

## PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, May 8, 2017

A Regular Session of the Piedmont Planning Commission was held May 8, 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 April 24, 2017.

### CALL TO ORDER

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

### ROLL CALL

Present: Commissioners Eric Behrens, Aradhana Jajodia, Jonathan Levine, Susan Ode, and Tom Ramsey

Absent: Alternate Commissioner Clark Thiel (excused)

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

Council Liaison: Councilmember Jennifer Cavanaugh

### 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 11-PL-17**

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

Moved by Behrens, Seconded by Ode

Ayes: Behrens, Ode, Ramsey

Noes: None

Recused: Jajodia, Levine

Absent: Thiel

#### Consent Calendar

The Commission placed the following applications on the Consent Calendar:

- 139 Lexford Road (New House and Fence Design Review Permits)
- 1375 Grand Avenue (Conditional Use Permit)

##### **Resolution 12-PL-17**

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

Moved by Ode, Seconded by Jajodia

Ayes: Behrens, Jajodia, Levine, Ode, Ramsey

Noes: None

Recused: None

Absent: Thiel

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

#### **Design Review Permit: New House and Retaining Wall 139 Lexford Road**

##### **Resolution 78-DR-17**

WHEREAS, the Property Owner is requesting permission to construct a new, approximately 4,573-square-foot, single-family residence on the existing vacant lot in Zone A; the new residence is proposed to be four levels with three bedrooms, two bathrooms, a half bath, a living room, dining room, kitchen,

family room, office, laundry room, elevator, and conforming two car garage; a front terrace is proposed at the upper level, and patios are proposed at the rear of the house; a landscape plan has been submitted with retaining walls, stairs, walkways and exterior lighting; a retaining wall exceeding 30 inches in height is proposed in the front setback located at 139 Lexford Road, Piedmont, California, and 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 15303, Class 3(a), making the following findings:

1. There is no cumulative impact because the application proposes a single house on the lot and there is no reasonable probability of a significant effect on the environment;
2. The current application proposes a structure sited lower on the lot, with the majority of proposed excavation occurring on the lower portion of this lot. The amount of excavation has been reduced to 1,350 cubic yards from a previous proposal of 2,000 cubic yards that was not approved by the City Council;
3. Submitted geotechnical evidence indicates that the proposed lot has a rock base;
4. Geotechnical, soils and structural engineers will be involved in the development/construction process and there is no evidence that there will be a significant effect on the environment;
5. Based upon the submittals from the applicant's geotechnical expert, the site appears feasible for development, and that based on available data, there are no indications of Geotechnical hazards that would preclude the use of the site for development;
6. The project does not require the City to grant a variance. All features comply with the requirements set forth in the City's municipal code, which demonstrates that this project is not unique as compared to some other properties in the City, and that the underlying lot does not present any unusual physical characteristics that prevent the strict application of the City Code;
7. Among other Bay Area and Piedmont single-family developments, the City has previously approved numerous developments involving significant amounts of excavation, earth movement and retaining walls under a categorical exemption without an EIR including:
  - seven new single-family houses on steep vacant lots (53 Cambrian Avenue, 74 Huntleigh Road, 1 Maxwelton Road, 3 Maxwelton Road, 151 Maxwelton Road, 155 Maxwelton Road, and 14 Littlewood Drive);
  - seven projects involving the removal of all or a significant portion of an existing residence to be replaced by a new residence (62 Glen Alpine, 419 Hillside Court, 330 La Salle Avenue, 198 Maxwelton Road, 201 Park Way, 74 Sandringham Avenue, 505 Scenic Avenue);

- ten projects with renovations to an existing residence or site (1454 and 1456 Grand Avenue, 218 Greenbank Avenue, 137 Greenbank Avenue, 212 Lafayette Avenue, 11 Muir Avenue, 77 and 79 Oakmont Avenue, 120 Requa Road, 213 Sunnyside Avenue); and

8. There is no substantial evidence that any exception to the Class 3 Categorical Exemption applies to this project, specifically including the unusual circumstances exception.

WHEREAS, regarding design review, the Piedmont Planning Commission finds that the new house proposal, as conditioned, conforms with 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 exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. The size and height of the addition is commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and is in keeping with the existing neighborhood development pattern, because it has been designed to have a street-accessible driveway and has a unique architectural style that is in keeping with the neighborhood. The proposed house is similar in size to other houses in the neighborhood and is substantially below the maximum allowable floor area ratio.

2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light, because the structure has been designed to be nestled into the hillside to minimize view and light impacts on neighboring properties. The distance between the addition and adjacent residences is reasonable and appropriate due to the existing topography and neighborhood development pattern. Upper level setbacks greater than the setbacks required for the lower level have been considered and are not necessary to reduce losses of ambient and reflected light, because the decks and lower level roofs and staircases are appropriate.

3. The proposed design does not adversely affect pedestrian or vehicular safety, considering the circulation pattern, parking layout and points of ingress and egress. The existing or proposed on-site parking is appropriate to the size of the new addition, and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood, because the proposed house has a code-compliant garage that is easily accessible and usable.

4. The application complies with the following guidelines: I-1(a), I-2(a), I-2(b), I-2(c), I-2(d), I-5, I-5(a), I-5(b), I-6, I-7, I-9, I-9(a), III-1, III-1(a), III-2, III-2(a), III-3, III-4, III-5, III-5(a), III-6, III-6(a), III-7, III-7(a), IV-1, IV-1(a), IV-1(b), IV-2, IV-2(a), IV-3, IV-3(a), IV-5, IV-6, V-1, V-2, V-4, V-5, V-6, V-9.

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 Goal 28 (Residential Architecture), 28.1 (Scale, Height, and Bulk Compatibility), 28.2 (Style Compatibility), 28.4 (Setback Consistency), 28.5 (Garages, Decks, and Porches), 28.6 (Exterior Materials), 28.7 (Hillside Home Design), 28.8 (Acoustical and Visual Privacy), 28.9 (Eyes on the Street), 28.11 (Design Review), 28.12 (Creativity and

Innovation), 29 (Yards and Landscapes), 29.1 (Conserving Residential Yards), 29.2 (Landscape Design), 29.3 (Front Yard Enclosures), 29.5 (Fence and Wall Design), 29.6 (Retaining Walls), 29.7 (Driveway and Parking Location), 29.8 (Exterior Lighting), and 29.9 (Sight Obstructions); and Environmental Hazards Goal 18.4 (Soil and Geologic Reports).

