

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, January 14, 2019

A Regular Session of the Piedmont Planning Commission was held January 14, 2019, 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 December 31, 2018.

CALL TO ORDER

Chairman Behrens called the meeting to order at 5:01 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, 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 1-PL-19 RESOLVED, that the Planning Commission approves as presented its meeting minutes of the December 10, 2018, regular hearing of the Planning Commission.

Moved by Ramsey, Seconded by Levine

Ayes: Alessio, Behrens, Duransoy, Levine, Ramsey

Noes: None

Recused: None

Absent: None

CONSENT CALENDAR

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

- 12 Requa Place (Design Review) and
- 36 Monticello Avenue (Fence Design Review).

Resolution 2-PL-19

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

Moved by Levine, Seconded by Duransoy

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:

Design Review Permit 12 Requa Place

Resolution 283-DR-18

WHEREAS, the Property Owner is requesting permission to remodel and expand the home including construction of an approximately 131-square-foot addition at the front of the residence; modification of exterior lighting, windows, skylights, and doors throughout the residence; construction of a new retaining wall within the front street yard setback; and modification of hardscape

including a widened driveway, located at 12 Requa Place, which construction requires a design review permit; and,

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e), Existing Facilities, because 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 programs, and 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 proposed addition continues the architectural style and design aesthetic of the existing house through its massing, scale, building height, window type, and exterior materials and extends the existing roofline and simplifies the roof layout.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the enclosure of the existing covered roof deck and its location does not affect the neighbors, particularly the neighbor to the left where the view is a garage wall.
3. The proposed design will have no effect on pedestrian or vehicular safety because the project does not change the driveway or parking in any way.
4. As conditioned, the application complies with the following guidelines: II-1, II-2, II-3, II-4, II-6, II-7 (*remodels*), IV-1, IV-2, IV-3, IV-4, IV-5, IV-6 (*retaining walls*).
5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.3 (Additions), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 28.8 (Acoustical and Visual Privacy),

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for construction at 12 Requa Place, 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 January 3, 2019, 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.
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 1.5 inches from the exterior wall to the face of the window sash in order to maintain consistency with the original architecture, as required by the City's Design Guidelines and Window Replacement Policy. Window details shall be submitted for review and approval at the time of building permit application.

5. **Pre-Construction Inspection.** 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. **Garage Door.** The garage door shall be electronically operable. If design modifications are required to accomplish this, those modifications shall be subject to staff review.

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

9. **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.

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 the 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. **Notice of Restricted Use.** The basement storage room does not meet habitation or safety requirements of the Piedmont Municipal Code. A notice of restricted use shall be recorded with the Alameda County Recorder's office advising current and future owners that the space does not meet the safety codes for sleeping purposes.

12. **Construction Management Plan.** The Property Owner shall develop a comprehensive Construction Management Plan. The Construction Management Plan shall address noise, vibrations, traffic control, parking, debris removal, dust control, sanitary facilities, site safety security, emergency egress, 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.

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

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

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

**Fence Design Review
Permit
36 Monticello Avenue**

Resolution 320-FDR-18

WHEREAS, the Property Owner is requesting permission to remove a portion of the existing picket fence at the rear (east) of the residence on the property line adjacent to Lorita Avenue, to construct a new vertical board wood fence in the same location, and to retrofit the existing arbor at the rear of the property line along Lorita Avenue with a new pedestrian gate, located at 36 Monticello Avenue, which construction requires a fence design review permit; and,

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

1. The proposed design is consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are consistent with the original architecture and neighborhood development: the fence and gate is located in the same location as the existing fence and arbor; the lot is an unusual shape; there is very little outdoor area; and the fence and gate material are consistent with other nearby fences.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the height of the project is kept very low; the distance between the gate and other homes is appropriate; and there is no privacy, view, or light at the location of the gate for the project to affect.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project does not affect pedestrian and vehicular safety and the project maintains visibility for entering and exiting the driveway.
4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: V-1, V-2, V-3, V-4, V-5, V-5(a), V-5(b), V-5(c), V-6, V-7, V-8, V-9, V-10, V-11 (*fences*).
5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 29.3 (Front Yard

Enclosures), Design and Preservation Policy 29.4 (Maintaining Privacy), Design and Preservation Policy 29.5 (Fence and Wall Design).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the fence design review permit application for the improvements at 36 Monticello Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

Moved by Alessio, Seconded by Levine
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

Planning Director Jackson reported the subcommittee met December 18, 2018 to review Chapters 4, 5, and 6 of the proposed Design Guidelines and provide comments to the consultants. The subcommittee will receive a complete draft of the proposed Design Guidelines in the next few weeks. Following the subcommittee's review, the proposed Design Guidelines will be presented to the Planning Commission.

Commissioner Ramsey added that the subcommittee also reviewed the progress of the survey sent to approximately 700 applicants. The consultants are compiling data from the responses.

When asked, Planning Director Jackson advised that approximately 170 responses to the survey have been received. The survey was sent to property owners and project designers listed on applications submitted from July 1, 2016 through June 30, 2018.

Chair Behrens believed the new Design Guidelines would be much improved over the existing guidelines.

Variance and Design Review Permit 217 Ricardo Avenue

The Property Owner is requesting permission to demolish an unpermitted corrugated metal roof at the front porch and replace it with a fabric awning; to demolish the existing stair and landing in the south side yard and construct a new awning, stair, and landing structure at the rear of the house; modify doors and windows on the rear and left facades; to add exterior lighting; and to modify the interior including the development of approximately 242 square feet of habitable space within the basement level for a new bedroom suite. Variances are required to construct the new entry awning structure in the 20-foot street

yard setback and to increase the number of bedrooms from three to four without supplying the required parking spaces.

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

Public testimony was received from:

Robert Kelly, project architect, reported the applicant requests a variance to remodel the existing downstairs half bathroom into a full bathroom. The ceiling height of the basement is sufficient to add a bath and bedroom in the basement. Adding a bathroom to the upper floors would remove storage or closet space. Almost all homes in the neighborhood have two bathrooms. He considered adding a bathroom on the main floor in the location of the proposed stairs, but that location could raise neighbors' concerns about privacy, light, and view. Placing a bathroom at the back of the house would eliminate direct access to the rear yard. He suggested remodeling a bedroom on the main floor to include a bathroom, but the homeowners felt it would take too much space away from the kitchen. The existing garage is nonconforming. Many homes in the neighborhood have nonconforming two-car garages. Because parking congestion is not a concern in the neighborhood, expanding the garage so that it conforms to requirements would not benefit the homeowners or the neighbors. The homeowners probably would not proceed with the project if they are required to increase the size of the garage. The garage needs an additional 3 feet in width to make it conform. Moving the garage walls to the left and back would require moving the entry stairs on the side of the garage and impact the proposed interior changes. He could expand the garage to the right, but the garage is located only 3 feet from the property line. Perhaps he could extend the garage under the front porch, but that would require quite a bit of excavation and additional foundation. The cost and time of the additional construction are concerns. The required width of a garage is 19 feet.

