

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, December 10, 2018

A Regular Session of the Piedmont Planning Commission was held December 10, 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 November 26, 2018, and a revised agenda was posted on November 30, 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, Jonathan Levine, and Tom Ramsey, Alternate Commissioner Rani Batra

Absent: None

Staff: Planning Director Kevin Jackson, Senior Planner Pierce Macdonald-Powell, Associate Planner Chris Yeager, Assistant Planner Mira Hahn, and 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 33-PL-18

RESOLVED, that the Planning Commission approves as presented its meeting minutes of the November 13, 2018, regular hearing of the Planning Commission.

Moved by Alessio, Seconded by Batra

Ayes: Alessio, Behrens, Duransoy, Ramsey, Batra

Noes: None

Abstaining: Levine

Absent: None

CONSENT CALENDAR

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

- 132 Palm Drive (Fence Design Review Permit).

Resolution 34-PL-18

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

Moved by Levine, Seconded by Ramsey

Ayes: Alessio, Behrens, Duransoy, Levine, Ramsey

Noes: None

Recused: None

Absent: None

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

Fence Design Review Permit 132 Palm Drive

Resolution 328-FDR-18

WHEREAS, the Property Owner is requesting retroactive permission for the construction of a wood fence and gate along the rear (southwest) property line within the 20-foot street yard setback located at 132 Palm Drive, 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 redwood fence material, the fence design which steps down the street, and multiple wood fences of similar style are located in the immediately surrounding neighborhood.
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; the topographical differences are appropriate to preserve privacy, views, and light; the fence is located in the same site and at the same size as the previous fence; and the fence does not affect any significant views.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project likely increases pedestrian safety by providing a barrier between the sidewalk and the steep hillside.
4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: V-1, V-2, V-5, V-6, V-8, V-11 (*fences*).
5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: 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 29.9 (Sight Obstructions).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the fence design review permit application for the improvements at 132 Palm Drive, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

If the fence is located within the City right-of-way, an encroachment permit will be required.

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

REGULAR CALENDAR

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

Design Guidelines Update

Commissioner Ramsey reported the Design Guidelines Update Subcommittee in its November meeting reviewed notes from two outreach meetings and draft Guidelines prepared by the City's consultants. A questionnaire will be sent to homeowners who have appeared before the Planning Commission during the prior two years to obtain additional feedback. A draft update of the Design Guidelines may be ready for public review in the first part of 2019.

Chair Behrens advised that the subcommittee has reviewed the consultants' proposed updates for several sections of the Guidelines, and the new Guidelines should be much easier to follow.

Design Review Permit 66 Hampton Road

The Property Owner is requesting permission to remodel and expand the home including constructing an approximately 90-square-foot addition at the rear (south) of the residence; constructing an approximately 719-square-foot second-story addition at the right (west) of the residence; installing a roof-mounted air conditioner unit; modifying the rear yard including constructing a new pool and retaining walls and modifying landscaping; modifying hardscape throughout including a new patio in the rear yard and a new concrete entry landing in the front yard; and modifying windows, doors, skylights, and exterior lighting throughout.

Written notice was provided to neighbors. **One affirmative response form and one negative response form** were received. Correspondence was received from Jeffrey B. Randall.

Public testimony was received from:

Melody Myers, Property Owner, reported her three children share one bedroom beside the master bedroom because sounds from the other bedrooms cannot be heard in the master bedroom. She and her wife work from home and require dedicated space for their work. The sound isolation of the bedrooms is an advantage for their work. A second-story addition will alleviate concerns regarding the children's safety and the necessity of three children sharing one bedroom. Ms. Myers stated that Mr. and Ms. Davis, the owners of 46 Hampton Road, objected to a second-story addition before the plans were prepared because of concerns the addition would shade their home and make it unbearably cold. She also stated that Mr. and Ms. Davis do not live in the home at 46 Hampton Road. Ms. Myers and her wife searched for another home but could not find one suitable for their needs.

Regina Myers, Property Owner, advised that she previously submitted a timeline of her communications and work with the Davises. Prior to November 25, Ms. Davis expressed concern regarding the loss of heat that could result from the

shade cast by the proposed addition. On November 25, the Davises raised privacy concerns. Existing windows at 66 Hampton Road look into windows at 46 Hampton Road. The Davises have not voiced privacy concerns regarding their front and back yards to Ms. Myers. Large trees in the Davises' front yard shade their home and will obstruct the view between her home and the Davises' home. The windows in the addition that will face the Davises' home are small and located in the bathroom. The overhangs on the Davises' home block views into their entryway, patio, and living spaces. A large jasmine vine blocks the majority of sunlight from reaching the bedrooms in the Davises' home. The minimal shade caused by the proposed addition will not affect the heating of the Davises' home as dramatically as the existing uninsulated roof and outdoor, uninsulated heating ducts. The Davises have not responded to offers to discuss the shade study.

Carolyn Van Lang, project architect, felt the proposed addition will obstruct the Davises' view from only the uppermost 5 inches of windows. The jasmine vine obstructs views into the Davises' bedrooms, and blinds on the bedroom windows are usually down. The vine will block views from the addition's master bedroom into the Davises' window. According to the shade study, the addition will affect the top one-third of the windows for 2.5 hours on the worst day of the year. The uppermost 4-5 inches of the Davises' windows are covered by blinds. The Davises' windows are 10-feet wide and light the room pretty well without sunlight. The addition will provide indirect light to the Davises' home at times when the home would never receive extra light. The addition's impact on the neighbors is minimal. The shade study indicates on June 21 the existing home allows sunlight to reach the Davises' home from 8:30 a.m. until sunset, and the proposed addition will allow sunlight to reach the home from 11:10 a.m. until sunset. Ms. Van Lang determined the size and location of the second-floor addition by first placing the stairway near the master bedroom and lower-floor bedroom and then considering the owners' needs for the master bedroom. If the addition is located too far to the rear of the home, it will block sunlight to the neighbors' home. A shower is located between the two sinks.

Jay Davis, neighbor at 46 Hampton Road, opposed the location of the proposed second-story addition. The addition will tower over and block sunlight from all but one bedroom in his home. He objected to the applicants' shade study and had obtained an independent shade study. He requested the Commission limit the height of vegetation planted along the fence between the two properties to 8-10 feet.

Joe Decredico, the Davises' architect, noted the drawings have no dimensions; yet, the lot coverage is calculated at 39.9 percent. He needs clear dimensions on the elevations rather than ranges. The shade study was not included in the information available to the public. The addition does not comply with the spirit of the design guidelines. Based on the sun analysis he conducted, the Davises have an opportunity for direct light for approximately 4.5 hours per day on December 21 and 5.5 hours on June 21. In both cases, the addition will eliminate 3.5 hours of sunlight. The house at 66 Hampton Road has an existing second-floor addition at the southeast end of the house. The existing addition could easily support the proposed space without impacting any neighbors.

Edythe Davis, neighbor at 46 Hampton Road, did not understand how a master bedroom on a different floor from the children's bedrooms would alleviate safety concerns. The addition will block the views from her windows and intrude on

the privacy of her backyard and patio. She and her husband plan on moving into the home upon their retirement.

In general, Commissioners did not oppose the plans for the first-floor addition. Commissioners Duransoy, Levine, and Alessio and Chair Behrens opposed the location of the second-floor addition because it will negatively affect the neighbors' privacy, views, and access to direct and indirect light. Rather than constructing a new second-floor addition, the existing second-floor addition could be expanded. The second-floor addition could be placed over the existing bedroom section and reduced in size. Adding a second-story to the rear of the house would not affect the neighbor on King Avenue. The proposed second-story addition feels like a pop-up, and decreasing the size of it will increase the pop-up feel. The Planning Commission does not consider the needs of the applicant and neighbors in making its determinations. Chair Behrens recommended the applicant include dimensions in future plan submissions.

Commissioner Ramsey noted the applicant has not requested any variances, and the project complies with requirements for floor area ratio, height, and setbacks. The addition does not encompass the entire width of the bedroom wing. The shape of the roof limits the mass on that side of the house. There could be some modifications to window placements and the overhangs. With some minor modifications, the second-floor addition could be located in the proposed area.

