

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, July 9, 2018

A Regular Session of the Piedmont Planning Commission was held July 9, 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 June 25, 2018.

CALL TO ORDER

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

ROLL CALL

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

Absent: Commissioner Eric Behrens

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

ELECTION OF OFFICERS

Resolution 22-PL-18

RESOLVED, that the Planning Commission appoints Eric Behrens to serve as Commission Chairman and Jonathan Levine to serve as Commission Vice Chairman through March 2019.

Moved by Ramsey, Seconded by Duransoy

Ayes: Alessio, Duransoy, Levine, Ramsey

Noes: None

Recused: None

Absent: Behrens

PUBLIC FORUM

There were no speakers for the public forum.

REGULAR SESSION

The Commission considered the following items of regular business:

APPROVAL OF MINUTES

Resolution 23-PL-18

RESOLVED, that the Planning Commission approves as presented its meeting minutes of the June 11, 2018, regular hearing of the Planning Commission.

Moved by Ramsey, Seconded by Duransoy

Ayes: Alessio, Duransoy, Levine, Ramsey

Noes: None

Recused: None

Absent: Behrens

CONSENT CALENDAR

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

- 10 Arbor Drive (Retaining Wall Design Review).

Director Jackson noted Commissioner Ramsey is recused from hearing the application for 10 Arbor Drive as Commissioner Ramsey's residence is located within 300 feet of 10 Arbor Drive.

Resolution 24-PL-18

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

Moved by Alessio, Seconded by Duransoy

Ayes: Alessio, Duransoy, Levine

Noes: None
Recused: Ramsey
Absent: Behrens

At the end of the meeting, the following Resolution was approved adopting the Consent Calendar:

**Retaining Wall Design
Review Permit
10 Arbor Drive**

Resolution 133-DR-18

WHEREAS, the Property Owner is requesting permission to modify and replace the concrete retaining walls and steps in the front (west) setback and install a new, approximately 4-foot-tall retaining wall in the front setback located at 10 Arbor Drive, 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, 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. As conditioned, 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 retaining wall material and size, the handrail material, and the terracing of the retaining walls.
2. As conditioned, the design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the height of the retaining walls has been kept as low as possible at 4 feet; the distance between the project and neighboring homes is appropriate; there is sufficient vegetative screening; the view is not a significant view; and the terracing of the retaining walls enhances the perception of openness to the front of the house.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project maintains adequate visibility for entering and existing the driveway and overall improves the safety of people entering the house.
4. As conditioned, the application complies with the following guidelines: IV-1, IV-1(a), IV-1(b), IV-2, IV-2(a), IV-3, IV-3(a), IV-4, IV-4(a), IV-5, IV-5(a), IV-6 (*retaining walls*).
5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Natural Resources and Sustainability Element Policy 14.5 (Landscaping), Design and Preservation Element Policy 29.2 (Landscape Design), 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 29.9 (Sight Obstructions).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for construction at 10 Arbor Drive, Piedmont, California, in accordance with the

plans and specifications on file with the City, subject to the following conditions:

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

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

3. **Encroachment Permit.** Before the issuance of a building permit, the Property Owner shall apply for an encroachment permit to allow for the construction of the retaining wall and on-grade steps within the public right-of-way.

4. **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 existing magnolia tree near the north property line. 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 the tree has been compromised, mitigation measures must be specified in writing, and implementation certified by the Project Arborist. Trees proposed for removal shall have an in-lieu replacement tree planted elsewhere on the property, which shall be shown on the final landscape plan. Replacement tree size is subject to staff review, and shall be commensurate with the size and numbers of trees to be removed. They shall generally be a minimum of 24" box size. Before the Final Inspection, the Arborist shall file a report to the City certifying that all tree preservation measures as recommended have been implemented to his/her satisfaction and that all retained trees have not been compromised by the construction.

5. **Final Landscape Plan.** Before issuance of a building permit, the Property Owner shall submit for staff review and approval a final landscape plan that shows the Magnolia tree proposed for retention as well as in-lieu trees required by a Certified Tree Preservation Plan. The final plan shall comply with Municipal Code Section 17.34 and Section 17.32.30, and shall not propose plants near the driveway that could obscure visibility of pedestrians on the sidewalk or vehicles on the street from drivers backing out of the driveway. Upon the determination of the Director, minor differences in the number, size and/or species of vegetation between those shown on the approved landscape plan and those installed at the time of final inspection that do not involve an increase in hardscape or structure coverage may be subject to staff review and approval. Significant differences between the vegetation installed at the time of final inspection and vegetation shown on the approved landscape plan are subject to a design review permit.