When asked, Planning Director Jackson advised that there is no minimum ceiling height requirement for a garage. The Planning Commission can approve a variance for construction in the setback, deny a variance from parking requirements, and add a condition of approval to the design review permit that the floor plans be modified so that there is no increase in the number of bedrooms.

Mercedes Broening, Property Owner, explained that the upstairs has approximately 1,500 square feet of usable space. The kitchen is not large and has an island. Reducing the size of the kitchen to add a bathroom to a bedroom would interrupt the flow of the kitchen. Expanding the garage to both the left and right would require removing plantings along one side and excavating under the porch on the other side.

Generally, Commissioners liked the overall design, the Spanish architecture, the window design, and the fabric awning. Commissioners could approve a variance for construction within the setback but not a variance from the parking requirements. Commissioners felt the garage could be increased in size to provide two conforming parking spaces or a second full bathroom could be added to the main floor so that a variance is not needed. The physical constraints of the property do not create a hardship for the homeowner.

Resolution 321-V/DR-18

WHEREAS, the Property Owner is requesting permission to demolish an unpermitted corrugated metal roof at the front porch and replace it with a fabric awning; to demolish the existing stair and landing in the south side yard and construct a new awning, stair, and landing structure at the rear of the house; modify doors and windows on the rear and left facades; to add exterior lighting; and to modify the interior including the development of approximately 242 square feet of habitable space within the basement level for a new bedroom suite, at 217 Ricardo Avenue, which construction requires a design review permit; and,

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary to construct within the 20-foot street yard setback and to increase the number of bedrooms without supplying the required parking spaces; and,

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

WHEREAS, the variance from the parking requirements is denied because it does not comply with the variance criteria under Section 17.70.040.A as follows:

1. The property and existing improvements do not present unusual physical circumstances of the property in that accomplishing the applicant's goals without seeking a variance is possible, and strictly applying the terms of this chapter would not prevent the property from being used in the same manner as other conforming properties in the zone given the size of the lot, house, and garage.
2. While the project is compatible with the immediately surrounding neighborhood and the public welfare, it appears that the improvements can be accomplished without a variance based upon the information provided by the applicant with respect to the proposed addition of a second bathroom and the existing garage.
3. Accomplishing the improvement without a variance would not cause unreasonable hardship in planning, design, or construction because it appears the improvements can be accomplished without a variance from the parking requirements.

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 any improvements to the existing porch would require a variance because the existing porch is located within 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 the proposed modifications are modest and will be made to an existing structure, and many other houses on the street have front porches located within the street yard setback.

3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because no improvement could be made to the porch without a variance given its existing location within the setback.

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 proposed front landing and awning, the window and door materials, and the rear yard awning dimensions and porch.

2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the changes are modest, small, and focused on the immediate existing house or are within the existing building envelope and footprint.

3. The proposed design does not adversely affect pedestrian or vehicular safety because the project proposes changes to a rear porch, a front awning that is a good distance from the street, and windows and doors.

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-5, II-6, II-7, (*remodels*).

5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.2 (Style Compatibility), Design and Preservation Element Policy 28.3 (Additions), Design and Preservation Element Policy 28.4 (Setback Consistency), Design and Preservation Element Policy 28.5 (Garages, Decks, and Porches), Design and Preservation Element Policy 28.6 (Exterior Materials), 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 29.8 (Exterior Lighting).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application for construction within the street yard setback and the design review permit application but denies the variance application from parking requirements for the remodel at 217 Ricardo Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

3. **Window Recess.** All new windows shall be recessed 1 and $\frac{3}{4}$ inches from the exterior wall to the face of window sash in order to maintain consistency with the original architecture, as required by the City's Design Guidelines and Window Replacement Policy. Window details such as recess and sash dimensions shall be submitted for review and approval at the time of building permit application.

4. **Pre-Construction Inspection.** Prior to the commencement of window fabrication, the installer shall schedule a pre-construction inspection with the Building Department to review the approved installation criteria, such as the window recess, window trim if any, and window sill projection if any.

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

6. **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.

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

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

a. **Construction Site Control of Stormwater.** The California Regional Water Quality Control Board requires all projects that disturb the site to comply with Provision C.6 of the San Francisco Bay Regional Stormwater NPDES Permit in order to prevent construction site discharges of pollutants and other regulated materials during construction. As required by the Chief Building Official and prior to the issuance of a building permit, the Applicant shall develop and submit a construction stormwater management

plan as part of the Construction Management Plan to achieve timely and effective compliance with Provision C.6. Permit Provision C.6.c.ii provides sources for site specific, and seasonally- and phase-appropriate, effective Best Management Practices (BMPs) that may be incorporated into the stormwater management plan. Copies of the Municipal Regional Stormwater Permit are available from the Piedmont Public Works Department and on-line at cleanwaterprogram.org.

10. **Construction Completion Schedule.** Work on the Project, once begun, shall be promptly executed with continuous good faith and reasonable progress. Since timely completion of this Project is of the essence, the 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 fail 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 fail 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.

11. **Number of Bedrooms.** The floor plans shall be revised so that there is no increase in the number of bedrooms.

12. **Awning Design.** The awning design may be revised subject to staff review and approval.

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

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

The Property Owner is requesting permission to remodel the residence to change the architectural style; to construct a new upper-level staircase and elevator, balconies, decks, new doors, windows, skylights, and other changes; and to construct site changes including new steps, patios, retaining walls, fences, exterior lighting, landscaping, and other changes. A variance is required to construct in the street yard setback.

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

Public testimony was received from:

Carlos Plazola, project consultant, reported the height of the structure except for the elevator area has been lowered 8 feet. The height of the retaining wall has been lowered to less than 3 feet. Since the Planning Commission's prior review of the project, the number of variances requested has decreased from three to one. Neighbors support the project.

Abhay Schweitzer, project designer, advised that the structure's height has been reduced in response to neighbors' concerns regarding views. The vast majority of the side yard has been brought to grade so that the structure does not appear massive and bulky. The floor area has been reduced by approximately 250 square feet. Along the front of the property is a 2-foot tall planter with a 2-foot tall wood fence located behind the planter and around the trash enclosure. The applicant has agreed to rebuild the existing wood fence covered by ivy. All proposed improvements are located within the property lines.

Sam Wade, project landscape architect, indicated the proposed landscaping is very simple and consistent with the character of the community. Plantings will be low-profile in order to protect views. Proposed trees will be both evergreen and deciduous. The tree closest to the sidewalk is a fruitless olive, which typically reaches a height of 8-12 feet.

