

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, March 12, 2018

A Regular Session of the Piedmont Planning Commission was held March 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 February 26, 2018.

DESIGN AWARDS PRESENTATION

Prior to the start of the Regular Session, Chair Ramsey called the meeting to order at 5:00 p.m. for the presentation of the 2017 Design Awards.

Chair Ramsey remarked that the Design Awards recognize Piedmont homeowners who have done an extraordinary job of planning, designing, and building their home improvement projects. Each homeowner received a plaque, and their design and construction professionals received certificates. The 2017 Design Awards honor exceptional projects in the categories of:

- Excellent Accessory Dwelling Unit
- Excellent Seamless Addition
- Excellence in Comprehensive Reconstruction
- Excellence in Outdoor Living Area
- Excellence in Front Entry Renovation.

Chair Ramsey presented the award for *Excellent Accessory Dwelling Unit* to the owners of 327 Jerome Avenue for a studio addition that created an accessory dwelling unit above an existing garage. The studio addition is elegant and unobtrusive with a recessed dormer that reduces its apparent massing from the street. The dormer's dominant pediment matches the Colonial Revival style of the house, and the consistent eaves and string courses create a unified theme.

Chair Ramsey presented the award for *Excellent Seamless Addition* to the owners of 110 St. James Drive for updating a Mid-Century Modern house and constructing a single-story addition. The standing-seam metal roof extends the visual rhythm of the roofline and steps down across the site without increasing the visual bulk. The projects adds visual interest to the original house while maintaining the underlying Mid-Century Modern character and style.

Commissioner Ode presented the award for *Excellence in Comprehensive Reconstruction* to the owners of 150 Maxwellton Road for reconstruction of a home following a fire. The new front gable and truss help to emphasize the main entryway and balance the appearance of bulk from the street. A careful detailing and reconstruction elevates the original design of the house and restores tranquility to the site.

Commissioner Jajodia presented the award for *Excellence in Outdoor Living Area* to the owners of 100 Indian Road for improving the rear yard landscape and hardscape to create a new outdoor living area. The outdoor area mirrors the style of the house with ornamental colonnade follies and stucco walls that attach to the house. The symmetry and clean, formal organization of the living area contrasts with and enlivens the backdrop of tall oak trees that shade the rear of the yard.

Commissioner Behrens presented the award for *Excellence in Front Entry Renovation* to the owners of 126 Hillside Avenue for a remodel of the front of the house. The project used slate for the steps and concrete retaining walls to present a clean facade and to draw attention to the main entryway of the house.

The pattern of the iron railing matches the divided light pattern in the windows and creates a cohesive design that connects the structure and the approach.

Following the presentations, Commissioner Behrens congratulated recipients and their design and construction professionals and announced that the Regular Session will begin at 6:15 p.m.

CALL TO ORDER

Chairman Ramsey called the meeting to order at 6:15 p.m.

ROLL CALL

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

Absent: Commissioner Jonathan Levine (excused), 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

ANNOUNCEMENTS

Chair Ramsey announced that Commissioner Susan Ode is completing her term on the Planning Commission. He appreciated her calm, thoughtful, and diligent comments and findings. Commissioners and staff thanked Commissioner Ode for six years of service to the Commission and the community.

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 7-PL-18

RESOLVED, that the Planning Commission approves as presented its meeting minutes of the February 12, 2018, regular hearing of the Planning Commission.

Moved by Ode, Seconded by Behrens

Ayes: Behrens, Jajodia, Ode, Ramsey

Noes: None

Recused: None

Absent: Levine, Thiel

CONSENT CALENDAR

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

- 110 Palm Drive (Variance and Design Review)
- 95 Woodland Way (Variance)
- 308 St. James Drive (Variance and Design Review)
- 334 El Cerrito Avenue (Variance and Design Review)

Resolution 8-PL-18

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

Moved by Behrens, Seconded by Jajodia

Ayes: Behrens, Jajodia, Ode, Ramsey

Noes: None

Recused: None

Absent: Levine, Thiel

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

**Variance and Design
Review Permit
110 Palm Drive**

Resolution 35-V/DR-18

WHEREAS, the Property Owner is requesting permission to modify the landscaping of the property including constructing a new fence within the City right-of-way along the sidewalk adjacent to Wildwood Avenue; constructing retaining walls within the street yard setback along Wildwood Avenue; constructing side yard gates in the left (east) and right (west) side yards; and modifying hardscape, landscape, and exterior lighting at 110 Palm Drive, which construction requires a design review permit; and,

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary to construct a patio within the street yard setback along Wildwood Avenue; and,

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the 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 procedures; and,

WHEREAS, the variance from the landscape requirements is approved because it complies with the variance criteria under Section 17.70.040 as follows:

1. The property and existing improvements present unusual physical circumstances of the property, including the lot is a through lot with the majority of the lot in the street setbacks and the lot has unusually steep topography so that strictly applying the terms of this chapter would prevent the property from being used in the same manner as other conforming properties in the zone.
2. The project is compatible with the immediately surrounding neighborhood and the public welfare because a majority of neighboring properties have private outdoor spaces; and the side of the property facing Wildwood could be considered a backyard such that the variance for the patio would apply.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because the house would have to be demolished in order to construct a patio outside the setbacks, and the lot is a through lot and the majority of the area is situated within the setbacks.

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 fence material and form and the retaining wall material and form.

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 and the distance between the project and neighboring homes are appropriate to preserve privacy, views, and light.

3. The proposed design does not adversely affect pedestrian or vehicular safety because the project improves pedestrian safety by creating a barrier to the steep lot with the addition of the fence.

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-5, V-5(a), V-5(b), V-5(c), V-6, V-7, V-8, V-11 (*fences*).

5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Natural Resources and Sustainability Policy 14.4 (Retention of Healthy Native Trees), Design and Preservation Policy 28.6 (Exterior Materials), Design and Preservation Policy 29.5 (Fence and Wall Design), Design and Preservation Policy 29.6 (Retaining Walls), Design and Preservation Policy 29.8 (Exterior Lighting).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application and the design review permit application for the improvements at 110 Palm Drive, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

2. **Fire table.** Should the fire table be a feature attached to the ground or have a gas plumbing line, the design will be subject to staff approval.

3. **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.

4. **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.

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

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

7. **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 fence and retaining wall within the public right-of-way or public easement.

8. **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 3 existing street trees along Wildwood Avenue. 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. If the trees have been compromised, the applicants shall cover the full cost of labor and materials for the removal of the existing street tree and the installation of a new street tree, which shall be carried out by the City or its contractor(s). Trees on the property that are 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.

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

geotechnical consultant, and shall be subject to approval by the City Engineer and the Chief Building Official.

10. 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.

11. 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.

12. 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.

