

## PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, March 13, 2017

A Regular Session of the Piedmont Planning Commission was held March 13, 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 February 27, 2017.

### DESIGN AWARD PRESENTATION

Following the 2016 Design Awards Reception held in the City Hall Courtyard, and prior to the start of the Regular Session, Chairman Behrens called the meeting to order at 5:34 p.m. for the presentation of the 2016 Design Awards.

Alternate Commissioner Jajodia summarized the Commission's review and selection process for the annual Design Awards. She explained that the Commission recognizes property owners for superior design and construction projects that exemplify design excellence in Piedmont. Award recipients receive a design award plaque, and their design and construction professionals receive framed certificates with photographs of their project. The 2016 Design Awards honored exceptional projects in the following categories:

- Excellent Major Remodel in a Modern Style
- Excellent Detached Studio
- Excellent Retaining Wall
- Excellent Major Remodel in a Traditional Style
- Excellent Detached Second Unit
- Excellent New Garage

Alternate Commissioner Jajodia presented the Award for *Excellent Major Remodel in a Modern Style* to the owners of **109 King Avenue** (represented by the project architect) for a complete stylistic remodel of the home. The remodel removed a mixture of unrelated architectural details and tied the home together in an elegant and modern way.

Chairman Behrens presented the Award for *Excellent Detached Studio* to the owners of **30 Prospect Road** (represented by project architects Ian Read and Sky Lanigan of Medium Plenty) for their well-designed, modern studio and patio. The project seamlessly integrated the studio into the rear yard topography and successfully minimized impacts on neighbors.

Commissioner Ramsey presented the Award for *Excellent Retaining Wall* to the owners of **42 Calvert Court** for their well-designed front retaining wall, which frames the landscape and connects seamlessly with the entry stairs.

Commissioner Zhang presented the Award for *Excellent Major Remodel in a Traditional Style* to the owners of **36 Monticello Avenue** (represented by the project architect Debra L. Yau and contractor Juan Perez) for a design that successfully retains the traditional wood-shingle style of the home, despite its comprehensive remodel and expansion.

Alternate Commissioner Jajodia presented the Award for *Excellent Detached Second Unit* to the owners of **137 Greenbank Avenue** in recognition of their beautifully constructed modern second unit that includes conforming parking.

Chairman Behrens presented the Award for *Excellent New Garage* to the owners of **136 Ronada Avenue** for their well-designed garage that is completely consistent with the architecture of the main residence.

Following the presentations, Chairman Behrens congratulated all the 2016 Design Award recipients and their design and construction professionals and announced that the Regular Session would begin at 6:00 p.m.

**CALL TO ORDER**

Chairman Behrens called the Regular Session to order at 6:00 p.m.

**ROLL CALL**

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

Staff: Planning Director Kevin Jackson, Assistant Planner Emily Alvarez, and Planning Technician Chris Yeager

Council Liaison: Councilmember Jennifer Cavanaugh

**ANNOUNCEMENTS**

Chairman Behrens announced that Commissioner Tony Theophilos resigned from the Planning Commission on February 15, 2017, due to scheduling conflicts.

Chairman Behrens announced that Commissioner Zhang's term on the Planning Commission will end following the meeting. He thanked Commissioner Zhang for his dedication, and he praised him for his talent in offering many elegant solutions to applicants' design problems.

Chairman Behrens announced that this meeting is his last meeting as Chair of the Commission. Chairman Behrens thanked Staff for their hard work, dedication, and professionalism, and praised Commissioner Ramsey who will replace him as Chair of the Commission.

**PUBLIC FORUM**

There were no speakers for the public forum.

**REGULAR SESSION**

The Commission considered the following items of regular business:

**Approval of Minutes**

Commissioner Ramsey suggested that the February 13, 2017, meeting minutes be amended regarding 1062 Harvard Road, to correct the date of a prior approval he referenced in variance finding #2, from 2008 to 2006.

