

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, June 13, 2016

A Regular Session of the Piedmont Planning Commission was held June 13, 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 May 27, 2016.

CALL TO ORDER

Chairman Behrens called the meeting to order at 5:01 p.m.

ROLL CALL

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

Absent: Commissioner Susan Ode (excused)

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

Council Liaison: Councilmember Tim Rood

PUBLIC FORUM

There were no speakers for the public forum.

REGULAR SESSION

The Commission considered the following items of regular business:

Approval of Minutes

Resolution 15-PL-16

RESOLVED, that the Planning Commission approves as submitted its meeting minutes of the May 9, 2016, regular hearing of the Planning Commission.

Moved by Theophilos, Seconded by Ramsey

Ayes: Behrens, Jajodia, Ramsey, Theophilos

Noes: None

Recused: Zhang

Absent: Ode

Consent Calendar

The Commission placed the following applications on the Consent Calendar and added Condition #7 to the approval of 65 Crocker Avenue:

- 1345 Grand Avenue (Conditional Use Permit)
- 65 Crocker Avenue (Design Review)
- 161 Bell Avenue (Design Review and Fence Design Review)
- 210 Ricardo Avenue (Staff Design Review and Retaining Wall Review)
- 132 Hillside Avenue (Design Review)
- 360 Hampton Road (Fence Design Review)

Chairman Behrens commended the applicants of 132 Hillside for embracing the Planning process and considering all of the Commission's recommendations in their revised project.

Resolution 16-PL-16

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

Moved by Zhang, Seconded by Theophilos

Ayes: Behrens, Jajodia, Ramsey, Theophilos, Zhang

Noes: None

Recused:
Absent: Ode

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

**Conditional Use Permit
1345 Grand Avenue**

Resolution 102-CUP-16

WHEREAS, Raminder S. Dosanjh, Piedmont Physical Therapy and Pilates, is requesting a Conditional Use Permit for a new physical therapy and Pilates office at the existing commercial building at 1345 Grand Avenue, Suite 101, Piedmont, California; and

WHEREAS, the Piedmont Planning Commission has reviewed the application, the staff report, and any and all other documentation and testimony submitted in connection with the application and has visited the subject property; the Piedmont Planning Commission recommends 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 17.24.7 of the Piedmont City Code:

1. The proposed use is compatible with the General Plan and conforms to the zoning code.
2. The use is primarily intended to serve Piedmont residents (rather than the larger region), because many residents of Piedmont require physical therapy or Pilates for purposes of stretching and general health, and typically the larger region has its own physical therapy and exercise facilities.
3. The use will not have a material adverse effect on the health, safety or welfare of persons residing or working in the vicinity. Considerations for this finding include no substantial increase in traffic, parking needs or noise; no adverse effect on the character of the neighborhood; and no tendency to adversely affect surrounding property values. The nature of the facility is not one that draws large numbers of people at any particular time, so it should have no adverse affect on traffic, parking, noise, or the character of the neighborhood.

RESOLVED, that in consideration of the findings and facts set forth above, the Piedmont Planning Commission recommends approval by the City Council of the Conditional Use Permit application by Raminder S. Dosanjh, Piedmont Physical Therapy and Pilates, at 1345 Grand Avenue, Suite 101, Piedmont, California, subject to the following conditions:

1. **Terms of the Approval.** A review of the conditional use permit shall occur in July 2018 and the conditional use permit shall have the following operational characteristics:

- a. Office Hours: **Monday through Thursday 8:00AM - 5:30PM**
- b. Types of Staff/Personnel: **One physical therapist (applicant) and one part-time front office person.**

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.

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

**Design Review
65 Crocker Avenue**

Resolution 150-DR-16

WHEREAS, the Property Owner is requesting permission to reconstruct the rear decks and stairs, remodeling them to include 41 square feet of additional area, privacy screens on the north and south sides, a trellis along the perimeter, a built-in barbeque, built-in benches and planters, a fire table, a new handrail, and new exterior light fixtures, located at 65 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 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. 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 proposed upper level expansion 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 trellis sits on an existing deck. It creates a more private seating area for the family. The detailing of the trellis echoes detailing on the home and looks attractive from the street.
2. The proposed upper level expansion has been designed in a way that reasonably minimizes view and light impacts on neighboring properties, including consideration of the location of the new construction, lowering the height of the addition, expansions within the existing building envelope, lower level excavation for new multi-level structures, and/or changing the roof slope or ridge direction: The trellis is part of an existing deck/railing. It will not impact light for any neighbor. There is a new built-in bench that extends the deck but creates minimum impact on any neighbor.
3. The size and height of the addition is commensurate with the size of the lot, and is in keeping with the existing neighborhood development pattern: The trellis is approximately the same height as the overhang at the kitchen deck. The setback from Wildwood Gardens is nearly 50 feet. The proposed structure coverage is only 30.6%, which is well below the 40% code limit.

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 upper level structure, and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood: The project is in the rear of the lot. There is adequate parking on the driveway for short-term parking of construction trucks. The long-term parking is not changed, because there is no additional living space or bedroom proposed. The project will not affect future circulation of cars or pedestrians.

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-5, II-5(a), II-6.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for proposed construction at 65 Crocker 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 and/or frame inspection, the applicant shall submit to the Building Official written verification by a licensed land surveyor stating that the construction is located at the setback dimension from the 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(s).

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

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.

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 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.

7. **Approved Plan Set.** The approved plans are those submitted on May 27, 2016, with revised elevations showing the deck supported by posts submitted on June 13, 2016, after notices to neighbors were mailed and the application was available for public review.

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

**Design Review and
Fence Design Review
161 Bell Avenue**

Resolution 153-DR-16

WHEREAS, the Property Owner is requesting permission to make modifications to the deck, fences, gates, stairs, and hardscape at the rear of the property, located at 161 Bell 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 replacement/restoration of the fence/wall/roof will be an aesthetic improvement. The perimeter stucco wall will mimic the stucco on the existing residence with the same color. The fencing/wall will also hide any pool utilities, such as the pump and plumbing.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because the restored fencing construction will not interfere with any neighboring views. The proposed layout of fencing/decking is identical to what currently exists.
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 new lower fence will provide the necessary safety buffer between Scenic Drive and the upper swimming pool.
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), V-1, V-2, V-3, V-4, V-5, V-5(a), V-5(b), V-5(c), V-6, V-7, V-8, V-9, V-10, V-11.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for proposed construction at 161 Bell 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. **Construction Management Plan.** The Property Owner shall develop a comprehensive Construction Management Plan. The Construction Management Plan shall address noise, vibrations, traffic control, parking, debris removal, dust control, sanitary facilities, site safety security and other potential construction impacts, as well as other details involving the means and methods of completing the Project, including the construction route. The City Building Official has the authority to require modifications and amendments to the Construction Management Plan as deemed necessary throughout the course of the Project and until the Final Inspection.

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

neighboring property owner granting permission for access onto his/her property for the purpose of excavation and/or construction.