Umesh Patel, Property Owners' son, related that his parents want to improve the house because of their ages. The elevator will assist them with moving among the floors of the house and with accessing the rear yard. The plans have been revised in response to neighbors' and the Planning Commission's comments.

Yoav Banin, neighbor at 333 Scenic Avenue, supported the project with the most recent revisions. The homeowners have listened to neighbors and

addressed the neighbors' concerns. The proposed maple tree will block the view from the project's kitchen window into his second-story without impacting the view.

Jill Lindenbaum, neighbor at 350 Scenic Avenue, agreed that the homeowners have addressed neighbors' concerns. The current design of the house conforms with the grade of the property and fits the slope. She supported the project as proposed.

Susan Chamberlain, neighbor at 332 Scenic Avenue, supported the current design. The homeowners have been professional and courteous in working with neighbors. The design is lovely and will improve the street.

John Chalik, neighbor at 332 Scenic Avenue, supported the project and hoped it would be approved.

Commissioners generally supported approval of the project, citing the low roofline, the lack of complaints from the neighbors, the structure blending with the topography of the site, compliance with Design Guidelines for construction on a hillside, and the beautiful design. In addition, Commissioners appreciated the applicant making changes in response to comments from neighbors and the Planning Commission and the quality of the plans and renderings submitted for review. Commissioner Duransoy suggested the fence gate should swing into the property rather than toward the sidewalk. Commissioner Alessio proposed an additional condition of approval for the trash enclosure to accommodate three bins.

Resolution 332-V/DR-18

WHEREAS, the Property Owner is requesting permission to remodel the residence to change the architectural style; to construct a new upper-level staircase and elevator, balconies, decks, new doors, windows, skylights, and other changes; and to construct new steps, patios, retaining walls, fences, exterior lighting, landscaping, and other changes at 340 Scenic Avenue, which construction requires a design review permit; and,

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

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e), Existing Facilities, because the project consists of additions to an existing private residence, which is less than 50 percent of the floor area of the structure before the addition, 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 fill, 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 variance from the street yard setback is approved because it complies with the variance criteria under Section 17.70.040.A as follows:

1. The property and existing improvements present unusual physical circumstances of the property, including the lot is unusually steep with a 40-foot vertical drop and development is constrained by the lot's relationship to the scenic views enjoyed by the adjacent properties, so that strictly applying the terms of this chapter would prevent the property from being used in the same manner as other conforming properties in the zone.
2. The project is compatible with the immediately surrounding neighborhood and the public welfare because most homes in the neighborhood are similar in mass and height and parking configuration to what is being proposed; a majority of the neighboring properties have parking and development within the front setback including both adjacent properties; conforming with the front setback would increase the mass and height of the structure if it is pushed back; and the existing garage is currently located within the front setback.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because the lot is unusually steep; the project minimally increases the footprint of the existing garage, which is currently in the setback, to conform with the parking dimensions; and the house is setback further than the adjacent properties.

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 scale and mass of the existing residence once the project has been completed will maintain compatibility with the scale and mass of the existing residences in the neighborhood; the garage-level addition is consistent with the building design of neighborhood development; the door and window patterns are compatible with neighborhood development; the new standing-seam metal roof is compatible with the neighborhood development and is kept at a minimal slope; and the new exterior finishes and building materials are also compatible with the neighborhood development.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the distance between the project and neighboring homes is appropriate; the project provides breaks in the massing to maintain all or most of the views and direct and indirect light enjoyed by neighboring properties; the design is consistent with neighboring properties that have garages and interior steps at the street level; and privacy is provided by existing landscaping and grade changes that follow the existing sloping topography.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the proposed trash enclosure and front walls will preserve sightlines from the driveway; the driveway and garage configuration is similar to the existing configuration; as conditioned, landscaping shall be restricted where plantings might obstruct sightlines of motorists and pedestrians.
4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: II-1, II-2, II-3(a), II-3(b), II-

3(c), II-3(d), II-4, II-5, II-5(a), II-6, II-6(a), II-6(b), II-6(c), II-7, II-7(a) (*remodels*), III-2, III-2(a), III-3, III-4, III-5, III-5(a), III-6, III-6(a), III-7, III-7(a) (*garages*), IV-1, IV-1(a), IV-1(b), IV-2, IV-2(a), IV-3, IV-3(a), IV-4, IV-5, IV-5(a), IV-6 (*retaining walls*), V-1, V-2, V-3, V-4, V-5, V-5(a), V-5(b), V-5 (c), V-6, V-7, V-8, V-9, V-10, V-11 (*fences/walls*).

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

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application and the design review permit application for the construction at 340 Scenic Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Licensed Design Professional Required.** In conformance with the Architects Practice Act, Business and Professions Code Sections 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. **Approved Plan Set.** The approved plans are those submitted on January 3, 2019, after notices to neighbors were mailed and the application was available for public review, unless modified in these conditions of approval below.

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

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

5 **Window Recess.** All new windows shall be recessed a minimum of 1 inch from the exterior wall to the face of window sash. Window details shall be submitted for review and approval at the time of Building Permit application.

6. **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.

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

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

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

10. **Property Insurance.** The Applicant shall purchase and maintain property insurance on an “all-risk” policy form, including builder’s risk, in the amount of the initial total expected costs to complete the Project, plus the value of subsequent modifications and revisions, comprising total value for the entire Project on a replacement cost basis without optional deductibles. Such property insurance shall include interests of the Applicant, its contractor, subcontractors and sub-subcontractors in the Project, and shall be maintained until the entire Project has been completed and has an approved Final Inspection by the Chief Building Official.

11. **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.

12. **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.

13. **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.

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

15. **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.

16. **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.

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

18. **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 main floor level and roof of the house are constructed at the approved heights above grade.

19. **Encroachment Permit.** Before issuance of a Building Permit, the Property Owner shall apply for an encroachment permit to allow for the construction of walls, footings, curbs, and planter within the public right-of-way, subject to the requirements of the Public Works Director.

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

21. **Final Landscape Plan.** Before issuance of a Building Permit, the Property Owner shall submit for staff review and approval a Final Landscape Plan that shows trees proposed for retention as well as in-lieu trees required by a Certified Tree Preservation Plan. The final plan shall comply with Municipal Code Section 17.17.3 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. Features such as boulders and rock coverings may be removed from the landscape plan or modified to meet minimum 30% landscape coverage requirements.

22. 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 for the trees designated to remain on the final landscape plan such as the trees on the property line shared with 350 Scenic Avenue. The tree preservation measures shall be on the appropriate sheets of the construction plans. The arborist shall be on-site during critical construction activities, including initial and final grading, to ensure the protection of the existing trees that are intended to be retained. The arborist shall document in writing and with photographs the tree protection measures used during these critical construction phases. If some trees have been compromised, mitigation measures must be specified in writing, and implementation certified by the Project Arborist. The Director shall determine the number of in-lieu replacement trees that are required to replace trees proposed for removal, 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.

