

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, May 14, 2018

A Regular Session of the Piedmont Planning Commission was held May 14, 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 April 30, 2018, and a revised agenda was posted on May 4, 2018.

CALL TO ORDER

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

ROLL CALL

Present: Commissioners Allison Alessio, Eric Behrens, Aradhana Jajodia, Jonathan Levine, and Tom Ramsey and Alternate Commissioner Yildiz Duransoy

Absent: none

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 Jajodia welcomed Alternate Commissioner Duransoy to the Planning Commission. Alternate Commissioner Duransoy introduced herself to the Commission.

PUBLIC FORUM

There were no speakers for the public forum.

REGULAR SESSION

The Commission considered the following items of regular business:

APPROVAL OF MINUTES

Commissioner Behrens requested the April 9, 2018 meeting minutes reflect Commissioner Levine as movant of the motion for election of Chairman and Vice Chairman of the Planning Commission.

Resolution 15-PL-18

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

Moved by Levine, Seconded by Alessio

Ayes: Alessio, Behrens, Jajodia, Levine

Noes: None

Abstaining: Ramsey

Absent: None

CONSENT CALENDAR

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

- 37 Bellevue Avenue (Fence Design Review Permit)
- 93 Woodland Way (Fence Design Review Permit)
- 622 Blair Avenue (Retaining Wall Design Review Permit)

Resolution 16-PL-18

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

Moved by Ramsey, Seconded by Levine

Ayes: Alessio, Behrens, Jajodia, Levine, Ramsey

Noes: None

Recused: None
Absent: None

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

**Fence Design Review
Permit
37 Bellevue Avenue**

Resolution 91-FDR-18

WHEREAS, the Property Owner is requesting permission to replace an existing driveway gate with a mechanized gate of similar size and material at 37 Bellevue Avenue, which construction requires a fence design review permit; and,

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e), Existing Facilities, and the proposal, as conditioned, conforms to the criteria and standards of Section 17.66.060 of the Piedmont City Code as follows:

1. The proposed design is consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are consistent with the original architecture and neighborhood development: the gate has a similar style, size, and material and is patterned after a gate existing in the original house.
2. The design has no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because it is replacing an existing gate.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project replaces an existing gate.
4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: V-1, V-2, V-3, V-5, V-6 (*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 12.2 (Maintaining Sight Lines), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 29.3 (Front Yard Enclosures), Design and Preservation Element Policy 29.5 (Fence and Wall Design), Design and Preservation Element Policy 29.9 (Sight Obstructions),

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the fence design review permit application for the improvements at 37 Bellevue Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Driveway Gate.** The gate shall be electronically operable. If design modifications are required to accomplish this, those modifications shall be subject to staff review.

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

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

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

**Fence Design Review
Permit
93 Woodland Way**

Resolution 100-FDR-18

WHEREAS, the Property Owner is requesting permission to install a wood picket fence and small pedestrian gate in the City's public right-of-way 3.5 feet from the applicant's front property line; the height of the fence will vary across the site with grade, from 3 feet to a maximum of approximately 7 feet on the lower-left (west) side of the property at 93 Woodland Way, which conversion requires a fence design review permit; and,

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e), Existing Facilities, because it is a minor change, and the project is consistent with General Plan policies and programs, and the proposal, as conditioned, conforms to the criteria and standards of Section 17.66.060 of the Piedmont City Code as follows:

1. The proposed design is consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are consistent with the original architecture and neighborhood development: the fence and gate material and picket style is appropriate for the Colonial Revival Ranch style architecture; the fence has been stepped with the topography along Woodland Way; and the visual prominence of the fence has been minimized.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the height of the project has been kept as low as possible.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project has no effect on pedestrian and vehicular safety.
4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: 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 28.6 (Exterior Materials), Design and Preservation Element Policy 29.2 (Landscape Design), Design and Preservation Element Policy 29.3 (Front Yard Enclosures), Design and Preservation Element Policy 29.5 (Fence and Wall Design), Design and Preservation Element Policy 29.9 (Sight Obstructions), Transportation Element Policy 12.2 (Maintaining Sight Lines), Natural Resources and Sustainability Element Policy 14.5 (Landscaping).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the fence design review permit application for the improvements at 93 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. **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 within the public right-of-way.