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

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

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

**Staff Design Review &
Retaining Wall Review
210 Ricardo Avenue**

Resolution 154-DR-16

WHEREAS, the Property Owner is requesting permission to excavate and construct a new basement-level single-car garage on the left (north) side of the house; and to construct a new curb cut, a new driveway, a new retaining wall, and a new guardrail on the existing stairs, located at 210 Ricardo Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after

having visited the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e), and the proposal conforms with the criteria and standards of Section 17.20.9(a) of the Piedmont City Code:

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements include but are not limited to: a new garage door, new stairs, and a new rail.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because the new garage is underneath the existing house and does not increase the footprint of the house, and the new garage door will match the existing.
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 existing garage remains, and vehicular flow is improved with additional off-street parking provided.
4. The project complies with Design Review Guidelines II-2, II-3, II-3(a), II-3(b), II-3(c), II-3(d), II-6, II-6(a), II-6(b), III-2, III-3, III-4, III-5, III-5(a), III-6, III-6(a), III-7, III-7(a), IV-1, IV-2, IV-2(a), IV-3, IV-3(a), IV-5, IV-5(a), IV-6.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for proposed construction at 210 Ricardo Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

2. **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.

3. **Contractor's General Liability Insurance.** To ensure that the contractor doing work in the City will be responsible for damages caused by the work to City property or to neighboring property, the Property Owner shall require all contractors performing work on the Project to maintain General Liability Insurance for protection from claims for damages because of bodily injury, including death, and claims for damages, other than to the contractor's work itself, to property which may arise out of or result from the contractor's operations. Such insurance shall be written for not less than \$1,000,000 per occurrence. The insurance shall include an endorsement requiring 10 days prior notice to the City if the insurance is to be cancelled or changed, and Property

Owner shall immediately arrange for substitute insurance coverage. If the contractor's insurance carrier states in writing that it is unable to provide the required endorsement, Property Owner shall be responsible for providing the City with the required notice if the insurance is to be cancelled or changed. Property Owner's failure to provide such notice shall constitute grounds for revocation of the City's design review approval and/or permit. If the Property Owner does not have a general contractor, the Property Owner shall maintain property insurance and coverage for contractors, which is substantially equivalent to the contractor's requirement of this section.

4. 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.

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

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

7. 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.

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

Design Review
132 Hillside Avenue

Resolution 159-DR-16

WHEREAS, the Property Owner is requesting permission to demolish the existing two-car garage with guest house above and construct a new three-car garage with guest house above and a rear (east) yard deck and trellis; remodel the rear addition at the main house; make modifications to the doors, ceiling, openings, and other architectural features at the existing rear porch of the main house; install skylights on the main house addition and the guest house; construct a new in-ground pool and spa in the rear yard; make window and door modifications on the right (south), left (north), and rear (east) facades of the main house; construct a new trash enclosure, trellis, gates, and retaining wall in the front (west) yard; install new handrails and exterior lighting throughout;

remove the chimney on the rear elevation of the main house; and make on-grade improvements throughout the property including stairs, planting areas, patios, and a driveway, located at 132 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. These elements include but are not limited to: a new three-car garage with a guest unit above to replace an existing two-car garage with a guest unit above; modifications to the existing house, including windows, doors and the restoration of historic architectural features; demolition and reconstruction of an existing den that replicates architectural features of the existing house; and site work, including landscaping, patios, and a pool and spa.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because the design and addition of the garage respect and replicate the architectural language of the main home; the house addition and new garage guest unit replace similar structures on the site; the lower level of the garage is partially buried in the hillside, reducing mass; the upper level of the guesthouse is offset away from the property line to reduce the mass; landscape screening will be maintained and improved; and the garage has been pushed back from the previously proposed location and the pool has been reduced in size.
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 existing parking does not conform to code, and code-conforming, off-street parking with improved access will be provided with this application. The driveway ingress and egress will remain in the same general location.
4. The project complies with Design Review Guidelines II-1, II-2, II-3(a), II-3(b), II-3(c), II-3(d), II-4, II-5, II-6, II-6(a), II-6(b), II-6(c), II-7, II-7(a), III-1, III-1(a), 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(a), IV-5, IV-5(a), IV-6.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for proposed construction at 132 Hillside Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

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

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

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

6. **Retaining Walls within the Front Setback.** No retaining walls over 30 inches in height that are within the 20-foot front yard setback have been approved under this application.

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 garage and guest house construction is located at the setback dimension from the north, east, 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.

8. **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 height above grade.

9. **Final Landscape Plan.** Before issuance of a building permit, the Property Owner shall submit for staff review and approval a Final Landscape Plan. The final plan shall comply with Municipal Code Section 17.17.3, and shall not propose plants near the driveway that could obscure visibility of pedestrians on the sidewalk or vehicles on the street from drivers backing out of the driveway.

10. **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.

11. **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.

12. **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.

13. **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.

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.

15. **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.

16. **Geotechnical Report and Review.** 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. **Sound and Vibration Mitigation Plan and Review.** As required by the Director of Public Works, the Property Owner shall submit a plan prepared by a licensed engineer of the Property Owner's choice that fully assesses the existing site conditions for the mitigation and monitoring of vibration and decibel levels at the Project during construction (including being periodically present at the construction site during excavation and foundation work). If, in the Engineer's sole discretion, such monitoring indicates that the sound or vibration levels exceed those anticipated in the Property Owner's

Construction Management Plan and/or the Sound and Vibration Mitigation Plan, all work on the Project may be immediately stopped by the City and may not resume until the City Engineer is fully assured that the sound and vibration transmissions generated by work on the Project can be maintained at or below a reasonable level and duration.

- a. Peer Review. The City, at the Property Owner's sole expense, shall retain an independent engineering consultant to perform a peer-review of the Property Owner's Sound and Vibration Mitigation Plan and advise the City in connection with the Property Owner's proposals. The City Engineer shall select this independent engineering 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 engineering consultant shall also review the building plans during the permit approval process, and may provide periodic on-site observations during excavation and construction as deemed necessary by the City Engineer. The Property Owner shall provide payment for this at the time of the Building Permit submittal.

18. **Subsidence**. The Property Owner acknowledges and agrees that all work on the Project may be immediately stopped by the City in the event of any unanticipated landslides, subsidence, creep, erosion or other geologic instability, and may not resume until the City Engineer is fully assured that no further subsidence or erosion will occur. If in the opinion of the City Engineer, the instability poses a danger to public or private property, and Property Owner is not responding in a diligent manner, the Director of Public Works may use proceeds from the Site Safety Security required above to address the instability.

19. **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 neighboring homes at 138 Hillside Avenue and 131 Bonita Avenue and retaining walls 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 in each neighboring home and property initially inspected, 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.

20. 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.

21. 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.

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

23. 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.

24. 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 \$10,000 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.

25. 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.

26. 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.

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

**Fence Design Review
360 Hampton Road**

Resolution 162-DR-16

WHEREAS, the Property Owner is requesting permission to install two wrought iron driveway gates and pedestrian gates within the front yard setback, located at 360 Hampton Road, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e), and the proposal conforms with the criteria and standards of Section 17.20.9(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: two wrought iron driveway gates and pedestrian gates that seem to be a continuation of the existing fence, both in material and style.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because there appears to be no impact to views, privacy or light with the current design.
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 project will not impact pedestrian or vehicular circulation.
4. The project complies with Design Review Guidelines V-1, V-2, V-3, V-4, V-5, V-5(a), V-5(b), V-5(c), V-7, V-8, V-9, V-10.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for proposed construction at 360 Hampton Road, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

2. **Fence and Stone Wall.** The modified fence and wall shall match the material and styling of the existing fence and stone wall.