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 139 Lexford Road, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

**1. Foundation/Shoring/Excavation Plan.** The Property Owner shall submit grading, foundation, excavation, and shoring plans prepared by a licensed civil or structural engineer that fully address issues of site shoring, fencing and hillside security issues. The plans shall not require any trespassing or intruding into neighboring properties (without prior written consent), and shall mitigate against any subsidence or other damage to neighboring properties. Such plans shall incorporate the recommendations of the Property Owner's geotechnical engineer and to the extent feasible, the City's geotechnical consultant, and shall be subject to approval by the City Engineer and the Building Official. The plans shall include the signatures of the Property Owner's geotechnical engineer and the City's geotechnical consultant, certifying that they have reviewed the proposed plans and they find them in conformance with the recommendations of the various geotechnical reports for this project. Within 10 days of Property Owner's submission of the plans, the property owners of the properties listed in Condition of Approval No. 2 (the "Neighboring Property Owners") shall have the opportunity to provide their comments on any grading, foundation, excavation, and shoring plans to the City's geotechnical consultant before the geotechnical engineer certifications are provided.

- a. 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.

**2. Neighboring Property Inspection.** Should the neighboring property owner provide consent, a licensed civil or structural engineer (chosen by the City, and paid for by the Property Owner) shall inspect neighboring homes and retaining walls at 132 Lexford Road, 135 Lexford Road, 140 Lexford Road, 145 Lexford Road, 77 Huntleigh Road, 87 Huntleigh Road, 130 Somerset Road, 140 Somerset Road, 160 Somerset Road, & 170 Somerset Road with the intent of establishing base-line information to later be used in determining whether damage was caused by any activities on Property Owner's property (including damage caused by vibrations or other factors due to excavation, construction or related activities). The inspection shall include both foundations and non-foundation related details (walls, windows, general overall condition, etc.) at a level of inspection City Staff deems appropriate. The inspection shall only include readily visible and accessible areas of the neighboring homes. The

licensed civil or structural engineer shall provide a full report to the City of his or her conclusions, and the report may be considered in developing the Construction Management Plan. If other independent consultants or specialists are required by the City to review plans and monitor construction activity, they shall be retained at the Property Owner's cost. Before a neighbor agrees to an inspection, City will advise neighbors that the property inspection is necessarily a public record under the California Public Records Act.

Within 45 days after the Certificate of Occupancy is issued on Property Owner's property, the same licensed civil or structural engineer chosen by the City (or a substitute licensed civil or structural engineer chosen by the City) shall inspect the same area in each neighboring home and property initially inspected, and shall present to the City a Report detailing any evidence of apparent damage that has been or reasonably might have been caused by activities on the Property Owner's property. The Report may include text, photographs, diagrams, or other evidence that would document the apparent damage. The Report will become a public record and may be used in connection with private causes of action.

**3. Geotechnical Report and Review.** The Property Owner shall submit a report prepared by a geotechnical engineer of the Property Owner's choice that fully assesses the existing site conditions, and addresses all issues regarding excavation and grading, foundations and their construction, drainage, retaining wall systems, periodic on-site observations, shoring requirements, permanent site stabilization, and other related items involving the Project.

- a. Peer Review. The City, at the Property Owner's sole expense, shall retain Alan Kropp as an independent geotechnical consultant to perform a peer-review of the Property Owner's geotechnical report and advise the City in connection with the Property Owner's proposals. Mr. Kropp's services shall be provided for the sole benefit of the City and whose reports and recommendations can be relied upon only by the City. Mr. Kropp shall also review the building plans during the permit approval process, and may provide periodic on-site observations during excavation and construction of the foundations as Mr. Kropp deems necessary. The Property Owner shall provide payment for this at the time of the Building Permit submittal. Mr. Kropp shall provide the Neighboring Property Owners with limited necessary status reports as the Foundation/Shoring/Excavation Plan progresses. Except for these status reports, the Property Owner will not pay for consultation between Mr. Kropp and the Neighboring Property Owners, and Mr. Kropp shall provide the Property Owner and City with all reports and correspondence among Mr. Kropp and the Neighboring Property Owners.

**4. 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 and the days and hours permitted for heavy excavation. Outside construction involving high levels of noise, including excavation, hammering, and tile sawing, shall be

limited to Monday through Saturday, from 8:30 a.m. to 4:30 p.m. Construction personnel shall be instructed not to park in front of 132 Lexford Road. The plan shall specify the sequencing of grading, excavation, shoring, foundation and construction activities. The City Building Official may require modifications and amendments to the Construction Management Plan 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. Prior to the issuance of a building permit, the Applicant shall submit a construction stormwater management plan prepared by a licensed Civil Engineer 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 must 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. Continual Street Access for Emergency Vehicles. The Construction Management Plan shall specifically address methods of providing continual street access for emergency vehicles at all times, which shall be subject to review and approval by the Fire Chief.
- c. Haul routes. Haul routes shall be provided to the City for review and approval. To the extent possible, haul routes shall attempt to minimize or eliminate use of minor residential roadways. Street and pavement conditions shall be observed and documented by the City on all haul routes prior to commencement of construction. Damage or observable and unusual wear and tear to haul routes on Hampton Road and Lexford Road as specified by the City shall be repaired at the Property Owner's expense after Final Inspection.

**5. Site Safety Security.** The City and the public have an interest in not having an unfinished project blighting the neighborhood and undermining property values. These public interests are primarily safety and aesthetics, and diminishment of property values. Prior to the issuance of a Building Permit, the Property Owner shall provide to the City a specific cash deposit, letter of credit, bank guarantee, or other similar financial vehicle ("Site Safety Security") in the amount of \$200,000 to stabilize the foundation of the Project 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 to Lakritz at the time it issues the first certificate of occupancy for the Project, which may be a temporary, partial or final certificate of occupancy.

- a. The Site Safety Security shall be in an amount to include three components: i) safety, which means the cost to make the site and

structure safe if construction should cease mid-way through the Project; ii) aesthetics, which means an amount to install and maintain landscaping all around the Project to protect the immediate local views from neighbors and public property; and iii) staff and consultant time to evaluate and implement this condition.

If, as the Project proceeds, the expected cost of these components increases beyond the original estimate in the opinion of the Director of Public Works, the City may require the Property Owner to increase the amount of the Site Safety Security by the additional amount. The Property Owner shall provide City with written evidence of compliance within 15 working days after receiving written notice of the additional required amount. The City shall retain, at the Property Owner's expense, an independent estimator to verify the total expected costs to complete the Project and any subsequent revisions.

- b. The form and amount of the Site Safety Security is subject to the approval of the Director of Public Works. Payment to City under the Site Safety Security shall be made payable upon demand by the City and prior to the issuance of the Building Permit, conditioned solely on the Director of Public Works' certification on information and belief that all or any specified part of such Performance Security is due to the City.
- c. The Site Safety Security shall not be released until the Project has an approved Final Inspection by the 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.

