

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, February 12, 2018

A Regular Session of the Piedmont Planning Commission was held February 12, 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 January 29, 2018.

CALL TO ORDER

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

ROLL CALL

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

Absent: Alternate Commissioner Clark Thiel (excused)

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

Council Liaison: Councilmember Betsy Andersen

PUBLIC FORUM

Director Jackson announced a position on the Planning Commission will become available in March. Applications are due March 9, 2018. Interviews will be held March 15.

REGULAR SESSION

The Commission considered the following items of regular business:

APPROVAL OF MINUTES

Resolution 3-PL-18

RESOLVED, that the Planning Commission approves as presented its meeting minutes of the January 8, 2018, regular hearing of the Planning Commission.

Moved by Ode, Seconded by Jajodia

Ayes: Behrens, Jajodia, Levine, Ode, Ramsey

Noes: None

Recused: None

Absent: Thiel

CONSENT CALENDAR

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

- 33 Pacific Avenue (Fence Design Review Permit)

Resolution 4-PL-18

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

Moved by Behrens, Seconded by Levine

Ayes: Behrens, Jajodia, Levine, Ode, Ramsey

Noes: None

Recused: None

Absent: Thiel

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

**Fence Design Review
Permit
33 Pacific Avenue**

Resolution 15-FDR-18

WHEREAS, the Property Owner is requesting permission to replace the existing coated-wire fence located at the rear (north) side of the street yard fronting Scenic Avenue with a wood fence; the proposed fence is designed to match the existing wood fence located on the street yards fronting Scenic and Pacific Avenues, located at 33 Pacific Avenue, which replacement 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 the proposed project is a minor change to an existing private residence, which is less than 50 percent of the floor area of the structure before the addition, and the project is consistent with General Plan policies and programs, and that the proposal, as conditioned, conforms to the criteria and standards of Section 17.66.060 of the Piedmont City Code:

1. The proposed design is consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are consistent with the original architecture and neighborhood development, including the fence material and configuration matches the existing 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 there is sufficient vegetative screening.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project has no effect on pedestrian and vehicular safety.
4. As conditioned, the application complies with the following guidelines: V-1, V-2, V-4, V-5, V-5(a), V-5(b), V-5(c), V-7, V-8, V-9, V-10, and 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 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 proposed fence replacement at 33 Pacific Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Prior Approval.** It should be noted that the conditions are specific to this application and supplemental to conditions placed on a prior, related, design review application (#14-0045) unless modified herein.
2. **C&D Compliance.** Compliance with Chapter 5 Article I of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project.

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

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

REGULAR CALENDAR

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

Design Review Permit 350 Magnolia Avenue

The Property Owner is requesting permission to demolish the existing attached one-car garage and to make improvements to the house, including the development of additional habitable space on the basement level; the construction of a new attached basement-level two-car garage; modifications to the existing entry stairs and porch; and new fencing. The resulting four-bedroom house is proposed to include new lower-level windows on the east and west facades and various hardscape and landscape changes, including the removal and replacement of an existing street tree in order to accommodate a new curb cut and driveway.

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

Public testimony was received from:

William Glass, project architect, advised that option 1, the garage extension with roof, will comprise the base bid. Option 2, the deck and roof extension, will comprise an alternate bid. The applicant will evaluate the cost of option 2 prior to determining whether to construct it, but the applicant requests approval of both options. Both options propose to add 148 square feet to the site coverage and to remove and replace the existing garage. The existing crawl space will be converted into a master bedroom suite and the downstairs playroom into a smaller playroom and third bedroom. The applicant may choose to construct option 2 to add curb appeal and amenities to the home. The applicant wants to extend the roof to increase the usability of the deck. The applicant could consider option 2 without the extended roof. The posts for the roof extension match Craftsman details in the home. The retaining wall will not block visibility for a car backing out of the driveway once the car reaches approximately two-thirds of the distance to the sidewalk. The height from grade to the roof extension will be within a couple of feet of the retaining wall. The existing hardscape leading to the garage will be removed such that the amount of hardscape following construction will remain the same. The applicant is planning to utilize pervious paving and will include vegetation along the top of the retaining wall.

Commissioners supported option 1 of the design, noting it appears less bulky and would have less impact on neighbors than option 2. The proposed entry

porch and columns are not of the same language as the existing porch and columns.

Commissioner Behrens expressed concern about the appearance of the driveway concrete and suggested the applicant use a pattern or color in the concrete.

Resolution 391-DR-17

WHEREAS, the Property Owner is requesting permission to demolish the existing attached one-car garage and to make improvements to the house, including the development of additional habitable space on the basement level; the construction of a new attached basement-level, two-car garage; modifications to the existing entry stairs and porch; and new fencing. The resulting four-bedroom house is proposed to include new lower-level windows on the east and west facades and various hardscape and landscape changes, including the removal and replacement of an existing street tree in order to accommodate a new curb cut and driveway, located at 350 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 categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e), Existing Facilities, because the proposed project is a minor change to an existing private residence, which is less than 50 percent of the floor area of the structure before the addition, and option 1 of the project is consistent with General Plan policies and programs, and that the proposal for option 1, as conditioned, conforms to the criteria and standards of Section 17.66.060 of the Piedmont City Code:

1. The proposed option 1 design is consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are consistent with the original architecture and neighborhood development, including the building height, conformance with setback requirements, the increase of landscaped area, the window and door fenestration pattern, and roof form.

