

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, August 13, 2018

A Regular Session of the Piedmont Planning Commission was held August 13, 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 July 30, 2018.

CALL TO ORDER

Vice Chair Levine called the meeting to order at 5:00 p.m.

ROLL CALL

Present: Commissioners Allison Alessio, Jonathan Levine, and Tom Ramsey and Alternate Commissioner Yildiz Duransoy

Absent: Commissioner Eric Behrens

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

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 25-PL-18

RESOLVED, that the Planning Commission approves as presented its meeting minutes of the July 9, 2018, regular hearing of the Planning Commission.

Moved by Ramsey, Seconded by Duransoy

Ayes: Alessio, Duransoy, Levine, Ramsey

Noes: None

Recused: None

Absent: Behrens

CONSENT CALENDAR

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

- 2 Keefer Court (Fence Design Review Permit),
- 778 Kingston Avenue (Fence Design Review Permit),
- 5 Requa Place (Fence Design Review Permit),
- 288 St. James Avenue (Fence Design Review Permit), and
- 1345 Grand Avenue (Conditional Use Permit).

Resolution 26-PL-18

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

Moved by Alessio, Seconded by Ramsey

Ayes: Alessio, Duransoy, Levine, Ramsey

Noes: None

Recused: None

Absent: Behrens

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

Fence Design Review Permit

Resolution 145-FDR-18

WHEREAS, the Property Owner is requesting permission to relocate 40 feet of

2 Keefer Court

a 6-foot tall, grape stake fence along the left (southwest) property line in the street side setback and to complete other related site changes located at 2 Keefer Court, which construction requires a 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), 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 neighborhood development: the fence material and style, the fence height, and the fence location.
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 fence and neighboring homes is appropriate; there is sufficient vegetative screening; and the fence replaces an existing fence in a like manner.
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: V-1, V-2, V-4, V-5, V-5(a), V-5(b), V-7, V-8, V-11 (*fences*).
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 29.2 (Landscape Design), Design and Preservation Policy 29.5 (Fence and Wall Design), Design and Preservation Policy 29.9 (Sight Obstructions), Transportation Policy 12.2 (Maintaining Sight Lines).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the fence design review permit application for the improvements at 2 Keefer Court, 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. **Fence Height.** The fence shall be a maximum of six feet high as measured from the lowest adjacent grade.

3. **Setback from Property Line Verification.** Prior to footing inspection, the applicant shall submit to the Building Official written verification by a licensed land surveyor stating that the construction is located completely on the applicant's property.

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

Moved by Ramsey, seconded by Duransoy
Ayes: Alessio, Duransoy, Levine, Ramsey
Noes: None
Recused: None
Absent: Behrens

**Fence Design Review
Permit
778 Kingston Avenue**

Resolution 199-FDR-18

WHEREAS, the Property Owner is requesting permission to replace the existing fence in the front yard with one of lower height to match the design and materials of the existing fence in the rear yard; the proposed fence is located in the 20-foot street setback located at 778 Kingston Avenue, which construction requires a 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 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 fence material matches the existing fence in the backyard; the design is more visually penetrable because it's a lower fence; and the location of the fence is being moved outside the City's right-of-way.

2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the distance between the project and neighboring homes is appropriate, and the height of the project has

been kept as low as possible by reducing the existing height from 6 feet to 3 feet.

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 location.

4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: V-1, V-2, V-3, V-5, V-6, V-7, V-8, V-9, V-11 (*fences*).

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 28.4 (Setback Consistency), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 29.2 (Landscape Design), Design and Preservation Element Policy 29.3 (Front Yard Enclosures), Design and Preservation Element Policy 29.5 (Fence and Wall Design), Design and Preservation Element Policy 29.9 (Sight Obstructions).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the fence design review permit application for the improvements at 778 Kingston Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **C&D Compliance.** Compliance with Section 9.04 of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project.

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

3. **Setback from Property Line Verification/Fence Location Agreement:** At the discretion of the Building Official and 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 on the applicants' property. The intent is to verify that the approved features are constructed within the property at 778 Kingston Avenue. In lieu of a survey, and at the discretion of the Building Official, the applicant shall submit to the Building Official a fence location agreement, signed by the applicant and the property owner at 776 Kingston Avenue.

Moved by Levine, Seconded by Ramsey
Ayes: Alessio, Duransoy, Levine, Ramsey
Noes: None
Recused: None
Absent: Behrens

**Fence Design Review
Permit
5 Requa Place**

Resolution 200-FDR-18

WHEREAS, the Property Owner is requesting permission to replace two wooden fences with new brick walls within the 20-foot street-yard setback along Requa Place, located at 5 Requa Place, which construction requires a 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 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 wall material, design, and height, which is to match the existing wall in the front yard.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the distance between the project and neighboring homes is appropriate, and the height of the project is consistent with the existing walls in the front yard.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project has no effect on pedestrian and vehicular safety, and the project maintains adequate visibility for entering and exiting the driveway.
4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: V-1, V-2, V-5, V-5(a), V-5(b), V-5(c), V-6, V-7, V-8, V-9, V-10, V-11 (*fences*).
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 28.4 (Setback Consistency), Design and Preservation Policy 28.6 (Exterior Materials), Design and Preservation Policy 29.2 (Landscape Design), Design and Preservation Policy 29.3 (Front Yard Enclosures), Design and Preservation Policy 29.5 (Fence and Wall Design), Design and Preservation Policy 29.9 (Sight Obstructions).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the fence design review permit application for the improvements at 5 Requa Place, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **C&D Compliance.** Compliance with Section 9.04 of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project.
2. **Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any liability, fees

and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.

3. **Encroachment Permit.** Before the issuance of a building permit, the Property Owner shall apply for an encroachment permit to allow for the construction within the public right-of-way or public easement.

4. **Setback from Property Line Verification.** At the discretion of the Building Official and 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 on the applicants' property. The intent is to verify that the approved features are constructed within the property at 5 Requa Place. In lieu of a survey, and at the discretion of the Building Official, the applicant may also submit to the Building Official a fence location agreement, signed by the applicant and the property owner at 4 Requa Place.