3. **Sewer Main Condition and Repair.** City records indicate that City storm and sewer mains and associated easement may be located near the proposed construction next to the west property line. Said easements and manhole covers shall also be shown on the building permit drawings. The applicant shall also work with City staff to verify the location and depth of the storm and sanitary sewer mains. In addition, the City shall videotape the existing sanitary and storm sewer mains to assess their pre-construction condition in order to make a determination as to whether any repairs to or replacement of the sewer main is required prior to the commencement of excavation and/or construction. (The City is responsible for the cost of the main line, and the property owner for costs of the lateral.) As part of the final inspection the same sanitary and storm sewer lines shall be inspected as required by the Director of Public Works, who shall also determine if the sewer lines were damaged as a result of the construction and therefore must be repaired at the applicant's expense. The applicant is responsible to locate their private sewer lateral and note such location on the building permit drawings.

4. **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 17.32.30, and shall not propose plants near the driveway that could obscure visibility of pedestrians on the sidewalk or vehicles on the street from drivers backing out of the driveway. Upon the determination of the Director, minor differences in the number, size and/or species of vegetation between those shown on the approved landscape plan and those installed at the

time of final inspection that do not involve an increase in hardscape or structure coverage may be subject to staff review and approval. Significant differences between the vegetation installed at the time of final inspection and vegetation shown on the approved landscape plan are subject to a design review permit.

5. **Fence Location.** The fence shall be set back a minimum of 2 feet clear from the face of the existing curb.

Moved by Alessio, Seconded by Behrens

Ayes: Alessio, Behrens, Jajodia, Levine

Noes: None

Recused: None

Absent: None

**Retaining Wall Design
Review Permit
622 Blair Avenue**

Resolution 107-DR-18

WHEREAS, the Property Owner is requesting permission to make modifications at the front of the property including new terraced retaining walls at the north and east sides of the front yard, to the fence along the west property line, to the stairs along the east side of the front yard, and to hardscape at 622 Blair 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, and the project is consistent with General Plan policies and programs, and the proposal, as conditioned, conforms to the criteria and standards of Section 17.66.060 of the Piedmont City Code as follows:

1. As conditioned, the exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. The design is attractive and consistent with the modern style of the house. The obscured glass fence panels will preserve a sense of airiness and light. The decorative steel panel and concrete planters are aesthetically pleasing. The proposed guardrail that replaces a dilapidated wood fence is consistent with the design and enhances the view.

2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light, because the fence and screening vegetation will enhance the neighbors' privacy. The obscured glass fence will allow more light into the neighbor's yard while providing privacy. The removal of the existing wood fence will enhance the view.

3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress, because the code-compliant handrails will provide safer access for pedestrians.

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

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the review permit application for the proposed construction at 622 Blair Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. 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.

2. 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.

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

4. Double Trailer Truck Prohibition. To reduce potential damage to the streets and to avoid traffic hazards on narrow curving city streets, no double trailers shall be used as part of the Project.

5. 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.

6. 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 new retaining wall and fence is located completely within the property at 622 Blair Avenue along the west property line as shown on the approved plans. The intent is to verify that the approved features are constructed at the approved dimension from the property line(s).

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 walls within the public right-of-way or public easement.

8. **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 area in front of the house 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.

9. **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.

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

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

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

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

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

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

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

REGULAR CALENDAR

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

Agenda Change

Director Jackson recommended the Planning Commission hear Item Number 9, 319 Magnolia Avenue, first on the Regular Calendar in order to reduce the City's cost for an interpreter. Commissioner Levine suggested Item Number 9 follow Item Number 4, 45 Wildwood Avenue, to provide interested parties time to attend the meeting.

Resolution 17-PL-18

RESOLVED, that the Planning Commission hear the application for 319 Magnolia Avenue following the application for 45 Wildwood Avenue on the Regular Calendar.

