

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, January 9, 2017

A Regular Session of the Piedmont Planning Commission was held January 9, 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 December 22, 2016.

CALL TO ORDER

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

ROLL CALL

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

Absent: Commissioners Tony Theophilos and Tom Zhang (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

Council Liaison: Councilmember Jennifer Cavanaugh

ANNOUNCEMENTS

Planning Director Jackson announced that the City Council will hold two study sessions regarding the proposed revisions to the Zoning Code. One study session is scheduled for Wednesday January 11 at 7:30 pm in the EOC conference room at the police station (403 Highland Avenue), and the other is scheduled for Monday January 23 at 6:30 pm in the Council Chambers at City Hall. He also announced that the Council's first reading of the revised ordinance is tentatively scheduled for March 6, 2017. Planning Director Jackson noted that more information is available on the City's website, and that the City is accepting comments on the matter.

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 1-PL-17

RESOLVED, that the Planning Commission approves as submitted its meeting minutes of the December 12, 2016, regular hearing of the Planning Commission.

Moved by Ode, Seconded by Ramsey

Ayes: Behrens, Ode, Ramsey

Noes: None

Recused: Jajodia

Absent: Theophilos, Zhang

Consent Calendar

The Commission placed the following application on the Consent Calendar:

- 400 Highland Avenue (Non-Residential Sign Design Review)

Resolution 2-PL-17

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

Moved by Ramsey, Seconded by Jajodia

Ayes: Behrens, Jajodia, Ode, Ramsey

Noes: None

Recused: None

Absent: Theophilos, Zhang

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

**Non-Residential
Sign Design Review
400 Highland Avenue**

Resolution 405-DR-16

WHEREAS, the Property Owner is requesting permission to install two new non-illuminated signs on the front façade of the existing church building, located at 400 Highland 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(g), and the proposal conforms to the criteria and standards of Sections 17.19.2, 17.19.3, and 17.19.8 of the Piedmont City Code:

1. A maximum of one sign not required by law is permitted on the face of the building, unless the Planning Commission determines that one or more additional signs are needed for the convenience of the public. The proposed signs are proportional to the mass of the structure, and the secondary Student Ministries signs are needed for way-finding and for the convenience of the public. The church fronts several streets, and there is currently no signage on the Highland Way façade.

2. Each sign, including a sign required by law, is simple in design. Graphic depictions related to the non-residential use are appropriate. The signs are a simple dark bronze aluminum and are appropriate to the architecture of the church.

3. Each sign, including a sign required by law, is compatible in design, color and scale to the front of the building, adjoining structures and general surroundings, in that the signs are simple and modest in proportion to the building and will replace larger banners in the same location.

4. The sign is oriented toward the pedestrian and vehicular traffic, in that both signs are oriented toward the public way for both pedestrians and vehicles.

5. The sign is proposed to be constructed of sturdy materials, in that the proposed material is prefinished dark bronze aluminum.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the non-residential sign design review application proposed for 400 Highland 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 Ramsey, Seconded by Ode
Ayes: Behrens, Jajodia, Ode, Ramsey
Noes: None
Recused: None
Absent: Theophilos, Zhang

Regular Calendar

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

**Variance and
Design Review
129 Oakmont Avenue**

The Property Owner is requesting permission to develop approximately 651 square feet at the basement level of the house and construct a 52-square-foot second-story addition at the rear of the house; to construct a new one-car carport at the northwest (right) side of the property; to install a new built-in barbeque at the rear yard; and to make modifications to windows. A variance is required in order to create an additional room eligible for use as a bedroom without supplying conforming parking

Written notice was provided to neighbors. **Two affirmative response forms and one response form indicating no position** were received. **Correspondence** was received from: Ron and Pat Nelson.

Public testimony was received from:

Rana Mumtaz, homeowner, spoke favorably about Piedmont and her neighborhood and explained that her family purchased the home because of its remodeling potential and large back yard. She stated that she and her husband have been diligent about discussing their remodeling plans with the City, and that, at the time they purchased the home, records showed that the house had three bedrooms. She explained that later she learned that a past owner had removed a bedroom wall to expand the kitchen and dining area, leaving the house with only two bedrooms. Ms. Mumtaz responded to her neighbors' concerns by agreeing to plant new vegetative screening at the rear of the property and committing to do what she could to protect the existing rear fence. She also explained that the variance is necessary to preserve valuable back yard space, which would be impacted by a two-car carport.

