

## PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, March 11, 2019

A Regular Session of the Piedmont Planning Commission was held March 11, 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 February 25, 2019.

### CALL TO ORDER

Chairman Behrens called the meeting to order at 5:00 p.m.

### ROLL CALL

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

Absent: None

Staff: Planning Director Kevin Jackson, Associate Planner Chris Yeager, Assistant Planner Mira Hahn, and Planning Technician Steven Lizzarago

### ANNOUNCEMENTS

Planning Director Jackson announced the City of Piedmont is seeking volunteers to serve on seven commissions and committees. The City's website contains information regarding the volunteer opportunities and the application form, which must be submitted by 5:00 p.m. on March 20, 2019. After serving five years on the Commission, Chair Behrens will retire from the Commission at the end of March. The Commission has benefited greatly from Chair Behrens' dedication, thorough review of applications, knowledge of the Zoning Code and the Design Guidelines, and modest and respectful demeanor. In tribute to Chair Behrens' exemplary service, staff presented him with a Piedmont pen and pencil set.

Chair Behrens encouraged the public to apply for a seat on the Commission and related a Commissioner's responsibilities. He enjoyed serving as a Commissioner and learning from other Commissioners.

### 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 5-PL-19**

RESOLVED, that the Planning Commission approves as presented its meeting minutes of the February 11, 2019, regular hearing of the Planning Commission. Moved by Alessio, 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:

- 121 Scenic Avenue (design review permit) and
- 58 Fairview Avenue (variance and design review permit).

#### **Resolution 6-PL-19**

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

Moved by Levine, Seconded by Ramsey

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

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

**Design Review Permit  
121 Scenic Avenue**

**Resolution 29-DR-19**

WHEREAS, the Property Owner is requesting permission to increase the bedroom count to five bedrooms and remodel the home by constructing an approximately 157-square-foot addition to the second-story rear deck, new exterior stairs, a new pergola at the rear (southwest) of the home and by modifying windows, doors, hardscape, exterior lighting, and landscaping throughout at 121 Scenic Avenue, which construction requires a design review permit; and,

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e), Existing Facilities, because the proposed project is a minor change to an existing private residence, which is less than 50 percent of the floor area of the structures before the addition, and the project is consistent with General Plan policies and programs, and that the proposal, as conditioned, conforms to the criteria and standards of Section 17.66.060 of the Piedmont City Code:

1. The proposed design is consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are consistent with the original architecture and neighborhood development, including the wall material, the pergola material and design, the window and door material and fenestration pattern, and the guardrail material.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the distance between the project and neighboring homes is appropriate; the height of the project has been kept as low as possible; and the topographical differences are appropriate to preserve privacy, views, and light.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project has no effect on pedestrian and vehicular safety and the project maintains adequate visibility for entering and exiting the driveway.
4. As conditioned, the application complies with the following guidelines: II-1, II-2, II-3, II-4, 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 28.5 (Garages, Decks, and Porches), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 28.8 (Acoustical and Visual Privacy), Design and Preservation Element Policy 29.1 (Conserving Residential

Yards), Design and Preservation Element Policy 31.3 (Context-Sensitive Design).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for construction at 121 Scenic Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Window and Door Material.** As specified in the plans, the building material for the new windows and doors shall be fiberglass 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 a minimum of 75% of the original window recess measured from the exterior wall to the face of window sash in order to maintain consistency with the original architecture, as required by the City's Design Guidelines and Window Replacement Policy. Window details shall be submitted for review and approval at the time of building permit application.

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

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

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

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

8. **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.

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

10. **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](http://cleanwaterprogram.org).

**11. Construction Completion Schedule.** Work on the Project, once begun, shall be promptly executed with continuous good faith and reasonable progress. Since timely completion of this Project is of the essence, the 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 Alessio, Seconded by Levine  
Ayes: Alessio, Behrens, Duransoy, Levine, Ramsey  
Noes: None  
Recused: None  
Absent: None

**Variance and Design  
Review Permit  
58 Fairview Avenue**

**Resolution 38-V/DR-19**

WHEREAS, the Property Owner is requesting permission to demolish the landing and stairs in the rear of the property at the main level in order to construct a 270-square-foot deck with new stairs and planter box; replace the existing shed roof at the rear; and make other exterior modifications at 58 Fairview 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 the deck, planter box, and shed roof within the right (west) side yard setback; and,

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e), Existing Facilities, because it is a minor change to an existing private residence, which is less than 2,500 square feet, and the project is consistent with General Plan policies and procedures; and,

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

1. The property and existing improvements present unusual physical circumstances of the property, including the existing footprint of the house is already located within the 5-foot side yard setback and adding a deck to the rear entry cannot be done without a variance so that strictly applying the terms of this chapter would prevent the property from being used in the same manner as other conforming properties in the zone.