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

**Appointment of
Design Guidelines
Subcommittee Member**

Resolution 18-PL-18

RESOLVED, that the Planning Commission appoints Eric Behrens to serve on the Design Guidelines subcommittee.

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

**Variances and Design
Review Permit
45 Wildwood Avenue**

The Property Owner is requesting permission to remodel the residence and reconstruct the garage including demolishing the existing garage and constructing a new approximately 696-square-foot single-car garage with a

habitable room and attic loft in the rear (northeast) corner of the lot; constructing an approximately 93-square-foot addition at the rear of the main residence in the northwest corner of the lot; and modifying windows, doors, hardscape, and exterior lighting throughout. Three variances are required to construct within the rear yard setback and the right side yard setback and rebuild the garage without supplying conforming parking.

Written notice was provided to neighbors. **One positive response form and four negative response forms** were received. Correspondence was received from Yung Zhang, Michelle Peng, Mark Clifton, Susan Clifton, Dean Miller, Rick Schiller, David Riker, and Rosetta Newhall.

Public testimony was received from:

Eric Downing, Property Owner, reported the architect reduced the original plans by almost half, eliminated the accessory dwelling unit, reduced the height to 17 feet, and eliminated one variance. The architect could not develop a concept that did not require variances. He could consider maintaining the side yard setback such that the space between his garage and the neighbor's garage would not be reduced further. Maintaining the space between the garages could impact the passageway between the garage and the house. The kitchen addition was angled to the main house because of the western sun shining in the windows and to view the large tree. The height of the garage is needed for placement of solar panels and to provide storage.

Susan Wooten, project architect, advised that the kitchen addition will have the same roof and gutter details as the existing house. Placing it at an angle avoids the sun, focuses the view on a tree, respects the setbacks, and improves circulation to the rear and side yards. From the street perspective, the kitchen addition will not loom because of the slope of the lot and its location at the rear of the house. The homes to the rear are at a higher level than the garage addition. Consolidating the kitchen and living area additions while maintaining a detached garage is problematic because of the single driveway. Attaching the garage and living area addition to the house would not be convenient for users and safety personnel. The height of the garage varies because the lot slopes and the peak is not over the lowest point. The attic space over the garage, labeled as unfinished, is not included in the calculation of floor area ratio. The storage space to which Mr. Downing referred is the tall portion of the attic. The height of the family room adjacent to the garage starts at 9 feet and varies to 15 feet 5 inches. The ceiling height of the living room in the existing house is approximately 8 feet. Having the living area in the garage allows the formal rooms of the existing house to be more quiet. The passageway between the house and garage provides access to the kitchen without having to go around the garage. The two parking spaces are nonconforming because they are tandem. While the existing garage is listed as a two-car garage, parking two cars side-by-side is more challenging than parking tandem. Backing a vehicle into Wildwood Avenue is not cumbersome.

Yung Zhang, neighbor at 28 Fairview, did not support approval of the application. The height of the garage will block sunlight into his home and backyard, will negatively impact his privacy, and will block his view of Wildwood Avenue.

Mark Clifton, neighbor at 26 Fairview, believed the current project is higher and wider than the original project based on the story poles. The back of his home is

level with the proposed garage addition. The project will impact sunlight into and views from his home. He requested the Planning Commission deny the project with prejudice.

Debbie Bakal, neighbor at 57 Wildwood, advised that Wildwood Avenue is a significant thoroughfare through Piedmont and is congested.

Theresa Hanna, neighbor at 49 Wildwood, advised that the project is huge and reduces sunlight to her property. If the garage is constructed as proposed, she will not have access to the exterior wall of her garage. Wildwood is one of the busier streets in Piedmont, and parking on Wildwood is terrible.

Commissioners generally opposed the project, citing the lack of architectural consistency and compatibility between the proposed structures and the existing structure; the excessive mass, scale and height; the negative impacts to the privacy and light of neighboring properties; the worsening of the parking nonconformity; and the tacked-on appearance of the kitchen addition that is at a 45 degree angle to the grid of the house.