**6. City Facilities Security.** The Property Owner shall provide a specific cash deposit, letter of credit, bank guarantee, or other similar financial vehicle ("City Facilities Security") in the amount of \$350,000 as established by the Director of Public Works. This financial vehicle serves as an initial sum to cover the cost of any potential damage to City property or facilities in any way caused by Property Owner, Property Owner's contractors or subcontractors, or any of their agents, employees or assigns, and related in any way to the Project. The Property Owner is responsible for the full cost of repair as determined by the City Engineer prior to final inspections. The form and terms of such City Facilities Security shall be determined by the Director of Public Works after consultation with the Property Owner. The Director may take into account any of the following factors: the cost of construction; past experience and costs; the amount of excavation; the number of truck trips; the physical size of the proposed project; the logistics of construction; the geotechnical circumstances at the site; and City right-of-way and repaving costs.

- a. To provide clear baseline information to assist in determining whether damage to the City's facilities has been caused by the Property Owner or others working for or on behalf of Property Owner, the City will document such facilities (including, without

limitation, streets and facilities along the approved construction route as specified in the Construction Management Plan, to establish the baseline condition of the streets and facilities. The City shall further re-document the streets as deemed appropriate after the Project commences until the Director of Public Works determines that further documentation is no longer warranted. As part of the documentation, the City may water down the streets to better emphasize any cracks or damage in the surface. The Property Owner is responsible for the full cost of the documentation and repair work as determined by the City Engineer, and shall reimburse the City for those costs prior to the scheduling of final inspection.

- b. When the City Facilities Security is in a form other than cash deposit with the City, the proceeds from the City Facilities Security shall be made payable to the City upon demand, conditioned solely on the Director of Public Works' certification on information and belief that all or any specified part of the proceeds are due to the City.

**7. Neighboring Property Damage Security.** The Applicant shall provide adequate and appropriate Insurance or bonds, as approved by the Director of Public Works and City Attorney against damage to neighboring properties at 132 Lexford Road, 135 Lexford Road, 140 Lexford Road, 145 Lexford Road, 77 Huntleigh Road, 87 Huntleigh Road, 130 Somerset Road, 140 Somerset Road, 160 Somerset Road, and 170 Somerset Road, by any construction, excavation, and related work in any way involving the project, such insurance or bonds to be in the amount of \$3,000,000.00 and with any conditions established by the Director of Public Works after consultation with the Applicant. If the Director of Public Works determines that obtaining any particular insurance would be extremely difficult for Applicant due to its lack of availability even at an increased cost, the Director of Public Works may authorize an alternative method of providing equal protection to neighboring properties, including but not limited to partial coverage by Umbrella Insurance if that appears appropriate. Such insurance or any alternative method shall allow for claims to be made for up to one year after the issuance of the Certificate of Occupancy on Applicant's project. Any and all such insurance or any alternative method shall specifically indicate that it covers damages to the above properties, and if such insurance is meant to also cover other potential damages, such as personal injuries or damages to other than the above-named properties, any such further coverage shall be in addition to the \$3,000,000 earmarked for neighboring properties.

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



immediately arrange for substitute insurance coverage. If the Property Owner does not have a general contractor, the Property Owner shall maintain property insurance and coverage for contractors, which is substantially equivalent to the contractor's requirement of this section.

9. **Subsidence.** The Property Owner acknowledges and agrees that all work on the Project may be immediately stopped by the City in the event of any unanticipated landslides, subsidence, creep, erosion or other geologic instability, and may not resume until the City Engineer is fully assured that no further subsidence or erosion will occur. If in the opinion of the City Engineer, the instability poses a danger to public or private property, and Property Owner is not responding in a diligent manner, the Director of Public Works may use proceeds from the Site Safety Security required above to address the instability.

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: i. Completion of Excavation and Shoring; 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 xi. 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 Safety 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. **Sound and Vibration Mitigation Plan and Review.** As required by the Director of Public Works, the Property Owner shall submit a plan

prepared by a licensed engineer of the Property Owner's choice that fully assesses the existing site conditions for the mitigation and monitoring of vibration and decibel levels at the Project during construction (including being periodically present at the construction site during excavation and foundation work). If, in the Engineer's sole discretion, such monitoring indicates that the sound or vibration levels exceed those anticipated in the Property Owner's Construction Management Plan and/or the Sound and Vibration Mitigation Plan, all work on the Project may be immediately stopped by the City and may not resume until the City Engineer is fully assured that the sound and vibration transmissions generated by work on the Project can be maintained at or below a reasonable level and duration.

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

12. **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.

13. **Dedication of Funds.** All funds or financial vehicles set forth in any of the above conditions shall be earmarked or dedicated so that they are not subject to creditor's or creditors' claims.

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

15. **Consultant Cost Recovery.** In order to accommodate the scope and nature of the Project proposed by the Property Owner, if the Director of Public Works deems it necessary to retain independent consultants with specialized expertise, including the City Engineer, the Property Owner shall make a cash deposit with the City at the time of the Building Permit Application in the amount of \$10,000 to be used to pay for the fees and expenses of such City consultants, or in any way otherwise required to be expended by the City

for professional consultant assistance. If the cash deposit has been reduced to \$2,500 or less at any time, the Director of Public Works may require the Property Owner to deposit additional funds to cover any further estimated fees and expenses associated with consultants retained by the City on a regular basis or specifically for the Property Owner's Project. Any unexpended amounts shall be refunded to the Property Owner within 90 days after the Project has an approved Final Inspection by the Building Official.

**16. Errors and Omissions Insurance.** Notwithstanding any other condition hereof, any Project Architect, Structural Engineer, Civil Engineer, Geotechnical Engineer or Shoring Engineer to be retained by the Applicant to perform work relating to project on Applicant's property shall be required to maintain errors and omissions insurance coverage with limits of no less than \$1,000,000.00 per claim that will specifically be available to cover any errors and/or omissions relating to any work performed by that professional involving Applicant's property.

**17. Approved Plan Set.** The approved plans are those submitted on April 28, 2017, after notices to neighbors were mailed and the application was available for public review.

**18. 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.

**19. 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.

**20. 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 southeastern property line adjacent to 145 Lexford Road and the northern property line adjacent to 130 and 140 Somerset Road as shown on the approved plans. The intent is to verify that the approved features are constructed at the approved dimension from the property line(s).

**21. Building Height and Floor Level Verification.** Prior to foundation and/or frame inspection, the applicant shall provide the Building Official written verification by a licensed land surveyor stating that the floor level(s) and roof of the new structure(s) are constructed at the approved height(s) above grade. Existing grades shall be established by the licensed land surveyor prior to the start of excavation and construction.

