

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, April 10, 2017

A Regular Session of the Piedmont Planning Commission was held April 10, 2017, 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 March 27, 2017.

CALL TO ORDER

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

ROLL CALL

Present: Commissioners Eric Behrens, Susan Ode, Tom Ramsey, and Alternate Commissioner Clark Thiel

Absent: Commissioners Aradhana Jajodia and Jonathan Levine, (both excused)

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

ANNOUNCEMENTS

Chair Behrens announced that on March 27 the City Council reappointed Tom Ramsey to a regular position on the Commission, appointed Aradhana Jajodia and Jonathan Levine to regular positions on the Commission, and appointed Clark Thiel to an alternate position on the Commission. He also announced that April is the start of the Commission's 12-month term and that the Commission must elect a Commission Chair and Vice Chair.

ELECTION OF OFFICERS

Resolution 6-PL-16

RESOLVED, that the Planning Commission appoints Tom Ramsey to serve as Commission Chair for one year.

Moved by Ode, Seconded by Thiel

Ayes: Behrens, Ode, Ramsey, Thiel

Noes: None

Recused: None

Absent: Jajodia, Levine

Resolution 7-PL-16

RESOLVED, that the Planning Commission appoints Aradhana Jajodia to serve as Commission Vice Chair for one year.

Moved by Ramsey, Seconded by Ode

Ayes: Behrens, Ode, Ramsey, Thiel

Noes: None

Recused:

Absent: Jajodia, Levine

ANNOUNCEMENTS

Chair Ramsey thanked Commissioner Behrens for his tenure as Chair of the Commission and welcomed the new members of the Commission.

PUBLIC FORUM

There were no speakers for the public forum.

REGULAR SESSION

The Commission considered the following items of regular business:

Approval of Minutes

Resolution 8-PL-17

RESOLVED, that the Planning Commission approves as submitted its meeting minutes of the March 13, 2017, regular hearing of the Planning Commission.

Moved by Ode, Seconded by Behrens

Ayes: Behrens, Ode, Ramsey

Noes: None
Recused: Thiel
Absent: Jajodia, Levine

Consent Calendar

The Commission placed the following application on the Consent Calendar:

- 53 Crest Road (Design Review)

Resolution 9-PL-17

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

Moved by Behrens, Seconded by Ode

Ayes: Behrens, Ode, Ramsey, Thiel

Noes: None

Recused: None

Absent: Jajodia, Levine

At the end of the meeting, the following Resolution was approved under the Consent Calendar:

**Design Review
53 Crest Road**

Resolution 51-DR-17

WHEREAS, the Property Owner is requesting permission to enclose the carport at the front (east) of the home; install a new garage door and person door on the new south facing wall; modify windows above the new garage on the right (north), front (east), and left (south) of the home; install a new solatube skylight on the north facing roof; and modify exterior lighting, located at 53 Crest Road, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e), Existing Facilities, because it is a minor change to an existing private residence which is less than 50 percent of the floor area of the structure(s) before the addition and the project is consistent with General Plan policies and programs, and the proposal conforms to the criteria and standards of Section 17.20.9(a) of the Piedmont City Code:

1. As conditioned, 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: enclosing the existing carport, installing a new door and a new garage door, window modifications, a skylight addition and new exterior lighting. There is no change proposed to the overall building mass. The proposed window, door and garage door materials and type are similar and appropriate for the design language of the home.

2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because there is no change to the views, privacy or access to direct and indirect light.

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

planning for the three-point turn out of the garage and creating a regular shape within the parking area of the garage.

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

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for proposed construction at 53 Crest Road, 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. **Skylight Flashing.** The metal flashing around the new skylight shall be painted to match the adjacent roof color.

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

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

6. **Garage Door Material.** The glass panes shall be translucent or opaque.

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

8. **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.

It should be noted that the above conditions would be specific to this application and supplemental to conditions placed on prior, related design review applications (#15-0201, #16-0091, #16-0263, #16-0300 and #16-0357).

Moved by Ramsey, Seconded by Behrens
Ayes: Behrens, Ode, Ramsey, Thiel
Noes: None
Recused: None
Absent: Jajodia, Levine

Regular Calendar

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

Revisions to Accessory Dwelling Unit Regulations

Planning Director Jackson introduced proposed revisions to the Accessory Dwelling Unit (ADU) regulations. He explained that the revisions aim to bring the City in compliance with Government Code Section 65852.2, which was amended in September 2016 when AB 2299 and SB 1069 were signed into state law. He explained that these new laws restrict local jurisdictions' ability to regulate ADUs, including limits to restrictions that a jurisdiction can place on ADU parking and unit size. Regarding parking, Director Jackson reported that the amended law does not allow a jurisdiction to require parking for an ADU that is located within an existing building or within one-half mile of public transportation. Since all of Piedmont has access to public transportation within one-half mile, parking regulations for ADUs in Piedmont are not permitted. He added that the law also allows any parking within an existing garage or carport that is displaced by the construction of an ADU to be relocated anywhere on the property regardless as to whether it is covered or tandem. Regarding unit size, Director Jackson reported that the amended law requires that a jurisdiction allow ADUs up to 1,200 square feet. He noted, however, that the California Department of Housing and Community Development (HCD) has released an interpretation stating that a jurisdiction may limit ADU size to no less than 800 square feet but must allow ADUs up to 1,200 square feet under specified criteria.

