

## PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, August 14, 2017

A Regular Session of the Piedmont Planning Commission was held August 14, 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 July 31, 2017, and a revised agenda was posted for public inspection on August 3, 2017.

### CALL TO ORDER

Chairman Ramsey called the meeting to order at 5:00 p.m.

### ROLL CALL

Present: Commissioners Eric Behrens, Aradhana Jajodia, Jonathan Levine, Susan Ode, and Tom Ramsey, and Alternate Commissioner Clark Thiel

Staff: Planning Director Kevin Jackson, Senior Planner Pierce Macdonald-Powell, Assistant Planners Emily Alvarez and Chris Yeager, and Planning Technician Mira Hahn

Council Liaison: Councilmember Jennifer Cavanaugh

### ANNOUNCEMENTS

Chairman Ramsey introduced and welcomed the City's new Planning Technician, Mira Hahn.

### 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 21-PL-17**

RESOLVED, that the Planning Commission approves as submitted its meeting minutes of the July 10, 2017, regular hearing of the Planning Commission.

Moved by Jajodia, Seconded by Ode

Ayes: Behrens, Jajodia, Ode, Ramsey, Thiel

Noes: None

Recused: Levine

Absent: None

#### Consent Calendar

The Commission initially suggested that the application for 95 Sandringham Road be on the Consent Calendar along with the applications below. The project architect, however, requested to remove the application from the Consent Calendar so he could discuss an alternative material for the proposed windows. The Commission placed the following applications on the Consent Calendar:

- 1375 Grand Avenue, Suite #101 (Non-Residential Sign Permit)
- 349 Olive Avenue (Variance)

##### **Resolution 22-PL-17**

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

Moved by Ode, Seconded by Behrens

Ayes: Behrens, Jajodia, Levine, Ode, Ramsey

Noes: None

Recused: None

Absent: None

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

**Non-Residential  
Sign Permit  
1375 Grand Avenue  
Suite 101**

**Resolution 194-DR-17**

WHEREAS, the Property Owner is requesting permission to replace an existing sign facing Grand Avenue with a new non-illuminated sign on the front façade of a two-story commercial office building, located at 1375 Grand Avenue, Suite 101, Piedmont, California, which construction requires a design review permit; 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(g), Existing Facilities, because the project involves no change in building size and the sign replaces an existing sign of the same size and type; and that the proposal, as conditioned, conforms to the criteria and standards of Section 17.36 of the Piedmont City Code:

1. The proposed sign is consistent with the City's General Plan and Piedmont Design Guidelines, because the sign materials and style are consistent with the materials and architectural style of the building and are consistent with General Plan policies 28.2 and 28.6; and the scale and proportions of the proposed sign are consistent with the architectural design and massing of the building and are consistent with General Plan policies 28.2 and 28.3.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light, because the sign is flush-mounted to the building, non-illuminated, and replaces an existing sign.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the sign is flush-mounted to the building and non-illuminated.
4. The application complies with the following 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).
5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policies 28.2 (Style Compatibility) and 28.6 (Exterior Materials).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the non-residential sign design review permit application proposed for 1375 Grand Avenue, Suite 101, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following condition:

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

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

**Variance**  
**349 Olive Avenue**

**Resolution 224-V-17**

WHEREAS, the Property Owner of 349 Olive Avenue, Piedmont, California, is requesting a setback variance from the requirements of Chapter 17 of the Piedmont City Code to correct the setback dimension from the front property line to previously approved construction; 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 and the project is consistent with General Plan policies and programs; and

WHEREAS, the Planning Commission finds that the proposal complies with the variance criteria under Section 17.70.040 of the Piedmont City Code:

1. The property and existing improvements present unusual physical circumstances of the property, including: the existing topography, which is steeply sloped from the street to the front of the house; and the existing home, which is within the 20-foot setback. The setback variance is required as the result of a survey showing a different dimension than previously approved. Strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone.
2. The project is compatible with the immediately surrounding neighborhood and the public welfare, because most homes in the neighborhood have structures within the front 20-foot setback; the existing house and the previously approved plans have structure within the front setback; and no changes are proposed to the previously approved design.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction, because the applicant would have to redesign the entire previously-approved project, and the project is currently under construction since a building permit was issued for the previously-approved plans. No changes to the previously-approved design are proposed.
4. The project is consistent with General Plan policies and programs, including: Design and Preservation Element Policy 28.4 (Setback Consistency).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application at 349 Olive Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following condition:

1. **Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any

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

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

## Regular Calendar

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

### Design Review Permit 11 Muir Avenue

The Property Owner is requesting retroactive approval to install a basketball hoop and light standard within the left (south) side yard setback.

