

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Tuesday, November 13, 2018

A Regular Session (rescheduled) of the Piedmont Planning Commission was held November 13, 2018, in the City Hall Council Chambers at 120 Vista Avenue. In accordance with Government Code Section 54954.2(a), the agenda for this meeting was posted for public inspection on October 29, 2018.

- CALL TO ORDER** Chairman Behrens called the meeting to order at 5:00 p.m.
- ROLL CALL** Present: Commissioners Allison Alessio, Eric Behrens, Yildiz Duransoy, Tom Ramsey, and Alternate Commissioner Rani Batra
- Absent: Commissioner Jonathan Levine (excused)
- Staff: Planning Director Kevin Jackson, Senior Planner Pierce Macdonald-Powell, Associate Planner Chris Yeager, Assistant Planner Mira Hahn, and Planning Technician Steven Lizzarago
- ANNOUNCEMENTS:** Planning Director Jackson introduced Planning Technician Steven Lizzarago.
- 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 31-PL-18**
RESOLVED, that the Planning Commission approves as presented its meeting minutes of the October 8, 2018, regular hearing of the Planning Commission.
Moved by Alessio, Seconded by Ramsey
Ayes: Alessio, Behrens, Duransoy, Ramsey, Batra
Noes: None
Recused: None
Absent: Levine
- CONSENT CALENDAR** By procedural motion, the Commission placed the following applications on the Consent Calendar:
- 1661 Grand Avenue (variance and design review permit)
 - 112 Ronada Avenue (variance and design review permit)
 - 219 Sunnyside Avenue (fence design review permit).
- Resolution 32-PL-18**
RESOLVED, that the Planning Commission approves the Consent Calendar as noted.
Moved by Ramsey, Seconded by Batra
Ayes: Alessio, Behrens, Duransoy, Ramsey, Batra
Noes: None
Recused: None
Absent: Levine
- At the end of the meeting, the following Resolutions were approved adopting the Consent Calendar:
- Variance and Design Review Permit** **Resolution 171-V/DR-18**
WHEREAS, the Property Owner is requesting permission to expand the height

1661 Grand Avenue

of a single-story accessory building by approximately 1 foot as well as associated interior and exterior changes at 1661 Grand Avenue, which construction requires a design review permit; and,

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

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guideline Section 15301, Class 1(e), Existing Facilities, because the project consists of the modification and conversion of an accessory structure for an existing single-family residence in a residential zone, and the project is consistent with General Plan policies and procedures; and,

WHEREAS, the variance from the side yard setback is approved because it complies with the variance criteria under Section 17.70.040.A, as follows:

1. The property and existing improvements present unusual physical circumstances of the property, including the lot is unusually steep and is constrained by its relationship to neighboring properties 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 to what is being proposed, and the majority of neighboring properties are located in the side yard setback.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because of the lot's steepness and the location of the accessory building in its current form.

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 size and massing of the enlarged accessory structure, the wall material, the roof material, and the 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; there is sufficient vegetative screening; the topographical differences are appropriate to preserve privacy, views, and light; and the height of the project has been kept as low as possible.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project maintains adequate visibility for entering and exiting the driveway.

4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: 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 28.4 (Setback Consistency), Design and Preservation 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 variance application and the design review permit application for the remodel at 1661 Grand 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 October 12, 2018, unless modified herein this resolution. Any handrails or guardrails required by the Building Official prior to issuance of a building permit shall be subject to staff review and approval.

2. **Water Heater.** Prior to issuance of a building permit, the water heater shall be located on the interior of the building or within an enclosure consistent with the Piedmont Tankless Water Heater Policy (Piedmont Interim Residential Design Guidelines). Design of the water heater shall be subject to staff review and approval.

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

4. **Setback from Property Line Verification.** Prior to foundation or framing 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.

5. **Window Material.** As specified in the plans, the building material for the new windows shall be fiberglass 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 a minimum of 1/2 inch.

6. **Window Color Scheme.** All the windows on the house and accessory building shall have a consistent color scheme.

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

8. **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.

9. **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.

10. **Final Landscape Plan.** Before issuance of a building permit, the Property Owner shall submit for staff review and approval a Final Landscape Plan that shows trees proposed for retention as any modified vegetation in the front street yard setback. 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.

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

- a. **Construction Site Control of Stormwater.** The California Regional Water Quality Control Board requires all projects that disturb the site to comply with Provision C.6 of the San Francisco Bay Regional Stormwater NPDES Permit in order to prevent construction site discharges of pollutants and other regulated materials during construction. As required by the Chief Building Official and prior to the issuance of a building permit, the Applicant shall develop and submit a construction stormwater management plan as part of the Construction Management Plan to achieve timely and effective compliance with Provision C.6. Permit Provision C.6.c.ii provides sources for site specific, and seasonally- and phase-appropriate, effective Best Management Practices (BMPs) that may be incorporated into the stormwater management plan. Copies of the Municipal Regional Stormwater Permit are available from the Piedmont Public Works Department and on-line at cleanwaterprogram.org.
- b. **Renovation / New Construction.** Pursuant to Section 17.32.6 of the Municipal Code, if for any reason more than 70% of the physical structure (as determined by the Building Official) is demolished or destroyed, the building shall conform to new building and planning Code requirements. If

this occurs during demolition, all work must stop and a new hearing and public review by the Planning Commission is required.

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

12. 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 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 Alessio, Seconded by Ramsey
Ayes: Alessio, Behrens, Duransoy, Ramsey, Batra
Noes: None
Recused: None
Absent: Levine

**Variance and Design
Review Permit
112 Ronada Avenue**

Resolution 248-V/DR-18

WHEREAS, the Property Owner is requesting permission to construct a basement-level deck along the left (east) side of the residence, remove an existing trellis at the rear of the residence, make window and door changes throughout, and make various interior and exterior modifications at 112 Ronada 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 side yard setback; and,

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

WHEREAS, the variance from the 5-foot side yard setback is approved because it complies with the variance criteria under Section 17.70.040.A as follows:

1. The property and existing improvements present unusual physical circumstances of the property, including steep topography and the proposed deck and steps are needed to access the proposed second unit at the basement level, 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, based upon information provided by the applicant, the location of the proposed deck allows for a clear and straightforward entry to the proposed second unit; and the proposed deck is discreet and in keeping with the features of the home.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because, based upon information provided by the applicant, without the proposed deck and steps access to the proposed second unit would be difficult due to the steep hillside location.

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 decking and railing material, the railing pattern, and the 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 topographical differences preserve privacy, views, and light; the height and location of the project will have no impact on the view, privacy, or light of the neighboring properties; and the development is within the existing building envelope.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the new deck and path improve circulation and create a clearer and safer separation between the pedestrian path and the adjacent neighbor's driveway; and the project maintains adequate visibility for entering and exiting the driveway.
4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: II-2, II-3, II-3(a), II-3(b), II-3(c), II-3(d), II-5, II-5(a), 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 28.4 (Setback Consistency), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 28.8 (Acoustical and Visual Privacy), Design and Preservation Element Policy 28.11 (Design Review), Design and Preservation Element Policy 29.2 (Landscape Design), Design and Preservation Element Policy 29.4 (Maintaining Privacy), 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 variance application and the design review permit application for the construction at 112 Ronada Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Window and Door Material.** As specified in the plans, the building material for the new windows and doors shall be 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 1 and ½ 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 such as recess and sash dimensions 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. **Exterior Lighting.** All new exterior light fixtures shall be downward directed with an opaque or translucent shade that completely covers the light bulb.
6. **Contractor's General Liability Insurance.** At the discretion of the Building Official and to ensure that the contractor doing work in the City will be responsible for damages caused by the work to City property or to neighboring property, the Property Owner shall require all contractors performing work on the Project to maintain General Liability Insurance for protection from claims for damages because of bodily injury, including death, and claims for damages, other than to the contractor's work itself, to property which may arise out of or result from the contractor's operations. Such insurance shall be written for not less than \$1,000,000 per occurrence. The insurance shall include an endorsement requiring 10 days prior notice to the City if the insurance is to be cancelled or changed, and Property Owner shall immediately arrange for substitute insurance coverage. If the contractor's insurance carrier states in writing that it is unable to provide the required endorsement, Property Owner shall be responsible for providing the City with the required notice if the insurance is to be cancelled or changed. Property Owner's failure to provide such notice shall constitute grounds for revocation of the City's design review approval and/or permit. If the Property Owner does not have a general contractor, the Property Owner shall maintain property insurance and coverage for contractors, which is substantially equivalent to the contractor's requirement of this section.
7. **Modifications to Conditions.** Any insurance or security requirement, or related Condition of Approval, may be implemented and, if necessary modified, in a reasonable manner with the joint agreement of the Director of Public Works and the City Attorney, consistent with the intent of the condition.
8. **C&D Compliance.** Compliance with Section 9.04 of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project.
9. **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.
10. **Setback from Property Line Verification.** Prior to frame inspection, and at the discretion of the Building Official, the applicant shall submit to the Building Official written verification by a licensed land surveyor stating that the construction is located at the setback dimension from the east property line as shown on the approved plans. The intent is to verify that the approved features are constructed at the approved dimension from the property lines.