Moved by Alessio, Seconded by Ramsey
Ayes: Alessio, Duransoy, Levine, Ramsey
Noes: None
Recused: None
Absent: Behrens

**Fence Design Review
Permit
288 St. James Avenue**

Resolution 203-FDR-18

WHEREAS, the property Owner is requesting permission to replace a fence on the right side of the property to match the existing fence in the front yard; portions of the proposed fence are located within the 20-foot street setback, located at 288 St. James Avenue, which construction requires a 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 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 fence material and the fence design, which is to match the existing front-yard fence.

2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the distance between the project and neighboring homes is appropriate, and the height of the proposed fence between the applicants' property and the neighboring property is proposed to remain as existing.

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: V-1, V-2, V-3, V-5, V-5(a), V-5(b), V-5(c), V-7 (*fences*).

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 28.4 (Setback Consistency), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 29.5 (Fence and Wall Design).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the fence design review permit application for the improvements at 5 Requa Place, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **C&D Compliance.** Compliance with Section 9.04 of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project.

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

3. **Setback from Property Line Verification.** At the discretion of the Building Official and 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 on the applicants' property. The intent is to verify that the approved features are constructed within the property at 288 Saint James Drive. In lieu of a survey, and at the discretion of the Building Official, the applicant may also submit to the Building Official a fence location agreement, signed by the applicant and the property owner at 298 Saint James Drive.

Moved by Duransoy, Seconded by Alessio
Ayes: Alessio, Duransoy, Levine, Ramsey
Noes: None
Recused: None
Absent: Behrens

Conditional Use Permit Resolution 207-CUP-18
1345 Grand Avenue

WHEREAS, Alan Statman of Trust Matters is requesting a conditional use permit to establish a new financial services office at the existing commercial building located at 1345 Grand Avenue, Suites 101 and 102, Piedmont, California; 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 recommends that the City Council find the project categorically exempt under

the California Environmental Quality Act, pursuant to Section 15301, Class 1, because the use will be within an existing building with no expansion of the size or use of the building, and the proposal conforms with the criteria and standards of Section 17.68.040 of the Piedmont Municipal Code as follows:

1. The proposed use is compatible with the General Plan and conforms to the zoning code in that the use will not be contrary to the standards established for zone D in which it is to be located, the use continues the existing commercial use of the contiguous properties in the zone, the financial services office replaces an existing office use, and the financial services office is similar to contiguous businesses on the property.
2. The use is primarily intended to serve Piedmont residents rather than the larger region in that Piedmont residents will benefit from the financial services including trust administration and the Trust Matters office is small with only four staff employees.
3. The use will not have a material adverse effect on the health, safety, or welfare of persons residing or working in the vicinity. Considerations for this finding include no substantial increase in traffic, parking, or noise; no adverse effect on the character of the neighborhood; no tendency to adversely affect surrounding property values because there is adequate provision for driveways to and from the property, facilities for ingress and egress from secondary streets have been made, there is provision for parking in compliance with Chapter 17, the existing onsite parking will be used, and there will be no change to any circulation patterns.
4. The application is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Land Use Element Policy 2.1 (Local-Serving Emphasis), Land Use Element Policy 2.3 (Office Development), and Land Use Element Policy 2.5 (Offsite Impacts).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission recommends approval by the City Council of the conditional use permit application by Trust Matters for 1345 Grand Avenue, Suites 101 and 102, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Terms of the Approval.** A review of the conditional use permit shall occur in August 2020 and the conditional use permit shall have the following operational characteristics:

Office Hours: **Monday thru Friday 8:30am to 6:30pm**

Types of Staff/Personnel: **4 people on site at any one time**

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

Moved by Levine, Seconded by Ramsey

Ayes: Alessio, Duransoy, Levine, Ramsey
Noes: None
Recused: None
Absent: Behrens

REGULAR CALENDAR

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

Design Guidelines Update

Commissioner Ramsey reported the subcommittee began reviewing text drafted by the consultants. In September, consultants will meet with the Planning Commission, a group of local architects, and Gail Lombardi.

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

The Property Owner is requesting permission to construct an approximately 65-square-foot kitchen addition at the front of the residence that includes window and skylight modifications and various changes to the interior. A variance is required to construct within the 20-foot street yard (north) setback.

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

Public testimony was received from:

Robert Wolf, architect, reported the house was built in 1937 with a small kitchen. The kitchen has been remodeled since 1937 but continues to function poorly. He considered relocating the kitchen within the structure; however, the staircase, which bisects the house, limits relocation of the kitchen. In the current plans, he moved the kitchen addition slightly and used architectural elements to incorporate the addition into the design of the house. The number of mature trees on the lot, the downslope of the lot, and the unusual siting of the home on the lot make it difficult to improve the home without requiring a variance. The proposed kitchen addition will reduce the encroachment into the setback. Mature trees are located along the east side of the property, and the addition will not require removal of any trees. The design now focuses the addition toward the landscaped area rather than the street.

Poul-Erik Olsen, Property Owner, noted the addition will not increase the encroachment into the setback. Work spaces within the kitchen are focused toward the garden. The garage and the staircase restrict expansion of the kitchen. Expanding the kitchen toward the trees will not widen the space so that an island can be incorporated into the design.

Christine Olsen, Property Owner, clarified that expanding the kitchen into the secondary stairwell would eliminate headspace for the stairwell to the basement. She and her husband explored all possible locations for expanding the kitchen; however, the proposed design is the only feasible option.

Generally, Commissioners supported the design of the project and granting a variance due to the lot's shape and slope, the large trees, the siting of the home on the lot, and not increasing the encroachment into the setback. Relocating the kitchen to the family room would take away the view of the entry way, reducing the formality of the overall home's design.

Resolution 42-V/DR-18

WHEREAS, the Property Owner is requesting permission to construct an approximately 65-square-foot kitchen addition at the front of the residence that

includes window and skylight modifications and various changes to the interior at 116 Lexford Road, which construction requires a design review permit; and,

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary to construct within the 20-foot street yard (north) 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 variance from the 20-foot street setback is approved because it complies 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 lot is unusually small and unusually shaped, the lot has steep topography, and the home layout presents difficulties for expansion without a variance, 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 new addition does not create a disruption in the general range of front-yard setbacks in the surrounding neighborhood; the new addition does not obstruct or reduce the view of the streetscape from the surrounding residences; and the siting of the new windows respects the visual and acoustical privacy of the applicants' home as well as that of the surrounding residences.