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

There was no **public testimony** offered for this application.

The Commissioners were in support of the proposed basketball hoop, but they considered the 20-foot height of the proposed light standard to be too high. They agreed with Commissioner Ode's suggested condition of approval that would keep the proposed light standard at a height below the adjacent hedge. The Commissioners discussed appropriate heights for the light and whether the light could be tilted. Planning Director Jackson noted that lights with a tilt can often project glare on neighboring properties. The Commission settled on a condition of approval requiring a downward-directed light with a maximum height of 15 feet.

### Resolution 83-DR-17

WHEREAS, the Property Owner is requesting retroactive approval to install a basketball hoop and light standard within the left (south) side yard setback, located at 11 Muir Avenue, Piedmont, California, which construction requires a design review permit; 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 that the proposal, as conditioned, conforms to the criteria and standards of Section 17.66.060 of the Piedmont City Code:

1. As conditioned, the proposed design is consistent with the City's General Plan and Piedmont Design Guidelines, in that the project is consistent with the materials and architectural design of the residence; the light standard is shielded and downward directed; and the basketball hoop and light standard are typical of outdoor recreational amenities in the area.

2. As conditioned, the design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light, because the

proposed basketball hoop and light standard are behind a gate, at the back of the house.

3. The proposed design does not adversely affect pedestrian or vehicular safety, because the proposed basketball hoop and light standard are behind a gate, at the back of the house.

4. The application complies with the following guidelines: II-1, II-2, II-3, II-6, II-7.

5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policies 28.2 (Style Compatibility), 28.3 (Additions), 28.4 (Setback Consistency), 28.6 (Exterior Materials), 28.8 (Acoustical and Visual Privacy), 29.1 (Conserving Residential Yards), and 29.8 (Exterior Lighting).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for proposed construction at 11 Muir Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Approved Plan Set.** The approved plans are those submitted on June 28, 2017.

2. **Retroactive Building Permit.** The applicant is responsible for obtaining a Building Permit for the basketball hoop and light standard, as well as for payment of retroactive permit fees and penalties.

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

4. **Height of the Light Standard.** The light standard shall have a maximum height of 15 feet.

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

**Design Review Permit  
320 La Salle Avenue**

The Property Owner is requesting permission to remodel the residence, including a new entry, a new folding patio door on the front façade, a new folding door on the rear façade, a new rear yard deck and trellis, new steps, a new skylight, new exterior lighting, exterior window and door changes, and associated interior floor plan changes.

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

**Public testimony** was received from:

Lorraine May, project architect, suggested that the proposed changes are modest and that they blend well with the existing architecture of the house. In response to questions from Commissioner Ramsey, Ms. May described the proposed office doors on the front façade and stated that the intent was to create a more open connection with the front courtyard. She explained that the location of the proposed doors relates to the interior floor plan, but that the doors could be moved slightly to align with exterior architectural features. She also responded to questions about the possibility of adding muntins to the new doors, stating that the doors are consistent with three large windows at the rear of the house, and that the intent was to have a clear view from these doors. She confirmed, however, that the proposed office doors do not match any other openings at the front of the house. In response to questions from Commissioner Jajodia, Ms. May clarified that the windows would be aluminum and painted to match the existing house. In response to questions from Commissioner Behrens, Ms. May explained why French doors on the front façade would not be ideal, and she explained that the rear trellis is proposed to provide sun protection for the proposed, west-facing deck. She also clarified details about the proposed trellis.

Vanessa Gage, homeowner, spoke to address the questions raised by the Commission regarding the office doors and rear trellis. She explained that both features are proposed to enhance the indoor/outdoor living experience typical of a Mediterranean-style house. She emphasized that the office doors were designed to connect the interior of the house to the outside, but she stated that she would be willing to add muntins to the doors if necessary. Regarding the rear trellis, she explained that its design is consistent with Mediterranean architecture, and that it would provide protection from the strong sun on the west-facing façade. Ms. Gage added that the west-facing rear wall of her house is setback from the adjacent homes.

Max and Zoe Catalano, neighbors at 310 La Salle Avenue, addressed the Commission with their concerns about the rear trellis. They maintained that it would block about 80% of their view of sunlight and green space from their kitchen. They stated that they otherwise fully support the well-designed project, including the rear deck.

The Commissioners were generally in support of the project, but they expressed concerns regarding the architectural consistency of the office doors and the impact that the rear trellis would have on the adjacent neighbor. The Commissioners unanimously agreed that the front-facing office doors should include muntins consistent with other windows on the front façade. Commissioner Ramsey suggested that the office doors also be centered on the existing corbels or the second-floor windows. Commissioner Jajodia noted that the proposed door system would still provide the desired feeling of openness when the doors are open. Regarding the trellis, the Commissioners found the proposed trellis to have a significant impact on the adjacent neighbors. They argued that the trellis was too massive and that no precedents exist in the neighborhood. The Commissioners were divided on whether to deny the trellis completely or to require that it be reduced in size and pulled away from the adjacent house. They consulted with Planning Director Jackson about the process of changing the design and they discussed the options at length.