**Resolution 5-PL-17**

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

Moved by Zhang, Seconded by Ramsey

Ayes: Behrens, Jajodia, Ramsey, Zhang

Noes: None

Recused: Ode

Absent:

**Consent Calendar**

No applications were placed on the Consent Calendar.

**Regular Calendar**

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

**Variance and  
Design Review  
19 Monte Avenue**

The Property Owner is requesting permission to construct an approximately 352-square-foot addition at the rear (west) of the home, on top of the existing, main-level deck; to construct a new approximately 285-square-foot rear deck; and to modify windows, doors, and exterior lighting. A variance is required in order to exceed the floor area ratio requirement.

Written notice was provided to neighbors. No response forms were received. **Correspondence** was received from Phiroz Tarapore.

**Public testimony** was received from:

Kirk Peterson, project architect, explained that the goal of the project is to allow the applicants to age in place by locating a full bathroom and laundry facilities on the ground floor. He explained that the addition would result in an increase in the floor area ratio from 52% to 58%, which requires a variance. He stated that the addition will be in keeping with the existing house, and that the neighbors have expressed no concerns. In response to questions from Commissioner Ramsey about the structural support beneath the addition, Mr. Peterson explained that this lower space cannot be enclosed without increasing the floor area ratio or limiting light to the lower floor. In response to questions from Alternate Commissioner Jajodia, Mr. Peterson explained that the lower level will mostly be used for storage, that the stairs accessing this space are not code compliant, and that the window design, while eclectic, is not uncommon for a historic house and will not be readily visible by adjacent residences.

Mike Tracy, project architect, responded to questions from the Commission and clarified the different design options proposed.

Kathleen Addiego, homeowner, explained that the goal of the project is to make the main floor more livable as she and her husband age. She explained how relocating the laundry room and creating a family room on the main level would make it easier for them to stay in their house.

Joe Addiego, homeowner, offered to answer any questions that the Commission might have.

The Commissioners unanimously supported the project. They commended the architect for making the house more livable, while respecting its original architecture. They noted that the addition would not change the front façade of the historic house, and that the rear façade was not readily visible due to the downslope of the lot. Commissioner Ramsey stated that all the design options presented are appropriate, in that they all improve the rear of the house and align the window headers. He did, however, express concern for the proposed structural support beneath the new addition, stating that the support for a house should be more substantial than the support for a deck. He suggested that the Commission add a condition of approval requiring the applicants to address this support, subject to Staff review and approval. Alternate Commissioner Jajodia suggested that the design should still allow light to enter the basement. The Commission was in full support of the floor area ratio variance, due to the downslope of the lot, the massing of the house, and the vast space within the basement. Commissioner Ramsey noted that concerns from a neighbor regarding drainage would be addressed by the Staff-recommended condition of approval for a construction management plan.

**Resolution 329-V/DR-16**

WHEREAS, the Property Owner is requesting permission to construct an approximately 352-square-foot addition at the rear (west) of the home, on top of the existing, main-level deck; to construct a new approximately 285-square-foot rear deck; and to modify windows, doors, and exterior lighting, located at 19 Monte Avenue, Piedmont, California, which construction requires design review; and

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

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

1. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to, a steeply sloping lot and unused area at the basement level because of the steep slope; so that strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone which conform to the zoning requirements.
2. The variance is compatible with the immediately surrounding neighborhood and the public welfare, because the improvements do not provide the applicant with an advantage, due to the unused space in the basement. The property conforms to code requirements for structure coverage, hardscape coverage and building height, and the existing setbacks are maintained or improved.
3. Accomplishing the improvements without variance would cause unreasonable hardship in planning, design, or construction, because construction on a sloping lot without enclosing space beneath is not practical. The home's main level is aligned with the elevation at the street, which is consistent with other homes, so an addition at the back must be above grade.

