

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, March 14, 2016

A Regular Session of the Piedmont Planning Commission was held March 14, 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 February 29, 2016.

DESIGN AWARD PRESENTATION

Following the 2015 Design Awards Reception held in the City Hall Courtyard, and prior to the start of the Regular Session, Chairman Theophilos called the meeting to order at 5:55 p.m. for the presentation of the 2015 Design Awards.

Chairman Theophilos summarized the Commission's review and selection process for the annual Design Awards. He explained that the Commission recognizes superior design and construction projects that exemplify design excellence in Piedmont. Award recipients received a Design Award Plaque, and their design and construction professionals received photographs of their project. The 2015 Design Awards honored exceptional projects in the following categories:

- Excellent Landscape Remodel
- Excellent Comprehensive Remodel and Addition
- Excellence in a Seamless Addition
- Excellent Indoor/Outdoor Living Space
- Excellent Attached Second Unit
- Excellent Detached Second Unit
- Excellence in Storybook Architecture

Chairman Theophilos presented the Award for *Excellent Landscape Remodel* to the owners of **800 Blair Avenue** in recognition of the comprehensive design and skillful craftsmanship of their inviting and functional rear yard landscape project.

Commissioner Ode presented the Award for *Excellent Comprehensive Remodel and Addition* to the owner of **331 Hillside Avenue** in recognition of his impressive project that restores the architectural integrity of the house and seamlessly integrates the modifications and additions with the original home.

Commissioner Behrens presented the Award for *Excellence in a Seamless Addition* to recognize the owners of **311 Sheridan Avenue** for their modest addition that meticulously matches the materials and architectural details of the rest of their Spanish Eclectic house.

Alternate Commissioner Jajodia presented the Award for *Excellent Indoor/Outdoor Living Space* to the owners of **536 Magnolia Avenue** for their cohesive and architecturally-consistent design that provides functional and attractive spaces for dining and enjoying panoramic bay views.

Commissioner Ramsey presented the Award for *Excellent Attached Second Unit* to the owner of **50 Woodland Way** in recognition of the second unit that takes architectural cues from the mid-century modern main house while seamlessly integrating more modern architectural details.

Commissioner Ode presented the Award for *Excellent Detached Second Unit* to the owner of **331 Hillside Avenue** in recognition of the well-designed and

constructed second unit that is seamlessly integrated into the topography and landscaping of the rear yard, and is oriented to provide incredible views of the bay.

Commissioner Zhang presented the Award for *Excellence in Storybook Architecture* to the owners of **4 Lexford Road** in recognition of their unique new house project. The pool house, garage, and lagoon beautifully complement the Storybook-style architecture of the main house at 2 Lexford Road.

Following the presentations, Commissioner Zhang congratulated all of the 2015 Design Award recipients and their design and construction professionals.

CALL TO ORDER

Chairman Theophilos called the Regular Session to order at 6:15 p.m.

ROLL CALL

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

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

Council Liaison: Councilmember Tim Rood

ANNOUNCEMENTS

Chairman Theophilos introduced the new Planning Technician Chris Yeager.

PUBLIC FORUM

Sheldon Crandall, Piedmont resident, asked the Commission to consider reducing the minimum length of a parking space, per Chapter 17 of the Municipal Code. He argued that the current code minimum of 20 feet is outdated for today's smaller cars.

REGULAR SESSION

The Commission considered the following items of regular business:

Approval of Minutes

Resolution 7-PL-16

RESOLVED, that the Planning Commission approves as submitted its meeting minutes of the February 8, 2016, regular hearing of the Planning Commission.

Moved by Behrens, Seconded by Ode

Ayes: Behrens, Ode, Ramsey, Theophilos, Zhang

Noes: None

Recused:

Absent:

Consent Calendar

The Commission placed the following applications on the Consent Calendar:

- 200 Crocker Avenue (Design Review and Fence Design Review)
- 288 St. James Drive (Fence Design Review)
- 1684 Lower Grand Avenue (Fence Design Review)
- 2 Estrella Avenue (Fence Design Review)

Resolution 8-PL-16

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

Moved by Ramsey, Seconded by Behrens

Ayes: Behrens, Ode, Ramsey, Theophilos, Zhang

Noes: None

Recused:
Absent:

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

**Design Review and
Fence Design Review
200 Crocker Avenue**

Resolution 286-DR-15

WHEREAS, the Property Owner is requesting permission to make various modifications to landscape features on the eastern side of the property including the installation of a new play structure, wood pergola, fire pit, built-in benches, terraced vegetable planting beds, and paving; and the relocation of existing trellises, fountains, and sculptures; and to construct a new concrete retaining wall with cable guardrail that has a combined maximum height of 10 feet, 6 inches located 4 feet from the eastern property line. The application also proposes to replace the existing roof with copper tiles; to install a new fountain on the southern property line between 200 and 206 Crocker Avenue; and to construct a new retaining wall with a maximum height of 4 feet, 6 inches within the 20 foot setback along Crocker Avenue, located at 200 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(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 proposed landscape improvements are consistent with the rest of the yard and do not impact the neighbors; the new pergola is similar to the two existing pergolas it replaces; the retaining walls will be screened; and the new copper roofing will be consistent across the two adjoining properties.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because there will be minimal impact due to significant vegetation.
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 they are not affected by this project.
4. The project complies with Design Review Guidelines II-3(a), II-3(b), II-3(c), II-3(d), II-6(a), II-6(b), II-6(c), II-7, II-7(a), IV-1, IV-1(a), IV-1(b), IV-2, IV-2(a), IV-3, IV-3(a), IV-4, IV-4(a), IV-5, IV-5(a), IV-6.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for proposed construction at 200 Crocker Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Exterior Lighting.** No new exterior lighting has been approved under the scope of this application (#15-0286).