Commissioner Behrens requested the record reflect that Mr. Downing was given an opportunity to speak a second time; however, Mr. Downing declined the opportunity.

Commissioner Alessio suggested future revision of the project consider maintaining the wall of the garage in the side yard where it currently exists or moving it closer to the center of the property so that it does not encroach on the neighboring garage; keeping the ceiling height of the garage at 9 feet 11 inches to limit the impact on neighboring properties; and attaching the garage and additional living area to the house to eliminate the zig-zag pathway.

In response to Commissioner Levine's question regarding denying the application without prejudice, Director Jackson reported a denial with prejudice would indicate the Planning Commission finds no merit in the application and does not want to see a similar design in 12 months. If Commissioners find some merit in the application, they can deny the project without prejudice.

Resolution 288-V/DR-17

WHEREAS, the Property Owner is requesting permission to remodel the residence and reconstruct the garage including demolishing the existing garage and constructing a new approximately 696-square-foot single-car garage with a habitable room and attic loft in the rear (northeast) corner of the lot; constructing an approximately 93-square-foot addition at the rear of the main residence in the northwest corner of the lot; and modifying windows, doors, hardscape, and exterior lighting throughout at 45 Wildwood 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 within the rear yard setback and the right side yard setback and to increase the nonconformity of the parking conditions; and,

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

WHEREAS, the variances from the rear yard setback, the right side yard setbacks, and parking requirements are denied because they do 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, so that 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. The applicant has not shown that the project cannot be completed without further need for setback variances greater than the existing nonconforming side and rear setback conditions. The applicant has not shown a necessity for increasing the existing parking nonconformity.
2. The project is compatible with the immediately surrounding neighborhood and the public welfare because a majority of neighboring properties have garages in the setbacks.
3. Accomplishing an improvement on the site without a variance would not cause unreasonable hardship in planning, design, or construction because the applicant has not shown he cannot provide conforming parking or a need for increasing the nonconforming setback conditions.

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

1. The proposed design is not consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are not consistent with the original architecture and neighborhood development: scale and mass. The proposed 45 degree-angled kitchen addition is inconsistent with the architectural style and layout of the existing residence; and the proposed detached garage is inconsistent with the mass, style, and location of the residence.
2. The design as proposed has a materially negative effect on neighboring properties' existing views, privacy, and access to direct and indirect light because of the location, height, and size of the proposed garage.
3. The proposed design adversely affects pedestrian or vehicular safety because the project will decrease the amount of onsite parking and increase street parking. Proposed tandem parking will require two vehicles to back into the excessive amount of traffic on Wildwood Avenue.
4. As conditioned, the application does not comply with the following Design Review Guidelines and General Plan policies and programs: II-1, II-2, II-3, II-4, II-7, (*remodels*), III-1, III-2, III-5, III-6, III-7, (*garages*).
5. The project is not consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.5 (Garages, Decks, and Porches), Design and Preservation Element Policy 28.6 (Exterior Materials), and Design and Preservation Element Policy 28.8 (Acoustical and Visual Privacy).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies without prejudice the variance application and the design review permit application for remodeling and reconstruction at 45 Wildwood Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

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

The Property Owner is requesting permission to construct a two-story, 968-square-foot rear addition with two new bedrooms, a family room, a kitchen addition, and new deck; a second one-car garage at the front of the house; and various interior renovations and site improvements including the replacement of unpermitted windows. A variance is required to exceed the floor area ratio limit.

Written notice was provided to neighbors. **One positive response form and seven negative response forms** were received. Correspondence was received from Wendi Sue and Lukas Bruggermann.

Public testimony was received from:

Yuan Qian Bao, Property Owner, through Chee Yan Ong, interpreter, advised that the property is in a decrepit state. He wants to increase the size of the house to accommodate his family. Neighbors are happy he is improving the property. He did not purchase the property with the idea of making the house larger.