11. **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.

12. **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 Duransoy
Ayes: Alessio, Behrens, Duransoy, Ramsey, Batra
Noes: None
Recused: None
Absent: Levine

**Fence Design Review
Permit
219 Sunnyside Avenue**

Resolution 291-FDR-18

WHEREAS, the Property Owner is requesting permission to construct a wood fence in the street yard setback at 219 Sunnyside Avenue, which construction requires a fence design review permit; and,

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

1. The proposed design is consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are consistent with the original architecture and neighborhood development: the fence material and design is compatible with the house and neighborhood, and the fence has been kept as low as possible.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the distance between the

project and neighboring homes is appropriate, and the height of the project has been kept as low as possible.

3. The proposed design does not adversely affect pedestrian or vehicular safety because the project does not change pedestrian and vehicular circulation.

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 27.1 (Streets as Public Space), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 29.3 (Front Yard Enclosures), Design and Preservation Element Policy 29.4 (Maintaining Privacy), Design and Preservation Element Policy 29.5 (Fence and Wall Design).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the fence design review permit application for the improvements at 219 Sunnyside Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

2. **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 any modified vegetation in the front street yard setback. 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.

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

REGULAR CALENDAR

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

**Variance and Design
Review Permit
ADU Permit and
Size Exception
26 Littlewood Drive**

The Property Owner is requesting permission to convert 42 square feet of unconditioned basement storage space into conditioned living space in an accessory dwelling unit (ADU) and conditioned storage space in the primary unit; and to construct an expanded rear deck, new wood and wire fencing in the street yard setback, exterior steps, exterior lighting, new vinyl windows, retaining walls in the rear yard, and related exterior and interior changes. Two variances are required for construction in the right (west) side yard setback and to exceed structure coverage. An exception to the accessory dwelling unit size limit is required.

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

Public testimony was received from:

Tim Gerrity, Property Owner, requested a variance to construct stairway access to utility meters as required by PG&E. He wishes to construct stairs from the lowest deck to the ground to provide egress from the rear of the home and needs to increase the structure coverage by 22 square feet for the stairs. He has removed stairs from the upper decks in response to a neighbor's objection. The story poles rather than the plans depict the correct placement of the rear deck with respect to the west side property line. The front fence is not a critical component of the project. It will be virtually transparent and is intended to improve the aesthetics of the property. He is willing to revise the fence design or consider a hedge in response to Commission comments. He has documentation showing PG&E's requirement for access to utility meters.

Senior Planner Macdonald-Powell advised that the stairs on the west side of the home add approximately 80 square feet to structure coverage. The extension of the rear deck and the stairs from the deck to the rear yard add approximately 40 square feet to structure coverage. Both require variances.

Tansy Robinson, project architect, indicated the staircases at the side of the house and from the lower deck to the ground will be constructed of heavy timber with metal handrails.

Albert Chen, neighbor at 28 Littlewood Drive, withdrew his objection to the stairs between the two homes if PG&E is requiring access. The utility meters for both homes are in the same location, and the meter reader uses the stairs on his property to access meters for both houses. His objection to the rear stairway is based on privacy, view, and light concerns. The stairway will look into a bathroom and bedrooms on the lower floor of his home and will be the view from the lower floor of his home.

Swee Ling Chen, neighbor at 28 Littlewood Drive, had no objection to meter readers continuing to utilize the stairs on her property. The narrow space between the homes will be congested if a second stairway is constructed. The proposed rear stairway will obstruct the view of trees from her home. The bathroom on the lower floor has a frosted window; however, she frequently leaves the window open for ventilation.

Generally, Commissioners with the exception of Commissioner Duransoy did not support the proposed fencing along the front of the property, referring to the lack of fencing within the front yards of other properties in the neighborhood and to design guidelines for fences, and stating a preference for hedges in place of fencing in front yards. Commissioner Duransoy suggested the applicant modify the gate design to be more consistent with the fence and home and move the gate back from the sidewalk. Generally, Commissioners supported granting a variance for the stairway on the west of the house because the stairs meet access requirements and are minimal in size. However, Commissioner Alessio and Alternate Commissioner Batra thought that additional documentation of PG&E's requirement for access to the utility meters may be necessary to support the variance request. With respect to the rear stairs and deck, Commissioner Alessio and Alternate Commissioner Batra could support granting a variance as the impacts to the neighbor's privacy and view are minimal and the size of the deck and stairs is appropriate. Commissioner Duransoy wanted the deck and stairs to be located within the footprint of the upper deck so that structure coverage would be reduced. Commissioner Ramsey noted the condition of approval for a 9-foot setback from the west property line would align the proposed deck and stairs with the 2016 approval of the ADU, move the stairs further from the neighbor's property, and provide egress. Commissioner Ramsey expressed support for expanding the ADU and granting the exception to the accessory dwelling unit size limit because of changes in State law regarding ADUs.

Senior Planner Macdonald-Powell explained that the applicant has concerns about complying with the 9-foot setback from the stairway to the west property line. The setback would align the stairway with the deck above. If the stairway complies with the setback requirement, the structure coverage would be slightly less.

Planning Director Jackson reported PG&E requires more access to utility meters now than in the past.

Resolution 197-V/DR/ADUP-18

WHEREAS, the Property Owner is requesting permission to convert 42 square feet of unconditioned basement storage space into conditioned living space in an accessory dwelling unit (ADU) and conditioned storage space in the primary unit and to construct an expanded rear deck, new wood and wire fencing in the street yard setback, exterior steps, exterior lighting, new vinyl windows, retaining walls in the rear yard, and related exterior and interior changes at 26 Littlewood Drive, which construction requires a design review permit; and,

WHEREAS, an exception from the size requirement of Chapter 17 of the Piedmont City Code is necessary for the accessory dwelling unit; and,

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary to construct in the right (west) side yard setback and to exceed structure coverage; 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 Section 15303, Class 3(a), New Construction or Conversion of

Small Structures, because it consists of the construction of modifications to an existing single-family residence and accessory dwelling unit in a residential zone, and the project with the exception of the front fencing is consistent with General Plan policies and programs; and,

WHEREAS, the Planning Commission finds that the proposed accessory dwelling unit and unit size exception are consistent with Division 17.38 and Section 17.38.070(C)(1) as follows:

1. The proposed accessory dwelling unit will not create a significant adverse impact on any adjacent property and the surrounding neighborhood because the ADU is within the building envelope and utilizes an existing side entry, and the additional 42 square feet is a minor alteration and does not substantially change the previous application.
2. The lot and the arrangement of existing and proposed physical improvements on the lot can accommodate the proposed accessory dwelling unit size without adversely affecting the views, privacy, or access to light and air of neighboring properties because the ADU is within the existing building envelope and utilizes an existing side entry, and as conditioned the accessory dwelling unit meets all of the development standards pursuant to Section 17.38.060.

WHEREAS, the variances for right side yard setback and structure coverage 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 steep, the lot is steep at the front of the house where utility meters are located, and the only access to the meters would be through the proposed stair and platform per PG&E requirements, 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 proposed, the majority of neighboring properties have access to utility meters at the side of the house, and many neighboring properties are located within the side yard setback.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because the lot is unusually steep such that side access cannot be accomplished without constructing stairs within the side yard.