Commissioner Ramsey asked the architect to return to the podium to comment on the options. Ms. May stated that her clients would prefer that the trellis be eliminated rather than reduced in size.

**Resolution 177-DR-17**

WHEREAS, the Property Owner is requesting permission to remodel the residence, including a new entry, a new folding patio door on the front façade, a new folding door on the rear façade, a new rear yard deck and trellis, new steps, a new skylight, new exterior lighting, exterior window and door changes, and associated interior floor plan changes, located at 320 La Salle Avenue, Piedmont, California, which construction requires a design review permit; 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 before the addition, and the project is consistent with General Plan policies and programs; and that the proposal, as conditioned, conforms to the criteria and standards of Section 17.66.060 of the Piedmont City Code:

1. As conditioned, the proposed design is consistent with the City's General Plan and Piedmont Design Guidelines, in that the following building features are consistent with the original architecture and neighborhood development: the front addition is consistent with the materials and design of the Spanish Revival house; the door pattern, as modified, continues the existing door pattern; the window pattern continues the existing window pattern; the project proposes to remove a bay window and chimney that are not integral to the original architectural design of the residence; the second-story deck, as modified, is consistent with the materials and design of the residence; and the skylight is not visible to the public.
2. As conditioned, the design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light, because the distance between the project and neighboring homes is appropriate; neighboring properties have similar rear yard decks without a trellis; and privacy is provided by existing landscaping and grade changes, which shall remain as existing.
3. The proposed design does not adversely affect pedestrian or vehicular safety, because there is no negative effect created.
4. As conditioned, the application complies with the following guidelines: II-1, II-2, II-3(a), II-3(b), II-3(c), II-3(d), II-4, II-5, II-5(a), II-6, II-6(a), II-6(b), II-6(c), II-7, II-7(a).
5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policies 28.2 (Style Compatibility), 28.3 (Additions), 28.6 (Exterior Materials), 28.8 (Acoustical and Visual Privacy), 28.11 (Design Review), 29.1 (Conserving Residential Yards), and 29.8 (Exterior Lighting).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for proposed construction at 320 La Salle 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 August 3, 2017, after public notices were sent and the plans were made available to the public, unless modified herein.

2. **Window and Door Material.** The building material for the new windows shall be wood or aluminum clad wood with true divided lites or three-dimensional simulated divided lites.

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

4. **Skylight.** The new skylight frame and the metal flashing around the new skylight shall be painted to match the adjacent roof color. The location of the existing skylight to be removed shall be patched and painted to match the adjacent roof color.

5. **No Accessory Dwelling Unit Approval.** The basement level bedroom, bathroom and kitchen/living room in the “au-pair” suite do not constitute an accessory dwelling unit and do not provide an independent living area. No area of the basement shall be rented as an independent living area unless the property owner obtains an Accessory Dwelling Unit permit.

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

7. **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.



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

9. **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.

10. **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.

11. **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 south property lines as shown on the approved plans. The intent is to verify that the approved deck features are constructed at the approved dimension from the property lines.

12. **Building Height and Floor Level Verification.** Prior to frame inspection, the applicant shall provide to the Building Official written verification by a licensed land surveyor stating that the floor level and trellis of the new deck are constructed at the approved heights above grade.

13. **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](http://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.

**14. 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.

15. **Front Office Doors.** The front office doors shall be aligned with the corbels above and shall have muntins that match the other windows on the front façade, subject to staff review and approval.

16. **Rear Trellis.** The trellis on the rear deck shall be eliminated from the plans, as proposed by the project architect. Any necessary redesign of the deck railing shall be subject to staff review and approval.

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

**Variance and  
Design Review Permit  
114 Wildwood Gardens**

The Property Owner is requesting permission to demolish the existing two-car detached garage in the northwest corner of the property; to construct a two-story addition at the northwest corner of the house, including an attached two-car garage on the lower level and approximately 516 square feet of habitable space above; to construct a new driveway, driveway approach, staircase, and gate at the rear (north) of the property; to build a new gate and fence at the front (south); to construct a new staircase, awning, and door with exterior lighting at the left (west) elevation; and to install a skylight. Two variances are required in order to construct within the left (west) side setback and to exceed the structure coverage limit.