John Goldberg, neighbor at 323 Magnolia, reported four houses along Magnolia, including 319, have approximately the same size backyards. The house at 319 extends 6-8 feet further into the backyard than the other three houses, and the owner proposes to extend the house another 11 feet into the backyard. If all four houses are built further into the backyards, the backyards will be dark. He was aware of only one neighbor with whom Mr. Bao discussed the project. The story poles may not accurately reflect the proposed expansion to the rear. The house needs work, but the addition is not aesthetically pleasing.

Mike Savage, neighbor at 303 Magnolia, opined that Mr. Bao needs to increase the size of the house to make it economically viable and comfortable for his extended family. The project will change the density of the micro-neighborhood and increase an already sketchy parking situation.

Commissioners generally did not support granting a variance or approving the project as presented and were particularly troubled by the significant increase in floor area ratio and insufficient grounds to grant a variance, the boxy and tacked-on appearance of the addition, a second garage being incompatible with the neighborhood and dominating the front facade, the effect of the addition and garages on neighbors, the roof of the addition not matching the roof of the existing house, and lack of consistency with design review guidelines.

Resolution 98-V/DR-18

WHEREAS, the Property Owner is requesting permission to construct a two-story, 968-square-foot rear addition with two new bedrooms, a family room, a kitchen addition, and a new deck; a second one-car garage at the front of the

house; and various interior renovations and site improvements including the replacement of unpermitted windows at 319 Magnolia 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 exceed the floor area ratio limit; and,

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

WHEREAS, the variance from the floor area ratio limit is not approved 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, so that 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. The property can be used in a manner similar to other properties without a variance.
2. The project is not compatible with the immediately surrounding neighborhood and the public welfare because granting the variance would give the property an unfair advantage over other similar properties.
3. Accomplishing the improvement without a variance would not cause unreasonable hardship in planning, design, or construction because the property has no unique characteristics that require a variance. The request for a variance is based on personal circumstance.

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

1. The proposed design is not consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are not consistent with the original architecture and neighborhood development: the scale and mass of the addition is not compatible with residences in the neighborhood; the architectural style, scale, and mass of the addition is not consistent with the house's architecture; the windows and fenestration patterns in the addition are not consistent with existing fenestration; and the roof style and material of the addition do not match the style of the existing structure.
2. The design has an adverse effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the proposed addition exceeds the floor area ratio, and unduly increases the mass of the building.
3. The proposed design adversely affects pedestrian or vehicular safety because the project doubles the amount of driveway that passes over the sidewalk in front of the house.
4. As conditioned, the application does not comply with the following Design Review Guidelines and General Plan policies and programs: II-3(a), II-3(b), II-4 (*remodels*), III-2, III-5 (*garages*).

5. The project is not consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.2 (Style Compatibility), Design and Preservation Element Policy 28.3 (Additions), Design and Preservation Element Policy 28.5 (Garages, Decks, and Porches), Design and Preservation Element Policy 29.7 (Driveway and Parking Location).

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

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

The Commission recessed for dinner at 6:29 p.m. and reconvened at 7:02 p.m.

**Variance and Design
Review Permit
340 Scenic Avenue**

The Property Owner is requesting permission to change the architectural style; construct additions including a new upper-level addition and story; construct balconies and decks; make existing floor area uninhabitable as well as new doors, windows, skylights; and make site changes including new steps, patios, retaining walls, exterior lighting, landscaping, and other changes. A variance is required to construct within the front street yard setback.

Written notice was provided to neighbors. **Four positive response forms and three negative response forms** were received. Correspondence was received from Nancy Coop and June and Steven Leung.

Public testimony was received from:

Carlos Plazola, project outreach coordinator, remarked that seven letters of support were submitted to staff. Adjacent neighbors, except for two whom he had not been able to contact, support the project.

Umesh Patel, Property Owner's son/representative, advised that his parents need to modify the house to accommodate their age and health. His parents have made no major improvements to the house in the 35 years they have lived in the house.

