

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, January 8, 2018

A Regular Session of the Piedmont Planning Commission was held January 8, 2018, in the City Hall Council Chambers at 120 Vista Avenue. In accordance with Government Code Section 54954.2(a), the agenda for this meeting was posted for public inspection on December 21, 2017.

CALL TO ORDER

Chairman Ramsey called the meeting to order at 5:03 p.m.

ROLL CALL

Present: Commissioners Eric Behrens (arrived at 5:05), 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 Betsy Andersen

PUBLIC FORUM

There were no speakers for the public forum.

REGULAR SESSION

The Commission considered the following items of regular business:

APPROVAL OF MINUTES

Resolution 1-PL-18

RESOLVED, that the Planning Commission approves as presented its meeting minutes of the December 11, 2017, regular hearing of the Planning Commission.

Moved by Ode, Seconded by Jajodia

Ayes: Jajodia, Ode, Ramsey

Noes: None

Recused: Behrens, Levine

Absent: Thiel

CONSENT CALENDAR

By procedural motion, the Commission placed the following applications on the Consent Calendar:

- 457 Mountain Avenue (Design Review Permit)
- 95 Sandringham Road (Retaining Wall and Fence Design Review Permit)
- 129 Requa Road (Design Review Permit)

Chair Ramsey and Commissioner Jajodia thanked the applicant and architects for an elegant and seamless addition at 457 Mountain Avenue.

Resolution 2-PL-18

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

Moved by Levine, Seconded by Behrens

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:

**Design Review Permit
457 Mountain Avenue**

Resolution 361-DR-17

WHEREAS, the Property Owner is requesting permission to construct an approximately 435-square-foot, two-story addition at the front (east) of the residence, a new hip roof above the addition, a covered entry porch; to modify windows on the front and right (north) of the home; and to remove the north chimney, located at 457 Mountain Avenue, 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 is a minor change to an existing private residence, which is less than 50 percent of the floor area of the structure before the addition, and the project is consistent with General Plan policies and programs, and that the proposal, as conditioned, conforms to the criteria and standards of Section 17.66.060 of the Piedmont City Code:

1. The proposed design is consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are consistent with the original architecture and neighborhood development, including the wall material, the roof form, the roof material, the window and door material and fenestration pattern, the eave overhang dimension, and the eave brackets. The design closely matches the existing details and materials, provides a needed break in the facade to create shadows and depth, does not have a tacked-on appearance, and will look as if it was originally a part of the structure once completed.
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; the topographical differences are appropriate to preserve privacy, views, and light; the height of the project has been kept as low as possible; the project is within the required setbacks, does not require a variance, and does not cast shadows or reduce access to light; and no views are affected.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project has no effect on pedestrian and vehicular safety given its design and location.
4. As conditioned, the application complies with the following guidelines: II-1, II-2, II-3, II-6, II-7, (*remodels*), IV-1, IV-2, IV-3, IV-4, IV-5, and IV-6 (*retaining walls*).
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 28.4 (Setback Consistency), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 28.8 (acoustical and Visual Privacy), 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 the proposed remodel at 457 Mountain Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

2. **Window Color Scheme.** All the windows in 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.** At the Building Official's discretion, 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 east property line as shown on the approved plans. The intent is to verify that the approved features are constructed at the approved dimension from the property line.

7. **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 landscaping proposed in the front of the residence. The final plan shall comply with City Code Division 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. Upon the determination of the Director, minor differences in the number, size and/or species of vegetation between those shown on the approved landscape plan and those installed at the time of final inspection that do not involve an increase in hardscape or structure coverage may be subject to staff review and approval. Significant differences between the vegetation installed at the time of final inspection and vegetation shown on the approved landscape plan are subject to a design review permit.

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.

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.

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

**Retaining Wall and
Fence Design Review
95 Sandringham Road**

Resolution 390-RW/FDR-17

WHEREAS, the Property Owner is requesting permission to install a concrete retaining wall up to 6 feet in height parallel to the existing driveway and garage along Sandringham Road in the front, left (southeast) corner of the lot within the street yard setback; the retaining wall is proposed to include a trash can enclosure; and a wooden gate is shown between the proposed retaining wall and the existing garage, located at 95 Sandringham Road, which construction requires a retaining wall and fence design review permit; and,

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e), Existing Facilities, because it is a minor change to an existing private residence, and the project is consistent with General Plan policies and programs, and 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: wall material and wall height.
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.
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: IV-1, IV-1(a), IV-1(b), IV-2, IV-2(a), IV-3, IV-3(a), IV-4, IV-4(a), IV-5, IV-5(a), and IV-6 (*retaining walls*).
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 29.6 (Retaining Walls).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the retaining wall and fence design review permit application for proposed construction at 95 Sandringham 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.

