

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, November 14, 2016

A Regular Session of the Piedmont Planning Commission was held November 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 October 31, 2016, and a revised agenda was posted for public inspection on November 2, 2016.

CALL TO ORDER

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

ROLL CALL

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

Staff: Planning Director Kevin Jackson, Senior Planner Pierce Macdonald-Powell, Associate Planner Jennifer Gavin, Assistant Planner Emily Alvarez, and Planning Technician Chris Yeager

Council Liaison: Councilmember Jonathan Levine

PUBLIC FORUM

Josh Wood, Piedmont High School student, asked the Commission whether there are any home modifications that can be made in Piedmont without permission of the City. Planning Director Jackson responded that a homeowner can paint and complete some minor repairs and replacements without City review.

Alexander Chang, Piedmont High School student, asked the Commission about how one would propose a change to the school and how such a change could be funded. Planning Director Jackson suggested that Mr. Chang attend a school board meeting, which is the entity that governs Piedmont schools.

Natalie Stollman, Piedmont High School student, asked the Commission to explain how an application ends up on the Planning Commission's agenda. Planning Director Jackson reported on the application process and the types of applications that must go before the Commission, and Commissioner Behrens defined the term "variance".

REGULAR SESSION

The Commission considered the following items of regular business:

Approval of Minutes

Resolution 31-PL-16

RESOLVED, that the Planning Commission approves as submitted its meeting minutes of the October 10, 2016, regular hearing of the Planning Commission.

Moved by Theophilos, 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:

- 94 King Avenue (Design Review)
- 231 Bonita Avenue (Design Review)
- 53 Crest Road (Design Review)
- 42 Craig Avenue (Variance and Design Review)
- 58 Nace Avenue (Variance, Design Review, and Fence Design Review)

Resolution 32-PL-16

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

Moved by Zhang, Seconded by Ramsey

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
94 King Avenue**

Resolution 279-DR-16

WHEREAS, the Property Owner is seeking retroactive approval for modifications made to a prior approval, including: to change the roofline at the southeast corner to a gabled roof; to make window modifications throughout; to construct a built-in fireplace and barbecue in the rear (east) yard; to install two air conditioning units in the left (north) side yard; and to remove four existing skylights, located at 94 King 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 to the criteria and standards of Section 17.20.9(a) of the Piedmont City Code:

1. The exterior design elements (including but not limited to height, bulk, area openings, breaks in the facade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development, in that: older antiqued bricks were used along with a reclaimed timber mantel at the fireplace. These elements are consistent with the original house design. A similar design was used at the barbeque to create an aged look.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because these elements do not impact neighboring properties and do not create a loss of privacy, light, or views.
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 no changes are being made to the parking.
4. The project complies with Design Review Guidelines II-1, II-2, II-3, II-3(a), II-3(b), II-3(c), II-3(d), II-4, II-5, II-5(a), II-6, II-6(a), II-6(b), II-6(c), II-7, II-7(a).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for proposed construction at 94 King Avenue, Piedmont, California, in accordance

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

1. **Approved Plan Set.** The approved plans are those submitted on July 15, 2016, with additional information provided on November 3, 2016 after notices to neighbors were mailed and the application was available for public review.

2. **Window and Door Material.** As specified in the plans, the building material for the new windows and doors shall be wood or aluminum-clad wood with true or 3-dimensional simulated divided lites.

3. **Air Conditioning Units Sound Testing.** Before issuance of a building permit, the applicant shall submit verification by an acoustical engineer that the air conditioning units meet the sound requirements outlined in Section 5.2.21 of the Building Code that limits mechanically-generated noise sources as having a maximum sound transmission of 50 decibels, A-weighted, as measured at the nearest property line.

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.

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

**Design Review
231 Bonita Avenue**

Resolution 347-DR-16

WHEREAS, the Property Owner is requesting permission to construct an approximately 690-square-foot, second-story addition on the left (south) side of the property, and to make modifications to windows and doors on the house, located at 231 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 to the criteria and standards of Section 17.20.9(b) of the Piedmont City Code:

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. The distance between the 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, as designed, gracefully extends the existing roofline over the second story, improving the massing of the structure as a whole. The proposal seeks to apply materials and details uniformly to the façade to achieve a cohesive look, as well as replace and renew deteriorated finishes with new ones that are harmonious with the existing home and the neighborhood.

2. The proposed upper level addition has been designed in a way that reasonably minimizes view and light impacts on neighboring properties, because a tree line buffer and the setbacks of the house and addition negate any light and view impacts on neighboring properties.

3. The size and height of the addition are commensurate with the size of the lot and are in keeping with the existing neighborhood development pattern, because the addition extends the roofline, adding massing that improves that of the current house, and is in line with the neighborhood development pattern.

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. There is no impact to pedestrian or vehicular circulation with the addition, and the development seeks to improve the situation with the existing power pole that currently encroaches into the driveway.

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

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for proposed construction at 231 Bonita Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

3. **Garage Verification.** The Chief Building Official shall verify that the garage has a minimum interior dimension of 18 feet wide by 20 feet deep prior to final inspection.