23. 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).

24. 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.

25. Geotechnical Report and Review. 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. 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 application 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 application 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 \$50,000 as established by the Director of Public Works at the time of Building Permit application submittal. 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 submittal 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 submittal, 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. At the time of Building Permit application

submittal, 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 \$200,000 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 at the time of Building Permit application submittal, 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. **Neighboring Property Inspection.** A structural engineer chosen by the Property Owner, shall inspect neighboring homes and retaining walls at 120, 130, 332, 333, and 350 Scenic Avenue, as available, with regard to any possible damage that may be caused by vibrations or other factors due to excavation, construction or other activities on Property Owner’s property, and such inspection shall include both foundations and non-foundation related details (walls, windows, general overall condition, etc.) at the Property Owner’s cost and at a level of inspection City Staff deems appropriate. Such inspection shall only include readily visible and accessible areas of such neighboring homes, shall be made with the intent of establishing base-line information to later be used in determining damage caused by any activities on Property Owner’s property, and shall only take place with the permission of the neighboring homeowner as to such homeowner’s home and property. The specifics of each

such inspection shall be agreed to between such City-selected structural engineer and the City staff. The structural engineer shall provide a full report to the City of his or her conclusions, and such report shall 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 at the Property Owner's cost.

- a. Within 45 days after the Certificate of Occupancy is issued on Property Owner's property the same structural engineer chosen by the City or a substitute structural engineer chosen by the City shall inspect the same exact 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 Property Owner's property, including any photographic evidence, diagrams or the like that would document such apparent damage. Such report may be used in connection with claims pursuant to the Neighboring Property Damage Security hereafter.

33. Neighboring Property Damage Security. The Applicant shall obtain and maintain insurance or provide a bond letter of credit, bank guarantee or other similar financial vehicle ("Neighboring Property Damage Security"), as approved by the Director of Public Works to insure against or otherwise provide funds to repair any damage (including, without limitation, subsidence and erosion) to neighboring properties at 120, 130, 332, 333, and 350 Scenic Avenue caused by any construction, excavation, and related work in any way related to the Project not immediately and fully rectified by the Applicant to the satisfaction of the Director of Public Works.

- a. Such Neighboring Property Damage Security shall specifically indicate that it covers damages to the above properties, shall be in the amount of no less than \$1,000,000 and shall incorporate any other conditions established by the Director of Public Works after consultation with the Applicant. No portion of this amount may be satisfied by other insurance or security required under these Conditions of Approval.
- b. If the Director of Public Works determines that obtaining any particular insurance would be extremely difficult for Applicant due to its lack of availability even at an increased cost, the Director of Public Works may authorize an appropriate alternative method of providing equal protection to neighboring properties, such as partial coverage by Umbrella Insurance.
- c. The Neighboring Property Damage Security shall allow for claims to be made for up to two years after the issuance of the Certificate of Occupancy on the Project.

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 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. **Trash Enclosure.** The garbage cart enclosure shall be enlarged so that it accommodates three carts. The modified enclosure shall be subject to staff review and approval.

37. **Front Entry Gate.** As necessary to comply with the building code, the front entry gate shall swing into the property rather than onto the sidewalk.

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

The Commission recessed for dinner at 6:17 p.m. and reconvened at 6:48 p.m.

**Variance and Design
Review Permit
8 Parkside Drive**

The Property Owner is requesting permission to remodel and expand the home including constructing an approximately 22-square-foot addition at the front (west) and an approximately 151-square-foot addition at the rear (east) of the main level of the residence; constructing an approximately 622-square-foot second-story addition with balcony; constructing a new entry landing at the right (south) of the residence; relocating the electric and gas meters; modifying the front entry of the residence; and modifying windows, doors, retaining walls, garage doors, exterior lighting, and hardscape throughout including a widened driveway and new curb cut. Variances are required to increase the number of bedrooms without supplying conforming parking and to construct the addition within the front street yard setback.

Written notice was provided to neighbors. **Two affirmative response forms, four negative response forms, and one form expressing no opinion** were received. Correspondence was received from Grier Graff.

Public testimony was received from:

James Tucker, Property Owner, reported neighbors submitted negative comments without informing him of the comments. Many of the negative comments contain errors. The proposed window for the back bedroom will reduce the line of sight into the neighbor's home. The master bedroom will face north, away from the neighbor. The small windows facing the neighbor are located in a half bath and a closet. The window in the middle of the house will be placed higher in the wall so that one cannot look out it. The laundry room window that looks into the dining room of 6 Parkside Drive will be eliminated. More light will reflect from his home onto 6 Parkside.

Edward Soos, project designer, advised that excavation of the existing garage will provide a ceiling height of 8 feet. He proposes to widen the driveway. The garage and front of the house are located within the setback. He wants to maintain the mass of the project away from the street so as not to impact sunlight to the rear yard and to 6 Parkside Drive. He decided against placing the second-story addition over the existing living room because the living room is

located within the required setback and has a vaulted ceiling. He will consider changes to lower the bedroom ceiling height. Some homes in the cul-de-sac have added bedrooms without adding parking. Widening the garage could impact the architectural design of the garage aligning with the split-level bedroom above it. The garage and bedroom alignment are more readily apparent than the stair.

Christine Cumbelich, neighbor at 6 Parkside Drive, indicated most homes in the cul-de-sac have been remodeled without impacting the privacy, light and views of other neighbors. The project conflicts with multiple Design Guidelines. The applicant did not obtain neighborhood input.

Richard Wrensen, neighbor at 6 Parkside Drive, stated the project violates and ignores Design Guidelines and standards. The proposed addition will create two bedrooms without providing any additional conforming parking. Parking in the cul-de-sac is congested. Large vehicles have difficulty entering and maneuvering through the cul-de-sac. The cul-de-sac does not have sidewalks.

Commissioners generally opposed both the project design and the request for a variance from parking requirements. Commissioner Alessio felt the guardrails on the railings are not compatible with the home's character. Commissioners believed the project will materially and negatively impact the neighbor's light, views, and privacy; the garage can be expanded to provide conforming parking spaces; the applicant can accomplish the same goals without requesting a variance from parking requirements; increasing the number of bedrooms and the intensity of use will affect parking; the home appears off balance with the addition pushed to the rear of the home; the height and bulk of the structure can be reduced to be more proportional to the size of the lot; the room configuration may not be appropriate for the proportions of the house; the bulk of the house could be broken down in the rear; replacing the first-floor hipped roof at the rear with a two-story wall is not appropriate; the scale and location of the second-floor addition needs to be adjusted to provide acoustical and visual privacy to the neighbors; the proposed addition is not consistent with the massing and scale of adjacent buildings; and the lack of sidewalks is another reason for the applicant to provide onsite parking.