**22. 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.

**23. California's Water Efficient Landscape Ordinance.** Unless exempt, the property Owner shall comply with the requirements of California's

Model Water Efficient Landscape Ordinance in effect at the time of building permit submittal, 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.

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

24. **City Easement.** City records indicate that a City sewer main and associated easement abut the east property line of this project and are located near the proposed construction. The applicant shall work with City staff to verify the location and depth of the sewer main. In addition, the City shall videotape the existing sanitary sewer main to assess its pre-construction condition in order to make a determination as to whether any repairs to or replacement of the sewer main is required prior to the commencement of excavation and/or construction. (The City is responsible for the cost of the main line, and the property owner for costs of the lateral.) As part of the final inspection the same sanitary sewer lines shall be inspected as required by the Director of Public Works, who shall also determine if the sewer line was damaged as a result of the construction and therefore must be repaired at the applicant's expense. The applicant is responsible to locate their private sewer lateral and note such location on the building permit drawings.

25. **Blasting.** No blasting shall be allowed for any rock removal on this project.

26. **Sidewalk.** The applicant shall be responsible for installation of sidewalk fronting the entire project. Sidewalk construction shall be per City standards.

27. **Driveway.** The applicant shall be responsible for installation of a driveway for the property. The portion of the driveway within City right-of-way shall be constructed per City Standards.

28. **Right-of-Way.** Any work within the City's right-of-way will require obtaining an encroachment permit prior to commencement of work.

29. **Elevator Tower.** The elevator tower shall be provided with additional faux windows, recesses, decorative vents, or other elaborations that break up the massing of the tower and provide visual interest. Said modifications shall be subject to staff review and approval.

30. **Arborist's Report and Certified Tree Preservation Plan.** Before the issuance of a building permit, the Property Owner shall submit an Arborist's Report and Certified Tree Preservation Plan that includes tree preservation measures to preserve the existing Oak and Eucalyptus trees on the property and shown as to remain on the landscape plan. 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 Project Arborist shall file a report to the City certifying that all tree preservation measures as recommended have been implemented to his/her satisfaction and that all retained trees have not been compromised by the construction.

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

**Conditional Use Permit Resolution 79-CUP-17**  
**1375 Grand Avenue**

WHEREAS, Sarah Baldwin DMD Inc. is requesting a Conditional Use Permit to modify a previously approved Conditional Use Permit for a general dentistry office at the existing commercial building located at 1375 Grand Avenue, Suite 101, Piedmont, California. Modifications include changes to the number of occupants and the days and hours of operation; and

WHEREAS, the Piedmont Planning Commission has reviewed the application, the staff report, and any and all other documentation and testimony submitted in connection with the application and has visited the subject property; the Piedmont Planning Commission recommends that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(a), because the project consists of an interior alteration to an existing facility, and it is consistent with General Plan policies and programs; and the Piedmont Planning Commission recommends that the proposal, as conditioned, conforms to the criteria and standards of Section 17.68.040 of the Piedmont Municipal Code:

1. The proposed use is compatible with the General Plan and conforms to the zoning code, in that the office is located within an existing commercially-zoned office building, and the current Conditional Use Permit for 1375 Grand Avenue, Suite 101, is for a dentist office.

2. The use is primarily intended to serve Piedmont residents (rather than the larger region), in that the office will provide dental care to Piedmont residents.
3. The use will not have a material adverse effect on the health, safety or welfare of persons residing or working in the vicinity. Considerations for this finding include: no substantial increase in traffic, parking, or noise; no adverse effect on the character of the neighborhood; and no tendency to adversely affect surrounding property values. The office will be compliant with all City and OSHA regulations. No hazardous material will be transported to the office. There will be no negative impact on parking, and there will be no substantial increase in traffic.
4. The project is consistent with General Plan policies and programs, including the land use element, house element, and design and preservation element, including: Land Use Element Policy 2.1 (Local-Serving Emphasis), 2.3 (Office Development), 2.4 (Commercial Parking), and 2.5 (Off-Site Impacts).

RESOLVED, that in consideration of the findings and facts set forth above, the Piedmont Planning Commission recommends approval by the City Council of the Conditional Use Permit application by Sarah Baldwin DMD Inc. at 1375 Grand Avenue, Suite 101, Piedmont, California, subject to the following conditions:

1. **Terms of the Approval.** A review of the conditional use permit shall occur in May 2019 and the conditional use permit shall have the following operational characteristics:

- a. Office Hours: **Monday – Friday, 8:00AM to 5:00PM and Saturdays within the hours of 8:00AM to 5:00PM**
- b. Types of Staff/Personnel: **11**

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. **Signage.** Any new or modified exterior signage may require a design review permit as provided in Division 17.36 of the City Code.

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

#### Regular Calendar

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

#### Variance and Design Review Permit

The Property Owner is requesting permission to make modifications to windows on the left side and rear of the house. A variance is required to seek retroactive

**419 Moraga Avenue**

approval for a room eligible for use as a bedroom created at the basement level without supplying conforming parking.

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

**Public testimony** was received from:

Marta DePierris, homeowner, explained that the project proposes to legalize an existing third bedroom within the basement of the house. She stated that it would be impossible to add a second parking space on the property. She commented on the neighborhood precedent of one-car garages for houses with three to four bedrooms, and she referred to the recent approval at 415 Moraga Avenue. In response to questions from the Commission, Ms. DePierris confirmed that the bedroom was created in the 1990s by the previous owner, who had disclosed that the bedroom was unpermitted and nonconforming. She explained that new windows and a reconfigured stairway are necessary to conform with the building code. She also stated that the garage is accessible despite the steep driveway.

Staff answered several questions from the Commission. Associate Planner Gavin clarified that the floor plans included with the application represent the as-built and proposed plans, which are one in the same. Planning Director Jackson stated that the playroom's lack of privacy prevents it from being used as a bedroom, and that any changes to make it a bedroom would be considered illegal. He also answered questions about policies in the General Plan regarding the preservation of small houses. Assistant Planner Alvarez discussed the adjacent approval at 415 Moraga Avenue.

The Commission was divided in its support of the project. Commissioner Behrens was not in favor of approving the parking variance, due to its potential worsening of the traffic congestion along Moraga Avenue. Commissioners Levine, Ode, Jajodia and Ramsey supported approval of the variance, but expressed some reluctance and concern over the applicant's long delay in correcting the illegal construction. In support of the variance, the Commissioners maintained that the proposal is consistent with the neighborhood development pattern and that no real increase in the intensity of use is proposed. Commissioner Jajodia stated that it would not be fair to hold the applicant responsible for the existing congestion on Moraga Avenue. The Commissioners discussed possible conditions of approval to encourage the use of the existing garage, and they agreed to add a condition of approval that would require the garage door to be motorized.

