

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, October 9, 2017

A Regular Session of the Piedmont Planning Commission was held October 9, 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 September 25, 2017, and a revised agenda was posted for public inspection on October 9, 2017.

CALL TO ORDER

Vice Chairwoman Jajodia called the meeting to order at 5:00 p.m. She announced that the design review application for 319 El Cerrito Avenue has been removed from tonight's consideration at the applicant's request.

ROLL CALL

Present: Commissioners Eric Behrens, Aradhana Jajodia, Susan Ode, Jonathan Levine and Alternate Commissioner Clark Thiel

Absent: Chairman Tom Ramsey

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

City Council Liaison: Councilmember Jennifer Cavanaugh

PUBLIC FORUM

Dimitri Magganas briefly reported on the City Council's October 2, 2017, very informative and well-attended meeting regarding proposed cell tower locations within Piedmont.

APPROVAL OF MINUTES

Resolution 24-PL-17

RESOLVED, that the Planning Commission approves as submitted its meeting minutes of September 11, 2017.

Moved by Ode, Seconded by Thiel

Ayes: Ode, Levine, Thiel

Noes: None

Abstain: Behrens, Jajodia

Absent: Ramsey

CONSENT CALENDAR

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

- 480 Mountain Avenue (Design Review Permit)
- 220 Estates Drive (Retaining Wall Design Review Permit)

Resolution 20-PL-17

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

Moved by Thiel, Seconded by Levine

Ayes: Behrens, Jajodia, Levine, Ode, Thiel

Noes: None

Recused: None

Absent: Ramsey

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

Design Review Permit

Resolution 293-DR-17

480 Mountain Avenue

WHEREAS, the property owner is requesting permission to modify the roofline on the rear (north) side of the house by extending the roof over the sunroom; to construct a 28-square-foot addition; to make various changes to the interior; to install new skylights; to make windows and door modifications to the front (south), left (west) and right (east) sides of the house; and to make modifications to the front yard by adding a retaining wall, building on-grade stairs, modifying gravel and concrete paths, and adding a new railing and paving to the existing terrace located at 480 Mountain Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to 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, as conditioned, the proposal conforms with 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 Review Guidelines in that the following building features are consistent with the original architecture and neighborhood development in terms of wall material, roof form, roof material, window and door materials and fenestration pattern, eave overhang dimension and guardrail material.
2. The design has little or no effect on neighboring properties' existing views, privacy and access to direct and indirect light because (i) the distance between the project and neighboring homes is appropriate; (ii) the view is not considered a significant view; (iii) there is sufficient vegetative screening; (iv) the topographical differences are appropriate to preserve privacy, views and light; and (v) 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 there is 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-6, II-6(a), II-6(b), II-6(c), II-7, II-7(a) (*remodels*) IV-1, IV-1(a), IV-1(b), IV-2, IV-2(a), IV-3, IV-3(a), IV-4, IV-4(a), IV-5, IV-5(a), IV-6 (*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 Policies 28.1 (Scale, Height and Bulk Compatibility), 28.3 (Additions), 28.5 (Garages, Decks and Porches), 28.6 (Exterior Materials), 28.8 (Acoustical and Visual Privacy), 28.11 (Design Review), 29.1 (Conserving Residential Yards), 29.2 (Landscape Design) and 29.6 (Retaining Walls)

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for construction at 480 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 shall be metal-clad wood or aluminum, the garage door shall be steel, and sliding door shall be aluminum.
2. **Window Color Scheme.** All the windows on the house shall have a consistent color scheme.
3. **Exterior Lighting.** All new exterior light fixtures shall be downward directed with an opaque or translucent shade that completely covers the light bulb.
4. **Garage Door.** The garage door shall be motorized. If design modifications are required to accomplish this, those modifications shall be subject to staff review.
5. **Final Landscape Plan.** Before issuance of a building permit, the Property Owner shall submit for staff review and approval a Final Landscape Plan for the front yard. 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. **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. **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.

10. **Roof Color.** The proposed metal roof shall be a non-reflective medium or dark color to minimize the visual impact on upslope properties. The color shall be subject to staff review and approval.

