

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, November 13, 2017

A Regular Session of the Piedmont Planning Commission was held November 13, 2017, in the City Hall Council Chambers at 120 Vista Avenue. In accordance with Government Code Section 54954.2(a), the agenda for this meeting was posted for public inspection on October 30, 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, Assistant Planners Chris Yeager and Mira Hahn, and Planning Technician Benjamin Davenport

Council Liaison: Councilmember Andersen (absent)

ANNOUNCEMENTS

Planning Director Jackson introduced Ben Davenport, who recently joined staff.

PUBLIC FORUM

Dimitri Magganas felt the proposal to remove the real property tax deduction from the federal tax code would be disastrous for the City of Piedmont. Use of Uber, Lyft, and driverless cars will reduce the demand for parking.

Will Richmond suggested a stop sign be installed on Prospect Avenue between Oakmont and Harvard to increase safety.

Max Bekes suggested a stop sign be installed on Hampton Road at the intersection with Crest Road because oncoming traffic is not visible to drivers turning left from Hampton Road onto Crest Road.

REGULAR SESSION

The Commission considered the following items of regular business:

APPROVAL OF MINUTES

Commissioner Jajodia requested the deletion of the last line of the first paragraph on page 8 of the October 9, 2017, meeting minutes.

Resolution 26-PL-17

RESOLVED, that the Planning Commission approves as amended its meeting minutes of the October 9, 2017, regular hearing of the Planning Commission.

Moved by Behrens, Seconded by Jajodia

Ayes: Behrens, Jajodia, Levine, Ode

Noes: None

Recused: Ramsey

Absent: Thiel

CONSENT CALENDAR

By procedural motion, the Commission placed the following applications on the Consent Calendar and added Condition #2 to the approval of 168 Lexford Road:

- 168 Lexford Road (Variance and Design Review Permit)
- 3 Monte Avenue (Fence Design Review Permit).

Resolution 27-PL-17

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

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

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

**Variance and Design
Review Permit
168 Lexford Road**

Resolution 228-V/DR-17

WHEREAS, the Property Owner is seeking retroactive approval for the trash enclosure platform on the left (east) side of the home, for which a design review permit is required; and,

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

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e), Existing Facilities because it is a minor change to an existing private residence and the project is consistent with General Plan policies and programs; and,

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

1. The property and existing improvements present unusual physical circumstances of the property including the lot is unusually shaped and has unusually steep topography so that strictly applying the terms of this chapter would keep the property from being used in the same manner as other conforming properties in the zone.
2. The project is compatible with the immediately surrounding neighborhood and the public welfare because the platform acts as a trash enclosure and is outside the 20-foot setback; a majority of neighboring properties are not affected by the platform; and the platform is not visible to the street.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because the front yard is limited in size, and constructing a trash enclosure would take away from the streetscape.

WHEREAS, regarding the design review permit, 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 as follows:

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 gate material matches

the fence; the gate design is similar to the fence; the platform has been kept out of the front setback; and the structure is not visible to the street.

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; the topographical differences are appropriate to preserve privacy, views, and light; and the height of the project has been kept as low as possible.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project has no effect on pedestrian and vehicular safety.
4. As conditioned, the application complies with the following Design Review Guidelines: II-1, II-2, II-3(a), II-3(b), II-3(c), II-3(d), II-4, II-5, II-5(a), II-6, II-6(a), II-6(b), II-6(c), II-7, II-7(a) (*remodels*).
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 Policy 28.6 (Exterior Materials), and Design and Preservation Policy 29.3 (Front Yard Enclosures).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application and the design review permit application for the trash enclosure at 168 Lexford Road, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

2. **Color Scheme.** The gate shall be painted to match the existing adjacent fence.

