

## PIEDMONT PLANNING COMMISSION

### Regular Meeting Minutes for Monday, February 8, 2016

A Regular Session of the Piedmont Planning Commission was held February 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 January 25, 2016.

#### **CALL TO ORDER**

Chairman Theophilos called the meeting to order at 5:02 p.m.

#### **ROLL CALL**

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

Staff: Interim Planning Director Kevin Jackson and Assistant Planners Jennifer Gavin and Emily Alvarez

Council Liaison: Councilmember Tim Rood

#### **ANNOUNCEMENTS**

Chairman Theophilos announced the December 2015 resignation of Commissioner Philip Chase. On behalf of the Commission, Chairman Theophilos thanked him for his fairness, dedication, and leadership. Former Commissioner Chase spoke briefly and thanked the Commission and the Staff for their hard work.

#### **PUBLIC FORUM**

There were no speakers for the public forum.

#### **REGULAR SESSION**

The Commission considered the following items of regular business:

##### **Approval of Minutes**

Commissioner Ode requested that the minutes be amended with regard to the discussion of 408 Linda Avenue (page 14), to include the following: In response to a question from Commissioner Ode, Mr. Zimski confirmed that the poles in question carry telephone and cable wires in addition to power lines.

##### **Resolution 4-PL-16**

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

Moved by Zhang, Seconded by Ode

Ayes: Behrens, Ode, Ramsey, Theophilos, Zhang

Noes: None

Recused:

Absent:

##### **Consent Calendar**

The Commission placed the following applications on the Consent Calendar:

- 68 Huntleigh Road (Variance and Design Review)
- 340 Highland Avenue (Non-Residential Sign Design Review)
- 206 Crocker Avenue (New House Design Review)

##### **Resolution 5-PL-16**

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

Moved by Behrens, 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:

**Variance and  
Design Review  
68 Huntleigh Road**

**Resolution 375-V/DR-15**

WHEREAS, the Property Owner is requesting retroactive approval for converting approximately 309 square feet of the basement into habitable space and making window and door modifications on the north (front) and east (left) sides of the house, located at 68 Huntleigh Road, 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 add an additional room eligible for use as a bedroom without supplying 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 size of the lot and the topography of the site, so that 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 property currently has an existing, easily-accessible, 2-car garage that is nonconforming in depth only. Off-street parking is provided in front of the garage, and the garage and its dimensions are typical of homes in the area.
3. Accomplishing the improvements without variance would cause unreasonable hardship in planning, design, or construction, because existing typography prevents a conforming parking depth.

WHEREAS, with regard to design review, the Planning Commission finds that 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 new code-compliant window at the lower level and a new side door and light.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because no changes are proposed that significantly affect the 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 there are no changes proposed to those items.

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-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 variance and design review application for proposed construction at 68 Huntleigh Road, 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. **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. **Window Material.** As specified in the plans, the building material for the new window shall be aluminum clad.

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

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

**Non-Residential Sign  
Design Review  
340 Highland Avenue**

**Resolution 5-DR-16**

WHEREAS, the Property Owner is requesting permission to reface the existing pricing sign on the corner of Highland Avenue and Highland Way and install new LED display numbers, located at the Valero gas station at 340 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 Section 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. There is no sign proposed on the building, and the proposed sign will replace an existing long-standing sign.
2. Each sign, including a sign required by law, is simple in design. Graphic depictions related to the non-residential use are appropriate. The size and structure of the monument sign will not change. The design of the proposed sign face is similar to the design of the existing sign face.
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. The proposed sign is the same as the existing sign in its size and color scheme. The design of the proposed sign is compatible with the design, color and scale of the existing building and sign.
4. The sign is oriented toward the pedestrian and vehicular traffic, in that the location of the sign is visible from Highland Avenue, Highland Way, and the sidewalk.
5. The sign is proposed to be constructed of sturdy materials, in that the existing sign and base are very strong and have no signs of deterioration. The sign is proposed to have high performance materials.
6. The new sign will include LED lighting, which is more energy efficient than the lighting for the existing sign.

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 340 Highland 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.