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

- a. The Construction Completion Schedule with associated construction values for each benchmark shall set forth completion dates for the following benchmarks as needed: i) Completion of Excavation; ii) Completion of Retaining Walls; iii) Completion of Foundation; iv) Completion of Rough Framing; v) Completion of Electrical; vi) Completion of Plumbing; vii) Completion of Mechanical; viii) Completion of Fire Sprinklers; ix) Completion of Home; x) Completion of Hardscaping and Landscaping; and any further construction benchmarks and conditions of occupancy as may be determined by the Director of Public Works.
- b. Before the Project begins, the Director of Public Works shall make a determination as to the reasonableness of the proposed completion dates applicable to the Project, and that determination shall constitute the Approved Construction Completion Schedule and be binding on the Property Owner. The City may, at the Property Owner's sole cost, engage the services of a consultant to review the proposed Construction Completion Schedule and, to the extent the period allocated for any work appears unjustifiable, recommend to the Director of Public Works a reasonable completion date for any benchmark.
- c. In the event of a change in scope of the Project that would alter the benchmarks dates set forth in the Approved Construction Completion Schedule, or in the event the Property Owner fails to meet a benchmark set forth in the Approved Construction Completion Schedule, the Property Owner shall immediately submit a request to amend the Approved Construction Completion Schedule to the Director of Public Works. The request to amend shall be accompanied by a new proposed Construction Completion Schedule in compliance with subsection (a) of this condition of approval and the Director of Public Works shall evaluate the proposed amendments to the Approved Construction Completion Schedule in accordance with subsection (b) of this condition of approval.
- d. The failure of the Property Owner to comply with the Approved Construction Completion Schedule, or any amendments to it approved in conformance with subsection (d) of this condition of approval, shall constitute a nuisance under the City of Piedmont City Code ("City Code"). The failure of the Property Owner to comply with the Approved Construction Completion Schedule may result in the City pursuing administrative citations pursuant to Chapter 1 of the City Code, nuisance abatement pursuant to Chapter 6 of the City Code, or any other remedy available to the City under the law. Additionally, if the Property Owner fails to comply with the Approved Construction Completion Schedule, the Director of Public Works, at his or her sole discretion, may make a claim against the Property Owner's Site Security, if one is required, in order to

complete the benchmark. The Director of Public Works, at his or her sole discretion, may refer the application to the Planning Commission for public review and direction.

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

**Variance Permit
95 Woodland Way**

Resolution 38-V-18

WHEREAS, the Property Owner is requesting permission to convert an existing study to a fourth bedroom and other interior changes without supplying two required conforming parking spaces at 95 Woodland Way, which conversion requires a variance permit; and,

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

WHEREAS, the variance from the parking requirement is approved because it complies with the variance criteria under Section 17.70.040 as follows:

1. The property and existing improvements present unusual physical circumstances of the property, including the lot has steep topography and is very narrow, and the house is so close to adjacent structures that it is not possible to build a conforming garage 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 a majority of neighboring properties have garages located close to the street, and neighboring properties have similar setback parking space circumstances due to the sloped properties, lot sizes, and the curvature of Woodland Way.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because creating a new, conforming parking structure is not possible given the slope of the property and the location of the house on the property.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application for the conversion at 95 Woodland Way, 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. **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.

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

**Variance and Design
Review Permit
308 St. James Drive**

Resolution 41-V/DR-18

WHEREAS, the Property Owner is requesting permission to remove and replace the unpermitted planters and retaining wall left of the driveway, rebuild the entry stairs with new rails to meet egress requirements, add a new concrete patio area at the top of the proposed stairs, replace the existing driveway with a new concrete driveway, and make other exterior and landscape changes at 308 St. James Drive, which construction requires a design review permit; and,

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary to construct a the new stair structure within the 20-foot street yard (south) 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 of 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 procedures; and,

WHEREAS, the variance from the 20-foot street setback is approved because it complies with the variance criteria under Section 17.70.040 as follows:

1. The property and existing improvements present unusual physical circumstances of the property, including the lot is unusually small and of an unusual shape that makes construction difficult, and the lot has unusually steep topography so that strictly applying the terms of this chapter would prevent the property from being used in the same manner as other conforming properties in the zone.
2. The project is compatible with the immediately surrounding neighborhood and the public welfare because a majority of neighboring properties have garages located close to the street, and a majority of neighboring properties have structures located in the front setback.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because the house would need to be demolished and rebuilt in order to supply a garage in a compliant manner, and replacing the existing nonconforming use with a conforming use is the only option.

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: wall material, retaining wall, and guardrail material. The wood planter is an attractive and useful replacement.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the project does not affect the neighboring properties' views, privacy, and access to direct and indirect light, and the project improves an existing condition with no increase in height.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project improves safety while buffering the landscape and is the same width as the current wall.
4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: II-1, II-2, II-3(a), II-3(b), II-3(d), II-5(a), II-6(a), II-6(b), II-6(c), (*remodels*), IV-1, IV-1(a), IV-2, IV-2(a), IV-3, IV-3(a), IV-4, IV-4(a), IV-5, IV-5(a), IV-6 (*retaining walls*).
5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.2 (Style Compatibility), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 29.2 (Landscape 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).

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 improvements at 308 St. James Drive, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

3. **Setback from Property Line Verification.** 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 south property line as shown on the approved plans. The intent is to verify that the approved features are constructed at the approved dimension from the property line.

4. **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.

5. **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.

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

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

b. Before the Project begins, the Director of Public Works shall make a determination as to the reasonableness of the proposed completion dates applicable to the Project, and that determination shall constitute the Approved Construction Completion Schedule and be binding on the Applicant. The City may, at the Applicant's sole cost, engage the services of a consultant to review the proposed Construction Completion Schedule

and, to the extent the period allocated for any work appears unjustifiable, recommend to the Director of Public Works a reasonable completion date for any benchmark.

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

7. Paved areas, including but not limited to the driveway, shall be pervious.

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

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

Resolution 44-V/DR-18

WHEREAS, the Property Owner is requesting permission to excavate the existing driveway area and construct an approximately 590-square-foot two-car garage and staircase addition including reconstructing and elevating the existing family room wing above the garage, roof changes, tree removal, and new windows, doors, lighting, AC unit, porch, steps, pathways, trash enclosure, retaining walls, and other changes at 334 El Cerrito Avenue, which construction requires a design review permit; and,

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary to construct in the street (south) yard setback and in the right (east) side yard setback and to construct a bay window that exceeds floor area ratio limits; and,

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental

Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e), Existing Facilities, because it is a minor change to an existing private residence which is less than 50 percent of the floor area of the structure before the addition, and the project is consistent with General Plan policies and procedures; and,

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

1. The property and existing improvements present unusual physical circumstances of the property, including the lot is unusually small with an irregular frontage and shape and the existing building is constructed within those setbacks, 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 what is being proposed, and the proposed addition improves an existing nonconforming parking garage conversion that was built in 1988.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because the project extends existing nonconforming walls and builds on an existing footprint.

