

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, August 8, 2016

A Regular Session of the Piedmont Planning Commission was held August 8, 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 July 25, 2016.

CALL TO ORDER

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

ROLL CALL

Present: Commissioners Eric Behrens, Susan Ode, Tom Ramsey, Tony Theophilos and Tom Zhang, and Alternate Commissioner Aradhana Jajodia

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

PUBLIC FORUM

Dean Miller, resident of 41 Wildwood Avenue, referred to a conceptual illustration of the recommended Zone D regulations for mixed-use buildings, which was presented by Planning Director Jackson at the special meeting of the Planning Commission on July 26, 2016. He requested that Staff produce a similar illustration showing the maximum build-out for a mixed-use building at 29 Wildwood Avenue, as seen from Wildwood Avenue.

REGULAR SESSION

The Commission considered the following items of regular business:

Approval of Minutes

Correspondence was received from: Rick Schiller.

The Commissioners discussed a request from Rick Schiller to amend the meeting minutes of the July 11, 2016, regular hearing of the Planning Commission, but determined that the minutes were accurate as written.

Resolution 22-PL-16

RESOLVED, that the Planning Commission approves as submitted its meeting minutes of the July 11, 2016, regular hearing of the Planning Commission.

Moved by Ode, Seconded by Theophilos

Ayes: Behrens, Jajodia, Ode, Theophilos

Noes: None

Recused: Ramsey, Zhang

Absent:

Consent Calendar

The Commissioners placed the following applications on the Consent Calendar, and they modified Condition #1 and added Condition #4 to the approval of 370 Highland Avenue:

- 370 Highland Avenue (Sign Design Review)
- 116 York Drive (Variance and Design Review)
- 120 Vista Avenue (Fence Design Review)

Resolution 23-PL-16

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

Moved by Ramsey, Seconded by Zhang

Ayes: Behrens, Ode, Ramsey, Theophilos, Zhang

Noes: None

Recused:

Absent:

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

**Sign Design Review
370 Highland Avenue**

Resolution 168-DR-16

WHEREAS, the Property Owner is requesting permission to install a building-mounted sign on the north-facing brick wall along Highland Way, located at 370 Highland 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 Sections 17.19.2, 17.19.3, and 17.19.8 of the Piedmont City Code:

1. A maximum of one sign not required by law is permitted on the face of the building, unless the Planning Commission determines that one or more additional signs are needed for the convenience of the public. Only one sign is proposed.

2. Each sign, including a sign required by law, is simple in design. Graphic depictions related to the non-residential use are appropriate. As conditioned, the sign includes simple block lettering, one color, and the company logo.

3. Each sign, including a sign required by law, is compatible in design, color and scale to the front of the building, adjoining structures and general surroundings, in that the raceway will be painted to match the building fascia so it will be harmonious with the exiting building.

4. The sign is oriented toward the pedestrian and vehicular traffic, in that the sign will face only one direction toward Highland Way.

5. The sign is proposed to be constructed of sturdy materials, in that the letter faces are acrylic and the rest of the sign is made of durable steel and aluminum.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the non-residential sign design review application for proposed construction at 370 Highland Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Sign Design.** The Sign shall not be illuminated and shall be redesigned so that it is flush mounted to the wall consistent with existing remaining signs on the building, subject to staff review and approval.

2. **Approved Plan Set.** The approved plans are those submitted on July 27, 2016 after notices to neighbors were mailed and the application was available for public review.

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. Lettering Size. The maximum size for the lettering on the new sign shall be no more than 16 inches subject to staff review and approval.