3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because the irregular shape of the lot, the downslope topography, and the location of the main entrance in the side yard make it difficult to make improvements without a variance, and the kitchen is bounded by the garage to the west, a staircase to the basement and the upper level to the south, and a dining room to the east, which makes it difficult to expand the kitchen in those directions.

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 wall material, the roof form, the window material, 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; the view is not a significant view;

there is sufficient vegetative screening; and the topographical differences are appropriate to preserve privacy, views, and light.

3. The proposed design does not adversely affect pedestrian or vehicular safety because the project has no effect on pedestrian or 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(a), II-3(b), II-3(c), II-3(d), 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 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 28.9 (Eyes on the Street), Design and Preservation Element Policy 29.1 (Conserving Residential Yards), Land Use Element Policy 1.2 (Neighborhood Conservation).

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

1. **Window Material.** As specified in the plans, the building material for the new windows shall be wood.
2. **Window Color Scheme.** All the windows on the house shall have a consistent color scheme.
3. **Window Recess.** All new casement windows shall be recessed 2 inches from the exterior wall to the face of window sash in order to maintain consistency with the original architecture, as required by the City's Design Guidelines and Window Replacement Policy. Window details shall be submitted for review and approval at the time of building permit application.
4. **Pre-construction Inspection.** Prior to the commencement of window fabrication, the installer shall schedule a pre-construction inspection with the Building Department to review the approved installation criteria, such as the window recess, window trim if any, and window sill projection if any.
5. **Skylights.** All skylights shall project no more than 12 inches from the roof surface, and the flashing shall be painted to match the roof material.
6. **C&D Compliance.** Compliance with Section 9.04 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 Construction Completion Schedule and be binding on the Applicant. The City may, at the [Property Owner's/Applicant's] sole cost, engage the services of a consultant to review the 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. In the event of a change in scope of the Project that would alter the benchmarks dates set forth in the Approved Construction Completion Schedule, or in the event the Applicant fails to meet a benchmark set forth in

the Approved Construction Completion Schedule, the Applicant shall immediately submit a request to amend the Approved Construction Completion Schedule to the Director of Public Works. The request to amend shall be accompanied by a new proposed Construction Completion Schedule in compliance with subsection (a) of this condition of approval and the Director of Public Works shall evaluate the proposed amendments to the Approved Construction Completion Schedule in accordance with subsection (b) of this condition of approval.

- d. The failure of the Applicant to comply with the Approved Construction Completion Schedule, or any amendments to it approved in conformance with subsection (d) of this condition of approval, shall constitute a nuisance under the City of Piedmont City Code (“City Code”). The failure of the Applicant to comply with the Approved Construction Completion Schedule may result in the City pursuing administrative citations pursuant to Chapter 1 of the City Code, nuisance abatement pursuant to Chapter 6 of the City Code, or any other remedy available to the City under the law. Additionally, if the Applicant fails to comply with the Approved Construction Completion Schedule, the Director of Public Works, at his or her sole discretion, may 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, at his or her sole discretion, may refer the application to the Planning Commission for public review and direction.

Moved by Alessio, Seconded by Ramsey
Ayes: Alessio, Duransoy, Levine, Ramsey
Noes: None
Recused: None
Absent: Behrens

**Variance and Design
Review Permit
6 Lorita Avenue**

The Property Owner is requesting permission to remodel the home including constructing an approximately 100-square-foot addition to the garage; modifying windows on the right (south), rear (east), and left (north) sides of the home; modifying retaining walls in the front, street yard setback; installing a new garage door; modifying exterior lighting; and modifying hardscape. A variance is required to construct within the front, street yard setback.

Written notice was provided to neighbors. **Three affirmative response forms and no negative response forms** were received.

Public testimony was received from:

Kristin Ogles, Property Owner, requested a variance in order to construct a two-car garage that aligns with the front porch of the home. The garage will feel as though it was part of the original construction, and the view from the street will not be affected by construction within the setback. The garage should not impact the neighbor's sight lines. She does not plan to remove any trees. The existing curb cut will remain the same.

William Holland, architect, explained that the space labeled storage 1 in the basement is currently a crawl space. Soil will be removed so that the ceiling height is the same as the ceiling height in the garage. That area of the basement is underground and receives no natural light. He considered adding a garage space underneath the existing front porch; however, the curb cut and driveway apron would need to be substantially wider. He selected a sloped roof because a

flat roof feels awkward, and the homeowners do not want a roof deck or balcony. The garage door is a single door, but it appears to be two doors.

Commissioners generally supported the design of the project and granting a variance and referred to a nice design that is consistent with the existing structure. The slope of the lot limits an addition to the garage. The project complies with parking requirements and decreases the nonconformity.

Resolution 42-V/DR-18

WHEREAS, the Property Owner is requesting permission to remodel the home including constructing an approximately 100-square-foot addition to the garage; modifying windows on the right (south), rear (east), and left (north) sides of the home; modifying retaining walls in the front, street yard setback; installing a new garage door; modifying exterior lighting; and modifying hardscape at 6 Lorita 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 construct within the front, 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 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 variance from the application is approved because it complies 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 lot is unusually shaped and narrows at the rear; the lot has steep topography sloping up from the street; and the existing residence is located within 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 other neighboring properties have garages located close to the street and neighboring properties are located in the front setback.
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 demolition of the residence, and pushing the garage back would require large retaining walls in the front setback.

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 wall material, the roof form, and the 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, and the height of the project has been kept as low as possible.

3. The proposed design does not adversely affect pedestrian or vehicular safety because the project maintains adequate visibility for entering and exiting the driveway, and the project improves the onsite parking conditions.

4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: 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), (*remodels*); III-2, 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 29.6 (Retaining Walls).

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 remodel at 6 Lorita Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

3. **Window Recess.** All new windows shall be recessed as dimensioned in the plans in order to maintain consistency with the original architecture, as required by the City's Design Guidelines and Window Replacement Policy. Window details shall be submitted for review and approval at the time of building permit application.

4. **Pre-construction Inspection.** After the issuance of a building permit and prior to the commencement of window fabrication, the installer shall schedule a pre-construction inspection with the Building Department. The inspection will review the approved installation criteria, noted on the approved building permit drawings and specifications, such as the window recess, window trim if any, and window sill projection if any, with the existing conditions.