WHEREAS, the variance from the floor area ratio is denied because it does not comply with the variance criteria under Section 17.70.040 as follows:

1. The property and existing improvements do not present unusual physical circumstances of the property because the project can be constructed without expanding the existing nonconforming condition, and strictly applying the terms of this chapter would not prevent the property from being used in the same manner as other conforming properties in the zone.

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: once the addition/remodel has been completed, the scale and mass of the existing residence will maintain compatibility with the scale and mass of the existing residences in the neighborhood; the second-story addition is consistent with the materials and design of the residence and neighborhood development; the door and window patterns continue the existing door and window patterns of the existing home; and proposed exterior lighting is shielded and directed downward and consistent with the design of the residence and 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 distance between the project and neighboring homes is appropriate and the addition is built on the existing footprint; the remodel and addition provide breaks in the roof form to maintain most views and the existing direct and indirect light; and privacy is provided by proposed landscaping and grade changes.

3. The proposed design does not adversely affect pedestrian or vehicular safety because the project's pedestrian and vehicular access are improved by re-grading the existing driveway and restoring two-car, conforming parking where none existed.

4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: II-1, II-2, II-3, II-3(a), II-3(b), II-3(c), II-3(d), II-4, II-6(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*).

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 29.2 (Landscape Design), Design and Preservation Element Policy 29.4 (Maintaining Privacy), Design and Preservation Element Policy 29.7 (Driveway and Parking Location), Design and Preservation Element Policy 29.8 (Exterior Lighting), Design and Preservation Element Policy 29.9 (Sight Obstructions).

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 improvements at 334 El Cerrito 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 23, 2018, unless modified herein this resolution.

2. **Shed.** The existing attached storage shed/garden shed shall be removed and replaced with a detached shed subject to staff review and approval.

3. **Environmental Hazards.** Prior to the issuance of a building permit as required by the Chief Building Official, the applicant shall provide a plan, including necessary testing, to verify compliance with all local, state and federal regulations regarding the disturbance and removal of hazardous materials 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.

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. **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.

6. **Roof Color.** Roofing on the garage/family room addition and porch roof shall match the existing roofing color and material.

7. **Window and Door Material.** As specified in the plans, the building material for the new windows shall be metal with true divided lights and the material of the doors shall be wood with three-dimensional simulated divided lights or true divided lights.

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

9. **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.

10. **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.

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 west, south, and east property lines as shown on the approved plans. The intent is to verify that the approved features are constructed at the approved dimension from the property lines.

14 Encroachment Permit. Before the issuance of a building permit, the Property Owner shall apply for an encroachment permit for existing or proposed construction within the public right-of-way or public easement, or as required by the Public Works Director.

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. If 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. 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 street tree to the left of the driveway. The Project Arborist shall be on-site during critical construction activities, including grading. The arborist shall document in writing and with photographs the tree protection measures used during these critical construction phases. 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 Project Arborist shall file a report to the City certifying that all tree preservation measures as recommended have been implemented to his/her satisfaction and that all retained trees have not been compromised by the construction.

17. 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.

18. California's Water Efficient Landscape Ordinance: As required by the Building Official, 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. (The form for the Landscape Document Package and a Frequently Asked Question document on the CA-WELO requirements is available at the Public Works Counter and on the City website at www.ci.piedmont.ca.us).

19. Geotechnical Report and Review. At the option of the Building Official, 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.

20. 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 an amount of \$10,000 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.

21. **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.

22. **Construction Completion Schedule.** Work on the Project, once begun, shall be promptly executed with continuous good faith and reasonable progress. Since timely completion of this Project is of the essence, the Property Owner shall submit for approval a Construction Completion Schedule, which will specify, in detail, the duration and percentage of the project as a whole for each phase.
- a. The Construction Completion Schedule with associated construction values for each benchmark shall set forth completion dates for the following benchmarks as needed: i) Completion of Excavation; ii) Completion of Retaining Walls; iii) Completion of Foundation; iv) Completion of Rough Framing; v) Completion of Electrical; vi) Completion of Plumbing; vii) Completion of Mechanical; viii) Completion of Fire Sprinklers; ix) Completion of Home; x) Completion of Hardscaping and Landscaping; and any further construction benchmarks and conditions of occupancy as may be determined by the Director of Public Works.
 - b. Before the Project begins, the Director of Public Works shall make a determination as to the reasonableness of the proposed completion dates applicable to the Project, and that determination shall constitute the Approved Construction Completion Schedule and be binding on the Property Owner. The City may, at the Property Owner's sole cost, engage the services of a consultant to review the proposed Construction Completion Schedule and, to the extent the period allocated for any work appears unjustifiable, recommend to the Director of Public Works a reasonable completion date for any benchmark.
 - c. In the event of a change in scope of the Project that would alter the benchmarks dates set forth in the Approved Construction Completion Schedule, or in the event the Property Owner fails to meet a benchmark set forth in the Approved Construction Completion Schedule, the Property Owner shall immediately submit a request to amend the Approved Construction Completion Schedule to the Director of Public Works. The request to amend shall be accompanied by a new proposed Construction Completion Schedule in compliance with subsection (a) of this condition of approval and the Director of Public Works shall evaluate the proposed amendments to the Approved Construction Completion Schedule in accordance with subsection (b) of this condition of approval.
 - d. The failure of the Property Owner to comply with the Approved Construction Completion Schedule, or any amendments to it approved in conformance with subsection (d) of this condition of approval, shall constitute a nuisance under the City of Piedmont City Code ("City Code"). The failure of the Property Owner to comply with the Approved Construction Completion Schedule may result in the City pursuing administrative citations pursuant to Chapter 1 of the City Code, nuisance abatement pursuant to Chapter 6 of the City Code, or any other remedy available to the City under the law. Additionally, if the Property Owner fails to comply with the Approved Construction Completion Schedule, the Director of Public Works, at his or her sole discretion, may make a claim against the Property Owner's Site Security, if one is required, in order to complete the benchmark. The Director of Public Works, at his or her sole discretion, may refer the application to the Planning Commission for public review and direction.
23. Prior to issuance of a building permit, the project shall be designed to eliminate the need for a variance from the floor area ratio limit, subject to staff review and approval.