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 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 scale and mass of the buildings are compatible with the scale and mass of existing residences in the neighborhood; the deck additions are consistent with the building design of the neighborhood development; door and window patterns are harmonious with

neighborhood development; and the building materials are harmonious with neighborhood development and match existing materials.

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 existing; the remodel provides breaks in the window and door pattern to maintain privacy; and privacy is provided by existing grade changes of the side yard, which shall remain.

3. The proposed design does not adversely affect pedestrian or vehicular safety because the project does not propose any changes to vehicular and pedestrian safety.

4. As conditioned, the application with the exception of the front fencing complies with the following design 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-5, II-5(a), II-6, II-6(a), II-6(b), II-7, II-7(a) (*remodels*); IV-1, IV-1(b), IV-2, IV-2(a), IV-3, IV-3(a), IV-4, IV-4(a), IV-5, IV-5(a) (*retaining walls*). The front fence is not approved because it does not comply with the following design guidelines and General Plan policies and programs: V-5(a), V-5(b), V-6 (*fences/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 28.5 (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 variance application for right side yard setback and structure coverage, design review permit application, and the accessory dwelling unit permit application with size exception for the remodel at 26 Littlewood Drive, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

A. Accessory Dwelling Unit Permit

1. **Owner Occupancy Declaration.** In compliance with Section 17.38.060(B)(3), prior to the issuance of a building permit, the completed, signed and notarized *Declaration of Restrictions - Property with Approved Second Dwelling Unit* form shall be recorded.

2. **Declaration of Rent Restriction.** In compliance with section 17.38.070(C)(1), a Declaration of Rent Restriction (in a form provided by the City) shall be recorded stating that the unit is rent restricted as a low income unit. The rent-restriction shall be recorded in the County Recorder's Office, and shall remain in effect for ten years. The ten-year period of rent restriction begins either: (a) on the date of recordation or date of final building inspection, whichever is later; or (b) according to the terms of the conditions of approval or a recorded declaration. If, after ten years, the termination of the recorded declaration is not automatic (by its terms), the City shall record a document terminating the declaration of rent restrictions, upon the written request of the property owner.

3. **Affordable Rent Certification.** In compliance with section 17.38.030(C.), prior to the occupancy of the rent-restricted unit, an owner who has executed a Declaration of Rent Restriction shall submit to the City an Accessory Dwelling Unit Affordable Rent Certification (in a form provided by the City), and thereafter (i) on an annual basis, by each December 31 and as part of the annual City business license application and renewal; and (ii) upon any change in occupancy of the accessory dwelling unit. The accessory dwelling unit affordable rent certification shall be on a form provided by the City and shall specify whether or not the accessory dwelling unit is being occupied; the rent charged; the utilities that are included in the cost of rent; the household size of the accessory dwelling unit; the names and ages of the accessory dwelling unit occupants; the gross household income of the accessory dwelling unit household; and other information as determined appropriate by the City.

B. Variance and Design Review Permit

1. **Lower Level Deck.** Prior to issuance of a building permit, the plans shall be amended so that the new lower level deck and steps align with the main level deck above and provide a minimum setback of 9 feet to the west property line, subject to review and approval of City staff.

2. **Building Code Compliance.** A 1-hour separation is required between the new accessory dwelling unit and the existing residence. All building code requirements must be met.

3. **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.

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

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 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.

- 7. Setback from Property Line Verification.** Prior to final inspection, the applicant shall submit to the Building Official written verification by a licensed

land surveyor stating that the construction is located at the setback dimension from the west property line as shown on the approved plans and as specified in these conditions of approval. The intent is to verify that the approved features are constructed at the approved dimension from the property line.

8. **Window Material.** As specified in the plans, the building material for the new windows shall be vinyl. Recess to the exterior trim shall be 1/2 inches.

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

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

11. **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.

12. **Sanitary and/or Storm Sewer Main Condition and Repair.** City records indicate that City sewer main and associated easement may be located near the proposed retaining walls in the rear yard. Said easement and any manhole covers shall be shown on the building permit drawings. The applicant shall also work with City staff to verify the location and depth of the sanitary sewer main. In addition, the City shall videotape the existing sanitary sewer main 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 sewer line shall be inspected as required by the Director of Public Works, who shall also determine if the sewer line was 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.

13. **Footing Design.** At the discretion of the City Building Official, the applicant may be required to design the proposed retaining wall footing with special footings, piers, slabs or other systems, to avoid damage to the existing sewer nearby, and to enable future sewer repairs and replacements.

14. **Encroachment Permit.** Should a retaining wall be located within the sewer easement in the rear yard, then before the issuance of a building permit, the property owner shall apply for an encroachment permit to allow for the construction within the easement. Alternatively, the retaining wall may be relocated so that it is not within the sewer easement subject to staff review and approval.

15. **Fence.** The approved construction does not include fencing in the 20-foot front street yard setback.

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

**Variance Permit
1117 Ranleigh Way**

The Property Owner is requesting a variance from the City's parking requirements in order to demolish the driveway at the front (south) of the property and to landscape the front yard at 1117 Ranleigh Way.

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

Public testimony was received from:

Paula Bolio, Property Owner, proposed removal of the driveway in order to plant trees and drought-tolerant vegetation. The driveway is steep and will cause damage to a sedan driven up it. The garage is too small to function as a garage. The small lot has little outdoor space. Ten homes on Ranleigh Way do not have driveways or garages. Her family routinely parks two cars on the street in front of the home. The window next to the garage door opens into a storage space. The existing parking space is not used because a car cannot navigate the driveway to the space. Upon a question from Commissioners regarding her knowledge of an alley serving garages at the rear of the houses she cited as not having driveways or garages accessed from Ranleigh Way, Ms. Bolio stated that some neighbors park their vehicles in an alleyway behind their homes. She has considered pervious pavers, but they would not change the existing condition. She does not know the height of the garage ceiling. Landscaping plans include terraces to decrease the slope of the front yard, but terraces cannot be constructed with the existing driveway.

The Commission generally opposed granting a variance because of the loss of off-street parking, noting that the size of the garage can be increased to accommodate a vehicle, the driveway can be improved to accommodate a vehicle, and the project does not meet the requirements for granting a variance. Commissioner Alessio remarked that she would not favor retaining the existing garage and curb cut if the Commission supported granting a variance.

Resolution 38-V-18

WHEREAS, the Property Owner is requesting a variance to demolish the driveway at the front (south) of the property and to landscape the front yard at 1117 Ranleigh Way, which construction 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 not consistent with General Plan policies and procedures; and,

WHEREAS, the variance from Section 17.30.060 of the Code is not approved because it does not comply with the variance criteria under Section 17.70.040.A as follows:

1. The property and existing improvements do not present unusual physical circumstances of the property, including the slope could be used or could be modified for use 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.
2. The project is not compatible with the immediately surrounding neighborhood and the public welfare because, based upon information provided by the applicant, most neighboring homes have a one-car garage, particularly the homes with access to the alley at the rear of the property; and most homes within the City of Piedmont require parking.
3. Accomplishing the improvement without a variance would not cause unreasonable hardship in planning, design, or construction because, based upon information provided by the applicant, the garage could be reconstructed in such a way that it could be used as a garage.
4. As conditioned, the application does not comply with the following General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Transportation Element Goal 11 (Parking), 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 the variance application for the construction at 1117 Ranleigh Way, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

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

The Property Owner is requesting permission to construct a new garage in the location of the existing carport, an approximately 160-square-foot addition at the rear (east) of the residence, and a new approximately 444-square-foot deck at the rear of the residence and to modify windows, doors, skylights, and exterior lighting throughout. Variances are required to construct within the front street yard setback and the left side yard setback.

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

Public testimony was received from:

Edward Buchanan, project architect, reported the proposal is to replace the foundation and the failing carport, to add a master bathroom at the rear of the home, and to enlarge the rear deck. The existing style of simple roof forms and large window openings will continue in the addition. The rear deck will have wall elements that anchor the deck to the ground. This project has no adverse impacts to neighboring views, light, or privacy. Variances are needed to construct a garage in the location of the existing carport. The door from the unfinished storage area leads to the outdoors. The upper deck will be much more

visible than the lower deck. Modifying the railings and improving the lower deck may be a future project.