2. The option 1 design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the development is within the existing building envelope and the height of the project has been kept as low as possible to preserve privacy. The option 2 design will have an adverse effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the larger roof overhang and roof deck will impact the adjacent neighbor's privacy and views.

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

4. As conditioned, the application complies with the following guidelines: II-1, II-2, II-3(a), II-3(b), II-3(c), II-3(d), II-4, II-5, II-5(a), II-6, II-6(a), II-6(b), II-6(c), II-7, II-7(a) (*remodels*); III-1, III-1(a), III-2, III-2(a), III-3, III-4, III-5, III-5(a), III-6, III-6(a), III-7, III-7(a) (*garages*); IV-1, IV-1(a), IV-1(b), IV-2, IV-2(a), IV-3, IV-3(a), IV-4, IV-4(a), IV-5, IV-5(a), IV-6 (*retaining walls*); and 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 28.3 (Additions), Design and Preservation Element Policy 28.4 (Setback Consistency), Design and Preservation Element Policy 28.5 (Garages, Decks, and Porches), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 28.8 (Acoustical and Visual Privacy), Design and Preservation Element Policy 29.5 (Fence and Wall Design), Design and Preservation Element Policy 29.6 (Retaining Walls), Design and Preservation Element Policy 29.7 (Driveway and Parking Location), Design and Preservation Element Policy 29.9 (Sight Obstructions), Land Use Element Policy 1.2 (Neighborhood Conservation), Housing Element Goal 6 (Sustainability and Energy), Housing Element Policy 6.2 (Energy Efficient Materials), and Housing Element Policy 6.7 (Water Conservation).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for option 1 garage design with roof atop the proposed remodel at 350 Magnolia Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

3. **Window Recess.** All new 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, and window sill projection.

5. **Garage Doors.** The garage doors shall be mechanized. If design modifications are required to accomplish this, those modifications shall be subject to staff review.

6. **Guardrail:** The property owner shall provide a guardrail or landscape barrier in the left (east) side yard between the proposed retaining wall and the fence. The guardrail or landscape barrier shall be subject to staff review and approval.

7. **Street Tree Replacement.** In order to mitigate the removal of a City-owned street tree within the street right-of-way resulting from the creation of a new driveway and curb cut, the applicants shall cover the full cost of labor and materials for the removal and stump grinding of the existing street tree and the installation of a new street tree, which shall be carried out by the City or its contractor(s). Accordingly and prior to the issuance of a building permit, the

applicants shall submit an initial tree replacement payment in the amount of \$750, with any further payments necessary to cover costs in excess of \$750 or other fees, to be submitted prior to the scheduling of a final inspection. The location, size and species of the replacement street tree shall be determined by the Director of Public Works or his designee.

8. 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.

9. 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 and which will be removed. The final plan shall comply with City Code Division 17.34, and shall not propose plants near the driveway that could obscure visibility of pedestrians on the sidewalk or vehicles on the street from drivers backing out of the driveway. Upon the determination of the Director, minor differences in the number, size and/or species of vegetation between those shown on the approved landscape plan and those installed at the time of final inspection that do not involve an increase in hardscape or structure coverage may be subject to staff review and approval. Significant differences between the vegetation installed at the time of final inspection and vegetation shown on the approved landscape plan are subject to a design review permit.

10. 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.

11. 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.

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

13. **C&D Compliance.** Compliance with Chapter 5 Article I of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project.

14. **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.

15. **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), and shall mitigate against any subsidence or other damage to neighboring properties. Such plans shall incorporate as appropriate the recommendations of the Property Owner's geotechnical engineer and the City's geotechnical consultant, and shall be subject to approval by the City Engineer and the Chief Building Official.

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

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

17. **City Facilities Security.** As required by the Director of Public Works, 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 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.

18. 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.

19. 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.

20. 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.

22. **Neighboring Property Inspection.** Should the neighboring property owner provide consent, a licensed civil or structural engineer (chosen by the City, and paid for by the Property Owner) shall inspect the neighboring home at 354 Magnolia Avenue, and retaining walls with the intent of establishing base-line information to later be used in determining whether damage was caused by any activities on Property Owner's property (including damage caused by vibrations or other factors due to excavation, construction or related activities). The inspection shall include both foundations and non-foundation related details (walls, windows, general overall condition, etc.) at a level of inspection City Staff deems appropriate. The inspection shall only include readily visible and accessible areas of the neighboring homes. The licensed civil or structural engineer shall provide a full report to the City of his or her conclusions, and the report may be considered in developing the Construction Management Plan. If other independent consultants or specialists are required by the City to review plans and monitor construction activity, they shall be retained at the Property Owner's cost. Before a neighbor agrees to an inspection, City will advise neighbors that the property inspection is necessarily a public record under the California Public Records Act.