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

REGULAR CALENDAR

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

Revision of Chapter 17 of the City Code

Consideration of Various Technical Refinements and Corrections to City Code Chapter 17, Planning and Land Use

Director Jackson reported staff has found provisions of Chapter 17 that need refinement or correction since the comprehensive update a year ago. He reviewed each revision as follows:

- Section 17.30.050—a change to require an additional 1-foot clearance between the side of a parking space and the nearest wall or similar obstruction. Additional space will result in construction of larger and more usable garages.
- Section 17.32.010—a correction to represent the process required for fencing and landscaping of trash enclosures in the front yard.
- Section 17.36.040.C.2.b—an addition of standards for sign design review. A sign design review permit requires different standards from a design review permit for buildings.
- Section 17.38.060.B.5.a—a change to conform the City Code with state law.
- Section 17.62.030.C.1—a correction to a typographical error.
- Section 17.62.030.E—an update of the schedule to include notice requirements for applications for a zoning amendment or a zoning map amendment.
- Section 17.64.010.B—a clarification to indicate appeals will be presented to the City Council for hearing at least 45 days after the filing of an appeal.
- Section 17.64.020.B—a correction to indicate the Planning Director rather than the Public Works Director takes action on applications for administrative extension.
- Section 17.90.020—changes to the definition of floor area to include non-habitable basement and attic areas that could easily be converted to habitable area.
- Sections 17.48.010, 17.48.060, and 17.48.070—a correction to substitute the word division for the word chapter.

In response to Commissioners' questions, Director Jackson explained that the change to Section 17.30.050 returns the dimension of parking spaces close to the prior dimensions if the space is adjacent to a wall. Allowing up to four bedrooms in a home without addressing nonconforming parking is a more effective relaxing of the regulations than this size change. The additional foot of space will not be applied to open space between two adjacent cars. Proposed revisions have been published and available for public review for the past 14 days. Proposed sign criteria do not stipulate a percentage of overall linear footage or area of a sign relative to the facade or plane. The text for sign design review is extensive to facilitate the public's understanding of the goals of sign design. Under current state law for accessory dwelling units, a concrete pad for

parking can be placed in any configuration in any location on the property, including within the 20-foot front setback. Director Jackson believes that the Commission could continue to limit the size of parking areas in the front yard, but not prohibit them. The City Attorney had recommended the provision of at least 45 days to present an appeal to the City Council to allow for the preparation of a response to the appeal. With respect to floor area ratio, building and planning staff attempted to develop a definition for non-habitable space, but each attempt conflicted with requirements of the Building Code. A prelude to the exemption from the floor area limit for Zones A and E could state "in order to encourage development within the building envelope rather than building outwards, the floor area ratio standard is not applied."

Chair Ramsey noted the Commission's two concerns were further clarification of floor area ratio and parking within the 20-foot front setback. Commissioner Jajodia suggested Commissioners could condition parking to be made of pervious paving or consider during design review whether reasonable efforts had been made to locate parking outside the front setback. Commissioner Behrens recalled the statements of principle about the importance of the front yard and suggested the text contain general language referring to existing policies and guidelines.

Director Jackson recommended the Commission approve the revisions with the amendment for floor area ratio. Separately staff will consult with the City Attorney to determine whether language regarding location of parking can be changed in the accessory dwelling unit ordinance.

Resolution 9-PL-18

RESOLVED that the Planning Commission recommends that the City Council approve the proposed revisions to Chapter 17 of the City Code with an amendment to clarify an exception to floor area ratio in Zones A and E as discussed.

Moved by Jajodia, seconded by Ode

Ayes: Behrens, Jajodia, Ode, Ramsey

Noes: None

Recused: None

Absent: Levine, Thiel

**Design Review Permit
370 Hampton Road**

The Property Owner is requesting permission to regrade and construct new retaining walls and a new on-grade deck in the rear yard, remove an existing deck in the rear-yard setback, construct a new fence, shed, and outdoor kitchen along the east property line, and perform other minor landscape improvements throughout the rear yard.

Written notice was provided to neighbors. **One response form indicating no position** was received.

Public testimony was received from:

Dan Hano advised that the purpose of the project is to improve the outdoor living space. The front fence by the street is unattractive, and a more appropriate design would be a stucco wall along the north side. The project proposes a barbecue area and a dining area near the pool, artificial turf around the pool, and pavers in some deck areas and in the dining area. The fiberglass post and PVC fence will be low visibility and is intended to meet the Code requirement for

safety around the pool area. The deck extension of 4 feet will not encroach into the 5-foot setback but will provide room for furniture and a fire pit.

Commissioner Jajodia expressed concern about the material of the pool fence not matching other fencing; however, the remaining Commissioners felt the material was appropriate and generally used for pool security. Commissioners agreed that extending the deck by 4 feet will not impact the neighbor's privacy as the intensity of use will be the same whether the deck is extending by 2 feet or 4 feet. Commissioner Jajodia noted the risk of carcinogens in artificial turf and the availability of materials that do not contain carcinogens. Commissioner Behrens stated the redesign makes the backyard much more usable and is well done.

Resolution 410-DR-17

WHEREAS, the Property Owner is requesting permission to regrade and construct new retaining walls and a new on-grade deck in the rear yard, remove an existing deck in the rear-yard setback, construct a new fence, shed, and outdoor kitchen along the east property line, and perform other minor landscape improvements throughout the rear yard, located at 370 Hampton Road, which construction requires a design review permit; and,

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e), Existing Facilities, because 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. 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 materials of wrought iron and board on wood; the deck materials; replacing a deck such that it is not located in the rear setback; the siting of the outdoor kitchen; proposed modifications to replace and enlarge existing patios; the exterior staircase; adding an outdoor barbecue and gas fireplace; and relocating pool equipment into an enclosed shed. The exterior design elements are aesthetically pleasing and harmonious with the style of the original house.
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 improved by the project; the topographical differences are appropriate to preserve privacy, views, and light; there is sufficient vegetative screening; and the view is not a significant view.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project has no effect on pedestrian or vehicular safety.
4. As conditioned, the application complies with the following guidelines: IV-1, IV-1(b), IV-2, IV-2(a), IV-3, IV-3(a), IV-4, IV-5, IV-5(a), IV-6 (*retaining walls*); V-1, V-2, V-3, V-4, V-5, V-5(a), V-5(b), V-5(c), V-6, V-7, V-8, V-9, V-10, V-11 (*fences*).

5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.5 (Garages, Decks, and Porches), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 29.1 (Conserving Residential Yards), Design and Preservation Element Policy 29.2 (Landscape Design), Design and Preservation Element Policy 29.5 (Fence and Wall Design), Design and Preservation Element Policy 29.6 (Retaining Walls), Natural Resources and Sustainability Element Policy 14.5 (Landscaping), Natural Resources and Sustainability Element Policy 16.4 (Permeable Pavement).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for improvements at 370 Hampton Road, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

3. **Final Landscape Plan.** Before issuance of a building permit, the Property Owner shall submit for staff review and approval a Final Landscape Plan that shows trees proposed for retention. The final plan shall comply with Municipal Code Section 17.34, 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.