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

**Public testimony** was received from:

Brian Hebert, homeowner and project contractor, explained that the project aims to create a usable garage and driveway. In response to questions from the Commission about whether the structure coverage could be reduced by 42 square feet to eliminate the need for a variance, Mr. Hebert stated that he and his architect tried to stay under the structure coverage limit, but that the resulting designs were less than ideal. He explained that the garage wall has been located to line up closely with the existing house wall. He also emphasized that the proposed garage is larger than the existing garage, because the existing garage is too small to fit his vehicle.

Emi Sherman, project architect, further discussed the wall alignment and her desire to create symmetry in the courtyard. She stated that if 42 square feet were to be removed from the family room, it would create an awkward notch in the wall and a less-than-pleasing roof line. In response to questions from the Commission, she reiterated the desire to align the walls of the garage and bedroom, and argued that a difference of 2 feet would be visible.

The Commissioners were unanimously in support of the design of the project and commended the applicants for a beautifully-designed project that preserves original architectural detailing. The Commissioners, however, were divided in their support of the structure coverage variance. Commissioners Behrens and Ramsey, who were in favor of the structure coverage variance, considered the overage to be small and insignificant. They emphasized that the variance allows for greater usability of the garage, and that it results in a house design that is more in keeping with the original architecture. Commissioners Ode, Jajodia and

Levine were not in support of the proposed structure coverage variance. They stated that the overage was so small that it could easily be eliminated, and that they were unable to find that a hardship exists to grant the structure coverage variance. The Commissioners found no concerns with the proposed setback variance. The Commissioners and staff briefly discussed the options available in acting on the application.

**Resolution 205(1)-V-17**

WHEREAS, the Property Owner is requesting permission to demolish the existing two-car detached garage in the northwest corner of the property; to construct a two-story addition at the northwest corner of the house, including an attached two-car garage on the lower level and approximately 516 square feet of habitable space above; to construct a new driveway, driveway approach, staircase, and gate at the rear (north) of the property; to build a new gate and fence at the front (south); to construct a new staircase, awning, and door with exterior lighting at the left (west) elevation; and to install a skylight, located at 114 Wildwood Gardens, Piedmont, California, which construction requires a design review permit; and

WHEREAS, two variances from the requirements of Chapter 17 of the Piedmont City Code are necessary to construct within the left (west) side setback and to exceed the structure coverage limit; and

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

WHEREAS, regarding the setback variance, the Planning Commission finds that the proposal complies with the variance criteria under Section 17.70.040 of the Piedmont City Code:

1. The property and existing improvements present unusual physical circumstances, including the existing non-conforming setback along the left side of the property. Improvements on the left side of the property would be difficult without a variance, 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.
2. The project is compatible with the immediately surrounding neighborhood and the public welfare, because there are other houses that have similar non-conforming setbacks in the neighborhood.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction, because the house is already non-conforming within the left side setback.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the **setback variance** for proposed construction at 114 Wildwood Gardens, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Levine, Seconded by Jajodia

Ayes: Behrens, Jajodia, Levine, Ode, Ramsey

Noes: None

Recused: None

Absent: None

**Resolution 205(2)-V-17**

WHEREAS, the Property Owner is requesting permission to demolish the existing two-car detached garage in the northwest corner of the property; to construct a two-story addition at the northwest corner of the house, including an attached two-car garage on the lower level and approximately 516 square feet of habitable space above; to construct a new driveway, driveway approach, staircase, and gate at the rear (north) of the property; to build a new gate and fence at the front (south); to construct a new staircase, awning, and door with exterior lighting at the left (west) elevation; and to install a skylight, located at 114 Wildwood Gardens, Piedmont, California, which construction requires a design review permit; and

WHEREAS, two variances from the requirements of Chapter 17 of the Piedmont City Code are necessary to construct within the left (west) side setback and to exceed the structure coverage limit; and

WHEREAS, regarding the structure coverage variance, the Planning Commission finds that the proposal does not comply with the variance criteria under Section 17.70.040 of the Piedmont City Code:

1. It appears that the project could be accomplished without exceeding the structure coverage limit, subject to modest design changes. The property and existing improvements do not present unusual physical circumstances, and strictly applying the terms of this chapter would not keep the property from being used in the same manner as other properties in the zone.
2. The proposed improvements could be accomplished without a variance and without causing unreasonable hardship in planning, design, or construction.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies the **structure coverage variance** application for proposed construction at 114 Wildwood Gardens, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Levine, Seconded by Jajodia