**Resolution 194-V/DR-16**

WHEREAS, the Property Owner is requesting permission to make modifications to windows on the left side and rear of the house, located at 419 Moraga 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 seek retroactive approval for a room eligible for use as a bedroom created at the basement level without supplying conforming parking; and

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

WHEREAS, 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 site configuration and topography, such that a garage cannot be added without demolishing the house. Strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone.
2. The project is compatible with the immediately surrounding neighborhood and the public welfare, because most homes in the neighborhood have a similar bedrooms-to-parking-spaces ratio to what is being proposed.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction, because the house would need to be demolished to supply a two-car garage.

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 of the new wood double hung windows 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 new wood double-hung windows are consistent with the existing fenestration style and configuration.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light. The distance between the project and neighboring homes is appropriate so that views, privacy and light are not affected, and 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.
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, II-6(a), II-6(b), II-6(c), II-7, II-7(a).
5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policies 28 (Style Compatibility), 28.6 (Exterior Materials), and 28.8 (Acoustical and Visual Privacy); and Housing Element Policy 2.5 (Use of Original Materials).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance and design review permit application for proposed construction at 419 Moraga Avenue, Piedmont,



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

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

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

3. **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.

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

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

**Fence Design  
Review Permit  
156 Wildwood Avenue**

The Property Owner is requesting permission to remove the existing wood fence within the left-side, street-facing setback, and to construct a new wood fence with gate enclosing the left side yard adjacent to Wildwood Avenue.

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

**Public testimony** was received from:

Lucy Chiang, homeowner, explained that the goal of the project is to add usable space to the side yard, improve the appearance of the yard, and increase privacy and security. In response to questions from the Commission, Ms. Chiang stated that she is planning to stain the redwood fence, shorten the vertical pieces, and remove the existing wood picket fence; and she acknowledged that the fence does not need to be six feet tall. She explained that she would like to retain the existing gate at the top of the stairs if a gate at the sidewalk is not permitted. Planning Director Jackson confirmed that the building code does not allow for gates to open onto a sidewalk, and that a gate at the sidewalk would therefore not be permitted.

While the Commissioners were supportive of a fence being constructed to increase the privacy and security of the corner lot, they were not fully in support of the proposed fence design. The Commissioners were concerned about the height of the proposed fence, its lack of transparency, its impact on the feeling of openness in the neighborhood, its inconsistency with the existing style of the house, and its general appearance. They discussed at length ways to amend the design of the fence to make it more in keeping with the house and

neighborhood, including lowering the fence, making it more translucent, adding vegetation, and staining the wood. In response to questions from the Commission, Staff confirmed that the applicant proposes to remove the wood picket fence. Staff also explained the recommended conditions of approval and answered procedural questions. Ultimately, the Commission decided to approve the fence and add conditions of approval that limit its height to 4 feet, require that the gate matches the fence and has an adequate lock, and require that vegetation be planted at the front of the fence.

**Resolution 70-DR-17**

WHEREAS, the Property Owner is requesting permission to remove the existing wood fence within the left-side, street-facing setback, and to construct a new wood fence with gate enclosing the left side yard adjacent to Wildwood Avenue, located at 156 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), 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 its use and design of the fence, and is consistent with the original architecture and neighborhood development. As conditioned, the height, bulk, material and arrangement of the fence are consistent with the parcel and the house.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light, given its location and size.
3. The proposed design does not adversely affect pedestrian or vehicular safety, given its location and size.
4. The application complies with the following guidelines: V-2, V-5, V-6, V-7, V-8, V-10, 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), 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 156 Wildwood Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Fence Location.** The new fence, including all footings and posts, shall be located completely within the applicants' property. At the discretion of the Building Official, a licensed land surveyor may be required by the Building Department to verify and mark the location of the property lines prior to foundation inspection to verify the approved setback dimension measured to the new fence and that it is completely within the applicants' property.

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. **Gate.** The proposed gate on the left (east) side of the property shall match the proposed fence or the existing wrought iron fence, subject to staff review and approval.

4. **Vegetation.** Vegetation shall be planted at the toe strip between the proposed fence and the sidewalk.

5. **Fence Height.** The height of the fence shall not exceed four feet, measured from the sidewalk.

6. **Gate Lock.** The gate shall be equipped with an adequate lock, which can be unlocked or removed by police and fire department personnel in an emergency.

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

**Fence Design  
Review Permit  
361 Moraga Avenue**

The Property Owner is requesting permission to construct a fence, arbor, and gates and to make modifications to landscape and hardscape at the front (south) yard.

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

**Public testimony** was received from:

Paul Simonetti, homeowner, explained that the proposed fence is meant to add curb appeal, keep pets off the lawn, enclose the garbage cans, and improve security at the side of the house. In response to questions from the Commission, Mr. Simonetti confirmed that the fence is proposed to be located on City property, and he clarified the heights of the retaining wall and fence. He maintained that the sight lines from the driveway would not be impacted by the proposed fence or the new tree planned for the front yard. Mr. Simonetti answered questions about the proposed arbor and agreed to its removal from the proposal. He also agreed to move the fence back, to allow for a 12-inch toe strip planting area at the front of the fence.

Planning Director Jackson answered Commissioners' questions regarding encroachment permits.

The Commission expressed support for the proposed fence, given the street's heavy traffic, the modest design of the low fence, and the presence of other

fences within the neighborhood. The Commissioners, however, were in favor of adding two conditions to the approval to eliminate the proposed arbor and to incorporate a larger toe-strip planting area. Commissioner Levine argued that the arbor involves too much structure within the public right-of-way, and suggested instead that the applicant be allowed to redesign the entry gate to distinguish the entry. The Commissioners indicated that the larger toe-strip planting area would make the fence more attractive. Commissioner Ode commended the applicant's proposal to use drought tolerant plants.

**Resolution 84-DR-17**

WHEREAS, the Property Owner is requesting permission to construct a fence, arbor, and gates and to make modifications to landscape and hardscape at the front (south) yard, located at 361 Moraga Avenue, Piedmont, California, which construction requires a design review permit; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e), and that the proposal, as conditioned, conforms to the criteria and standards of Section 17.66.060 of the Piedmont City Code:

1. The proposed design of the redwood fence 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 and gate (without the arbor) will follow Design Guideline V-6, be no more than 4 feet in height, have a distinctive front gate, and incorporate toe strip vegetation.
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 the fence is low and within the City's guidelines.
3. The proposed design does not adversely affect pedestrian or vehicular safety, because the project has no effect on pedestrian and vehicular safety. The project maintains adequate visibility for entering and exiting the driveway, given that a big tree is not planted to block visibility.
4. The application complies with the following guidelines: V-1, V-2, V-3, V-5, V-5(a), V-5(b), V-5(c), V-6, V-9.
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 Policies 29.3 (Front Yard Enclosures), 29.4 (Maintaining Privacy), 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 361 Moraga Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **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 or public easement.