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 two trees along the rear property line, the tree to the west of the house near the swimming pool, and the tree near the west property line in the front yard along the proposed wall. 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 their

satisfaction and that all retained trees have not been compromised by the construction.

5. 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.

6. Setback from Property Line Verification. Prior to foundation/footing inspection, the applicant shall submit to the Building Official written verification by a licensed land surveyor stating that the side yard fence, side yard shed, and front yard wall construction is located at the setback dimension from the north 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.

7. 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.

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

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

- Retaining Walls; iii) Completion of Foundation; iv) Completion of Rough Framing; v) Completion of Electrical; vi) Completion of Plumbing; vii) Completion of Mechanical; viii) Completion of Fire Sprinklers; ix) Completion of Home; x) Completion of Hardscaping and Landscaping; and any further construction benchmarks and conditions of occupancy as may be determined by the Director of Public Works.
- b. Before the Project begins, the Director of Public Works shall make a determination as to the reasonableness of the proposed completion dates applicable to the Project, and that determination shall constitute the Approved Construction Completion Schedule and be binding on the Property Owner. The City may, at the Property Owner's sole cost, engage the services of a consultant to review the proposed Construction Completion Schedule and, to the extent the period allocated for any work appears unjustifiable, recommend to the Director of Public Works a reasonable completion date for any benchmark.
 - c. In the event of a change in scope of the Project that would alter the benchmarks dates set forth in the Approved Construction Completion Schedule, or in the event the Property Owner fails to meet a benchmark set forth in the Approved Construction Completion Schedule, the Property Owner shall immediately submit a request to amend the Approved Construction Completion Schedule to the Director of Public Works. The request to amend shall be accompanied by a new proposed Construction Completion Schedule in compliance with subsection (a) of this condition of approval and the Director of Public Works shall evaluate the proposed amendments to the Approved Construction Completion Schedule in accordance with subsection (b) of this condition of approval.
 - d. The failure of the Property Owner to comply with the Approved Construction Completion Schedule, or any amendments to it approved in conformance with subsection (d) of this condition of approval, shall constitute a nuisance under the City of Piedmont City Code ("City Code"). The failure of the Property Owner to comply with the Approved Construction Completion Schedule may result in the City pursuing administrative citations pursuant to Chapter 1 of the City Code, nuisance abatement pursuant to Chapter 6 of the City Code, or any other remedy available to the City under the law. Additionally, if the Property Owner fails to comply with the Approved Construction Completion Schedule, the Director of Public Works, at his or her sole discretion, may make a claim against the Property Owner's Site Security, if one is required, in order to complete the benchmark. The Director of Public Works, at his or her sole discretion, may refer the application to the Planning Commission for public review and direction.

9. **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.

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

**Design Review Permit
407 Moraga Avenue**

The Property Owner is requesting permission to construct a new detached two-story accessory structure consisting of a new two-car garage with unconditioned storage area on the lower level, 795 square feet of habitable living space, and a

300-square-foot deck on the upper level. Other proposed exterior features include lighting, a driveway with turnaround, stairs, railings, skylights, doors, and windows.

Chair Ramsey reported the application for an accessory dwelling unit is not a part of the application being considered; therefore, the Planning Commission can comment on the design of the structure only and cannot accept testimony or comment regarding the accessory dwelling unit permit application.

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

Public testimony was received from:

Robert Kelly, architect, reported the lot has an unusual shape and is very deep. The second unit is located as far from the street frontage as possible to provide privacy to other homes. He raised the second unit to provide better light, better views, and access to parking. The neighbor's garage and driveway face the story poles; their primary views face the cemetery and hills. From the neighbor's primary outdoor space, the story poles are not prominent and will be obscured by a tree. He could introduce screening to mitigate light or noise concerns. There is adequate space for a vehicle in the right side of the garage to clear the stairs. Placement of the lower windows is arbitrary, but placement of the upper windows is related to the rooms. The windows could be aligned. The upper window is smaller because it is located at the kitchen sink. The size of the deck and placement of the posts are limited by the car turnaround. The covering of the existing carport will be removed, but the parking space will remain. The turnaround cannot be moved to the existing carport and the proposed turnaround landscaped because the proposed turnaround is needed to access the garage doors. The existing carport will be used as parking for the main house. There will be a total of four parking spaces onsite. The paved area will remain paved. The structure coverage and paving will increase with the addition of the second unit and its driveway. The owners have discussed removing the garage to reduce the height of the second unit, but they prefer a garage. Because the project meets the limit for structure coverage, construction of a garage at another location is not possible. To break up the front facade of the second unit, he could step in the lower floor. The front facade does not appear as a wall because of the garage doors, windows, entry door, and deck. A wainscot could be added, but it would be located under the deck and behind the stairs. The deck structure will be wood. The plate height will be 8 feet 4 1/2 inches. The second unit will have an attic. The final choice of an entry door to the second unit has not been determined. An interior stairway would replace a bedroom because the size of an accessory dwelling unit is limited to 800 square feet.

Susan Meckel, neighbor at 413 Moraga, envisioned constant activity and noise from the deck as it is the only means of ingress and egress to the second unit. The lot is slightly smaller than other lots along the street where second units have been constructed. She preferred the second unit be lower. She clarified her written comments to mean 407 Moraga has two onsite parking spaces. The homeowner frequently parks on the street. Generally, the applicant has proposed too much pavement and too much structure for the lot size.

Director Jackson advised Commissioners that parking spaces are not required for an accessory dwelling unit. Design review applies to the size and bulk of a building regardless of its use.

Commissioners generally supported the project in that it is located at the rear of the lot and adds parking. Commissioners Behrens and Ode agreed that the structure needs to be taller to have light. Commissioners Ode and Jajodia felt the distance between the accessory dwelling unit and the neighbor as well as some landscape screening will mitigate noise issues. Commissioner Jajodia concurred with removing the carport covering and preferred a reduction in the paved area or the use of pervious pavers. She suggested additional conditions of approval to reduce the footprint of the garage and to break up the mass with the use of a second exterior material. Chair Ramsey expressed concern about the deck looking tacked on and lacking symmetry and about a vehicle striking the deck supports.

Resolution 12-DR-18

WHEREAS, the Property Owner is requesting permission to construct a new detached two-story accessory structure consisting of a new two-car garage with unconditioned storage area on the lower level, 795 square feet of habitable living space, and a 300-square-foot deck on the upper level. Other proposed exterior features include lighting, a driveway with turnaround, stairs, railings, skylights, doors, and windows, located at 407 Moraga 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 project consists of the construction of an accessory structure for an existing 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 roof form and roof material, the window and door material and fenestration pattern, the guardrail material, the sizing and massing of the new accessory structure, and the wall material.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the distance between the project and neighboring homes is appropriate so that visual or acoustical privacy is not affected, and there is sufficient vegetative screening.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project improves the onsite parking conditions, the proposed turnaround improves pedestrian safety, 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(a), I-1(b), I-1(c), I-1(d), I-2, I-2(a), I-2(b), I-2(c), I-2(d), I-3, I-4, I-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 28.5 (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 29.1 (Conserving Residential Yards).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for a detached accessory structure at 407 Moraga 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 22, 2018, unless modified herein this resolution.