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

**Variance and
Design Review
116 York Avenue**

Resolution 190-V/DR-16

WHEREAS, the Property Owner is requesting permission to demolish the existing one-car garage, green house, shed, and covered patio and to construct a new two-car garage and extend the driveway at the southeast corner of the property, located at 116 York Drive, Piedmont, California, which construction requires design review; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary to construct within the rear (east) setback; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited 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 variance, the Planning Commission finds that the proposal complies with the variance criteria under Section 17.21.6 of the Piedmont City Code:

1. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to: the location of the house and the size of the lot, which does not allow for an adequate vehicle turnaround without encroaching into the required rear yard setback.
2. The variance is compatible with the immediately surrounding neighborhood and the public welfare, because the garage is very similar to the recently built neighboring garage. Other homes in the area have two-car garages and the existing garage is in disrepair and can barely fit one car.
3. Accomplishing the improvements without variance would cause unreasonable hardship in planning, design, or construction, because the small size of the lot does not allow a garage to be built without encroaching on the rear yard setback. The area behind the property was part of the abandoned Key system right-of-way and remains undeveloped.

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

1. The exterior design elements (including but not limited to height, bulk, area openings, breaks in the facade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development, in that the design of the new garage matches the house in style, materials, and architectural features.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because the new garage will not affect neighboring properties.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress, because the garage is at the rear of the property, and when a vehicle is leaving the property it will be able to pull out facing forward and not have to back into the street.
4. The project complies with Design Review Guidelines III-1, III-1(a), III-2, III-2(a), III-3, III-4, III-5, III-5(a), III-6, III-6(a), III-7, III-7(a).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review application for proposed construction at 116 York Drive, 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 fiberglass.
2. **Window Color Scheme.** All the windows on the garage shall have a consistent color scheme as those on the garage and the house.
3. **Exterior Lighting.** All new exterior light fixtures shall be downward directed with an opaque or translucent shade that completely covers the light bulb.
4. **Garage Door.** The garage door shall be motorized. If design modifications are required to accomplish this, those modifications shall be subject to staff review.
5. **Environmental Hazards.** Prior to the issuance of a building permit as required by the Chief Building Official, the applicant shall provide a plan, including necessary testing, to verify compliance with all local, state and federal regulations regarding the disturbance and removal of hazardous materials (if any) on residential properties and/or in the proximity of schools, including lead-based paint and asbestos. Said plan for the proper removal and handling of hazardous materials shall be provided on the appropriate sheets of the construction plan sets and included in the Construction Management Plan.
6. **BAAQMD Compliance.** The applicant shall comply with the Bay Area Air Quality Management District regulations related to any building

demolition. The Demolition Notification form is available on their website at www.BAAQMD.gov/forms.

7. **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.

8. **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.

9. **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 east and south property lines as shown on the approved plans. The intent is to verify that the approved features are constructed at the approved dimension from the property lines.

10. **Building Height and Floor Level Verification.** Prior to foundation and/or frame inspection, the applicant shall provide the Building Official written verification by a licensed land surveyor stating that the floor levels and roof of the new structure are constructed at the approved heights above grade.

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

12. **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.

13. 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:

**Fence Design Review
120 Vista Avenue**

Resolution 232-DR-16

WHEREAS, the Property Owner is requesting permission to demolish an existing concrete wall and side yard gate along the right (west) property line and to construct a new stucco-faced wall and wood gate, located at 120 Vista 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 fence and gate. The fence is in the same location and replicates the existing fence. The arches match the original historic design. The finishes match existing, and the detailing of the gate matches the detailing of the garage doors on the Magnolia Avenue side of City Hall.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because it replicates the existing fence and gate. The size, location and materials match and improve upon the historic detailing of the gate.
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 those items.
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 120 Vista Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

Regular Calendar

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

**Variance and
Design Review
30 Olive Avenue**

The Property Owner is requesting permission to install three vertical braces on the roof outriggers in the front and the rear of the home. A variance has been requested to construct within the front yard setback.

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

Public testimony was received from:

Cindy and Tom Long, homeowners, indicated that they accept Staff's proposed condition of approval and explained that the new brackets were added as part of structural repairs. In response to a question from Commissioner Zhang, they explained that the two remaining brackets over the entryway could not be replaced with the brackets used elsewhere, because the wall in that location is not a flat plane.

Commissioner Ramsey stated his opinion that the application should not require a variance, since the new brackets increase the depth of the construction by only one-and-a-half inches and remain completely within the house's existing eaves. He suggested that the Commission remove the requirement for a variance and refund the variance application fee. The remaining Commissioners agreed.