Ayes: Jajodia, Levine, Ode

Noes: Behrens, Ramsey

Recused: None

Absent: None

**Resolution 205(3)-DR-17**

WHEREAS, the Property Owner is requesting permission to demolish the existing two-car detached garage in the northwest corner of the property; to construct a two-story addition at the northwest corner of the house, including an attached two-car garage on the lower level and approximately 516 square feet of habitable space above; to construct a new driveway, driveway approach, staircase, and gate at the rear (north) of the property; to build a new gate and fence at the front (south); to construct a new staircase, awning, and door with exterior lighting at the left (west) elevation; and to install a skylight, located at 114 Wildwood Gardens, Piedmont, California, which construction requires a design review permit; and

WHEREAS, two variances from the requirements of Chapter 17 of the Piedmont City Code are necessary to construct within the left (west) side setback and to exceed the structure coverage limit; and

WHEREAS, regarding design review, the Planning Commission finds that the proposal, as conditioned, conforms to the criteria and standards of Section 17.66.060 of the Piedmont City Code:

1. The proposed design is consistent with the City's General Plan and Piedmont Design Guidelines, in that the project is consistent with the original architecture and neighborhood development, including: the wall material, the roof form and material, and the design of the windows, doors, guardrails, gates, fences, and retaining walls.
2. The design has no effect on neighboring properties' existing views, privacy, and access to direct and indirect light, and the adjoining neighbors support the project.
3. The proposed design does not adversely affect pedestrian or vehicular safety, and in fact will likely increase it by increasing the opportunities for off-street parking and by moving the garage farther from the street.
4. The application complies with the following guidelines: II-1, II-3, II-4, II-5, II-6, II-7, III-1, III-2, III-3, III-4, III-5, III-6, III-7, IV-1, IV-2, IV-3, IV-4, IV-5, IV-6, V-1, V-2, V-3, V-4, V-5, V-6, V-7, V-8, V-9, V-10, V-11.
5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policies 28.1 (Scale, Height, and Bulk Compatibility), 28.3 (Additions), 28.4 (Setback Consistency), 28.5 (Garages, Decks, and Porches), 28.6 (Exterior Materials), 29.7 (Driveway and Parking Location), and 31.4 (Restoration).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the **design review permit** application for proposed construction at 114 Wildwood Gardens, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Window and Door Material.** As specified in the plans, the building material for the new windows and doors shall be wood.
2. **Window Color Scheme.** All the windows on the house shall have a consistent color scheme.
3. **Skylight Flashing.** The metal flashing around the new skylight shall be painted to match the adjacent roof color.
4. **Garage Doors.** The garage doors shall be motorized. If design modifications are required to accomplish this, those modifications shall be subject to staff review.
5. **Arborist's Report and Certified Tree Preservation Plan.** Before the issuance of a building permit, the Property Owner shall submit an Arborist's Report and Certified Tree Preservation Plan that includes tree preservation

measures to preserve the tree in the rear yard, to the left of the proposed driveway. The tree preservation measures shall be on the appropriate sheets of the construction plans. The arborist shall be on-site during critical construction activities, including initial and final grading, to ensure the protection of the existing trees that are intended to be retained. The arborist shall document in writing and with photographs the tree protection measures used during these critical construction phases. If the tree to the left of the driveway, or other significant trees, has been compromised, mitigation measures must be specified in writing, implementation certified by the Project Arborist, and an in-lieu replacement tree shall be planted elsewhere on the property if the tree must be removed. Replacement tree size is subject to staff review, and shall be commensurate with the size and numbers of trees to be removed. They shall generally be a minimum of 24" box size. Before the Final Inspection, the Arborist shall file a report to the City certifying that all tree preservation measures as recommended have been implemented to his/her satisfaction and that all retained trees have not been compromised by the construction.

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

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

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

**9. 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.

**10. 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.

**11. 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.

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

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

14. **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](http://cleanwaterprogram.org).

15. **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.

16. **Structure Coverage.** The project shall be designed so that it meets structure coverage requirements, subject to staff review and approval.

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

**Design Review Permit  
110 Dracena Avenue**

The Property Owner is requesting permission to expand and stylistically change the residence through the following alterations: expansion of the front of the residence with an approximately 333-square-foot addition under the upper floor; expansion of the rear of the residence with an approximately 300-square-foot addition; removal of the picket fence and entry gate at the front of the property; removal of the upper balcony on the front façade; modifications to the roof of the residence and garage; replacement of the siding on the front façade with cement plaster, horizontal stained wood, and stone veneer; replacement of the siding on the remainder of the house with cement plaster; modifications to skylights, windows, doors, and the garage door; changes to lighting and guardrails; and modifications to hardscape, including a new rear patio.

Written notice was provided to neighbors. **Three affirmative response forms** were received. **Correspondence** was received from: Todd and Yoko Narter; and Kristine Kaiser and Steven Schiller.