2. **Security Gate.** Prior to issuance of a building permit, the plans shall be revised to show security fencing to the right of the residence removed and/or reconstructed outside of the required street yard setback, unless the applicant obtains a design review permit for construction of the fencing within the street yard setback.

3. **Door Material.** As specified in the plans, the building material for the new doors shall be wood, fiberglass, or metal-clad wood with simulated three-dimensional divided lights with mullions on the exterior of the glass on both the interior and exterior sides of the door.

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. **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, east, 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.

6. **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 height above grade.

7. **Window Material.** As specified in the plans, the building material for the new windows shall be fiberglass or metal-clad wood with simulated three-dimensional divided lights with mullions on the exterior of the glass on both the interior and exterior sides of the window. Recess to the exterior trim shall be 1-5/8 inches.

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

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

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

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

12. **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 height above grade.

13. **Final Landscape Plan.** Before issuance of a building permit, the Property Owner shall submit for staff review and approval a Final Landscape Plan for the rear yard of the property. 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 exiting the driveway.

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 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.

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 of the project as a whole for each phase.

- a. The Construction Completion Schedule with associated construction values for each benchmark shall set forth completion dates for the following benchmarks as needed: i) Completion of Excavation; ii) Completion of Retaining Walls; iii) Completion of Foundation; iv) Completion of Rough Framing; v) Completion of Electrical; vi) Completion of Plumbing; vii) Completion of Mechanical; viii) Completion of Fire Sprinklers; ix) Completion of Home; x) Completion of Hardscaping and Landscaping; and any further construction benchmarks and conditions of occupancy as may be determined by the Director of Public Works.
- b. Before the Project begins, the Director of Public Works shall make a determination as to the reasonableness of the proposed completion dates applicable to the Project, and that determination shall constitute the Approved Construction Completion Schedule and be binding on the Property Owner. The City may, at the Property Owner's sole cost, engage the services of a consultant to review the proposed Construction Completion Schedule and, to the extent the period allocated for any work appears unjustifiable, recommend to the Director of Public Works a reasonable completion date for any benchmark.
- c. In the event of a change in scope of the Project that would alter the benchmarks dates set forth in the Approved Construction Completion Schedule, or in the event the Property Owner fails to meet a benchmark set forth in the Approved Construction Completion Schedule, the Property Owner shall immediately submit a request to amend the Approved Construction Completion Schedule to the Director of Public Works. The request to amend shall be accompanied by a new proposed Construction Completion Schedule in compliance with subsection (a) of this condition of approval and the Director of Public Works shall evaluate the proposed amendments to the Approved Construction Completion Schedule in accordance with subsection (b) of this condition of approval.
- d. The failure of the Property Owner to comply with the Approved Construction Completion Schedule, or any amendments to it approved in conformance with subsection (d) of this condition of approval, shall constitute a nuisance under the City of Piedmont City Code ("City Code"). The failure of the Property Owner to comply with the Approved Construction Completion Schedule may result in the City pursuing administrative citations pursuant to Chapter 1 of the City Code, nuisance abatement pursuant to Chapter 6 of the City Code, or any other remedy available to the City under the law. Additionally, if the Property Owner fails to comply with the Approved Construction Completion Schedule, the Director of Public Works, at his or her sole discretion, may make a claim against the Property Owner's Site Security, if one is required, in order to complete the benchmark. The Director of Public Works, at his or her sole discretion, may refer the application to the Planning Commission for public review and direction.

16. Prior to issuance of a building permit, to reduce building mass, the garage footprint and height shall be reduced, subject to staff review and approval.

17. Prior to issuance of a building permit, an additional finish material shall be used on the exterior of the accessory building, subject to staff review and approval.

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

The Commission recessed for dinner at 7:48 p.m. and reconvened at 8:10 p.m.

**Variance and Design
Review Permit
89 Maxwellton Road**

The Property Owner is requesting permission to construct a new 4,529-square-foot residence and 504-square-foot, two-car garage including tree removals and new retaining walls, driveway bridge, patios, site steps, exterior lighting, doors, windows, porches, decks, railings, trash enclosure, landscaping and other changes. Variances are required to construct a structure in the street yard (north) setback and to construct a patio within the street yard (north) setback.

Written notice was provided to neighbors. **Four negative response forms** were received.

Public testimony was received from:

Joyce Tang, property owner, advised that the plans have been modified to save redwood and oak trees, to retain three on-street parking spaces, to decrease the mass of the home, and to relocate the structure further from the street. Landscaping will incorporate fast-growing vegetation for screening. The proposed home's size is comparable to the last two homes built in the area.

John Newton, project designer, reported the original design was significantly taller and more massive than the current design. To lessen the impact to neighbors and to save more trees, the house is more narrow and deeper. The main level of the house has been dropped a floor. He conducted a shadow study for an adjacent neighbor's kitchen and breakfast room and learned there will be no impact on those rooms. In response to another neighbor's concerns, he moved the bay window further back from the street and removed the gable and windows facing the neighbor. He disagreed with neighbors' contention that the square footage of the structure is too large. Dropping the whole house down a level greatly decreases the mass. The deck from the accessory dwelling unit and the smaller single-story component off the back address reduction of bulk. The current design steps down significantly better than the original design. The wall enclosing the space under the driveway will be built of stucco on wood framing. The location of the garage and the slope of the land create the bridge. From the front, the blank wall will be enclosed by the driveway. The entrance is recessed because many Craftsman homes have an understated feel. Plans submitted the day of the hearing address the Steins' concerns and include moving the steps, pulling the bulk of the house away from the Steins' property, switching the bedroom and bathroom, and removing the large gable. The redwood trees will provide a partial privacy screen for the Steins. At the rear, the overall ridge was decreased 3 1/2 feet, and the gable was added.

Philip Stein, neighbor at 16 Nellie Avenue, felt the most recent design with more robust landscaping will address many of his privacy issues. However, the house remains incompatible with the neighborhood and the Piedmont Code regarding hillside construction. He urged the Commission to deny the application.

Lucas Tomsich, neighbor at 81 Maxwellton Road, appreciated the designer conducting the shadow study and using frosted glass in bathroom windows facing his home. However, the house is not consistent with Code Section 17.20.010. The designer reduced the square footage of the home by less than 10 percent. The house is too large for the narrow and steep lot. A further reduction in square footage is needed. The two homes referenced by the property owner are larger, but they are not visible from the road or from his house.