3. **Stone Columns.** The stone columns shall match the existing material and styling of the existing low stone wall.

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

5. **Fence Location.** The new fence, including all footings and posts, shall be located completely within the applicants' property. At the discretion of the Building Official, a licensed land surveyor may be required by the Building Department to verify and mark the location of the property lines at the time of foundation inspection to verify the approved setback dimension measured to the new fence and that it is completely within the applicants' property.

6. **Final Landscape Plan.** Before issuance of a building permit, the Property Owner shall submit for staff review and approval, a Final Landscape Plan that shows alterations to vegetation and any new footpaths. The final plan shall comply with Municipal Code Section 17.17.3, and shall not propose plants near the driveway that could obscure visibility of pedestrians on the sidewalk or vehicles on the street from drivers backing out of the driveway.

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

Regular Calendar

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

Building Energy Savings Ordinance: Code Change Recommendation

Interim Planning Director Jackson provided the Commission with background information pertaining to the proposed Building Energy Savings Ordinance (BESO) and explained that the Commission's role is to make a recommendation to the City Council regarding the adoption of the draft ordinance.

He explained that the City's Climate Action Plan (CAP), adopted in 2010, calls for the City to implement a time-of-sale energy and water efficiency upgrade ordinance (Measure BE-2.1). The CAP estimates that this measure has the potential to realize up to 43% of the reductions needed to meet the City's greenhouse gas emissions goal, because over 50% of Piedmont's emissions are the result of energy consumed in buildings. He explained that a vast majority of these buildings are single-family residences and that most of Piedmont's single-family residences were constructed prior to the 1978 implementation of the California Building Energy Efficiency Standards. He added that 71% were built prior to 1939 and have characteristics that are not energy efficient.

Interim Planning Director Jackson reported that Staff, following Council direction, presented an informational report in January 2016 on the concept of BESOs and the status of adoptions of such ordinances around the Country. Following this presentation, the Council directed Staff to pursue the drafting of

an ordinance that requires an energy audit at the time-of-sale of a building and possibly at other appropriate thresholds related to construction projects.

CivicSpark Fellow Matt Anderson discussed local and national precedents for BESOs and described how the BESO would work in Piedmont. He explained that during the purchase of a home, the seller would be required to provide a Home Energy Score assessment. The resulting report would give the sellers and buyers ideas on how to best save money and increase the energy efficiency of the home, and it would include a list of rebates and local programs that could help fund the upgrades. He emphasized that the upgrades themselves would be optional.

Mr. Anderson reviewed the results of a public survey regarding the BESO, which included 409 responses—293 of which were against any form of energy assessment, and 110 of which supported at least one version. He reported that there were three main concerns voiced during the survey: 1) that mandatory upgrades would be part of the ordinance; 2) that the ordinance would be an undue burden on seniors; and 3) that the ordinance is an overreach of government authority. He emphasized that Staff is not recommending mandatory upgrades and that in the case of a hardship, sellers could defer the requirement to the buyers or qualify for an exemption from the assessment requirements based on income or previous energy upgrades. He also explained that Staff is not recommending that assessments occur at the time of a major remodel, since Title 24 already addresses energy efficiency during the building permit process.

Mr. Anderson also reviewed the sustainability estimates, stating that the ordinance could contribute approximately 2% of the greenhouse gas emission reductions needed to meet the City's 2020 target. He explained that the savings would grow over the subsequent years. Mr. Anderson also noted one recommended change in the ordinance, Section 17F.4(a), to allow for price negotiations during the home buying process. In response to questions from Commissioner Theophilos, Mr. Anderson explained that Home Energy Score assessments are done by private companies for a price of usually between \$200 and \$300.

Correspondence was received from: Rick Schiller and George Childs.

Public testimony was received from:

Steve Schiller, Piedmont resident and energy-efficiency professional, spoke in favor of the proposed ordinance. He argued that the cost of a home assessment is small compared to other costs when selling a home, and that the proposed ordinance allows Piedmont residents to make a difference in reaching the City's climate action goals. Although in favor of the ordinance, Mr. Schiller argued that it does not go far enough and that the Home Energy Score rating is a fairly weak rating. He recommended that the assessment be done at the time of listing, to give information upfront to buyers.

Nancy Lehrkind, Piedmont resident and real estate broker, spoke in opposition to the ordinance. She discussed her experience with a similar ordinance in Berkeley and reported on the costs associated with that ordinance, including the \$300-\$550 costs charged by a reputable home assessor in Berkeley. She also suggested that contractors have to pay to be listed on the assessors report. She pointed out that 72.7% of the survey respondents were against any form of

energy assessments, and she listed several other energy efficiency requirements enforced by the building department. Ms. Lehrkind argued that the City does not educate the public enough, and that Piedmont residents should be able to make upgrades when they feel it is necessary. She added that some people do not care to be more energy efficient. Ms. Lehrkind noted that in her experience, energy efficient homes do not sell at a premium, and that some energy-efficient features, such as solar panels, become a burden for homebuyers.

Margaret Ovenden, Piedmont resident and member of Piedmont Connect, spoke in favor of the proposed ordinance. She noted that the City and Piedmont Connect have held several successful educational events, but that Piedmont will not reach its goal without more of a push. She noted that comments on the survey indicated that residents misunderstood the ordinance, believing that the City would mandate energy efficiency upgrades. She argued that the ordinance simply provides information that can be used when people have the funding to do energy upgrades, and that the ordinance is actually quite mild. Ms. Ovenden emphasized that climate change is the most serious issue of our times and suggested that the proposed ordinance is more important than some other City requirements.

Garrett Keating, former Piedmont City Council member, spoke in support of the proposed ordinance. He indicated that he was the one member who voted against the Climate Action Plan in 2010, and only did so because he felt it was not a strong enough action. He maintained that the proposed ordinance is a voluntary, scaled-back version of what could be proposed and emphasized that the implementation of energy efficiency updates would not be mandatory. Mr. Keating recommended approval of the ordinance with the following changes: 1) to require an energy assessment at the time of a remodel; 2) to include inherited property transfers, if they are not already included; and 3) to credit homebuyers the price of the home assessment when they apply for a building permit for energy-efficiency upgrades. Mr. Keating argued that although Piedmont's homes are beautiful, the community must recognize that they are also some of the most energy-inefficient homes in the area.

Justis Fennell, Piedmont resident and energy-efficiency professional, spoke in support of the proposed ordinance. He spoke about local energy assessments he had performed that included some surprising finds, such as homes missing portions of their duct system. He stated that homeowners are often surprised to learn how inexpensive some fixes can be. Mr. Fennell also emphasized how energy-efficiency upgrades can significantly improve the comfort of a house.

Debi Fitzgerrell, Piedmont resident and real estate broker, spoke in support of the ordinance. She stated that buyers always want to know the energy costs of a house and how to reduce them. She suggested that the assessment be required at the time of the listing, when other inspections are already being completed. She also suggested that the requirement extend to remodels. In response to questions from the Commission, Ms. Fitzgerrell clarified that the current inspections that sellers get when listing their home are not mandatory, but that buyers expect them; and that having a mandatory energy-efficiency assessment is appropriate, since it is in line with the City's climate action goals. She noted that, in her experience, well-insulated houses sell at a premium, and that as long as inspection information is presented with the listing, buyers rarely negotiate the price down in response to inspection results.