2. **Final Landscape Plan.** Before issuance of a building permit, the Property Owner shall submit for staff review and approval a Final Landscape Plan for the front yard that includes trees proposed for retention, potential in-lieu trees for those planned to be removed and other plant and landscape materials. The final plan shall comply with Municipal Code Section 17.32.030, 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.

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. **Toe Strip.** The proposed fence shall be located a minimum of 12 inches from the existing sidewalk to allow for a planting strip at the toe of the fence.

5. **Gate Entry.** The proposed arbor is not approved, and the gate shall be redesigned to announce the entrance, subject to staff review and approval.

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

**Variance and  
Design Review Permit  
58 Portsmouth Road**

The Property Owner is requesting permission to add 563 square feet of habitable space within the basement and to install two windows on the basement-level front (west) façade. A variance is required in order to add a bedroom without providing conforming parking.

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

**Public testimony** was received from:

Caroline Jung, homeowner, explained that a variance is needed to add a fourth bedroom in the basement of the house without supplying conforming parking. She indicated that off-street parking has not been an issue and that her neighbors are in support of the project. In response to a question from Commissioner Levine, Ms. Jung explained that it would be difficult to expand the garage.

The Commissioners were generally in support of the variance, with Commissioner Behrens pointing out that the corner property supplies ample off-street parking and that additional variances would be necessary to expand the garage. Commissioner Levine, however, expressed concern that the basement

office, as proposed, would too easily be misunderstood as a bedroom. The Commissioners discussed this concern, consulted with Staff, and decided that the approval should include a condition requiring that the unnecessary door framing in the basement office and bedroom shall be removed and the size of the openings shall be maximized, to make it clear that the office is not to be used as a bedroom.

**Resolution 91-V/DR-17**

WHEREAS, the Property Owner is requesting permission to add 563 square feet of habitable space within the basement and to install two windows on the basement-level front (west) façade, located at 58 Portsmouth Road, Piedmont, California, which construction requires a design review permit; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary to add a bedroom without providing 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 the proposed project consists of exterior changes to a private residence and it 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 property is on a corner lot with two 20-foot street setbacks; the existing garage is within the 20-foot street setback and 5-foot rear setback; and the property is near its structure coverage limit and would require additional variances to widen the garage. 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; most homes in the neighborhood have a similar number of bedrooms-to-parking ratio to what is being proposed; the proposed expansion is entirely within the existing building envelope; and there would be no increase in the intensity of the parking.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction, because adding a bedroom without requesting a parking variance would likely require other variances, and the intensity of use will not be appreciably greater.

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 new aluminum-clad, wood, double-casement

windows are consistent with the existing fenestration, the original architecture, and the neighborhood development pattern; and all windows will have a similar color scheme.

2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light, because the distance between the project and neighboring homes is appropriate, and the proposed expansion is entirely within the existing building envelope. The property is slightly higher than the windows, which preserves privacy.

3. The proposed design does not adversely affect pedestrian or vehicular safety, because 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-4, II-6, II-6(a), II-6(b), II-6(c), II-7, II-7(a).

5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Transportation Element Policy 11.1 (Off-Street Parking Standards) and Design and Preservation Element Policies 28.2 (Style Compatibility), 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 58 Portsmouth Road, 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 aluminum-clad wood.

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

3. **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.

4. **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.

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.

**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. Wall Framing.** The unnecessary door framing in the basement office and bedroom shall be removed, and the size of the opening(s) in the wall between the office and hall shall be maximized, subject to staff review and approval. The goal of this change is to make it clear that the office does not have adequate privacy to function as a bedroom.

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

The Commission recessed for dinner at 6:35 p.m. and reconvened at 7:13 p.m. Following the dinner recess, Commissioner Ramsey announced that Associate Planner Jennifer Gavin would be leaving the City to pursue a new job in



Southern California. He commended her for her work and commitment to the City.

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

The Property Owner is requesting permission to raise the residence approximately 3 feet 6 inches; modify windows and doors on the left (north), rear (east), and right (south) of the home; modify the deck and stairs in the rear yard; construct a new entry stairway in the front (west) of the residence; and make various changes to the interior including the development of habitable space on the basement level. Three variances are required in order to raise the residence in the left and right 5-foot setbacks, and to construct the new entry stairs in the front 20-foot setback.

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

**Public testimony** was received from:

Brian Armstrong, homeowner, explained that the basement ceiling is nearly full height, and that the house only needs to be raised a few feet to make the lower level habitable. He explained that the goals of the project are to retain the character of the house and have as little impact on the neighborhood as possible. In response to questions from the Commission, Mr. Armstrong discussed the main level floor plan and confirmed that his family uses the garage. In response to a suggestion from Commissioner Ramsey, Mr. Armstrong indicated his willingness to relocate the post on the back deck to improve vehicular access to the garage.

The Commissioners were in full support of the project, commending the owner for creating more habitable space with minimal impact on the character of the house or the neighborhood. They expressed support for the variances, given the tight lot configuration and the modest improvements. In response to questions from Commissioners Ramsey and Jajodia, Planning Technician Yeager clarified the proposed window material and confirmed that the proposed windows meet the City's window policy. The Commissioners agreed to place a condition on the approval requiring that the existing rear deck post be relocated to improve vehicular access to the existing garage.

**Resolution 93-V/DR-17**

WHEREAS, the Property Owner is requesting permission to raise the residence approximately 3 feet 6 inches; modify windows and doors on the left (north), rear (east), and right (south) of the home; modify the deck and stairs in the rear yard; construct a new entry stairway in the front (west) of the residence; and make various changes to the interior including the development of habitable space on the basement level, located at 46 Olive Avenue, Piedmont, California, which construction requires a design review permit; and

WHEREAS, three variances from the requirements of Chapter 17 of the Piedmont City Code are necessary to raise the residence in the left and right 5-foot setbacks, and to construct the new entry stairs in the front 20-foot setback; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds

that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e); and

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

1. The property and existing improvements present unusual physical circumstances of the property, including the configuration of the lot being unusually small and the topography of the lot being considerably steep; so that strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone.
2. The project is compatible with the immediately surrounding neighborhood and the public welfare, because most homes in the neighborhood are similar in size to what is being proposed, a majority of neighboring properties are located in the front and side setbacks, and the house is only being raised 3.5 feet and will not tower over any neighboring houses.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction, because the lot is narrow and development is nearly impossible without encroaching on the setbacks, and the project increases the footprint in the setback minimally at the front entry stairs.