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. **Garage Door.** The garage door shall be electronically operable. If design modifications are required to accomplish this, those modifications shall be

subject to staff review.

7. **C&D Compliance.** Compliance with Section 9.04 of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project.

8. **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.

9. **Setback from Property Line Verification.** Prior to foundation inspection, the applicant shall submit to the Building Official written verification by a licensed land surveyor stating that the construction is located at the setback dimension from the west 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.

10. **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.

11. **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 Applicant shall submit for approval a Construction Completion Schedule, which will specify, in detail, the duration and percentage of the project as a whole for 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 Construction Completion Schedule and be binding on the Applicant. The City may, at the Applicant's sole cost, engage the services of a consultant to review the 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. In the event of a change in scope of the Project that would alter the benchmarks dates set forth in the Approved Construction Completion Schedule, or in the event the Applicant fails to meet a benchmark set forth in the Approved Construction Completion Schedule, the Applicant shall immediately submit a request to amend the Approved Construction Completion Schedule to the Director of Public Works. The request to amend shall be accompanied by a new proposed Construction Completion Schedule in compliance with subsection (a) of this condition of approval and the Director of Public Works shall evaluate the proposed amendments to the Approved Construction Completion Schedule in accordance with subsection (b) of this condition of approval.
 - d. The failure of the Applicant to comply with the Approved Construction Completion Schedule, or any amendments to it approved in conformance with subsection (d) of this condition of approval, shall constitute a nuisance under the City of Piedmont City Code ("City Code"). The failure of the Applicant to comply with the Approved Construction Completion Schedule may result in the City pursuing administrative citations pursuant to Chapter 1 of the City Code, nuisance abatement pursuant to Chapter 6 of the City Code, or any other remedy available to the City under the law. Additionally, if the Applicant fails to comply with the Approved Construction Completion Schedule, the Director of Public Works, at his or her sole discretion, may 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, at his or her sole discretion, may refer the application to the Planning Commission for public review and direction.

12. 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 two existing trees to the left (north) of the driveway. 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.

13. **Final Landscape Plan.** Before issuance of a building permit, the Property Owner shall submit for staff review and approval a Final Landscape Plan for the front yard that shows trees proposed for retention as well as in-lieu trees required by a Certified Tree Preservation Plan. The final plan shall comply with City Code Division 17.34 and Section 17.32.30, 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.

Moved by Duransoy, Seconded by Alessio
Ayes: Alessio, Duransoy, Levine, Ramsey
Noes: None
Recused: None
Absent: Behrens

**Variance and Design
Review Permit
319 Magnolia Avenue**

The Property Owner is requesting permission to demolish two unpermitted decks at the rear of the house; construct an approximately 750-square-foot second-story addition as part of a comprehensive stylistic remodel; expand the rear (north) of the residence; expand the kitchen to the left (west); excavate an existing basement for habitable space; install decks; and modify windows, doors, exterior lighting, and hardscape throughout the property. Two variances are required to increase the size of the primary structure in both the front and side (right) setbacks.

Written notice was provided to neighbors. **No affirmative response forms and four negative response forms** were received.

Public testimony was received from:

Yuan Qian Bao, Property Owner, appreciated staff's working with him and his architect to revise the project. The new design is an improvement and will improve the neighborhood. [Mr. Bao's comments were translated by Mr. Zhang.]

Tom Zhang, architect, advised that the main revision to the project is the relocation of the family room and office from the second story to the basement. The upper-level addition no longer encroaches into the 20-foot front yard setback. Variances are needed to modify the roof of the existing garage and to construct a partial wall along the right side of the house. The latest design maintains the footprint of the existing house. The front and rear of the house are now stepped to create some shadow lines and plane changes. Changes in colors and materials also articulate the exterior of the house. Option B has more roof decks than Option A. The gutter has a profile and is the same color as the metal fascia of the eave. The proposed window is made of aluminum with a deep recess. The homeowners have no preference between Options A and B. A flat roof is contemporary, efficient in creating a living area without adding height,

and is used in two adjacent houses. The proposed home is traditional in terms of its layout, composition, and scale, which is consistent with homes in the neighborhood. The basement space labeled crawl space will be filled with soil excavated from other areas. Neighbors who previously opposed the project now support it. The neighbor to the rear cannot see the house because of the setback and the generous distance between the houses. Options A and B offer a variety of canopies.

Commissioners generally opposed the design but could support granting variances if further revisions address architectural details and massing. Commissioner Ramsey found that the massing of the proposed home does not relate to the neighborhood, and the proposal has a complex front with too many different decks, canopies, and wall planes. Commissioner Ramsey further noted that Modernist architecture is more difficult to design due to the lack of ornamentation and the careful detailing required, and the proposed design is not consistent with respect to the new architectural details, windows, and canopies. Commissioner Duransoy opposed the remodel citing concerns about banking developable floor area in the basement beyond the FAR limit, the boxy shape of the rear of the home, and stylistic incompatibilities that made the front and rear of the home appear to be two different houses. Commissioner Alessio did not think privacy findings could be made due to the amount of glass proposed at street level on the front façade.

Resolution 198-DR-18

WHEREAS, the Property Owner is requesting permission to demolish two unpermitted decks at the rear of the house; construct an approximately 750-square-foot second-story addition as part of a comprehensive stylistic remodel; expand the rear (north) of the residence; expand the kitchen to the left (west); excavate an existing basement for habitable space; install decks; and modify windows, doors, exterior lighting, and hardscape throughout the property located at 319 Magnolia 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 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 neighborhood development: the stylistic change is complex; the outline of the second floor is varied and complex and does not conform to the scale and mass of neighborhood development; and the roof decks at the front of the home have an adverse effect on privacy and are out of character with the neighborhood.

2. Portions of the design have 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 windows on the left and right sides have been kept minimal; topographical differences are appropriate to preserve privacy, views, and light; the height of the project has been kept as low as possible; and no significant views are blocked.

