

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, September 12, 2016

A Regular Session of the Piedmont Planning Commission was held September 12, 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 August 29, 2016.

CALL TO ORDER

Chairman Behrens called the meeting to order at 5:03 p.m.

ROLL CALL

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

Absent: Commissioners Tony Theophilos and Tom Zhang (excused)

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

PUBLIC FORUM

Kathryn MacDonald, applicant for the project at 75 Hazel Lane (Agenda Item #11), asked the Commission to consider moving her agenda item to the beginning of the meeting, due to unforeseen childcare issues.

Dimitri Magganas, resident of 118 Woodland Way, commended the Planning Commission, the Planning Director, and the planning Staff for their work on the Chapter 17 Municipal Code Modifications project.

AGENDA ORDER

Resolution 25-PL-16

RESOLVED, that the Piedmont Planning Commission amends the agenda to move Agenda Item #11 before Agenda Item #4.

Moved by Ramsey, Seconded by Ode

Ayes: Behrens, Jajodia, Ode, Ramsey

Noes: None

Recused:

Absent: Theophilos, Zhang

REGULAR SESSION

The Commission considered the following items of regular business:

Approval of Minutes

Resolution 26-PL-16

RESOLVED, that the Planning Commission approves as submitted its meeting minutes of the August 8, 2016, regular hearing of the Planning Commission and its meeting minutes of the August 30, 2016, special hearing of the Planning Commission.

Moved by Ode, Seconded by Jajodia

Ayes: Behrens, Jajodia, Ode, Ramsey

Noes: None

Recused:

Absent: Theophilos, Zhang

Consent Calendar

The Commission placed the following applications on the Consent Calendar:

- 349 Olive Avenue (Variance and Design Review)
- 1345 Grand Avenue (Conditional Use Permit)
- 135 Wildwood Gardens (Variance and Design Review)
- 120 Maxwelton Road (Design Review)
- 5201 Park Boulevard (Sign Design Review)

Resolution 27-PL-16

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

Moved by Ramsey, Seconded by Ode

Ayes: Behrens, Jajodia, Ode, Ramsey

Noes: None

Recused:

Absent: Theophilos, Zhang

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

**Variance and
Design Review
349 Olive Avenue**

Resolution 184-V/DR-16

WHEREAS, the Property Owner is requesting permission to remove the front turret and a portion of the front stair; to construct an approximately 93-square-foot addition at the first level of the front of the house, including the relocation of the front door, a new entryway roof, and modifications to windows and doors; and to develop approximately 359 square feet at the basement level, located at 349 Olive 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 front 20 foot setback; and

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

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

1. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to: the existing topography, the very steep slope from the street to the front of the house, and the narrow lot width, 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 other residences along the street are built within the required setback, and the existing house is built within the required setback.
3. Accomplishing the improvements without variance would cause unreasonable hardship in planning, design, or construction, because the existing house is built within the front yard setback, so a strict interpretation of the setback would prevent development of the lot in a manner that is consistent with other properties.

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: removal of the existing stair and turret, relocation of the front entryway to the basement level, construction of a 93-square-foot addition at the front of the house, and replacement and installation of new wood windows. There is no increase in the overall height, so the height is compatible with the neighborhood. The proposed expansion is modest at 93 square feet, and the applicant is proposing to develop the basement area within the existing footprint, minimizing additional mass. Proposed materials, including the tile roof, stucco finishes, and wood windows are compatible with the existing structure.

2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because the addition is at the front of the house, minimizing impact on the adjacent residences. The proposed alterations remove a portion of exterior exposed stairs, increasing privacy. The proposed addition utilizes basement space, reducing the need to add more mass to the existing 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 there is no change in automotive access, and the pedestrian access to the house will be improved with the new entry.

