

## PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, July 11, 2016

A Regular Session of the Piedmont Planning Commission was held July 11, 2016, in the City Hall Council Chambers at 120 Vista Avenue. In accordance with Government Code Section 54954.2(a) the agenda for this meeting was posted for public inspection on June 27, 2016.

### CALL TO ORDER

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

### ROLL CALL

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

Absent: Commissioners Tom Ramsey and Tom Zhang (both excused)

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

Council Liaison: Councilmember Tim Rood

### ANNOUNCEMENTS

Chairman Behrens spoke in memory of Marietta Blessent, Public Works Administrative Assistant who recently passed away, and called for a moment of silence within the Chambers.

### 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 Behrens suggested that the June 13, 2016, meeting minutes be amended with regard to 415 Moraga Avenue to make note that neither the property owner nor any representatives appeared at the meeting to discuss the project or answer any Commissioners' questions. He also asked Staff to correct a minor spelling error on the first page of the minutes.

#### **Resolution 20-PL-16**

RESOLVED, that the Planning Commission approves as amended its meeting minutes of the June 13, 2016, regular hearing of the Planning Commission.

Moved by Theophilos, Seconded by Jajodia

Ayes: Behrens, Jajodia, Theophilos

Noes: None

Recused: Ode

Absent: Ramsey, Zhang

### Consent Calendar

The Commission placed the following applications on the Consent Calendar:

- 1133 Winsor Avenue (Design Review)
- 155 Hagar Avenue (Variance and Design Review)

#### **Resolution 21-PL-16**

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

Moved by Theophilos, Seconded by Ode

Ayes: Behrens, Jajodia, Ode, Theophilos

Noes: None

Recused:  
Absent: Ramsey, Zhang

Subsequent to acting on the Regular Calendar, the following Resolutions were approved under the Consent Calendar:

**Design Review  
1133 Winsor Avenue**

**Resolution 197-DR-16**

WHEREAS, the Property Owner is requesting permission to demolish the existing 69-square-foot, ground-floor deck in the rear (northwest) of the home and to construct a new 296-square-foot deck; to remove two windows and install a double door leading to the deck; to replace non-compliant railings; and to install outdoor lighting located at 1133 Winsor 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 scale, features, and finishes are consistent with the existing property, immediate neighbors, and neighborhood.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because the design will have no negative effect on neighboring properties' views, privacy or access to light.
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 design will not adversely affect safety or free flow of residents, pedestrians, or vehicular traffic.
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 1133 Winsor Avenue Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Door Material.** As specified in the plans, the building material for the new doors shall be wood.
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. **Handrail.** A new handrail shall be required on the new concrete stairs in the right side yard subject to staff review and approval.

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

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

6. **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.

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

**Variance and  
Design Review  
155 Hagar Avenue**

**Resolution 200-V/DR-16**

WHEREAS, the Property Owner is requesting permission to construct an enclosed entryway with two skylights on the right (east) elevation; to construct a covered walkway from the existing carport to the proposed entryway; to construct a trellis and install a new door and railing at the existing left (west) roof deck; and to install exterior lighting at the new doors, located at 155 Hagar Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is required in order to construct within the right (east) 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 siting of the house on the property. A variance is required in order to create the walkway entrance.
2. The variance is compatible with the immediately surrounding neighborhood and the public welfare, because others in the neighborhood have covered entrances, and the walkway is located at the center of the lot where it is not readily visible from other houses.
3. Accomplishing the improvements without variance would cause unreasonable hardship in planning, design, or construction, because there is no other way to accomplish a covered entrance into the front door.