Commissioner Levine remarked regarding the Planning Commission's inability to review materials submitted the day of the meeting. Commissioner Ramsey added that the Planning Commission may need to enforce deadlines for submission of information. Planning Director Jackson stated that the current deadline is the close of business on the Thursday prior to the Planning Commission meeting so that staff can provide the information to Commissioners with the Friday packet. However, staff cannot prevent people from submitting materials after this deadline, but the Commission is under no obligation to consider the submission.

In reply to Commissioners' inquiry, Planning Director Jackson clarified that the applicant could submit an application for the proposed first-floor renovations, which staff could review and approve.

Resolution 269-DR-18

WHEREAS, the Property Owner is requesting permission to remodel and expand the home including constructing an approximately 90-square-foot addition at the rear (south) of the residence; constructing an approximately 719-square-foot second-story addition at the right (west) of the residence; installing a roof-mounted air conditioner unit; modifying the rear yard including constructing a new pool and retaining walls; modifying landscaping; modifying hardscape throughout including a new patio in the rear yard and a new concrete entry landing in the front yard; and modifying windows, doors, skylights, and exterior lighting throughout, located at 66 Hampton Road, which construction requires a design review permit; and,

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is not consistent with General Plan policies and programs, and that the proposal does not conform to the criteria and standards of Section 17.66.060 of the Piedmont City Code:

1. The proposed design may be consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are consistent with the original architecture: the wall material, roof form, roof material, window and door material, and eave overhangs.
2. The design has a materially negative impact on at least one of the neighboring properties' existing privacy and access to direct and indirect light because of the distance between the project and the neighboring home, the lack of sufficient vegetative screening, and the siting of the property.
3. The proposed design does not appear to adversely affect pedestrian or vehicular safety because the project does not impact any street-facing areas of the property.
4. As conditioned, the application does not comply with the following guidelines: II-2, II-3, II-6, II-7 (*remodels*).
5. The project is not consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Goal 28 (Residential Architecture), 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 28.8 (Acoustical and Visual Privacy), Land Use Policy 1.3 (Harmonious Development).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies without prejudice the design review permit application for construction at 66 Hampton Road, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

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

The Property Owner is requesting permission to remodel and enlarge the home including demolishing two unpermitted decks at the rear of the house; constructing an approximately 867-square-foot second-story addition and excavating the basement level for additional habitable space; constructing an approximately 127-square-foot addition to the rear (north) of the home; installing an upper-level roof deck at the rear of the home; and modifying windows, doors, exterior lighting, and hardscape throughout the property. A variance is required to construct additional structure within the front street yard setback.

Written notice was provided to neighbors. **Four affirmative response forms and no negative response forms** were received. Correspondence was received from Robert Andersen and John Psathas.

Public testimony was received from:

Tom Zhang, project architect, reported the most recent modifications respond to Commission comments for the project to conform with the requirements for

front and side setbacks. He reduced the size of the rear bedroom by 2 feet in response to a neighbor's concern about the view from his kitchen window. The project conforms to the requirements for height and floor area ratio. The third option submitted the day of the meeting depicts the bedroom reduced by 2 feet and the addition pushed 2 feet toward the street. Options 2 and 3 have the same floor area ratio. The neighbor supported option 2 until the story poles were installed. The neighbor consulted an architect and requested additional modifications, which resulted in option 3. In comparison to option 2, option 3 is 2 feet closer to the street. Option 3 is approximately 5 feet closer to the street than option 1. Since the Commission's last hearing of the project, he moved the ground level on the right side approximately 3 feet from the property line. The upper level has a setback of more than 7 feet at the front of the house. The setback at the rear of the ground level is deeper and wider. The rooftop deck facing the adjacent neighbor is not crucial to the design or the program of the project. Mr. Zhang will reduce the size of the deck by pulling the guardrail away from the back. He did not intend to make the second-level roof deck the most important space on the second level.

Associate Planner Yeager clarified that all the options require variances. Option 1 does not propose a second-story addition in the 20-foot setback. However, the first-floor proposal increases the amount of structure in the 20-foot setback. The project was noticed for a street setback variance, and all the options contain a variance for the street setback. The previously denied project required a side yard variance because the second story and deck were proposed in the side yard setback. In option 3, the floor plan has been modified at the second floor.

John Goldberg, neighbor at 323 Magnolia Avenue, advised that his architect suggested the rear deck be shortened and the rear wall of bedroom 3 align with the window on his house to address his view and privacy concerns. Mr. Zhang has agreed to the modifications. He requested the Commission require the applicant to submit corrected plans and install accurate story poles.

Katie Goldberg, neighbor at 323 Magnolia Avenue, submitted a photograph taken from inside her home of the story pole that represents the rear wall of the bedroom. Another request is for the electrical box to be located beneath the sightline from her living room window. These modifications will allow the applicant to proceed with an addition and address her privacy and light concerns.

In reply to Chair Behrens query, Planning Director Jackson indicated staff has reviewed options 1 and 2 but not option 3. If Commissioners feel they have sufficient information to take action on either option 1 or option 2, they should do so. Without reviewing option 3, staff cannot make a recommendation to the Planning Commission. If the Planning Commission finds that the project meets the criteria for approval, it has an obligation to approve the project.

Commissioner Ramsey could approve option 1 with a condition of approval to remove the second-floor roof deck. The roof deck has the largest square footage of any space on the second floor, is close to and faces the adjacent house, and could impact the neighbor's privacy. While he appreciated the dialog between the applicant and neighbor, the dialog should have occurred earlier in the process. The applicant's latest submission (option 3) is illegible. Commissioner Ramsey had difficulty supporting option 2 because the second story could be constructed without a variance as shown in option 1. Options 1 and 2 both

remove a portion of the existing nonconforming structure located within the street yard setback. He did not understand the proposal in option 3.

Commissioners Duransoy and Alessio could approve option 1. Commissioner Duransoy could not approve option 3 without the plans. Commissioner Alessio remarked that the roof lines in option 1 are more attractive and harmonious than in option 2. A flat roof in place of the roof deck would not be attractive, but a roof deck with vegetative screening would be nice.

Commissioner Levine could not support any of the options, stating the project continues to have a materially negative impact on the neighbors along Arbor Drive. All the neighbors along Arbor Drive continue to object to the project on the grounds of access to direct and indirect light. Perhaps the applicant could reduce the size of the upper level by eliminating a bedroom and pulling the entire rear of the house back. The rear of the house in the current proposal does not appear different from the prior proposal, which the Commission stated had a materially negative impact on the neighbors on Arbor Drive.

Chair Behrens favored option 1 because it does not require a variance from the street setback for the upper level addition. Commissioners Ramsey and Levine clarified that the Commissioners have not viewed the variance from the street setback for the garage modifications as an issue because any change to the garage would require a variance. Commissioner Ramsey reiterated that option 1 reduces the existing nonconformity of the setback.

In discussing the second-level roof deck, Commissioner Ramsey explained that people on the roof deck would be a privacy issue for the adjacent property. The applicant could work with staff to design a roof or a space that could not be occupied to replace the roof deck. Commissioner Duransoy suggested the applicant could minimize the size of the roof deck and retain the doors for light, to which Commissioner Ramsey suggested the doors could be windows. Commissioners Alessio and Duransoy and Chair Behrens concurred with eliminating the second-level roof deck and directing the applicant to work with staff on a design.

Resolution 292-V/DR-18

WHEREAS, the Property Owner is requesting permission to remodel and enlarge the home including demolishing two unpermitted decks at the rear of the house; constructing an approximately 867-square-foot second-story addition and excavating the basement level for additional habitable space; constructing an approximately 127-square-foot addition to the rear (north) of the home; installing an upper-level roof deck at the rear of the home; and modifying windows, doors, exterior lighting, and hardscape throughout the property at 319 Magnolia 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 additional structure 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 option 1 of 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 change to an existing private residence,

which is less than 10,000 square feet, the project is in an area where all public services and facilities are available, the project is consistent with General Plan policies and procedures, and the area in which the project is located is not environmentally sensitive; 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 has unusually steep topography; the existing house, specifically the garage, is already constructed within the street yard setback; the roof of the existing garage is being modified, is located within the street yard setback, and the existing nonconformity is being reduced; and the application proposes to remove a portion of the home from the 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, based upon information provided by the applicant, other neighboring properties are located within the street yard setbacks, the lots are small, and residences are sited within the minimum setbacks.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because pushing the square footage in the rear would result in a larger structure, the portion of the house located within the setback is existing, and the nonconformity is being reduced with a partial demolition.