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

22. **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, all work must stop and a new hearing and public review by the Planning Commission is required.
- c. **Neighboring Property Owner Permission.** Should the execution of the Foundation/Shoring/Excavation Plan require excavation into a neighboring property or if access onto the neighboring property is necessary for construction, the applicant shall submit, prior to the issuance of Building Permit, a written statement from the neighboring property owner granting permission for access onto his/her property for the purpose of excavation and/or construction.

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

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

24. **Driveway Design.** The paving materials for the driveway shall be individual pavers and subject to staff review and approval.

25. **Retaining Wall.** A planting strip shall be added at the top of the retaining wall on the east side of the new driveway to allow the planting of vegetation that will cascade down the wall and reduce its visual impact from the street.

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

**New House Design
Review Permit
26 Ronada Avenue**

The Property Owner is requesting permission to demolish the existing approximately 3,000-square-foot residence and detached garage and construct a three-story house and attached two-car garage. The new house is proposed to have 3,357 square feet of habitable space that includes 4 bedrooms, 3 full bathrooms, 1 half bathroom, a living-dining-kitchen great room, a library, an office, a wine cellar, and a recreation room. Proposed new exterior features include a butterfly roof, windows and doors throughout, exterior lighting, decks on the rear of the home, and landscape and hardscape modifications including a new driveway and approach, new walkways, and a patio in the rear of the home.

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

Public testimony was received from:

Dave Herskowitz, Property Owner, reported that he explored the possibility of rehabilitating the existing house; however, the condition was too poor for rehabilitation. Outreach to the neighbors resulted in the proposal for a fence on the west side of the property, landscaping on the east side of the property, and a home extending no more than one story above street level. The modern design is an improvement over the existing home but not extremely different from the neighborhood. Oak trees will be pruned but not removed unless an arborist determines they should be removed. A neighbor has requested the privet be removed.

Brad Gunkel, project architect, advised that moving the location of the garage will not impact an adjacent garage or driveway or cause traffic concerns. The roof shape is intended to capture light in the front and views in the rear. The use of natural wood and integral-color stucco provides a warm feel for the contemporary design. Replicating the design of other homes along the street would be a disservice to the street. The proposed home is designed to be family-friendly. The trim, window frames, columns, and railing are made of brushed stainless steel or aluminum, which will not be reflective. The house to the left is taller than the subject house, and the house to the right is approximately the same height as the subject house. A change in plane is difficult to achieve in typical framing; however, the window openings could be recessed. The large windows in the rear open toward the neighbor's deck and entry, but shrubs are located between the two houses and the subject house is located well back from the setback. The butterfly roof will accommodate solar panels.

Commissioners supported the project and expressed appreciation for the design and its compatibility with the neighborhood, outreach to neighbors, the fit of the house into the topography of the lot, the compliance with the Design Guidelines, and removal of a home in disrepair.

Resolution 412-NH-DR-17

WHEREAS, the Property Owner is requesting permission to demolish the existing approximately 3,000-square-foot residence and detached garage and construction of a three-story house and attached two-car garage. The new house is proposed to have 3,357 square feet of habitable space that includes four

bedrooms, three full bathrooms, one half bathroom, a living-dining-kitchen great room, a library, an office, a wine cellar, and a recreation room. Proposed new exterior features include a butterfly roof, windows and doors throughout, exterior lighting, decks on the rear of the home, and landscape and hardscape modifications including a new driveway and approach, new walkways, and a patio in the rear of the home, located at 26 Ronada Avenue, which construction requires a design review permit; and

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15303, Class 3(a), New Construction or Conversion of Small Structures, because the project is a new single-family residence in a residential zone, and the project is consistent with General Plan policies and programs, and that the proposal, as conditioned, conforms to the criteria and standards of Section 17.66.060 of the Piedmont City Code:

1. The proposed design is consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are consistent with the original architecture and neighborhood development, including the building is situated similar to other homes in that it is one floor at the street and multiple floors at the rear, and the bulk of the structure is reduced through terracing.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the distance between the project and neighboring homes is appropriate, and the topographical differences are appropriate to preserve privacy, views, and light on contiguous properties, the height of the project has been kept as low as possible, and the roof form is designed to allow light to the neighbors.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project has a positive effect on pedestrian and vehicular safety by removing a blighted property and the project maintains adequate visibility for entering and exiting the driveway.
4. As conditioned, the application complies with the following guidelines: I-1, I-1(c), I-1(d), I-2, I-2(a), I-2(b), I-2(c), I-2(d), I-5, I-5(a), I-5(b), I-6, I-7, I-7(a), I-8, I-9, I-9(a), I-10, I-11, I-12 (*new construction*); III-1, III-1(a), III-2, III-2(a), III-3, III-4, III-5, III-5(a), III-6, III-6(a), III-7, III-7(a) (*garages*)
5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.2 (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 28.9 (Eyes on the Street) Design and Preservation Element Policy 28.12 (Creativity and Innovation), Design and Preservation Element Policy 29.7 (Driveway and Parking Location).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for the proposed remodel at 26 Ronada Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Window and Door Material.** As specified in the plans, the building material for the new windows and doors shall be aluminum or wood.
2. **Window Color Scheme.** All the windows on the house shall have a consistent color scheme.
3. **Window Schedule.** Prior to the issuance of a building permit, a window schedule and window sections shall be provided and keyed to the floor plan with window size, material, window type, divided light type if any, sash size, recess dimension, and any additional notes subject to staff approval.
4. **Roof Color.** The proposed flat roof shall be a non-reflective medium or dark color to minimize the visual impact on upslope properties.
5. **Exterior Lighting.** Unless otherwise approved in this application, any 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 motorized. If design modifications are required to accomplish this, those modifications shall be subject to staff review.
7. **Environmental Hazards.** Prior to the issuance of a building permit, the applicant shall provide a plan, including necessary testing, to verify compliance with all local, state and federal regulations regarding the disturbance and removal of hazardous materials (if any) on residential properties and/or in the proximity of schools, including lead-based paint and asbestos. Said plan for the proper removal and handling of hazardous materials shall be provided on the appropriate sheets of the construction plan sets and included in the Construction Management Plan.
8. **Contractor's General Liability Insurance.** To ensure that the contractor doing work in the City will be responsible for damages caused by the work to City property or to neighboring property, the Property Owner shall require all contractors performing work on the Project to maintain General Liability Insurance for protection from claims for damages because of bodily injury, including death, and claims for damages, other than to the contractor's work itself, to property which may arise out of or result from the contractor's operations. Such insurance shall be written for not less than \$1,000,000 per occurrence. The insurance shall include an endorsement requiring 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.