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

1. As conditioned, the exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements include but are not limited to: the small addition at the rear of the property on top of an existing deck, the new deck, and the modified doors, windows and exterior lighting. The addition replicates the existing features of the house, including its siding material and color, window type, and massing.

2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because the addition is limited in size, is located at the rear of the house, and does not change the height of the house.

3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress, because there are no changes to these elements.

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

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review application for proposed construction at 19 Monte Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Approved Plan Set.** The approved plans are those submitted on March 6, 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. **Exterior Lighting.** All new exterior light fixtures shall be downward directed with an opaque or translucent shade that completely covers the light bulb.

5. **Guardrail.** All new guardrails shall meet current Piedmont building code requirements for height and spacing.

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

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

8. **Construction Management Plan.** The Property Owner shall develop a comprehensive Construction Management Plan. The Construction Management Plan shall address noise, vibrations, traffic control, parking, debris removal, dust control, sanitary facilities, site safety security and other potential construction impacts, as well as other details involving the means and methods of completing the Project, including the construction route. The City Building

Official has the authority to require modifications and amendments to the Construction Management Plan as deemed necessary throughout the course of the Project and until the Final Inspection.

- a. Construction Site Control of Stormwater. The California Regional Water Quality Control Board requires all projects that disturb the site to comply with Provision C.6 of the San Francisco Bay Regional Stormwater NPDES Permit in order to prevent construction site discharges of pollutants and other regulated materials during construction. As required by the Chief Building Official and prior to the issuance of a building permit, the Applicant shall develop and submit a construction stormwater management plan as part of the Construction Management Plan to achieve timely and effective compliance with Provision C.6. Permit Provision C.6.c.ii provides sources for site specific, and seasonally- and phase-appropriate, effective Best Management Practices (BMPs) that may be incorporated into the stormwater management plan. Copies of the Municipal Regional Stormwater Permit are available from the Piedmont Public Works Department and on-line at [cleanwaterprogram.org](http://cleanwaterprogram.org).
- b. Neighboring Property Owner Permission. Should the execution of the Foundation/Shoring/Excavation Plan require excavation into a neighboring property or if access onto the neighboring property is necessary for construction, the applicant shall submit, prior to the issuance of Building Permit, a written statement from the neighboring property owner granting permission for access onto his/her property for the purpose of excavation and/or construction.

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

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

the Director of Public Works a reasonable completion date for any benchmark.

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

10. **Structural Support.** The structural support beneath the addition shall be modified with wing walls in lieu of a single column, subject to Staff review and approval.

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

**Design Review  
415 Moraga Avenue**

The Property Owner is requesting permission to construct an approximately 740-square-foot, two-story addition at the rear (west) of the house and to remove two unpermitted skylights. This application was continued to the March meeting to give the applicant or the applicant's representative a chance to appear before the Commission and respond to Commissioners' questions.

Written notice was provided to neighbors. **One affirmative response form and three distinct negative response forms** were received for either the February 13 hearing or March 13 hearing.

**Public testimony** was received from:

Helen Greenwood, neighbor at 412 Moraga Avenue, spoke in opposition to the proposed project and reiterated the concerns she voiced at the February 13, 2017, hearing. She noted that her concerns for the project are based on unsafe traffic conditions along Moraga Avenue, which she stated are caused in part by the number of cars parked on the street. She discussed past traffic incidents and violations along her block of Moraga Avenue. Ms. Greenwood stated that the house was built with two bedrooms and has grown over the years, and she argued that the house does not need two dens. In response to questions from the Commission, Ms. Greenwood expressed her doubts that the proposed construction would solve the problem of multiple tenants on the property.

Ron Buell, neighbor at 419 Moraga Avenue, echoed Ms. Greenwood's concerns and added his own reports of multiple people living at 415 Moraga Avenue and parking on the street. He stated that the property has a very steep driveway, on which a single vehicle has been parked for the past nine months. Mr. Buell also commented on the unmaintained nature of the property. In response to a question from Commissioner Behrens, Mr. Buell acknowledged that the proposed project could improve the look of the home, but only if the property is properly maintained.