Resolution 338-V/DR-18

WHEREAS, the Property Owner is requesting permission to remodel and expand the home including constructing an approximately 22-square-foot addition at the front (west) and an approximately 151-square-foot addition at the rear (east) of the main level of the residence; constructing an approximately 622-square-foot second-story addition including a balcony; constructing a new entry landing at the right (south) of the residence; relocating the electric and gas meters; modifying the front entry of the residence; and modifying windows, doors, retaining walls, garage doors, exterior lighting, and hardscape throughout including a widened driveway and new curb cut at 8 Parkside Drive, which construction requires a design review permit; and,

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary to increase the number of bedrooms without supplying conforming parking and to construct the addition within the front street yard setback; and,

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application, and after

having visited the subject property, the Piedmont Planning Commission finds that the project is not consistent with General Plan policies and programs; and,

WHEREAS, the Planning Commission finds that the proposal does not comply with the design review criteria of Section 17.66.060 of the Piedmont City Code as follows:

1. The proposed design is not consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are not consistent with architecture and neighborhood development: the guardrail design for the railings is not consistent with the neighborhood development; the project's scale and mass are incompatible with the neighborhood and inconsistent with the City's General Plan and Piedmont Design Guidelines; the scale and mass of the project are not compatible with existing buildings on contiguous parcels; and the scale and mass of the additions are not consistent with the existing building.
2. The design adversely affects neighboring properties' existing views, privacy, and access to direct and indirect light because the distance between the project and neighboring homes is not appropriate and the project affects the overall light and privacy of the neighbor located at 6 Parkside Drive.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project
4. The application does not comply with the following guidelines: II-1, II-2, II-3, II-6, II-7, II-7(a) (*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 Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Policy 28.3 (Additions), Design and Preservation Policy 28.8 (Acoustical and Visual Privacy), Design and Preservation Policy 29.7 (Driveway and Parking Locations).

WHEREAS, regarding variances from parking and front street yard setback requirements, the Planning Commission in denying without prejudice the design review permit for construction at 8 Parkside Drive finds that there is no approved design for which variances are necessary.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies without prejudice the design review permit application for the improvements at 8 Parkside Drive, Piedmont, California, and continues the consideration of the request for variances to a subsequent hearing at which the Commission considers a subsequent application for a design review permit submitted by the applicant for a revised design for the house.

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

**Design Review Permit
71 Wildwood Gardens**

The Property Owner is requesting permission to construct a two-story front addition that provides approximately 419 square feet of habitable space in the main and upper levels; demolish the entry porch, the sunroom and deck at the rear, and the stairs, landing, and deck to the side; construct on-grade steps at the side yard; install a new skylight; add new exterior light fixtures; modify windows and doors throughout; and make various interior and exterior changes.

Commissioner Alessio recused herself from this item and left the room.

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

Public testimony was received from:

Dan Hano, project designer, reported the rear elevation does not provide accurate locations of trees and neighboring homes. The lot slopes down severely, and a line of trees is located behind the house. The rear picture windows are not visible to homes to the rear of the property. The picture windows provide a significant view from inside the home. The homeowners prefer to retain the picture windows, if possible. The interior and exterior trim around the windows will be consistent with other windows in the house. Homes of the same vintage often have windows without divided lights in some areas of the home. Many of the existing windows are not appropriate for the house, such as double-hung windows in the dining room, single-glass and glass block windows in the enclosed porch, and aluminum windows. The existing aluminum windows do not have divided lights. At night, the front entry will be lit to distinguish the door from the expanse of glass along the front. The majority of existing windows without divided lights are aluminum and not original to the house. The existing porch off the living room was enclosed with large, single-pane glass blocks.

Generally, Commissioners liked the design and could approve the project provided the trim around the picture windows is consistent with other windows in the home. However, Commissioner Levine objected to the absence of divided lights in the picture windows and the small window in the breakfast room because the windows are not consistent with other windows in the house. Attempting to correct the variety of windows for consistency calls attention to the three windows that are inconsistent.

Resolution 352-DR-18

WHEREAS, the Property Owner is requesting permission to construct a two-story front addition that provides approximately 419 square feet of habitable space in the main and upper levels; demolish the entry porch, the sunroom and deck at the rear, and the stairs, landing, and deck to the side; construct on-grade steps at the side yard; install a new skylight; add new exterior light fixtures; modify windows and doors through; and make various interior and exterior changes, located at 71 Wildwood Gardens, which construction requires a design review permit; and,

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

residence, which is less than 50 percent of the floor area of the structure before the addition, and the project is consistent with General Plan policies and programs, and that the proposal, as conditioned, conforms to the criteria and standards of Section 17.66.060 of the Piedmont City Code:

1. The proposed design is consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are consistent with the original architecture, neighborhood development, and other homes of the period: the wall material, roof form and material, window and door material and fenestration pattern, and atrium design and materials.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the distance between the project and neighboring homes is appropriate; the topographical differences are appropriate to preserve privacy, views, and light; and the proposal does not change the building height.
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 guidelines: 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*).
5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.2 (Style Compatibility), Design and Preservation Element Policy 28.3 (Additions), Design and Preservation Element Policy 28.4 (Setback Consistency), Design and Preservation Element Policy 28.5 (Garages, Decks, and Porches), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 28.8 (Acoustical and Visual Privacy), Design and Preservation Element Policy 28.12 (Creativity and Innovation), 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 design review permit application for construction at 71 Wildwood Gardens, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Window and Door Material.** As specified in the plans, the building material for the new windows and doors shall be aluminum-clad wood.
2. **Window Color Scheme.** All the windows on the house shall have a consistent color scheme.
3. **Window Recess.** All new windows shall be recessed 1 and ½ inches from the exterior wall to the face of window sash in order to maintain consistency with the original architecture, as required by the City's Design Guidelines and Window Replacement Policy. Window details such as recess and sash dimensions shall be submitted for review and approval at the time of building permit application.

4. **Pre-Construction Inspection.** Prior to the commencement of window fabrication, the installer shall schedule a pre-construction inspection with the Building Department to review the approved installation criteria, such as the window recess, window trim if any, and window sill projection if any.
5. **Exterior Lighting.** All new exterior light fixtures shall be downward directed with an opaque or translucent shade that completely covers the light bulb.
6. **Skylight Flashing.** The metal flashing around the new skylight(s) shall be painted to match the adjacent roof color.
7. **Setback from Property Line Verification.** Prior to foundation inspection and at the Building Official's discretion, 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 northwest property line as shown on the approved plans. The intent is to verify that the approved concrete steps are constructed at the approved dimension from the property line.
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. **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.
11. **Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.
12. **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.