Generally, the Commission supported approval of the project, stating the garage will be an improvement over the existing carport, the design of the deck and the project is good, the garage will be more conforming than the existing carport, and the deck will not obstruct the neighbors' views. Alternate Commissioner Batra and Commissioner Allesio recommended the applicant consider changing the front door to be more compatible with the modern style of the house, if the applicant proposes a project that includes the front door. Commissioner Allesio expressed concern about matching the two rear decks, but she understands the need to defer some projects.

Resolution 278-V/DR-18

WHEREAS, the Property Owner is requesting permission to construct a new garage in the location of the existing carport, an approximately 160-square-foot addition at the rear (east) of the residence, and a new approximately 144-square-foot deck at the rear of the residence and to modify windows, doors, skylights, and exterior lighting throughout at 295 Scenic 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 front street yard setback and the left side yard setback; and,

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

WHEREAS, the variances from the front and side setbacks are approved because they comply with the variance criteria under Section 17.70.040.A as follows:

1. The property and existing improvements present unusual physical circumstances of the property, including the lot has unusually steep topography; without substantial regrading of the lot, a garage cannot be constructed; and the house would have to be demolished in order to construct 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, based upon information provided by the applicant, a majority of neighboring properties have garages located close to the street; a majority of neighboring properties are located in the front setback; and the existing home and carport are located in the setback.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because, based upon information provided by the applicant, the house would need to be demolished in order to supply a garage, and the lot would have to be completely regraded.

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

1. The proposed design is consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are consistent with the original architecture and neighborhood development: the wall material, the roof form, the roof material, the window and door material and fenestration pattern, the eave overhang dimension, and 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 distance between the project and neighboring homes is appropriate, and the topographical differences are appropriate to preserve privacy, views, and light.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project maintains adequate visibility for entering and exiting the driveway.
4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: II-1, II-2, II-3, II-3(a), II-3(b), II-3(c), II-3(d), II-4, II-5, II-6, II-6(a), II-6(b), II-6(c), II-7, II-7(a) (*remodels*), III-1, III-1(a), III-2, III-2(a), III-3, III-4, III-5, III-5(a), III-6, III-6(a), III-7, III-7(a) (*garages*).
5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.3 (Additions), Design and Preservation Element Policy 28.4 (Setback Consistency), Design and Preservation Policy 28.5 (Garages, Decks, and Porches), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 29.7 (Driveway and Parking Location).

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 construction at 295 Scenic Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Window and Door Material.** As specified in the plans, the building material for the new windows and doors shall be aluminum clad or fiberglass clad.
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 7/8th of inch 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. **Roof Color.** The proposed roof shall be a non-reflective medium or dark color to minimize the visual impact on upslope properties.

6. **Utility Meters.** Any relocated utility meter shall be located on a side façade.

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

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

9. **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 (if any) on residential properties and/or in the proximity of schools, including lead-based paint and asbestos. Said plan for the proper removal and handling of hazardous materials shall be provided on the appropriate sheets of the construction plan sets and included in the Construction Management Plan.

10. **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.

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

12. **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.

13. **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.

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

15. **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.

16. Geotechnical Report and Review. At the option of the Building Official, the property owner may be required to submit a report prepared by a geotechnical engineer of the Property Owner's choice that fully assesses the existing site conditions, and addresses all issues regarding excavation and grading, foundations and their construction, drainage, retaining wall systems, periodic on-site observations, and other related items involving the Project. Peer Review. The City, at the Property Owner's sole expense, shall retain an independent geotechnical consultant to perform a peer-review of the Property Owner's geotechnical report and advise the City in connection with the Property Owner's proposals. The City Engineer shall select this independent geotechnical consultant, whose services shall be provided for the sole benefit of the City and whose reports and recommendations can be relied upon only by the City. The independent geotechnical consultant shall also review the building plans during the permit approval process, and may provide periodic on-site observations during excavation and construction of the foundations as deemed necessary by the City Engineer. The Property Owner shall provide payment for this at the time of the Building Permit submittal.

17. 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.

18. 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.

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

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

21. 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.

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. 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 mature oak next to the existing carport in the front yard. The tree preservation measures shall be on the appropriate sheets of the construction plans. The arborist shall be on-site during critical construction activities, including initial and final grading, to ensure the protection of the existing trees that are intended to be retained. The arborist shall document in writing and with photographs the tree protection measures used during these critical construction phases. If some trees have been compromised, mitigation measures must be specified in writing, and implementation certified by the Project Arborist. Trees proposed for removal shall have an in-lieu replacement tree planted elsewhere on the property, which shall be shown on the final landscape plan. Replacement tree size is subject to staff review, and shall be commensurate with the size and numbers of trees to be removed. They shall

generally be a minimum of 24" box size. Before the Final Inspection, the Arborist shall file a report to the City certifying that all tree preservation measures as recommended have been implemented to his/her satisfaction and that all retained trees have not been compromised by the construction.

24. **Front Door.** The applicants have the option to modify the front door. Should they do so, the modified door shall be consistent with modern architecture of the house, subject to staff review and approval.

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

**Variance and Design
Review Permit
12 Sharon Avenue**

The Property Owner is requesting permission to demolish the existing garage and its roof deck; to excavate and construct a new two-story accessory structure containing a two-car garage on the lower level, approximately 400 square feet of habitable space on the upper level, and a roof deck atop the new structure that is connected to the rear of the house by a bridge. The proposed construction includes a new entry stair with handrail to the rear of the house and accessory structure, new retaining walls, a widened driveway and curb cut, new exterior lighting, and various door and window modifications. Variances are required to construct in the 20-foot street yard setback and in the 5-foot rear yard setback and to exceed the floor area ratio limit.

Written notice was provided to neighbors. **One negative response form and one response form indicating no position** were received.

Public testimony was received from:

David Gallacher, Property Owner, reported the existing garage is too small to accommodate a vehicle, and a steep ramp to one of the garage bays makes the bay practically unusable. The project will enhance the look and feel of the property. The existing garage and roof deck will be replaced with a garage, accessory dwelling unit (ADU), and roof deck. The new structure will be 3 feet taller than the existing garage and roof deck. With the new garage, he can park his cars in the garage rather than on the street. The garage door will be compatible with the existing style, which is Mediterranean. The photographs provided during the meeting demonstrate that the garage will not significantly obstruct views or light for neighbors. Six of eight neighboring lots are larger than his lot, and two of the neighboring properties exceed the 50-percent floor area ratio limit.

Wayne Lee, neighbor at 34 Dormidera Avenue, read a letter from his parents, the property owners of 34 Dormidera Avenue, objecting to the project based on view, privacy, and noise concerns. A person standing on the proposed roof deck could look into the family room located on the first floor of his home.

Assistant Planner Hahn advised that staff received correspondence from the owners of 14 Dormidera Avenue and 11 Sharon Avenue the day of the meeting. Chair Behrens noted both letters support the project.

In response to Commissioner Ramsey's question, Planning Director Jackson indicated the orange line at the top of the story poles portrays the top of the

railing. Anyone standing on the proposed roof deck would be standing 42 inches below the orange line on the story poles.

Generally, the Commission supported approval of the project, noting the design is beautiful and appropriate, the style of the garage matches the existing house, the project and the distance between the project and neighboring homes will not obstruct the neighbors' views, light, and privacy, burying the garage structure in the hills side reduces the bulk of the structure, and the new garage will improve the parking condition of the street. Commissioner Ramsey recommended the applicant not install metal garage doors.