Despite numerous attempts by Staff to contact the applicant and architectural representative, neither attended the meeting to answer Commissioners' questions.

Planning Director Jackson reported that the applicant has not paid business or rental taxes to the City, and that Staff will determine whether enforcement of rented room regulations is necessary. He stated that compliance with rental regulations is not subject to review under this planning application. Director Jackson responded to Commissioners' questions, clarifying Piedmont's rules of renting rooms within a house and commenting on the Commission's ability to improve parking and traffic congestion along Moraga Avenue. He indicated that zoning alone could not solve the traffic concerns in the area, but that the Commission could address physical features that might impact on-site parking, such as improvements to the garage or changes to the floor plan to preserve the existing number of bedrooms.

The Commissioners expressed frustration that the applicant and his architectural representative again failed to attend the meeting to address Commissioners' questions. In general, the Commissioners were in favor of the project's architectural consistency, and they agreed that the addition would improve the existing house. They discussed the need, however, for several conditions of approval to address concerns regarding parking and maintenance of the property. Regarding parking, the Commissioners were unanimously in favor of requiring that the garage door be electronically operated and that the walls of the lower-level den be partially or completely removed (depending on sheer wall requirements) to keep the room from being used as a bedroom. Commissioner Ramsey noted that Staff also recommended a condition of approval to remove all unpermitted features, which would help to eliminate the inappropriate use of non-habitable space within the house. Regarding maintenance, the Commissioners were unanimously in favor of requiring that the applicant paint and maintain the existing house and submit a landscape plan. Alternate Commissioner Jajodia urged the neighbors to work with the City to find solutions to the traffic concerns in the area.

**Resolution 3-DR-17**

WHEREAS, the Property Owner is requesting permission to construct an approximately 740-square-foot, two-story addition at the rear (west) of the house and to remove two unpermitted skylights, located at 415 Moraga Avenue, Piedmont, California, which construction requires design review; and

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

1. As conditioned, the exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. The distance between the addition and adjacent residences is reasonable and appropriate due to the existing topography and neighborhood development pattern. Upper level setbacks greater than the setbacks required for the lower level have been considered and are not necessary to reduce losses of ambient and reflected light. The proposed addition has horizontal wood siding with

stucco above to match the existing house, and the proposed windows match the existing windows and decorative surrounds. The addition continues the existing roof line and style, and it upgrades the general deteriorated condition of the existing house. As conditioned, the project also removes several unpermitted features.

2. The proposed addition has been designed in a way that reasonably minimizes view and light impacts on neighboring properties. The addition follows the existing roof line and mass of the existing house, and the neighbors' views will not be impacted by the proposal.

3. The size and height of the addition are commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and are in keeping with the existing neighborhood development pattern, because the proposal complies with the zoning regulations for the site and the neighborhood, and the addition is cohesive with the existing building.

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

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

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for proposed construction at 415 Moraga Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

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

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

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

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

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

**7. Illegal Construction.** Prior to the issuance of a building permit, applicant shall remove or seek retroactive approval for any illegal construction, including, but not limited to, the skylights and the attic stair.

**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. **Lower Level Den.** The applicant shall remove the wing walls between the family room and den on the lower level, designating it as a single space, unless these walls are required to meet structural requirements or other requirements of the building code to the minimum extent required. This change shall be subject to staff review and approval.

11. **Garage Door.** The garage door shall be electronically operable. If design modifications are required to accomplish this, those modifications shall be subject to staff review and approval.

12. **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 and identifies landscape materials by location and type, indicates the irrigated areas and the type of irrigation used, and identifies trees proposed for retention, removal or to be installed. 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.