Moved by Behrens, Seconded by Ode

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

**Design Review Permit
129 Requa Road**

Resolution 395-DR-17

WHEREAS, the Property Owner is requesting permission to construct various improvements within the rear yard that fronts Wildwood Avenue, including a new deck and spa structure, a new pergola, retaining wall and fencing modifications, a rehabilitated basketball court, new exterior light fixtures, and various landscape and hardscape modifications, located at 129 Requa Road, which construction requires a design review permit; and,

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e), Existing Facilities, because it is a minor change to an existing private residence and the project is consistent with General Plan policies and programs, and 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 downward lighting is LED and, therefore, energy efficient; the fence material; vegetative screening; the siting of the deck and spa, the deck and spa material, the stucco with wrought iron railings match existing features on the existing property; the pergola material and design consistency, and the exterior stair material and design consistency.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because there is sufficient vegetative screening and the topographical differences are appropriate to preserve privacy, light and views.
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, 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*), V-1, V-2, V-4, V-5, V-5(a), V-5(b), V-5(c), and V-9 (*fences/walls*).
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 28.5 (Garages, Decks, and Porches), Design and Preservation Policy 28.6 (Exterior Materials), Design and Preservation Policy 29.1 (Conserving Residential Yards), Design and Preservation Policy 29.2 (Landscape Design), Design and Preservation Policy 29.5 (Fence and Wall Design), and Design and Preservation Policy 29.8 (Exterior Lighting).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for the improvements at 129 Requa 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. **Exterior Lighting.** All new exterior light fixtures shall be downward directed with an opaque or translucent shade that completely covers the light bulb.

3. **Storage Door.** Before the issuance of a building permit, the design of the proposed access door to the storage and spa maintenance area must be submitted for staff review and approval.

4. **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.

5. **Final Landscape Plan.** Before issuance of a building permit, the Property Owner shall submit for staff review and approval a Final Landscape Plan that shows trees proposed for retention as well as in-lieu trees required by a Certified Tree Preservation Plan. The final plan shall comply with Municipal Code Section 17.34, 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.

6. **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 five existing maple trees, two existing oak trees, and 5 existing bay laurels. 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.

7. Shoring/Excavation Plan. At the option of the Building Official, the property owner shall submit an excavation and shoring plans prepared by a licensed civil or structural engineer that fully address issues of site shoring, fencing and hillside security issues. The plans shall not require any trespassing or intruding into neighboring properties (without prior written consent), and shall mitigate against any subsidence or other damage to neighboring properties. Such plans shall incorporate as appropriate the recommendations of the Property Owner's geotechnical engineer and the City's geotechnical consultant, and shall be subject to approval by the City Engineer and the Chief Building Official.

8. Sound Mitigation Plan and Review. The Property Owner shall submit a test prepared by a licensed sound engineer of the Property Owner's choice to conduct an acoustical study and assesses the decibel levels of the proposed spa at the property line. If such monitoring indicates that the sound levels exceed 50 decibels at the property line, sound mitigation measures must be pursued and the test repeated. Depending on the mitigation measures proposed, they may require another design review.

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

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

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

a. The Construction Completion Schedule with associated construction values

for each benchmark shall set forth completion dates for the following benchmarks as needed: i) Completion of Excavation; ii) Completion of Retaining Walls; iii) Completion of Foundation; iv) Completion of Rough Framing; v) Completion of Electrical; vi) Completion of Plumbing; vii) Completion of Mechanical; viii) Completion of Fire Sprinklers; ix) Completion of Home; x) Completion of Hardscaping and Landscaping; and any further construction benchmarks and conditions of occupancy as may be determined by the Director of Public Works.

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

11. 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.

12. The landscaping plan will include planted area(s) around the pergola, subject to staff review and approval.

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

REGULAR CALENDAR

**Variance Permit
288 Indian Road**

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

The Property Owner is requesting a variance from the parking requirements in order to add a sixth bedroom without supplying a third conforming parking space.