WHEREAS, with regard to design review, the Planning Commission finds that 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 roof deck, entryway, walkway and adjacent residences is reasonable and appropriate due to the existing topography and neighborhood development pattern. Upper level setbacks greater than the setbacks required for the lower level have been considered and are not necessary to reduce losses of ambient and reflected light, because there is no loss of ambient and reflected light. The design provides a better sense of entry into the house and meets the City's design guidelines that promote celebrating the entrance. The breaks in the façade add interest. The general design of the entryway is an improvement and is in keeping with the design of the house and carport.
2. The proposed roof deck, entryway, and walkway have been designed in a way that reasonably minimizes view and light impacts on neighboring properties, because there is no negative impact, and the trellis is below the existing roof line.
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 trellis is set back 74 feet from the front, blends into the property, and accentuates the entry into the building.
4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. The existing or proposed on-site parking is appropriate to the size of the new addition, and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood, because there is no change, and therefore no negative impact.
5. The project complies with Design Review Guidelines II-1, II-2, II-3(a), II-3(b), II-3(c), II-3(d), II-5, II-5(a), II-6, II-6(a), II-6(b), II-6(c), II-7, II-7(a), 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.

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

1. **Door Material.** As specified in the plans, the building material for the new doors shall be wood or aluminum-clad wood.
2. **Roof Color.** The proposed flat roof of the entryway and walkway shall be a non-reflective medium or dark color to minimize the visual impact on upslope properties.
3. **Skylight Flashing.** The metal flashing around the new skylight(s) shall be painted to match the adjacent roof color.
4. **C&D Compliance.** Compliance with Chapter 9 Article III of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project.
5. **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.
6. **Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.
7. **Setback from Property Line Verification.** Prior to 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 property line as shown on the approved plans. The intent is to verify that the approved features are constructed at the approved dimension from the property line.
8. **Construction Management Plan.** The Property Owner shall develop a comprehensive Construction Management Plan. The Construction Management Plan shall address noise, vibrations, traffic control, parking, debris removal, dust control, sanitary facilities, site safety security and other potential construction impacts, as well as other details involving the means and methods of completing the Project, including the construction route. The City Building Official has the authority to require modifications and amendments to the Construction Management Plan as deemed necessary throughout the course of the Project and until the Final Inspection.
9. **Construction Completion Schedule.** Work on the Project, once begun, shall be promptly executed with continuous good faith and reasonable progress. Since timely completion of this Project is of the essence, the Property Owner shall submit for approval a Construction Completion Schedule, which will specify, in detail, the duration and percentage complete of each phase.

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

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

### Regular Calendar

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

#### Design Review 108 Moraga Avenue

The Property Owner is requesting permission to remodel and expand the existing 1,004-square-foot, 2-bedroom house by 1,465 square feet through the following alterations: the demolition of the existing garage and workshop; the excavation for and construction of a new 2-car garage with roof deck atop in the west side yard; the construction of a rear and second-story addition with front balconies; window, door, garage door, skylight and exterior lighting modifications; various changes to the interior resulting in a 4-bedroom, 3-bath house with a family room and study; and hardscape and landscape changes throughout the property including a widened driveway and curb cut, and the replacement of the circular drive with a reconfigured front entry path.

Written notice was provided to neighbors. **One affirmative response form, four negative response forms, and one response form indicating no position** were received. **Correspondence** was received from: David and Colleen Nickles; Rebekah and Tai Owen; and Charles Constanti and Erica Benson.

**Public testimony** was received from:

Lise Thogersen, project designer, described the new second-story addition and stated that no variances are required for the proposed design. She reviewed other design alternatives that were considered, including excavating the basement, adding to the front of the house, and filling in the existing courtyard; but she argued that these alternatives were not feasible due to the topography, existing front-yard setback, and existing architectural character of the house, respectively. Ms. Thogersen also spoke at length about the neighbors' concerns for the project. She argued that the 21 feet between the proposed project and the rear neighbor is sufficient, since the neighboring rear yard is more comparable to a side yard and that screening trees would be added. She described changes made to the design to address concerns of the uphill neighbor, including pushing back the balconies to preserve light and views, and modifying the windows to preserve privacy. Ms. Thogersen reported on other similar-sized houses in the vicinity and maintained that the proposal was not setting a new precedent for the neighborhood.

Linda Chandler and S.D.B. Talwatte, homeowners, spoke to emphasize their desire to minimize the impact of their project on the adjacent neighbors. In response to a question from Commissioner Ode, they reported on the conversations they had had with the neighbors.