With regard to design review, Commissioner Zhang expressed initial concern over the new brackets being inconsistent with the existing brackets over the entryway. After some discussion, the Commission unanimously supported the design of the project. Commissioner Ode responded to one of the neighbors' comments about the color of the new brackets being lighter than the house, and stated that the wood will weather and eventually match the house.

Resolution 188-V-16

WHEREAS, the Property Owner is requesting permission to install three vertical braces on the roof outriggers in the front and the rear of the home, located at 30 Olive Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code was requested to construct within the front yard setback; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the proposed change within the front yard setback is de minimus in nature and that the proposal does not require a variance under Section 17.21.6 of the Piedmont City Code;

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission determines that a variance is not required for the proposed construction at 30 Olive Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, and that the applicant shall be refunded the fee for the variance application.

Moved by Ramsey, Seconded by Theophilos

Ayes: Behrens, Ode, Ramsey, Theophilos, Zhang

Noes: None

Recused:

Absent:

Resolution 188-DR-16

WHEREAS, the Property Owner is requesting permission to install three vertical braces on the roof outriggers in the front and the rear of the home,

located at 30 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: replacement of the fascia boards and outriggers with custom milled wood to match the existing design of the 101-year-old house. Replacement wood is Red Western Cedar because old-growth redwood is no longer available. No portion of the modified design extends into the airspace beyond the eaves. The increase in bulk along the facade is no more than 2.5 inches in depth, with a total bulk of less than 1 cubic foot. There is no change to the height, area openings, line or pitch of roof, arrangements of structure on the parcel, or concealment of mechanical and electrical equipment.
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 neighboring properties.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress, because it has no impact. Safety has improved because the roof and outriggers have been replaced with structurally sound elements reducing the risk of a collapsed roof.
4. The project complies with Design Review Guidelines II-1, II-2, II-3, II-3(a), II-3(b), II-3(c), II-3(d), II-4, II-5, II-5(a), II-6, II-6(a), II-6(b), II-6(c), II-7, II-7(a).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for proposed construction at 30 Olive Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following condition:

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.

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

Absent:

**Variance,
Design Review, and
Fence Design Review
89 Ronada Avenue**

The Property Owner is requesting permission to construct an approximately 471-square-foot, second-story addition; to construct a 93-square-foot addition and a trellis in the rear (northwest) of the home; to install windows in the basement level at the front of the home; to make modifications to windows throughout the house; to excavate a portion of the front yard and driveway; and to construct retaining walls and a fence in the front yard. A variance is required in order to construct an additional room eligible for use as a bedroom without providing conforming parking.

Written notice was provided to neighbors. **Three affirmative response forms** were received. **Correspondence** was received from: William Vederman, Richard Stone, John Casey, Virginia Dobbins, Krista Bessinger, Tiffany Johnson, and Anne Marshall and Mike Bott.

Public testimony was received from:

Dave Herskowitz, homeowner, explained that the goal of the project was to create more space for his family while maintaining the character of the existing house. He described the efforts made to reach out to the neighbors and minimize the impact of the project on all neighbors. He reported that the neighbors have indicated their support for the project and are looking forward to the restoration and improvement of this previously vacant house. Mr. Herskowitz also submitted a supplemental drawing of the project to the Commission. In response to a question from Commissioner Theophilos, Mr. Herskowitz stated that there is ample parking in the neighborhood, and maintained that a two-car garage would be out of character with the neighborhood.

Amber Evans, project designer, described the proposed interior and exterior changes to the existing house. She indicated that the goal of the project is to create an addition that compliments the existing house. She described how the proposed design and materials are in keeping with the design and materials of the existing house. Ms. Evans also described the work proposed for the garage and explained why the application requires a parking variance. In response to questions from Commissioner Zhang, Ms. Evans explained the difficulties in constructing a conforming two-car garage on the property.