Director Jackson noted the project was continued from the December 2017 Planning Commission hearing due to a tie vote.

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

Public testimony was received from:

Taeku Lee, Property Owner, reported he and his wife wished to add a bedroom for their growing family and the possibility of their parents needing to live with them in the future.

Shirlee Lee, Property Owner, advised that their home contains five bedrooms by the City's definition; however, the fourth bedroom is used as a study for her husband, and the fifth bedroom is too small to be used as a bedroom. They wish to add a guest bedroom in the basement. They currently have three cars and sufficient space to park all three cars in the driveway. Adding a parking structure to the front driveway would obstruct the view of the house. On-street parking is rarely used. The view from the street is of the garage and cars parked in the driveway and then the second story of the home.

Amy Nunes, project architect, indicated the existing parking situation works practically and on paper and complies with Design Guidelines. A narrow, down-sloping lot reduces the opportunities for constructing a three-car garage that complies with Design Guidelines. The existing garage and paving are not dominant features because of the stepped-down terrace, and the home's front door is visible from the street. Three alternative designs diminish the front appearance and do not comply with design review requirements. Other lots in the area are generally large and lightly developed. Two other homes in the area have six bedrooms, but the two lots are wider than the subject lot. The applicant is proposing a six-bedroom home with two covered parking spaces, and one uncovered parking space. The family does not want or need an accessory dwelling unit and does not wish to modify the bathroom to decrease the number of bedrooms.

Commissioners Jajodia, Behrens, and Ode supported approval of the project because the home's livability and usability is more closely related to a three-bedroom house than a five-bedroom house. The current parking complies with design guideline requirements, and street parking is available if needed. Excavation and additional hardscape would be required to add a third covered parking space. Expanding the garage for a third parking space would diminish the attractiveness of the current site.

Commissioner Levine and Chair Ramsey did not support granting a variance. The lot's topography is difficult, but the lot is large. Expense and personal reasons are not factors for granting a variance. There is sufficient space at the front of the property to construct three covered parking spaces. The home with five bedrooms and two covered parking spaces is already a nonconforming use.

Granting the variance would give the subject property an unfair advantage over other properties in the neighborhood.

In response to Commissioner Behrens' question, Director Jackson advised that the applicant would need a variance for the front yard and side yard setbacks if the garage was expanded to three cars and the front and rear walls of the new garage remained in the same location as the existing walls. A variance may or may not be needed if a third covered parking space was built elsewhere on the property.

Resolution 335-V-17

WHEREAS, the Property Owner is requesting a variance from the parking requirements in order to add a sixth bedroom without supplying a third conforming parking space located at 288 Indian Road, which construction requires a variance 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% of the floor area of the structure before the addition, and the project is consistent with General Plan policies and programs; and,

WHEREAS, the Planning Commission finds that the variance complies with the variance criteria of 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 narrow and has steep topography so that strictly applying the terms of this chapter would prevent 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 neighboring properties have down-sloped driveways with off-street parking.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design or construction because expanding the garage to supply conforming parking spaces would require the relocation of the retaining wall, a fair amount of excavation, and additional hardscape.
4. As conditioned, 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 28.3 (Additions), Design and Preservation Policy 29.1 (Conserving Residential Yards), and Design and Preservation Policy 29.7 (Driveway and Parking Location).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance permit application for the improvements at 288 Indian Road, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Approved Plan Set.** The approved plans are those submitted on December 1, 2017.
2. **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.
3. **C&D Compliance.** Compliance with Chapter 5 Article I of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project.
4. **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 Jajodia, Seconded by Behrens
Ayes: Behrens, Jajodia, Ode
Noes: Levine, Ramsey
Recused: None
Absent: Thiel

**Variance and Design
Review Permit
334 El Cerrito Avenue**

The Property Owner is requesting permission to excavate the front of the property and construct a two-car 381-square-foot garage, family room and roof terrace above, entrance porch with balcony above, and 112-square-foot staircase addition within the front street yard setback as well as 169 square feet of basement storage spaces and a 112-square-foot staircase addition (662 square feet of unconditioned space and 54.06 square feet of conditioned space, total), and including new retaining walls in the front street yard setback, exterior lighting, landscaping, and tree removal. The proposed project requires variances for construction in the front street yard setback and right (east) side yard setback and for FAR (floor area ratio) greater than 55 percent.