Sajid Mumtaz, homeowner, spoke about the challenges his family of four has sharing two bedrooms and one bathroom, and stated that the need to add a bedroom and bathroom to the home is critical.

Carolyn Van Lang, project architect, stated that the existing garage is very difficult for a car to access and that it would be useless to make it wider. She explained that the carport, in its proposed location, has adequate vehicular turnaround space, but that a relocated carport or second parking space would not. She confirmed that the driveway is wide enough along the chimney for vehicular clearance. Regarding the sewer easement at the rear of the property, Ms. Van Lang stated that the City found no concern with locating the carport and its 24-inch deep footings atop the sewer line, which she said has a minimum depth of five feet. Ms. Van Lang also discussed the project's design, describing the rear addition as modest and in keeping with the architectural style of the house. She explained that the existing unsightly rear deck would be replaced by a porch with a seamless appearance, and that the carport is designed to look like

a garden structure with vines growing on it. In response to questions from the Commission, Ms. Van Lang confirmed that construction within the sewer easement is not restricted by the property title, but that an encroachment permit is necessary. She also confirmed that the proposed basement bedroom will be added within the existing envelope of the structure and that no excavation is required. In response to questions from Commissioner Behrens about whether the carport would be used, Ms. Van Lang stated that the owners are likely to use the new carport, given that they chose a higher budget project over retaining the existing, less usable garage. Ms. Van Lang also clarified some notes on the proposed architectural plans and confirmed that additional vegetative screening would be added.

Deborah Aracic, neighbor at 133 Oakmont Avenue, indicated her general support for the project, but questioned whether the applicant has a contingency plan in the case that the contractors hit bedrock while excavating. She expressed concern for the use of explosives and the impact it would have on her brick house. She asked whether she would get notice if the use of explosives were to be necessary. Planning Director Jackson stated that such concerns are addressed through the construction management plan required during the building permit process. Commissioner Ramsey added that the construction management plan, which will be a condition of approval, requires the applicant to provide notification of any potential construction impacts, such as vibrations and noise.

Sonia Callahan, neighbor at 1072 Park Lane, expressed concern about impacts that the project might have on the sewer line and an underground creek at the rear of the property. She explained that the City sewer was once clogged and caused flooding and damage to her property. She asked that great care be taken to keep construction equipment from damaging the sewer line. She also asked about the permitted hours of construction. Planning Director Jackson explained that one of Staff's recommended conditions of approval is that the sewer line be videotaped before and after construction, and that any apparent damage to the sewer line be fixed at the applicant's expense. He also responded to Ms. Callahan's question about the permitted hours of construction.

The Commission was in full support of the project, commenting on the modest and cohesive design of the project, the usable parking, the improved aesthetics at the rear of the house, and the reduction in structure coverage. Alternate Commissioner Jajodia pointed out that the existing garage is unusable, and that converting it into a bedroom is an effective design solution. Commissioner Ode stated that the project could be seen as returning the house to its original three bedrooms and added that the proposed carport is more likely to be used. Commissioner Ramsey also referred to the original three bedrooms and stated that the added basement bedroom is not increasing the intensity of use of the home. The Commissioners were in favor of the recommended condition of approval regarding the sewer easement, and Commissioner Ramsey suggested that wording be added to condition #11 to require vegetative screening along the rear property line. Planning Director Jackson suggested that adding a timeframe for vegetative screening would provide neighbors with adequate time to plant their own vegetation and would not require the conditioned vegetation to exist in perpetuity.

Resolution 389-V/DR-16

WHEREAS, the Property Owner is requesting permission to develop approximately 651 square feet at the basement level of the house and construct a 52-square-foot second-story addition at the rear of the house; to construct a new

one-car carport at the northwest (right) side of the property; to install a new built-in barbeque at the rear yard; and to make modifications to windows, located at 129 Oakmont Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary to create an additional room eligible for use as a bedroom without supplying conforming parking; and

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

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

1. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to, the size and configuration of the lot, making it unfeasible to create a space for two cars with adequate turn-around space; 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 carport will allow one car to be parked on the property, as opposed to the existing garage, which is constructed in a way that does not allow reasonable entry.
3. Accomplishing the improvements without variance would cause unreasonable hardship in planning, design, or construction, because the size and configuration of the lot does not allow for a two-car garage.