Director Jackson discussed the impacts of the new law on Piedmont's efforts to encourage the construction of affordable housing. He explained that Piedmont's current award-winning Municipal Code allows exceptions to the unit size and parking requirements of an ADU in exchange for deed restrictions that require a unit to be rented at low and very low income levels for a period of 10 years. He stated that the new law will eliminate the City's ability to use parking exceptions to encourage affordable housing and will reduce the effectiveness of the City's unit size exceptions.

Director Jackson discussed other minor changes proposed to clean up the ADU regulations, and he explained that the proposed revisions would amend the recently updated Municipal Code, which is set to go into effect on April 19, 2017. He explained that this recent update had included only minor changes (namely a change in terminology from "Second Unit" to "Accessory Dwelling Unit"), because at the time of adoption, the new state laws were still being interpreted by HCD and the City Attorney. He confirmed that, in the interim, the City has followed state law where conflicts exist with the current Municipal Code.

Director Jackson provided additional information in response to questions from the Commission. He clarified the approval process for an ADU, including the process for a size exception, and explained when an ADU permit is required. He indicated that the proposed revisions also limit a jurisdiction's ability to require fire sprinklers for an ADU. Director Jackson reported that the City has approved 44 ADUs since 2012, and that 17 of those ADUs included affordable housing

rental restrictions. He stated that the new state law may result in the construction of more ADUs, but will likely result in fewer affordable units, and that the City may have difficulty meeting its Regional Housing Needs Assessment (RHNA) goals. Director Jackson explained that he and the City Attorney's office have contacted state legislators, and will continue to do so, to encourage them to consider changes that would allow the City to encourage the construction of affordable ADUs.

Public testimony was received from:

Norman Hendericks, resident of 934 Rose Avenue, asked a question about exempt second units located on his property. Director Jackson responded to the question and suggested that Mr. Hendricks contact the Planning Department about applying for an ADU permit.

The Commissioners expressed frustration with the unintended consequences of the state law. Commissioner Behrens encouraged the City to continue to discuss its concerns with the state legislature. Reluctantly, Commissioners Behrens, Ramsey and Ode expressed support for the proposed code revisions that would bring the City in compliance with state law. Alternate Commissioner Thiel opposed the proposed revisions, arguing that Piedmont should stand by its established ordinance that encourages affordable housing. In response to a question from Commissioner Ramsey, Director Jackson explained that the entire division of the Municipal Code related to accessory dwelling units could be considered invalid if it is in violation of state law. Commissioners Behrens, Ramsey and Ode discussed placing a statement on their recommendation to the Council addressing their concerns regarding the code revisions.

Resolution 10-PL-17

RESOLVED, that the Planning Commission recommends approval to the City Council of the Accessory Dwelling Unit Ordinance entitled "An Ordinance to amend Division 17.38 Accessory Dwelling Units, and Sections 17.30.010 and 17.30.040 regarding Parking, of Chapter 17, Planning and Land Use, of the Piedmont City Code," and incorporating the amendment to proposed ADU regulations regarding fire sprinklers outlined in the Planning Commission Memorandum dated April 10, 2017. The Commission recognizes that the revisions are required to conform with California state law, but that they will have a negative impact on the City's affordable housing, residential character and parking.

Moved by Ramsey, Seconded by Behrens

Ayes: Behrens, Ode, Ramsey

Noes: Thiel

Recused: None

Absent: Jajodia, Levine

**Retaining Wall
Design Review
622 Blair Avenue**

The Property Owner is requesting permission to make modifications at the front of the property including new terraced retaining walls at the north and east sides of the front yard; modifications to the fence along the west property line; modifications to the stairs along the east side of the front yard; and modifications to hardscape.

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

Public testimony was received from:

Pamela Lee, homeowner, offered to answer Commissioners' questions. In response to questions from Commissioner Behrens, Ms. Lee clarified that the front retaining wall is proposed to be located directly adjacent to the sidewalk and that a planting area is proposed between the two terraced retaining walls. She maintained that the proposed retaining wall is in keeping with the modern style of the house. Ms. Lee stated that pushing the retaining wall away from the sidewalk would not be her preference, but would be possible, if necessary.

The Commissioners were in support of the project, but discussed whether the front retaining wall should be pushed away from the sidewalk. Commissioner Ode expressed support for the plan as proposed, but Commissioners Behrens and Ramsey expressed concern for the lack of a planting strip between the proposed retaining wall and the sidewalk. They referred to the Design Guidelines, which call for a planting strip to front retaining walls. Commissioner Behrens argued that, without a planting area, the retaining wall would not be consistent with the character of the neighborhood. Commissioner Ramsey noted that, unless pushed back, the proposed retaining wall encroaches on the public right-of-way. After discussing options with Director Jackson, the Commission opted to require the applicant to push the retaining wall back a minimum of 12 inches.