Written notice was provided to neighbors. **Three positive response forms and one negative response form** were received.

Public testimony was received from:

Katie Van Den Bos, Property Owner, reported parking on El Cerrito Avenue can be quite difficult because students and staff from nearby schools fill on-street parking spaces. The project would provide her family with a garage for parking and provide two additional on-street parking spaces for the public. All neighbors expressed overwhelming approval of the project, and 17 neighbors signed forms supporting the project.

Ahmad Mohazab, project architect, stated the subject lot is the smallest on the street. The project is compatible with the architecture of the house. In response to the neighbor's concerns regarding privacy and sound, the project includes landscaping to screen views and Eco-Grip flooring to dampen sound. He explored alternative roof slopes, but none is compatible with the architecture of the building. Raising a pitched roof will result in badly proportioned windows. The roof deck is located off two bedrooms and is not meant to be an entertainment area.

Tansy Robinson, project designer, advised that no component of the project is unique to the site. The lot is pie-shaped and contains less than 5,000 square feet. The Property Owner cannot park safely on the sloped driveway. A roof deck is more visually appealing than a roof. An articulated facade on the garage is more harmonious with the facades of the house. The garage will be raised 42 or 48 inches to match the level of the first floor of the house. The bay window in the family room, the door access to the roof deck, and the closet to the left of the family room cause the increase in FAR. An existing tree on the Van Den Bos property obscures light to the neighbor at 340 El Cerrito, and removing the tree will provide more light for the neighbor.

Guillermo Yanes landscape architect, explained that the front terrace is part of the architecture and history of the house. Vegetation around the terrace will be changed to frame the view of the City. The arbutus tree will be removed. Because of the amount of construction, trees at the front of the house may not survive or may survive but become a hazard after construction.

Paul Lettieri, neighbor at 340 El Cerrito, remarked that there is no compelling reason to allow an over-intensive use of the property. If the Commission allows the excess FAR, then his main concern is the roof deck. Use of the roof deck will create noise, which will invade his living room and bedroom. When indoors, he can hear people talking in the Van Den Bos back yard, which is further from his house than the roof deck. He expressed concerns about the 2-

foot extension from the family room, sufficient driveway length so that parked cars do not block the sidewalk, loss of the arbutus tree that provides dappled light and screening to his home, and exterior lighting shining into his home.

Generally the Commission did not support the project; although, Commissioners appreciated the attempt to provide conforming parking. The project will interfere with privacy, light, and to some extent views. Expanding the house on the small lot is not compatible with the neighborhood. The roof deck is not compatible with the neighborhood. Speech is audible in the neighbor's house. Dappled light is different from light blocked by a structure. The project would increase the already nonconforming FAR. The deck makes the garage appear boxy and more of a mass.

Resolution 341-V-17

WHEREAS, the Property Owner is requesting a variance for floor area ratio greater than 55 percent for construction located at 334 El Cerrito Avenue; and,

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the proposal does not comply with the variance criteria under Section 17.70.040 of the Piedmont City Code as follows:

1. The property and existing improvements present unusual physical circumstances of the property, so that strictly applying the terms of this chapter would not prevent the property from being used in the same manner as other conforming properties in the zone because a two-car garage and a family room can be constructed consistent with the neighborhood and without further increasing the nonconformity of the floor area ratio.
2. The project is not compatible with the immediately surrounding neighborhood and the public welfare because most homes in the neighborhood have covered garage parking and perhaps family rooms, but they do not necessarily exceed the floor area ratio.
3. Accomplishing the improvement without a variance would not cause unreasonable hardship in planning, design, or construction because modest changes in the proposed design could eliminate the need to further exceed the FAR nonconformity.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies without prejudice the floor area ratio variance application for the construction at 334 El Cerrito Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

Resolution 341-DR/V-17

WHEREAS, the Property Owner is requesting permission to excavate the front of the property and construct a two-car 381-square-foot garage, family room and roof terrace above, entrance porch with balcony above, and 112-square-foot

staircase addition with the front street yard setback, including new retaining walls in the front street yard setback, exterior lighting, landscaping, and tree removal, located at 334 El Cerrito Avenue, which construction requires a design review permit; and,

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary to construct within the street yard setback and the right (east) 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 not consistent with General Plan policies and programs; and,