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

**Fence Design Review
3 Monte Avenue**

Resolution 340-DR-17

WHEREAS, the Property Owner is requesting permission to demolish an existing fence and construct a 6-foot redwood fence with gates with a new configuration and located inside the 20-foot street yard setback on the right (north) side of the property located at 3 Monte Avenue, Piedmont, California, which construction requires a design review permit; and

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

that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e), Existing Facilities, because it is a minor change to an existing private residence which is less than 50 percent of the floor area of the structure(s) before the addition, and the project is consistent with General Plan policies and programs, and that the proposal, as conditioned, conforms to the criteria and standards of Section 17.66.060 of the Piedmont City Code:

1. The proposed design is consistent with the City's General Plan and Piedmont Design Guidelines, in that the fence is more consistent with the design and architecture of other fences on the property and will improve security and aesthetics.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light, because there will be no change, the impact of the new proposed fence is the same or less than the existing fence.
3. The proposed design does not adversely affect pedestrian or vehicular safety, because the project has no effect on pedestrian and vehicular safety.
4. As conditioned, the application complies with the following Design Review Guidelines: 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 Goal 28.6 (Exterior Materials) and Design and Preservation Element Goal 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 3 Monte Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following condition:

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

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

REGULAR CALENDAR

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

Consideration of an Ordinance Revising

Planning Director Jackson reported that the proposed revisions allow the City to maintain local control and continue the prohibition on commercial

**Regulations in City
Chapter 17 related to
Cannabis**

activity related to cannabis. The proposed regulations would allow delivery of marijuana, but place reasonable restrictions on vehicles used for delivery and on the hours of delivery. Director Jackson recommended that the Commission vote to recommend City Council approval of the proposed ordinance because State laws would control in the absence of local provisions related to the recreational use of cannabis.

In response to Commissioners' questions, Director Jackson referred to Section 17.48.040 regarding cultivation of cannabis and noted that the City cannot regulate the sources of water or electricity used in cultivation.

Public testimony was received from:

Edwin Wang suggested the term cannabis be used rather than marijuana and to include a reference to marijuana.

Planning Director Jackson clarified that marijuana tends to be burned and inhaled while cannabis includes marijuana and its derivatives, tinctures, food products, lotions, and sprays.

Dimitri Magganas opposed allowing commercial marijuana operations because they drive away other businesses. In addition, banks will not finance properties near commercial operations.

In response to public comment, Chair Ramsey noted the City Council prohibited marijuana dispensaries effective January 2016

Commissioner Ode suggested Section 17.48.050 include no delivery by drone. Commissioners discussed the effect of specifically stating drones when the City has no policy for any type of delivery by drone. Planning Director Jackson advised Commissioners to recommend the City Council approve the proposed ordinance as drafted and recommend the City Council consider addressing delivery by drone. Staff can research and review the drone issue prior to the City Council meeting.

Resolution 28-PL-17

RESOLVED, that the Planning Commission recommends approval to the City Council of the proposed ordinance entitled "An Ordinance amending Division 17.48 of the Piedmont City Code pertaining to private cannabis cultivation and commercial cannabis facilities in response to changes in State law," as provided in pages 5-12 of the staff report, and also recommends the City Council consider addressing drone delivery.

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

**Design Review Permit
1346 Grand Avenue**

The Property Owner is requesting permission to construct an approximately 1,093-square-foot addition at the rear (east) of the existing residence; to modify the entry porch by constructing decorative arches and installing new guardrails; to construct retaining walls in the yard; to construct a new front entry gate to the right (south) of the garage within the street yard setback; to modify windows

and doors throughout; to modify hardscape including a new patio in the rear of the addition; and to modify exterior lighting.

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

Public testimony was received from:

Richard Janzen, project architect, shared the property owners' goals for the project and City planners' recommendations.

The Commissioners were generally in support of the project with the exception of the roof form and the single arch and gate at the garage. The Commissioners were in agreement that the entry arch and gate, as proposed, would look tacked-on. The Commissioners were divided on whether the two roof forms needed to be integrated. Commissioner Jajodia felt the two roof forms should be more cohesive, but Commissioner Ode saw this as an unnecessary step since it won't be seen by neighbors. Commissioner Ramsey said that the material and type of roof was sufficient to tie the two roof forms together and that one roof form might make it more prominent. Commissioners recommended removing the arch and gate from the scope of work they were willing to approve, and the applicant consider using a different treatment such a trellis to provide a third dimension in a future application.