13. Construction Completion Schedule. Work on the Project, once begun, shall be promptly executed with continuous good faith and reasonable progress. Since timely completion of this Project is of the essence, the 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.

14. Approved Plan Set. The approved plan set includes the drawings submitted on January 2, 2019, after notices were mailed to neighbors and the application was available for public review, unless modified in these conditions of approval.

Moved by Batra, Seconded by Duransoy
Ayes: Batra, Behrens, Duransoy, Ramsey

Noes: Levine
Recused: Allessio
Absent: None

**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 695-square-foot second-story addition at the right (west) of the residence; removing a chimney at the front of the residence; modifying the rear yard landscaping to construct a new pool and retaining walls; 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 the home.

Written notice was provided to neighbors. **One affirmative response form and two negative response forms** were received. Correspondence was received from Edie and Jay Davis and Jeffrey B. Randall.

Public testimony was received from:

Melodie Myers, Property Owner, remarked that most home plans show bedrooms near one another rather than in disparate corners of the home. Parents' bedrooms should be near the children's bedrooms because of safety concerns. Using the existing staircase to accommodate a master bedroom creates an awkward circulation pattern. The revised plans maintain the location of the proposed staircase and show significant changes to the layout of the second-story addition. The plans balance strong design concepts with compromise and fall within the standards of the Piedmont Design Guidelines. She requested the condition of approval for downward-facing exterior lighting be removed.

Regina Myers, Property Owner, reported the revised design reverses the bedroom and bathroom and moves the addition away from 46 Hampton Road in response to comments from the Planning Commission. The revised design will block approximately 12.5 percent of sunlight into the windows of 46 Hampton Road. The existing vine-covered fence between the two properties blocks almost all sunlight into bedrooms at 46 Hampton Road. The revised design nests the addition into the existing roofline, centers the addition more, and lowers the roofline. She met with the Davises of 46 Hampton Road and seemed to reach agreement regarding the shade studies; however, the Davises subsequently submitted another shade study. The revised design alleviates the concerns raised by the Planning Commission at the prior hearing, has a minimal impact on 46 Hampton Road, and provides a functional layout. The revised design contains 25 fewer square feet.

Carolyn Van Lang, project architect, advised that the second-story addition is set back 17-19.5 feet from the neighbor's wall, which exceeds the neighborhood's development pattern. The second-story addition contains less than 700 square feet and is smaller than other second stories in the neighborhood. The mass of the addition is broken into two main bodies, which lessen the height of the roof, and does not greatly impact the neighbor. The project will impact the neighbor's access to sunlight for only a short time at mid-morning. The large overhangs on the neighbor's house reduce the amount of sunlight reaching the interior of the house. The neighbor's shade study fails to include the existing fence between the two properties and utilizes 6-inch overhangs rather than the existing 16-inch overhangs. The second-story addition is pushed back approximately 8.5 feet from the previous placement, and the bump-out is pushed back 6-7 feet. The

master bedroom ceiling height is 8 feet and the bathroom ceiling height is 9 feet in order to align the roofline.

Jay Davis, neighbor at 46 Hampton Road, opposed the specific location of the second-floor addition. The project does not comply with Design Guidelines II-2, II-3, II-6, and II-7.

Joe Decredico, the Davises' architect, believed the submitted drawings should include dimensions. The fence has no impact on sunlight into the Davises' home. The shade study reflects the impact of the addition's shade on the Davises' windows. The revised design will impact sunlight to the Davises' home less than the prior design, but it will impact the Davises' home. At the winter solstice, the addition will not shade the windows.

Edie Davis, neighbor at 46 Hampton Road, noted Commissioners had viewed the story poles from her home and hoped the Planning Commission would deny the second-story addition based on City guidelines and policies.

Generally, Commissioners Ramsey and Alessio and Chair Behrens supported approval of the project, stating the revised design is nice and an improvement over the previous submission, the applicant has pushed the addition back which aids the composition of the house and aligns with the stairwell access, and the applicant has revised the design to make the addition sensible. Commissioners Levine and Duransoy opposed approval of the project because the impact to the neighbor's access to light has not been resolved, an addition spread across the second story fights the contours of the land and neighboring houses, the project has a materially negative impact on indirect light and views to the sky for the neighboring house, and the project is not consistent with Guidelines II-2 and II-6 and Design and Preservation Element Polices 28 and 28.1. Commissioners discussed the size of the project and lot in relation to other houses along the street, expanding the home at the first floor rather than second floor, and the neighbor's right to direct and indirect light and views.

When asked, Associate Planner Yeager advised that staff received graphic calculations, and the numbers are accurate.

In response to questions, Planning Director Jackson advised that the condition of approval for exterior lighting is typically applied to wall sconces rather than landscape lighting. The Planning Commission can modify the condition of approval to except exterior lighting near the pool. Lights located in the pool patio's grotto-like setting will be screened and should not impact neighbors.

Resolution 353-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 695-square-foot second-story addition at the right (west) of the residence; removing a chimney at the front of the residence; modifying the rear yard landscaping to construct a new pool and retaining walls; 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 the home, 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 categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e), Existing Facilities, because the proposed project is a minor change to an existing private residence, which is less than 50 percent of the floor area of the structure before the addition, and the project is consistent with General Plan policies and programs, and that the proposal, as conditioned, conforms to the criteria and standards of Section 17.66.060 of the Piedmont City Code:

1. The proposed design is consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are consistent with the original architecture and neighborhood development: the wall material, the roof form, the roof material, the window material and fenestration pattern, and the eave overhang dimension.
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; according to a light survey provided by the applicant, the effects on neighboring light will be minimal; there is sufficient vegetative screening with an existing fence along the property line to the west; the view is not a significant view; the addition is pushed back 12 feet - 14 feet 6 inches from the property line where a 5-foot setback is required; the second-story addition is centered on the mass below, which reduces the overall bulk; and the hipped-roof design minimizes the bulk of the addition at the perimeter of the roof.
3. The proposed design does not adversely affect pedestrian or vehicular safety because no changes are proposed to pedestrian or vehicular access.
4. As conditioned, the application complies with the following guidelines: II-1, II-2, II-3, II-3(a), II-3(b), II-3(c), II-3(d), II-4, II-6, II-6(a), II-6(b), II-6(c), II-7, II-7(a) (*remodels*).
5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 29.8 (Exterior Lighting), Design and Preservation Element Policy 29.6 (Retaining Walls), Design and Preservation Element Policy 28.8 (Acoustical and Visual Privacy), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 28.3 (Additions), Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Goal 28 (Residential Architecture), Natural Resources and Sustainability Element Policy 16.4 (Permeable Pavement).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for the addition at 66 Hampton Road, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