Abhay Schweitzer, project architect, reported the lot is steeply sloped. The floor area of the project is 3,996 square feet, which is less than the existing house. The project reduces structure coverage to 40 percent. A variance is requested to allow the garage in the front yard setback because of the steep slope of the lot. Garages on most adjacent properties are also located in the front setback. The neighborhood is comprised of various architectural styles. In addition, site redesign will address landscaping, neighbors' privacy, and water use. Use of several different materials, offsetting planes, and projections help reduce the massing of the structure. Design modifications over the past 20 months address neighbors' concerns and staff suggestions and reduce the number of variance requests to one. An exhibit from a member of the public is grossly inaccurate in

depicting the massing and character of the building. The retaining wall along the right property line will be board-formed concrete, 10 feet in height, and screened with landscaping. The retaining wall will be constructed parallel to the existing wall of the house and will serve a structural purpose. The 700 square feet of space on the lower floor will be abandoned; the floor to ceiling height of the space is 8 feet. The space to be abandoned is not useful and is quite dark. The plans incorrectly show the height of the unfinished space. The proposed addition will house a master suite at street level. He left some room in floor area in anticipation of unexpected events that could result in the project being considered a demolition and new construction rather than a remodel. In response to public comment regarding height, Mr. Schweitzer believed the story poles were certified correctly. The height from finished floor of the third level to top of the roof is slightly more than 10 feet. The lowest floor has basically a blank wall, and he has no intention to modify it other than to change the finish material. The backyard is not accessible from that space. He did not explore stepping back the house because the house would block the view of the house to the right. The more the building is pushed back, the less view is available from all levels. He reduced the deck by approximately 10 feet to increase privacy for the neighbor to the right. With respect to the impact of tile on the urban heat island effect, flooring material will be lighter in color to reduce heat gain. Bringing the front gate, the planter, and other elements forward will balance the view of the garage and house from the street. The shape and topography of the site limit placement of the trash enclosure. He believed a vehicle could back from the driveway without endangering pedestrians. Mr. Banin's written comments are not accurate with respect to the character, shape, and bulk of the building. He changed the roof color from white to gray and reduced the height of the roof. The February revisions included reduction of the ceiling height and square footage of the third floor. There will not be any mechanical units on the roof. The ceiling heights are 10 feet for the lowest level, 10 feet for the main level, and 8 feet 11 inches for the third level. The homeowners want the higher ceilings. Lowering the ceiling heights further would mean lowering the main floor level such that it blocks the neighbor's only view of the Bay. Installing a floor system in a space less than 16 inches tall is highly unlikely.

In reply to Commissioner Ramsey's query regarding a variance for the retaining wall, Director Jackson advised that the definition of structure is anything built on or attached to the ground and measuring more than 12 inches above existing or proposed grade. The Commission can interpret whether the wall is a structure or a retaining wall.

Yoav Banin, neighbor at 333 Scenic, opposed the project because it does not comply with the City Code and design guidelines. The addition at the top level impacts the views from his patio and living room and is not compatible with the neighborhood pattern of development. The massing and roof of the structure are not compatible with the neighborhood.

Yoav Banin, on behalf of Lane Denton of 400 Scenic, requested the Planning Commission not approve the project. The project will have a negative impact on the value of Mr. Denton's home and the views from his kitchen and dining room. Based on the story poles, the design team has not revised the project to address concerns he raised with them. The project is not consistent with the Piedmont General Plan and design guidelines.

Alessandra Lanzara, neighbor at 333 Scenic, opposed the project because of its impact on her house and the community. Houses along Scenic are close to one

another and all have views of the Bay from the roadway. The project will obstruct the view from her living room.

John Chalik, neighbor at 333 Scenic, remarked that the reduction in the deck will enhance privacy for both his home and the project site. He supported the project. He was not aware of the proposed concrete wall between his property and the subject property.

Osman Sezgen, neighbor at 120 Scenic, advised that the design team was responsive to his concerns. He supported the project. The design team removed a swimming pool from original plans in response to his concerns.