The Commission was divided in its support of the proposed ordinance. Commissioners Ramsey and Behrens spoke in favor of the ordinance. They maintained that the proposed ordinance is modest and appropriate, and that it offers residents a way to address the City's Climate Action Plan. Commissioner Behrens added that the small cost of the assessment is worth the potential upside of reducing energy costs. He suggested that the assessment be required at the time of listing. Commissioner Ramsey suggested that an energy-efficiency assessment not be required at the time of construction, since the building code already addresses energy efficiency. Commissioner Ramsey also spoke about the survey, stating that he had misread it and that others may have mistakenly believed that energy-efficiency upgrades would be mandatory. He also noted that respondents of the survey only represent about 4% of the Piedmont population.

Commissioners Theophilos, Zhang and Jajodia spoke in opposition to the proposed ordinance. They questioned the need to make the assessment mandatory. They all expressed strong support for the CAP, but argued that homeowners should be able to choose how they want to contribute to the climate action goals. Commissioner Zhang argued that every homeowner is doing their part as they upgrade their homes, and that the goals of the CAP can be achieved without a new regulation. Commissioner Theophilos referenced the two-thirds majority of survey respondents who were against any type of energy savings ordinance. Commissioner Jajodia questioned the structure of the ordinance, stating that the onus of the assessment would be on the seller, but that the buyer would be the one addressing any problems. She also suggested that a more equitable plan be proposed—one that does not only impact 150 sellers per year—but she was still against making the assessment mandatory.

The Commissioners discussed the idea of adding a financial incentive to the building permit process for energy-efficiency upgrades, with Commissioners Zhang and Theophilos in support. Commissioner Ramsey pointed out that the assessment report includes information about rebates and incentives, and he argued that a building permit fee incentive would take money away from the City. Interim Planning Director Jackson stated that Staff could investigate an incentive program if directed by the Commission.

The Commission and Staff spoke at length about how to appropriately act on the proposed ordinance. Commissioner Theophilos initially proposed a motion to recommend to the City Council that, despite the Commission's support of the CAP, the energy-efficiency assessments should be done on an elective basis and should be available to buyers, as well as sellers. It was noted that this motion was in line with the status quo, and the motion was not seconded. Ultimately, Commissioner Behrens proposed the following motion to recommend approval of the ordinance:

Resolution 17-PL-16

RESOLVED, that the Planning Commission recommends that the City Council approve the Building Energy Savings Ordinance (BESO), with an amendment to Section 17F.4(a) to require that the buyer deliver the energy report to the Director prior to listing the house.

Moved by Behrens, Seconded by Ramsey

Ayes: Behrens, Ramsey

Noes: Jajodia, Theophilos, Zhang

Recused:
Absent: Ode

Due to the failure to pass Resolution 17-PL-16, Commissioner Zhang proposed the following motion to recommend that the ordinance not be approved:

Resolution 18-PL-16

RESOLVED, that the Planning Commission recommends that the City Council not approve the Building Energy Savings Ordinance (BESO), finding that the energy audit should be voluntary, rather than mandatory; that the report is just a recommendation, not an action, and does not directly contribute to the reduction of energy savings; and that the City should instead encourage real estate professionals to establish standard practices to encourage homeowners to obtain such a report when a house is on the market.

Moved by Zhang, Seconded by Theophilos

Ayes: Jajodia, Theophilos, Zhang

Noes: Behrens, Ramsey

Recused:

Absent: Ode

The Commission recessed for dinner at 6:38 p.m. and reconvened at 7:10 p.m.

**Design Review
415 Moraga Avenue**

The Property Owner is requesting permission to construct a two-story, approximately 740-square-foot addition at the rear (west) of the house and to remove two unpermitted skylights.

Written notice was provided to neighbors. **One negative response form** was received. **Correspondence** was received from: Helen Stevens Greenwood.

Public testimony was received from:

Helen Greenwood, neighbor at 412 Moraga Avenue, expressed her opposition to the project. She described previously denied proposals for similar projects at 415 Moraga Avenue and 419 Moraga Avenue, and expressed concern for the parking impacts that the project would have on the neighborhood. She described the unfavorable parking situation that currently exists in the neighborhood and urged the Commission to deny the application.

Neither the applicant nor any representative of the applicant was in attendance at the meeting to discuss the project or answer Commissioners' questions.

Staff responded to several questions from the Commission. They explained that the Commission could determine that parking is impacted by an increase in the intensity of use, even when no rooms eligible for use as a bedroom are being added. They also explained that the lower level would be considered an unintended second unit and cannot be used as a separate dwelling unit without a second unit permit. They also clarified the City's rental regulations and explained that the stairs to the attic are being removed and replaced with a pull-down ladder, so that the attic functions as storage and not habitable space.

The Commissioners were unanimous in opposing the application as proposed. Commissioner Ramsey stated that whether the lower level is intended as a separate living space or not, along with the rear addition it increases the intensity of the use and further intensifies dangerous parking in the neighborhood. He expressed concern that such an approval would set a dangerous precedent in an

area where parking is already a major concern. The remaining Commissioners agreed that the application increases the use of the property without addressing on-site parking.

Resolution 111-DR-16

WHEREAS, the Property Owner is requesting permission to construct a two-story, approximately 740-square-foot addition at the rear (west) of the house and to remove two unpermitted skylights located at 415 Moraga Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, 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);

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 comply with all the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These design elements include, but are not limited to: siding, the shape of the roof and the proportions of the addition.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because there is a large rear setback, and the addition occurs at the back of the house.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are adversely affected, considering the circulation pattern, parking layout and points of ingress and egress, because the proposal increases the intensity of use and makes the parking more dangerous as vehicles pull out onto Moraga Avenue. An approvable project must find a way to make the parking safer or decrease the intensity of use.

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 415 Moraga Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Ramsey, Seconded by Theophilos

Ayes: Behrens, Jajodia, Ramsey, Theophilos, Zhang

Noes: None

Recused:

Absent: Ode

**Variance and
Design Review
2018 Oakland Avenue**

The Property Owner is requesting permission to construct an approximately 289-square-foot addition at the rear of the house; develop approximately 752 square feet at the basement level; construct a new spiral stair from the upper level deck and a new built-in bench at the rear of the house; and make modifications to doors, windows, guardrails, exterior lighting, and hardscape throughout the property. Variances are required in order to exceed the Floor Area Ratio limit and to add an additional room eligible for use as a bedroom without supplying conforming parking.

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

Public testimony was received from:

Wendi Sue, project architect, explained that the project aims to add living space to the basement and to make the rear of the house more in keeping with the original house. She explained that since the proposed addition expands the envelope of the house into what is currently unused space beneath the rear deck, all of the floor area must be considered in the FAR calculation—even the basement space that would otherwise be exempt without an expansion of the building envelope. She also discussed precedent in the neighborhood for FAR and parking nonconformities and argued that the project has minimal impact on neighboring properties. She explained that parking can not be added to the property, due to the configuration of the lot and house. In response to a question from Commissioner Jajodia, Ms. Sue discussed the railing design and agreed to modify it.