3. The proposed design does not adversely affect pedestrian or vehicular safety because the project may improve pedestrian and vehicular safety by eliminating parked cars on the streets.
4. The application does not comply with the following guidelines: II-2, II-3(b), II-3(c) (*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 Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.2 (Style Compatibility).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies without prejudice the design review permit application for renovations at 319 Magnolia Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Ramsey, Seconded by Alessio
Ayes: Alessio, Duransoy, Levine, Ramsey
Noes: None
Recused: None
Absent: Behrens

Resolution 198-V-18

WHEREAS, the Property Owner is requesting variances from the requirements of Chapter 17 of the Piedmont City Code to construct within the street yard setback and right-side setback at 319 Magnolia Avenue, which construction requires a variance permit; and,

WHEREAS, the Planning Commission has denied without prejudice the design review permit for construction at 319 Magnolia Avenue such that there is no approved design for which variances are necessary.

RESOLVED, that the Planning Commission continues consideration of variances at 319 Magnolia Avenue, Piedmont, California, until such time as an application for a design review permit for a revised design for the house is scheduled for hearing.

Moved by Ramsey, Seconded by Alessio
Ayes: Alessio, Duransoy, Levine, Ramsey
Noes: None
Recused: None
Absent: Behrens

The Commission recessed for dinner at 6:26 p.m. and reconvened at 6:57 p.m.

**Design Review and
Fence Design Review
Permits
47 Bellevue Avenue**

The Property Owner is requesting permission to remodel and expand the residence, retaining approximately 38% of the existing walls and floors, for a resulting 9,726-square-foot residence; remove mature trees, including one street tree; regrade the portion of the property adjacent to or within the footprint of the addition; construct walls up to 25 feet tall to retain both swimming pool and earth; import soil and geofam material for backfill; and construct a new driveway car court, curb cut, gates, fountain, walls, railings, trash enclosure, and fence in the front street yard setback. The project includes the demolition of an

existing cottage and shed structures on the property. Plans show the addition of new exterior lighting.

Written notice was provided to neighbors. **Three affirmative response forms and no negative response forms** were received. Correspondence was received from Chris and Betsy Lalli, Scott and Lisa Lawson, James and Janet Wulfsberg, and Audrey and August Moretti.

Public testimony was received from:

Tim Ward, architect, provided written responses to earlier questions from Commissioners. The homeowners have chosen a Mediterranean style for the house. The project adds about 1,200 square feet to the existing house, maintains the height of the existing house, and reduces the bulk at the north side of the house. A utility building located in the front setback houses an emergency generator, which has not been used in many years. The plans show the fence in the public right-of-way because of confusion about the location of the property line. The matter has been resolved, and the fence is not located in the public right-of-way. Sheet A.3.3, which was omitted from Commissioners' packets, shows details of the fencing and the wall at the north property line. The landscape architect placed the simplest fencing along the front of the property so as not to clutter the street view. The front pilasters are spaced to accommodate the trash enclosure, the gate mechanism, the gate, the driveway, and the utility building. The wrought iron fencing is meant to open the view to the street. More pilasters will be needed if the fence has more stepping. The fact that the garage doors face the street is mitigated by the drop in elevation. The second story has been pushed back approximately 30 feet from the front wall of the garage. The side of the trash enclosure opposite the retaining wall will have a plaster finish to match the house. The 30-foot-tall bay window will be faceted so that mullions can break up the wall appearance. The area is shaded by trees; therefore, there should not be a heat issue with the window. The bay window is not a Mediterranean feature, but it does open the stairs to the outdoors. The style of mullions and muntins matches the windows, but the proportions are different and the bay window is a storefront window assembly. Many of the nearby homes have a Mediterranean look with slight overhangs and low-pitch roofs. Geofoam is an excellent fill material because it is indestructible and light weight. Mr. Ward is confident that the project can be handled as a remodel rather than new construction. The original plans called for more terracing of the property and removal of more trees, which raised concerns with the neighbors. The height of the entry is designed to be seen from the street as the lot slopes down from the street. The location of the garage interrupts the symmetry of the house at the front entry, and more work is needed to refine the placement of the garage.

Senior Planner Macdonald-Powell clarified that sheet A.3.3 was provided to Commissioners in the plan set. The corner of the garage near the entry could be pulled back by reducing the separation between parking spaces in bays 2 and 3. Public comment and correspondence regarding the project was received and distributed to Commissioners the day of the meeting.

David Thorne, landscape architect, noted the landscape plan submitted with the application is based on the wrong survey. Any fencing will be located on private property. There is no egress at the rear of the property. Any renovation or removal of the tennis court will be proposed in a future application. One street tree will be removed, but more than one street tree will be planted. The plans

propose improvements in the front setback. The proposed fence is semi-transparent and is not intended to block views from the street. The adjacent neighbor to the south does not object to the project as long as additional screening trees are planted along the south property line. Three redwood trees screen the property along the north side; however, they are the wrong tree for the location. The homeowners want to replace the redwood trees with large screening shrubs that open the view corridors and provide privacy. The proposed retaining walls are high, but the height is mitigated by the use of different materials and by stepping the walls. The infinity edge of the pool will be constructed with porcelain tile or stone tile in a random pattern of green and blue colors. When the pool is static, the water line will be held at the vanishing edge. The water will reflect light, but the tile will be a natural color to reduce reflectivity.

James Wulfsberg, neighbor at 57 Bellevue Avenue, said he supports the project as a welcome change from the existing fortress appearance. The Mediterranean style of the home is similar to other homes in the neighborhood. The three redwood trees must be removed as they block his views of San Francisco. He urged the Planning Commission to approve the application as it would benefit the community.

In general, Commissioners supported the proposed project. The style of the home is compatible with the neighborhood. The landscape plan is well conceived. The project is large, but the lot is large. The different masses proposed for the home prevent the home from feeling big. The applicant proposes high-quality materials for the project. Commissioners suggested additional conditions of approval for the design of the fence along the front of the property and for the pavers in the parking area.

Planning Director Jackson advised that the property owners could utilize the generator housed in the utility building as permitted. Modifying or replacing the building would require a building permit or perhaps design review; however, the applicant is proposing to retain the building. The Commission has no grounds to require removal of the generator.