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WHEREAS, the Property Owner is requesting permission to demolish the existing garage and its roof deck; to excavate and construct a new two-story accessory structure containing a two-car garage, approximately 400 square feet of habitable space, and a roof deck atop the new structure; and to construct a new entry stair with handrail to the rear of the house and accessory structure, new retaining walls, a widened driveway and curb cut, new exterior lighting, and various door and window modifications at 12 Sharon 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 20-foot street yard setback and the 5-foot rear yard setback and 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 CEQA Guidelines Section 15303, Class 3(a), New Construction or Conversion of Small Structures, because it is a second dwelling unit in a residential zone, and the project is consistent with General Plan policies and procedures; and,

WHEREAS, the variances from the street yard setback, rear yard setback, and floor area ratio limit are approved because they comply with the variance criteria under Section 17.70.040.A as follows:

1. The property and existing improvements present unusual physical circumstances of the property, including the lot is unusually small, the lot is unusually shaped, and the rear yard is small and steep, 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, based upon information provided by the applicant, a majority of neighboring properties have garages located close to the street; a majority of neighboring properties are located in the front setback; the project is located in the same setbacks as the existing structure; and most homes in the neighborhood are similar in size to what is being proposed.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because, based upon

information provided by the applicant, there is insufficient space on the lot; the steep upslope of the rear yard leaves few alternative locations for the garage and accessory structure; and the design removes parked cars from the street to the property.

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

1. The proposed design is consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are consistent with the original architecture and neighborhood development: the wall material, the roof form, the roof material, and the 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 properties is appropriate; 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 a positive impact on pedestrian and vehicle safety; the project maintains adequate visibility for entering and exiting the driveway; and the project improves the onsite parking conditions.
4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: II-1, II-2, II-3, II-3(a), II-3(b), II-3(c), II-3(d), II-4, II-5, II-5(a), II-6, II-6(a), II-6(b), II-6(c), II-7, II-7(a) (*remodels*), III-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) (*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 Policy 28.5 (Garages, Decks, and Porches), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 28.7 (Hillside Home Design), Design and Preservation Element Policy 28.8 (Acoustical and Visual Privacy), Design and Preservation Element Policy 29.4 (Maintaining Privacy), 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 29.8 (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 construction at 12 Sharon Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Approved Construction Limited to Applicants' Property.** The features approved under the scope of this application must be located within the boundaries of the property at 12 Sharon Avenue and do not include any existing or proposed features located all or in part on adjacent properties or the right-of-way.
2. **Window and Door Material.** As specified in the plans, the building material for the new windows and doors shall be wood.
3. **Window Color Scheme.** All the windows on the house shall have a consistent color scheme.
4. **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 such as sash and recess dimensions shall be submitted for review and approval at the time of the building permit application.
5. **Pre-construction Inspection.** After the issuance of a building permit and prior to the commencement of window fabrication, the installer shall schedule a pre-construction inspection with the Building Department. The inspection will review the approved installation criteria, noted on the approved building permit drawings and specifications, such as the window recess, window trim if any, and window sill projection if any, with the existing conditions.
6. **Exterior Lighting.** All new exterior light fixtures shall be downward directed with an opaque or translucent shade that completely covers the light bulb.
7. **Garage Door.** To facilitate vehicular access, the garage door shall be motorized, and the final design of the door shall be subject to staff review and approval.
8. **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 (if any) on residential properties and/or in the proximity of schools, including lead-based paint and asbestos. Said plan for the proper removal and handling of hazardous materials shall be provided on the appropriate sheets of the construction plan sets and included in the Construction Management Plan.
9. **Contractor's General Liability Insurance.** At the discretion of the Building Official and 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.

10. 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.

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

12. Arborist's Report and Certified Tree Preservation Plan. Before the issuance of a building permit, and at the discretion of the Building Official, the Property Owner shall submit an Arborist's Report and Certified Tree Preservation Plan that includes tree preservation measures to preserve the existing trees in the south and east sides of the property, as well as any nearby off-site trees near the existing garage. The tree preservation measures shall be on the appropriate sheets of the construction plans. The arborist shall be on-site during critical construction activities, including initial and final grading, to ensure the protection of the existing trees that are intended to be retained. The arborist shall document in writing and with photographs the tree protection measures used during these critical construction phases. If some trees have been compromised, mitigation measures must be specified in writing, and implementation certified by the Project Arborist. Trees proposed for removal shall have an in-lieu replacement tree planted elsewhere on the property, which shall be shown on the final landscape plan. Replacement tree size is subject to staff review, and shall be commensurate with the size and numbers of trees to be removed. They shall generally be a minimum of 24" box size. Before the Final Inspection, the Arborist shall file a report to the City certifying that all tree preservation measures as recommended have been implemented to his/her satisfaction and that all retained trees have not been compromised by the construction.

13. Final Landscape Plan. Before issuance of a building permit, and at the discretion of the Building Official, 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.

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

15. **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.

16. **Setback from Property Line Verification. At the Building Official's** Prior to foundation inspection, and at the discretion of the Building Official, 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 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 line.

17. **Foundation/Shoring/Excavation Plan.** At the discretion 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.

18. **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.

- 19. 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 Batra, Seconded by Duransoy
Ayes: Alessio, Behrens, Duransoy, Ramsey, Batra
Noes: None
Recused: None
Absent: Levine

The Commission recessed for dinner at 6:34 p.m. and reconvened at 7:06 p.m.

**Variance and Design
Review Permit
89 Ramona Avenue**

The Property Owner is requesting permission to construct a multi-story addition at the front of the house, which construction includes relocation of the main entry to the basement level, new roof forms atop the additions, a new main-level front deck, a reconstructed entry stair with handrail, new fencing on the north side of the property, new windows and doors throughout, new exterior lighting, hardscape and landscape improvements, and various changes to the interior. Variances are required to construct within the 20-foot street yard setback along Ramona Avenue and the 20-foot street yard setback fronting Moraga Avenue and to increase the number of bedrooms from two to four without supplying conforming parking spaces.

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

Public testimony was received from:

Eric Olson, Property Owner, advised that the family needed additional space in their home. In designing the addition, he tried to be considerate of neighbors. The bungalow has been neglected and needs to be a vibrant and visible part of Piedmont. The cedar tree in front of the home poses a fire risk in the proposed design, and its roots damage sidewalks. A smaller tree would fit the project better.

Brendan Kelly, project architect, reported 12 feet at the rear of the property serves as a driveway for another property. The improvements are designed at the front of the home because the lot has little backyard. The replacement tree for the cedar will likely be a 15-foot live oak. The pine tree is located in a public right-of-way. The applicants will consider suggestions for landscaping or tree species. The existing front walkway is located in the public right-of-way. The proposed fencing and potato vine is an extension of the existing privet hedge. The applicants propose fencing as a means to secure their property. The distance between the parcel line and the improvements ranges from 4 feet to 15 feet because of the radius curve of the parcel line and the uniform setback line along Ramona Avenue. The fencing on Moraga Avenue will be located on the property line. The new fencing and vine is set back 2 feet from the sidewalk to allow planting between the sidewalk and the fence. The proposed fencing will not replace existing fencing. The neighbor does not have an easement for the driveway at the rear of the property. The eave overhang will be essentially 2 feet for the entire house. The elevations are not correct, but some of the graphics are correct with respect to the overhang. The section of the house that has no overhangs will be removed as part of the proposed project. The family room is considered a bedroom. He has explored options for conforming parking. The applicants are currently using the conforming and nonconforming parking spaces. Constructing a second parking space will impact the backyard and the neighbors. Because of the grade, constructing a garage off Moraga Avenue would require a 12-15-foot retaining wall. He did not consider building a garage in the hillside off Moraga Avenue. The slope of Ramona Avenue increases as it moves south. After receiving information from the Public Works Department, he proposed an option to replace the cedar tree with a more appropriate specimen. Using a 15-gallon potato vine, the vine could cover the fence in six months to a year. The proposed fencing is designed to disappear behind the hedge. Page A-12 of the plans depicts the two tandem parking spaces. The existing garage and

driveway accommodate vehicles. All windows will be replaced. New stucco will be applied to the existing home and the addition. The base of the facade will be painted brick with stucco. The existing steps from the sidewalk to the door will be replaced. The steps will have handrails, but he has not determined the details of the handrails. The existing steps do not have handrails. He designed the tall side of the addition and larger architectural elements for the Moraga Avenue side of the house so that they do not loom over neighbors or overwhelm smaller and pedestrian-friendly Ramona Avenue. The balcony at the front of the house is intended to be a landing rather than a gathering place.

Assistant Planner Hahn related that two comments in support of the project were received from neighbors at 115 Ronada Avenue and 120 Moraga Avenue.