Moved by Ode, Seconded by Behrens

Ayes: Behrens, Jajodia, Levine, Ode, Thiel

Noes: None

Absent: Ramsey

**Retaining Wall
Design Review Permit
220 Estates Drive**

Resolution 297-DR-17

WHEREAS, the property owner is requesting permission to construct an 8-foot tall steel post and wood lagged catchment/retaining wall at the rear of the property along Park Boulevard, as part of a City requirement to inhibit soil and rock eroding from the hillside from entering the public right-of-way along Park Boulevard located at 220 Estates Drive, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after

having visited subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e) and, as conditioned, the proposal conforms with 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 Review Guidelines in that the following building features are consistent with the original architecture and neighborhood development in terms of wall 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: IV-1, IV-1(a), IV-1(b), IV-2, IV-2(a), IV-3, IV-3(a), IV-4, IV-4(a), IV-5, IV-5(a), IV-6 (*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 29.6 (Retaining Walls: Scale, Height and Bulk Compatibility)

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application for construction at 220 Estates Drive, 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. **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. **Construction Completion Schedule. Construction Completion Schedule.** Work on the Project, once begun, shall be promptly executed with continuous good faith and reasonable progress. Since timely completion of this

Project is of the essence, the Property Owner shall submit for approval a Construction Completion Schedule, which will specify, in detail, the duration and percentage complete of each phase.

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

b. Before the Project begins, the Director of Public Works shall make a determination as to the reasonableness of the proposed completion dates applicable to the Project, and that determination shall constitute the "Approved Schedule" and be binding on the Property Owner. The City may, at the Property Owner's sole cost, engage the services of a consultant to review the Property Owner's proposed Construction Completion Schedule and, to the extent the period allocated for any work appears unjustifiable, recommend to the Director of Public Works a reasonable completion date for any benchmark.

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

Moved by Behrens, Seconded by Ode

Ayes: Behrens, Jajodia, Levine, Ode, Thiel

Noes: None

Absent: Ramsey

REGULAR CALENDAR

The Commission considered the following items of regular business:

Design Review Permit 2 Somerset Road

An application for design review permit has been submitted by the property owner of 2 Somerset Road. The application proposes the construction of a new upper level addition consisting of 392-square feet of habitable space and a 162 square foot deck. Proposed building modifications include window and door changes, new exterior lighting, and a new awning on the north façade.

A similar application for construction of a 531 square-foot second story addition with a 96 square-foot deck was heard by the Planning Commission on July 10, 2017. The Commission unanimously denied, without prejudice, project approval, citing the addition's placement at the front, right corner of the house, its resulting bulk and proportions, its tacked-on appearance, and its incompatibility with the existing architecture.

Written notice was provided to neighbors. **Two affirmative and six negative response forms** were received. **Correspondence** was received from: Ned & Caroline Isokawa; Barbara Reding

Public testimony was received from:

Jon Elvekrog spoke in support of his proposed project, stating that the improvements are designed to improve the livability of the home for his family and visiting relatives as well as capture the panoramic view of the Bay and San Francisco afforded by the property. He felt that the current redesign was responsive to the concerns and requests raised by the Commission and neighbors at the July 10th meeting. In response to Commission questioning, he reviewed three alternative locations for the expansion which were considered but ultimately rejected for reasons of (i) incompatibility with the home's existing floorplan and circulation flow, (ii) the creation of an undesirable tacked-on appearance to the detriment of the home's original mid-century architecture and ambience, (iii) would necessitate a variance from the City's building height limit; (iv) loss of a mature oak tree; and/or (v) increased shadowing on neighboring property.

Brian Capsey, Project Designer, highlighted the changes made to the previous submittal intended to reduce its front massing and overall bulk, improve the addition's balance and proportion with the existing home and minimize any adverse impact on neighbor privacy, views and light.

Barbara Reding reiterated her continued opposition to the proposed second story addition, noting that the redesign retains the proposed addition in exactly the same location as originally proposed -- just slightly rotated -- and with a much larger deck directly facing her property. She urged project denial, citing the project's towering, tacked-on appearance, its pop-up roof line, its failure to integrate with and compliment other mid-century homes in the neighborhood and the deck's adverse impact on her visual and acoustical privacy.