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

**New House  
Design Review  
206 Crocker Avenue**

**Resolution 7-NH DR-16**  
WHEREAS, the Property Owner is requesting permission to demolish the existing 3,326-square-foot house, pool and other site features, and construct a new two-story house with a two-car garage at the lower level. The new house is proposed to have 2,127-square-feet of habitable space that includes 2 bedrooms, 2 full bathrooms, and a kitchen/dining/living great room. Proposed exterior

features include windows and doors throughout, exterior lighting, balusters, fencing, walls, gates, and landscape and hardscape modifications that include grade alterations, a new driveway, pathways, retaining walls of various heights, guardrailing, handrailing, wrought iron vine supports, a fountain, and an air conditioning unit, located at 206 Crocker 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 Sections 15301, Class 1(I), and 15303, Class 3(a), 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 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. In comparison to the two prior applications for this new house, the applicant has rotated the axis of the new house 90 degrees from east/west to north/south, which makes the entire house more compatible with the neighborhood and the adjacent residence at 210 Crocker Avenue. The design of the new house duplicates, as much as possible, the Italian Renaissance architecture of the Julia Morgan house at 200 Crocker Avenue—the new house includes copper roof tiles and many other architectural details similar to the adjacent house. The proposed house façade will be broken up, with the greater mass being closer to the larger house at 200 Crocker Avenue.
2. The proposed addition has been designed in a way that reasonably minimizes view and light impacts on neighboring properties, because the currently proposed north/south axis will have much less of an impact on the adjacent house at 210 Crocker Avenue.
3. The size and height of the addition is commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and is in keeping with the existing neighborhood development pattern, because the new house is in proportion with the size of the property and is compatible with the adjacent Julia Morgan house at 200 Crocker Avenue.
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. The proposed driveway location is similar to the existing driveway location and is designed to preserve existing trees. The applicant has shown proof that the proposed parking is accessible.
5. The project complies with Design Review Guidelines I-1, I-1(a), I-1(b), I-1(c), I-1(d), I-2, I-2(a), I-2(b), I-2(c), I-2(d), I-3, I-4, I-5, I-5(a), I-5(b), I-6, I-7, I-7(a), I-8, I-9, I-9(a), I-10, I-11, I-12, III-1, III-5(a), III-6, III-7, III-7(a), IV-1, IV-1(a), IV-2(a), IV-3, IV-3(a), IV-4, IV-4(a), IV-5, IV-5(a), IV-6.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the new house design review application for proposed construction at 206 Crocker 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 and Color Scheme.** As specified in the plans, the building material for the new windows, doors and garage door shall be wood. In addition, all the windows on the house shall have a consistent color scheme.

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

3. **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.

4. **Air-conditioning Unit.** The new air-conditioning unit shall comply with Section 5.2.28 of the Piedmont Municipal Code, which regulates mechanically generated noise sources. If design modifications to the unit and/or within the north side yard are required to meet the Code requirements, those modifications shall be subject to staff review and approval.

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. **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 notice to the City if the insurance is cancelled or changed, and Property Owner shall immediately arrange for substitute insurance coverage. 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.

7. **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](http://www.BAAQMD.gov/forms).

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. **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.

10. **Double Trailer Truck Prohibition.** To reduce potential damage to the streets and to avoid traffic hazards on narrow curving city streets, no double trailers shall be used as part of the Project.

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 west, north 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.

13. **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.

14. **Stormwater Design.** The California Regional Water Quality Control Board requires all projects, or a combination of related projects, that create and/or replace 2,500 square feet or more of impervious surface to comply with Provision C.3.i of the Municipal Regional Stormwater NPDES Permit. As required by the Chief Building Official, the Property Owner shall verify the total area of impervious surface to be created and/or replaced within the scope of this project, or this project combined with other related projects and/or permits, and incorporate the site design measure(s) required under Provision C.3.i into the plans submitted for a building permit. Copies of the Municipal Regional Stormwater Permit are available from the Piedmont Public Works Department and on-line at [cleanwaterprogram.org](http://cleanwaterprogram.org).

15. **City Facilities Security.** The Property Owner shall provide a specific cash deposit, letter of credit, bank guarantee, or other similar financial vehicle ("City Facilities Security") in the amount of \$25,000 as established by the Director of Public Works. This financial vehicle serves as an initial sum to cover the cost of any potential damage to City property or facilities in any way caused by Property Owner, Property Owner's contractors or subcontractors, or any of their agents, employees or assigns, and related in any way to the Project.