Resolution 237-DR-17

WHEREAS, the Property Owner is requesting permission to construct an approximately 1,093-square-foot addition at the rear (east) of the existing residence; to modify the entry porch by constructing decorative arches and installing new guardrails; to construct retaining walls in the yard; to construct a new front entry gate to the right (south) of the garage within the street yard setback; to modify windows and doors throughout; to modify hardscape including a new patio in the rear of the addition; and to modify exterior lighting located at 1346 Grand Avenue, Piedmont, California, which construction requires a design review permit; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e), Existing Facilities, because the addition is less than 10,000 square feet and the project is in an area where all public services and facilities are available to allow for the maximum development permissible in the General Plan and the area in which the project is located is not environmentally sensitive, and the project is consistent with General Plan policies and programs, and that the proposal, as conditioned, conforms to the criteria and standards of Section 17.66.060 of the Piedmont City Code:

1. The proposed design without the front gate is consistent with the City's General Plan and Piedmont Design Guidelines because it keeps the proportion, scale and details of the existing 1-story small home. The architectural elements such as a low sloped hipped roof, one story structure, cement plaster walls and similar sized windows are compatible with the architecture of the existing house and similarly-styled homes in the neighborhood.

2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light. The views are toward Grand and the addition is in the rear area. It is only a single story and there is distance between the neighbors above and there is no neighbor in front. The design follows the topography of the slope to limit the effect on the neighbors to the right and left. No neighbor has objected to any aspect of this project.
3. The proposed design does not adversely affect pedestrian or vehicular safety. It does not change the required number of parking spaces or add any parking or change any of the traffic patterns. The addition is set back far from the street and behind the existing house.
4. As conditioned, the application complies with the following guidelines: II-1, II-2, II-3, II-4, II-5, II-6, and II-7 (*remodels*), IV-1, IV-2, IV-3, IV-4, IV-5, IV-, and IV-6 (*retaining walls*). However, the front entry gate does not comply with guidelines V-1 through 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 Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.3 (Additions), Design and Preservation Element Policy 28.5 (Garages, Decks, and Porches), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 28.7 (Hillside Home Design), Design and Preservation Element Policy 29.3 (Front Yard Enclosures).

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 1346 Grand 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 or fiberglass.
- 2. Window Color Scheme.** All the windows on the house shall have a consistent color scheme.
- 3. Project Scope.** The front yard entry gate proposed adjacent to the garage is not approved within the scope of this application.
- 4. Exterior Lighting.** Unless otherwise approved in this application, all new exterior light fixtures shall be downward directed with an opaque or translucent shade that completely covers the light bulb.
- 5. 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.
- 6. C&D Compliance.** Compliance with Chapter 5 Article I of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project.
- 7. Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an

agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.

8. Setback from Property Line Verification. Prior to foundation inspection, the applicant shall submit to the Building Official written verification by a licensed land surveyor stating that the construction is located at the setback dimension from the north and south property lines as shown on the approved plans and that the front entry gate is entirely on the applicants property. The intent is to verify that the approved features are constructed at the approved dimension from the property lines.

9. Consultant Cost Recovery. In order to accommodate the scope and nature of the Project proposed by the Property Owner, if the Director of Public Works deems it necessary to retain independent consultants with specialized expertise, including the City Engineer, the Property Owner shall make a cash deposit with the City at the time of the Building Permit Application in the amount of \$5,000 to be used to pay for the fees and expenses of such City consultants, or in any way otherwise required to be expended by the City for professional consultant assistance. If the cash deposit has been reduced to \$2,500 or less at any time, the Director of Public Works may require the Property Owner to deposit additional funds to cover any further estimated fees and expenses associated with consultants retained by the City on a regular basis or specifically for the Property Owner's Project. Any unexpended amounts shall be refunded to the Property Owner within 90 days after the Project has an approved Final Inspection by the Chief Building Official.

10. 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.

11. Geotechnical Report and Review. At the option of the Building Official, the property owner may be required to submit a report prepared by a geotechnical engineer of the Property Owner's choice that fully assesses the existing site conditions, and addresses all issues regarding excavation and grading, foundations and their construction, drainage, retaining wall systems, periodic on-site observations, and other related items involving the Project.

