

## PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, July 10, 2017

A Regular Session of the Piedmont Planning Commission was held July 10, 2017, in the City Hall Council Chambers at 120 Vista Avenue. In accordance with Government Code Section 54954.2(a) the agenda for this meeting was posted for public inspection on June 26, 2017, and a revised agenda was posted on July 6, 2017.

### CALL TO ORDER

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

### ROLL CALL

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

Absent: Jonathan Levine (excused)

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

Council Liaison: Councilmember Jennifer Cavanaugh

### 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 19-PL-17**

RESOLVED, that the Planning Commission approves as submitted its meeting minutes of the June 12, 2017, regular hearing of the Planning Commission.

Moved by Thiel, Seconded by Behrens

Ayes: Behrens, Ode, Ramsey, Thiel

Noes: None

Recused: Jajodia

Absent: Levine

#### Consent Calendar

The Commission placed the following applications on the Consent Calendar:

- 1371 Oakland Avenue (Design Review Permit, Including Fence)
- 284 Mountain Avenue (Design Review Permit)
- 15 Bonita Avenue (Design Review Permit)

##### **Resolution 20-PL-17**

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

Moved by Ode, Seconded by Jajodia

Ayes: Behrens, Jajodia, Ode, Ramsey, Thiel

Noes: None

Recused: None

Absent: Levine

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

**Design Review Permit  
Including Fence  
1371 Oakland Avenue**

**Resolution 142-DR-17**

WHEREAS, the Property Owner is requesting permission to add approximately 655 square feet of habitable space within the basement; to make window and door modifications on the front (south) and left (west) facades; to construct a trellis on the lower level front facade; and to make various modifications to the front yard, including: to excavate a portion of the yard, to install exterior lighting, to make on-grade improvements to the driveway and walkways, and to construct retaining walls, a privacy screen, and a garbage enclosure, located at 1371 Oakland 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. 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, fence, and screening materials; the form and material of the trellis; and the window and door material and fenestration pattern.
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; there is sufficient vegetative screening; and a majority of the development is within the existing building envelope.
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 the existing visibility, which is adequate.
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-6, II-6(a), II-6(b), II-6(c), V-1, V-2, V-5, V-5(a), V-5(b), V-5(c), V-6, V-7, V-8, V-9, V-10, V-11.
5. The project is consistent with General Plan policies and programs, including: Design and Preservation Element Policies 28.1 (Scale, Height, and Bulk Compatibility), 28.2 (Style Compatibility), 28.6 (Exterior Materials), 28.11 (Design Review), 29.3 (Front Yard Enclosures), and 29.5 (Fence and Wall Design).

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 1371 Oakland Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

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

- 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).

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

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

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

**Design Review Permit  
284 Mountain Avenue**

**Resolution 156-DR-17**

WHEREAS, the Property Owner is requesting permission to make window and door modifications to the existing garage in the left (south) side yard and to make various landscape modifications to the rear (west) yard, including: to construct a new in-ground pool and spa, patios, stairs, pathways, handrails, walls, fountains, and built-in barbecue; and to install exterior lighting and planting areas, located at 284 Mountain 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 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 pool, the pool deck, the walkways and patios, the site features (BBQ, fountain, etc.), the garage person-door, the trellis and stucco patching on the garage, and the landscape plan.
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 there is sufficient vegetative screening.
3. The proposed design does not adversely affect pedestrian or vehicular safety, because there is no impact, and the project maintains adequate visibility for entering and exiting the driveway. The outdoor kitchen area will meet all safety standards outlined in the building code.
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-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: Natural Resources and Sustainability Element Policy 14.5 (Landscaping) and Design and Preservation Element Policies 28.2 (Style Compatibility), 28.6 (Exterior Materials), 28.11 (Design Review), 29.1 (Conserving Residential Yards), 29.2 (Landscape Design), 29.5 (Fence and Wall Design), 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 284 Mountain 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 May 26, 2017, with additional information submitted on June 29, 2017 after notices to neighbors were mailed and the application was available for public review.
2. **Door Material.** As specified in the plans, the building material for the new door shall be wood or fiberglass.
3. **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.
4. **Double Trailer Truck Prohibition.** To reduce potential damage to the streets and to avoid traffic hazards on narrow curving city streets, no double trailers shall be used as part of the Project.
5. **Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any

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

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

**7. Final Landscape Plan.** Before issuance of a building permit, the Property Owner shall submit for staff review and approval a Final Landscape Plan. The final plan shall comply with Municipal Code Section 17.17.3, and shall not propose plants near the driveway that could obscure visibility of pedestrians on the sidewalk or vehicles on the street from drivers backing out of the driveway.

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

- a. Landscape Documentation Package that includes the following 6 items: i) Project Information; ii) Water Efficient Landscape Worksheet; iii) Soil Management Report; iv) Landscape Design Plan; v) Irrigation Design Plan; and vi) Grading Design Plan. The Landscape Documentation Package is subject to staff review and approval before the issuance of a building permit.
- b. Once a building permit has been issued, the Property Owner shall submit a copy of the Water Efficient Landscape Worksheet, to the local water purveyor, East Bay Municipal Utility District.
- c. After completion of work, the Property Owner shall submit to the City and East Bay Municipal Utility District a Certificate of Completion, including an irrigation schedule, an irrigation maintenance schedule, and an irrigation audit report. The City may approve or deny the Certificate of Completion.