Commissioners generally favored the project, commenting on the applicant's collaboration with neighbors in developing the proposal, the unusual physical circumstances of the lot, the restrained and simple design, the good window pattern and vertical transition piece, the stepping back of the second floor to break the massing, the planting of the vine on the fencing, and the welcoming nature of the home with it being located closer to the street. Commissioners could grant the requested variances, stating the family room, technically considered a bedroom, does not intensify the use such that parking should be required and the garage location is constrained by the prescriptive easement, the change in grade, and the position of the adjacent house. Commissioners expressed concerns regarding the oak tree being an appropriate selection for the front of the home, inconsistencies in the drawings, the proposed fencing and railing not conforming to guidelines, and the appearance of the fencing being dependent on the vine covering it. Commissioners concurred with requiring staff review and approval of fencing, the selection and placement of the replacement tree, railing, brackets, and eave overhang.

In answer to Chair Behren's query, Planning Director Jackson explained that the conditions of approval allow staff to resolve design issues and details with the applicant. If staff cannot resolve details, the Director can return the project to the Commission for review.

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WHEREAS, the Property Owner is requesting permission to construct a multi-story addition at the front of the house to include relocation of the main entry to the basement level, new roof forms atop the additions, a new main-level front deck, a reconstructed entry stair with handrail, new fencing on the north side of the property, new windows and doors throughout, new exterior lighting, hardscape and landscape improvements, and various changes to the interior at 89 Ramona 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 20-foot street yard setback along Ramona Avenue and the 20-foot street yard setback fronting Moraga Avenue and to increase the number of bedrooms from two to four without supplying conforming parking spaces; 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 20-foot street setbacks and to increase the number of bedrooms without supplying conforming parking spaces are approved because they comply with the variance criteria under Section 17.70.040.A as follows:

1. The property and existing improvements present unusual physical circumstances of the property, including the lot is unusually shaped with a large, adjacent public way; the lot angles relative to the street; the lot is a corner lot; any addition in the rear yard would have significant impact on neighbors' light, view, and privacy; the lot has a unique configuration at the corner and any addition at either front would require a variance; the lot has a prescriptive easement to allow access to other properties, 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 the neighboring properties have three or more bedrooms with similar parking; neighboring properties on Moraga Avenue are constructed in the street yard setback; and the proposed design does not decrease the existing average setback line with other neighboring properties along Ramona Avenue and, therefore, it conforms to the existing average setback. The setback at the front conforms to Design Review Guideline II-6(c). Constructing the structure in the front yard setback will not cause the structure to obstruct significantly the view of the street from the neighboring property.

3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because expanding the residence towards the back to avoid the street yard setbacks would significantly impact the neighbors' access to light and views, and because of the unique conditions of the property.

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

1. The proposed design is consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are consistent with the original architecture and neighborhood development: the wall materials, the roof form and material, the window and door material and fenestration patterns, the proposed location of the front door is similar in surrounding homes.

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 the neighboring homes is appropriate and is consistent with the existing house; the topographical distances are appropriate to preserve privacy, views, and light; there is vegetative screening; and there is no significant view. The massing of the proposed addition will break up the overall bulk of the house. The proposed design was strategically placed in order to avoid overpowering the neighboring parcel to the south.

3. The proposed design does not adversely affect pedestrian or vehicular safety because the project does not change the pedestrian or vehicular access; and the project maintains visibility for entering and exiting the driveway.

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

5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.2 (Style Compatibility), Design and Preservation Element Policy 28.3 (Additions), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 28.8 (Acoustical and Visual Privacy), Design and Preservation Element Policy 29.1 (Conserving Residential Yards), Design and Preservation Element Policy 29.2 (Landscape Design), Design and Preservation Element Policy 29.3 (Front Yard Enclosures), Design and Preservation Element Policy 29.4 (Maintaining Privacy), Design and Preservation Element Policy 29.5 (Fence and Wall Design), 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 addition at 89 Ramona Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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 1 and 3/8 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 such as recess and sash dimensions 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. **Exterior Lighting.** All new exterior light fixtures shall be downward directed with an opaque or translucent shade that completely covers the light bulb.

6. **Garage Door.** 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.

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

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

9. **Building Height and Floor Level Verification.** Prior to foundation and/or frame inspection, and at the discretion of the Building Official, the applicant shall provide the Building Official written verification by a licensed land surveyor stating that the floor level(s) and roof of the new structure(s) are constructed at the approved height(s) above grade.

10. **Foundation/Shoring/Excavation Plan.** At the discretion 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.

11. **Peer Review.** At the discretion of the Building Official, 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.

12. **Consultant Cost Recovery.** In order to accommodate the scope and nature of the Project proposed by the Property Owner, if the Director of Public Works deems it necessary to retain independent consultants with specialized expertise, including the City Engineer, the Property Owner shall make a cash deposit with the City at the time of the Building Permit Application in the amount of \$5,000 to be used to pay for the fees and expenses of such City consultants, or in any way otherwise required to be expended by the City for professional consultant assistance. If the cash deposit has been reduced to \$2,500 or less at any time, the Director of Public Works may require the Property Owner to deposit additional funds to cover any further estimated fees and expenses associated with consultants retained by the City on a regular basis or specifically for the Property Owner's Project. Any unexpended amounts shall be refunded to the

Property Owner within 90 days after the Project has an approved Final Inspection by the Chief Building Official.

13. Contractor's General Liability Insurance. At the discretion of the Building Official, and 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.

14. 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.

15. 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.

16. 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.

17. 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 frontage area on Moraga Avenue and Ramona Avenue that shows removal of existing trees and planting of new trees, and other landscape modifications. The final plan shall comply with City Code Division 17.34 and Section 17.32.030, and shall not propose plants near the frontage that could obscure visibility of pedestrians on the sidewalk or vehicles on either street. At the discretion of the Public Works Director, the Property Owner shall apply for an encroachment

permit to allow for the planting of any new tree within the public right-of-way. The following shall be subject to the review and approval of the Public Works Director, or the Director's designee: the applicants' proposed procedure to remove the existing cedar tree; the landscape and irrigation plan for the area within the City's right-of-way; and the size and species of any new tree(s). Upon the determination of the Public Works 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. **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 steps within the public right-of-way.

19. **Fencing.** The new fencing in side yard along Moraga Avenue shall be redesigned to conform with the City of Piedmont Design Guidelines V-2, V-5 and V-5(b) as they relate to prominently sited fences. Said design shall be subject to staff review and approval.

20. **Front Entry Stair and Handrail.** The design of the new front entry stair and handrail shall be subject to staff review and approval.

21. **Roof Eaves.** The overhang of the roof eaves shall be a minimum 2 feet and be consistent on the existing and new portions of the building, subject to staff review and approval.

22. **Brackets.** The proposed new brackets on the front façade shall be proportional to surrounding building elements and shall be subject to staff review and approval.

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

**Design Review Permit
90 Wildwood Avenue**

The Property Owner is requesting permission to construct a detached accessory structure at the rear of the property that contains approximately 588 square feet of habitable space, an attached one-car garage, a rear main-level deck with a pergola and stair, a new driveway and curb cut, fencing modifications, and other exterior changes.

Written notice was provided to neighbors. **Two affirmative response forms and three negative response forms** were received. Correspondence was received from Bobbie Stein and Billy Corman.

Public testimony was received from:

Michael Davison, project designer, wanted to match the accessory structure to the existing residence as much as possible by following the same roof line and using the same roof materials and exterior materials while matching the windows as closely as possible. The accessory structure is located as far back on

the lot as possible but within the setbacks. To address privacy concerns and safety concerns for vehicles backing from the driveway, the garage is placed as far to the west as possible. In order to protect the privacy of the next door neighbor at 86 Wildwood Avenue, he proposes to have only the garage and a bathroom with two windows on the west side of the property. He stepped the structure to follow the curve of Sylvan Way, to address privacy concerns, and to follow the hillside. The attached garage and driveway can accommodate onsite parking. He placed the structure away from the curve in Sylvan Way to increase visibility and safety. The wire fencing currently exists on the property. The wooden fence will match the existing wooden fence on the adjoining property. Deck railing and stairs will be wood and consistent with the wood fencing. The 8-foot fence adjacent to the driveway is not intended to block visibility for vehicles backing into the street. The fence stops at the driveway. The applicant did not work with neighbors regarding roof height. To have one level visible from the street, he matched the roof height and slope of the structure to the existing house.