WHEREAS, the Planning Commission finds that the proposal, as conditioned, does not comply with the design review criteria 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 scale and mass is not compatible because the house will be too large for the lot.
2. The design has a material negative effect on one neighboring property's existing views, privacy, and access to direct and indirect light because a screening tree will be removed; the proposed structure with roof deck will block light and views; and the roof deck will decrease privacy to the neighboring property.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project would add off-street parking and lower the grade of a steep driveway.
4. As conditioned, the application does not comply with the following Design Review Guidelines and General Plan policies and programs: II-1, II-2, II-5, and II-6 (*remodels*).
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 Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Policy 28.3 (Additions), Design and Preservation Policy 28.4 (Setback Consistency), Design and Preservation Policy 28.5 (Garages, Decks, and Porches), Design and Preservation Policy 28.8 (Acoustical and Visual Privacy), Design and Preservation Policy 29.4 (Maintaining Privacy), and Design and Preservation Policy 29.9 (Sight Obstructions).

WHEREAS, regarding the variances from the street yard and right (east) side yard setback requirements, the Planning Commission finds that the proposal does not comply with the variance criteria under Section 17.70.040 of the Piedmont City Code because there is no approved design for which variances from setback requirements are necessary.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies without prejudice the design review permit application and the application for variances from the street yard and

right (east) side yard setback requirements for the improvements at 334 El Cerrito Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

The Commission recessed for dinner at 6:34 p.m. and reconvened at 7:03 p.m.

**Design Review Permit
2 Somerset Road**

The Property Owner is requesting permission to construct a new upper-level addition consisting of 392 square feet of habitable space and a 162-square-foot deck. The proposed building modifications include window and door changes, new exterior lighting, and a new eave overhang on the north facade.

Written notice was provided to neighbors. **Four positive response forms, ten negative response forms and one response form indicating no position** were received. Correspondence was received from: Laura Ordonez, Alvina Patterson, Esther and Mark Rubke, Phillip Garrison, Joe and Sandy Todd, Kelly Barna, Caroline and Ned Isokawa, and Barbara Reding.

Public testimony was received from:

Jon Elvekrog, Property Owner, reported that the current proposal aligns with the modern design and incorporates the character and feel of the existing house. The concern about a tower appearance has been addressed by more fully integrating the addition into the design of the existing house. The gable roof now extends across the entire first floor, and unique materials and glazing strategies tie the addition to the main house. He and the designer explored alternative locations for the addition, but each alternative presented a challenge. Two neighbors continue to object to the project even though the addition was moved back 14 feet from the edge of the house, the footprint was reduced by more than 25 percent, and an offer to plant screening vegetation. He met with eight neighbors who support the project.

Brian Capsey, project designer, stated that he substantially reduced the scale of the project in response to concerns about bulk and moved the addition more than 30 feet away from the residence at 64 Crest Road. The home is located on a site with a view to the west, which can be captured without obstructing the views or privacy of neighboring properties. Alternative locations for the addition are infeasible due to height and daylight plane restrictions and would require significant and disruptive structural remodeling of the home. The existing eave line has been continued to break the massing into human-scaled components consistent with the existing architecture. The front facade has been further articulated through the use of color and materials. Proposed exterior materials tie the addition to the existing home by replacing the siding with panels. The style of the existing home is unique to the area. Comments of the addition appearing to be tacked on are addressed through breaking up the front facade. The three doors on the front elevation are different heights and sizes because they follow the roof slope. Pushing the addition back from the front is restricted by the location of the stairwell. The eaves and beams are deliberately different to reflect the modern approach. A high ceiling and different roof slope is a means to focus the addition to the west.

Ned Isokawa, 11 Somerset neighbor, opposed the project. There is no evidence that design alternatives are not feasible. The applicant has not diminished any desirable feature of the house in an attempt to accommodate design. The applicant should employ a licensed architect to design the project.

Barbara Reding, 64 Crest Road neighbor, opposed the addition because only minor modifications were made to the project, the appearance of the eave, the siding, unbalanced massing, and a tacked-on appearance. The proposed industrial outdoor light fixtures will shine into her bedrooms. The homeowners will not plant screening trees because trees will obstruct the view of the Bay.

Lauren Westreich, 115 Lexford Road neighbor, supported the project. Homeowners should be allowed to do interesting things to their homes. She may be able to see the addition from her home which is located to the rear of the applicants' property.