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. The distance between the upper level addition, carport, and adjacent residences is reasonable and appropriate due to the existing topography and neighborhood development pattern. Upper level setbacks greater than the setbacks required for the lower level have been considered and are not necessary to reduce losses of ambient and reflected light. The proposed upper floor addition is modest in size, consistent with the existing house, and harmonious with neighborhood development; and it is replacing an existing unattractive deck. The new rear porch will be smaller and will be integrated well with the existing house.
2. The proposed upper level addition and carport have been designed in a way that reasonably minimizes view and light impacts on neighboring properties, because the upper level addition is configured so that there is no impact on view and light, and the carport is proposed to be appropriately screened from the rear neighbor.

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 addition and carport are at the rear of the home and conform to the zoning requirements for that use.

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 lower level development, and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood. There is no change to vehicular access from the street, but access to the on-site parking is enhanced.

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-7, II-7(a), III-1, III-1(a), III-2, III-2(a), III-4, III-5, III-5(a), III-6, III-6(a), III-7, III-7(a).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review application for proposed construction at 129 Oakmont 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. **Roof Color.** The proposed flat roof shall be a non-reflective medium or dark color to minimize the visual impact on upslope properties.

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

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

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. 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.

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

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

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

11. 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. Vegetative screening shall be added at the rear property line and shall be maintained for a period of 10 years. 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.

12. Construction Management Plan. The Property Owner shall develop a comprehensive Construction Management Plan. The Construction Management Plan shall address noise, vibrations, traffic control, parking, debris removal, dust control, sanitary facilities, site safety security and other potential

construction impacts, as well as other details involving the means and methods of completing the Project, including the construction route. The City Building Official has the authority to require modifications and amendments to the Construction Management Plan as deemed necessary throughout the course of the Project and until the Final Inspection.

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

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

14. Sanitary and/or Storm Sewer Main Condition and Repair. City records indicate that City storm and sewer mains and associated easement may be located near the proposed carport next to the south property line. Prior to the issuance of a building permit, the Property Owner shall submit a revised copy of the site plan to show sewer manhole covers and any easements. Said easements and manhole covers shall also be shown on the building permit drawings. The applicant shall also work with City staff to verify the location and depth of the storm and sanitary sewer mains. In addition, the City shall videotape the existing sanitary and storm sewer mains to assess their pre-construction condition in order to make a determination as to whether any repairs to or replacement of the sewer main is required prior to the commencement of excavation and/or construction. (The City is responsible for the cost of the main line, and the

property owner for costs of the lateral.) As part of the final inspection the same sanitary and storm sewer lines shall be inspected as required by the Director of Public Works, who shall also determine if the sewer lines were damaged as a result of the construction and therefore must be repaired at the applicant's expense. The applicant is responsible to locate their private sewer lateral and note such location on the building permit drawings.

15. **Foundation Design.** At the discretion of the City Building Official, the applicant may be required to design the proposed garage foundation with special footings, piers, slabs or other systems, to avoid damage to the existing sewer nearby, and to enable future sewer repairs and replacements.

16. **Encroachment Permit.** Should the carport be located within the sewer easement along the rear property line, before the issuance of a building permit, the Property Owner shall apply for an encroachment permit to allow for the construction within the easement. Alternatively, the carport may be relocated so that it is not within the sewer easement subject to Staff review and approval.

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

**Variance and
Design Review
110 Sea View Avenue**

The Property Owner is requesting permission to construct a 66-square-foot master bathroom addition, replace one window, add two windows, add two skylights, and remove two windows. A variance is required for a floor area ratio (FAR) of .76 where .50 is permitted.

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

Public testimony was received from:

Barbara Westover, project architect, described the project and explained that an FAR variance is required to expand and modernize the master suite. She presented the Commissioners with a packet that included information on the floor area ratios of nearby properties, a drawing of a six-over-six divided lite pattern that she offered to add to the proposed windows, photographs of houses with similar awning windows, and photographs showing design details that were added to the house during previous remodels. She explained that the proposed design details are consistent with the existing house and that the new windows would be custom made to match the existing windows. Ms. Westover stated that FAR in the planning field has historically been used to control overcrowding, but that three other measures—structure coverage, building height, and setbacks—are often thought to be more important in creating desirable neighborhoods. She stated that the proposed addition is modest in size, barely visible by the neighbors, harmonious with the neighborhood, and in compliance with structure coverage, building height and setbacks. In response to questions from the Commissioners, Ms. Westover argued that it is impossible to create a master suite that is comparable to other master suites in the neighborhood by solely using space within the existing house. She discussed at length the difficulties with numerous suggestions offered by the Commissioners, including expanding the bathroom into the bedroom, expanding the bedroom into the

hallway, and rearranging the floor plan to accommodate the master suite elsewhere.