The Commissioners were unanimous in their support of the application. They discussed the FAR variance and agreed that the FAR increase is appropriate, since the majority of the increase is within the existing basement and the remainder is beneath the existing deck. Commissioner Zhang commended the applicants on a smart design that creates improved living space within the existing basement. The Commissioners also discussed the parking variance and agreed that the increase from 3 to 4 bedrooms is appropriate, since there are no feasible solutions for adding a second parking space and there is precedent within the neighborhood for similar nonconforming parking conditions. Commissioner Ramsey pointed out that code-compliant parking at the front of the house would greatly disrupt the character of the neighborhood. The Commissioners generally supported the architectural design of the project, but Commissioner Jajodia suggested that the railings at the rear of the house be consistent in design.

Resolution 136-V/DR-16

WHEREAS, the Property Owner is requesting permission to construct an approximately 289-square-foot addition at the rear of the house; develop approximately 752 square feet at the basement level; construct a new spiral stair from the upper level deck and a new built-in bench at the rear of the house; and make modifications to doors, windows, guardrails, exterior lighting, and hardscape throughout the property, located at 2018 Oakland Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary to exceed the Floor Area Ratio limit and 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 slope of the property; and the fact that the existing building footprint does not allow for any additional parking without encroachment on the front setback or demolition of parts of the existing house, which would be incongruous with the rest of the neighborhood.
2. The variance is compatible with the immediately surrounding neighborhood and the public welfare, because most of the proposed floor area that puts the project in excess of the FAR limit is in the basement buildout, which, if not for the addition, would have been exempt from FAR code restrictions.
3. Accomplishing the improvements without variance would cause unreasonable hardship in planning, design, or construction, because there's no way to accommodate additional parking without destroying the front of the house.

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. 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 proposed 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. Both the proposed addition below the existing ground-floor deck and the second-floor master suite remodel propose exterior finishes to match the existing house finishes: wood shingle at the second floor and painted wood siding at the lower level. The proposed roofline and new wood windows at the master suite are more in the language of the original house than the existing roofline and windows. As conditioned, the proposed guardrails at the rear of the house will both be consistent with the existing guardrail at the front porch, and will be constructed of powder-coated steel and wood. These guardrails will be more in the language of the original house than the existing contemporary galvanized steel railing.
2. The proposed addition 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 proposed addition will have no impact on adjacent neighbors, as it is limited to the area below the existing deck and is lower than the existing fence height.
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 size of

the addition is within the existing deck footprint and remedies the existing dark and unusable space below the existing deck. The proposed addition creates a pleasing relationship between the proposed interior basement and exterior patio areas. Although the proposed basement build-out and addition puts the project over the allowable FAR, it does not give the property an advantage over neighboring properties, many of which are also over the allowable FAR.

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 addition, and additional parking is not required to prevent unreasonable short or long term parking impacts on the neighborhood. There is no change to parking layout and circulation, and additional parking spaces are not physically feasible on the site.

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).

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 2018 Oakland 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 A, B, C, E, and F shall be wood, Window O shall be fiberglass, and Window H shall be aluminum clad.

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

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

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

5. **Setback from Property Line Verification.** Prior to frame inspection, the applicant shall submit to the Building Official written verification by a licensed land surveyor stating that the construction is located at the setback dimension from the east and west 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 line(s).

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.

- 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.

7. 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.

8. **Approved Plan Set.** The approved plans are those submitted on May 24, 2016, with revisions submitted on June 9, 2016, after notices to neighbors were mailed and the application was available for public review.

9. **Deck Guardrails.** Both deck guardrails at the rear of the house shall be constructed with powder-coated steel and wood, as proposed for the lower deck railing, subject to staff review and approval.

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

**Design Review and
Fence Design Review
212 Bonita Avenue**

The Property Owner is requesting permission to implement landscape and site improvements throughout the property, including: modifications to the fencing enclosing the front yard; the relocation of the front entry path; the installation of various decorative site features; the construction of a pergola, a built-in barbeque, a fire table, a spa, and built-in benches; the conversion of the playhouse into a spa equipment shed; the widening of the curb cut and driveway in front of the house; the construction of a vehicle turnaround pad at the rear of the house; and the installation of various foot paths, walkways, exterior light fixtures, and landscape plantings.

Written notice was provided to neighbors. **Two affirmative and one negative response forms** were received.

Public testimony was received from:

Seamus Meagher, homeowner, responded to questions from the Commission. He was accepting of two additional conditions of approval proposed by Commissioner Ramsey—one of which requiring the repair of the front fence as needed, and the other requiring that toe strip planting be added between the fence and the sidewalk, as called for in the City's design guidelines.

Denise Bates, project landscape architect, responded to questions from the Commission. When asked by Commissioner Behrens about whether the existing fence matches the grandeur of the house, she maintained that, once cleaned up and painted, the existing fence is appropriate to the house and neighborhood and should not be made grander. In response to questions from Commissioner Theophilos, Ms. Bates explained that the proposed project will have no impact on the existing trees along the north property line and clarified that the proposal simply includes the repaving of the existing driveway. Ms. Bates was accepting of a condition of approval that would require an arborist report and tree protection plan for the trees along the driveway and the north property line.

Alice Creason, neighbor at 408 Blair Avenue, spoke in opposition to the project. She outlined a number of concerns, including possible damage of the trees along

the driveway at the north property line; grade changes that may affect on-site drainage; the possibility that cars may back onto her property to turn around; vehicle safety while exiting the driveway; expansion of the house and how it might impact the parking requirements; incomplete drawings; and loss of privacy.

The Commissioners spoke in favor of the landscape design and supported approval of the project with the addition of three conditions of approval to address the repair of the front fence, planting along the front fence, and the protection of the existing trees along the north property line.

Resolution 149-DR-16

WHEREAS, the Property Owner is requesting permission to implement landscape and site improvements throughout the property, including: modifications to the fencing enclosing the front yard; the relocation of the front entry path; the installation of various decorative site features; the construction of a pergola, a built-in barbeque, a fire table, a spa, and built-in benches; the conversion of the playhouse into a spa equipment shed; the widening of the curb cut and driveway in front of the house; the construction of a vehicle turnaround pad at the rear of the house; and the installation of various foot paths, walkways, exterior light fixtures, and landscape plantings, located at 212 Bonita 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 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 project will reuse as much of the exterior brick as possible, the columns of the rear pergola will echo those on the entry; and the proposed in-ground spa is not visible from street.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because there are no limitations to the existing views, privacy or light of 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 is no adverse impact on circulation, parking, ingress or egress. The proposed turnaround area improves circulation.
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-6, II-6(a), II-6(b), II-6(c), II-7, II-7(a), V-1, V-2, V-3, V-5, V-7, V-8, V-9, V-10, V-11.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for proposed construction at 212 Bonita Avenue, Piedmont, California, in

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

1. **Limit to Project Scope.** The scope of the project approved as part of this application is limited to the new and modified site features and does not include any alterations to the house or garage.

2. **Approved Construction Limited to Applicants' Property.** The features approved under the scope of this application must be located within the boundaries of the property at 212 Bonita Avenue and do not include any existing or proposed features located all or in part on adjacent properties.

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

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

5. **Setback from Property Line Verification.** Should the Building Official request it and prior to frame inspection, the applicant shall submit to the Building Official written verification by a licensed land surveyor stating that the construction is located at the setback dimension from the 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.