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

**Design Review Permit  
15 Bonita Avenue**

**Resolution 181-DR-17**

WHEREAS, the Property Owner is requesting permission to construct a wood trellis located in the 5-foot rear and side yard setbacks in the rear yard (southwest corner) of the property, located at 15 Bonita 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 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 trellis material is appropriate for the design; the height of the trellis does not exceed the fence; and the trellis is similar to a trellis approved in May.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light, because the view is not a significant view, and the height of the project has been kept as low as possible.
3. The proposed design does not adversely affect pedestrian or vehicular safety, because the placement of the trellis means that the project 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-6, II-6(a), II-6(b), II-6(c).
5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Natural Resources and Sustainability Policy 16.5 (Hardscape Surface Standards) and Design and Preservation Element Policy 28.6 (Exterior Materials).

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 15 Bonita 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 29, 2017, after notices to neighbors were mailed and the application was available for public review.



2. **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.

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

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

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

## Regular Calendar

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

### Variance and Design Review Permit (Referred) 1127 Winsor Avenue

The Property Owner is seeking retroactive approval of a parking variance for an additional bedroom and bathroom at the lower level of the existing residence created without benefit of building permits. A window on the exterior of the residence is proposed to be changed to meet egress requirements for a bedroom.

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

**Public testimony** was received from:

Roshmi Mukherji, homeowner, explained that the application proposes to legalize a bedroom in the basement and modify a window to provide adequate emergency egress. In response to questions from the Commission, Ms. Mukherji explained that she and her husband discovered that the bedroom was unpermitted when they applied for a building permit to make seismic upgrades in preparation to rent the space to a friend. She stated that the illegal construction was completed prior to their ownership.

Planning Director Jackson responded to questions from the Commission, explaining that in lieu of an approved variance, the applicants would need to modify the structure of the house so that it includes no more than 4 bedrooms.

The Commission was not in support of the variance application. Commissioner Jajodia commended the applicant for her attempt to legalize the illegal construction, but stated that she could not support the variance given the

neighborhood context of three and four-bedroom houses and a busy street. Commissioners Behrens and Ode agreed that the street is crowded and that a variance is not warranted. Alternate Commissioner Thiel added that the permitted ratio of four bedrooms to one conforming parking space is already nonconforming. Commissioner Ramsey added that the variance would put this house at an advantage over other houses in the neighborhood. The Commission expressed no concerns with the proposed change to the window.

**Resolution 96/146-V/DR-17**

WHEREAS, the Property Owner is requesting a change to a window on the exterior of the residence to meet egress requirements for a bedroom, located at 1127 Winsor Avenue, 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 approve an additional bedroom and bathroom at the lower level of the existing residence created without benefit of building permits; 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; and

WHEREAS, regarding 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. The property presents unusual physical circumstances, because it is steep, but 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, because, as presented by the owner, no other house in the neighborhood has more than four bedrooms.
2. The project is not compatible with the immediately surrounding neighborhood and the public welfare, because most homes in the neighborhood are smaller in size to what is being proposed, and there is limited on-street parking for the property and neighboring properties.
3. Accomplishing the improvement without a variance would not cause unreasonable hardship in planning, design, or construction.

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 window material and fenestration pattern are consistent with the original architecture and neighborhood development. The proposed window change improves emergency egress from the basement.

2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light, because it is an existing building, and there is no change in views or privacy.
3. The proposed design does not adversely affect pedestrian or vehicular safety, because the pedestrian access and vehicle access do not change.
4. The application complies with the following guidelines: II-1, II-2, II-3, II-3(b), II-3(c), II-3(d), II-4, II-5, II-5(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 28.3 (Additions), 28.4 (Setback Consistency), 28.6 (Exterior Materials), and 28.8 (Acoustical and Visual Privacy).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies without prejudice the variance application and approves the design review permit application for proposed construction at 1127 Winsor Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Retroactive Building Permit.** The applicant is responsible for obtaining a Building Permit for the approved window and for all work that was completed for the basement bathroom, wet bar and bedroom, as well as for payment of retroactive permit fees and penalties.

2. **Window and Door Material.** As specified in the plans, the building material for the new window shall be aluminum clad wood on the exterior. The mullion or "grid" shall be true divided light or three-dimensional simulated divided light to resemble a double-hung window.

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

4. **No Accessory Dwelling Unit Approval.** The basement level does not constitute an accessory dwelling unit and does not provide an independent living area. Unless an Accessory Dwelling Unit permit is obtained, the basement shall not be rented as an independent living area and the main level kitchen must remain available to any occupant of the basement level.

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

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

Absent: Levine

**Variance**  
**100 Dracena Avenue**

The Property Owner seeks retroactive approval for the addition of approximately 403 square feet of habitable space within the basement. A variance is required in order to exceed the floor area ratio (FAR) limit.

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

**Public testimony** was received from:

Lisa Joyce, project architect, presented various arguments in support of the proposed variance. She maintained that the variance would not change the physical size of the house and that it is in line with the Code's intent of preventing houses that are out of scale with their surroundings. She reported that 11 houses within a one-block radius exceed the allowable FAR and that the neighbors support the application. Ms. Joyce argued that the variance would not give the homeowners an advantage over others in the neighborhood or set a precedent, especially given the unique situation of having applied for a permit before the FAR exemption timeline was amended. Ms. Joyce stated that compliance with the code presents an undue hardship in planning, since the applicant began the process with different information regarding the FAR exemption timeline, and that knowledge of the code amendment might have impacted the initial project planning. She stated that compliance with the code also presents an undue hardship in construction, since the front landscape had to be demolished during construction, and that future construction would further impact the neighborhood. In response to questions from the Commission, Ms. Joyce acknowledged that even under the prior code, the applicants could not have added space in the basement until April 2019. She stated that she became aware of the code change sometime in the last six months.