Resolution 26-DR-17

WHEREAS, the Property Owner is requesting permission to make modifications at the front of the property including new terraced retaining walls at the north and east sides of the front yard; modifications to the fence along the west property line; modifications to the stairs along the east side of the front yard; and modifications to hardscape, located at 622 Blair Avenue, Piedmont, California, which construction requires design review; and

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

1. As conditioned, the exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. The design is attractive and consistent with the modern style of the house. The obscured glass fence panels will preserve a sense of airiness and light. The decorative steel panel and concrete planters are aesthetically pleasing. The proposed guardrail that replaces a dilapidated wood fence is consistent with the design and enhances the view.

2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because the fence and screening vegetation will enhance the neighbors' privacy. The obscured glass fence will allow more light into the neighbor's yard while providing privacy. The removal of the existing wood fence will enhance the view.

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 code-compliant handrails will provide safer access for pedestrians.

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

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for proposed construction at 622 Blair Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

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

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

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

6. Setback from Property Line Verification. Prior to foundation inspection, the applicant shall submit to the Building Official written verification by a licensed land surveyor stating that the new retaining wall and fence is located completely within the property at 622 Blair Avenue along the west property line as shown on the approved plans. The intent is to verify that the approved features are constructed at the approved dimension from the property line(s).

7. Encroachment Permit. Before the issuance of a building permit, the Property Owner shall apply for an encroachment permit to allow for the construction of the walls within the public right-of-way or public easement.

8. Final Landscape Plan. Before issuance of a building permit, the Property Owner shall submit for staff review and approval a Final Landscape Plan for the area in front of the house and shall not propose plants near the driveway that could obscure visibility of pedestrians on the sidewalk or vehicles on the street from drivers backing out of the driveway.

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

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

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

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

11. **Retaining Wall Location.** The proposed retaining wall shall be located a minimum of 12 inches from the existing sidewalk to allow for a planting strip at the toe of the wall, subject to staff review and approval.

Moved by Ode, Seconded by Behrens
Ayes: Behrens, Ode, Ramsey
Noes: None
Recused: Thiel
Absent: Jajodia, Levine

**Variance and
Design Review
110 Fairview Avenue**

The Property Owner is requesting permission to construct an approximately 1,167-square-foot, second-story addition, to make modifications to windows throughout the house, to make modifications to hardscape, and to remove a non-permitted deck in the rear yard. A variance is required in order to construct within the front 20-foot setback.

Written notice was provided to neighbors. **Three affirmative and three negative response forms** were received. **Correspondence** was received from: Ellen Switkes, Chester Lau, Victoria and Richard Larson, Richard Sykes and Susan Jamison, Terry London and Teri Liegler.

Public testimony was received from:

Anne Smith Bevilacqua, homeowner, stated that the current proposal attempts to meet the needs of her neighbors while prioritizing architectural consistency and the space needs of her family. She explained the difficulties in addressing all the neighbors' concerns, especially when privacy screening for one neighbor impacts the views of another neighbor. She stated that the current proposal represents their best attempt at addressing neighbors' concerns by reducing the size, height and mass of the previously proposed addition, and by adding obscure glass to increase privacy. Ms. Smith Bevilacqua explained that she supported a previous addition at 108 Fairview Avenue that placed the neighbor's house only 18 inches from their common property line. She explained that her proposed addition is located a minimum of 13 feet away from this side property line. In response to written comments from the neighbors and questions from the Commission, Ms. Smith Bevilacqua indicated that she was very willing to plant screening trees for the rear neighbors and is open to suggestions on the type of trees to plant.

Michael Smith, homeowner, responded to neighbors' written comments objecting to the proposed project and argued that the proposal will beautify the neighborhood. Regarding objections to the size and mass of the proposed addition, he pointed out that all the other houses on the block either have two stories or have been approved for a second story, and he clarified the amount by which the house is proposed to expand. He outlined the changes that have been made to address privacy, including the removal or recessing of windows and the use of opaque glass. He stated that existing windows are the only windows remaining in the current proposal that still have a view of the neighboring properties. Mr. Smith responded to neighbors' comments about a loss of views, and stated that no significant views are impacted by the proposal.

Carolyn Van Lang, project architect, responded to the neighbors' objections to the proposed project and explained how the current proposal balances the concerns of the neighbors with the needs of the owner, the requirements of the building code, and the desire for architectural consistency. She explained that the proposal could not rely exclusively on clearstory windows for the new addition, as suggested by neighbors, since clearstory windows cannot fully meet the light, air and egress requirements of the building code. She explained that the applicants have agreed to place stained glass panels on the south facing windows, but that the windows themselves must be typical double-paned windows that meet Title 24 standards. She argued that the neighbors should not be able to dictate the design of the stained glass. Ms. Van Lang responded to objections from the neighbors at 129 Nova Drive and explained that the addition cannot be stepped back further for reasons of seismic safety. In response to questions from the Commission, Ms. Van Lang clarified that the existing structure coverage is nearly at its 40% limit, which limits expansion in the back yard. She explained that expansion within the basement is infeasible due to the topography and the need for habitable space to have access to natural light and air. She also explained that the front setback variance is requested to keep the eave and gutter consistent with the rest of the house, despite a curved front property line.