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 second story addition is set back from the existing footprint similar to other second-story additions in the neighborhood; the height and bulk of the addition conforms with the neighborhood patterns; the wall material is consistent as is the roof form and material, and the window and door material and fenestration patterns.
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 windows on the left and right sides have been kept as small as possible; there are no windows on the plane closest to the adjacent home; the topographical differences are appropriate to preserve privacy, views, and light; there are no significant views; the slope of the roof has been minimized; and the upper-level addition has been pulled away from the right property line to provide additional distance between the project and the adjacent neighbor.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project may improve pedestrian and vehicular safety by eliminating cars parked on the street and providing Code-conforming parking within the property.

4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: II-1, II-2, II-3, II-3(a), II-3(b), II-3(c), II-3(d), II-4, II-6, II-6(a), II-6(b), II-6(c), II-7, II-7(a) (*remodels*), 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: Transportation Policy 11.1 (Off-Street Parking Standards); Design and Preservation Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Policy 28.2 (Style Compatibility), Design and Preservation Policy 28.3 (Additions), Design and Preservation Policy 28.4 (Setback Consistency), Design and Preservation Policy 28.5 (Garages, Decks, and Porches), Design and Preservation Policy 28.6 (Exterior Materials), Design and Preservation Policy 28.8 (Acoustical and Visual Privacy), Design and Preservation Policy 29.7 (Driveway and Parking Location), Lane Use Policy 1.2 (Neighborhood Conservation), Natural Resources and Sustainability Policy 16.4 (Permeable Pavement).

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 of option 1 at 319 Magnolia Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Window and Door Material.** As specified in the plans, the building material for the new windows shall be aluminum and all of the new doors shall be 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 a minimum of 2 inches from the exterior wall to the face of window sash in order to maintain consistency with the original architecture, as required by the City's Design Guidelines and Window Replacement Policy. Window details, including recess dimensions, shall be submitted for staff 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. **Driveway Material.** As specified in the plans, the new driveway shall be constructed with permeable pavers subject to review and approval by staff.
6. **Garage Door.** As specified in the plans, the proposed garage doors shall be motorized. If during construction design modifications are required to accomplish this, those modifications shall be subject to staff review.
7. **Sewer Main Condition and Repair.** City records indicate that City storm and sewer mains and associated easement may be located near the proposed

demolition near the north property line. At the discretion of the Building Official, and prior to the issuance of a building permit, the Property Owner shall submit a survey to show sewer manhole covers and any easements. Said easements and manhole covers shall also be shown on the building permit drawings. The applicant shall also work with City staff to verify the location and depth of the sanitary sewer mains. In addition, the City shall videotape the existing sanitary and sewer mains to assess their pre-construction condition in order to make a determination as to whether any repairs to or replacement of the sewer main is required prior to the commencement of excavation and/or construction. (The City is responsible for the cost of the main line, and the property owner for costs of the lateral.) As part of the final inspection the same sanitary sewer lines shall be inspected as required by the Director of Public Works, who shall also determine if the sewer lines were damaged as a result of the construction and therefore must be repaired at the applicant's expense. The applicant is responsible to locate their private sewer lateral and note such location on the building permit drawings.

8. **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.

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

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

11. **C&D Compliance.** Compliance with 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. **Building Height and Floor Level Verification.** Prior to foundation and/or frame inspection, the applicant shall provide the Building Official written verification by a licensed land surveyor stating that the floor levels and roof of the new structures are constructed at the approved heights above grade.

14. **Setback from Property Line Verification.** Prior to foundation inspection and framing inspections, 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, west and south property lines as shown on the approved plans. The intent is to verify that the approved features are constructed at the approved dimension from the property lines.

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 all trees proposed for retention. The final plan shall comply with Municipal Code Section 17.34, and shall not propose plants near the driveway that could obscure visibility of pedestrians on the sidewalk or vehicles on the street from drivers backing out of the driveway.

16. **California's Water Efficient Landscape Ordinance:** Should the Building Official determine that the Project disturbs or renovates 2,500 square feet of landscaped areas then the Property Owner shall comply with the requirements of California's Model Water Efficient Landscape Ordinance that went into effect December 1, 2015, by submitting the following required information to the Building Department:

- a. Landscape Documentation Package that includes the following 6 items: i) Project Information; ii) Water Efficient Landscape Worksheet; iii) Soil Management Report; iv) Landscape Design Plan; v) Irrigation Design Plan; and vi) Grading Design Plan. The Landscape Documentation Package is subject to staff review and approval before the issuance of a building permit.
- b. Once a building permit has been issued, the Property Owner shall submit a copy of the Water Efficient Landscape Worksheet, to the local water purveyor, East Bay Municipal Utility District.
- c. After completion of work, the Property Owner shall submit to the City and East Bay Municipal Utility District a Certificate of Completion, including an irrigation schedule, an irrigation maintenance schedule, and an irrigation audit report. The City may approve or deny the Certificate of Completion.

17. **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.

18. **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.

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

- a. Peer Review. At the option 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.

20. **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.

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

- a. The Construction Completion Schedule with associated construction values for each benchmark shall set forth completion dates for the following benchmarks as needed: i) Completion of Excavation; ii) Completion of Retaining Walls; iii) Completion of Foundation; iv) Completion of Rough Framing; v) Completion of Electrical; vi) Completion of Plumbing; vii) Completion of Mechanical; viii) Completion of Fire Sprinklers; ix) Completion of Home; x) Completion of Hardscaping and Landscaping; and any further construction benchmarks and conditions of occupancy as may be determined by the Director of Public Works.
- b. Before the Project begins, the Director of Public Works shall make a determination as to the reasonableness of the proposed completion dates applicable to the Project, and that determination shall constitute the "Approved Schedule" and be binding on the Property Owner. The City may, at the Property Owner's sole cost, engage the services of a consultant

to review the Property Owner's proposed Construction Completion Schedule and, to the extent the period allocated for any work appears unjustifiable, recommend to the Director of Public Works a reasonable completion date for any benchmark.

- c. 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.

22. **Elimination of the Roof Deck.** The roof deck shall be eliminated, and the design modifications necessary to accomplish this shall be subject to staff review and approval.

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

The Commission recessed for dinner at 6:27 p.m. and reconvened at 6:58 p.m.

**Variance and Design
Review Permit
25 Cambridge Way**

The Property Owner is requesting permission to develop 1,375 square feet of additional habitable space through the construction of a new upper level and the improvement of the basement level. The project includes a rear roof deck and a front balcony at the upper level, roofing changes, window and door replacements throughout, new exterior lighting, hardscape improvements in the right side yard, and various changes to the interior. A variance is required to construct within the 20-foot street yard setback.

Written notice was provided to neighbors. **Two affirmative response forms and one negative response form** were received. Correspondence was received from Andy Madeira and Tracey Woodruff, Mark and Marianne Aikawa, and Amelia Wu and Sachin Adarkar,

Public testimony was received from:

Brigid Gaffikin, Property Owner, reported she and her husband have worked with their architect to reduce the massing in the front, lower the roof, and move the second story back. These changes have improved the design. Ms. Gaffikin and her husband met with Ms. Keith and her husband to understand Ms. Keith's concerns about access to sunlight, the massing of the structure, and parking. The proposed structure will shade Ms. Keith's solar panels in the late afternoon during the winter, but Ms. Gaffikin believes the loss of power generation will be small. Ms. Gaffikin and her husband have offered to compensate Ms. Keith monetarily for any loss of solar power due to shading from the proposed structure during the winter months. Modifications to the proposed structure address Ms. Keith's concerns regarding massing. Ms. Keith's concerns regarding the effects of a future property owner's projects on parking are not germane to the current project. The current project represents an acceptable compromise.

Bill Holland, project architect, concurred with Ms. Gaffikin's comments regarding Commission suggestions improving the project design. Shifting the upper floor away from the street and adding the eyebrow roof over the entry helps the massing of the project. In addition, he reduced the size of the rear deck by virtually the same amount as the upper floor was stepped back.

Generally, Commissioners supported approval of the project, stating the modifications respond to the Commission's prior comments, the gables and eyebrow roof are nice, the project will be a nice improvement for the neighborhood, stepping back the second story breaks up the box effect, and the roof addition visually integrates the garage with the main house.