6. **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.

7. **Setback from Property Line Verification.** Prior to foundation and/or frame inspection for the spa equipment shed and pergola, 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 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 line(s).

8. **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.

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.
- b. Neighboring Property Owner Permission. Should the execution of the project or any construction work require access onto a neighboring property for demolition and/or construction, the applicant shall submit, prior to the issuance of Building Permit, a signed written statement from the property owner granting permission for access onto his/her property for the purpose of any and all construction work including demolition, drainage and/or any construction activity including transport of construction materials, placement of materials, worker activity, trespass by vehicles or humans associated with the construction project.

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

- a. The Construction Completion Schedule with associated construction values for each benchmark shall set forth completion dates for the following benchmarks as needed: i) Completion of Excavation; ii) Completion of Retaining Walls; iii) Completion of Foundation; iv) Completion of Rough Framing; v) Completion of Electrical; vi) Completion of Plumbing; vii) Completion of Mechanical; viii) Completion of Fire Sprinklers; ix) Completion of Home; x) Completion of Hardscaping and Landscaping; and any further construction benchmarks and conditions of occupancy as may be determined by the Director of Public Works.

- b. Before the Project begins, the Director of Public Works shall make a determination as to the reasonableness of the proposed completion dates applicable to the Project, and that determination shall constitute the "Approved Schedule" and be binding on the Property Owner. The City may, at the Property Owner's sole cost, engage the services of a consultant to review the Property Owner's proposed Construction Completion Schedule and, to the extent the period allocated for any work appears unjustifiable, recommend to the Director of Public Works a reasonable completion date for any benchmark.
- c. If the work for any specific benchmark has not been completed within 90 days after the completion date set forth in the Approved Schedule, and the delay in completion has not been caused by force majeure, the Director of Public Works has the option at any time thereafter to make a claim against the Property Owner's Site Security, if one is required, in order to complete the benchmark. The Director of Public Works has the option to refer the application to the Planning Commission for public review.

11. 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.

12. Arborist's Report and Certified Tree Preservation Plan. Before the issuance of a building permit, the Property Owner shall submit an Arborist's Report and Certified Tree Preservation Plan that includes tree preservation measures to preserve the existing trees on the abutting property near the north property line. The tree preservation measures shall be on the appropriate sheets of the construction plans. The arborist shall be on-site during critical construction activities, including initial and final grading, to ensure the protection of the existing trees that are intended to be retained. The arborist shall document in writing and with photographs the tree protection measures used during these critical construction phases. If some trees have been compromised, mitigation measures must be specified in writing, and implementation certified by the Project Arborist. Trees proposed for removal shall have an in-lieu

replacement tree planted elsewhere on the abutting property, which shall be shown on the final landscape plan. Replacement tree size is subject to staff review, and shall be commensurate with the size and numbers of trees to be removed. They shall generally be a minimum of 24" box size. Before the Final Inspection, the Arborist shall file a report to the City certifying that all tree preservation measures as recommended have been implemented to his/her satisfaction and that all retained trees have not been compromised by the construction.

13. **Front Fence.** Where it has become damaged, the existing fence along the front property line shall be repaired or replaced in-kind so that it matches the condition of the new sections of the fence. Minor design modifications necessary for this repair or replacement shall be subject to staff review and approval.

14. **Toe Strip Planting.** The final landscape plan shall include a toe strip planting in front of the fence along Bonita Avenue subject to staff review and approval.

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

**Design Review
1850 Trestle Glen Rd**

The Property Owner is requesting permission to modify a portion of the roof on the front (south) side of the house by installing composition shingle roofing to allow for the installation of photovoltaic panels. The remainder of the clay tile on the roof is to remain.

Written notice was provided to neighbors. **One affirmative response form** was received. **Correspondence** was received from: Karen and Nic Rollandi.

Public testimony was received from:

Raymond Lim, project contractor, explained that composition tile is necessary beneath the solar panels to allow for the panels to be flush mounted. He further explained that clay tile would be installed around the panels, and that the composition shingle would not be visible from the street. He stated that this type of installation is standard in the industry, and he showed a photo of a house with a similar installation. Mr. Lim also responded to questions about waterproofing.

Interim Planning Director Jackson explained why the project is before the Planning Commission, noting that the application proposed a change in roof material that resulted in a mix of existing clay tile and proposed composition shingles, which does not meet design guidelines for consistency in building materials. He recommended that, if the Commissioners find the project acceptable and believe that the change in roof material is integral to the installation of the solar panels, they make a determination that the project is not subject to design review, per the California Solar Rights Act. In response to a question from the Commission, he explained that other clay-tile/solar projects in Piedmont have involved raised solar panels and were not subject to design review because the roof material was not proposed to change.

The Commissioners were in full support of the project and indicated their understanding of the necessity for the composition shingle to be used in an attractive, flush-mounted, solar panel installation. The Commissioners were in favor of a determination that the application does not require design review, per the Solar Rights Act, since the roof material change is necessary for the installation of the panels.

Resolution 19-PL-16

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission determines that the proposed construction at 1850 Trestle Glen Road, Piedmont, California is not subject to design review, as outlined under the provisions of the California Solar Rights Act.

Moved by Theophilos, Seconded by Ramsey

Ayes: Behrens, Jajodia, Ramsey, Theophilos, Zhang

Noes: None

Recused:

Absent: Ode

**Variance,
Design Review and
Fence Design Review
306 Magnolia Avenue**

The Property Owner is requesting permission to relocate the front (west) entry porch and stair; to construct a roof deck along the right (south) side property line by installing a railing above the existing parapet; to demolish and rebuild the rear (east) second story addition; to extend the dormer on the left (north) facing roof slope; to expand the footprint of the basement; to construct a covered porch with a staircase above the proposed basement expansion at the northeast corner of the house; to construct a new retaining wall with a maximum height of 54 inches at the driveway; to install new planting areas and a walkway within the front yard; to install a new garage door at the rear of the garage with a new parking pad behind; to make improvements in the rear yard including a patio and planting areas; and to make window and door modifications and install exterior lighting throughout. Three variances are required in order to construct within the front (west), right side (south), and left side (north) setbacks.

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

Public testimony was received from:

Paki Muthig, homeowner and architect, discussed the proposed project and explained that the application is proposing three variances due to the existing location of the house within the front and side setbacks. He described the proposed improvements to the house, including the relocation of the front porch, safety upgrades to the existing roof deck, and the extension of the dormer and rear roof. Mr. Muthig explained that a permit has already been granted for interior basement and foundation work, but that the basement would remain nonhabitable so as not to surpass the allowable FAR on the property. Mr. Muthig showed the Commissioners photographs of houses with a similar architectural style. In response to questions from Commissioner Jajodia, Mr. Muthig discussed the setback to the front porch, noting that the porch would not be enlarged and suggesting that it is consistent with the neighborhood context. In response to questions about the depth of the garage, the homeowner expressed a willingness to study options for increasing the garage length to 20 feet.

Malinda Walters, homeowner, emphasized that the goals of the remodel are to conform to the original Eastern Shingle style of the house and to make improvements that are supported by the neighbors.