Vicki Larson, neighbor at 129 Nova Drive, read a letter from Terry London (adjacent neighbor at 108 Fairview Avenue) who was unable to attend the meeting. In the letter, Mr. London referenced the comments he submitted to the Commission. He argued that, although he welcomes a remodel of 110 Fairview Avenue, the scale, mass and detailing of the proposal are still not appropriate and do not meet Design Guidelines II-1, II-2, or II-7. He expressed concern for

the proposed windows that face his house, arguing that they have a clear view of his bedroom and backyard. He welcomed the use of art glass in these windows but asked for more information about the type of glass proposed. He also suggested that the windows should be reduced in size and raised above eye level. Mr. London's letter also expressed concern for the impact that the proposal would have on his view of the hills and sky from his bedroom and office. He questioned the applicant's claim that the surrounding houses are all larger, and he challenged the notion that equivalent square footage is an appropriate design goal, especially in the context of the heterogeneity of Piedmont's housing stock.

Richard Larson, neighbor at 129 Nova Drive, spoke in opposition to the proposed project, despite the changes made since the previous proposal. He stated that he supports the applicants' right to expand their house, but argued that the applicants have yet to resolve the issues of privacy, mass and scale, and have yet to sufficiently address Design Guidelines II-2 and II-7. He clarified his written comments to the Commission about the size of the proposed addition and the use of clearstory and art-glass windows. Mr. Larson stated that, if approved, the proposed house would be the second largest house among the 26 closest houses. He also questioned whether the addition is truly 52 feet from his back fence, as stated by the applicant. In response to questions from Alternate Commissioner Thiel, Mr. Larson stated that his privacy would be further impacted by the 12 new windows looking down at his property from a vantage point that is higher than any existing windows. In response to Commissioner Behrens, Mr. Larson stated that he would welcome screening vegetation, but that due to its temporary and transparent nature, it would not solely mitigate his privacy concerns. He acknowledged that he had not yet talked to the applicants about options for screening vegetation, but was confident that they could select a species amenable to both parties.

Melissa Winters, neighbor at 104 Fairview Avenue, spoke in favor of the proposal. She discussed the second-story addition that was added to her house 25 years ago and complimented the applicants on their design and its consistency with the neighborhood. She noted that the houses in the neighborhood are close together, but that driveways provide some separation. Ms. Winters explained that since Mr. London's house sits directly uphill from hers and looks down into her house and yard, she planted trees along her fence to increase her privacy.

Ralph Tondre, project contractor, stated that the current proposal has addressed issues of mass by reducing the height of the house and stepping back the walls of the addition. He described his attempts to determine the privacy impacts of the new addition by standing on the applicants' roof in the location of the proposed windows. He reported that it was very difficult to see within the neighbors' homes, and that the applicants have no intention of doing so. Mr. Tondre passed around photos taken from the roof and indicated where the applicant is proposing to plant screening vegetation.

Richard Sykes, rear neighbor at 131 Nova Drive, stated that he supports the project with qualifications, and that he appreciates the changes that were made since the prior proposal. He spoke in favor of the art glass as a means of preserving privacy, and he asked the Commission to also require screening vegetation in the rear yard to reinstate the privacy he would lose with the addition. He asked that large, fast-growing plants be installed so that the screening vegetation grows to be 15 to 20 feet tall in a short amount of time.

The Commissioners were in support of the project and commended the applicants for significantly reducing the mass of the addition and limiting the impacts on neighbors while maintaining an attractive design that is in keeping with the neighborhood. Commissioner Behrens referenced the project's compliance with Design Guidelines II-2 and II-7 when discussing the successful reductions in the mass and bulk of the addition. He commended the applicants for their willingness to add screening vegetation and expressed disappointment that some of the neighbors were not more willing to take part in the discussion about vegetation. Regarding views, Commissioner Behrens stated that significant views are not impacted by the project, since a sky view does not meet the City's definition of a significant view. Commissioner Ode expressed her belief that light and a feeling of openness are important, and stated that the current proposal has sufficiently improved upon the impact that the previous proposal had on light and a feeling of openness. Commissioner Ode also spoke favorably about the stained-glass window panels. Alternate Commissioner Thiel suggested that the proposal sufficiently maintains privacy and minimizes view and light impacts, without the need for screening vegetation and art glass window panels. He suggested that the Commission not require such measures, and that neighbors who want additional privacy, despite a fully compliant addition, can plant vegetation in their yards or add art glass to their windows.

Resolution 57-V/DR-17

WHEREAS, the Property Owner is requesting permission to construct an approximately 1,167-square-foot, second-story addition, to make modifications to windows throughout the house, to make modifications to hardscape, and to remove a non-permitted deck in the rear yard, located at 110 Fairview 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, regarding 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 very steep slope at the rear of the property and the limited space that is available for expanding. The variance is minimal, and approval of the variance allows for the most appropriate expansion 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 which conform to the zoning requirements.
2. The variance is compatible with the immediately surrounding neighborhood and the public welfare, because the size and design of the house are consistent with the neighborhood. The addition is in keeping with the neighborhood and will be an attractive addition to the neighborhood.

3. Accomplishing the improvements without variance would cause unreasonable hardship in planning, design, or construction, because of the unusual site conditions, closeness of properties in the neighborhood, limited space in the rear yard, and the slope of the rear yard. Avoiding the variance would result in a design hardship, since the front eave dimension would be inconsistent with the rest of the house.