The Commissioners were unanimously in support of the project and commended the applicants for their architecturally consistent design and for wholeheartedly engaging their neighbors in the design process. Commissioner Ramsey commended the designer for placing the addition in such a way as to minimize its impact on the neighbors. He also spoke in favor of the proposed garage, stating and that the design improves upon the existing nonconforming parking by widening the garage and adding interior access. He added that a two-car garage would negatively impact the front yard. The Commissioners discussed adding a condition of approval allowing the driveway to be modified to incorporate a transition slope and drain at its base.

Resolution 233-V/DR-16

WHEREAS, the Property Owner is requesting permission to construct an approximately 471-square-foot, second-story addition; to construct a 93-square-foot addition and a trellis in the rear (northwest) of the home; to install windows in the basement level at the front of the home; to make modifications to windows throughout the house; to excavate a portion of the front yard and driveway; and

to construct retaining walls and a fence in the front yard, located at 89 Ronada Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary to construct an additional room eligible for use as a bedroom without providing conforming parking; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited 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 variance, the Planning Commission finds that the proposal complies with the variance criteria under Section 17.21.6 of the Piedmont City Code:

1. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to: the lot size, the narrow side yard, and the historic bungalow character of the house. Strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone that conform to the zoning requirements.
2. The variance is compatible with the immediately surrounding neighborhood and the public welfare, because single-car garages are common in the neighborhood.
3. Accomplishing the improvements without variance would cause unreasonable hardship in planning, design, or construction, because it would negatively affect the historic character of the home and the neighborhood, it would eliminate street parking, and it would create more driveway than yard in the front of the house.

WHEREAS, with regard to design review, the Planning Commission finds that the proposal conforms to 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 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 were provided to reduce losses of ambient and reflected light. The height and bulk are compatible with adjacent homes. Much of the existing materials and details remain and are replicated.
2. The proposed addition has been designed in a way that reasonably minimizes view and light impacts on neighboring properties, because the second-story addition is modest in size and is placed so that it does not affect adjacent homes, and the subgrade space is used for habitable space.
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

second-story addition is modest in size, is smaller than the first floor footprint, and is placed so that it does not affect adjacent homes.

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. There is no change to the points of ingress and egress. The existing nonconforming parking is improved by expanding the garage and adding interior access.

5. The project complies with Design Review Guidelines II-1, II-3, II-3(a), II-3(b), II-3(c), II-3(d), II-4, II-6, II-6(a), 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 variance and design review application for proposed construction at 89 Ronada 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 aluminum clad.

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

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

4. **Exterior Lighting.** All new exterior light fixtures shall be downward directed with an opaque or translucent shade that completely covers the light bulb and a maximum of 60 watts.

5. **Garage Door.** The garage door shall be motorized. 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. **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.

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.

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. **Driveway Access:** Site civil plan shall be prepared for building permit application showing drainage and transition slope at entry to the garage. The transition slope must meet accepted standards for sloped driveways to allow practical entry and exit of private vehicles. If minor modifications to the garage entry or the adjacent retaining walls are required to better accommodate auto access, then the modifications shall be subject to staff review.

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

**Variance and
Design Review
97 Oakmont Avenue**

The Property Owner is requesting permission to construct an approximately 1,120-square-foot, two-story addition; to change the roof slope from a flat mansard roof to a pitched gabled roof; to construct a new deck and railing atop the existing garage; to make modifications to the upper level deck on the front of the house including a new trellis; and to make modifications to siding material, windows, doors, skylights, exterior lighting, retaining walls, and hardscape throughout the property. A variance is required in order to construct within the front yard setback.

Written notice was provided to neighbors. **Two affirmative response forms** were received. **Correspondence** was received from: Terry and Bart Paulding, Robin and Judy Richardson, and Nikki Jordan.