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

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

- 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, Jajodia, Ode, Ramsey
Noes: None
Recused:
Absent: Theophilos, Zhang

**Conditional Use Permit
1345 Grand Avenue**

Resolution 247-CUP-16

WHEREAS, Belardi/Ostroy is requesting a Conditional Use Permit to permit a new marketing office at the existing commercial building located at 1345 Grand Avenue, Suites 101 and 102, Piedmont, California; and

WHEREAS, the Piedmont Planning Commission has reviewed the application, the staff report, and any and all other documentation and testimony submitted in connection with the application and has visited the subject property; the Piedmont Planning Commission recommends that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e), and the proposal conforms with the criteria and standards of Section 17.24 of the Piedmont City Code:

1. The use is of benefit to Piedmont residents, in that the residents benefit from the marketing products and the rental income from the marketing office.
2. The use will be properly related to other land uses and transportation and service facilities in the vicinity, including consideration of how many similar nearby uses exist, in that the project lies within a commercial zone and in a building that has similarly sized commercial businesses. The proposed business will use the same or similar transportation and service facilities as other nearby businesses.
3. Under all the circumstances and conditions of the particular case, the use will not have a material adverse effect on the health or safety of persons residing or working in the vicinity. There does not appear to be any impact to health or safety of persons residing in the vicinity, since there are no physical changes that are being proposed.

4. The use will not be contrary to the standards established for the zone in which it is to be located, in that it continues the existing commercial use of the contiguous properties in the zone.

5. The use will not contribute to a substantial increase in the amount of noise or traffic in the surrounding area, in that the new office will use the existing four parking spaces associated with the property.

6. The use is compatible with the General Plan and will not adversely affect the character of the surrounding neighborhoods or tend to adversely affect the property values of homes in the surrounding neighborhoods, in that it is continuing the commercial use in Zone D and is similar to contiguous properties.

7. Adequate provision for driveways to and from the property has been made; facilities for ingress and egress from secondary streets instead of arterials, where possible, have been made; and provision for parking in compliance with this Chapter 17 has been made, together with sufficient agreements to enforce the carrying out of such plans as may be required by the Council. The existing on-site parking will be used and there will not be any change to the circulation patterns.

8. The plans conform to all other laws and regulations of the City, provided, however, that front, rear, and side yard setbacks greater than those otherwise provided in the laws and regulations of the City may be required as a condition of approval if necessary to provide for the health, safety, and general welfare of the residents of Piedmont. This is not applicable, since the business will be located in an existing building.

RESOLVED, that in consideration of the findings and facts set forth above, the Piedmont Planning Commission recommends approval by the City Council of the Conditional Use Permit application by Belardi/Ostroy at 1345 Grand Avenue, Suites 101 and 102, Piedmont, California, subject to the following conditions:

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

- a. Office Hours: Monday thru Friday 8:30am to 5:00pm
- b. Types of Staff/Personnel: 4 people

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 Jajodia, Seconded by Ode
Ayes: Behrens, Jajodia, Ode, Ramsey

Noes: None
Recused:
Absent: Theophilos, Zhang

**Variance and
Design Review
135 Wildwood Gardens**

Resolution 275-V/DR-16

WHEREAS, the Property Owner is requesting permission to create 235 square feet of habitable space within the existing basement, including a room eligible for use as a bedroom; to make window and door modifications to the right (west) and rear (south) facades; to construct a landing and staircase and replace the retaining wall at the rear of the house; and to install new exterior lighting at the door on the rear façade, located at 135 Wildwood Gardens, Piedmont, California, which construction requires design review; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary to add a fourth room eligible for use as a bedroom without providing 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 sloped lot and the existing garage, which is located within the setback and can fit two cars similar to other garages in the neighborhood. 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 other homes have similarly-sized garages, the garage was original to the house, and the variance is only required due to the depth of the garage at floor level.
3. Accomplishing the improvements without variance would cause unreasonable hardship in planning, design, or construction, because the garage would not match other garages within the area, it would require construction within the setback and an additional variance, and it would bring the structure closer to the front property line.

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: new windows, a new deck and a new retaining wall.

2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to indirect light, because the design will have little, if any, affect on neighboring properties. The proposed side yard windows are small and face heavy vegetation that is well setback from the property line.