Resolution 202-DR/FDR-18

WHEREAS, the Property Owner is requesting permission to remodel and expand the residence, retaining approximately 38% of the existing walls and floors, for a resulting 9,726-square-foot residence; remove mature trees, including one street tree; regrade the portion of the property adjacent to or within the footprint of the addition; construct walls up to 25 feet tall to retain both swimming pool and earth; import soil and geof foam material for backfill; construct a new driveway car court, curb cut, gates, fountain, walls, railings, trash enclosure, and fence in the front street yard setback; demolish an existing cottage and shed structures; and install new exterior lighting on the property located at 47 Bellevue Avenue, which construction requires a design review permit and a 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 for the reasons outlined in the staff report the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Existing Facilities, because the construction consists of the demolition of an accessory dwelling unit and an expansion of an existing single-

family residence, which will not increase the floor area of the residence by more than 10,000 square feet; the project is in an area where all public services and facilities are available to allow for the maximum development permissible in the General Plan; and the area in which the project is located is not environmentally sensitive. In addition, for the reasons outlined in the staff report, the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15332, In-Fill Development Projects, because the project is consistent with the applicable General Plan designation and all applicable General Plan policies as well as with applicable zoning designations and regulations; the proposed development occurs within the city limits on a project site of no more than five acres substantially surrounded by urban uses; the project site has no value as habitat for endangered, rare, or threatened species; approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and the site can be adequately served by all required utilities and public services. For the reasons outlined in the staff report, no exceptions listed in Section 15300.2 of the CEQA Guidelines are applicable to the project. The project site is surrounded by existing lots developed with single-family residences. The project size is not significant based on other structures approved under categorical exemptions within Piedmont and surrounding jurisdictions. Existing General Plan policies, programs, and actions are sufficient to address the proposed grading, excavation, and construction. The Planning Commission determines that there are no unusual circumstances associated with the project; and furthermore that there is no reasonable possibility that there will be a significant effect on the environment due to any unusual circumstances. 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 neighborhood development because the size and massing of the addition are appropriate for the size of the lot and the relationship to the street; the wall material is of high-quality cast stone veneer, stucco with cast stone window trim; the roof form is broken into smaller massings; the roof material is of a high-quality tile; the window and door material and fenestration patterns are placed appropriately within the massing of the structure; as conditioned, the railing design and material at the front of the property are consistent and of high quality; and the site plan maintains sufficient existing vegetation around the perimeter of the home and provides adequate new landscaping materials; and street trees are added.
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; existing nonconforming setbacks are improved, and other setbacks exceed the minimum requirements; the massing and height of the proposed building is appropriate for the size of the lot and placement of the expansion; there is sufficient vegetative screening along retaining walls; the topographical differences are appropriate to preserve privacy, views, and light; and with removal of the three redwood trees, significant views are improved.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project improves the onsite parking conditions; the project provides adequate visibility for entering and existing the driveway; the new pedestrian

entryway should improve pedestrian safety; and the new car court and driveway should improve pedestrian safety by allowing vehicles to turn around on the property and enter the street without backing out.

4. As conditioned, the application complies with the following guidelines and General Plan policies and programs: I-1, I-1(a), I-1(c), I-1(d), I-2, I-2(a), I-2(b), I-2(c), I-2(d), I-3, I-4, I-5, I-5(a), I-5(b), I-6, I-7, I-7(a), I-8, I-9(a), I-10, I-11, I-12 (*new construction*); 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(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*), V-1, V-2, V-3, V-4, V-5, V-5(a), V-5(b), V-5(c), V-6, V-7, V-8, V-9, V-10, V-11 (*fences*).

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 28.2 (Style Compatibility), Design and Preservation Element Policy 28.4 (Setback Consistency), Design and Preservation Element Policy 28.5 (Garages, Decks, and Porches), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 28.7 (Hillside Home Design), Design and Preservation Element Policy 28.8 (Acoustical and Visual Privacy), Design and Preservation Element Policy 28.9 (Eyes on the Street), Design and Preservation Element Policy 28.12 (Creativity and Innovation), Design and Preservation Element Policy 29.1 (Conserving Residential Yards), Design and Preservation Element Policy 29.2 (Landscape Design), Design and Preservation Element Policy 29.7 (Driveway and Parking Location), Design and Preservation Element Policy 29.8 (Exterior Lighting), Design and Preservation Element Policy 29.9 (Sight Obstructions), Land Use Element Policy 1.3 (Harmonious Development), Transportation Element Policy 11.1 (Off-Street Parking Standards).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit and fence design review application for renovations and expansion at 47 Bellevue 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 aluminum-clad wood with simulated or true divided lights and entry and garage doors shall be wood. Window recess shall be a minimum of 2 1/2 inches measured from the sash to the plane of the exterior wall.

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

3. **Exterior Lighting.** Prior to issuance of a building permit, the plans shall show the removal of two of the four proposed light sconces shown on the exterior of the master bedroom loggia. Two exterior sconces on either side of the terrace door of the master bedroom, within the walls of the loggia, are approved.

4. **Garage Door.** The garage doors shall be motorized. If design modifications are required to accomplish this, those modifications shall be subject to staff review.

5. Property Insurance. The Applicant shall purchase and maintain property insurance on an “all-risk” policy form, including builder’s risk, in the amount of the initial total expected costs to complete the Project, plus the value of subsequent modifications and revisions, comprising total value for the entire Project on a replacement cost basis without optional deductibles. Such property insurance shall include interests of the Applicant, its contractor, subcontractors and sub-subcontractors in the Project, and shall be maintained until the entire Project has been completed and has an approved Final Inspection by the Chief Building Official.

6. Contractor’s General Liability Insurance. To ensure that the contractor doing work in the City will be responsible for damages caused by the work to City property or to neighboring property, the Property Owner shall require all contractors performing work on the Project to maintain General Liability Insurance for protection from claims for damages because of bodily injury, including death, and claims for damages, other than to the contractor’s work itself, to property which may arise out of or result from the contractor’s operations. Such insurance shall be written for not less than \$1,000,000 per occurrence. The insurance shall include an endorsement requiring 10 days prior notice to the City if the insurance is to be cancelled or changed, and Property Owner shall immediately arrange for substitute insurance coverage. If the contractor’s insurance carrier states in writing that it is unable to provide the required endorsement, Property Owner shall be responsible for providing the City with the required notice if the insurance is to be cancelled or changed. Property Owner’s failure to provide such notice shall constitute grounds for revocation of the City’s design review approval and/or permit. If the Property Owner does not have a general contractor, the Property Owner shall maintain property insurance and coverage for contractors, which is substantially equivalent to the contractor's requirement of this section.