Public testimony was received from:

Brady Nadell, neighbor at 95 Oakmont Avenue, discussed his continued concerns with the proposed project. He outlined the changes that the applicant made to address his concerns, including changes to the placement of the second-story addition, but described them as incremental and not significant enough to ameliorate his concerns. He described how the project would impact his views and change the experience within his house. Mr. Nadell also reported that his wife, who is traveling and has not yet seen the story poles, had requested that the applicants wait to submit their application for the September meeting. He stated that since the applicants have purchased another house, there is no immediate need to continue with this project.

Gary Parsons, project architect, began by handing out photos to the Commission showing both the prior and current configurations of the story poles, as seen from the neighboring properties. He described the current proposal and explained that the addition is approximately the same size as previously proposed, but that no new bedrooms are being proposed. He described how the current proposal addresses the concerns of the adjacent neighbors by moving the volume of the addition to the south and choosing clearstory windows on the south elevation. He added that the garage is proposed to remain as is. Mr. Parsons fielded numerous questions from the Commission. He stated that the proposed house is as tall or a bit taller than the previously proposed house, since they are proposing to push the addition further back and upslope on the property. He also described the proposed changes at the street level and adjacent to the garage and spoke about potential landscape screening. When asked about changes that could be made to the garage to make it more usable, he described the difficulties with installing an access door in the garage, but stated that he could add architectural detailing to the garage.

Peter Secor, homeowner, summarized the discussions he has had with his neighbors and described how the project was amended to address the neighbors' concerns. He acknowledged that the proposed design does not completely address the loss of light and views for his neighbors at 95 Oakmont Avenue. He stated that the current proposal meets most of his needs with regard to square footage, and that he is amenable to adjusting the garage or other aspects that may be particularly objectionable. Mr. Secor also explained that his family hopes to make 97 Oakmont Avenue fit their needs, despite having the option to live at a second property either temporarily or permanently.

The Commissioners were not in favor of approving the project as proposed. They acknowledged that the applicant had made some attempt to ameliorate the concerns of the neighbors and the Commission, but they found that the changes were not significant enough to completely address their concerns regarding building massing and the loss of light, views, and privacy. Commissioner Ode remarked that the Commission had denied the previous proposal partly because the addition was too large, and she suggested that the current project proposes to enlarge the house beyond what is suitable for the lot. Commissioners Zhang and Ramsey considered the second-story to appear out-of-balance and tacked-on, and Commissioner Zhang suggested that the addition be pushed back even further on the lot. Commissioner Zhang also noted that the proposed windows are not compatible with the existing windows.

The Commissioners were also concerned about the increase in the intensity of use without making improvements to the garage. Commissioners Ramsey and Zhang emphasized that the garage should be made more usable, especially given the amount of work that is being proposed around and on top of the garage. They discussed changes to improve the safety, aesthetics and usability of the garage. The Commissioners also discussed the bedroom count and whether future owners might be able to add additional bedrooms too easily.

Resolution 237-V/DR-16

WHEREAS, the Property Owner is requesting permission to construct an approximately 1,120-square-foot, two-story addition; to change the roof slope from a flat mansard roof to a pitched gabled roof; to construct a new deck and railing atop the existing garage; to make modifications to the upper level deck on the front of the house including a new trellis; and to make modifications to siding material, windows, doors, skylights, exterior lighting, retaining walls, and

hardscape throughout the property, located at 97 Oakmont Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary to construct within the front yard setback; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the proposal does not conform to all 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 not harmonious with existing and proposed neighborhood development. The distance between the upper-level addition and adjacent residences is not reasonable and not appropriate due to the existing condition and the proposed design. The proposed addition impacts the views and privacy of 95 Oakmont Avenue. Despite the greater setback of the upper level, the addition still negatively impacts the neighbor. The exterior design elements are not harmonious and do not match the existing architecture with regard to windows and the building's balance and proportions. The second story addition is not conforming to the first level.
2. The proposed upper-level addition has not been designed in a way that reasonably minimizes view and light impacts on neighboring properties, because the proposed addition impacts the light and views of 95 Oakmont Avenue.
3. The size and height of the addition are not commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on). The lot presents other opportunities for meeting the needs of the applicants and addressing the concerns of the neighbors.
4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. The parking is existing nonconforming; however, with the increase in the intensity of use, some modifications are warranted.
5. The project does not comply with Design Review Guidelines II-1, II-2, II-3, II-4, II-6, II-7, III-1.