The Property Owner is responsible for the full cost of repair as determined by the City Engineer prior to final inspections. The form and terms of such City Facilities Security shall be determined by the Director of Public Works after consultation with the Property Owner. The Director may take into account any of the following factors: the cost of construction; past experience and costs; the amount of excavation; the number of truck trips; the physical size of the proposed project; the logistics of construction; the geotechnical circumstances at the site; and City right-of-way and repaving costs.

a. To provide clear baseline information to assist in determining whether damage to the City's facilities has been caused by the Property Owner or others working for or on behalf of Property Owner, the City will document such facilities (including, without limitation, streets and facilities along the approved construction route as specified in the Construction Management Plan, to establish the baseline condition of the streets and facilities. The City shall further re-document the streets as deemed appropriate after the Project commences until the Director of Public Works determines that further documentation is no longer warranted. As part of the documentation, the City may water down the streets to better emphasize any cracks or damage in the surface. The Property Owner is responsible for the full cost of the documentation and repair work as determined by the City Engineer, and shall reimburse the City for those costs prior to the scheduling of final inspection.

b. When the City Facilities Security is in a form other than cash deposit with the City, the proceeds from the City Facilities Security shall be made payable to the City upon demand, conditioned solely on the Director of Public Works' certification on information and belief that all or any specified part of the proceeds are due to the City.

**16. Geotechnical Report and Review.** At the option of the Chief Building Official, the property owner the Property Owner shall submit a report prepared by a geotechnical engineer of the Property Owner's choice that fully assesses the existing site conditions, and addresses all issues regarding excavation and grading, foundations and their construction, drainage, retaining wall systems, periodic on-site observations, and other related items involving the Project.

a. **Peer Review.** The City, at the Property Owner's sole expense, shall retain an independent geotechnical consultant to perform a peer-review of the Property Owner's geotechnical report and advise the City in connection with the Property Owner's proposals. The City Engineer shall select this independent geotechnical consultant, whose services shall be provided for the sole benefit of the City and whose reports and recommendations can be relied upon only by the City. The independent geotechnical consultant shall also review the building plans during the permit approval process, and may provide periodic on-site observations during excavation and construction of the foundations as deemed necessary by the City Engineer. The Property Owner shall provide payment for this at the time of the Building Permit submittal.

**17. Foundation/Shoring/Excavation Plan.** The Property Owner shall submit foundation, excavation, and shoring plans prepared by a licensed civil or structural engineer that fully address issues of site shoring, fencing and hillside



security issues. The plans shall not require any trespassing or intruding into neighboring properties (without prior written consent), and shall mitigate against any subsidence or other damage to neighboring properties. Such plans shall incorporate as appropriate the recommendations of the Property Owner's geotechnical engineer and the City's geotechnical consultant, and shall be subject to approval by the City Engineer and the Chief Building Official.

**18. Consultant Cost Recovery.** In order to accommodate the scope and nature of the Project proposed by the Property Owner, if the Director of Public Works deems it necessary to retain independent consultants with specialized expertise, including the City Engineer, the Property Owner shall make a cash deposit with the City at the time of the Building Permit Application in the amount of \$5,000 to be used to pay for the fees and expenses of such City consultants, or in any way otherwise required to be expended by the City for professional consultant assistance. If the cash deposit has been reduced to \$2,500 or less at any time, the Director of Public Works may require the Property Owner to deposit additional funds to cover any further estimated fees and expenses associated with consultants retained by the City on a regular basis or specifically for the Property Owner's Project. Any unexpended amounts shall be refunded to the Property Owner within 90 days after the Project has an approved Final Inspection by the Chief Building Official.

**19. City Attorney Cost Recovery.** If there is a substantial additional commitment of City Attorney's time required to accommodate the scope and nature of the Project, the Property Owner shall, at the time of the Building Permit Application, make a cash deposit with the City in the amount of \$5,000 to be used to offset time and expenses of the City Attorney relating to the Project. If such cash deposit has been reduced to \$2,500.00 or less at any time, the Director of Public Works may require the Property Owner to deposit additional funds to cover any further estimated additional City Attorney time and expenses. Any unused amounts shall be refunded to the Property Owner within 90 days after the Project has an approved Final Inspection by the Chief Building Official.

**20. Site Safety Security.** The City and the public have an interest in not having an unfinished project blighting the neighborhood and undermining property values. These public interests are primarily safety and aesthetics, and diminishment of property values. Prior to the issuance of a Building Permit, the Property Owner shall provide a specific cash deposit, letter of credit, bank guarantee, or other similar financial vehicle ("Site Safety Security") in the amount of \$25,000 to ensure that the Project site is not left in a dangerous or unfinished state.