Resolution 327-V/DR-18

WHEREAS, the Property Owner is requesting permission to develop 1,375 square feet of additional habitable space through the construction of a new upper level; to improve the basement level; to construct a rear roof deck and a front balcony at the upper level, to change the roofing; to replace windows and doors throughout; to install new exterior lighting; to improve hardscape in the right side yard; and to make various changes to the interior at 25 Cambridge Way, 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 20-foot 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 it is a minor change to an existing private residence, which is less than 2,500 square feet, and the project is consistent with General Plan policies and procedures; and,

WHEREAS, the variance from the 20-foot 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 existing footprint of the residence is located within the street yard setback, which makes it difficult to build a second-story addition without a variance, 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 several neighboring properties are located in the front setback, and several neighboring properties located in the front setback have two stories over a basement level.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because expanding the living area by increasing the width or depth of the addition would present greater impacts on neighboring properties and involve a more complicated and costly construction project.

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 and material, the window and door material and fenestration pattern, the railing material, and the roof eave and bracket details.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the development is contained within the existing building footprint.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project does not affect it, and the new handrails and on-grade steps should improve pedestrian safety.
4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: II-1, II-2, II-3, II-3(a), II-3(b), II-3(c), II-3(d), II-5, II-5(a), II-6, II-6(a), II-6(b), II-6(c), II-7, II-7(a) (*remodels*); IV-1, 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 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 28.12 (Creativity and Innovation), Design and Preservation Element Policy 29.6 (Retaining Walls).

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 25 Cambridge Way, 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 29, 2018, after notices to neighbors were mailed and the application was available for public review.
2. **Window and Door Material.** As specified in the plans, the building material for the new windows and doors shall be aluminum-clad wood, painted wood, and aluminum with wood interior.
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 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, including recess dimensions, window operation, size, material, window trim if any, window sill projection if any, number of lights if applicable, shall be submitted for review and approval at the time of building permit application.
5. **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.
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. **Notice of Non-Habitation.** The room labeled as "storage 1" on the plans shall be recorded with the Alameda County Recorder's Office as a non-habitable space.
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. **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. 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.

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

**New House Design
Review Permit
67 Glen Alpine Road**

The Property Owner is requesting permission to demolish the existing home and construct a new, approximately 8,026-square-foot single-family residence comprised of four levels with ten bedrooms, ten bathrooms, two half-bathrooms, a living room, dining room, kitchen, family room, study, laundry room, elevator, two conforming two-car garages, two roof terraces on the main floor, and two roof terraces on the top floor; a pool deck with spa and outdoor shower to the left (north) of the proposed residence; and retaining walls and fencing throughout the property, on-grade stairs, entry courtyard, driveway turnaround, parking pad, driveway gate, and exterior lighting.

Written notice was provided to neighbors. **No affirmative response forms and five negative response forms** were received. Correspondence was received from Mary Jane Betts, Karen Barbieri, Alison Stone and John Weiss, John and Gail Uilkema, Ann Healy, Gloria Gruber, Ronald Gruber, and Dean Barbieri.

Public testimony was received from:

Kevin Wang, Property Owner, related his interactions with staff and Ms. Healy. On November 30, he discovered that Ms. Healy had had trees on his property topped heavily without his knowledge and permission. He attended a neighborhood meeting and discussed the project with neighbors.

Vivian Zhu, Property Owner, advised that her family likes Piedmont, and she wants her children to attend Piedmont schools.

Kathy Wong, Mr. Wang's assistant, reported she and Mr. Wang first met with Ms. Healy on July 27 to discuss the project. Ms. Healy inquired regarding Mr. Wang's willingness to pay half the cost for trimming trees, and Mr. Wang agreed

in good faith. Ms. Wong met with Ms. Healy on November 8 to discuss the final plans for the project and Ms. Healy's concerns. Again, Ms. Healy did not raise any objections to the project. On November 14, Ms. Wong and Mr. Wang met with Mr. Fisher and Ms. Healy, and neither raised any objections to the project. Ms. Wong, Mr. Wang, and Arleta Chang met with Ms. Healy and Ms. Barbieri on November 30 to review the design. At that meeting, Ms. Healy indicated the house would obstruct her view. Ms. Barbieri stated the house could not be taller than the trees, which had been trimmed. Ms. Wong was under the impression that the trees on Mr. Wang's property were trimmed away from Ms. Healy's property. The contractor hired by Ms. Healy trimmed the trees around June 19 in order to increase the view from 71 Glen Alpine Road.

Arleta Chang, project architect, noted the narrow street frontage is an unusual aspect of the property. She wants to design a gracious and clear entry to the home and to face the garages away from the shared driveway. The site placement was influenced by the existing screening between 67 and 71 Glen Alpine Road and the view from 71 Glen Alpine Road. If the proposed house with appropriate massing is located south of the existing house, it will take advantage of the existing screening. The proposed location will require the removal of the least number of trees. The proposed design of the house steps up the hill in order to reduce the mass of the house. The upper floors are stepped back to break up the exterior. The roof overhangs create strong horizontal planes and counterbalance the vertical proportion of the windows. Fire Department staff appreciates the proposal to widen the existing parking area and the curb cut. The project's impact on Ms. Healy's view of the Bay could be reduced. The center portion of the house is taller than the sides to create visual interest and to break up the height and massing of the house. The height of the center portion could be reduced, and the bay window at the master bedroom could be lowered to maintain some variety. The center portion will also accommodate ductwork. The proposed courtyard is the minimum size that will accommodate vehicles. Rotating the house could allow it to be constructed lower on the hill. Pedestrians can walk along one side of the shared driveway to access the breezeway and the courtyard. The widest point of the shared driveway is located between the breezeway and the curb cut. The small stairway at the side of the house provides access to the side yard. The terms of the driveway easement do not allow construction within the easement. Re-grading the driveway would not benefit the project. To conform to Fire Department requirements and Code provisions, the house's footprint needs to be within 150 feet of Glen Alpine Road. The house's footprint at the proposed site touches the 150-foot line from the Glen Alpine Road curb. Relocating the house toward the pool area would place it beyond the 150-foot line. Converting the shared driveway to a fire apparatus access road would require a 20-foot-wide pavement, which is not feasible due to the topography and existing development. Relocating the house toward the pool area would likely impact Ms. Healy's views. The corner of the wall nearest the driveway does not appear to block the sightline for a vehicle turning from Glen Alpine Road onto the shared driveway. Widening the curb cut will not affect the large trees adjacent to the curb cut. Ms. Chang located the proposed house south of the existing house so that the row of tall trees between 67 and 71 Glen Alpine Road will obscure the proposed house from the view of 71 Glen Alpine Road. In diagram 3.1, the trees located in the driveway circle and marked with an X will be removed. The photograph of the 180-degree view was taken standing near the hedge opposite the living room window of Ms. Healy's house. Houses in the area have a variety of styles. The modern style of the house allows a fairly low roofline and provides a greater opportunity to step the stories and build the house into the hillside.

Cindy Chan, project architect and landscape designer, stated the property contains mature oak groves. A mature redwood grove exists along Glen Alpine Road. She proposes the use of drought-tolerant plants and native plants suitable for planting under oak trees. Groves of small native trees will screen the main outdoor space and create buffer zones between 67 and 71 Glen Alpine Road. The west end of the outdoor space is screened by existing mature oak trees. Trees measuring up to 20 inches in diameter and located on the property have been severely topped. She will work with an arborist to assess the trees. Ms. Chan requested guidance regarding the tree lines to be used for design work in order to determine the amount of tree screening between the properties and the amount of view available for 71 Glen Alpine Road. If directed to reduce the massing of the house, she needs direction regarding the order of magnitude of the reduction, a definition of the view from 71 Glen Alpine Road and the privacy and screening for both 67 and 71 Glen Alpine Road; and a definition of the value of the view from different spaces.

Gary C. Wong, neighbor at 14 Glen Alpine Road, objected to the proposed project based on excessive construction on a small parcel and the daily obstruction of traffic along Glen Alpine Road. He shared his experiences with construction at 15 Glen Alpine Road. Mr. Wong questioned the architect's ability to construct a 10-bedroom, 12-bathroom home on a small parcel of land and the impact of the project on 71 Glen Alpine Road. The project will severely damage and deteriorate the value of Ms. Healy's home.