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

12. 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.

13. Final Landscape Plan. Before issuance of a building permit, the Property Owner shall submit for staff review and approval a Final Landscape Plan that shows trees proposed for retention as well as proposed plantings in the front yard and in the vicinity of the new rear patio. 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.

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

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

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

- a. The Construction Completion Schedule with associated construction values for each benchmark shall set forth completion dates for the following benchmarks as needed: i) Completion of Excavation; ii) Completion of Retaining Walls; iii) Completion of Foundation; iv) Completion of Rough Framing; v) Completion of Electrical; vi) Completion of Plumbing; vii) Completion of Mechanical; viii) Completion of Fire Sprinklers; ix) Completion of Home; x) Completion of Hardscaping and Landscaping; and any further construction benchmarks and conditions of occupancy as may

be determined by the Director of Public Works.

- b. Before the Project begins, the Director of Public Works shall make a determination as to the reasonableness of the proposed completion dates applicable to the Project, and that determination shall constitute the “Approved Schedule” and be binding on the Property Owner. The City may, at the Property Owner’s sole cost, engage the services of a consultant to review the Property Owner’s proposed Construction Completion Schedule and, to the extent the period allocated for any work appears unjustifiable, recommend to the Director of Public Works a reasonable completion date for any benchmark.
- c. If the work for any specific benchmark has not been completed within 90 days after the completion date set forth in the Approved Schedule, and the delay in completion has not been caused by force majeure, the Director of Public Works has the option at any time thereafter to make a claim against the Property Owner’s Site Security, if one is required, in order to complete the benchmark. The Director of Public Works has the option to refer the application to the Planning Commission for public review.

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

**Design Review Permit
319 El Cerrito Avenue**

The Property Owner is requesting permission to construct a single-car carport on the south side of the existing garage; to make various modifications to the existing residence, including: the addition of a fifth bedroom within the basement, to construct a 33-square-foot addition at the rear (west) of the house for an enclosed staircase, to change the flooring material and guardrail of the second floor roof deck on the rear of the house, to construct a new trellis on the first floor at the rear of the house; and to make various changes to the landscape and hardscape in the left (south) and rear yards, including: a new driveway with a turnaround, a patio, retaining walls, artificial turf, planting areas, and exterior lighting.

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

Public testimony was received from:

David Woo, property owner, explained his reasons for making the backyard more usable and his efforts to revise the plans in response to neighbors' concerns.

Carolyn Van Lang, project architect, noted the house has many original architectural details. She explained reasons for minimizing the size of the stairs, raising the railing height, and utilizing a trellis structure for the carport. The carport will be level with the existing garage and have an interior height of 9 feet. Other elements of the structure are not symmetrical; therefore, the stairs not being symmetrical will not detract from the appearance. From the deck perspective, the columns are symmetrical in that they're located on either side of the deck. The carport must be a certain height in order to park a vehicle in it, and the trellis structure will add a bit more height. In order to minimize the height, she proposed a carport rather than expanding the existing garage.

In response to a Commissioner question, Planning Director Jackson reported the City requires landscaping to cover 30 percent of a lot, and that artificial turf is not considered landscaping or vegetation.

David Thorne, landscape architect, advised that a certified arborist has prepared recommendations for the poplar trees in relation to the neighbor's concerns. The artificial turf counts as a hardscape surface, but the type proposed in the plans will allow water to drain through it. The permeable turf base, sub-drains and sump pump should prevent runoff onto neighbors' properties.

The Commission discussed some members' concerns regarding the proposed height of the carport but ultimately expressed support for the project, having understood the reasons for the height of the carport. Commissioners appreciated the applicant withdrawing the previous application that included a second story addition to the garage and working with neighbors to resolve issues.