7. Modifications to Conditions. Any insurance or security requirement, or related Condition of Approval, may be implemented and, if necessary modified, in a reasonable manner with the joint agreement of the Director of Public Works and the City Attorney, consistent with the intent of the condition.

8. C&D Compliance. Compliance with Chapter 9, Division 9.04, of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project.

9. 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.

10. 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.

11. 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, south, west and east 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.

12. **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 and roof of the new structure are constructed at the approved height above grade.

13. **Encroachment Permit.** Before issuance of a building permit, the Property Owner shall apply for an encroachment permit to allow for the construction within the public right-of-way.

14. **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.

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 as well as in-lieu trees required by a Certified Tree Preservation Plan. The final plan shall comply with Municipal Code Section 17.17.3, and shall not propose plants near the driveway that could obscure visibility of pedestrians on the sidewalk or vehicles on the street from drivers backing out of the driveway.

16. **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 for the trees designated to remain on the final landscape plan and demonstrates compliance with requirements of the U.S. Migratory Bird Treaty Act of 1918. 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. The Director shall determine the number of in-lieu replacement trees that are required to replace trees proposed for removal, 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.

17. 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 January 1, 2010, by submitting the following required information to the Building Department:

- a. Landscape Documentation Package that includes the following 6 items: (i) Project Information; (ii) Water Efficient Landscape Worksheet; (iii) Soil Management Report; (iv) Landscape Design Plan; (v) Irrigation Design Plan; and (vi) Grading Design Plan. The Landscape Documentation Package is subject to staff review and approval before the issuance of a building permit.
- b. Once a building permit has been issued, the Property Owner shall submit a copy of the Water Efficient Landscape Worksheet, to the local water purveyor, East Bay Municipal Utility District.
- c. After completion of work, the Property Owner shall submit to the City and East Bay Municipal Utility District a Certificate of Completion, including an irrigation schedule, an irrigation maintenance schedule, and an irrigation audit report. The City may approve or deny the Certificate of Completion. (The form for the Landscape Document Package and a Frequently Asked Question document on the CA-WELO requirements is available at the Public Works Counter and on the City website at www.ci.piedmont.ca.us).

18. Foundation/Shoring/Excavation Plan. 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). 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.

19. Geotechnical Report and Review. The Property Owner shall submit a report prepared by a geotechnical engineer of the Property Owner's choice that fully assesses the existing site conditions, and addresses all issues regarding excavation and grading, foundations and their construction, drainage, retaining wall systems, periodic on-site observations, 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.

20. Sound and Vibration Mitigation Plan and Review. As required by the Director of Public Works, the Property Owner shall submit a plan prepared by a licensed engineer of the Property Owner's choice that fully assesses the existing site conditions for the mitigation and monitoring of vibration and decibel levels at the Project during construction (including being periodically present at the construction site during excavation and foundation work). If, in the Engineer's sole discretion, such monitoring indicates that the sound or vibration levels exceed those anticipated in the Property Owner's Construction Management

Plan and/or the Sound and Vibration Mitigation Plan, all work on the Project may be immediately stopped by the City and may not resume until the City Engineer is fully assured that the sound and vibration transmissions generated by work on the Project can be maintained at or below a reasonable level and duration.

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

21. **City Facilities Security.** The Property Owner shall provide a specific cash deposit, letter of credit, bank guarantee, or other similar financial vehicle ("City Facilities Security") in the amount of \$100,000 or as established by the Director of Public Works. This financial vehicle serves as an initial sum to cover the cost of any potential damage to City property or facilities in any way caused by Property Owner, Property Owner's contractors or subcontractors, or any of their agents, employees or assigns, and related in any way to the Project. The Property Owner is responsible for the full cost of repair as determined by the City Engineer prior to final inspections. The form and terms of such City Facilities Security shall be determined by the Director of Public Works after consultation with the Property Owner. The Director may take into account any of the following factors: the cost of construction; past experience and costs; the amount of excavation; the number of truck trips; the physical size of the proposed project; the logistics of construction; the geotechnical circumstances at the site; and City right-of-way and repaving costs.

a. To provide clear baseline information to assist in determining whether damage to the City's facilities has been caused by the Property Owner or others working for or on behalf of Property Owner, the City will document such facilities (including, without limitation, streets and facilities along the approved construction route as specified in the Construction Management Plan, to establish the baseline condition of the streets and facilities. The City shall further re-document the streets as deemed appropriate after the Project commences until the Director of Public Works determines that further documentation is no longer warranted. As part of the documentation, the City may water down the streets to better emphasize any cracks or damage in the surface. The Property Owner is responsible for the full cost of the documentation and repair work as determined by the City Engineer, and shall reimburse the City for those costs prior to the scheduling of final inspection.

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

22. **Consultant Cost Recovery.** In order to accommodate the scope and nature of the Project proposed by the Property Owner, if the Director of Public Works deems it necessary to retain independent consultants with specialized expertise,

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

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

24. Site Safety Security. The City and the public have an interest in not having an unfinished project blighting the neighborhood and undermining property values. These public interests are primarily safety and aesthetics, and diminishment of property values. Prior to the issuance of a Building Permit, the Property Owner shall provide a specific cash deposit, letter of credit, bank guarantee, or other similar financial vehicle ("Site Safety Security") in the amount of \$50,000 to ensure that the Project site is not left in a dangerous or unfinished state.

- a. The Site Safety Security shall be in an amount to include three components:
 - (i) safety, which means the cost to make the site and structure safe if construction should cease mid-way through the Project;
 - (ii) aesthetics, which means an amount to install and maintain landscaping all around the Project to protect the immediate local views from neighbors and public property; and
 - (iii) staff and consultant time to evaluate and implement this condition. If, as the Project proceeds, the expected cost of these components increases beyond the original estimate in the opinion of the Director of Public Works, the City may require the Property Owner to increase the amount of the Site Safety Security by the additional amount. The Property Owner shall provide City with written evidence of compliance within 15 working days after receiving written notice of the additional required amount. The City shall retain, at the Property Owner's expense, an independent estimator to verify the total expected costs to complete the Project and any subsequent revisions.
- b. The form and amount of the Site Safety Security is subject to the approval of the Director of Public Works. Payment to City under the Site Safety Security shall be made payable upon demand by the City and prior to the issuance of the Building Permit, conditioned solely on the Director of Public Works' certification on information and belief that all or any specified part of such Performance Security is due to the City.
- c. The Site Safety Security shall not be released until the Project has an approved Final Inspection by the Chief Building Official. However, if sufficient work has been completed according to the benchmarks and

construction values as established under the Construction Completion Schedule, the Site Safety Security may be reduced to the extent the Director of Public Works in his sole discretion determines is appropriate.