Sudthida Cheunkarndee, neighbor at 11 Nellie Avenue, concurred with earlier comments that the house is not in scale with the hillside context and the lot size. The designer has not taken full advantage of the slope to terrace the volume and structure of the house as it moves downhill.

Commissioners appreciated modifications to address parking, tree preservation, and neighbors' privacy; however, they could not approve the application because the design does not conform with the contour of the lot or Design Guideline I-5. The Commissioners felt that, as proposed, the house projects unnecessarily far from existing grade. Eliminating the unused non-habitable spaces and stepping the design to follow the downhill contour in a cut-and-fill manner would significantly reduce the bulk and enhance compatibility with the neighborhood.

In response to Mr. Newton's question regarding design of the garage, Chair Ramsey referred him to Design Guideline I-5.

Resolution 40-NH DR-18 87-NH V-17

WHEREAS, the Property Owner is requesting permission to construct a new 4,529-square-foot residence and 504-square-foot, two-car garage including tree removals and new retaining walls, driveway bridge, patios, site steps, exterior lighting, doors, windows, porches, decks, railings, trash enclosure, landscaping and other changes at 89 Maxwellton Road, which construction requires a design review permit; and,

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary to construct within the street yard setback; and

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) because the project consists of one single-family residence to be constructed within a single-family zoning district, because there are no unusual circumstances associated with the property or the project, because existing General Plan policies and programs are sufficient to address the proposed grading, excavation, and construction, and because there is no substantial evidence that any exception to the Class 3 Categorical Exemption applies to this project specifically including the unusual circumstances exception, and the project is not consistent with General Plan policies and programs, and that the proposal, as conditioned, does not conform to the criteria and standards of Section 17.66.060 of the Piedmont City Code:

1. The proposed design is not consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are not consistent with the neighborhood development, including the size and massing

of the new house and the failure to take advantage of the topography to reduce the size and bulk of the structure.

2. The design as modified from the previous proposal has less effect on neighboring properties' existing views, privacy, and access to direct and indirect light because there appears to be sufficient vegetative screening; however, the topographical differences are not sufficient to preserve privacy, views, and light, and the height of the project has not been kept as low as possible.

3. The proposed design does not adversely affect pedestrian or vehicular safety because the project improves onsite parking conditions.

4. As conditioned, the application fails to comply with the following guidelines: I-1(c), I-5, I-5(a), I-5(b), I-6 (*new construction*), IV-2, IV-2(a) (*retaining walls*).

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: Land Use Element Policy 1.3 (Harmonious Development), Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.7 (Hillside Home Design), Design and Preservation Element Policy 28.8 (Acoustical and Visual Privacy).

WHEREAS, the Planning Commission continues the application for variances from the street yard setback because there is no approved design for which variances from setback requirements are necessary.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies without prejudice the design review permit application for construction of a new house at 89 Maxwellton Road, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Behrens, Seconded by Jajodia

Ayes: Behrens, Jajodia, Ode, Ramsey

Noes: None

Recused: None

Absent: Levine, Thiel

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

The Property Owner is requesting permission to construct an approximately 87-square-foot kitchen addition at the front of the residence that includes a window and skylight modifications and various changes to the interior. A variance is required to construct within the 20-foot street yard (north) setback.

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

Public testimony was received from:

Christine Olsen, property owner, reported she had distributed renderings of the project to neighbors. Neighbors have expressed support for the project.

Robert Wolf, architect, indicated the garage is small while the house is relatively large. The project extends the kitchen 3 feet and steps that further for a bay window. The kitchen is tiny, does not function well, and would discourage a

potential buyer from purchasing the home. The addition is intended to increase the function of the kitchen to be comparable to other kitchens in the community. Expanding the kitchen in a functional way and in a direction other than the front is not possible. In addition, the existing garage encroaches into the front setback. He considered opening the kitchen toward the family room and entry, but the stairway is heavily used by the family and is fairly tight and winding. He also considered other possibilities, but they were not logical for flow.

The Commissioners were divided in their support of the application. Commissioners Behrens and Ode supported granting a variance, stating the house was poorly situated on the lot at construction, the size of the kitchen is not compatible with the rest of the house or comparable to neighbors' kitchens, and a larger kitchen would preserve the house for later sale.

Commissioner Jajodia and Chair Ramsey opposed granting a variance in that the kitchen could be extended into family space or the stairway and the future sale of the home is not a finding for granting a variance.

Resolution 42-V/DR-18

WHEREAS, the Property Owner is requesting permission to construct an approximately 87-square-foot kitchen addition at the front of the residence that includes a window and skylight modifications and various changes to the interior at 116 Lexford road, which construction requires a design review permit; and,

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary to construct within the street yard (north) setback; and,

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e), Existing Facilities, because it is a minor change to an existing private residence, which is less than 50 percent of the floor area of the structure before the addition, and the project is consistent with General Plan policies and procedures; and,

WHEREAS, the variance from the 20-foot street setback is approved because it complies with the variance criteria under Section 17.70.040 as follows:

1. The property and existing improvements present unusual physical circumstances of the property, including the lot being unusually small in relation to the size of the house; without demolishing the house, a kitchen extension would be difficult; the house is located on the lot such that the kitchen encroachment would not be vastly different from the existing garage encroachment, 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, which have kitchens more proportional to the rest of the house.
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 what is being proposed but have larger kitchens and not granting the variance would effectively prohibit use of the property in a manner similar to other properties in the same zone.

3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because the kitchen cannot be located elsewhere without rebuilding the house, and granting a variance to extend the kitchen closer to the street would improve the habitability of the house and would not significantly violate any zoning ordinances.

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: wall material, roof form, roof material, window and fenestration pattern, and eave overhang dimension are similar to the existing home. The bay window considerably enhances the appearance of that part of the house.

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

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

4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: II-1, II-2, II-3, II-3(a), II-3(b), II-3(c), II-3(d), II-4, II-5, II-5(a), II-6, II-6(a), II-6(b), II-6(c), II-7, II-7(a) (*remodels*).

5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.3 (Additions), Design and Preservation Element Policy 28.6 (Exterior Materials), 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 variance application and the design review permit application for the addition at 116 Lexford Road, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Window Material.** As specified in the plans, the building material for the new 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 if any, and window sill projection if any.

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

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

7. **Construction Management Plan.** The Applicant 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.