**Public testimony** was received from:

Derek Hansen, homeowner, stated that he and his wife employed a new architect and carefully addressed the concerns that the Commission previously had regarding the previous proposal. He explained that they aimed to modernize the house while maintaining some of the Japanese design aesthetic. Mr. Hansen explained that the project no longer requires a structure coverage variance and that the roof line is not proposed to change. He added that the project has the full support of his neighbors.

Robin Pennel, project architect, described the existing house and the proposed design. He reported that the front of the original house, with its midcentury/Japanese style of architecture, was well-designed, but that the rear of the house was never up to par with the front of the house. He explained that the proposed design aims to have a cohesive design throughout, with consistent fenestration and the simple addition of a stone veneer base to ground the house. He added that no variances are requested with the current proposal. In response to questions from the Commission, Mr. Pennel explained that the asymmetry of the stone veneer on the garage is in keeping with a Japanese architectural style and that it would likely read better when viewed in three dimensions. He clarified that the stone veneer extends to the top of the garage door, and that stucco is proposed above. In response to questions from Commissioner Jajodia, Mr. Pennel stated that the proposed dormer was designed to allow light into the living room.

The Commissioners commended the applicant and architect for their efforts to address the Commission's previous concerns and described the current proposal as a vast improvement over the previous proposal. Commissioner Jajodia maintained that the design is cohesive and grounded, and she commented favorably on the removal of the front fence. She originally questioned the compatibility of the proposed dormer, but ultimately found it to be appropriate and beneficial to the overall design. Commissioner Levine was in full support of the application as proposed. The remaining Commissioners were in support of the proposal, except for the asymmetrical stone veneer on the garage, which they found to be unbalanced. They suggested adding a condition of approval to add stone veneer to both sides of the garage, to the height of the garage door.

**Resolution 217-DR-17**

WHEREAS, the Property Owner is requesting permission to expand and stylistically change the residence through the following alterations: expansion of the front of the residence with an approximately 333-square-foot addition under the upper floor; expansion of the rear of the residence with an approximately 300-square-foot addition; removal of the picket fence and entry gate at the front of the property; removal of the upper balcony on the front façade; modifications to the roof of the residence and garage; replacement of the siding on the front façade with cement plaster, horizontal stained wood, and stone veneer; replacement of the siding on the remainder of the house with cement plaster; modifications to skylights, windows, doors, and the garage door; changes to lighting and guardrails; and modifications to hardscape, including a new rear patio; located at 110 Dracena Avenue, Piedmont, California, which construction requires a design review permit; 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 structures before the addition, and the project is consistent with General Plan policies and programs; and that the proposal, as conditioned, conforms to the criteria and standards of Section 17.66.060 of the Piedmont City Code:

1. The proposed design is consistent with the City's General Plan and Piedmont Design Guidelines, in that the following building features are consistent with the

original architecture and neighborhood development: the materials on the façade, the modified roof form, the window and door material and fenestration pattern, and the eave overhang dimension.

2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light, because the distance between the project and neighboring homes is appropriate, and the height of the project has been kept as low as possible to achieve the new design and roof form.

3. The proposed design does not adversely affect pedestrian or vehicular safety, because the project has no effect on pedestrian and vehicular safety, and it maintains adequate visibility for entering and exiting the driveway.

4. The application complies with the following 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-1, III-1(a), III-2, III-2(a), III-3, III-4, III-5, III-5(a), III-6, III-6(a), III-7, III-7(a).

5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policies 28.2 (Style Compatibility), 28.6 (Exterior Materials), and 28.12 (Creativity and Innovation).

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

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

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

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

6. **C&D Compliance.** Compliance with Chapter 5 Article I 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. 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](http://cleanwaterprogram.org).

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

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

period allocated for any work appears unjustifiable, recommend to the Director of Public Works a reasonable completion date for any benchmark.

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

10. **Stone Veneer.** The stone veneer on the front façade of the garage shall be applied to both sides of the garage, up to the top of the garage door, subject to staff review and approval.

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

Amy Settlemier of 11 Muir Avenue spoke during the public testimony for the above application to ask about the status on her project at 11 Muir Avenue (Agenda Item #3). Planning Director Jackson responded that the Commission already acted on the application and stated that she could contact Senior Planner Macdonald-Powell for more information.

**Variance and  
Design Review Permit  
95 Sandringham Road**

The Property Owner is requesting permission to construct additions on the left (south) of the residence, totalling approximately 350 square feet, all under the existing roofline; to construct a new deck with hot tub at the rear (west), lower level of the residence; to modify windows, doors, and exterior lighting; and to modify hardscape including the reworking of on-grade stairs on the left of the house. A variance is required in order to construct within the left side yard setback.

