

## PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, April 11, 2016

A Regular Session of the Piedmont Planning Commission was held April 11, 2016, 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 March 28, 2016.

### CALL TO ORDER

Chairman Theophilos called the meeting to order at 5:05 p.m.

### ROLL CALL

Present: Commissioners Eric Behrens, Susan Ode, Tom Ramsey, Tony Theophilos and Tom Zhang

Absent: Alternate Commissioner Aradhana Jajodia (excused)

Staff: Interim Planning Director Kevin Jackson, Assistant Planners Jennifer Gavin and Emily Alvarez, and Planning Technician Chris Yeager

Council Liaison: Councilmember Tim Rood

### ELECTION OF OFFICERS

#### **Resolution 9-PL-16**

RESOLVED, that the Planning Commission appoints Eric Behrens to serve as Commission Chair for one year.

Moved by Ode, Seconded by Ramsey

Ayes: Ode, Ramsey, Theophilos, Zhang

Noes: None

Recused:

Absent: Jajodia

#### **Resolution 10-PL-16**

RESOLVED, that the Planning Commission appoints Tom Ramsey to serve as Commission Vice Chair for one year.

Moved by Zhang, Seconded by Ode

Ayes: Behrens, Ode, Theophilos, Zhang

Noes: None

Recused:

Absent: Jajodia

### PUBLIC FORUM

There were no speakers for the public forum.

### ANNOUNCEMENTS

Interim Planning Director Jackson announced that Agenda Item #7, 122 Monte Avenue, has been removed from the agenda at the applicant's request, to be heard at a later Commission hearing.

### REGULAR SESSION

The Commission considered the following items of regular business:

#### **Approval of Minutes**

#### **Resolution 11-PL-16**

RESOLVED, that the Planning Commission approves as submitted its meeting minutes of the March 14, 2016, regular hearing of the Planning Commission.

Moved by Theophilos, Seconded by Ode

Ayes: Behrens, Ode, Ramsey, Theophilos, Zhang

Noes: None

Recused:

Absent: Jajodia

**Consent Calendar**

The Commission placed the following applications on the Consent Calendar and added Condition #4 to the approval of 7 Olive Avenue and Condition #11 to the approval of 24 Greenbank Avenue:

- 284 Mountain Avenue (Design Review)
- 7 Olive Avenue (Fence Design Review)
- 24 Greenbank Avenue (Design Review)

**Resolution 12-PL-16**

RESOLVED, that the Planning Commission approves the Consent Calendar as noted.

Moved by Ode, Seconded by Theophilos

Ayes: Behrens, Ode, Ramsey, Theophilos, Zhang

Noes: None

Recused:

Absent: Jajodia

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

**Design Review  
284 Mountain Avenue**

**Resolution 60-DR-16**

WHEREAS, the Property Owner is requesting permission to enlarge three dormers at the rear of the house; to make modifications to windows and doors throughout the house; and to develop approximately 100 square feet at the basement level and 950 square feet at the attic level, located at 284 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 the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e) and the proposal conforms with the criteria and standards of Section 17.20.9(b) of the Piedmont City Code:

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. The distance between the upper level dormers and adjacent residences is reasonable and appropriate, because increasing the size of the dormers has very little impact on the house.
2. The proposed dormers, skylight, and window modifications have been designed in a way that reasonably minimizes view and light impacts on neighboring properties, because they have no impact on neighboring properties.
3. The size and height of the dormers are commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and is in keeping with the existing neighborhood development pattern, because the increased size of the dormers is nominal and is in keeping with the existing neighborhood development pattern.
4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. The existing or proposed on-site parking is appropriate to the size of the new dormers, and

additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood, because the dormers have absolutely no impact on parking.

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

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for proposed construction at 284 Mountain Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

2. **Skylight Flashing.** The metal flashing around the new skylight shall be painted to match the adjacent roof color.

3. **Window and Door Material.** As specified in the plans, the building material for the new windows and doors shall be wood.

4. **Divided Lite Type.** The divided lites on the new windows and doors shall be true or three-dimensional simulated.

5. **Window Color Scheme.** All the windows on the house shall have a consistent color scheme.

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

7. **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.

8. **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.

9. **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 as needed: i) Completion of Excavation; ii) Completion of Retaining Walls; iii) Completion of Foundation; iv) Completion of Rough Framing; v) Completion of Electrical; vi) Completion of Plumbing; vii) Completion of Mechanical; viii) Completion of Fire Sprinklers; ix) Completion of Home; x) Completion of Hardscaping and Landscaping; and any further construction benchmarks and conditions of occupancy as may be determined by the Director of Public Works.
- b. Before the Project begins, the Director of Public Works shall make a determination as to the reasonableness of the proposed completion dates applicable to the Project, and that determination shall constitute the "Approved Schedule" and be binding on the Property Owner. The City may, at the Property Owner's sole cost, engage the services of a consultant to review the Property Owner's proposed Construction Completion Schedule and, to the extent the period allocated for any work appears unjustifiable, recommend to the Director of Public Works a reasonable completion date for any benchmark.
- c. If the work for any specific benchmark has not been completed within 90 days after the completion date set forth in the Approved Schedule, and the delay in completion has not been caused by force majeure, the Director of Public Works has the option at any time thereafter to make a claim against the Property Owner's Site Security, if one is required, in order to complete the benchmark. The Director of Public Works has the option to refer the application to the Planning Commission for public review.

Moved by Theophilos, Seconded by Ode  
Ayes: Behrens, Ode, Ramsey, Theophilos, Zhang  
Noes: None  
Recused:  
Absent: Jajodia

**Fence Design Review  
7 Olive Avenue**

**Resolution 74-DR-16**

WHEREAS, the Property Owner is requesting permission to widen the driveway, construct a fence on top of a retaining wall with a maximum height of approximately 8 feet, and install driveway and pedestrian gates within the front yard, located at 7 Olive 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 the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e) and the proposal conforms with the criteria and standards of Section 17.20.9(a) of the Piedmont City Code:

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements include but are not limited to: the iron fence is consistent with the neighborhood development pattern, since the neighboring houses were all built with iron fences at the front of their yards.