WHEREAS, regarding 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. As conditioned, the exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. The distance between the upper level addition and adjacent residences is reasonable and appropriate due to the existing topography and neighborhood development pattern. Upper level setbacks greater than the setbacks required for the lower level have been considered and are not necessary to reduce the loss of ambient and reflected light, because the applicants have proposed to obscure the windows facing 108 Fairview Avenue and the rear houses. The impact on light is much less significant with the modifications from the previous proposal. The distance between the addition and the houses to the rear is considerable, which adds to the privacy between neighbors. The closeness of the addition to the adjacent house at 108 Fairview Avenue is due to the closeness of the neighbor's addition.

2. The proposed upper level addition has been designed in a way that reasonably minimizes view and light impacts on neighboring properties, because of the modifications made since the previous proposal, as outlined in the applicants' letter to the Commission, dated March 27, 2017.

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 allowable structure coverage would be exceeded if the addition were to be built toward the rear.

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

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

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review application for proposed construction at 110 Fairview Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Contractor's General Liability Insurance.** To ensure that the contractor doing work in the City will be responsible for damages caused by the

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

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

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

4. Skylight Flashing. The metal flashing around the relocated skylight shall be painted to match the adjacent roof color.

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

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

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

8. 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 and west property lines as shown on the approved plans. The intent is to verify that the approved features are constructed at the approved dimension from the property line.

9. Construction Management Plan. The Property Owner shall develop a comprehensive Construction Management Plan. The Construction

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

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

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

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

Schedule, and the delay in completion has not been caused by force majeure, the Director of Public Works has the option at any time thereafter to make a claim against the Property Owner's Site Security, if one is required, in order to complete the benchmark. The Director of Public Works has the option to refer the application to the Planning Commission for public review.

Moved by Behrens, Seconded by Ode

Ayes: Behrens, Ode, Thiel

Noes: None

Recused: Ramsey

Absent: Jajodia, Levine

The Commission recessed for dinner at 6:48 p.m. and reconvened at 7:18 p.m.

Design Review
23 Estrella Avenue

The Property Owner is requesting permission to construct a 16-square-foot, one-story addition at the front (southwest) corner of the house; to demolish the existing rear (north) yard decks and construct a new deck and stairs; to remove the existing driveway gate and fence along the left (west) property line and construct a new driveway gate and fence; to make various window modifications throughout the house; to install new exterior lighting; and to make various improvements to the front (south) yard, including new stairs, retaining walls, railings, walkways, and landscaping.

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

Public testimony was received from:

Katherine Campbell, homeowner, described the modest addition and renovation that is being proposed in lieu of the previously-approved, second-story addition. She explained that the current proposal largely retains the design of the one-story Mediterranean-style home, adding only a 16-square-foot closet addition at the front of the house. She explained that other updates are proposed to improve the safety, energy efficiency, and usability of the home. Ms. Campbell added that the neighbors are supportive of the project.

The Commissioners were in full support of the project and spoke favorably about the more modest renovation that would preserve much of the original architecture and mimic the adjacent "twin" house. Commissioner Ramsey also spoke favorably about the rear deck and the window modifications. The Commissioners discussed whether an ornamental detail should be added to the front of the house in place of the original window that would be lost. Alternate Commissioner Thiel instead suggested that the roof of the addition be changed from a flat roof to a sloped roof, continuing the eave line of the existing roof. The Commissioners agreed and placed a condition of approval on the project.

Resolution 59-DR-17

WHEREAS, the Property Owner is requesting permission to construct a 16-square-foot, one-story addition at the front (southwest) corner of the house; to demolish the existing rear (north) yard decks and construct a new deck and stairs; to remove the existing driveway gate and fence along the left (west) property line and construct a new driveway gate and fence; to make various window modifications throughout the house; to install new exterior lighting; and to make various improvements to the front (south) yard, including new stairs,

retaining walls, railings, walkways, and landscaping, located at 23 Estrella Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e), Existing Facilities, because the proposed project consists of exterior changes to a private residence and it is consistent with General Plan policies and programs, and the proposal conforms to the criteria and standards of Section 17.20.9(a) of the Piedmont City Code:

1. As conditioned, the exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. The proposed changes will match the existing Mediterranean style of the home, and the eave line and trim detailing of the new addition will match those of the existing house. The new handrails are appropriate to the existing house.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because there is no significant effect on views and privacy, given that it will remain a one-story 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 are no obstructions to emergency vehicles, and pedestrians are not negatively affected.
4. The project complies with Design Review Guidelines II-1, II-2, II-3, II-3(a), II-3(b), II-3(c), II-3(d), II-4, II-5, II-5(a), II-6, II-6(a), II-6(b), II-6(c), II-7(a), V-1, V-2, V-3, V-4, V-5, V-5(a), V-5(b), V-5(c), V-6, V-7, V-8, V-9, V-10, V-11.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for proposed construction at 23 Estrella 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 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. **Driveway Gate.** The driveway gate shall be motorized. If design modifications are required to accomplish this, those modifications shall be subject to staff review.