Commissioner Jajodia began the discussion by stating that she appreciated the relocation of the porch, but asked whether there was a way to change the design so that the nonconformity of the front yard setback would not be intensified. After some discussion about the size and orientation of the porch and the shape of the lot, the Commission decided that the proposal was acceptable and that no change was necessary. Commissioner Zhang commented on the length of the garage and questioned whether the Commission should require it to be a depth of 20 feet. Commissioner Ramsey maintained that the proposal addresses parking in a very innovative way with a pull-through garage and parking beyond, and he was in favor of allowing the parking to remain as proposed. Ultimately, the Commission was in full support of the application. Commissioner Theophilos noted that the applicants had gone to great lengths to preserve the architecture of the house, and Commissioner Ramsey complimented the architect on successfully stitching together all the different parts of the house.

Resolution 157-V/DR-16

WHEREAS, the Property Owner is requesting permission to relocate the front (west) entry porch and stair; to construct a roof deck along the right (south) side property line by installing a railing above the existing parapet; to demolish and rebuild the rear (east) second story addition; to extend the dormer on the left (north) facing roof slope; to expand the footprint of the basement; to construct a covered porch with a staircase above the proposed basement expansion at the northeast corner of the house; to construct a new retaining wall with a maximum height of 54 inches at the driveway; to install new planting areas and a walkway within the front yard; to install a new garage door at the rear of the garage with a new parking pad behind; to make improvements in the rear yard including a patio and planting areas; and to make window and door modifications and install exterior lighting throughout the property at 306 Magnolia Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, three variances from the requirements of Chapter 17 of the Piedmont City Code are necessary to construct within the front (west), right side (south), and left side (north) setbacks; 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: a small, irregularly-shaped, non-conforming lot, and an existing historic structure built within the setbacks. 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 parking is similar to other homes in the neighborhood; the proposed setbacks are in line with the existing setbacks and are similar to setbacks throughout the neighborhood; and some of the design moves reduce some of the impacts of the existing nonconformities.

3. Accomplishing the improvements without variance would cause unreasonable hardship in planning, design, or construction, because rebuilding the porch in the existing location would increase the nonconformity of the side setback, and the existing historic home would lose its character and connection with other homes in the neighborhood if strictly enforced.

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements include but are not limited to: relocating the front porch, replicating historic windows, improving an existing roof deck, matching siding, improving the mass of the existing home, and extending the eaves of the house.

2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because it adds a four-foot buffer of landscape on the existing roof deck, reducing the existing nonconformity; it reduces the bulk of the house through the renovations at the rear elevation; and windows are appropriately placed and the porch is relocated to create better proportions on the front façade.

3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress, because there is no change in the ingress and egress, and an additional nonconforming tandem parking space is added, increasing the parking on the site.

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), III-1, III-1(a), III-2, 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-4, IV-5, 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 306 Magnolia 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 June 6, 2016, after notices to neighbors were mailed and the application was available for public review.

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

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

4. **Garage Doors.** The garage doors shall be electronically operable. If design modifications are required to accomplish this, those modifications shall be subject to staff review.

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

6. **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.

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

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

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

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

Permit are available from the Piedmont Public Works Department and on-line at cleanwaterprogram.org.

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

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

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

**Variance and
Design Review
97 Oakmont Avenue**

The Property Owner is requesting permission to add an upper level as part of an approximately 1,095-square-foot expansion; to change the roof slope from a flat mansard roof to a pitched gabled roof; to construct a new deck and railing atop the existing garage; to make modifications to the upper level deck on the front of the house including a new trellis; to construct a new balcony at the proposed third story addition on the front of the house; and to make modifications to siding material, windows, doors, skylights, exterior lighting, retaining walls, and hardscape throughout the property. Variances are required in order to construct

within the front 20-foot setback and to add an additional room eligible for use as a bedroom without supplying conforming parking.

Written notice was provided to neighbors. **Three affirmative response forms, one negative response form, and one response form indicating no position** were received. **Correspondence** was received from: Brady Nadell and Nicole Jordan; Robin and Judy Richardson.

Public testimony was received from:

Peter Secor, homeowner, explained that the house is too small for his large family, and that the project aims to increase usable space, open up the floor plan, enhance the views, and improve the appearance of the house. He indicated that he had spoken with his neighbors about their concerns.

Gary Parsons, project architect, explained the challenges of the project, namely that by staying within the allowable structure coverage, the project has a greater impact on the adjacent neighbors. He acknowledged that the proposed addition would impact the privacy and views of the adjacent neighbor to the north. Mr. Parsons suggested that the project might have less of an impact on the neighbors if the extension were at the rear of the house, but that such a design would require a structure coverage variance. Mr. Parson also discussed the two requested variances. He described the existing garage as much like others in the neighborhood, and indicated that the proposed terrace on top of the garage is not crucial to the proposal in the case that the Commission finds the variance problematic. In response to questions from the Commission, Mr. Parsons addressed the proposed bridge at the rear of the house, commented on the decision to place the upper floor massing on the left side of the property, and explained why the proposal does not include an expanded garage.

Brady Nadell, neighbor at 95 Oakmont Avenue, thanked the applicant and architect for acknowledging the impacts that the design has on his house. He discussed the positioning of his house in relation to the addition and described the impacts the addition would have on his privacy, light, and views. He also expressed concern for the massing of the house and the loss of trees in the rear yard. In response to a question from Commissioner Behrens about what solutions he would suggest, Mr. Nadell recommended that the addition be minimized and stepped back on the lot to preserve his views and privacy. He stated that he would be willing to lose some trees at the rear to preserve the views in the front.

The Commissioners were in agreement that expansion on the property is difficult and that the current application has too great an impact on the neighbor's light, privacy and views; but they did see potential for a solution that would allow some expansion with minimal impact on the neighbors. In discussing the parking variance, they did not rule out a scenario in which a fourth bedroom could be added, but stressed the difficulty in approving an additional bedroom without conforming parking on this street. Commissioner Theophilos suggested that the applicant reduce the size of the addition and eliminate the fourth bedroom. Commissioner Zhang suggested that the applicant reduce the size of the addition and instead consider creating more habitable space in the basement. Commissioner Jajodia recommended that the applicant consider flipping the third-level floor plan and adding vegetative screening. Commissioner Ramsey applauded the transforming architectural design of the project, but stated that the massing needs to be reduced and possibly relocated.

The Commissioners were in agreement that any future proposal would need to have less of an impact on the neighbor to the north.

Resolution 160-V/DR-16

WHEREAS, the Property Owner is requesting permission to add an upper level as part of an approximately 1,095-square-foot expansion; to change the roof slope from a flat mansard roof to a pitched gabled roof; to construct a new deck and railing atop the existing garage; to make modifications to the upper level deck on the front of the house including a new trellis; to construct a new balcony at the proposed third story addition on the front of the house; and to make modifications to siding material, windows, doors, skylights, exterior lighting, retaining walls, and hardscape throughout the property, located at 97 Oakmont Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary to construct within the front 20-foot setback and to add an additional room eligible for use as a bedroom without supplying conforming parking; and

WHEREAS, 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);

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 comply with all 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 development. The distance between the upper level addition and adjacent residences is not appropriate due to the existing neighborhood development pattern. Upper level setbacks greater than the setbacks required for the lower level have been considered and are necessary to reduce losses of ambient and reflected light, because the addition creates considerable bulk both horizontally and vertically. With regard to the height, bulk, breaks in the façade and window openings, there can be some considerable rework to achieve a design that complies with the design review criteria.
2. The proposed upper level addition has not reached a point at which it reasonably minimizes view and light impacts on neighboring properties, because a number of windows on the north side create privacy issues, and the second floor addition creates issues regarding views for the neighbors. The removal of backyard trees will worsen the view and privacy impacts for the neighbors.
3. The size and height of the current design is not commensurate with the size of the lot in terms of the bulk of the addition, which is too large in relation to the neighborhood context. The owners should explore making the addition more efficient, perhaps by reconfiguring the third level layout, eliminating a bedroom and/or playroom, and/or staying closer to the existing building envelope and plan. The bulk seems to extend too far in the rear direction from the current envelope and some efficiencies can be gained there.
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 could be reworked to prevent short and/or long term parking impacts on the neighborhood.