Charles Constanti, neighbor at 115 Ronada Avenue, spoke in opposition to the proposed project. He explained that the applicants have been receptive to some of his concerns, but that the large addition would eliminate light in his backyard and impact views from his house. Mr. Constanti suggested that the applicants consider expanding the house through excavation or by adding to the front of the house. In response to a question from Commissioner Ode, Mr. Constanti stated that his house has three bedrooms.

The Commission was unanimous in its opposition to the project as proposed. The Commissioners commented on the merit of the design and expressed appreciation for the applicants' willingness to consider the neighbors' concerns. However, the Commissioners agreed that the project as proposed would have a significant impact on neighboring properties' views, light and privacy. They emphasized that the project is too ambitious in light of the neighborhood context. Commissioner Jajodia noted that the shadow cast by the addition would cover the rear yard at 115 Ronada Avenue. The Commissioners suggested that the applicants reduce the scope and bulk of the project to ameliorate the impacts on the neighbors. They agreed that an addition at the front of the property, especially one that impacts the existing courtyard or the views of uphill neighbors, would likely not be favorable. Commissioner Theophilus suggested that a project with three bedrooms and a family room might be more tenable.

**Resolution 117-DR-16**

WHEREAS, the Property Owner is requesting permission to remodel and expand the existing 1,004-square-foot, 2-bedroom house by 1,465 square feet through the following alterations: the demolition of the existing garage and workshop; the excavation for and construction of a new 2-car garage with roof deck atop in the west side yard; the construction of a rear and second-story addition with front balconies; window, door, garage door, skylight and exterior lighting modifications; various changes to the interior resulting in a 4-bedroom, 3-bath house with a family room and study; and hardscape and landscape changes throughout the property including a widened driveway and curb cut, and the replacement of the circular drive with a reconfigured front entry path, located at 108 Moraga 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 currently proposed project does not conform with the criteria and standards of Section 17.20.9(b) of the Piedmont City Code:

1. The exterior design elements are not harmonious with the existing topography and neighborhood development pattern, in that the distance between the addition and adjacent residences is not reasonable. Upper level setbacks greater than the setbacks required for the lower level have been considered and may be necessary to reduce losses of ambient and reflected light.
2. The proposal negatively impacts the light, views and privacy of the rear and uphill neighbors, as well as other adjacent neighbors.
3. The size and height of the addition are not commensurate with the size of the lot, given the bulk and position of the addition in comparison to other houses in the neighborhood.
4. The safety of residents is not impacted by the project.
5. The project does not comply with Design Review Guidelines II-1, II-2, II-3(a), II-3(b), II-3(c), II-3(d), II-4, II-5(a), II-5(b), II-5(c), II-6(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 denies without prejudice the design review application for proposed construction at 108 Moraga Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

**Design Review  
308 Pala Avenue**

The Property Owner is requesting permission to make modifications to the interior and exterior of the home including to convert the existing garage into living space; construct a new carport/upper level patio and reconfigure the stair at the front of the property; and to make modifications to windows, doors, and exterior lighting throughout the house.



Written notice was provided to neighbors. **Three affirmative response forms** were received.

**Public testimony** was received from:

Tracy Anthony, the applicants' representative, described the proposed addition and carport. In response to questions from Commissioner Jajodia, Mr. Anthony commented on the engineering and framing required for the cantilevered patio, described the exterior finishes, clarified the operability of patio doors, and stated that the proposed wrought iron railing will be similar in design to the existing railings on the house. He indicated that the intent is to preserve the timeless feel of the existing house.

The Commission was unanimous in its support of the project. Commissioner Jajodia indicated that Mr. Anthony adequately addressed her questions, and Commissioner Behrens stated that he appreciates the preservation of the existing house design.