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

4. The project complies with Design Review Guidelines II-1, II-2, II-3(a), II-3(b), II-3(c), II-3(d), II-6, II-6(a), II-6(b), II-6(c), II-7, II-7(a), IV-1, IV-1(b), IV-2, IV-2(a), IV-3, IV-3(a), IV-4, IV-4(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 135 Wildwood Gardens, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

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

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

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

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

7. **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 Jajodia
Ayes: Behrens, Jajodia, Ode, Ramsey
Noes: None
Recused:
Absent: Theophilos, Zhang

**Design Review
120 Maxwellton Road**

Resolution 280-DR-16

WHEREAS, the Property Owner is requesting permission to construct an approximately 142-square-foot second-story addition within the existing footprint of the rear (west) deck; to construct an approximately 33-square-foot addition on the first floor on the right (north) of the house; to install three skylights; to install a new standing seam metal roof; to rebuild the front (east) deck and construct a wood slate guardrail; to install a wood bench, water feature, and fire pit on the new deck; to modify the two-story porch on the rear and install new metal cable guardrails; to install a new garage door; and to

modify windows and doors throughout the house, located at 120 Maxwellton Road, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. The distance between the addition and adjacent residences is reasonable and appropriate due to the existing topography and neighborhood development pattern. Upper level setbacks greater than the setbacks required for the lower level have been considered and are not necessary to reduce losses of ambient and reflected light. The proposed front deck is within the footprint of the existing deck; the proposed exterior materials are in keeping with the upgraded neighborhood pattern; and the proposed kitchen and master bath additions are integrated within the existing building and hidden from the street.
2. The proposed addition has been designed in a way that reasonably minimizes view and light impacts on neighboring properties, because the additions are primarily at the rear of the house and do not seem to have light and view impacts. The improvements at the front are within the existing footprint and do not have an impact on neighboring properties.
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 additions are primarily at the rear of the property, and the view from the street does not significantly change.
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. The improvements do not have an impact on the current pedestrian or vehicular traffic pattern.
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-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 120 Maxwellton Road, 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 dark bronze anodized aluminum.

2. **Door Material.** As specified in the plans, the building material for the new doors shall be dark bronze anodized aluminum or wood.

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

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

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

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

8. **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.

9. **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.

10. **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.

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

**Sign Design Review
5201 Park Boulevard**

Resolution 286-DR-16

WHEREAS, the Property Owner is requesting permission to install a new sign on the northwest corner of the front of the existing building, located at 5201 Park Boulevard, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e), and the proposal conforms with the criteria and standards of Sections 17.19.2, 17.19.3, and 17.19.8 of the Piedmont City Code:

1. A maximum of one sign not required by law is permitted on the face of the building, unless the Planning Commission determines that one or more additional signs are needed for the convenience of the public. There is only one sign requested.

2. Each sign, including a sign required by law, is simple in design. Graphic depictions related to the non-residential use are appropriate. The sign will include the school logo and illustrate the school location and nature. Owners nearby are open to the design.

3. Each sign, including a sign required by law, is compatible in design, color and scale to the front of the building, adjoining structures and general surroundings. The proposed sign does not clash with the building, is located as far from the street as possible, and is not visible to passing traffic.

4. The sign is oriented toward the pedestrian and vehicular traffic approaching the school, but not for those on Park Boulevard.

5. The sign is proposed to be constructed of sturdy materials, in that it will be constructed of durable plywood and a durable finish.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the non-residential sign design review application proposed for 5201 Park Boulevard, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following condition:

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

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

Regular Calendar

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

**Design Review
75 Hazel Lane**

The Property Owner is requesting permission to install a built-in barbecue and counters in the rear (west) yard; to construct an arbor with a maximum height of 9 feet 3 inches along the rear of the house and a new trash enclosure along the right (north) property line; to construct a new fence and gates with a maximum height of 6 feet along the rear of the driveway; and to make various landscape improvements in the rear yard, including a patio, raised planters, lawn and planting areas, walkways, retaining walls less than 30 inches in height, seat walls, and lighting.

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

Public testimony was received from:

Kathryn MacDonald, homeowner, described the proposed project and explained that it aims to improve the privacy and flow of the rear yard, and to update the design of the rear addition so that it is more in keeping with the original design of the house. In response to questions from the Commission, Ms. MacDonald discussed the property survey and the shared driveway and indicated that no changes are proposed to the wall that is located on the neighbor's property. She also explained that the existing garage and the off-street parking pad are proposed to remain, and that new gates are proposed to allow vehicular access to the parking pad.