2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because the wrought iron fence is open, less than six feet high, and far away from the neighboring houses. The proposed fence has no negative impacts on neighboring views and privacy.

3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress, because traffic safety is improved by enlarging and improving the driveway. There is no change, and thus no adverse impact, on the vehicular circulation pattern.

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

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for proposed construction at 7 Olive Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Driveway Gate.** The driveway gate shall be mechanically operable. If design modifications are required to accomplish this, those modifications shall be subject to staff review.

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

3. **Property Line Verification.** The new fence and retaining wall, including all footings and posts, and all on grade improvements shall be located completely within the applicants' property. Prior to foundation inspection, the applicant shall submit to the Building Official written verification by a licensed land surveyor stating that the construction is located at the setback dimension from the front and right property line as shown on the approved plans.

4. **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 the proposed landscape for the front yard. The final landscape shall include a planting strip in front of the proposed wall and fence and should show any proposed landscaping at the new driveway. 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.

Moved by Zhang, Seconded by Theophilos  
Ayes: Behrens, Ode, Ramsey, Theophilos, Zhang  
Noes: None  
Recused:  
Absent: Jajodia

**Design Review**  
**24 Greenbank Avenue**

**Resolution 80-DR-16**

WHEREAS, the Property Owner is requesting permission to construct an approximately 630-square-foot addition; make modifications to the deck at the rear of the house including to reconfigure the upper and lower deck and stairs, construct a new trellis with heaters, and install a new fire pit table; and to make modifications to doors, windows, and exterior lighting throughout the house, located at 24 Greenbank 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 the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e) and the proposal conforms with the criteria and standards of Section 17.20.9(b) of the Piedmont City Code:

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. The distance between the addition and the upper level deck and adjacent residences is reasonable and appropriate due to the existing topography and neighborhood development pattern. Upper level setbacks greater than the setbacks required for the lower level have been considered and are not necessary to reduce losses of ambient and reflected light, because the building expansion is on the lower level only with an open deck above, limiting any reduction in ambient or reflected light.
2. The proposed addition and deck have been designed in a way that reasonably minimizes view and light impacts on neighboring properties, because in addition to the findings mentioned above, the location of the proposed addition is at the rear of the house, well beyond the minimum setback requirements, and is only one story in height with an existing two-story house.
3. The size and height of the addition are commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and is in keeping with the existing neighborhood development pattern, because the proposed addition is smaller than the existing house, with the deck accessed from the first level of the main house above. The addition is smaller than other houses in the area and is within the lot coverage requirements.
4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. The existing or proposed on-site parking is appropriate to the size of the new addition and deck, and additional parking is not required to prevent unreasonable short and/or long

term parking impacts on the neighborhood, because there are no proposed changes with egress.

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

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for proposed construction at 24 Greenbank Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

2. **Window and Door Material.** As specified in the plans, the building material for the new windows and doors shall be wood.

3. **Window Color Scheme.** All the windows on the house shall have a consistent color scheme.

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

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

6. **Setback from Property Line Verification.** Prior to foundation inspection, the applicant shall submit to the Building Official written verification by a licensed land surveyor stating that the construction is located at the setback dimension from the north property line as shown on the approved plans. The intent is to verify that the approved features are constructed at the approved dimension from the property line.

7. **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. 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. Replacement tree size is subject to staff review, and shall be commensurate with the size and numbers of trees to be removed. They shall generally be a minimum of 24" box size. 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.

**8. 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.

**9. 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 as needed: i) Completion of Excavation; ii) Completion of Retaining Walls; iii) Completion of Foundation; iv) Completion of Rough Framing; v) Completion of Electrical; vi) Completion of Plumbing; vii) Completion of Mechanical; viii) Completion of Fire Sprinklers; ix) Completion of Home; x) Completion of Hardscaping and Landscaping; and any further construction benchmarks and conditions of occupancy as may be determined by the Director of Public Works.
- b. Before the Project begins, the Director of Public Works shall make a determination as to the reasonableness of the proposed completion dates applicable to the Project, and that determination shall constitute the "Approved Schedule" and be binding on the Property Owner. The City may, at the Property Owner's sole cost, engage the services of a consultant to review the Property Owner's proposed Construction Completion Schedule and, to the extent the period allocated for any work appears unjustifiable, recommend to the Director of Public Works a reasonable completion date for any benchmark.
- c. If the work for any specific benchmark has not been completed within 90 days after the completion date set forth in the Approved Schedule, and the delay in completion has not been caused by force majeure, the Director of Public Works has the option at any time thereafter to make a claim against the Property Owner's Site Security, if one is required, in order to complete the benchmark. The Director of Public Works has the option to refer the application to the Planning Commission for public review.

**10. Driveway Gate.** The existing driveway gate shall be made electronically operable. If design modifications are required to accomplish this, those modifications shall be subject to staff review.

Moved by Ramsey, Seconded by Ode  
Ayes: Behrens, Ode, Ramsey, Theophilos, Zhang  
Noes: None



Recused:  
Absent: Jajodia

## Regular Calendar

The Commission considered the following items as part of the Regular Calendar:

### Design Review 53 Crest Road

The Property Owner is requesting retroactive approval for modifications at the front entryway and rear deck and to construct an approximately 1,070 square-foot, two-story addition at the rear of the house.

Written notice was provided to neighbors. **One affirmative and one negative response forms** were received. **Correspondence** was received from: Denise Mollen and Jim Strother.

**Public testimony** was received from:

Orion Hindawi, homeowner, explained that privacy was of paramount importance in the design of the addition and discussed his efforts to reach out to neighbors. He indicated that he was in agreement with the staff-recommended conditions of approval and that he intends to retain the existing trees.

April Gruber, project designer, discussed the placement of the proposed addition with regard to privacy and massing, and she discussed the efforts made to reach out to the neighbors. In response to the written concerns of the adjacent neighbors at 51 Crest Road, Ms. Gruber indicated that no windows are proposed on the ground level of the addition; that the upper level of the addition is setback an additional six feet, which is 15 feet from the edge of the existing deck; that the existing deck is proposed to remain as is; and that the proposed windows do not have a view into any of the windows or skylights of 51 Crest Road.