Randy Harris, homeowner, explained that he had worked to update the house through the years and that the final piece in bringing the house up to the standards of the neighborhood is the master bedroom suite. He stated that the proposed addition is modest in size and will not affect the appearance of the house. In response to questions from the Commission, Mr. Harris stated that if the bathroom were to be expanded toward the interior of the home, it would make the bedroom unusable. He added that the most affected neighbor is in support of the project.

In response to questions from the Commission, Planning Director Jackson reported the sizes of the existing master bedroom and the proposed master suite, as shown on the architectural drawings. He also discussed the intention of the FAR requirements and responded to a question about setting precedents.

The Commissioners were unanimously in support of the exterior design of the addition, commenting on its modest size and compatibility with the existing house; but they were initially divided in their support of the FAR variance. Commissioners Ramsey, Jajodia, and Ode remarked on the difficulties they had in proposing findings to support variance criteria #1 and #3, and some of the Commissioners suggested that other design solutions might exist. Commissioner Jajodia pointed out that the architect's handout shows that the surrounding properties have much lower floor area ratios than the applicant's property, and she argued that the applicant's house is already too large for its small lot. On the other hand, Commissioner Behrens suggested that, from a legal perspective, the unique characteristic of an extremely small lot supports the approval of a variance. He argued that the house is on one of the smallest, if not the smallest, lots in the neighborhood and that it would be an undue hardship to deny the applicants the ability to make their bedroom more compatible with others in the neighborhood. He added that the small size and unobtrusive nature of the addition are also factors in the decision to approve the variance, since the addition will have little impact on the bulk of the house. Ultimately, the Commissioners unanimously agreed to approve the variance for these reasons.

Resolution 416-V/DR-16

WHEREAS, the Property Owner is requesting permission to construct a 66-square-foot master bathroom addition, replace one window, add two windows, add two skylights, and remove two windows located at 110 Sea View Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is required for a floor area ratio of .76 where .50 is permitted; and

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

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

1. The underlying lot and existing improvements present unusual physical circumstances, including, but not limited to, the extremely small size of the lot in relation to the other lots in the neighborhood, and the resulting difficulty in making any improvements to the property that expand the floor area ratio; 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 many, if not all, of the other properties in the neighborhood have a master suite with a large bathroom. Denying the proposed variance for a modest 1% increase in FAR would prevent this unusually small property from having a master bedroom consistent with other master bedrooms in the neighborhood. Additionally, the proposed addition is located within the existing footprint of the house.

3. Accomplishing the improvements without variance would cause unreasonable hardship in planning, design, or construction, because other design alternatives would not accomplish the same livable master suite with the comfort of the existing bedroom. To strictly apply the FAR requirement and deny a 1% increase would prevent the applicants from developing the property in the same manner as other properties in the neighborhood.

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. The distance between the 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 addition is proposed atop the existing footprint of the house and there are no proposed reductions in the setbacks. The height, bulk, pitch of the roof, and materials are consistent with the existing house.

2. The proposed addition has been designed in a way that reasonably minimizes view and light impacts on neighboring properties, because it is no taller and no closer to the neighboring properties than the existing house.

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 size of the addition is appropriate to the unusually small lot, and the size of the house will not be significantly increased.

4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. The existing or proposed on-site parking is appropriate to the size of the new addition, and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood, because there is no increase in the intensity of the use of the property. No changes are proposed that would affect traffic conditions or the safety of the neighbors.

5. The project complies with Design Review Guidelines II-1, II-2, II-3, II-3(a), II-3(b), II-3(c), II-3(d), II-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 Sea View 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 December 30, 2016, 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 (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.

3. **Window Material.** The building material for the new windows shall be wood with three-dimensional simulated divided lites as specified in the plans, or true divided lites.