- a. The Site Safety Security shall be in an amount to include three components: i) safety, which means the cost to make the site and structure safe if construction should cease mid-way through the Project; ii) aesthetics, which means an amount to install and maintain landscaping all around the Project to protect the immediate local views from neighbors and public property; and iii) staff and consultant time to evaluate and implement this condition. If, as the Project proceeds, the expected cost of these components increases beyond the original estimate in the opinion of the Director of Public Works, the City may require the Property Owner to increase the amount of the Site Safety Security by the additional amount. The Property Owner shall provide City with written evidence of compliance within 15 working days after

receiving written notice of the additional required amount. The City shall retain, at the Property Owner's expense, an independent estimator to verify the total expected costs to complete the Project and any subsequent revisions.

b. The form and amount of the Site Safety Security is subject to the approval of the Director of Public Works. Payment to City under the Site Safety Security shall be made payable upon demand by the City and prior to the issuance of the Building Permit, conditioned solely on the Director of Public Works' certification on information and belief that all or any specified part of such Performance Security is due to the City.

c. The Site Safety Security shall not be released until the Project has an approved Final Inspection by the Chief Building Official. However, if sufficient work has been completed according to the benchmarks and construction values as established under the Construction Completion Schedule, the Site Safety Security may be reduced to the extent the Director of Public Works in his sole discretion determines is appropriate.

**21. Neighboring Property Inspection.** Should the neighboring property owner provide consent, a licensed civil or structural engineer (chosen by the City, and paid for by the Property Owner) shall inspect the neighboring porte cochere at 210 Crocker Avenue with the intent of establishing base-line information to later be used in determining whether damage was caused by any activities on Property Owner's property (including damage caused by vibrations or other factors due to excavation, construction or related activities). The inspection shall include both foundations and non-foundation related details (walls, windows, general overall condition, etc.) at a level of inspection City Staff deems appropriate. The inspection shall only include readily visible and accessible areas of the neighboring homes. The licensed civil or structural engineer shall provide a full report to the City of his or her conclusions, and the report may be considered in developing the Construction Management Plan. If other independent consultants or specialists are required by the City to review plans and monitor construction activity, they shall be retained at the Property Owner's cost. Before a neighbor agrees to an inspection, City will advise neighbors that the property inspection is necessarily a public record under the California Public Records Act. Within 45 days after the Certificate of Occupancy is issued on Property Owner's property, the same licensed civil or structural engineer chosen by the City (or a substitute licensed civil or structural engineer chosen by the City) shall inspect the same area initially inspected at 210 Crocker Avenue, and shall present to the City a Report detailing any evidence of apparent damage that has been or reasonably might have been caused by activities on the Property Owner's property. The Report may include text, photographs, diagrams, or other evidence that would document the apparent damage. The Report will become a public record and may be used in connection with private causes of action.

**22. 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).

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.

23. **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.

**24. California's Water Efficient Landscape Ordinance:** Property Owner shall comply with the requirements of California's Model Water Efficient Landscape Ordinance that went into effect December 1, 2015, by submitting the following required information to the Building Department:

a. Landscape Documentation Package that includes the following 6 items: i) Project Information; ii) Water Efficient Landscape Worksheet; iii) Soil Management Report; iv) Landscape Design Plan; v) Irrigation Design Plan; and vi) Grading Design Plan. The Landscape Documentation Package is subject to staff review and approval before the issuance of a building permit.

b. Once a building permit has been issued, the Property Owner shall submit a copy of the Water Efficient Landscape Worksheet, to the local water purveyor, East Bay Municipal Utility District.

c. After completion of work, the Property Owner shall submit to the City and East Bay Municipal Utility District a Certificate of Completion, including an irrigation schedule, an irrigation maintenance schedule, and an irrigation audit report. The City may approve or deny the Certificate of Completion.

A Frequently Asked Question document on the CA-WELO requirements is available at the Public Works Counter and on the City website at [www.ci.piedmont.ca.us](http://www.ci.piedmont.ca.us)).

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

#### **Agenda Adjustments**

Two agenda adjustments were discussed:

##### **Minor Amendment to Vesting Tentative Map 408 Linda Avenue**

Interim Planning Director Jackson announced that the application for a Minor Amendment to a Vesting Tentative Map at 408 Linda Avenue, which was listed on the initial agenda posted for this meeting, was withdrawn by the applicants and will not be heard by the Planning Commission.

##### **Variance and Design Review 575 Crofton Avenue**

Interim Planning Director Jackson reported that the applicants of 575 Crofton Avenue have requested to continue their application for variance and design review to the March 2016 Planning Commission hearing. Project Architect Grier Graff approached the podium to explain that the owner has chosen to continue the application so that the neighbor's concerns can be adequately heard.

