061 Harvard Road, Piedmont, California, which construction requires variance and design review; and

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code is necessary in order to add a bedroom without supplying conforming parking and to exceed structure coverage limit; and

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

1. The project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e)
2. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to: (i) the narrow width of the existing driveway which precludes vehicle access to the garage; and (ii) the small size of the lot which precludes construction of a conforming garage. 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 no other homes in the immediate area have conforming parking and the slight 1.4% increase in existing structure coverage does not adversely affect neighboring properties.
4. Accomplishing the improvement without variance would cause unreasonable hardship in planning, design, or construction because the proposed improvements, which are consistent with neighborhood standards and have neighborhood support, could not be constructed on this small lot.
5. The proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code.
6. The exterior design elements (including but not limited to height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that the proposed improvements are attractively designed and consistent with the home's craftsman architectural style.
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 and neighboring residents support the proposed project.
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-5, II-5(a), II-6 and II-7.

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 1061 Harvard Road, 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. **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. **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.

4. **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 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.

5. **Windows.** The color scheme of the new windows shall match that of the existing windows throughout the house. The proposed front second story windows shall have muntins that match the muntin configuration of the existing front first story windows.

Moved by Simpson, Seconded by Zhang

Ayes: Chase, Ode, Simpson, Theophilos, Zhang

Noes: None

Absent: None

Short-Term Rentals

Per City Council direction, the City Planner introduced the topic of short-term (less than 30 days) property rentals in Piedmont for Commission discussion. The Planner stated that she and the Council have received complaints from neighbors regarding such rental activity and noted that cities across the country are also dealing with this issue. She outlined the various options available for permitting, prohibiting, regulating or restricting such rental activity, noting that the City Council is seeking advice from the Commission as to how to proceed.

Correspondence was received from: Nancy Herbert; Patty White; Gail Ramsey; Alicia Gruber, Teddy King

Public testimony was received from:

Linda Horne voiced support for allowing short-term rentals in Piedmont as a potential revenue stream for the City through regulation fees and taxes. She felt such rentals add to Piedmont's diversity, provide an opportunity for family and friends visiting Piedmont residents to stay nearby during their visits, and provide an income source for Piedmont residents. She felt that since it is essentially impossible to prevent such rentals given the popularity of numerous internet sites, the City should regulate and tax their occurrence.

The Commission was unanimous in its support for prohibiting short-term rentals in Piedmont, citing the following reasons: (i) contrary to Piedmont's single-family character; (ii) neighborhood and public safety/security concerns arising from stranger/transient rental occupancy -- criminals could take advantage of short-term rentals to "case" neighborhoods in advance of burglary plans or other nefarious activity; (iii) such rentals do not add nor enhance diversity since short-term occupants do not integrate into the community; (iv) most neighbors of short-term rental properties find such activity to be very disruptive and intrusive because of the comings and goings at all hours by strangers who are not known nor connected to the neighborhood or community; (v) the difficulties and staff effort involved in enforcing regulations/taxation far outweigh any potential revenue that would be generated; and (vi) there is evidence that allowing short-term rentals takes housing off the market for full-time occupation by community

residents. This could adversely affect the City's Housing Element and make it more difficult for the City to meet its assigned housing allocations. Based upon the Commission's discussion and direction, the City Planner stated that she would work with the City Attorney in developing a policy and, if necessary, proposed City Code amendments to prohibit short-term rentals in Piedmont. The proposed policy would then be submitted to the Commission for review and recommendation to the City Council.

ADJOURNMENT

There being no further business, Chairman Ode adjourned the meeting at 8:20 p.m.