2. The project is compatible with the immediately surrounding neighborhood and the public welfare because other properties have similar decks in their rear yards.

3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because, based on information provided by the applicant, improvements on the existing structure needed to access the existing door from the rear yard to the kitchen at the main level could not be made without the variance.

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 deck, stairs, and railing material, the planter box material, and the shed roof design and material.

2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the distance between the project and neighboring homes is large; the view is not a significant view; there is sufficient vegetative screening; and the height of the project has been kept as low as possible.

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

4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: II-1, II-2, II-3, II-3(a), II-3(b), II-3(c), II-3(d), II-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 29.1 (Conserving Residential Yards).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application and the design review permit application for the construction at 58 Fairview Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Contractor's General Liability Insurance.** To ensure that the contractor doing work in the City will be responsible for damages caused by the work to City property or to neighboring property, the Property Owner shall require all contractors performing work on the Project to maintain General Liability Insurance for protection from claims for damages because of bodily injury, including death, and claims for damages, other than to the contractor's work

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

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

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

4. **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.

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

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

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

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

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



**REGULAR CALENDAR**

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

**Design Award Recipients**

Chair Behrens remarked that the Design Awards recognize Piedmont homeowners who have done an extraordinary job of planning and designing their construction projects. From a list of projects that completed construction in the previous calendar year, the Commission chooses a select number of superior designs that meet the City's design and planning guidelines and exemplify the highest level of design excellence in the community. He announced the following recipients of the City of Piedmont's Design Awards:

- Excellent Seamless Upper-Level Addition for the project at 110 Fairview Avenue, property owners Anne Bevilacqua and Mike Smith, architect Carolyn Van Lang, and contractor Ralph Tondre.
- Excellent Multifamily Development for The Piedmont Collection Townhomes on Linda Avenue, architect Jarvis Architects, and contractor Ron Kriss.
- Excellent Window Design for the project at 104 Latham Street, property owners Earl and Jennifer Wilson and contractor Greg Hendsch of Cerulean Construction.
- Excellent Outdoor Living Area for the project at 1080 Harvard Road, property owners David and Shanti Kim, architect Wendi Sue, and contractor Al Olzalp of Construction Republic.
- Excellent Garage and Outdoor Living Design for the project at 38 Monte Avenue, property owners Abe and Jennifer Friedman, landscape architect Jeff George, architects, Bennett Christopherson and Richard Haier, interior designer Wendy Daniel, and contractor Brian Hebert of Bay Design & Build, Inc.

The awards will be presented at a ceremony on March 14 at 6:30 p.m. at the Piedmont Community Hall. The public is invited to attend.

**Design Guidelines Update**

Commissioner Ramsey reported the subcommittee reviewed a complete draft of the Design Guidelines and provided comments. The majority of the consultants' work has been consolidating information from various sections of the Guidelines and receiving feedback from local architects and Commissioners.

Planning Director Jackson advised that draft Design Guidelines will be released for public review later in March, and the release will contain the dates for submission of public comments. The draft Design Guidelines will be presented to the Planning Commission on April 8 for discussion. At its May meeting, the Planning Commission will make a recommendation to the City Council. Planning Director Jackson thanked Chair Behrens and Commissioner Ramsey for serving on the subcommittee.

Chair Behrens remarked that the use of photographs rather than drawings in the draft Design Guidelines gives more reality to accompanying comments.

**Fence Design Review Permit  
395 Hampton Road**

The Property Owner is requesting permission to construct a wrought iron fence on top of an existing stone wall adjacent to the sidewalk and two automated gates on each side of the circular driveway; eliminate the existing freestanding walls at the auto court; and construct a new trash cart enclosure.