2. **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.

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

4. **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.

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.

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

**Fence Design Review
288 St. James Drive**

Resolution 19-DR-16

WHEREAS, the Property Owner is seeking retroactive approval for a new fence located within the front 20 foot setback, located at 288 St. James Drive, 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 proposed solid wood fence is painted in a dark brown color that compliments the main house.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because the fence is under six feet in height, is set back 20 feet along most of its length, and does not impact the neighbors' views, privacy or access to direct or indirect light.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress, because there is no change.
4. The project complies with Design Review Guidelines V-1, V-2, V-3, V-4, V-5, V-5(a), V-5(b), V-5(c), V-6, V-7, V-8, V-9, V-10, V-11.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for proposed construction at 288 St. James Drive, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following condition:

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

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

**Fence Design Review
1684 Lower Grand Ave**

Resolution 28-DR-16

WHEREAS, the Property Owner is seeking retroactive approval for a wood picket fence located in the front yard, located at 1684 Lower Grand Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e) and the proposal conforms with the criteria and standards of Section 17.20.9(a) of the Piedmont City Code:

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These

elements include but are not limited to: the fence, which has a simple open design, is four feet tall, and matches the character 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 the fence does not change neighboring views, privacy or access to light.

3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, because there are no changes that affect these items.

4. The project complies with Design Review Guidelines V-1, V-2, V-3, V-4, V-5, V-5(a), V-5(b), V-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 1684 Lower Grand Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

**Fence Design Review
2 Estrella Avenue**

Resolution 38-DR-16

WHEREAS, the Property Owner is requesting permission to remove an existing fence and gates and to construct a new fence and gates, with a maximum height of 6 feet, along the Estrella Avenue (north) and Ramona Avenue (west) property lines, located at 2 Estrella 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 redwood fence, which is compatible with the brown shingle house and similar to the shared fence with the neighbor on Ramona Avenue. The proposed fence presents prominence of entry.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because the fence steps down and is proposed to be brought in from the corner of Ramona and Estrella Avenues to assure a clear line of vision. While providing privacy for the homeowner, the proposed fence does not impede on the neighbors' light, view or privacy.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress, because there is a clear line of vision down Ramona and Estrella Avenues, and the proposed fence does not obstruct access for emergency vehicles or otherwise affect safety.
4. The project complies with Design Review Guidelines V-1, V-2, V-3, V-4, V-5, V-5(a), V-5(b), V-5(c), V-6, V-7, V-8, V-9, V-10.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for proposed construction at 2 Estrella Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Encroachment Permit.** Before the issuance of a building permit, the Property Owner shall apply for an encroachment permit to allow for the construction of the fence within the public right-of-way along Estrella Avenue.

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 Ode, Seconded by Behrens

Ayes: Behrens, Ode, Ramsey, Theophilos, Zhang

Noes: None

Recused:

Absent:

Regular Calendar

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

**Staff Design Review
Deferred
196 Mountain Avenue**

The Property Owner is requesting permission to make modifications to the deck at the rear of the property by installing a new cable guardrail on the south side of the deck; an approximately 9 foot, 2 inch, horizontal cable privacy screen on the east and west sides of the deck; and new knee braces at the deck supports. This application is being deferred to the Planning Commission for review.

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

Public testimony was received from:

MaryJane Lowenthal, homeowner, explained that the proposed deck railing was chosen to make the space look larger and to minimize the amount of maintenance required for the upkeep of the railing. In response to questions from the Commission, Ms. Lowenthal explained that her intent is for the cable railing to “disappear,” especially where it will support climbing plants. She stated that plants along the side rails would provide greater privacy for the deck, but that the sun is typically too intense for plants to grow on the south-facing railing.

The Commissioners were unable to identify findings that would support approval of the project. They explained that, despite the applicant’s intent to cover a portion of the railing with plants, a portion of the railing would still remain visible from Piedmont Court, and its modern design is not architecturally consistent with the traditional design of the existing house and the neighboring houses. Commissioner Zhang cited Design Guidelines II-3 and II-3(b), which call for architectural consistency of design details.