Joe Anastasi, homeowner, explained that he and his wife expanded their home to adjust for their growing family, and that they based their decision to make use of the FAR exemption on the prior FAR exemption timeline. He argued that if they had known that the FAR exemption timeline would not start until their building permit was finalized, their project planning might have been different or they may have simply bought a larger house. He stated that certain aspects of the project, such as the deep foundation and the installation of windows, insulation, lighting, sheetrock and fire safety were all considered with the prior timeframe in mind. He reasoned that such a retroactive implementation of the new FAR exemption timeframe represents a planning hardship. In response to questions from the Commission, Mr. Anastasi reported that the City had approved sheetrock in the basement in February or March of this year, but that he had received inconsistent information about the level of finishing allowed in the space. Mr. Anastasi rejected a suggestion from Alternate Commissioner Thiel that he was taking advantage of a loop hole, and stated that he and the contractor did not fully understand the code or the planning process. He also indicated that he was unaware of the proposed changes to the code.

Anna Hinck, neighbor at 127 Park Way, spoke in support of the application, stating that the variance would not impact the neighbors and that the renovation was constructed beautifully. She suggested that it would be unkind and unfair to deny the proposal.

Rich Nieman, neighbor at 108 Hillside Avenue, spoke in support of the application. He argued that the project does not impact the building envelope, and that it enhances the property value and the neighborhood. He questioned why the application would not be approved.

Christine Tam, neighbor at 55 Highland Avenue, spoke in support of the variance and expressed admiration for the design of the house. She argued that the variance would not grant the applicants an advantage over others in the neighborhood.

In response to questions from the Commission, Planning Director Jackson explained that the intent of the FAR exemption is to encourage development of habitable living area within the existing building envelope, which has much less impact on the neighborhood as compared to an addition to the building envelope. He explained that the rationale for the change to the FAR exemption timeframe was a technical correction to clearly separate a project eligible for the exemption from a previously approved project that included a building envelope expansion.

The Commission was divided in its support of the project. Commissioners Ode, Jajodia, and Thiel were not in favor of the proposed FAR variance. Alternate Commissioner Thiel argued that the partial closing of a loophole in the FAR regulations does not constitute a hardship, and he indicated his opposition to the previously approved 8-foot ceilings in the basement and their impact on the design of the front entry. Commissioner Ode stated that there had been plenty of notice to the public about the proposed code changes, and that a lack of knowledge does not constitute a hardship. She also warned that an approval of a retroactive variance would set a precedent. Commissioner Jajodia dismissed the argument made about the change in the FAR exemption timeline, since the applicant would be in violation of the code regardless; and she dismissed the argument made about misunderstanding what level of finish is allowed, since the architect appeared to understand the regulation. She argued that there is no hardship, given that the intent of the exemption is for the two expansions to happen as separate projects. Commissioner Jajodia stated that she would have struggled to find a hardship if the applicant had proposed a variance with the original application.

Commissioners Behrens and Ramsey expressed their support for the proposed variance. Commissioner Behrens disagreed with the characterization of the FAR exemption as a loophole and noted that the proposed variance is in line with the intent to limit over-sized houses. He expressed sympathy for the applicant's construction schedule having changed because of a code change that occurred after submitting for a building permit. He also indicated that he would likely have supported an FAR variance if it had been presented with the original application, especially given the support of the neighbors. Commissioner Ramsey did not find the applicant's argument about the FAR exemption timeline to be relevant, but found that the application followed the general intent of the exemption to encourage development within the building envelope. Commissioner Ramsey noted that the Commission's original approval was on consent, and that it included the approval of an 8-foot ceiling height and door and window modifications. He argued that it would be disingenuous for the Commission to approve such improvements and then require that the applicant wait three years to finish construction. He suggested that for future applications, the Commission might consider requiring that a floor not be poured for such spaces.

Alternate Commissioner Thiel made a motion to deny the application. Before voting on the motion, Commissioner Ramsey suggested that a condition be placed on the decision that would allow the applicant to make use of the original FAR exemption timeframe. He reported that building permit applications are reviewed according to the building code regulations in place at the time of submittal, and he argued that the same process could apply in this situation. Alternate Commissioner Thiel maintained that the Commission does not have the authority to make such a change, and that the applicant would not have a vested right to complete the construction until the completion of the three-year waiting period. Commissioner Behrens disagreed, stating that the applicant had a vested right in the code, which they relied on. He argued that an equitable doctrine would apply in this situation and that he would support the motion if such a change were made. Alternate Commissioner Thiel opted to keep the motion unchanged.

**Resolution 139(2)-V-17**

WHEREAS, the Property Owner is seeking retroactive approval for the addition of approximately 403 square feet of habitable space within the basement, located at 100 Dracena Avnue, Piedmont, California, which construction requires a variance from the requirements of Chapter 17 of the Piedmont City Code 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 proposal does not comply with the variance criteria under Section 17.70.040 of the Piedmont City Code:

1. The property and existing improvements do not present unusual physical circumstances of the property, in that the lot is not unusually small and does not present significantly different circumstances than other similarly-situated lots in the City. 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 project is not compatible with the immediately surrounding neighborhood and the public welfare, because it does not comply with the requirements of the zoning code, as it stands today; and no justification has been provided showing that the variance is necessary.
3. The improvements that the applicant had applied for were indeed accomplished without the variance, showing that there is no unreasonable hardship in the planning, design, or construction of the development as initially planned.
4. The project is not consistent with General Plan policies and programs, including: Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), in that the 8-foot ceiling height in the basement added to the scale, height and bulk of the addition, and encouraging its proliferation by allowing them to build it out now would further hinder this policy; and Design and Preservation Element Policy 28.3 (Additions), in that the addition should not have attempted to accommodate a future build-out that would not be compatible with floor area ratio or other requirements of the code.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies without prejudice the variance application for proposed construction at 100 Dracena Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City. Moved by Thiel, Seconded by Ode

Ayes: Jajodia, Ode, Thiel

Noes: Behrens, Ramsey

Recused: None

Absent: Levine

**Fence Design Review  
Permit  
201 Highland Avenue**

The Property Owner is requesting permission to construct a wood and corrugated metal fence in the same footprint as the existing grape-stake fence. Portions of the fence are proposed within the 20-foot street yard setback and City right-of-way.