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, and the window and door material and fenestration pattern. The windows remain unchanged in style, except for a change in size.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light, because the distance between the project and neighboring homes is appropriate, and the topographical differences are appropriate to preserve privacy, views and light.
3. The proposed design does not adversely affect pedestrian or vehicular safety, because the project has no impact on pedestrian or vehicular safety in and around the property. As conditioned, the relocation of the rear deck post will improve circulation on the property.
4. The application complies with the following guidelines: II-1, II-2, II-3, II-3(a), II-3(b), II-3(c), II-3(d), II-5, II-5(a), II-6, II-6(a), II-6(b), II-6(c), II-7, 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 Policies 28.1 (Scale, Height, and Bulk Compatibility) and 28.4 (Setback Consistency).

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 46 Olive 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 shall be fiberglass-clad and doors shall be wood.

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

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

4. **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. **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 front (west), left (north), and right (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 line.

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

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. **Approved Plan Set.** The approved plans are those submitted on April 17, 2017 with modifications on April 27, 2017 and May 5, 2017, after notices to neighbors were mailed and the application was available for public review.

11. **Final Landscape Plan.** Before issuance of a building permit, the Property Owner shall submit for staff review and approval a Final Landscape Plan that shows trees proposed for retention. The final plan shall comply with Municipal Code Section 17.34, and shall not propose plants near the driveway that could obscure visibility of pedestrians on the sidewalk or vehicles on the street from drivers backing out of the driveway.

12. **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.

13. **Balcony Post.** To facilitate vehicular access, the wood support post at the northeast corner of the deck shall be configured so as not to impede vehicular access to the garage. If design modifications are required to accomplish this, those modifications shall be subject to staff review.

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

**Variance and  
Design Review Permit  
1080 Harvard Road**

The Property Owner is requesting permission to replace windows and doors on the right (west) and rear (south) facades and to make various modifications to the right and rear yards, including: to replace and enlarge the deck; to construct a trellis, outdoor kitchen, wood-burning pizza oven, walls, fountain, guardrails, planters, patio, and gate; and to install exterior lighting. A variance is required in order to construct within the rear (south) setback.

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

**Public testimony** was received from:

Wendi Sue, project architect, described the project and provided the Commissioners with a 3D drawing. She noted that the deck is necessary, because the grade cannot be raised above the foundation walls of the house. She asked the Commissioners to consider approving the project with the option of constructing it without the trellis. In response to questions from the Commission, Ms. Sue confirmed that the trees at the back corner of the property are proposed to be removed, except for one tree along the side lot line that may be preserved.

Assistant Planner Alvarez notified the Commission that the rear neighbor called her in support of the project with the condition that the Loquat and Eucalyptus

trees be removed. Assistant Planner Alvarez also answered questions about the sewer easement along the rear property line.

The Commission supported the proposed design and variance, stating that the project would improve the rear yard, maximize the limited space available, and increase privacy. Commissioner Jajodia expressed concern for the removal of the trees, but the remaining Commissioners expressed no objections. The Commissioners were unanimously in favor of approving the project both with and without the trellis.

**Resolution 94-V/DR-17**

WHEREAS, the Property Owner is requesting permission to replace windows and doors on the right (west) and rear (south) facades and to make various modifications to the right and rear yards, including: to replace and enlarge the deck; to construct a trellis, outdoor kitchen, wood-burning pizza oven, walls, fountain, guardrails, planters, patio, and gate; and to install exterior lighting, located at 1080 Harvard Road, Piedmont, California, which construction requires a design review permit; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary to construct within the rear (south) setback; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e), Existing Facilities, because the proposed project consists of minor changes to an existing private residence, 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, because the existing deck and house and the proposed structures are within the 5-foot rear setback; so that strictly applying the terms of this chapter would prevent this property from being improved in any way.
2. The project is compatible with the immediately surrounding neighborhood and the public welfare, because the existing fences are taller than the proposed improvements and these improvements will not be visible from the street.
3. Accomplishing the improvement without a variance would cause unreasonable hardship, because, without a variance, no work could be done at the rear of the house.

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 of the deck, windows, doors, trellis, wall, and site features is consistent with the City's General Plan and Piedmont Design

Guidelines. The building features are consistent with the original architecture and neighborhood development, including the new proposed windows and doors, and the materials of the deck, guardrail, trellis, wall, and gate.

2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light, because the proposal is all within the enclosed back yard.

3. The proposed design does not adversely affect pedestrian or vehicular safety, because the proposal is all within the enclosed back yard.

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-5(b), II-5(c), II-6, II-6(a), II-6(b), II-6(c), II-7, 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 the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policies 28.1 (Scale, Height, and Bulk Compatibility), 28.2 (Style Compatibility), 28.5 (Garages, Decks, and Porches), 28.6 (Exterior Materials), 28.8 (Acoustical and Visual Privacy), 28.11 (Design Review), and 29.5 (Fence and Wall Design).

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 1080 Harvard Road, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

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

4. **C&D Compliance.** Compliance with Chapter 9 Article III 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. **Setback from Property Line Verification.** The new wall, deck, and other improvements, including all footings and posts, shall be located completely within the applicants' property. Prior to foundation inspection, the

applicant shall submit to the Building Official written verification by a licensed land surveyor stating that the construction is located at the setback dimension from the south property line as shown on the approved plans. The intent is to verify that the approved features are constructed at the approved dimension from the property line(s).

**7. Sewer Main Condition and Repair.** City records indicate that City storm and sewer mains and associated easement(s) may be located near the proposed construction. The applicant shall also work with City staff to verify the location and depth of the storm and sanitary sewer mains. In addition, the City shall videotape the existing sanitary and storm sewer mains to assess their pre-construction condition in order to make a determination as to whether any repairs to or replacement of the sewer main is required prior to the commencement of excavation and/or construction. (The City is responsible for the cost of the main line, and the property owner for costs of the lateral.) As part of the final inspection the same sanitary and storm sewer lines shall be inspected as required by the Director of Public Works, who shall also determine if the sewer lines were damaged as a result of the construction and therefore must be repaired at the applicant's expense. The applicant is responsible to locate their private sewer lateral and note such location on the building permit drawings.

**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. **Trellis.** The applicants have the option to construct the project with or without the proposed trellis.

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

**Variance and  
Design Review Permit  
110 Dracena Avenue**

The Property Owner is requesting permission to remodel and stylistically change the residence through the following alterations: the removal of the picket fence and entry gate in the front; the replacement of the roof of the garage and residence with flat, shed, and gable roofs; the replacement of the upper balcony on the front façade; the replacement of the siding with stucco, horizontal cedar, and stone veneer siding; an approximately 494-square-foot addition at the rear of the residence; an approximately 246-square-foot addition under the upper floor in the front of the residence; skylight, window, door, and garage door changes throughout; various changes to the interior; modification of the rear retaining wall; new lighting and guardrail changes; and hardscape modifications including a new rear patio. A variance is required in order to exceed the structure coverage limit.