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

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

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

8. **Final Landscape Plan.** Before issuance of a building permit, the Property Owner shall submit for staff review and approval a Final Landscape Plan for the front, side, and rear yards that includes trees proposed for retention as well as potential in-lieu trees for those planned to be removed. The final plan shall comply with Municipal Code Section 17.17.3, and shall not propose plants near the driveway that could obscure visibility of pedestrians on the sidewalk or vehicles on the street from drivers backing out of the driveway.

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

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

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

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

11. **Addition Roof.** The roof over the closet addition shall be consistent with and continue the roofline and pitch of the existing roof at the front of the house.

Moved by Ode, Seconded by Behrens
Ayes: Behrens, Ode, Ramsey, Thiel
Noes: None
Recused: None
Absent: Jajodia, Levine

**Variance,
Design Review, and
Fence Design Review
345 Hampton Road**

The Property Owner is requesting permission to remodel and construct a 2,618-square-foot, two-story addition that includes a new attached garage, new doors and windows, and a new skylight; and remodel the landscape to include a raised terrace, landscape lighting, and a fence in a portion of the front setback. A variance is required for construction within the side 20-foot setback.

Written notice was provided to neighbors. **Two affirmative response forms** were received. **Correspondence** was received from: Maryellen and Frank Herringer and Brynne Staley.

Public testimony was received from:

Elana Schuldt, homeowner, spoke briefly to introduce herself and to explain that the goal of the project is to add an updated kitchen and family room that honors the original house.

Charlie Barnett, project architect, explained that the project aims to seamlessly add a kitchen/family room and master bedroom suite to the historic 1940s Spanish Revival house. He stated that the scale, detailing, and materials of the addition would match those of the original house. Mr. Barnett noted that the addition extends toward the rear of the lot and will not be visible from the street. He also explained that the existing house is located within the side yard setback, and that a variance is required to extend the wall without the addition appearing tacked on.

Sharon DeBell, project landscape architect, stated that the landscape plan aims to preserve the wooded character of the property and the neighbors' privacy by retaining all but two of the property's existing trees. She discussed the historic walls, stairs and gates, which she proposes to retain or rebuild in a manner that is in keeping with the historic nature of the property. Ms. DeBell described aspects of the plans that address the neighbors' concerns, including vegetative screening and lighting. She distributed information to the Commissioners at the meeting about the proposed arbor lights and discussed how the proposal addresses the neighbor's concerns about lighting. Ms. DeBell confirmed that the proposed artificial turf was included in the hardscape calculation.

The Commission was in full support of the project, commending the architect on a well-designed project that successfully integrates the addition with the historic home. They also commended the applicant on addressing the neighbor's concerns about landscape lighting. Alternate Commissioner Thiel stated that he could support the granting of a variance, due to the site context and resulting architectural consistency. Commissioner Ramsey added that the access easement that runs along the property line qualifies as a unique circumstance that warrants approval of the setback variance.

Resolution 62-V/DR-17

WHEREAS, the Property Owner is requesting permission to remodel and construct a 2,618-square-foot, two-story addition that includes a new attached garage, new doors and windows, and a new skylight; and remodel the landscape to include a raised terrace, landscape lighting, and a fence in a portion of the front setback, located at 345 Hampton Road, 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 side 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), Existing

Facilities, because the project consists of accessory structures, existing landscaped areas, and an addition to an existing private residence which is less than 10,000 square feet of floor area; the project is in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan; and the area is not environmentally sensitive because the area is surrounded by existing development and the proposed project is consistent with General Plan programs and policies; and

WHEREAS, regarding 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 unique condition that the property is located adjacent to the 20-foot access easement; 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 which conform to the zoning requirements.
2. The variance is compatible with the immediately surrounding neighborhood and the public welfare, because the addition will bring this residence into conformity with the other residences in the nearby estate zone. Granting the variance will not give the applicant an advantage over other neighboring properties with similar-sized homes located in a setback.
3. Accomplishing the improvements without variance would cause unreasonable hardship in planning, design, or construction, because building outside the setback would disturb the integrity of the house and create an addition that is not consistent with the original architecture of the house, not compliant with the Design Guidelines, and appears tacked on. The addition will not be readily visible from the street, due to the topography, and the variance will have a negligible impact on neighboring properties.

WHEREAS, regarding 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. As conditioned, the exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. The distance between the proposed addition and adjacent residences is reasonable and appropriate due to the existing topography and neighborhood development pattern. Upper level setbacks greater than the setbacks required for the lower level have been considered and are not necessary to reduce losses of ambient and reflected light, because the residence is set back from Hampton Road, and the rear addition maintains the height of the existing residence. The walls, windows and doors of the proposed addition match those of the existing house. When completed, the addition will look as if it were original to the house.
2. The proposed addition has been designed in a way that reasonably minimizes view and light impacts on neighboring properties, because the residence is set back from Hampton Road, and the rear addition is not readily visible from surrounding properties or the public view. The addition maintains the height of the existing residence and has no effect on light.

3. The size and height of the addition are commensurate with the size of the lot, and are in keeping with the existing neighborhood development pattern, because the updated house will be of similar size and amenities to the existing house, will be surrounded by trees, and will not be readily visible.

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 additions, and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood, because the proposed on-site parking, both covered and uncovered, exceeds the parking requirements for the proposed addition to the single-family residence.