WHEREAS, Action on the variance is not necessary for this application, because there is no approved design requiring a variance;

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 97 Oakmont Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City. Moved by Zhang, Seconded by Theophilos
Ayes: Behrens, Ode, Ramsey, Theophilos, Zhang
Noes: None
Recused:
Absent:

The Commission recessed for dinner at 6:29 p.m. and reconvened at 6:59 p.m.

**Variance and
Design Review
222 Carmel Avenue**

The Property Owner is requesting permission to demolish the existing detached garage and construct a new 3-car garage; to construct an approximately 494-square-foot, two-story addition at the rear of the house; to construct a new upper-level balcony on the south side of the house; to make various interior modifications including an increase in the number of bedrooms from 4 to 6; and to make modifications to windows, doors, exterior lighting, and hardscape throughout the property. A variance is required in order to construct within the left (north) side setback.

Written notice was provided to neighbors. **Four affirmative response forms** were received. **Correspondence** was received from: Sally Foskett. Alan Tafapolsky and Randi Silverman, the applicants, also submitted correspondence in lieu of being present at the meeting.

Public testimony was received from:

Sundeep Grewal, project architect, described the proposed three-car garage and two-story, rear addition. He stated that the proposal removes inconsistent architectural features at the rear of the house, and he indicated that the design and materials of the proposed addition match those of the existing house. He described the proposed, code-compliant, three-car garage and explained how the new turnaround area would improve the safety of cars exiting the driveway. He also noted that the proposal includes a new driveway gate. In response to questions from the Commission, Mr. Grewal explained that the applicants propose to pull the garage away from the property line to allow enough space for gutters and downspouts, a fence, and maintenance access. He stated that the applicants are willing to move the garage closer to the property line to appease the neighbor at 218 Carmel Avenue, but still plan to construct a fence. He reported that the applicants do not want vines to be grown on the new garage wall, because of the damage they cause, but that they are amenable to vines being grown on their new fence. Mr. Grewal also responded to questions about the privacy concerns of the neighbors at 226 Carmel Avenue. He explained that the proposed balcony off the bedroom hallway is meant to add architectural interest at the rear of the house and will not be heavily used. Mr. Grewal expressed his willingness to enclose the space, if necessary, but expressed his preference for the balcony. He added that a sunroom would have no less of a privacy impact than the balcony.

The Commissioners were unanimously in support of the project, including the seamless rear addition, the code-compliant garage, and the overall architectural consistency of the project. Alternate Commissioner Jajodia noted that the proposed turnaround area greatly improves vehicular safety on the sloped lot. The Commissioners discussed the rear balcony and decided that it was unlikely to be used for gatherings and would have little impact on the privacy of the neighbor at 226 Carmel Avenue. The Commissioners discussed the proposed fence along the garage with Staff and decided to add a condition of approval to clarify the process required for approval of a fence.

Resolution 239-V/DR-16

WHEREAS, the Property Owner is requesting permission to demolish the existing detached garage and construct a new 3-car garage; to construct an approximately 494-square-foot, two-story addition at the rear of the house; to construct a new upper-level balcony on the south side of the house; to make various interior modifications including an increase in the number of bedrooms

from 4 to 6; and to make modifications to windows, doors, exterior lighting, and hardscape throughout the property, located at 222 Carmel Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary to construct within the left (north) side setback; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited 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 variance, the Planning Commission finds that the proposal complies with the variance criteria under Section 17.21.6 of the Piedmont City Code:

1. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to the fact that the existing garage is located at the rear of the property. A variance is required to allow cars adequate space to safely turn around on the site. Strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone that conform to the zoning requirements.
2. The variance is compatible with the immediately surrounding neighborhood and the public welfare, because the neighborhood has a consistent pattern of accessory buildings or structures located on the lot line or within the setback.
3. Accomplishing the improvements without variance would cause unreasonable hardship in planning, design, or construction, because without a turnaround area, cars would be forced to back down a long, steep driveway, which would impact traffic adversely.