Written notice was provided to neighbors. **Three affirmative response forms and one response form indicating no position** were received.

**Public testimony** was received from:

Amy Shen, daughter of the homeowner, stated that she and her husband Derek Hansen are soon to be owners of the property. She described the existing house as having an Asian/Japanese architectural style, and she described the proposed remodel as having a modern Asian architectural style. Ms. Shen explained that the variance request is for a minimal overage (1.8%) of the structure coverage limit, and that the variance would help to create a usable family room. She described the existing floor plan and its challenges. She explained that the addition would enclose the rear deck and follow the existing lines of the house; and she maintained that the proposal would create a cohesive design and allow for an increase in square footage without the impact of a second story addition.

Derek Hansen, future homeowner, commented on the neighbors' concerns and maintained that that the project would minimally impact the neighbors. He stated that the house does not cast a shadow on the houses to the north or south, and he reported that he and his wife agreed to plant vegetative screening along the rear property line and replace all the property line fences. Following Mr. Davis' testimony, the Commission invited Mr. Hansen back to the podium to discuss the need for a variance. Mr. Hansen explained that without the structure coverage variance, an addition would need to be placed above the main level, which would increase the bulk of the house and would not solve the issues with the main level floorplan. He argued that the current proposal is more architecturally cohesive by using the existing architectural lines. Mr. Hansen also stated that the mix of materials and variations in roof design are common to the proposed Asian modern architectural style. He indicated their willingness to work with the Commission to minimize any concerns regarding the mixed materials and asked the Commission to consider approving the variance in the meantime.

Gregg Davis, project architect, answered Commissioners' questions. In response to questions about the overall design and proposed materials, he stated that he does not presently have a materials board available, but that the materials and their placement are in keeping with an Asian modern style home. He argued that too much consistency with the materials would make the design boring and flat. Regarding windows, he explained that the window design was dictated partially by the location and size of the existing windows and partially by a desire for an abstract modern design. Regarding roofs, Mr. Davis described the proposed materials for the flat roof and low-sloped slate roof, and argued that the variety of roof types and slopes are in keeping with the Asian modern style of architecture. When asked why a variance is necessary, Mr. Davis explained that without the variance, the family room and kitchen would suffer and the exterior wall would no longer be continuous.

The Commissioners were not in support of the proposed design. While they commended the applicant on working with their neighbors and keeping the house to one story, they expressed concern for the architectural consistency of the design—citing design guideline II-3(b)—and for the composition of the front facade. Commissioners Levine and Ramsey commented on the many different materials proposed for the front elevation and suggested that the applicant provide a material board to help the Commission visualize the design. Commissioner Ramsey argued that while texture, colors and materials should be deliberately used to define volumes and reinforce rhythm and massing of the overall composition, these elements appear to be applied without purpose in the

proposed design, which results in a misalignment of massing. He also noted that the proposed windows are not aligned and that the mix of windows and their positioning do not appear to be deliberate. Commissioner Jajodia added that the proposed design is not consistent with a modern Asian style of architecture, given its vertical elements and mix of materials. Commissioners Behrens and Ode suggested that the proposed house would have a negative visual impact on the neighborhood.

The Commission was divided in its support of the variance. While Commissioners Levine, Ode and Jajodia had difficulty finding that a hardship exists to support the approval of the variance, Commissioner Behrens considered the variance to be minimal. Commissioner Ramsey expressed uncertainty in his support of the variance, but spoke in favor of keeping the bulk and height of the house to a minimum. Commissioner Levine suggested that the applicant submit a version of the floor plan that complies with the structure coverage limit, to demonstrate their need for a variance.

**Resolution 97-DR-17**

WHEREAS, the Property Owner is requesting permission to remodel and stylistically change the residence through the following alterations: the removal of the picket fence and entry gate in the front; the replacement of the roof of the garage and residence with flat, shed, and gable roofs; the replacement of the upper balcony on the front façade; the replacement of the siding with stucco, horizontal cedar, and stone veneer siding; an approximately 494-square-foot addition at the rear of the residence; an approximately 246-square-foot addition under the upper floor in the front of the residence; skylight, window, door, and garage door changes throughout; various changes to the interior; modification of the rear retaining wall; new lighting and guardrail changes; and hardscape modifications including a new rear patio, located at 110 Dracena Avenue, Piedmont, California, which construction requires a design review permit; and

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

WHEREAS, the Planning Commission finds that the proposal does not conform to the criteria and standards of Section 17.66.060 of the Piedmont City Code:

1. The proposed design is not consistent with the City's General Plan and Piedmont Design Guidelines, in that the building features are not consistent with the original architecture; but the proposed design is consistent with the neighborhood development pattern, in terms of the siting and mass of the house.
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 similar to the existing, there is not a significant view that is being blocked, and the house mass is lower than the allowable and is only one story in the back.
3. The proposed design does not adversely affect pedestrian or vehicular safety, because there are no changes proposed to the vehicular access, and the pedestrian access will be improved with the modified entryway.

4. The application does not comply with the following design guidelines: II-3(a) and II-3(b). The application complies with the following design guidelines: III-1, III-1(a), III-2, III-2(a), III-3, III-4, III-5, III-5(a), III-6, III-6(a), III-7, III-7(a), IV-1, 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.

5. The project is not consistent with the following General Plan policies and programs: Design and Preservation Element Policies 28.2 (Style Compatibility) and 28.6 (Exterior Materials). The project is consistent with the following General Plan policy: Design and Preservation Element Policy 28.12 (Creativity).

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 110 Dracena Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Ramsey, Seconded by Ode

Ayes: Behrens, Jajodia, Levine, Ode, Ramsey

Noes: None

Recused: None

Absent: Thiel

**Resolution 97-V-17**

WHEREAS, the Property Owner is requesting permission to remodel and stylistically change the residence. A variance from the requirements of Chapter 17 of the Piedmont City Code is necessary to exceed the structure coverage limit; and

WHEREAS, the Planning Commission finds that because the design review permit has been denied, there is no approved project in need of the variance from structure coverage limit.

RESOLVED, that the Piedmont Planning Commission continues the consideration of the application for a variance to exceed the structure coverage limit at 110 Dracena Avenue, Piedmont, California, until the applicants return with a new application for design review permit.

Moved by Ramsey, Seconded by Ode

Ayes: Behrens, Jajodia, Levine, Ode, Ramsey

Noes: None

Recused: None

Absent: Thiel

**ADJOURNMENT**

There being no further business, Chairman Ramsey adjourned the meeting at 8:45 p.m.