In general, Commissioners appreciated the design of the project, the applicant's outreach to neighbors, and design revisions in response to neighbors' concerns. The architectural style is appropriate for a hillside home. However, the project is not quite consistent with design guidelines that require the mass of the structure to follow the contours of the site. Commissioner Ramsey expressed concern that the applicant was banking floor space by abandoning space on the lower level and adding space to the upper levels. As a remodel project, the applicant is allowed to retain a floor area ratio of 64 percent; whereas, a new construction project is allowed a floor area ratio of only 50 percent. In a few years, the space proposed to be abandoned could be converted back to habitable space by right, at which time the floor area ratio could reach 75 percent. Commissioner Allesio's main concern was the impact of the project on neighbors' views. Commissioner Levine agreed the project has some impact on views, but the impact may not be materially negative. The applicant moved bulk from the lower floor to the upper floor and pushed it out, which is not consistent with design review guidelines. The project would be a change in the street pattern in that the garage and the upper floor would be visible from the street. Chair Jajodia concurred with comments regarding bulk, stepping back the structure, and floor area ratio. Commissioners could support granting the request for a variance should the applicant present an appropriate design

In reply to Commissioner Levine's question, Director Jackson advised that the Planning Commission in making design review findings could consider whether the applicant minimized the bulk of the project or considered ways to minimize the bulk. One of the ways to minimize bulk would be to take advantage of the space on the lower floor.

Resolution 16-V/DR-18

WHEREAS, the Property Owner is requesting permission to change the architectural style, construct additions including a new upper-level addition and story, construct balconies and decks, make existing floor area uninhabitable, and make site changes including new steps, patios, retaining walls, exterior lighting, landscaping, and other changes at 340 Scenic Avenue, which construction requires a design review permit; and,

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

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

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

1. The proposed design is not consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are not consistent with the original architecture and neighborhood development: the scale and building mass of the existing residence once the addition and remodel have been completed will not maintain compatibility with the scale and mass of the existing residences in the neighborhood. The garage-level addition is consistent with the building design of the neighborhood. Door and window patterns are harmonious. The flat roof is harmonious with neighborhood development. The quality of new exterior finishes and building materials are harmonious with neighborhood development.
2. The design has an adverse effect on neighboring properties' existing views, privacy, and access to direct and indirect light because of the bulk of the existing proposal. The 700 square feet of unused space on the lower level increases the bulk and the effect on neighboring properties' existing views and privacy. Neighboring properties have garage-level floor plans, and the distance between the project and neighboring homes is appropriate. The proposed concrete wall that ranges from 3 feet to 10 feet along the right-side property line has an adverse effect on the neighbor's existing views and light.
3. The proposed design does adversely affect pedestrian or vehicular safety because construction within the front yard setback could affect sightlines at the driveway.
4. As conditioned, the application does not comply with the following Design Review Guidelines and General Plan policies and programs: II-1 (*remodels*), IV-1 (*retaining walls*), and V-6 and V-9 (*fences/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: 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 29.5 (Fence and Wall Design), Design and Preservation Element Policy 29.6 (Retaining Walls), Design and Preservation Element Policy 29.9 (Sight Obstructions)

WHEREAS, regarding the variance from the front setback requirement, the Planning Commission finds that the proposal does not comply with the variance criteria under Section 17.70.040 of the Piedmont City Code because there is no approved design for which a variance is necessary.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies without prejudice the variance application and the design review permit application for the additions and other changes at 340 Scenic Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

Absent: None

**Variance and Design
Review Permit
49 York Drive**

The Property Owner is requesting permission to construct an approximately 422-square-foot addition on the second floor of the residence including new windows, skylights, and roof line. A variance is required to exceed the floor area ratio limit.

Written notice was provided to neighbors. **Four positive response forms and no negative response forms** were received.

Public testimony was received from:

Chris Harvey, Property Owner, indicated his lot is smaller than other lots in the neighborhood. The house at 51 York has a similar addition, but the addition was not done well. Neighbors support the project. To prevent the addition from becoming a fourth bedroom in the future, the project includes extra walls and built-in bookcases. In the past, a developer split one lot and built twin homes on the two lots. He questioned whether the reported square footage for the addition at 51 York is accurate. He was reluctant to move the wall of the bedroom extension just to match the reported square footage of 51 York.