Allison Elvekrog, Property Owner, advised that a licensed engineer had inspected the existing home and stated that because of the vaulted ceiling and two stories at the rear of the house, an addition cannot be located behind the family room and kitchen without demolishing the existing structure to construct a new foundation.

Commissioners Jajodia and Levine and Chair Ramsey generally supported the design. The project has been reduced in bulk and massing. Acoustical privacy is not an issue because of the existing deck on the same side of the house. Continuing the existing eave line and breaking up the massing solidifies the form of the existing house and mitigates the appearance of a tower. The different beams at the eaves integrate details from the existing house with the addition while celebrating the addition. Perhaps the doors could have some relationship between the addition and the existing house. Further modifications may not be possible given neighbors' concerns and the structure of the house. Chair Ramsey preferred that the proposed doors on the front facade have some relationship to the windows above to comply with the Design Guidelines.

Commissioners Ode and Behrens did not support the project as very few modifications had been made to the design since the last hearing. Scale, mass, and siting are incompatible with existing residences. The addition continues to appear tacked on. Commissioner Ode and Commissioner Behrens disagreed as to whether the new material accentuated the tacked-on appearance.

Resolution 369-DR-17

WHEREAS, the Property Owner is requesting permission to construct a new upper-level addition consisting of 392 square feet of habitable space and a 162-square-foot deck, with proposed building modifications to include window and door changes, new exterior lighting, and a new eave overhang on the north facade, located at 2 Somerset Road, which construction requires a design review permit; and,

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

less than 50 percent of the floor area of the structure before the addition or 2,500 square feet, whichever is less, and the project is consistent with General Plan policies and programs, and 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 surrounding neighborhood development: the design of the roof deck, the roof form and material, the wall material, the window and door material and fenestration pattern as conditioned, the eave overhang dimension, and the guardrail material.
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.
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 and General Plan policies and programs: II-1, II-2, II-3, 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) (*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 28.2 (Style Compatibility), Design and Preservation Policy 28.3 (Additions), Design and Preservation Policy 28.6 (Exterior Materials), Design and Preservation Policy 28.8 (Acoustical and Visual Privacy), and Preservation Policy 29.8 (Exterior Lighting).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for the improvements at 2 Somerset 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 fiberglass.
2. **Window Color Scheme.** All the windows on the house shall have a consistent color scheme.
3. **Roof.** The proposed roof shall be match the roof atop the remainder of the house in color and material.
4. **Exterior Lighting.** Prior to issuance of a building permit, all new exterior light fixtures shall be downward directed with an opaque or translucent shade that completely covers the light source. The light fixture shall be subject to staff review and approval prior to issuance of a building permit.
5. **C&D Compliance.** Compliance with Chapter 5 Article I of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project.

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

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

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

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

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

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

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

11. The relationship of both existing and new fenestrations on the front elevation shall be consistent and subject to staff review and approval.

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

**Variance and Design
Review Permit
15 Bonita Avenue**

The Property Owner is requesting permission to construct a new hip roof on the existing garage in the front, left (east) corner of the lot, and to modify previously approved design review permits to include installing a solar water heater at the top of the trellis in the pool area of the rear yard, removing the previously approved trellis on the rear (southwest) deck, constructing a new roof above the deck, and modifying windows and doors throughout. Two variances are required in order to construct within the street yard setback and left side yard setback.

Written notice was provided to neighbors. **Two positive response forms and no negative response forms** were received.

Public testimony was received from:

Jeff Schwartz, project contractor, reported the Property Owner wishes to change the existing garage's flat roof to a hip-roof and the proposed trellis over the back deck to a roof and to install a solar water heater on top of the existing trellis in the pool area. In response to Chair Ramsey's comments regarding the need for better plans and more details regarding replacing the trellis with a roof, Mr. Schwartz on behalf of the Property Owner agreed to submit a separate application for substituting a roof for the trellis over the back deck. The Property Owner has not considered an acrylic roof for the deck because they want a solid roof to match the existing roof. Temporary supports for the overhang are in place because interior support has been removed. The supports will be removed. Design elements will be incorporated into the proposed roof.

In reply to Commissioner Behrens' question, Director Jackson advised that the garage roof project requires that notices be sent to residences within 200 feet of the property because it requires two setback variances.