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

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

- any further construction benchmarks and conditions of occupancy as may be determined by the Director of Public Works.
- b. Before the Project begins, the Director of Public Works shall make a determination as to the reasonableness of the proposed completion dates applicable to the Project, and that determination shall constitute the Approved Construction Completion Schedule and be binding on the Applicant. The City may, at the [Property Owner's/Applicant's] sole cost, engage the services of a consultant to review the proposed Construction Completion Schedule and, to the extent the period allocated for any work appears unjustifiable, recommend to the Director of Public Works a reasonable completion date for any benchmark.
 - c. In the event of a change in scope of the Project that would alter the benchmarks dates set forth in the Approved Construction Completion Schedule, or in the event the Applicant fails to meet a benchmark set forth in the Approved Construction Completion Schedule, the Applicant shall immediately submit a request to amend the Approved Construction Completion Schedule to the Director of Public Works. The request to amend shall be accompanied by a new proposed Construction Completion Schedule in compliance with subsection (a) of this condition of approval and the Director of Public Works shall evaluate the proposed amendments to the Approved Construction Completion Schedule in accordance with subsection (b) of this condition of approval.
 - d. The failure of the Applicant to comply with the Approved Construction Completion Schedule, or any amendments to it approved in conformance with subsection (d) of this condition of approval, shall constitute a nuisance under the City of Piedmont City Code ("City Code"). The failure of the Applicant to comply with the Approved Construction Completion Schedule may result in the City pursuing administrative citations pursuant to Chapter 1 of the City Code, nuisance abatement pursuant to Chapter 6 of the City Code, or any other remedy available to the City under the law. Additionally, if the Applicant fails to comply with the Approved Construction Completion Schedule, the Director of Public Works, at his or her sole discretion, may make a claim against the Property Owner's Site Security, if one is required, in order to complete the benchmark. The Director of Public Works, at his or her sole discretion, may refer the application to the Planning Commission for public review and direction.

Moved by Behrens, Seconded by Ode

Ayes: Behrens, Ode

Noes: Jajodia, Ramsey

Recused: None

Absent: Levine, Thiel

Resolution 10-PL-18

RESOLVED, that the Planning Commission continues the consideration of the application for design review and variance at 116 Lexford Road to the next available Planning Commission hearing, due to a lack of a motion that carries.

Moved by Ode, Seconded by Behrens

Ayes: Behrens, Jajodia, Ode, Ramsey

Noes: None

Recused: None

Absent: Levine, Thiel

**Design Review Permit
102 Maxwellton Road**

The Property Owner is requesting permission to replace the existing decks located at the rear (west) side of the residence.

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

Public testimony was received from:

Jack Preston, property owner, reported the wooden deck at the rear of the house is deteriorating, becoming unsafe, and does not comply with current safety standards. The proposed railing is made of wooden posts with tensioned stainless steel cables. Replacing the railing with similar railing would severely impact the view of the Bay. In comparison to railings made of wrought iron, vertical metal, and man-made materials, stainless steel cables will have the least impact on the view, will be mostly maintenance free, do not heat as much as other metals, and will complement the view of the Bay. Neighbors support the project. The wrought iron railing suggested by Commissioner Behrens is very heavy and could create additional construction impacts and expense.

Commissioner Ode noted railings at other homes in the area utilize wooden pickets; therefore, a similar railing would be compatible with the neighborhood and the area. Chair Ramsey felt wooden pickets would severely alter the character of the deck. The unintended consequence would be a solid wood guardrail, which would not match the existing deck. Commissioner Jajodia indicated the proposed railing is almost invisible on the nearby home.

Resolution 43-DR-18

WHEREAS, the Property Owner is requesting permission to replace the existing decks located at the rear (west) side of the residence, located at 102 Maxwellton Road, which construction requires a design review permit; and,

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e), Existing Facilities, because 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 guardrail material.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the topographical differences are appropriate to preserve privacy, views, and light.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project has no impact as it is located at the rear of the home.
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-4, II-5, II-5(a), 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 28.2 (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).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for replacement of decks at 102 Maxwellton Road, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **C&D Compliance.** Compliance with 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.
2. **Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.
3. **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.
4. **Construction Completion Schedule.** Work on the Project, once begun, shall be promptly executed with continuous good faith and reasonable progress. Since

timely completion of this Project is of the essence, the Property Owner shall submit for approval a Construction Completion Schedule, which will specify, in detail, the duration and percentage of the project as a whole for each phase.

- a. The Construction Completion Schedule with associated construction values for each benchmark shall set forth completion dates for the following benchmarks as needed: i) Completion of Excavation; ii) Completion of Retaining Walls; iii) Completion of Foundation; iv) Completion of Rough Framing; v) Completion of Electrical; vi) Completion of Plumbing; vii) Completion of Mechanical; viii) Completion of Fire Sprinklers; ix) Completion of Home; x) Completion of Hardscaping and Landscaping; and any further construction benchmarks and conditions of occupancy as may be determined by the Director of Public Works.
- b. Before the Project begins, the Director of Public Works shall make a determination as to the reasonableness of the proposed completion dates applicable to the Project, and that determination shall constitute the Approved Construction Completion Schedule and be binding on the Property Owner. The City may, at the Property Owner's sole cost, engage the services of a consultant to review the proposed Construction Completion Schedule and, to the extent the period allocated for any work appears unjustifiable, recommend to the Director of Public Works a reasonable completion date for any benchmark.
- c. In the event of a change in scope of the Project that would alter the benchmarks dates set forth in the Approved Construction Completion Schedule, or in the event the Property Owner fails to meet a benchmark set forth in the Approved Construction Completion Schedule, the Property Owner shall immediately submit a request to amend the Approved Construction Completion Schedule to the Director of Public Works. The request to amend shall be accompanied by a new proposed Construction Completion Schedule in compliance with subsection (a) of this condition of approval and the Director of Public Works shall evaluate the proposed amendments to the Approved Construction Completion Schedule in accordance with subsection (b) of this condition of approval.
- d. The failure of the Property Owner to comply with the Approved Construction Completion Schedule, or any amendments to it approved in conformance with subsection (d) of this condition of approval, shall constitute a nuisance under the City of Piedmont City Code ("City Code"). The failure of the Property Owner to comply with the Approved Construction Completion Schedule may result in the City pursuing administrative citations pursuant to Chapter 1 of the City Code, nuisance abatement pursuant to Chapter 6 of the City Code, or any other remedy available to the City under the law. Additionally, if the Property Owner fails to comply with the Approved Construction Completion Schedule, the Director of Public Works, at his or her sole discretion, may make a claim against the Property Owner's Site Security, if one is required, in order to complete the benchmark. The Director of Public Works, at his or her sole discretion, may refer the application to the Planning Commission for public review and direction.

Moved by Jajodia, Seconded by Behrens

Ayes: Behrens, Jajodia, Ode, Ramsey

Noes: None

Recused: None

Absent: Levine, Thiel

ADJOURNMENT

There being no further business, Chairman Ramsey adjourned the meeting at 9:57 p.m.