4. **Garage Door.** To facilitate vehicular access, the garage door shall be motorized. If design modifications are required to accomplish this, those modifications shall be subject to staff review.

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

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

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

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.

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

**Design Review
53 Crest Road**

Resolution 357-DR-16

WHEREAS, the Property Owner is requesting permission to make modifications to a previous approval including to change the roof material to standing seam metal; to add a new air conditioning unit on the right (north) side of the property; and to add a new door at the basement level on the left (south) side of the home, located at 53 Crest Road, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e), and the proposal conforms to 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 improvement of the standing seam roofing is in keeping with the midcentury modern look, and there is no tacked on appearance with this design change. The air conditioning unit has no negative impact on the design, and the new wood door is in keeping with the design 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 there is no negative impact.
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 impact, and therefore no negative impact.
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(b), 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 53 Crest Road, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

**Variance and
Design Review
42 Craig Avenue**

Resolution 360-V/DR-16

WHEREAS, the Property Owner is requesting permission to construct a 104-square-foot upper level addition; make modifications to the roof eaves; make various window and door modifications; add exterior lighting; construct a new porch and deck at the rear; and make various interior improvements, located at 42 Craig Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary to exceed the structure coverage limit; 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 small and has an angular shape with a garage in the rear, so there is little opportunity to develop the rear yard for family use within the prescribed lot coverage requirements.
2. The variance is compatible with the immediately surrounding neighborhood and the public welfare, as follows: The proposed rear deck is modest in size (5 feet by 21 feet) and provides a connection between the kitchen and the rear yard in the same manner as with many family homes in Piedmont.
3. Accomplishing the improvements without variance would cause unreasonable hardship in planning, design, or construction, because the current property is maxed out on lot coverage, and the owners would not be able to connect the rear of the house directly with the rear yard without the proposed deck.

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements include but are not limited to: height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment. The distance between the proposed upper level 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 exterior design of the proposed addition is intended to be seamless and will not look like an expansion when completed. The second floor roof extends the existing by only six feet. The lower side roof has a false gable, matching the opposite side roof to break down the mass. Materials, details, railings, pilasters, trellises, windows, and doors match existing elements of the building.
2. The proposed upper level addition has been designed in a way that reasonably minimizes view and light impacts on neighboring properties, including consideration of the location of the new construction, lowering the height of the addition, expansions within the existing building envelope, lower level excavation for new multi-level structures, and/or changing the roof slope or ridge direction. The second story expansion is located on the driveway side of the property in order to minimize impact on neighboring properties. The height is limited to the height of the existing second story, so as not to increase the bulk significantly.
3. The size and height of the addition is commensurate with the size of the lot and is in keeping with the existing neighborhood development pattern. The size and height of the addition are moderate and are commensurate with the modest size of the lot. It has a similar or smaller scale relative to the adjacent properties.

4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. In accordance with Sections 17.16.1 and 17.22.1, the existing 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 traffic circulation pattern has not been changed, so there is no impact to the safety.

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 variance and design review application for proposed construction at 42 Craig Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

3. **Windows.** The color scheme of the new windows shall match that of the remaining windows throughout the house.

4. **Approved Plan Set.** The approved plans are those submitted on October 14, 2016.

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

- 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,
Design Review &
Fence Design Review
58 Nace Avenue**

Resolution 361-V/DR-16

WHEREAS, the Property Owner is requesting permission to rebuild and extend the wood fence and construct a new rock and boulder retaining wall along Howard Avenue in the south corner of the property; to construct new stone stairs leading to the rear yard; to install a new spa in the rear yard; and to modify hardscape and exterior lighting throughout the rear (east) of the property, located at 58 Nace Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary to exceed the structure coverage limit; and

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

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

1. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to: the existing nonconforming lot size, which is less than half the conforming size, and the property's location as a corner lot. 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 similar lot coverage is found on the adjacent properties, and the proposed increase is less than one percent.
3. Accomplishing the improvements without variance would cause unreasonable hardship in planning, design, or construction, because the existing house currently exceeds the structure coverage.

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements include but are not limited to: the fence and gate, stairs, spa, and water feature. The fence compliments the guardrail and house siding, and the stonework is consistent with the existing.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because the new fence is similar in size to the existing and there is no other impact.
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 and the added handrail improves pedestrian safety.
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, IV-1, IV-1(a), IV-1(b), IV-2, IV-2(a), IV-3, IV-3(a), IV-4, IV-4(a), IV-5, IV-5(a), IV-6, V-1, V-2, V-4, V-5, V-5(a), V-5(b), V-5(c), V-6, V-7, V-8, V-9, V-10, V-11.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review application for proposed construction at 58 Nace Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **C&D Compliance.** Compliance with Chapter 9 Article III of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project.
2. **Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA

issues, the Property Owner shall defend and indemnify the City against any liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.

3. **Water Feature.** Final design of the proposed water feature shall be subject to staff review and approval.

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

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

5. **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.