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

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

11. **C&D Compliance.** Compliance with Chapter 5 Article I of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project.

12. **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.

13. **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, and west 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.

14. **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 levels and roof of the new structure are constructed at the approved heights above grade.

15. **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.

16. **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 City Code Division 17.34 and Section 17.33.30, 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.

17. 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), and shall mitigate against any subsidence or other damage to neighboring properties. Such plans shall incorporate as appropriate the recommendations of the Property Owner's geotechnical engineer and the City's geotechnical consultant, and shall be subject to approval by the City Engineer and the Chief Building Official.

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

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

19. 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 \$25,000 as established by the Director of Public Works. This financial vehicle serves as an initial sum to cover the cost of any potential damage to City property or facilities in any way caused by Property Owner, Property Owner's contractors or subcontractors, or any of their agents, employees or assigns, and related in any way to the Project. The Property Owner is responsible for the full cost of repair as determined by the City Engineer prior to final inspections. The form and terms of such City Facilities Security shall be determined by the Director of Public Works after consultation with the Property Owner. The Director may take into account any of the following factors: the cost of construction; past experience and costs; the amount of excavation; the number of truck trips; the physical size of the proposed project; the logistics of construction; the geotechnical circumstances at the site; and City right-of-way and repaving costs.

a. To provide clear baseline information to assist in determining whether damage to the City's facilities has been caused by the Property Owner or

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

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

20. **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.

21. **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.

22. **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 \$25,000 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.

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

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

permission for access onto his/her property for the purpose of excavation and/or construction.

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

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

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

- (a) Landscape Documentation Package that includes the following 6 items: i) Project Information; ii) Water Efficient Landscape Worksheet; iii) Soil Management Report; iv) Landscape Design Plan; v) Irrigation Design Plan; and vi) Grading Design Plan.

The Landscape Documentation Package is subject to staff review and approval before the issuance of a building permit.

- (b) Once a building permit has been issued, the Property Owner shall submit a copy of the Water Efficient Landscape Worksheet, to the local water purveyor, East Bay Municipal Utility District.

- (c) After completion of work, the Property Owner shall submit to the City and East Bay Municipal Utility District a Certificate of Completion, including an irrigation schedule, an irrigation maintenance schedule, and an irrigation audit report. The City may approve or deny the Certificate of Completion.

26. Aluminum Features. All exterior aluminum features including but not limited to trim, posts, and fascia shall have a non-reflective finish.

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

**Fence Design Review
Permit
58 Crest Road**

The Property Owner is requesting permission to increase the height of a previously approved gate and wall in the front-yard setback along Crest Road and to change the material of the steps and front-yard retaining wall.

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

Public testimony was received from:

Rich Malaspina, Property Owner, wished to raise the gate, adjoining pilasters, mailbox, and house numbers in order to improve security, aesthetics, and usability. Because of the slope of the property, the top of the gate is 2 feet 3 inches above grade and does not hang straight. The Planning Commission previously approved a maximum height of 4 feet. The strip between the wall and sidewalk will be planted with boxwoods or a similar shrub.

Commissioners supported the project as raising the gate and pilasters would call attention to the entrance and comply with Piedmont Design Guidelines.

Resolution 9-FDR-18

WHEREAS, the Property Owner is requesting permission to increase the height of a previously approved gate and wall in the front-yard setback along Crest Road and to change the material of the steps and front-yard retaining wall, located at 58 Crest Road, 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 surrounding neighborhood development: the materials and height of the retaining wall and gate.

2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the screening between the project and neighboring homes is appropriate, the topographical differences are appropriate to preserve privacy, views, and light, and the height of the project has been kept as low as possible.

3. The proposed design does not adversely affect pedestrian or vehicular safety because the project has no effect on pedestrian and vehicular safety.