Celine Mactaggart, neighbor at 70 Sotelo Avenue, remarked that the current project is not compatible with the neighborhood and will negatively impact the view and privacy of 33 Sotelo Avenue. The proposed house will infringe upon Ms. Healy's privacy as windows will face the western front and garden of Ms. Healy's home. Two roof decks will be taller than the existing roofline. The proposed home will destroy Ms. Healy's views of the Bay, the Port of Oakland, downtown Oakland, and the valley of trees. She urged the Commission to deny the application and recommend the applicant eliminate the top floor and the two roof terraces from the project.

Gail Uilkema, neighbor at 51 Glen Alpine Road, opposed the project because two corners of the structure are very close to the property boundaries, and the project will have a significant impact on the views from 67 Glen Alpine Road, the privacy of 55 Glen Alpine Road, and the trees on the property. Construction vehicles should not use the driveway beyond the construction site. The two redwood trees at the driveway entrance should be protected during construction. The massive structure is not compatible with the neighborhood in terms of size, style, and location. She urged the Commission to deny the application.

John Uilkema, neighbor at 51 Glen Alpine Road, advised that the shared driveway provides the only access to his garage and the lower portion of his property. The dimensions of the project will adversely affect access and views. Perhaps the house could be relocated lower on the site or reduced in size. Mr. Fisher's bedroom will be located directly across the drive from the proposed garages, and traffic to the garages will disturb his peace.

Dean Barbieri, trustee of 71 Glen Alpine Road and neighbor at 605 Blair Avenue, remarked that the project will have a significant impact on all views from 71 Glen Alpine Road, which is contrary to the applicant's proposed design review findings.

Ann Healy, 71 Glen Alpine Road, stated she did not have any redwood trees cut on the applicant's property. When meeting with Mr. Wang and Ms. Wong, she stressed the City of Piedmont's view ordinance. Mr. Fisher's son, an architect, informed Mr. Wang and Ms. Wong that the proposed home would obstruct Ms. Healy's view and privacy. Once the story poles were installed, she notified Ms. Wong that the height of the poles obstructed her view. On November 30, Ms. Healy suggested Mr. Wang move the proposed home further north on the property. The proposed home will block her view, privacy, and light.

Karen Barbieri, neighbor at 605 Blair Avenue, reported the trees along the property line are trimmed every year. Photographs demonstrate that the proposed structure will block the views of downtown Oakland, the canyon, the Bay, and San Francisco from Ms. Healy's property. Windows on the rear of the proposed house will look directly into Ms. Healy's home. In the November 30 meeting, Mr. Wang and Ms. Wong suggested Ms. Healy construct a second story on her home or sell her home. The applicant's property has no view; therefore, the applicant built a view right in front of Ms. Healy's home. The bulk of the proposed house is inappropriate for the area.

Michael Laufer, neighbor at 61 Glen Alpine Road, noted the shared driveway is the only access to his home. His concerns relate to vehicle visibility at the southwest corner of the proposed home, increased traffic due to the number of living units on the property, sufficient clearance between the easement and retaining walls, maintaining clear access to the driveway during construction, the duration of construction, timely repair of driveway damage caused by the construction, and protection of the mature oak trees on the western edge of the property during construction. A fire hydrant is located at the front of his property, but it does not have a high-pressure water source.

Carolyn Cahill, neighbor at 61 Glen Alpine Road, suggested the Commission review the proposed driveway for clear sightlines, ensure the shared driveway is clearly marked to prevent construction vehicles and materials from blocking the driveway, institute an enforcement mechanism to ensure the driveway is kept clear, ensure construction damage to the shared driveway is repaired completely and promptly, ensure that runoff and debris resulting from construction is removed promptly from the shared driveway, ensure mature trees are protected, and ensure the shared driveway is returned to a uniform condition following construction.

Gloria Gruber, neighbor at 33 Sotelo Avenue, believed a house of the size proposed by the applicant will severely alter the neighborhood. Most of the homes in the neighborhood have two stories and are hidden from the street by trees and landscape. Construction increases the risk for the loss of mature trees, and replacement trees will not return the property to its original condition. She urged the applicant to work with neighbors to reach an amicable solution.

In reply to Commissioners' queries, Planning Director Jackson explained that the applicant submitted an application for an accessory dwelling unit (ADU) permit in addition to the design review permit. The ADU plans and application comply with the criteria for an ADU permit. The State requires ministerial review without public input or a public hearing of ADU permits that comply with the criteria. Staff is processing the ADU application; however, the ADU application also depends upon approval of a structure to house the ADU. The State forbids cities from requiring parking for ADUs if the property is located within half a

mile of public transit. Because all real property parcels located within the City of Piedmont are also located within half a mile of public transit, the City's Municipal Code does not require parking for an ADU. Two of the ten bedrooms proposed in the project are located in the ADU. The applicant proposes four parking spaces, which comply with the parking requirements for the primary residence. Ms. Chang is correct that the house's footprint must be located within 150 feet of the curb face to comply with Piedmont Fire Department requirements. If the access road is widened to accommodate emergency vehicles, the house could be located further from the curb face. An access road needs to be 20 feet wide to accommodate emergency vehicles.

While Commissioners generally liked the design, style, and materials proposed for the project, they opposed the project as presented, stating the height of the house should be reduced, significant views should be conserved, drivers' sightlines along the driveway and near the corner of the retaining wall at the easement may be obstructed, pedestrian access from the street should be located off the driveway, the siting of the house on the lot needs more thought, the mature trees should be protected and preserved to the extent feasible, the bulk of the house is a concern, and the project's impact on views can be reduced.

Resolution 329-DR NH-18

WHEREAS, the Property Owner is requesting permission to demolish the existing home and construct a new, approximately 8,026-square-foot single-family residence comprised of four levels with ten bedrooms, ten bathrooms, two half-bathrooms, a living room, dining room, kitchen, family room, study, laundry room, elevator, two conforming two-car garages, two roof terraces on the main floor, and two roof terraces on the top floor; a pool deck with spa and outdoor shower to the left (north) of the proposed residence; and retaining walls and fencing throughout the property, on-grade stairs, entry courtyard, driveway turnaround, parking pad, driveway gate, and exterior lighting, located at 67 Glen Alpine Road, which construction requires a design review permit; and

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the proposal does not conform to the criteria and standards of Section 17.66.060 of the Piedmont City Code as follows:

1. The proposed design is not consistent with the City's General Plan and Piedmont Design Guidelines in that the residence does not appropriately step up the hillside to reduce overall massing of the structure; the residence is sited relatively close to the main road and has some screening by mature redwood trees but could be further screened; and the proposed structure is not located on the site in a way that minimizes the loss of substantial views by uphill neighbors.
2. The design as proposed has a materially adverse effect on neighboring properties' existing views and privacy because the distance between the project and the uphill neighboring home is not appropriate; the topographical differences are not appropriate to preserve privacy and views; and the height of the project has not been kept as low as possible.
3. The design as proposed does raise issues about adverse effects to pedestrian and vehicular safety because of the large retaining walls, the location of the driveway, and the lack of pedestrian access off the driveway.

4. The application as presented does not comply with the following guidelines and General Plan policies and programs: I-2, I-5, I-6, I-7, I-9 (*new construction*), IV-2 (*retaining walls*).

5. The project is not consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Natural Resources and Sustainability Element Policy 16.4 (Permeable Pavement), Design and Preservation Element Policy 27.3 (View Preservation), Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Policy 28.7 (Hillside Home Design), Land Use Element Policy 1.3 (Harmonious Development).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies without prejudice the design review permit application for the proposed construction at 67 Glen Alpine Road, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

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

The Property Owner is requesting permission to construct a new 3,900-square-foot residence and 487-square-foot, two-car garage, including tree removals and new retaining walls, driveway bridge, patios, site steps, exterior lighting, doors, windows, porches, decks, railings, trash enclosure, landscaping and other changes, on an existing vacant lot. Variances are required to construct a structure within the street yard (north) setback and a patio within the street yard setback.