WHEREAS, with regard to design review, the Planning Commission finds that the proposal conforms to 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 two-story addition improves the cohesiveness of the current structure and finishes. The distance between the two-story addition and garage 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.
2. The proposed two-story addition has been designed in a way that reasonably minimizes view and light impacts on neighboring properties, because it continues the current building envelope without worsening the neighboring properties' access to light, views or 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 it is an extension of the existing envelope.

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 two-story addition and detached garage, and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood. The project increases on-site parking and has a positive impact on driver and pedestrian visibility and general traffic and parking conditions.

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

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review application for proposed construction at 222 Carmel Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Environmental Hazards.** Prior to the issuance of a building permit as required by the Chief Building Official, the applicant shall provide a plan, including necessary testing, to verify compliance with all local, state and federal regulations regarding the disturbance and removal of hazardous materials (if any) on residential properties and/or in the proximity of schools, including lead-based paint and asbestos. Said plan for the proper removal and handling of hazardous materials shall be provided on the appropriate sheets of the construction plan sets and included in the Construction Management Plan.

2. **Contractor's General Liability Insurance.** To ensure that the contractor doing work in the City will be responsible for damages caused by the work to City property or to neighboring property, the Property Owner shall require all contractors performing work on the Project to maintain General Liability Insurance for protection from claims for damages because of bodily injury, including death, and claims for damages, other than to the contractor's work itself, to property which may arise out of or result from the contractor's operations. Such insurance shall be written for not less than \$1,000,000 per occurrence. The insurance shall include an endorsement requiring 10 days prior notice to the City if the insurance is to be cancelled or changed, and Property Owner shall immediately arrange for substitute insurance coverage. If the contractor's insurance carrier states in writing that it is unable to provide the required endorsement, Property Owner shall be responsible for providing the City with the required notice if the insurance is to be cancelled or changed. Property Owner's failure to provide such notice shall constitute grounds for revocation of the City's design review approval and/or permit. If the Property Owner does not have a general contractor, the Property Owner shall maintain property insurance and coverage for contractors, which is substantially equivalent to the contractor's requirement of this section.

3. **BAAQMD Compliance.** The applicant shall comply with the Bay Area Air Quality Management District regulations related to any building demolition. The Demolition Notification form is available on their website at www.BAAQMD.gov/forms.

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 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.

5. **Arborist's Report and Certified Tree Preservation Plan.** Before the issuance of a building permit, the Property Owner shall submit an Arborist's Report and Certified Tree Preservation Plan that includes tree preservation measures to preserve the redwood tree at the northwest corner of the property. 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 that are intended to be retained. 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. 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.

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

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

8. **Modifications to Conditions.** Any insurance or security requirement, or related Condition of Approval, may be implemented and, if necessary modified, in a reasonable manner with the joint agreement of the Director of Public Works and the City Attorney, consistent with the intent of the condition.

9. **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.

10. **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.

11. **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.

12. 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.

13. 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.

14. 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.

15. **Replacement Fence.** The replacement fence shall be subject to the appropriate level of design review.

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

**City Code Chapter 17
Modifications**

Planning Director Jackson continued the recent discussions of City Code Chapter 17 modifications that began in March of this year. He began the discussion by explaining that the topic of Signs was removed from the current agenda, because Staff is still in the process of confirming that the recommended sign regulations comply with recent Supreme Court rulings regarding a jurisdiction’s ability to regulate signage. Planning Director Jackson then went through the recommended revisions to the landscaping regulations and the standards for design review approval. He fielded questions and gathered feedback from the Commissioners, as included below under the headings for each topic.

Correspondence was received from: Dimitri Magganas. Correspondence regarding revisions to Zone D regulations, which were discussed by the Commission during their meeting on July 26, 2016, was received from: Don and Diane Dare, Miguel and Maria DeAvila, and Tony Theophilos.