**Resolution 6-PL-16**

RESOLVED, that the Planning Commission continues the consideration of the application for Variance and Design Review at 575 Crofton Avenue to the March 14, 2016, regular meeting.

Moved by Ode, Seconded by Behrens

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  
72 Oakmont Avenue**

The Property Owner is requesting permission to construct an approximately 59-square-foot addition on the southeast corner of the main floor and to make modifications to several windows and doors throughout the house. Two variances are required in order to exceed the structure coverage and floor area ratio limits.

Written notice was provided to neighbors. **Five affirmative response forms** were received. **Correspondence** was received from: Michael and Melanie Layman, Colesie Sterling, James and Suzanne Soper, and Dennis Barton.

**Public testimony** was received from:

Robert Kelly, Project Architect, explained that the existing house does not have a bathroom on the main floor and that there is no reasonable place to add a half bathroom without an addition. He stated that he had designed the addition to be as small as possible, so as to minimize the increase in structure coverage and floor area ratio. He explained that a small hallway was included to add privacy between the new bathroom and the breakfast room. For comparison, Mr. Kelly also reported on the number of bathrooms in neighboring houses. In response to questions from the Commission, Mr. Kelly discussed how the addition might impact vehicular access to on-site parking. He stated that the addition should allow ample clearance for cars, despite the addition of decorative corbels.

Ellin Firth, homeowner, spoke briefly to explain why she is proposing to add a half bathroom to the main floor of her house.

The Commissioners were generally in favor of the proposal, citing its architectural consistency and minimal increase in structure coverage. However, they expressed concern for the impact that the project might have on vehicular access to existing on-site parking. In response to the discussion, Assistant Planner Alvarez clarified that the vertical clearance that will remain beneath the cantilevered addition is proposed to be 7 feet, and Interim Planning Director Jackson clarified that Chapter 17 of the Municipal Code does not list a requirement on vertical automobile clearance. Given the information presented, the Commissioners unanimously agreed that their concerns would be adequately addressed with a condition of approval requiring the cantilevered addition to meet all building code requirements for vertical vehicular clearance.

**Resolution 411-V/DR-15**

WHEREAS, the Property Owner is requesting permission to construct an approximately 59-square-foot addition on the southeast corner of the main floor and to make modifications to several windows and doors throughout the house,

located at 72 Oakmont Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, two variances from the requirements of Chapter 17 of the Piedmont City Code are necessary to exceed the structure coverage and floor area ratio limits; 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 topography and small lot size, so that strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone which conform to the zoning requirements.
2. The variance is compatible with the immediately surrounding neighborhood and the public welfare, because the proposed addition is very small and is located at the rear corner of the property, away from the public way. The addition of a half bath brings the total bathroom count in the house to two-and-a-half, which is similar to or less than the number of bathrooms in neighboring homes.
3. Accomplishing the improvements without variance would cause unreasonable hardship in planning, design, or construction, because the existing first floor plan does not accommodate an expansion in other areas due to the location of the house relative to the property lines and the site slope.

WHEREAS, with regard to design review, the Planning Commission finds that 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 small half bath addition and the door and window modifications.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because the addition is small and located at the rear corner of the property, and it does not significantly affect views or privacy. The addition matches existing architectural elements of the main house, including arches, windows and corbels.
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, as conditioned, the existing driveway access is preserved.

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-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 variance and design review application for proposed construction at 72 Oakmont 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. **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. **Notice of Restricted Use.** The three rooms labeled "Storage" and the laundry room located within the basement level do 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.

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

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

a. The Construction Completion Schedule with associated construction values for each benchmark shall set forth completion dates for the following benchmarks: i) Completion of Excavation; ii) Completion of Retaining Walls; iii) Completion of Foundation; iv) Completion of Rough Framing; v) Completion of Electrical; vi) Completion of Plumbing; vii) Completion of Mechanical; viii) Completion of Fire Sprinklers; ix) Completion of Home; x) Completion of Hardscaping and Landscaping; and 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.

7. **Vehicular Access.** Access to the parking pad of the former garage located at the rear corner of the property shall remain intact, and the vertical clearance below the overhang of the addition shall conform to any building code requirements for vertical vehicular clearance along driveways.

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

**Design Review  
126 Hillside Avenue**

The Property Owner is requesting permission to remove a portion of the house at the rear and to construct a new 426-square-foot, two-story addition; make modifications to the front entry stair; remove and rebuild the rear deck and trellis with a new outdoor kitchen, fire pit, and television; and make modifications to windows, doors, and exterior lighting throughout the house.