The Commission was in full support of the proposed project. Commissioner Ramsey suggested that an additional condition of approval be added to clarify that only improvements on the applicant's property are approved under the application.

Resolution 283-DR-16

WHEREAS, the Property Owner is requesting permission to install a built-in barbecue and counters in the rear (west) yard; to construct an arbor with a maximum height of 9 feet 3 inches along the rear of the house and a new trash enclosure along the right (north) property line; to construct a new fence and gates with a maximum height of 6 feet along the rear of the driveway; and to make various landscape improvements in the rear yard, including a patio, raised planters, lawn and planting areas, walkways, retaining walls less than 30 inches in height, seat walls, and lighting, located at 75 Hazel Lane, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements include, but are not limited to: the design, which improves the rear, 1970s addition with an arbor that breaks up the vertical lines; the materials, including stucco to match the original house; and the concealment of the garbage and storage area.

2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because it expands privacy by screening the backyard from other properties.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress, because the design improves site lines, preserves parking, and retains the traffic pattern so that there are no adverse effects on 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-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 75 Hazel Lane, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

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

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

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

- a. Construction Site Control of Stormwater. The California Regional Water Quality Control Board requires all projects that disturb the

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

- b. Neighboring Property Owner Permission. Should the execution of the Foundation/Shoring/Excavation Plan require excavation into a neighboring property or if access onto the neighboring property is necessary for construction, the applicant shall submit, prior to the issuance of Building Permit, a written statement from the neighboring property owner granting permission for access onto his/her property for the purpose of excavation and/or construction.

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

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

time thereafter to make a claim against the Property Owner's Site Security, if one is required, in order to complete the benchmark. The Director of Public Works has the option to refer the application to the Planning Commission for public review.

7. Approved Construction Limited to Applicants' Property. The new features approved under the scope of this application must be located within the boundaries of the property at 75 Hazel Lane and do not include any proposed features located all or in part on adjacent properties.

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

**Variance and
Design Review
110 Maxwellton Road**

The Property Owner is seeking retroactive approval for modifications made to a prior approval, including: to expand the deck and raise the height of the wall in the front (east) yard; to enlarge the garbage enclosure and to move it closer to the front property line; to construct a privacy screen under the garage on the left (south) elevation; to change the railing material on the rear (west) decks and staircase; to install an air conditioning unit under the front deck; to construct a staircase in the rear yard; and to make window modifications throughout the house. A variance is required in order to construct within the front setback.

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

Public testimony was received from:

Kyle Killian, homeowner, explained that the previously approved front deck was modified during construction to allow for it to be better integrated with the topography. In response to numerous questions from the Commission, Mr. Killian commented on his application further. He stated that the as-built front deck is approximately 1 foot closer and that the wall was built approximately 1 foot higher than approved to provide greater privacy. With regard to the trash enclosure, he explained that the proposed trash enclosure was built 1 foot from the property line (instead of the 10 feet that was previously approved), so as to avoid construction on a steep slope and the removal of a tree. He added that the new location also reduces its visual impact and allows for three cans to be placed side-by-side. Mr. Killian stated that the trash enclosure was constructed to be in line with the neighbor's garage and that it therefore does not pose a concern with regard to vehicular safety.

The Commissioners expressed disappointment that the proposed modifications, especially those to the trash enclosure and the front deck, which were significant in nature, were constructed without the required planning approval. They expressed surprise that the applicant's architect had not advised the applicant against constructing features without a permit. Commissioner Jajodia pointed out that a lot of leeway was already given with three variances approved on the prior application, and that the currently proposed modifications should have been presented properly, prior to construction. Mr. Killian stated that he and his architect believed that the modifications were reasonable and within the City's standards. Planning Director Jackson clarified that the applicant had not reviewed the modifications with Staff prior to construction.

The Commissioners spoke at length about their opposition to the location of the trash enclosure. They expressed their concern that the trash enclosure impacts vehicular and pedestrian safety, since it blocks the view from cars backing out of the driveway. They were not convinced by the applicant's argument that the trash enclosure posed no more of an impact on vehicular safety than the neighbor's garage, noting in particular that a driver backing out of the driveway could not see a pedestrian or cyclist on the street side of the garbage enclosure. The Commissioners discussed the height and size of the trash enclosure, and Staff noted the heights of the trash carts used in Piedmont. Commissioner Ramsey referred to Municipal Code Section 17.17.1(c), which calls for trash enclosures to be as far away from the street as possible, as small as necessary, and as low in height as possible. The Commissioners acknowledged the challenging site conditions, but were unable to support approval of the trash enclosure, due to uncertainty over vehicular safety and compliance with Section 17.17.1(c).