Resolution 400-DR-15

WHEREAS, the Property Owner is requesting permission to make modifications to the deck at the rear of the property by installing a new cable guardrail on the south side of the deck; an approximately 9 foot 2 inch horizontal cable privacy screen on the east and west sides of the deck; and new knee braces at the deck supports, located at 196 Mountain Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e), but that the proposal does not comply with the criteria and standards of Section 17.20.9(a) of the Piedmont City Code:

1. The exterior design elements are not aesthetically pleasing as a whole, when considered in the context of the existing neighborhood development. The proposed replacement of a picket railing with a cable railing is not aesthetically pleasing, because it is not consistent with the architecture of the house or the neighboring houses.
2. The design is not appropriate, considering its effect on neighboring properties’ existing view of the house, because the proposed railing is not consistent with the architectural style of the houses in the cul-de-sac.

3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected.

4. The project does not comply with Design Review Guidelines II-1, II-2, II-3, II-3(b), II-3(c), II-3(d), II-5, II-5(a), II-6, II-6(a), II-6(b), II-7, II-7(a).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies, with prejudice, the design review application for proposed construction at 196 Mountain Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

**Variance and
Design Review
575 Crofton Avenue**

The Property Owner is requesting permission to create habitable space within the existing basement, including the addition of a room eligible for use as a bedroom; to install new windows and a skylight on the left (north) side of the house; and to make modifications to the existing driveway along the left (north) side of the property. A variance is required in order 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 and 1 response form indicating no position** were received. **Correspondence** was received from: Ann and Larry Tramutola, and Bryn and Juliano Banelos.

Public testimony was received from:

Grier Graff, Project Architect, explained that the applicants voluntarily deferred their application from the previous hearing to give the neighbor adequate time to review and comment on their application. He reported on the subsequent discussions between the applicant and the neighbor and stated his belief that the neighbor's concerns had been addressed. Mr. Graff explained that the existing plantings and the existing parking spaces—one conforming, and one substandard in length only—will remain unchanged. He also described the interior changes to the house and stated that the project proposes no changes in the building mass or height. In response to questions from the Commission, Mr. Graff explained that the width of the driveway will remain the same and that they may replace a portion of the rock retaining wall with wood to provide a larger planting area. He also commented that, although parking is congested in the area, the house has two usable garages.

Bryn and Juliano Banelos, homeowners, responded to a question from Commissioner Behrens about where they park their car and whether the garages are being used.

The Commissioners thanked the applicants for deferring their application and commended them for addressing their neighbor's concerns. The Commissioners were in unanimous support of the application, stating that the two existing parking spaces—although not completely conforming—are usable and adequately address the parking needs. They pointed out that the interior changes do not worsen the parking situation and that the footprint of the house is not changing. Commissioner Ramsey added that, since a variance was approved for

3 bedrooms in 2007 and the parking requirements are the same for 3 and 4 bedrooms, the proposed parking variance is justified.

Resolution 9-V/DR-16

WHEREAS, the Property Owner is requesting permission to create habitable space within the existing basement, including the addition of a room eligible for use as a bedroom; to install new windows and a skylight on the left (north) side of the house; and to make modifications to the existing driveway along the left (north) side of the property, located at 575 Crofton Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary in order 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 property is a split parcel between Oakland and Piedmont, and one of the property's existing garages can accommodate the parking for one vehicle, despite the fact that its length is shorter than required by code. Strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone that conform to the zoning requirements.
2. The variance is compatible with the immediately surrounding neighborhood and the public welfare, because the garage location and size are consistent with other developments in the neighborhood; the parking requirements are the same for either 3 or 4 bedrooms; and a parking variance was previously approved by the Planning Commission.
3. Accomplishing the improvements without variance would cause unreasonable hardship in planning, design, or construction, because the existing garage is usable and was deemed usable in a previous application.

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements include but are not limited to: new windows, a new skylight, and regrading at the driveway. There is no increase to the footprint of the house. The exterior modifications are minimal to allow for habitation of lower level space. The windows are similar in profile and depth to the existing windows, and the skylight is positioned to avoid visibility from the public way.

2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because the skylight is not visible from the ground and the windows are placed in a location that does not affect neighbors' light or privacy.

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

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

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review application for proposed construction at 575 Crofton Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

3. **Notice of Restricted Use.** A notice of restricted use shall be recorded with the Alameda County Recorder's office advising current and future owners that the basement playroom does not meet the Piedmont Building Code requirements for sleeping purposes.

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

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

- a. The Construction Completion Schedule with associated construction values for each benchmark shall set forth completion dates for the following benchmarks 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 Behrens
Ayes: Behrens, Ode, Ramsey, Theophilos, Zhang
Noes: None
Recused:
Absent:

**Variance and
Design Review
124 Ronada Avenue**

The Property Owner is requesting permission to create habitable space within the existing basement; to construct new light wells on the left (east) and right (west) sides of the house through excavation and the installation of new windows; to remove the existing staircase on the left (east) elevation and construct a larger landing and stair; to construct a new on-grade walkway with a guardrail on the right (west) elevation; to enlarge the windows and doors on the rear (south) facade; to install new windows on the left (east) and right (west) facades towards the rear of the house; and to install new exterior lighting on the rear (south) and right (west) facades. A variance is required in order to construct within the 4-foot left (east) side yard setback.