6. 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.

7. 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, at the discretion of the Building Official, the Applicant shall submit for approval a Construction Completion Schedule, which will specify, in detail, the duration and percentage of the project as a whole for each phase.

- a. The Construction Completion Schedule with associated construction values for each benchmark shall set forth completion dates for the following benchmarks as needed: i) Completion of Excavation; ii) Completion of Foundation; iii) Completion of Retaining Walls; iv) Completion of Hardscaping and Landscaping; and any further construction benchmarks and conditions of occupancy as may be determined by the Director of Public Works.
- b. Before the Project begins, the Director of Public Works shall make a determination as to the reasonableness of the proposed completion dates applicable to the Project, and that determination shall constitute the Approved Construction Completion Schedule and be binding on the Applicant. The City may, at the Applicant's sole cost, engage the services of a consultant to review the proposed Construction Completion Schedule and, to the extent the period allocated for any work appears unjustifiable, recommend to the Director of Public Works a reasonable completion date for any benchmark.
- c. In the event of a change in scope of the Project that would alter the benchmarks dates set forth in the Approved Construction Completion Schedule, or in the event the Applicant fails to meet a benchmark set forth in

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

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

8. Retaining Wall Location. The proposed retaining wall shall be located a minimum of 12 inches from the edge of the existing sidewalk to allow for a planting strip at the toe of the wall, subject to staff review and approval.

9. Retaining Wall Height. The proposed retaining wall sited along the sidewalk shall be a maximum of 4 feet in height.

Moved by Alessio, seconded by Duransoy

Ayes: Alessio, Duransoy, Levine

Noes: None

Recused: Ramsey

Absent: Behrens

REGULAR CALENDAR

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

Design Guidelines Update

Commissioner Ramsey reported the Design Guidelines Subcommittee met on June 12 with staff and consultants. The subcommittee reviewed design award projects and selected applications to determine the current use and effect of existing design guidelines and reviewed a matrix outlining each of the sections of the design guidelines along with commentary for each section. Next steps include continued review and the consultants engaging stakeholders and preparing a plan for public engagement.

Director Jackson added that the matrix will aid the subcommittee in drafting new guidelines to address General Plan policies.

Fence Design Review Permit 55 Crocker Avenue

The Property Owner is requesting permission to construct an approximately 6-foot stucco wall and wood gate at the front property line within the 20-foot street yard setback along Crocker Avenue and the Hall Fenway.

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

Public testimony was received from:

Reed Bennett, Property Owner, reported a live oak tree prevents the cultivation of a privacy hedge around outdoor space. The lot is bordered by two streets, a City walking path, and a bus stop. The proposed wall is compatible with the neighborhood and the home and will enhance the neighborhood. He met with neighbors and received positive support for the proposed wall. Along the walking path, plants will grow but do not create a privacy hedge. The wall will be located further away from the tree than the path he designed with the assistance of an arborist. He wanted to locate the wall as close to the sidewalk as possible and with the guidance of staff decided on 36 inches from the sidewalk. If the wall was located closer to the sidewalk, it could probably be shorter. A shorter wall in the proposed location would allow passersby to look into outdoor space and the home. He considered a wood fence but chose stucco to complement the house. The height of the wall will not impact tree branches. The wall should be located far enough from the sidewalk so that the path will be visible to pedestrians. One neighbor's wall is 5 feet in height, but the wall at 90 Crocker is significantly taller than the proposed wall.

Commissioners Duransoy and Ramsey and Vice Chair Levine expressed concerns about the height of the wall with Commissioner Ramsey referring to design guidelines and General Plan policies that encourage a feel of openness in front yards and a maximum front yard fence height of 4 feet. Commissioner Alessio felt the property is unique in that it is surrounded by streets and a public walking path and cited the exception for traffic in Design and Preservation Element Policy 29.3. Vice Chair Levine noted the property has private outdoor space in the rear yard and believed a 4-foot wall would prevent vehicle traffic from seeing into the outdoor space and home. Commissioners generally agreed that the design of the wall complemented the home.

In response to Vice Chair Levine's questions, Director Jackson confirmed that the applicant's property is considered a through lot rather than a corner lot. He also explained that the General Plan calls for open front yards free of enclosures, but that landscaping is not generally regulated and thus has become a common method to enclose outdoor spaces in corner lots and front yards. The Design Guidelines allow for fences in street setbacks that enclose rear yards of corner lots.