4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: IV-1, IV-1(a), IV-1(b), IV-2, IV-2(a), IV-3, IV-3(a), IV-4, IV-4(a), IV-5, IV-5(a), IV-6 (*retaining walls*), 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 Policy 29.3 (Front Yard Enclosures), Design and Preservation Policy 29.5 (Fence and Wall Design), Design and Preservation Policy 29.6 (Retaining Walls), and 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 58 Crest Road, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Prior Approval.** It should be noted that the conditions are specific to this application and supplemental to conditions placed on a prior, related, design review application (#16-0317) unless modified herein.

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

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

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

**Variance and Design
Review Permit
1382 Oakland Avenue**

The Property Owner is requesting retroactive design review approval for a 997-square-foot, two-bedroom, basement-level addition within the building and a rear-yard play structure, and design review for the construction of a new 9-square-foot stair addition, enclosed existing porch, and new features including windows and doors throughout, garage door, rear deck with retractable awning, and exterior lighting. A variance is required to construct the stair addition within the left (east) side yard setback.

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

Public testimony was received from:

Pace Barker, Property Owner, reported he considered ways to configure the stairwell so that it does not encroach into the setback. Given the lot shape, no other configuration is possible without gutting the entire house, which will result in longer construction and more disturbance for the neighbors.

Rob Kelly, project architect, indicated the intent is to match the new windows to the original style of the front facade; however, no exact matches can be found. The recess of the new windows will not match the existing windows except at the new enclosed porch where the windows are visible from the street. The recess for the existing windows is approximately 3 1/4 inches, and the recess of the new windows will be 2 1/2-2 3/4 inches. A metal-clad Marvin window will most closely match the appearance and recess of the existing windows, and a custom wood window will be used at the enclosed porch. He requested the Planning Commission's opinion regarding use of ornamental lighting versus security lighting. A neighbor had commented regarding the lack of on-street parking; however, he had not had any issues with on-street parking during his trips to the subject property. The project does comply with the parking guidelines. The encroachment into the setback is the result of increasing the width of the stairwell.

Commissioners supported the project as it improves the existing condition to conform with current standards. Driveway and on-street parking are not issues for the project.

Resolution 11-V/DR-18

WHEREAS, the Property Owner is requesting retroactive approval for a 997-foot-square, two-bedroom, basement-level addition within the building and a rear-yard play structure, and construction of a new 9-square-foot stair addition, enclosed existing porch, and new features including windows and doors throughout, garage door, rear deck with retractable awning, and exterior lighting at 1382 Oakland Avenue, which construction requires a design review permit; and,

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary to construct the stair addition within the left (east) side yard setback; and,

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is 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 left side yard 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 bringing the existing staircase to conform to standards is a minor change 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 most homes in the neighborhood are similar in size to the project.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because changing the staircase design would require a complete change in the layout of the home.

WHEREAS, regarding the design review permit, the Planning Commission finds that the proposal, as conditioned, conforms to the criteria and standards of Section 17.66.060 of the Piedmont City Code as follows:

1. The proposed design is consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are consistent with the original architecture and neighborhood development: the roof form and roof material fit the original architecture, and the window and door material and fenestration pattern including the garage door fit within the neighborhood development.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the topographical differences between the project and neighboring properties are appropriate to preserve privacy, views, and light, and the height of the project has been kept as low as possible.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project has minimal effect on pedestrian and vehicular access or circulation and the project maintains adequate visibility for entering and exiting the driveway.
4. As conditioned, the applicant complies with the following Design Review Guidelines and General Plan policies and programs: II-1, II-2, II-3, II-3(a), II-3(b), II-3(c), II-3(d), II-4, II-5, II-5(a), II-6, II-6(a), II-6(b), II-6(c), II-7, II-7(a) (*remodels*), III-1, III-1(a), III-2, III-2(a), III-3, III-4, III-5, III-5(a), III-6, III-6(a), III-7, III-7(a) (*garages*).
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 28.6 (Exterior Materials), and Design and Preservation Element Policy 29.8 (Exterior Lighting).

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 1382 Oakland Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Approved Plan Set.** The approved plans are those submitted on February 1, 2018, unless modified herein this resolution.

2. **Exposed Wires and Cables.** Plans submitted for building permit shall be revised to show that existing exposed wires and cables on the right side of the residence will be redirected within the walls or inside the house so that no exposed wires or cables are visible on the exterior of the residence.

3. **Code Compliant Staircase and Clearance.** Prior to issuance of a Building Permit, the applicant shall revise the plans to show a Code compliant staircase. Plans shall include a cross-section of the new staircase and a minimum clearance under the staircase of 4 feet 4 inches measured to the garage floor wherever parking is shown beneath the staircase. Any changes to the proposed plans for the garage, such as location of the garage door and / or removal of a window on the left side of the residence, shall be subject to staff review and approval.

4. **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.

5. **Roof Color.** The proposed area of new roofing at the addition shall match the color and material of the roofing on the existing roof. Minor modifications to the design and materials of the roof may be subject to staff review and approval.