James Strother, neighbor at 51 Crest Road, voiced his concerns that the proposed addition would impact the privacy of his pool and deck area, and that the proposed windows would have a view into his bathroom skylights in addition to the outdoor living area. Mr. Strother responded to several questions from the Commission and indicated that he does not have a concern with the existing windows on the west elevation.

The Commissioners were unanimously in support of the application. They indicated that the proposed design is in keeping with the existing architecture of the house and that the new addition will not have a tacked-on appearance. Commissioner Zhang added that the proposal complies with all zoning requirements. The Commissioners also noted that the addition is well placed to preserve the privacy of the neighbors, and that the new windows are set back four times that of the required minimum setback. They maintained that the new windows would not have a view into the neighboring property's skylights and would not significantly impact their privacy. Commissioner Behrens commented on the request for retroactive approval of modifications at the front entryway and rear deck, stating that the changes are attractive and consistent with the rest of the property. Commissioner Ramsey stated that Staff's conditions of approval have addressed his concerns about the existing trees, but suggested amending the conditions of approval to address soil erosion from stormwater runoff during construction.

**Resolution 201-DR-15**

WHEREAS, the Property Owner is requesting retroactive approval for modifications at the front entryway and rear deck and to construct an approximately 1,070 square-foot, two-story addition at the rear of the house, located at 53 Crest 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 the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e) and the proposal conforms with the criteria and standards of Section 17.20.9(b) of the Piedmont City Code:

1. The exterior design elements of the addition, deck railing, and entry porch are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. The distance between the addition and adjacent residences is reasonable and appropriate due to the existing topography and neighborhood development pattern. Upper level setbacks greater than the setbacks required for the lower level have been considered and are not necessary to reduce losses of ambient and reflected light. The addition is attractive and does not have a tacked-on appearance. The proposed materials match those of the existing house and give it a seamless look that is in keeping with the original 1958 design. The rear deck is retroactively approved and is in the same footprint as the original deck.

2. The proposed addition has been designed in a way that reasonably minimizes view and light impacts on neighboring properties, because the addition has been pulled back from the neighbor's house and there is no increase in the overall height of the structure. Privacy concerns have been mitigated, in that the west side of the addition is set back four times the required setback; there are no windows on the first floor of the addition; and the windows on the second floor of the addition are set back so they do not impinge on privacy.

3. The size and height of the addition are commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and are in keeping with the existing neighborhood development pattern, because the addition does not take up a significant portion of the remaining lot, and the neighboring houses are of a similar scale.

4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. The existing or proposed on-site parking is appropriate to the size of the new additions, and additional parking is not required to prevent short and/or long term parking impacts on the neighborhood, because there is no change in the existing traffic or pedestrian patterns.

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

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for proposed construction at 53 Crest Road, Piedmont, California, in accordance

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

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

2. **Guardrails.** Should the guardrails at the front of the property or at the rear deck be found to not meet the current Building Code, any modifications to such guardrails shall be subject to staff review and approval.

3. **Window and Door Material.** As specified in the plans, the building material for the new windows and doors shall be wood in frame or aluminum.

4. **Window Color Scheme.** All the windows on the house shall have a consistent color scheme.

5. **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.

6. **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.

7. **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 existing trees proposed to remain on-site, as well as any nearby off-site trees. 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.

8. **Certified Tree Preservation Plan .** Before the issuance of a building permit, the Property Owner shall prepare for review and approval by staff a Tree Preservation Plan that incorporates the tree preservation measures recommended in the Arborist's Report. 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 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. Replacement tree size is subject to staff review, and shall be commensurate with the size and numbers of trees to be removed. They shall generally be a minimum of 24" box size.

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.

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

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

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

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

- a. The Construction Completion Schedule with associated construction values for each benchmark shall set forth completion dates for the following benchmarks as needed: i) Completion of Excavation; ii) Completion of Retaining Walls; iii) Completion of Foundation; iv) Completion of Rough Framing; v) Completion of Electrical; vi) Completion of Plumbing; vii) Completion of Mechanical; viii) Completion of Fire Sprinklers; ix) Completion of Home; x) Completion of Hardscaping and Landscaping; and any further construction benchmarks and conditions of occupancy as may be determined by the Director of Public Works.
- b. Before the Project begins, the Director of Public Works shall make a determination as to the reasonableness of the proposed completion dates applicable to the Project, and that determination shall constitute the "Approved Schedule" and be binding on the Property Owner. The City may, at the Property Owner's sole cost, engage the services of a consultant to review the Property Owner's proposed Construction Completion Schedule and, to the extent the period allocated for any work appears unjustifiable, recommend to the Director of Public Works a reasonable completion date for any benchmark.
- c. If the work for any specific benchmark has not been completed within 90 days after the completion date set forth in the Approved Schedule, and the delay in completion has not been caused by force majeure, the Director of Public Works has the option at any time thereafter to make a claim against the Property Owner's Site Security, if one is required, in order to complete the benchmark. The Director of Public Works has the option to refer the application to the Planning Commission for public review.

Moved by Ode, Seconded by Theophilos  
Ayes: Behrens, Ode, Ramsey, Theophilos, Zhang  
Noes: None  
Recused:  
Absent: Jajodia

**Design Review  
211 Pacific Avenue**

The Property Owner is requesting permission to replace the existing stairs on the east façade with new stairs leading to a new 354-square-foot rooftop deck platform with guardrail, install new exterior lighting on the east façade, and replace upper-level windows on the south wing of the house.

Written notice was provided to neighbors. **Five negative response forms** were received. **Correspondence** was received from: Kathryn and James Burden, Barbara Widmer and Richard Wrenn, Lynn and Jim Saunders.