6. **Approved Plan Set.** The approved plans are those submitted on November 4, 2016, after notices to neighbors were mailed and the application was available for public review.

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

Regular Calendar

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

Staff Design Review Referred & 2nd Unit Permit with Parking & Size Exceptions 26 Littlewood Drive

The Property Owner is requesting Staff Design Review and a Second Unit Permit to make interior and exterior modifications to the home, including developing approximately 474 square feet of living space at the basement level in order to create an approximately 865-square-foot second unit; to enlarge the deck at the basement level located at the rear of the home; and to make modifications to windows and doors on the rear and left side of the home. Parking and size exceptions are requested for the second unit.

Written notice was provided to neighbors. **Two negative response forms** were received. **Correspondence** was received from: an anonymous neighbor.

Public testimony was received from:

Ahmad Mohazab, project architect, explained that the proposed second unit is located within the envelope of the existing house and that new construction

materials are proposed to be consistent with existing materials. He explained that the proposed unit would be designated as a very-low-income second unit in response to the size exception, and that the applicant is requesting a parking exception since the project does not include parking for the second unit. He also discussed the proposed floor area ratio. In response to questions from the Commission, Mr. Mohazab discussed the concerns of the neighbors and confirmed that the basement currently includes a permitted bedroom and bathroom.

Tim Gerrity, homeowner, responded to a neighbor's concern by explaining that he only temporarily has four cars and that he will soon be down to two cars. He added that his in-laws, who plan to occupy the second unit, do not have a car. In response to questions from the Commission, Mr. Gerrity stated that he had contacted his adjacent neighbors without realizing that he was expected to contact additional neighbors. He also agreed with neighbor comments regarding the current difficulties with parking, but explained that the issue is caused by an ongoing construction project at the end of the street. He stated that parking is not an issue in the evenings or on weekends.

In response to a question from Commissioner Ode, Planning Director Jackson explained that an applicant is permitted to seek an exception to the size or parking requirements for a second unit if the applicant agrees to rent the unit to a low or very-low-income tenant for at least ten years.

The Commissioners were in full support of the project. They found the size and parking exceptions to be appropriate, since the second unit is being created within the existing envelope of the house, the existing basement bedroom and bathroom are legal, the existing parking for the house is conforming, there is additional parking within the driveway, and there is not a significant increase in the intensity of use. Commissioner Behrens added that the project would contribute to the region by adding a low-income housing unit.

Resolution 319/320-DR/SUP-16

WHEREAS, the Property Owner is requesting Staff Design Review and a Second Unit Permit to make interior and exterior modifications to the home, including developing approximately 474 square feet of living space at the basement level in order to create an approximately 865-square-foot second unit; to enlarge the deck at the basement level located at the rear of the home; and to make modifications to windows and doors on the rear and left side of the home, located at 26 Littlewood Drive, Piedmont, California, which construction requires design review; and

WHEREAS, an exception to the parking requirements of Chapter 17 of the Piedmont City Code is requested for the second unit; and

WHEREAS, an exception to the size requirement of Chapter 17 of the Piedmont City Code is requested for the second unit; 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 to 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 deck extension and door and window modifications. The deck extension matches the existing deck in size and detailing. The proposed door and windows are also similar to the existing doors and windows.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because no change is proposed to expand the building envelope. Modifications are proposed at the lower level of the house.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress, because the existing home has conforming, easily-accessible parking, as well as parking in the driveway. No change is proposed in points of ingress and egress.
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-5, II-5(a), II-6, II-6(a), II-6(b), II-6(c), II-7, II-7(a).

WHEREAS, with regard to the Second Unit Permit Size Exception, the Planning Commission finds that the proposal complies with the criteria under Section 17.40.7(c)(i) of the Piedmont City Code:

1. The proposed second unit will not create a significant adverse impact on any adjacent property and the surrounding neighborhood, because the unit is being created within the existing envelope of the house, the unit has one bedroom, and the additional 165-square-foot space does not accommodate additional occupants.
2. The lot and the arrangement of existing and proposed physical improvements on the lot can accommodate the proposed second unit size without adversely affecting the views, privacy, or access to light and air of neighboring properties, because the unit does not expand the house, the unit is on the lower level, and the unit is oriented toward the back of the house and not toward the adjacent neighbors.

WHEREAS, with regard to the Second Unit Permit Parking Exception, the Planning Commission finds that the proposal complies with the criteria under Section 17.40.7(c)(ii) of the Piedmont City Code:

1. In looking at the totality of circumstances, there is sufficient street parking available to accommodate the parking exception, including proximity to public transit services, because Littlewood Drive is a cul-de-sac, and development is not as dense in this area as in other parts of the city.
2. The exception will not negatively impact traffic safety or emergency vehicle access to residences, or create hazards by obstructing views to or from adjoining sidewalks, driveways and streets, because no change in access is proposed. The existing street is wide enough to accommodate street parking.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the application for design review and

second unit permit with parking and size exceptions for proposed construction at 26 Littlewood Drive, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Second Unit Declaration.** In compliance with §17.40.6.g, prior to the issuance of a building permit, the completed, signed and notarized *Declaration of Restrictions - Property with Approved Second Dwelling Unit* form shall be recorded.