2. **Window Color Scheme.** All the windows on the house shall have a consistent color scheme.
3. **Window Recess.** All new windows shall be recessed 1.5 inches from the exterior wall to the face of window sash in order to maintain consistency with the original architecture, as required by the City's Design Guidelines and Window Replacement Policy. Window details shall be submitted for review and approval at the time of building permit application.
4. **Pre-Construction Inspection.** Prior to the commencement of window fabrication, the installer shall schedule a pre-construction inspection with the Building Department to review the approved installation criteria, such as the window recess, window trim if any, and window sill projection if any.
5. **C&D Compliance.** Compliance with Section 9.04 of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project.
6. **Exterior Lighting.** All new exterior light fixtures, excluding pool terrace lighting, shall be downward directed with an opaque or translucent shade that completely covers the light bulb.
7. **Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.
8. **Notice of Restricted Use.** The workshop does not meet habitation or safety requirements of the Piedmont Municipal Code. A notice of restricted use shall be recorded with the Alameda County Recorder's office advising current and future owners that the space does not meet the safety codes for sleeping purposes.
9. **Construction Management Plan.** The Property Owner shall develop a comprehensive Construction Management Plan. The Construction Management Plan shall address noise, vibrations, traffic control, parking, debris removal, dust control, sanitary facilities, site safety security and other potential construction impacts, as well as other details involving the means and methods of completing the Project, including the construction route. The City Building Official has the authority to require modifications and amendments to the Construction Management Plan as deemed necessary throughout the course of the Project and until the Final Inspection.
 - a. **Construction Site Control of Stormwater.** The California Regional Water Quality Control Board requires all projects that disturb the site to comply with Provision C.6 of the San Francisco Bay Regional Stormwater NPDES Permit in order to prevent construction site discharges of pollutants and other regulated materials during construction. As required by the Chief Building Official and prior to the issuance of a building permit, the Applicant shall develop and submit a construction stormwater management plan as part of the Construction Management Plan to achieve timely and effective compliance with Provision C.6. Permit Provision C.6.c.ii provides

sources for site specific, and seasonally- and phase-appropriate, effective Best Management Practices (BMPs) that may be incorporated into the stormwater management plan. Copies of the Municipal Regional Stormwater Permit are available from the Piedmont Public Works Department and on-line at cleanwaterprogram.org.

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

discretion, may refer the application to the Planning Commission for public review and direction.

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

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

The Property Owner is requesting permission to modify the front (south) portion of the property; demolish the existing garage, front porch, and stairs in order to develop approximately 449 square feet of habitable space in the basement level and to construct an enclosed stairway and an entry porch; install an uncovered, one-car, semi-pervious parking pad; remove the existing driveway and relocate the curb cut; add a walkway, steps, low retaining walls, and other hardscape and landscape changes; modify windows and doors throughout; add new exterior light fixtures; and make various interior and exterior changes. Variances are required to construct the enclosed stairway and entry porch within the 20-foot street yard setback and to demolish the existing garage without supplying the required conforming parking spaces.

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

Public testimony was received from:

Amy Gurvitz, Property Owner, advised that the project will convert the garage and lower-level storage area into a family room and office and relocate the front entry to ground level. The lot is small, shallow, and sloped. The house is currently located in the street yard setback, but the project will not increase the nonconformity. The existing single-car garage is also nonconforming. The project will maintain one off-street parking space, which will be more usable than the garage. She has shared an overview and front elevations of the project with neighbors and held two open houses for neighbors, none of whom have provided any negative feedback. Most residents along the street park on the street or in their driveways. The width of the garage entry is nonconforming, and the driveway exceeds the maximum allowed slope in grade.

Anne Tierney, project architect, reported the goals of the design are to increase living area and to relocate the entry to the lower level to increase security and privacy without changing the size, bulk, height, and mass of the home. Several of the existing windows are mismatched, and proposed replacement windows will highlight the original architectural charm of the house. While the existing porch will be enclosed, the existing volume, roofline, height, width, and materials will be retained. In the porch, windows with divided lights above and picture windows below will emulate the smaller windows with divided lights. The new entry will be visible and identifiable from the street. Low stucco garden walls will lead visitors to the entry. The new walkway and parking pad will be cobbled stone. The garage entry is nonconforming because it does not provide the 1-foot clearance along the length of the parking space. Converting the garage to habitable space will require some demolition. The living space above the garage is not large enough to accommodate a stairway to the lower level. The existing front porch is the only area where stairs can be constructed without impacting the existing main level. Converting the front porch to a stairway will make the garage unusable as a garage. She considered adding a garage in the

location of the existing storage space; however, the space would need to be enlarged into the front yard setback. Extending the storage space to the rear in order to accommodate a garage would require significant excavation. The garage is not usable because of the slope.

Justin Gurvitz, Property Owner, indicated the grade of the driveway cannot be altered without excavating the garage. Most residents along the street do not utilize their garages for parking.

Commissioners generally found the project design to be attractive but could not make the findings to approve a variance from parking requirements, referring to Design and Preservation Element Policy 29.7, design solutions that could decrease the nonconformity of the garage; the precedent-setting nature of allowing a parking pad within the setback; and the difficulty and cost of construction not being factors in approving a variance.

Resolution 354-V/DR-18

WHEREAS, the Property Owner is requesting permission to modify the front (south) portion of the property; demolish the existing garage, front porch, and stairs in order to develop approximately 449 square feet of habitable space in the basement level and to construct an enclosed stairway and an entry porch; install an uncovered, one-car, semi-pervious parking pad; remove the existing driveway and relocate the curb cut; add a walkway, steps, low retaining walls, and other hardscape and landscape changes; modify windows and doors throughout; add new exterior light fixtures; and to make various interior and exterior changes at 141 Ronada Avenue, which construction requires a design review permit; and,

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary to construct with the 20-foot street yard setback and to demolish the existing garage without supplying the required conforming parking spaces; and,

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

WHEREAS, the variances from the 20-foot street yard setback and parking requirements are denied because they do not comply with the variance criteria under Section 17.70.040.A as follows:

1. The property and existing improvements do not present unusual physical circumstances of the property, including the garage can be conformed to existing garage requirements for at least one car by widening the garage opening and lowering the floor level to decrease the slope of the driveway, so that strictly applying the terms of this chapter would not prevent the property from being used in the same manner as other conforming properties in the zone.
2. The project is not compatible with the immediately surrounding neighborhood and the public welfare because the Planning Commission has approved almost no applications that propose complete removal of a garage because the absence of a garage is not consistent with the overall character of the neighborhood and the City of Piedmont; and most homes in the neighborhood have a garage.