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

Public testimony was received from:

John Schwab, homeowner, explained the process that was taken to discuss the plans with his neighbors and reported that he has received support from his

neighbors. He described how the proposal would improve the floorplan and commented on the proposed window and door design. Mr. Schwab also explained the need for a variance and described the neighborhood as one with narrow lots and minimal setbacks.

Craig Funai, Project Architect, responded to questions from the Commission. He further clarified the design of the proposed windows and doors and explained the design of the proposed light well.

Helen Gerken and Freda Zietlow, the adjacent neighbors on either side of the applicant's house, spoke in support of the application. Ms. Gerken stated her belief that the proposal will improve the functionality and aesthetics of the house. Ms. Zietlow commended the applicants for their neighbor involvement and described the proposed design as beautiful.

The Commissioners were unanimously in support of the application. They commended the applicants for engaging the neighbors in the process and for creating a design with minimal impact on the neighbors. They also thanked the neighbors for taking time to show their support for the application. The Commissioners supported the expansion of the living space within the footprint of the house and encouraged other homeowners to find livable space in this way. They commended the applicants for not impacting the street-facing appearance of the Cottage-style house and noted that the more modern improvements at the rear of the house have been designed in a way to be well-proportioned and well-integrated with the Cottage-style architecture.

Resolution 29-V/DR-16

WHEREAS, the Property Owner is requesting permission to create habitable space within the existing basement; to construct new light wells on the left (east) and right (west) sides of the house through excavation and the installation of new windows; to remove the existing staircase on the left (east) elevation and construct a larger landing and stair; to construct a new on-grade walkway with a guardrail on the right (west) elevation; to enlarge the windows and doors on the rear (south) facade; to install new windows on the left (east) and right (west) facades towards the rear of the house; and to install new exterior lighting on the rear (south) and right (west) facades, located at 124 Ronada Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary in order to construct within the 4-foot left (east) side yard setback; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e); and

WHEREAS, with regard to variance, the Planning Commission finds that the proposal complies with the variance criteria under Section 17.21.6 of the Piedmont City Code:

1. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to the fact that the lot is relatively narrow and the existing house was built with side stairs for egress.

2. The variance is compatible with the immediately surrounding neighborhood and the public welfare, because a side stair is a typical means of egress on narrow properties.

3. Accomplishing the improvements without variance would cause unreasonable hardship in planning, design, or construction, because the variance is necessary for the required light, air and egress of the proposed master bedroom. The proposed setback is the same as the existing setback, but is proposed with a different footprint.

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements include but are not limited to: the new windows and sliding glass doors, which are nicely designed to match the style of the house and the neighborhood.

2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because the addition and renovation achieve more livable space without expanding the footprint or impacting the neighbors' views, privacy or natural light.

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

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

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review application for proposed construction at 124 Ronada Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

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

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

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

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

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.

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

**Variance and
Design Review
240 Bonita Avenue**

The Property Owner is requesting permission to construct an approximately 110-square-foot, second-story addition at the rear of the house and to make modifications to windows, doors, and skylights. A variance is required in order to construct within the 20 foot street side yard setback.

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

Public testimony was received from:

Erin Conner, Project Architect, described the project and explained the interior and exterior changes that are proposed for the small, cantilevered, second-floor addition. She explained that the variance is needed to extend the existing house line that lies within the corner 20-foot setback along Oakland Avenue, and she indicated that the goal is to make the addition look as if it was original to the house. Ms. Conner responded to a question from Alternate Commissioner Jajodia regarding venting.

Zach Murphy, homeowner, explained that there was not enough space in the house to add a bathroom and closet within the existing footprint. He emphasized that the intent is to keep the addition minimal, simple and in keeping with the neighborhood. In response to a question from Commissioner Ramsey, Mr. Murphy clarified the depth of the addition and how it relates to other architectural features.

The Commission was in unanimous support of the proposed variance, citing the existing nonconforming setback along Oakland Avenue. The Commissioners were generally in favor of the design, given its simplicity, elegant design, and minimal size. Commissioner Zhang initially suggested that a hip roof on the addition might be more in keeping with the existing house, but he deferred to the support of his fellow Commissioners who were in favor of the proposed shed roof for its simplicity and minimal massing.

Resolution 39-V/DR-16

WHEREAS, the Property Owner is requesting permission to construct an approximately 110-square-foot, second-story addition at the rear of the house and to make modifications to windows, doors, and skylights, located at 240 Bonita Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary in order to construct within the 20 foot street side yard setback; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e); and

WHEREAS, with regard to variance, the Planning Commission finds that the proposal complies with the variance criteria under Section 17.21.6 of the Piedmont City Code:

1. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to: the location of the lot at the corner of two streets. The addition does not exacerbate an existing setback condition, so that strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone that conform to the zoning requirements.
2. The variance is compatible with the immediately surrounding neighborhood and the public welfare, because the project aims to meet the average number of bathrooms in the neighborhood.
3. Accomplishing the improvements without variance would cause unreasonable hardship in planning, design, or construction, because, given the existing conditions, the side setback requirement would preclude a uniform addition along the east side 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(b) of the Piedmont City Code:

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. The distance between the upper level addition and adjacent residences is reasonable and appropriate due to the existing topography and neighborhood development pattern. Upper level setbacks greater than the setbacks required for the lower level have been considered and are not necessary to reduce losses of ambient and reflected light. The addition creates a symmetrical rear façade by eliminating the balcony and reusing two windows. The addition does not have a tacked-on appearance, because the proposed roofline is an extension of the existing roofline, and new vertical surfaces will match the existing house.
2. The proposed addition has been designed in a way that reasonably minimizes view and light impacts on neighboring properties, because enclosing the balcony increases privacy for the neighbors, and the addition has no impact on neighboring homes' light.
3. The size and height of the addition is commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and is in keeping with the existing neighborhood development pattern, because the size of the addition is minimal and the addition does not impact the neighborhood context.

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

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

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review application for proposed construction at 240 Bonita Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

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

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

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

6. **Setback from Property Line Verification.** Prior to 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 south property line as shown on the approved plans. The intent is to verify that the approved features are constructed at the approved dimension from the property line(s).

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.

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

The Commission recessed for dinner at 7:22 p.m. and reconvened at 7:48 p.m.

**Design Review
212 Bonita Avenue**

The Property Owner is requesting permission to construct a second-story addition at the rear of the house that includes a 117-square-foot expansion to the master suite, a new hipped roof, and a covered loggia; add a pediment to the main entry; remove the rear chimney and reduce the height of the north chimney; enlarge the front roof dormer; make various interior changes to the house including a reduction in the number of bedrooms from six to five; and add a new landing and stair on the south façade. Proposed new and modified features

include doors, windows, a skylight, exterior lighting, and handrails. This proposed project represents a reduction in scope of the addition and remodel approved by the Planning Commission in June 2015.

Written notice was provided to neighbors. **Four affirmative response forms** were received. **Correspondence** was received from: Alice Creason, James and Susan Penrod, Walter M. Schey, Rick Schiller, Ruth Drenick, Phil Chase, Lori S. Taylor, Kathy Burden, Mary and Ned Wood, Nancy Scott.

Prior to public testimony, Interim Planning Director Jackson informed the Commission that the applicants and their neighbors are involved in a civil lawsuit that is outside the scope of this application. He emphasized that the City will not take sides on this civil matter, and that the Commission should not discuss the lawsuit during its deliberation on this planning application. Interim Planning Director Jackson also explained that the current planning application is not proposed to amend the prior Planning Commission approval, which is set to expire on June 8, 2016. He stated that the Commission is responsible for reviewing and acting on the current application on its own merit. He explained that if the Commission approves the current application, the applicants will have two separate approved projects and may apply for a building permit for either project, but not both projects. He added that the Second Unit Permit approved by staff will expire on July 22, 2016 unless a building permit has been issued for the construction of the structure to house it. In response to questions from the Commission, Interim Planning Director Jackson clarified what items may be discussed during the deliberation of this application.

Public testimony was received from:

Seamus Meagher, homeowner, explained that the current proposal is a separate application and smaller in scope than the previously approved application. He explained that the current proposal includes an addition of about 110 square feet of habitable space and that the number of bedrooms will be reduced from six to five bedrooms. In response to a question from Commissioner Behrens, Mr. Meagher explained that the intent is to maintain as much of the interior architectural elements of the house as possible. After additional public testimony, he added that the previous approval included seven bedrooms—six in the main house and one in the second unit—which prompted the need for parking improvements.

Kirk Peterson, Project Architect, described the scaled-down plans and explained that no work is proposed on the ground floor or in the basement. He explained that the application proposes to reconstruct part of the rear of the house to correct three old and inharmonious additions and make the new construction appear as if it were original to the house. He explained that the application proposes 110 square feet of new habitable space and a new loggia. In response to questions from Commissioner Ramsey, Mr. Peterson clarified design details of the back addition and the front dormer, and offered to correct a discrepancy in the architectural plans. In response to a question from Commissioner Behrens, Mr. Peterson confirmed that the current application proposes to reduce the number of bedrooms and does not propose any changes to the parking configuration.

Alice Creason, neighbor at 408 Blair Avenue, spoke in opposition to the application. She maintained that the applicants are seeking a series of approvals rather than a single comprehensive approval in an attempt to avoid making

improvements to the parking on their property. She discussed at length the civil lawsuit between her and the applicants and described the parking issues that exist on the property and in the neighborhood. She asked the Commission to encourage the applicants to fulfill their previous commitment to improve the parking on the property and to abandon claims to her property, and she argued that the application is not ready for approval.

James Penrod, neighbor at 224 Bonita Avenue, spoke in opposition to the application. He stated that the Planning Commission's previous approval required that off-street parking be added due to the intensity of the project and the deficiency of existing conforming parking. He added that the second design alternative that was proposed at the same time as the prior approval was denied outright on the basis that there should be more parking. Mr. Penrod urged the Commission to either deny the current application, because it does not comply with the prior Planning Commission decision, or to put the application on hold until the property dispute is resolved. He encouraged the applicants to return with a design that includes a garage on the south side of the house. In response to a question from Commissioner Behrens, Mr. Penrod discussed the safety issues related to the current driveway location.