Resolution 0284-DR-17

WHEREAS, the Property Owner is requesting permission to construct a single-car carport on the south side of the existing garage; to make various modifications to the existing residence, including: the addition of a fifth bedroom within the basement, to construct a 33-square-foot addition at the rear (west) of the house for an enclosed staircase, to change the flooring material and guardrail of the second floor roof deck on the rear of the house, to construct a new trellis on the first floor at the rear of the house; and to make various changes to the landscape and hardscape in the left (south) and rear yards, including: a new driveway with a turnaround, a patio, retaining walls, artificial turf, planting areas, and exterior lighting located at 319 El Cerrito Avenue, Piedmont, California, which construction requires a design review permit; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e), Existing Facilities, because the proposed project consists of exterior changes to a private residence and it is consistent with General Plan policies and programs, and that the proposal, as conditioned, conforms to the criteria and standards of Section 17.66.060 of the Piedmont City Code:

1. The proposed design is consistent with the City's General Plan and Piedmont Design Guidelines, in that the following building features are consistent with the original architecture and neighborhood development, including the roof form, the roof material, the wall material, the eave overhang dimension.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light, because the distance between the project and neighboring homes is appropriate; there is sufficient vegetative screening; the topographical differences are appropriate to preserve privacy, views and light; and the height of the carport has been kept as low as possible.
3. The proposed design does not adversely affect pedestrian or vehicular safety, because the project adds a turnaround and improves vehicular safety and maintains adequate visibility for entering and exiting the driveway.

4. As conditioned, the application complies with the following Design Review Guidelines: II-1, II-2, II-3(a), II-3(b), II-3(c), II-3(d), II-4, II-5, II-5(a), II-6 (*remodels*); 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) (*garages*).

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 Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.3 (Additions), Design and Preservation Element Policy 28.4 (Setback Consistency), Design and Preservation Element Policy 28.5 (Garages, Decks, and Porches), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 28.11 (Design Review), and Design and Preservation Element Policy 29.7 (Driveway and Parking Location).

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 319 El Cerrito Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

- 1. Door Design.** The building material and design for the new door to the garage is subject to staff review and approval.
- 2. Roof Color.** The proposed flat roof shall be a non-reflective medium or dark color similar to the existing garage roof to minimize the visual impact on upslope properties.
- 3. Exterior Lighting.** All new exterior light fixtures not otherwise approved in this design review shall be downward directed with an opaque or translucent shade that completely covers the light bulb.
- 4. 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.
- 5. Flat Roof Water Runoff.** Water runoff will not be permitted to drain onto neighboring properties. If design modifications are required to address this requirement, they shall be subject to staff review.
- 6. C&D Compliance.** Compliance with Chapter 5 Article I of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project.
- 7. Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.
- 8. Setback from Property Line Verification.** Prior to foundation inspection, the applicant shall submit to the Building Official written verification by a licensed land surveyor stating that the construction is located at the setback dimension from the west and south property lines as shown on the approved plans. The intent is to verify that the approved features are constructed at the

approved dimension from the property lines.

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

10. 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 street trees near the proposed driveway, as well as any nearby off-site trees including the Poplar trees on the neighboring property near the proposed carport. The tree preservation measures shall be on the appropriate sheets of the construction plans. The arborist shall be on-site during critical construction activities, including initial and final grading, to ensure the protection of the existing trees that are intended to be retained. The arborist shall document in writing and with photographs the tree protection measures used during these critical construction phases. If some trees have been compromised, mitigation measures must be specified in writing, and implementation certified by the Project Arborist. Trees proposed for removal shall have an in-lieu replacement tree planted elsewhere on the property, which shall be shown on the final landscape plan. Replacement tree size is subject to staff review, and shall be commensurate with the size and numbers of trees to be removed. They shall generally be a minimum of 24" box size. Before the Final Inspection, the Arborist shall file a report to the City certifying that all tree preservation measures as recommended have been implemented to his/her satisfaction and that all retained trees have not been compromised by the construction.

11. 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 lot. 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. Sewer Main Condition and Repair. City records indicate that City storm and sewer mains may be located near the proposed construction next to the rear (west) property line. Prior to the issuance of a building permit, the Property Owner shall submit a revised copy of the survey prepared by Moran Engineering to show sewer manhole covers and any easements. Said easements and manhole covers shall also be shown on the building permit drawings. The applicant shall also work with City staff to verify the location and depth of the storm and sanitary sewer mains. In addition, the City shall videotape the existing sanitary and storm sewer mains to assess their pre-construction condition in order to make a determination as to whether any repairs to or replacement of the sewer main is required prior to the commencement of excavation and/or construction. The City is responsible for the cost of the main line, and the property owner for costs of the lateral. As part of the final inspection the same sanitary and storm sewer lines shall be inspected as required by the Director of Public Works, who shall also determine if the sewer lines were damaged as a result of the

construction and therefore must be repaired at the applicant's expense. The applicant is responsible to locate their private sewer lateral and note such location on the building permit drawings.