The Commissioners also spoke at length about the front deck. They confirmed from the architectural drawings that the deck was actually expanded toward the front by 1 foot 11 inches, and that the railing was higher by two feet 1 inch. Commissioner Ode suggested that the modifications to the front deck have changed its function from a means of entering the front door to a closed-off, front-yard gathering space. She argued that the as-built deck is not in keeping with the open-front-yard development pattern of Piedmont. She suggested that the Commission consider requiring the applicant to lower the wall around the front deck. Alternate Commissioner Jajodia expressed an understanding of the need for a private outdoor space, since no other such space exists on the property, but she expressed disappointment that the change was not presented as such. Commissioners Ramsey and Behrens agreed with both her disappointment for the process and support for the changes proposed. They cited the topography, proximity to traffic, and neighborhood pattern as reasons to support a more private front deck. Ultimately, Commissioner Ode was convinced of the merits for the change to the front deck.

The Commissioners decided to make two separate motions for this application. Resolution 268(1)-V/DR-16 approves the proposed modifications, with the exception of the trash enclosure. Resolution 268(2)-DR-16 denies approval of the trash enclosure.

Resolution 268(1)-V/DR-16

WHEREAS, the Property Owner is requesting retroactive approval for modifications made to a prior approval, including: to expand the deck and raise the height of the wall in the front (east) yard; to construct a privacy screen under the garage on the left (south) elevation; to change the railing material on the rear (west) decks and staircase; to install an air conditioning unit under the front deck; to construct a staircase in the rear yard; and to make window modifications throughout the house, located at 110 Maxwelton Road, Piedmont, California, which construction requires design review; and

WHEREAS, the proposed enlargement and relocation of the previously approved garbage enclosure is not part of this resolution;

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary to construct within the front 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 topography, which slopes steeply down from the street. The topography limits access to the rear of the house and limits the placement of new footings for construction at the front of the house. 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 other adjacent properties have raised wooden entry decks and most properties along the street have construction within the front setback.
3. Accomplishing the improvements without variance would cause unreasonable hardship in planning, design, or construction, because the severely sloped front topography limits buildable areas.

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 expanded front deck, the extended front railing, the extended front eaves, the new railings at the rear of the house, minor window modifications, the new wood privacy screen, the new air conditioning unit, and the new staircase. The proposed materials and design details are similar to those previously approved by the Commission. The railings at the back of the house are not visible from the public way and are similar to railings on other adjacent properties.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because the majority of the work is at the front and rear of the house. The proposed modifications are consistent with neighborhood development patterns and do not affect the neighbors' light or privacy. The privacy screen was added to increase visual privacy between the applicant and the neighbor.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress, because there are no changes with this approval. The previously approved trash enclosure is at a 10-foot setback, and the previously approved garage construction improved parking on the site.

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 110 Maxwellton Road, 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 September 1, 2016, after notices to neighbors were mailed and the application was available for public review.

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

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

Resolution 268(2)-DR-16

WHEREAS, the Property Owner is requesting retroactive approval for modifications made to the prior approval, including to enlarge the garbage enclosure and to move it closer to the front property line, located at 110 Maxwellton 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 proposed modifications to the trash enclosure do not comply with the criteria and standards of Section 17.20.9(a) of the Piedmont City Code:

1. The exterior design elements are aesthetically pleasing.
2. The design is not appropriate, considering its effect on neighboring properties, because of its location one foot from the property line.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are adversely affected, considering the circulation pattern, parking layout and points of ingress and egress, because the proposed location for the trash enclosure is adjacent to the driveway and one foot from the property line. The proposed location for the trash enclosure does not comply with Municipal Code Section 17.17.1(c), which calls for trash enclosures to be located as far away from the street as possible, as small as necessary, and as low in height as possible.