6. **Existing Exterior Lighting.** As needed, existing exterior light fixtures shall be replaced with shielded and downward directed lights that do not shine light onto neighboring properties, subject to staff review and approval.

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

8. **Window and Door Material.** As specified in the plans, the building material for the new windows and door at the enclosed porch shall be wood with true divided lites. Approved windows installed elsewhere on the residence shall be fiberglass with simulated divided lites. Approved sliding doors shall be painted fiberglass.

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

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

11. **C&D Compliance.** Compliance with Chapter 5 Article I of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project.

12. **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.

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

14. **Construction Management Plan.** The Property Owner shall develop a comprehensive Construction Management Plan. The Construction Management Plan shall address noise, vibrations, traffic control, parking, debris removal, dust control, sanitary facilities, site safety security and other potential construction impacts, as well as other details involving the means and methods of completing the Project, including the route of construction vehicles to and from the project site. 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, all work must stop and a new hearing and public review by the Planning Commission is required.

- c. Neighboring Property Owner Permission. Should the execution of the Foundation/Shoring/Excavation Plan require excavation into a neighboring property or if access onto the neighboring property is necessary for construction, the applicant shall submit, prior to the issuance of Building Permit, a written statement from the neighboring property owner granting permission for access onto his/her property for the purpose of excavation and/or construction.

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

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

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

The Commission recessed for dinner at 6:24 p.m. and reconvened at 7:07 p.m.

**Design Review Permit
47 Fairview Avenue**

The Property Owner is requesting permission to construct an addition and remodel the home including constructing an approximately 934-square-foot second floor addition; excavating the lower floor by 1 foot; modifying the front entry porch; constructing a deck and second-floor balcony at the rear (west of the residence; modifying siding, windows, doors, skylights, exterior lighting and decorative elements throughout; and modifying hardscape including a new walkway and stairs in the left (south) side yard.

Written notice was provided to neighbors. **Sixteen positive response forms and fifteen negative response forms** were received. Correspondence was received from: Rick Schiller, Francis Heath, Don Condon, and Vivian Barron.

Public testimony was received from:

Ilya Brown, Property Owner, reported that he reduced the overall height of the structure while increasing the height at the peak. The addition is now towards the rear of the home. In an effort to address Mr. Schiller's privacy concerns, he proposed opaque glass for windows facing west, removing windows facing south, reducing the structure height, and reducing the balcony off the master suite. Windows facing south are located in the master bedroom and look onto Mr. Schiller's front yard. The project does not impact or create protected views. In addition, he spoke with other neighbors along the street and received their support. He has revised the project to address the Commission's and neighbors' concerns. Neighbors will not see the rear wall because of vegetation. Stepping back the rear of the home will compromise the interior space so that it no longer functions as he wishes. He agreed to reducing the balcony, windows, and structure height to address the blank rear wall. Two bedrooms were moved to the basement to address the Commission's concern regarding unused space in the basement. He would prefer to keep the space but would consider stepping back the rear of addition if he understood the purpose of stepping it back.

William Holland, project architect, reported the 500-square foot reduction of the third floor equates to the 500-square-foot unused space noted by the Commission at the prior hearing. The only uninhabitable space is the storage area beneath the deck. The distance between windows in the subject property master bedroom to the front windows in 43 Fairview is more than 50 feet. He considered stepping the front and back and pushing the addition to the center of the house. The front was stepped back to address shading on 55 Fairview. Landscaping should mitigate the height and visibility of the project. Reducing the back by 2 feet will severely impact interior ceiling height. Removing the middle 2 feet and pushing it back could work such that the height is not reduced. The volume has been reduced by 69% from the November project. Pushing back just the closets is also possible. To address the twin houses at 39 and 47 Fairview, the front third of the house will be more similar to the existing house than previously proposed. He would consider reducing the proportion of the windows in the master bedroom on the south elevation in compliance to Design Guideline 2.7(a). The balcony on the rear is a nice feature of the house, but it could be removed.

Helen Sandoval, neighbor at 63 Wildwood Avenue, opposed the project due to the height of the house, placement of windows on the side, and the lack of setbacks on the side and rear. The project will change the character of the street and grant the property owners an unfair advantage over neighboring properties.

Sean Byrnes, neighbor at 58 Fairview Avenue, supported the current design. The proposed addition is compatible with the neighborhood.

Rick Schiller, neighbor at 43 Fairview Avenue, remarked that he would lose privacy in his backyard because of the large windows, doors, and a balcony facing his property. The project is not compatible with recent additions at 58, 110, and 111 Fairview and past additions at 17, 55, and 60 Fairview. The project does not retain the original architecture of the twin McCool homes and will alter the neighborhood.

Michelle Turner, neighbor at 39 Fairview Avenue, commented that the project will impact her privacy, view, and natural light. A large window in the project looks directly into her kitchen. Revisions to the project did not reduce the impacts to her home.

Dale Turner, neighbor at 39 Fairview Avenue, advised that revisions to the project have not address his concerns regarding loss of privacy. He cannot plant vegetation to screen the view because of an easement between his home and 45 Fairview. He could support the project if the addition is further reduced.