3. Accomplishing the improvement without a variance would not cause unreasonable hardship in planning, design, or construction because constructing a more conforming garage is possible without a variance.

WHEREAS, regarding the design review permit, the 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 following building feature is not consistent with the original architecture and neighborhood development: the placement of the parking pad.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light.
3. The proposed design adversely affects pedestrian or vehicular safety because the project decreases the amount of conforming parking.
4. The application does not comply with the following Design Review Guidelines and General Plan policies and programs: II-6 and II-6(a) (*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 Policy 28.5 (Garages, Decks, and Porches) and Design and Preservation Policy 29.7 (Driveway and Parking Location).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies the variance application and the design review permit application for the construction at 141 Ronada Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

**Variance and Design
Review Permit
310 Howard Avenue**

The Property Owner is requesting permission to expand the garage by 3 feet on the northwest side of the structure, construct a new rooftop deck with guardrail above the garage, install new garage doors, and repair the front concrete stairs in kind. Variances are required to construct within the street (west) and side (south) yard setbacks.

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

Public testimony was received from:

Yuri Gonzales, project designer, reported the project proposes extending the width of the garage by 3 feet and adding a rooftop deck with an ironwork railing. The height of the existing garage will remain the same. The proposed garage will accommodate trash bins and increase the aesthetic appeal of the house and street. Variances are requested to construct within the street and side

yard setbacks. The railing will extend around three sides of the rooftop deck. The homeowners may utilize the rooftop deck for a seating area. Extending the stucco walls to act as a guardrail will appear heavy and increase the visual mass of the garage.

In general, Commissioners could approve the design and variances, stating a railing or barrier is needed for the garage roof; the project will improve the garage's appearance and provide storage for garbage bins; the project will add value to the house and make the parking space more usable; and the proposed garage will complement the house and increase safety.

Resolution 355-V/DR-18

WHEREAS, the Property Owner is requesting permission to expand the garage by 3 feet on the northwest side of the structure, construct a new rooftop deck with guardrail above the garage, install new garage doors, and repair the front concrete stairs in kind at 310 Howard Avenue, which construction requires a design review permit; and,

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary to construct within the street (west) and side (south) yard setbacks; and,

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

WHEREAS, the variance from the 20-foot street yard setback and 5-foot side yard setback 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 steep topography, the existing garage is located within the 20-foot 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 a majority of neighboring properties have one-car garages located within the street yard setback.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because the topography of the lot makes constructing a garage somewhere other than in the front setback unfeasible; a garage outside the setback would not be accessible, and the existing condition is being modified and improved.

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

1. The proposed design is consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are consistent with the original architecture and neighborhood development: the stucco wall material, the flat roof atop the garage, the metal railing, and the garage door design.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the distance between the project and neighboring homes is appropriate and existing; the topographical differences and the steep slope preserve the privacy, views, and light; the height of the project has been kept as low as possible; and there is no significant view.
3. The proposed design does not adversely affect pedestrian or vehicular safety because there is no change to the point of access for pedestrians or vehicles and the access is being improved by the rebuilding of the stairs, the addition of the railing, and the enlargement of the garage, which improves onsite parking conditions.
4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: III-1, III-1(a), III-2, III-2(a), III-3, III-4, III-5, III-5(a), III-6, III-6(a), III-7, III-7(a) (*garages*).
5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.2 (Style Compatibility), Design and Preservation Element Policy 28.4 (Setback Consistency), Design and Preservation Element Policy 28.5 (Garages, Decks, and Porches), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 29.1 (Conserving Residential Yards), Design and Preservation Element Policy 29.2 (Landscape Design), Design and Preservation Element Policy 29.7 (Driveway and Parking Location).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application and the design review permit application for the construction at 310 Howard Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Roof Color.** As proposed by the applicant, the roof color shall be Polycoat Products Battleship Gray. The proposed flat roof shall be a non-reflective medium or dark color to minimize the visual impact on upslope properties.
2. **Garage Door.** To facilitate vehicular access, the garage door shall be motorized. If design modifications are required to accomplish this, those modifications shall be subject to staff review.
3. **Garage Door Material.** The garage door material shall be metal with fiberglass as represented by the applicant.
4. **Contractor's General Liability Insurance.** To ensure that the contractor doing work in the City will be responsible for damages caused by the work to City property or to neighboring property, the Property Owner shall require all contractors performing work on the Project to maintain General Liability Insurance for protection from claims for damages because of bodily injury, including death, and claims for damages, other than to the contractor's work

itself, to property which may arise out of or result from the contractor's operations. Such insurance shall be written for not less than \$1,000,000 per occurrence. The insurance shall include an endorsement requiring 10 days prior notice to the City if the insurance is to be cancelled or changed, and Property Owner shall immediately arrange for substitute insurance coverage. If the contractor's insurance carrier states in writing that it is unable to provide the required endorsement, Property Owner shall be responsible for providing the City with the required notice if the insurance is to be cancelled or changed. Property Owner's failure to provide such notice shall constitute grounds for revocation of the City's design review approval and/or permit. If the Property Owner does not have a general contractor, the Property Owner shall maintain property insurance and coverage for contractors, which is substantially equivalent to the contractor's requirement of this section.

5. 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.

6. 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.

7. 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.

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

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

10. Final Landscape Plan. Before issuance of a building permit, the Property Owner shall submit for staff review and approval a Final Landscape Plan for the front yard. The final plan shall comply with City Code Division 17.34 and Section 17.33.30 and shall not propose plants near the driveway that could obscure visibility of pedestrians on the sidewalk or vehicles on the street from drivers backing out of the driveway. Upon the determination of the Director, minor differences in the number, size and/or species of vegetation between those shown on the approved landscape plan and those installed at the time of final inspection that do not involve an increase in hardscape or structure coverage may be subject to staff review and approval. Significant differences between the vegetation installed at the time of final inspection and vegetation shown on the approved landscape plan are subject to a design review permit.

11. Construction Management Plan. The Property Owner shall develop a comprehensive Construction Management Plan. The Construction Management Plan shall address noise, vibrations, traffic control, parking, debris removal, dust control, sanitary facilities, site safety security 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. 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.
- b. Neighboring Property Owner Permission. Should the execution of the Foundation/Shoring/Excavation Plan require excavation into a neighboring property or if access onto the neighboring property is necessary for construction, the applicant shall submit, prior to the issuance of Building Permit, a written statement from the neighboring property owner granting permission for access onto his/her property for the purpose of excavation and/or construction.

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

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

Completion Schedule in compliance with subsection (a) of this condition of approval and the Director of Public Works shall evaluate the proposed amendments to the Approved Construction Completion Schedule in accordance with subsection (b) of this condition of approval.

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

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

ADJOURNMENT

There being no further business, Chairman Behrens adjourned the meeting at 8:56 p.m.