4. **Siding.** Shingle siding shall be class "B" rated or as required by the Building Official.

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

6. **Skylights.** The metal flashing around the new skylight(s) shall be painted to match the adjacent roof color. Skylight frames shall be a dark, non-reflective color. Operable skylights shall be a minimum of 10 feet horizontally and 3 feet vertically from any plumbing vent.

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

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

9. **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.

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

The Commission recessed for dinner at 6:27 p.m. and reconvened at 7:02 p.m.

**Variance and
Design Review
909 Blair Avenue**

The Property Owner is requesting permission to construct a 432-square-foot, two-story rear (west) addition; to add 68 square feet of habitable space within the basement through excavation; to construct a 13-square-foot, one-story addition at the southeast corner of the house; to expand the deck in the left

(south) and front (east) yard; to construct a new retaining wall with a maximum height of 6 feet 1 inch in the front (east) yard and left (south) side yard setback; to construct a trellis at the rear (west) facade; to make window and door modifications; and to install exterior lighting throughout the house. A variance is required in order to add two rooms eligible for use as a bedroom without supplying conforming parking.

Written notice was provided to neighbors. **Two affirmative response forms** were received. **Correspondence** was received from: Douglas Vance.

Public testimony was received from:

Lyn Alhorn, project designer, described the project and the reason for requesting a variance. She explained that the existing house currently has three legal bedrooms and one unpermitted bedroom, and that the application proposes to legalize the fourth bedroom and remove a half bath. She described the unusual landlocked property and explained that it is owned in conjunction with 909 Blair Avenue in Oakland. She also explained that the off-street parking offered as part of this application is on the Oakland property and meets the Oakland parking standards, not the Piedmont parking standards. Lastly, she presented the Commissioners with two design alternatives showing different roof configurations. In response to questions from the Commission, Ms. Alhorn indicated that the applicants prefer the design option with the tipped-up roof, since it would bring in more light and would orient the house toward the bay view. She also stated that the owners are amenable to the proposed parking easement and that they do not anticipate the properties ever being separated. In response to a question from Alternate Commissioner Jajodia, Ms. Alhorn stated that the proposed retaining wall would likely get two-feet taller if it were pushed back to accommodate a planting strip.

In response to a question from Commissioner Jajodia, Planning Director Jackson explained that staff consulted with the City Attorney in drafting the recommended condition of approval regarding the parking easement. He added that the two properties have likely always been sold together.

The Commissioners were in favor of approving both design options, but they especially liked the applicants' preferred design, which opens the house and highlights natural light and bay views without impacting adjacent neighbors. The Commissioners were also fully in support of the proposed parking variance, pointing out that a) the intensity of use will remain the same or be reduced with the removal of a half bathroom; and b) two off-street parking spaces on the Oakland property will be tied with the house through the parking easement. Commissioner Ramsey suggested that Condition #7 be amended to require that the parking easement agreement be recorded with the County prior to final inspection, rather than prior to issuance of a building permit, so that the applicants have more flexibility in starting construction. The Commissioners discussed adding a planting strip along the retaining wall, but they ultimately decided against requiring a planting strip in this situation. The Commissioners also indicated their support for the staff recommended conditions of approval regarding drainage.

Resolution 424-V/DR-16

WHEREAS, the Property Owner is requesting permission to construct a 432-square-foot, two-story rear (west) addition; to add 68 square feet of habitable space within the basement through excavation; to construct a 13-square-foot,

one-story addition at the southeast corner of the house; to expand the deck in the left (south) and front (east) yard; to construct a new retaining wall with a maximum height of 6 feet 1 inch in the front (east) yard and left (south) side yard setback; to construct a trellis at the rear (west) facade; to make window and door modifications; and to install exterior lighting throughout the house, located at 909 Blair Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary to add two rooms eligible for use as a bedroom without supplying conforming parking; and

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

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

1. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to: the property is landlocked with no street frontage and access only through the adjacent parcel located in Oakland. Most of the lot is steeply sloped with limited area to build upon, and the buildable portion of the lot is located below street level. 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 variance will support the existing use of the property and the existing use of the garage located on the adjacent lot. Without the variance, parking cannot be provided on the lot, due to the unique topography and lack of street access.
3. Accomplishing the improvements without variance would cause unreasonable hardship in planning, design, or construction, because without the variance, no improvements could be made to the existing property, due to the lack of street access.