Bernard Stein, project architect, advised that the addition at 51 York is approximately 394 square feet. The project proposes an addition of 422 square feet. No one would be able to perceive a difference if the wall is moved 16 inches.

Commissioners generally supported the project, noting the difficulty of achieving a floor area ratio of 50 percent on the small lot size, the beautiful and appropriate design, and the slight difference in floor area between the additions at 49 and 51 York. However, Chair Jajodia preferred the floor areas be equal so that no one received an advantage.

Resolution 97-V/DR-18

WHEREAS, the Property Owner is requesting permission to construct an approximately 422-square-foot addition on the second floor of the residence including new windows, skylights, and roof line at 49 York Drive, which construction requires a design review permit; and,

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code are necessary to exceed the floor area ratio limit; 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 floor area ratio 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 split lot being unusually small

compared to surrounding lots, and the size of the house being much smaller than those in the surrounding neighborhood except for 51 York Drive, so that strictly applying the terms of this chapter would prevent the property from being used in the same manner as other conforming properties in the zone.

2. The project is compatible with the immediately surrounding neighborhood and the public welfare because the adjacent home is a twin home and has been expanded to exceed the floor area ratio, which would leave the current applicant with the smallest home in the immediately surrounding neighborhood if the variance is not granted.

3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because of the small lot size. Any addition to this particular home to bring it close to a size comparable to neighboring homes would exceed the floor area ratio.

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, and window and door material and fenestration pattern.

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

3. The proposed design does not adversely affect pedestrian or vehicular safety because the project has not effect.

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-5, II-6, II-6(a), II-6(b), II-6(c) (*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 28.6 (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 49 York Drive, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

2. **Window Color Scheme.** All the windows on the house shall have a consistent color scheme.
3. **Window Recess.** All new windows shall be recessed a minimum of 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. The final recess dimension shall be subject to staff review and approval.
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. **Skylight Flashing.** The metal flashing around the new skylights shall be painted to match the adjacent roof color.
6. **C&D Compliance.** Compliance with Chapter 5 Article I of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project.
7. **Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.
8. **Setback from Property Line Verification.** Prior to 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 north, and south 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.
9. **Notice of Restricted Use.** The attic storage space does not meet habitation or safety requirements of the Piedmont Municipal Code. A notice of restricted use shall be recorded with the Alameda County Recorder's office advising current and future owners that the space does not meet the safety codes for habitation/sleeping purposes.
10. **Construction Management Plan.** The Property Owner shall develop a comprehensive Construction Management Plan. The Construction Management Plan shall address noise, vibrations, traffic control, parking, debris removal, dust control, sanitary facilities, site safety security and other potential construction impacts, as well as other details involving the means and methods of completing the Project, including the construction route. The City Building Official has the authority to require modifications and amendments to the Construction Management Plan as deemed necessary throughout the course of the Project and until the Final Inspection.
 - a. **Construction Site Control of Stormwater.** The California Regional Water Quality Control Board requires all projects that disturb the site to comply with Provision C.6 of the San Francisco Bay Regional Stormwater NPDES

Permit in order to prevent construction site discharges of pollutants and other regulated materials during construction. As required by the Chief Building Official and prior to the issuance of a building permit, the Applicant shall develop and submit a construction stormwater management plan as part of the Construction Management Plan to achieve timely and effective compliance with Provision C.6. Permit Provision C.6.c.ii provides sources for site specific, and seasonally- and phase-appropriate, effective Best Management Practices (BMPs) that may be incorporated into the stormwater management plan. Copies of the Municipal Regional Stormwater Permit are available from the Piedmont Public Works Department and on-line at cleanwaterprogram.org.

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

Schedule, the Director of Public Works, at his or her sole discretion, may make a claim against the Property Owner's Site Security, if one is required, in order to complete the benchmark. The Director of Public Works, at his or her sole discretion, may refer the application to the Planning Commission for public review and direction.

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

ADJOURNMENT

There being no further business, Chairman Jajodia adjourned the meeting at 8:55 p.m.