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

**Public testimony** was received from:

Grier Graff, project architect, reviewed details about the existing and proposed windows. He explained that the existing direct-set glass windows are proposed to be replaced with either direct-set glass windows installed with a film (as a substitute for tempered glass) or with double-glazed, clear, direct-set glass windows. He indicated that the new windows are called out as aluminum on the plans, but that he has recently learned that they might need to be fiberglass. Mr. Graff requested that the Commission consider approving both options—aluminum and fiberglass. He noted that fiberglass windows are paintable and have a profile like that of aluminum windows. Mr. Graff explained that the decision will be based on which window material will provide the smallest profile and sill meet the new energy code. Mr. Graff responded to questions from the Commission, clarifying the details of the proposed windows, confirming which windows are proposed to be replaced, and noting that the

windows will match in color. He explained that the new windows will not have the same frame dimensions as the existing windows, due to the requirements of the energy code. In response to questions from Commissioner Levine, Mr. Graff discussed the potential of making interior changes that would help to keep the media room from becoming a bedroom in the future. He stated that he was willing to make the changes if necessary but considered the changes to be unnecessary.

In response to questions from the Commission, Planning Director Jackson outlined the guidelines of the City's Window Policy and commented on the City's regulations regarding bedroom count. The Commissioners briefly discussed the interior floor plan and how it affects the bedroom count, but were ultimately in full support of the project as proposed. The Commissioners were satisfied that the fiberglass window option was comparable to the proposed aluminum windows, and they supported a condition of approval to give the applicants flexibility in choosing the appropriate windows.

**Resolution 227-V/DR-17**

WHEREAS, the Property Owner is requesting permission to construct additions on the left (south) of the residence, totalling approximately 350 square feet, all under the existing roofline; to construct a new deck with hot tub at the rear (west), lower level of the residence; to modify windows, doors, and exterior lighting; and to modify hardscape including the reworking of on-grade stairs on the left of the house, located at 95 Sandringham Road, Piedmont, California, which construction requires a design review permit; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary to construct within the left side yard setback; and

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

WHEREAS, regarding variance, the Planning Commission finds that the proposal complies with the variance criteria under Section 17.70.040 of the Piedmont City Code:

1. The property and existing improvements present unusual physical circumstances of the property, including: the existing property was constructed within the current setbacks, and the 7-inch encroachment is not significant; the lot has an unusually steep topography and constructing an addition outside of the existing eave would cause an unusual shape to the building; and the current kitchen setup is awkward, and the addition would allow for better use of the home. Strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone.
2. The project is compatible with the immediately surrounding neighborhood and the public welfare, because most neighboring properties are constructed in the side setbacks, and most homes in the neighborhood are similar in size to what is being proposed.

3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction, because the proposed expansion does not go outside the current eave and would not increase the bulk of the home, while additions sited outside the setback would significantly increase the bulk of the structure.

WHEREAS, regarding design review, the Planning Commission finds that the proposal, as conditioned, conforms to the criteria and standards of Section 17.66.060 of the Piedmont City Code:

1. The proposed design is consistent with the City's General Plan and Piedmont Design Guidelines, in that the following building features are consistent with the original architecture and neighborhood development: the wall material matches the existing; the roof form and material does not change; the window and door material and fenestration pattern (whether aluminum or fiberglass) will be consistent with the existing; and the deck matches, and is mostly beneath, the existing deck.

2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light, because the distance between the project and neighboring homes is appropriate, and the topographical differences are appropriate to preserve privacy, views and light.

3. The proposed design does not adversely affect pedestrian or vehicular safety, because it has no effect on pedestrian and vehicular safety.

4. The application complies with the following guidelines: II-1, II-2, II-3(a), II-3(b), II-3(c), II-3(d), II-5, II-5(a), II-6, II-6(a), II-6(b), II-6(c), II-7(a).

5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policies 28.1 (Scale, Height, and Bulk Compatibility), 28.3 (Additions), 28.4 (Setback Consistency), 28.5 (Garages, Decks, and Porches), and 28.6 (Exterior Materials).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review permit application for proposed construction at 95 Sandringham 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 either aluminum or fiberglass.

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

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

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

5. **Hot Tub.** Prior to issuance of a building permit, the applicant shall provide sound calculations showing that the hot tub meets the Piedmont Municipal Code sound requirements. Any design modifications required to meet the sound requirements shall be subject to staff review and approval.

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

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

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](http://cleanwaterprogram.org).
- b. Neighboring Property Owner Permission. Should the execution of the Foundation/Shoring/Excavation Plan require excavation into a neighboring property or if access onto the neighboring property is necessary for construction, the applicant shall submit, prior to the issuance of Building Permit, a written statement from the



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

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

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

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

The Commission recessed for dinner at 6:55 p.m. and reconvened at 7:22 p.m.