Steve Bailey, Property Owner, expressed willingness to reduce the height of the 8-foot fence to 4 feet and to step down the existing fence. He needs a physical barrier at the curve in Sylvan Way to ensure the safety of his children while they play in the yard. The slope of the driveway was used to place the floor elevation as low as possible. With respect to the eastern facing window, he wanted one window on that side of the house. It is high enough to prevent the children from looking outside.

Susan Ode, neighbor at 25 Sylvan Way, requested a condition of approval for no-parking signs and a red curb similar to that required for the project at 67 Sylvan Way. There is no existing on-street parking at the location. The Commission should ensure fencing does not encroach into the roadway. Continuing the existing fence to Wildwood Avenue would create a barricade.

Jenny Perttula, neighbor at 100 Wildwood, expressed privacy concerns regarding the project. The eastern wall of the project will overlook the side of her home. Views from the window and deck will invade her privacy. Because of the topography, the eastern windows will be approximately 7 feet above her bedroom windows. The large eastern window and the eastern end of the deck will look into two of her bedrooms and kitchen and onto her deck and lawn. She requested the Commission require either no windows in the eastern wall or windows begin 5 feet 8 inches from the floor and a wall or solid fence 6 feet high be erected across the eastern end of the deck.

In reply to Alternate Commissioner Batra's questions, Planning Director Jackson reported Sylvan Way does not have sidewalks because there is no room within the narrow width of the right-of-way. The Planning Commission can approve fencing with a height greater than 3 feet without a variance. He recommended the Commission not require improvements on the applicant's property that would enable public access across the applicant's property as that might be considered a taking. Staff could work with Public Works to review signage and curb painting to prevent parking on Sylvan Way adjacent to the subject property.

Commissioners generally supported approval of the project, referring to the project as an improvement for the neighborhood, the project's conformance with requirements, the driveway and garage being placed as far from the corner of the lot as possible, and the proposed fencing being a vast improvement over the existing fencing. However, Commissioners believed the fence height at the

curve of the road should be reduced to 3 feet to increase the safety and visibility of vehicles entering the street from the driveway and the fence setback should be consistent around the entire property. Regarding the structure's roof matching the existing house's roof, Commissioner Duransoy preferred a shallower roof line as it would provide some relief to the neighbor's concern about view while Commissioners Ramsey and Alessio supported the structure's roof line as proposed. Commissioners supported implementing no parking signage and red curbs along Sylvan Way similar to the requirement for the project across the street from the project site. Commissioner Ramsey noted the design guidelines to do not consider privacy for neighbors across the way from the project site. Commissioner Alessio remarked that decreasing the size of the living room window would not improve privacy for the neighbor.

In response to questions, Planning Director Jackson advised that the guidelines prefer stepped fencing over sloped fencing. Condition of Approval Number 2 limits construction to the applicant's property but does not require a survey. Condition of Approval Number 11 regarding verification by a licensed land surveyor to show compliance with setbacks applies to the fencing as well as the structure.

Resolution 289-DR-18

WHEREAS, the Property Owner is requesting permission to construct a detached accessory structure at the rear of the property that contains approximately 588 square feet of habitable space, an attached one-car garage, a rear main-level deck with a pergola and stair, a new driveway and curb cut, fencing modifications, and other exterior changes, located at 90 Wildwood 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, and Section 15303, Class 3(a), New Construction or Conversion of Small Structures, because it is a second dwelling unit 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 wall materials, the roof form and material, the window and door material and fenestration pattern, the deck, stairs, and pergola materials, and the fence materials.
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; there is sufficient vegetative screening; the view is not a significant view; and the distance between the structure and surrounding properties is appropriate.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the proposed driveway curb-cut location and the proposed construction improve the line of site and add additional parking.

4. As conditioned, the application complies with the following guidelines: I-5, I-5(a), I-5(b), I-6, I-7, I-7(a) (*new construction*), II-1, II-2, II-3, II-3(a), II-3(b), II-3(c), II-3(d), II-5, II-5(a), II-6, II-6(a), II-6(b), II-6(c), II-7, II-7(a) (*remodels*), 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*), V-1, V-2, V-3, V-4, V-5, V-5(a), V-5(b), V-5(c), V-6, V-7, V-8, V-9, V-10, V-11 (*fences*).

5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.2 (Style Compatibility), Design and Preservation Element Policy 28.3 (Additions), Design and Preservation Element Policy 28.4 (Setback Consistency), Design and Preservation Policy 28.5 (Garages, Decks, and Porches), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 28.7 (Hillside Home Design), Design and Preservation Element Policy 28.8 (Acoustical and Visual Privacy), Design and Preservation Element Policy 29.1 (Conserving Residential Yards), Design and Preservation Element Policy 29.2 (Landscape Design), Design and Preservation Element Policy 29.3 (Front Yard Enclosures), Design and Preservation Element Policy 29.4 (Maintaining Privacy), Design and Preservation Element Policy 29.5 (Fence and Wall Design), Design and Preservation Element Policy 29.7 (Driveway and Parking Location), Design and Preservation Element Policy 29.8 (Exterior Lighting), Design and Preservation Element Policy 29.9 (Sight Obstructions).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for construction at 90 Wildwood 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 November 2, 2018, after notices to neighbors were mailed and the application was available for public review.

2. **Approved Construction Limited to Applicants' Property.** The features approved under the scope of this application must be located within the boundaries of the property at 90 Wildwood Avenue and do not include any existing or proposed features located all or in part on adjacent properties or the right-of-way.

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

4. **Window Color Scheme.** All the windows on the accessory structure shall have a consistent color scheme.

5. **Window Recess.** All new windows shall be recessed 1 and 3/8 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 such as recess and sash dimensions shall be submitted for review and approval at the time of building permit application.

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

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

8. **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.

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

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

11. **Setback from Property Line Verification.** Prior to foundation inspection, and at the discretion of the Building Official, 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, east, and north property lines as shown on the approved plans. The intent is to verify that the approved features are constructed at the approved dimension from the property lines.

12. **Building Height and Floor Level Verification.** Prior to foundation and/or frame inspection, the applicant shall provide the Building Official written verification by a licensed land surveyor stating that the floor level and roof of the new structure are constructed at the approved height above grade.

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

14. **Arborist's Report and Certified Tree Preservation Plan.** Before the issuance of a building permit, and at the discretion of the Building Official, the Property Owner shall submit an Arborist's Report and Certified Tree Preservation Plan that includes tree preservation measures to any existing trees to remain near the south and west property lines, as well as any nearby off-site trees near the proposed garage. The tree preservation measures shall be on the appropriate sheets of the construction plans. The arborist shall be on-site during critical construction activities, including initial and final grading, to ensure the protection of the existing trees that are intended to be retained. The arborist shall document in writing and with photographs the tree protection measures used

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

15. Final Landscape Plan. Before issuance of a building permit, and at the discretion of the Building Official, the Property Owner shall submit for staff review and approval a Final Landscape Plan for southern half 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.

16. Foundation/Shoring/Excavation Plan. At the discretion 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.

17. Peer Review. At the discretion of the Building Official, 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.

18. Consultant Cost Recovery. In order to accommodate the scope and nature of the Project proposed by the Property Owner, if the Director of Public Works deems it necessary to retain independent consultants with specialized expertise, including the City Engineer, the Property Owner shall make a cash deposit with the City at the time of the Building Permit Application in the amount of \$5,000

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

19. Contractor's General Liability Insurance. At the discretion of the Building Official, and 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.

20. 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.

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 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.

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 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.

23. **Fence Design.** In order that it comply with section 17.32.030 of the Municipal Code and the City of Piedmont Design Guidelines V-6 through V-10, the new fencing shall have the following characteristics:

- a. The new fencing along the south property line and along the east property line to a point 30 feet north of the south property line shall have a maximum height of 3 feet. North of this point the fencing along the east property line shall have a maximum height of 7 feet.
- b. The new fencing shall be stepped in design to follow the slope in terrain.
- c. The new fencing shall be set back a minimum 26 inches from the property line to allow for landscape plantings at the toe of the fence.