5. Action on the variances is not necessary for this application, because there is no approved design requiring a variance.

6. The project does not comply with Design Review Guidelines II-1, II-2, II-3(c), II-3(d), II-4, II-6.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies, without prejudice, the variance and design review application for proposed construction at 97 Oakmont Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Jajodia, Seconded by Theophilos

Ayes: Behrens, Jajodia, Ramsey, Theophilos, Zhang

Noes: None

Recused:

Absent: Ode

City Code Chapter 17 Modifications

Interim Planning Director Jackson began the discussion by reviewing the Chapter 17 revisions that the Commission directed Staff to make at the April 11 Planning Commission meeting. He also noted the topics for immediate discussion.

Prior to the discussion on each topic, Interim Planning Director Jackson provided the Commission with context for the comprehensive revisions to the zoning code. He explained that some revisions are proposed to address the goals and policies of the General Plan and other policy documents, but that a host of other revisions are proposed to better serve the public interest. He referred to research on the approval of variances in Piedmont to question whether the public interest is being served with the current code.

Interim Planning Director Jackson reported that 80% of the variances acted upon since 1996 have been approved. He pointed out that this figure required a review of the City's current code requirements. He also noted that applicants have to pay a fee for variance applications. He explained that during the 2009 General Plan update and the 2015 Housing Element Update, Staff recognized that the public would be served by modifications to the Municipal Code.

Correspondence was received from: Michael Henn, David Hobstetter.

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

Reduce Parking Space Dimensions

At the April 11 Planning Commission meeting, the Commissioners directed Staff to draft code language for the reduction in the parking space dimensions, but they were not yet ready to choose what those dimensions might be. Upon direction from the Commission, Staff conducted a survey of parking space sizes required by other jurisdictions and collected more information regarding parking variances in Piedmont. Interim Planning Director Jackson reported that the survey of other jurisdictions does not provide a clear indication of what size parking space might be appropriate, but that variance research from Piedmont

shows a 90% approval rating in variances for parking space size. He suggested that the Commission might consider reducing the minimum parking space size to 8.5 feet by 18 feet.

The Commission unanimously directed Staff to move forward with the code modifications related to revising the parking space dimensions to 8.5 feet by 18 feet.

Relax the Requirements on the Number of Parking Spaces Required

Interim Planning Director Jackson reported that many jurisdictions simply require 2 parking spaces per dwelling unit or allow additional parking spaces to be uncovered or tandem. He also reported that variance research from Piedmont shows an 85% approval rating in variances from the required number of parking spaces. He suggested that the Commission might consider allowing a parking exception for up to four bedrooms, allowing tandem or uncovered parking to comply, or relaxing the parking requirements in other ways.

The Commissioners discussed the topic at length, and questioned whether the parking requirements should be based on the number of bedrooms, the house square footage, the intensity of use, the parking situation in the neighborhood, or other site characteristics. Commissioner Theophilos acknowledged the Commission's leniency, but was hesitant to make changes to the code for fear that the 15% of projects that are currently not approved would be permitted. He argued that the decision should be subjective and based on the parking situation in the neighborhood. Commissioner Ramsey suggested that the current regulations are similar to those you would find in a more auto-oriented community, and he warned that strict compliance with these regulations would slowly change the neighborhoods. He expressed concern for the high approval ratings of variances, which he said indicates that the Code is not in line with the built environment. He suggested that innovative solutions, such as tandem parking, would help to keep the historic character of Piedmont while still accommodating the intent of the code. Commissioner Jajodia questioned whether adding a fourth bedroom was really intensifying the use of a property and argued that the threshold for adding another parking space should be much greater than adding one bedroom. She also suggested that regulations that are too restrictive can sometimes preclude good design.

Ultimately, the Commission came to a consensus and directed Staff to move forward with the following code modifications:

- Allow a property owner with nonconforming parking to add bedrooms, up to 4 total, if uncovered and/or tandem spaces exist on site that are not in the 20-foot front (street) setback. The total number of spaces should be that required by code: two.
- Modify Section 17.16.1 to allow consideration of available street parking and existing street width as criteria in determining as to whether to strictly apply the parking requirements. Such a modification would provide flexibility to require covered non-tandem parking if on-street parking is congested and the proposed construction is seen to have an adverse impact on neighborhood congestion.

Allow Accessory Structures within the Side and Rear Setbacks

Interim Planning Director Jackson asked the Commission for direction on whether to allow limited-sized Accessory Structures within the side and rear

setbacks. He explained that this change would allow small garages to be located along alleys and rear and side property lines.

The Commission unanimously directed Staff to move forward with the code modifications related to measuring setbacks to Accessory Structures.

Amend Structure Coverage to Not Include Site Features

Interim Planning Director Jackson asked the Commission for direction with regard to whether Sites Features, such as fountains and benches, should be included in Structure Coverage calculations. He pointed out that the Structure Coverage calculation is meant to limit the bulk of a building on the property, but that Site Features without roofs do not typically add to that bulk.

By unanimous vote, the Commission directed Staff to move forward with the code modifications related to amending Structure Coverage to not include Site Features, including roofed playhouses.

Replace Hardscape Limit with Landscape Minimum

Interim Planning Director Jackson asked the Commission for direction with regard to whether a regulation limiting hardscape should be replaced by a regulation that requires a minimum amount of landscape. He explained that the current limit of 70% hardscape in Zone A is meant to require at least 30% of green landscaped area, but that applicants often misunderstand the intent and believe it to be solely about permeability. He suggested that to correct this common misunderstanding, the Commission might consider replacing the hardscape limit of 70% (or 60% in Zone E) with a landscape minimum of 30% (or 40% in Zone E).

The Commission unanimously directed Staff to move forward with the code modifications necessary to replace the hardscape limit with a landscape minimum.

Change the Cost Threshold for Review by the Planning Commission

Interim Planning Director Jackson asked the Commission for direction with regard to whether the cost threshold for review by the Planning Commission should be increased from \$75,000 to \$125,000. He explained that the current threshold of \$75,000 in construction costs was set in 2000, which is equivalent to about \$129,000 in constructions costs today.

By unanimous vote, the Commission directed Staff to move forward with the code modifications necessary to change the cost threshold for review by the Planning Commission from \$75,000 to \$125,000. The Commission also asked Staff to look into tying this threshold to an index, so that it keeps pace with inflation.

ADJOURNMENT

There being no further business, Chairman Behrens adjourned the meeting at 10:24 p.m.