Written notice was provided to neighbors. No response forms or correspondence were received.

**Public testimony** was received from:

Susan Campodonico, homeowner, explained that she is proposing to replace an existing fence with a new fence of the same height and in the same location. In response to questions from the Commission, Ms. Campodonico stated that she chose galvanized metal to add character to the neighborhood, but that she kept some traditional elements to match the style of the house. She stated that she would like to keep the galvanized metal a natural color, but that she would consider painting the wood to match the house. In response to a suggestion from Commissioner Ramsey, Ms. Campodonico indicated that she is willing to move the fence 1 foot from the sidewalk to add a planting strip.

The Commission was divided in its support of the project. Commissioners Behrens and Ode found the corrugated metal material to be incompatible with the existing house and at odds with Design Guidelines V-1 and V-2. Commissioner Ramsey expressed his support for the use of corrugated metal. Commissioner Jajodia stated that she likes the fun, contemporary look of corrugated metal, but questioned its compatibility with the existing house and traditional style of the neighborhood. She initially suggested that the corrugated panels be replaced with wood but later stated that she is open to the incorporation of smaller panels of metal. Alternate Commissioner Thiel initially raised concerns about the compatibility of the corrugated metal and redwood materials, but later expressed his full support for the application, stating that the design is innovative and will be an improvement over the existing fence. He referenced Commission-approved fences that he found to be less acceptable. Commissioner Ramsey noted that the existing and proposed fences are located within the public right-of-way, and he suggested that the fence be moved back 1 foot to make room for a planting strip next to the sidewalk. Commissioners Jajodia and Ode agreed. Alternate Commissioner Thiel stated his strong opposition to the idea, arguing that the 1-foot planting area would likely remain unplanted. The Commission and Staff briefly discussed the actions available to the Commission, given the divided support and various design suggestions.

**Resolution 145-DR-17**

WHEREAS, the Property Owner is requesting permission to construct a wood and corrugated metal fence in the same footprint as the existing grape-stake fence. Portions of the fence are proposed within the 20-foot, street yard setback

and City right-of-way, located at 201 Highland 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 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 fence material is not consistent with the original architecture and neighborhood development. However, as conditioned, the proposed design is consistent with the City's General Plan and Piedmont Design Guidelines, in that the corrugated metal will be replaced with wood. As conditioned, the proposed fence is in the same location as the existing fence, but the portion along Blair Avenue (on the north side of the property) will be moved 1 foot away from the edge of the sidewalk to add a planting strip. The height of the proposed fence is the same as that of the existing fence.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light, because the height of the proposed fence has been kept at the same height as the existing fence.
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. As conditioned, the application complies with the following guidelines: V-1, V-2, V-4, V-5, V-5(a), V-5(b), V-5(c), V-6, V-7, V-8, V-9, V-10, V-11.
5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element.

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

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

2. **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.



3. **Fence Location.** The fence shall be located at least 12 inches from the edge of the sidewalk to allow for a planting strip at the toe of the fence.

4. **Fence Material.** The fence shall be made of wood; the final design of which shall be subject to staff review and approval.

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

The Commission recessed for dinner at 6:35 p.m. and reconvened at 7:07 p.m.

**Fence Design Review  
Permit  
90 Wildwood Avenue**

The Property Owner is requesting permission to construct a wood fence on the right (west) property line. Portions of the fence are proposed within the 20-foot, street-yard setbacks along Wildwood Avenue and Sylvan Way.

Written notice was provided to neighbors. **Three affirmative and one negative response forms** were received. **Correspondence** was received from: Bobbie Stein and William Corman, Charles Trimbach, Kevin Chu, Jon Reining.

**Public testimony** was received from:

Caitlin Bailey, homeowner, explained that the application proposes a new fence to enhance her family's privacy and security. She indicated that the construction would be completely on her property. She reported on similar fences found throughout the neighborhood and noted the support she had received from neighbors. In response to questions from the Commission, Ms. Bailey described the existing fence and explained that one side of the yard currently does not have a fence. In response to questions from Commissioners Ramsey and Jajodia about eliminating or reducing the height of the fence within the setback, Ms. Bailey stated that the fence as proposed is necessary to address privacy concerns. She referred to examples of other 6-foot high fences in the front setback and stated that the proposed fence would not impact light, visibility, safety, or traffic.

William Corman, adjacent neighbor at 86 Wildwood Avenue, spoke in opposition to the proposed fence. He maintained that the fence could not be constructed solely on the applicant's property or without destroying the existing vegetation. He argued that there are no precedents in the neighborhood for such a fence, that it would be out of character with the neighborhood, and that it is unnecessary. He also stated that the fence is not consistent with City guidelines. Mr. Corman indicated that he would support the replacement of the existing chain-link fence in the rear yard with a wood fence of the same height.

Lu De Silva, neighbor at 85 Nova Drive, spoke in support of the application. She reported that she has seen similar fences in the neighborhood and that the Commission has approved similar fences in the recent past. She indicated that the fence is needed to ensure the Bailey's privacy and security.

Lara Chu, neighbor at 76 Wildwood Avenue, spoke in support of the application, and stated that the added privacy granted by the fence is worth supporting.