2. **Declaration of Rent Restriction.** In compliance with §17.40.7.c.3.i.a, a Declaration of Rent Restriction (in a form provided by the City) shall be recorded stating that the unit is rent-restricted as a very low income unit. The rent-restriction shall be recorded in the County Recorder's Office, and shall remain in effect for ten years. The ten-year period of rent restriction begins either: (a) on the date of recordation or date of final building inspection, whichever is later; or (b) according to the terms of the conditions of approval or a recorded declaration. If, after ten years, the termination of the recorded declaration is not automatic (by its terms), the City shall record a document terminating the declaration of rent restrictions, upon the written request of the property owner.

3. **Affordable Rent Certification.** In compliance with §17.40.7.c.3.i.b, prior to the occupancy of the rent-restricted unit, an owner who has executed a Declaration of Rent Restriction shall submit to the City a Second Unit Affordable Rent Certification (in a form provided by the City), and thereafter (i) on an annual basis, by each December 31 and as part of the annual City business license application and renewal; and (ii) upon any change in occupancy of the second unit. The second unit affordable rent certification shall be on a form provided by the City and shall specify whether or not the second unit is being occupied; the rent charged; the utilities that are included in the cost of rent; the household size of the second unit; the names and ages of the second unit occupants; the gross household income of the second unit household; and other information as determined appropriate by the City.

4. **Building Code Compliance.** A 1-hour separation is required between the new second unit and the existing residence. All other building Code must be met.

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

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

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

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.

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

**Variance and
Design Review
108 Moraga Avenue**

The Property Owner is requesting permission to remodel and expand the existing 1,004-square-foot, 2-bedroom house by 1,375 square feet through the following alterations: the demolition of the existing garage and workshop; the excavation for and construction of a new 2-car garage with roof deck atop in the right (west) side yard; the construction of front (north) and rear (south) first-floor additions and a second story addition with balconies; window, door, garage door, skylight, and exterior lighting modifications; various changes to the interior resulting in a 4-bedroom, 3-bath house with a den; and hardscape and landscape changes throughout the property including a widened driveway and curb cut, and the replacement of the circular drive with a reconfigured front entry path. A variance is required in order to construct within the left (east) side yard setback.

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

Public testimony was received from:

Lisa Thogersen, project architect, described the applicant's efforts to discuss the project with neighbors, and she outlined the changes made to the project to address the concerns of the neighbors and the Commission. She reviewed the many options that were studied to expand the existing 1,000-square-foot home, including raising the house to add living space beneath and adding to the front of the house. She explained that, other than a partial fill of the existing courtyard, these other design options are mostly infeasible, given the shape and topography of the lot. In response to questions from the Commission, Ms. Thogersen confirmed the proposed interior ceiling heights, and she explained that the proposed second-story addition is lower (by one foot) and farther from the rear neighbor (by six feet) compared with the previous proposal. She confirmed that she could accommodate a one-foot drop in the building height, if necessary.

Linda Chandler and Surindha Talwate, homeowners, explained how they considered each comment from the neighbors and Commissioners one-by-one, and did their best to address as many concerns as possible. They outlined the changes that were made to the proposal, which included moving the upper story addition away from the neighbors, removing the lower story expansion at the rear, adding clearstory windows on either side of the house, and adding new

trees for privacy. Ms. Chandler explained why they were unable to fully address the concerns of the rear neighbor, who wanted the expansion to be subgrade.

Erica Benson, owner of 115 Ronada Avenue, expressed her concerns for the current design. She argued that the changes made were not significant, giving only three additional feet between her house and the addition. She maintained that the project would impact the comfort and privacy of her backyard, and that the sky view currently enjoyed within the house would be lost. She argued that the project would lower the value of her home. In response to questions from the Commission, Ms. Benson indicated that the views that would be impacted are from the upstairs hallway and bathroom. She discussed alternative design ideas, such as expanding at the front of the house and within the basement, and she requested that the house be lowered by at least four feet. When asked by Commissioner Zhang whether she was willing to compromise on lowering the house by less than 4 feet, she responded negatively.

In response to questions from the Commission, Planning Director Jackson and Assistant Planner Alvarez discussed Piedmont's policy regarding the preservation of small houses. They explained that, for houses with less than 1,800 square feet, the code discourages variances for FAR, structure coverage or parking, but otherwise does not provide grounds for denying the expansion of a small house that otherwise complies with the zoning code and design guidelines.

The Commissioners were in full support of the project. They commended the applicants for greatly improving the proposal and for systematically addressing the concerns of the neighbors and Commission. They also commended the applicants on a seamless, well-proportioned and charming design. Commissioner Ramsey spoke favorably about the changes at the rear of the house, discussed why the current design is superior to other design alternatives, and pointed out that a variance is only requested to accommodate an architectural detail. Commissioners Ramsey, Zhang and Ode entertained the concept that the applicant should lower the upper floor by one foot to address some of the concerns of the neighbor. Commissioner Theophilos maintained that the project does not significantly impact the downhill neighbor, particularly because the rooms receiving any impact are a hallway and bathroom. In addition, Commissioner Behrens pointed out that Ms. Benson indicated that a one-foot drop in the height would not address her concerns. Commissioners Theophilos and Behrens were not in favor of requiring a one-foot reduction in height, and ultimately the Commission unanimously decided against requiring a reduction in height.