**Public testimony** was received from:

Greer Graff, project architect, reviewed the history of the house and maintained that the deck is not a new feature. He argued that the roof has been used as a deck for years and that it was an important feature to the owners in purchasing the house 35 years ago. Mr. Graff outlined the proposed design and explained that the proposal aims to make the deck and stairs code compliant. He explained that instead of raising the parapet wall, which would have a greater impact on neighbors, they chose a cable railing that would limit the size of the deck and

appear transparent to the neighbors. Mr. Graff also spoke about the neighbors' opposition to the project and his attempts to discuss the project with them. In response to a question from Commissioner Ramsey, Mr. Graff suggested that the existing stairs would not have been constructed so elaborately if they had only been meant to access the roof for maintenance. He added that although the existing roof framing does not meet current code for a roof deck, it is larger than would be expected for the roof alone. In response to a question from Commissioner Theophilos, Mr. Graff explained that the roof is not flat and has a slope of about three-quarters of an inch per foot.

Brad Shuster, homeowner, stated that the roof deck and stairs were important features in purchasing the house. He maintained that his family has used the roof extensively since 1981 without impacting neighbors, and he recounted anecdotes about past owners using the roof deck. Mr. Shuster stated that the current proposal aims to bring the deck and stairs into conformance with building codes while having the least impact on neighbors.

Barbara Widmer, neighbor at 139 Hagar Avenue, expressed her objections to the proposed roof deck. She explained that the proposed deck would be level with her deck and would impact her visual and auditory privacy. She stated that she has seen no one using the roof as a deck since she moved there in 1993. Ms. Widmer argued that the proposed guardrail is not consistent with the architectural style of the house, but acknowledged that a different railing design would likely have the same privacy impacts on her.

James Burden and Kathy Burden, neighbors at 137 Hagar Avenue, each spoke in opposition to the proposed project. They argued that the proposed deck, which is 33 feet away from their main living spaces, would result in excess noise and would significantly impact their privacy and view. Mr. Burden maintained that the roof is not a deck, citing its slope, its material, and its low parapet wall. Both Mr. and Ms. Burden stated that they have never seen the roof used as a deck since they moved to their house in 1972. Mr. Burden argued that even if the application were an upgrade to an existing deck, the Commission would still have to find that it does not impact the neighbors. In response to a question from Commissioner Theophilos, Ms. Burden discussed an existing tree on the applicants' property that provides some privacy but also impacts their view.

Lynn Saunders, neighbor at 209 Pacific Avenue, clarified her statements about former owners' use of the roof and stated that it was never used as an official deck. Ms. Saunders referred to the unique situation of 211 Pacific Avenue as a landlocked house in close proximity to 6 other houses and argued that the proposed deck would be loud and have a negative impact on the neighboring houses.

In response to questions from the Commission, Interim Planning Director Jackson stated that the City does not have the original house plans on file, and that City records do not provide any information as to whether or not the existing stairs were built to access the roof for maintenance or for use as a deck, or if the roof was meant to also function as a deck. He also explained what options the Commission has in acting on the application.

The Commissioners were unanimously in opposition to approving the new roof deck platform and guardrail and were convinced that the roof was not built to be a deck, evidenced by its material, slope, low parapet wall, and inconsistent use as a deck. The Commissioners agreed that a roof deck would have a significant

negative impact on the neighbors, and that the cable rail design is not appropriate for the architecture of the house. Commissioners Theophilos and Ode were initially in favor of denying the application with prejudice, since they saw no merit in approving a roof deck. Commissioner Ramsey agreed that the application should be denied, but pointed out that there is currently nothing stopping the owners from sitting on their roof, and that the proposal at least limits the size of the deck. Commissioners Ramsey and Behrens suggested that denying the application without prejudice would allow the applicants to return with a more appropriate design that has less of an impact on neighbors. The Commissioners also discussed separating the application in two, so that the stair replacement and window modifications could be approved separate from the denial of the roof deck.

**Resolution 75(1)-DR-16**

WHEREAS, the Property Owner is requesting permission to replace the existing stairs on the east façade with new stairs leading to a new 354-square-foot rooftop deck platform with guardrail, install new exterior lighting on the east façade, and replace upper-level windows on the south wing of the house, located at 211 Pacific 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 the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e); and

WHEREAS, with regard to the rooftop deck platform with guardrail, the Planning Commission finds that the current proposal does not conform with the criteria and standards of Section 17.20.9(b) 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. The distance between the addition and adjacent residences is not reasonable or 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 necessary to reduce losses of ambient and reflected light. The modern aesthetic of the proposed cable rails is not in keeping with the historic architecture of the house.
2. The proposed addition has not been designed in a way that reasonably minimizes view and light impacts on neighboring properties, because the proximity of the deck to the neighboring houses creates significant privacy issues.
3. The size and height of the addition are commensurate with the size of the lot, but it is not in keeping with the existing neighborhood development pattern, because the design of the railing is not appropriate for the design of the house.
4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. The existing or proposed on-site parking is appropriate to the size of the new additions, and additional parking is not required to prevent unreasonable short and/or long term

parking impacts on the neighborhood, because the project has no impact on parking or ingress or egress to the property.

5. The deck and guardrail portion of the project does not comply with Design Review Guidelines II-1, II-2, II-3(a), II-3(b), II-3(c), II-3(d), II-4, II-5, II-5(a), II-5(b), II-5(c), II-6.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies, with prejudice, the design review application for proposed construction at 211 Pacific Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City. Moved by Theophilos, Seconded by Ode

Ayes: Ode, Theophilos

Noes: Behrens, Ramsey

Recused: Zhang

Absent: Jajodia

Following Resolution 75(1)-DR-16 (above), Commissioners Behrens and Ramsey indicated that their dissent was with regard to the application being denied with prejudice, as opposed to it being denied without prejudice. It was determined that the four Commissioners all agreed that the rooftop deck platform and guardrail should be denied. The Commission chose to replace the above resolution with Resolution 75(2)-DR-16 (below), which denies the rooftop deck platform and guardrail without prejudice.