Caroline & Ned Isokawa also strongly opposed project approval, stating that the proposed addition is inconsistent with the home's original architecture in terms of roof line and location and its massive deck which overlooks both Somerset and Crest Road creates a very undesirable and prominent visual and acoustical intrusion on the neighborhood. Mr. Isokawa also felt that the project's story poles were not in compliance with the City's Story Pole Policy in that they failed to adequately represent the true bulk and massing of the proposed project.

Upon the request of the Commission, Director Jackson reviewed the standards of the City's Story Pole Policy, stating that the Policy requires the story poles to represent the walls and roof form, but not eave overhangs. He noted that the story poles for this project were verified by a licensed land surveyor as required by the Policy, and that although two corners were not portrayed by story poles, these are interior corners, and thus the story poles portray a greater mass than that being proposed in the plans. Mr. Jackson informed the Commission that if they felt they were unable to adequately review the project due to the way the story poles were constructed, they might consider continuing the consideration of this application to a later hearing so that the applicant could construct story poles with corrections provided by the Commission. All of the commissioners indicated they felt the story poles were constructed adequately and did not need to be corrected.

The Commission was divided in its support of the redesign, with Commissioners Levine and Jajodia believing that the current proposal was responsive to the Commission's July requests in terms of reducing bulk and massing and minimizing impact on neighbor view, light and privacy. They noted that just

because the existing home is a single-story, mid-century design, this fact does not in itself preclude the possibility that a second story can be added to the home. Commissioner Thiel agreed that a second story addition on the property could be successfully constructed but that the current design was unacceptable because of its "tacked-on" appearance. He felt that alternative second story locations/designs exist that would lessen visual impact and maintain the low-slung architectural lines of the existing home. The remaining Commissioners concurred with Commissioner Thiel, believing that the redesigned proposal still results in an undesirable tacked-on appearance to the property.

Resolution 292-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. The proposed building modifications include window and door changes, new exterior lighting, and a new awning on the north façade located at 2 Somerset Road, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission finds that the proposal does not conform with 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 Review Guidelines in that the building features are not consistent with the original architecture and neighborhood development in terms of: (i) its scale, mass and siting incompatibility with existing residences along the streets on which it fronts; (ii) its vertical inconsistency with the existing home's low-slung, horizontal design -- the shed roof geometry does not match that of the home's existing low-slung design; (iii) a tacked-on appearance caused by the addition being perched atop a central, prominent location without being architecturally incorporated as a coherent part of the existing home; (iv) its lack of integration in terms of roof lines and cubed massing with the existing home's architecture; (v) the project's failure to integrate into the 3-dimensional form and proportional relationship of the existing home; and (vi) the proposed deck's failure to replicate or follow the home's existing deck and guardrail design.
2. While the light, views and privacy of neighbors would not be adversely impacted by the construction of a second story addition on this property, the current design is not acceptable for the reasons cited above.
3. The proposed construction fails to comply with the following Design Review Guidelines: II-1, II-2, II-3, II-3(a), II-3(b), II-3(c), II-3(d) and II-6.
4. The project is not consistent with General Plan policies and programs, including Design and Preservation Element Policies 28.2 (Style Compatibility) and 28.3 (Additions).

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

Moved by Thiel, Seconded by Ode

Ayes: Behrens, Ode, Thiel

Noes: Jajodia, Levine
Absent: Ramsey

**Variance and Design
Review Permit
219 Sunnyside Avenue**

An application for a design review permit has been submitted by the property owner of 219 Sunnyside Avenue. The application proposes to demolish the existing garage on the east corner of the lot and to construct a new two-story structure with a two-car garage on the lower level and habitable space and covered porch above. The proposal includes modifications to retaining walls at the front (north) of the lot and to the rear of the proposed two-story structure, and modifications to hardscape and exterior lighting. A variance from City Code Section 17.20.040 is required in order to construct within the street yard setback.