Clark Thiel, attorney for Ms. Creason, spoke in opposition to the application. He argued that the driveway is pertinent to the application, to the extent that the existing driveway is related to the off-street parking requirements necessary for an increase in the intensity of use on the property. Mr. Thiel quoted the applicants as saying in their sworn testimony related to the civil lawsuit that the driveway is unusable without the property line adjustment, and argued that their reliance on the property's existing level of nonconforming parking is contingent on the outcome of the lawsuit. In response to a question from Commissioner Theophilos, Mr. Thiel further argued why the Commission should examine nonconformities when processing planning applications. In response to a question from Commissioner Zhang, Mr. Thiel clarified that the applicant's garage is located partially on Ms. Creason's property. Mr. Thiel asked the Commission—in the case of an approval—to make a finding that states that the driveway is sufficient to support the additional activities that are part of this application.

Winnie Creason, daughter of Alice Creason, read a letter to the Commission from Lori S. Taylor of 230 Bonita Avenue. The letter, which expresses Ms. Taylor's opposition to the project, was previously included with other written neighbor responses and comment forms as part of the application file at City Hall.

Cathy Dunham, former resident of 212 Bonita Avenue, spoke about her family's experience living at the property. She stated that the existing garage is crumbling and described the driveway as dangerous. She expounded on the dangers of the driveway and expressed her disappointment that her father was denied approval of a handicap parking space in front of the house. She also expressed her regret for the loss of vegetation on the property and the ill will among the neighbors.

Cross Creason, son of Alice Creason, spoke about the driveway dispute between Ms. Creason and the applicant and argued its relevance to the current application. He urged the Commission to avoid making a decision that makes it more difficult to deal with the parking issues in the future.

The Commission discussed the application at length and asked several questions of Interim Planning Director Jackson, who clarified details of the application. He also explained Municipal Code Section 17.20.6, which allows for a variance exception when an application proposes to reduce an existing nonconformity. He explained that the parking requirements for a property are directly related to the number of bedrooms in the house, so that a reduction in the number of bedrooms results in a reduction in an existing parking nonconformity. However, he added that on at least one occasion the Commission had required nonconforming parking be improved on a property proposing a significant change in the size of the house, and thus an increase in the intensity of use, but not an increase in the number of bedrooms. He also answered questions about what has typically qualified as an adverse effect on the safety of vehicular traffic.

The Commissioners were divided in their support for the project. Commissioners Behrens and Zhang were not in favor of approving the application. Commissioner Behrens maintained that, in light of the inadequate driveway and nonconforming parking on the property, the proposed addition would further impact vehicular safety, which is a major concern for the neighborhood. He argued that a decrease from six to five bedrooms does not change the off-street parking requirement of three conforming parking spaces (Code Section 17.16.1) and should not be subject to Section 17.20.6, which allows for a variance exception when reducing a nonconformity. Commissioner Zhang added that he is unable to support the application because the site presents other options for solving the parking and safety concerns. He suggested that the Planning Commission's previous approval was based on the parking improvements that were included.

Commissioners Ramsey, Ode, and Theophilos were in favor of approving the application. Commissioner Ramsey considered the proposal to be a well-thought out design that does a good job of cleaning up the rear façade. Although he expressed disappointment that the proposal does not include parking or a landscape plan, Commissioner Ramsey stated that the Commission can only act on the application at hand, which includes a modest and appropriate 117-square-foot addition. He stated that the Commission typically accepts existing nonconformities with small additions. Commissioner Ramsey concluded by saying that if there is no change in the nonconforming use, there is no adverse impact. Commissioner Ode agreed and said that the proposed addition is well designed and more in keeping with the architecture of the house. With regard to the parking situation, she considered the decrease in the number of bedrooms from six to five to be significant and stated that the current proposal does not include an increase in traffic on the driveway. She also stated that the previous approval, which was a completely separate application, included a second unit, which would have impacted traffic differently. Commissioner Theophilos agreed with Commissioner Ode and stated that the decrease in the intensity of use that results from the reduction of one bedroom far exceeds the increase that the addition adds, and that since no variance is requested, he views the existing driveway and garage as existing nonconformities. He added that the property line dispute is to be decided by the courts, not by this Commission.