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

**Public testimony** was received from:

Denise Bates, project designer, reported the Property Owner requested an enclosure to screen trash carts and a fence to provide home security. The wrought iron component of the fencing is taken from wrought iron gates on the property. The wooden fence gates are similar to the garage doors. The home will be visible from the street. Removing the columns and gates around the auto court will give the house more interest and provide another perspective of the house. The existing stucco walls determined the height of the trash enclosure, and the arched design of the driveway gates and garage doors is repeated in the enclosure. Ms. Bates did not know the length of the fence at the front of the property. Because of the steep slope, the left driveway gate is located in the setback. The height of the existing masonry fence is 6 feet. A pedestrian may access the house via a series of entries, including the upper auto gate. The gates are solid to match the garage doors. The exit gates open into the property, but pedestrians will be visible to a vehicle exiting the property. Hedges located behind the fencing will not obstruct the view of the house because the house sits quite high in the lot. The color of the gates will match the color of the existing garage doors. Along the street, plantings will be on the wall with groundcover between the wall and the sidewalk.

Planning Director Jackson noted the survey indicates the property has 235 feet of street frontage; therefore, the fence would be a portion of that length. The Planning Commission has the authority to determine whether the gate may be located in the setback.

Jenny Lynn, Property Owner, indicated three strangers have walked up to her home and peered in the windows during the eight months she has lived in the home. The proposed gate provides security rather than privacy. During a walk around the neighborhood, she found fences ranging between 6 feet and 10 feet in height. The fencing design relates to the original house. The height of the fence is appropriate for a house that sits atop a hill. Stops signs at the entrance to the property slow traffic entering the property. An existing column at the street and a street tree obstruct the view of pedestrians and traffic for vehicles exiting the property. The exit gates will open toward the street, but a vehicle will have sufficient space to stop between the gates and sidewalk to observe traffic. Low hedges will be planted along the exit gate so that they do not block the driver's view. Hedges along the perimeter of the property will add interest rather than obscure the wrought iron fence. The height of the hedges will match the height of the fence. A 6-foot fence will prevent someone from stepping onto the bus stop bench and over the fence, will not obstruct the view of the house, and will be compatible with fencing in the neighborhood. The fence should be taller than 4 feet in the front yard because the house is located on one of the busiest corners in Piedmont, fencing is needed for security, the house will be visible above taller fencing, and taller fencing is compatible with existing fencing on the property and in the neighborhood. Ms. Lynn's intention is not to allow hedges to obscure the fence. The existing columns vary between 4 feet and approximately 5-foot 10-inches tall, and the proposed columns will be slightly taller than the existing columns.

In general, Commissioners found the proposed trash enclosure acceptable. However, Commissioners generally opposed the fencing, referring to the

proposed height and location not complying with Guidelines V-2, V-5(a), and V-6 and Design and Preservation Policy 29.3, the proposed fencing isolating the home from the neighborhood, the fencing and hedges creating a wall for pedestrians on the sidewalk, the solid exit gate obscuring drivers' view of pedestrians and pedestrians' view of vehicles, and the property having a private outdoor living area to the rear of the house such that tall fencing along the front is not necessary. The landscaping could be lower and stepped back from the wall along the sidewalk. The elements of the proposed fence and gate design that match those of the existing wrought iron railing and garage door elsewhere on the property are appropriate.

Ms. Lynn expressed willingness to reduce the height of the fencing as long as a lower height would provide security. She is working to make the entry on Glen Alpine Road the primary entry for visitors and deliveries. The existing stone wall blocks the view of the home.

Commissioner Levine advised that in conformance with the Zoning Ordinance, the Commission does not consider personal circumstances when reviewing proposed construction. The proposed fence does not comply with the guidelines. Security can be provided through methods other than a tall fence.

**Resolution 5(1)-FDR-19**

WHEREAS, the Property Owner is requesting permission to construct a wrought iron fence on top of an existing stone wall adjacent to the sidewalk and two automated gates on each side of the circular driveway; eliminate the existing freestanding walls at the auto court; and construct a new trash cart enclosure at 395 Hampton Road, 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 components of the project pertaining to the existing auto court and the proposed trash enclosure are categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e), Existing Facilities; are consistent with General Plan policies and programs; and, as conditioned, conform to the criteria and standards of Section 17.66.060 of the Piedmont City Code as follows:

1. The proposed design to remove the existing auto court gates and to construct a trash enclosure 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: height, bulk, area openings, and materials.
2. The design to remove the existing auto court gates and to construct a trash enclosure has no effect on neighboring properties' existing views, privacy, and access to direct and indirect light.
3. The proposed design of the trash enclosure and auto court gates does not adversely affect pedestrian or vehicular safety given the location of the enclosure and gates on the property.
4. As conditioned, the components of the application pertaining to the trash enclosure and auto court gates comply with the following Design Review

Guidelines and General Plan policies and programs: V-1, V-2, V-3, V-4, V-5, V-9, V-10 (*fences*).