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

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. The distance between the addition and adjacent residences is reasonable and appropriate due to the existing topography and neighborhood development pattern. Upper level setbacks greater than the setbacks required for the lower level have been considered and are not necessary to reduce losses of ambient and reflected light, because the house is located below the view from the public way and adjacent neighbors. Both designs incorporate siding, trim and window details to match the existing home. The massing of both options is proportional

to the existing house, and the base proposal with its reverse shed roof form responds to the unique site location. The vertical faces of the addition are divided with an architectural trellis, which reduces the massing and softens the exterior façade.

2. The proposed addition has been designed in a way that reasonably minimizes view and light impacts on neighboring properties, because the peak of the proposed addition is lower than the existing ridge; the siting of the house and addition is below the sight lines of the uphill neighbors; and the view of the massing from properties below is unchanged.

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 addition is modest in size, at 432 square feet. The proposed structure coverage is 8.7%, where 40% is allowed, and the FAR is 12.2%, where 45% is allowed.

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 and proposed on-site parking is appropriate to the size of the new addition, and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood. No change is proposed to vehicular access.

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-7, II-7(a), IV-1, IV-1(b), IV-2, IV-2(a), IV-3, IV-3(a), IV-5.

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 909 Blair 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 December 30, 2016 after notices to neighbors were mailed and the application was available for public review.

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

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

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

5. **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. 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.

7. Parking easement. Prior to issuance of a building permit for the approved project, the property owner shall provide evidence of an executed agreement between the Owners of the Piedmont and Oakland lots that provides in perpetuity for an exclusive parking and access easement on the Oakland lot for the benefit of the Piedmont lot. The agreement shall be in a form subject to the review and approval of the Piedmont City Attorney. The legal description of the parking and access easement shall be sufficient to meet the minimum City of Piedmont Municipal Code parking requirements in effect at the time of the building permit issuance for a four-bedroom house within Zone A. The easement shall run with the land and be recorded with the County of Alameda Recorder prior to final inspection.

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

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

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

applicant shall provide proof that any required encroachment permits, traffic control, or other construction-related permits, plans, and documents regarding access to the Piedmont lot from the Oakland lot and access to and use of the City of Oakland's public right-of-way have been approved by the City of Oakland.

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. Foundation/Shoring/Excavation Plan. 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.

12. Geotechnical Report and Review. The Property Owner shall 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.

13. 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.

14. 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.

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

**Variance and
Design Review
455 Mountain Avenue**

The Property Owner is requesting permission to demolish the existing 588-square-foot deck with a one-car carport below and construct a 412-square-foot garage with deck above in the rear (west) yard; to demolish the second-story balcony and construct a 246-square-foot, two-story addition at the rear (west) of the house; to remove the playhouse within the left (south) side yard; to make window and door modifications and install exterior lighting on the right (north), rear (west), and left (south) facades; to install a Juliet balcony on the rear (west) facade; and to construct new planters in the rear yard. A variance is required in order to exceed the floor area ratio (FAR) limit.

Written notice was provided to neighbors. **Three affirmative response forms** were received. **Correspondence** was received from Bobbe Stehr.

Public testimony was received from:

Jack Backus, project architect, explained that one of the goals of the project is to better connect the ground floor with the basement, which was legally remodeled in the 1970s. He explained that existing access to the basement is provided by stairs that are far from meeting current building codes. He indicated that many design solutions were explored in improving the stairway, but that due to existing structural constraints, these solutions were not successful in gracefully connecting the levels of the house. Mr. Backus noted that, while an FAR variance is required, the small addition would allow for better integration of the floors, would bring light into the family room, would eliminate the need for an exterior staircase, would improve the previously tacked-on addition at the rear of the house, and would eliminate a second-story balcony that impacts the neighbor's privacy. He also discussed the proposal to replace the existing carport with a new garage. In response to questions from the Commission, Mr. Backus explained that the existing house has an FAR of 55%, where 50% is allowed, and that the small increase in the FAR to 60.3% would correct many existing issues with the house. He also spoke in detail about the nonconforming characteristics of the existing interior stairway that make it unsafe and the difficulties in constructing code-compliant stairs in the same location. Lastly, he added that the removal of the exterior stairs would make it easier for cars to use the garage. In response to a comment from Alternate Commissioner Jajodia, Mr. Backus agreed to motorizing the existing driveway gate.