Written notice was provided to neighbors. **Three affirmative, one negative response forms** were received. **Correspondence** was received from: Anna Mantell; Michael & Elinor Heller

Public testimony was received from:

Scott Sanborn stated that the intent of his project is to improve the safety, usability and aesthetics of his 1892 farmhouse by rebuilding deteriorating retaining walls, adding more livable space for visiting grandparents, constructing a conforming 2-car garage and relandscaping the entire area. He stressed that the project design was developed with neighbor input to minimize impacts.

April Gruber, Project Designer, described the existing condition of the property and the design elements of the proposal intended to minimize neighbor privacy intrusions, maintain architectural compatibility with the existing home, improve pedestrian access and safety at the sidewalk and increase on-street parking. She noted that the driveway curb-cut is 20 ft., adding that the curb cuts for the two adjacent side properties are 21 and 20 ft., respectively.

David Throne, Project Landscape Architect, submitted a rendering of the proposed retaining wall, noting that a planting strip will be created along the street-side frontage to soften/screen the wall's appearance and that the wall's exterior will have a stucco finish and stone columns to compliment the historical ambience of the property.

Michael Heller opposed the project as currently sited on the lot, citing a loss of street-parking and vegetation. He requested that the maximum width of the driveway be reduced to 18 feet.

The Commission supported project approval, agreeing that variance approval was justified because of the lot's steep topography. Relocating the garage/second story structure out of the front setback would necessitate the construction of a series of additional, large retaining walls to the detriment of both the property and neighborhood and the proposed stepped back location of the second story is consistent with other second stories in the neighborhood. As to design, the Commission agreed that the proposed improvements were elegant in appearance and nicely articulated with the existing home, imposed no view or privacy impacts on neighbors, improved off-street parking for the applicant, enhanced on-street parking for neighbors and benefitted the public by improving sidewalk access and pedestrian safety.

Resolution 294-V/DR-17

WHEREAS, the property owner is requesting permission to demolish the existing garage on the east corner of the lot and to construct a new two-story structure with a two-car garage on the lower level and habitable space and covered porch above. The proposal includes modifications to retaining walls at the front (north) of the lot and to the rear of the proposed two-story structure, and modifications to hardscape and exterior lighting located at 219 Sunnyside Avenue, Piedmont, California, which construction requires variance and design review to construct within the street 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 subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to 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, as conditioned, the proposal conforms with the criteria and standards of Sections 17.70.040 and 17.66.060 of the Piedmont City Code as follows:

1. The property and existing improvements present unusual physical circumstances in that the lot has unusually steep topography at the street making a driveway difficult to construct without large retaining walls and significant excavation, 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. There are a number of garages and two-story structures within the street-side setback, including neighbors on both adjoining properties.
2. The project is compatible with the immediately surrounding neighborhood and public welfare because a majority of neighboring properties, including both adjoining properties, have garages and structures located at the street. A majority of the properties have structures within the street setback. The scale of the garage structure is similar to other structures in the immediately surrounding neighborhood, particularly since it is setback 6 feet from the curb and an additional 3 feet for the second story.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design or construction because of the steep topography of the site, building anything outside the setback would require significant excavation and significant retaining walls which the neighborhood would not benefit from.
4. The proposed design is consistent with the City's General Plan and Piedmont Design Review Guidelines in that the following building features are consistent with the original architecture and neighborhood development including the wall materials, decorative elements, second floor setback, roof form and material and window and door material and fenestration pattern. The overall design of the project is consistent with the main house and neighboring properties along the street.
5. The design has little or no effect on neighboring properties' existing views, privacy and access to direct and indirect light because (i) the distance between the project and neighboring homes is appropriate; (ii) there is sufficient vegetative screening; (iii) the topographical differences are appropriate to preserve privacy, views and light; and (iv) the proposed location has been

moved further away from the neighbor than necessary in order to minimize impact on this neighbor.

6. The proposed design does not adversely affect pedestrian or vehicular safety because the project creates two-conforming parking spaces on the property in place of the existing two non-conforming parking spots. It has no impact on existing on-street parking since the curb-cut is only two feet greater than what currently exists and on-street parking availability will be improved because of the creation of on-site conforming parking. The project may improve pedestrian safety since the collapsing retaining wall at the sidewalk will be fixed.