4. The project complies with Design Review Guidelines II-1, II-2, and II-3, but it does not comply with Design Review Guideline II-6.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies the design review application for the proposed modifications to the trash enclosure at 110 Maxwellton Road, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Ramsey, Seconded by Jajodia

Ayes: Behrens, Jajodia, Ode, Ramsey

Noes: None

Recused:

Absent: Theophilos, Zhang

**Variance and
Design Review
60 Bellevue Avenue**

The Property Owner is requesting permission to construct a 310-square-foot, two-story addition, including a room eligible for use as a bedroom, at the rear (east) of the house; to construct a second-story terrace at the southeast corner of the house above the existing covered patio; to install an outdoor fireplace at the covered patio; to remove the elevator shaft at the rear of the house; to make window and door modifications to the right (south) and rear facades; and to install new exterior lighting on the rear facade. A variance is required in order to add a fifth room eligible for use as a bedroom without supplying conforming parking.

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

Public testimony was received from:

Amy Nunes, project architect, explained that the project aims to replace an incompatible elevator shaft and enclosed patio with an addition that is in keeping with the original architecture of the house. She explained the need for a parking variance and described the current parking situation, which includes a full-size two-car garage and a third, uncovered surface parking space. She maintained that the current parking situation is the most compatible with the home, the topography, and the surrounding low-density neighborhood. In response to questions from the Commission, Ms. Nunes confirmed that the garage is useable when a car is parked in the third uncovered parking space, and she reviewed other parking options that were considered. She outlined the hardships of adding a third covered parking space, including enormous excavation, impacts to the adjacent neighbor, and/or the removal of mature trees and existing stonework. Ms. Nunes also answered questions about the floor plan.

Jake Sorensen, homeowner, responded to Commissioners' questions. He described how his family uses the current parking and confirmed that they have no trouble exiting the garage, even when the surface parking area is being used. He maintained that the fifth bedroom would not intensify the use of the property, and that the wide street has ample on-street parking. He added that his adjacent neighbor is in support of the application.

The Commissioners were in full support of the design of the addition. They all agreed that the addition was well designed and in keeping with the original architecture of the house. Alternate Commissioner Jajodia noted that the addition is proposed within the envelope of the existing house. The

Commissioners were also generally in favor of approving the parking variance. Commissioner Ramsey initially suggested that the applicants should provide a diagram showing that the three parking spaces meet the City's turnaround guidelines for a compact car. The remaining Commissioners expressed their support for the parking variance, noting that the topography of the site is a hardship, that a third garage would impact the adjacent neighbor, and that the immediate neighborhood has an abundance of on-street parking. Ultimately, the Commissioners were in agreement that a turnaround diagram was not necessary in this situation.

Resolution 276-V/DR-16

WHEREAS, the Property Owner is requesting permission to construct a 310-square-foot, two-story addition, including a room eligible for use as a bedroom, at the rear (east) of the house; to construct a second-story terrace at the southeast corner of the house above the existing covered patio; to install an outdoor fireplace at the covered patio; to remove the elevator shaft at the rear of the house; to make window and door modifications to the right (south) and rear facades; and to install new exterior lighting on the rear façade, located at 60 Bellevue 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 add a fifth room eligible for use as a bedroom without supplying conforming parking; and

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

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

1. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to, the location of the house at the top of the sloped site, so that strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone that conform to the zoning requirements.
2. The variance is compatible with the immediately surrounding neighborhood and the public welfare, because the uncovered, third parking space is at the level of the house and not visible from the street. Additionally, there is plenty of on-street parking available.
3. Accomplishing the improvements without variance would cause unreasonable hardship in planning, design, or construction, because the site configuration, as explored, does not allow for a third covered space.