Resolution 43-DR-16

WHEREAS, the Property Owner is requesting permission to construct a second story addition at the rear of the house that includes a 117-square-foot expansion to the master suite, a new hipped roof, and a covered loggia; add a pediment to the main entry; remove the rear chimney and reduce the height of the north chimney; enlarge the front roof dormer; make various interior changes to the house including a reduction in the number of bedrooms from six to five; and add a new landing and stair on the south façade. Proposed new and modified features include doors, windows, a skylight, exterior lighting, and handrails, 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(b) of the Piedmont City Code:

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. The distance between the addition and adjacent residences is reasonable and appropriate due to the existing topography and neighborhood development pattern. Upper level setbacks greater than the setbacks required for the lower level have been considered and are not necessary to reduce losses of ambient and reflected light. The proposed addition matches the footprint of the existing building; the new wood shingles will match the existing construction; the existing windows in the dormer will be reused; and the classical design fits comfortably within the existing home.
2. The proposed addition has been designed in a way that reasonably minimizes view and light impacts on neighboring properties, because it reduces the number of windows looking into the neighboring property to the left, and the expansion is within the existing footprint of the building. The roof is designed in a way that matches the existing main house of the roof, and the hip roof reduces the mass along the edges of the building.
3. The size and height of the addition is commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and is in keeping with the existing neighborhood development pattern, because lot coverage is not affected by the project. The expansion does not require any variances.
4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. The existing or proposed on-site parking is appropriate to the size of the new addition, and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood, because no changes are proposed to the parking circulation or ingress and egress of residents, and the reduction of bedrooms reduces the existing nonconforming nature of the parking. The width of the existing driveway, measured from the north wall to the existing property line, is sufficient to access the existing garage.

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

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the 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. 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.

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

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

4. Chimney Design. The chimney on the north roof slope shall comply with all Building Code regulations. If design modifications are required to accomplish this, those modifications shall be subject to staff review and approval.

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

6. Contractor's General Liability Insurance. To ensure that the contractor doing work in the City will be responsible for damages caused by the work to City property or to neighboring property, the Property Owner shall require all contractors performing work on the Project to maintain General Liability Insurance for protection from claims for damages because of bodily injury, including death, and claims for damages, other than to the contractor's work itself, to property which may arise out of or result from the contractor's operations. Such insurance shall be written for not less than \$1,000,000 per occurrence. The insurance shall include an endorsement requiring notice to the City if the insurance is cancelled or changed, and Property Owner shall immediately arrange for substitute insurance coverage. If the Property Owner does not have a general contractor, the Property Owner shall maintain property insurance and coverage for contractors, which is substantially equivalent to the contractor's requirement of this section.

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

8. Defense of Legal Challenges. If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding selection of counsel and other provisions

related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.

9. Setback from Property Line Verification. Prior to 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.

10. Building Height and Floor Level Verification. Should the Building Official request it and prior to frame inspection, the applicant shall provide the Building Official written verification by a licensed land surveyor stating that the roof of the new addition is constructed at the approved height above grade.

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

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

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

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

proposed Construction Completion Schedule and, to the extent the period allocated for any work appears unjustifiable, recommend to the Director of Public Works a reasonable completion date for any benchmark.

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

14. 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.

15. Exterior Elevations. Exterior elevations, sheet A3.01 of the proposed architectural plans, shall be redrawn and resubmitted to accurately portray the changes to the front dormer, subject to Staff approval.

Moved by Ramsey, Seconded by Ode
Ayes: Ode, Ramsey, Theophilos
Noes: Behrens, Zhang
Recused:
Absent:

**Design Review
23 Estrella Avenue**

The Property Owner is requesting permission to construct an approximately 1,096-square-foot, two-story addition; to make modifications to the front entryway and roof slopes; and to make modifications to the windows, doors, and exterior lighting throughout the house.

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

Public testimony was received from:

Katherine Campbell, homeowner, described the state of the existing house, which she said is in great need of upgrading, and explained that the application also proposes a new, second-story, master bedroom suite. In response to a question from Commissioner Ramsey, Ms. Campbell stated that the adjacent neighbor to the west approves of the proposal.

Edward Buchanan, Project Architect, also spoke about the upgrades needed on the house and commented on the applicant's efforts to involve the neighbors early on. He described how the design minimizes the massing of the addition by keeping the mass at the rear of the house, retaining the single-story street frontage, stepping down the entry addition, orienting the roof ridge from front to

back to keep low walls at the sides of the property, and incorporating a small roof terrace off the master bedroom. He also commented on the materials and design details appropriate to this Mediterranean-style house. Mr. Buchanan suggested that the proportions are traditional and authentic and that the proposal fits well with the eclectic neighborhood. He added that no variances are necessary and that there are no adverse impacts to privacy. In response to questions from the Commission, Mr. Buchanan explained design decisions regarding the existing octagonal entrance, the master bedroom balcony, the shallow bay on the west elevation, the driveway gate, and the front stairs.

The Commissioners asked Interim Planning Director Jackson several questions regarding Municipal Code Section 17.22.4(b), which calls to discourage applications requesting a variance of structure coverage, floor area ratio, or parking for residences with a floor area of 1800 square feet or less. Interim Planning Director Jackson explained that the code section is tied to a General Plan Action to maintain a variety of housing types within the City. Commissioner Theophilos noted that since this application does not require a variance, this code section does not pertain.