In response to questions from the Commission, Planning Director Jackson commented on the City's regulations regarding fence location and height.

The Commissioners were generally in support of the project, describing it as attractive and appropriate. While Commissioners Behrens and Jajodia supported the fence as proposed, citing its compliance with the City's guidelines, Commissioners Thiel and Ramsey suggested the portion of the fence located in the front yard setback along Wildwood Avenue be lowered in height to 4 feet in order to meet design guideline standards. Alternate Commissioner Thiel initially suggested that the fence be lowered to a maximum height of 6 feet, but Commissioner Jajodia noted that vegetation near the 8-foot-high portion of the fence softens its impact. Commissioner Ramsey stated that he would support the application, provided that a condition be added to lower the height of the fence in the front yard setback to 4 feet.

**Resolution 148-DR-17**

WHEREAS, the Property Owner is requesting permission to construct a wood fence on the right (west) property line, of which portions are proposed within the 20-foot, street-yard setbacks along Wildwood Avenue and Sylvan Way; the project is located at 90 Wildwood 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 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 fence is similar to the fence on the left property line; it has been stepped down to 4 feet within the front setback; and it is designed to be attractive on both sides.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light, because there is sufficient distance between the adjacent properties; the view in the vicinity of the fence is not a significant view; and the fence steps down so that it has a consistent height relative to the hillside.
3. The proposed design does not adversely affect pedestrian or vehicular safety, because the project has no effect on pedestrian and vehicular safety, and the fence steps down to the front of the property and preserves visibility. The fence does not block the sight of vehicles turning at the top of the hill on Sylvan Way.
4. As conditioned, the application complies with the following guidelines: V-1, V-2, V-5, V-5(a), V-5(b), V-5(c), V-6, V-7, V-8, V-11.
5. The project is consistent with General Plan policies and programs, including: Design and Preservation Policies 29.3 (Front Yard Enclosures), 29.4

(Maintaining Privacy), 29.5 (Fence and Wall Design), and 29.9 (Sight Obstructions).

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

1. **Fence Location.** Prior to foundation inspection, the applicant shall submit to the Building Official written verification by a licensed land surveyor stating that the construction of the fence is located entirely within the property at 90 Wildwood Avenue. In lieu of the survey, the applicant may submit a fence location agreement, signed by the property owners at 86 Wildwood Avenue.

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

3. **Fence Height.** The fence shall have a maximum height of 4 feet within the front setback along Wildwood Avenue.

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

**Variance and  
Design Review Permit  
304 Olive Avenue**

The Property Owner is requesting permission to remodel the home including: constructing an approximately 146-square-foot, second-story addition in the front, left (north) corner of the residence; constructing a wood deck on the right (south) of the residence; constructing a new gate and walls within the street yard setback; modifying the roof; modifying windows and doors throughout; modifying exterior lighting; and modifying hardscape, including the partial demolition of the public sidewalk and construction of a new pathway in the side and rear yards. Two variances are required in order to construct within the street yard setback and the left side setback.

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

**Public testimony** was received from:

Herb Canada and Bernadette Rodriguez, homeowners, explained that they purchased the dilapidated house in January and plan to completely renovate it in a way that preserves the original architecture of the house. Mr. Canada responded to various questions from the Commission. He explained that the proposed landscape improvements within the public right-of-way are meant to help screen the view of Grand Avenue below and to remove an unused portion of the sidewalk. He indicated that two of the existing parapet walls are proposed

to be removed to solve an existing water intrusion problem on the roof and to make the house more architecturally consistent with neighboring houses. He clarified interior floor elevations and stated that the existing floor and ceiling elevations are not proposed to change. Mr. Canada also stated that the existing decorative balcony is proposed to remain.

The Commissioners were in full support of the proposed modifications to the existing house. They stated that the project would benefit the neighborhood by giving a new life to an old dilapidated building and that the improvements are in keeping with the existing architecture of the house. The Commissioners discussed the merits of the wall proposed in the City right-of-way and discussed alternatives to the proposal. Planning Director Jackson clarified the purpose and procedure for an encroachment permit. The Commissioners concluded that the proposed improvements on City property are appropriate and beneficial to the neighborhood.

**Resolution 154-V/DR-17**

WHEREAS, the Property Owner is requesting permission to remodel the home including: constructing an approximately 146-square-foot, second-story addition in the front, left (north) corner of the residence; constructing a wood deck on the right (south) of the residence; constructing a new gate and walls within the street yard setback; modifying the roof; modifying windows and doors throughout; modifying exterior lighting; and modifying hardscape, including the partial demolition of the public sidewalk and construction of a new pathway in the side and rear yards, located at 304 Olive Avenue, 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 street yard setback and the left side 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 that the lot has an unusually steep topography. The proposal is a major improvement to a dilapidated property, and the improvements proposed on City property are a benefit to the community. 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 are similar in size to what is being proposed; the removal of the existing parapet makes the

house more consistent with other houses in the neighborhood; and houses in the neighborhood are commonly constructed within the setbacks.

3. Accomplishing the improvements without a variance would cause unreasonable hardship in planning, design, or construction, because constructing an addition in other parts of the house would be a planning hardship; and, due to the steep topography, constructing an addition in the rear would create a larger mass in the rear and sides.

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 stucco walls; the composition shingle roof material is harmonious with the house design and the neighborhood; the window and door material and fenestration patterns are appropriate; the eave overhang dimension is appropriate with the original design of the house; and the guardrail material is appropriate.

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 is the same as existing; the project interrupts no significant views; the height of the project has been kept as low as possible and has been lowered with the removal of the parapet; and the development is within the existing building footprint.