Revisions to Landscaping Regulations

Planning Director Jackson explained that the practice in Piedmont is not to regulate the type of landscaping on a property, but to ensure that property

owners attend to the landscape and that certain areas of a property are landscaped. He stated that the Staff recommendations aim to clarify this practice without changing it. Planning Director Jackson outlined the following revisions proposed to the landscaping regulations:

- **Intent**
Edit the Intent section to clarify the goals and to recognize the contribution of flora and fauna to a healthy environment.
- **Wireless Communication Facilities**
Add wireless communication facilities to the list of applications for which a landscape plan may be required, so that ground-mounted enclosures are adequately screened with vegetation.
- **Landscaping Guidelines and State Requirements**
Add a section to the Design Guidelines to address the design of landscapes, including guidelines for plant selection and placement to keep front yards open and preserve views. Add a reference to require landscapes to conform to state regulations, such as the California Water Efficient Landscape Ordinance.
- **Landscaping Requirements**
Reformat the landscaping requirements to match the regulations required for each of the five zones. Require landscaping in Zone D to be placed in all of the areas that are not structure or pavement used for vehicular or pedestrian circulation.
- **Landscaping Materials**
Modify the Maintenance section to support the changes to the Intent section above. Specify what types of materials are considered landscaping: living plant materials and mulch made from organic materials. The intent is to ensure that areas designated as landscaping do not lack living plant material and do not contain large expanses of rocks, gravel or artificial turf.

The Commission was generally in favor of the above modifications, but spoke at length about the recommended landscaping requirement for Zone D. Planning Director Jackson clarified that the recommendation does not include a minimum percentage of landscaping in Zone D, but calls for any area that does not need to be paved to be landscaped. He explained that such a regulation would still allow pedestrian-oriented, mixed-use buildings to be constructed to the sidewalk. Commissioner Ramsey asked whether street trees could be required in lieu of landscaping. Planning Director Jackson responded that the City plans to create a Street Tree Policy, rather than incorporate street tree regulations in the zoning code, since street trees are located within the public right-of-way. Alternate Commissioner Jajodia initially advocated for all Zone D regulations to include a minimum percentage of landscaping (in which case a variance would be required for zero landscape), but she later suggested that perhaps only larger Zone D parcels need a minimum amount of landscaping. Commissioner Ode was in favor of the staff recommendation for landscaping requirements in Zone D, given that it would eliminate the need for excess variance requests and be consistent with the development pattern along Grand Avenue in Oakland. Commissioner Ramsey noted that the recommended regulation might be difficult to govern and suggested that it be studied further.

The Commissioners also discussed the recommended changes to landscaping materials and asked for clarification on several points. Planning Director Jackson clarified that artificial turf and rocks would be considered hardscape and that front yards would need to be landscaped except for areas used for

vehicular and pedestrian access. The Commission was in full support of the recommended changes to the landscaping materials.

The Commissioners unanimously directed Staff to move forward with the above modifications to the landscaping regulations, with the exception of Zone D landscaping requirements, which they asked Staff to examine further.

Revisions to Standards for Design Review Approval

Planning Director Jackson explained that the code currently includes two sets of criteria for design review approval—one for single-story additions and modifications to the design or materials of a structure, and the other for second-story additions. He explained that the current standards are confusing to applicants and cumbersome for Commissioners and Staff. Planning Director Jackson explained that Staff recommends simplifying the standards to a single list of simple and distinct criteria within the Code and referencing the Design Guidelines, which will spell out the specific criteria about aesthetics, impacts on neighbors, and vehicular and pedestrian safety.

The Commissioners were in full support of the staff recommendations, which they said would eliminate redundancy and simplify the findings. The Commission unanimously directed Staff to move forward with the recommended revisions to standards for design review approval.

Next Steps

Planning Director Jackson stated that the remaining topics within the Chapter 17 Modifications project include wireless communication facilities, design review process language, definitions and measurements.

ADJOURNMENT

There being no further business, Chairman Behrens adjourned the meeting at 7:58 p.m.