The final fence design shall be subject to staff review and approval.

24. **Parking on Sylvan Way.** The applicant shall work with the Public Works Department to provide signage and painting to restrict parking along the southeast corner of Sylvan Way.

Moved by Alessio, Seconded by Ramsey

Ayes: Alessio, Behrens, Duransoy, Ramsey, Batra

Noes: None

Recused: None

Absent: Levine

**Variance and Design
Review Permit
166 Lake Avenue**

The Property Owner is requesting permission to construct an approximately 314-square-foot second-story addition; to excavate the basement level and construct a new garage and living space; to construct a new entry stair at the front (north) of the residence, new retaining walls in the front street yard; to modify windows, doors, and hardscape throughout the property; to construct a new patio in the rear (south) yard; and to make other exterior changes. A variance is required to construct within the street yard setback.

Written notice was provided to neighbors. **One affirmative response form and two negative response forms** were received.

Public testimony was received from:

Claudia Falconer, project architect, reported she has revised the design to eliminate the roof deck, locate the two garages adjacent to one another with one driveway, and reduce the area of the second-floor addition to comply with the floor area ratio limit. To be consistent with the Spanish style of the house and to reduce bulk, she has added a clay-tile pitched roof on the second floor. An awning over the front door and the clay-tile ridge on the chimney echoed the roof. Maintaining the front door in its existing location is important to the applicant because the front door dictates the circulation inside the house. The two garage doors will be wood-framed and have a cottage look. The materials for the addition will echo the existing house with wood trim on the windows and stucco. The number of risers for the outside stairs will change because the depth of the existing risers is not consistent. The window adjacent to the basement shower will have obscured safety glass. The window is small, and landscaping will obscure it from view. The applicant wanted two windows in the bathroom in the second-story addition, but two windows did not work with the layout of the bathroom. The window could have a recess, an alcove, or some type of decorative molding. The entryway could be redesigned to better display the arch. The picture window in the living does not have mullions in an effort to open the view to the street. The existing house has decorative balconies, which will be replaced. The balcony in the dining room needs a guardrail because the

doors open. Houses located on the same side of the street as the project are single story; several houses across the street are two-story.

David Lawrence, Property Owner, advised that the revised design will increase the amount of curb available for on-street parking and remove two cars from on-street parking. With the proposed garages, a charging cord for an electric vehicle will not be a hazard on the sidewalk, should he purchase an electric vehicle. The new curb cut does not appear to impact existing trees.

Generally, Commissioners supported the project but suggested the design include clay-tile caps on the parapet roofs, a larger upstairs bathroom window or the addition of a recess, modification of the entry way proportions, and use of concrete other than white. Commissioner Duransoy wanted a more consistent window style. Commissioners appreciated the proposed redesign of the project, the railing detail, reductions in floor area ratio and the number of variances requested, and the side-by-side garage doors.

Resolution 294-V/DR-18

WHEREAS, the Property Owner is requesting permission to construct an approximately 314-square-foot second-story addition; to excavate the basement level and construct a new garage and living space; to construct a new entry stair at the front (north) of the residence, new retaining walls in the front street yard; to modify windows, doors, and hardscape throughout the property; to construct a new patio in the rear (south) yard; and to make other exterior changes at 166 Lake Avenue, which construction requires a design review permit; and,

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

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

WHEREAS, the variance from the street yard setback is approved because it complies with the variance criteria under Section 17.70.040.A as follows:

1. The property and existing improvements present unusual physical circumstances of the property, including the lot is unusually small and the existing house is located within the front setback, so that strictly applying the terms of this chapter would prevent the property from being used in the same manner as other conforming properties in the zone.
2. The project is compatible with the immediately surrounding neighborhood and the public welfare because neighboring properties are located within the front setback, and the house is of a scale similar to other homes in the neighborhood.

3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because the structure is currently located within the street yard setback, and completely building outside the setback would require demolition of the existing house.

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 stucco wall material, the roof form and material, the window and door material and pattern, and decorative elements including window grates.

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, light, and views; a portion of the development is within the existing building envelope; and the second-story addition is in the center of the building, furthest away from the sides of the building.

3. The proposed design does not adversely affect pedestrian or vehicular safety because the project maintains adequate visibility for entering and exiting the driveway; and the project increases off-street parking and provides Code-conforming parking that improves vehicular access.

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-4, II-5, II-6, II-6(a), II-6(b), II-6(c), II-7 (*remodels*), III-1, III-1(a), III-2, 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-3, IV-3(a), IV-5, IV-5(a), IV-6 (*retaining walls*).

5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Natural Resources and Sustainability Element Policy 16.4 (Permeable Pavement), Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.4 (Setback Consistency), Design and Preservation 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 29.6 (Retaining Walls), Design and Preservation Element Policy 29.7 (Driveway and Parking Location).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application and the design review permit application for the addition at 166 Lake Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

3. **Window Recess.** All new windows shall be recessed a minimum of 1.5 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.** After the issuance of a building permit and prior to the commencement of window fabrication, the installer shall schedule a pre-construction inspection with the Building Department. The inspection will review the approved installation criteria, noted on the approved building permit drawings and specifications, such as the window recess, window trim if any, and window sill projection if any, with the existing conditions.

5. **Roof Color.** The proposed flat roof shall be a non-reflective medium or dark color to minimize the visual impact on upslope properties.

6. **Skylights.** The skylights shall be flat profile and the metal flashing around the new skylights shall be painted to match the adjacent roof color.

7 **Hardscape.** The proposed driveway and patios will be constructed of permeable pavers subject to staff review and approval.

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

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

10. **Curb Cut.** The applicant shall work with the Public Works department in order to identify and if needed, move meters, valves, or any other items affected by the new curb cut.

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

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

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

14. **Building Height and Floor Level Verification.** Prior to foundation and/or frame inspection, the applicant shall provide the Building Official written verification by a licensed land surveyor stating that the floor level and roof of the new structure are constructed at the approved height above grade.

15. **Final Landscape Plan.** Before issuance of a building permit, the Property Owner shall submit for staff review and approval a Final Landscape Plan that shows the front yard including screening vegetation for the trash enclosure as well as trees proposed for retention. 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.

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 street tree. The tree preservation measures shall be on the appropriate sheets of the construction plans. The arborist shall be on-site during critical construction activities, including initial and final grading, to ensure the protection of the existing trees that are intended to be retained. The arborist shall document in writing and with photographs the tree protection measures used during these critical construction phases. If the tree has been compromised, the applicant will provide a required fee to the Public Works Department to replace the tree. Before the Final Inspection, the Arborist shall file a report to the City certifying that all tree preservation measures as recommended have been implemented to his/her satisfaction and that all retained trees have not been compromised by the construction.

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

- a. Construction Site Control of Stormwater. The California Regional Water Quality Control Board requires all projects that disturb the site to comply with Provision C.6 of the San Francisco Bay Regional Stormwater NPDES Permit in order to prevent construction site discharges of pollutants and other regulated materials during construction. As required by the Chief Building Official and prior to the issuance of a building permit, the Applicant shall develop and submit a construction stormwater management plan as part of the Construction Management Plan to achieve timely and effective compliance with Provision C.6. Permit Provision C.6.c.ii provides sources for site specific, and seasonally- and phase-appropriate, effective Best Management Practices (BMPs) that may be incorporated into the

stormwater management plan. Copies of the Municipal Regional Stormwater Permit are available from the Piedmont Public Works Department and on-line at cleanwaterprogram.org.

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

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

19. **Design Modifications.** The design for the remodeled and expanded house shall be modified as follows:
- a. The parapet shall be capped with clay tiles that match those on the sloped roof;
 - b. The upper level window on the front façade shall be recessed or detailed so that it is consistent with the Spanish Revival architectural style;
 - c. The front entry porch shall have massing that is consistent with the Spanish Revival architectural style; and
 - d. The retaining wall(s) shall have a surface material of concrete with integral color or a material other than concrete.

Final design modifications shall be subject to staff review and approval.

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

ADJOURNMENT

There being no further business, Chairman Ramsey adjourned the meeting at 9:26 p.m.