3. The proposed design does not adversely affect pedestrian or vehicular safety. The project reduces pedestrian confusion by ending the sidewalk before the property line; and the new handrails and on-grade steps improve pedestrian safety on site.

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

5. The project is consistent with General Plan policies and programs, including: Design and Preservation Policies 28.3 (Additions), 28.4 (Setback Consistency), 28.6 (Exterior Materials), and 28.8 (Acoustical and Visual Privacy).

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 304 Olive 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, after notices to neighbors were mailed and the application was available for public review.

2. **Window Material.** As specified in the plans, the building material for the new windows shall be aluminum clad 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 5 Article I of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project.

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

7. **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.

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

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](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.

**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. **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.

12. **Site Safety Security.** The City and the public have an interest in not having an unfinished project blighting the neighborhood in the right-of-way and undermining property values. These public interests are primarily safety and aesthetics, and diminishment of property values. Prior to the issuance of a Building Permit, the Property Owner shall provide to the City a specific cash deposit, letter of credit, bank guarantee, or other similar financial vehicle (“Site Safety Security”) in the amount of \$25,000 to ensure the Project site is not left in a dangerous or unfinished state, and if any funds are remaining, to complete excavation and landscape for aesthetic purposes. City shall release such security at the time it issues the final inspection for the Project.

- a. The Site Safety Security shall be in an amount to include three components: i) safety, which means the cost to make the site and structure safe if construction should cease mid-way through the Project; ii) aesthetics, which means an amount to install and maintain fencing, walls, and landscaping all around the Project to protect the immediate local views from neighbors and public property; and iii) staff and consultant time to evaluate and implement this condition. If, as the Project proceeds, the expected cost of these components increases beyond the original estimate in the opinion of the Director of Public Works, the City may require the Property Owner to increase the amount of the Site Safety Security by the additional amount. The Property Owner shall provide City with written evidence of compliance within 15 working days after receiving written notice of the additional required amount. The City shall retain, at the Property Owner’s expense, an independent estimator to verify the total expected costs to complete the Project and any subsequent revisions.
- b. The form and amount of the Site Safety Security is subject to the approval of the Director of Public Works. Payment to City under the Site Safety Security shall be made payable upon demand by the City and prior to the issuance of the Building Permit, conditioned solely on the Director of Public Works’ certification on information and belief that all or any specified part of such Performance Security is due to the City.
- c. The Site Safety Security shall not be released until the Project has an approved Final Inspection by the Chief Building Official. However, if sufficient work has been completed according to the benchmarks and construction values as established under the Construction Completion Schedule, the Site Safety Security may be reduced to the extent the Director of Public Works in his sole discretion determines is appropriate.



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

**Variance and  
Design Review Permit  
124 Olive Avenue**

The Property Owner is requesting permission to construct an approximately 386-square-foot, one-story addition at the rear (east) of the house. A variance is required in order to add a bedroom without supplying conforming parking.

Written notice was provided to neighbors. **One affirmative response form** was received. **Correspondence** was received from: Ash, Cora and Sean Zaki; Helen Steers; Mike Masero; Marin Gross and Claudia Miller; and Herb Canada and Bernadette Rodriguez

**Public testimony** was received from:

Tom Clark, homeowner, explained that the project aims to add a bedroom and a bathroom to the first floor of his home, so that he and his wife can stay in the home as they age. He explained that with the three bedrooms on the second floor and only one garage space, the project requires a parking variance. Mr. Clark outlined his arguments in support of a parking variance. He explained that the construction of a new conforming parking space would be extremely expensive, especially given the steep and narrow lot; would require either the removal of the front stairs or the removal of a PG&E pole and City street trees; would significantly impact the front landscaping, which includes a mature oak tree; would eliminate an on-street parking space; and would affect the open feel of the neighborhood. Mr. Clark added that there is ample parking on the street, especially given that the rose garden sits across from the house, and that several houses on the street have no off-street parking. He reported that the neighbors have expressed their support for the application.

Herb Canada, neighbor at 304 Olive Avenue, spoke in support of the application. He argued that the proposed improvements are not visible from the street and have no impact on the community. He reported that there is ample street parking in the area, referring to the extra spaces along the rose garden. Mr. Canada argued that the removal of an on-street parking space to create an off-street parking space would be costly for little benefit.

The Commission was divided in its support of the project. Alternate Commissioner Thiel expressed support for the design of the addition, but expressed his opposition to the parking variance. He stated that a new off-street parking space could be constructed, and that cost cannot be considered in the Commission's decision. He dismissed the argument claiming that the loss of an on-street parking space is a hardship, since there is ample street parking in the neighborhood. The remaining Commissioners expressed their support for both the design of the addition and the parking variance. The Commissioners cited numerous reasons why the construction of a new off-street parking space in the front yard would constitute a hardship, including the steep and narrow lot, the loss of an on-street parking space, the destruction of the front landscape, the loss of a PG&E pole, and the need for additional variances and an encroachment permit. In support of the variance, they also cited the ample street parking and neighborhood support for the project. Commissioner Ode added her belief that the project would not result in an unfair advantage over neighboring properties, and Commissioner Ramsey added that a new garage would upset the

development pattern and character of the neighborhood. Regarding the design, the Commissioners found it to be elegant and livable and not visible from the street. Commissioner Ramsey suggested that the design be amended so that the depth of the proposed eaves match that of the existing house.