Resolution 146-FDR-18

WHEREAS, the Property Owner is requesting permission to construct an approximately 6-foot-tall stucco wall and wood gate at the front property line within the 20-foot street yard setback along Crocker Avenue and the Hall Fenway, located at 55 Crocker Avenue, which construction requires a fence design review permit; and,

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

as conditioned, conforms to the criteria and standards of Section 17.66.060 of the Piedmont City Code as follows:

1. As conditioned, the proposed design is consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are consistent with the original architecture and neighborhood development: the wall and gate material is consistent with the residence, and the wall and gate design is appropriate to the residence.
2. As conditioned, the design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the distance between the project and neighboring homes is appropriate, and the height of the project has been kept as low as possible.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project has no effect on the driveway or pedestrian and vehicular safety.
4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: V-1, V-2, V-3, V-5, V-5(a), V-5(b), V-5(c), V-6, V-7, V-8, V-9, V-10, V-11 (*fences*).
5. As conditioned, the project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 27.1 (Streets as Public Space), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 29.3 (Front Yard Enclosures), Design and Preservation Element Policy 29.4 (Maintaining Privacy), Design and Preservation Element Policy 29.5 (Fence and Wall Design).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the fence design review permit application for the improvements at 55 Crocker Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.
2. **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 on the property line as shown on the approved plans. The intent is to verify that the approved features are constructed at the approved dimension from the property lines and that an encroachment permit will not be necessary.
3. **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 vegetation in the strip between the wall and the sidewalk and 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.

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

5. Wall Height. The wall shall have a maximum height of 4 feet as viewed from Crocker Avenue with a maximum height of 5 feet 2 inches at the proposed gate.

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

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

The Property Owner is requesting permission to demolish two unpermitted decks at the rear of the house; construct an approximately 1,445-square-foot second-story addition as part of a comprehensive stylistic remodel; expand at the rear (north) of the home; modify windows, doors, exterior lighting, and hardscape; and to make various interior changes including an expansion of the attached garage. Variances are required to construct in the right side (east) setback and in the front (south) street yard setback.

Written notice was provided to neighbors. **Three affirmative response forms, four negative response forms, and one response form indicating no position** were received.

Public testimony was received from:

Tom Zhang, project architect, advised that the home's footprint will remain unchanged. A few feet will be added to the height of the home to create a second-story addition for a master bedroom and two bedrooms. The lower floor will accommodate a bedroom suite and more spacious living and dining rooms. Windows on both sides of the house will be located high on the wall to ensure privacy for neighbors. The proposal includes a new parking space next to the existing parking space. Front walls will be offset to reducing massing. The applicant requests variances to add a roof deck to the existing garage and to extend an existing wall to create the second story. The scale, proportion, and architecture are compatible with the neighborhood development pattern. The stairs to the basement will be upgraded to align walls. The current laundry room in the basement will be moved to the second level. Approximately 900 square feet of the basement has a ceiling height of 6 feet 8 inches; approximately 300 square feet has a ceiling height of 5 feet and many retaining walls. Remodeling the basement to fit the program will necessitate extending the basement into the rear yard to bring in light and air. The Property Owner has agreed to restrict conversion of the basement to habitable space. Mechanical equipment will be located in the basement. With the second story, the height of the house will not exceed the height limit. In addition, the rear of the house projects into the rear yard to create shadows. Tandem parking is possible, but the proposed garage is more convenient. A modern style will give the neighborhood a fresh look. The new windows can be aluminum clad or thermal break aluminum with a deep recess.

Wendy Bao, Property Owner, was encouraged by neighbors' support for the proposed design.

John Psathas, neighbor at 132 Arbor Drive, indicated the rear of the home appears very tall and to be a solid wall, which creates light and privacy concerns. He expressed appreciation for the efforts to improve the property which is in need of repair.

Generally Commissioners expressed concern about a modern style for the house as it is not common to the neighborhood. Commissioners expressed concerns regarding future conversion of the basement to habitable space and its proposed laundry and bathroom uses with a new stairway access, the failure to step back the new second level so that it was outside of the 20-foot front setback, the rear of the house appearing bulky and possibly blocking neighbors' access to light and views, and the appearance of two garages and widened driveway at the front of the house, which is not typical of the neighborhood.

Director Jackson clarified that the applicant would need a variance for tandem parking.