**Discussion of Floor  
Area Ratio (FAR)  
Regulations**

Having acted on an application seeking approval for a variance from the City's Floor Area Ratio (FAR) limits at its last meeting on July 10, 2017, the Planning Commission requested that staff return with a report outlining the intent of the code provision and options for how the code language might be modified to improve the effectiveness of the regulation. The Commission was also interested in ways to better define what constitutes a habitable area and to clearly separate

the sequencing of projects that are eligible for the FAR exemption from those that include envelope expansions.

Planning Director Jackson introduced the topic by outlining the intent and history of the FAR regulation. He explained that in 1990, the City adopted the first FAR regulation with the intent to limit the size of a house in relation to the size of its lot. He explained that the City added an exemption to the regulation in 1996 to encourage expansions within the building envelope, as opposed to additions that might have a greater impact on the neighborhood. The exemption, however, was not valid within three years of a building permit being issued for a building expansion. This three-year waiting period was meant to keep the exemption as an up-front incentive and avoid situations in which homeowners expand their house and quickly ask for an FAR exemption for additional space. Planning Director Jackson explained that since 1996, it had become increasingly common for homeowners to receive a building permit for a building envelope expansion and then delay or drag out construction for three years so that they could make use of the FAR exemption and exceed the FAR limit before the building envelope expansion was complete. He explained that in March 2017, as part of the comprehensive code updates, the City closed this loophole by requiring that a homeowner waits at least three years *from the point of final inspection* on a building expansion project before making use of the FAR exemption.

Planning Director Jackson explained that Staff is currently looking for direction from the Commission as to whether and how it might want to change the FAR exemption. He suggested several possible directions, including:

1. Staff could study the effectiveness of the current regulation during the coming year to determine whether the exemption helps to encourage expansion within the building envelope.
2. The Commission could propose to get rid of the FAR exemption.
3. The Commission could propose to change the interim period, if three years is not deemed sufficient to prevent the sequencing of projects.
4. Staff could develop a policy that better defines what constitutes non-habitable space. The policy could include parameters for window area, ceiling height, wall and floor finishes, electrical and light outlets, and heating and air conditioning.

**Public testimony** was received from:

Grier Graff, a local architect, offered his opinion that the regulation appears to be working as intended and does not need to be fixed. He commented on his personal experience with the regulation and suggested that most architects and homeowners do not misuse the exemption. He acknowledged, however, that some level of misuse will always occur. He suggested that Staff monitor the incoming planning and building applications over the next year to gauge the effectiveness of the regulation.

The Commissioners discussed whether it was necessary to make any changes to the code. Commissioner Jajodia questioned whether three years was the appropriate amount of time to wait between projects and wondered if it should be shortened. The other Commissioners, however, expressed their opposition to making any changes to the FAR regulation, at least for the time being. They commented on the importance of the FAR exemption to encourage expansion within the building envelope and, as Alternate Commissioner Theil added, to

encourage the proper permitting of such conversions. Commissioner Ramsey recommended that they wait to see how the recent code change might help to curb misuse of the exemption before proposing any additional changes to the FAR exemption. Planning Director Jackson suggested that Staff study the effectiveness of the current regulation during the coming year by tracking planning and building permits. The Commissioners agreed.

The Commissioners were also in favor of clearly defining non-habitable space. Alternate Commissioner Thiel emphasized the importance of distinguishing parameters by which a space would be deemed habitable. Commissioner Ramsey agreed, stating that the current definition of habitable space is unclear and might be interpreted differently at the planning and building stages. The Commissioners, along with input from Mr. Graff, discussed which parameters could clearly define habitable space. Planning Director Jackson suggested that Staff create a draft policy that includes a menu of possible features of non-habitable space, so that the Commission would have something from which to work.

Ultimately, the Commission directed Staff to a) study the effectiveness of the current regulation during the coming year by tracking planning and building permits; and b) draft a policy that would clearly define non-habitable space.

**Wireless Communication  
Facilities Update**

Prior to adjournment, Planning Director Jackson announced that a wireless facilities study session is scheduled for August 21 from 5:30 to 6:30 p.m. in the Council Chambers. He stated that the meeting would include a presentation from Telecom Law Firm on the regulations and technology of wireless facilities, and that it is not specific to the Crown Castle applications. Planning Director Jackson also announced that Crown Castle would be presenting their revised designs on August 29 at 6:30 p.m. at the Community Center in Piedmont Park.

**ADJOURNMENT**

There being no further business, Chairman Ramsey adjourned the meeting at 8:04 p.m.