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 adjacent residences is reasonable and appropriate due to the existing topography and neighborhood development pattern. Upper level setbacks greater than the setbacks required for the lower level have been considered and are not necessary to reduce losses of ambient and reflected light. The proposed design improves the existing situation by removing the largely dysfunctional steel shed and elevator shaft and replacing them with design elements that are thoughtfully integrated into the old and the new.
2. The proposed addition has been designed in a way that reasonably minimizes view and light impacts on neighboring properties, because the addition is located in an area of the site that does not have any significant impacts on neighborhood views or light, and the addition has been kept within the existing building envelope.
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. The addition has been kept well within the limits of the existing height and building envelope. The size of the home and number of bedrooms is in keeping 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 addition, and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood. There are no impacts to pedestrian and vehicular traffic, since parking is on site and not directly affecting the flow of pedestrian or vehicular traffic on the street.
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 60 Bellevue Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Window and Door Material.** As specified in the plans, the building material for the new windows and doors shall be wood or aluminum-clad wood.
2. **Window Color Scheme.** All the windows on the house shall have a consistent color scheme.
3. **Exterior Lighting.** All new exterior light fixtures shall be downward directed with an opaque or translucent shade that completely covers the light bulb.
4. **C&D Compliance.** Compliance with Chapter 9 Article III of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project.

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

6. 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.

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

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

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

The Commission recessed for dinner at 6:32 p.m. and reconvened at 7:05 p.m.

**Variance and
Design Review
1 Wyngaard Avenue**

The Property Owner is requesting permission to construct an approximately 31-square-foot addition to the rear wing (south) and an approximately 30-square-foot addition to the rear of the home; to replace the existing concrete staircase with a new wood staircase at the rear of the home; to install 7 skylights; and to modify windows and doors throughout the home. A variance is required in order to construct an additional room eligible for use as a bedroom without providing conforming parking.

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

Public testimony was received from:

Vyjayanti Ramaswamy, homeowner, introduced herself and her architect and made herself available for questions from the Commission. In response to questions from the Commission, Ms. Ramaswamy explained that the neighborhood development pattern is not consistent. She also stated that she is amenable to repairing the driveway paving to provide uncovered on-site parking.

Julia Arria, project architect, described the small, proposed additions and the existing steep, corner property. She explained the need for a parking variance and described the current parking situation, which includes a conforming, two-car garage and a long driveway with a small turn-off at the top of the driveway. Ms. Arria explained that she and the applicants considered adding a carport in this area, but that it would need to be located within the setback and its posts would impede vehicular turnaround. She added that a carport in this area would also impact the neighbor's views and result in the loss of a large mature tree. In response to questions from Commissioner Ramsey, Ms. Arria stated that the proposal includes painted wood beneath the addition adjacent to the garage to conceal the posts that support the addition. She indicated that she is amendable to using brick or siding to match the existing house.

The Commission supported the proposal, except for the introduction of a new material—painted wood screen—proposed beneath the addition adjacent to the garage. To address this concern, the Commissioners favored a condition of approval requiring that the painted wood be replaced with siding or masonry veneer.

Resolution 282-V/DR-16

WHEREAS, the Property Owner is requesting permission to construct an approximately 31-square-foot addition to the rear wing (south) and an approximately 30-square-foot addition to the rear of the home; to replace the existing concrete staircase with a new wood staircase at the rear of the home; to install 7 skylights; and to modify windows and doors throughout the home,

located at 1 Wyngaard 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 an additional room eligible for use as a bedroom without providing conforming parking; and

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

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

1. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to: the slope of the property and its positioning as a corner lot. The position of the existing garage relative to the side property line would require a variance if expanded, would block light and views of the adjacent neighbor, and would require the removal of an existing large tree that provides privacy between the properties. 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 nearby houses have two-car garages, and off-street parking is available on the property.
3. Accomplishing the improvements without variance would cause unreasonable hardship in planning, design, or construction, because the location of the driveway and garage relative to the property line and adjacent neighbor make locating a third covered parking space a hardship. It would require additional variances and might impact the adjacent neighbors' light, views and privacy.

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: two small additions of 30 and 31 square feet, replacing a concrete stair with a wood stair, modifying windows, and adding skylights. As conditioned, the materials and details of the addition will match the existing. New windows will match existing windows.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because the additions are very modest and contained within the existing roof eave.
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 change in access is proposed and off-street parking 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-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 1 Wyngaard 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. **C&D Compliance.** Compliance with Chapter 9 Article III of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project.

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

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

6. **Notice of Restricted Use.** The 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/sleeping purposes.