Commissioners felt the project did not adversely impact Mr. Schiller's views and privacy or those of the property at 39 Fairview Avenue given the distance between the homes, vegetative screening, and the project's distance from setbacks. A reduction to the windows in the addition on the south elevation and articulation of the addition on the west elevation will further reduce concerns regarding privacy and mass. The applicant has addressed concerns about the twin houses at 39 and 47 Fairview Avenue. Commissioners concurred that the balcony as currently proposed was not large enough to raise noise or privacy concerns. The applicant did a good job of addressing Commissioners' concerns raised in the prior hearing.

Resolution 13-DR-18

WHEREAS, the Property Owner is requesting permission to construct an addition and remodel the home including constructing an approximately 934-square-foot second floor addition; excavating the lower floor by 1 foot; modifying the front entry porch; constructing a deck and second-floor balcony at the rear (west of the residence; modifying siding, windows, doors, skylights, exterior lighting and decorative elements throughout; and modifying hardscape including a new walkway and stairs in the left (south) side yard, located at 47 Fairview Avenue, which construction requires a design review permit; and,

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

1. The proposed design is consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are consistent with the original architecture and neighborhood development, including the wall material, roof form and material, the window and door material and fenestration pattern, and the guardrail material. The proposed design preserves the architectural characteristics that make it the twin of the house at 39 Fairview Avenue.

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, and there is sufficient vegetative screening. The proposed project develops habitable space on the basement level in order to minimize the upper level addition and any impact from that on neighboring properties.

3. The proposed design does not adversely affect pedestrian or vehicular safety because the project has no effect on pedestrian and vehicular safety but improves it slightly and the project maintains adequate visibility for entering and exiting the driveway.

4. As conditioned, the application complies with the following guidelines: II-1, II-2, II-3, II-3(a), II-3(b), II-3(c), II-3(d), II-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 28.4 (Setback Consistency), Design and Preservation Element Policy 28.5 (Garages, Decks, and Porches), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 28.7 (Hillside Home Design), and Design and Preservation Element Policy 28.8 (Acoustical and Visual Privacy).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for the proposed remodel at 47 Fairview Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

3. **Exterior Lighting.** Unless otherwise approved by this applications, all new exterior light fixtures shall be downward directed with an opaque or translucent shade that completely covers the light bulb.

4. **Garage Door.** To facilitate vehicular access, the garage door shall be motorized. If design modifications are required to accomplish this, those modifications shall be subject to staff review.

5. **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.

6. **Utility Meters.** Any gas or electric meters shall not be placed on the street facing façade subject to staff review and approval.

7. **C&D Compliance.** Compliance with Chapter 5 Article I of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project.

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. Building Height and Floor Level Verification. At the option of the Building Official, 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 levels and roof of the new structure are constructed at the approved heights above grade.

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

11. 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 \$25,000 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.

12. **Notice of Restricted Use.** The storage rooms do not meet habitation or safety requirements of the Piedmont Municipal Code. A notice of restricted use shall be recorded with the Alameda County Recorder's office advising current and future owners that the basement-level storage room and the storage room attached to the garage do not meet the safety codes for habitation purposes.

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

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

14. **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.

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

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

16. Master Bedroom Windows. In order to promote privacy on adjacent properties, the new upper level master bedroom windows on the south façade shall be reduced in size by a minimum of 30 percent subject to staff review and approval.

17. Rear Façade. In order to provide articulation and relief on the rear façade, the western walls of the master suite closets shall be moved eastward by a minimum of 2 feet. The revised design shall be subject to staff review and approval.

18. **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 near the south-west corner of property in the rear yard. 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 either of these 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 in a similar location on the property, which shall be shown on the final landscape plan. Replacement tree species and size is subject to staff review and approval, 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.

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

**Window Replacement
Guidelines Revision**

Consideration of a Resolution recommending revisions to the Window Replacement Guidelines, which are Section C.1 of the *City of Piedmont Interim Design Guidelines*.

Director Jackson reported that the City does not have a Historic Preservation Ordinance but does have rigorous Design Guidelines. The Guidelines are a way to manage change. The Window Replacement Policy was adopted in 2001 and amended in 2003. In 2017, the Policy was incorporated into the Interim Design Guidelines. Staff recommends changes to address problems encountered in the field, specifically windows with little or no reveal. A reveal is characteristic of the masonry and heavy timber construction typical of traditional architectural styles prevalent in Piedmont. Of particular concern are retrofit windows reducing or eliminating the reveal. The proposed revision is intended to ensure that window installations meet existing criteria. Staff recommends the addition of a criterion to the Window Replacement Guidelines that a new or replacement window shall have a reveal that is at least 75% of the reveal of the original windows on the building. A specific number of inches would not be compatible with the variety of architectural styles in Piedmont. Window retrofits are cost effective and less intrusive, but they should provide an appropriate and noticeable reveal in order to meet current guidelines that new construction be consistent with the building's original architecture. Staff is proposing two conditions of approval. One, the guideline will set a specific reveal for each particular project. Two, the Building Official will conduct a pre-installation inspection to review criteria with the window installer.