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

- a. Construction Site Control of Stormwater. The California Regional Water Quality Control Board requires all projects that disturb the site to comply with Provision C.6 of the San Francisco Bay Regional Stormwater NPDES Permit in order to prevent construction site discharges of pollutants and other regulated materials during construction. As required by the Chief Building Official and prior to the issuance of a building permit, the Applicant shall develop and submit a construction stormwater management plan as part of the Construction Management Plan to achieve timely and effective compliance with Provision C.6. Permit Provision C.6.c.ii provides sources for site specific, and seasonally- and phase-appropriate, effective Best Management Practices (BMPs) that may be incorporated into the stormwater management plan. Copies of the Municipal Regional Stormwater Permit are available from the Piedmont Public Works Department and on-line at cleanwaterprogram.org.
- b. Neighboring Property Owner Permission. If access onto the neighboring properties at 318 and/or 320 San Carlos is necessary for construction, the applicant shall submit, prior to the issuance of Building Permit, a written statement from the neighboring property owners granting permission for access onto their property for the purpose of excavation and/or construction.

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

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

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

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

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

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

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

**Design Review Permit
47 Fairview Avenue**

The Property Owner is requesting permission to construct an addition and remodel the home including: constructing an approximately 1,427-square-foot second-floor addition; raising the main floor by 2 feet; modifying the front entry stair and entry porch; constructing a deck and second floor balcony at the rear (west) of the residence; modifying siding, windows, doors, skylights, exterior lighting and decorative elements throughout; and modifying hardscape including a new walkway, stairs at the left (south) of the home, and the elimination of the vehicular turnaround in front of the garage.

Written notice was provided to neighbors. **One affirmative response and four negative response forms** were received.

Public testimony was received from:

Ilya Brown, property owner, reported the goal of remodeling the home is to modernize it, locate three bedrooms on the same floor, separate bedrooms from common spaces, create more habitable space above grade, create a guest bedroom, and create better indoor/outdoor circulation. The master suite is proposed to be large in order to provide a tranquil space for his wife, who is a stay-at-home mom. The storage space beneath the deck will be the primary

storage space because it is connected to the house. Raising the house created space he did not want as habitable space. The proposed recreation room will be larger than the existing great room and will open onto a proposed patio. The second floor opens onto the deck.

Bill Holland, project architect, remarked that the project has been considered and revised over the last four years, elaborated on the design, and responded to questions posed by the Commission. Adding onto the building horizontally would prevent the project from meeting the 30-percent landscape requirement. The north side contains the driveway. Expanding toward the front could require a variance for stairs and retaining walls in the front setback. The proposed project complies with FAR requirements. Enclosing the underside of the deck is more consistent with the existing architecture. The spaces on the east side are technically inhabitable because the ceilings are 6-feet 8-inches to 6-feet 10-inches in height. Massing is a better comparison than FAR. Other homes in the neighborhood have second-floor windows that look into neighboring properties. Reallocating some second-floor space to the ground floor would result in bedrooms being located on separate floors. Responding to Chair Ramsey's statement that constructing the basement non-habitable space, whether or not it is used as storage or living area, would be an unfair advantage over other applicants who comply with the FAR exception, and that storage room 3 would easily become a bedroom with the installation of exterior sliding doors, which will exceed the FAR limit, Mr. Holland stated he had not considered the FAR exception because the applicant's program is to have all bedrooms on the same floor. The neighbors have not proposed any modifications to the most recent proposed plans; they simply stated their opposition to the project because of its impacts on their properties. The proposed rear patio could be part of the turnaround.

Dale Turner, neighbor at 39 Fairview Avenue, remarked that his main concern is the proposed height, which will be significantly different from other homes in the neighborhood.