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

26. **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. Renovation / New Construction. Pursuant to Section 17.32.6 of the Municipal Code, if for any reason more than 70% of the physical structure (as determined by the Building Official) is demolished or destroyed, the building shall conform to new building and planning Code requirements. If this occurs during demolition or construction, all work must stop and a new hearing and public review by the Planning Commission is required.

27. **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 of the project as a whole for 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 Construction Completion 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 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. In the event of a change in scope of the Project that would alter the benchmarks dates set forth in the Approved Construction Completion Schedule, or in the event the Property Owner fails to meet a benchmark set forth in the Approved Construction Completion Schedule, the Property Owner shall immediately submit a request to amend the Approved Construction Completion Schedule to the Director of Public Works. The request to amend shall be accompanied by a new proposed Construction Completion Schedule in compliance with subsection (a) of this condition of approval and the Director of Public Works shall evaluate the proposed amendments to the Approved Construction Completion Schedule in accordance with subsection (b) of this condition of approval.
 - d. The failure of the Property Owner to comply with the Approved Construction Completion Schedule, or any amendments to it approved in conformance with subsection (d) of this condition of approval, shall constitute a nuisance under the City of Piedmont City Code ("City Code"). The failure of the Property Owner to comply with the Approved Construction Completion Schedule may result in the City pursuing administrative citations pursuant to Chapter 1 of the City Code, nuisance abatement pursuant to Chapter 6 of the City Code, or any other remedy available to the City under the law. Additionally, if the Property Owner fails to comply with the Approved Construction Completion Schedule, the Director of Public Works, at his or her sole discretion, may 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, at his or her sole discretion, may refer the application to the Planning Commission for public review and direction.

28. Removal of Redwood Trees. The three redwood trees located on the north side of the property near the lawn shall be removed.

29. Proposed New Fence. The proposed new fence at the front of the property along Bellevue Avenue shall be modified to upgrade and improve visual interest and shall be located so that it and all other related improvements are completely within the applicants' property. The modifications shall be subject to staff review and approval.

30. Driveway Design. The driveway paving color and design of the paver pattern shall be modified so that it is not a homogenous or reflective surface, subject to staff review and approval.

31. Garage Design. The design of the garage shall be modified so that it does not unnecessarily protrude into the entry court, subject to staff review and approval.

Moved by Ramsey, Seconded by Duransoy
Ayes: Alessio, Duransoy, Levine, Ramsey
Noes: None
Recused: None
Absent: Behrens

**Fence Design Review
Permit
1919 Oakland Avenue**

The Property Owner is requesting permission to construct a wood and glass fence and two gates in the right (east) side yard within the street yard setback along Hardwick Avenue.

Written notice was provided to neighbors. **Five affirmative response forms and no negative response forms** were received.

Public testimony was received from:

Rachel Licitra, Property Owner, wanted a secure and private space for her child to play outdoors. The existing plants have been there since they moved in and have not filled in to create a private space. A 6-foot fence is requested to contain the family dog.

Dianne Spratt, landscape designer, designed a project that will provide a safe and private area while maintaining light and visibility into the area. A fence height of less than 6 feet will encourage passersby to peer into the area and allow passersby to see into the home. Plants in front of the fence will be relatively low and will not provide additional screening. Neighbors have expressed support for the project. The homeowner has expressed interest in either a bamboo or cedar material in a natural color. Gaps between the wood members and a frosted glass will allow some visibility into the space. The existing rock wall was approved by the Planning Commission.

Planning Director Jackson reported the zoning code requires Planning Commission review of a proposal to locate a fence within the 20-foot street setback. The guidelines discourage locating fences in front yards. If sufficient reasons exist for installing a fence in the front yard, then the fence should be no more than 4 feet in height and visually penetrable. An exception is provided for a fence to enclose a corner or through lot's only outdoor living area. The Commission has the discretion to determine whether a proposed fenced area is the primary outdoor living area and whether it deserves privacy. The issue before the Commission is the appropriateness of the fence's location and design. The Planning Commission raised concerns about constructing a patio in the setback when it approved the earlier project for the stone wall. A variance was granted to construct the patio within the setback.

Commissioners generally supported allowing a fence in the proposed shape and location; however, the proposed height, design, and materials raised concerns. The wood and glass style of the fence is not consistent with the home's style. Perhaps the color of fence materials can match the house. The proposed fence is too solid and too tall. No other properties along the street have fences, but the lot has no other spaces appropriate for an outdoor living area. The lot is adjacent to a busy street.

Planning Director Jackson recalled a prior project in which the Planning Commission approved a 4-foot-tall fence with a trellis and vegetation atop the fence.

Resolution 204-FDR-18

WHEREAS, the Property Owner is requesting permission to construct a wood and glass fence and two gates in the right (east) side yard within the street yard setback along Hardwick Avenue, located at 1919 Oakland Avenue, which construction requires a 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 not consistent with General Plan policies and programs, and the proposal, as conditioned, does not conform to the criteria and standards of Section 17.66.060 of the Piedmont City Code as follows:

1. The proposed design is not consistent with the City's General Plan and Piedmont Design Guidelines in that the proposed fence height of 6 feet is not appropriate.
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 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 and maintains adequate visibility for entering and exiting the driveway as it is located 10 feet from the curb.
4. As conditioned, the application does not comply with the following Design Review Guidelines and General Plan policies and programs: V-1, V-2, V-4 (*fences*).
5. The project is not consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 29.5 (Fence and Wall Design).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies without prejudice the fence design review permit application for the improvements at 1919 Oakland Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Alessio, Seconded by Duransoy
Ayes: Alessio, Duransoy, Levine, Ramsey
Noes: None
Recused: None
Absent: Behrens

ADJOURNMENT

There being no further business, Vice Chair Levine adjourned the meeting at 8:56 p.m.