Commissioner Jajodia preferred the term recess rather than reveal. In response to her questions, Director Jackson concurred with changing the language to state

measurement from the exterior wall surface or trim, whichever is greater. The revision pertains to original windows rather than existing windows, which may not have been installed in an architecturally consistent manner. Because the current guidelines do not provide such a hierarchy for other building features, the Director would rather not allow a different standard for front windows simply because they are more visible from the street.

Chair Ramsey agreed that matching windows is an important issue and that this information has been missing from the guidelines for far too long. He also requested that window information specific to proposed projects be included in the application materials provided to the Planning Commission.

Commissioner Ode made a motion to adopt the resolution below and incorporate the revisions suggested by Commissioner Jajodia: to replace the term “reveal” with “recess,” and to define the measurement of the recess from the exterior wall surface or trim, whichever is greater.

Resolution 5-PL-18

WHEREAS, in May of 2001, the City Council adopted the City's Window Policy as a way of providing guidance to the Planning Commission and staff in the design review approval of replacement windows. The policy was developed as a way of augmenting the Residential Design Review Guidelines in order to respond to new window technologies. The Policy was updated by the City Council on July 7, 2003; and

WHEREAS, the City's Window Policy was incorporated as section C.1 into the City of Piedmont Interim Design Guidelines, which were adopted by the City Council on March 20, 2017; and

WHEREAS, the City intends to update and expand its design guidelines in 2018; presently, the Interim Design Guidelines serve as the Design Guidelines for the City; and

WHEREAS, these Guidelines are an essential part of implementing Chapter 17, Planning and Land Use; and

WHEREAS, construction technologies related to window installations and replacements have evolved and revisions to the City's policies giving guidance on how such technologies might meet the City's design guidelines evolving will benefit property owners, their design and construction professionals, City staff and the Planning Commission; and

WHEREAS, the adoption of the proposed revisions to the Interim Design Guidelines is not subject to the California Environmental Quality Act (CEQA) because it is not a project within the meaning of CEQA, as it can be seen with certainty that there is no possibility that the adoption of revised Interim Design Guidelines may have a significant effect on the environment. (Public Resources Code section 21065; CEQA Guidelines, 14 Cal. Code of Regs. Sections 15061(b)(3), 15378.). To the extent that the adoption of revised Interim Design guidelines may be considered a project under CEQA, the adoption of such Interim Design Guidelines is exempt under Section 15301 of the CEQA Guidelines, because the Design Guidelines concern the permitting, repair, and alteration of existing public or private structures, and such permitting, repair, and alteration involves negligible or no expansion of an existing use.

NOW, THEREFORE, the Planning Commission of the City of Piedmont resolves that:

SECTION 1. Recitals. The above recitals are correct and are incorporated into this Resolution as findings of the Planning Commission.

SECTION 2. Recommendation -- Interim Design Guidelines. The Planning Commission recommends that the City Council adopt the revisions to Interim Design Guidelines section C.1, Window Replacement, as detailed in the Planning Commission Staff Report dated February 12, 2018, and amended by the Commission.

SECTION 3. All portions of this resolution are severable. If an individual component of this Resolution is adjudged by a court to be invalid and unenforceable, then the remaining portions will continue in effect.

Moved by Ode, Seconded by Behrens

Ayes: Behrens, Jajodia, Levine, Ode, Ramsey

Noes: None

Recused: None

Absent: Thiel

**Scenario for Design
Guidelines Update**

Discussion of a draft scenario to revise, update, and expand the City's Design Guidelines, including tasks, tentative schedule, consultant service, and formation of a subcommittee.

Director Jackson advised that a comprehensive update to and expansion of the Design Guidelines is the fifth and final phase of a project to revise the City Code and Guidelines to comply with the goals of the 2009 General Plan and the 2011 housing element. The current Guidelines address single-family residential construction. There are no Guidelines for commercial development, multifamily residential projects, mixed-use development, signs, hillside construction, or wireless communication facilities. To accomplish this project, staff recommends that the Commission appoint a subcommittee of two Commissioners to work with a team of staff members and a planning consultant to draft the new guidelines. Over the course of several months, the team will meet regularly and report to the Planning Commission monthly. The Commission meetings will serve as the forum for public engagement during the drafting phase of the project. Once a complete draft is developed, more formal public engagement will occur with the draft posted for review and presented in community workshops and online. A comment period will occur prior to its being considered by the Planning Commission. The Commission will make a recommendation to the City Council. The subcommittee is not subject to the Brown Act as it is not a quorum of the Planning Commission. The subcommittee can confer and consult with local experts.

Resolution 6-PL-18

RESOLVED, that the Planning Commission appoints Commissioners Jajodia and Ramsey to serve on a subcommittee to draft a comprehensive update of the Design Guidelines.

Moved by Levine, Seconded by Behrens

Ayes: Behrens, Jajodia, Levine, Ode, Ramsey

Noes: None

Recused: None

Absent: Thiel

Chair Ramsey suggested the timeline be modified to be more realistic. Director Jackson believed the process could require a year to complete. Chair Ramsey recommended the subcommittee meet, determine tasks, and set a schedule with a projected end date of the first quarter of 2019.

ADJOURNMENT

There being no further business, Chairman Ramsey adjourned the meeting at 8:37 p.m.