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

Public testimony was received from:

Joyce Tang, Property Owner, reported she has met and communicated with neighbors to discuss the project and revised the project design to address concerns. Adjacent neighbors have agreed to support and not to oppose the project. The project is consistent with the Piedmont Design Guidelines and has little to no effect on neighboring properties' views, privacy, and access to direct and indirect light. As many trees as possible have been maintained on the property. The proposed landscape plan includes fast-growing plants that will preserve neighbors' privacy. The project does not adversely affect pedestrian or vehicular safety. The project maintains the three parking spaces adjacent to the lot and includes two driveway parking spaces and two garage parking spaces. The size and massing of the proposed home has been reduced significantly. The 3,900-square-foot home is smaller than any home built in the neighborhood in the last 20 years and slightly above the average size of the homes built predominantly in the 1960s.

John Newton, project designer, advised that he reduced the height and the massing of the home, revised the home's colors, altered windows facing the

adjacent neighbor, and moved the left side of the house down the hill in response to neighbors' concerns. Internal and external floor heights have been reduced, and a portion of the guest suite has been pushed beneath the driveway.

Keven Kwok, Property Owner, indicated the material for the driveway will be pavers, and the retaining walls will be stucco over concrete.

In general, Commissioners supported the project, referring to a good design, the house following the topography of the lot, the use of minimum window sizes on the sides of the house facing adjacent property, the house's compatibility with the neighborhood, reduced visibility of the house from the street, the applicants responding to neighbors' concerns and complying with guidelines, and the applicants saving the large oak tree.

Resolution 331-V/DR NH-18

WHEREAS, the Property Owner is requesting permission to construct a new 3,900-square-foot residence and 487-square-foot, two-car garage, including tree removals and new retaining walls, driveway bridge, patios, site steps, exterior lighting, doors, windows, porches, decks, railings, trash enclosure, landscaping and other changes, on an existing vacant lot at 89 Maxwellton Road, which construction requires a design review permit; and,

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

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15303, Class 3(a), because the project consists of one single-family residence to be constructed within a single-family zoning district, because there are no unusual circumstances associated with the property or the project, because existing General Plan policies and programs are sufficient to address the proposed grading, excavation, and construction, and because there is no substantial evidence that any exception to the Class 3 Categorical Exemption applies to this project, specifically including the unusual circumstances exception, and the project is consistent with General Plan policies and procedures; and,

WHEREAS, the street setback and landscaping variances from the application 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, the lot has mature and established trees that are significant landscape features, and the lot has an irregular property line resulting in irregular setbacks so that strictly applying the terms of this chapter would prevent the property from being used in the same manner as other conforming properties in the zone.

2. The project is compatible with the immediately surrounding neighborhood and the public welfare because a majority of neighboring properties have garages located close to the street; the majority of neighboring properties require construction in the front setback to access the house due to the topography of the

lot; and paved areas in the street setback not for ingress and egress are located elsewhere in the neighborhood due to the steep topography that limits level areas.

3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because the house would not be accessible from the street without a driveway structure within the setback, and due to the topography the least impactful area for the outdoor living space is partially located within the front street yard setback. Other locations would require significant structures and could not be accessed.

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 residence will step with the hillside thus reducing the overall massing of the structure; the materials used for the roof, walls, and windows are consistent and appropriate; the neighborhood has a variety of housing styles including contemporary and traditional; the residence is sited away from the street and lower on the hillside and is screened by mature native trees; the majority of residences are also sited lower than the street elevations; and the majority of healthy, native trees are preserved.

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

3. The proposed design does not adversely affect pedestrian or vehicular safety because the project provides adequate visibility for entering and exiting the driveway; new handrails, paths, and on-grade steps are provided for pedestrian safety; there is sufficient space between the driveway and trash enclosure to provide safe sightlines; the driveway has been kept as narrow as possible to preserve on-street parking; and the application does provide Code-conforming off-street parking.

4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: I-1, I-1(a), I-1(b), I-1(c), I-1(d), I-2, I-2(a), I-2(b), I-2(c), I-2(d), I-3, I-4, I-5, I-5(a), I-5(b), I-6, I-7, I-7(a), I-8, I-9, I-9(a), I-10, I-11, I-12 (*new construction*), III-1, III-1(a), III-2, III-2(a), III-3, III-4, III-5, III-5(a), III-6, III-6(a), III-7, III-7(a) (*garages*), IV-1, 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: Natural Resources and Sustainability Element Policy 13.4 (Conserving Native Vegetation, Natural Resources and Sustainability Element Policy 14.4 (Retention of Healthy Native Trees), Natural Resources and Sustainability Element Policy 16.5 (Hardscape Surface Standards), Design and Preservation Policy 27.3 (View Preservation), 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 28.5 (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 29.5 (Fence and Wall Design), Design and Preservation Element Policy 29.6 (Retaining Walls), Design and Preservation Element Policy 29.7 (Driveway and Parking Location), Land Use Element Policy 1.2 (Neighborhood Conservation), Land Use Element Policy 1.3 (Harmonious Development), Housing Element Policy 6.2 (Energy-Efficient Materials), Housing Element Policy 6.7 (Water Conservation), Environmental Hazards Goal 18 (Geologic Hazards), Environmental Hazards Policy 18.4 (Soil and Geologic Reports),.

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 89 Maxwellton Road, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Licensed Design Professional Required. Licensed Design Professional Required.** In conformance with the Architects Practice Act, Business and Professions Code section 5500 et seq., all plans, specifications, and other instruments of service submitted for review and approval of a building permit for the proposed construction project, must be prepared by or under the responsible control of, and stamped and signed by, a properly licensed design professional.
2. **Window and Door Material.** As specified in the plans, the building material for the new windows and doors shall be fiberglass, except for the wood front door and wood or aluminum garage door.
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, as required by the City's Design Guidelines and Window Replacement Policy. Window details shall be submitted for review and approval at the time of building permit application.
5. **Pre-construction Inspection.** 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.
6. **Roof Color.** The proposed flat roof shall be a non-reflective medium or dark color to minimize the visual impact on upslope properties.
7. **Skylight Flashing.** The metal flashing around the new skylight(s) shall be painted to match the adjacent roof color.
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 Doors.** The garage doors shall be motorized. If design modifications are required to accomplish this, those modifications shall be subject to staff review.

10. **Contractor's General Liability Insurance.** To ensure that the contractor doing work in the City will be responsible for damages caused by the work to City property or to neighboring property, the Property Owner shall require all contractors performing work on the Project to maintain General Liability Insurance for protection from claims for damages because of bodily injury, including death, and claims for damages, other than to the contractor's work itself, to property which may arise out of or result from the contractor's operations. Such insurance shall be written for not less than \$1,000,000 per occurrence. The insurance shall include an endorsement requiring 10 days prior notice to the City if the insurance is to be cancelled or changed, and Property Owner shall immediately arrange for substitute insurance coverage. If the contractor's insurance carrier states in writing that it is unable to provide the required endorsement, Property Owner shall be responsible for providing the City with the required notice if the insurance is to be cancelled or changed. Property Owner's failure to provide such notice shall constitute grounds for revocation of the City's design review approval and/or permit. If the Property Owner does not have a general contractor, the Property Owner shall maintain property insurance and coverage for contractors, which is substantially equivalent to the contractor's requirement of this section.

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

12. **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.

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. **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(s) and roof of the new structure(s) are constructed at the approved height(s) above grade.

15. **Setback from Property Line Verification.** Prior to foundation inspection, the applicant shall submit to the Building Official written verification by a licensed land surveyor stating that the construction is located at the setback dimension from the north, south, east, and west property line(s) as shown on the approved plans. The intent is to verify that the approved features are constructed at the approved dimension from the property line(s).

16. **New Private Sewer Lateral.** With the submittal of the improvement and building plans for the proposed project, the plans shall show the proposed route to provide the private sanitary sewer service for the residence as required by the Director of Public Works and the City Engineer. The proposed private sewer lateral shall be the sole responsibility of the property owner to construct and maintain said private sewer lateral up to its connection point with the public sewer main in the area. Connection fittings to the public sanitary sewer system shall only be executed by the City of Piedmont. Said private sanitary sewer lateral design and installation shall meet all current City of Piedmont regulations, and shall be reviewed and approved by the Director of Public Works and the City Engineer prior to issuance of a separate Sewer Permit. If required, the property owner shall secure necessary sewer easement(s) from adjacent private properties to allow for the construction and ongoing maintenance of the private sewer lateral on adjacent private properties. Said sewer easements shall be prepared with a grant deed, legal description and plat depicting the location of the easement and shall be submitted to the City for review and approval at the time the plans are submitted. Once approved by the City, the easement shall be recorded. Recordation of the easement shall be required prior to the approval of the improvement/building plans for this residence. Private sewer lateral in the public right-of-way may require an Encroachment Permit, as required by the Director of Public Works and the City Engineer.