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

- a. Construction Site Control of Stormwater. The California Regional Water Quality Control Board requires all projects that disturb the site to comply with Provision C.6 of the San Francisco Bay

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

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

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

9. Building Materials. The addition adjacent to the garage shall be constructed of materials, either wood siding or brick, to match the existing house. Detailing of the materials shall also match the existing. These modifications shall be subject to staff review and approval.

10. **Pavement Repair.** The applicant shall repair the paving in the existing off-street parking area to the right of the garage, subject to staff review and approval.

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

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

The Property Owner is requesting permission to construct a new fence, driveway gate, and pedestrian gates along the front of the property.

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

Public testimony was received from:

Serena Abrams, homeowner, discussed the reasons for proposing a fence in their front yard. She explained that the proposed 4-foot tall wrought iron fence would be the same height as the fences on the neighboring properties and would be fronted by shrubs. She explained that a new driveway gate is also proposed, and she requested that the Commission allow the gate to be manually operated. She explained that the proposed gate is located a good distance from the house and that there is a significant cost to supplying it with electricity. She reasoned that the exception is warranted, since the street in front of the house is wide enough to allow traffic to flow normally even when a car is waiting for the gate to be opened. Ms. Abrams also requested that the Commission not require a survey, since she and her neighbor have both conducted surveys on their properties in the past, and that one such survey was done in the recent past.

Arnold Abrams, homeowner, described how he determined that a car waiting for the gate to be opened would not impede traffic, and he referred to a photograph he had submitted as evidence. He also indicated that a driveway gate is necessary to keep his dog safe.

In response to questions from the Commission, Planning Director Jackson commented on City policies regarding property line verification and mechanically operated vehicular gates. He suggested that the Commission might consider amending condition #2 to provide an additional option for the applicant by allowing a letter from the most recent land surveyor that verifies that the fence is located on the applicants' property. He noted that Staff and the Commission typically require vehicular gates to be mechanically operated so that cars are not parked across the sidewalk or within the street while the gate is being opened, and so that access to on-site parking is not impeded.

The Commissioners were unanimously in support of the design and placement of the fence, but only with a condition that the driveway gate be mechanically operated. They stated that it would be difficult to find that a manual gate complies with Section 17.20.9(a), since the manual gate would impact the free flow of vehicular traffic, especially on a winding road like St. James Drive. They also found that it impeded access to on-site parking. The Commissioners were in favor of allowing the applicants to provide a letter from the most recent land surveyor in lieu of a survey.

Resolution 284-DR-16

WHEREAS, the Property Owner is requesting permission to construct a new fence, driveway gate, and pedestrian gates along the front of the property, located at 283 St. James Drive, Piedmont, California, which construction requires design review; and

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements include, but are not limited to: the design of the fence, which is the same height as the neighbor's fence. The simple wrought iron gate fits into the neighborhood and gives visual prominence to the opening and to the property. Shrubs planted in front of the fence will soften the impact of the fence.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because the fence is similar to other fences in the neighborhood, and its wrought iron design provides a sense of openness and does not obstruct light.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress, because, as conditioned, the fence will not impede vehicular or pedestrian ingress and egress.
4. The project complies with Design Review Guidelines V-1, V-2, V-3, V-4, V-5, V-5(a), V-5(b), V-5(c), V-6, V-7, V-8, V-9, V-10, V-11.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for proposed construction at 283 St. James Drive, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

2. Fence Location. The new fence, including all footings and posts, shall be located completely within the applicants' property. A licensed land surveyor shall be required by the Building Department, at the time of foundation inspection, to either verify and mark the location of the north (front) and east (left) property line or provide written verification that the new fence is located

completely on the property of 283 St. James Drive. Alternatively, should the applicants come to an agreement with the adjacent property owners of 285 St. James Drive, a Fence Location Agreement may be submitted in lieu of the verification by surveyor.

3. **Driveway Gate.** To facilitate vehicular access, the driveway gate shall be motorized. If design modifications are required to accomplish this, those modifications shall be subject to staff review.

Moved by Ode, Seconded by Ramsey

Ayes: Behrens, Jajodia, Ode, Ramsey

Noes: None

Recused:

Absent: Theophilos, Zhang

ADJOURNMENT

There being no further business, Chairman Behrens adjourned the meeting at 8:02 p.m.