The Commission generally supported the proposed project with the exception of changing the proposed trellis to a roof. A hip-roof on the garage will better match the roof on the existing house and be consistent with the architectural style of the house. No neighbors have objected to the project. Installation of a solar water heater in a historical house is good.

Resolution 374-V/DR-17

WHEREAS, the Property Owner is requesting permission to construct a new hip roof on the existing garage in the front, left (east) corner of the lot, and to modify previously approved design review permits to include installing a solar water heater at the top of the trellis in the pool area of the rear yard and modifying windows and doors throughout, located at 15 Bonita Avenue, Piedmont, which construction requires a design review permit; and,

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary to construct within the street yard setback and 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, which is less than 50 percent of the floor area of the structure before the addition, and the project is consistent with General Plan policies and procedures; and,

WHEREAS, the variances from the street yard setback and left side yard setback are approved because they comply with the variance criteria under Section 17.70.040 as follows:

1. The property and existing improvements present unusual physical circumstances of the property, including the garage is built within the setbacks and the lot is shaped such that it makes construction of a new garage outside the setbacks difficult, and the roof of the garage is an improvement to the current roof in terms of the appearance and does not encroach further into the setback so that strictly applying the terms of this chapter would prevent 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 garage is constructed at similar setbacks to other garages in the neighborhood.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because the roof of the garage would need to be modified to avoid pooling water.

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 roof form proposed for the garage, the roof material, the window and door material and fenestration pattern, and the eave overhang dimension.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the distance between the project and neighboring homes is appropriate.
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 applicant complies with the following Design Review Guidelines and General Plan policies and programs: II-1, II-2, II-3, II-3(a), II-3(b), II-3(c), II-3(d), II-4, II-5, II-6, II-7 (*remodels*), III-1, III-1(a), III-2, III-2(a), III-3, III-4, III-5, III-7, and 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 Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Policy 28.3 (Additions), Design and Preservation Policy 28.5 (Garages, Decks, and Porches), and Design and Preservation Policy 28.6 (Exterior Materials).

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 addition at 15 Bonita Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Window Material.** As specified in the plans, the building material for the new windows shall be fibrex.
2. **Window Color Scheme.** All the windows on the house shall have a consistent color scheme.
3. **Divided Lights.** All divided lights shall be true or 3 dimensional divided lights.
4. **Exterior Lighting.** All new exterior light fixtures shall be downward directed with an opaque or translucent shade that completely covers the light bulb.
5. **C&D Compliance.** Compliance with Chapter 5 Article I of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project.
6. **Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.

7. **Setback from Property Line Verification.** At the Building Official's discretion, prior to frame inspection, the applicant shall submit to the Building Official written verification by a licensed land surveyor stating that the construction is located at the setback dimension from the east and south property lines as shown on the approved plans. The intent is to verify that the approved features are constructed at the approved dimension from the property lines.

8. **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.

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

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

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

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

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

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

Resolution 374-DR-17

WHEREAS, the Property Owner is requesting permission to modify previously approved design review permits to remove the previously approved trellis on the rear (southwest) deck and construct a new roof above the deck, located at 15 Bonita Avenue, 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 is a minor change to an existing private residence which is less than 50 percent of the floor area of the structure before the change, and the project is not consistent with General Plan policies and programs, and that the proposal, as conditioned, 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 following building features are not consistent with the original architecture and neighborhood development: roof form and roof material.
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.
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 does not comply with the following guidelines: II-3, II-3(a), and II-3(b) (*remodels*).

5. The project is not consistent with General Plan policies and programs, including: Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility) and Design and Preservation Element Policy 28.6 (Exterior Materials).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies the design review permit application for the proposed changes at 15 Bonita Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

**Variance and Design
Review Permit
133 Lake Avenue**

The Property Owner is requesting permission to construct a new addition to the rear (northwest) side of the existing residence, consisting of a new master bedroom and a new covered outdoor room; to build a roof over the new bedroom addition with shingles and slope to match the existing roofing; to add new windows and doors as part of the new addition; to extend the existing garage into the basement area to create a two-car tandem parking space; to make changes to the landscape and hardscape in the rear (northwest) yard including removing the existing covered patio, shed, wood deck, steps, pavers, and other interior changes. A variance to the parking requirements is required in order to add the third bedroom without supplying a second conforming parking space.