**Resolution 156-DR-16**

WHEREAS, the Property Owner is requesting permission to make modifications to the interior and exterior of the home including to convert the existing garage into living space; construct a new carport/upper level patio and reconfigure the stair at the front of the property; and to make modifications to windows, doors, and exterior lighting throughout the house located at 308 Pala 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 patio/carport and adjacent residences is reasonable and appropriate due to the existing topography and neighborhood development pattern. The proposed addition utilizes similar finishes as the existing home, namely custom wood windows, stucco, natural stone, and wrought iron rails appropriate to and similar to the style of the existing home.
2. The proposed upper level patio/carport has been designed in a way that reasonably minimizes view and light impacts on neighboring properties, because the terrace is adjacent to the home and centered on the property, well away from the adjacent property on the south side; and a row of vegetation screens the addition from the neighbors. The proposed addition does not significantly impact the neighbors.
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 terrace and rail are well below the existing roof and main floor walls. The

terrace is framed on both sides by the residence, keeping it in scale with the existing structure.

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 upper level patio/carport, and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood. There are no adverse impacts, since the driveway is unchanged and the carport is well within the limits of the existing building.

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-5, 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 design review application for proposed construction at 308 Pala Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

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. **Divided Lites.** The new windows shall have true or three-dimensional simulated divided lites.

5. **Storage Door.** If the door at the storage area underneath the front stair needs to be replaced, such modification shall be subject to Staff review and approval.

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. **Carport Size.** During framing inspection the Chief Building Official shall confirm that the new carport has a minimum dimension of 18 feet wide by 20 feet deep.

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

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

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

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

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

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

**Variance and  
Design Review  
268 La Salle Avenue**

The Property Owner is requesting permission to demolish the existing garage and rebuild a three-car garage in the western corner of the lot, including a bathroom and basement storage area; to construct a new, widened driveway; and to construct various site improvements on all sides of the proposed garage, including retaining walls, stairs, planting areas, patios, walkways, handrails, and exterior lighting. A variance is required in order to construct within the rear (south) side setback.

Written notice was provided to neighbors. **Correspondence** was received from: Tamra Hege.

**Public testimony** was received from:

Tim Wooster, project designer, explained the challenges with the existing garage, including its location within the front and side setbacks and its elevation, which makes vehicular access difficult and unsafe. He explained that the application proposes to relocate the garage outside of the front-yard setback, increase the side yard setback slightly, and raise the elevation of the garage floor. He maintained that the side yard variance is appropriate given the shape of the property and the neighborhood context, and he pointed out that the applicant owns the adjacent parcel with frontage on Florada Avenue, as well. Mr. Wooster explained that the proposed bathroom is meant to serve a pool that the applicants hope to add in the future. He also responded to the neighbors' concerns about the garbage cans that had been left on the street by the prior owners, and indicated that the applicants are open to finding a better, more screened location for the garbage. Mr. Wooster responded to questions from the Commission about the basement space beneath the garage and the oak tree that will be removed as part of the project. He also discussed the condition of the sidewalk along the Florada Avenue frontage, and he indicated that the applicants are open to performing a sidewalk inspection on this adjoining parcel and the parcel on which the house is located. In response to a question from Commissioner Behrens about a new gate, Mr. Wooster explained that he had removed the relocation of the wall and gate from the proposal, so that it could be properly reviewed.

Jim Morris, homeowner, stated that he had just moved into the house and that the property required some updating. He indicated that he would be applying in the future to improve the landscape.

Walter Yep, neighbor at 111 Florada Avenue, discussed the applicants' garbage cans, which he said had been left on the street for quite a while. He suggested that the applicants find a better place to store their garbage cans.

The Commission was unanimously in support of the project. Commissioner Behrens suggested that the approval of the project include a condition allowing the applicants to propose a relocated wall and gate for review and approval by Staff. The Commission discussed the sidewalk along the Florada Avenue frontage of the adjoining parcel and asked Staff about the sidewalk inspection requirements. Interim Planning Director Jackson explained that the intent of the sidewalk inspection is to assure that the sidewalk complies with the Americans with Disabilities Act (ADA) and the City's Pedestrian and Bicycle Master Plan. Commissioner Theophilos suggested that the Commission require a sidewalk inspection of the adjoining Florada Avenue parcel in addition to the one already required for 268 La Salle Avenue.