Written notice was provided to neighbors. **Three affirmative response forms** were received. **Correspondence** was received from: Ryan and Nicki Gilbert.

**Public testimony** was received from:

April Gruber, Project Designer, described the project and explained that an existing incompatible former addition and an unsightly garden shed are proposed to be removed and replaced with a new addition that is consistent with the original architecture of the house. In response to questions from the Commission, Ms. Gruber explained that several existing windows are proposed to be removed to increase privacy to the neighbor, but that these original windows might be reused on the east elevation if they remain in good condition. She also explained that the existing eave currently extends over the property line, and that the new addition has been pulled away from the property line. Ms. Gruber also clarified the proposed railing design on the entry stairs.



The Commissioners were generally in support of the project and complimented the designer on an architecturally consistent design that unifies the house. The Commissioners were pleased to see certain existing features removed, such as the existing eave that encroaches over the property line and the architecturally-inconsistent, former addition. Commissioner Ode, however, expressed some concern for the noise generated by the proposed outdoor television. Interim Planning Director Jackson explained how noise emanating from mechanical equipment is regulated by the building code. The Commissioners discussed adding two conditions of approval to assure compliance with the building code and to allow flexibility with the reuse of the existing windows.

**Resolution 2-DR-16**

WHEREAS, the Property Owner is requesting permission to remove a portion of the house at the rear and to construct a new 426-square-foot, two-story addition; make modifications to the front entry stair; remove and rebuild the rear deck and trellis with a new outdoor kitchen, fire pit, and television; and make modifications to windows, doors, and exterior lighting throughout the house, located at 126 Hillside 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 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 former flat-roof addition is proposed to be replaced by a new addition with a roof slope that matches the roof slope of the existing house. The proposed design is well proportioned and preserves the character of the house. The proposed addition does not have a tacked-on appearance and replaces an incompatible former addition.

2. The proposed addition has been designed in a way that reasonably minimizes view and light impacts on neighboring properties, because the new addition has been pulled back from the property line where the roof currently overhangs the property line; the proposal removes part of the second floor and increases the sense of privacy; and the new windows will increase privacy and maintain neighbors' access to light.

3. The size and height of the addition is commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and is in keeping with the existing neighborhood development pattern, because it is typical of the overall proportions of neighboring properties.

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 appropriate access on the site, and the project does not interfere with the safety of residents or vehicular traffic.

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-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 Hillside Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

2. **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. **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 west 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.

4. **Setback from Property Line Verification.** Prior to framing 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.

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

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).

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.

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

a. The Construction Completion Schedule with associated construction values for each benchmark shall set forth completion dates for the following benchmarks: i) Completion of Excavation; ii) Completion of Retaining Walls; iii) Completion of Foundation; iv) Completion of Rough Framing; v) Completion of Electrical; vi) Completion of Plumbing; vii) Completion of Mechanical; viii) Completion of Fire Sprinklers; ix) Completion of Home; x) Completion of Hardscaping and Landscaping; and 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.

7. **Window Reuse.** If it becomes possible to reuse the existing windows slated for removal, such a proposal shall be subject to staff review and approval.

8. **Mechanical Noise.** Noise from the proposed outdoor television shall comply with building code requirements for mechanical noise as outlined in Section 5.2.28 of the Municipal Code.

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

**Future Agenda Item**

Interim Planning Director Jackson informed the Commission that the City is beginning a process to revise Chapter 17 of the Municipal Code and the City's Design Review Guidelines. He explained that Planning Staff will be presenting these revisions during subsequent Commission hearings.

**2015 Design Awards**

Chairman Theophilos announced that the Commission would continue its meeting in the Conference Room and consider nominations for the City's Design Awards. The Commission met in the City Hall Conference Room to review those projects nominated for the Commission's 2015 Design Awards. Presentation of the awards will be made at the March 14, 2016, Planning Commission meeting immediately following a reception held at City Hall to honor all award recipients. The Commission selected the following award recipients:

Excellent Landscape Remodel	800 Blair Avenue
Excellent Comprehensive Remodel and Addition	331 Hillside Avenue
Excellence in a Seamless Addition	311 Sheridan Avenue
Excellent Indoor/Outdoor Living Space	536 Magnolia Avenue
Excellent Attached Second Unit	50 Woodland Way
Excellent Detached Second Unit	331 Hillside Avenue
Excellence in Storybook Architecture	4 Lexford Road

**ADJOURNMENT**

Chairman Theophilos adjourned the Regular Session of the meeting at 7:15 p.m.