17. **Stormwater Design.** The California Regional Water Quality Control Board requires all projects, or a combination of related projects, that create and/or replace 2,500 square feet or more of impervious surface to comply with Provision C.3.i of the Municipal Regional Stormwater NPDES Permit. As required by the Building Official, the Property Owner shall verify the total area of impervious surface to be created and/or replaced within the scope of this project, or this project combined with other related projects and/or permits, and incorporate the site design measure(s) required under Provision C.3.i into the plans submitted for a building permit. Copies of the Municipal Regional Stormwater Permit are available from the Piedmont Public Works Department and on-line at cleanwaterprogram.org.

18. **Encroachment Permit.** Before the issuance of a building permit, the Property Owner shall apply for an encroachment permit to allow for the construction within the public right-of-way or public easement, including the driveway bridge, trash enclosure, private sewer lateral, and others, as required by the Public Works Director and the City Engineer.

19. **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 native trees with 12-inch diameter (dbh) or greater on the property, as well as any nearby off-site trees near the property lines. 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.

20. **Final Landscape Plan.** Before issuance of a building permit, the Property Owner shall submit for staff review and approval a Final Landscape Plan that shows trees proposed for retention as well as in-lieu trees. 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.

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

22. **Blasting.** No blasting shall be allowed for any rock removal on this project.

23. **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.

24. **California's Water Efficient Landscape Ordinance:** Property Owner shall comply with the requirements of California's Model Water Efficient Landscape Ordinance that went into effect January 1, 2010, by submitting the following required information to the Building Department:

- a. Landscape Documentation Package that includes the following 6 items: (i) Project Information; (ii) Water Efficient Landscape Worksheet; (iii) Soil Management Report; (iv) Landscape Design Plan; (v) Irrigation Design Plan; and (vi) Grading Design Plan. The Landscape Documentation Package is subject to staff review and approval before the issuance of a building permit.
- b. Once a building permit has been issued, the Property Owner shall submit a copy of the Water Efficient Landscape Worksheet, to the local water purveyor, East Bay Municipal Utility District.
- c. After completion of work, the Property Owner shall submit to the City and East Bay Municipal Utility District a Certificate of Completion, including an irrigation schedule, an irrigation maintenance schedule, and an irrigation audit report. The City may approve or deny the Certificate of Completion. (The form for the Landscape Document Package and a Frequently Asked

Question document on the CA-WELO requirements is available at the Public Works Counter and on the City website at www.ci.piedmont.ca.us).

25. Geotechnical Report and Review. At the option of the Building Official, the property owner shall 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.

26. Sound and Vibration Mitigation Plan and Review. As required by the Director of Public Works, the Property Owner shall submit a plan prepared by a licensed engineer of the Property Owner's choice that fully assesses the existing site conditions for the mitigation and monitoring of vibration and decibel levels at the Project during construction (including being periodically present at the construction site during excavation and foundation work). If, in the Engineer's sole discretion, such monitoring indicates that the sound or vibration levels exceed those anticipated in the Property Owner's Construction Management Plan and/or the Sound and Vibration Mitigation Plan, all work on the Project may be immediately stopped by the City and may not resume until the City Engineer is fully assured that the sound and vibration transmissions generated by work on the Project can be maintained at or below a reasonable level and duration.

a. Peer Review. The City, at the Property Owner's sole expense, shall retain an independent engineering consultant to perform a peer-review of the Property Owner's Sound and Vibration Mitigation Plan and advise the City in connection with the Property Owner's proposals. The City Engineer shall select this independent engineering 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 engineering consultant shall also review the building plans during the permit approval process, and may provide periodic on-site observations during excavation and construction as deemed necessary by the City Engineer. The Property Owner shall provide payment for this at the time of the Building Permit submittal.

27. City Facilities Security. The Property Owner shall provide a specific cash deposit, letter of credit, bank guarantee, or other similar financial vehicle ("City Facilities Security") in the amount of \$100,000 as established by the Director of Public Works. This financial vehicle serves as an initial sum to cover the cost of any potential damage to City property or facilities in any way caused by Property Owner, Property Owner's contractors or subcontractors, or any of their agents, employees or assigns, and related in any way to the Project. The

Property Owner is responsible for the full cost of repair as determined by the City Engineer prior to final inspections. The form and terms of such City Facilities Security shall be determined by the Director of Public Works after consultation with the Property Owner. The Director may take into account any of the following factors: the cost of construction; past experience and costs; the amount of excavation; the number of truck trips; the physical size of the proposed project; the logistics of construction; the geotechnical circumstances at the site; and City right-of-way and repaving costs.

- a. To provide clear baseline information to assist in determining whether damage to the City's facilities has been caused by the Property Owner or others working for or on behalf of Property Owner, the City will document such facilities (including, without limitation, streets and facilities along the approved construction route as specified in the Construction Management Plan, to establish the baseline condition of the streets and facilities. The City shall further re-document the streets as deemed appropriate after the Project commences until the Director of Public Works determines that further documentation is no longer warranted. As part of the documentation, the City may water down the streets to better emphasize any cracks or damage in the surface. The Property Owner is responsible for the full cost of the documentation and repair work as determined by the City Engineer, and shall reimburse the City for those costs prior to the scheduling of final inspection.
- b. When the City Facilities Security is in a form other than cash deposit with the City, the proceeds from the City Facilities Security shall be made payable to the City upon demand, conditioned solely on the Director of Public Works' certification on information and belief that all or any specified part of the proceeds are due to the City.

28. **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.

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

30. **Site Safety Security.** The City and the public have an interest in not having an unfinished project blighting the neighborhood and undermining property values. These public interests are primarily safety and aesthetics, and diminishment of property values. Prior to the issuance of a Building Permit, the Property Owner shall provide a specific cash deposit, letter of credit, bank guarantee, or other similar financial vehicle (“Site Safety Security”) in the amount of \$50,000 to ensure that the Project site is not left in a dangerous or unfinished state.

- a. The Site Safety Security shall be in an amount to include three components:
 - i. safety, which means the cost to make the site and structure safe if construction should cease mid-way through the Project;
 - ii. aesthetics, which means an amount to install and maintain landscaping all around the Project to protect the immediate local views from neighbors and public property; and
 - iii. staff and consultant time to evaluate and implement this condition.If, as the Project proceeds, the expected cost of these components increases beyond the original estimate in the opinion of the Director of Public Works, the City may require the Property Owner to increase the amount of the Site Safety Security by the additional amount. The Property Owner shall provide City with written evidence of compliance within 15 working days after receiving written notice of the additional required amount. The City shall retain, at the Property Owner’s expense, an independent estimator to verify the total expected costs to complete the Project and any subsequent revisions.
- b. The form and amount of the Site Safety Security is subject to the approval of the Director of Public Works. Payment to City under the Site Safety Security shall be made payable upon demand by the City and prior to the issuance of the Building Permit, conditioned solely on the Director of Public Works’ certification on information and belief that all or any specified part of such Performance Security is due to the City.
- c. The Site Safety Security shall not be released until the Project has an approved Final Inspection by the Chief Building Official. However, if sufficient work has been completed according to the benchmarks and construction values as established under the Construction Completion Schedule, the Site Safety Security may be reduced to the extent the Director of Public Works in his sole discretion determines is appropriate.

31. **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.

32. **Errors and Omissions Insurance.** Notwithstanding any other condition hereof, any Project Architect, Structural Engineer, Civil Engineer, Geotechnical Engineer or Shoring Engineer to be retained by the Applicant to perform work relating to project on Applicant’s property shall be required to maintain errors and omissions insurance coverage with limits of no less than \$1,000,000.00 per claim that will specifically be available to cover any errors and/or omissions relating to any work performed by that professional involving Applicant’s property.