5. The project complies with Design Review Guidelines II-1, II-2, II-3(a), II-3(b), II-3(c), II-3(d), II-6, II-6(a), II-6(b), II-6(c), II-7, II-7(a), IV-3, IV-3(a), IV-4, IV-4(a), IV-5, IV-5(a), V-1, V-2, V-3, V-4, V-5, V-5(a), V-5(b), V-5(c), V-6, V-7, V-8, V-9, V-10.

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

1. **Approved Plan Set.** The approved plans are those submitted on March 29, 2017, after notices to neighbors were mailed and the application was available for public review.

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

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

maintain property insurance and coverage for contractors, which is substantially equivalent to the contractor's requirement of this section.

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

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

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

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

8. **Skylight Flashing.** The metal flashing around the new skylight(s) shall be painted to match the adjacent roof color.

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

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

11. **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.

12. **Private Driveways, Easements, and Roads.** No private driveway, private easement, or private road shall be used during construction of the project without the written permission of the property owner in advance of the use.

13. **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.

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

15. **Encroachment Permit.** Before the issuance of a building permit, the Property Owner shall apply for an encroachment permit existing construction within the public right-of-way or public easement, or as required by the Public Works Director.

16. **Stormwater Design.** The California Regional Water Quality Control Board requires all projects, or a combination of related projects, that create and/or replace 2,500 square feet or more of impervious surface to comply with Provision C.3.i of the Municipal Regional Stormwater NPDES Permit. If required by the Chief Building Official, the Property Owner shall verify the total area of impervious surface to be created and/or replaced within the scope of this project, or this project combined with other related projects and/or permits, and incorporate the site design measure(s) required under Provision C.3.i into the plans submitted for a building permit. Copies of the Municipal Regional Stormwater Permit are available from the Piedmont Public Works Department and on-line at cleanwaterprogram.org.

17. **Arborist's Report and Certified Tree Preservation Plan.** Before the issuance of a building permit, the Property Owner shall submit an Arborist's Report and Certified Tree Preservation Plan that includes tree preservation measures to preserve existing trees shown to remain in the approved project plans. The tree preservation measures shall be on the appropriate sheets of the construction plans. The Project Arborist shall be on-site during critical construction activities, including grading. The arborist shall document in writing and with photographs the tree protection measures used during these critical construction phases. If some trees have been compromised, mitigation measures must be specified in writing, and implementation certified by the Project Arborist. Trees proposed for removal shall have an in-lieu replacement tree planted elsewhere on the property, which shall be shown on the final landscape plan. Replacement tree size is subject to staff review, and shall be commensurate with the size and numbers of trees to be removed. They shall generally be a minimum of 24" box size. Before the Final Inspection, the Project Arborist shall file a report to the City certifying that all tree preservation measures as recommended have been implemented to his/her satisfaction and that all retained trees have not been compromised by the construction.

18. **Final Landscape Plan.** Before issuance of a building permit, the Property Owner shall submit for staff review and approval a Final Landscape Plan that shows trees proposed for retention as well as in-lieu trees required by a Certified Tree Preservation Plan. The final plan shall comply with Municipal Code Section 17.17.3, and shall not propose plants near the driveway that could obscure visibility of pedestrians on the sidewalk or vehicles on the street from drivers backing out of the driveway.

19. **California's Water Efficient Landscape Ordinance:** Property Owner shall comply with the requirements of California's Model Water Efficient Landscape Ordinance that went into effect December 1, 2015, by submitting the following required information to the Building Department:

- a. Landscape Documentation Package that includes the following six items: i) Project Information; ii) Water Efficient Landscape Worksheet; iii) Soil Management Report; iv) Landscape Design Plan; v) Irrigation Design Plan; and vi) Grading Design Plan. The Landscape Documentation Package is subject to staff review and approval before the issuance of a building permit.

- b. Once a building permit has been issued, the Property Owner shall submit a copy of the Water Efficient Landscape Worksheet, to the local water purveyor, East Bay Municipal Utility District.
- c. After completion of work, the Property Owner shall submit to the City and East Bay Municipal Utility District a Certificate of Completion, including an irrigation schedule, an irrigation maintenance schedule, and an irrigation audit report. The City may approve or deny the Certificate of Completion.

(The form for the Landscape Document Package and a Frequently Asked Question document on the CA-WELO requirements is available at the Public Works Counter and on the City website at www.ci.piedmont.ca.us).

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

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

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

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

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

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

23. City Facilities Security. The Property Owner shall provide a specific cash deposit, letter of credit, bank guarantee, or other similar financial vehicle ("City Facilities Security") in an amount of \$50,000 as established by the Director of Public Works. This financial vehicle serves as an initial sum to cover the cost of any potential damage to City property or facilities in any way caused by Property Owner, Property Owner's contractors or subcontractors, or any of their agents, employees or assigns, and related in any way to the Project. The Property Owner is responsible for the full cost of repair as determined by the City Engineer prior to final inspections. The form and terms of such City Facilities Security shall be determined by the Director of Public Works after consultation with the Property Owner. The Director may take into account any of the following factors: the cost of construction; past experience and costs; the amount of excavation; the number of truck trips; the physical size of the proposed project; the logistics of construction; the geotechnical circumstances at the site; and City right-of-way and repaving costs.