Written notice was provided to neighbors. **Three positive response forms and one negative response form** were received.

Public testimony was received from:

Alok Surana, Property Owner, wished to increase the size of the house to accommodate his growing family. The layout of the house prevents building two conforming parking spaces, but tandem parking spaces are possible. Many houses in the neighborhood have only one-car garages.

Tiffany Redding, architect, reported the lot is quite small. The addition will not require a variance for floor area ratio. The existing one-car garage can be expanded into the basement to provide tandem parking. The addition will be inconspicuous at the rear of the property and will improve the property by removing the ramshackle patio and shed. Materials and the roofline of the addition will be compatible with the existing architecture. Proposed windows at the rear of the property attempt to meet egress requirements and take advantage of the vaulted roof. The proposed outdoor room will have a slightly different identity from the existing roofline. The previous addition makes building another eave on top complicated.

Director Jackson explained that the project does not meet the criteria for an exception to the parking requirements provided in City Code Section 17.30.010.B.3 since the project includes an additional nonconforming tandem parking space and that a variance from the parking requirements is needed

because the application proposes an additional bedroom without supplying the required number of conforming parking spaces.

Commissioners supported the project and appreciated the applicant's efforts to provide off-street parking as street parking is difficult on Lake Avenue. The project is compatible with the neighborhood, and side-by-side parking would diminish the character of the historic house and street.

Resolution 393-V/DR-17

WHEREAS, the Property Owner is requesting permission to build a new addition to the rear (northwest) side of the existing residence consisting of a new master bedroom and a new covered outdoor room; to build a roof over the new bedroom addition with shingles and slope to match the existing roofing; to add new windows and doors as part of the new addition; to extend the existing garage into the basement area to create a two-car tandem parking space; to make changes to the landscape and hardscape in the rear (northwest) yard including removing the existing covered patio, shed, wood deck, steps, pavers, and other interior changes, located at 133 Lake Avenue, 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 third bedroom without providing conforming parking spaces; and,

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e), Existing Facilities, because it is a minor change to an existing private residence which is less than 50 percent of the floor area of the structure before the addition and the proposed project is consistent with General Plan programs and policies; 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 small and a garage cannot be added without demolishing the house so that strictly applying the terms of this chapter would prevent the property from being used in the same manner as other conforming properties in the zone as demonstrated by the survey of house use comparing bedrooms and parking.
2. The project is compatible with the immediately surrounding neighborhood and public welfare because a majority of the neighboring properties have garages located close to the street, a majority of neighboring properties have no more than a one-car garage, the majority of neighboring properties are located in the front setback, and most homes in the neighborhood are similar in size.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because the house would need to be demolished in order to supply a conforming two-car garage and expanding the garage to supply conforming parking spaces would require relocation of the retaining wall.

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 house maintains the stucco walls and asphalt roof shingles, the window and door material will be white clad or fiberglass windows.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the view is not significant and 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. As conditioned, the application complies with the following guidelines and General Plan policies and programs: Design Review 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-7, and II-7(a) (*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 28.6 (Exterior Materials), Design and Preservation Element Policy 28.8 (Acoustical and Visual Privacy), Design and Preservation Element Policy 29.7 (Driveway and Parking Location), and Transportation Element Policy 11.3 (Parking Lot Design).

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 construction at 133 Lake Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Approved Plan Set.** The approved plans are those submitted on December 21, 2017 after notices to neighbors were mailed and the application was available for public review.
2. **Window and Door Material.** As specified in the plans, the building material for the new windows and doors shall be white clad or fiberglass.
3. **Window Color Scheme.** All the windows on the house shall have a consistent color scheme.
4. **Roof Color.** The proposed low slope roof for the proposed covered outdoor room shall be a non-reflective medium or dark color to minimize the visual impact on upslope properties.

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

6. **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. **Notice of Restricted Use.** The basement room/space does not meet habitation or safety requirements of the Piedmont Municipal Code. A notice of restricted use shall be recorded with the Alameda County Recorder's office advising current and future owners that the space does not meet the safety codes for habitation purposes.

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

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

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

a. The Construction Completion Schedule with associated construction values for each benchmark shall set forth completion dates for the following benchmarks as needed: i) Completion of Excavation; ii) Completion of Retaining Walls; iii) Completion of Foundation; iv) Completion of Rough

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

Moved by Ode, Seconded by 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 8:37 p.m.