Resolution 348-V/DR-16

WHEREAS, the Property Owner is requesting permission to remodel and expand the existing 1,004-square-foot, 2-bedroom house by 1,375 square feet through the following alterations: the demolition of the existing garage and workshop; the excavation for and construction of a new 2-car garage with roof deck atop in the right (west) side yard; the construction of front (north) and rear (south) first-floor additions and a second story addition with balconies; window, door, garage door, skylight, and exterior lighting modifications; various changes to the interior resulting in a 4-bedroom, 3-bath house with a den; and hardscape and landscape changes throughout the property including a widened driveway and curb cut, and the replacement of the circular drive with a reconfigured front entry path, located at 108 Moraga Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary to construct within the 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 existing house is three inches from the right property line and four feet from the left property line, making it impossible to re-site the house toward the right side. The existing parapet roof is located exactly on the setback line, and therefore, when replacing it with a tile roof, the new roof eave will encroach on the setback by up to five inches.
2. The variance is compatible with the immediately surrounding neighborhood and the public welfare, because the size of the encroachment into the left setback is miniscule and many houses and garages on Moraga Avenue are already located in side yards.
3. Accomplishing the improvements without variance would cause unreasonable hardship in planning, design, or construction, because the existing house is already on the setback line and demolishing the entire left side in order to relocate it west several inches would be a severe financial hardship.

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements include but are not limited to: height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment. The distance between the proposed upper level 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 applicant has incorporated materials that are consistent and of high quality. Currently, the home has three kinds of windows. The newly-designed house will have one kind of window only, and therefore will have a more harmonious appearance. The new stucco will match the existing stucco. The clay tile roof is a common feature on Moraga Avenue and will match existing.
2. The proposed upper level addition has been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.79), including consideration of the location of the new construction, lowering the height of the addition, expansions within the existing

building envelope (with or without excavation), lower level excavation for new multi-level structures, and changing the roof slope or ridge direction. The applicants have taken measures to pull the upper level away from the rear property line. Decorative balconies buffer the addition from the rear neighbor. The applicant is also proposing to retain the four mature trees in the rear, maintaining the “tree-house” feeling at the rear. The front of the second story addition is also pulled back seven feet from the existing front of the house so that the uphill neighbor's view is not obstructed. To achieve the desired floor plan, the applicant filled in part of the courtyard, which does not directly affect any neighbors.

3. The size and height of the addition are commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and are in keeping with the existing neighborhood development pattern. The project conforms to all of the development standards regarding coverage and FAR. The applicant has determined that 60% of the closest 14 properties are at least two stories tall, and that 88% of those are over 2,100 square feet. Therefore, the size of the proposed house is within the existing development pattern of the neighborhood.

4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. In accordance with Sections 17.16.1 and 17.22.1, the 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 new garage is located in the same place as the existing garage. Therefore, the safety of residents and the free flow of vehicular traffic are not affected.

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

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

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

5. **Garage Door.** To facilitate vehicular access, the garage door shall be motorized. If design modifications are required to accomplish this, those modifications shall be subject to staff review.

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

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

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

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

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

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

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

13. **Final Landscape Plan.** Before issuance of a building permit, the Property Owner shall submit for staff review and approval a Final Landscape Plan that shows trees proposed for retention as well as in-lieu trees required by a Certified Tree Preservation Plan for mature trees in the rear yard. The final plan shall comply with City Code Sections 17.18.4 so that the front yard is landscaped with vegetation and organic materials except for areas paved for ingress and egress; and 17.17.3 so that there are no plants near the driveway that

could obscure visibility of pedestrians on the sidewalk or vehicles on the street from drivers backing out of the driveway.

14. Foundation/Shoring/Excavation Plan. At the discretion of the Building Official, the Property Owner may be required to submit foundation, excavation, and shoring plans prepared by a licensed civil or structural engineer that fully address issues of site shoring, fencing and hillside security issues. The plans shall not require any trespassing or intruding into neighboring properties (without prior written consent), and shall mitigate against any subsidence or other damage to neighboring properties. Such plans shall incorporate as appropriate the recommendations of the Property Owner's geotechnical engineer and the City's geotechnical consultant, and shall be subject to approval by the City Engineer and the Chief Building Official.

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

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

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

17. City Attorney Cost Recovery. If there is a substantial additional commitment of City Attorney's time required to accommodate the scope and nature of the Project, the Property Owner shall, at the time of the Building Permit Application and at the discretion of the Chief Building Official, make a cash deposit with the City in the amount of \$5,000 to be used to offset time and

expenses of the City Attorney relating to the Project. If such cash deposit has been reduced to \$2,500.00 or less at any time, the Director of Public Works may require the Property Owner to deposit additional funds to cover any further estimated additional City Attorney time and expenses. Any unused amounts shall be refunded to the Property Owner within 90 days after the Project has an approved Final Inspection by the Chief Building Official.