- a. To provide clear baseline information to assist in determining whether damage to the City's facilities has been caused by the Property Owner or others working for or on behalf of Property Owner, the City will document such facilities (including, without limitation, streets and facilities along the approved construction route as specified in the Construction Management Plan), to establish the baseline condition of the streets and facilities. The City shall further re-document the streets as deemed appropriate after the Project commences until the Director of Public Works determines that further documentation is no longer warranted. As part of the documentation, the City may water down the streets to better emphasize any cracks or damage in the surface. The Property Owner is responsible for the full cost of the documentation and repair work as determined by the City Engineer, and shall reimburse the City for those costs prior to the scheduling of final inspection.
- b. When the City Facilities Security is in a form other than cash deposit with the City, the proceeds from the City Facilities

Security shall be made payable to the City upon demand, conditioned solely on the Director of Public Works' certification on information and belief that all or any specified part of the proceeds are due to the City.

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

25. City Attorney Cost Recovery. If there is a substantial additional commitment of City Attorney's time required to accommodate the scope and nature of the Project, the Property Owner shall, at the time of the Building Permit Application, make a cash deposit with the City in the amount of \$5,000 to be used to offset time and expenses of the City Attorney relating to the Project. If such cash deposit has been reduced to \$2,500.00 or less at any time, the Director of Public Works may require the Property Owner to deposit additional funds to cover any further estimated additional City Attorney time and expenses. Any unused amounts shall be refunded to the Property Owner within 90 days after the Project has an approved Final Inspection by the Chief Building Official.

26. Site Safety Security. The City and the public have an interest in not having an unfinished project blighting the neighborhood and undermining property values. These public interests are primarily safety and aesthetics, and diminishment of property values. Prior to the issuance of a Building Permit, the Property Owner shall provide a specific cash deposit, letter of credit, bank guarantee, or other similar financial vehicle ("Site Safety Security") in the amount of \$25,000 to ensure that the Project site is not left in a dangerous or unfinished state.

- a. The Site Safety Security shall be in an amount to include three components: i) safety, which means the cost to make the site and structure safe if construction should cease mid-way through the Project; ii) aesthetics, which means an amount to install and maintain landscaping all around the Project to protect the immediate local views from neighbors and public property; and iii) staff and consultant time to evaluate and implement this condition. If, as the Project proceeds, the expected cost of these components increases beyond the original estimate in the opinion of the Director of Public Works, the City may require the Property Owner to increase the amount of the Site Safety Security by the additional amount. The Property Owner shall provide City with written evidence of compliance within 15 working days after receiving written notice of the additional required amount. The

City shall retain, at the Property Owner's expense, an independent estimator to verify the total expected costs to complete the Project and any subsequent revisions.

- b. The form and amount of the Site Safety Security is subject to the approval of the Director of Public Works. Payment to City under the Site Safety Security shall be made payable upon demand by the City and prior to the issuance of the Building Permit, conditioned solely on the Director of Public Works' certification on information and belief that all or any specified part of such Performance Security is due to the City.
- c. The Site Safety Security shall not be released until the Project has an approved Final Inspection by the Chief Building Official. However, if sufficient work has been completed according to the benchmarks and construction values as established under the Construction Completion Schedule, the Site Safety Security may be reduced to the extent the Director of Public Works in his sole discretion determines is appropriate.

27. 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 route of construction vehicles to and from the project site. The City Building Official has the authority to require modifications and amendments to the Construction Management Plan as deemed necessary throughout the course of the Project and until the Final Inspection.

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

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

28. 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.

29. 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.

30. Exterior lighting. Prior to issuance of a building permit, the applicant shall demonstrate that all exterior lighting has been designed to direct light only to the subject property and to avoid spillover on to adjacent properties, including the additional exterior lighting information provided on April 10, 2017.

Moved by Behrens, Seconded by Ode
Ayes: Behrens, Ode, Ramsey, Thiel
Noes: None
Recused: None
Absent: Jajodia, Levine

ANNOUNCEMENTS

Director Jackson announced that two community workshops are scheduled for anyone interested in discussing the Grand Avenue Zone D zoning regulations. The workshops will be held on April 19 and May 3, 6:00 to 8:00 pm, at Kehilla Synagogue. Consultant Barry Miller will facilitate the workshops and Staff will be available for questions. Director Jackson noted that residents who have expressed interest in the topic or live in the area have been notified by mail.

Alternate Commissioner Thiel announced that community meetings have been scheduled to discuss School District facilities, master planning for the new high school, and bond expenditures. More information on these community meetings can be found on the Piedmont Unified School District website.

Director Jackson announced that the revisions to the Accessory Dwelling Unit regulations will likely go to Council on May 1 or May 15, as will recommendations for short-term rentals.

Assistant Planner Alvarez announced that the Climate Action Plan Task Force will hold its second meeting on Tuesday, April 25, at 6:30 pm in the Council Chambers. The Climate Action Plan Task Force will meet regularly on the fourth Tuesday of every month.

ADJOURNMENT

There being no further business, Chairman Behrens adjourned the meeting at 7:57 p.m.