33. **Neighboring Property Inspection.** Should the neighboring property owner provide consent, a licensed civil or structural engineer (chosen by the City, and paid for by the Property Owner) shall inspect neighboring homes at 81 Maxwelton Road and 61 Maxwelton Road and retaining walls with the intent of establishing base-line information to later be used in determining whether damage was caused by any activities on Property Owner's property (including damage caused by vibrations or other factors due to excavation, construction or related activities). The inspection shall include both foundations and non-foundation related details (walls, windows, general overall condition, etc.) at a level of inspection City Staff deems appropriate. The inspection shall only include readily visible and accessible areas of the neighboring homes. The licensed civil or structural engineer shall provide a full report to the City of his or her conclusions, and the report may be considered in developing the Construction Management Plan. If other independent consultants or specialists are required by the City to review plans and monitor construction activity, they shall be retained at the Property Owner's cost. Before a neighbor agrees to an inspection, City will advise neighbors that the property inspection is necessarily a public record under the California Public Records Act.

Within 45 days after the Certificate of Occupancy is issued on Property Owner's property, the same licensed civil or structural engineer chosen by the City (or a substitute licensed civil or structural engineer chosen by the City) shall inspect the same area in each neighboring home and property initially inspected, and shall present to the City a Report detailing any evidence of apparent damage that has been or reasonably might have been caused by activities on the Property Owner's property. The Report may include text, photographs, diagrams, or other evidence that would document the apparent damage. The Report will become a public record and may be used in connection with private causes of action.

34. **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, emergency access, 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.

35. **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.

36. Building Permit. Prior to issuance of a building permit, the applicant shall make the following revisions to the plans as required by the Building Official to meet Building Code and Fire Code requirements:

- a. Windows shall be identified as tempered glass, including but not limited to windows D, R, and Q.
- b. Windows shall meet egress requirements including but not limited to windows E, T, V and one window in the master bedroom.

- c. Stairs with four or more risers must have handrails both interior and exterior.
- d. Guardrails must be dimensioned 42 inches above finish floor on elevations.
- e. Plumbing vent pipes through the roof must have a minimum distance of 10 feet horizontally and 3 feet vertically from all operable skylights.
- f. Decks must meet Piedmont Fire Code requirements.
- g. Provide grid lines for building permit submittal.
- h. The plans shall show installation of an automatic fire sprinkler system.

Moved by Ramsey, Seconded by Alessio

Ayes: Alessio, Behrens, Duransoy, Levine, Ramsey

Noes: None

Recused: None

Absent: None

**Variance and Design
Review Permit
105 Dale Avenue**

The Property Owner is requesting permission to construct an approximately 229-square-foot second-story addition with a hipped roof at the rear of the house and a new awning over a rear patio door; to install new exterior lights; to make window changes on the rear and left facades; and to make various interior modifications. Variances are required to exceed the floor area ratio limit and to increase the number of bedrooms from three to four without complying with the onsite parking requirements.

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

Public testimony was received from:

Tom Eidt, Property Owner, advised that he wishes to add a bedroom to the rear of the home. The proposed bedroom would be located above an existing room and would not expand the home's existing footprint. The existing garage is not large enough to accommodate two cars. The design is cohesive with the original house's character. A neighbor on Fairview Avenue opposes the project because it will diminish the neighbor's view from his kitchen and opposes the request for a variance from the floor area ratio limit. Calculation of the floor area ratio has changed since he purchased the property the prior year. The home's basement is continuously damp, and rain results in standing water in the basement. Adding a child's bedroom in the basement, which is two floors away from other bedrooms, is not practical. Expanding the existing garage to the right would require a significant redesign of the front of the house and the removal of vegetation. Most of the four-bedroom homes in the neighborhood appear to have one garage that will not accommodate two vehicles.

Maurice Levitch, project architect, explained that the topography of the lot creates an abnormally tall and unusable space at the front of the house. If that space could be deducted from the calculation of floor area ratio, the project would comply with the floor area ratio limit. The lot has 48 feet of frontage, and the narrow lot width will not accommodate a second parking space. The project will add 226 square feet to a 2,700-square-foot home. The project will improve the rear of the home to match the architectural style of the home. A 10-foot trench in the lower crawl space and another 10-foot trench outdoors to capture water is a possible solution to the water intrusion.

Generally, Commissioners favored the project's design, the modest expansion, and improving the harmonious appearance of the rear of the house. However,

Commissioners expressed concern about granting two variances, especially as both variances would increase nonconforming conditions.

Commissioner Alessio suggested the water intrusion into the basement could be an unusual circumstance that makes the basement unusable. Chair Behrens questioned whether the Commission had sufficient evidence that the basement will never be habitable. He also suggested expanding the existing garage could be a hardship for the applicant.

In answer to Commissioners' inquiries, Planning Director Jackson advised that 2018 revisions to Chapter 17 of the Municipal Code modified the definition of floor area. Floor area now includes basement or attic space containing adequate ceiling height for habitability, a minimum 70 square feet of contiguous floor area, and adequate wall area to accommodate egress windows. The current definition allows basement and attic space to be developed as habitable space and exceed the floor area ratio limit when the building envelope is not expanded, and is a better method to regulate floor area. Prior to 2018, the Code allowed homeowners to expand within the existing envelope without meeting the floor area ratio limit but did not count basement and attic storage areas as floor area. Planning Director Jackson recommended the Planning Commission not include a condition of approval regarding non-habitability. The fuel-burning devices in the mechanical room would not warrant a California Building Code determination that the mechanical room is non-habitable, but the devices would preclude use of the mechanical room for sleeping purposes. The Planning Commission may recognize other characteristics about the mechanical room that make it unsuitable for habitation if the Commission wishes. The Planning Commission could make findings that the water intrusion is an unusual physical circumstance that prevents the property from being used in the same manner as other conforming properties.

Resolution 334-V/DR-18

WHEREAS, the Property Owner is requesting permission to construct an approximately 229-square-foot second-story addition with a hipped roof at the rear of the house and a new awning over a rear patio door; to install new exterior lights; to make window changes on the rear and left facades; and to make various interior modifications at 105 Dale Avenue, which construction requires a design review permit; and,

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary to exceed the floor area ratio limit and to increase the number of bedrooms from three to four without meeting the onsite parking requirements; 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 parking and floor area ratio requirements 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, the existing basement is vulnerable to water intrusion making it unsuitable to be used as habitable space, and adding a conforming garage would render the house structurally vulnerable so that strictly applying the terms of this chapter would prevent the property from being used in the same manner as other conforming properties in the zone.
2. The project is compatible with the immediately surrounding neighborhood and the public welfare because the majority of neighboring properties have no more than a one-car garage; many neighboring properties have four bedrooms or more; some neighboring properties have a floor area ratio higher than 50 percent; the proposed addition does not increase the existing footprint of the home; and the proposed addition is not visible from the street and does not exceed the current height of the house.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because expanding the garage to supply conforming parking spaces would require excavation of the existing basement rendering the house more structurally vulnerable; a garage expansion would affect the appearance of the existing home which would be a detriment to its architectural character and that of the neighborhood; and locating a fourth bedroom in the basement would make it vulnerable to water intrusion.

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 material, the roof form, and the window and door material and fenestration pattern upon which this design approves.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the distance between the project and neighboring homes is appropriate; the topographical differences are appropriate to preserve privacy, views, and light; the height of the project has been kept as low as possible and is unchanged from current heights; and the view is not a significant view.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project has no effect on pedestrian and vehicular safety.
4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: II-1, II-2, II-3, II-3(a), II-3(b), II-3(c), II-3(d), II-7, II-7(a) (*remodels*).
5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.2 (Style Compatibility), Design and Preservation Element Policy 28.3 (Additions),

Design and Preservation Element Policy 28.4 (Setback Consistency), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 28.8 (Acoustical and Visual Privacy), Design and Preservation Element Policy 29.8 (Exterior Lighting).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application and the design review permit application for the construction at 105 Dale 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 29, 2018, after notices to neighbors were mailed and the application was available for public review.
2. **Window Material.** As specified in the plans, the building material for the new 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 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.
5. **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.
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. **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. **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. **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, 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.

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.

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 Applicants 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 Applicants. The City may, at the Applicants' 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 Applicants fails to meet a benchmark set forth in the Approved Construction Completion Schedule, the Applicants 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 Applicants 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 Applicants 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 Applicants 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 Alessio
Ayes: Alessio, Behrens, Batra
Noes: Duransoy, Levine
Recused: Ramsey
Absent: None

ADJOURNMENT

There being no further business, Chairman Behrens adjourned the meeting at 9:20 p.m.