The Commission was divided in its support of the project. Commissioner Zhang was unable to support approval of the project, because he felt that the character of the house and its neighborhood context should be better preserved. He suggested that the octagonal entry could be repaired without significantly altering its design, and that the bulk and mass of the addition could be reduced and better integrated into the house. Commissioners Ramsey, Ode, and Theophilos spoke in favor of the application. While sympathetic to Commissioner Zhang's concerns about changes being made to one of two sister homes, they argued that the proposal was well-designed with appropriate proportions, graceful transitions, proper massing, and thoughtful detailing. They suggested that, while beautiful, the existing octagonal turret would look over-scaled with the addition, and regarded the proposed design as one that would retain the feel of the partner house next door. Commissioner Behrens initially agreed with Commissioner Zhang during the discussion and wanted the applicants to preserve the octagonal entrance, but he ultimately sided with the remaining Commissioners in approving the design. Commissioner Ramsey suggested that a condition be added to the approval to require that the driveway gate and garage door be electronic to assure that the parking is still usable.

Resolution 44-DR-16

WHEREAS, the Property Owner is requesting permission to construct an approximately 1,096-square-foot, two-story addition; to make modifications to the front entryway and roof slopes; and to make modifications to the windows, doors, and exterior lighting throughout the house, located at 23 Estrella Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e) and the proposal conforms with the criteria and standards of Section 17.20.9(b) of the Piedmont City Code:

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. The

distance between the two-story addition and adjacent residences is reasonable and appropriate due to the existing topography and neighborhood development pattern. Upper level setbacks greater than the setbacks required for the lower level have been considered and are not necessary to reduce losses of ambient and reflected light. The project is aesthetically pleasing, because the materials are appropriate; the existing windows are being retained in the existing house and repeated in the upstairs addition; the front entryway is welcoming; and the clay tile roof unifies the building and is in keeping with the original construction. The proposed addition does not have a tacked-on appearance.

2. The proposed addition has been designed in a way that reasonably minimizes view and light impacts on neighboring properties, because the mass is kept at the rear, away from the street and away from the driveway; no views are impacted by the addition; any potential privacy loss from the proposed balcony is minimal; and the design has been approved by the adjacent neighbor.

3. The size and height of the addition is commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and is in keeping with the existing neighborhood development pattern, because the neighborhood has a mix of one- and two-story houses.

4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. The existing or proposed on-site parking is appropriate to the size of the new addition, and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood.

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

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for proposed construction at 23 Estrella 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. **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.

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

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

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

6. **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 south and 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 lines.

7. **Notice of Restricted Use.** The storage room at the basement level does not meet habitation or safety requirements of the Piedmont Municipal Code. A notice of restricted use shall be recorded with the Alameda County Recorder's office advising current and future owners that the space does not meet the Building code regulations for habitation purposes.

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

- a. 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.

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

- a. The Construction Completion Schedule with associated construction values for each benchmark shall set forth completion dates for the following benchmarks as needed: i) Completion of

Excavation; ii) Completion of Retaining Walls; iii) Completion of Foundation; iv) Completion of Rough Framing; v) Completion of Electrical; vi) Completion of Plumbing; vii) Completion of Mechanical; viii) Completion of Fire Sprinklers; ix) Completion of Home; x) Completion of Hardscaping and Landscaping; and any further construction benchmarks and conditions of occupancy as may be determined by the Director of Public Works.

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

10. Driveway Gate and Garage Door. The new driveway gate and the garage door shall be mechanically operable. If design modifications, such as a new garage door, are required to accomplish this, those modifications shall be subject to staff review and approval.

Moved by Ode, Seconded by Ramsey
Ayes: Behrens, Ode, Ramsey, Theophilos
Noes: Zhang
Recused:
Absent:

**Chapter 17
Modifications**

Interim Planning Director Jackson updated the Commission on modifications that are being considered for Chapter 17 of the Municipal Code. He reminded the Commissioners about discussions held in 2012 and 2014 of topics that they want to address with modifications to Chapter 17. The list of topics included, among other things, new technologies, roadways, raising chickens, and artificial turf. He suggested a number of additional topics that might be considered, including short-term rentals and wireless communication facilities, both of which are already in the works. He suggested that certain types of built features – such as secondary structures, eaves within a setback, certain uses in non-residential buildings, and parking space size – are consistently and easily approved and may warrant code modifications. Interim Planning Director Jackson handed out a summary of variances that the Commission has considered in the last three years, which showed a very high approval rate. He explained that such a high approval rate either indicates a lenient Commission or standards that need to be revised to be consistent with existing construction. He stated that Staff would analyze the data further, so that they can determine what types of

applications are approved consistently. In response to questions from the Commission, Interim Planning Director Jackson spoke further about trends in variance approval, and Council Liaison Rood discussed the process for amending the view-shed ordinance. The Commissioners also discussed the process by which they will discuss the Chapter 17 modifications in the coming months.

**Design Guidelines
Update**

Interim Planning Director Jackson explained that, in response to the adoption of the General Plan and the Housing Element, the City needs to expand the Design Guidelines to address, multi-use, multifamily, and commercial buildings, as well as wireless communication facilities and signage. He added that the design guidelines are also in need of general updating to make them more readable, accessible and modern. Interim Planning Director Jackson and the Commissioners discussed the process and timeline by which the design guidelines will be updated.

ADJOURNMENT

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