7. 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*) 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*) IV-1, IV-1(a), IV-1(b), IV-2, IV-2(a), IV-3, IV-3(a), IV-4, IV-4(a), IV-5, IV-5(a), IV-6 (*retaining walls*)

8. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policies: 29.7 (Driveway and Parking Location), 28.11 (Design Review), 28.8 (Acoustical and Visual Privacy), 28.6 (Exterior Materials), 28.5 (Garages, Decks and Porches), 28.4 (Setback Consistency) and 28.1 (Scale, Height and Bulk Compatibility)

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review and variance application for construction at 219 Sunnyside 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 site plans are those submitted on September 27, 2017, after notices to neighbors were mailed and the application was available for public review.
2. **Window and Door Material.** As specified in the plans, the building material for the new windows and doors shall be wood or fiberglass clad wood.
3. **Window Color Scheme.** All the windows on the house shall have a consistent color scheme.
4. **Skylight Flashing.** The metal flashing around the new skylights shall be painted to match the adjacent roof color.
5. **Roof Color.** The proposed flat roofs and standing seam metal roof shall be a non-reflective medium or dark color to minimize the visual impact on upslope properties. The color shall be subject to staff review and approval.
6. **Exterior Lighting.** All new exterior light fixtures shall be downward directed with an opaque or translucent shade that completely covers the light bulb.
7. **Garage Door.** The garage door shall be motorized. If design modifications are required to accomplish this, those modifications shall be subject to staff review and approval.

8. **Environmental Hazards.** Prior to the issuance of a building permit as required by the Chief Building Official, the applicant shall provide a plan, including necessary testing, to verify compliance with all local, state and federal regulations regarding the disturbance and removal of hazardous materials (if any) on residential properties and/or in the proximity of schools, including lead-based paint and asbestos. Said plan for the proper removal and handling of hazardous materials shall be provided on the appropriate sheets of the construction plan sets and included in the Construction Management Plan.

9. **BAAQMD Compliance.** The applicant shall comply with the Bay Area Air Quality Management District regulations related to any building demolition. The Demolition Notification form is available on their website at www.BAAQMD.gov/forms.

10. **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.

11. **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.

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

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

14. **Street Tree Replacement.** In order to mitigate the removal of a City-owned street tree within the street right-of-way resulting from the creation of a new driveway and curb cut, the applicants shall cover the full cost of labor and materials for the removal of the existing street tree and the installation of a new street tree, which shall be carried out by the City or its contractor(s). Accordingly and prior to the issuance of a building permit, the applicants shall submit an initial tree replacement payment in the amount of \$750, with any further payments necessary to cover costs in excess of \$750 to be submitted prior to the scheduling of a final inspection. The location, size and species of the replacement street tree shall be determined by the Director of Public Works or his designee.

15. **Final Landscape Plan.** Before issuance of a building permit, the Property Owner shall submit for staff review and approval a Final Landscape Plan that shows trees proposed for retention. The final plan shall comply with Municipal

Code Section 17.34, shall include areas of the lot affected by the project, 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. The plan shall also include a planted toe-strip, with irrigation, at the base of the retaining wall subject to staff approval.

16. Foundation/Shoring/Excavation Plan. At the option of the Building Official, the Property Owner shall submit foundation, excavation, and shoring plans prepared by a licensed civil or structural engineer that fully address issues of site shoring, fencing and hillside security issues. The plans shall not require any trespassing or intruding into neighboring properties (without prior written consent), and shall mitigate against any subsidence or other damage to neighboring properties. Such plans shall incorporate 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.

17. 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.

18. 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.

19. **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.

20. **Curb-Cut.** The curb-cut for the driveway serving the new garage shall not exceed 20 feet.

Moved by Levine, Seconded by Ode

Ayes: Behrens, Jajodia, Levine, Ode, Thiel

Noes: None

Absent: Ramsey

ADJOURNMENT

There being no further business, Vice Chairwoman Jajodia adjourned the meeting at 6:43 p.m.