**Resolution 199-V/DR-16**

WHEREAS, the Property Owner is requesting permission to demolish the existing garage and rebuild a three-car garage in the western corner of the lot, including a bathroom and basement storage area; to construct a new, widened driveway; and to construct various site improvements on all sides of the proposed garage, including retaining walls, stairs, planting areas, patios, walkways, handrails, and exterior lighting, located at 268 La Salle Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is required in order to construct within the rear (south) 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 existing garage, which will be demolished, sits within the front setback by one foot and the side yard setback by over two feet. The proposal moves the garage so that it conforms with the front yard setback and reduces the side yard encroachment.
2. The variance is compatible with the immediately surrounding neighborhood and the public welfare, because the irregular "pinched" proportions of this corner lot make locating the three car garage optimal as proposed. Effectively the garage is well positioned relative to other structures on the street.
3. Accomplishing the improvements without variance would cause unreasonable hardship in planning, design, or construction. If the proposed structure were shifted along both setback restraints, the garage would obstruct the main views and the built landscapes. The proposal improves upon the existing non-conforming garage.

WHEREAS, with regard to design review, the Planning Commission finds that 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. These elements include but are not limited to: height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment. The distance between the 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. The proposed structure borrows material, color, details and form from the existing garage and the remaining original residence. The project has no impact on neighboring properties.

2. The proposed garage has been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.77), including consideration of the location of the new construction, lowering the height of the addition, expansions within the existing building envelope (with or without excavation), lower level excavation for new multi-level structures, and/or changing the roof slope or ridge direction. The second-story addition is in actuality below the garage level. From the street, the structure appears to be a single-story building. The lower level is below grade on three sides.

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 proposed ridge is less than seven feet higher than the existing ridge of the garage.

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. In accordance with Sections 17.16.1 and 17.22.1, the existing or proposed on-site parking is appropriate to the size of the new multi-level structure, and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood. The proposed driveway and garage are big improvements over the existing. The proposal creates a wider, easier driveway to enable safe turnaround for drivers to pull out driving forwards. The proposed level driveway creates better visibility for pedestrians and drivers.

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-5, II-5(a), 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), 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.

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 268 La Salle Avenue, Piedmont,

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

1. **Approved Plan Set.** The approved plans are those submitted on July 5, 2016, after notices to neighbors were mailed and the application was available for public review.

2. **Project Scope.** No new retaining walls over 30 inches in height, walls, fences, or gates or modifications to existing walls that are located within the 20-foot street setback have been approved under this application.

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

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

5. **Divided Lights.** The windows on the garage shall have either true or 3-dimensional simulated divided lights.

6. **Garage Door.** The garage doors shall be motorized. If design modifications are required to accomplish this, those modifications shall be subject to staff review.

7. **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.

8. **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).

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 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 level and roof of the new structure are constructed at the approved height above grade.

**14. Notice of Restricted Use.** The basement storage and potting shed 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.

**15. 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).

**16. 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.

17. **Gate and Wall.** A gate and wall connecting the existing wall with the new garage shall be subject to staff review and approval.

18. **Sidewalk Inspection.** The applicants shall apply for a sidewalk inspection for both 268 La Salle Avenue and the adjoining property with frontage on Florada Avenue.

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

The Commission recessed for dinner at 6:11 p.m. and reconvened at 6:46 p.m.

**City Code Chapter 17  
Modifications**

Interim 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 City Charter calls for single-family dwellings to be a principal use in all five zones of the City Code, including the public facilities zone and multi-family zone. He then went through the proposed revisions to the uses and regulations of Zones B, C, and E, and he fielded questions and gathered feedback from the Commissioners, as included below under the headings for each topic.

**Correspondence** was received from: Garrett Keating, and Rick Schiller.

**Public testimony** was received from:

Rick Schiller, Piedmont resident, spoke about the proposed revision to allow for-profit uses within Zone B. He argued that this Code revision is a fundamental change in the use of Zone B and should be considered a reclassification, approval of which would require a City-wide vote. He stated that certain for-profit businesses, such as a beverage stand at the Piedmont Center for the Arts, would serve Piedmont residents and would be appropriate for Zone B. He was not in favor of other suggested for-profit uses in Zone B, namely newspapers, which, he argued, are political and partisan by nature and are not an appropriate use of public property. Mr. Schiller discussed his beliefs about the bias of the Piedmont Post, in particular, and stated that use of public property for such a business would violate the first amendment rights of those who do not agree with the Post. He maintained that the City must remain neutral to have a good and transparent government. Mr. Schiller recommended that Commissioner Theophilos' suggestion to limit non-profit institutions in Zone B to those that are community-serving and non-political be extended to for-profit businesses in Zone B.