**Resolution 182-V/DR-17**

WHEREAS, the Property Owner is requesting permission to construct an approximately 386-square-foot, one-story addition at the rear (east) of the house, located at 124 Olive Avenue, 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 add 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), 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 lot has an unusually steep topography and is narrow. Expanding the existing garage would require at least a front setback variance and possibly an encroachment permit, and it would eliminate one street parking space. 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 have garages located close to the street; the addition would bring the house up to a size similar to that of most homes in the neighborhood; and there is no increase in the intensity of use.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction, because expanding the garage to supply two conforming parking spaces would require extensive excavation, relocation of the existing front entry stairs, issuance of an encroachment permit, a front setback variance, the removal of an on-street parking space, and the relocation of a PG&E pole. It would also create a tunnel effect in the front yard.

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. 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 size and massing of the addition, the wall material, the roof form, the roof material, 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; there is sufficient screening from existing fences; and the development is not visible from the street.
3. The proposed design does not adversely affect pedestrian or vehicular safety, because the project has no effect on pedestrian and vehicular patterns.
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-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: Transportation Element Policy 11.1 (Off-Street Parking Standards) and Design and Preservation Element Policies 28.1 (Scale, Height, and Bulk Compatibility), 28.2 (Style Compatibility), 28.3 (Additions), 28.4 (Setback Consistency), 28.6 (Exterior Materials), 28.8 (Acoustical and Visual Privacy), 29.7 (Driveway and Parking Location), and 28.11 (Design Review).

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 124 Olive 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 21, 2017, with additional information submitted on June 28, 2017 after notices to neighbors were mailed and the application was available for public review.
2. **Window and Door Material.** As specified in the plans, the building material for the new windows and doors shall be wood.
3. **Window Color Scheme.** All the windows on the house shall have a consistent color scheme.
4. **Skylight Flashing.** The metal flashing around the new skylight(s) shall be painted to match the adjacent roof color.
5. **Exterior Lighting.** All new exterior light fixtures shall be downward directed with an opaque or translucent shade that completely covers the light bulb.
6. **Garage Door.** To facilitate vehicular access, the garage door shall be motorized. If design modifications are required to accomplish this, those modifications shall be subject to staff review.

7. **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.

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.** At the request of the Chief Building Official, prior to foundation inspection, the applicant shall submit written verification by a licensed land surveyor stating that the construction is located at the setback dimension from the north, 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. **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).

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

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

12. **Eave Design.** The dimension of the new eave overhang shall match that of the existing eaves.

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

**Design Review Permit  
2 Somerset Road**

The Property Owner is requesting permission to construct a new 531-square-foot, second-floor addition and 96-square-foot, second-story deck. The project includes new windows, exterior lighting, deck railing, door, and reconfigured floor plan.

Written notice was provided to neighbors. **Three affirmative and three negative response forms** were received. **Correspondence** was received from: Ned and Caroline Isokawa; Barbara Reding; and Ann Trutner.

**Public testimony** was received from:

Alison Elvekrog, homeowner, explained that since purchasing the midcentury modern home three years ago, she and her husband have remodeled it, transformed the carport into a garage, and added a rear deck to capture the view of the ravine. She described the proposed addition as a modest, second-floor

family room with a view. She stated that the addition is one-fifth the size of the maximum size allowed by the code, and that it has been proposed no larger than what is desired. Ms. Elvekrog explained that the addition was designed to minimize impacts on the neighbors' privacy, light and views. In response to neighbors' written statements, Ms. Elvekrog argued that the addition would have a view over the roof and front yard of 64 Crest Road, and that the neighbor at 11 Somerset Road is 65 feet away from, and 10 feet higher than, the proposed addition. She described how the neighbors' privacy is further preserved by existing vegetation. In response to questions from the Commission, Ms. Elvekrog discussed the alternative stair locations that were considered. She explained that placing the stairs near the existing stairs would require building into the great room and result in a greater overall height and additional foundation work.

Ms. Elvekrog read a letter written by Brian Capsey, the project designer, who was unable to attend the meeting due to an unforeseen emergency. Mr. Capsey, in his letter, stated that the proposed addition is modest and was designed in consideration of the existing midcentury modern architecture of the house, the neighborhood context, and the City's guidelines. He discussed the proposed siting and design details of the addition and the front-facing deck. He noted that no variances are requested. Mr. Cassidy also commented on the efforts made to keep neighbors informed of the project.

Jon Elvekrog, homeowner, discussed the concerns raised by the neighbors and reported on his conversations with them. He stated that the roof was designed to blend into the architecture of the house and prevent the blockage of neighboring views; and he discussed the existing vegetation that would act as a privacy screen for the neighbors. He stated that the addition would not have a view of the front door, windows, porch, backyard, or any other private areas at 64 Crest Road; and he noted that the house at 11 Somerset Road would be 65 feet from the proposed addition. He presented the Commission with photographs showing these views. In response to questions from the Commission, Mr. Elvekrog confirmed that the story poles mark the edge of the eave, and that the vertical mass would be recessed 4 feet (recessed 2 feet on the east side). He responded to questions regarding the proposed eave dimensions, lighting, window design, and siting of the stairs. He also discussed the interior ceiling heights of both the existing house and the proposed addition.

Caroline Isokawa, neighbor at 11 Somerset Road, spoke in opposition to the project. She stated that the proposed addition would significantly impact her privacy, especially in her kitchen and dining room where she spends much of her time, and that it would generally destroy the tranquility and seclusion she currently has within her home. She argued that the proposed addition is too large, too tall, has too much glass facing her house, and is not in keeping with the neighborhood. In response to questions from the Commission, Ms. Isokawa stated that she is unable to assess whether an alternative design would be acceptable, but stated that she would prefer no second-story addition.