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

- a. Construction Site Control of Stormwater. The California Regional Water Quality Control Board requires all projects that disturb the site to comply with Provision C.6 of the San Francisco Bay Regional Stormwater NPDES Permit in order to prevent construction site discharges of pollutants and other regulated materials during construction. As required by the Chief Building Official and prior to the issuance of a building permit, the Applicant shall develop and submit a construction stormwater management plan as part of the Construction Management Plan to achieve timely and effective compliance with Provision C.6. Permit Provision C.6.c.ii provides sources for site specific, and seasonally- and phase-appropriate, effective Best Management Practices (BMPs) that may be incorporated into the stormwater management plan. Copies of the Municipal Regional Stormwater Permit are available from the Piedmont Public Works Department and on-line at cleanwaterprogram.org.
- b. Renovation / New Construction. Pursuant to Section 17.32.6 of the Municipal Code, if for any reason more than 70% of the physical structure (as determined by the Building Official) is demolished or destroyed, the building shall conform to new building and planning Code requirements. If this occurs during demolition, all work must stop and a new hearing and public review by the Planning Commission is required.
- c. Neighboring Property Owner Permission. Should the execution of the Foundation/Shoring/Excavation Plan require excavation into a neighboring property or if access onto the neighboring property is necessary for construction, the applicant shall submit, prior to the issuance of Building Permit, a written statement from the neighboring property owner granting permission for access onto his/her property for the purpose of excavation and/or construction.

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

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

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

**Variance and Staff
Design Review Referred
1106 Warfield Avenue**

The Property Owner is requesting permission to make interior and exterior modifications to the basement level of the home, to include two bedrooms and a full bathroom and to enlarge a window on the west side of the property. A variance is required to create two additional rooms eligible for use as bedrooms without supplying conforming parking.

Written notice was provided to neighbors. **Three affirmative response forms and one response form indicating no position** were received.

Public testimony was received from:

Melissa Batavia, neighbor at 1102 Warfield, spoke favorably about the project and stated that the project would only improve the house and the neighborhood. In response to a question from Commissioner Theophilos, Ms. Batavia stated that there is never a shortage of parking on Warfield Avenue.

Jim Gardner, in his role as homeowner, designer and contractor, made himself available for questions. In response to a question from Commissioner Behrens, Mr. Gardner explained how the stormwater and sewage issues raised by a neighbor have been addressed by past or ongoing upgrades on the property. In response to a question from Commissioner Ramsey, Mr. Gardner confirmed that the existing garage door is mechanically operated.

The Commissioners were in full support of the project. They noted that the proposed improvements are completely within the existing envelope of the house. They found there to be no indication of a parking shortage on Warfield Avenue and no significant increase in the intensity of use for the property.

Resolution 358-V/DR-16

WHEREAS, the Property Owner is requesting permission to make interior and exterior modifications to the basement level of the home, to include two bedrooms and a full bathroom and to enlarge a window on the west side of the property, located at 1106 Warfield Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary to create two additional rooms eligible for use as bedrooms 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 required parking is not feasible because of the limitations of the lot boundaries, proximity of the house to the street, and extreme grade that would be needed for parking.
2. The variance is compatible with the immediately surrounding neighborhood and the public welfare, because owners of most neighboring properties have a minimum of four bedrooms and two bathrooms, several of them with basement level expansions. There will be no increase in the envelope of the building, no increased need for parking, and neighborhood parking is not an issue, based on the testimony of the neighbors.
3. Accomplishing the improvements without variance would cause unreasonable hardship in planning, design, or construction, because the small width of the lot, proximity to the street, and large change in elevation at the front of the property make creating additional off-street parking an unreasonable hardship.

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements include but are not limited to: height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment. For this project, the exterior elements do not change, other than the enlargement of one window.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because there are no design changes except for one window enlargement.
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. The garage is not proposed to change and the work is limited to an interior remodel.
4. The project complies with Design Review Guidelines II-1, II-2, II-3(a), II-3(b), II-3(c), II-3(d), II-4, II-5, II-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 1106 Warfield 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. **C&D Compliance.** Compliance with Chapter 9 Article III of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project.
4. **Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.
5. **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 Zhang, Seconded by Theophilos
Ayes: Behrens, Ode, Ramsey, Theophilos, Zhang
Noes: None
Recused:
Absent:

The Commission recessed for dinner at 6:25 p.m. and reconvened at 6:55 p.m.

**Variance, Design
Review & Retaining
Wall Design Review
306 Magnolia Avenue**

The Property Owner is requesting permission to make modifications to a prior approval, including: to create 643 square feet of habitable space within the basement, including an unintended second unit; to install new windows and doors at the basement level; to make modifications to windows throughout the house; to install skylights on the left (north) facing roof slope; to increase the height of the retaining wall at the driveway in the front yard to a maximum height of 76 inches; to construct a wood fence on top of a retaining wall with a maximum height of 8 feet 8 inches along the right (south) property line; and to construct a wooden deck at the rear of the house. Two variances are required in

order to exceed the Floor Area Ratio limit and to add an additional room eligible for use as a bedroom without supplying conforming parking.