5. The project components relating to the trash enclosure and auto court gates are consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 29.3 (Front Yard Enclosures), Design and Preservation Element Policy 29.5 (Fence and Wall Design), Design and Preservation Element Policy 31.3 (Context-Sensitive Design).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the fence design review permit for the components of the application pertaining to the auto court gates and trash enclosure at 395 Hampton Road, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

2. **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.

3. **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.

4. **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.

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

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

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

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

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

**Resolution 5(2)-FDR-19**

WHEREAS, the Property Owner is requesting permission to construct a wrought iron fence on top of an existing stone wall adjacent to the sidewalk and two automated gates on each side of the circular driveway; eliminate the existing freestanding walls at the auto court; and construct a new trash cart enclosure, located at 395 Hampton Road, 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 components of the project pertaining to the proposed fencing along the front of the property and the addition of two wooden gates and pillars are not consistent with General Plan policies and programs and do not conform to the criteria and standards of Section 17.66.060 of the Piedmont City Code as follows:

1. The proposed design pertaining to fencing along the front of the property and the addition of two wooden gates and pillars is not consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are not consistent with the original architecture and neighborhood development: the fence height and size, the fence design and fenestration pattern, and the manner in which the fence encloses the property at a location next to the sidewalk.
2. The design related to pertaining to fencing along the front of the property and the addition of two wooden gates and pillars has little effect on neighboring properties' existing views, privacy, and access to direct and indirect light given the location and distance of the fencing, gates, and pillars from neighboring homes.
3. There is some indication that the proposed design related to the fencing, gates, and pillars would adversely affect pedestrian or vehicular safety because the proposed exit gate will open toward the street and the proposed hedging may obstruct sight lines.
4. The proposed fence design does not comply with the following Design Review Guidelines and General Plan policies and programs: V-1, V-3, V-5, V-6, V-9 (*fences*).
5. The project is not consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation

element, including: Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 29.2 (Landscape Design), Design and Preservation Element Policy 29.3 (Front Yard Enclosures), Design and Preservation Element Policy 29.5 (Fence and Wall Design).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies without prejudice the fence design review permit application for the proposed fencing along the front of the property and the addition of two wooden gates and pillars at 395 Hampton Road, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

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

The Property Owner is requesting permission to expand and remodel the home by constructing an approximately 824-square-foot second-story addition and main and upper-level roof decks at the front (northwest) of the residence; modifying the roof form throughout; constructing a new trellis and deck in the left (northeast) street yard of the residence; making various interior changes including the addition of three bedrooms; excavating the basement level to expand the garage to two conforming parking spaces; and modifying windows, doors, skylights, exterior lighting, and hardscape including an expanded driveway and new patios and walkways. Three variances are required to construct within the front street yard setback along Lake Avenue; to construct within the left street yard setback along Greenbank Avenue; and to increase the number of bedrooms to five without providing the required three conforming parking spaces.

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

**Public testimony** was received from:

Chris Gilman, architect, reported the property is long and shallow and located at the intersection of Lake and Greenbank Avenues. The existing house has a split-level design in that the single-car garage is stepped down from the main level of the house with a bedroom located above the garage. The family's three children are currently sharing one bedroom, and the homeowners' elderly parent will be living in the home soon. Because the depth of the lot is shallow, the house is located 14 feet from the front property line. Along Greenbank Avenue, the lot is open and slopes down. The design provides three bedrooms on the upper floor and two bedrooms on the main floor. The upper-floor addition is balanced over the middle of the house. Two gables will frame the front door. The wall along the right side of the property will be moved in 1 foot as part of the garage expansion. The garage will accommodate two cars. Variances are requested to allow the construction of two decks along the front of the house, one deck above the garage, and a patio on the left side of the property. The two decks on the front of the house will be approximately 4-feet 4-inches deep and are intended to break up the front roof slopes and balance the front entry. The garage deck forms the roof of the garage. The design of the trellis over the patio will be