Ned Isokawa, neighbor at 11 Somerset Road, spoke in opposition to the project. He maintained that the proposed addition is not in keeping with the Intent section of the code, which he said prioritizes preservation over development. Specifically, he referred to code Sections 17.02.010.B.1, 17.02.010.B.6, and 17.02.010.B.8, which discuss the intent to preserve the City's architecture, views, tranquility, and privacy; and to ensure that new construction complies with the City's design guidelines. He also cited code Section 17.66.060, and

argued that the proposed design does not conform to all the required development standards. Mr. Isokawa reviewed the City's definitions of "privacy" and "significant views" and suggested that the proposal robs his property of privacy and obstructs his significant view. In response to questions from the Commission, Mr. Isokawa stated that he is unable to determine whether any second-story addition would be acceptable, but suggested that, since privacy is his priority, more vegetative screening would help. He indicated that the trees added recently to the property have not yet grown above the 6-foot high fence and are likely to take years to grow tall enough to adequately screen the addition.

Barbara Reding, neighbor at 64 Crest Road, spoke in opposition to the proposal and expressed resentment at certain things said during the applicants' testimony. She reported that she was not notified of the project until after the application was submitted, and that the applicants refused to make any changes to the proposal. Ms. Reding argued that the proposed addition is not in keeping with the original midcentury modern design of the house, and that its bulk, height, and extensive glazing are particularly troubling. She maintained that the addition would loom over her house and significantly impact her privacy and light; and she suggested that the addition, with its many windows, would appear as a beacon of light at night and shine down on her house. Ms. Reding argued that 2 Somerset Road should not be entitled to a bay view at the expense of the neighbors. She also expressed concern for the proposed front deck, which she said would place social activities and noise at the front of the house.

Phillip Halverson, neighbor at 60 Crest Road, spoke in opposition to the proposal, noting that privacy is his singular concern. He stated that the front deck is particularly concerning, since the addition's stated purpose is to create a social space for the family's teenage children. He noted that noise from the deck would travel well in the canyon and would interfere with his privacy.

The Commission was unanimously opposed to the addition, given its placement at the front of the house; its resulting bulk, mass and proportions, [citing design guidelines II-3(a), II-3(c) and II-3(d)]; its tacked-on appearance; and its incompatibility with the existing architecture. Commissioner Jajodia maintained that the proposed addition is out of balance with the low-slung feel of the house and neighborhood, and Commissioner Ramsey stated that the addition appears as a tower at the corner of the house. Commissioner Ramsey, however, also spoke in favor of the project's compliance with coverage limits and setbacks, and noted the compatibility of the design detailing, including the roofline, eaves, and siding. Regarding neighbor concerns, the Commissioners stated that the proposed height and placement of the addition would significantly impact the front entry to 64 Crest Road. They found other privacy concerns raised by the neighbors to be less of an issue, due to existing vegetation and the distance between the houses; and they stated that these concerns could be further addressed by relocating the addition, modifying the size and shape of the windows, and adding additional screening vegetation. Commissioner Ode suggested that the project be considered within its urban context, and stated that a 65-foot distance between the house and the one across the street is more than sufficient to mitigate privacy concerns. The Commissioners also found no evidence that significant views would be impacted by the addition. In response to a question from the Commission about noise impacts, Planning Director Jackson noted that mechanical noise is regulated under the Building Code and nuisance noise is handled by the police department, but that the Commission may consider acoustical privacy impacts when reviewing new built features.

Commissioner Jajodia suggested that the proposed front deck be reconsidered due to its impact on acoustical privacy.

**Resolution 184-DR-17**

WHEREAS, the Property Owner is requesting permission to construct a new 531-square-foot, second-floor addition and 96-square-foot, second-story deck; the project includes new windows, exterior lighting, deck railing, door, and reconfigured floor plan, located at 2 Somerset Road, 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 does not conform to the criteria and standards of Section 17.66.060 of the Piedmont City Code:

1. The proposed design is consistent with portions but not all of the Piedmont Design Guidelines, in that some of the building features are consistent with the original architecture and neighborhood development, such as the roofline, the board and batten siding, and the window types; and the project proposes to remove a bay window that is not consistent with the original design.
2. Regarding the Piedmont Design Guidelines concerning the design effect on neighboring properties' existing views, privacy, and access to direct and indirect light, the addition is constructed within the existing footprint, and a second-story addition could be placed such that it does not block existing views; however, the massing of the proposed addition is not balanced with the overall massing of the home. The addition creates a tower that is larger than the main portion of the house and is out of proportion with the overall mass.
3. The proposed design does not adversely affect pedestrian or vehicular safety, because there is no change to pedestrian and vehicular safety.
4. The application does not comply with the following guidelines: II-3(a), regarding mass and proportions; II-3(c), in that the addition is not consistent and not carefully integrated with respect to scale and mass; and II-3(d), in that the mass and scale of the addition overpowers and dominates the existing home, creating a tacked-on appearance.
5. The project is not consistent with General Plan Design and Preservation Policy 2.83 (Additions), since the addition appears tacked-on.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies without prejudice the design review permit application for proposed construction at 2 Somerset Road, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

**Code Discussion**

Prior to adjournment, Planning Director Jackson raised the topic of the floor area ratio (FAR) exemption, which was brought to light during the discussion for the project at 100 Dracena Avenue. He asked the Commissioners whether



they would like to receive 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 Commissioners agreed that they would like to discuss the topic further, and they each spoke briefly on their interests in the topic. They requested, at a minimum, to have a future discussion to clarify the priority or intent of the language. They also suggested that changes be made to the code to better define what constitutes a habitable area and to clearly separate projects that are eligible for the FAR exemption from those that include envelope expansions.

**ADJOURNMENT**

There being no further business, Chairman Ramsey adjourned the meeting at 9:16 p.m.