**Resolution 75(2)-DR-16**

WHEREAS, the Property Owner is requesting permission to replace the existing stairs on the east façade with new stairs leading to a new 354-square-foot rooftop deck platform with guardrail, install new exterior lighting on the east façade, and replace upper-level windows on the south wing of the house, located at 211 Pacific 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 the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e); and

WHEREAS, with regard to the rooftop deck platform with guardrail, the Planning Commission finds that the current proposal does not conform with the criteria and standards of Section 17.20.9(b) 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. The distance between the addition and adjacent residences is not reasonable or 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 necessary to reduce losses of ambient and reflected light. The modern aesthetic of the proposed cable rails is not in keeping with the historic architecture of the house.
2. The proposed addition has not been designed in a way that reasonably minimizes view and light impacts on neighboring properties, because the



proximity of the deck to the neighboring houses creates significant privacy issues.

3. The size and height of the addition are commensurate with the size of the lot, but it is not in keeping with the existing neighborhood development pattern, because the design of the railing is not appropriate for the design of the house.

4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. The existing or proposed on-site parking is appropriate to the size of the new additions, and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood, because the project has no impact on parking or ingress or egress to the property.

5. The deck and guardrail portion of the project does not comply with Design Review Guidelines II-1, II-2, II-3(a), II-3(b), II-3(c), II-3(d), II-4, II-5, II-5(a), II-5(b), II-5(c), II-6.

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 211 Pacific Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Theophilos, Seconded by Ode

Ayes: Behrens, Ode, Ramsey, Theophilos

Noes: None

Recused: Zhang

Absent: Jajodia

**Resolution 75(3)-DR-16**

WHEREAS, the Property Owner is requesting permission to replace the existing stairs on the east façade with new stairs leading to a new 354-square-foot rooftop deck platform with guardrail, install new exterior lighting on the east façade, and replace upper-level windows on the south wing of the house, located at 211 Pacific 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 the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e); and

WHEREAS, with regard to the proposed stair replacement and window modifications, the Planning Commission finds that the proposal complies with the criteria and standards of Section 17.20.9(b) of the Piedmont City Code:

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. The distance between the windows and stairs and the adjacent residences is reasonable and appropriate due to the existing topography and neighborhood development pattern. Upper level setbacks greater than the setbacks required for the lower level have been considered and are not necessary to reduce losses of ambient and reflected light, because neither the windows nor the stairs have any impact on ambient and reflected light.

2. The stair and window portion of the proposal has been designed in a way that reasonably minimizes view and light impacts on neighboring properties, because they have no impact on view and light impacts on neighboring properties.
3. The size and height of the stairs and windows are commensurate with the size of the lot, and are in keeping with the existing neighborhood development pattern.
4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. The existing or proposed on-site parking is appropriate to the size of the new additions, and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood, because the stairs and windows have no impact on parking.
5. The stair and window portion of the project complies with Design Review Guidelines II-1, II-2, II-3(a), II-3(b), II-3(c), II-3(d), II-4, II-5, II-5(a), II-5(b), II-5(c), II-6, II-6(a).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the portion of the design review application that proposes to replace the stairs and modify the windows at 211 Pacific Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Window Material.** As specified in the plans, the building material for the new windows shall be wood.
2. **Window Color Scheme.** All the windows on the house shall have a consistent color scheme.
3. **Rooftop Decking Color.** The proposed deck surface shall be a non-reflective medium or dark color to minimize the visual impact on upslope properties.
4. **Exterior Lighting.** All new exterior light fixtures shall be downward directed with an opaque or translucent shade that completely covers the light bulb. Light bulbs shall be no brighter than a 60-watt incandescent bulb.
5. **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.
6. **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.

**7. Setback from Property Line Verification.** Prior to frame inspection, the applicant shall submit to the Building Official written verification by a licensed land surveyor stating that the construction is located at the setback dimension from the east property line as shown on the approved plans. The intent is to verify that the approved features are constructed at the approved dimension from the property line.

**8. 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. Neighboring Property Owner Permission. Should access onto the neighboring property to the east 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 construction.

**9. Stair Design.** A change to the stair design to meet the roof elevation shall be subject to staff review and approval.

Moved by Theophilos, Seconded by Ramsey  
Ayes: Behrens, Ode, Ramsey, Theophilos  
Noes: None  
Recused: Zhang  
Absent: Jajodia

The Commission recessed for dinner at 6:21 p.m. and reconvened at 6:55 p.m.

**Design Review  
126 Dracena Avenue**

The Property Owner is requesting permission to add approximately 560 square feet of habitable space through front and rear additions; install 8 skylights; make modifications to windows and doors and install exterior lighting throughout; construct a new stair and handrail in the rear (east) yard near the right (south) side property line; install new handrails at the existing stairs at the left (north) side property line; install a new garage door on the front (west) facade; and make various site improvements in the rear yard, including retaining walls, planting, and on-grade walkways and patios.

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

**Public testimony** was received from:

Desten Broach, homeowner, explained that his family chose not add a second story to the house out of deference to their neighbors, and he stated that no additional bedrooms are proposed. He discussed his outreach to neighbors and indicated that he specifically reached out to his neighbor to the south to discuss a window proposed on the addition. His neighbor, Mr. Fraser, did have concerns about the proposed window, and the two are attempting to find a solution that

works for both parties. In the meantime, Mr. Broach requested that the window be removed from the proposal. In response to a question from Commissioner Ramsey, Mr. Broach confirmed that in lieu of the proposed window, a skylight will provide natural light to the dining room.

Gary Parsons, project architect, responded to a question from Commissioner Ode regarding the proposed eaves. He explained that the existing eaves project into the setback, and although it is possible to request a variance to have the proposed eaves match the existing eaves, he felt it was unnecessary since the eaves will not be readily visible. In response to questions from the Commission, Mr. Parsons confirmed that nothing is changing with regards to a retaining wall and structure in the rear yard, and that the proposed skylight will follow the contour and straddle the high point of the roof.

Steve Fraser, neighbor at 132 Dracena Avenue, discussed his concerns regarding the proposed window on the south elevation. He described the window as being very large in a tight space, and expressed concern for the light impact it would have on his house. He stated that he is committed to working with his neighbors to find a solution.