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

Public testimony was received from:

Paki Muthig, homeowner, explained his proposal to amend the previous approval to develop the existing basement, which results in an unintentional second unit and the need for parking and FAR variances. He reported on surveys he had conducted to show precedents within the neighborhood for one parking space with 4 bedrooms, and he reminded the Commission of the tandem, pull-through garage previously approved. He also briefly touched on the proposed changes to the driveway retaining wall and submitted a perspective drawing of the rear elevation. In response to questions from the Commission, Mr. Muthig admitted to having been confused about the FAR exemption and having previously removed the basement expansion from the application because of the FAR variance. He pointed out, however, that if he waited three years he would be allowed to finish the basement without the need for a variance. He also explained that the new windows proposed to overlook the tandem parking space are meant to bring more light into the family room and will likely be partially covered with bottom/up shades. He stated that he intends to use the tandem parking space, but is uncertain about how often he would use it, and he argued that a one-car garage for 4 bedrooms is in line with other properties in the neighborhood. He also indicated that there is usually plenty of parking available on the street. In response to questions from the Commission, Mr. Muthig also commented on the basement ceiling height, the driveway width, and the driveway retaining walls.

The Commissioners were in full support of the design and restoration of the house, but had differing opinions on the approvability of the parking and FAR variances. With regard to the parking variance, Commissioner Theophilos supported its approval, given the lack of options for additional parking on the property. Commissioners Ode, Ramsey, Zhang and Behrens were not initially convinced that the parking variance should be approved, especially given the parking difficulties in the neighborhood. Commissioner Ramsey pointed out that the parking requirement for four bedrooms was the same as for three, but was not convinced that the tandem parking space would be used. Commissioner Behrens encouraged the applicant to use the tandem parking space as much as possible, for the sake of the neighborhood. Commissioners Theophilos, Ode, Ramsey and Behrens ultimately favored the approval of the parking variance, but Commissioner Zhang did not. With regard to the FAR variance, Commissioners Theophilos, Ode, Ramsey and Behrens supported its approval so as not to make the applicant wait three years to finish the basement. Commissioner Zhang was not in support of the FAR variance, given the significantly high FAR of 70.7%. He also questioned the applicant's intent with his piecemeal proposals.

Resolution 359-V/DR-16

WHEREAS, the Property Owner is requesting permission to make modifications to a prior approval, including: to create 643 square feet of habitable space within the basement, including an unintended second unit; to install new windows and doors at the basement level; to make modifications to windows throughout the house; to install skylights on the left (north) facing roof slope; to increase the

height of the retaining wall at the driveway in the front yard to a maximum height of 76 inches; to construct a wood fence on top of a retaining wall with a maximum height of 8 feet 8 inches along the right (south) property line; and to construct a wooden deck at the rear of the house, located at 306 Magnolia Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, two variances from the requirements of Chapter 17 of the Piedmont City Code are necessary to exceed the Floor Area Ratio limit and to add an additional room eligible for use as a bedroom without supplying conforming parking; and

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

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

1. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to: a narrow lot, an irregular-shaped lot, and an existing 100-year-old house with multiple additions. 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 area exceeding the FAR is within the existing building envelope at basement level, the parking/bedroom ratio is similar to that at other properties, and the parking requirement for three bedrooms is the same as for four bedrooms.
3. Accomplishing the improvements without variance would cause unreasonable hardship in planning, design, or construction, because similar development of other properties has been approved. Major excavation of the front yard or additional construction would require additional variances and would not be in keeping with the neighboring development or the historic nature of the home.

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements include but are not limited to: windows, fence and retaining walls that are compatible with the house and adjacent development. The project maintains the historic 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 there is no increase in the building footprint, and the development that is part of this application is within the basement level.

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 ingress and egress have not changed, access from the parking is improved, and an additional non-required, nonconforming, tandem space is provided.

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), IV-1, IV-1(a), IV-1(b), IV-2, IV-2(a), IV-3, IV-3(a), IV-4, IV-4(a), IV-5, IV-5(a), IV-6, V-1, V-2, V-3, V-4, V-5, V-5(a), V-5(b), V-5(c), V-6, V-7, V-8, V-9, V-10, V-11.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review application for proposed construction at 306 Magnolia Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Approved Plan Set.** The approved plans are those submitted on October 26, 2016, with additional information submitted on November 3, 2016 after notices to neighbors were mailed and the application was available for public review.

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

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

4. **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.

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

7. **Notice of Restricted Use.** The basement rooms labeled "Clean Storage", "Utility Room", and "Workshop/Storage" do not meet habitation or safety requirements of the Piedmont Municipal Code. A notice of restricted use shall be recorded with the Alameda County Recorder's office advising current and future owners that the space does not meet the safety codes for habitation purposes.