Resolution 153-DR-18

WHEREAS, the Property Owner is requesting permission to demolish two unpermitted decks at the rear of the house; construct an approximately 1,445-square-foot second-story addition as part of a comprehensive stylistic remodel; expand at the rear (north) of the home; modify windows, doors, exterior lighting, and hardscape; and to make various interior changes including an expansion of the attached garage at 319 Magnolia Avenue, which construction requires a design review permit; and,

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is not consistent with General Plan policies and procedures; and,

WHEREAS, the Planning Commission finds that the proposal, as conditioned, does not conform to the criteria and standards of Section 17.66.060 of the Piedmont City Code as follows:

1. The proposed design is not consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are not consistent with the original architecture and neighborhood development: the scale and mass are not consistent with the neighborhood; the proposed garage is not architecturally compatible with the neighborhood; and the scale and mass of the second-story addition are not consistent with the existing home.
2. The design has an adverse effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the height of the project has not been kept as low as possible for neighbors to the rear of the property.
3. The proposed design does not adversely affect pedestrian or vehicular safety.
4. As conditioned, the application does not comply with the following Design Review Guidelines and General Plan policies and programs: II-3, II-3(d), II-4, (*remodels*), III-1, III-1(a), III-2(a), III-4, III-5 (*garages*).
5. The project is not consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.2 (Style Compatibility), 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 29.7 (Driveway and Parking Location), Land Use Element Policy 1.2 (Neighborhood Conservation).

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

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

Resolution 153-V-18

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

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

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

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

**Design Review Permit
966 Kingston Avenue**

The Property Owner is requesting permission to replace the existing greenhouse window located on the right (west) side of the residence with a casement window and approval retroactively of a raised planter bed within the 20-foot street yard setback.

Written notice was provided to neighbors. **Four affirmative response forms and no negative response forms** were received. Correspondence was received from Marie-Noelle Bliss.

No **public testimony** was received.

Commissioners generally supported replacement of the greenhouse window with a casement window. Commissioner Alessio supported approval of the planter box, while other Commissioners expressed concerns about its height, location, and compatibility with the home. Commissioners discussed conditions of approval for an appropriate size, location, and material of the planter box as well as requiring a planting strip between the sidewalk and the planter box and an encroachment permit for construction within the public right-of-way.

Resolution 154-DR-18

WHEREAS, the Property Owner is requesting permission to replace the existing greenhouse window located on the right side of the residence with a casement window and retroactive approval of a raised planter bed within the 20-foot street yard setback, located at 966 Kingston 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 Conditions, 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. As conditioned, 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 proposed window replaces a non-conforming bay window; the proposed window material and fenestration pattern are more consistent with the house

than the existing window; and the design of the planter box will be compatible with the house, as conditioned.

2. As conditioned, the design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the height of the raised planter box will not affect privacy, views, and light for neighboring properties.

3. As conditioned, the proposed design does not adversely affect pedestrian or vehicular safety because the project maintains adequate visibility for entering and exiting driveways.

4. As conditioned, the application complies with the following guidelines: II-3(a), II-3(b), II-6(c), and regarding the windows, II-7, II-7(a) (*remodels*).

5. As conditioned, the project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.2 (Style Compatibility), Design and Preservation Element Policy 28.4 (Setback Consistency), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 29.2 (Landscape Design), Design and Preservation Element Policy 29.9 (Sight Obstructions).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for remodeling at 966 Kingston 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 June 28, 2018, after notices to neighbors were mailed and the application was available for public review.

2. **Window Material.** As specified in the plans, the building material for the new window shall be wood.

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

4. **Window Recess.** The new window 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.

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

6. **Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any liability, fees

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

7. **Encroachment Permit.** Before the issuance of a building permit, the Property Owner shall apply for an encroachment permit to allow for the construction of the raised planter bed within the public right-of-way on Kingston Avenue.

8. **Planter Box and Landscape.** The maximum height of the planter box shall be 20 inches. If the planter box is to remain within the right-of-way, there shall be a minimum 18-inch planting strip between the planter box and the sidewalk for the planting of vegetative screening. The material and the design of the planter box shall relate to the design of the house and shall be subject to staff review and approval.

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

ANNOUNCEMENTS

Director Jackson reported recruitment for a new Commissioner will occur soon with interviews planned for August. A new Commissioner should be seated for the September Planning Commission meeting.

ADJOURNMENT

There being no further business, Vice Chair Levine adjourned the meeting at 6:54 p.m.