Dimitri Magganas, Piedmont resident, thanked the Staff and Commissioners for their work with the Chapter 17 revisions. He also discussed the parking requirements, which he stated are out of date and not conducive to Piedmont's 21<sup>st</sup> century, urban context.

#### **Revisions to Zone B Uses**

Interim Planning Director Jackson stated that Zone B regulates development of public facilities and consists mainly of municipal buildings, city parks, the corporation yard, and the public schools. He outlined the following revisions proposed for Zone B Uses:

- **Clean up City building language in bullet B**  
Simplify the language of the permitted uses in bullet B to read something like "City Building used by a governmental agency or non-profit entity as allowed by the City," so that specific buildings are not mentioned.
- **Include public schools as a principal use**
- **Eliminate church or private school as a conditional use**  
There are currently no private schools or churches in Zone B, and such uses are more appropriate in zones with non-governmental uses.
- **Include wireless communication facilities as a conditional use**
- **Include for-profit entity as a conditional use**  
For-profit uses would require a Conditional Use Permit (CUP) that would be reviewed at public hearings by the Planning Commission and City Council. The City, as property owner, would submit the CUP application on behalf of the business. Allowing for-profit entities within otherwise unused Zone B spaces could be a revenue source for the City and help to fund Community programs. Allowing for-profit entities could also permit such uses as a concession stand at the aquatics center.

In response to questions from the Commission, Interim Planning Director Jackson clarified which parcels within the City are within Zone B and reported that all existing religious institutions are within Zone A. He also clarified the meaning of a zoning reclassification and stated that the City Attorney has reviewed the proposed Code revisions and determined that they do not constitute a zoning reclassification. Commissioner Ode asked about community programs such as a teen or senior center, and she spoke in support of allowing for-profit

businesses as a conditional use within Zone B, given the potential revenue source for the City.

The Commission unanimously directed Staff to move forward with the above modifications related to Zone B Uses. Commissioner Theophilos recommended that language be added to clarify that non-profit institutions in Zone B be community-serving, non-political and secular.

**Revisions to Zone B Regulations**

Interim Planning Director Jackson outlined the following revisions proposed for Zone B Regulations:

- **Eliminate regulations for building height and setbacks**  
Zone B offers flexibility to the City and the schools to provide facilities that serve the public. For this reason, Zone B currently has no regulations related to lot area, lot frontage, lot coverage or floor area. Eliminating regulations for building height and setbacks is consistent with other jurisdictions.
- **Relocate the Green Building Regulations to Chapter 5**
- **Relocate the Bay-Friendly Landscaping Regulations to Chapter 3**

Commissioner Behrens initially expressed concern that eliminating the building height limit in Zone B could allow for exceptionally tall buildings. Interim Planning Director Jackson pointed out that building projects would still go through the City Council and allow for public input.

The Commission unanimously directed Staff to move forward with the above modifications related to Zone B Regulations.

**Revisions to Zone C Uses**

Interim Planning Director Jackson stated that Zone C is established for multi-family dwellings and includes a cluster of 16 parcels near the Oakland Avenue Bridge and 9 parcels scattered among Zone A parcels in the western half of the city. He outlined the following revisions proposed for Zone C Uses:

- **Eliminate churches and private schools from conditional uses**  
There are no existing private schools or churches in Zone C. By not allowing private schools and churches in Zone C, the City would reserve the zone for residential use and remove a barrier to new housing.
- **Include wireless communication facilities as a conditional use**  
There are no existing wireless communication facilities in Zone C. Allowing wireless communication facilities as a conditional use in Zone C would better serve the higher density of wireless users in multi-family areas. New wireless communication facilities would be located within the public right-of-way and on properties not used for residential purposes. The facilities would also be subject to a Wireless Communications Facility Permit, which will be discussed at a later date as part of the ongoing code-revision project.