Michelle Turner, neighbor at 39 Fairview Avenue, opposed the project based on privacy and light concerns, particularly due to the proposed new third story. While she understands the need for a better floor plan, the proposed project is not the solution and will decrease their property value.

Rick Schiller, neighbor at 43 Fairview Avenue, opposed the project because of the loss of privacy, particularly to his front patio, adding that any height increase is undesirable. He concurred with the concerns of Commissioner Behrens and Chair Ramsey related to the extensive basement storage space that could be used for living area instead of building upwards.

John Hardgrove, neighbor of 68 Fairview Avenue, spoke in favor of the project. This and other expansion projects in the neighborhood could increase the value of all neighborhood homes.

Dion Lim, neighbor at 55 Fairview Avenue, opposed the proposed project because of privacy and light concerns, particularly to his living room and master bedroom. He had suggested to the applicant that they build toward the rear of the property rather than up.

In response to a question by Commissioner Ode, Planning Director Jackson explained that three years after the final inspection for a building permit for the

proposed construction, should it be approved, the applicant could submit an application to develop habitable space in the basement storage areas. Such a project would be exempt from floor area ratio limits.

The Commissioners were not in support of the project because of concerns about the additional bulk proposed and the applicant's failure to address neighbors' concerns. Commissioner Ode stated that she would not support this project as it did not address the privacy and shadow concerns of neighbors.

Commissioner Jajodia said that the storage spaces appear to be an unintended consequence of proposing additional floor area in a new upper level rather than in the basement. She noted that the applicants were not taking advantage of existing opportunities by developing living area within the existing building envelope, and that the project seemed to be creating more problems than solving them. She also agreed with Commissioner Ode in the need to address issues from neighbors. Commissioners Behrens and Levine expressed concerns with the bulk of the house and agreed in that the three-story structure was not compatible with the neighborhood development and that its position atop a ridge did not respect the topography. Commissioner Ramsey said his main two concerns are the excessive basement storage areas and the elimination of the turnaround. He added that this project may be able to accommodate a second story, but not as proposed. Commissioner Behrens also expressed concerns around the need to preserve as much of the original architecture as possible, especially as the home is similar to a nearby structure. He also said that building to the rear side of the property may be a better solution than the proposed addition.

Resolution 329-DR-17

WHEREAS, the Property Owner is requesting permission to construct an addition and remodel the home including: constructing an approximately 1,427-sqaure-foot second-floor addition; raising the main floor by 2 feet; modifying the front entry stair and entry porch; constructing a deck and second floor balcony at the rear (west) of the residence; modifying siding, windows, doors, skylights, exterior lighting and decorative elements throughout; and modifying hardscape including a new walkway, stairs at the left (south) of the home, and the elimation of the vehicular turnaround in front of the garage, located at 47 Fairview 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 does not conform to the criteria and standards of Section 17.66.060 of the Piedmont City Code as follows:

1. The proposed design is not consistent with the City's General Plan and Piedmont Design Guidelines, in that the following building features are not consistent with the original architecture and neighborhood development: the height and bulk is not appropriate given the applicant did not take advantage of the space created in the basement; the window and door material and fenestration pattern.
2. The design has significant effect on neighboring properties' existing views, privacy, and access to direct and indirect light, because the distance between the project and neighboring homes is not appropriate; the view is a significant view;

there is not sufficient vegetative screening; the height of the project has not been kept as low as possible.

3. The proposed design does adversely affect pedestrian or vehicular safety, because the project worsens the on-site parking conditions by removing the turnaround.

4. The application does not comply with the following Design Review Guidelines: II-1, II-2, II-3(d).

5. The project is not consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.4 (Setback Consistency), Design and Preservation Element Policy 28.5 (Garages, Decks, and Porches), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 28.7 (Hillside Home Design), and Design and Preservation Element Policy 28.8 (Acoustical and Visual Privacy).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies without prejudice the design review permit application for proposed construction at 47 Fairview Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

ADJOURNMENT

There being no further business, Chairman Ramsey adjourned the meeting at 7:22 p.m.