Adrian Hinman, homeowner, explained that the primary goal of the project is to replace the existing carport with a new garage for the purpose of providing greater security and eliminating the cluttered appearance of the carport. He explained that the second goal of the project is to create a safer and less disjointed connection between the basement and the rest of the house. Mr. Hinman also reported on his efforts to address the privacy concerns of the neighbor to the south, indicating the intent to add translucent glass in the stairway windows and to modify the deck railing to be less transparent. Mr. Hinman and Mr. Backus responded to Commissioners' questions about the potential change to the deck railing and agreed that they would follow up with an application to modify the deck railing to make it less transparent.

Matt Droessler, neighbor at 457 Mountain Avenue, spoke in support of the project. He stated that the added security of a garage would improve neighborhood security, and that the new garage would improve his view.

The Commissioners were in full support of the project. They indicated that the FAR variance is appropriate to enable the construction of code-compliant stairs. They also commented that the project results in a reduction in the massing of the house, a reduction in the lot's structure and hardscape coverages, and a great improvement in the design of the rear of the house. Commissioner Ode commented that the new garage will improve neighborhood security. Alternate Commissioner Jajodia suggested a condition of approval to require the motorization of the existing driveway gate.

Resolution 426-V/DR-16

WHEREAS, the Property Owner is requesting permission to demolish the existing 588-square-foot deck with a one-car carport below and construct a 412-

square-foot garage with deck above in the rear (west) yard; to demolish the second-story balcony and construct a 246-square-foot, two-story addition at the rear (west) of the house; to remove the playhouse within the left (south) side yard; to make window and door modifications and install exterior lighting on the right (north), rear (west), and left (south) facades; to install a Juliet balcony on the rear (west) facade; and to construct new planters in the rear yard, located at 455 Mountain Avenue, Piedmont, California, which construction requires design review; and

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

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

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

1. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to: the existing stairs that are necessary to provide access to all parts of the house are extremely dangerous and noncompliant with current law. For safe passage on this downslope lot, the rear, west side of the house is the only place that is reasonable to replace the stairs.
2. The variance is compatible with the immediately surrounding neighborhood and the public welfare, as follows: the existing basement was converted in 1979 but access to the space is made hazardous by the existing non-complying stairs. The variance will allow for a legal stairway to provide access to the lower level of the house. The neighbors are in support, because it improves the safety of this house and the neighborhood. The intent of the floor area ratio limit is consistent with the proposed construction, because the applicants are adding no additional bulk to the building.
3. Accomplishing the improvements without variance would cause unreasonable hardship in planning, design, or construction, as follows: the new stairs will help unify the circulation in the house, which is currently fractured and dangerous because of the existing stairs.

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. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements include but are not limited to: height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment. The distance between the garage/deck, addition, and adjacent residences is reasonable and appropriate due to the existing topography and neighborhood development pattern. Upper level setbacks greater than the setbacks required for the lower level have been considered and are not necessary to reduce losses of ambient

and reflected light. The proposed design seeks to integrate the new elements into the style of the main house, so that the addition will be seamless and clean up the existing assortment of architectural styles. Neighbor requests have been considered, including adding translucent windows to safeguard the feeling of privacy.

2. The proposed garage/deck and addition have been designed in a way that reasonably minimizes view and light impacts on neighboring properties, because the general size of the house is not changed, and the addition will not have a negative impact on light or view, nor will it cause any shadows on any adjacent properties.

3. The size and height of the addition are commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and are in keeping with the existing neighborhood development pattern, because the proposed project keeps the location of the garage at the rear of the property, and the addition seeks to minimize the footprint of the proposed addition and keep any vertical elements to an absolute minimum in height.

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 garage/deck and addition, and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood. The existing carport will be replaced by a garage in the same location at the rear of the property, and there will be no change to the current vehicular pattern or ingress/egress on the property. The project proposes no change to the bedroom count.

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

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review application for proposed construction at 455 Mountain Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

3. **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 and Driveway Gate.** The garage door and driveway gate shall be motorized. If design modifications are required to accomplish this, those modifications shall be subject to staff review.

5. **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.

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 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.

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

ADJOURNMENT

There being no further business, Chairman Behrens adjourned the meeting at 7:58 p.m.