The Commissioners were in full support of the project and commended the applicants for working with their neighbors and for creating a modest expansion. They described the project as smart, efficient, functional, and seamless. The Commission discussed adding a condition of approval that would give the applicants flexibility to work with their neighbors to add a window on the south elevation.

**Resolution 79-DR-16**

WHEREAS, the Property Owner is requesting permission to add approximately 560 square feet of habitable space through front and rear additions; install 8 skylights; make modifications to windows and doors and install exterior lighting throughout; construct a new stair and handrail in the rear (east) yard near the right (south) side property line; install new handrails at the existing stairs at the left (north) side property line; install a new garage door on the front (west) facade; and make various site improvements in the rear yard, including retaining walls, planting, and on-grade walkways and patios, located at 126 Dracena 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 the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e) and the proposal conforms with the criteria and standards of Section 17.20.9(a) of the Piedmont City Code:

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements include but are not limited to the renovation of the main living area, the 560-square-foot addition, the rear yard hardscape and landscape modifications, the roof modifications in the front of the house, and the addition of skylights. The building extension is modest and includes materials and rooflines that match the existing house.

2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because the roof of the building extension is lower than the existing high roof, which minimizes impacts on the adjacent neighbors. The improvements align with the existing side yard setbacks, and the extension at the rear of the house is similar in depth to adjacent houses.

3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress, because there are no proposed changes in egress.

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

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for proposed construction at 126 Dracena Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Window and Door Material.** As specified in the plans, the building material for the new windows shall be wood and doors shall be wood or wood clad.

2. **Window Color Scheme.** All the windows on the house shall have a consistent color scheme.

3. **Skylight Flashing.** The metal flashing around the new skylight(s) shall be painted to match the adjacent roof color.

4. **Exterior Lighting.** All new exterior light fixtures shall be downward directed with an opaque or translucent shade that completely covers the light bulb.

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

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

7. **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.

8. **Setback from Property Line Verification.** Prior to foundation inspection, the applicant shall submit to the Building Official written verification by a licensed land surveyor stating that the construction is located at

the setback dimension from the south property line as shown on the approved plans. The intent is to verify that the approved features are constructed at the approved dimension from the property line.

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

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

**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.

- a. The Construction Completion Schedule with associated construction values for each benchmark shall set forth completion dates for the following benchmarks as needed: i) Completion of Excavation; ii) Completion of Retaining Walls; iii) Completion of Foundation; iv) Completion of Rough Framing; v) Completion of Electrical; vi) Completion of Plumbing; vii) Completion of Mechanical; viii) Completion of Fire Sprinklers; ix) Completion of Home; x) Completion of Hardscaping and Landscaping; and any further construction benchmarks and conditions of occupancy as may be determined by the Director of Public Works.
- b. Before the Project begins, the Director of Public Works shall make a determination as to the reasonableness of the proposed completion dates applicable to the Project, and that determination shall constitute the "Approved Schedule" and be binding on the Property Owner. The City may, at the Property Owner's sole cost, engage the services of a consultant to review the Property Owner's proposed Construction Completion Schedule and, to the extent the

period allocated for any work appears unjustifiable, recommend to the Director of Public Works a reasonable completion date for any benchmark.

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

**11. Window Modification.** The proposed window on the south elevation (Window #1) shall be removed from the plans. If the applicant and the neighbor at 132 Dracena Avenue agree on a new window design for this location, it can be submitted for staff review and approval.

Moved by Ramsey, Seconded by Theophilos  
Ayes: Behrens, Ode, Ramsey, Theophilos, Zhang  
Noes: None  
Recused:  
Absent: Jajodia

**Fence Design Review  
231 Sunnyside Avenue**

The Property Owner is seeking retroactive approval for fences, a gate, a short platform, and a planter box located at the front of the property.

Written notice was provided to neighbors. **Two affirmative and one negative response forms** were received. **Correspondence** was received from: Thomas D. and Judith S. Clark, Debbie Rush, Anna Mantell, Claudia Miller and Martin Gross, Helen Steers, and Grace Schroder Neifeld.

**Public testimony** was received from:

Michael Heller, homeowner, described his unusual flag lot and explained that the improvements were made to make the entrance more welcoming and safer. He indicated that most of his neighbors have responded favorably. He discussed at length the dispute he has had with the owner of 229 Sunnyside Avenue, which includes a disagreement over the location of the property line. In response to a question from Commissioner Zhang, Mr. Heller stated that he has not conducted a survey of his property.

Anna Mantell, owner of 229 Sunnyside Avenue, and Jay Dratler, her legal representative, both spoke at length about their disputes with Mr. Heller. Ms. Mantell stated that a survey has never been accepted to show the location of the property line. Mr. Dratler requested that a survey be required as a condition of approval.

John Le, neighbor at 241 Sunnyside Avenue, spoke in support of the project, which he considered to be well designed.

The Commissioners expressed sympathy for the neighbors' dispute, but clearly stated that such property line disputes are a matter for the courts and not within the jurisdiction of the Planning Commission. They explained that the task of the Planning Commission with regard to this application is solely to consider the

merit of the design proposal. The Commissioners unanimously supported the retroactive approval of the fence, gate, platform and planter box, and stated that the design is attractive and appropriate for the unique lot. They were also in favor of requiring verification of property line location from a licensed land surveyor as a condition of approval.

**Resolution 81-DR-16**

WHEREAS, the Property Owner is seeking retroactive approval for fences, a gate, a short platform, and a planter box located at the front of the property, located at 231 Sunnyside 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 the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e) and the proposal conforms with the criteria and standards of Section 17.20.9(a) of the Piedmont City Code:

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements include but are not limited to: a very attractive low fence, stairs and gate.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because it has no impact on views, privacy or access to direct or indirect sunlight.
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 this is not a driveway. The improvements along this walkway have no impact on circulation pattern, parking layout and points of ingress and egress.
4. The project complies with Design Review Guidelines V-1, V-2, V-3, V-4, V-5, V-5(a), V-5(b), V-5(c), V-6, V-7, V-8, V-9, V-10, V-11.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for proposed construction at 231 Sunnyside Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

**2. Property Line Verification.** Prior to final inspection, the applicant shall submit to the Building Official written verification by a licensed land



surveyor stating that the new fences are located completely within the north and south property line(s) of 231 Sunnyside Avenue as shown on the approved plans. The intent is to verify that the approved features are located completely within the property at 231 Sunnyside Avenue. Alternatively, should the applicants come to an agreement with the neighbors at 229 and 235 Sunnyside Avenue, respectively, a Fence Location Agreement may be submitted in lieu of a survey.