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.

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

**Variance and
Design Review
58 Fairview Avenue**

The Property Owner is requesting permission to make modifications to the attic level, including: to raise the roofline by one foot and make alterations to the eaves, to create 1,130 square feet of habitable living space by finishing the attic and seeking retroactive approval for the enclosure of a second-story sleeping porch, to install three skylights, and to make window modifications; and to seek retroactive approval for several windows throughout the house. Two variances are required in order to construct within the right (west) side yard setback and to increase the number of rooms eligible for use as a bedroom to five without supplying conforming parking.

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

Public testimony was received from:

Beth McNeill, homeowner, outlined the goal of the remodel, which she stated is to add three bedrooms, one bathroom and a meditation space to the second floor of the house. She explained that she hopes to retain the two bedrooms on the first floor for visitors, but that a third parking space would push the project over the allowable impermeable surface coverage and would require the removal of a significant tree. Ms. McNeill also commented on the exterior design of the project, noting that the overall height is one foot lower than was previously proposed and that the intent is to limit the impact on neighbors and retain the style of the house.

Benjamin Anderson, project architect, stated that the current proposal responds to the concerns of the neighbors and the Commission. He outlined numerous design iterations that were considered, and he indicated that the proposed design was chosen because it was the most in keeping with the original architecture of the California bungalow. He explained that the current proposal lowers the overall height of the house by one foot, compared with the previous proposal, and extends the eave on the front façade to be compatible with the existing architecture. Mr. Anderson stated that the project proposes to remove all of the unpermitted windows of the original sleeping porch and replace them with new windows that are in keeping with the original windows of the house. He added that the original roof of the sleeping porch provided him with architectural clues for the subtle expansion of the second story. With regard to the parking variance request, Mr. Anderson reported that a parking survey of the neighborhood shows

that approximately 90% of the nearby houses with five bedrooms or more do not have the required three parking spaces.

The Commissioners were in full support of the project and commended the architect for greatly improving the project design and addressing the concerns of the neighbors. With regard to the parking variance, Commissioner Theophilos commented on the ample street parking and the approval of a parking variance on the property in 2006. With regard to the setback variance, Commissioner Ramsey maintained that the variance is necessary for the addition to match the architectural character of the existing house and that the public walkway grants an extra five feet between the houses.

Resolution 362-V/DR-16

WHEREAS, the Property Owner is requesting permission to make modifications to the attic level, including: to raise the roofline by one foot and make alterations to the eaves, to create 1,130 square feet of habitable living space by finishing the attic and seeking retroactive approval for the enclosure of a second-story sleeping porch, to install three skylights, and to make window modifications; and to seek retroactive approval for several windows throughout the house, located at 58 Fairview Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, two variances from the requirements of Chapter 17 of the Piedmont City Code are necessary to construct within the right (west) side yard setback and to increase the number of rooms eligible for use as a bedroom to 5 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 existing residence is built within the side setback and is located adjacent to a public walkway. Strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone that conform to the zoning requirements.
2. The variance is compatible with the immediately surrounding neighborhood and the public welfare, because the property has an accessible, long driveway leading to the garage, which is similar to other properties; a previous Planning Commission approved a parking variance on the property; and other homes in the area have similar parking/bedroom ratios, per an exhibit provided by the architect.
3. Accomplishing the improvements without variance would cause unreasonable hardship in planning, design, or construction, because the existing garage is located on a sloped area of the lot, and expanding the garage would require additional side setback variances, require the removal of a tree, and exceed the allowable lot coverage. To match the existing architecture of the house, the

addition aligns with the existing wall of the residence, which is constructed within the side setback.

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. The distance between the addition and the 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 a greater setback is provided at the front of the house to minimize the impact of the second story addition and to reduce losses of ambient and reflected light. The second story addition on three of the facades aligns with the existing walls and matches the existing architecture below. The pitch of the roof on the new addition matches the existing. Roof pitch, rake details, brackets, windows and siding will match the existing materials, details, and size.
2. The proposed addition has been designed in a way that reasonably minimizes view and light impacts on neighboring properties, because the addition aligns with the footprint of the existing house, with a pitched roof that matches the existing slope. The overall height of the house is lower than the height of the two adjacent two-story homes.
3. The size and height of the addition are commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and are in keeping with the existing neighborhood development pattern, because the proposed FAR is below the allowable, the home size is similar to the adjacent homes, and the proposed addition does not increase the footprint.
4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. The existing or proposed on-site parking is appropriate to the size of the new addition, and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood, because there is a long existing driveway and an existing garage at the rear of the house.
5. The project complies with Design Review Guidelines II-1, 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 58 Fairview 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. **Skylight Flashing.** The metal flashing around the new skylights shall be painted to match the adjacent roof color.

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

5. **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 of the upper level addition is located at the setback dimension from the west property line as shown on the approved plans. The intent is to verify that the approved features are constructed at the approved dimension from the property line.

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

ADJOURNMENT

There being no further business, Chairman Behrens adjourned the meeting at 7:50 p.m.