13. **Maintenance of Existing House.** Due to the scope of the project relative to the size of the existing house, the applicant shall paint, maintain and update the existing house, including the exterior walls, windows and doors, so that the existing house and addition have a cohesive and attractive appearance.

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

**Design Review  
21 Littlewood Drive**

The Property Owner is requesting permission to make various modifications to the pool area in the northeast yard, including: to modify the shape of the pool; to demolish and rebuild the pool deck; to resurface existing retaining walls; and to construct a rock water feature with an underground slide, retaining walls, a fence, a gate with trellis above, a covered walkway connecting the pool area to the driveway, an electrical panel enclosure, a pool equipment enclosure beneath the deck, a play structure, and a bridge.

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

**Public testimony** was received from:

Emi Sherman, project architect, described the project, including the proposed tile deck and metal railing, the organic-shaped pool and rock feature, the stucco and metal wall, and the driveway pergola. In response to questions from Commissioner Ramsey, Ms. Sherman clarified details of the rock feature and underground slide, and she confirmed that the new pump will be located beneath the deck. In response to questions from Alternate Commissioner Jajodia, Ms. Sherman stated that an arborist has determined that the new play structure, which will be built on piers, should not impact the nearby mature trees. She also confirmed that the new stucco wall will be fronted by vegetation and that it will incorporate metal to match the metal railings at the guest house and pool house. In response to a question from Commissioner Zhang, Ms. Sherman described the vegetated wall system that is proposed at the pool house.

Matt Wilson, project designer/builder, spoke about the proposed artificial rock feature and underground slide. He discussed his company's experience creating such rock features throughout the country, and commented on the realistic appearance of the artificial rock. He described the slide as being 32 feet long, half buried, and accessed by real rock stairs. Mr. Wilson answered Commissioner's questions about the cost of artificial rock and the noise generated from the proposed mechanical equipment.

The Commissioners were in full support of the proposed project and the Staff's recommended conditions of approval. Commissioner Ramsey reported that a Staff-recommended condition of approval would exempt the City from any liability of the underground slide.

**Resolution 33-DR-17**

WHEREAS, the Property Owner is requesting permission to make various modifications to the pool area in the northeast yard, including: to modify the shape of the pool; to demolish and rebuild the pool deck; to resurface existing retaining walls; and to construct a rock water feature with an underground slide, retaining walls, a fence, a gate with trellis above, a covered walkway connecting the pool area to the driveway, an electrical panel enclosure, a pool equipment enclosure beneath the deck, a play structure, and a bridge, located at 21 Littlewood Drive, Piedmont, California, which construction requires design review; and

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

proposal conforms to the criteria and standards of Section 17.20.9(a) of the Piedmont City Code:

1. As conditioned, the exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements include but are not limited to: the proposed deck, pool, slide, rocks, and trellises, which will be constructed of quality materials and are harmonious with the existing building and the surrounding environment.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because the proposed design does not pose any negative impacts on neighboring properties' views and privacy.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress, because there are no proposed changes in the vehicular and pedestrian circulation patterns.
4. The project complies with Design Review 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, II-6(a), II-6(b), II-6(c), II-7, II-7(a), IV-1, IV-1(a), IV-1(b), IV-2, IV-2(a), IV-3, IV-3(a), IV-4, IV-4(a), IV-5, IV-5(a), IV-6, V-1, V-2, V-3, V-4, V-5, V-5(a), V-5(b), V-5(c), V-6, V-7, V-8, V-9, V-10, V-11.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for proposed construction at 21 Littlewood Drive, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Exterior Lighting.** All new exterior light fixtures shall be downward directed with an opaque or translucent shade that completely covers the light bulb.
2. **C&D Compliance.** Compliance with Chapter 9 Article III of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project.
3. **Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.
4. **Lake or Streambed Alteration Program.** Given the proposed project's proximity to Indian Gulch Creek, the project may require a Streambed Alteration Agreement from the California Department of Fish and Game (CDFG). Therefore, it is the applicants' responsibility to be in compliance with the CDFG Lake or Streambed Alteration Program. The Fish and Game Code (Section 1602) requires the CDFG to be notified by the person or entity that proposes an activity that will: substantially divert or obstruct the natural flow of

any river, stream or lake; substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake; or deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake. Should the project NOT require CDFG notification, the applicants shall submit to the City:

- Prior to the issuance of a building permit, a written statement from a qualified California Environmental Professional that states that the project does not meet the criteria that requires notification of the CDFG per Fish and Game Code section 1602; and
- Immediately prior to the project's Final Inspection, a report from the qualified California Environmental Professional that certifies that the streambed has not been altered at any time during the project construction per the criteria noted in Fish and Game Code section 1602.

Should the project require CDFG notification, prior to the issuance of a building permit, the applicants shall submit to the City a copy of the Lake or Streambed Alteration Notification form within 7 days of its submittal to the CDFG, plus, within 7 days of its receipt from the CDFG, one of the following two items as verification of compliance with the Lake or Streambed Alteration Program:

- A written statement from the CDFG indicating that it has declined to issue a Streambed Alteration Agreement in response to the applicant's Streambed Alteration Agreement application, but will allow the applicant to implement the project as described in the application with no alterations to the project description; or
- A copy of the CDFG's approval of the applicant's Streambed Alteration Agreement for the project.

Information on the CDFG Lake or Streambed Alteration Program can be found at <https://www.wildlife.ca.gov/Conservation/LSA>.

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

- a. Construction Site Control of Stormwater. The California Regional Water Quality Control Board requires all projects that disturb the site to comply with Provision C.6 of the San Francisco Bay Regional Stormwater NPDES Permit in order to prevent construction site discharges of pollutants and other regulated materials during construction. As required by the Chief Building Official and prior to the issuance of a building permit, the Applicant shall develop and submit a construction stormwater management plan as part of the Construction Management Plan to achieve timely and effective compliance with Provision C.6.

Permit Provision C.6.c.ii provides sources for site specific, and seasonally- and phase-appropriate, effective Best Management Practices (BMPs) that may be incorporated into the stormwater management plan. Copies of the Municipal Regional Stormwater Permit are available from the Piedmont Public Works Department and on-line at [cleanwaterprogram.org](http://cleanwaterprogram.org).

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

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

**7. Arborist's Report and Certified Tree Protection Plan.** Before the issuance of a building permit, the Property Owner shall submit an Arborist's Report and Certified Tree Protection Plan that addresses the two oak trees adjacent to the proposed play structure and the trees on the hillside where the proposed rock feature and slide are located. The tree preservation measures shall be on the appropriate sheets of the construction plans. The arborist shall be on-site during critical construction activities, including initial and final grading, to ensure the protection of the existing trees that are intended to be retained. The arborist shall document in writing and with photographs the tree protection measures used during these critical construction phases. If some trees have been compromised, mitigation measures must be specified in writing, and

implementation certified by the Project Arborist. Trees proposed for removal shall have an in-lieu replacement tree planted elsewhere on the property, which shall be shown on the final landscape plan. Replacement tree size is subject to staff review, and shall be commensurate with the size and numbers of trees to be removed. They shall generally be a minimum of 24" box size. Before the Final Inspection, the Arborist shall file a report to the City certifying that all tree preservation measures as recommended have been implemented to his/her satisfaction and that all retained trees have not been compromised by the construction.

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.

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

**ANNOUNCEMENT**

Planning Director Jackson announced that the second reading of the comprehensive zoning update is scheduled for Monday, March 20, 2017, and that the Planning Commission will likely review draft revisions to the City's Accessory Dwelling Unit provisions at its next meeting on April 10, 2017.

**ADJOURNMENT**

There being no further business, Chairman Behrens adjourned the meeting at 7:32 p.m.