compatible with the architecture of the house. The shape of the lot limits the number of parking spaces that can be provided onsite. The plans are incorrect because the multipurpose room in the basement is not part of the current proposal. The existing crawl space is approximately 3 feet in height and will be excavated to provide space for the garage, bathroom, stair and laundry closet. The remainder of the crawl space will not be excavated, and the foundation wall will follow the irregular shape caused by the rooms in the basement. The height of the basement at the bathroom and stair well will be 8 feet 6 inches. A door will provide access from the basement area to the garage. The basement space could be habitable because of the height, but the space will accommodate the stair, laundry, and bathroom only. The basement bathroom is intended to be used for bathing after working or playing outdoors. The driveway will be wider and will lead to a two-car garage. By using the existing curb cut, no on-street parking will be lost. The garage will be recessed 4 feet from the house's front facade, and a column can be added to the plans to connect that corner of the front facade to the ground. The roof element at the top of the balcony door should not be a hazard because the balcony is intended to be decorative and to provide fresh air. The balcony is wider than the dormer. The garage design can be modified to conform with size requirements for two parking spaces. The homeowners prefer five bedrooms, but they may consider four bedrooms.

Planning Director Jackson clarified that two conforming parking spaces are required for a home with four bedrooms. As proposed, the two-car garage does not conform with size requirements for parking spaces. They lack the 1-foot clearance on either side of the two spaces for the opening of car doors.

Generally, Commissioners expressed support for granting variances for construction within the setbacks; however, Commissioner Ramsey questioned whether the proposed structure, which would require a variance from the side yard setback, is necessary. Commissioners generally opposed granting a variance for parking, stating the proposed house is too large for the size of the lot, few homes in the neighborhood have five bedrooms, the Commission cannot consider the personal needs of the applicant in granting a variance, the proposed design will increase the lot coverage and floor area ratio to the maximum allowed limit and reduce the landscape coverage to the minimum allowed limit, and on-street parking on Lake Avenue is always congested because of the nearby school. In general, Commissioners liked the proposed design; however, the cantilever at the corner of the front facade and garage and the placement of the balcony with the dormer were concerns. Adding a support at the corner of the front facade and garage could block access to the second parking space. The second story-addition continues the line of the existing roof. The language of the siding and stucco should be consistent across all facades. The proposed windows are not appropriate for the traditional house. The basement area needs to be defined better.

**Resolution 8-V/DR-19**

WHEREAS, the Property Owner is requesting permission to expand and remodel the home by constructing an approximately 824-square-foot second-story addition and main and upper-level roof decks at the front (northwest) of the residence; modifying the roof form throughout; constructing a new trellis and deck in the left (northeast) street yard of the residence; making various interior changes including the addition of three bedrooms; excavating the basement level to expand the garage to two conforming parking spaces; and modifying windows, doors, skylights, exterior lighting, and hardscape including



an expanded driveway and new patios and walkways at 170 Lake Avenue, which construction requires a design review permit; and,

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary to construct within the front street yard setback along Lake Avenue; to construct within the left street yard setback along Greenbank Avenue; and to increase the number of bedrooms to five without providing the required three 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 programs; and,

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

1. The property and existing improvements do not present unusual physical circumstances of the property 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. Approving a variance from parking requirements would not be compatible with the immediately surrounding neighborhood and the public welfare because increasing the bedroom count by a factor of 2.5 is not compatible with the development of other properties in the area.
3. The application does not demonstrate that accomplishing the improvement without a variance from parking requirements would cause unreasonable hardship in planning, design, or construction.

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 features are not consistent with the original architecture and neighborhood development, including the window type, *i.e.*, the mullion-less window corners; dormer placement and detailing, *i.e.*, the dormers should be balanced without extended balconies; the massing of the house above the garage; the unsupported cantilever at the corner makes the project out of balance; and the language and use of wall materials is inconsistent on the different facades.
2. As presented, the design's adverse effect on neighboring properties' existing views, privacy, and access to direct and indirect light is unclear.
3. The proposed design with a variance from the parking requirements would adversely affect vehicular safety because the project would increase the intensity of use on the site without adding conforming parking.
4. The application does not comply with the following guidelines: II-3(a), II-3(b), and II-3(c) (*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 Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.6 (Exterior Materials).

WHEREAS, regarding variances from the front street setback and the left side street setback requirements, the Planning Commission in denying without prejudice the design review permit for construction at 170 Lake Avenue 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 and the application for a variance from the parking requirements for the construction at 170 Lake Avenue, Piedmont, California, and continues the consideration of the request for variances from front street setback and left side street setback requirements 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 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 6:45 p.m.