3. **Exterior Lighting.** Any new exterior lighting shall be restricted to that which is downward directed, with an opaque shade, and having a maximum of 60 watts.

Moved by Theophilos, Seconded by Ode  
Ayes: Behrens, Ode, Ramsey, Theophilos, Zhang  
Noes: None  
Recused:  
Absent: Jajodia

**Municipal Code  
Chapter 17  
Modifications**

Interim Planning Director Jackson updated the Commission on the progress made to modify portions of the Municipal Code related to zoning and land use. He reported that the Council approved a contract with legal consultant Judy Robbins to help with the preparation of the code modifications. He explained that the goal of this hearing is for the Commission to discuss a number of topics that are being considered for code modifications and to give clear direction to staff, so that code language can be drafted and presented to the Commission at a later date.

Interim Planning Director Jackson explained that in addition to their being a response to General Plan goals, the code modifications under discussion are an attempt to align the code more closely with Piedmont's actual built environment so that the regulations would better serve the public. He presented data to the Commission showing that over the past 10 years the Commission had an overall variance approval rating of 83%. He noted that since the high variance approval rating stayed fairly consistent over the past 10 years, it does not appear to be due to the leniency of certain Commissions, but instead indicates that the current code does not, on the whole, represent the built environment. Interim Planning Director Jackson suggested that since variances, in theory, should only rarely be approved, the City should not require someone to apply and pay a fee for a variance for something that is consistently approved.

Interim Planning Director Jackson led the Commission through the following discussions of various potential changes to the Municipal Code:

**Reduce Parking Space Dimensions**

Interim Planning Director Jackson outlined the current code requirements regarding parking space dimensions and reported that, over the last 10 years, 34 out of 37 variance requests for parking space size were approved. He asked the Commission whether they would like to consider reducing the minimum parking space size, and he suggested that a size of 8.5 feet by 18 feet might better accommodate modern vehicles and be more in line with the regulations of other jurisdictions.

**Public testimony** was received on this topic from:

David Hobstetter, Piedmont resident and architect, urged the Commission to reduce the minimum parking space dimensions to be more in line with modern cars and the built environment. He argued that smaller parking spaces are more sustainable, because they allow for smaller buildings and give architects and planners the flexibility for more innovative solutions to parking. Mr. Hobstetter discussed his work with redevelopment sites, such as 29 Wildwood Avenue, and explained that a combination of standard and compact parking spaces makes for an inefficient parking layout. He suggested instead that designing a parking garage with consistent intermediate-sized parking spaces of about 8 feet by 18 feet works best. Mr. Hobstetter responded to several questions from the Commission. He stated that there is nothing that precludes someone from building a larger parking space for a larger car. He suggested that a smaller minimum parking space size will incentivize both smaller cars and the construction of garages.

Dimitri Magganas, Piedmont resident and developer, explained that other cities are urging developers to request variances for smaller parking spaces, since their parking regulations are out of date. He urged the Commission to not dismiss modernity.

The Commission was divided in its support of whether to direct Staff to reduce the minimum parking space dimensions. Commissioners Theophilos and Zhang were of the opinion that the requirement should remain as is to preserve flexibility for future Commissions and allow decisions to be made on a case-by-case basis. Commissioner Zhang expressed concern that small garages will not be used and suggested that the parking requirements be eased in other ways, such as allowing tandem parking or mechanically stacked parking. Commissioner Behrens and Commissioner Ramsey were in favor of making the Code more in line with the actual built environment. They suggested that smaller parking space requirements might promote the creation of more off-street parking and encourage people to buy smaller cars. Commissioner Ramsey pointed out that a variance for parking space size has a higher approval rating than any other variance, and Commissioner Behrens suggested that Piedmont is creating artificial work for itself by having larger than necessary minimum parking space dimensions. Commissioner Ode initially expressed concern that smaller parking spaces would be too small for large SUVs, but ultimately voted in favor of directing Staff to reduce the minimum parking space dimensions.

By a vote of three (Commissioners Behrens, Ode, and Ramsey) to two (Commissioners Theophilos and Zhang), the Commission decided to direct Staff to draft code language for the reduction in the parking space dimensions. The Commission was not yet ready to settle on new parking space dimensions and asked Staff for additional information on parking space sizes required by other jurisdictions and additional detail on the variances granted for parking space size.

**Allow 3<sup>rd</sup> Parking Space to be Compact in Zone E**

Interim Planning Director Jackson asked the Commission for direction on whether the code should be amended to allow every third required parking space in Zone E to be compact (7.5 feet wide by 16 feet deep).

The Commissioners unanimously agreed that there was no need to make this change to the code. Commissioner Theophilos saw no justification to provide a break from the parking requirements on large lots and stated that he favors regulations that keep more cars off the street. The Commission and Mr.

Hobstetter responded with a short discussion about the pros and cons of keeping cars off the streets. Commissioner Ode was in favor of having one intermediate parking space size, instead of having two separate parking space sizes.

By unanimous vote, the Commission directed Staff to keep this portion of the code as is and not to make changes that would allow compact parking spaces in Zone E.