The Commission unanimously directed Staff to move forward with the above modifications related to Zone C Uses.

**Revisions to Zone C Regulations**

Interim Planning Director Jackson noted that during the discussion of regulations for Zone A, the single-family zone, the Commission directed staff to make several revisions. He explained that because Zone C is enmeshed with Zone A, staff recommends the same revisions for Zone C, as follows:

- **Clean-up the lot coverage language to eliminate text regarding pools, walls, racks, eaves and such**
- **Replace the hardscape maximum with a landscape minimum**
- **Change side and rear setback requirements to 5 feet**
- **Permit Accessory Structures to be located anywhere within side and rear setbacks with limitations**
- **Permit Site Features anywhere on lot with limitations**

In response to questions from the Commission, Interim Planning Director Jackson clarified that the limitations on Accessory Structures allow only non-habitable Accessory Structures to be located within the setbacks.

The Commission unanimously directed Staff to move forward with the above modifications related to Zone C Regulations.

**Revisions to Zone E Uses**

Interim Planning Director Jackson explained that Zone E is a single-family residential estate zone. He outlined the following revisions proposed for Zone E Uses, which are similar to those recommended for Zones A and C:

- **Eliminate churches and private schools from conditional uses**
- **Include wireless communication facilities as a conditional use**  
New wireless communication facilities would be located within the public right-of-way.

The Commission unanimously directed Staff to move forward with the above modifications related to Zone E Uses.

**Revisions to Zone E Regulations**

Interim Planning Director Jackson outlined the following revisions proposed for Zone E Regulations:

- **Clean-up the lot coverage language to eliminate text regarding pools, walls, racks, eaves and such**
- **Replace the hardscape maximum with a landscape minimum**
- **Change side and rear setback requirements to garages and carports to 5 feet**  
Currently, garages and carports have a four-foot setback in Zone E. This revision would change the setback for carports and garages to five feet, to coincide with the change in measuring setbacks to walls. The 20-foot setback that currently exists around the whole property will remain.
- **Permit Accessory Structures to be located anywhere within side and rear setbacks with limitations**
- **Permit Site Features anywhere on lot with limitations**

In response to a question from Commissioner Theophilos, Interim Planning Director Jackson clarified that the limitations on Accessory Structures allow only non-habitable Accessory Structures, such as storage sheds and

greenhouses, to be located within the setbacks. He explained that Secondary Structures (proposed to be renamed Site Features) include trellises, barbecues, hot tubs and other incidental structures. Commissioner Theophilos voiced his concern for including Accessory Structures and Secondary Structures in the setbacks. Commissioner Ode pointed out that these structures would still be subject to design review, and Interim Planning Director Jackson noted that the Commission has consistently approved these types of structures within the 20-foot setback of Zone E.

Despite concerns voiced by Commissioner Theophilos, the Commission unanimously directed Staff to move forward with the above modifications related to Zone E Regulations.

**Future Discussions**

Interim Planning Director Jackson announced that the next discussion of the Chapter 17 revisions will be held during a special meeting of the Commission on Tuesday, July 26, 2016, from 5:30 to 7:30 p.m. in the Council Chambers. He noted that subsequent discussions are planned for the regular Commission meeting on August 8, 2016, and a special meeting on Tuesday, August 30, 2016.

Following a question from Commissioner Jajodia about what homebuyers are told about the possibility of expanding a small house in Piedmont, the Commission discussed the challenge of preserving small houses. Interim Planning Director Jackson stated that homebuyers generally learn the challenges through their own due diligence and talking with a Piedmont planner. He noted that Chapter 17 recommends that variances not be granted for home expansions for small houses. The Commission discussed the influence of this recommendation and alternate solutions.

In response to question from Commissioner Behrens, Interim Planning Director Jackson reported that the City Attorney is included on all correspondence related to the proposed Chapter 17 revisions. He explained that the direction given by the Commission is being incorporated into a revised draft of Chapter 17, which will be presented to the Commission when it is completed.

**ADJOURNMENT**

There being no further business, Chairman Behrens adjourned the meeting at 7:40 p.m.