**Require No More Than 3 Conforming Parking Spaces in Zones A&E**

Interim Planning Director Jackson asked the Commission for direction on whether the code should require no more than three conforming parking spaces in Zones A and E. He reported that in the last 10 years the Commission has overwhelmingly approved variance requests for the number of parking spaces on a property (58 approved and 8 denied), many of which were for properties with existing nonconforming parking. He explained that a reduction in the minimum parking space dimensions may result in more area on properties for owners to provide conforming parking spaces and thus alleviate many of these variance requests. He noted that a cap on the number of parking spaces could be helpful in keeping properties from being overwhelmed by unnecessarily large garages. However, he also cautioned the Commission in making changes that would alleviate the need for parking spaces to be non-tandem and covered, and he explained how the code, as written, encourages a variety of housing sizes and helps the City to attain its affordable housing goals of the Housing Element. He suggested that the Commission could make incremental changes to the parking regulations to see how each change impacts the variance requests. In response to questions from Commissioner Ramsey, Interim Planning Director Jackson stated that Piedmont requires more parking spaces than other cities and indicated that it is rare to find a Piedmont home that needs over 3 parking spaces.

The Commissioners unanimously agreed that there was no need to make this change to the code. Commissioner Theophilos saw no justification in reducing the number of parking spaces required by the code, and Commissioner Zhang added that the code should remain as is to preserve small houses.

By unanimous vote, the Commission directed Staff to keep this portion of the code as is and not to put a cap on the required number of conforming parking spaces in Zones A and E.

**Modify Structure and Footprint Definitions**

Interim Planning Director Jackson asked the Commission for direction on adding a definition for “Structure” and clarifying the definitions of “Primary Structure,” “Accessory Structure” and “Secondary Structure”. He explained how, in some cases, the current definitions do not coincide with their intent, such as in the case of in-ground swimming pools, which are defined as structure but do not add bulk to a property. He suggested a change in the terminology of “Secondary Structures” to better represent their incidental, decorative or functional nature. Interim Planning Director Jackson also asked the Commission for direction on revising the setback measurement to the “Footprint” of a structure, rather than to its projections and overhangs, and he suggested a related change to the definition of “Footprint.” He explained how these changes would bring the Planning Code in line with the Building Code and also allow for additions to existing buildings to have eaves and overhangs that are consistent with the original architecture.

The Commission was in favor of these code changes, and Commissioner Ramsey noted the benefits of aligning the Planning and Building Codes.

By unanimous vote, the Commission directed Staff to move forward with the code modifications related to the structure and footprint definitions.

**Revise Setback Definitions to Include a Street Setback Definition**

Interim Planning Director Jackson asked the Commission for direction on adding a definition for “Street Setback” to include only public thoroughfares and to exclude public alleys and private roadways. He noted that such a change would provide clarity to the code.

By unanimous vote, the Commission directed Staff to move forward with the code modifications related to revising the setback definitions and adding a definition for “Street Setback”.

**Revise Minimum Lot Size in Zone A**

Interim Planning Director Jackson asked the Commission for direction with regard to revising the minimum lot size in Zone A to 8,000 square feet throughout. He explained that the average lot size in Zone A is 7,732 square feet, and that the code currently requires a minimum lot size of 10,000 square feet, except for lots located in an area with an average lot size of 8,000 square feet or less. He suggested that the code revision would simplify the code and make it more in line with the built environment.

By unanimous vote, the Commission directed Staff to move forward with the code modifications related to revising the minimum lot size in Zone A.

**Revise Minimum Lot Frontage in Zone A**

Interim Planning Director Jackson asked the Commission for direction with regard to revising the minimum lot frontage in Zone A from 90 to 60 feet, to make it more in line with the built environment concurrently with the direction to reduce the minimum lot size.

By unanimous vote, the Commission directed Staff to move forward with the code modifications related to revising the minimum lot frontage in Zone A.

**Maintain the Current 20-Foot, Street-Facing Setback in Zone A**

Interim Planning Director Jackson asked the Commission for direction with regard to maintaining the current 20-foot setback from property lines adjacent to a street in Zone A. If the Commission chooses to modify the “Footprint” definition, architectural projections will be allowed to enter the 20-foot setback, which could alleviate a number of setback variance requests.

By unanimous vote, the Commission directed Staff to maintain the current 20-foot setback from property lines adjacent to a street in Zone A.

**Revise the Side and Rear Setback Requirements in Zone A**

Interim Planning Director Jackson asked the Commission for direction with regard to revising the side and rear setback requirements in Zone A to be five feet from the property line (as opposed to the current requirement of four feet). He explained that a five-foot setback would allow three-foot architectural projections on habitable buildings to still meet the Building Code requirement of at least two feet between projections and the property line.

By unanimous vote, the Commission directed Staff to revise the side and rear setback requirements in Zone A to five feet from the property line.

**Electric Vehicle Chargers**

A discussion of electric vehicle chargers was initially planned for a future meeting, but the Commission discussed the topic following related public testimony. Interim Planning Director Jackson explained that the current code does not address electric vehicle chargers, but that in 2012 the Commission discussed the topic and decided that chargers should not be approved at the front of a house. They instead encouraged residents to install electric vehicle chargers inside their garage or carport and gave Staff the direction to change the regulations so that electric vehicle chargers on the side or rear of a house would be subject to Administrative Design Review.

**Public testimony** was received on this topic from:

Justis Fennell, Piedmont resident and advocate for greenhouse gas emission reductions, commented on the City's prohibition of electric car chargers in front yard setbacks and public rights-of-way. He maintained that driving an electric or plug-in hybrid car is one of the easiest ways for residents to reduce their carbon footprint, and that car chargers in the front yards are much more convenient for local driving. He argued that a prohibition of electric vehicle chargers at the front of a property is contrary to Piedmont's carbon reduction goals. He urged the Commission to exempt electric vehicle chargers from design review, to remove the prohibition of electric vehicle chargers in the front setback, and to consider allowing electric vehicle chargers to be located in the rights of way in the future.

The Commission briefly discussed electric vehicle chargers. Commissioner Theophilos suggested that the Commission encourage the use of electric cars by making it easier to charge them, and Commissioner Behrens added that electric vehicle chargers are not very noticeable. The Commissioners asked Interim Planning Director Jackson to return with more information about electric vehicle chargers so that they can continue to discuss their options.

**ADJOURNMENT**

There being no further business, Chairman Behrens adjourned the meeting at 9:14 p.m.